

**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 224**

**Held at :**

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

Thursday, May 1 2008

**Tenue à:**

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

Jeudi, le 1 mai 2008

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Mary Simms	Commission Counsel
Mr. Ian Stauffer	
Mr. Mark Crane	Cornwall Community Police
Mr. Peter Manderville	Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
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
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police Association
Ms. Nadya Tymochenko	Upper Canada District School Board
Mr. Frank T. Horn	Coalition for Action

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1 --- Upon commencing at 9:46 a.m./

2 L'audience débute à 9h46

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 **MS. SIMMS:** Good morning, Mr. Commissioner.

11 **THE COMMISSIONER:** Good morning, all.

12 Mr. Payment, how are you doing today?

13 **MR. PAYMENT:** Good. Thank you.

14 **THE COMMISSIONER:** Ready to go?

15 **MR. PAYMENT:** Yes.

16 **BRIAN PAYMENT, Resumed/Sous le même serment:**

17 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.  
18 SIMMS (cont'd/suite):

19 **MS. SIMMS:** Okay. So we'll continue where  
20 we left off. We were discussing an investigation involving  
21 a principal and a number of students.

22 **MR. PAYMENT:** Yeah.

23 **MS. SIMMS:** And, Mr. Commissioner, you'll  
24 recall there was a discussion about publication bans  
25 yesterday?

1                   **THE COMMISSIONER:** Yes.

2                   **MS. SIMMS:** And Mr. Lee advised that he was  
3 aware that there was a subsequent reporting that the  
4 publication ban on the accused's name had been lifted.

5                   **THE COMMISSIONER:** All right.

6                   **MS. SIMMS:** And he's now provided those  
7 documents, which we've circulated to the parties.

8                   **THE COMMISSIONER:** All right.

9                   **MS. SIMMS:** There is an Ottawa Citizen  
10 article from September 23<sup>rd</sup>, 1988 which indicates that The  
11 Citizen appealed the publication ban on the accused's name  
12 and was successful, and in that article they do publish his  
13 name.

14                   **THE COMMISSIONER:** All right.

15                   **MS. SIMMS:** So that's the update on that.

16                   **THE COMMISSIONER:** All right. And so what  
17 is his name?

18                   **MS. SIMMS:** His name is Lucien Labelle.

19                   **THE COMMISSIONER:** All right.

20                   And so for the record, Monsieur Labelle was  
21 the accused. He went to trial and he was acquitted, is my  
22 understanding.

23                   **MS. SIMMS:** That's right.

24                   **THE COMMISSIONER:** All right. So there we  
25 go. Thank you.

1                   **MS. SIMMS:** So, Mr. Payment, if you still  
2                   have before you a document we entered as an exhibit  
3                   yesterday, it's Exhibit 1556? It's Document Number 740557  
4                   and it's your notes from the investigation?

5                   **MR. PAYMENT:** Yes.

6                   **THE COMMISSIONER:** Sorry, what exhibit  
7                   again?

8                   **MS. SIMMS:** Okay?

9                   **MR. PAYMENT:** Yes.

10                  **MS. SIMMS:** So I just have a couple further  
11                  questions on this investigation.

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

13                  **MS. SIMMS:** If you can refer to Bates page  
14                  7181242?

15                  **THE COMMISSIONER:** Okay. Now I am lost,  
16                  1555? What's the exhibit?

17                  **MS. SIMMS:** Oh, I'm sorry, 1556.

18                  **--- EXHIBIT NO./PIÈCE NO. P-1556:**

19                                 (740557)Officers' notes of Brian Payment -  
20                                 25 Jan, 85 to 09 Apr, 85

21                  **THE COMMISSIONER:** Great. Thank you. I'm  
22                  sorry; and what's the Bates page?

23                  **MS. SIMMS:** The Bates page ends 242.

24                  **THE COMMISSIONER:** Thank you.

25                  **MS. SIMMS:** So we referred to this -- do you

1 have that page, Mr. Payment?

2 MR. PAYMENT: Yes, I do.

3 MS. SIMMS: We referred to this yesterday,  
4 and just to confirm, June 26<sup>th</sup>, 1985, was that the date that  
5 the principal was charged?

6 MR. PAYMENT: That was the date he notified  
7 me. I'm not sure of the exact charge date.

8 MS. SIMMS: Okay. Well, that's the date  
9 that you did go and see him, served a copy of the summons,  
10 explained the charges?

11 MR. PAYMENT: Yes.

12 MS. SIMMS: The correct date? Okay.

13 Following charges being laid, did you  
14 continue to have interactions with the Crown Alan Ain?

15 MR. PAYMENT: Yes, I did.

16 MS. SIMMS: Okay. And what were you  
17 discussing with him?

18 MR. PAYMENT: Well, there was -- there were  
19 matters with regards to interviewing of the victims and  
20 their parents, just more or less exchanging information  
21 with the trial upcoming.

22 MS. SIMMS: And following the laying of  
23 these charges, did you identify any further alleged  
24 victims?

25 MR. PAYMENT: I had submitted a chart that



1 had a list of all -- it was in my Crown Brief. I believe  
2 there were 10 victims where the charges were laid and there  
3 were others that were of similar acts.

4 MS. SIMMS: Perhaps I can refer you to your  
5 document? It's Document Number 200228.

6 THE COMMISSIONER: Exhibit 1557 I suspect  
7 should have a publication ban stamp on it?

8 MS. SIMMS: Yes, it should.

9 THE COMMISSIONER: Thank you.

10 --- EXHIBIT NO./PIÈCE NO. P-1557:

11 (200228) Complainant List

12 MS. SIMMS: Is this the chart you're  
13 referring to, Mr. Payment?

14 MR. PAYMENT: Yes.

15 MS. SIMMS: Okay. So this is a list of  
16 alleged victims?

17 MR. PAYMENT: Yes, it is.

18 MS. SIMMS: And at the bottom there are  
19 three alleged victims who are of adult age?

20 MR. PAYMENT: That's correct.

21 MS. SIMMS: And they're complaints of  
22 historical acts from those victims?

23 MR. PAYMENT: Yes.

24 MS. SIMMS: Okay. When the charges -- as  
25 you recall, when the charges were laid, were they with

1           respect to the children only?

2                       **MR. PAYMENT:** Yes, just the children.

3                       **MS. SIMMS:** Okay. So do you recall when you  
4 brought to the attention of the Crown these other three  
5 alleged victims?

6                       **MR. PAYMENT:** I don't recall the exact date,  
7 but I know it was prior to the trial to advise them that I  
8 had these other people that were willing to come forward.

9                       **MS. SIMMS:** And do you recall what happened  
10 with those allegations?

11                      **MR. PAYMENT:** The Crown that I spoke to at  
12 that time was Mary McFadyen, and she indicated that she  
13 wouldn't be using them. She didn't want to use them.

14                      **MS. SIMMS:** When you say "at that time", was  
15 that at the trial date itself or previously?

16                      **MR. PAYMENT:** I notified them prior to, and  
17 on the first morning I asked if she had changed her mind  
18 and if she wanted them subpoenaed or not, and she said no.

19                      **MS. SIMMS:** Do you -- were you present at  
20 the trial dates?

21                      **MR. PAYMENT:** Yes, I was.

22                      **MS. SIMMS:** And it was adjourned a number of  
23 times. Is that ---

24                      **MR. PAYMENT:** It was -- no, I believe there  
25 was only the one actual trial and I believe it was about

1 six or seven days long.

2 MS. SIMMS: Okay. Can I just ask you to  
3 look at Bates page ending 245?

4 MR. PAYMENT: Yes.

5 MS. SIMMS: The same exhibit, 1556. There's  
6 a note there under December 16<sup>th</sup>, 1985. Do you see that?

7 MR. PAYMENT: Yes.

8 MS. SIMMS: And it mentions the Civic  
9 Complex. Do you recall why it would mention the Civic  
10 Complex?

11 MR. PAYMENT: They had no other space to  
12 hold it.

13 MS. SIMMS: So the trial was going to be  
14 held at the Civic Complex?

15 MR. PAYMENT: That's correct.

16 MS. SIMMS: Okay. And it wasn't held there  
17 that day; it was adjourned?

18 MR. PAYMENT: Well, seeing these notes -- I  
19 don't recall an adjournment, but seeing these notes, it  
20 seems that there must have been.

21 MS. SIMMS: Sure.

22 Was the trial eventually held at the Civic  
23 Complex?

24 MR. PAYMENT: Yes, it was.

25 MS. SIMMS: It was? Okay.

1                   And you recall we've already established  
2                   that the outcome of the trial was an acquittal?

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

4                   **MS. SIMMS:** That's correct.

5                   And do you recall there being any appeals  
6                   relating to this case?

7                   **MR. PAYMENT:** I was never kept updated on  
8                   any appeals, but I was advised that there was an appeal.  
9                   In fact, I believe there may have been even more than one.

10                  **MS. SIMMS:** Okay.

11                  **MR. PAYMENT:** But the outcome of the appeals  
12                  was never brought to my attention.

13                  **MS. SIMMS:** So other than your attending at  
14                  the trial, did you have any further involvement with this  
15                  matter?

16                  **MR. PAYMENT:** I don't believe so.

17                  **MS. SIMMS:** Okay. Did you become aware  
18                  later that Mr. Labelle had moved out of town?

19                  **MR. PAYMENT:** Yes.

20                  **MS. SIMMS:** Okay. Did you have contact  
21                  following his move out of town with anybody in relation to  
22                  these allegations?

23                  **MR. PAYMENT:** Based on rumours that I had  
24                  heard, I was told that he was trying to become a Boy Scout  
25                  leader.

1 MS. SIMMS: M'hm.

2 MR. PAYMENT: And I notified them to contact  
3 the School Board as to why he had been dismissed before  
4 they proceeded.

5 MS. SIMMS: Was that something you had  
6 consulted with anyone on the Force about before you did  
7 that or ---

8 MR. PAYMENT: No.

9 MS. SIMMS: That was your own initiative?

10 MR. PAYMENT: Yes.

11 MS. SIMMS: Okay. And is there anything  
12 further about your involvement in this matter? Did you  
13 have any further discussions with OPP later on or ---

14 MR. PAYMENT: I don't believe so, no.

15 MS. SIMMS: Okay. And you've already told  
16 us that this case sparked some discussions between yourself  
17 and Bill Carriere of the Children's Aid Society?

18 MR. PAYMENT: Yes.

19 MS. SIMMS: And I understand from what you  
20 said yesterday, those discussions continued and you entered  
21 into a project of developing protocols and joint training?

22 MR. PAYMENT: Yes, eventually.

23 MS. SIMMS: Eventually, okay.

24 Okay, Mr. Payment, I'm going to move on to  
25 another investigation, and this investigation is about the

1 Jean-Luc Leblanc.

2 So I'm going to ask you to look at your  
3 notes from this matter, which are Document Number 737823.

4 (SHORT PAUSE/COURTE PAUSE)

5 THE COMMISSIONER: Thank you.

6 Exhibit Number 1558, are notes of Constable  
7 Payment.

8 MR. PAYMENT: Thank you.

9 THE COMMISSIONER: The first date is  
10 January 23<sup>rd</sup>, '86.

11 MR. MANDERVILLE: Mr. Commissioner, I may be  
12 wrong, but I think these were made an exhibit back in  
13 October, '06, when the Burgesses were testifying.

14 THE COMMISSIONER: Could be.

15 Madam Clerk, can you figure that one out for  
16 us?

17 (SHORT PAUSE/COURTE PAUSE)

18 THE COMMISSIONER: You may be wrong.

19 (SHORT PAUSE/COURTE PAUSE)

20 THE COMMISSIONER: Guess who's buying lunch  
21 this morning?

22 Exhibit 1558, as I've said, is Constable  
23 Payment's notes, dated January 23<sup>rd</sup>, '86.

24 --- EXHIBIT NO./PIÈCE NO P-1558:

25 (727823) Notes of Brian Payment - 23 Jan, 86

1 to 28 Jan, 86

2 **MS. SIMMS:** So, Mr. Payment, I take it, I'm  
3 just noticing this date's January 23<sup>rd</sup>, 1986; that would  
4 have been around the same time as the trial of the last  
5 matter we were just talking about?

6 **MR. PAYMENT:** Roughly, yes.

7 **MS. SIMMS:** Yeah.

8 So your notes start off with January 23<sup>rd</sup>,  
9 '86, and I just want to ask you a clarification about that  
10 date and you see it starts January 23<sup>rd</sup> and there's a note  
11 from 1457, Central Public School?

12 **MR. PAYMENT:** Yes.

13 **MS. SIMMS:** And as you go, turning the page  
14 to the next page, there's no entry for January 24<sup>th</sup>, 1986?

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

16 **MS. SIMMS:** So it starts again on  
17 January 25<sup>th</sup>?

18 **MR. PAYMENT:** Yes.

19 **MS. SIMMS:** And we've heard some evidence  
20 that these events occurred on January 24<sup>th</sup>, 1986, which is a  
21 Friday and I'm going to refer you to another document of  
22 notes from January 24<sup>th</sup>; is it possible that these events  
23 are occurring on January 24<sup>th</sup>?

24 **MR. PAYMENT:** Yes, it is possible. I wasn't  
25 very good at doing notebooks, per se, because of the

1 system.

2 MS. SIMMS: Well, to be fair, Mr. Payment,  
3 you've, as notes go on, you track each day, including your  
4 days off, so there's just an error, perhaps, on this first  
5 page?

6 MR. PAYMENT: It's possible, yes.

7 MS. SIMMS: Okay.

8 THE COMMISSIONER: So what's your suggesting  
9 is it wasn't really the 23<sup>rd</sup>, it was the 24<sup>th</sup>?

10 MS. SIMMS: Yes.

11 THE COMMISSIONER: That's the -- okay, I'll  
12 just make a note of that, just ---

13 MS. SIMMS: And you accept that that was the  
14 case, Mr. Payment?

15 MR. PAYMENT: Yes, that's possible.

16 MS. SIMMS: Okay. I'm going to ask you to  
17 look at another document; it's Document Number 737504.

18 THE COMMISSIONER: Thank you.

19 Exhibit Number 1559.

20 MR. PAYMENT: Thank you.

21 MS. SIMMS: Commissioner, these are notes --  
22 I believe these are notes made by Bruce Duncan of the  
23 Children's Aid Society.

24 THE COMMISSIONER: All right, thank you.

25 --- EXHIBIT NO./PIÈCE NO P-1559:



1 (737504) Notes of CAS Bruce Duncan - 24 Jan  
2 86 to 25 Feb 86

3 **MS. SIMMS:** So, Mr. Payment, just turning to  
4 these notes, for a moment, it's a little difficult to read  
5 the first date, but as you turn the pages, you can see he's  
6 talking about events on January 24<sup>th</sup>?

7 **MR. PAYMENT:** Yes.

8 **MS. SIMMS:** So that would be consistent with  
9 these events occurring on January 24<sup>th</sup>?

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

11 **MS. SIMMS:** Okay. And if you'll turn to the  
12 page ending in 908.

13 **MR. PAYMENT:** Yes.

14 **MS. SIMMS:** There is a note of a call to the  
15 CPD, which I take to mean the Cornwall Police Department,  
16 at 2:25?

17 **MR. PAYMENT:** Yes.

18 **MS. SIMMS:** And there's a note that Staff  
19 Sergeant Willis took names and, "will have to review  
20 records..." there's just a letter there, and:

21 "Send Brian Payment over ASAP."

22 **MR. PAYMENT:** That is correct.

23 **MS. SIMMS:** So on January 24<sup>th</sup>, were you  
24 advised by Staff Sergeant Willis that there had been a  
25 complaint received through the Children's Aid Society?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** Okay. And do you recall what he  
3 advised you as to the substance of the complaint?

4                   **MR. PAYMENT:** No, I don't.

5                   All I -- all I recall was that there was a  
6 complaint involving a possible sexual assault and that the  
7 victim was currently at the local school.

8                   **MS. SIMMS:** And did he give you the victim's  
9 name?

10                  **MR. PAYMENT:** Yes, he did.

11                  **MS. SIMMS:** And who was that? Was it Scott  
12 Burgess?

13                  **MR. PAYMENT:** Yes, sorry.

14                  **MS. SIMMS:** Okay. Would Staff Sergeant  
15 Willis be acting as the Officer in Charge, at that time, do  
16 you recall?

17                  **MR. PAYMENT:** I can't recall.

18                  There was different staff sergeants at  
19 different times and I don't know what the breakdown was on  
20 it.

21                  At times we had two staff sergeants and then  
22 we had a staff sergeant and an inspector, so in my tenure  
23 there it was -- it was hard to determine exactly -- if he  
24 assigned me this case, I would assume that he was in charge  
25 at that time.

1                   **MS. SIMMS:** And there's a note -- now, have  
2                   you seen these notes before?

3                   **MR. PAYMENT:** Just briefly.

4                   **MS. SIMMS:** And just in preparation for this  
5                   Inquiry?

6                   **MR. PAYMENT:** Yes.

7                   **MS. SIMMS:** Okay. There's a note just below  
8                   that that says:

9                                   "Call to Angelo. Call police. Tell  
10                                  them school says they can't allow CPD  
11                                  in without warrant."

12                   Do you see that?

13                   **MR. PAYMENT:** Yes.

14                   **MS. SIMMS:** Were you advised that the school  
15                   would not allow you to enter without a warrant?

16                   **MR. PAYMENT:** That was that school's policy.

17                   **MS. SIMMS:** Okay, so you were aware of that  
18                   policy?

19                   **MR. PAYMENT:** Yes.

20                   **THE COMMISSIONER:** What's the name of the  
21                   school?

22                   **MR. PAYMENT:** Central Public School.

23                   **THE COMMISSIONER:** Thank you.

24                   **MS. SIMMS:** So if we can ---

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

1 Can you help me out here?

2 They wouldn't let you in; do you mean you  
3 couldn't go on the property without a warrant?

4 **MR. PAYMENT:** Well, they would let me into  
5 the office but they wouldn't let me go any further. Their  
6 policy was that I couldn't speak to any of the children in  
7 the school.

8 **THE COMMISSIONER:** Okay.

9 **MS. SIMMS:** If you would refer back to your  
10 own notes then, Mr. Payment; it's Exhibit 1558, which we  
11 just entered.

12 **MR. PAYMENT:** Yes.

13 **MS. SIMMS:** And just further on that point,  
14 there's a note from, what we decided was January 24<sup>th</sup>, at  
15 1457.

16 **MR. PAYMENT:** Yes.

17 **MS. SIMMS:** Do you see that?

18 Are you in attendance at Central Public  
19 School at this point?

20 **MR. PAYMENT:** Yes.

21 **MS. SIMMS:** Okay. So when you got the  
22 assignment, you went immediately to the school to meet with  
23 -- to meet with ---

24 **MR. PAYMENT:** I was hoping to meet with the  
25 victim.

1                   **MS. SIMMS:** Okay.

2                   And you're at the Criminal Investigation  
3 Bureau, at this time, right? Or, sorry, you're at the  
4 Youth Bureau.

5                   **MR. PAYMENT:** I was in the Youth Bureau.

6                   **MS. SIMMS:** So you would be in plainclothes  
7 when you ---

8                   **MR. PAYMENT:** Yes.

9                   **MS. SIMMS:** --- arrived?

10                  Okay. So it wasn't an issue as to having  
11 uniform officers at the school or ---

12                  **MR. PAYMENT:** No, it was just police in  
13 general.

14                  **MS. SIMMS:** So you have notes from when  
15 you're at the school and they say that you spoke to Bruce  
16 Duncan. And Bruce Duncan was from the Children's Aid  
17 Society?

18                  **MR. PAYMENT:** Bruce Duncan, yes.

19                  **MS. SIMMS:** And you had -- have you dealt  
20 with him before on child matters?

21                  **MR. PAYMENT:** Yes.

22                  **MS. SIMMS:** Okay.

23                  **THE COMMISSIONER:** Can we just go back?

24                  I don't know if you're going to cover this,  
25 but it says:

1 "Victim has apparently confided this to  
2 a teacher about two weeks ago."

3 Were you going to cover that or ---

4 **MS. SIMMS:** Yes.

5 **THE COMMISSIONER:** Oh, okay, thank you.

6 **MS. SIMMS:** We'll cover that right now.

7 **THE COMMISSIONER:** All right.

8 **MS. SIMMS:** Okay.

9 So I take it, these are notes of your  
10 session with Bruce Duncan at the school?

11 **THE COMMISSIONER:** The 1457 ---

12 **MS. SIMMS:** M'hm.

13 **THE COMMISSIONER:** --- insertion, yes.

14 **MR. PAYMENT:** I spoke to him just briefly.

15 Apparently the school would allow him in to  
16 speak to the victim and he indicated that he would and that  
17 he would get back to me.

18 **MS. SIMMS:** Okay. But when you arrived  
19 there, the only information you had was the victim's name;  
20 right?

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

22 **MS. SIMMS:** So you had a discussion with  
23 Bruce Duncan a bit about the substance of the allegation I  
24 take it.

25 **MR. PAYMENT:** Just that he had disclosed to

1 a teacher and that they did in-house as to how they were  
2 going to handle it. And apparently at the start, he didn't  
3 want his parents to know or he didn't want anyone to know  
4 and he wasn't sure if he wanted to go any further.

5 **MS. SIMMS:** So with respect to the in-house,  
6 your note says:

7 "Victim confided this to a teacher  
8 about two weeks ago; now, we are called  
9 in."

10 Was it a concern to you that this matter had  
11 been reported two weeks previously and you're only being  
12 called in at this time?

13 **MR. PAYMENT:** It was a concern but if there  
14 was hesitancy on the part of the victim, I could understand  
15 maybe why they hesitated.

16 **MS. SIMMS:** Well, did you have a discussion  
17 about why there was a two-week delay? Did you ask Bruce  
18 Duncan further questions about that?

19 **MR. PAYMENT:** No.

20 **MS. SIMMS:** Okay.

21 **MR. PAYMENT:** Not that I recall anyway.

22 **MS. SIMMS:** And the teacher was Dawn  
23 Raymond. Is that correct?

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

25 **MS. SIMMS:** And was she there as well?

1                   **MR. PAYMENT:** I'm not sure if she was there  
2 when I first went to the school.

3                   **MS. SIMMS:** You don't recall it?

4                   **MR. PAYMENT:** I don't recall.

5                   **MS. SIMMS:** Okay. So you don't recall  
6 having a discussion with her about why there was that two-  
7 week delay?

8                   **MR. PAYMENT:** No.

9                   **MS. SIMMS:** And your note goes on to mention  
10 Mr. Chris Duncan, the principal of the school?

11                   **MR. PAYMENT:** Yes.

12                   **MS. SIMMS:** And the principal advised you  
13 that he could not let you see the victim. Is that right?

14                   **MR. PAYMENT:** That is correct.

15                   **MS. SIMMS:** Did you have some discussion  
16 with the principal on that point?

17                   **MR. PAYMENT:** Yes, we did.

18                   **MS. SIMMS:** What was the substance of that  
19 discussion?

20                   **MR. PAYMENT:** I was somewhat insistent on  
21 the fact that if there was a sexual assault that the sooner  
22 we could get started, the sooner I could talk to him, the  
23 better it would be. And he indicated that it was school  
24 policy that under no circumstances would he allow me to  
25 talk to the child without his parents and/or counsel.



1                   **MS. SIMMS:** And this is even the case when  
2 the child is alleged victim as opposed to alleged suspect?

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

4                   **MS. SIMMS:** Did you involve any of your  
5 superiors at this point or do anything further?

6                   **MR. PAYMENT:** I don't recall notifying  
7 anybody, but it was common knowledge on the department that  
8 getting to see kids at the schools, some schools, was a  
9 problem.

10                   **MS. SIMMS:** Okay. And so you note concludes  
11 that, "Mr. Duncan, CAS," to distinguish him from the  
12 principal, I guess ---

13                   **MR. PAYMENT:** Yes.

14                   **MS. SIMMS:** --- that's:

15                               "Bruce Duncan was allowed in and agreed  
16 to contact me if anything to this."

17                   **MR. PAYMENT:** Yes.

18                   **MS. SIMMS:** Do you have -- do you know why  
19 Bruce Duncan would be allowed in but you were not?

20                   **MR. PAYMENT:** You'd have to ask the  
21 principal.

22                   **MS. SIMMS:** Okay. So what was your  
23 understanding of what Bruce Duncan was going to do at the  
24 school?

25                   **MR. PAYMENT:** I had asked Mr. Duncan to not

1 get into any of the details of the assault but more or less  
2 to do some talking with the victim to try and see if he  
3 would be willing to talk to me and to come forward and give  
4 a statement.

5 MS. SIMMS: So you specifically asked Bruce  
6 Duncan not to get into details?

7 MR. PAYMENT: Yes.

8 THE COMMISSIONER: Do we know how old the  
9 victim was at this time?

10 MS. SIMMS: We do. Can you help us with  
11 that, Mr. Payment?

12 MR. PAYMENT: He was born in October of  
13 1971.

14 THE COMMISSIONER: Okay, so he would have  
15 been 15, 14 ---

16 MS. SIMMS: That is 14.

17 THE COMMISSIONER: Eighty-six ('86) -- 15?

18 MS. SIMMS: January ---

19 MR. PAYMENT: January, so he would be 14.

20 MS. SIMMS: Fourteen (14).

21 And just to be clear, Dawn Raymond, the  
22 teacher ---

23 MR. PAYMENT: Yes.

24 MS. SIMMS: --- we are discussing, she is  
25 not a teacher at Central Public School?

1 MR. PAYMENT: I'm not sure what her ---

2 MS. SIMMS: Okay.

3 MR. PAYMENT: --- where she was from.

4 MS. SIMMS: Okay. I think we've heard some  
5 evidence on that ---

6 THE COMMISSIONER: Yes, we have.

7 MS. SIMMS: --- that she was a teacher at  
8 the previous school.

9 THE COMMISSIONER: M'hm.

10 MS. SIMMS: Okay. So that's how it was  
11 left, that Mr. Duncan was going to go in, speak to this  
12 student, ask if he would meet with you. Is that fair?

13 MR. PAYMENT: That's correct.

14 MS. SIMMS: Okay. And your notes continue  
15 at 6:30 that evening when you're called into the CAS?

16 MR. PAYMENT: Yes.

17 MS. SIMMS: Do you see that? I'm going to  
18 ask you just to refer back to Mr. Duncan's notes, and  
19 that's Exhibit 1559.

20 MR. PAYMENT: M'hm.

21 MS. SIMMS: And if you look at the Bates  
22 page ending 910?

23 MR. PAYMENT: Yes.

24 MS. SIMMS: These appear to be notes of an  
25 interview with Scott at 3:08 on January 24<sup>th</sup>. Do you see

1 that?

2 MR. PAYMENT: Yes.

3 MS. SIMMS: So given the timing, that would  
4 be the time he was at the school, meaning Scott?

5 MR. PAYMENT: Yes.

6 MS. SIMMS: And you didn't see the notes,  
7 these notes, during your investigation did you?

8 MR. PAYMENT: No, I did not.

9 MS. SIMMS: Okay. If you could just quickly  
10 turn to the Bates page on the same exhibit ending 915.  
11 Okay?

12 MR. PAYMENT: Yeah.

13 MS. SIMMS: At the bottom of the page,  
14 there's a note from January 24<sup>th</sup> at 4:32, "Call to Brian  
15 Payment". Do you see that?

16 MR. PAYMENT: Yes, I do.

17 MS. SIMMS: Now, it's not mentioned in your  
18 notes, but do you recall a telephone call that afternoon?

19 MR. PAYMENT: I don't recall that at all and  
20 according to my notes, I left duty at 4:00 o'clock.

21 MS. SIMMS: Well, the call seems to be --  
22 let's just look at it and we can review what the substance  
23 is.

24 It says:

25 "Go to parents and see if Scott will

1 talk to CPD. He will Leave a message  
2 where he can be reached."

3 Do you see that?

4 **THE COMMISSIONER:** Just so I understand  
5 this, are you saying that this note says that he, Mr.  
6 Duncan, is going to the parents and see if Scott will talk  
7 to the CPD? Is that what that means? Or does it mean Mr.  
8 Payment should be going to the parents?

9 **MS. SIMMS:** Well, it's difficult if Mr.  
10 Payment can't recollect it, but ---

11 **THE COMMISSIONER:** Okay.

12 **MS. SIMMS:** --- it appears to be a call with  
13 Mr. Payment and it appears that Mr. Payment would have said  
14 he'd leave a message where he can be reached.

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

16 **MR. PAYMENT:** I don't recall that.

17 **MS. SIMMS:** You don't recall that, but that  
18 doesn't mean it didn't happen; right?

19 **MR. PAYMENT:** No, no, it could have.

20 **MS. SIMMS:** And then it further says:

21 "Scott will tell him what I heard re  
22 fellatio."

23 **MR. PAYMENT:** Yes.

24 **MS. SIMMS:** "He has enough for now and  
25 we'll get to Jason later."

1                   So none of that refreshes your memory about  
2           this call?

3                   **MR. PAYMENT:** I'm sorry, no, it doesn't.

4                   **MR. LEE:** I thing Ms. Simms may have missed  
5           a word at the start of that bullet, I believe it reads:

6                                "If Scott will tell him."

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

8                   **MR. LEE:** At the start of the bullet she was  
9           just reading, I believe it reads:

10                                "If Scott will tell him what I heard re  
11                                fellatio. He has enough for now and  
12                                will get to Jason later."

13                   She omitted the "if" ---

14                   **THE COMMISSIONER:** Okay.

15                   **MR. LEE:** --- and it's a bit of an important  
16           issue for later on.

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

18                   **MS. SIMMS:** Okay. Well, in any case, Mr.  
19           Payment, you do meet with Mr. Duncan later that evening.  
20           Is that right?

21                   **MR. PAYMENT:** That is correct.

22                   **MS. SIMMS:** And then that's at the CAS  
23           office?

24                   **MR. PAYMENT:** Yes.

25                   **MS. SIMMS:** Okay. At that time, do you

1 understand that Scott Burgess is willing to speak to you?

2 MR. PAYMENT: Yes.

3 MS. SIMMS: Okay. So you're going there to  
4 conduct an interview?

5 MR. PAYMENT: Yes.

6 MS. SIMMS: Okay. So was there a policy or  
7 was it your understanding at the time that you'd be  
8 conducting a joint interview with the CAS?

9 MR. PAYMENT: We were into that practice by  
10 this time, yes.

11 MS. SIMMS: Okay. And was there -- what was  
12 your understanding of the benefits of conducting a joint  
13 interview?

14 MR. PAYMENT: Well, for me the benefit was  
15 that if CAS was conducting it, they would sometimes maybe  
16 have leading questions which we wanted to eliminate. Plus,  
17 if they were there for the disclosure and they were doing  
18 follow-ups with counselling and stuff, that they would have  
19 more of an idea of what had happened.

20 MS. SIMMS: Okay. Would one of the benefits  
21 be that the victim would not have to be interviewed  
22 multiple times?

23 MR. PAYMENT: Oh yes, sorry, yes.

24 MS. SIMMS: So, at some point, did Mr.  
25 Duncan update you on what had occurred throughout the day

1 in terms of who he had spoken to and the information that  
2 he had obtained?

3 **MR. PAYMENT:** Just briefly that he had spoke  
4 to Scott and that he named that his brother may also be a  
5 victim.

6 **MS. SIMMS:** Did he tell you about going to  
7 the Burgess' house and speaking to the parents and Jody  
8 there?

9 **MR. PAYMENT:** Yeah, he told me that he had  
10 spoken to the group.

11 **MS. SIMMS:** And Jody was Scott Burgess'  
12 brother?

13 **MR. PAYMENT:** Yes.

14 **MS. SIMMS:** Okay. So I'm just going to take  
15 you to his notes and just ask you if you had been advised  
16 of some of the things that are there. Okay? As best as  
17 you can recollect.

18 So -- sorry, we're going back and forth but  
19 we're at Exhibit 1559, and Bates page ending 910. Okay?

20 So, this is the -- they're speaking to Scott  
21 at the school, apparently, and we have notes here from that  
22 discussion. Do you see that?

23 **MR. PAYMENT:** Yes.

24 **MS. SIMMS:** And it appears to be quite an  
25 extensive discussion, doesn't it?



1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** Was that your impression of what  
3 was going to take place at the school? Were you concerned  
4 ---

5                   **MR. PAYMENT:** I wasn't sure how involved the  
6 discussion would get other than -- I was more concerned  
7 with him trying to get Scott willing to talk to us.

8                   **MS. SIMMS:** But, you asked him not to get  
9 into details, is that right?

10                  **MR. PAYMENT:** Why -- I asked him not to try  
11 and get involved in detail but sometimes that just happens.

12                  **MS. SIMMS:** Sure.

13                  **MR. PAYMENT:** And to be careful with his  
14 line of questioning.

15                  **MS. SIMMS:** So, just a couple of things in  
16 these notes, Mr. Payment. On the third bullet down,  
17 there's a note that says:

18                                 "Sometimes sleep overnight there, not  
19                                 on school days."

20                  **MR. PAYMENT:** Yes.

21                  **MS. SIMMS:** Were you advised by Mr. Duncan  
22 that at least Scott and maybe the other children were  
23 spending nights with Mr. Leblanc?

24                  **MR. PAYMENT:** I don't recall being advised  
25 of that, no.

1                   **MS. SIMMS:** You don't recall?

2                   And that could have some significance in  
3 terms of what kind of role Mr. Leblanc had with the  
4 children; whether he was -- whether they were under his  
5 care for any significant period of time?

6                   **MR. PAYMENT:** Yes.

7                   **MS. SIMMS:** And there is one further note at  
8 Bates page 912. And if you look down to the -- where  
9 there's -- halfway through the page it starts, "Jean-Luc."

10                  **MR. PAYMENT:** M'hm.

11                  **MS. SIMMS:** You see that?

12                  **MR. PAYMENT:** Yes.

13                  **MS. SIMMS:** And it appears that there is an  
14 allegation there with respect to a different sexual act, do  
15 you see that ---

16                  **MR. PAYMENT:** Yes.

17                  **MS. SIMMS:** --- with respect to anal sex?  
18 Were you advised of that?

19                  **MR. PAYMENT:** No.

20                  **MS. SIMMS:** You weren't advised of that?

21                  **MR. PAYMENT:** No.

22                  **MS. SIMMS:** And we're talking about when  
23 you're discussing this with Mr. Duncan at the CAS office  
24 and he didn't advise you at that time of that allegation?

25                  **MR. PAYMENT:** Not that I recall, no.

1                   **MS. SIMMS:** Did he advise you at a later  
2 time of that allegation?

3                   **MR. PAYMENT:** Actually, this is surprising  
4 me, I -- I don't recall ever hearing that.

5                   **MS. SIMMS:** Okay. So if you'll just  
6 continue on the notes, there's a note at Bates page 916.

7                   **MR. PAYMENT:** Yes.

8                   **MS. SIMMS:** And it's 5:00 p.m. home visit --  
9 is the note that I'm looking at. Do you see that?

10                  **MR. PAYMENT:** Yes.

11                  **MS. SIMMS:** So that would be before you were  
12 called into the CAS office, right?

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

14                  **MS. SIMMS:** So, this is a visit, it appears,  
15 by Mr. Duncan to the Burgess home?

16                  **MR. PAYMENT:** Yes.

17                  **MS. SIMMS:** Okay.

18                                 And it appears from his note that he  
19 interviews Jody Burgess on that visit?

20                  **MR. PAYMENT:** Yes.

21                  **MS. SIMMS:** Okay.

22                                 Were you aware that he had interviewed Jody?  
23 Did he advise you of that when he came to the CAS office?

24                  **MR. PAYMENT:** He didn't get into detail. He  
25 advised me that he did speak to Jody.

1                   **MS. SIMMS:** And you can see in that  
2 interview with Jody there's mention of further allegations  
3 about an individual named Bill?

4                   **MR. PAYMENT:** Yes.

5                   **MS. SIMMS:** Okay. Did he advise you that  
6 allegations were made against a second individual?

7                   **MR. PAYMENT:** I had heard -- and I don't  
8 recall if it was Mr. Duncan or if in talking to one of the  
9 boys that he was also a possible abuser.

10                  **MS. SIMMS:** Okay.

11                   And there's -- in his notes there is a  
12 mention from his speaking to Jody that a lot of little kids  
13 go over -- and they're talking about Bill's place at this  
14 point?

15                  **MR. PAYMENT:** Yes.

16                  **MS. SIMMS:** And there's mention that -- of  
17 abuse?

18                  **MR. PAYMENT:** Yes.

19                  **MS. SIMMS:** And there's mention that Bill  
20 has pictures of many little kids?

21                  **MR. PAYMENT:** Yes.

22                  **MS. SIMMS:** Is that all information that you  
23 became aware of?

24                  **MR. PAYMENT:** No, the only thing I had --  
25 and that's why I'm inclined to believe it came from one of

1 the boys ---

2 MS. SIMMS: M'hm.

3 MR. PAYMENT: --- was that he was an abuser  
4 but when questioned they didn't indicate that they were  
5 victims of his.

6 MS. SIMMS: Okay. So, we'll get to your  
7 discussions ---

8 MR. PAYMENT: Okay.

9 MS. SIMMS: --- with the boys. Just if you  
10 could flip the page to 917? This is still on the home  
11 visit for Mr. Duncan.

12 MR. PAYMENT: Yes.

13 MS. SIMMS: And you see halfway down the  
14 page there's a mention of Scott, again? You see that?

15 MR. PAYMENT: Yes.

16 MS. SIMMS: And it -- it appears that  
17 they're having a further conversation with Scott about the  
18 abuse?

19 MR. PAYMENT: Yes.

20 MS. SIMMS: So this would be the second time  
21 that day that he'd been asked questions about the abuse?

22 MR. PAYMENT: Yeah.

23 MS. SIMMS: Okay. And again, just on the  
24 bottom of the page there's an allegation regarding anal  
25 sex?

1                   **THE COMMISSIONER:** Does he agree?  
2                   Have you agreed? I didn't hear the  
3 response. Do you agree that this was the second time Scott  
4 was interviewed that day?

5                   **MR. PAYMENT:** By Mr. Duncan? Yes.

6                   **THE COMMISSIONER:** Yes.

7                   **MS. SIMMS:** And at the bottom of the page,  
8 Mr. Payment, there's another mention of allegation of anal  
9 sex?

10                  **MR. PAYMENT:** Yes.

11                  **MS. SIMMS:** Okay.

12                  **THE COMMISSIONER:** Were you made aware of  
13 that allegation?

14                  **MR. PAYMENT:** The best I can recall, sir,  
15 was that it was more fellatio and I don't recall having  
16 heard anything about any anal sex.

17                  **THE COMMISSIONER:** All right.

18                  Thank you.

19                  **MS. SIMMS:** So if we can go back to your  
20 notes Mr. Payment, and that's Exhibit 1558. And you have  
21 notes on the bottom of the first page about being called  
22 back into the Children's Aid Society office.

23                  **MR. PAYMENT:** Yes.

24                  **MS. SIMMS:** Okay. So -- and you've said you  
25 had a brief discussion with Mr. Duncan about what he had

1 done during the day?

2 MR. PAYMENT: It was very brief. I -- as I  
3 say I was more concerned with whether he got through to  
4 Scott to see if he was willing to see me.

5 MS. SIMMS: Okay. So you went to the CAS  
6 office and Scott Burgess was there, is that right?

7 MR. PAYMENT: Yes.

8 MS. SIMMS: And you interviewed him at that  
9 time?

10 MR. PAYMENT: Yes.

11 MS. SIMMS: Okay. Were you interviewing him  
12 alone, or where Bruce Duncan or Dawn Raymond present?

13 MR. PAYMENT: Dawn Raymond wasn't present, I  
14 believe Bruce was.

15 MS. SIMMS: Okay. And we don't have in your  
16 notes any details of that interview. I understand you took  
17 a statement during the course of that interview?

18 MR. PAYMENT: That is correct.

19 MS. SIMMS: I'm going to ask you to look at  
20 a document that is already an Exhibit. It's Exhibit Number  
21 86.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. PAYMENT: Yes.

24 MS. SIMMS: And you can see this is a typed  
25 Will-State regarding Scott Burgess?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** I take it, when you took the  
3 statement at the CAS office, it would have been a  
4 handwritten statement?

5                   **MR. PAYMENT:** That is correct.

6                   **MS. SIMMS:** Did you write it out yourself  
7 while Scott was talking to you?

8                   **MR. PAYMENT:** Yes.

9                   **MS. SIMMS:** Okay. And you had him confirm  
10 it and sign it?

11                   **MR. PAYMENT:** Yes.

12                   **MS. SIMMS:** Okay. Is this statement that's  
13 typed here, was this prepared by you as well?

14                   **MR. PAYMENT:** This is just the typewritten  
15 from my handwritten and it's used this way so that whenever  
16 we draw up the Crown briefs it can be put in already typed  
17 up.

18                   **MS. SIMMS:** So is this a verbatim  
19 transcription of what, the handwritten statement?

20                   **MR. PAYMENT:** As far as I can recall, yes.

21                   **MS. SIMMS:** Okay. And have you reviewed  
22 this statement ---

23                   **MR. PAYMENT:** Yes.

24                   **MS. SIMMS:** --- recently? So this statement  
25 refers to multiple acts of sexual abuse over a number of



1 years. Is that right?

2 MR. PAYMENT: Yes.

3 MS. SIMMS: And the specific act that's  
4 referenced here is fellatio.

5 MR. PAYMENT: Yes.

6 MS. SIMMS: There's no reference to other  
7 sexual acts?

8 MR. PAYMENT: No.

9 MS. SIMMS: Okay. While you're talking with  
10 Scott at the CAS office, did you ask him whether there was  
11 other sexual acts involved?

12 MR. PAYMENT: I can't see not asking him,  
13 but I really can't recall whether I did or did not.

14 MS. SIMMS: Do you recall asking him whether  
15 there were other children that he was aware of that visited  
16 Jean-Luc Leblanc or that were involved in the abuse?

17 MR. PAYMENT: Yes.

18 MS. SIMMS: And did he provide you with some  
19 names?

20 MR. PAYMENT: He mentioned his brother and I  
21 believe he mentioned a few other names.

22 MS. SIMMS: Where would that be recorded,  
23 Mr. Payment?

24 MR. PAYMENT: Unfortunately, those are notes  
25 that were done on a looseleaf ---

1                   **MS. SIMMS:** Okay.

2                   **MR. PAYMENT:** --- and I don't know if we  
3 still have them or not.

4                   **MS. SIMMS:** Well, as I understand it, and we  
5 can get to this, the information we have is that the file  
6 from the Cornwall Police Service was destroyed pursuant to  
7 document retention policies.

8                   **MR. PAYMENT:** Apparently.

9                   **THE COMMISSIONER:** Yes, Mr. ---

10                   **MR. MANDERVILLE:** Mr. Commissioner, I  
11 believe document 737019 is additional notes of Mr. Payment  
12 that has some names listed.

13                   **THE COMMISSIONER:** Thank you.

14                   Do we have that document? Do we have that  
15 document? Do we want to look at it now or later or what do  
16 we want to do?

17                   **MS. SIMMS:** We can come back to that, Mr.  
18 Commissioner.

19                   **THE COMMISSIONER:** Thank you.

20                   So just so we can get back on line here, you  
21 take as statement from Scott Burgess?

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

23                   **THE COMMISSIONER:** You're with Mr. Duncan of  
24 the CAS?

25                   **MR. PAYMENT:** Yes.

1                   **THE COMMISSIONER:** All right.

2                   He doesn't tell you -- or do you ask him is  
3                   that all -- you see, we have the benefit of his notes. So  
4                   at some point did you turn to him and say, okay, is that  
5                   about what this child has told you or does he say wait a  
6                   minute, there's more to this than that or was there any ---

7                   **MR. PAYMENT:** The best I can answer is that  
8                   I was under the impression the only thing involved was  
9                   fellatio.

10                  **THE COMMISSIONER:** Okay.

11                  **MS. SIMMS:** Just some further questions  
12                  about your interview with Scott, and this is the third  
13                  interview he'd have had that day; right?

14                  **MR. PAYMENT:** For Scott, yes.

15                  **MS. SIMMS:** Yeah. Do you recall asking if  
16                  there were any other people who abused Scott at the time?  
17                  We've heard a mention of "Bill" previously.

18                  **MR. PAYMENT:** I'm not sure if it was Scott  
19                  or Jody. I really can't recall where this Bill character's  
20                  name came to me, but there was no actual he did this, he  
21                  did that. It was just, well, I've heard that he's an  
22                  abuser also.

23                  **MS. SIMMS:** Okay, well why don't we -- the  
24                  notes that we looked at from Bruce Duncan referred to some  
25                  specific sexual acts alleged by Jody?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** Okay. So when you say there was  
3 no specific allegations, are you saying you didn't have  
4 information about those allegations because they were -- it  
5 appears ---

6                   **MR. PAYMENT:** With regards to Bill?

7                   **MS. SIMMS:** With regards to Bill.

8                   **MR. PAYMENT:** I had nothing other than it  
9 was a rumour that he was an abuser.

10                   **MS. SIMMS:** So you're saying when Bruce  
11 Duncan's notes mention at the home visit and he talked to  
12 Jody -- maybe we should just look at those -- it's Exhibit  
13 1559.

14                   **MR. PAYMENT:** Yes.

15                   **MS. SIMMS:** And it's Bates page ending 916.  
16 And you can see in the description there's  
17 specific allegations of abuse at that time. Do you see  
18 that?

19                   **MR. PAYMENT:** Yes.

20                   **MS. SIMMS:** You're not present at that  
21 interview?

22                   **MR. PAYMENT:** No.

23                   **MS. SIMMS:** So are you saying you didn't  
24 receive that information from Bruce Duncan?

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

1                   **MS. SIMMS:** So let's get back to your  
2 meeting with Scott. So you don't recall whether there was  
3 a discussion of Bill during this meeting with Scott?

4                   **MR. PAYMENT:** As I said, I can't recall who  
5 informed me, whether it was Scott or Jody, that he might  
6 also be one, an abuser.

7                   **MS. SIMMS:** Okay. And do you recall any  
8 discussion of whether there were overnight stays at Jean-  
9 Luc Leblanc's house?

10                  **MR. PAYMENT:** There was mention of that but  
11 I'm not sure. Again, I believe it was Scott that indicated  
12 that to me.

13                  **MS. SIMMS:** And did that not make it into  
14 the statement that you wrote?

15                  **MR. PAYMENT:** I don't believe the overnight  
16 issue was in his statement.

17                  **MS. SIMMS:** And what about trips with Jean-  
18 Luc Leblanc? Did you ask him if he had gone on any trips  
19 with Jean-Luc Leblanc?

20                  **MR. PAYMENT:** He had mentioned something  
21 about a trip to Montreal or something to that effect with  
22 regards to -- actually, I believe it was to pick up Ms.  
23 Raymond at the airport.

24                  **MS. SIMMS:** Right. What about any trips  
25 where he would have stayed in Jean-Luc Leblanc's care?

1 Like camping trips or cottage trips?

2 MR. PAYMENT: There was talk of other trips  
3 that were taken, yes.

4 MS. SIMMS: And those aren't reflected in  
5 the Will State Statement?

6 MR. PAYMENT: No, they're not.

7 MS. SIMMS: And those, as we discussed,  
8 might be important in terms of a full understanding of the  
9 relationship between Leblanc and the children?

10 MR. PAYMENT: Yes.

11 THE COMMISSIONER: And the extent of the  
12 abuse?

13 MR. PAYMENT: Yes.

14 MS. SIMMS: Do you recall when you were  
15 speaking with Scott if, just to cover your bases, you asked  
16 him if there was anything he had disclosed already to CAS  
17 that he hadn't told you?

18 MR. PAYMENT: No.

19 MS. SIMMS: And do you recall following up  
20 with Mr. Duncan after this interview and asking if there's  
21 any information he had that you hadn't received during this  
22 interview?

23 MR. PAYMENT: I don't recall speaking to Mr.  
24 Duncan after.

25 MS. SIMMS: So was there anything further

1 that occurred at the Childrens Aid Society office that  
2 evening after you finished taking the statement?

3 **MR. PAYMENT:** I believe Mrs. Raymond did a  
4 statement on her own while we were doing the other  
5 interview.

6 **MS. SIMMS:** And so she was -- you weren't  
7 involved in taking that statement with her? She wrote it  
8 out herself. Is that right?

9 **MR. PAYMENT:** She wrote it herself but then  
10 I reviewed it with her and went over it with her and then  
11 signed it.

12 **MS. SIMMS:** Okay. So I'm going to -- and,  
13 again, that would have been a handwritten statement; right?

14 **MR. PAYMENT:** Yes.

15 **MS. SIMMS:** Okay. I'm going to ask you to  
16 look at another document that was already made an exhibit.  
17 And it's Exhibit 98, Document Number 107069.

18 **THE COMMISSIONER:** So that would be the  
19 statement of Dawn Raymond?

20 **MR. PAYMENT:** Yes.

21 **MS. SIMMS:** That's right. So this is the  
22 statement you're discussing?

23 **MR. PAYMENT:** Yes.

24 **MS. SIMMS:** And is the typed version of what  
25 she had written out by hand that night?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** And as best you can recall, it  
3 would be a verbatim transcription?

4                   **MR. PAYMENT:** To the best of my knowledge,  
5 yes.

6                   **MS. SIMMS:** Okay. There's just a couple of  
7 things in this statement I want to draw your attention to.

8                   If you look at the second paragraph. It  
9 starts with "Last summer".

10                   **MR. PAYMENT:** M'hm.

11                   **MS. SIMMS:** And then a couple lines down it  
12 says:

13                                "On many occasions he took me to  
14 Buckingham."

15                   You see that?

16                   **MR. PAYMENT:** No, I'm sorry.

17                   **MS. SIMMS:** Sorry, it's the -- if you start  
18 on the paragraph that says "Last summer" ---

19                   **MR. PAYMENT:** Yes.

20                   **MS. SIMMS:** --- four lines down ---

21                   **MR. PAYMENT:** Oh yes, okay.

22                   **MS. SIMMS:** Okay?

23                   **MR. PAYMENT:** Sorry.

24                   **MS. SIMMS:** "On many occasions he took  
25 them to Buckingham."



1 Do you see that?

2 MR. PAYMENT: Yes.

3 MS. SIMMS: He refers to them sleeping  
4 together in a tent?

5 MR. PAYMENT: Yes.

6 MS. SIMMS: So there is a mention of trips  
7 with Jean-Luc Leblanc in this statement?

8 MR. PAYMENT: Yes.

9 MS. SIMMS: And the statement also continues  
10 to -- that same paragraph talks about the frequency of  
11 calls Ms. Raymond received from Scott when he was calling  
12 from Jean-Luc's house?

13 MR. PAYMENT: Yes.

14 MS. SIMMS: That's an indication of the  
15 frequency of the abuse, potentially?

16 MR. PAYMENT: Possibly, yes.

17 MS. SIMMS: Okay. And again, if you  
18 continue down that paragraph, there's a mention of -- you  
19 were talking about the trip to Ottawa to pick up Ms.  
20 Raymond from the airport?

21 MR. PAYMENT: Yes. I believe it was  
22 Montreal.

23 MS. SIMMS: Sorry, to Montreal. So that's  
24 mentioned.

25 And again, it mentions that they both stayed

1 overnight at Jean-Luc Leblanc's home ---

2 MR. PAYMENT: Yes.

3 MS. SIMMS: --- and that "both" is Scott and  
4 Jody Burgess?

5 MR. PAYMENT: Yes.

6 MS. SIMMS: Okay.

7 MR. PAYMENT: I believe it was Scott and  
8 Jason that went to the airport, not Jody.

9 MS. SIMMS: Thank you. That's Jason Tyo?

10 MR. PAYMENT: Yes.

11 MS. SIMMS: Okay. And in her statement at  
12 the very end there is a statement that one of the children  
13 had disclosed to her an allegation of anal sex. Do you see  
14 that?

15 THE COMMISSIONER: It's at the bottom of  
16 that first page.

17 MS. SIMMS: Bottom of the first page.

18 MR. PAYMENT: Oh, okay. Yes.

19 MS. SIMMS: So you would have -- well,  
20 actually, if you'll turn to the next page as well? And in  
21 that first paragraph there's another allegation regarding  
22 anal sex or potentially involving anal sex?

23 MR. PAYMENT: Possible anal, yes.

24 MS. SIMMS: So you are -- you reviewed this  
25 statement with Ms. Raymond; is that right?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** Okay. And it would have been  
3 after you had interviewed Scott that you reviewed the  
4 statement?

5                   **MR. PAYMENT:** Yes.

6                   **MS. SIMMS:** Do you recall going back to  
7 Scott to ask him any further details about these other  
8 sexual acts?

9                   **MR. PAYMENT:** I'm trying to remember. I  
10 believe I discussed some of the stuff she had said with  
11 Scott, but I can't recall him ever agreeing to say to me  
12 that there had been anything anal.

13                   **MS. SIMMS:** So you're saying you went back  
14 to Scott after you had prepared this Will-State Statement -  
15 - Scott's Will-State Statement?

16                   **MR. PAYMENT:** Yes.

17                   **MS. SIMMS:** And did you discuss these other  
18 aspects, the trips that are mentioned here, the overnight  
19 stays with Scott?

20                   **MR. PAYMENT:** Yeah, I discussed it with him  
21 and it was basically, "Well, that's when he touched me and  
22 that's when we performed fellatio."

23                   **MS. SIMMS:** Well, why wouldn't you have put  
24 that into the Will-State Statement, those facts?

25                   **MR. PAYMENT:** An oversight.

1                   **THE COMMISSIONER:** So are you saying to me  
2                   that you've put it to Scott, questions directly related to  
3                   whether or not there was anal intercourse?

4                   **MR. PAYMENT:** I recall doing that now, after  
5                   having read Ms. Raymond's statement. I recall talking to  
6                   him, but he would not come forward and say anything to me  
7                   with regards to that.

8                   **THE COMMISSIONER:** Mrs. Raymond?

9                   **MR. PAYMENT:** Or Mrs. Raymond, sorry. I  
10                  read her statement after I interviewed Scott.

11                  **THE COMMISSIONER:** Yes.

12                  **MR. PAYMENT:** And whenever she mentioned it,  
13                  I went back and asked him, and he wouldn't repeat it for  
14                  me. He wouldn't indicate ---

15                  **THE COMMISSIONER:** Okay. Now, is that  
16                  reflected anywhere in your notes?

17                  **MR. PAYMENT:** I don't believe so.

18                  **THE COMMISSIONER:** Where would this have  
19                  taken place and when?

20                  **MR. PAYMENT:** This was at the CAS office on  
21                  what I believe would be the 24<sup>th</sup>.

22                  **THE COMMISSIONER:** Okay. Go ahead, please.

23                  **MS. SIMMS:** Mr. Payment, I think earlier  
24                  when we were discussing the -- well, just to be clear, the  
25                  significance of this is there would be possibly different

1 charges laid depending on which sexual act we're talking  
2 about. Is that right?

3 MR. PAYMENT: Yes.

4 MS. SIMMS: And this is happening in 1986  
5 and there's a number of provisions that may be applicable.  
6 Is that correct?

7 MR. PAYMENT: Yes.

8 MS. SIMMS: Okay. And we were discussing  
9 this -- when we first started discussing this  
10 investigation, you didn't recall there being any allegation  
11 of anal sex?

12 MR. PAYMENT: That's correct.

13 MS. SIMMS: Okay. And now you recall having  
14 a discussion with Scott Burgess about it specifically?

15 MR. PAYMENT: Having read further on Mrs.  
16 Raymond's statement, it -- I recall now that she had made  
17 those comments.

18 MS. SIMMS: So knowing the significance of  
19 this other sexual act, did you have any discussions with  
20 Bruce Duncan or seek any advice about how you might  
21 encourage additional disclosure from the children?

22 MR. PAYMENT: I don't believe so, no.

23 MS. SIMMS: And so this meeting you have  
24 with Scott at the Children's Aid Society, is that the last  
25 meeting you have with Scott, the last interview you have

1 with him?

2 **MR. PAYMENT:** I believe I talked to him  
3 again, but nothing really formal, just ---

4 **MS. SIMMS:** Okay. So what did -- following  
5 your attendance at the Children's Aid Society office, you  
6 then went to the Burgess home. Is that right?

7 **MR. PAYMENT:** That's correct.

8 **MS. SIMMS:** And did you -- who were you  
9 with? Were you with Bruce Duncan and Dawn Raymond?

10 **MR. PAYMENT:** I'm not sure if Mrs. Raymond  
11 came with us, but I believe Mr. Duncan would have attended.

12 **THE COMMISSIONER:** Sir, do you have any  
13 independent recollection of this or are you relying on your  
14 notes?

15 **MR. PAYMENT:** I'm just relying on --  
16 actually, I'm assuming that Mr. Duncan would continue to  
17 the next stage with me ---

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

19 **MR. PAYMENT:** --- but Mrs. Raymond wouldn't  
20 have come with us to the residence to interview the  
21 brother.

22 **THE COMMISSIONER:** Okay. So just to help  
23 me, do you remember going to the residence?

24 **MR. PAYMENT:** Yes.

25 **THE COMMISSIONER:** Okay. And you're just

1 not sure whether Mrs. Dawn came or not, or you're telling -  
2 --

3 **MR. PAYMENT:** I don't believe Mrs. Raymond  
4 was there.

5 **THE COMMISSIONER:** All right.

6 You see, the difficulty is, is it because  
7 she wouldn't have come or do you have an independent  
8 recollection that she wasn't there?

9 **MR. PAYMENT:** It's just that she probably  
10 wouldn't have come. I don't recall if she came or not.

11 **THE COMMISSIONER:** Okay.

12 **MS. SIMMS:** Maybe I can provide some  
13 assistance on that point to you. It might refresh your  
14 memory. If you want to refer to Bruce Duncan's notes,  
15 Exhibit 1559?

16 **MR. PAYMENT:** Yes.

17 **MS. SIMMS:** And it's Document Number --  
18 Bates page ending 919. So there's some entries there.  
19 Again, we're still on January 24<sup>th</sup> and there's an entry of  
20 6:45, 6:54:

21 "7:10, Constable Payment arrived and  
22 got statements."

23 Do you see that?

24 **MR. PAYMENT:** M'hm.

25 **MS. SIMMS:** At 9:15 there's a little word

1 written in, but I think it said:

2 "Arrive Scott's home with Scott and  
3 Mrs. R. and Constable P."

4 Do you see that?

5 **MR. PAYMENT:** Okay.

6 **MS. SIMMS:** Okay. So these are Bruce  
7 Duncan's notes, but you don't have any independent  
8 recollection of whether or not Ms. Raymond attended?

9 **MR. PAYMENT:** No.

10 **MS. SIMMS:** Okay. But it appears from his  
11 notes that she did?

12 **MR. PAYMENT:** Yes, it does.

13 **MS. SIMMS:** So -- and you were referring --  
14 just before we checked that, you were referring to your  
15 notes of arriving at the Burgess home, and that's Exhibit  
16 1558. And you have a note saying:

17 "We spoke to Mr. and Mrs. Burgess."

18 **MR. PAYMENT:** Yes.

19 **MS. SIMMS:** Okay. Do you recall what  
20 discussions you had with the parents at that time?

21 **MR. PAYMENT:** It was more to let them know  
22 what Scott had already told us and recommending that they  
23 be supportive of him with regards to dealing with all of  
24 this, that it was difficult for a victim to come forward  
25 sometimes without some family support.



1                   **MS. SIMMS:** Okay. And I take it was --  
2                   would have been your understanding that Bruce Duncan, being  
3                   with the Children's Aid Society, would be maintaining  
4                   communication with the Burgess' parents on that point?

5                   **MR. PAYMENT:** Yes.

6                   **MS. SIMMS:** And I see that one of your  
7                   purposes appears to have spoken to -- to go and speak to  
8                   Jody Burgess as well?

9                   **MR. PAYMENT:** Yes.

10                  **MS. SIMMS:** Scott's brother, yes?  
11                  And so you do meet with him at that time?

12                  **MR. PAYMENT:** Yes.

13                  **MS. SIMMS:** Your note says:  
14                                 "Talked to Jody Burgess alone in his  
15                                 bedroom."

16                  So do you recall that -- were you  
17                  accompanied by Bruce Duncan or Dawn Raymond at that  
18                  interview?

19                  **MR. PAYMENT:** I believe I was alone at that  
20                  time just trying to gain his trust to talk to me.

21                  **MS. SIMMS:** Okay. And I take it he was a  
22                  little uncomfortable and a little reluctant to speak?

23                  **MR. PAYMENT:** Yes.

24                  **MS. SIMMS:** Okay. And I assume you had his  
25                  parents' permission to speak to him as well?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** Was -- were you concerned about  
3 meeting with him alone in his bedroom? Was that a  
4 comfortable environment to do that?

5                   **MR. PAYMENT:** It's where he was comfortable.

6                   **MS. SIMMS:** Okay. And can you tell us what  
7 you were told at this interview? I don't want to get into  
8 any details of abuse, but ---

9                   **MR. PAYMENT:** The only thing he -- well, he  
10 told me of some abuse and then he told me that he wasn't  
11 sure if he wanted to go any further with it and that he  
12 would think it over.

13                   **MS. SIMMS:** Okay.

14                   **THE COMMISSIONER:** And just for the record,  
15 from what I can see here is because he told you that Jean-  
16 Luc Leblanc was his friend?

17                   **MR. PAYMENT:** Yes.

18                   **THE COMMISSIONER:** Okay.

19                   **MS. SIMMS:** Okay. And that was the -- so  
20 that was the extent of your discussion with Jody that day?

21                   **MR. PAYMENT:** Yes.

22                   **MS. SIMMS:** Okay. So, Mr. Payment, we've  
23 talked about Scott and Jody Burgess, brothers. The Burgess  
24 family was a large family; is that right?

25                   **MR. PAYMENT:** Yes.

1                   **MS. SIMMS:** And there were -- do you know  
2                   how many children there were? I think ---

3                   **MR. PAYMENT:** Offhand, there may have been  
4                   six or seven.

5                   **MS. SIMMS:** Yeah, I think there were seven.  
6                   Do you recall when you were speaking to the  
7                   Burgess' parents, asking them about their other children  
8                   and whether their other children visited with Jean-Luc  
9                   Leblanc?

10                  **MR. PAYMENT:** I asked if any of the other  
11                  kids had ever visited him, yes.

12                  **MS. SIMMS:** You asked them that  
13                  specifically?

14                  **MR. PAYMENT:** I asked them -- I can't  
15                  remember how it was worded, but I remember asking them if  
16                  they knew of any others.

17                  **MS. SIMMS:** Okay.

18                  **MR. PAYMENT:** Because it had gone from Scott  
19                  to Jody, and I was wondering if maybe they knew of other  
20                  kids that might have hung out there.

21                  **MS. SIMMS:** So we know from a later  
22                  investigation that Scott and Jody's sister was also abused  
23                  by Jean-Luc Leblanc.

24                  **MR. PAYMENT:** Yes.

25                  **MS. SIMMS:** Cindy. Do you recall asking

1 about Cindy either to the boys or to the parents?

2 MR. PAYMENT: No. I recall that I did not  
3 ask.

4 MS. SIMMS: Okay. And she was living at  
5 home at the time?

6 MR. PAYMENT: Yes.

7 MS. SIMMS: I believe she would have been  
8 15? Was she 15?

9 MR. PAYMENT: I believe so.

10 MS. SIMMS: Did you speak to her personally  
11 in any way?

12 MR. PAYMENT: No.

13 MS. SIMMS: Okay.

14 THE COMMISSIONER: Is there any reason why  
15 you wouldn't have asked of her?

16 MR. PAYMENT: I don't know if it's tunnel  
17 vision, but it would seem that at that time, that we were -  
18 - he was involved with boys.

19 THE COMMISSIONER: M'hm.

20 MR. PAYMENT: She was in the kitchen  
21 whenever we were talking to the parents, so she was aware  
22 of my visit and why I was there.

23 MS. SIMMS: But you wouldn't expect -- you  
24 had some experience with child victims of sexual abuse,  
25 right?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** And you wouldn't expect that  
3 they'd necessarily volunteer that information?

4                   **MR. PAYMENT:** Some will; some won't.

5                   **MS. SIMMS:** Right. Well, you couldn't  
6 expect that from a child?

7                   **MR. PAYMENT:** No, I didn't come to expect  
8 it. I just became hopeful of it.

9                   **MS. SIMMS:** Okay. So you're talking about  
10 tunnel vision. I guess it would be fair to say in  
11 retrospect it might have been a good idea to speak to the  
12 other children in the Burgess home?

13                   **MR. PAYMENT:** It probably would have been.  
14 I vaguely recall the father telling me that he felt that  
15 Jody and Scott were more vulnerable to this and that the  
16 other children were stronger. And I think as a result of  
17 that I didn't speak to the others.

18                   **MS. SIMMS:** Well, it's fair to say that  
19 there was abuse of Scott and Jody for years before it came  
20 to the attention of the Burgess family, right?

21                   **MR. PAYMENT:** That's fair to say, yes.

22                   **MS. SIMMS:** And that the disclosure was to a  
23 teacher, in fact, not to the Burgess' parents?

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

25                   **MS. SIMMS:** Right. So whether or not he was

1 of that view, it might still warrant further investigation?

2 MR. PAYMENT: Yes, possibly, yes.

3 MS. SIMMS: So if you go back to your notes,  
4 Mr. Payment, the following day you meet with Jody Burgess  
5 in the morning?

6 MR. PAYMENT: Yes.

7 MS. SIMMS: Okay. So I take it he had, like  
8 you'd suggested, taken the night to think about it and then  
9 agreed to speak to you?

10 MR. PAYMENT: Yes.

11 MS. SIMMS: Okay. Was this -- it's a little  
12 bit unclear from your notes, but was this meeting at the  
13 police station, or do you recall?

14 MR. PAYMENT: I don't recall exactly where  
15 we did meet.

16 MS. SIMMS: Okay. And again, you don't have  
17 any details in your notes, but you took a statement from  
18 Jody on that morning?

19 MR. PAYMENT: Yes.

20 MS. SIMMS: Okay. I'm just going to ask you  
21 to quickly look at Exhibit 107. Do you have that document?

22 MR. PAYMENT: Yes.

23 MS. SIMMS: Okay. So again, this is a typed  
24 Will-State. And again, was this a transcription from the  
25 handwritten statement you prepared that day?

1                   **MR. PAYMENT:** It would be, yes.

2                   **MS. SIMMS:** It would be. Okay.

3                   And again, it describes multiple incidents  
4 of abuse?

5                   **MR. PAYMENT:** Yes.

6                   **MS. SIMMS:** And it describes, actually, a  
7 frequency of abuse of about once a week; is that right --  
8 -

9                   **MR. PAYMENT:** Yes.

10                  **MS. SIMMS:** --- for three to four years?  
11 Do you recall any discussion with Jody about  
12 whether other types of sexual abuse had occurred?

13                  **MR. PAYMENT:** I don't recall getting into  
14 that with him.

15                  **MS. SIMMS:** Okay. And again, do you recall  
16 any discussion of whether there were other children that  
17 were spending time with Jean-Luc Leblanc?

18                  **MR. PAYMENT:** Yes.

19                  **MS. SIMMS:** You did have that discussion?  
20 And did he provide you with some names?

21                  **MR. PAYMENT:** Again, I had names scribbled  
22 on a loose leaf.

23                  **MS. SIMMS:** Okay.

24                  **MR. PAYMENT:** And I don't recall if it was  
25 Scott or Jody that gave me those names.

1                   **MS. SIMMS:** Okay. And did you have any  
2                   discussions with him about trips with Mr. Leblanc, and  
3                   overnight stays?

4                   **MR. PAYMENT:** I believe so, yes.

5                   **MS. SIMMS:** And were those reflected in this  
6                   statement?

7                   **MR. PAYMENT:** I don't believe they're in his  
8                   actual statement, no.

9                   **MS. SIMMS:** It's your understanding that he  
10                  did, as well as Scott, go on trips and ---

11                  **MR. PAYMENT:** Yes.

12                  **MS. SIMMS:** --- stay overnight with Jean-Luc  
13                  Leblanc? Okay.

14                  Now we had some discussion about allegations  
15                  made by the boys against a second person named Bill.

16                  **MR. PAYMENT:** Yes.

17                  **MS. SIMMS:** Do you remember that? And I  
18                  note in your notes of your meeting with Jody Burgess,  
19                  there's an indication that there were two statements taken.  
20                  So if you can just look at your notes.

21                  **MR. PAYMENT:** Yes.

22                  **MS. SIMMS:** Statement concluded -- it's  
23                  around Bates page 919. And that's Exhibit 1558. And right  
24                  at the tope of the page it's a note from your meeting with  
25                  Jody Burgess. You see that?



1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** And it says you met, as a result  
3 a statement was taken; statement concluded.

4                   **MR. PAYMENT:** Yes.

5                   **MS. SIMMS:** And then start a second  
6 statement; statement concluded. Do you recall what that  
7 second statement was about?

8                   **MR. PAYMENT:** It was an attempt to get him  
9 to give me a statement with regards to Bill.

10                   **MS. SIMMS:** Okay. Well, when you say  
11 attempt we don't -- I don't have a copy of that statement  
12 so do you recall what was contained in that statement?

13                   **MR. PAYMENT:** There was nothing written. He  
14 refused to say anything and the actual four or five  
15 minutes, I believe, that I was talking to him was to see  
16 that you know, he had already talked to me about one; we  
17 might as well deal with the other one also.

18                   **THE COMMISSIONER:** But your notes say,  
19 statement -- "start of second statement."

20                   **MR. PAYMENT:** Yes.

21                   **THE COMMISSIONER:** "Statement concluded."  
22 So I would read in there that there was a statement.

23                   **MR. PAYMENT:** No, I'm sorry. I can  
24 understand that but it was an attempt to get a second  
25 statement.

1                   **THE COMMISSIONER:** Okay.

2                   **MS. SIMMS:** I'm just -- I'm going to ask you  
3 to quickly refer back to Bruce Duncan's notes, Exhibit  
4 1559. And I know it's Bates page ending 916 regarding the  
5 home visit. Back to the home visit that Bruce Duncan had  
6 when he spoke to Jody.

7                   **MR. PAYMENT:** Nine one six (916)?

8                   **MS. SIMMS:** Nine one six (916), yeah.

9                   Now I know you weren't there at that  
10 interview but the notes appear to indicate that when Jody  
11 is spoken to by Mr. Duncan he says that Jean-Luc is his  
12 friend. You see that?

13                   **MR. PAYMENT:** Yes.

14                   **MS. SIMMS:** And you know that when you spoke  
15 to him he was hesitant to say anything about Jean-Luc  
16 because he was a friend ---

17                   **MR. PAYMENT:** Yes.

18                   **MS. SIMMS:** --- or he considered him a  
19 friend. But he does seem to speak to them in some detail  
20 about Bill. You see that?

21                   **MR. PAYMENT:** Yes.

22                   **MS. SIMMS:** So it just seemed surprising to  
23 me, Mr. Payment, that he appears to be comfortable  
24 disclosing that information, less comfortable disclosing  
25 information about Jean-Luc Leblanc.

1                   And then when you interview him you say he  
2                   wouldn't provide you with information about Bill.

3                   **MR. PAYMENT:** He wouldn't.

4                   **MS. SIMMS:** Okay. So following your meeting  
5                   with Jody ---

6                   **THE COMMISSIONER:** Ms. Simms, could you pick  
7                   a good time for a break whenever you find it comfortable?

8                   **MS. SIMMS:** Yeah, I'll just -- just five  
9                   minutes and then we'll break.

10                  **THE COMMISSIONER:** Sure.

11                  **MS. SIMMS:** Following your meeting with Jody  
12                  you meet with Jason Tyo, is that correct?

13                  **MR. PAYMENT:** Yes.

14                  **MS. SIMMS:** Okay. And Jason Tyo is a -- was  
15                  a friend of the two Burgess children?

16                  **MR. PAYMENT:** Yes.

17                  **MS. SIMMS:** Okay. And you'd received his  
18                  name through this investigation?

19                  **MR. PAYMENT:** Yes.

20                  **MS. SIMMS:** Okay. So you note an interview  
21                  with Jason. Was that a joint interview with the CAS or was  
22                  that you on your own?

23                  **MR. PAYMENT:** I believe with Jason that I  
24                  was on my own.

25                  **MS. SIMMS:** And again there's a statement

1 taken.

2 MR. PAYMENT: Yes.

3 MS. SIMMS: And just quickly if you could  
4 refer to Exhibit 101, and that's Document Number 101068.  
5 You have that document?

6 MR. PAYMENT: Yes.

7 MS. SIMMS: And is this, again, a  
8 transcription of the handwritten statement you would have  
9 taken at the time?

10 MR. PAYMENT: Yes.

11 MS. SIMMS: And was there a second statement  
12 taken that same day?

13 MR. PAYMENT: Again there was an attempt.

14 MS. SIMMS: So there wasn't a -- you didn't  
15 have a handwritten statement taken out?

16 MR. PAYMENT: A second one, no.

17 MS. SIMMS: Right. All right. Maybe this  
18 would be a good time, Mr. Commissioner.

19 THE COMMISSIONER: Great, thank you. Let's  
20 take the morning break.

21 THE REGISTRAR: Order; all rise. À l'ordre;  
22 veuillez vous lever. This hearing will resume at 11:15.

23 --- Upon recessing at 11:02 a.m./

24 L'audience est suspendue à 11h02

25 --- Upon resuming at 11:23 a.m./

1 L'audience est reprise à 11h23

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

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

6 **BRIAN PAYMENT, Resumed/Sous le meme serment:**

7 **---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

8 **SIMMS (cont'd/suite):**

9 **MS. SIMMS:** Mr. Commissioner, Mr.  
10 Manderville mentioned further notes this morning.

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

12 **MS. SIMMS:** And we have a copy here that  
13 we've distributed to the parties.

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

15 **MS. SIMMS:** So Mr. Payment, I'm going to ask  
16 you to look at Document 737019, which appear to be notes  
17 taken by you.

18 **THE COMMISSIONER:** Thank you. This is  
19 Exhibit 1560.

20 **--- EXHIBIT NO./PIECE NO. P-1560:**

21 (737019) Notes of Brian Payment - 24 Jan 86

22 **MR. PAYMENT:** Thank you.

23 **MS. SIMMS:** Are these your notes, Mr.  
24 Payment?

25 **MR. PAYMENT:** Yes.

1                   **MS. SIMMS:** Okay. And they're relating to  
2 the same investigation that we're talking about?

3                   **MR. PAYMENT:** Yes.

4                   **MS. SIMMS:** Okay. And the first page is  
5 undated.

6                   **MR. PAYMENT:** Yes.

7                   **MS. SIMMS:** Okay. But it starts at, "14:52  
8 H.Q." You see that?

9                   **MR. PAYMENT:** Yes.

10                   **MS. SIMMS:** And then, "14:57 Central  
11 Public."

12                   **MR. PAYMENT:** Yes.

13                   **MS. SIMMS:** So are these notes relating to  
14 your -- to the same day of January 24<sup>th</sup>, 1986?

15                   **MR. PAYMENT:** Yes, they are.

16                   **MS. SIMMS:** So can you help us out at all as  
17 to when or why these were prepared?

18                   **MR. PAYMENT:** These are -- these were done  
19 on a looseleaf and may have just been notes that I scribed  
20 and then later put them into my bound notebook.

21                   **MS. SIMMS:** Okay, so just looking at this  
22 first page does it seem to you these are rough notes that  
23 you would have made at the time you were attending at  
24 Central Public?

25                   **MR. PAYMENT:** It may -- some of this may

1 have been at Central Public. Some of it may have been as  
2 it went on, as I got names given to me.

3 **MS. SIMMS:** Okay. So there's some names  
4 here and they were -- did you speak to the individuals that  
5 are named here?

6 **MR. PAYMENT:** Yes.

7 **MS. SIMMS:** Did -- were there any  
8 allegations of abuse made by these individuals?

9 **MR. PAYMENT:** No, none.

10 **MS. SIMMS:** So they were names given to you  
11 as boys who might know something about this or possibly be  
12 witnesses in some way?

13 **MR. PAYMENT:** Possibly witnesses or victims  
14 is what I was told. And then when I interviewed them they  
15 indicated nothing about being a victim.

16 **MS. SIMMS:** Okay. So on this note anyway,  
17 on the first page there's Scott Burgess' name, Jean-Luc  
18 Leblanc's name, a number of other names of boys. Dawn  
19 Raymond's name and underneath her name is a list of other  
20 boys' names. Do you see that?

21 **MR. PAYMENT:** Yes.

22 **MS. SIMMS:** Is it possible you got those  
23 names from Dawn Raymond or from the CAS?

24 **MR. PAYMENT:** Yes.

25 **MS. SIMMS:** It's possible. Do you recall

1           whether that's the route you got those names?

2                       **MR. PAYMENT:** As I said, some of them may  
3           have come from Mrs. Raymond, some may have come from Mr.  
4           Duncan. And actually, because of the time factor, I would  
5           believe it probably came from them and not Scott and Jody.

6                       **MS. SIMMS:** Okay. And on the second page,  
7           Mr. Payment, again this is dated January 24<sup>th</sup>, '86.

8                       **MR. PAYMENT:** Yes.

9                       **MS. SIMMS:** So -- and the first portion  
10          seems to be more or less what was written in the notes  
11          we've already looked at about your attendance at Central  
12          Public School.

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

14                      **MS. SIMMS:** And at the bottom of the page  
15          there's a bit more detail regarding your interview with  
16          Scott Burgess at the Children's Aid Society.

17                      **MR. PAYMENT:** Yes.

18                      **MS. SIMMS:** Okay. So just before the break,  
19          we were discussing you had -- the events of January 25<sup>th</sup>,  
20          1986.

21                      **MR. PAYMENT:** Yes.

22                      **MS. SIMMS:** And you had met with Jody  
23          Burgess and then with Jason Tyo?

24                      **MR. PAYMENT:** Yes.

25                      **MS. SIMMS:** Okay. And following your



1 meeting with Jason Tyo, it appears that you go and attend  
2 to speak with Bill MacKinnon; is that right?

3 MR. PAYMENT: Yes.

4 MS. SIMMS: What was your purpose in going  
5 to meet with Mr. MacKinnon?

6 MR. PAYMENT: Although I didn't have any  
7 actual formal complaint, I felt that if the rumour was out  
8 there and that if it was strong enough that I was getting  
9 it from different people, that I should at least talk to  
10 him to let him know that we were possibly aware of what  
11 might be going on.

12 MS. SIMMS: Was this something that -- was  
13 this a decision you made on your own or was it ---

14 MR. PAYMENT: On my own.

15 MS. SIMMS: Okay. So you go and see Bill.  
16 Did you do any background checks that you recall of this  
17 individual?

18 MR. PAYMENT: On him?

19 MS. SIMMS: Yeah.

20 MR. PAYMENT: No.

21 MS. SIMMS: Was he known to you in any way  
22 before that?

23 MR. PAYMENT: No.

24 MS. SIMMS: So when you go and see him, can  
25 you tell us what happened at that meeting?

1                   **MR. PAYMENT:** He was in his apartment. I  
2                   advised him of rumours that we were being notified of,  
3                   asked him if anything was going on. And he said "No, no,  
4                   no, not me, not me." And he was just in complete denial.

5                   **MS. SIMMS:** And you say rumours and your  
6                   notes say -- if you look at the bottom of the Bates page  
7                   019, that's your notes of this meeting; is that right?

8                   **MR. PAYMENT:** Yes.

9                   **MS. SIMMS:** And it says "He was confronted  
10                  with allegations." Do you see that?

11                  **MR. PAYMENT:** What -- yeah.

12                  **MS. SIMMS:** Okay.

13                  **MR. PAYMENT:** Allegations with regards to  
14                  rumours. Like, I didn't have a specific act or anything  
15                  that had happened with him.

16                  **MS. SIMMS:** And you mentioned specifically  
17                  Jason Tyo and others?

18                  **MR. PAYMENT:** Yes.

19                  **MS. SIMMS:** And do you know who the others  
20                  were that you were referring to?

21                  **MR. PAYMENT:** I believe it was Jody that  
22                  mentioned him and I know Jason did for sure.

23                  **MS. SIMMS:** All right.

24                  So when you say in your notes, you're going  
25                  to confront him with the allegations, were you intending --

1           were you investigating this? Is that what you were doing?

2                       **MR. PAYMENT:** There was no formal  
3 investigation started.

4                       **MS. SIMMS:** M'hm.

5                       **MR. PAYMENT:** But as I said, on my own, I  
6 decided that if, for no other reason than to make him aware  
7 that we have some knowledge of -- if he is into this  
8 activity that we were aware that he might be, I guess,  
9 maybe to put the fear of the Lord into him.

10                      **MS. SIMMS:** So is it still in your mind at  
11 this time that there may be an investigation with respect  
12 to this person?

13                      **MR. PAYMENT:** Again, yes. If somebody would  
14 have come forward and indicated to me that they were a  
15 victim, yes, I would have started an investigation.

16                      **MS. SIMMS:** So you had spoken to these three  
17 boys on January 24<sup>th</sup>, in the morning of January 25<sup>th</sup>. Did  
18 you follow up with them with respect to the information you  
19 received with respect to Bill?

20                      **MR. PAYMENT:** I tried. They wouldn't say  
21 anything about him.

22                      **MS. SIMMS:** Okay. I understand you tried  
23 when you spoke to them on this day. I'm asking whether you  
24 continued to investigate this particular individual.

25                      **MR. PAYMENT:** No.

1                   **MS. SIMMS:** Okay. And you mention in the  
2 notes that he appears to be a bit senile? Do you see that?

3                   **MR. PAYMENT:** Yes.

4                   **MS. SIMMS:** What was -- what were your  
5 observations about that?

6                   **MR. PAYMENT:** Well, he was easily confused  
7 as to just everyday things that were happening. He asked  
8 me if I wanted a coffee and I said "Okay." And he sat  
9 there. He didn't get up. And a few minutes later he says  
10 "Would you like a coffee?" And he just more or less kept  
11 repeating and seemed a little confused as to the day of the  
12 week and stuff like that.

13                   **MS. SIMMS:** So that's something you noted in  
14 your notes here. Did that have any significance to you  
15 with respect to your concerns about these allegations? Did  
16 you draw any conclusions from his state of mind?

17                   **MR. PAYMENT:** I wasn't sure if he was an  
18 abuser, but the fact that he was senile didn't sway me one  
19 way or the other, other than the fact that I knew I had to  
20 get somebody to come forward.

21                   **MS. SIMMS:** Okay. Would it be -- so you go  
22 directly to speak to Bill and you didn't take that approach  
23 with Mr. Leblanc; is that right? We'll see you laid  
24 charges and picked him up the next day.

25                   **MR. PAYMENT:** Yes.

1                   **MS. SIMMS:** Is there a reason that you had a  
2                   different approach with respect to Bill?

3                   **MR. PAYMENT:** I had people coming forward to  
4                   talk to me, to give me statements.

5                   **MS. SIMMS:** Okay.

6                   **MR. PAYMENT:** So I figured I'd collect all  
7                   that information before I spoke to him.

8                   **MS. SIMMS:** Okay.

9                   **THE COMMISSIONER:** Before you spoke to Mr.  
10                  Leblanc?

11                  **MR. PAYMENT:** Mr. Leblanc, yes.

12                  **MS. SIMMS:** Did you consider -- I know when  
13                  you first spoke to Jody, we've discussed, on January 24<sup>th</sup>,  
14                  he was hesitant at first to make a statement. You gave him  
15                  the night to think about it and he thought about it and  
16                  came back. Did you consider giving -- taking the same  
17                  approach with these allegations?

18                  **MR. PAYMENT:** With regards to Bill?

19                  **MS. SIMMS:** Yeah.

20                  **MR. PAYMENT:** Yes, but they insisted that  
21                  they had nothing to offer.

22                  **MS. SIMMS:** Well, that's on the day you're  
23                  talking to them here, January 25<sup>th</sup>, right?

24                  **MR. PAYMENT:** I spoke to them again. I  
25                  don't know if I even made note of it, but I remember

1 speaking to them again, asking them and ---

2 **MS. SIMMS:** I don't believe there is any  
3 notes of it. And if you were going to follow up the same  
4 way you'd been following up with Jean-Luc Leblanc, why  
5 would you go and see Bill before you had explored the  
6 possibility of getting statements from the kids?

7 **MR. PAYMENT:** Because I had already spoken  
8 to kids about a statement. They had already refused, and I  
9 figured while they were thinking about it, I might as well  
10 go and talk to him and let him be aware of what's going on  
11 so that, if nothing else, maybe it would stop his  
12 activities.

13 **MS. SIMMS:** Okay. We saw from the notes --  
14 you'll remember we looked at Bruce Duncan's notes regarding  
15 Jody ---

16 **MR. PAYMENT:** Yes.

17 **MS. SIMMS:** --- when he first talked to Jody  
18 about Bill, and I think you'll recall, and I can take you  
19 there if you don't, that he mentioned photographs of  
20 children?

21 **MR. PAYMENT:** Yes.

22 **MS. SIMMS:** And do you recall receiving that  
23 information from Bruce Duncan that Jody declared there were  
24 photographs.

25 **MR. PAYMENT:** I don't recall photographs,

1 no.

2 MS. SIMMS: Okay. But you'd agree with me  
3 if you had that information, would that be a consideration  
4 about going and talking to Bill informally like this?

5 MR. PAYMENT: It would be, yes.

6 MS. SIMMS: Because wouldn't there be a  
7 possibility that, you know, he might take some steps to --  
8 if there were photographs, he might take some steps to get  
9 rid of those photographs?

10 MR. PAYMENT: Yes.

11 MS. SIMMS: And do you have any further  
12 discussion with Bill following this meeting in the  
13 afternoon?

14 MR. PAYMENT: No.

15 MS. SIMMS: Okay. So I'm going to ask you  
16 to look at the next page of your notes, Mr. Payment. And  
17 your note -- I guess you're on the afternoon shift, right?  
18 They start at 1:00 p.m.

19 THE COMMISSIONER: What page, please?

20 MS. SIMMS: Oh, I'm sorry, it's Bates page  
21 020 of Exhibit 1558.

22 And you note a meeting with the Crown Don  
23 Johnson?

24 MR. PAYMENT: Yes.

25 THE COMMISSIONER: Hold on a second. Okay.

1 I'm sorry, the page number again?

2 MS. SIMMS: Bates page ending 020.

3 THE COMMISSIONER: Thank you.

4 MS. SIMMS: Okay?

5 THE COMMISSIONER: M'hm.

6 MS. SIMMS: So you're meeting with Don  
7 Johnson about the Leblanc case; is that right?

8 MR. PAYMENT: Yes.

9 MS. SIMMS: Okay. And it notes that Mr.  
10 Johnson read the statements. Would those be the four  
11 statements we were discussing?

12 MR. PAYMENT: Yes.

13 MS. SIMMS: And what was your discussion  
14 with Mr. Johnson about this case?

15 MR. PAYMENT: Having shown him the  
16 statements, then it was a discussion of what appropriate  
17 charges we would lay.

18 MS. SIMMS: Okay. And it appears that you  
19 agree -- you and Mr. Johnson agree to charge of gross  
20 indecency; is that right?

21 MR. PAYMENT: Yes.

22 MS. SIMMS: Do you have a discussion with  
23 Mr. Johnson about the mention of anal sex in Dawn Raymond's  
24 statement to those allegations?

25 MR. PAYMENT: Not that I can recall.



1                   **MS. SIMMS:** Okay. But do you recall  
2 specifically whether he would have read Dawn Raymond's  
3 statement?

4                   **MR. PAYMENT:** He did read it.

5                   **MS. SIMMS:** Do you recall any other  
6 information that you would have provided Don Johnson that  
7 was not in the statements, and specifically some of the  
8 things that we talked about with trips and overnight stays?

9                   **MR. PAYMENT:** I don't recall those things.  
10 I know that he was busy. He read the statements, and then  
11 we decided -- or he indicated to me that charges of gross  
12 indecency would be appropriate.

13                   **MS. SIMMS:** Okay. And so it was a  
14 relatively short meeting you had?

15                   **MR. PAYMENT:** It wasn't very long.

16                   **MS. SIMMS:** Okay. So following -- well, so  
17 at this meeting as well, was there a discussion of the  
18 allegations regarding Bill and what you had -- your meeting  
19 with Bill the previous day?

20                   **MR. PAYMENT:** There was discussion, but it  
21 was more of a heads-up, "I have information that there  
22 might be another abuser and we may have to do an  
23 investigation that way."

24                   **MS. SIMMS:** So you weren't discussing  
25 possible charges at that point with Mr. Johnson?

1                   **MR. PAYMENT:** No, no.

2                   **MS. SIMMS:** Did he provide you with any  
3 advise about that -- those other allegations?

4                   **MR. PAYMENT:** Other than he had concerns  
5 about Bill's age and senility but, no, other than that.

6                   **MS. SIMMS:** What kind of concerns did he  
7 express to you about that?

8                   **MR. PAYMENT:** Well, just the fact that I  
9 believe Bill was in his seventies at the time, and he had  
10 concerns about maybe -- whether he was competent enough to  
11 even stand trial.

12                   **MS. SIMMS:** I take it the information that  
13 he had about Bill would be from his -- this brief  
14 discussion with you; is that right?

15                   **MR. PAYMENT:** Yes.

16                   **MS. SIMMS:** So are you saying he -- did you  
17 express to him that you thought there was problems with  
18 competency?

19                   **MR. PAYMENT:** I think that was more  
20 something he was concerned with whenever I mentioned that  
21 he showed signs of senility.

22                   **MS. SIMMS:** Right. But I take it you  
23 weren't in a position to a make an assessment of  
24 competency?

25                   **MR. PAYMENT:** Oh, no.

1                   **MS. SIMMS:** Okay.

2                   **THE COMMISSIONER:** But the bottom line, sir,  
3 is it that -- was conversation leading to "Well, he's old;  
4 he's incompetent or may not be competent" and without being  
5 said, but "Maybe it's not a good idea to lay charges" or  
6 anything like that?

7                   **MR. PAYMENT:** I don't think he ever  
8 indicated to me that it wasn't a good idea to lay charges.  
9 I think he just said that he had a concern that if there  
10 were charges laid, would the defence come up with some kind  
11 of an argument on competency?

12                   **THE COMMISSIONER:** I understand.  
13 I guess what I'm talking about is unspoken  
14 communication, you know, the non-verbal communication  
15 between both of you. Was it -- at the end of the interview  
16 or meeting, was it that -- were you left with the  
17 impression, not that he told you not to do this but that,  
18 "Well, we may have bigger fish to fry and we'll go on to  
19 other things" or ---

20                   **MR. PAYMENT:** I was left with somewhat of  
21 that opinion, yes.

22                   **THE COMMISSIONER:** M'hm. Okay. Thank you.

23                   **MS. SIMMS:** And following that conversation,  
24 you didn't take any further investigative steps with  
25 respect to Bill?

1                   **MR. PAYMENT:** Not that I recall, no.

2                   **MS. SIMMS:** So if you're unsure about it and  
3 you're holding off -- you mentioned that this was  
4 information that you now had in case something developed  
5 down the road. Is that fair to say? So if there were  
6 further complaints down the road, you would identify that  
7 and link it with this previous case. Is that fair?

8                   **MR. PAYMENT:** Yes.

9                   **MS. SIMMS:** But you weren't actively  
10 investigating?

11                   **MR. PAYMENT:** No.

12                   **MS. SIMMS:** Was there -- if a complaint came  
13 to you, you'd make that link, I would assume, from your  
14 memory of what happened. Is that fair?

15                   **MR. PAYMENT:** Yes.

16                   **MS. SIMMS:** Would there have been -- if a  
17 complaint had come in later, not to you, to some other  
18 member of the Force, would there have been a way for them  
19 to find this information?

20                   **MR. PAYMENT:** Probably without an  
21 occurrence, no.

22                   **MS. SIMMS:** So if you had heard of it, you  
23 would have been able to make the link, but another officer  
24 wouldn't?

25                   **MR. PAYMENT:** Yes.

1                   **THE COMMISSIONER:** Well, it begs the  
2                   question: Did you file an occurrence report with respect  
3                   to Bill?

4                   **MR. PAYMENT:** No.

5                   **THE COMMISSIONER:** Was it not a practice to  
6                   open an occurrence report on this kind of thing so that  
7                   people would have -- I thought we talked about cards at  
8                   some point.

9                   **MS. SIMMS:** Contact cards.

10                  **THE COMMISSIONER:** Right.

11                  And so if somebody came up and you'd look  
12                  up, wouldn't that have been an appropriate thing to do so  
13                  that it would at least expose that incident to others?

14                  **MR. PAYMENT:** Yes. In hindsight I probably  
15                  should have made the occurrence.

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

17                  And is there a reason why you didn't?

18                  **MR. PAYMENT:** Other than continuing on with  
19                  the other investigation, I just -- it's something that I  
20                  just never thought of at the time.

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

22                  **MR. PAYMENT:** There is a file that we could  
23                  use -- that I could have used, now that I think about it.  
24                  It was just under police information ---

25                  **THE COMMISSIONER:** Right. Right.

1                   **MR. PAYMENT:** --- and I could have made an  
2                   occurrence, but unfortunately I didn't.

3                   **MS. SIMMS:** You're not aware of any further  
4                   -- no further complaints came to your attention on this  
5                   individual?

6                   **MR. PAYMENT:** About him, no. Actually, he  
7                   died shortly after.

8                   **MS. SIMMS:** Okay. So back to Jean-Luc  
9                   Leblanc. You had spoken to the Crown. You had discussed  
10                  the appropriate charges. So you then laid an information  
11                  that day?

12                  **MR. PAYMENT:** The information was laid, yes.

13                  **MS. SIMMS:** Okay. I'm going to take you to  
14                  another document which is the information, and it's  
15                  Document Number 728137.

16                  **(SHORT PAUSE/COURTE PAUSE)**

17                  **THE COMMISSIONER:** Thank you.

18                  Exhibit 1561 is an information --  
19                  information is sworn on the 27<sup>th</sup> of January 1986.

20                  **MS. SIMMS:** Mr. Commissioner, I think it  
21                  should be Exhibit 1562. Is that -- am I mistaken? Sorry,  
22                  maybe that was my mistake. Sorry.

23                  **THE COMMISSIONER:** Yeah, 560 is the notes  
24                  that Mr. Manderville offered up.

25                  **MS. SIMMS:** Right.

1                   **THE COMMISSIONER:** M'hm. And so 1561 is a  
2 copy of the information.

3                   **MS. SIMMS:** All right.

4                   **---EXHIBIT NO./PIÈCE NO. 1561:**

5                                 (728137) Information of Cst. Brian Payment -  
6                                 27 Jan, 86

7                   **MS. SIMMS:** Do you have that document, Mr.  
8 Payment?

9                   **MR. PAYMENT:** Yes.

10                   **MS. SIMMS:** Okay. And you'll note that  
11 there are a number of notes -- handwritten notes on this --  
12 on the second and third page. Do you see that?

13                   **MR. PAYMENT:** Yes.

14                   **MS. SIMMS:** These aren't your notes, are  
15 they?

16                   **MR. PAYMENT:** No, they're not.

17                   **MS. SIMMS:** Those are from the Crown? Okay.  
18 But this is the information that you swore  
19 that day?

20                   **MR. PAYMENT:** Yes, it is.

21                   **MS. SIMMS:** Okay. And it reflects three  
22 counts of gross indecency, one count with each boy. Is  
23 that right?

24                   **MR. PAYMENT:** Yes.

25                   **MS. SIMMS:** Okay. Was this -- were you

1 intending, when you charged Jean-Luc Leblanc, to encompass  
2 the multiple acts of sexual abuse that occurred?

3 **MR. PAYMENT:** You mean by combining them on  
4 the one information?

5 **MS. SIMMS:** Well, for each of the boys  
6 you've heard that they were abused frequently and over a  
7 number of years, right?

8 **MR. PAYMENT:** Yes, that was the intention of  
9 the Crown.

10 **MS. SIMMS:** Okay. And so when in the  
11 information it refers to an act of gross indecency is that  
12 supposed encompass multiple acts?

13 **MR. PAYMENT:** It will, yes.

14 **MS. SIMMS:** And the charges are specifically  
15 in relation to the act of fellatio. Is that right?

16 **MR. PAYMENT:** Yes.

17 **MS. SIMMS:** And we've already discussed  
18 there might have been other charges if you had statements  
19 with respect to anal sex?

20 **MR. PAYMENT:** There would have been other  
21 charges, yes.

22 **MS. SIMMS:** It would have been a different  
23 provision.

24 **THE COMMISSIONER:** Back then, sir, were you  
25 aware -- did you recognize a difference between -- in



1 gravity of the offence between an act of fellatio and one  
2 of anal intercourse?

3 MR. PAYMENT: Yes.

4 THE COMMISSIONER: Well, for the record, and  
5 what was it? Was one more serious than the other?

6 MR. PAYMENT: I would say so, yes.

7 THE COMMISSIONER: And which one?

8 MR. PAYMENT: The anal was probably more  
9 serious.

10 THE COMMISSIONER: Thank you.

11 MS. SIMMS: If I can ask you to refer back  
12 to your notes again. It's Exhibit 1558 and the Bates  
13 page 020.

14 MR. PAYMENT: Yes.

15 MS. SIMMS: So you laid the information and  
16 then you went and arrested Jean-Luc Leblanc. Is that  
17 right?

18 MR. PAYMENT: Yes.

19 MS. SIMMS: Okay. And can you tell me what  
20 happened following his arrest?

21 MR. PAYMENT: He was transported to police  
22 headquarters and asked to contact a lawyer.

23 MS. SIMMS: Okay. And he did that?

24 MR. PAYMENT: Yes, he did.

25 MS. SIMMS: And I see from your notes that

1           you -- I take it you were trying to get a statement from  
2           him?

3                       **MR. PAYMENT:** Yes.

4                       **MS. SIMMS:** And he refused to provide a  
5           statement at that time?

6                       **MR. PAYMENT:** Yes.

7                       **MS. SIMMS:** So having done that, I guess  
8           your next decision was to release Mr. Leblanc?

9                       **MR. PAYMENT:** After the attempts at a  
10          statement, yes.

11                      **MS. SIMMS:** Yeah. And how was -- how would  
12          arrangements for his release be made or how were they made?

13                      **MR. PAYMENT:** He was released through a  
14          Justice of the Peace.

15                      **MS. SIMMS:** Okay. And that was?

16                      **MR. PAYMENT:** Justice of the Peace Jodoin.

17                      **MS. SIMMS:** Okay. So I'm going to refer you  
18          to another document, another new document. It's Document  
19          Number 114623, and we're just jumping ahead a bit in time  
20          because this document is the brief that you prepared for  
21          the Crown.

22                                It's 114 -- oh, sorry, maybe I said it wrong  
23          -- 114263, Thank you.

24                      **THE COMMISSIONER:** Thank you.

25                                Exhibit Number 1562 is what we call a Crown

1 Brief, *Regina v. Jean-Luc Leblanc*.

2 --- EXHIBIT NO./PIÈCE NO. P-1562:

3 (114263) Crown Brief - *Regina v. Jean-Luc*  
4 *Leblanc*

5 MS. SIMMS: So, Mr. Payment, this is a brief  
6 that you would have prepared for the Crown in the course of  
7 the prosecution. Is that right?

8 MR. PAYMENT: Yes.

9 MS. SIMMS: Okay. Just right now I'm going  
10 to ask you to -- refer you to the Bates page ending 673.

11 MR. PAYMENT: Yes.

12 MS. SIMMS: So this is an undertaking given  
13 to a justice or a judge?

14 MR. PAYMENT: Yes.

15 MS. SIMMS: So this would have been the  
16 release document that was prepared for Mr. Leblanc that  
17 day?

18 MR. PAYMENT: Yes.

19 MS. SIMMS: Okay. Would you, yourself, have  
20 prepared this document, filled in the blanks?

21 MR. PAYMENT: No.

22 MS. SIMMS: Who would -- who did that?

23 MR. PAYMENT: Whoever the station duty  
24 officer was at the time.

25 MS. SIMMS: Okay. And do you recall who

1           that was?

2                       **MR. PAYMENT:** No, I don't.

3                       **MS. SIMMS:** Okay. And I take it that was  
4           the normal practice, that the -- would he be called the  
5           Officer-in-Charge of the station at the time?

6                       **MR. PAYMENT:** Yes.

7                       **MS. SIMMS:** The normal practice would be  
8           that would be the individual who would prepare the  
9           releases?

10                      **MR. PAYMENT:** Yes, because once he's in the  
11           station, he's in custody and the Officer-in-Charge has the  
12           release authority.

13                      **MS. SIMMS:** Was there any discussion with  
14           the Crown or other officers about the appropriate release  
15           for Jean-Luc Leblanc, whether he should be held, whether he  
16           should be released on his own undertaking?

17                      **MR. PAYMENT:** No, no.

18                      **MS. SIMMS:** So who ---

19                      **MR. PAYMENT:** Other than my request to the  
20           Officer-in-Charge if he was going to be released or if he  
21           was going to be held in custody.

22                      **MS. SIMMS:** Okay. So it would be your call?  
23           It would be your request to the Officer-in-Charge?

24                      **MR. PAYMENT:** I would notify the Officer-in-  
25           Charge of what the charges are against him and then he

1 would determine ---

2 THE COMMISSIONER: Well, you used the word  
3 "he would".

4 MR. PAYMENT: At that time he would look at  
5 what I had given him.

6 THE COMMISSIONER: He did?

7 MR. PAYMENT: Yes.

8 THE COMMISSIONER: Do you have any  
9 recollection of this or is this just your standard  
10 procedure?

11 MR. PAYMENT: No, I recall going to his  
12 office and ---

13 THE COMMISSIONER: And who is that person?

14 MR. PAYMENT: I don't recall who the officer  
15 was in charge at that time, that day.

16 THE COMMISSIONER: M'hm.

17 MR. PAYMENT: But I do recall that I did ask  
18 for a release.

19 THE COMMISSIONER: So you asked for a  
20 release?

21 MR. PAYMENT: I asked for; it doesn't mean  
22 I'm going to get it.

23 THE COMMISSIONER: No. No, no. Okay.

24 Now, normally when you do that, who sets the  
25 terms for the release?

1                   **MR. PAYMENT:** Myself and the Officer-in-  
2 Charge.

3                   **THE COMMISSIONER:** Okay. Go ahead then, Ms.  
4 Simms.

5                   **MS. SIMMS:** So just in terms of the  
6 conditions of the release, when you review the undertaking,  
7 there's no conditions regarding "Abstaining from  
8 Communication". Do you see that?

9                   **MR. PAYMENT:** Yes.

10                  **THE COMMISSIONER:** Well, there's a --  
11 there's one in the undertaking but it's not dealt with.

12                   This is a standard form where there are  
13 standards clauses and one of the standard clauses is  
14 "Abstain from communication with ..." so-and-so and that's  
15 left blank.

16                  **MS. SIMMS:** Right. So, Mr. Payment, there  
17 wasn't -- you didn't include in that or the Officer-in-  
18 Charge -- neither the Officer-in-Charge nor yourself  
19 included in that a condition that he abstain from  
20 communicating with the victims or with other young people.  
21 Is that correct?

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

23                  **MS. SIMMS:** Do you recall specifically  
24 making a decision on that issue?

25                  **MR. PAYMENT:** No.

1                   **THE COMMISSIONER:** Was it in your -- when  
2                   you were laying charges against people for sexual abuse or  
3                   -- was it your habit not to put in "Not to communicate with  
4                   victims"?

5                   **MR. PAYMENT:** No, I have made conditions  
6                   like that and I'm ---

7                   **THE COMMISSIONER:** So ---

8                   **MR. PAYMENT:** --- looking at this now, I'm  
9                   not sure why I didn't do it this time.

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

11                  **MS. SIMMS:** So looking at it, you think now  
12                  it ought to have included that condition?

13                  **MR. PAYMENT:** Oh, definitely.

14                  **MS. SIMMS:** So this is how Mr. Leblanc was  
15                  released. What did you do following his release? Sorry,  
16                  I'll refer you back to your notes.

17                  **MR. PAYMENT:** Once he had signed everything  
18                  and then I was transporting him back to his residence.

19                  **MS. SIMMS:** And there's reference to this in  
20                  your notes, which are Exhibit 1558, at Bates page ending  
21                  021?

22                  **MR. PAYMENT:** Yes.

23                  **MS. SIMMS:** Okay. And can you just tell us  
24                  what happened on that ride. You had a discussion with Mr.  
25                  Leblanc?

1                   **MR. PAYMENT:** Yes, he asked me why the kids  
2 went to the police and I just didn't answer, but I imagine  
3 that they felt it was wrong or I felt -- or they felt  
4 uncomfortable.

5                   And then he made a statement back as to me  
6 saying that they might have felt uncomfortable and he  
7 indicated, "If they felt uncomfortable, all they had to do  
8 was to tell me not to do it anymore and I would have  
9 stopped right away".

10                   **MS. SIMMS:** So I take it, you took that to  
11 be a significant comment by Mr. Leblanc?

12                   **MR. PAYMENT:** Very.

13                   **MS. SIMMS:** And what was the usefulness of  
14 that comment from your point-of-view?

15                   **MR. PAYMENT:** To me it was an inculpatory  
16 statement.

17                   **MS. SIMMS:** So you noted it verbatim ---

18                   **MR. PAYMENT:** Yes.

19                   **MS. SIMMS:** --- immediately, did you?

20                   **MR. PAYMENT:** Yes.

21                   **MS. SIMMS:** Okay. So this is early -- this  
22 investigation is early in your tenure at the Youth Bureau,  
23 but you've subsequently have been involved in other cases  
24 where there's allegations of child sexual abuse?

25                   **MR. PAYMENT:** Yes.



1                   **MS. SIMMS:** And so you've had a fair bit of  
2                   experience in interviewing alleged perpetrators?

3                   **MR. PAYMENT:** Yes.

4                   **MS. SIMMS:** Did you find it useful to  
5                   interview a person when these allegations were made either  
6                   before or after a charge was laid?

7                   Let me just rephrase that. You're speaking  
8                   to Jean-Luc Leblanc.

9                   **MR. PAYMENT:** Okay.

10                  **MS. SIMMS:** And you received this utterance  
11                  that is inculpatory. Did you have other experiences where  
12                  you were interviewing alleged perpetrators of childhood  
13                  sexual abuse where they made comments that were helpful in  
14                  the prosecution?

15                  **MR. PAYMENT:** Yes.

16                  **MS. SIMMS:** And was that -- so one of your  
17                  roles as an investigator was to try and obtain these kinds  
18                  of admissions?

19                  **MR. PAYMENT:** It's -- a lot of them were  
20                  just quick utterances that they would give and as the  
21                  investigator, I just listened for them sometimes. I did  
22                  that because I was trying to teach them how. That  
23                  statement, to me, is something that they would blurt out  
24                  that I wouldn't actually be trying to obtain, but they  
25                  would blurt it out.

1                   **THE COMMISSIONER:** You said -- you used the  
2 word "teach"?

3                   **MR. PAYMENT:** The suspect would sometimes  
4 say -- would finally admit that, "Well, yes, I did do that,  
5 but I was only trying to teach the child what to do".

6                   **THE COMMISSIONER:** Ah okay, I see. I see  
7 what you're saying.

8                   **MR. PAYMENT:** Okay?

9                   **THE COMMISSIONER:** Yes.

10                  **MS. SIMMS:** So in your experience, was it  
11 particularly useful in dealing with these kinds of offences  
12 to talk to the suspect or the person who has been charged?  
13 Was it common to receive some kind of important information  
14 through an admission or otherwise?

15                  **MR. PAYMENT:** Oh, yes.

16                  **MS. SIMMS:** And was that one of the reasons  
17 you went to see Bill?

18                  **MR. PAYMENT:** With hopes that maybe he might  
19 blurt something out.

20                  **MS. SIMMS:** There's not many further notes,  
21 Mr. Payment, on this matter.

22                               There's notes where you talk to two further  
23 boys and they're boys who are on that list that we already  
24 looked at, and there are no allegations made by those boys?

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

1                   **MS. SIMMS:** That's right.  
2                   And you don't have any notes following that?  
3                   **MR. PAYMENT:** No, none.  
4                   **MS. SIMMS:** So you've laid charges. Mr.  
5                   Leblanc has made a comment that you view as inculpatory.  
6                   Did you have further communication with the victim or the  
7                   victim's family to let them know that charges had been  
8                   laid?  
9                   **MR. PAYMENT:** I believe -- I'm not positive  
10                  about Jason, but I believe I spoke to Mr. Burgess to let  
11                  him know.  
12                  **MS. SIMMS:** Do you recall when that would  
13                  have been?  
14                  **MR. PAYMENT:** No, I'm sorry.  
15                  **MS. SIMMS:** Was there a policy at that time  
16                  at the Police Force that you would immediately contact the  
17                  victims or the victim's family?  
18                  **MR. PAYMENT:** No, we were just in the early  
19                  stages of setting up the Victim Assistance Programs and  
20                  unfortunately the police didn't get back to some of the  
21                  victims or families often.  
22                  **MS. SIMMS:** Right. I'll just quickly refer  
23                  you back to Bruce Duncan's notes. That's Exhibit 1559 and  
24                  it's Bates page ending 923.  
25                  You see there's a call -- are you on that

1 page, sir?

2 MR. PAYMENT: Yes.

3 MS. SIMMS: You see there's a call there, a  
4 call to CPD, and it appears to reflect a conversation that  
5 perhaps you had with Bruce Duncan. Does that appear  
6 correct?

7 MR. PAYMENT: Yes.

8 MS. SIMMS: So you do advise Bruce Duncan  
9 when he calls that Jean-Luc had come in and that he made  
10 this utterance, and he has a note at the bottom that says:

11 "Three counts of sexual assault  
12 charges."

13 MR. PAYMENT: Yes.

14 MS. SIMMS: That wouldn't have been the  
15 exact charge?

16 MR. PAYMENT: No.

17 MS. SIMMS: But do you think you had given  
18 him the information that he had been charged at this time?

19 MR. PAYMENT: Yes.

20 MS. SIMMS: And it also mentions the first  
21 appearance date?

22 MR. PAYMENT: Yes.

23 MS. SIMMS: Okay. But you weren't aware or  
24 you didn't -- wouldn't have known what Bruce Duncan was  
25 doing with this information?

1                   **MR. PAYMENT:** No.

2                   **MS. SIMMS:** What about with respect to Bill,  
3 was there any communication with the families or the  
4 victims about what was going to happen or not happen with  
5 Bill?

6                   **MR. PAYMENT:** I don't believe I talked to  
7 the parents with regards to Bill. I know I talked to the  
8 boys. I can't recall talking to the parents, but I believe  
9 I may have.

10                   **MS. SIMMS:** I think, again, there is a note  
11 from Bruce Duncan on -- so we're on the same document,  
12 Bates page 920. This is the page before.

13                   So this is another call that he made to you,  
14 it appears, and there's a mention there of -- if you look  
15 three-quarters of the way down the page, it's the paragraph  
16 that starts:

17                                 "Billy is so senile..."

18                   Do you see that?

19                   **MR. PAYMENT:** Yes.

20                   **MS. SIMMS:** "Billy is so senile we may not  
21 get anywhere with him. He was very  
22 scared and was told they would watch  
23 his house."

24                   **MR. PAYMENT:** Yes.

25                   **MS. SIMMS:** Was that information you would

1 have given to Bruce Duncan?

2 MR. PAYMENT: Yes.

3 MS. SIMMS: But you had no further  
4 conversation with the boys or the boys' families about  
5 that?

6 MR. PAYMENT: After this, no.

7 MS. SIMMS: So you had discussed this case  
8 with the Crown Attorney, Don Johnson?

9 MR. PAYMENT: Yes.

10 MS. SIMMS: And was it your understanding  
11 that he was going to handle the prosecution as well?

12 MR. PAYMENT: No, the way it went then, he  
13 was the head Crown and on the day in question, it would  
14 depend on who the Crown was in court, the day of first  
15 appearance.

16 MS. SIMMS: So following your discussion  
17 with Don Johnson about the charges, did you have further  
18 discussions with him about this case?

19 MR. PAYMENT: No.

20 MS. SIMMS: Or with another Crown?

21 MR. PAYMENT: No.

22 THE COMMISSIONER: Did Mr. Leblanc break  
23 down when you arrested him or on the way back at any time?

24 MR. PAYMENT: No. I think he was nervous,  
25 but to break down -- you mean cry and that?

1                   **THE COMMISSIONER:** Well, I'm just looking at  
2 the note of January 28<sup>th</sup> on Bates page 924, and I realize  
3 that that is Mr. Duncan's notes, but he says that he called  
4 the mother, and what he's jotted down here is:

5                   "Jason has told Scott's teacher and  
6 other kids at school. Scott has denied  
7 at school. Parents out last night for  
8 supper and Jody was crying as detective  
9 told him Jean-Luc broke down when they  
10 took him in."

11                   So did you ever have any conversation with  
12 any of the kids on that date or about the arrest?

13                   **MR. PAYMENT:** No.

14                   **THE COMMISSIONER:** No?

15                   **MR. PAYMENT:** No.

16                   **THE COMMISSIONER:** Okay.

17                   **MS. SIMMS:** So maybe we could refer back to  
18 Exhibit 1561, which is the information?

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

20                   **MS. SIMMS:** So the information includes the  
21 notes from the Crown regarding the trial dates for Jean-Luc  
22 Leblanc?

23                   **MR. PAYMENT:** Yes.

24                   **MS. SIMMS:** Well, the first appearance date  
25 being February 12<sup>th</sup>. Do you see that?

1                   **MR. PAYMENT:** Yes.

2                   **MS. SIMMS:** And then it has a note for May  
3                   13<sup>th</sup>, 1986, notes that he pled guilty to all three counts --  
4                   or pled not guilty to all three counts.

5                   **MR. PAYMENT:** Yes.

6                   **MS. SIMMS:** And then I guess the trial date  
7                   would have been November 6<sup>th</sup>, 1986. Do you see that?

8                   **MR. PAYMENT:** Right.

9                   **MS. SIMMS:** And he enters a guilty plea on  
10                  two of the counts.

11                  Were you involved at all or did you appear  
12                  at any of these court dates?

13                  **MR. PAYMENT:** No, I did not.

14                  **MS. SIMMS:** And were you involved in any  
15                  discussions with the Crown with respect to a plea or ---

16                  **MR. PAYMENT:** No.

17                  **MS. SIMMS:** --- negotiation of a plea?

18                  The information indicates that on the  
19                  November 6<sup>th</sup> date, the second count was withdrawn. Do you  
20                  see that?

21                  **MR. PAYMENT:** Yes.

22                  **MS. SIMMS:** And it also indicates that -- on  
23                  the next page it indicates that there is a suspended  
24                  sentence and three years probation as a sentence.

25                  **MR. PAYMENT:** Yes.



1                   **MS. SIMMS:** Do you see that?

2                   When did -- did you become aware that that  
3 was the conclusion of this matter?

4                   **MR. PAYMENT:** I became aware of the dropping  
5 of one charge and the eventual sentencing.

6                   **MS. SIMMS:** And you became aware of that  
7 after the fact?

8                   **MR. PAYMENT:** Yes.

9                   **MS. SIMMS:** Okay. Do you recall -- what was  
10 your opinion of the end result of this prosecution?

11                   **MR. PAYMENT:** Well, in my opinion, as a  
12 police officer, I don't like drop one, plead to two. I  
13 would prefer to see them proceed with all three. I also  
14 had feelings about which charge was dropped.

15                   **MS. SIMMS:** Was there -- it was Scott  
16 Burgess's charge that was dropped. Is that right?

17                   **MR. PAYMENT:** Yes.

18                   **MS. SIMMS:** Did you have a particular  
19 concern about that charge?

20                   **MR. PAYMENT:** Explaining to him why his was  
21 dropped and not the others.

22                   **MS. SIMMS:** Yeah.

23                   **MR. PAYMENT:** And how he would handle it.

24                   **MS. SIMMS:** Okay.

25                   **THE COMMISSIONER:** So did you speak to Scott

1 about it?

2 **MR. PAYMENT:** I spoke to -- I vaguely recall  
3 speaking to Mr. Duncan to see if he could talk to Scott  
4 because they were having good rapport with each other, but  
5 my concern was Scott being upset that his was not proceeded  
6 with.

7 **THE COMMISSIONER:** So you didn't speak to  
8 Scott at any time?

9 **MR. PAYMENT:** No, I don't believe so.

10 **THE COMMISSIONER:** Thank you.

11 **MS. SIMMS:** I'm going to refer you to one  
12 further document on this and it's an exhibit already. It's  
13 Exhibit 97.

14 **THE COMMISSIONER:** Exhibit 97?

15 **MS. SIMMS:** Yes, 97.

16 **THE COMMISSIONER:** Great. Thank you.

17 **MS. SIMMS:** Document Number 108915.

18 **MR. PAYMENT:** Yes.

19 **MS. SIMMS:** So this is a probation order  
20 with respect to Jean-Luc Leblanc.

21 **MR. PAYMENT:** Yes.

22 **MS. SIMMS:** Would you -- when was the first  
23 time you saw this document? In preparation for the  
24 Inquiry?

25 **MR. PAYMENT:** Yes.

1                   **MS. SIMMS:** Okay, you didn't see it at the  
2                   time?

3                   **MR. PAYMENT:** No.

4                   **MS. SIMMS:** Okay. Well, if you'll just look  
5                   at the second page. It's a little bit hard to read but we  
6                   were just talking about the release conditions and that  
7                   there wasn't any condition when we -- when Jean-Luc was  
8                   released about abstaining to communicate ---

9                   **MR. PAYMENT:** Yes.

10                  **MS. SIMMS:** --- in that? And you can here  
11                  on his probation order it appears that there is no  
12                  condition with respect to abstaining to communicate in the  
13                  probation order?

14                  **MR. PAYMENT:** That's right.

15                  **MS. SIMMS:** Were you aware of that at the  
16                  time?

17                  **MR. PAYMENT:** No, I was not.

18                  **MS. SIMMS:** Okay. Does it cause any concern  
19                  in retrospect?

20                  **MR. PAYMENT:** Yes.

21                  **THE COMMISSIONER:** And why is that?

22                  **MR. PAYMENT:** Well, in retrospect now that  
23                  I've found out that he's re-offended that maybe something  
24                  should have -- as in my release papers, I should have had  
25                  the "no contact".

1                   **MS. SIMMS:** I just have a -- I'm going to  
2                   move on to a very brief question about Earl Landry, Jr.,  
3                   and I'm going to ask you to look at a new document. It's  
4                   Document Number 740050.

5                   And this is a statement made by you to --  
6                   well, it doesn't say to whom -- but it's a statement made  
7                   by you on February 21<sup>st</sup>, 2001.

8                   **THE COMMISSIONER:** Thank you.

9                   Exhibit P-1583 is a statement from Brian  
10                  Payment dated February 21<sup>st</sup>, '01.

11                 --- **EXHIBIT NO./PIECE NO. P-1563**

12                                 (740050) Statement of Brian Payment -  
13                                 February 21, 2001

14                 **MS. SIMMS:** Do you recall who you prepared  
15                 this statement for, Mr. Payment?

16                 **MR. PAYMENT:** I was approached by a couple  
17                 of different officers with the OPP and also Sergeant Snyder  
18                 of our Force had also spoke to me.

19                 **MS. SIMMS:** Were the OPP speaking to you  
20                 about the Jean-Luc Leblanc investigation or ---

21                 **MR. PAYMENT:** They spoke to me about Jean-  
22                 Luc Leblanc and wanted access to my notes and I advised  
23                 them that subsequently being retired that I had turned them  
24                 all in.

25                 **MS. SIMMS:** Okay, so you did have an

1 interaction with the OPP ---

2 MR. PAYMENT: Briefly, yes.

3 MS. SIMMS: --- regarding Leblanc. Okay.

4 So what we're looking at now is a document  
5 and it's regarding Earl Landry, Jr.

6 MR. PAYMENT: Yes.

7 MS. SIMMS: So was this the -- you said that  
8 Sergeant Snyder approached you. Is this the subject  
9 matter?

10 MR. PAYMENT: I believe it was Sergeant  
11 Snyder. Yes, according to my last paragraph.

12 MS. SIMMS: Sorry, Mr. Commissioner, there's  
13 a confidentiality issue in this document. It should be  
14 marked subject to a publication ban.

15 THE COMMISSIONER: Certainly.

16 MS. SIMMS: There's a name of a monikered  
17 individual.

18 THE COMMISSIONER: Yes.

19 MS. SIMMS: C-54.

20 THE COMMISSIONER: Yes, thank you.

21 MS. SIMMS: So, just to alert you, sorry,  
22 Mr. Payment, that this is a discussion of an investigation  
23 you conducted back in the '80s?

24 MR. PAYMENT: Yes.

25 MS. SIMMS: Is that right? And the victim

1 has been granted confidentiality measures here. He's  
2 referred to as C-54.

3 MR. PAYMENT: Okay.

4 MS. SIMMS: Okay? So let's back up. So  
5 this is February 21<sup>st</sup>, 2001?

6 MR. PAYMENT: Yes.

7 MS. SIMMS: And this is prepared because  
8 Sergeant Snyder approached you?

9 MR. PAYMENT: Yes.

10 MS. SIMMS: And what did Sergeant Snyder ask  
11 you about?

12 MR. PAYMENT: Well, I believed that there  
13 was either a complaint or an investigation ongoing with  
14 regards to Earl, Jr., and he knew that I had had contact  
15 with him with regards to another matter and he wanted to  
16 know what had transpired between him and I as a result of  
17 that previous investigation.

18 MS. SIMMS: Okay. So you had done a  
19 previous investigation with respect to C-54?

20 MR. PAYMENT: Yes.

21 MS. SIMMS: That the perpetrator identified  
22 in your investigation was not Earl Landry, Jr.?

23 MR. PAYMENT: That's correct.

24 MS. SIMMS: It was a different individual?

25 MR. PAYMENT: Yes.

1                   **MS. SIMMS:** Okay. And do you recall when  
2 you would have conducted that investigation? There isn't a  
3 date in particular in this statement.

4                   **MR. PAYMENT:** No, I don't recall exactly  
5 when the complaint ---

6                   **MS. SIMMS:** But it would have been during  
7 your time at the Youth Bureau?

8                   **MR. PAYMENT:** Yes.

9                   **MS. SIMMS:** So sometime between '86 -- 1986  
10 and 1989?

11                   **MR. PAYMENT:** Yes.

12                   **MS. SIMMS:** And I see from your statement  
13 during that investigation you interviewed Earl Landry, Jr.?

14                   **MR. PAYMENT:** Yes.

15                   **MS. SIMMS:** And that was because he knew the  
16 individuals and you were just looking for further  
17 information?

18                   **MR. PAYMENT:** Yes.

19                   **MS. SIMMS:** Okay. Were you aware at the  
20 time you conducted that interview that there had been a  
21 previous complaint against Earl Landry, Jr.?

22                   **MR. PAYMENT:** I was aware that there was a  
23 complaint. The outcome and everything, I wasn't. Because  
24 of my involvement with the family, I just basically  
25 disassociated myself with the whole thing.

1                   **MS. SIMMS:** So you -- sorry, so you were  
2 aware of a previous investigation at the Cornwall Police  
3 Service?

4                   **MR. PAYMENT:** Yes.

5                   **MS. SIMMS:** Okay.

6                   **MR. PAYMENT:** I believe it was in the '80s  
7 sometime.

8                   **THE COMMISSIONER:** The '80s. And you were  
9 aware of it at the time that it was going on?

10                   **MR. PAYMENT:** I knew that there was a  
11 complaint and I knew there was an investigation, yes.

12                   **MS. SIMMS:** And you made a point of not  
13 becoming involved because you had an association with the  
14 family?

15                   **MR. PAYMENT:** Yes.

16                   **MS. SIMMS:** Is that fair? Okay.

17                   And at this time, were you aware that no  
18 charges had been laid with respect to that previous  
19 investigation?

20                   **MR. PAYMENT:** At the time that I was  
21 interviewing him?

22                   **MS. SIMMS:** Yes. M'hm.

23                   **MR. PAYMENT:** I was aware that they had not  
24 proceeded, yes.

25                   **MS. SIMMS:** Okay.



1                   **THE COMMISSIONER:** Let me get this straight  
2                   though.

3                   Did you go back and look at any information  
4                   with respect to that investigation before going to  
5                   interview the family?

6                   **MR. PAYMENT:** No.

7                   **THE COMMISSIONER:** Right, because as far as  
8                   you're concerned, Earl Landy, Jr. wasn't a suspect in that  
9                   ---

10                  **MR. PAYMENT:** In this, not at all.

11                  **THE COMMISSIONER:** All right.

12                  And just out of -- I'm not sure -- but is C-  
13                  54 -- was he ever a victim of Earl Landry, Jr.?

14                  **MS. SIMMS:** He was.

15                  **MR. PAYMENT:** Yes.

16                  **THE COMMISSIONER:** Okay.

17                  **MS. SIMMS:** In fact, I think he was the  
18                  victim that in the end was -- well, I apologize. I'm  
19                  getting off track.

20                  So those are my questions on that document,  
21                  Mr. Payment. And I just have a few further questions so we  
22                  can finish up before lunch, hopefully; see how it goes.

23                  So I just wanted to ask you a further  
24                  general question about working at the Youth Bureau. So you  
25                  were there for a little over three years?

1 MR. PAYMENT: Yes.

2 MS. SIMMS: And you handled many cases  
3 involving child abuse and child sexual abuse at that time?

4 MR. PAYMENT: Yes.

5 MS. SIMMS: Was it your experience that that  
6 type of work in particular had an emotional toll on the  
7 officers in the Youth Bureau?

8 MR. PAYMENT: I know it had one on me.

9 MS. SIMMS: And during your time there and  
10 afterwards, were there services at the Cornwall Police  
11 Service that you could access to deal with that emotional  
12 toll.

13 MR. PAYMENT: They were always there but  
14 members were reluctant to ask for it.

15 MS. SIMMS: And why was that?

16 MR. PAYMENT: Because we were the big  
17 policemen with the macho mask and we didn't want to show  
18 weakness.

19 MS. SIMMS: So that was part of the  
20 environment, generally ---

21 MR. PAYMENT: Yes.

22 MS. SIMMS: --- of the Force?

23 And I understand when you left the Youth  
24 Bureau, Constable Malloy replaced you; is that right?

25 MR. PAYMENT: I believe it was Constable

1 Malloy.

2 MS. SIMMS: Okay. Was there -- in the  
3 turnover of Youth Bureau officers, was there a training  
4 period or overlap where you ---

5 MR. PAYMENT: Here's your desk.

6 MS. SIMMS: Pardon me?

7 MR. PAYMENT: Here's your desk and the other  
8 officer -- like there were two in the branch so the officer  
9 would be there and it was basically understood that the new  
10 guy, if he had any questions, he would ask the other  
11 fellow.

12 MS. SIMMS: Right.

13 THE COMMISSIONER: What about your ongoing  
14 files? Were they left with the desk too?

15 MR. PAYMENT: They would be returned back to  
16 the officer in charge of CIB and then he would reassign.

17 MS. SIMMS: And so, in following, we've  
18 heard Constable Malloy, Constable Sebalj was the next  
19 officer assigned to the Youth Bureau.

20 MR. PAYMENT: I don't know the exact  
21 sequence but I know Constable Sebalj was eventually put in  
22 that branch, yes.

23 MS. SIMMS: And do you recall Constable  
24 Malloy or Constable Sebalj ever coming to you for advice as  
25 a previous Youth Bureau officer?

1                   **MR. PAYMENT:** No.

2                   **THE COMMISSIONER:** Did you ask to be taken  
3 out of that CIB or was it -- how did it come about?

4                   **MR. PAYMENT:** I didn't want to go at the  
5 time.

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

7                   **MR. PAYMENT:** But in looking back, it was  
8 probably better that I was removed.

9                   **THE COMMISSIONER:** And do you know why you  
10 were removed?

11                   **MR. PAYMENT:** I was advised that there was a  
12 time period and that they were going to start rotating  
13 people around and that my time was up.

14                   **THE COMMISSIONER:** Okay.

15                   **MS. SIMMS:** And did you -- were you of the  
16 view there was any other reason or ---

17                   **MR. PAYMENT:** I had my own personal opinion,  
18 yes.

19                   **THE COMMISSIONER:** Okay.

20                   **MR. PAYMENT:** You want that?

21                   **THE COMMISSIONER:** Sure.

22                   **MR. PAYMENT:** I was an Executive member of  
23 the Association at the time and the only two that were  
24 moved out was the President and myself.

25                   **THE COMMISSIONER:** And the President was?

1                   **MR. PAYMENT:** John Parisien.

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

3                   **MS. SIMMS:** It was him moved out, you mean  
4 moved out of CIB, I guess.

5                   **MR. PAYMENT:** We were both transferred out  
6 at the same time. And there was other officers that went  
7 in with us at the same time that were left in there. So we  
8 formed that opinion.

9                   **MS. SIMMS:** Just a quick question regarding  
10 Perry Dunlop. You know Perry Dunlop?

11                   **MR. PAYMENT:** Yes.

12                   **MS. SIMMS:** And did you work on a team with  
13 him together during your career?

14                   **MR. PAYMENT:** Yes, but not very long.

15                   **MS. SIMMS:** Not very long. Okay.

16                   You were back in uniform in 1993; right?

17                   **MR. PAYMENT:** Yes.

18                   **MS. SIMMS:** So would have heard around the  
19 station the -- some of the talk about the events of the  
20 fall of 1993?

21                   **MR. PAYMENT:** Again for the same reasons as  
22 with Earl, Jr., I've known Perry since he was a young boy.  
23 Like, he grew up across the street from me. And I knew his  
24 parents. I knew his mother. And again that was another  
25 one that I just -- I didn't want to get involved in, I

1 didn't want to be associated with.

2 And in '93, '94, I was going through some  
3 personal problems where I really wanted to disassociate  
4 myself with the police department and anything that was  
5 going on.

6 **MS. SIMMS:** Okay. So you knew Mr. Dunlop  
7 personally and you knew him through the Force. Did you  
8 have a continuing relationship? Did you meet with him  
9 every once in a while? Did you have coffee with him?

10 **MR. PAYMENT:** We would get together. And he  
11 was also an entertainer and whenever I was working managing  
12 the -- our Cornwall Police Club, he would supply  
13 entertainment and we'd have to discuss that.

14 **MS. SIMMS:** Did you note, following the  
15 events of 1993, did you notice any difference between --  
16 with the way other officers were interacting with Constable  
17 Dunlop?

18 **MR. PAYMENT:** Yes.

19 **MS. SIMMS:** And what kind of differences  
20 might those be?

21 **MR. PAYMENT:** Well, there was an issue and  
22 people formed their own opinions and some liked him; some  
23 hated him. And I guess it's easier to hate louder than  
24 like.

25 **MS. SIMMS:** So there was some tension ---

1                   **MR. PAYMENT:** Oh yes.

2                   **MS. SIMMS:** --- at the Force.

3                   **MR. PAYMENT:** Yes.

4                   **MS. SIMMS:** Were there some officers that no  
5 longer spoke with him?

6                   **MR. PAYMENT:** Yes.

7                   **MS. SIMMS:** But you continued to speak with  
8 him throughout?

9                   **MR. PAYMENT:** Yes, I did.

10                   **MS. SIMMS:** And did you say that you -- were  
11 you speaking to him on a personal level or were your  
12 discussing the matters that he was involved in at the  
13 Force?

14                   **MR. PAYMENT:** I never asked him anything  
15 about this and he never volunteered. And it just became a  
16 non-verbal agreement between us that we weren't going to do  
17 it.

18                   **MS. SIMMS:** Okay.

19                   **THE COMMISSIONER:** So you commented about  
20 how other officers may have changed because of the issue  
21 that arose in 1993, did you see any change in Perry Dunlop  
22 from 1993 until he left?

23                   **MR. PAYMENT:** I don't know what term to use,  
24 Mr. Commissioner. It was almost like he was walking on  
25 glass. He was afraid to say anything to anybody or to do

1 things.

2 And yeah, there was a definite change in  
3 him. And to pinpoint exactly what it was, it's hard to say  
4 but there was a major change in his disposition even; he  
5 wasn't as outgoing as he was.

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

7 And just to comment, from 1993 to when he  
8 left, was there -- did it increase in change, did he -- I  
9 know he was off for a while, but did you see any -- was it  
10 an increase in change, diminishing change or any change  
11 over time?

12 **MR. PAYMENT:** I think there was a diminish  
13 because it got to the point where he didn't even want to  
14 communicate personally.

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

16 **MR. PAYMENT:** Like he just -- he came in, he  
17 did his thing, he went home. And didn't want to talk even  
18 to people that he knew were supporting him.

19 **THE COMMISSIONER:** Okay.

20 **MS. SIMMS:** I just have one further  
21 document, Mr. Payment. It's Document Number 1117153 and  
22 it's a General Occurrence Report regarding a complaint that  
23 was made by Perry Dunlop.

24 **MR. PAYMENT:** Oh, yes.

25 **THE COMMISSIONER:** Exhibit Number 1564 is an



1 Occurrence Report; I always have trouble with the date, is  
2 it 20<sup>th</sup> of March 1997?

3 ---EXHIBIT NO./PIÈCE NO P-1564:

4 (117153) General Occurrence Report re:  
5 Complaint of P. Dunlop - 13 Dec 95

6 MS. SIMMS: I think that was the date, it  
7 was printed, Mr. Commissioner. Maybe the better date would  
8 be December 13<sup>th</sup>, 1995.

9 MR. PAYMENT: Yes, it's right at the top.

10 THE COMMISSIONER: Thank you.

11 MS. SIMMS: So Mr. Payment, you have that  
12 document?

13 MR. PAYMENT: Yes.

14 MS. SIMMS: And this is -- can you tell us  
15 what this is?

16 MR. PAYMENT: It's a complaint from Perry  
17 Dunlop with regards to threats over the telephone.

18 MS. SIMMS: Okay. And so this was an  
19 occurrence that was assigned to you?

20 MR. PAYMENT: Yes.

21 MS. SIMMS: Okay. And so what -- can you  
22 tell us what you did with respect to this complaint?

23 MR. PAYMENT: As a result of the complaint  
24 and speaking to Perry and his wife, I proceeded to identify  
25 the person and we went and spoke with her and her mother.

1                   **MS. SIMMS:** And that was -- Mr. Dunlop had  
2 requested that you just go and speak to her; is that right?

3                   **MR. PAYMENT:** Yes.

4                   **MS. SIMMS:** So he didn't want further action  
5 taken at that time?

6                   **MR. PAYMENT:** At that time, he didn't say  
7 anything about further action. He said "Go and see her and  
8 her family, talk to them, find out what's going on and get  
9 back to me."

10                   **MS. SIMMS:** And you got back to him on that?

11                   **MR. PAYMENT:** Yes, I did.

12                   **MS. SIMMS:** Okay. And what did you advise  
13 him?

14                   **MR. PAYMENT:** I advised him that I had  
15 spoken to her and her mother. She was under heavy  
16 medication because she was a sexual assault victim and that  
17 she had stopped taking some meds. And she -- the mother  
18 had agreed that she would keep a better eye on her with  
19 regards to her meds and that, hopefully, it wouldn't happen  
20 again.

21                   **MS. SIMMS:** And was Perry Dunlop satisfied  
22 that no further would be taken on this complaint on that?

23                   **MR. PAYMENT:** Yes.

24                   **MS. SIMMS:** So you discussed with him and he  
25 was fine with that?

1                   **MR. PAYMENT:** Yes.

2                   **THE COMMISSIONER:** Where did you have that  
3 discussion with him?

4                   **MR. PAYMENT:** With Perry?

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

6                   **MR. PAYMENT:** At his residence.

7                   **THE COMMISSIONER:** And was there anyone else  
8 there when you had that discussion?

9                   **MR. PAYMENT:** Yes, his wife.

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

11                  **MS. SIMMS:** I understand there was,  
12 subsequent to this, a further complaint regarding further  
13 calls from the same person?

14                  **MR. PAYMENT:** Apparently, I didn't find out  
15 about that until I was preparing for the Inquiry.

16                  **MS. SIMMS:** Oh, so you had nothing to do  
17 with that ---

18                  **MR. PAYMENT:** No.

19                  **MS. SIMMS:** --- investigation?

20                  Mr. Payment, I think those are my questions  
21 for you.

22                  **MR. PAYMENT:** Thank you.

23                  **MS. SIMMS:** We have asked witnesses if they  
24 would like to, they're welcome to make any comments or  
25 recommendations for the benefit of the Inquiry.

1                   **MR. PAYMENT:** I think my main comment is  
2                   that I understand that we're dealing with how it was done  
3                   in the past; how it's being done now and then  
4                   recommendations as to how it's going to improve.

5                   And if, at any time, if I've any errors or  
6                   omissions during my period, my only hope is that it will  
7                   help to make things better in the future.

8                   **MS. SIMMS:** Thank you very much.

9                   **THE COMMISSIONER:** Thank you very much.

10                   And we'll take lunch now. All right. Come  
11                   back at 2:00, sir.

12                   **MR. PAYMENT:** Yeah.

13                   **THE COMMISSIONER:** Thank you.

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

16                   This hearing will resume at 2:00 p.m.

17                   --- Upon recessing at 12:28 p.m./

18                   L'audience est suspendue à 12h28

19                   --- Upon resuming at 2:06 p.m./

20                   L'audience est reprise à 14h26.

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

23                   This hearing is now resumed. Please be  
24                   seated. Veuillez vous asseoir.

25                   **THE COMMISSIONER:** Mr. Manson, welcome back.

1                   **MR. MANSON:** Thank you.

2                   **--- BRIAN PAYMENT, Resumed/Sous le même serment:**

3                   **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

4                   **MANSON:**

5                   **MR. MANSON:** I am one of the counsel for the  
6 Citizens for Community Renewal which is an organization of  
7 Cornwall citizens concerned about institutional reform;  
8 especially the protection of children, and I just a few  
9 questions for you.

10                   But I read the transcript from yesterday and  
11 I understand that you said prior to going back into uniform  
12 when you were with the CIB that you were probably involved  
13 in about 50 historical sexual assault investigations.

14                   **MR. PAYMENT:** Yeah, that was a guesstimate  
15 on ---

16                   **MR. MANSON:** That's right. Ball park  
17 number. And the Commissioner asked you what you meant by  
18 historical and you used the cut-off line of five years.

19                   **MR. PAYMENT:** It was just something that  
20 came to me. It's just a period of time, like it wasn't  
21 recent.

22                   **MR. MANSON:** Yes. Now my question for you  
23 is during that period when you were with the CIB,  
24 especially with your work with the Youth Bureau you must  
25 have been aware that there's a duty on professionals,

1 including police officers, to report to the CAS whenever  
2 there was belief on reasonable grounds that a child was at  
3 risk. Correct?

4 **MR. PAYMENT:** That's correct.

5 **MR. MANSON:** And was it your understanding  
6 that that duty could apply to historical sexual assaults?

7 **MR. PAYMENT:** It was my opinion that it  
8 applied to any sexual assault.

9 **MR. MANSON:** So in other words, if -- even  
10 if it's a 10, 15 year old occurrence so long as the accused  
11 was still in a position of authority or a position of  
12 access to children your view was the duty to report was  
13 triggered?

14 **MR. PAYMENT:** Yes.

15 **MR. MANSON:** And so you would be obliged to  
16 report that to the CAS?

17 **MR. PAYMENT:** Yes.

18 **MR. MANSON:** Can you recall ever doing that  
19 in historical -- and I'm not asking you for names but can  
20 you recall ever doing that in historical sexual assault  
21 case?

22 **MR. PAYMENT:** Often.

23 **MR. MANSON:** Often. Thank you.

24 I want to ask you a question about Earl  
25 Landry, Jr. My friend Ms. Simms took you to a statement

1           that you gave in the year 2001, and in it you indicated  
2           that you stayed -- once you realized that there was an  
3           investigation involving Earl Landry, Jr. you stayed away  
4           from that because of your closeness to the family, is that  
5           correct?

6                       **MR. PAYMENT:** That's correct.

7                       **MR. MANSON:** Was this your understanding of  
8           an unwritten protocol for police officers?

9                       **MR. PAYMENT:** No, that was my preference.

10                      **MR. MANSON:** That was your preference?

11                      **MR. PAYMENT:** Yes.

12                      **MR. MANSON:** I take it there were other  
13           officers on the Force who also had relationships with the  
14           Landry family, correct?

15                      **MR. PAYMENT:** Well, yes, his father was the  
16           Chief.

17                      **MR. MANSON:** But aside from that with his  
18           brother, for example?

19                      **MR. PAYMENT:** I believe there might have  
20           been others, yes.

21                      **MR. MANSON:** But not everyone shared your  
22           view of this, what I called an unwritten protocol?

23                      **MR. PAYMENT:** No.

24                      **MR. MANSON:** Can we move for a minute to the  
25           Labelle prosecution? And I want to take you to your chart

1 which is Exhibit 1557 -- and I don't want to get into any  
2 names, Mr. Payment.

3 Most of these names were witnesses during  
4 the prosecution, correct?

5 MR. PAYMENT: Most of them are victims, yes.

6 MR. MANSON: Yes. And -- but some of them  
7 were not witnesses during the prosecution, correct?

8 MR. PAYMENT: That's correct, they weren't  
9 called.

10 MR. MANSON: Now if we start at the bottom,  
11 the bottom three are three women over 20, correct?

12 MR. PAYMENT: Yes.

13 MR. MANSON: Were any of those three women  
14 called as witnesses?

15 MR. PAYMENT: No.

16 MR. MANSON: Was this the topic of your  
17 conversation with Crown Attorney McFadden, whether these  
18 three or any of them should be called?

19 MR. PAYMENT: Yes.

20 MR. MANSON: And it was her view that they  
21 should not be called?

22 MR. PAYMENT: That is correct?

23 MR. MANSON: Even though they were mature?

24 MR. PAYMENT: I felt because they were  
25 mature it showed similar facts or similar acts, I'm sorry,



1           that it would have been better for us to call them, but no.

2                       **MR. MANSON:** The Crown disagreed?

3                       **MR. PAYMENT:** Yes.

4                       **MR. MANSON:** And if we look at the second  
5           from the bottom I notice your notation about the offence  
6           was:

7                               "Untied blouse, also upper chest rubbed  
8                               under sweater."

9                       Correct?

10                      **MR. PAYMENT:** Yes.

11                      **MR. MANSON:** Which would be similar to some  
12           of the other occurrences with the much younger witnesses?

13                      **MR. PAYMENT:** Yes.

14                      **MR. MANSON:** Correct? And is it fair to say  
15           that the Crown's view was enough is enough, three more  
16           witnesses would be -- I've seen the phrase "piling on."

17                      **MR. PAYMENT:** That was the term that I was  
18           given.

19                      **MR. MANSON:** By the Crown?

20                      **MR. PAYMENT:** Yes.

21                      **MR. MANSON:** Can we just move to the Leblanc  
22           prosecution in ---

23                      **THE COMMISSIONER:** I'm sorry, Mr. Manson,  
24           before -- can I just follow up?

25                      **MR. MANSON:** Go right ahead, Mr.

1 Commissioner.

2 **THE COMMISSIONER:** Thank you.

3 Was this to be used as similar fact evidence  
4 as opposed to having complainants?

5 **MR. PAYMENT:** Yes.

6 **THE COMMISSIONER:** Okay. Did you sense a  
7 reluctance to deal with similar fact evidence by the Crown?

8 **MR. PAYMENT:** Yes, definitely.

9 **THE COMMISSIONER:** And did you get a sense  
10 why?

11 **MR. PAYMENT:** No. As I said she just kept  
12 insisting no and she did use the term that all that's going  
13 to do is pile on, we have enough victims and they should  
14 corroborate each other.

15 **MR. MANSON:** If I can just follow that up.  
16 I take it she didn't say, "I don't think that evidence  
17 would be admissible"?

18 **MR. PAYMENT:** No, she never said that.

19 **MR. MANSON:** Thank you, Mr. Payment.

20 **THE COMMISSIONER:** Okay, I don't know how --  
21 I think somebody -- you might want to consider exploring  
22 whether or not the doctrine of similar fact evidence is  
23 something that people want to broach or attempt to use in  
24 court.

25 **MR. MANSON:** I thought about that, Mr.

1 Commissioner. Looking at the year here, 1986, it's my view  
2 that until the Supreme Court in the case of *Handy* in 2001 -  
3 --

4 **THE COMMISSIONER:** Yeah.

5 **MR. MANSON:** --- brought a lot of clarity to  
6 it.

7 **THE COMMISSIONER:** Right.

8 **MR. MANSON:** This was a contentious matter;  
9 I accept that, but I'm merely asking the former officer  
10 whether it was explained to him in those terms.

11 **THE COMMISSIONER:** Exactly.

12 **MR. MANSON:** And his evidence is she did not  
13 say it was inadmissible. Her view was it was an example of  
14 piling on.

15 **MR. PAYMENT:** That's right.

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

17 Thank you.

18 **THE COMMISSIONER:** Thank you.

19 **MR. MANSON:** Can we move now to briefly to  
20 the Leblanc prosecution in 1986 involving the two Burgess  
21 brothers and Jason Tyo?

22 You were the lead investigator in this  
23 prosecution, correct?

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

25 **MR. MANSON:** And you prepared the brief for

1 the Crown, correct?

2 MR. PAYMENT: Yes.

3 MR. MANSON: I take it from your evidence  
4 this morning that you were not involved in any discussions  
5 about guilty pleas and withdrawing one of the charges,  
6 correct?

7 MR. PAYMENT: No.

8 MR. MANSON: I want to show you a letter.  
9 It's Document 114261 from Mr. Donihee to Crown Attorney Don  
10 Johnson, dated May 13<sup>th</sup>, 1986.

11 And I'm in your hands, Mr. Commissioner.  
12 The witness may never have seen this but I do want to ask  
13 him a question about something in the content.

14 THE COMMISSIONER: Sure.

15 MR. MANSON: So maybe we should mark it an  
16 exhibit.

17 THE COMMISSIONER: Oh, absolutely. Thank  
18 you.

19 MR. MANSON: Thank you.

20 THE COMMISSIONER: This is a letter from Mr.  
21 Donihee ---

22 MR. MANSON: Yes.

23 THE COMMISSIONER: --- Don Johnson, Crown  
24 Attorney, dated May 13<sup>th</sup>, 1986.

25 --- EXHIBIT NO./PIECE NO. P-1565:

1 (114261) Letter from Tilton Donihee to D.W.  
2 Johnson dated 13 May 86

3 **MR. MANSON:** And you recall, Mr. Payment,  
4 that Mr. Donihee represented Mr. Leblanc at this time?

5 **MR. PAYMENT:** Yes.

6 **MR. MANSON:** Could you have a look at this  
7 letter and tell me whether it was ever shown to you either  
8 by Crown Attorney Johnson or by another police officer.

9 **MR. PAYMENT:** I believe the first time I saw  
10 this was in prepping for the Inquiry.

11 **MR. MANSON:** And the date of this is May  
12 13<sup>th</sup>, 1986. And it -- you can tell from the first paragraph  
13 that Mr. Donihee has likely just come back from court and  
14 they've set November 6<sup>th</sup> as the trial date, correct?

15 **MR. PAYMENT:** Yes.

16 **MR. MANSON:** Can you read the third  
17 paragraph to yourself, please?

18 (SHORT PAUSE/COURTE PAUSE)

19 **MR. PAYMENT:** Yes.

20 **MR. MANSON:** Now, prior to the November 6<sup>th</sup>,  
21 1986 court date, did you receive any communications that  
22 there was going to be guilty pleas?

23 **MR. PAYMENT:** Not that I can recall, no.

24 **MR. MANSON:** Well, you'd be responsible for  
25 subpoenaing the witnesses, wouldn't you?

1                   **MR. PAYMENT:** That is usually -- that  
2 usually is done by our Court Bureau.

3                   **MR. MANSON:** But I ---

4                   **MR. PAYMENT:** Once the Crown Brief is made  
5 and handed in, there is a copy of the Brief that's  
6 available and if subpoenas are issued, it's quite often  
7 done by the Court Bureau itself.

8                   **THE COMMISSIONER:** And who is the Court  
9 Bureau?

10                   **MR. PAYMENT:** It's a separate branch of our  
11 department where the court officers -- like, at that time  
12 there was a staff sergeant who ran it.

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

14                   **MR. PAYMENT:** And he was the one that sat in  
15 Criminal Court, and there was somebody assigned to Traffic  
16 Court.

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

18                   **MR. MANSON:** So it wouldn't have been your  
19 job to call off the witnesses?

20                   **MR. PAYMENT:** No.

21                   **MR. MANSON:** Did you know before November 6<sup>th</sup>  
22 that there was likely going to be a guilty plea?

23                   **MR. PAYMENT:** No, I didn't find out 'til  
24 after.

25                   **MR. MANSON:** Did you know before November 6<sup>th</sup>

1 that there was likely going to be some material, or at  
2 least a submission, based on the views of Dr. Bradford?

3 MR. PAYMENT: No, I did not.

4 MR. MANSON: And I take it you weren't in  
5 court for the sentencing?

6 MR. PAYMENT: No, I wasn't.

7 MR. MANSON: Well, then I can't ask you any  
8 questions about it.

9 I will at that point -- those are all my  
10 questions, Mr. Commissioner.

11 THE COMMISSIONER: Thank you, Mr. Manson.  
12 Mr. Manderville.

13 MR. MANDERVILLE: Did you make that document  
14 an exhibit?

15 THE COMMISSIONER: Yes, I did.

16 MR. MANDERVILLE: Fifteen-sixty-five (1565)?

17 THE COMMISSIONER: Fifteen-sixty-five  
18 (1565), yes.

19 Mr. Horn. Good afternoon, sir.

20 MR. HORN: Good afternoon.

21 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
22 HORN:

23 MR. HORN: Now, in the ---

24 THE COMMISSIONER: Mr. Horn acts for ---

25 MR. HORN: Oh, I'm Frank Horn. We're the

1 Coalition for Action. We're the citizens group that's been  
2 involved in agitating for this Inquiry.

3 MR. PAYMENT: Okay.

4 MR. HORN: Now, the -- maybe it will be  
5 better if you can clarify a few things. There's two  
6 Duncans: Chris Duncan and Bruce Duncan?

7 MR. PAYMENT: That's correct.

8 MR. HORN: Okay. One was the principal of  
9 the school?

10 MR. PAYMENT: Yes.

11 MR. HORN: And one was the worker at the  
12 Children's Aid Society?

13 MR. PAYMENT: That's correct.

14 MR. HORN: Was there any association between  
15 the two, do you know?

16 MR. PAYMENT: I have no idea if they were  
17 related.

18 MR. HORN: No? Okay.

19 And so there's no confusion, the name Duncan  
20 was used over and over again and I just want to make sure  
21 that everybody knows that the principal of the school was  
22 Duncan and also the worker at the Children's Aid Society  
23 was named Duncan.

24 Now, when you went and dealt with the  
25 matters over at the Central Public School?



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

2                   **MR. HORN:** The school teacher that found out  
3 about this was at Gladstone Public School?

4                   **MR. PAYMENT:** I believe that's where she  
5 was.

6                   **MR. HORN:** Yeah, which is more in the east  
7 end of Cornwall? You know where Gladstone is?

8                   **MR. PAYMENT:** Yes, it's across from the  
9 Hôtel Dieu Hospital.

10                   **MR. HORN:** Yes. And do you know how the  
11 teacher at the Gladstone High School -- Public School  
12 became the teacher of these children? Was it a ---

13                   **MR. PAYMENT:** Well, I stand corrected on  
14 this, but I believe at the time Central Public was a senior  
15 elementary school and that she had taught them at Gladstone  
16 before they moved over to Central Public.

17                   **MR. HORN:** Okay. So she knew them when they  
18 were younger?

19                   **MR. PAYMENT:** Yes.

20                   **MR. HORN:** Okay. And the -- we're talking  
21 about Mrs. Dawn ---

22                   **MR. PAYMENT:** Dawn Raymond.

23                   **THE COMMISSIONER:** Dawn Raymond.

24                   **MR. HORN:** Dawn, yes.

25                   So she knew them from the past. And did you

1 find out if there was any continuing communication between  
2 the family members and the teacher because it was quite a  
3 large family. Did they all kind of like go through her  
4 class? Does she know the whole family?

5 **MR. PAYMENT:** I'm really not sure if she  
6 knew the family or not. You'd have to ask her.

7 **THE COMMISSIONER:** Well, she testified at  
8 the Inquiry, yeah.

9 **MR. HORN:** And I wasn't here then. I didn't  
10 know if there would have been ---

11 **THE COMMISSIONER:** The transcript's  
12 available, but I can help you out if you need some help.

13 **MR. HORN:** Well, was there a continuing  
14 contact between Mrs. Downy (sic) ---

15 **THE COMMISSIONER:** Mrs. Raymond.

16 **MR. HORN:** --- and the rest of -- Ms. Dawn -  
17 --

18 **THE COMMISSIONER:** Mrs. Raymond.

19 **MR. HORN:** Pardon?

20 **THE COMMISSIONER:** Mrs. Raymond, I believe  
21 is her name.

22 **MR. HORN:** Oh Raymond, I'm sorry. Raymond.

23 **THE COMMISSIONER:** She ended up, I think,  
24 adopting ---

25 **MR. HORN:** Adopting one of the children,

1           yes.

2                   **THE COMMISSIONER:** That's right. So ---

3                   **MR. HORN:** That would be afterwards.

4                   **THE COMMISSIONER:** Oh yeah.

5                   **MR. HORN:** But I was just wondering if the  
6           entire family kind of like went through her class, you  
7           know, one year after another and she would get to know the  
8           entire family?

9                   **THE COMMISSIONER:** Don't know.

10                  **MR. HORN:** Okay. Now, one of the things  
11           that was interesting was when you went to the house, there  
12           was some talk of some abuse that you noted in your notes.  
13           Do you remember that?

14                  **MR. PAYMENT:** Yes.

15                  **MR. HORN:** Okay. How did that come out?

16                  **THE COMMISSIONER:** Okay. You mean at the --

17           -

18                  **MR. HORN:** When he went and was interviewing  
19           the family.

20                  **THE COMMISSIONER:** The Burgess family?

21                  **MR. HORN:** That's the Burgess family.

22                  **THE COMMISSIONER:** The Burgess family?

23           Yeah.

24                  **MR. HORN:** Yes.

25                  **THE COMMISSIONER:** Okay. So he walks in

1 with the social worker.

2 MR. PAYMENT: Yes.

3 THE COMMISSIONER: Is that what you want to  
4 know is how that rolled out?

5 MR. HORN: Yes, and how the information  
6 regarding the abuse came out.

7 MR. PAYMENT: I told them -- I updated them  
8 on what was going on, the allegations that they're ---

9 MR. HORN: Well, no, I'm talking about the  
10 abuse by the mother.

11 MR. PAYMENT: I don't know anything about a  
12 mother's abuse.

13 MR. HORN: I thought there was a mention in  
14 your notes ---

15 MR. PAYMENT: Not my notes.

16 MR. HORN: --- that there was a -- pardon?

17 MR. PAYMENT: Not in my notes, maybe in the  
18 CAS notes.

19 MR. MANDERVILLE: That would be in the CAS  
20 notes.

21 MR. HORN: CAS notes, yes.

22 MR. MANDERVILLE: And I don't know that  
23 that's relevant.

24 THE COMMISSIONER: I don't know what ---

25 MR. HORN: Was he in -- you weren't there

1           then?

2                           **MR. PAYMENT:** Oh no.

3                           **MR. HORN:** You weren't at all. Okay. You  
4 weren't involved in that situation.

5                           Were you aware that there were some problems  
6 in that area?

7                           **MR. PAYMENT:** No, I was not.

8                           **MR. HORN:** Okay. All right.

9                           Was there any discussions of apprehension of  
10 the children? Do you know if that was discussed at all?

11                           **MR. PAYMENT:** It was discussed with the  
12 parents because I know that Jody was reluctant to talk to  
13 us, but other than that, I had already spoken to Scott.

14                           **MR. HORN:** Okay. I understand, but I mean,  
15 let's look at it like the situation then and the way it is  
16 today. I mean, a situation like this, CAS would be a lot  
17 more vigilant in removing children today. I know that  
18 would be the situation.

19                           **THE COMMISSIONER:** Whoa. Just a second.  
20 Just a second.

21                           First of all, the standard of apprehension,  
22 to apprehend children is different today than it was then,  
23 in law.

24                           **MR. HORN:** I understand that.

25                           **THE COMMISSIONER:** Okay. So what are you --

1 -

2 MR. HORN: What I wanted to know is did that  
3 subject come up about removing the children from the --  
4 from that home because of not only allegations but also the  
5 abuse that was going on there?

6 THE COMMISSIONER: First of all ---

7 MR. HORN: Would he know about that?

8 THE COMMISSIONER: First of all, he says he  
9 doesn't know about the abuse that's going on in the house.  
10 I don't know that that's relevant here, nor is -- why is  
11 this relevant?

12 MR. HORN: Okay. The children -- there was  
13 what, about six, eight children there?

14 MR. PAYMENT: Seven children.

15 MR. HORN: And there was -- there may have  
16 been two or maybe even more children in that home that were  
17 abused by this -- by Mr. Leblanc?

18 THE COMMISSIONER: M'hm. Yes.

19 MR. HORN: So I mean, something like that,  
20 wouldn't that trigger an interest in the CAS to maybe take  
21 the children out of that home?

22 MR. PAYMENT: You'd have to ask CAS, sir.

23 MR. HORN: But you weren't involved in any  
24 discussions along those lines ---

25 MR. PAYMENT: No.

1                   MR. HORN: --- about having the Children's  
2                   Aid maybe ---

3                   MR. PAYMENT: No, because I had ---

4                   MR. HORN: --- take them out of there?

5                   MR. PAYMENT: --- no information of any  
6                   other abuse, and the only thing I was dealing with was  
7                   notifying parents of an outsider who had abused them.

8                   MR. HORN: Okay. And really, you were  
9                   filled in on more information only when the teacher came  
10                  forward and told you, giving you more information about  
11                  what had happened?

12                  MR. PAYMENT: With regards to the sexuals?

13                  MR. HORN: Yes.

14                  MR. PAYMENT: Yeah. Well, she's the one  
15                  that they first went to, and so she did give me  
16                  information, yes.

17                  MR. HORN: Okay. And it was really only  
18                  then you finally could move and do something? Up until  
19                  then, you were reluctant to get in there?

20                  MR. PAYMENT: Up until then, I didn't have a  
21                  complaint.

22                  MR. HORN: Pardon?

23                  THE COMMISSIONER: Ms. Simms?

24                  MS. SIMMS: Just to clarify, I think we're  
25                  confused on the timeline.

1                   The first contact was with Dawn Raymond.

2                   **THE COMMISSIONER:** Yes.

3                   **MS. SIMMS:** It was then that -- after that  
4 he went to the home, just so we're clear.

5                   **MR. HORN:** Okay, so the interest in the home  
6 because you were working with the Children's Aid Society,  
7 Mr. -- you know, the -- regarding this situation and you're  
8 indicating that there was really no thoughts of like,  
9 "let's move the kids -- move them out of here, take them  
10 out and then we'll work from here"?

11                   **MR. PAYMENT:** There was absolutely no  
12 thought at all and there was no grounds given to us at that  
13 time.

14                   **MR. LEE:** Mr. Commissioner, I represent  
15 Scott Burgess, Jody Burgess, Cindy Burgess. You'll recall  
16 that all three testified here and none of those three  
17 raised issues dealing with apprehension from the home.  
18 None of them suggested that they had concerns about the  
19 CAS's actions in that regard because that's not what they  
20 were here to talk about.

21                   And I would think that -- you know, I don't  
22 want to turn this Inquiry into a referendum on the Burgess  
23 home when they had an opportunity here to discuss those  
24 issues if they wanted.

25                   So I think we should -- you know, I'm



1 hesitate to get up when Mr. Horn's at the podium here, but  
2 I think we should confine this to an investigation of the  
3 sexual assault allegations and not worry about what else  
4 was going on in that home, at this Inquiry anyway.

5 **THE COMMISSIONER:** So, Mr. Horn, unless you  
6 can give me an explanation how this is relevant to your  
7 client's interests, I'm not going to let you go on. So  
8 give me your ---

9 **MR. HORN:** Well, the Cornwall Police are now  
10 giving evidence regarding -- and this particular police  
11 officer is giving evidence regarding something that  
12 happened prior to '93.

13 **THE COMMISSIONER:** Yeah.

14 **MR. HORN:** And it was a different situation  
15 back then; the law was different.

16 I'm just wanting to know if back then there  
17 was the same vigilance on the part of the CAS when a  
18 situation like this occurred to remove children out,  
19 because I know that today there would be no way those  
20 children would stay in that home.

21 **THE COMMISSIONER:** Well, I -- I -- Mr.  
22 Chisholm, are you going to up here?

23 **MR. CHISHOLM:** Thank you, sir.

24 You pushed me over my inertia of rising.

25 **(LAUGHTER/RIRES)**

1                   **MR. CHISHOLM:** I believe I was up here last  
2 week, again when Mr. Horn was here, when he was making  
3 reference to the apprehension of children by the CAS. His  
4 questions today, I would submit, are without any  
5 evidentiary foundation. I'm not sure why he's putting  
6 these questions to this witness.

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

8                   Mr. Horn, I've dealt with the odd  
9 apprehension and unless the Children's Aid Society were  
10 content that there was a complete lack of supervision on  
11 the children, in other circumstances, I don't think that  
12 they would really seriously consider taking children out of  
13 a home if they are victims of sexual abuse by a stranger,  
14 and so -- of a non-family member. And I don't know that  
15 that would apply -- and I don't know that whether you are  
16 talking about yesterday or today, that that would change  
17 very much. So unless you can give me some relevance ---

18                   **MR. HORN:** Well, I think there was a --  
19 there was talk of the children staying overnight with Mr.  
20 Leblanc ---

21                   **THE COMMISSIONER:** Yes. Yes.

22                   **MR. HORN:** --- which is quite something --  
23 you are aware of that?

24                   **THE COMMISSIONER:** No, no, no, no. Sir,  
25 sir, don't ask him any questions.

1                   **MR. HORN:** Yes.

2                   **THE COMMISSIONER:** You're going to satisfy  
3 me that your line of questioning is relevant before you  
4 pose another question.

5                   **MR. HORN:** Okay.

6                   He was aware that there was ---

7                   **THE COMMISSIONER:** Absolutely.

8                   **MR. HORN:** --- children who were staying  
9 overnight ---

10                  **THE COMMISSIONER:** Yes.

11                  **MR. HORN:** --- with Mr. Leblanc.

12                  **THE COMMISSIONER:** Yes.

13                  **MR. HORN:** It was a main -- there was a  
14 major concern in that regard.

15                  **THE COMMISSIONER:** Right.

16                  **MR. HORN:** And I'm just wondering if there  
17 would be concern by the Society regarding the ability to --  
18 for the parents to be able to supervise those children ---

19                  **THE COMMISSIONER:** All right.

20                  **MR. HORN:** --- so that this sort of thing  
21 would not happen when they may have been aware that the  
22 children were sleeping overnight, going to Buckingham and  
23 going to different places with the -- with this individual.

24                  **THE COMMISSIONER:** Well, first of all, that  
25 question may or may not be relevant when you get to the

1 Children's Aid Society, when they come up to do their  
2 institutional response. But to this gentleman, how would  
3 he know what this Children's Aid Society has to do? And  
4 so, I'm going to ask you to go onto another topic.

5 MR. HORN: Okay.

6 THE COMMISSIONER: Thank you.

7 MR. HORN: All right.

8 (SHORT PAUSE/COURTE PAUSE)

9 MR. HORN: That kind of got me off-guard.

10 THE COMMISSIONER: Sure.

11 MR. HORN: I was -- thinking about that for  
12 quite some time.

13 THE COMMISSIONER: M'hm.

14 You see, my point is, you know -- molesters  
15 don't go and tell the parents, "Oh, and I'm going to  
16 physically -- I'm going to sexually abuse your children."  
17 They, as you know, if you've read the -- from the experts  
18 they'll groom children, they'll give them gifts and so the  
19 children aren't going to tell their parents that this is  
20 going on, so I think ---

21 MR. HORN: Except in this situation the  
22 teacher became suspicious when she thought that this  
23 individual was a family member, and then she eventually  
24 found out that it was a stranger.

25 THE COMMISSIONER: Sure.

1                   **MR. HORN:** I mean, the parents would know  
2 way more than the teacher regarding this particular  
3 individual, I would suspect. I would suspect that they  
4 would know more about who this individual is if the teacher  
5 knew. And she's not even in that school, she was in  
6 another school.

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

8                   **MR. HORN:** So, I mean if the teacher was  
9 aware of that then I would think that the parents would --  
10 may have known something and would have suspected. And I  
11 think there would be a danger there and that's why I would  
12 say that the -- I know that the Society on many occasions  
13 get involved when these sorts of things occur one day.

14                   **THE COMMISSIONER:** Until you come and give  
15 evidence about -- and your expertise about the ---

16                   **MR. HORN:** I'm not here to give evidence.

17                   **THE COMMISSIONER:** Okay, okay, well, then --  
18 -

19                   **MR. HORN:** But I've done a few cases like  
20 yourself in regards to Society matters.

21                   **THE COMMISSIONER:** Yeah.

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

23                   **THE COMMISSIONER:** Would you like Mr. Lee to  
24 go before?

25                   **MR. HORN:** Yeah, maybe it would be better

1           that way.

2                           **THE COMMISSIONER:** And then you can ---

3                           **MR. HORN:** Yeah, I've kind of got -- I lost  
4 track of my questioning, there.

5                           **THE COMMISSIONER:** I'm sorry; I do that  
6 sometimes.

7                           Mr. Lee.

8           --- CROSS-EXAMINATION BY MR. LEE/CONTRE-INTERROGATOIRE PAR

9 **MR. LEE:**

10                           **MR. LEE:** Good afternoon, Mr. Commissioner.

11                           **THE COMMISSIONER:** Good afternoon, sir.

12                           **MR. LEE:** Constable Payment, my name is  
13 Dallas Lee. I act as Counsel for the victims group here.

14                           **MR. PAYMENT:** Yes.

15                           **MR. LEE:** I have a few areas that I'd like  
16 to ask you about. I would like to start by just briefly  
17 bringing you back to the Lucien Labelle investigation, if I  
18 could?

19                           **MR. PAYMENT:** Yes.

20                           **MR. LEE:** And Mr. Manson took you to -- I  
21 don't need to turn it up but it's Exhibit 1557, which is  
22 the chart of alleged victims with the bottom three being  
23 adults by the time that chart was created. Do you recall  
24 that?

25                           **MR. PAYMENT:** Yes.

1                   **MR. LEE:** And what you told Mr. Manson was  
2 that you felt that the adult witnesses may have been able  
3 to corroborate the complainant's allegations? Is that  
4 right?

5                   **MR. PAYMENT:** yes.

6                   **MR. LEE:** And you told us that you were  
7 present for that trial?

8                   **MR. PAYMENT:** Yes.

9                   **MR. LEE:** And were you present for the  
10 verdict as well ---

11                   **MR. PAYMENT:** Yes.

12                   **MR. LEE:** --- where the judge read out his  
13 reasons for acquittal?

14                   **MR. PAYMENT:** Yes.

15                   **MR. LEE:** Do you recall whether or not the  
16 judge raised a lack of corroboration as a reason supporting  
17 his acquittal?

18                   **MR. PAYMENT:** Yes, he did.

19                   **MR. LEE:** If I could take you for one moment  
20 please, sir, to a newspaper article that is Document  
21 200236.

22                   **THE COMMISSIONER:** Okay. Exhibit Number  
23 1566 is a -- oh, yes, I see, a newspaper article dated  
24 January 24<sup>th</sup>, '86.

25                   --- **EXHIBIT NO./PIECE NO. P-1566:**

1 (200236) News clipping "Charges against  
2 city school principal dismissed" - 24  
3 Jan, 86

4 **MR. LEE:** I'm just going to wait for the  
5 screen, Mr. Commissioner.

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

7 **MR. LEE:** Madam Clerk, I'm going to read the  
8 sentence that begins at the bottom of the left-hand column  
9 and continues up if you could blow that up, please? The  
10 left-most two columns please?

11 It reads:

12 "Judge Hutton, in dismissing nine of  
13 the ten charges, cited contradictory  
14 evidence given by the female students  
15 involved, a lack of corroborating  
16 evidence, and excellent character  
17 testimony given by the defendant's  
18 colleagues and neighbors."

19 Do you see that, sir?

20 **MR. PAYMENT:** Yes, I do.

21 **MR. LEE:** And does that correspond with your  
22 recollection of what those reasons were?

23 **MR. PAYMENT:** Yes.

24 **MR. LEE:** And is it fair to say that a lack  
25 of corroborating evidence is one of the concerns you raised



1 with the Crown in the first place?

2 MR. PAYMENT: Yes.

3 MR. LEE: And that's why you wanted some or  
4 all of the adult complainant ---

5 MR. PAYMENT: Yes.

6 MR. LEE: --- or complainants to testify, is  
7 that right? Sorry, witnesses.

8 And you told Mr. Manson in cross that one of  
9 the phrases that was used by the Crown was that it would be  
10 piling on, is that right?

11 MR. PAYMENT: Yes.

12 MR. LEE: Was this much of a conversation or  
13 debate between you and the Crown or was it more of a ---

14 MR. PAYMENT: I would say more of a debate.

15 MR. LEE: And obviously in that situation,  
16 the Crown wins that debate?

17 MR. PAYMENT: Yes, they did.

18 MR. LEE: The only other matter I wasn't  
19 clear on concerned your conversation with the Boy Scouts  
20 concerning Mr. Labelle. And was it my understanding that  
21 that conversation took place after the acquittal?

22 MR. PAYMENT: Yes, it did.

23 MR. LEE: And so as I understand it, what  
24 you told us in-chief was that you called the Boy Scouts and  
25 told them that perhaps it would be a good idea for them to

1 contact the school board to get some information on this  
2 man, is that right?

3 MR. PAYMENT: Yes, because he had already  
4 been dismissed from the school system.

5 MR. LEE: Do you recall if you gave them any  
6 other information? Did you tell them why he was dismissed  
7 or ---

8 MR. PAYMENT: Oh, no, no, I ---

9 MR. LEE: --- did you tell him of the  
10 charges ---

11 MR. PAYMENT: No.

12 MR. LEE: --- of the trial?

13 MR. PAYMENT: No. I just asked them to  
14 contact the school board.

15 MR. LEE: You just gave them a tip and you  
16 knew where that would lead, is that correct?

17 MR. PAYMENT: Yes.

18 MR. LEE: And you were comfortable making  
19 that notification?

20 MR. PAYMENT: Yes.

21 MR. LEE: Did you consider it as a  
22 responsibility of yours to make that notification?

23 MR. PAYMENT: I don't know about legal  
24 responsibility but morally I felt I had to do it.

25 MR. LEE: Okay. I want to ask you some

1 general questions -- I'm done with Labelle now.

2 **MR. PAYMENT:** Okay.

3 **MR. LEE:** I want to ask you some general  
4 questions about your experiences with the Cornwall police  
5 about essentially about what life at the Cornwall police  
6 was like in different areas and how things worked. And  
7 then I want to get into the Leblanc investigation with you.  
8 Okay?

9 So, let's start in CIB. And I'm interested  
10 in the pre-OMPPAC days. Okay? And I'm not concerned with  
11 when OMPPAC came in for some purpose other than what it  
12 came in for in '89. I'm talking about before officers were  
13 using OMPPAC.

14 And I'm wondering whether there was any  
15 discussion or supervision of specific files other than at  
16 the investigating officer's request?

17 **MR. PAYMENT:** Well, the officer in charge of  
18 that unit would be reviewing any reports handed in. And if  
19 he had any questions, he would bring us in and consult with  
20 us.

21 **MR. LEE:** We've had some evidence -- we've  
22 had quite a lot of evidence about the Ministry of  
23 Corrections and we heard a lot about random file audits.  
24 Was there ever anything similar to that in CIB?

25 **MR. PAYMENT:** I'm sorry the term?

1           **MR. LEE:** File audits.

2           **THE COMMISSIONER:** Random file audits.

3           **MR. PAYMENT:** Okay.

4           **MR. LEE:** What we've been told -- Ministry  
5 of Corrections, essentially the Probation and Parole  
6 Office, the area manager would go pull a certain percentage  
7 or a certain number of files every year, just at random,  
8 and go through them with a bit of a fine toothcomb and pick  
9 them apart a little bit.

10           **MR. PAYMENT:** Truthfully, I wouldn't have  
11 any knowledge of that, it would be whoever was in charge of  
12 that branch. They might be able to answer if they did that  
13 or ---

14           **MR. LEE:** Well, presumably if it had  
15 happened with any of your files, you would have been  
16 notified to the fact that ---

17           **MR. PAYMENT:** Oh yes, yes.

18           **MR. LEE:** You don't recall anything like  
19 that?

20           **MR. PAYMENT:** No.

21           **MR. LEE:** It wasn't as a matter of course,  
22 you didn't get a report once a year or once every couple of  
23 years setting out that "We looked at some files and here's  
24 what we think"?

25           **MR. PAYMENT:** No, there was nothing about

1 the files themselves; like we had our annual evaluations  
2 where it was just a recap of your last year. But to go  
3 through the individual reports, no.

4 **MR. LEE:** So do I have it right then if you  
5 went and asked a question or went for help, obviously there  
6 would be some supervision there?

7 **MR. PAYMENT:** Yes.

8 **MR. LEE:** And if you submitted a report and  
9 the supervising officer had some issue or concern or  
10 question with it, there would be some supervision through  
11 that process?

12 **MR. PAYMENT:** Yes.

13 **MR. LEE:** But otherwise ---

14 **MR. PAYMENT:** Very seldom after that.

15 **MR. LEE:** Okay. During your examination in-  
16 chief, you touched on workload issues a little bit. And  
17 specifically I'm interested, I suppose, in your time in the  
18 Youth Branch. And I'm wondering whether you felt pressure  
19 during your time in the Youth Branch to get your  
20 investigations completed quickly.

21 **MR. PAYMENT:** It was a self-imposed pressure  
22 because your caseload, your files are there; you had other  
23 things -- like in those days, we had to handle youth court,  
24 you had to do preps for court. Sometimes we even acted as  
25 Crowns for bail hearings so there was pressure put on me,

1 more by myself than by my supervisors that "I've got to do  
2 this. I've got to get this done. I'm falling behind on  
3 this one."

4 MR. LEE: I take it the flow of incoming  
5 files wasn't going to stop?

6 MR. PAYMENT: Oh no.

7 MR. LEE: So there was a fairly high premium  
8 I take it, in your own mind at least, on clearing files?

9 MR. PAYMENT: Yes.

10 MR. LEE: You told us yesterday that  
11 workload issues affected the thoroughness of investigations  
12 and I'm wondering if that is in part due to these pressures  
13 of trying to get things done as quickly as possible so that  
14 you could ---

15 MR. PAYMENT: Yes.

16 MR. LEE: --- move on to something else.

17 MR. PAYMENT: Yes.

18 MR. LEE: And would you agree with me that  
19 it was difficult to find the time to dig just a little bit  
20 deeper into an investigation where you might have liked to  
21 otherwise because of these workload issues?

22 MR. PAYMENT: Possibly, yes.

23 MR. LEE: At some point, you have to draw a  
24 line and you have to move on?

25 MR. PAYMENT: Yes.

1                   **MR. LEE:** And if a couple of stones are left  
2                    untuned, they may have to just remain left untuned; is  
3                    that right?

4                   **MR. PAYMENT:** That's right.

5                   **MR. LEE:** And you have some personal  
6                    experience with feeling that way during your time in the  
7                    Youth Bureau?

8                   **MR. PAYMENT:** Yes. And today.

9                   **MR. LEE:** Another thing that I found  
10                   interesting in your testimony was some of the talk you had  
11                   with Ms. Simms about counseling services being available to  
12                   officers. And I think you -- the phrase you used was "the  
13                   macho mask and not wanting to show weakness." Is that  
14                   right?

15                   **MR. PAYMENT:** Yes, that's right.

16                   **MR. LEE:** And you chalk that up as just sort  
17                   of being part of the environment?

18                   **MR. PAYMENT:** It was a police environment,  
19                   yes, definitely.

20                   **MR. LEE:** And in your experience, might that  
21                   apply to asking for help on files as well?

22                   **MR. PAYMENT:** For my own personal point of  
23                   view, if I was having a problem, I'd ask a question. Like  
24                   I didn't have a problem with that. But I don't know how  
25                   others -- they may have perceived it that way and it may

1 have caused a problem for them to come forward.

2 MR. LEE: Have you ever got the sense that  
3 it might be seen as a sign of weakness by some in policing  
4 circles and specifically at the Cornwall police if ---

5 MR. PAYMENT: In those days, if you dropped  
6 the mask, you were a "wuss."

7 MR. LEE: Did you ever have any issues with  
8 that at all? Do you remember ever feeling that, you know,  
9 maybe it might be best to just keep your mouth shut?

10 MR. PAYMENT: I had issues, as I explained  
11 this morning, I had some personal issues. I ended up  
12 taking some time off; I was off for three months. And it  
13 caused more problems being off work than it was being at  
14 work.

15 THE COMMISSIONER: Why is that?

16 MR. PAYMENT: Because of the feedback from  
17 some of my fellow workers, "What's the matter with you?  
18 Why don't you come back to work?"

19 THE COMMISSIONER: M'hm.

20 MR. LEE: Can you think back to when you  
21 were a young officer; do you remember feelings of being  
22 hesitant to ask for help at that point in time? Speaking  
23 of you.

24 MR. PAYMENT: No.

25 MR. MANDERVILLE: Mr. Commissioner, I'd ask



1 Mr. Lee to clarify a little bit because I'm not certain if  
2 he is speaking in terms of emotional or workload ---

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

4 **MR. MANDERVILLE:** --- and its emotional toll  
5 or investigations and supervisory sort of help?

6 **THE COMMISSIONER:** Right. Do you understand  
7 what he is saying?

8 **MR. LEE:** Sometimes.

9 (LAUGHTER/RIRES)

10 **THE COMMISSIONER:** Okay. Well ---

11 **MR. LEE:** What I ---

12 **THE COMMISSIONER:** --- Mr. Manderville would  
13 say that I never understand what he says but --- no, but  
14 let me just ---

15 **MR. LEE:** Sure.

16 **THE COMMISSIONER:** --- there is two things I  
17 want to -- there is a question when you ask for help on a  
18 question on a file and there is a question of asking for  
19 help "I'm overwhelmed with too much work."

20 **MR. LEE:** Yes.

21 **THE COMMISSIONER:** You see? And I think  
22 there's a difference there. I think he answered he doesn't  
23 have a problem asking questions about on a file but would  
24 the answer be the same about coming forward and saying  
25 "Look it, I'm just swamped; I need somebody to help me out

1 here"?

2 **MR. LEE:** So let's break that down then,  
3 Constable. As the Commissioner said, let's talk about when  
4 you have a file assigned and you're running into issues on  
5 the file.

6 Do you recall early on in your career, again  
7 as a young officer, being hesitant at all to come forward  
8 and ask for help for fear of outing yourself as maybe not  
9 quite being as confident in your work as you might like  
10 others to think you are?

11 **MR. PAYMENT:** No, not really. I found the  
12 older officers, when I was young, that they were very  
13 cooperative. They were more than willing to help you  
14 through anything.

15 **MR. LEE:** What about when you came into the  
16 Youth Bureau? Because you had a fair bit of experience  
17 with the Cornwall police by that point but you're coming  
18 into a new role. Did you -- at that point, being a more  
19 senior officer, were you hesitant at all to ask for help?

20 **MR. PAYMENT:** I probably would have been  
21 under certain circumstances but the supervisors I had, I  
22 had a good rapport with. Like, we are a small Force and  
23 you get to know them. Some of them I've known even before  
24 we joined the police force. So I was very at ease with  
25 going to them and asking them questions.

1                   **MR. LEE:** What about generally at the  
2 Cornwall Police in terms of a general culture. Did you  
3 make any observations or ever get the sense?

4                   **MR. PAYMENT:** There was a lot guys that  
5 didn't want to come forward; they would try and deal with  
6 it themselves. You're talking reports now, eh?

7                   **MR. LEE:** I'm sorry, talking?

8                   **MR. PAYMENT:** You're talking reports now?  
9 Like going to -- for advice on reports?

10                  **MR. LEE:** Going -- going for advice on  
11 reports or when you're having trouble on an investigation,  
12 yes.

13                  **MR. PAYMENT:** Yes. Yeah, there were some  
14 that were reluctant.

15                  **MR. LEE:** And is that just all tied back to  
16 the -- to the macho facade kind of idea?

17                  **MR. PAYMENT:** Yeah.

18                  **MR. LEE:** I want to turn your attention back  
19 to the Leblanc investigation, and as you heard me say a few  
20 moments ago when Mr. Horn was up here, I represent Jody  
21 Burgess, Scott Burgess, Cindy Burgess and also Jason Tyo.

22                  **MR. PAYMENT:** Yes.

23                  **MR. LEE:** Okay? And you're aware all four  
24 of those have testified at the Inquiry?

25                  **MR. PAYMENT:** I believe they have; I didn't

1 see them.

2 MR. LEE: Okay, that's fine. And Dawn  
3 Raymond testified here as well, just so we ---

4 MR. PAYMENT: Yes.

5 MR. LEE: --- sort of complete the picture.

6 So we have a fairly good idea of how all  
7 this ties in but I'm interested in getting your take on a  
8 couple of things.

9 One of the things you told us today was  
10 about your initial discussion with Bruce Duncan from the  
11 Children's Aid Society once you arrived at Central Public  
12 School?

13 MR. PAYMENT: Yes.

14 MR. LEE: And you recall that you told us  
15 about the debate about whether or not you could go in or  
16 not and, as I understand it, it was decided that the school  
17 wasn't going to cause much of a fuss about him going in, so  
18 ---

19 MR. PAYMENT: That's correct.

20 MR. LEE: --- you agreed that that would be  
21 an okay plan. Is that right?

22 And what you told us yesterday was that you  
23 asked Mr. Duncan not to get into any of the details of the  
24 assaults with Scott Burgess. Is that right?

25 MR. PAYMENT: Yes, I did.

1                   **MR. LEE:** And you told us some of the  
2 reasons for that. Was that important to you?

3                   **MR. PAYMENT:** Well, it was only because at  
4 that time there -- there was no protocol between agencies  
5 at that time and I had been, I don't know, advised that  
6 sometimes if they do the questioning first, they may tend  
7 to ask leading questions, some of the agents.

8                   **MR. LEE:** I take it, you would have  
9 recognized at that time the very different roles and the  
10 very different objectives of a police officer as as  
11 compared to a CAS worker?

12                   **MR. PAYMENT:** Yes.

13                   **MR. LEE:** In the sense that a CAS worker's  
14 ultimate goal isn't worrying about a prosecution down the  
15 line, is that right? They're concerned about the kids?

16                   **MR. PAYMENT:** That's right.

17                   **MR. LEE:** And they want to get the  
18 information however they can get the information?

19                   **MR. PAYMENT:** That was my concern.

20                   **MR. LEE:** And a police officer's going to  
21 get any information in a certain way.

22                   **MR. PAYMENT:** Yes.

23                   **MR. LEE:** Is that right?

24                   Do you have a specific recollection, as you  
25 sit here today, of telling Bruce Duncan not to get into the

1 details of the assault?

2 MR. PAYMENT: I don't remember the exact  
3 wording, but I know we did discuss that I would prefer if I  
4 could do the questioning on the incident itself.

5 MR. LEE: Was he okay with that?

6 MR. PAYMENT: He seemed to be.

7 MR. LEE: Do you recall him agreeing that he  
8 would not get into the details?

9 MR. PAYMENT: Twenty (20) -- 24 years ago, I  
10 don't recall if he was agreeable but he seemed -- he seemed  
11 to be okay with it.

12 MR. LEE: You've now seen his notes through  
13 the course of your preparation for the Inquiry in the ---

14 MR. PAYMENT: Yes.

15 MR. LEE: --- last couple of days, and you  
16 now appreciate that he most definitely got into the  
17 details. Is that right?

18 MR. PAYMENT: Yes.

19 MR. LEE: A lot of details?

20 MR. PAYMENT: Yes.

21 MR. LEE: And would you agree with me that,  
22 in fact, based on what you've seen, that he seems to have  
23 gotten more details out of Scott Burgess at least than you  
24 were able to get?

25 MR. PAYMENT: Yes.

1                   **MR. LEE:** And you're not called in until  
2 later that evening and, as I recall the evidence we had  
3 here from either Scott or Dawn or maybe both, you end up  
4 with the CAS and you order pizza and you sit down and you  
5 talk to Scott. Is that right?

6                   **MR. PAYMENT:** I don't eat pizza, so I don't  
7 know if we ordered it or not.

8                   **MR. LEE:** You may have gone hungry that  
9 night then, sir. We'll talk later about why you don't eat  
10 pizza.

11   **(LAUGHTER/RIRES)**

12                   **MR. LEE:** You totally threw me off there; I  
13 wasn't expecting that answer but ---

14                   **THE COMMISSIONER:** Would you like ---

15   **(LAUGHTER/RIRES)**

16                   **MR. LEE:** I do. I need to compose myself  
17 here.

18   And you've told us a lot about what Mr.  
19 Duncan told you and what he didn't tell you when you  
20 arrived at the CAS before getting into Scott Burgess, and  
21 you'd agree now looking at -- having looked at his notes,  
22 that you certainly didn't get a full briefing from Mr.  
23 Duncan?

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

25                   **MR. LEE:** There was information he knew

1 before you even showed up at the CAS that you didn't learn  
2 until recently. Is that right?

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

4 **MR. LEE:** And at the end of the day, that, I  
5 think you conceded here, some of that information may have  
6 affected the direction you went in terms of charging?

7 **MR. PAYMENT:** Yes.

8 **MR. LEE:** Had you known everything, this may  
9 have played out differently. Is that right?

10 Did you -- I'm sorry, did I get an answer  
11 there?

12 **MR. PAYMENT:** Yes.

13 **MR. LEE:** Thank you.

14 Did you appreciate it at the time that you  
15 were dealing with all of these boys, meaning Scott and Jody  
16 and Jason, that you may not have been getting the full  
17 story?

18 **MR. PAYMENT:** I had concerns about that,  
19 yes.

20 **MR. LEE:** You didn't know what the full  
21 story was but you had an idea or a feeling there may have  
22 been more out there?

23 **MR. PAYMENT:** I had -- I had concerns, yes,  
24 that there might be more going on.

25 **MR. LEE:** And I assume, as an experienced



1 police officer by that point, you would have been pretty  
2 finely tuned to pick up on subtleties and keys that lead  
3 you to believe there might not be the full story there?

4 **MR. PAYMENT:** Yes.

5 **MR. LEE:** And I guess we can say that you  
6 knew -- you knew that there must have -- at least -- let me  
7 start that over.

8 You knew that there was at least likely some  
9 more details, given that Dawn Raymond had relayed to you  
10 her version of what Scott had told her and that wasn't  
11 quite what you were getting from Scott. Is that right?

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

13 **MR. LEE:** Would you have appreciated at that  
14 time that it made a little bit of sense that Scott would be  
15 more willing to speak openly with Dawn Raymond than he  
16 would have been with you?

17 **MR. PAYMENT:** I think all three of them were  
18 that way.

19 **MR. LEE:** With Dawn Raymond?

20 **MR. PAYMENT:** Yeah, they would rather speak  
21 to her than speak to me.

22 **MR. LEE:** I know you've touched on this a  
23 little bit but it's still not clear in my mind.

24 Forget about what Bruce Duncan knew or what  
25 you know now about the true nature of what the abuse was

1 and stick to what you thought it was based on those Will  
2 States and the information you had, can you explain to me  
3 why there was only one count laid in relation to each boy?

4 **MR. PAYMENT:** I don't want to seem like I'm  
5 pointing fingers, but that was after consultation with the  
6 Crown and that's what he indicated that we would go with.

7 **MR. LEE:** How confident are you sitting here  
8 that the Crown, Don Johnson, had a full appreciation of the  
9 picture at the time you were speaking to him?

10 **MR. PAYMENT:** What Don Johnson had were the  
11 statements of the three victims and Dawn Raymond.

12 **MR. LEE:** Had he been provided those prior  
13 to your meeting with him?

14 **MR. PAYMENT:** That day.

15 **MR. LEE:** Did you walk in and hand him the  
16 statements and wait while he read them?

17 **MR. PAYMENT:** Yeah, I would bring them down  
18 in a file and I would hand them to him. He would review  
19 them and then we would discuss it.

20 **MR. LEE:** Do you recall any specific  
21 discussion with Johnson about whether or not more than one  
22 count was advisable for each boy?

23 **MR. PAYMENT:** Offhand, I don't recall if  
24 that was discussed or not.

25 **MR. LEE:** And you know now, I presume in

1 preparation for this Inquiry, that each of the -- each of  
2 the Burgess's and Jason Tyo spoke with the OPP many years  
3 later?

4 MR. PAYMENT: Yes, I've been told.

5 MR. LEE: And disclosed extremely  
6 significant abuse?

7 MR. PAYMENT: Yes.

8 MR. LEE: And obviously one of the major  
9 issues to come out of that was the fact that Cindy Burgess  
10 was a victim at all?

11 MR. PAYMENT: Yes.

12 MR. LEE: Because that wasn't -- certainly  
13 wasn't known to you at the time?

14 MR. PAYMENT: No, it wasn't.

15 MR. LEE: And early today, during your  
16 examination in-chief, you gave a few answers in a row and I  
17 want to put them back to you and get your comments, just to  
18 see if we can clarify.

19 You first told us that you asked the  
20 Burgess's, meaning the parents, if any of the other kids  
21 had ever visited Leblanc, okay? That was what you told us.

22 Then you -- then you conceded that you  
23 didn't remember how it was worded and then you tried again  
24 and you said you recalled asking if they knew of any  
25 others. And there's a subtle distinction there and the

1 question I want to put to you, do you have any specific  
2 recollection, sitting here today, of asking the Burgess  
3 parents whether or not any of the Burgess -- of any of the  
4 other Burgess children had gone to Leblanc?

5 **MR. PAYMENT:** I forget how it was worded but  
6 I can remember, I believe it was the father saying that,  
7 "This one wouldn't be because he's a lot stronger  
8 individual and wouldn't get involved in something like that  
9 and this one probably not either". But the exact way it  
10 was worded or how it came about, I -- I really don't  
11 recall.

12 **MR. LEE:** You just don't have a recall  
13 sitting here today.

14 And what you do know is you didn't talk to  
15 the other kids, and specifically Cindy I'm concerned about?

16 **MR. PAYMENT:** No.

17 **MR. LEE:** You never had a conversation with  
18 Cindy?

19 **MR. PAYMENT:** No.

20 **MR. LEE:** You never met with Cindy in her  
21 bedroom like you met with Jody in his?

22 **MR. PAYMENT:** No, no. Cindy was in the  
23 kitchen while we were talking with the parents.

24 **MR. LEE:** And what you told us earlier today  
25 was that it probably would have been a good idea to talk to

1 the other Burgess kids in the home?

2 MR. PAYMENT: Yes.

3 MR. LEE: Can I get you to drop that  
4 "probably", sir? Can you just flatly concede that it would  
5 have been a good idea to speak to the Burgess kids?

6 MR. PAYMENT: Sure.

7 MR. LEE: Thank you.

8 Are you aware that Jody Burgess testified  
9 here? Well, you are, because I told you a moment ago;  
10 scratch that.

11 Jody Burgess did testify here and one of the  
12 things he told us is he conceded the fact that he wasn't  
13 disclosing a whole lot to you and that he was hesitant.  
14 One of the things he told us was that if there had been  
15 more follow-up contact he may have been more willing to  
16 disclose further information; okay?

17 And what I'm wondering is, whether you  
18 appreciated it in 1986 that it was important to build a  
19 rapport with victims of abuse?

20 MR. PAYMENT: It was very important to  
21 develop a rapport. Sometimes they wouldn't talk to you.

22 MR. LEE: And ---

23 MR. PAYMENT: Unfortunately, the follow-up  
24 rapport was not there. Time factors, whatever, it just --  
25 it wasn't there.

1                   **MR. LEE:** And would you have recognized that  
2 a rapport would be especially important with a young  
3 victim?

4                   **MR. PAYMENT:** Oh, definitely.

5                   **MR. LEE:** And do you think there was any --  
6 do you think that there was maybe a little bit of increased  
7 importance as well with a male victim of sexual abuse?

8                   **MR. PAYMENT:** Yes.

9                   **MR. LEE:** In your experience, were male  
10 victims generally more hesitant to speak to you than female  
11 victims?

12                   **MR. PAYMENT:** Yes.

13                   **MR. LEE:** And you mentioned the time factor,  
14 and that's one of the issues I want to talk to you about  
15 because as I understand it, you become involved on the  
16 evening of January 24<sup>th</sup>?

17                   **MR. PAYMENT:** Yes.

18                   **MR. LEE:** And you lay charges on the 27<sup>th</sup>?

19                   **MR. PAYMENT:** Yes.

20                   **MR. LEE:** So we've got four days there as  
21 the entirety of your involvement in this matter. Is that  
22 right?

23                   **MR. PAYMENT:** Yes.

24                   **MR. LEE:** In hindsight, do you think it may  
25 have been advisable to slow down a little bit and to see if

1       you could develop a little bit more of a relationship or a  
2       rapport with these kids?

3                   **MR. PAYMENT:** Hindsight is a great word.  
4       Yeah, I agree I should have, but could have or had the time  
5       to, it was very limited.

6                   **MR. LEE:** Let me pick up on you seizing on  
7       the word hindsight there. You told us at the end of your  
8       examination in-chief that you recognize there's some value  
9       in going back and looking at mistakes made in the past with  
10      the hope that it helps in the future.

11                  **MR. PAYMENT:** Yes.

12                  **MR. LEE:** And I recognize we're sitting here  
13      with 20/20 hindsight, and I recognize we're looking at  
14      things that happened a long time ago, and my intention here  
15      is not to embarrass you. What I'm trying to do is trying  
16      to point out that some things could have been done better -  
17      --

18                  **MR. PAYMENT:** Yes.

19                  **MR. LEE:** --- in the hopes that -- so please  
20      don't take offence to what I'm doing here.

21                  **MR. PAYMENT:** No, I'm not. I'm not. If I  
22      gave you the impression that I was offended, I'm sorry.  
23      I'm not. I'm just making answers here.

24                  **MR. LEE:** Thank you. I appreciate that.  
25      And so if we look at the Jody Burgess

1 situation as an example, we heard here and we've seen in  
2 some notes from Jody and we've seen in some other notes  
3 that he had a real concern with being a "fink" was the word  
4 he used at the time. Do you remember that?

5 MR. PAYMENT: Yes.

6 MR. LEE: He didn't want to rat out Leblanc.  
7 Is that right?

8 MR. PAYMENT: That's right.

9 MR. LEE: He thought he was his friend?

10 MR. PAYMENT: M'hm.

11 MR. LEE: Which opens up a whole other can  
12 of worms about what's wrong with this situation.

13 MR. PAYMENT: Yeah.

14 MR. LEE: But that was how he felt at the  
15 time; right?

16 And I take it you would have appreciated at  
17 the time that this was very difficult for these kids?

18 MR. PAYMENT: Oh, definitely.

19 MR. LEE: And maybe Jody more than the other  
20 two? I mean, he was really having a hard time?

21 MR. PAYMENT: Yes.

22 MR. LEE: He was confused, wasn't he?

23 MR. PAYMENT: Very.

24 MR. LEE: And so, again, it's going back --  
25 I know there's a -- I mean, from your testimony we get the



1 feeling that there's a real balancing act being played  
2 between trying to do it quickly and trying to do it well,  
3 but do you think maybe in this situation there should have  
4 been some extra time given?

5 MR. PAYMENT: Yes.

6 MR. LEE: And, sir, again, I'm not trying to  
7 be nitpicky here, but at the end of the day, you're going  
8 to be gone and we're going to have transcripts, and that's  
9 all there's going to be.

10 You asked -- in relation to the Bill  
11 MacKinnon situation, you were asked whether an occurrence  
12 should have been created and you told us about what  
13 possibly could have gone on the police information, and you  
14 told us -- and the quote I wrote down, "In hindsight, I  
15 probably should have made the occurrence"?

16 MR. PAYMENT: Yes.

17 MR. LEE: I take it you'll agree you should  
18 have made the occurrence?

19 MR. PAYMENT: Yes.

20 MR. LEE: And, finally, sir, you talked in-  
21 chief about your concerns with the charge relating to Scott  
22 Burgess being dropped. Do you recall that?

23 MR. PAYMENT: M'hm.

24 MR. LEE: And your concern, I think you  
25 articulated well, was the fact that you were worried about

1           how Scott might react to that?

2                       **MR. PAYMENT:** Yes.

3                       **MR. LEE:** It used to be three, and he's the  
4           one that's picked to drop. Is that right?

5                       **MR. PAYMENT:** Yes.

6                       **MR. LEE:** And that was your concern?

7                       **MR. PAYMENT:** Yes.

8                       **MR. LEE:** Do you have a specific  
9           recollection of asking Bruce Duncan to advise Scott Burgess  
10          of that?

11                      **MR. PAYMENT:** I don't have notes on it, but  
12          I believe I called Bruce and he told me that once he had  
13          heard what had happened, like the disposition of the whole  
14          thing, that he had spoken to Scott already.

15                      **MR. LEE:** Okay. So it's not that you  
16          learned of it, called Bruce Duncan and asked him to inform  
17          Scott?

18                      **MR. PAYMENT:** I learned of it. I called  
19          him, but he had said he was already aware and that he would  
20          or had already talked to Scott.

21                      **MR. LEE:** And the reason I'm asking you  
22          about this is that when Scott testified here in October of  
23          2006, he told us that he learned for the first time that  
24          his charge had been dropped, the charge relating to him had  
25          been dropped, in preparation for the Inquiry.

1                   So we're talking almost 20 years after the  
2 fact and he -- you know, in the back rooms here is where  
3 Scott Burgess learned that his charge didn't result in a  
4 conviction.

5                   I guess the question I have for you is would  
6 you agree with me that it was not right for Mr. Burgess to  
7 learn that here?

8                   **MR. PAYMENT:** Oh, yes, definitely.

9                   **MR. LEE:** He should have known at the time?

10                  **MR. PAYMENT:** Yes.

11                  **MR. LEE:** Thank you very much. Those are my  
12 questions.

13                  **MR. PAYMENT:** Thank you.

14                  **THE COMMISSIONER:** Thank you.

15                  Mr. Horn?

16                  **MR. HORN:** Yes.

17                  --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
18 HORN (cont'd/suite)

19                  **MR. HORN:** There's only a couple areas that  
20 I was interested in.

21                  Now, when the MacKinnon matter was being --  
22 not dealt with but because of the Crown's not wanting to go  
23 forward with the charges, and you said ---

24                  **MR. PAYMENT:** That's not correct, sir.

25                  **THE COMMISSIONER:** No, I don't think that's

1 quite, quite correct.

2 MR. HORN: Well, Mr. Johnson was the one  
3 that really gave the advice not to go ahead with it, didn't  
4 he?

5 MR. PAYMENT: No, that's not correct either,  
6 sir. We didn't have a formal complaint against him. I was  
7 just giving the Crown Attorney a heads-up that there might  
8 be something more coming.

9 MR. HORN: Okay. You have a person that is  
10 a danger in the community. You know it; right?

11 MR. PAYMENT: Through rumours.

12 MR. HORN: Only rumours?

13 MR. PAYMENT: Yeah. I had no actual  
14 allegations against him.

15 MR. HORN: Okay. Do you think that an  
16 occurrence report is enough to deal with somebody that may  
17 be a danger to the -- in the community?

18 MR. PAYMENT: Without allegations? Yes,  
19 there should have been an information report, as I stated  
20 this morning.

21 THE COMMISSIONER: M'hm.

22 MR. PAYMENT: I should have made one. I  
23 didn't. And the report would have been on file in case  
24 there was an allegation. It would be documented to show  
25 that we were aware of him possibly being an abuser prior to

1 the incident.

2 MR. HORN: Okay. So you think that was  
3 enough.

4 Now, in terms of the Mr. Labelle situation,  
5 you went out of your way to follow-up when he moved out of  
6 town. He went to another town ---

7 MR. PAYMENT: Yes.

8 MR. HORN: --- was living there?

9 MR. PAYMENT: Yes.

10 MR. HORN: And you went out of your way to  
11 make sure that there wasn't a problem there as he was going  
12 to be working with kids in the Boy Scouts; right?

13 MR. PAYMENT: That's because Mr. Labelle had  
14 complainants that had come to me with allegations. Mr.  
15 MacKinnon had no allegations against him.

16 MR. HORN: Okay. I understand, but he's  
17 moved out of the jurisdiction. He's probably being dealt  
18 with by the OPP now. He's not here in Cornwall anymore?

19 MR. PAYMENT: I'm with the Province of  
20 Ontario as a police officer.

21 MR. HORN: I understand, but you followed  
22 that situation. You knew he was in another town?

23 MR. PAYMENT: Yes.

24 MR. HORN: Okay. And you knew that he was a  
25 danger?

1                   **THE COMMISSIONER:** Whoa, whoa ---

2                   **MR. PAYMENT:** In my opinion.

3                   **MR. HORN:** In your opinion, even though he  
4 was acquitted, as far as you were concerned, there was a  
5 danger?

6                   **MR. PAYMENT:** Yes.

7                   **MR. HORN:** You wouldn't have gone ahead and  
8 made that report about him unless you felt that he was a  
9 danger, would you?

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

11                  **MR. HORN:** Okay. So you went out of your  
12 way in that situation?

13                  **MR. PAYMENT:** Yes.

14                  **MR. HORN:** Went and did something? You  
15 recognized there was a dangerous situation even though he  
16 was acquitted and you did something ---

17                  **MR. PAYMENT:** Yes.

18                  **MR. HORN:** --- in that situation, didn't  
19 you?

20                  **MR. PAYMENT:** Yes.

21                  **MR. HORN:** And it was beyond the call of  
22 duty because you went out of the jurisdiction and you went  
23 into another town?

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

25                  **MR. HORN:** Okay. Now, we have a situation

1 in which in town here there's an individual who may pose a  
2 serious danger to children?

3 **MR. PAYMENT:** I don't know how far I'd want  
4 to react to rumours, and that's all I had at that time. I  
5 had no allegations of anything.

6 **MR. HORN:** Okay. So you have a situation --  
7 you have two situations in which one, you went further.  
8 Why did you go further in the one situation and not the  
9 other?

10 **MR. PAYMENT:** As I have already explained,  
11 there were allegations; there were statements; there was  
12 charges. I interviewed the victims in the Mr. Labelle  
13 matter. I believed them and I felt there was a concern for  
14 the community.

15 With this Bill gentleman, I was dealing with  
16 rumours from, he heard that he heard, that he said, and I  
17 had no specific allegations made by anybody against him for  
18 being an abuser. This Bill gentleman. I was dealing with  
19 rumours from, he heard that he heard that he said, and I  
20 had no specific allegations made by anybody against him for  
21 being an abuser.

22 **MR. HORN:** Did you have any other options  
23 besides just putting a report in? I mean opening up a file  
24 on him? Could you have done any more?

25 **MR. PAYMENT:** At that stage, no.

1                   MR. HORN: Not at that stage, you were just

2                   ---

3                   MR. PAYMENT: No.

4                   MR. HORN: --- you just had to leave it  
5 until something else happened?

6                   MR. PAYMENT: Yes.

7                   MR. HORN: Unless maybe he did something?

8                   MR. PAYMENT: Then if I had made the report  
9 like I should have, then that report would have  
10 substantiated if something did happen further down the  
11 road.

12                   MR. HORN: Because you had to wait till he  
13 did something?

14                   MR. PAYMENT: Isn't that what we do as  
15 police officers?

16                   MR. HORN: I understand, but you know  
17 there's a guy that's a danger in the community.

18                   MR. PAYMENT: I don't know that. I'm  
19 dealing with rumours.

20                   MR. HORN: Now, there's another area that  
21 I'm interested in. You were dealing with two different  
22 Crowns in the Labelle case; right?

23                   MR. PAYMENT: That's correct.

24                   MR. HORN: And the prosecutor was Mrs. -- is  
25 it Ms. McFadden?



1                   **MR. PAYMENT:** They were joint. They worked  
2 together on it.

3                   **MR. HORN:** Oh, Don was working with her, Don  
4 Johnson?

5                   **MR. PAYMENT:** No, Alan Ain.

6                   **MR. HORN:** Pardon?

7                   **MR. PAYMENT:** Alan Ain.

8                   **MR. HORN:** Who did the appeal, do you know?

9                   **MR. PAYMENT:** I have no idea.

10                  **MR. HORN:** According to the report, I think  
11 Don Johnson did that. Did you know that?

12                  **MR. PAYMENT:** I have no idea who did it.

13                  **MR. HORN:** The newspaper report, it was Don  
14 Johnson's name was mentioned in the ---

15                  **THE COMMISSIONER:** Well, I should just say  
16 that first of all, when we're looking at media reports  
17 about reasons for judgment of a court, we have to take that  
18 with a grain of salt.

19                         Secondly, with respect to -- again, with the  
20 name of who's dealing with the appeal subject to Mr.  
21 Carroll who's going to come and help us out here maybe, I  
22 don't know that we should be grounding our 100 percent  
23 faith in newspaper articles, with the greatest of respect  
24 to the media that's here.

25                         Mr. Carroll, you're ---

1                   **MR. CARROLL:** Yes. I might be able to  
2 assist. My recollection, sir, is that the appeal was done  
3 by Alan Ain and that was at the district court level.

4                   **THE COMMISSIONER:** Yes.

5                   **MR. CARROLL:** It went to the Court of Appeal  
6 on a technical matter.

7                   **THE COMMISSIONER:** Yes.

8                   **MR. CARROLL:** And that was somebody from the  
9 Crown office that did that.

10                  **THE COMMISSIONER:** Thank you.

11                  **MR. HORN:** Okay.

12                                So this report then is ---

13                  **THE COMMISSIONER:** Is it accurate?

14                  **MR. HORN:** It mentions Don Johnson making  
15 statements. He argued that something and -- so I guess we  
16 can't take this ---

17                  **THE COMMISSIONER:** No, I don't think we  
18 should go there.

19                  **MR. HORN:** Pardon?

20                  **THE COMMISSIONER:** Yeah, I don't think we  
21 can cross-examine on the basis of that document.

22                  **MR. HORN:** Okay.

23                                Did you follow up and did you keep  
24 interested in the Leblanc situation?

25                  **MR. PAYMENT:** No. Not until -- sorry, not

1 until I was contacted by Project Truth.

2 MR. HORN: Okay, now was there a -- I think  
3 you mentioned something about there might have been  
4 something that happened later on. Was that ---

5 MR. PAYMENT: What might have happened  
6 later?

7 MR. HORN: That he was charged later?

8 MR. PAYMENT: Yes, he was.

9 MR. HORN: You were aware of that?

10 MR. PAYMENT: Yes.

11 MR. HORN: And did you know that -- anything  
12 about the fact that he was eventually dealt with -- there  
13 was a consent for him to be designated as a long-term  
14 offender? Did you know that?

15 MR. PAYMENT: I just found that out in  
16 prepping for this Inquiry.

17 MR. HORN: Okay, so you only found that out  
18 now?

19 MR. PAYMENT: Yes.

20 MR. MANDERVILLE: My friend used the term  
21 "consent". I don't think it was a consensual matter. He  
22 was designated as a long-term offender.

23 MR. HORN: Well, I have a letter here from  
24 Mr. Donihee. I can read it. I have ---

25 THE COMMISSIONER: Whoa, whoa. No, no.

1 Mr. Manson?

2 **MR. MANSON:** There is a judgment, I believe  
3 from Mr. Justice Chilcott dealing with the evidence and  
4 finding him a long-term offender.

5 **THE COMMISSIONER:** Oh, I understand that,  
6 but, yes, thank you.

7 You can't read him a letter unless we look  
8 at it as an exhibit or something.

9 **MR. HORN:** Okay. Well, I don't know if it's  
10 been put in as an exhibit. It's a letter from Tilton  
11 Donihee's office.

12 **THE COMMISSIONER:** Have you give notice Mr.  
13 -- is this a letter to which notice was given?

14 **MR. HORN:** I believe so.

15 **THE COMMISSIONER:** Oh.

16 **MR. HORN:** March the 28<sup>th</sup>, 2002 and it's  
17 108428.

18 **THE COMMISSIONER:** So what's the issue here,  
19 whether it was on consent or not? He was found to be a  
20 long-term offender.

21 **MR. HORN:** Okay, I understand that.

22 I'm just interested in whether he followed  
23 up along -- with this case from the '80s through to when he  
24 was finally designated, which is like about 15 years later.  
25 It's quite a long time and during that period of time --

1 and he was never convicted was he?

2 **THE COMMISSIONER:** What do you mean he was  
3 never convicted?

4 **MR. HORN:** Oh, I mean, sorry he was  
5 convicted on a guilty plea. It never went to trial but the  
6 -- there was other charges that came later. Were you  
7 involved in any way on that one?

8 **MR. PAYMENT:** No, sir, I retired in 1999.

9 **MR. HORN:** Oh, so this was after you  
10 retired?

11 **MR. PAYMENT:** Yes.

12 **MR. HORN:** Okay. So it was in -- after 2002  
13 -- 1999?

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

15 **MR. HORN:** Okay. And this is a -- one that  
16 was -- was it prosecuted here locally or was it from  
17 another jurisdiction?

18 **MR. PAYMENT:** It was an OPP case. I don't  
19 know where it was prosecuted.

20 **MR. HORN:** Okay. That's all the questions I  
21 have.

22 **THE COMMISSIONER:** Thank you.

23 We'll take the afternoon break.

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

1 This hearing will resume at 3:30

2 --- Upon recessing at 3:12 p.m./

3 L'audience est suspendue à 15h12

4 --- Upon resuming at 3:36 p.m./

5 L'audience est reprise à 15h36

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

8 This hearing is now resumed. Please be  
9 seated. Veuillez vous asseoir.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Neville?

12 **MR. NEVILLE:** No questions.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Chisholm?

15 **MR. CHISHOLM:** I've offered Ms. Tymochenko  
16 the chance to go in front of me so she can head back to  
17 Toronto.

18 **THE COMMISSIONER:** All right, fine.

19 **MR. CHISHOLM:** If you don't object?

20 **THE COMMISSIONER:** No.

21 Good afternoon.

22 **MS. TYMOCHENKO:** Good afternoon. I  
23 appreciate everyone letting me jump the queue.

24 **BRIAN PAYMENT, Resumed/Sous le meme serment:**

25 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

1 TYMOCHENKO

2 MS. TYMOCHENKO: My name is Nadya  
3 Tymochenko. I'm counsel for the Upper Canada District  
4 School Board which is the amalgamated public board.

5 MR. PAYMENT: M'hm.

6 MS. TYMOCHENKO: I just have a few questions  
7 for you about the Leblanc investigation.

8 MR. PAYMENT: Okay.

9 MS. TYMOCHENKO: You had testified that the  
10 principal of the school that the students were attending,  
11 the students that you wanted to interview, had indicated to  
12 you that he wanted parental consent before allowing you to  
13 interview them at the school. Is that correct?

14 MR. PAYMENT: That's correct.

15 MS. TYMOCHENKO: And I just wanted to  
16 clarify that in this case, there wouldn't be a concern in  
17 your mind about informing the parents about the  
18 investigation because there wasn't any interfamilial abuse  
19 being alleged?

20 MR. PAYMENT: That's correct.

21 MS. TYMOCHENKO: Thank you.

22 You had also talked a little bit about your  
23 interview with Jody and the fact that it had taken place at  
24 his home in his bedroom?

25 MR. PAYMENT: Yes.

1                   **MS. TYMOCHENKO:** And that that was a place  
2                   where he felt more comfortable speaking with you.

3                   **MR. PAYMENT:** Yes.

4                   **MS. TYMOCHENKO:** So you would agree with me  
5                   that it's very important to make sure that the setting that  
6                   the child is interviewed in is a safe setting for them, one  
7                   they feel comfortable in?

8                   **MR. PAYMENT:** Yes.

9                   **MS. TYMOCHENKO:** You had also testified that  
10                  you had encouraged Scott and Jody's parents to be  
11                  supportive of the investigation and the process?

12                  **MR. PAYMENT:** Yes.

13                  **MS. TYMOCHENKO:** And you would agree that  
14                  it's important that parents support the investigation and  
15                  the process as it moves forward?

16                  **MR. PAYMENT:** Very.

17                  **MS. TYMOCHENKO:** And would you agree with me  
18                  that one of the ways that you can secure parental support  
19                  is by involving them and letting them know that an  
20                  investigation is taking place?

21                  **MR. PAYMENT:** That was my reason for going  
22                  to the house that night.

23                  **MS. TYMOCHENKO:** And would you agree with me  
24                  that, in some cases, the parents might have important  
25                  information to offer about how the child can be put at ease



1 and what would be most comfortable for them in the  
2 interview process?

3 MR. PAYMENT: Yes.

4 MS. TYMOCHENKO: So you would agree with me  
5 that in some cases a parent might identify that having the  
6 interview take place at the school might not be the best  
7 place?

8 MR. PAYMENT: Yes, I can understand that.

9 MS. TYMOCHENKO: And you would also agree  
10 that, in some cases, it would be appropriate for the  
11 principal to want to inform them before the investigation  
12 starts so that you can have the discussion to make sure  
13 that they're comfortable ?

14 MR. PAYMENT: Oh, yeah. I didn't have a  
15 problem with it. It was just that some schools did and  
16 some schools didn't.

17 MS. TYMOCHENKO: And that was my next  
18 question, actually. Thank you.

19 You had indicated that there was that  
20 inconsistency. And I'm assuming from that that your  
21 intention with the protocol was to make sure that schools  
22 treated the investigation process consistently among them.

23 MR. PAYMENT: Yes.

24 MS. TYMOCHENKO: And you had indicated, as  
25 well, that you were involved in that protocol process; did

1           you continue with the process after you left the Bureau?

2                       **MR. PAYMENT:** The -- the actual protocol, I  
3           wasn't hands-on involved; it was something that we had  
4           discussed, my partner and I, and it was my partner who  
5           eventually became involved with the other agencies to set  
6           up the protocol.

7                       **MS. TYMOCHENKO:** Okay, thank you.

8                       Those are my questions.

9                       **THE COMMISSIONER:** Thank you.

10                      Safe trip back.

11                      So now Mr. Chisholm.

12                      **MR. CHISHOLM:** Good afternoon, sir.

13           --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

14           **MR. CHISHOLM:**

15                      **MR. CHISHOLM:** Mr. Payment, we met yesterday  
16           afternoon. My name is Peter Chisholm, I'm counsel for the  
17           local CAS.

18                      **MR. PAYMENT:** Good afternoon.

19                      **MR. CHISHOLM:** If I could take you back to  
20           your evidence this morning and this afternoon with Mr. Lee,  
21           you spoke of a concern that you had when CAS workers would  
22           sometimes interview children and you made reference to  
23           using leading questions; you recall that evidence?

24                      **MR. PAYMENT:** Yes.

25                      **MR. CHISHOLM:** And you, I take it, in the

1 course of your career with the Cornwall Police Service, you  
2 interviewed many children, is that fair to say?

3 MR. PAYMENT: Yes.

4 MR. CHISHOLM: And would you agree with me  
5 that not all the children that you've interviewed over the  
6 course of your career would have the same capacity to  
7 comprehend the questions that you put to them?

8 MR. PAYMENT: Yes.

9 MR. CHISHOLM: And would you agree with me  
10 that depending the child that you're interviewing, you  
11 would have to use a number of techniques in order obtain  
12 the information you were seeking to obtain?

13 MR. PAYMENT: Yes.

14 MR. CHISHOLM: Would you agree with me that  
15 factors such as the age of the child and the -- and the  
16 child's intellectual ability would impact upon that child's  
17 ability to understand the question?

18 MR. PAYMENT: Yes, I agree.

19 MR. CHISHOLM: And would you agree with me  
20 that some children need more information presented to them  
21 up front before they're able to understand the question?

22 MR. PAYMENT: Yes.

23 MR. CHISHOLM: Would you agree with me that  
24 that in some cases unless you provide that additional  
25 information to the child that's being questioned, you may

1 not be able to obtain the information that you would  
2 otherwise be able to get by giving that information?

3 **MR. PAYMENT:** Yes, there -- there are times,  
4 especially with the younger ones.

5 **MR. CHISHOLM:** You made reference to the  
6 Principal of the Cornwall -- at the Central Public School,  
7 you referred to him as "Chris Duncan," is it possible his  
8 name is Carl Duncan?

9 **MR. PAYMENT:** I -- I didn't know him other  
10 than from my notes and my notes said "Chris" but it -- it  
11 may be "Carl."

12 **MR. CHISHOLM:** If I could take you, please,  
13 to Exhibit 1559?

14 And, Madam Clerk, it would be Bates  
15 page 7157910.

16 These are the notes of Bruce Duncan; is that  
17 your understanding ---

18 **MR. PAYMENT:** Yes.

19 **MR. CHISHOLM:** --- Mr. Payment?

20 And at the top of the page that I'm taking  
21 you to, you'll see a January 24, 1986 entry at 3:08?

22 **MR. PAYMENT:** Yes.

23 **MR. CHISHOLM:** And then it says "INT Scott,"  
24 I take it that to be an interview of Scott; is that your  
25 understanding?

1                   **MR. PAYMENT:** Yes.

2                   **MR. CHISHOLM:** An interview of Scott Burgess  
3 by Bruce Duncan, is that right?

4                   **MR. PAYMENT:** Yes.

5                   **MR. CHISHOLM:** And I'll take you over to the  
6 next page, Bates page 7157911 and the top half of that page  
7 you'll see that -- you'll see that there are six names and  
8 I don't necessarily -- I don't want you to read the names  
9 out, out loud, but do you see that there are six names that  
10 are referenced in the top half ---

11                   **MR. PAYMENT:** Yes, I see them.

12                   **MR. CHISHOLM:** Okay. And you'll see also,  
13 in addition to those six names, that there are -- there's a  
14 reference to four more boys who are unnamed?

15                   **MR. PAYMENT:** Yes.

16                   **MR. CHISHOLM:** Four boys?

17                   And would you agree with me that it would  
18 appear that Bruce Duncan, in speaking to Scott Burgess, was  
19 able to elicit this information out of Scott Burgess?

20                   **MR. PAYMENT:** Yes.

21                   **MR. CHISHOLM:** And that these names would  
22 include his brother, right?

23                   **MR. PAYMENT:** Yes.

24                   **MR. CHISHOLM:** And nowhere in there is there  
25 any reference to Cindy Burgess, would you agree with that?

1 MR. PAYMENT: I agree.

2 MR. CHISHOLM: Now, if I could take you,  
3 please, to Exhibit 1560.

4 (SHORT PAUSE/COURTE PAUSE)

5 MR. CHISHOLM: In the first -- in the first  
6 page of that exhibit; these are your notes, is that right,  
7 Constable Payment?

8 MR. PAYMENT: Yes, they are.

9 MR. CHISHOLM: Okay. And if I could ask you  
10 to take a look at, again without reading the names out  
11 loud, if you could look at the names on that first sheet.

12 MR. PAYMENT: Yes.

13 MR. CHISHOLM: And would you agree with me  
14 that all of the names that are referenced here with respect  
15 to the children are also referenced in the exhibit we've  
16 just looked, Bruce Duncan's notes?

17 MR. PAYMENT: Yes.

18 MR. CHISHOLM: And the reference to "four  
19 more boys, no names," is what -- how you referenced it?

20 MR. PAYMENT: Yes.

21 MR. CHISHOLM: Would you agree with me that  
22 you likely received this information from Bruce Duncan?

23 MR. PAYMENT: I don't recall where I  
24 received it but in all probability, yes.

25 MR. CHISHOLM: You don't have a date on this

1 particular page of your notes; is that right?

2 MR. PAYMENT: No, these -- these are  
3 actually scribble notes that I make.

4 MR. CHISHOLM: If I could get you to turn  
5 the page, please, to Bates page 7142911 and then  
6 three-quarters of the way down that page, this is your note  
7 of January 24, 1986, and it reads at 1856 hours you attend  
8 seven of the CAS, met with victim and his teacher; is that  
9 right?

10 MR. PAYMENT: Yes.

11 MR. CHISHOLM: So that would be 6:56 in the  
12 evening ---

13 MR. PAYMENT: Yes.

14 MR. CHISHOLM: --- you arrived at the CAS  
15 office? And that would have been on York Street, is that  
16 right?

17 MR. PAYMENT: Yes.

18 MR. CHISHOLM: Now, your note makes  
19 reference to you meeting with the victim and his teacher,  
20 there's no reference there to you meeting with Bruce  
21 Duncan; do you have any recollection of meeting with Mr.  
22 Duncan upon your arrival at the CAS office?

23 MR. PAYMENT: I don't recall but since it  
24 was his office, he -- he probably would have been there.  
25 We just met there.

1                   **MR. CHISHOLM:** And had you been to the --  
2                   you had been to the CAS office prior to that date, is that  
3                   right, where other cases would have brought you there?

4                   **MR. PAYMENT:** Yes.

5                   **MR. CHISHOLM:** Okay. And when you were  
6                   there in the past, did you have any procedure with respect  
7                   to meeting with any of the CAS workers, to get briefed on a  
8                   case, how -- did you have a set procedure?

9                   **MR. PAYMENT:** We would -- we would go over  
10                  and I would ask the receptionist to contact, to see if they  
11                  were available and she would contact them by phone and then  
12                  they would come and get me.

13                  **MR. CHISHOLM:** You have no recollection of  
14                  meeting with Mr. Duncan before you met with Scott Burgess  
15                  and Ms. Raymond that evening; can you -- if you could give  
16                  us your -- and I'm asking you to guess here ---

17                  **THE COMMISSIONER:** Or you're not asking him  
18                  to guess, are you?

19                  **MR. CHISHOLM:** Well, he has no recollection,  
20                  sir, and it's not -- it's not set out in his notes.

21                  Is it more likely than not ---

22                  **THE COMMISSIONER:** What about putting it  
23                  this way; does your client say that -- do you have a series  
24                  of actions or events that you want to put to him?

25                  **MR. CHISHOLM:** No, my -- I think I'm going



1 to be stuck with the -- with the written record of the CAS.

2 **THE COMMISSIONER:** All right, okay.

3 **MR. CHISHOLM:** So I don't have -- I don't  
4 know that I'm going to have a witness to be able to say the  
5 meeting actually took place, while this witness is on the  
6 stand.

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

8 **MR. CHISHOLM:** I just want to see what we  
9 can get out of him in terms ---

10 **THE COMMISSIONER:** So what's your best  
11 reconstruction of that evening?

12 **MR. PAYMENT:** God.

13 Because of the time factor, I think it may  
14 have been prearranged that we would get together, because  
15 the office would probably have been closed and locked and  
16 we would either -- he would either meet us at the door or  
17 we would meet and then attend at CAS.

18 **MR. CHISHOLM:** And if you were still in the  
19 police force, police service today, and you were having to  
20 do an investigation and your starting point would be going  
21 back to the Children's Aid Society, what would you do?  
22 Assuming there was a CAS caseworker involved in the case,  
23 what would you do first upon arriving at the office -- CAS  
24 office?

25 **MR. PAYMENT:** I would talk to the

1 receptionist and ask for whoever is next on line to take a  
2 case.

3 **MR. CHISHOLM:** And you would speak to that  
4 person who was online to take the case, is that right,  
5 before you spoke to the -- before you spoke to the victim  
6 and the teacher?

7 **MR. PAYMENT:** Well, if it was a different  
8 scenario, yeah, but in this case CAS met me at the school.

9 **MR. CHISHOLM:** Right.

10 **MR. PAYMENT:** But if CAS wasn't involved, I  
11 may contact them through the switchboard, they assign  
12 somebody and then that person may say, "Well, I can't go  
13 right now. You go ahead; find out what you've got and get  
14 back to me."

15 **MR. CHISHOLM:** Okay. And in a case where  
16 you knew that the CAS worker had already been assigned?

17 **MR. PAYMENT:** Then I'd contact that worker.

18 **MR. CHISHOLM:** Okay. Now, if I could take  
19 you, please, to the last area I want to touch upon? This  
20 deals with the -- I'll take you to Exhibit 1561, please.  
21 That's the Information charging Jean-Luc Leblanc with three  
22 counts under Section 157 of the *Criminal Code*, and you'll  
23 see the second count on Bates page 7112584 is in relation  
24 to Scott Burgess?

25 **MR. PAYMENT:** Yes.

1                   **MR. CHISHOLM:** And onto Bates page 7112585  
2                   there's a notation at the bottom left-hand corner of the  
3                   Information indicating that on November the 6<sup>th</sup>, that count,  
4                   the second count, was withdrawn at the request of the  
5                   Crown.

6                                 This morning you spoke of -- you indicated  
7                   you had a vague recollection of speaking with Bruce Duncan  
8                   and asking him to speak to Scott Burgess about the  
9                   withdrawal of that charge. Do you recall saying that this  
10                   morning?

11                               **MR. PAYMENT:** Yes.

12                               **MR. CHISHOLM:** And how certain are you with  
13                   respect to your recollection of the conversation that you  
14                   had with Bruce Duncan?

15                               **MR. PAYMENT:** It's 22 years ago and the  
16                   exact content of the conversation -- and I'm positive he  
17                   said he was already aware of it and was speaking to Scott.

18                               **THE COMMISSIONER:** Are you certain that you  
19                   had a conversation with him about this subject?

20                               **MR. PAYMENT:** I wouldn't say 100 per cent  
21                   sure, no.

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

23                               **MR. CHISHOLM:** Because the reason -- you  
24                   indicated this morning you had a vague recollection, or  
25                   words to that effect.

1                   **MR. PAYMENT:** Yes.

2                   **MR. CHISHOLM:** That's one of the causes of  
3 concern that I would have.

4                   Can you give us any guidance with respect to  
5 where the conversation would have taken place? Was it on  
6 the telephone?

7                   **MR. PAYMENT:** Something like that. It would  
8 have been by phone.

9                   **MR. CHISHOLM:** By phone?

10                  **MR. PAYMENT:** Yeah.

11                  **MR. CHISHOLM:** And would it be fair to say  
12 that if such a conversation had taken place, it would have  
13 taken place no earlier than November the 6<sup>th</sup> of 1996 because  
14 it's ---

15                  **MR. PAYMENT:** On ---

16                  **MR. CHISHOLM:** --- either on that date or  
17 after ---

18                  **MR. PAYMENT:** Well after.

19                  **MR. CHISHOLM:** --- that you discover that  
20 the charge had been withdrawn.

21                  **MR. PAYMENT:** That's right. It was well  
22 after the trial date.

23                  **MR. CHISHOLM:** And prior to that, you had no  
24 indication that the charge was going to be withdrawn ---

25                  **MR. PAYMENT:** No.

1                   **MR. CHISHOLM:** --- or a guilty plea ---

2                   **MR. PAYMENT:** None.

3                   **MR. CHISHOLM:** --- guilty pleas entered?

4                   **MR. PAYMENT:** Nothing.

5                   **MR. CHISHOLM:** If I were to tell you that  
6                   the CAS file would indicate that Bruce Duncan had the file  
7                   reassigned to another case worker and that the case worker  
8                   had it as of April of 1986, which would be some seven  
9                   months prior to November of 1986, would that cause you any  
10                  concern with respect to the recollection of the  
11                  conversation?

12                  **MR. PAYMENT:** No.

13                  **MR. CHISHOLM:** No?

14                  Those are my questions, Mr. Payment. Thank  
15                  you very much for your time.

16                  **MR. PAYMENT:** Thank you.

17                  **THE COMMISSIONER:** Thank you.

18                  Mr. Rose.

19                  **MR. ROSE:** Good afternoon, Mr. Payment. My  
20                  name is David Rose. I act for the Ministry of Community  
21                  Safety and Correctional Services and I have no questions.  
22                  Thank you for coming.

23                  **MR. PAYMENT:** Thank you.

24                  **THE COMMISSIONER:** Thank you.

25                  Mr. Kloeze.

1                   **MR. KLOEZE:** Good afternoon, Mr.  
2 Commissioner.

3                   **THE COMMISSIONER:** Good afternoon.

4                   **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**  
5 **KLOEZE:**

6                   **MR. KLOEZE:** Good afternoon, Mr. Payment.  
7 My name is Darrell Kloeze. I'm counsel for the Ministry of  
8 the Attorney General.

9                   I just have a few questions which are  
10 basically clarification from some of the cross-examinations  
11 that have occurred earlier today, so I shouldn't be long.

12                   The first one is about -- is with respect to  
13 the Lucien Labelle prosecution. And you had a discussion  
14 with Mr. Manson, I believe, earlier today that you spoke  
15 with Mary McFadyen, who was one of the Crowns in that  
16 prosecution, about the three adult witnesses ---

17                   **MR. PAYMENT:** Yes.

18                   **MR. KLOEZE:** --- that you had identified.  
19 And I think with Mr. Lee you said that this discussion was  
20 basically the matter of a debate between yourself and Mary  
21 McFadyen?

22                   **MR. PAYMENT:** Yes.

23                   **MR. KLOEZE:** And you thought that the Crown  
24 should bring these witnesses as corroborating evidence?

25                   **MR. PAYMENT:** Yes.

1                   **MR. KLOEZE:** And you said to Mr. Manson  
2                   that, to your memory, the Crown didn't tell you that the  
3                   admissibility of the evidence was one of her concerns?

4                   **MR. PAYMENT:** I don't recall her ever  
5                   talking about admissibility, no.

6                   **MR. KLOEZE:** And that her concern was piling  
7                   up witnesses, I guess.

8                   **MR. PAYMENT:** Yes.

9                   **MR. KLOEZE:** Now, my only question is do you  
10                  remember whether or not you even talked about  
11                  admissibility? Did she say that admissibility was  
12                  definitely not one of her problems?

13                  **MR. PAYMENT:** No.

14                  **MR. KLOEZE:** Or was that even a topic of  
15                  conversation with her?

16                  **MR. PAYMENT:** Admissibility never came up.

17                  **MR. KLOEZE:** Okay. Now, Mr. Lee referred  
18                  you to a newspaper article. And I understand, Mr.  
19                  Commissioner -- I recognize the problems of cross-examining  
20                  on newspaper articles, but this was an article that talked  
21                  about the judge's decision at the trial. And Mr. Lee  
22                  pointed you to the statement of the judge where he said --  
23                  the judge had cited the lack of corroboration as one of his  
24                  reasons for dismissing charges.

25                  **MR. PAYMENT:** Yes.

1                   **MR. KLOEZE:** And you remembered that?

2                   **MR. PAYMENT:** Yes.

3                   **MR. KLOEZE:** Now, do you remember the other  
4 two ---

5                   **THE COMMISSIONER:** Sorry, just a sec.

6 Mr. Horn, are you up for exercise or ---

7                   **MR. HORN:** I was ---

8                   **THE COMMISSIONER:** No, no ---

9                   **MR. HORN:** I was -- I didn't refer to the  
10 article.

11                   **THE COMMISSIONER:** Rules. Rules. Rules.

12                   **MR. HORN:** Yes. I was told that I could not  
13 cross-examine based on that article in the paper because  
14 it's not reliable, and I ---

15                   **THE COMMISSIONER:** No, that's not the  
16 document that -- I don't think that was the document. You  
17 had come up with ---

18                   **MR. HORN:** Mr. Lee's document.

19                   **THE COMMISSIONER:** Well ---

20                   **MR. HORN:** Yes, it was Mr. Lee ---

21                   **THE COMMISSIONER:** Okay.

22                   **MR. HORN:** It was Mr. Lee who was the one  
23 that was -- had the document and that's what I was  
24 referring to.

25                   **THE COMMISSIONER:** I thought it was another



1 document.

2 MR. HORN: No, it wasn't. It was a  
3 newspaper article by ---

4 THE COMMISSIONER: Mr. Horn -- Mr. Horn --  
5 -

6 MR. HORN: Yes.

7 THE COMMISSIONER: Mr. Horn, I know your  
8 position. I'm just trying -- no, no, don't go away. Don't  
9 go away; we'll talk about that. I thought it was another  
10 newspaper article.

11 MS. SIMMS: Maybe -- perhaps I can clarify.  
12 I think what Mr. Horn had with him was an article that had  
13 been produced by Mr. Lee last night.

14 THE COMMISSIONER: M'hm.

15 MS. SIMMS: And that was the article where I  
16 was clarifying with you the publication ban issue. That  
17 was the article that Mr. Horn was attempting to refer to  
18 earlier. This is an article that was produced to us  
19 through the CAS. That is what ---

20 THE COMMISSIONER: Okay.

21 MS. SIMMS: They're two different articles.

22 THE COMMISSIONER: So there are two  
23 different articles, Mr. Horn.

24 MR. HORN: That's right. There's two  
25 different articles, but you indicated to me that an article

1 -- you could not rely on a newspaper article because it's  
2 not substantiated.

3 **THE COMMISSIONER:** No ---

4 **MR. HORN:** He's relying on a newspaper  
5 article.

6 **THE COMMISSIONER:** Don't walk away, Mr.  
7 Horn. You know, I know I'm not entitled to very much  
8 respect around here, but ---

9 **MR. HORN:** I'm sorry.

10 **THE COMMISSIONER:** You know, come on.

11 **MR. HORN:** I'm sorry.

12 **THE COMMISSIONER:** Okay. So in fairness to  
13 me, it was a different article.

14 And what was your point that you wanted to  
15 raise with the article? I think that's more important.

16 **MR. HORN:** There was an article -- it was an  
17 article ---

18 **THE COMMISSIONER:** Let's pull it up.

19 **MR. HORN:** --- and it involved ---

20 **THE COMMISSIONER:** Let's pull it up.

21 **MR. HORN:** --- the question of whether it  
22 was Don Johnson that did the appeal, and I was going to  
23 quote something that Mr. Johnson said in the article, and  
24 you said that it wasn't reliable, so I didn't ---

25 **THE COMMISSIONER:** No ---

1                   **MR. HORN:** I just stopped.

2                   **THE COMMISSIONER:** Just a second, sir. Just  
3 a second, sir. Mr. Carroll had come up and said -- it was  
4 a question of the appeal, and the appeal was taken by Mr.  
5 Ain, and Mr. Manson had the ---

6                   **MR. HORN:** I have it right here ---

7                   **THE COMMISSIONER:** --- has the report.

8                   **MR. HORN:** --- with Mr. Ain's name on it.

9                   **THE COMMISSIONER:** So -- no, no, no, you're  
10 not -- you know, I take a lot of abuse for a lot of things.

11                   **MR. HORN:** Oh, I'm sorry.

12                   **THE COMMISSIONER:** But on this point, the  
13 fact was it wasn't Mr. Johnson who took the appeal, it was  
14 Mr. Ain and then somebody else from Crown Law Office. And  
15 I may have misspoken. I thought you were going to put to  
16 this gentleman something that Don Johnson had said as  
17 appeal counsel and we knew that was in error. That's  
18 number one.

19                   Number two. I said that when we're talking  
20 about newspaper articles talking about judges' decisions  
21 and the rationale and the reasons for their decision, that  
22 we have to be careful when we are citing newspaper  
23 articles. I think that's the way I put it. So ---

24                   **MR. HORN:** I was going to quote Mr. Johnson.  
25 He made a comment about the decision that was made and he

1           disagreed with the decision and that was -- Mr. Don Johnson  
2           was the one that made that ---

3                       **THE COMMISSIONER:** All right.

4                       **MR. HORN:** --- made that comment and I was  
5           going to ask him if he was aware of it because he had been  
6           dealing with Mr. Johnson on a number of matters. That's  
7           why I wanted to ask him that question.

8                       **THE COMMISSIONER:** Well, all right. Well,  
9           then -- Mr. Horn, you keep going away. You can't do that.

10                      **MR. HORN:** I thought I was through.

11                      **THE COMMISSIONER:** I'm not.

12                      **MR. HORN:** Okay. All right.

13                      **THE COMMISSIONER:** So, first of all, I'll  
14           apologize to you because I thought you were talking about  
15           Court of Appeal.

16                      Can you sit down Mr. Kloeze for a sec?

17                      **MR. KLOEZE:** Yes.

18                      **THE COMMISSIONER:** So now having heard what  
19           you wanted to do with that, sir, I'm going to permit you to  
20           ask this witness the question.

21                      **MR. HORN:** Oh. Okay, let me get the  
22           article.

23                      **THE COMMISSIONER:** So now, let's get just  
24           get it straight.

25                      We're talking about there was an appeal from

1 the -- from the trial judges and is this a comment about  
2 the District Court or the Court of Appeal decision?

3 **MR. HORN:** It was, let's see, it was against  
4 Robert Hutton's ban on publication and Don Johnson argued -  
5 - also argued:

6 "Hutton had erred in law by hanging his  
7 hat on the honesty and good reputation  
8 of the accused, Mr. Labelle".

9 **THE COMMISSIONER:** Okay, but just a second -  
10 --

11 **MR. HORN:** And I was just asking if the --  
12 he was aware of Mr. Johnson's involvement in that case  
13 because it seems that he was involved in that case.

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

15 **MR. MANDERVILLE:** With respect, Mr.  
16 Commissioner, that's simply at best an accurate recording  
17 of a submission.

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

19 **MR. MANDERVILLE:** I fail to see the  
20 relevance of the question.

21 **THE COMMISSIONER:** Not only that, Mr. Horn,  
22 from what I can gather from them, and I don't have the  
23 copy, aren't we talking about the decision of whether or  
24 not the accused's name would be published?

25 And what Mr. Johnson is saying is that he

1 disagrees with the trial judge's decision to make a --  
2 impose a ban on the publication of the accused's name.

3 MR. HORN: The issue was I wanted to have  
4 him ---

5 THE COMMISSIONER: Whose him?

6 MR. HORN: I'm talking about the police  
7 officer ---

8 THE COMMISSIONER: The witness.

9 MR. HORN: --- that I was questioning. Is  
10 he -- if he was aware of the position of Mr. Johnson in  
11 regards to this issue -- to this case?

12 THE COMMISSIONER: To what issue?

13 MR. HORN: Well, not just this issue -- this  
14 case -- but the fact that of how did he feel about the fact  
15 that there was an acquittal? If -- I was wondering if this  
16 was showing the position of Mr. Johnson regarding the case  
17 itself ---

18 THE COMMISSIONER: Okay, but from what you -  
19 - I'm asking you -- does that article not deal with the  
20 issue of whether or not the ban the publication. So if Mr.  
21 Johnson in that article is saying, "I disagree with the  
22 trial judge on the issue of the ban of publication", that's  
23 all he's talking about there.

24 --- FURTHER CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE  
25 SUPPLÉMENTAIRE PAR MR. HORN:

1                   **MR. HORN:** It's a narrow issue.

2                   But I was wanting to know if this was the  
3 sentiment of Mr. Johnson is regards to the acquittal. I  
4 was hoping to get to that, just because of his position and  
5 in making comment like this on the case itself and the fact  
6 that he was interested in it. Because it seems like he  
7 wasn't the Crown on it. It was another Crown and yet he  
8 was the one making comments about this.

9                   **MR. PAYMENT:** He's the Head Crown.

10                  **MR. HORN:** That's why I was interested in --  
11 to know what the local Head Crown -- was he interested in  
12 this case and the fact that there was an acquittal? And it  
13 was done by an outside Crown.

14                  **THE COMMISSIONER:** Okay, so the question had  
15 nothing to do with the article?

16                  **MR. HORN:** It -- I just wanted to know if --  
17 what Mr. Johnson's feelings were on the acquittal.

18                  **THE COMMISSIONER:** All right. Sir?

19                  **MR. PAYMENT:** I have no idea.

20                  **THE COMMISSIONER:** If you walk away ---

21                  **MR. HORN:** I'm sorry.

22                  **THE COMMISSIONER:** No, no, no. Enough is  
23 enough.

24                  **MR. HORN:** Okay.

25                  **THE COMMISSIONER:** Were you -- did you speak

1 to Mr. Johnson after the acquittal on this case?

2 MR. PAYMENT: No.

3 THE COMMISSIONER: He didn't.

4 MR. HORN: That's all I wanted to know.

5 Thank you.

6 THE COMMISSIONER: All right.

7 MR. HORN: Is it -- am I free to go now?

8 THE COMMISSIONER: Yes, you're free to go.

9 MR. HORN: Thank you.

10 THE COMMISSIONER: So, Mr. Kloeze could you  
11 please, knowing that the judge's reasons in there are -- to  
12 be taken with some caution.

13 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

14 KLOEZE: (cont'd./suite)

15 MR. KLOEZE: I totally understand that, Mr.  
16 Commissioner.

17 All that I wanted to ask Mr. Payment was --  
18 Mr. Lee, I think you said to Mr. Lee that you remember the  
19 judge saying that the fact that there wasn't corroborating  
20 evidence is one of the reasons that he dismissed the  
21 charges?

22 MR. PAYMENT: Yes.

23 MR. KLOEZE: Do you remember the judge  
24 saying that he also sited two other factors for dismissing  
25 the charges. One of them was that there was contradictory



1 evidence, in his opinion, that was given by the female  
2 victims. Do you recall that?

3 **MR. PAYMENT:** Yes.

4 **MR. KLOEZE:** And do you recall the judge  
5 saying that the third reason was that there was excellent  
6 character testimony by colleagues and neighbours of the  
7 accused?

8 **MR. PAYMENT:** I vaguely remember that last  
9 one.

10 **MR. KLOEZE:** Okay. Now, you're aware,  
11 certainly after some of the exchange we've had this  
12 afternoon, that the Crown did appeal that finding of the  
13 judge?

14 **MR. PAYMENT:** Yes.

15 **MR. KLOEZE:** And I understand that you  
16 didn't attend any of the appeal hearings?

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

18 **MR. KLOEZE:** Okay. Thank you.

19 One other question. I'm going to the  
20 Leblanc prosecution now. And I understand that when you  
21 met with the Crown Attorney, Don Johnson, you had shown him  
22 some statements. He agreed that charges could be laid.  
23 And you had discussed with him the matter of this person  
24 named Bill?

25 **MR. PAYMENT:** Yes.

1                   **MR. KLOEZE:** And -- but you didn't have a  
2 formal complaint ---

3                   **MR. PAYMENT:** No, I did not.

4                   **MR. KLOEZE:** --- at that time?

5                   Now, I understand that if you had received a  
6 complaint or more particulars about allegations, you would  
7 have continued an investigation against that individual?

8                   **MR. PAYMENT:** Yes.

9                   **MR. KLOEZE:** And the only other point I  
10 wanted to cover was the matter of the plea in the Leblanc  
11 prosecution.

12                   You testified that you didn't like the  
13 practice of pleading to two charges and dropping one?

14                   **MR. PAYMENT:** No, sir. I know that happens  
15 on a regular basis but as a police officer, I don't like  
16 it.

17                   **MR. KLOEZE:** I take that as more of a  
18 philosophical problem. You have three charges, the three  
19 charges you believe are well-founded otherwise you wouldn't  
20 have laid them?

21                   **MR. PAYMENT:** That's right.

22                   **MR. KLOEZE:** And you have a philosophical  
23 problem with dropping one of them in exchange for two?

24                   **MR. PAYMENT:** Yes.

25                   **MR. KLOEZE:** Now -- and I understand that

1 philosophical problem -- is it your opinion that if the  
2 Crown is unable to secure a guilty plea on all three  
3 charges, that the Crown should go ahead with the full trial  
4 and try to secure a conviction?

5 **MR. PAYMENT:** It would depend on the case  
6 because you don't really want to have to put the victims  
7 through something like this again. You know -- they've  
8 been interviewed by us and they've had to give statements  
9 and now do they have to go to a pre-trial and trial and  
10 have to testify all over again?

11 Taking two out of three is all right and I  
12 understand it has to be done. I personally just don't like  
13 it.

14 **MR. KLOEZE:** No. Was it at the time in  
15 1986, was it normally the practice that the Crown would  
16 involve you in those kind of plea negotiations with defence  
17 counsel?

18 **MR. PAYMENT:** At times. If I was there.

19 **MR. KLOEZE:** If you were there?

20 **MR. PAYMENT:** Yeah.

21 **MR. KLOEZE:** But in Leblanc, in this  
22 prosecution, I understand that you didn't have much  
23 involvement after the charges were laid?

24 **MR. PAYMENT:** No.

25 **MR. KLOEZE:** Okay.

1                   **MR. PAYMENT:** No.

2                   **MR. KLOEZE:** Okay. Those are my questions.

3                   Thank you very much, sir.

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

5                   **THE COMMISSIONER:** Thank you.

6                   Ms. Lahaie?

7                   Mr. Carroll?

8                   **MR. CARROLL:** Just a few.

9                   **THE COMMISSIONER:** As it relates to your  
10                  client's interests now.

11                  **MR. CARROLL:** Thank you for reminding me.

12                  **THE COMMISSIONER:** Well.

13                  **MR. CARROLL:** It's nothing to do with that  
14                  other case, if that's what your ---

15                  **THE COMMISSIONER:** I'm sorry.

16                  **MR. CARROLL:** It has nothing to do with that  
17                  other case. I have nothing to offer ---

18                  **THE COMMISSIONER:** Thank you.

19                  **MR. CARROLL:** --- with respect to that and  
20                  as it relates to my client's interest.

21                  --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**  
22                  **CARROLL:**

23                  **MR. CARROLL:** My name is Bill Carroll and  
24                  I'm the Counsel for the Ontario Provincial Police  
25                  Association. And as such we represent the rank and file

1 members as you would know of the OPP.

2 And I wanted to follow-up, sir, because I  
3 think it's a matter of concern universally to police --  
4 policing, your comment about the macho mask. And I wanted  
5 to divide it up, if you will, into three timeframes. When  
6 you started with the police in Cornwall -- your entire  
7 police service was in Cornwall was it?

8 MR. PAYMENT: Yes, it was.

9 MR. CARROLL: And when you started with the  
10 police, when you finished with them, and any suggestions  
11 that you might have in that regard; okay?

12 And dealing with the concept, just maybe you  
13 could elaborate a bit on what you meant by the "macho  
14 mask"?

15 MR. PAYMENT: Well ---

16 MR. CARROLL: When you first encountered it  
17 when you joined the Service.

18 MR. PAYMENT: It was a case of the big burly  
19 policeman is not supposed to cry or not supposed to show  
20 emotion and compassion was a question mark, like -- and  
21 even into the '80s it was still a factor, like you were  
22 supposed to be the big tough policeman.

23 MR. CARROLL: And did you -- you were on the  
24 Executive of the Association, I believe. Is that right?

25 MR. PAYMENT: Yes.

1                   **MR. CARROLL:**   And as such, did you have  
2                   occasion to interact with Association members from other  
3                   police services?

4                   **MR. PAYMENT:**   Oh yes.

5                   **MR. CARROLL:**   And did you find that this  
6                   concept you're talking about spread beyond the Cornwall  
7                   Police?   In fact, it was ---

8                   **MR. PAYMENT:**   Oh yes.

9                   **MR. CARROLL:**   --- throughout the profession?

10                  **MR. PAYMENT:**   Yes, province-wide.

11                  **MR. CARROLL:**   And while you were on the job,  
12                  either early on or towards the end of your years of  
13                  service, was your particular police service providing any  
14                  kind of counselling services for that issue that was facing  
15                  officers?

16                  **MR. PAYMENT:**   Yes.

17                  **MR. CARROLL:**   And how was that provided?  
18                  Was it in the Employee Assistance Plan?

19                  **MR. PAYMENT:**   Yes.

20                  **MR. CARROLL:**   And, sir, there may be some  
21                  services not available yet.   How was it structured in your  
22                  service?

23                  **MR. PAYMENT:**   We had contact people that  
24                  were members of our department and they worked on this  
25                  committee for the counselling, and if I had an issue or I

1 had a problem, I would -- I could go to any one of those  
2 contacts that I felt comfortable with, and they would take  
3 it to the next step for us and make referrals.

4 MR. CARROLL: Those contacts, were they  
5 police officers?

6 MR. PAYMENT: Yes.

7 MR. CARROLL: I see.

8 And then what was the next step?

9 MR. PAYMENT: They would make referrals and  
10 we would go to interviews with whatever we needed.

11 MR. CARROLL: All right.

12 And so the psychologist ---

13 MR. PAYMENT: Yes.

14 MR. CARROLL: --- and services were made  
15 available?

16 MR. PAYMENT: Yes.

17 MR. CARROLL: And, sir, I'm assuming that  
18 that service was provided with a degree of anonymity? In  
19 other words, there were no reports flowing back to your  
20 service or ---

21 MR. PAYMENT: That is correct.

22 MR. CARROLL: Were the members confident  
23 that that was the case in all instances, that word wasn't  
24 getting back?

25 MR. PAYMENT: No.

1                   **MR. CARROLL:** And was that perceived as  
2 perhaps a sign of weakness to seek out the counselling?

3                   **MR. PAYMENT:** Yes.

4                   **MR. CARROLL:** And did that ---

5                   **THE COMMISSIONER:** I'm sorry.

6                   **MR. CARROLL:** Yes.

7                   **THE COMMISSIONER:** When you said -- was  
8 there any concern? You weren't concerned about news going  
9 back from the professional to your police service, right?

10                   **MR. CARROLL:** I think he was talking about  
11 the content of ---

12                   **THE COMMISSIONER:** Yes, the content.

13                   **MR. CARROLL:** --- of the counselling as  
14 opposed to the fact of.

15                   **THE COMMISSIONER:** You did not have any  
16 concerns; is that what you said?

17                   **MR. CARROLL:** I had concerns about it  
18 getting back.

19                   **THE COMMISSIONER:** Okay. Sorry. I just  
20 wanted to ---

21                   **MR. CARROLL:** You had concerns about both  
22 content getting back as well as the fact of availing  
23 yourself of those services?

24                   **MR. PAYMENT:** Yes.

25                   **MR. CARROLL:** All right.



1                   And I take it then you had some concern that  
2                   the very doctors that were offered to assist you or  
3                   counsellors that were offered to assist may have some  
4                   communication with the administration?

5                   **MR. PAYMENT:** I don't know what was done  
6                   with them after, if they did communicate. I don't know if  
7                   it was maybe the officer that was your liaison that made  
8                   the referral, but I know of an incident -- well, it  
9                   happened to me, where I was spoken to about it.

10                  **MR. CARROLL:** Where you were spoken to about  
11                  having sought out counselling services?

12                  **MR. PAYMENT:** Yes.

13                  **MR. CARROLL:** All right.

14                  Would it be of assistance, do you think,  
15                  sir, then to policing personnel in general if this  
16                  Commission were to make a recommendation that all police  
17                  services should provide counselling services and with a  
18                  degree of anonymity sufficient to satisfy the needs of the  
19                  members?

20                  **MR. PAYMENT:** I think it would be a good  
21                  recommendation, but if I could, maybe a step further ---

22                  **MR. CARROLL:** Sure.

23                  **MR. PAYMENT:** Maybe the liaison officer  
24                  doesn't have to be somebody from the local force. Like, if  
25                  I know somebody that's on the Ottawa Police Force or

1           whatever, maybe I could go to him with less chance of  
2           something getting back because we're a small force.

3                       **MR. CARROLL:** And I take it, sir, you would  
4           also agree that educating the members would be of  
5           assistance as to the benefits of counselling to eradicate  
6           that view that you seem to say is still there as far as you  
7           know?

8                       **MR. PAYMENT:** The mask?

9                       **MR. CARROLL:** Yeah.

10                      **MR. PAYMENT:** That's disappearing.

11                      **MR. CARROLL:** It is?

12                      **MR. PAYMENT:** It's going away, yes.

13                      **MR. CARROLL:** Well, that's a good thing to  
14           hear then.

15                      **MR. PAYMENT:** Yes.

16                      **MR. CARROLL:** Thank you, sir.

17                      Thank you.

18                      **THE COMMISSIONER:** Thank you very much.

19                      All right. So Mr. Manderville.

20                      **MR. MANDERVILLE:** Good afternoon, Mr.

21           Commissioner, Officer Payment.

22                      I have no questions for you. Thank you.

23                      **MR. PAYMENT:** Thank you.

24                      **THE COMMISSIONER:** Thank you.

25                      Ms. Simms, do you have any questions?

1                   **MS. SIMMS:** No, Mr. Commissioner, no further  
2                   questions. I just wanted to thank the witness for coming  
3                   today.

4                   **MR. PAYMENT:** Thank you.

5                   **MS. SIMMS:** Thank you.

6                   **THE COMMISSIONER:** Mr. Payment, I want to  
7                   echo everyone else's thanks for coming. I found your  
8                   evidence very interesting and I thank you again.

9                   **MR. PAYMENT:** Thank you for your  
10                  understanding and I hope you have luck with your task.

11                  **THE COMMISSIONER:** I'll need it.  
12                  Thank you. So you may step down. I think  
13                  we're ready for the next witness.

14                  **MS. SIMMS:** If we could have five minutes?

15                  **THE COMMISSIONER:** Why don't we take five  
16                  minutes.

17                  **MS. SIMMS:** Yeah.

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

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

21                  This hearing will resume at 4:25.

22                  --- Upon recessing at 4:15 p.m./

23                  L'audience est suspendue à 16h15

24                  --- Upon resuming at 4:26 p.m./

25                  L'audience est reprise à 16h26

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

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

5                   **THE COMMISSIONER:** Yes, thank you.

6                   **MR. STAUFFER:** Good afternoon, Mr.  
7                   Commissioner. Mr. Stuart McDonald is now coming to the  
8                   stand.

9                   **THE COMMISSIONER:** Thank you.

10                  Good afternoon, sir.

11                  **MR. McDONALD:** Good afternoon, sir.

12                  **THE COMMISSIONER:** Would you wish to be  
13                  affirmed or sworn in?

14                  **MR. McDONALD:** Sworn.

15                  **THE COMMISSIONER:** Thank you.

16                  --- **STUART McDONALD, Sworn/Assermenté:**

17                  **THE COMMISSIONER:** Thank you.

18                  Have a seat, sir. So I'd like you to sit  
19                  up. The microphone picks up what you're going to say.  
20                  There's water, fresh glasses. There's a little box there  
21                  which is a speaker, a little knob on the right; if you turn  
22                  it up, you can hear better.

23                  **MR. McDONALD:** I think it's turned up all  
24                  the way.

25                  **THE COMMISSIONER:** All right. Well, then,

1           there you go.

2                         There's a screen. If you're going to be  
3 shown any documents, you'll be given a hardcopy and  
4 something on the screen. You can use either.

5                         Please answer the questions the best you  
6 can. If you don't understand, just tell me you don't  
7 understand. If you don't remember, that's all right.

8                         What I want you to know though is if at any  
9 time you feel uncomfortable or hesitant, please look over  
10 and tell me and I'll deal with it.

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

12                        **THE COMMISSIONER:** Now, I know that it's  
13 4:30. What I'd like to do is start for about 45 minutes.  
14 I understand that you have to be finished tomorrow because  
15 you're off to Portugal sometime.

16                        **MR. McDONALD:** Portugal, Spain and France.

17                        **THE COMMISSIONER:** Terrific. So that's why  
18 I want to sit a little later tonight and get that out of  
19 the way, and tomorrow it's the last day of the week, so we  
20 will be sitting until 2:00 and with no lunch, so bring a  
21 sandwich or something, and so we'll try to get you through  
22 as much as possible.

23                        **MR. McDONALD:** Right on.

24                        **THE COMMISSIONER:** How's that?

25                        **MR. McDONALD:** Thank you.

1                   **THE COMMISSIONER:** Have I covered  
2 everything?

3                   **MR. McDONALD:** Thank you, sir.

4                   **MR. STAUFFER:** Mr. Commissioner, with your  
5 remarks in mind, I intend to lead Staff Inspector McDonald  
6 as much as I can. I'll try to be sensitive to those issues  
7 which might be in dispute.

8                   **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**  
9 **STAUFFER:**

10                   **MR. STAUFFER:** Staff Inspector, can you tell  
11 us a few things to start with? Have you read any of the  
12 testimony from prior witnesses at this Inquiry?

13                   **MR. McDONALD:** No, sir.

14                   **MR. STAUFFER:** Have you heard any of the  
15 testimony, either through the media or through talking with  
16 people?

17                   **MR. McDONALD:** Yes, sir.

18                   **MR. STAUFFER:** Okay. So we'll see if  
19 there's anything that comes out of that.

20                   And in terms of preparing for today, have  
21 you actually spoken to people, either prior witnesses or  
22 witnesses you think that may be called to prepare for  
23 today?

24                   **MR. McDONALD:** No, sir.

25                   **MR. STAUFFER:** All right.

1                   Now, Staff Inspector, you served on the  
2 Cornwall Community Police Service from September 2<sup>nd</sup>, 1969  
3 until -- I think your official retirement date was May 31<sup>st</sup>,  
4 1995. Have I got the dates right?

5                   **MR. McDONALD:** No, sir.

6                   **MR. STAUFFER:** Okay.

7                   **THE COMMISSIONER:** Tell us the dates.

8                   **MR. STAUFFER:** I'm not good at this,  
9 obviously.

10                  **MR. McDONALD:** I started on the 1<sup>st</sup> of ---

11                  **MR. STAUFFER:** But go ahead.

12                  **MR. McDONALD:** I started on the 1<sup>st</sup> of June  
13 1969 and I retired on the 1<sup>st</sup> of June 1995.

14                  **MR. STAUFFER:** Okay. I gather in terms of  
15 officially being a police officer and working, if I can put  
16 it that way, it was sometime in the fall of 1994 that you  
17 would have actually still been carrying out duties as a  
18 police officer?

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

20                  **MR. STAUFFER:** All right.

21                  **MR. McDONALD:** Excuse me; I might have  
22 gotten the dates wrong. I did start in September of '67  
23 with the OPP. I was just thinking of the Cornwall Police  
24 Force.

25                  **MR. STAUFFER:** That's fine. All right.

1                   So, sir, you were with the OPP for a couple  
2                   of years and then you came on board with the Cornwall  
3                   Police Service?

4                   **MR. McDONALD:** That's correct.

5                   **MR. STAUFFER:** All right.

6                   You actually rose to the rank at one point  
7                   of Deputy Chief, is that right? For over a year you were  
8                   Deputy Chief from approximately April 1984 until July 1985?

9                   **MR. McDONALD:** Approximately.

10                  **MR. STAUFFER:** Does that sound about right?

11                  And you retired, though, at the rank of  
12                  Staff Inspector?

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

14                  **MR. STAUFFER:** And Staff Inspector was  
15                  actually a rank, if I can put it that way, although it  
16                  existed, it was created, if you will, for yourself?

17                  **MR. McDONALD:** We negotiated that rank.

18                  **MR. STAUFFER:** All right.

19                  And, sir, you were then at one point prior  
20                  to retirement, the third highest ranking officer then in  
21                  the Cornwall Police Service; is that correct?

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

23                  **MR. STAUFFER:** Okay. Sir before I go into  
24                  any more specifics, just generally by way of background  
25                  again, did you receive any specific training with respect



1 to sexual assault investigations?

2 MR. McDONALD: No, I didn't.

3 MR. STAUFFER: And did you, in fact, receive  
4 any training that related to investigative techniques?

5 MR. McDONALD: Basic I believe, yes.

6 MR. STAUFFER: Okay. There is, Mr.  
7 Commissioner, a profile that my friends kindly provided to  
8 me. Given what Staff Inspector McDonald has said in terms  
9 of his career, it's not quite accurate. I'm not sure if we  
10 should enter this document or not. I'm in my friends'  
11 hands but in terms of the training aspect of it, probably  
12 that would be of some assistance.

13 THE COMMISSIONER: Mr. Manderville?

14 MR. MANDERVILLE: I have no objections.

15 THE COMMISSIONER: All right.

16 MR. STAUFFER: So that's Document 200201,  
17 Mr. Commissioner.

18 THE COMMISSIONER: Exhibit 1567 and where is  
19 it erroneous?

20 ---EXHIBIT NO./PIÈCE NO P-1567:

21 (200201) Career Profile of Stuart McDonald

22 MR. STAUFFER: The inaccuracies -- and Staff  
23 Inspector if you follow on the document for a moment,  
24 you'll see, sir, where it says "Criminal Investigation  
25 Staff Inspector, January 1<sup>st</sup>, 1990," that's fine I believe.

1                   But then the problem that we're going to  
2                   encounter I think is the next one up, "Administration  
3                   Special Services Staff Inspector." Staff Inspector  
4                   McDonald, am I right that you continued to be the head of  
5                   CIB through that period and up until the end of 1992?

6                   **MR. McDONALD:** To be honest with you, I  
7                   don't recall. I moved around quite a bit at the time. And  
8                   I have a hard time remembering where I was on specific  
9                   years.

10                  **MR. STAUFFER:** Okay. Well, that's --  
11                  essentially to answer your question ---

12                  **THE COMMISSIONER:** All right.

13                  **MR. STAUFFER:** --- Mr. Commissioner, that  
14                  was the concern I had.

15                  **THE COMMISSIONER:** All right.

16                  **MR. STAUFFER:** If we just turn over the  
17                  sheet for a moment, Staff Inspector, you'll see, at least  
18                  in my copy, there are training courses that take up a page  
19                  and a half or a page and a third roughly, and if you could  
20                  just look at those quickly. Do those essentially reflect  
21                  the major courses that you took during your time with the  
22                  Cornwall Police Service?

23                  **MR. McDONALD:** Yes, I've looked at it and  
24                  whether there is any missing or not, I couldn't tell you.

25                  **MR. STAUFFER:** All right. Staff Inspector,

1           importantly from my perspective at least, I do want to be  
2           sure as to when you were the head of CIB. So am I right  
3           that it's from the beginning of 1990 through to the end of  
4           1992?

5                       **MR. McDONALD:** I was there at the end of '92  
6           and I know that I was there during the year 1992, but I  
7           don't recall when I went into the branch.

8                       **MR. STAUFFER:** Okay. So you mean the  
9           beginning date, the January 1990 ---

10                      **MR. McDONALD:** No, I don't know when I  
11           started with CIB.

12                      **MR. STAUFFER:** Oh, okay. Again, without  
13           belabouring this, if you could remember back, and I know  
14           it's a number of years ago, but for that three-year period  
15           from 1990 through the end of 1992, was there any major task  
16           that you had outside of the CIB, if I can put it that way,  
17           or some major assignment that was not a CIB-related  
18           activity?

19                      **MR. McDONALD:** Not that I recall.

20                      **MR. STAUFFER:** Okay. Because the way again  
21           I understand it is, would you have taken over from  
22           Inspector Trew as the head of CIB?

23                      **MR. McDONALD:** I'm sorry, I don't remember.

24                      **MR. STAUFFER:** Okay. And do you remember,  
25           sir, would you have handed off the officer in charge role

1 to Staff Sergeant Brunet?

2 **MR. McDONALD:** Yes, I believe that's  
3 correct.

4 **MR. STAUFFER:** Okay. When you took over  
5 from Inspector Trew, was there any formal briefing or set  
6 of briefings from Inspector Trew to yourself as to what was  
7 going on in CIB?

8 **MR. McDONALD:** Not to my recollection.

9 **MR. STAUFFER:** Okay. When you handed over  
10 to Staff Sergeant Brunet at the end of 1992 or thereabouts,  
11 did you provide Staff Brunet with a set of briefings or a  
12 briefing as to what was going on at CIB?

13 **MR. McDONALD:** Not to my recollection.

14 **MR. STAUFFER:** Okay. Do you remember, sir,  
15 when you did take over CIB, and let's say for arguments  
16 sake it's around the beginning of 1990, do you remember  
17 there being any particular priorities as to what areas of  
18 criminality existed at that point back in the time when you  
19 took over in CIB?

20 **MR. McDONALD:** No, I don't recall. A few  
21 cases stand out but the only thing that I remember was that  
22 there was an overwhelming amount of cases. And the hardest  
23 job I had was trying to figure out who to assign them to  
24 because I felt most of them were overburdened and over --  
25 with their caseloads.

1                   **MR. STAUFFER:** Do you remember roughly how  
2 many investigators would have been working under you during  
3 that three-year period?

4                   **MR. McDONALD:** Probably six or seven.

5                   **MR. STAUFFER:** Okay. And again I appreciate  
6 that would depend on whether someone's on leave, whether  
7 someone gets sick and so on. But that would be the  
8 approximate number, six or seven on an annual basis?

9                   **MR. McDONALD:** Yeah. There was a -- there  
10 was the investigators in the general bureau and then there  
11 was a couple officers in the Youth Bureau and we also  
12 supervised the Ident Branch.

13                   **MR. STAUFFER:** Okay. But just so the  
14 Commissioner understands as he takes a note here; does the  
15 number six or seven, do those numbers include the Youth  
16 Bureau and the Identification ---

17                   **MR. McDONALD:** No, sir.

18                   **MR. STAUFFER:** Okay. So we're talking  
19 general investigators, if I can put it that way, for the  
20 six or seven.

21                   **MR. McDONALD:** Usually, yes.

22                   **MR. STAUFFER:** Plus two for Youth Bureau and  
23 then how many would be in Identification?

24                   **MR. McDONALD:** There were two or three  
25 officers plus civilians in Ident but they didn't do general

1 investigations. They worked on Ident.

2 **MR. STAUFFER:** Okay. Now again, I know it's  
3 a long time ago, but is it your recollection that during  
4 the three years roughly that you were the head of CIB,  
5 there were always two officers in Youth Bureau?

6 **MR. McDONALD:** They might have been assigned  
7 there; they might not have been working there. Like there  
8 was a period of time, I know, when we had officers working  
9 on a murder case and left towards the end of '92, Constable  
10 Sebalj or Black, I don't know what name you want to go by -  
11 --

12 **MR. STAUFFER:** Sebalj.

13 **MR. McDONALD:** --- but she was all alone at  
14 the time.

15 **THE COMMISSIONER:** Sebalj.

16 **MR. McDONALD:** Sebalj?

17 **THE COMMISSIONER:** Yeah.

18 **MR. STAUFFER:** Yes sir. So I think I  
19 understand where you're going. And let me just expand on  
20 that then, Staff Inspector. During the period in 1992,  
21 you're talking about Sergeant Lefebvre I think and  
22 Constable Malloy, experienced officers in the Youth Bureau,  
23 having to go to work on a murder case; is that what you  
24 were talking about?

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

1                   **MR. STAUFFER:** And Constable Sebalj to great  
2 extent then being the only Youth Bureau officer, if I can  
3 put it that way.

4                   **MR. McDONALD:** Correct.

5                   **MR. STAUFFER:** All right. Now, sir, again  
6 if you can remember, during those three years, when you're  
7 the head of CIB, what is the status of historical sexual  
8 abuse cases? And by that I mean, how many are you really  
9 seeing going through CIB?

10                   **MR. McDONALD:** I've no idea. I don't recall  
11 any at all.

12                   **MR. STAUFFER:** Okay. So if you can just  
13 take your time, just for a moment, because for me, anyway,  
14 this is quite important. When you say you don't recall, I  
15 appreciate that. But ---

16                   **THE COMMISSIONER:** I think he said he  
17 doesn't recall any.

18                   **MR. STAUFFER:** And so that's why I want to  
19 be sure of, Mr. Commissioner.

20                   Is that what you're saying, Staff Inspector?

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

22                   **MR. STAUFFER:** There's absolutely no -- and  
23 do you know -- what do you mean by historical sexual  
24 assault cases? Because again, I want to be totally fair to  
25 you here.

1                   **MR. McDONALD:** I guess it would be  
2                   accusations of sexual assault that date back a number of  
3                   years.

4                   **MR. STAUFFER:** All right.

5                   **MR. McDONALD:** And coming to light in that  
6                   period of time.

7                   **MR. STAUFFER:** Okay. And again, to be fair,  
8                   we're going to talk about the D.S. case or the David  
9                   Silmser case to some extent here in the next few minutes.  
10                  That case does arise during the time you are the head of  
11                  CIB, is that right?

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

13                  **MR. STAUFFER:** But other than that one case,  
14                  you can't recall any other historical sexual assault cases  
15                  involving adults coming forward and saying "I was abused"  
16                  or allegedly, "abused when I was a minor"?

17                  **MR. McDONALD:** No sir, I don't recall.

18                  **MR. STAUFFER:** Okay. So sir, let's go right  
19                  to the Silmsers case.

20                  And Mr. Commissioner, I'd like Staff  
21                  Inspector McDonald to look at the note prepared by Sergeant  
22                  Nakic and that would be Exhibit 293. It's Document 714001.

23                  So Staff Inspector, have you seen this  
24                  document fairly recently to refresh your memory?

25                  **MR. McDONALD:** Yes, sir.



1                   **MR. STAUFFER:** Okay, because again, if you  
2                   need to read something, just tell us. But otherwise, I'm  
3                   just going to launch into my questions. Okay. So here we  
4                   go.

5                   By way of a little bit of background, I  
6                   gather on December 9<sup>th</sup>, 1992, are you the senior officer in  
7                   the police station, save for Chief Shaver?

8                   **MR. McDONALD:** I believe so.

9                   **MR. STAUFFER:** Okay.

10                  **MR. McDONALD:** I wouldn't swear to it, but I  
11                  believe so.

12                  **MR. STAUFFER:** Okay. Fair enough.

13                  And, sir, I gather looking at this memo,  
14                  essentially it's now recording, obviously, something that's  
15                  happened and Sergeant Nakic has done that. Am I right,  
16                  sir, that the call comes in, according to this internal  
17                  correspondence, at 11:55 hours? Do you see that in the  
18                  first line?

19                  **MR. McDONALD:** Yes, sir.

20                  **MR. STAUFFER:** And am I right that that's  
21                  11:55 in the morning or at night?

22                  **MR. McDONALD:** If it went directly to  
23                  Sergeant Nakic, I'm going to surmise that it probably  
24                  happened at night because a call wouldn't have been put  
25                  through to him normally directly. He -- if he was the

1 officer taking calls in CIB, it was probably going to be in  
2 the evening. I'm just ---

3 MR. STAUFFER: Okay.

4 MR. McDONALD: --- surmising this because if  
5 it wasn't the -- he would have come through to the general  
6 switchboard and an officer there would have taken it or  
7 they probably would have put it through to my office.

8 MR. STAUFFER: Fair enough.

9 Because again, I am thinking, I guess, in  
10 police parlance and I would have thought he would have been  
11 writing something like 23:55.

12 MR. McDONALD: I understand what you're  
13 saying. I just believe that it must have come in to him  
14 after hours and he was probably working the afternoon  
15 shift.

16 MR. STAUFFER: Okay. So do you have any  
17 recollection then because you were consulted -- to move  
18 forward in time here, you were consulted by Sergeant Nakic  
19 at some point after he takes the call. Is that correct?

20 MR. McDONALD: Yes.

21 MR. STAUFFER: And so do you remember -- is  
22 it late at night then when the Sergeant is ---

23 MR. McDONALD: No, I got it. I work days,  
24 usually from 8:00 in the morning until 4:00 in the  
25 afternoon.

1                   **MR. STAUFFER:** Okay.

2                   **MR. McDONALD:** Usually.

3                   **MR. STAUFFER:** Do you think Sergeant Nakic  
4 spoke to you pretty soon after getting the call?

5                   **MR. McDONALD:** Again, he came to me -- I  
6 thought it was in the morning, but it might have been after  
7 lunch. I don't recall the exact time he came. He might  
8 have gotten the call at five to noon and come to me after  
9 lunch. I don't recall. All I know is that I would have  
10 been surprised if the call had gone through to Sergeant  
11 Nakic directly unless he knew Mr. Silmsers.

12                   **MR. STAUFFER:** Okay.

13                   **MR. McDONALD:** And was asked for by Mr.  
14 Silmsers.

15                   **MR. STAUFFER:** I'm sorry?

16                   **MR. McDONALD:** Unless Mr. Silmsers asked to  
17 speak to him directly.

18                   **MR. STAUFFER:** Right.

19                   **MR. McDONALD:** It usually probably wouldn't  
20 have gone to him.

21                   **MR. STAUFFER:** Okay. The -- in any event,  
22 sir, Mr. -- or Sergeant Nakic, I should say, states certain  
23 information that he's obviously received from Mr. Silmsers  
24 over the telephone, and we won't belabour -- or I'll try  
25 not to belabour this, but is it clear, sir, from reading

1           this that Mr. Silmsler is alleging that there are two  
2           potential perpetrators; that is, Father Charles MacDonald  
3           and Ken Seguin?

4                   **MR. McDONALD:** This memo was written after  
5           he spoke to me.

6                   **MR. STAUFFER:** Yes.

7                   **MR. McDONALD:** He didn't speak to me until  
8           after he -- he didn't write the memo until after he spoke  
9           to me.

10                  **MR. STAUFFER:** Fair enough. Okay.

11                  **MR. McDONALD:** And so ---

12                  **MR. STAUFFER:** Okay. Well, let's try to  
13           take it in sequence. I'm sorry if I've cut you off there,  
14           but is there something more you'd like to say, because I'll  
15           try to take you through this in sequence then?

16                  **MR. McDONALD:** Sergeant Nakic says:

17                                "On Staff Inspector McDonald's  
18                               instruction, I called Silmsler back  
19                               advising him that he will have an  
20                               officer go see him in Bourget within  
21                               one week."

22                  **MR. STAUFFER:** Right.

23                  **MR. McDONALD:** So prior to writing this,  
24           Sergeant Nakic came to me and spoke to me verbally.

25                  **MR. STAUFFER:** Fair enough.

1                   **MR. McDONALD:** And then he wrote the memo.

2                   **MR. STAUFFER:** I've got it.

3                   So if you just bear with me here, Staff  
4                   Inspector, for a moment?

5                   **MR. McDONALD:** Yes.

6                   **MR. STAUFFER:** We'll just take it step by  
7                   step.

8                   Do you recollect Sergeant Nakic coming to  
9                   see you?

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

11                  **MR. STAUFFER:** Okay. Where are you when he  
12                  comes to see you?

13                  **MR. McDONALD:** In the CIB office.

14                  **MR. STAUFFER:** Okay. And what does he say  
15                  to you beyond what's in this memo, if anything?

16                  **MR. McDONALD:** I recall him telling me that  
17                  David Silmsler had complained about being sexually assaulted  
18                  by Father Charles MacDonald while a young boy.

19                  **MR. STAUFFER:** Okay. Now, that is, to a  
20                  great extent, encompassed by this memo. I'm just  
21                  wondering, Staff Inspector, if there's anything else you  
22                  could remember Sergeant Nakic saying to you that's not in  
23                  the memo?

24                  **MR. McDONALD:** I can tell you what I -- he  
25                  didn't tell me that is in the memo.

1                   **MR. STAUFFER:** Okay. What's that, sir?

2                   **THE COMMISSIONER:** What's that?

3                   **MR. McDONALD:** He didn't mention at the time  
4 -- I don't believe he mentioned Ken Seguin.

5                   **MR. STAUFFER:** Okay.

6                   **MR. McDONALD:** He mentioned Father Charles  
7 MacDonald, but I don't ever recall him mentioning Ken  
8 Seguin's name to me.

9                   **MR. STAUFFER:** All right.

10                   Do you remember -- again, I realize it's a  
11 long time ago, but how long is this conversation with  
12 Sergeant Nakic?

13                   **MR. McDONALD:** A few minutes.

14                   **MR. STAUFFER:** Okay. Is it just the two of  
15 you?

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

17                   **MR. STAUFFER:** All right.

18                   And what happens after he's given you the  
19 information you've told us?

20                   **MR. McDONALD:** I went back to my office and  
21 I pondered the information for a short period of time. And  
22 after thinking about it, I proceeded to the Chief's office,  
23 informing him what I had been told by Sergeant Nakic. And  
24 because of the manpower situation and the people I had  
25 working for me; I requested of him that Sergeant Claude

1 Lortie be assigned the case because I felt that he was an  
2 experienced investigator and probably the best person at  
3 that time to do the investigation.

4 **MR. STAUFFER:** Okay. Just let me try to  
5 take you back again to you being in your office before you  
6 go out to see the Chief.

7 **MR. McDONALD:** Certainly.

8 **MR. STAUFFER:** What's going through your  
9 mind -- if you can recall over these years -- what's going  
10 through your mind back then? What are you thinking as to  
11 your game plan?

12 **MR. McDONALD:** I thought about the officers  
13 working for me and their caseload. I also thought about  
14 the normal people that would get this would be the Youth  
15 Branch, and the only person in the Youth Branch at that  
16 time was Constable Sebalj. She was doing a great job, but  
17 she was -- again, had a big caseload. She was fairly new  
18 in the Branch, fairly inexperienced. And I felt that this  
19 case had insurmountable or a mountain of possibilities,  
20 none of which would be good.

21 **MR. STAUFFER:** Okay. Just before we go  
22 there, if I suggest to you that it is my information  
23 Constable Sebalj came into the Youth Bureau in October of  
24 '92; does that sound right to you or do you have a  
25 different date in mind?

1                   **MR. McDONALD:** If I hadn't read it within  
2                   the last couple of days, I wouldn't have any idea, but I  
3                   did read it and I'll not argue with you.

4                   **MR. STAUFFER:** Okay. Now, sir, you're  
5                   talking about a number of potential problems here. Can you  
6                   expand on those any further for the Commissioner as to what  
7                   you're anticipating this investigation might be all about?

8                   **MR. McDONALD:** Well, any time that you have  
9                   prominent people in the community that are charged with any  
10                  offence, let alone sexual offences involving minors, I  
11                  think it's going to be a major case. It's going to be a  
12                  high-profile case, especially when the news comes out.

13                  We all heard about cases such as the youth  
14                  home in Alfred, the Mount Cashel, Newfoundland problems,  
15                  the residential schools.

16                  **MR. STAUFFER:** Could I -- sorry to  
17                  interrupt, but could I suggest to you Father Deslauriers'  
18                  case was relatively recent. This would have been about six  
19                  years or so ago. Was that something going through your  
20                  mind at that time?

21                  **MR. McDONALD:** I can't say it went through  
22                  my mind at the time, but I -- I'm aware of the case. I  
23                  just felt that we needed a very experienced investigator.  
24                  And that the -- I had no idea where this thing would lead,  
25                  let alone this far, but I just felt that we had to put the



1 best resources we had on -- available on the case because I  
2 know that these cases are very, very sensitive in the  
3 community and with anybody you talk to.

4 **MR. STAUFFER:** All right.

5 Sir, am I right in thinking you took no  
6 notes of either your discussion with Sergeant Nakic or any  
7 subsequent discussions with the Chief or anybody else  
8 concerning this matter?

9 **MR. McDONALD:** No, I didn't.

10 **MR. STAUFFER:** All right.

11 So, sir, we've got you thinking you've gone  
12 off now to the Chief. Is this a relatively quick process;  
13 that is, Sergeant Nakic talks to you; you think about the  
14 case for a few minutes and then you go see the Chief?

15 **MR. McDONALD:** That's correct, within an  
16 hour.

17 **MR. STAUFFER:** Okay. Chief's office is  
18 fairly close to yours; is it, back then?

19 **MR. McDONALD:** Less than a minute walk.

20 **MR. STAUFFER:** Okay. So is it just the two  
21 of you gentlemen who then discuss the Silmsler allegation?

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

23 **MR. STAUFFER:** And do you remember roughly  
24 how long that meeting took place with Chief Shaver?

25 **MR. McDONALD:** Very short, no more than 10

1 minutes I'm sure.

2 **MR. STAUFFER:** Okay. Then just you two  
3 gentlemen during all that 10 minutes and nobody else comes  
4 in or is consulted?

5 **MR. McDONALD:** No, not to my knowledge.

6 **MR. STAUFFER:** Okay. And can you again help  
7 the Commissioner out as much as you can as to what the two  
8 of you talked about, as much detail as you can as to what  
9 each of you said?

10 **MR. McDONALD:** I explained to him what  
11 Sergeant Nakic had told me about the allegations of sexual  
12 abuse. And the fact that both Constable Malloy and  
13 Sergeant Lefebvre were working on a murder case that was  
14 very difficult on both of them; that Constable Sebalj was  
15 in the Youth Branch and I really didn't think that she had  
16 enough experience to be able to handle a case of this  
17 possible magnitude.

18 And I asked and suggested that it be given  
19 to Sergeant Lortie because he was under the direct command  
20 of the Chief, and it was only the Chief that could assign  
21 cases to Sergeant Lortie.

22 **MR. STAUFFER:** Okay. So just so I  
23 understand you correctly, although you're the CIB and the  
24 third ranking officer, you could not have gone to Sergeant  
25 Lortie and said "Sergeant Lortie" or "Claude, can you take

1           this case on?"

2                       **MR. McDONALD:** No, it wasn't -- I might ask  
3           him for a favor now and then or to do something for me but  
4           I wouldn't ask him to -- I wouldn't assign a case to him,  
5           especially one of this possible magnitude, without speaking  
6           to the Chief first. I probably wouldn't have assigned it  
7           to anybody without speaking to the Chief first.

8                       **MR. STAUFFER:** Fair enough. And so just on  
9           that point sir, again, at this a hypothetical situation,  
10          but if Sergeant Lortie had not been around for whatever  
11          reason, now as head of CIB, I assume you would be assigning  
12          some investigator. Are you telling the Commissioner, you  
13          would have gone to the Chief in any event even if there  
14          were just your investigators available?

15                      **MR. McDONALD:** I believe I probably would  
16          have.

17                      **MR. STAUFFER:** Okay. Now, sir, the meeting  
18          with the Chief as you told us was relatively short. Do you  
19          recollect if Chief Shaver took any notes? Do you have any  
20          recollection of him jotting anything down?

21                      **MR. McDONALD:** No, I don't any recollection  
22          of that.

23                      **MR. STAUFFER:** Okay. So is it fair to say,  
24          Staff Inspector, you were the one then who suggested  
25          Sergeant Lortie; it wasn't Chief Shaver who said this?

1                   **MR. McDONALD:** No, it was I who suggested  
2                   it. And he was quite amiable and in accord with my  
3                   suggestions.

4                   **MR. STAUFFER:** Okay. Now, did either of you  
5                   gentlemen know Sergeant Lortie's situation? And by that, I  
6                   mean, that he booked off some time and he was going to have  
7                   some day surgery that would take him out of the office for  
8                   a period of time. Did you know that when you were having  
9                   that conversation with Chief Shaver? Did he know that?

10                  **MR. McDONALD:** I didn't know it. I don't  
11                  know whether the Chief knew it or not.

12                  **MR. STAUFFER:** Okay. Again, it's a  
13                  difficult question but I'll put it to you in any event.  
14                  Had you known that Sergeant Lortie at the time would have  
15                  been out of commission for a period of time, a week to  
16                  three weeks, would that have affected your decision about  
17                  assigning him -- or sorry, recommending that he be assigned  
18                  to investigate?

19                  **MR. McDONALD:** I really couldn't tell you  
20                  that at this time. I don't know. If it was imminent,  
21                  maybe it would. If it was going to be in a month or two  
22                  months down the road, it might have, it might not have, I  
23                  couldn't tell you for sure.

24                  **MR. STAUFFER:** Okay. Well, it's my  
25                  understanding the surgery took place in early January,

1           sometime in the early part of the new year. Had you known  
2           that fact, would that have affected your decision?

3                   **MR. McDONALD:** I don't know. I really  
4           couldn't say.

5                   **MR. STAUFFER:** The -- can you tell us at all  
6           as to what reaction Chief Shaver had when he heard about  
7           the allegation concerning Father Charles?

8                   **MR. McDONALD:** Not specifically. I think he  
9           was concerned like I was. I don't even know if he knew  
10          Father Charles MacDonald but news of this type would strike  
11          any police officer with consternation, I believe.

12                   **MR. STAUFFER:** All right. Can you expand on  
13          that beyond what you've already said? What do you mean by  
14          "strike any police officer with consternation?"

15                   **MR. McDONALD:** Well, any police officer that  
16          I know of is repulsed by anybody who victimizes children,  
17          sexually or any other way. And it's just -- I think it's  
18          repulsive; it's not natural.

19                   **MR. STAUFFER:** All right. Sir, did you or  
20          the Chief bring up in your conversation the notion of  
21          contacting anyone at that point? And what I mean  
22          specifically is to start with contacting the local Diocese?

23                   **MR. McDONALD:** No, sir. I think that prior  
24          to contacting anybody, we had a complaint and I think some  
25          preliminary investigation was called for before we started

1 ringing bells or putting spotlights on anybody.

2 **MR. STAUFFER:** All right. And just to  
3 expand, I think I know the answer, but just to expand to  
4 other parties for a moment; did the conversation involve  
5 discussions relating to the probation office in Cornwall?  
6 That is contacting the probation office.

7 **MR. McDONALD:** Never came up.

8 **MR. STAUFFER:** And I assume that's because  
9 Ken Seguin's name did not come up in the conversation?

10 **MR. McDONALD:** I believe -- I didn't -- I do  
11 not recall at that time knowing about Ken Seguin or any  
12 allegations towards Ken Seguin.

13 **MR. STAUFFER:** Okay. Let me just to go on  
14 that for a moment, again possibly an unfair question, but  
15 if you can help us at all as to how this bit of information  
16 didn't make it from Sergeant Nakic to yourself because  
17 clearly he has it in his internal memo, his internal  
18 correspondence.

19 **MR. McDONALD:** The memo came to me after I  
20 spoke to the Chief.

21 **MR. STAUFFER:** Right. Okay. Well, we'll  
22 get to that then. All right.

23 **MR. McDONALD:** As far as I know.

24 **MR. STAUFFER:** Yeah. And sir, in terms of  
25 contacting anyone, was there any thought in that 10-minute

1 conversation with Chief Shaver about contacting the OPP?  
2 Because the reason I'm saying there is the fact that  
3 apparently Father Charles MacDonald is now residing in  
4 Williamstown which I understand is under OPP jurisdiction.

5 **MR. McDONALD:** There was no conversation to  
6 that effect.

7 **MR. STAUFFER:** All right. The -- was there  
8 any discussion at all about having a CPIC check done with  
9 respect to any of the parties involved here? That is  
10 either the complainant or/or the alleged perpetrator or  
11 perpetrators?

12 **MR. McDONALD:** No, sir, not between the  
13 Chief and myself. To my way of thinking, that would have  
14 been some of the first things that would have been done by  
15 the investigator.

16 **MR. STAUFFER:** Okay. And let me say this to  
17 you; it's my understanding that Sergeant Lortie did indeed  
18 do a CPIC check on the complainant, on Mr. Silmser, and  
19 found that he had what he describes in his notes as a long  
20 C.R. which I think means long criminal record. But there  
21 are no notes indicating that Sergeant Lortie ever did a  
22 CPIC check on either of the alleged perpetrators.

23 Again, perhaps an unfair question but let me  
24 ask you it. Is it normal practice or was it normal  
25 practice back then, in late 1992, for the investigator to

1           only check out the alleged victim?

2                       **MR. McDONALD:** No sir, I think that they  
3 would try to get as much information on all of the parties  
4 involved, I believe.

5                       **MR. STAUFFER:** Okay. So are you saying sir  
6 that that would -- it would have been normal practice to do  
7 a CPIC check on the alleged perpetrators as well as the  
8 victim ---

9                       **MR. McDONALD:** I believe so.

10                      **MR. STAUFFER:** --- or the alleged victim?

11                      **MR. McDONALD:** I believe so. But I will  
12 state that I wasn't aware of any queries that were made by  
13 Sergeant Lortie.

14                      **MR. STAUFFER:** Yes. No, and I understand.  
15 We'll try to get to that in sequence if we can in the next  
16 few minutes.

17                      So sir, now you've had your meeting with  
18 Chief Shaver and he's giving you the green light, if I put  
19 it that way, for Sergeant Lortie to become involved; what's  
20 the next step that you take?

21                      **MR. McDONALD:** I didn't take any next step.  
22 The Chief was the one that was going to assign Sergeant  
23 Lortie to the case.

24                      **MR. STAUFFER:** Okay.

25                      **MR. McDONALD:** So once that was assigned, it



1 was out of my purview; not in my command.

2 MR. STAUFFER: Okay. Do you know if that  
3 actually took place that the Chief or somebody else say  
4 "Sergeant Lortie's been assigned"?

5 MR. McDONALD: I don't recall. I knew -- I  
6 believe I knew that he was assigned but I don't know how I  
7 heard that or how I was told.

8 MR. STAUFFER: Okay.

9 MR. McDONALD: I knew that the Chief was  
10 going to assign it. Maybe I just assumed that he had but I  
11 don't know how it happened to be honest with you.

12 MR. STAUFFER: Okay. But am I right, sir --  
13 again, in fairness, I don't think you're quite right when  
14 you say you did nothing further. You must have done  
15 something because Sergeant Nakic records in his internal  
16 correspondence that you told him to do certain things and,  
17 specifically, if we look at that document again, you'll see  
18 in the second paragraph it says:

19 "On Staff Inspector MacDonald's  
20 instructions, I called Silmsler back..."

21 So to stop there for a second, Staff  
22 Inspector, did you tell Sergeant Nakic to do that?

23 MR. McDONALD: I believe so.

24 MR. STAUFFER: Okay. And then the Sergeant  
25 goes on saying:

1                                    "...advising him that we will have an  
2                                    officer go see him in Bourget within  
3                                    one week."

4                                    So would you have told Sergeant Nakic to  
5                                    tell Mr. Silmsers that?

6                                    **MR. McDONALD:** I believe so.

7                                    **MR. STAUFFER:** Okay. And then Sergeant  
8                                    Nakic concludes by saying:

9                                    "He was also advised that the officer  
10                                    will be calling him first before  
11                                    attending his residence in Bourget."

12                                    Is that something that you would have told  
13                                    Sergeant Nakic to pass on?

14                                    **MR. McDONALD:** Probably.

15                                    **MR. STAUFFER:** Okay. So, sir, you've given  
16                                    some instructions, if I can put it that way, to Sergeant  
17                                    Nakic to try to give some assurance to Mr. Silmsers that  
18                                    something is going to be done. Is that fair?

19                                    **MR. McDONALD:** Yes, sir, that's fair.

20                                    **MR. STAUFFER:** Okay. Is there anything else  
21                                    you can remember telling Sergeant Nakic then to say to Mr.  
22                                    Silmsers that's not included in this internal  
23                                    correspondence?

24                                    **MR. McDONALD:** No, sir, I can't recall right  
25                                    now. I obviously did something with this memo too. It

1           came to me and I obviously forwarded it on to the Chief's  
2           office.

3                       **MR. STAUFFER:** And how do you know that,  
4           sir?

5                       **MR. McDONALD:** I don't. It's sitting here  
6           in front of me.

7                       **MR. STAUFFER:** Yes.

8                       **MR. McDONALD:** And I must have done  
9           something with it.

10                      **THE COMMISSIONER:** Did you read it?

11                      **MR. McDONALD:** I don't recall.

12                      **THE COMMISSIONER:** Because Mr. Seguin's name  
13           is in there.

14                      **MR. McDONALD:** I realize that.

15                      **THE COMMISSIONER:** So when did you become  
16           aware that Mr. Seguin was in part of the complaint?

17                      **MR. McDONALD:** Not for some months later.

18                      **THE COMMISSIONER:** Okay. And the directions  
19           you give to Sergeant Nakic, that was before you went and  
20           seen the Chief?

21                      **MR. McDONALD:** No, sir, after I saw --  
22           after.

23                      **THE COMMISSIONER:** Okay. So ---

24                      **MR. McDONALD:** I went and saw the Chief --

25           -

1                   **THE COMMISSIONER:** Yes.

2                   **MR. McDONALD:** --- and told him that ---

3                   **THE COMMISSIONER:** What the situation was?

4                   **MR. McDONALD:** Yes, and that somebody would  
5 be contacting Mr. Silmsler, and I told -- I believe I told  
6 Sergeant Nakic to contact Mr. Silmsler, saying that somebody  
7 would be contacting him within a week, and it was after  
8 that had happened that Mr. -- or Sergeant Nakic wrote this  
9 memo.

10                   **THE COMMISSIONER:** Okay.

11                   **MR. STAUFFER:** Right. And just to expand on  
12 that, Staff Inspector, do you recollect Chief Shaver having  
13 input into these instructions to Sergeant Nakic; that is,  
14 you know, get back to the complainant, tell them somebody  
15 is going to come out within a week, that kind of thing?

16                   **MR. McDONALD:** It might have been. He might  
17 have. I don't know. I don't remember ---

18                   **MR. STAUFFER:** Okay.

19                   **MR. McDONALD:** --- whether it was he or  
20 myself. Sergeant Nakic says it was me. I believe him.

21                   **MR. STAUFFER:** Okay. There is some  
22 handwriting on this exhibit which says:

23                                   "Noted Chief assigned Sgt. Lortie to  
24                                   investigate D.C. 92/12/09."

25                                   Do you know, is that Deputy Chief St. Denis'

1 inscription?

2 **MR. McDONALD:** Probably, but I wouldn't -- I  
3 can't swear to it.

4 **MR. STAUFFER:** Okay. Fair enough.

5 And do you -- would that have been the  
6 normal course of events that this internal correspondence  
7 would have -- a copy at least would have gone to the Deputy  
8 Chief as well as to the Chief, because it's sent to you  
9 originally?

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

11 **MR. STAUFFER:** But is it -- would it have  
12 been normal in the course of business then for the Chief  
13 and the Deputy Chief to have gotten a copy of it as well?

14 **MR. McDONALD:** Yes, sir.

15 **MR. STAUFFER:** Okay. Now -- so, sir, in  
16 terms of -- I'm sorry, Mr. Commissioner, do you have a  
17 question?

18 **THE COMMISSIONER:** No, I'm just sitting here  
19 quiet.

20 **MR. STAUFFER:** I must be hearing -- I'm  
21 hearing things here.

22 So, Mr. McDonald, the -- you said to the  
23 Commissioner a few minutes ago you eventually found out  
24 that Ken Seguin was named by Mr. Silmser. Do you remember  
25 when and how you found that out?

1                   **MR. MCDONALD:** No, sir, I can't tell you,  
2                   but I know it wasn't for a long time after that I knew  
3                   about Father Charles MacDonald.

4                   Now, I know his name is in this memo.

5                   **MR. STAUFFER:** Hold on; you may have  
6                   misspoken yourself there. You said Father Charles  
7                   MacDonald. I'm asking -- I'm sorry; did I mislead you?  
8                   I'm talking about Ken Seguin.

9                   **MR. MCDONALD:** It was a long time after I  
10                  found out about Father Charles MacDonald. Now, Father --  
11                  or Ken Seguin's name is mentioned in this memo, but to be  
12                  honest with you, I don't recall Ken Seguin's name being  
13                  part of this investigation for many months down the road.

14                  **MR. STAUFFER:** Okay.

15                  **MR. MCDONALD:** Many months.

16                  **MR. STAUFFER:** So we've got a timeframe of  
17                  many months.

18                  Do you remember how it came about, who told  
19                  you? What meeting? What did you read?

20                  **MR. MCDONALD:** No, sir. The next time that  
21                  this case -- I was moved from Criminal Investigations  
22                  Branch back to the Uniform Branch at the end of December  
23                  and I really never heard anymore about this case until the  
24                  following September.

25                  And if you like, I can relate what my

1 knowledge is about that.

2 **MR. STAUFFER:** Well, if there's nothing that  
3 really has happened between the end of December and  
4 September with respect to the Silmsler case, why don't we go  
5 there?

6 **MR. McDONALD:** Okay.

7 **MR. STAUFFER:** So what's happening in  
8 September?

9 **MR. McDONALD:** Well, we were at a morning  
10 meeting and somebody brought up the fact about the Silmsler  
11 case and Father Charles MacDonald, and I think it was the  
12 Chief had told the group that he and Staff Sergeant Brunet  
13 would be going to Ottawa the following day or later that  
14 day to see the Papal Nuncio with regards to Father Charles  
15 MacDonald. And that, to my knowledge, was the first  
16 information I got.

17 **MR. STAUFFER:** Okay. So this meeting, what  
18 type of meeting is it? Is this the morning meeting that --  
19 -

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

21 **MR. STAUFFER:** --- we hear about?

22 So before that morning meeting, I gather  
23 there had been lots of other morning meetings between the  
24 end of December and September, and were you not attending  
25 those as a staff inspector?

1                   **MR. McDONALD:** I was.

2                   **MR. STAUFFER:** Well, from time to time?

3                   **MR. McDONALD:** Yes. When I would be in the  
4 station on the day shift, I would go if there was a  
5 meeting.

6                   **MR. STAUFFER:** Okay.

7                   **MR. McDONALD:** There wasn't a meeting every  
8 day, but most days there were, and if I was there, I went.

9                   **MR. STAUFFER:** Okay. Here's a mathematical  
10 challenge. Can you help us at all; between the end of  
11 December and September, can you give us your best estimate  
12 as to how many morning meetings you might have attended?

13                   **THE COMMISSIONER:** Per week, per month, any  
14 ---

15                   **MR. McDONALD:** Probably an average of -- as  
16 I say, there wasn't a meeting every day, most meetings, but  
17 three or four times a week for those weeks that I was not  
18 on holidays.

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

20                   **MR. STAUFFER:** Okay. And so in those nine  
21 months, roughly -- I'll say it's a nine-month period ---

22                   **MR. McDONALD:** M'hm.

23                   **MR. STAUFFER:** --- you never heard anything  
24 at all about the Silmsier or MacDonald case, if I can put it  
25 that way, or the Seguin case? None of those three names



1 ever came up in these morning meetings?

2 **MR. McDONALD:** No, sir.

3 **MR. STAUFFER:** There's mention -- and I can  
4 take you to it if you need to, but there's mention in an  
5 interview that was taken of Staff Sergeant Brunet where he  
6 talks about a July 1993 meeting where the Chief had  
7 essentially become concerned that Constable Sebalj's  
8 workload was getting too much for her, and this particular  
9 case, the Silmsler case, just wasn't moving along and  
10 "You've got to get going on it and so on," and I'm  
11 paraphrasing, obviously, here.

12 Do you have any recollection, sir, of a July  
13 meeting or a summer meeting where this came up? If I can  
14 refresh your memory at all ---

15 **MR. McDONALD:** No, sir, I have no recall. I  
16 don't recall that at all.

17 **MR. STAUFFER:** Okay. The -- so you know  
18 about the Papal Nuncio visit that's proposed.

19 **MR. McDONALD:** I wouldn't have been able to  
20 say the name other than I read it in the last few days.

21 **THE COMMISSIONER:** I was wondering about  
22 that.

23 **MR. McDONALD:** If I hadn't read it, I  
24 wouldn't recall it. Latin wasn't one of my better  
25 subjects.

1                   **MR. STAUFFER:** Fair enough.

2                   But in any event, sir, besides that meeting,  
3 are there any other meetings that you attend where the case  
4 is discussed?

5                   **MR. McDONALD:** No, sir.

6                   **MR. STAUFFER:** So let me put a few things to  
7 you. Were you aware that a civil settlement was eventually  
8 reached by Mr. Silmsner?

9                   **MR. McDONALD:** I think I read it in the  
10 newspaper.

11                   **MR. STAUFFER:** Okay. That did not come up  
12 at a meeting at the police station, as far as you can  
13 recollect?

14                   **MR. McDONALD:** Not to my ---

15                   **MR. STAUFFER:** Any meeting that you  
16 attended?

17                   **MR. McDONALD:** Not to the best of my  
18 recollection.

19                   **MR. STAUFFER:** Okay. Do you have any  
20 recollection at all of a discussion where Sergeant Lortie  
21 became concerned as to the status of the investigation?  
22 I'm trying to be careful here as to what I say. Do you  
23 have any recollection ---

24                   **MR. McDONALD:** No, sir, I have no  
25 recollection of that.

1                   **MR. STAUFFER:** Or Staff Sergeant Brunet  
2                   becoming upset over what Sergeant Lortie had said?

3                   **MR. McDONALD:** No, sir, I don't.

4                   **MR. STAUFFER:** Or speaking to the Deputy  
5                   Chief who apparently had been approached by Staff Brunet as  
6                   Staff Brunet was upset by what Sergeant Lortie had said?

7                   **MR. McDONALD:** No knowledge at all.

8                   **MR. STAUFFER:** All right. Did you ever have  
9                   any discussions at all, and I'm being very general here  
10                  with Deputy Chief St. Denis about the Silmsler case?

11                  **MR. McDONALD:** No, sir, I haven't.

12                  **MR. STAUFFER:** At any time ---

13                  **MR. McDONALD:** No, sir.

14                  **MR. STAUFFER:** --- until you retired.

15                  **MR. McDONALD:** No, sir. Not to my -- not to  
16                  my recollection.

17                  **MR. STAUFFER:** Because, again, I don't want  
18                  to belabour this, but Deputy St. Denis did come into the  
19                  picture at one point, have Sergeant Lortie, if you will,  
20                  removed from the case and have Staff Brunet come into  
21                  picture as the head of CIB at that point and re-assign the  
22                  case and that's how it came to Constable Sebalj.

23                  When, if ever did you ever become aware of  
24                  that sequence of events?

25                  **MR. McDONALD:** Not for a long time. I

1           couldn't give you a date, but maybe six months after it. I  
2           don't know. I heard that Sebalj was working on the case,  
3           but that's all.

4                       **MR. STAUFFER:**    Again, a hard one, but when  
5           you find out that Constable Sebalj was the investigator,  
6           was the case over at that point in your mind or was it  
7           still an ongoing investigation?

8                       **MR. McDONALD:**   I think it was still ongoing.

9                       **MR. STAUFFER:**    Okay.

10                      **MR. McDONALD:**   I think.

11                      **MR. STAUFFER:**    All right.

12                      When you found out that she was involved,  
13           did you have discussions with anybody, any of the senior  
14           officers ---

15                      **MR. McDONALD:**    No, sir.

16                      **MR. STAUFFER:**    --- because again of your  
17           concern as to her experience level?

18                      **MR. McDONALD:**    No, sir.

19                      **MR. STAUFFER:**    Should you have done that? I  
20           mean you're the third ranking officer in the building; did  
21           you feel that was your place?

22                      **MR. McDONALD:**    No, sir.

23                      **MR. STAUFFER:**    Whose place would it have  
24           been to make those kinds of decisions? And is it basically  
25           Staff Brunet as head of CIB?

1                   **MR. McDONALD:** The Chief or the Deputy  
2 Chief, I suppose.

3                   **MR. STAUFFER:** Okay.

4                   **MR. McDONALD:** The Chief was in accord with  
5 me whenever we gave it to Sergeant Lortie so if  
6 circumstances changed, and circumstances do change, I --  
7 they obviously were the best judges of how to handle the  
8 case at that particular point and I wasn't going to second-  
9 guess them.

10                   **MR. STAUFFER:** Mr. Commissioner, I have just  
11 a few more questions concerning the Silmsen matter. I  
12 appreciate the 45 minute comment earlier.

13                   Staff Inspector, I'm going back in time just  
14 a moment here to Sergeant Nakic and your discussions with  
15 him and the internal correspondence. I'm right I think in  
16 reading this, because we've gone through the whole  
17 document, that there's nothing in there that says, "I  
18 phoned" -- I'm now saying I'm Sergeant Nakic, "I phoned the  
19 complainant, the complainant said, 'don't come out to see  
20 me or don't worry about anything until after the  
21 holidays.'" "

22                   There's nothing in that correspondence about  
23 that. I think we're agreed on that. But what I'm going to  
24 ask you is, do you have any recollection at all of anyone  
25 from the Service coming to you at some point and telling

1           you that?

2                           And what I'm saying is that Mr. Silmsler had  
3           a discussion with Sergeant Lortie and said, "Don't bother  
4           coming out. I don't want to spoil anybody's Christmas.  
5           We'll put it off until some time in January."

6                           **MR. McDONALD:** Yes, sir, I remember hearing  
7           that. I couldn't tell you now whether it's something I  
8           read after or something I knew prior to Christmas that  
9           December. I -- I know it but I don't know how I know it.  
10          I'll put it that way. I -- I -- I saw where Sergeant  
11          Lortie contacted him and told, "Come after Christmas, I  
12          don't want to spoil anybody's Christmas" but to be honest  
13          with you I don't remember whether I learned that that  
14          December or it took place as something -- as a result of  
15          something I read later on. And it's quite possible that  
16          because of Sergeant Lortie knew that it had come through me  
17          initially, he might have mentioned to me that he was going  
18          to speak to him after Christmas. But I couldn't swear to  
19          it.

20                          **MR. STAUFFER:** Yes, I -- to be very clear  
21          here, sir, you have no specific recollection in speaking to  
22          Sergeant Lortie about this case at any time.

23                          **MR. McDONALD:** No, sir.

24                          **MR. STAUFFER:** Okay. You have no specific  
25          recollection?

1                   **MR. McDONALD:** No.

2                   **MR. STAUFFER:** Okay.

3                   And in terms of Staff Sergeant Brunet do you  
4 remember ever speaking to him about this case?

5                   **MR. McDONALD:** No, sir.

6                   **MR. STAUFFER:** Okay. The -- there's a  
7 report called "the Skinner Report" for a short form but do  
8 you remember, sir, Ottawa Police Service officers coming  
9 down to Cornwall in 1994? This would be after you've left  
10 CIB.

11                   **MR. McDONALD:** Yes, sir.

12                   **MR. STAUFFER:** But -- so do you remember  
13 those two fellows?

14                   **MR. McDONALD:** Yes, sir.

15                   **MR. STAUFFER:** Skinner and Blake? And did  
16 they speak with you?

17                   **MR. McDONALD:** Yes, sir, I believe they did.

18                   **MR. STAUFFER:** Okay.

19                   And did you ever receive a copy or excerpts  
20 of the report that was prepared by those officers?

21                   **MR. McDONALD:** Not -- I don't recall reading  
22 it until the last couple of days.

23                   **MR. STAUFFER:** Okay.

24                   Again, perhaps you've answered the question  
25 already but let me put it to you. When the report was

1 prepared, which was around January 24<sup>th</sup>, I'm assuming for  
2 the moment that it went to Acting Chief Johnston as he was  
3 the one who commissioned it, and that's what Superintendent  
4 Skinner thinks happened anyway.

5 Do you remember Chief Johnston sharing  
6 anything from the report with you?

7 **MR. McDONALD:** No, sir, I don't recall.

8 **MR. STAUFFER:** Okay.

9 And there's -- you don't recall any morning  
10 meetings or any type of meetings where the report was  
11 discussed at some point; whether the whole report or just  
12 parts of it?

13 **MR. McDONALD:** No, sir, I can't say.

14 **MR. STAUFFER:** Mr. Commissioner, I'm going  
15 to move into an area concerning Mr. Dunlop and I'm  
16 wondering if this -- if you'd like to break now.

17 For your information, my friends, although I  
18 know I've made mistakes in the past in terms of time  
19 estimates but I suspect a half an hour or so tomorrow or  
20 thereabouts should do it from my end.

21 **THE COMMISSIONER:** Thank you.

22 **MR. STAUFFER:** Thank you, sir.

23 **THE COMMISSIONER:** Thank you.

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



1                                   This hearing is adjourned until tomorrow  
2                   morning at 9:30 a.m.  
3                   --- Upon adjourning at 5:17 p.m. / L'audience est ajournée  
4                   à 17h17

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

I, Marc Demers a certified court reporter inthe 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