

**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 34

Held at :

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

Thursday, May 25, 2006

Tenue à:

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

Jeudi, le 25 mai 2006

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Raija Pulkkinen	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. Peter Manderville	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Actg.Det.Supt.Colleen McQuade	
Ms. Suzanne Costom	
Ms. Diane Lahaie	
Ms. Gina Saccoccio Brannan, Q.C.	
M ^e Claude Rouleau	Ontario Ministry of Community
Mr. Mike Lawless	and Correctional Services and
	Adult Community Corrections
Ms. Judie Im	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of
	the United Counties
M ^e André Ducasse	Diocese of Alexandria-Cornwall
	and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and
	Scott Seguin and Father Charles
	MacDonald
Mr. Jose Hannah-Suarez	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police
Mr. Mark Wallace	Association
Ms. Suzanne Costom	Detective Staff Sgt. Heather
Ms. Diane Lahaie	Kewley

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1 --- Upon commencing at 10:03 a.m./

2 L'audience débute à 10h03

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning.

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

12 Just before we bring Staff Sergeant Kewley
13 back, I just wanted to report on a meeting that Commission
14 counsel had with OPP counsel this morning as a result of
15 issues that arose last week in the Inquiry and some
16 concerns about production of policies, directives, orders
17 from the past with respect to the OPP. We received the
18 comprehensive report this morning from Mr. Kozloff and Ms.
19 Brannan on efforts they have made since Staff Sergeant
20 Kelly was on the witness stand and suffice it to say that
21 there are a significant number of documents at the
22 Provincial Archives that need to be reviewed and there are
23 other forms of documents as well.

24 So I just wanted to advise the Commission
25 and also counsel present that there is some work to do.

1 Commission counsel will be meeting with OPP counsel next
2 week, probably attending at the Archives next week, and
3 trying to get the material that is most relevant in a cost-
4 effective and efficient manner before the Inquiry.

5 So it's a good start and I am hopeful that
6 we can report on something within the next couple of weeks
7 about where we're at.

8 **THE COMMISSIONER:** Good, thank you very
9 much.

10 **MR. ENGELMANN:** I don't know if Mr. Kozloff
11 or Ms. Brannan want to add anything?

12 **MR. KOZLOFF:** I think you've summarized it
13 well. Thank you.

14 **MR. ENGELMANN:** Okay.

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

16 **MR. ENGELMANN:** All right. Then this
17 morning, sir, we have the continuation of Heather Kewley
18 and we have a Motion as well.

19 **THE COMMISSIONER:** That's right. Thank you.

20 **HEATHER KEWLEY, resumed/sous le même serment:**

21 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
22 **ENGELMANN, (cont'd/suite):**

23 **THE COMMISSIONER:** Good morning.

24 **MR. ENGELMANN:** Good morning, Staff Sergeant
25 Kewley.

1 DET/STAFF SGT. KEWLEY: Good morning.

2 MR. ENGELMANN: When we left off yesterday,
3 I had asked you a few questions about a sexual assault
4 investigation course ---

5 DET/STAFF SGT. KEWLEY: That's correct.

6 MR. ENGELMANN: --- that you were involved
7 in facilitating in January of 2001.

8 DET/STAFF SGT. KEWLEY: That's correct.

9 MR. ENGELMANN: And we talked about the fact
10 that it was a fairly intensive course and that there were
11 69 officers that were trained at that time?

12 DET/STAFF SGT. KEWLEY: Correct.

13 MR. ENGELMANN: And you told me that you
14 might have a copy of the agenda from that training.

15 DET/STAFF SGT. KEWLEY: Yes.

16 MR. ENGELMANN: I understand that we now
17 have a piece of paper that sets out -- it has the caption,
18 "Sexual Assault Investigation Training", location Smith
19 Falls, date January 15th to 19th 2001.

20 DET/STAFF SGT. KEWLEY: Correct.

21 MR. ENGELMANN: Mr. Commissioner, if we
22 could simply add that in to Volume 9, the OPP Training
23 Volume, as Tab 11A; that would be my suggestion.

24 THE COMMISSIONER: Yes, and that's still
25 Exhibit 36.

1 MR. ENGELMANN: That's right.

2 THE COMMISSIONER: Yes. Thank you.

3 --- EXHIBIT P36-

4 VOLUME 9 TAB 11A Sexual Assault Investigation Training

5 MR. ENGELMANN: All right. So Staff
6 Sergeant Kewley, now having this document in front of you,
7 does that refresh your memory to some extent as to what
8 would have been offered that week by way of training?

9 DET/STAFF SGT. KEWLEY: Yes, it does.

10 MR. ENGELMANN: Is there something that you
11 wish to elaborate on with respect to the training?

12 DET/STAFF SGT. KEWLEY: Well, we spent the
13 first day with the Crown Attorney, and we used a Crown
14 Attorney from Ottawa that was very knowledgeable in the
15 area of sexual assaults, specialized in that area. We also
16 had specialists from the Centre of Forensic Sciences. We
17 dealt with victims' issues, specialty things like DNA
18 search warrants and then we had almost two days devoted to
19 members from our Behavioural Sciences Section in Orillia,
20 Dr. Peter Collins who is renowned in this field and quite a
21 bit ---

22 MR. ENGELMANN: He is with the Criminal
23 Profiling Unit?

24 DET/STAFF SGT. KEWLEY: Right.

25 MR. ENGELMANN: Of the Behavioural Sciences?

1 DET/STAFF SGT. KEWLEY: Forensic Psychiatry
2 Unit.

3 MR. ENGELMANN: Sorry.

4 DET/STAFF SGT. KEWLEY: But it is part of
5 the Behavioural Sciences Unit.

6 MR. ENGELMANN: All right.

7 DET/STAFF SGT. KEWLEY: And Jim Van Allen is
8 one of our profilers from the Behavioural Sciences Unit as
9 well.

10 MR. ENGELMANN: All right.

11 THE COMMISSIONER: I am sorry, can you --
12 and I don't know if you are going to get into more of this,
13 but when you talked about criminal profiling and
14 classification of child molesters, was there any discussion
15 about pedophiles?

16 DET/STAFF SGT. KEWLEY: Yes.

17 THE COMMISSIONER: All right.

18 And being in position of trust and that kind
19 of thing? Was that discussed?

20 DET/STAFF SGT. KEWLEY: Absolutely.

21 THE COMMISSIONER: All right. Thank you.

22 Mr. Engelmann?

23 MR. ENGELMANN: Thank you.

24 So after this five-day training, as I
25 understand it, the same course or very similar course was

1 also taught at Belleville.

2 DET/STAFF SGT. KEWLEY: That's right. Due
3 to the commitments that our detectives and supervisors had
4 at the time, we were not able to put all of them on this
5 course. So we utilized Belleville and then we utilized OPC
6 as spots came available and the Provincial Police Academy.

7 MR. ENGELMANN: Thank you. But a course
8 very similar to this one or perhaps an identical course was
9 offered through the Belleville Police Service shortly after
10 mid-January of 2001?

11 DET/STAFF SGT. KEWLEY: Correct.

12 MR. ENGELMANN: And if my understanding is
13 correct from your evidence yesterday, several OPP officers
14 from the Eastern Region received that training?

15 DET/STAFF SGT. KEWLEY: That's right.

16 MR. ENGELMANN: Those were people obviously
17 who were unavailable for the training that you were holding
18 in Smiths Falls?

19 DET/STAFF SGT. KEWLEY: Due to their work
20 commitments.

21 MR. ENGELMANN: Yes.

22 DET/STAFF SGT. KEWLEY: Right.

23 MR. ENGELMANN: All right. Then turning
24 back to the remainder of Tab 11, I just had a few more
25 questions for you.

1 A little further in the tab, we have a
2 document dated April 24, 2003. At this point, I'm about 80
3 per cent through the tab.

4 **THE COMMISSIONER:** Eighty (80) per cent
5 through that tab?

6 **MR. ENGELMANN:** Yes, I apologize for the ---

7 **THE COMMISSIONER:** And what would you like
8 to highlight?

9 **MR. ENGELMANN:** April 24th 2003, this is
10 chronological.

11 **THE COMMISSIONER:** And is it a letter?

12 **MR. ENGELMANN:** It's a letter from Irene
13 Barrath?

14 **DET/STAFF SGT. KEWLEY:** Barrath.

15 **MR. ENGELMANN:** Barrath, I'm sorry. The
16 coordinator of sexual assault investigations, the Ontario
17 Police College to Detective Sergeant Heather -- yes, it's
18 on the screen now.

19 **THE COMMISSIONER:** Okay.

20 **MR. ENGELMANN:** Now, you've included this
21 letter in Tab 11, and I'd like you to put it into context
22 and tell us about its significance.

23 **DET/STAFF SGT. KEWLEY:** I had been
24 instructing ISOAC from 1998 to 2002 and in fact had gone
25 back on the trainer course in 2002 because they had

1 revamped the program somewhat. And then I was unaware of
2 any changes that were coming about until I received this
3 letter saying that there had been a joint decision by the
4 Ontario Police College and the Ontario Association of
5 Children's Aid Society to suspend the training.

6 MR. ENGELMANN: All right, so you were
7 notified of that through this letter?

8 DET/STAFF SGT. KEWLEY: Yes.

9 MR. ENGELMANN: And this is a course that
10 you had been teaching and Isobel Fitzpatrick had been
11 teaching as well?

12 DET/STAFF SGT. KEWLEY: Correct.

13 We were the eastern trainers, the Eastern Region
14 trainers.

15 MR. ENGELMANN: Essentially for the OPC in
16 the Eastern Region?

17 DET/STAFF SGT. KEWLEY: That's right. We
18 trained municipal police services as well along with
19 Children's Aid Society workers.

20 MR. ENGELMANN: How significant was this to
21 you at that time?

22 DET/STAFF SGT. KEWLEY: It's very
23 significant. I would think and as you can see from my CV
24 and my courses that I've attended that this is one of the
25 best courses that I have ever been involved in. The

1 relationships, as we spoke about earlier, are very, very
2 important when you're doing joint training ventures in
3 interviewing in child sexual abuse cases. It is a joint
4 class. The two facilitators are police and CAS and the
5 bonding begins when they walk into the classroom that
6 morning where we purposely intermix the Children's Aid
7 Society workers with the police. There is a lot of small
8 group discussions, large group discussions. They
9 ultimately have to go out and interview a child at a school
10 about a staged event they had seen earlier in the week and
11 they have to do that in partnership with each other.

12 So the course is excellent information as well as
13 the relationships that are built during that week.

14 **MR. ENGELMANN:** So you actually have police
15 officers and CAS employees who are in attendance do a joint
16 interview?

17 **DET/STAFF SGT. KEWLEY:** Yes.

18 **MR. ENGELMANN:** As part of sort of a mock
19 investigation?

20 **DET/STAFF SGT. KEWLEY:** That's right.

21 And what is really important here to
22 understand is that we have two different mandates. The
23 police are there to investigate whether a criminal offence
24 has taken place. The CAS is there for the protection of
25 the children. So it is important that we understand what

1 each other's mandate is and until I had that course, it was
2 not crystal clear to me.

3 **MR. ENGELMANN:** To your knowledge, Staff
4 Sergeant Kewley, has a similar course been taught since?

5 **DET/STAFF SGT. KEWLEY:** OPC now has a course
6 called Investigation of Offences Against Children which
7 takes in the physical end of it as well, physical child
8 abuse. I have not attended that course, but my
9 counterpart, Detective Fitzpatrick has, and we are
10 concerned that there are gaps in that course.

11 **MR. ENGELMANN:** Is that a new course?

12 **DET/STAFF SGT. KEWLEY:** Yes.

13 **MR. ENGELMANN:** Is it for police and CAS or
14 strictly for police?

15 **DET/STAFF SGT. KEWLEY:** No, it's simply for
16 police.

17 **MR. ENGELMANN:** The Ontario Police College
18 is here next week, so we might explore that with them.

19 Staff Sergeant Kewley, can you give us a
20 sense as to the length of this type of course when you were
21 offering it?

22 **DET/STAFF SGT. KEWLEY:** That's ---

23 **MR. ENGELMANN:** The ISOAC course.

24 **DET/STAFF SGT. KEWLEY:** It is a one-week
25 course.

1 MR. ENGELMANN: So it's a full five-day
2 course like the Sexual Assault Investigation Training?

3 DET/STAFF SGT. KEWLEY: Correct.

4 MR. ENGELMANN: All right.

5 I was now going to turn to Tab 12, unless there
6 was anything else from the material in Tab 11 that you
7 wanted to touch upon?

8 DET/STAFF SGT. KEWLEY: No, just the fact
9 that Tab 13 is actually a syllabus of what we instructed on
10 the ISOAC course.

11 MR. ENGELMANN: Oh, let's go there right now
12 then.

13 DET/STAFF SGT. KEWLEY: Okay.

14 MR. ENGELMANN: All right.

15 And just as you did with the Sexual Assault
16 Investigation Course, can you just elaborate briefly on --
17 and this is one of the courses you taught, perhaps one of
18 the first ones? I'm looking at the date.

19 DET/STAFF SGT. KEWLEY: This is actually one
20 that I did not teach, but Detective Fitzpatrick did in
21 Peterborough. The whole time that I was teaching that
22 course, the syllabus never changed, the information did not
23 change.

24 MR. ENGELMANN: Just by looking at this, can
25 you give us a sense as to who's leading what portion of

1 this? Whether that's a police facilitator or a Children's
2 Aid facilitator?

3 **DET/STAFF SGT. KEWLEY:** Okay. When we're
4 talking about the course orientation and getting set up for
5 the course, we do it jointly. When we're getting into the
6 dynamics of child abuse, that is a CAS facilitated lecture.
7 When we're getting into legal issues in the *Criminal Code*,
8 the police do that section.

9 Into day two, legal issues surrounding the
10 *Child and Family Services Act* is taught by the CAS
11 facilitator.

12 The coordinated investigative process; I
13 would take the lead on that, but they would have -- we
14 would do it jointly.

15 Child development would be the CAS. When we
16 get into investigative interviewing and -- I would do the
17 interviewing part, the structured interview, and the second
18 portion of the structured interview involves criteria-based
19 content analysis and validity of that, and we would have
20 the CAS facilitator do that portion of that.

21 And then the following day, they have to put
22 what they learned into practice. That is a phenomenal
23 exercise to go through.

24 **MR. ENGELMANN:** So that's when they
25 interviewed a child?

1 **DET/STAFF SGT. KEWLEY:** We actually go to
2 the school and interview a child. It is done on videotape,
3 so we were able to come back and they critiqued their own
4 as well as they get feedback from the instructors.

5 **MR. ENGELMANN:** And that's what we are
6 seeing then on the Thursday afternoon?

7 **DET/STAFF SGT. KEWLEY:** That's right. It's
8 a full-day exercise.

9 When we get into interviewing the offender and
10 the offender profiles, I would do that as the police
11 facilitator.

12 Interviewing the alternative caregiver, we -- the
13 CAS.

14 **MR. ENGELMANN:** Yes.

15 **DET/STAFF SGT. KEWLEY:** And then when we get
16 into post-investigative considerations, that's a joint
17 instruction because we're both looking at our different
18 mandates when we're looking at post-investigative
19 considerations.

20 And, of course, there is an exam at the end
21 where they do have to attain a mark of 75 per cent.

22 **MR. ENGELMANN:** And you get course
23 evaluations at the end of these courses?

24 **DET/STAFF SGT. KEWLEY:** Yes and as well I'm
25 evaluated as an instructor.

1 **MR. ENGELMANN:** And did you get a sense
2 generally about how the course did and how you did from the
3 feedback you received?

4 **DET/STAFF SGT. KEWLEY:** Absolutely, and I
5 can unequivocally say that I have never heard a bad thing
6 from police or CAS when it came to this course.

7 **MR. ENGELMANN:** What about on the other
8 side? Were the comments positive?

9 **DET/STAFF SGT. KEWLEY:** From what?

10 **MR. ENGELMANN:** You didn't hear anything
11 negative. Did you hear anything positive? Did you get
12 some good feedback?

13 **DET/STAFF SGT. KEWLEY:** Oh! Absolutely!
14 Absolutely. This is a great course. Everybody felt it was
15 a great course.

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

17 Sometimes people just don't respond, so I
18 was making sure they did.

19 Okay, let's then turn to Tab 12; and I just
20 want to touch upon a few of these. As I understand what
21 we're looking at here, this is a list of courses that you
22 have either instructed or you have facilitated through your
23 office.

24 **DET/STAFF SGT. KEWLEY:** That's correct.

25 **MR. ENGELMANN:** And you've got, for example,

1 a number of references to the ISOAC course.

2 DET/STAFF SGT. KEWLEY: Correct. Between
3 Detective Fitzpatrick and myself we've instructed that
4 course nine times, between 1988 and 2002.

5 MR. ENGELMANN: And other courses we see,
6 for example, on the first page of Tab 12, the sexual
7 assault course that's referenced January 2001.

8 DET/STAFF SGT. KEWLEY: That's correct.

9 MR. ENGELMANN: Is that the course syllabus
10 we looked at, at 11A, just first thing this morning?

11 DET/STAFF SGT. KEWLEY: Yes. But I might
12 add, since 2001, we have hosted two more sexual assaults;
13 one in 2003 and one in 2006 in Eastern Region. And at this
14 point in time the officers that are attending these courses
15 are our frontline uniformed officers.

16 MR. ENGELMANN: And, just so we're clear,
17 these are the courses that you have either taught or
18 offered or facilitated. There would be other courses,
19 presumably for example, the OPC course that was taught at
20 Belleville. That would be available to officers in Eastern
21 Region?

22 DET/STAFF SGT. KEWLEY: Absolutely. M'hm.

23 MR. ENGELMANN: And, as well, there would be
24 continuing courses presumably through Metro Toronto Police
25 and/or Niagara Regional?

1 **DET/STAFF SGT. KEWLEY:** Every year we
2 receive notification of those courses and have the ability
3 to send officers on that training.

4 **MR. ENGELMANN:** I note there are a number of
5 courses involving domestic violence as well.

6 **DET/STAFF SGT. KEWLEY:** Yes, and it's
7 important to note on this course, although it doesn't
8 specifically refer to sexual assault, again, domestic
9 violence investigators course came out of adequacy
10 standards where we had a need to train our frontline
11 supervisors on domestic violence.

12 It's a three-day course, but the second day
13 is totally devoted to victims' issues. So the kinds of
14 things that we would do would be to have a Powerpoint
15 presentation on the victim's bill of rights and issues
16 surrounding that, and that would be followed up by bringing
17 in local resources that we have in the community.

18 For example, and as you know, domestic
19 violence involves sexual assault, we bring in the sexual
20 assault and care centres from the hospital, shelters,
21 victim witness assistance program, vicars and we have them
22 each do a 20-minute presentation on what their organization
23 is all about and how we can work together for the
24 betterment of victims.

25 **MR. ENGELMANN:** Just on victims for a

1 moment, I note that there are at least a couple of
2 references to Major Case Management course for Ontario
3 Police College?

4 **DET/STAFF SGT. KEWLEY:** That's correct.

5 **MR. ENGELMANN:** And we talk about victims
6 issues and in one case, for example -- I'm looking at
7 September 2001, it's at the second page. It's instructed
8 by Detective Constable McVey.

9 **DET/STAFF SGT. KEWLEY:** Right.

10 **MR. ENGELMANN:** Is this the two-week Major
11 Case Management course?

12 **DET/STAFF SGT. KEWLEY:** Yes.

13 Both Detective Fitzpatrick and myself have
14 taught this component of the Major Case Management. It is
15 a -- when Major Case Management came out, as Detective
16 Staff Sergeant Paul Yelle spoke about, there was a new
17 position called the Victim Liaison Officer.

18 And so what we instruct on victims' issues
19 is what that position is all about and how it fits into the
20 command triangle. And we also talk about victims; there
21 are primary victims, secondary victims. And we actually do
22 some small group work where we give them a scenario
23 involving a sexual assault and we ask them to discuss
24 amongst themselves what does that victim need from us as
25 police officers.

1 **MR. ENGELMANN:** As I understand it, you and
2 Detective Sergeant Fitzpatrick now have taught victims
3 components of both the Major Case Management course and the
4 GIT course.

5 **DET/STAFF SGT. KEWLEY:** Correct.

6 And I might add, too, when we're talking
7 about major case management, part of that as well is to
8 bring in our local community partners to, again, instruct
9 our officers on the services that they provide.

10 **MR. ENGELMANN:** And speaking of work with
11 local community partners, I note on page 4 of this tab,
12 there's reference to a sexual assault workshop, a sexual
13 assault evidence kit.

14 **DET/STAFF SGT. KEWLEY:** Yes.

15 **MR. ENGELMANN:** One is put on by you and one
16 by Detective Sergeant Fitzpatrick. Can you just give us a
17 very brief description of what that's about?

18 **DET/STAFF SGT. KEWLEY:** We had, I think
19 around 2003, we had significant changes to the sexual
20 assault evidence kit and that would be my job to get that
21 out to the officers. What I would do is a memorandum to
22 explain what the differences are so that the officers knew.
23 At that point in time, I also sent them a revised list of
24 the sexual assault centres that we had in Eastern Region
25 and who the coordinators of the programs were.

1 In this case, I felt that it was important
2 to go one step further and host a course
3 specifically dealing with the changes to the
4 sexual assault evidence kit. I have a
5 relationship with the Ministry of the Attorney
6 General Victims Services Unit, Mr. Dennis Lessard
7 is our Eastern Region rep.

8 I knew that there was funding available to
9 do these kinds of training days. One of the reasons to
10 have -- that we are able to get this money is to work with
11 the community. So what I did was I drew a team of our
12 community partners together, which would consist of a Crown
13 Attorney, somebody from our sexual assault centre, a
14 shelter, the hospital treatment centre for sexual assault
15 and domestic violence.

16 We would draw a core team together and we
17 would decide what our goals and objectives of the workshop
18 would be. We then put on the workshop. We were given
19 funding for two of them; I took over the lead for the north
20 end of the region. We held it in Renfrew in February 2004.
21 We invited all of our municipal partners as well as members
22 of the community and we had -- including military police,
23 our Aboriginal officers -- we had close to 100 people at
24 that workshop, and Isobel took over the lead. Detective
25 Fitzpatrick took over the lead for the south end and held

1 it down near Brockville and Maitland.

2 MR. ENGELMANN: One other one I wanted to
3 ask you about quickly. On page 3, there's a reference to
4 "ViCLASS Training Day".

5 DET/STAFF SGT. KEWLEY: Right.

6 MR. ENGELMANN: And we've heard about
7 ViCLASS before, but can you just give us a sense as to what
8 that training was about and why that might have been
9 important?

10 DET/STAFF SGT. KEWLEY: In 2002, the ViCLASS
11 came under my umbrella, the ViCLASS coordinator, and I also
12 look after the sex offender registry. And it's important
13 for me - training is very important to me, as you can see,
14 and it was a chance for me to bring an expert from ViCLASS
15 down to really explain how they want the books done, how
16 they work. Up until then, some of the officers saw this
17 big book that they had to fill in and really didn't have an
18 understanding of how important that book was. So I would
19 hold a training day for our officers, put it out to
20 everyone in Eastern Region, and hold a training day,
21 bringing in somebody from ViCLASS.

22 MR. ENGELMANN: What is the kind of
23 information that officers should be filling out when
24 they're doing ViCLASS?

25 DET/STAFF SGT. KEWLEY: Well, they have to

1 put in the victim information and the offender information,
2 what's known. And it's extremely important to put in an
3 account of what happened because the MO, or the *Modus*
4 *Operandi*, is very important in perhaps linking cases
5 through different jurisdictions.

6 **MR. ENGELMANN:** I know we may have asked a
7 previous witness about this, but how long has ViCLASS been
8 in use? It's not just the OPP that uses it, it's
9 provincial, it's police forces throughout the province.

10 **DET/STAFF SGT. KEWLEY:** Yes.

11 I can't be certain. It was in play in 1994
12 when I took over, I believe, or 1994-ish. Somewhere around
13 there.

14 **MR. ENGELMANN:** All right.

15 Those are the questions, Staff Sergeant
16 Kewley, that I have for you. I understand a few counsel
17 may have some questions in cross-examination.

18 **DET/STAFF SGT. KEWLEY:** Thank you.

19 **MR. ENGELMANN:** Thank you.

20 **THE COMMISSIONER:** All right.

21 Counsel for CCR not here.

22 **MR. ENGELMANN:** No, and neither is Mr. Lee.
23 He could not be here today. I think Mr. Chisholm had a few
24 questions, but I'm not sure if I'm jumping the queue.

25 **THE COMMISSIONER:** Mr. Cipriano.

1 **MR. CIPRIANO:** No, thank you.

2 **THE COMMISSIONER:** Mr. Chisholm.

3 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
4 **CHISHOLM:**

5 **MR. CHISHOLM:** Good morning, Mr.
6 Commissioner.

7 Good morning, Detective Staff Sergeant
8 Kewley. My name is Peter Chisholm. I am counsel
9 for the Children's Aid Society for the counties
10 of Stormont-Dundas and Glengarry.

11 **DET/STAFF SGT. KEWLEY:** Good morning.

12 **MR. CHISHOLM:** If I could take you back to
13 your testimony yesterday where you spoke of the first time
14 you attended the ISOAC course, and I believe that was in --
15 -

16 **DET/STAFF SGT. KEWLEY:** Nineteen-ninety-
17 seven (1997).

18 **MR. CHISHOLM:** February of 1997. And that
19 was your first exposure to that course?

20 **DET/STAFF SGT. KEWLEY:** Yes, it was.

21 **MR. CHISHOLM:** And would I be correct that
22 the following year, you became qualified to teach that
23 course?

24 **DET/STAFF SGT. KEWLEY:** Not exactly. What
25 happens is it's more like a mentoring course at that point

1 in time. So I attended another training session in June
2 1997 in Kingston where I observed from a facilitator's
3 point of view as an instructor. And then you go on to
4 teach certain subjects and you work with the instructor
5 from the Ontario Police College. Once you've done that,
6 then you get out on your own.

7 **MR. CHISHOLM:** So it's not a case where you
8 simply graduated one year and the next year you were
9 teaching the course?

10 **DET/STAFF SGT. KEWLEY:** No.

11 **MR. CHISHOLM:** And can you tell me if you
12 have any knowledge with respect to the CAS facilitators
13 training that would allow them -- whenever you were
14 teaching the course with a CAS facilitator, do you know how
15 those individuals were selected to facilitate the course?

16 **DET/STAFF SGT. KEWLEY:** No, I have no idea.
17 I do know that they were supervisors and I do know they
18 were extremely knowledgeable.

19 **MR. CHISHOLM:** Now, when you took the
20 course, the ISOAC course, did you have to travel to Aylmer
21 to take it?

22 **DET/STAFF SGT. KEWLEY:** When I took it
23 myself?

24 **MR. CHISHOLM:** Yes.

25 **DET/STAFF SGT. KEWLEY:** No. It was an

1 outreach program in Ottawa.

2 **MR. CHISHOLM:** And that was the situation
3 when you were teaching the ISOAC course; you weren't
4 teaching it in Aylmer, you were teaching it in the Eastern
5 Region.

6 **DET/STAFF SGT. KEWLEY:** Correct.
7 We went to different sites throughout
8 Eastern Region.

9 **MR. CHISHOLM:** Now, this morning Mr.
10 Engelmann put a letter to you, the April 24th, 2003 letter
11 from the Ontario Police College; that's page 72 of 89 of
12 the electronic version. It's up on the screen now.

13 I take it you had no advance warning of this
14 decision?

15 **DET/STAFF SGT. KEWLEY:** No, I did not.

16 **MR. CHISHOLM:** And reading the first
17 paragraph of that letter, did you take that letter to mean
18 that it was a temporary suspension of the ISOAC program?

19 **DET/STAFF SGT. KEWLEY:** From that letter it
20 -- well, obviously, it does say it was temporarily
21 suspended.

22 **MR. CHISHOLM:** That was your understanding
23 as well.

24 **DET/STAFF SGT. KEWLEY:** Yes.

25 **MR. CHISHOLM:** You told us about a course

1 offered by the Ontario Police College today that you view
2 as somewhat of a replacement to the ISOAC course.

3 **DET/STAFF SGT. KEWLEY:** I wish -- I don't
4 have the syllabus in front of me, but in discussions with
5 Detective Fitzpatrick, we felt that it did not meet the
6 same goals at the ISOAC course.

7 **MR. CHISHOLM:** You spoke of gaps earlier
8 this morning. Can you tell us what those gaps would be?

9 **DET/STAFF SGT. KEWLEY:** Well, particularly,
10 in interviewing the child.

11 **MR. CHISHOLM:** Yes. The duration of the
12 course that's offered by the Ontario Police College at
13 present, how long is that? Do you know?

14 **DET/STAFF SGT. KEWLEY:** No, I don't know.

15 **MR. CHISHOLM:** Any other gaps that you want
16 to bring to our attention apart from the interviewing of
17 the child, that come to mind?

18 **DET/STAFF SGT. KEWLEY:** At this point in
19 time, that's the only one that stands out in my mind.

20 **MR. CHISHOLM:** I take it from your comments
21 yesterday you're an advocate of joint training.

22 **DET/STAFF SGT. KEWLEY:** Absolutely.

23 **MR. CHISHOLM:** What benefits do you see
24 arising from the joint training?

25 **DET/STAFF SGT. KEWLEY:** I can't emphasize

1 enough the relationship. When you go into the
2 investigations of child abuse, you are doing joint
3 investigations. You need a relationship with the person
4 that you are doing the investigation with. That's very,
5 very important. And, let me add, we each have strengths
6 and weaknesses.

7 **MR. CHISHOLM:** Yes.

8 **DET/STAFF SGT. KEWLEY:** The CAS knows
9 children and their ages and stages and what they are
10 capable of giving at a certain age.

11 We have a different role to play and it's
12 really a nice mesh to do the joint investigation together
13 but you really must have a good rapport with the worker.

14 **MR. CHISHOLM:** And that's developed, in
15 part, by the joint training?

16 **DET/STAFF SGT. KEWLEY:** That's right.
17 Because when we do the joint training, we do it in
18 different areas. So the police that attend and the CAS
19 that attend are from that area. So presumably when they
20 get involved in an investigation, they've built on their
21 relationships while they've been at the course.

22 **MR. CHISHOLM:** And I suppose it's designed
23 somewhat that you put the people -- train the people
24 together that will be working together in the future. Is
25 that the idea?

1 **DET/STAFF SGT. KEWLEY:** That is the
2 consideration and part of the goal.

3 **MR. CHISHOLM:** If I could take you to
4 another topic you spoke of yesterday, protocols.

5 **DET/STAFF SGT. KEWLEY:** Yes.

6 **MR. CHISHOLM:** You indicated that you worked
7 on the Ottawa CAS police protocol.

8 **DET/STAFF SGT. KEWLEY:** Ottawa-Carleton at
9 that ---

10 **MR. CHISHOLM:** Ottawa-Carleton.

11 **DET/STAFF SGT. KEWLEY:** It was known as
12 Ottawa-Carleton at that time.

13 **MR. CHISHOLM:** Right.

14 And when you say you worked on it, were you
15 on the committee that produced the Ottawa-Carleton/CAS
16 Police Protocol?

17 **DET/STAFF SGT. KEWLEY:** I met regularly as
18 part of the committee.

19 **MR. CHISHOLM:** How many people would have
20 been on that committee?

21 **DET/STAFF SGT. KEWLEY:** It was actually
22 quite a large committee. We had representatives from
23 hospitals. Dr. Sirnick was involved in it, CAS, police,
24 both from OPP and CAS, VWAP, many, many different resources
25 that were in the community dealing with children.

1 **MR. CHISHOLM:** And I believe, you indicated
2 yesterday, that took place in the early 1990s?

3 **DET/STAFF SGT. KEWLEY:** I would say that it
4 was in the early 1990s.

5 **MR. CHISHOLM:** And do you recall how long it
6 would have taken for that committee to finalize the
7 protocol; a number of months, I take it?

8 **DET/STAFF SGT. KEWLEY:** Protocol development
9 is not a fast -- it doesn't happen very quickly, and it may
10 have even been a year.

11 **MR. CHISHOLM:** In your view, I take it,
12 that's not out of the ordinary from your perspective?

13 **DET/STAFF SGT. KEWLEY:** No, it isn't.

14 **MR. CHISHOLM:** That is, in part, due to the
15 large number of actors that you have to get together at the
16 committee stage. Is that fair to say?

17 **DET/STAFF SGT. KEWLEY:** That's right. And
18 really everybody has a voice at the table and it's really
19 hammering out the best practices so that we all interact.

20 **MR. CHISHOLM:** Is it fair to say the
21 preparation of a protocol is a large undertaking?

22 **DET/STAFF SGT. KEWLEY:** Yes, it is, very.

23 **MR. CHISHOLM:** Yesterday you told us that at
24 one point you were in charge of working with the areas that
25 did not have protocols in place. Do you recall that?

1 **DET/STAFF SGT. KEWLEY:** Correct.

2 **MR. CHISHOLM:** Areas being geographic areas.
3 Is that -- did I understand? I'm not sure I understand
4 your evidence when you're referring to areas. Is it
5 geographic areas?

6 **DET/STAFF SGT. KEWLEY:** Right. What
7 happened is at one point in time, and I wish I had some
8 things in front of me I would be able to be specific about
9 the timeframe, but shortly after I became the Regional
10 Abuse Issues Coordinator, I sent out a questionnaire to all
11 the detachment commanders and I wanted to know what
12 protocols they had in place, what resources they had, so
13 that I could become more familiar with their area and what
14 we had in place.

15 As we talked yesterday, in October of '96,
16 the Policing Standards came out and in those standards
17 there was talk of sexual assault protocol. Then when I
18 drew my committee or my resource people together in 1997,
19 that was one thing on the agenda, was we needed to get the
20 sexual assault protocols done and they were given other
21 protocols to follow and they were to go back to their
22 communities and develop these protocols.

23 **MR. CHISHOLM:** And in fairness to you, you
24 were charged with protocols dealing with a broad area
25 that's simply child abuse and child sexual abuse?

1 **DET/STAFF SGT. KEWLEY:** All kinds of
2 protocols dealing with crimes against victims.

3 **MR. CHISHOLM:** And with respect to the
4 precedence that you were handing out, the protocol
5 precedence, I take it, they were related -- they were
6 precedence dealing with child abuse and child sexual
7 assault -- child sexual abuse?

8 **DET/STAFF SGT. KEWLEY:** That's right.

9 **MR. CHISHOLM:** You weren't handing out
10 shelter protocols when you were trying to get these people
11 on board with a child abuse protocol?

12 **DET/STAFF SGT. KEWLEY:** No. They were given
13 examples of protocols for what they were working on.

14 **MR. CHISHOLM:** You've seen a number of
15 protocols in your day. In your view, is it a possibility
16 to have a uniform protocol across the province, between
17 Children's Aid Societies and the police services that would
18 be in particular jurisdictions and perhaps the Crown
19 Attorney's Office? Is that something that's realistic or
20 did the different areas require different protocols?

21 **DET/STAFF SGT. KEWLEY:** No. I think that
22 that is very feasible, and I think you've seen a move in
23 this region to do such a thing, where the last child abuse
24 protocol that came out in 2001 involved numerous areas. It
25 involved Lanark, Leeds-Grenville, and Stormont, Dundas and

1 Glengarry. I do not see where there would be a problem
2 with that particular subject to have a province-wide
3 protocol.

4 **MR. CHISHOLM:** So that the protocol you're
5 speaking of is a protocol involving neighbouring
6 jurisdictions, if you will, and a number of counties in the
7 same area?

8 **DET/STAFF SGT. KEWLEY:** Correct.

9 **MR. CHISHOLM:** You don't see a problem going
10 across the province with a universal protocol?

11 **DET/STAFF SGT. KEWLEY:** I don't think in the
12 area of child abuse that that would be a problem.
13 Although, you're missing one big part of that, in that part
14 of the protocol development is the relationships that your
15 building with each other when you're developing these
16 protocols, and that would be a significant portion removed.

17 **MR. CHISHOLM:** And I suppose if you had the
18 universal protocol getting together, you may be back with
19 the same problem when you get together to review the
20 protocol in your local areas. You could see changes from
21 the universal protocol, so a change in Stormont, Dundas and
22 Glengarry that may not be implemented in Toronto?

23 **DET/STAFF SGT. KEWLEY:** Could be.

24 **MR. CHISHOLM:** If I could take you --
25 yesterday you spoke of a -- Madam Clerk, its Tab 10A of the

1 protocols folder. It's on the screen now.

2 You spoke yesterday, Detective Staff
3 Sergeant, of this draft copy of the child abuse protocol
4 and the proposed guidelines and procedures for a response
5 to child abuse, and that's the S.D. & G. County Board of
6 Education. I take it you understand that to be a draft
7 copy of guidelines and procedures that was prepared by the
8 then S.D. & G. County Board of Education?

9 **DET/STAFF SGT. KEWLEY:** Yes.

10 **MR. CHISHOLM:** And would you agree that that
11 -- do you see a distinction between a protocol that you've
12 seen later, and I'll take you to later, versus these
13 guidelines and procedures? Is there a difference between
14 guidelines and procedures and a protocol?

15 **DET/STAFF SGT. KEWLEY:** No, I look at them
16 as the same thing.

17 **MR. CHISHOLM:** And you indicated yesterday,
18 if I understand your evidence correctly, that you believe
19 this to have been prepared by the local -- by the S.D. & G.
20 Public School Board and the CAS. Is that what you
21 understand this document to be?

22 **DET/STAFF SGT. KEWLEY:** Well, I don't know
23 that it's a public school board, and I have no intimate
24 knowledge about this protocol other than I've read it and
25 it appears to be guidelines for the Board of Education to

1 follow when dealing with child abuse.

2 MR. CHISHOLM: You found this in the library
3 at GHQ or did you find it here in this area?

4 DET/STAFF SGT. KEWLEY: I believe this was
5 found in the library at GHQ.

6 MR. CHISHOLM: Oh, really.

7 DET/STAFF SGT. KEWLEY: Yes.

8 MR. CHISHOLM: If I could take you to page -
9 - Madam Clerk, page 9 of 13 of the electronic document,
10 please.

11 If I get you, Detective Staff Sergeant, to
12 look at the -- about a quarter of the way down that page,
13 which is page 7, in the right corner. You see "Children's
14 Aid Society Report" and it has the name of society, and
15 then you'll see a number of Children's Aid Societies named,
16 "Children's Aid Society, North Branch", "Catholic
17 Children's Aid Society" or "Jewish Family and Child
18 Services".

19 Do you recognize any of those names?

20 DET/STAFF SGT. KEWLEY: Certainly the
21 Children's Aid Society, but I do not recognize the other
22 names.

23 MR. CHISHOLM: If I put this question to
24 you, is it possible, looking at what you see here, this is
25 somewhat of a precedent that may have been borrowed from a

1 school board in Toronto?

2 DET/STAFF SGT. KEWLEY: I can't comment on
3 that.

4 MR. CHISHOLM: That's fair.

5 DET/STAFF SGT. KEWLEY: It may have been.

6 MR. CHISHOLM: As far as you know, there is
7 no Jewish Family and Child Services Society in this area?

8 DET/STAFF SGT. KEWLEY: I'm not aware of
9 any.

10 MR. CHISHOLM: And if I could take you to
11 document 10B, Madam Clerk, please.

12 Now, you spoke of this document yesterday,
13 Detective Staff Sergeant. Do I take your evidence to be
14 that this was an earlier version -- 10B was an earlier
15 version to the ---

16 DET/STAFF SGT. KEWLEY: Ten-C (10C)?

17 MR. CHISHOLM: Yes.

18 DET/STAFF SGT. KEWLEY: Yes. And again,
19 it's just from reviewing the protocol, both protocols, and
20 10C seems to be more complete than 10B. It may have been a
21 draft copy.

22 MR. CHISHOLM: Is that your conclusion that
23 -- if it was suggested to you it was a draft copy, I take
24 it you wouldn't disagree with it?

25 DET/STAFF SGT. KEWLEY: No, I wouldn't

1 disagree. And again, it's from viewing the wording, it's
2 very -- it's almost identical, but there are additions to
3 and there are changes to the sections ---

4 **MR. CHISHOLM:** In 10C?

5 **DET/STAFF SGT. KEWLEY:** In 10C.

6 **MR. CHISHOLM:** And 10C elaborates upon 10B.
7 Is that fair to say?

8 **DET/STAFF SGT. KEWLEY:** Yes.

9 **MR. CHISHOLM:** Expands in some areas?

10 **DET/STAFF SGT. KEWLEY:** Yes.

11 **MR. CHISHOLM:** Now, you were looking at date
12 stamps with respect to 10B and 10C, and if I understand
13 correctly, if I understand your evidence from yesterday,
14 the OPP came into possession of 10B the date following June
15 30, 1992. Is that right?

16 **DET/STAFF SGT. KEWLEY:** The OPP in this area
17 would have had a copy of this protocol on the date that it
18 was signed.

19 **MR. CHISHOLM:** Yes.

20 **DET/STAFF SGT. KEWLEY:** Which is the 30th of
21 June 1992.

22 **MR. CHISHOLM:** Right.

23 I thought I understood your evidence with
24 respect to 10B that it appeared that -- and it may have
25 been in GHQ -- that that document came into GHQ later after

1 1992?

2 **DET/STAFF SGT. KEWLEY:** Right. It was
3 stamped that it was received in GHQ in February '93. Now,
4 I can't say why it landed there in 1993 but it may be as a
5 result, as happens with me, where the provincial abuse
6 coordinator will say "Could you send all the protocols that
7 you have in your possession down to me so we can put them
8 into the library". So there may have been a call for the
9 detachments to send them in '93 and that's when it was
10 received. But clearly, the one at 10C is the more complete
11 copy of the two.

12 **MR. CHISHOLM:** Yes.

13 And if I can take you now -- Madam Clerk,
14 document 10F. It's on the screen now and it's the Child
15 Protection Protocol, the one that's effective July 1st,
16 2001.

17 **DET/STAFF SGT. KEWLEY:** Correct.

18 **MR. CHISHOLM:** You've indicated you've read
19 that document?

20 **DET/STAFF SGT. KEWLEY:** Yes.

21 **MR. CHISHOLM:** And given your exposure to
22 the protocols you've reviewed in the past and having
23 reviewed this document, are there any deficiencies that you
24 see in this particular protocol, any changes that you would
25 suggest be implemented?

1 **DET/STAFF SGT. KEWLEY:** No. I think it's an
2 excellent document that's very, very complete and as I say,
3 Detective Fitzpatrick had a big role to play in the
4 development of this protocol and she's very knowledgeable
5 when it comes to the area of child sexual abuse.

6 **MR. CHISHOLM:** Thank you, Detective Staff
7 Sergeant. Those are my questions.

8 **DET/STAFF SGT. KEWLEY:** Thank you.

9 **THE COMMISSIONER:** All right. Thank you.
10 Maître Rouleau or Lawless?

11 **MR. ROULEAU:** No questions.

12 **THE COMMISSIONER:** Thank you.

13 Ms. Imm?

14 **MS. IMM:** No questions.

15 **THE COMMISSIONER:** Thank you.

16 Mr. Hannah-Suarez?

17 **MR. HANNAH-SUAREZ:** Thank you.

18 Just a couple of questions.

19 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

20 **HANNAH-SUAREZ:**

21 **MR. HANNAH-SUAREZ:** Good morning.

22 **DET/STAFF SGT. KEWLEY:** Good morning.

23 **MR. HANNAH-SUAREZ:** If we could start off by
24 going to Tab F, Volume 8, and specifically the Statement of
25 Principles at page 6 and that's page 8 in the PDF version.

1 I just wanted to direct your attention to
2 the principle at Roman numeral IX. It's at Tab 10F. So
3 that's the Child Protection Protocol from 2001 and at page
4 6, if we could. So it would be -- sorry, page 8 of the PDF
5 document. Thank you. And if we could scroll down to Roman
6 numeral IX, please.

7 So am I correct when I read this? It reads:

8 "Investigations must be unbiased. The
9 investigative process must be to
10 determine whether or not abuse or
11 neglect has happened, rather than to
12 actively set out to prove that it has."

13 Is that correct?

14 **DET/STAFF SGT. KEWLEY:** Absolutely.

15 **MR. HANNAH-SUAREZ:** And that's also set out
16 at Tab 10G. That's the Child Protection School Handbook of
17 2002, if I'm not mistaken. It's identical Statement of
18 Principles; is that correct? So that's set out at page 5
19 or page 7 of the PDF version. Are the Statement of
20 Principles identical in the two documents?

21 **DET/STAFF SGT. KEWLEY:** I haven't seen the
22 second document but I would assume that they're going to be
23 identical.

24 **MR. HANNAH-SUAREZ:** Thanks.

25 Now, presumably that principle at Roman

1 numeral IX would recognize the importance obviously of
2 approaching a child sexual abuse investigation from an
3 objective perspective. Would you agree with that?

4 **DET/STAFF SGT. KEWLEY:** Absolutely. Any
5 criminal investigation should be approached from that
6 principle. Particularly when you're dealing with child
7 sexual abuse, our mandate is to determine whether or not
8 abuse has happened and we always have to be aware of the
9 alternative hypothesis that may exist when we're dealing
10 with children and child sexual abuse.

11 **MR. HANNAH-SUAREZ:** So that would be
12 obviously then important for safeguarding the suspect's
13 right to a fair and full investigation?

14 **DET/STAFF SGT. KEWLEY:** Correct.

15 **MR. HANNAH-SUAREZ:** So you would agree then,
16 that under that principle, it's dictating that an
17 investigation should start from a neutral starting point
18 that neither assumes the allegations are true, nor assumes
19 the opposite. Is that correct?

20 **DET/STAFF SGT. KEWLEY:** Correct.

21 **MR. HANNAH-SUAREZ:** Okay. If I can take you
22 now to some of the older protocols now, specifically the
23 one Child Abuse Protocols of 1992 at Volume 8, Tab 10C.
24 That's at page 2 or page 8 of the PDF document.

25 Now, if we look at the second principle, am

1 I correct in that it reads:

2 "Children reporting sexual molestation
3 should be presumed to be telling the
4 truth..."

5 Is that correct?

6 **DET/STAFF SGT. KEWLEY:** That's right.

7 **MR. HANNAH-SUAREZ:** Now, I mean we can turn
8 to them if you'd like but this is also at the Child
9 Protection Protocol of 1987 and that's at Tab 10A. That's
10 at page 2 of that document. I'm not too sure if that's the
11 PDF number, the Statement of Principles.

12 I think it should be the third page in. So
13 it's probably the third page in the PDF document.

14 So we also have that principle there, is
15 that correct, that there is this presumption that they
16 should be telling the truth? Now, this presumption
17 obviously is absent from the Statement of Principles in the
18 documents we had at Tab 10F and 10G. Is that correct?

19 **DET/STAFF SGT. KEWLEY:** At 10G. I ---

20 **MR. HANNAH-SUAREZ:** So 10F was the one we
21 just looked at. So that's the long Statement of Principles
22 that one of the principles being the one at Roman numeral
23 IX that we've just read about investigations being
24 unbiased. If we turn back to that at 10F just -- I mean
25 just to make sure, my understanding is obviously that this

1 one principle is absent from that. So that's 10F and
2 that's at page -- that would be page 6 or page 8 of the PDF
3 document.

4 So would you agree that when we look at that
5 Statement of Principles, that principle about this
6 presumption that children are telling the truth when they
7 make allegations of sexual molestation that's absent from
8 the recent Statement of Principles; is that correct?

9 **DET/STAFF SGT. KEWLEY:** I don't see that
10 here. You may have to scroll down. I'm not sure if
11 there's anything.

12 **MR. ENGELMANN:** Perhaps the witness could be
13 given a hard copy as well. It would be easier for her I
14 think.

15 **DET/STAFF SGT. KEWLEY:** I have my copy.
16 Thanks.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 **DET/STAFF SGT. KEWLEY:** Well, it does say
19 that,

20 "Most children are capable of being
21 credible reporters of events."

22 **MR. HANNAH-SUAREZ:** M'hm. And then it goes
23 on to say that,

24 "... allegations of child abuse and
25 neglect must be taken seriously..."

1 -- but also that --

2 "...they must be thoroughly
3 investigated."

4 Correct?

5 **DET/STAFF SGT. KEWLEY:** Absolutely.

6 **MR. HANNAH-SUAREZ:** Now, I guess just what I
7 was trying to get to is this submission about assuming that
8 the child is telling the truth, was this -- from what you
9 remember, was this a conscious policy change when the
10 protocol was being developed?

11 **DET/STAFF SGT. KEWLEY:** I can't answer that.
12 I do know that we have far more denials than we do of false
13 allegations when it comes to children.

14 **THE COMMISSIONER:** I'm sorry. What do you
15 mean by that, denials as opposed to false allegations?

16 **DET/STAFF SGT. KEWLEY:** Well, we end up --
17 we have more denials because of the pressures involved in
18 familiar situations where children ---

19 **THE COMMISSIONER:** What do you mean by
20 denials? That the child denies that it happened?

21 **DET/STAFF SGT. KEWLEY:** The child denies
22 that it happens.

23 **THE COMMISSIONER:** All right.

24 **DET/STAFF SGT. KEWLEY:** Rather than actually
25 a false allegation, but again, that's up to the

1 investigator to do a thorough investigation to uncover
2 everything that they possibly can to corroborate what the
3 child may be saying.

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

5 **MR. HANNAH-SUAREZ:** So I guess just what I
6 was trying to get to in terms of this change in the
7 principles, I mean you'd agree that that's a significant
8 change from telling investigators essentially to start from
9 a presumption that the child is telling the truth to the
10 present day principles that are saying no, start from an
11 unbiased perspective and just thoroughly investigate it.
12 Would you agree that that's a significant change in the
13 principles?

14 **DET/STAFF SGT. KEWLEY:** I can't answer why
15 it was changed. I've never been involved in any
16 discussions surrounding that but I do see that the most
17 recent one is saying that the children are capable of being
18 credible reporters of events.

19 **MR. HANNAH-SUAREZ:** Yes. I guess just what
20 I was trying to get to there ---

21 **DET/STAFF SGT. KEWLEY:** The wording.

22 **MR. HANNAH-SUAREZ:** --- in terms of -- you
23 were involved obviously in investigations prior to these
24 principles being developed in 2001 and 2002.

25 **DET/STAFF SGT. KEWLEY:** Yes.

1 **MR. HANNAH-SUAREZ:** And obviously you were
2 involved also in investigations then when these 1992 and
3 1993 principles were in effect that were in essence saying
4 start from a presumption that the child is telling the
5 truth; right?

6 **DET/STAFF SGT. KEWLEY:** I mean I can't say
7 that I've ever consciously thought of that. You go into an
8 investigation and your idea or your thinking at that point
9 in time is to determine whether something has happened.
10 And whether it leads you down one road or the other, you're
11 still there to uncover the evidence.

12 **MR. HANNAH-SUAREZ:** Yes.

13 **DET/STAFF SGT. KEWLEY:** So I can't say that
14 I was aware of that principle or how to ---

15 **MR. HANNAH-SUAREZ:** But now discussing the
16 principle that was in place in 1992, would you agree then
17 that it is somewhat inconsistent to tell children -- to
18 tell, sorry, investigators to start from this presumption
19 that they're telling the truth and on the other hand expect
20 them to conduct an unbiased investigation? Is that a fair
21 inconsistency to note?

22 **DET/STAFF SGT. KEWLEY:** Again, it may be
23 just a matter of how it's worded. I can't answer that.

24 **MR. HANNAH-SUAREZ:** Okay, fair enough. I
25 just had just a few more questions about the Investigation

1 of Sexual Offences Against Children course that you taught.

2 **DET/STAFF SGT. KEWLEY:** Right.

3 **MR. HANNAH-SUAREZ:** Just in terms of that,
4 now the reason I ask this is because some prior police
5 departments have told us that there is some training in
6 place on how to -- on essentially dealing with false
7 allegations of sexual abuse and I was wondering if that's a
8 component of the course that you teach?

9 **DET/STAFF SGT. KEWLEY:** It's not a component
10 per se but we certainly dissect the *Martensville*,
11 *Saskatchewan* case and there was one out of Durham Region
12 involving the CAS down there that we go through and
13 highlight where things went wrong so that they're very
14 aware of it and that sort of ties in with that alternative
15 hypothesis is how we have to remain unbiased where we go in
16 with an open mind and we look for other possibilities to
17 what the child might be saying.

18 **MR. HANNAH-SUAREZ:** Now, in terms of this
19 dissection that you do of those two cases, do you go into
20 the specific investigative techniques that led the
21 investigators astray?

22 **DET/STAFF SGT. KEWLEY:** Not specifically.
23 They read -- what happens is they read the court case and
24 then we discuss it as a large group.

25 **MR. HANNAH-SUAREZ:** Okay. And just in terms

1 of -- I just want to get an idea in terms of the time
2 that's dedicated to this part of the course. Do you have
3 any estimates of that?

4 **DET/STAFF SGT. KEWLEY:** Ten (10) minutes.

5 **MR. HANNAH-SUAREZ:** Okay. Out of how long
6 is the course again?

7 **DET/STAFF SGT. KEWLEY:** Well, it's a week.

8 **MR. HANNAH-SUAREZ:** Okay. Now, I'm going to
9 take you to Volume 2 if I may.

10 **DET/STAFF SGT. KEWLEY:** I should say what we
11 ask them to do the first night is read those cases on their
12 own time.

13 **MR. HANNAH-SUAREZ:** Okay.

14 **DET/STAFF SGT. KEWLEY:** And then we come
15 back and we discuss it the following day.

16 **MR. HANNAH-SUAREZ:** Now, so it's Volume 2,
17 Tab 24 and it should be page 7 or page 13 of the PDF copy.

18 **THE COMMISSIONER:** Volume 2?

19 **MR. HANNAH-SUAREZ:** Volume 2, yes.

20 **THE COMMISSIONER:** What page?

21 **MR. HANNAH-SUAREZ:** That's page 7 or page
22 13.

23 **THE COMMISSIONER:** What paragraph? You're
24 going to have to slow down a little bit. You're a little -
25 - I'm not as well prepared as you are.

1 Okay, and your monitor is not on. Page 7,
2 all right.

3 **MR. HANNAH-SUAREZ:** Okay. So it's just they
4 have some indicators, just if we scroll down to the bottom.
5 These are indicators that are listed in the Child Abuse
6 Manual of 1989 that were, I guess, highlighted as
7 indicators that show that there may have been a fabricated
8 allegation of sexual abuse, indicators like using
9 terminology that's not age appropriate.

10 Would you agree that that's a valid
11 indicator?

12 **DET/STAFF SGT. KEWLEY:** I'm not able to
13 follow in hard copy. Which binder would that be in?

14 **THE COMMISSIONER:** It's Volume 2.

15 **DET/STAFF SGT. KEWLEY:** Okay.

16 **MR. HANNAH-SUAREZ:** So it's just at the
17 bottom of the page. That's page number 7.

18 **THE COMMISSIONER:** So let's just situate
19 ourselves here. We're looking at a training branch child
20 abuse document, in-service training.

21 **DET/STAFF SGT. KEWLEY:** This looks like one
22 I read a number of years ago on midnight shift.

23 **THE COMMISSIONER:** Okay. And so now we're
24 on page 7.

25 **DET/STAFF SGT. KEWLEY:** Okay.

1 **MR. HANNAH-SUAREZ:** So I guess I just wanted
2 to review these indicators. So we have at page 7 near the
3 bottom and it spills over on to page 8 and it just lists
4 some indicators that an allegation may be fabricated. The
5 first one is the child uses terminology that's not age
6 appropriate.

7 Is that still considered a valid indicator
8 that the allegation may not be altogether forthright?

9 **DET/STAFF SGT. KEWLEY:** Well, you have to
10 look at the totality of the investigation. I mean if a
11 child comes out with something that they should -- is not
12 age appropriate, there may be alternatives to where they
13 have learned that. They may have watched a pornography
14 movie for example that was in the house. I mean you have
15 to look at all different aspects.

16 **MR. HANNAH-SUAREZ:** M'hm. So if we, for
17 instance, took it in combination with the following
18 factors, we have child lacking emotion in recounting the
19 incidents, the allegation sounds rehearsed, an inability to
20 provide sensory details and the non-offending parent
21 insists on being present during the interview. When you
22 take all of those together, would those still be considered
23 -- I mean it is an old document.

24 **DET/STAFF SGT. KEWLEY:** No, I wouldn't. I
25 mean a non-offending parent often will want to be with

1 their child out of a maternal instinct or a support role.

2 **MR. HANNAH-SUAREZ:** M'hm.

3 **DET/STAFF SGT. KEWLEY:** We don't encourage
4 that. In fact, I really, with the use of videotape and
5 having monitoring rooms, I often will take the mother in,
6 so that she can -- in this case, it's often the mother
7 that's the non-offending parent -- show them the video
8 room, and the child knows that mom is right next door, so
9 that gives them a sense of security to be right next door.

10 So I wouldn't necessarily say that these are
11 ---

12 **MR. HANNAH-SUAREZ:** That's right. No,
13 they're older. I just wanted to know if they were still
14 being taught, but if they're not considered valid
15 indicators anymore, those are the end of my questions then.

16 Thanks very much.

17 **DET/STAFF SGT. KEWLEY:** Thank you.

18 **THE COMMISSIONER:** All right.

19 Mr. Ducasse, any questions?

20 **MR. DUCASSE:** No questions, Mr.

21 Commissioner.

22 **THE COMMISSIONER:** Thank you.

23 Mr. Manderville?

24 **MR. MANDERVILLE:** Yes, Mr. Commissioner,
25 very briefly.

1 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

2 MANDERVILLE:

3 MR. MANDERVILLE: Good morning.

4 DET/STAFF SGT. KEWLEY: Good morning.

5 MR. MANDERVILLE: I act for the Cornwall
6 Police Service, Ms. Kewley.

7 I take it in your experience you've had
8 situations where you've investigated a sexual assault
9 complaint.

10 DET/STAFF SGT. KEWLEY: Yes.

11 MR. MANDERVILLE: And I take it you've also
12 had experience where the complainant, after making the
13 initial complaint for whatever reason simply does not want
14 to proceed with the prosecution or the investigation?

15 DET/STAFF SGT. KEWLEY: Yes.

16 MR. MANDERVILLE: And I would take it then
17 that the OPP wouldn't force that individual to go forward?

18 DET/STAFF SGT. KEWLEY: No.

19 MR. MANDERVILLE: It would be standard
20 procedure to simply discontinue the investigation if they
21 were insistent that it stop?

22 DET/STAFF SGT. KEWLEY: You would sit down
23 and try to understand why they have decided to not proceed
24 with the investigation, but ultimately, if you're dealing
25 with sexual assault of an adult that would be their right

1 to refuse to participate or go any further with it.

2 **MR. MANDERVILLE:** And irrespective of your
3 personal reluctance or the sense that the complaint was a
4 valid one, you would feel obliged to simply stop the
5 investigation?

6 **DET/STAFF SGT. KEWLEY:** Yes.

7 **MR. MANDERVILLE:** Thank you.

8 **THE COMMISSIONER:** I had some questions
9 about that I suppose. I often see though cases where in
10 spousal abuse, the spouse does not want to pursue, but
11 that's pursued. Is there a difference?

12 **DET/STAFF SGT. KEWLEY:** Absolutely. Yes,
13 there is a difference.

14 In the case of spousal assault, we have a
15 policy where if there's reasonable grounds we shall lay the
16 charge. We take that decision away from the spouse,
17 particularly because of the relationship, the intimate
18 relationship that they enjoy or had enjoyed with their
19 partner, and we put it in the hands of the police to lay
20 the charge and go ahead with the prosecution.

21 **THE COMMISSIONER:** With the police. Okay,
22 so if there's a sexual assault, how would that be
23 different?

24 **DET/STAFF SGT. KEWLEY:** If it was a sexual
25 assault involving your partner, it would fall under the

1 realms of domestic violence and we would proceed with that,
2 but as a victim of sexual assault, they should be afforded
3 the right to decide how they want to proceed with this.

4 **THE COMMISSIONER:** How about a child?

5 **DET/STAFF SGT. KEWLEY:** A child?

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

7 **DET/STAFF SGT. KEWLEY:** We proceed.

8 **THE COMMISSIONER:** So help me distinguish
9 the cases where the alleged victim has the final say, in
10 your mind?

11 **DET/STAFF SGT. KEWLEY:** As an adult, you
12 have the ability to choose what's right in your life and
13 sometimes people come forward or we have victims go to the
14 hospital, for example, to receive treatment after a sexual
15 assault has occurred.

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

17 **DET/STAFF SGT. KEWLEY:** It is absolutely
18 their decision whether or not they want to involve the
19 police in the investigation or not. It is absolutely their
20 decision whether or not they will turn over the evidence
21 secured at the hospital for the police investigation, and
22 they are the ones that -- now, we make sure that they're
23 informed about the decisions that they are going to make,
24 but it is their person; they have to be able to make a
25 decision that is right for them.

1 **THE COMMISSIONER:** So if an adult is beaten
2 to a pulp and taken to the hospital, and says, "No, I hit
3 myself against the wall here", but you have five witnesses
4 who say, "This person came up and unprovoked, beat him to a
5 pulp"; and he says, "I don't want to lay any charges",
6 you're telling me that the police wouldn't?

7 **DET/STAFF SGT. KEWLEY:** Are we talking about
8 spousal?

9 **THE COMMISSIONER:** No.

10 **DET/STAFF SGT. KEWLEY:** Or are we talking
11 about ---

12 **THE COMMISSIONER:** An adult.

13 **DET/STAFF SGT. KEWLEY:** No, in that case, we
14 would proceed because we had witnesses to go forward with
15 that.

16 **THE COMMISSIONER:** So what you're telling me
17 then is that in your view, the only time the police will
18 leave an absolute discretion is in cases of sexual assault
19 of adults?

20 **DET/STAFF SGT. KEWLEY:** It really -- I mean,
21 we have to respect their wishes and their -- often, we'll
22 have people contact us or they go through the shelters and
23 they're not quite ready to come forward. They don't feel
24 physically, mentally and emotionally ready to come forward.

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

1 **DET/STAFF SGT. KEWLEY:** And you can't force
2 them. I mean, they're going to be the witness in a
3 prosecution, and you have to be -- you have to have a
4 witness that is going to participate in the prosecution.

5 So if they're reluctant to go ahead as an
6 adult in sexual assaults, you may have difficulty with the
7 prosecution of it.

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

9 OPPA, Mr. Wallace?

10 **MR. WALLACE:** Thank you.

11 **THE COMMISSIONER:** Let me just finish up.
12 Is there a point where, let's assume you have a reluctant
13 victim, that you give it to the Crown Attorney to decide?

14 **DET/STAFF SGT. KEWLEY:** Absolutely.

15 **THE COMMISSIONER:** Well, okay. So help me
16 out; what cases are the ones where you feel that the police
17 have the right to say, "We're not even going to lay charges
18 and we won't even bring it to the Crown Attorney" and cases
19 where you say, "Well, we'll let the Crown Attorney decide"?

20 **DET/STAFF SGT. KEWLEY:** I suppose it depends
21 on how far you get along in your investigation.

22 If you've received a statement from a victim
23 of sexual assault, and they call you the next day and say,
24 "Listen, I've had a change of heart here. There is this
25 reason, this reason, this reason why I don't want to

1 proceed", I would then go out and interview the victim and
2 find out what has transpired between the two days to make
3 them come to that decision.

4 And if I felt that it really wasn't -- that
5 they were informed about the process and they were making
6 an informed decision, then I would stop the investigation.

7 But if we were farther along the line, and
8 we had corroborating evidence, then it would be one maybe I
9 would take to the Crown Attorney to look at.

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

11 Mr. Wallace?

12 **MR. WALLACE:** Yes, thank you, Mr.
13 Commissioner. I think I'll just follow up on that.

14 **THE COMMISSIONER:** Sure.

15 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

16 **WALLACE:**

17 **MR. WALLACE:** The decision whether to
18 prosecute or not in a given situation from the police
19 perspective, the dynamics of that has changed over time.
20 Is that not a fair statement?

21 **DET/STAFF SGT. KEWLEY:** Yes, it is.

22 **MR. WALLACE:** And it is changed in a number
23 of respects. First of all, now there's a question of a
24 reasonable prospect of conviction test?

25 **DET/STAFF SGT. KEWLEY:** Absolutely.

1 **MR. WALLACE:** There is also the advent of
2 case law that is the KGB Statements and situations that
3 allow police to proceed with prosecutions in the absence of
4 a cooperating complainant?

5 **DET/STAFF SGT. KEWLEY:** Absolutely correct.

6 **MR. WALLACE:** So decisions made 10 or 15
7 years ago based on a certain fact situation may or may not
8 be the same decision made today, depending on what those
9 facts were?

10 **DET/STAFF SGT. KEWLEY:** Correct.

11 **MR. WALLACE:** Okay. Now, as you know, I
12 represent the Ontario Provincial Police Association. My
13 particular interest this morning is sort of elaborating a
14 little bit on the difference from the training perspective
15 of what happened within the OPP 2001 forward and what was
16 in existence prior to 2001.

17 Now, as we know from the evidence that has
18 gone before that January 1, 2001 brought into play the
19 *Adequacy and Effectiveness of Police Services Act* and the
20 regulations.

21 **DET/STAFF SGT. KEWLEY:** Correct.

22 **MR. WALLACE:** And within that, it required
23 certain minimum standards that police services across the
24 province employ with respect to, amongst other things,
25 criminal investigations.

1 **DET/STAFF SGT. KEWLEY:** Correct.

2 **MR. WALLACE:** Now, one of the terms that is
3 used in the materials we see repeatedly is the term of
4 "criminal investigator". And, in fact, at Volume 9, Tab 8,
5 it contains the core competencies for criminal
6 investigators.

7 **THE COMMISSIONER:** You said Tab 8, sir?

8 **MR. WALLACE:** Yes, I did, sir.

9 **THE COMMISSIONER:** Thank you.

10 **MR. WALLACE:** Now, firstly, with respect to
11 the Ontario Provincial Police and its interpretation of the
12 Adequacy and Effectiveness Regulations, what meaning is
13 given to the term "criminal investigators"? Is it as
14 simple as somebody who investigates crime or does it
15 actually have a specific meaning as far as the OPP is
16 concerned?

17 **DET/STAFF SGT. KEWLEY:** When we're talking
18 about criminal investigators from 2001 on?

19 **MR. WALLACE:** Yes.

20 **DET/STAFF SGT. KEWLEY:** I would take it to
21 mean that they have had the accredited course of either
22 Criminal Investigation or the General Investigative
23 Techniques, followed up by specialty courses.

24 **MR. WALLACE:** Okay. So you would be
25 referring to somebody who has taken the General

1 Investigation Training Course offered by the Ontario Police
2 College ---

3 DET/STAFF SGT. KEWLEY: Right.

4 MR. WALLACE: --- or the equivalent of
5 General Investigation Techniques by the OPPA ---

6 DET/STAFF SGT. KEWLEY: Correct.

7 MR. WALLACE: --- sorry, the Provincial
8 Police Academy?

9 DET/STAFF SGT. KEWLEY: Right.

10 MR. WALLACE: Okay. Now, so anybody, as far
11 as your understanding is concerned, from January 1, 2001
12 onward who would be classified as a criminal investigator
13 would have taken either one or the other courses?

14 DET/STAFF SGT. KEWLEY: Well, no. Now that
15 I'm thinking about it, when it comes to sexual assault
16 investigations, they've broken them into non-threshold and
17 threshold. The non-threshold can be investigated by
18 someone that has the knowledge, skills and abilities to do
19 so and doesn't necessarily have to have a required course
20 for that.

21 MR. WALLACE: Well, one of the big pushes,
22 if I can use that term, that was within the Provincial
23 Police in the years leading up to 2001, was to have all
24 persons who were going to be doing sexual assault
25 investigations take the Ontario Police College Sexual

1 Assault course.

2 DET/STAFF SGT. KEWLEY: Right.

3 MR. WALLACE: Is that correct?

4 DET/STAFF SGT. KEWLEY: That's a decision
5 that we made at headquarters because there was a provision
6 in Adequacy Standards where they could be deemed to be
7 trained sexual assault investigators, if they had displayed
8 or demonstrated the core competencies.

9 We decided that it would be much easier to
10 put -- to give everybody the course so that we had a
11 baseline from which to build on.

12 MR. WALLACE: As I understand it, just
13 looking at Tab 9 from the same volume and looking at the
14 course outline for the Sexual Assault Investigation Course
15 offered by the Ontario Police College, it sets out as a
16 prerequisite, amongst other things, that they have taken
17 the General Investigation Training course?

18 DET/STAFF SGT. KEWLEY: Correct.

19 MR. WALLACE: So within the OPP, after
20 January 1, 2001, all persons doing sexual assault
21 investigations, as a matter of policy, had completed the
22 general investigation course and the assault investigation
23 course. Have I got that right?

24 DET/STAFF SGT. KEWLEY: To be a primary
25 investigator on a sexual assault threshold -- threshold

1 sexual assault, you needed to have the accredited courses,
2 correct. For non-threshold ---

3 **THE COMMISSIONER:** But doesn't it say here -
4 - and I'm sorry. You're looking under prerequisites?

5 **MR. WALLACE:** Yes, I am, sir.

6 **THE COMMISSIONER:** All right.

7 And it says:

8 "A minimum of three years investigative
9 experience is required and the General
10 Investigation Training course or
11 equivalent core competencies as set out
12 in the Provincial Adequacy Standards."

13 **MR. WALLACE:** Yes.

14 **THE COMMISSIONER:** Okay. So does that
15 permit some grandfathering of people who have experienced
16 the 10 steps or whatever we talked about a little while
17 ago?

18 **DET/STAFF SGT. KEWLEY:** It does permit that,
19 yes.

20 **THE COMMISSIONER:** Okay.

21 **MR. WALLACE:** That's fair enough, but as I
22 understood it, one of the reasons that you opted for the
23 formalized training was because it was an easier way for
24 the officer to present their qualifications in court by
25 saying that rather than going through a long demonstration

1 of the core competencies?

2 **DET/STAFF SGT. KEWLEY:** Well, that's one of
3 the reasons certainly, but we have, you know, approximately
4 90 detectives, so administratively it was also easier to
5 have everybody go through a baseline course like the sexual
6 assault course rather than to individually look at each
7 officer's strengths and weaknesses and say that they have
8 demonstrated those core competencies.

9 **MR. WALLACE:** In the timeframe leading up to
10 2001, you gave evidence yesterday to the effect that -- I
11 believe you said in 1996, and correct me if I'm wrong, you
12 had nine officers within the region who had taken the
13 sexual assault course?

14 **DET/STAFF SGT. KEWLEY:** Correct.

15 **MR. WALLACE:** And in 1999, that had
16 increased to 16?

17 **DET/STAFF SGT. KEWLEY:** By 2000, we had 16.

18 **MR. WALLACE:** By 2000, you had 16; and then
19 in 2001, you had over 60?

20 **DET/STAFF SGT. KEWLEY:** Well, we brought in
21 the course in 2001, in January, and were able to train
22 approximately another 60 officers.

23 **MR. WALLACE:** So obviously the number of
24 persons that were doing sexual assault investigations that
25 had completed the sexual assault course by the Ontario

1 Police College had greatly increased in this region after
2 2001?

3 **DET/STAFF SGT. KEWLEY:** Correct.

4 **MR. WALLACE:** Okay. And therefore, prior to
5 2001, the number of officers who were doing sexual assault
6 investigations that had not taken the course was
7 significantly higher pre-2001 than after?

8 **DET/STAFF SGT. KEWLEY:** Right.

9 **MR. WALLACE:** Okay. And as a general
10 statement, the level of formal training, that is course
11 academic training offered by the Ontario Police College or
12 the Provincial Police Academy on the issue of sexual
13 assaults, has increased significantly after the year 2001?

14 **DET/STAFF SGT. KEWLEY:** Absolutely.

15 **MR. WALLACE:** And, in fact, I don't know
16 this as a fact, but I would suggest that in 1996, when you
17 were talking about nine officers within the region that had
18 taken the sexual assault training course, there would, in
19 fact, be area crime sergeants who had not taken that
20 course?

21 **DET/STAFF SGT. KEWLEY:** Absolutely.

22 **MR. WALLACE:** And, in fact, I gather you
23 wouldn't actually know who has taken them and who hasn't
24 taken it?

25 **DET/STAFF SGT. KEWLEY:** No. We talked about

1 that yesterday, and I may not have fully explained that
2 answer.

3 Prior to being a region there was -- I was
4 not aware of any way to keep track of the courses, but it
5 was really up to the individual officer to do that. After
6 we became a region, and I'm not quite sure what point in
7 time, there became a training database. And that training
8 database is only as good as the information that the
9 officers feed it as well. But there is some way now of
10 tracking what officers have taken what courses, but there
11 wasn't prior to regionalization.

12 **MR. WALLACE:** And as I understand it as well
13 -- I'm trying to see if you've given evidence on this as
14 well. The offences against -- Investigating Offences
15 Against Children is a different course than the Sexual
16 Assault Investigation Course?

17 **DET/STAFF SGT. KEWLEY:** Yes.

18 **MR. WALLACE:** And as far as investigating
19 sexual assault cases involving children were concerned,
20 after 2001 was it allowable for the investigator to simply
21 have the sexual assault course or did they have to have
22 both?

23 **DET/STAFF SGT. KEWLEY:** There was no
24 distinction, as I recall.

25 **MR. WALLACE:** So if you had taken the Sexual

1 Assault Investigation Course, that was adequate as far as
2 investigating a case involving children?

3 **DET/STAFF SGT. KEWLEY:** Correct.

4 **MR. WALLACE:** And the courses themselves in
5 terms of the sophistication when I'm talking about the
6 sexual assault or the sexual assault against children,
7 those courses have become more significant as the body of
8 knowledge has increased within the field?

9 **DET/STAFF SGT. KEWLEY:** Absolutely. I mean,
10 with behavioural sciences evolving the way it has, all of
11 those specialized services have really made a difference in
12 the investigations.

13 **MR. WALLACE:** And a course, say, for
14 example, in sexual assault would be offered in the '80s or
15 '90s would look different than the course offered nowadays?

16 **DET/STAFF SGT. KEWLEY:** I can't speak from -
17 - I didn't take my sexual assault course until 1999, so I
18 can't comment, but I would expect that it would be much
19 different.

20 **MR. WALLACE:** Okay. And the same would be
21 true for those cases involving sexual offences in children?

22 **DET/STAFF SGT. KEWLEY:** I'm not sure how
23 early they started the investigation of sexual offences
24 against children. I only became involved in 1998.

25 **MR. WALLACE:** Okay. If in fact the course

1 actually even existed in the '80s or in the early '90s, it
2 would certainly look different.

3 **DET/STAFF SGT. KEWLEY:** I would expect it
4 would.

5 **MR. WALLACE:** Now, it's now more mandatory,
6 as you've told us, for persons investigating sexual
7 offences to have the formalized courses; correct?

8 **DET/STAFF SGT. KEWLEY:** Yes.

9 **MR. WALLACE:** And prior to the -- let me put
10 it this way. After the year 2001, it's much more likely
11 that a sexual assault investigator has had the sexual
12 assault course by the Ontario Police College or the
13 Provincial Police Academy than it was prior to that time?

14 **DET/STAFF SGT. KEWLEY:** Certainly if you're
15 investigating serious sexual assaults, they will have had
16 the training. We do have sexual assaults investigated by
17 uniformed members that have the knowledge, skills and
18 abilities, and on the lower end of the scale, but I would
19 say that your statement is predominately correct.

20 **MR. WALLACE:** Okay. In the situation pre-
21 2001, and going back to the '80s and '90s, as you told us,
22 the likelihood that the investigator having taken a sexual
23 assault course, formal course, was certainly not as great
24 as it was after the year 2001?

25 **DET/STAFF SGT. KEWLEY:** Yes, correct.

1 **MR. WALLACE:** And the level of formal
2 training between investigators who are doing sexual assault
3 cases was significantly less consistent than it is now, as
4 between two investigators?

5 **DET/STAFF SGT. KEWLEY:** Absolutely. There
6 could be inconsistency between how two investigators would
7 conduct sexual assault investigations.

8 **MR. WALLACE:** And the actual formal training
9 that they received to do that?

10 **DET/STAFF SGT. KEWLEY:** Oh, yes.

11 **MR. WALLACE:** The other issue I wanted to
12 ask you just a couple of questions about was yesterday, you
13 talked about the position of the abuse resource person.

14 **DET/STAFF SGT. KEWLEY:** Yes.

15 **MR. WALLACE:** And that, as I got your
16 evidence, it commenced in 1997?

17 **DET/STAFF SGT. KEWLEY:** Correct.

18 **MR. WALLACE:** And if, as I understand it,
19 you would have been their boss on issues of abuse?

20 **DET/STAFF SGT. KEWLEY:** I'm not their boss.
21 Their detachment commander would be the one that would
22 oversee them. I simply was able to give my information to
23 them; try to get them more educated in the areas of abuse,
24 so that they could be a resource person to their detachment
25 members.

1 **MR. WALLACE:** The members from the
2 detachment who had an abuse problem would go to that
3 person, as opposed to going offsite?

4 **DET/STAFF SGT. KEWLEY:** They could. They
5 could go to that person. They could go to their area crime
6 sergeant, and they have called me. So they could go any
7 place.

8 **MR. WALLACE:** Okay. And if a question was -
9 - or an issue was raised with them that they answered,
10 chances are you may or may not even hear about it?

11 **DET/STAFF SGT. KEWLEY:** That's correct.

12 **MR. WALLACE:** Okay. Those are my questions.
13 Thank you.

14 **DET/STAFF SGT. KEWLEY:** Thank you, Mr.
15 Wallace.

16 **THE COMMISSIONER:** Thank you.
17 Any questions from the OPP?

18 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**
19 **LAHAIE:**

20 **MS. LAHAIE:** Staff Sergeant Kewley,
21 following up on Mr. Commissioner's questions and those of
22 Mr. Manderville, I just want to review two concepts with
23 you, and those are reasonable and probable grounds to
24 believe that an offence has taken place ---

25 **DET/STAFF SGT. KEWLEY:** Correct.

1 **MS. LAHAIE:** --- and the concept of
2 reasonable prospect of conviction.

3 **DET/STAFF SGT. KEWLEY:** Okay.

4 **MS. LAHAIE:** Would you agree that the role
5 of the OPP is to -- or any police force for that matter --
6 would be to gather all of the evidence, and if the officer
7 has both a subjective and objective reasonable and probable
8 grounds to believe that an offence has taken place, that a
9 charge is to be laid?

10 **DET/STAFF SGT. KEWLEY:** Correct.

11 **MS. LAHAIE:** And that the assessment of
12 whether there's a reasonable prospect of conviction lies
13 with the Crown?

14 **DET/STAFF SGT. KEWLEY:** Absolutely.

15 **MS. LAHAIE:** And it matters not what type of
16 offence we're speaking of in that analysis.

17 **DET/STAFF SGT. KEWLEY:** No.

18 **MS. LAHAIE:** And so when Mr. Commissioner
19 asked you with respect to domestic violence situations that
20 the policy is to proceed, despite a reluctance on behalf of
21 the victim to proceed with the charge, that is a policy of
22 the Ministry of the Attorney General?

23 **DET/STAFF SGT. KEWLEY:** It's our Ministry
24 policy.

25 **MS. LAHAIE:** And the Crown decides to

1 continue with that prosecution?

2 DET/STAFF SGT. KEWLEY: Correct.

3 MS. LAHAIE: And so it matters not whether
4 we're talking about a historical sexual assault, a sexual
5 assault involving a child, a domestic violence situation.
6 The role of the police force is to gather the evidence and
7 if there are reasonable and probable grounds to believe,
8 both from a subjective and objective point of view, that an
9 offence has taken place, the charge is to be laid.

10 DET/STAFF SGT. KEWLEY: Correct.

11 MS. LAHAIE: And no decision by the police
12 should be made to discontinue that process or continuing
13 with that prosecution, unless there's consultation with the
14 Crown.

15 DET/STAFF SGT. KEWLEY: Right.

16 MS. LAHAIE: Thank you.

17 THE COMMISSIONER: Mr. Engelmann.

18 ---RE-EXAMINATION BY MR. ENGELMANN:

19 MR. ENGELMANN: I'm cognizant of the hour,
20 Mr. Commissioner, but I do have a couple of questions.

21 THE COMMISSIONER: Yes.

22 MR. ENGELMANN: Staff Sergeant Kewley, you
23 were asked some questions by counsel for Jacques Leduc, Mr.
24 Hannah-Suarez, about different protocols.

25 DET/STAFF SGT. KEWLEY: Right.

1 **MR. ENGELMANN:** So do you have the protocol
2 binder handy? It's Volume 8. If you could turn to 10C.
3 And he took you to the "Statement of Principles" page, and
4 in particular the second paragraph.

5 Do you recall that?

6 **DET/STAFF SGT. KEWLEY:** Yes.

7 **MR. ENGELMANN:** He told you about how the
8 statement of principles is somewhat different in newer
9 versions of these protocols.

10 **DET/STAFF SGT. KEWLEY:** Right.

11 **MR. ENGELMANN:** I think you told us at the
12 time that this protocol -- I'm thinking back to the early
13 '90s -- that principle, in any event, wasn't really going
14 through your mind when you were investigating or
15 interviewing children.

16 **DET/STAFF SGT. KEWLEY:** No.

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

18 I want to take you to a part of the protocol
19 and ask you whether that was going through your
20 mind.

21 **DET/STAFF SGT. KEWLEY:** Okay.

22 **MR. ENGELMANN:** And I'd like you to turn to
23 the portion actually that is called "Interview of the
24 Child".

25 **DET/STAFF SGT. KEWLEY:** Yes.

1 MR. ENGELMANN: Page 16. Page 16?

2 DET/STAFF SGT. KEWLEY: Yes.

3 MR. ENGELMANN: Sixteen (16), right at the
4 bottom of that page. Just read paragraph 5 for a minute.

5 DET/STAFF SGT. KEWLEY: I've read it.

6 MR. ENGELMANN: All right.

7 Can you tell us whether that would have been
8 going through your mind when you're interviewing children.

9 DET/STAFF SGT. KEWLEY: Absolutely. I think
10 I alluded to that fact earlier about false denials and
11 there are many different reasons for that. But primarily
12 it's because of the pressure or influence they may have in
13 a family situation to deny that the abuse has happened.
14 But, really, we're trying to get to the bottom of the
15 investigation; do a full and complete investigation to see
16 if there is evidence that corroborates what the child has
17 said.

18 MR. ENGELMANN: All right, so let me just
19 take you through that for a minute.

20 "Recognizing that false denials
21 outnumber false allegations, the
22 interviewing team shall proceed on the
23 assumption that the child's report
24 warrants a full investigation."

25 So what are you being told there about

1 whether you should presume the child's report is true or
2 not?

3 **DET/STAFF SGT. KEWLEY:** Well, we're being
4 told that we presume that it is true and that we gather all
5 of the information to either support or refute the
6 allegation that the child made.

7 **MR. ENGELMANN:** Right. Is a false denial in
8 that circumstance, is that referring to an alleged
9 perpetrator falsely denying?

10 **DET/STAFF SGT. KEWLEY:** No. That's a child
11 that's being interviewed that may deny that the abuse has
12 happened because of the pressure that they may feel under
13 at perhaps splitting their family apart, all the dynamics
14 involved in the family situations.

15 **MR. ENGELMANN:** What is meant by a "full
16 investigation"?

17 **DET/STAFF SGT. KEWLEY:** It means that you
18 look at everything. You uncover, overturn every rock, so
19 to speak. You get the child's interview; you look for
20 corroborating evidence; you speak to the caregivers; you
21 speak to other children that may be in the situation that
22 this child is in. You do a full, complete investigation.

23 **MR. ENGELMANN:** Would that include following
24 up on alibi evidence or other evidence that an alleged
25 perpetrator might bring forward?

1 **DET/STAFF SGT. KEWLEY:** Absolutely.

2 **MR. ENGELMANN:** Now, Mr. Manderville from
3 the Cornwall Police Service, asked you a question, which
4 then led to a number of questions about what do you do when
5 you have a reluctant complainant. When you have a
6 complainant that has alleged some form of sexual assault
7 and then, for whatever reason, decides to change their mind
8 about wanting you to proceed. Do you recall that?

9 **DET/STAFF SGT. KEWLEY:** M'hm.

10 **MR. ENGELMANN:** And after that question, you
11 were asked some questions from the Commissioner and you've
12 been asked questions from Mr. Wallace and others.

13 So I just want to understand something.
14 When you talked about what you did -- and I don't know if
15 you define that as sexual assault of an adult or sexual
16 assault of a spouse or sexual assault of a child -- but you
17 said that your practice, at least, was to, after that you
18 were made aware that the person might want to not want to
19 proceed, that your practice was to then meet with that
20 person.

21 **DET/STAFF SGT. KEWLEY:** Right.

22 **MR. ENGELMANN:** And when you're talking
23 about your practice, I'm assuming this is your practice
24 back in the 1980s when you were investigating allegations
25 of sexual assault and sexual abuse.

1 **DET/STAFF SGT. KEWLEY:** Right. I would want
2 -- and not just back then, but you would want to know if
3 there's been any undue pressure from outside influences, so
4 to speak, that has brought them to the decision that they
5 have made.

6 **MR. ENGELMANN:** That's what I wanted to
7 check with you. If that was your practice back in the
8 '80s, would that still be prudent to engage in that
9 practice today?

10 **DET/STAFF SGT. KEWLEY:** Yes, it would be.

11 **MR. ENGELMANN:** And I think you just told me
12 the reason, but the reason why you'd want to have that
13 follow-up in person interview is to determine what?

14 **DET/STAFF SGT. KEWLEY:** I would want to know
15 why exactly did they not want to proceed. If it was
16 outside influence, I want to know that and we can deal with
17 that. But there may be personal reasons that they feel
18 very strongly about. Perhaps emotionally they're not ready
19 to do this at this particular point in time.

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

21 Now, as I understood that, that was the
22 least you would do and, in fact, in some
23 circumstances you would actually go to the Crown
24 and ask the Crown about whether to proceed.

25 **DET/STAFF SGT. KEWLEY:** If you had any doubt

1 about an investigation, that's what the Crowns do. That's
2 what they're there for, to run a case by them for advice.

3 **MR. ENGELMANN:** So if you did this for all
4 sexual assaults -- if we're dealing with the sexual assault
5 of a child and if we're dealing with the sexual assault of
6 a child allegedly by a person in authority, abuse of trust,
7 does that have some impact on whether or not you go to the
8 Crown?

9 **DET/STAFF SGT. KEWLEY:** If you had formed
10 your reasonable grounds, you can go ahead and lay the
11 charge. It doesn't necessarily mean you have to run a case
12 by the Crown Attorney. But if there's any problem -- when
13 we're dealing with, for example, historical sexual
14 assaults, you've got issues surrounding lost evidence.
15 You've got issues around records that may need to be
16 destroyed, those kinds of things. And that's why it would
17 be important to go to a Crown Attorney on that kind of a
18 case.

19 But if you have investigated a case and you
20 have formed your reasonable grounds, reasonable and
21 probable grounds, you can go ahead and lay the charge
22 without a consultation with the Crown Attorney.

23 **MR. ENGELMANN:** No, I was thinking more of
24 the person then decides not to proceed for whatever reason.
25 And if it is a situation where that person alleged they

1 were abused as a child and abused by a person of authority,
2 would that make you more or less likely to want to talk to
3 the Crown?

4 **DET/STAFF SGT. KEWLEY:** Absolutely, you
5 would want to talk to a Crown on that kind of a case.

6 **MR. ENGELMANN:** Thank you very much.
7 Those are all my questions.

8 **THE COMMISSIONER:** Thank you.

9 So it is time for a break. Now, I
10 understand we have a Motion to deal with. How would you
11 like to deal with that? We take a 15 minute break and then
12 we start?

13 **MR. ENGELMANN:** We have a slight problem.
14 The hard copies for -- actually for one of the parties is
15 not here. We have a procedure we've asked to be followed
16 on Motions ---

17 **THE COMMISSIONER:** Yes.

18 **MR. ENGELMANN:** --- and I don't know what
19 happened, but we don't have a hard copy of the materials
20 for the Cornwall Police Service. We've been checking all
21 morning. It wasn't Mr. Manderville personally who is
22 responsible for, I think, getting them here, but I don't
23 think his office did. So we actually don't have hard
24 copies of those materials. So we do have the Diocese
25 materials and obviously we have the Commission's materials

1 and that.

2 I don't know if anybody else is speaking to
3 the Motion other than three counsel; Mr.
4 Manderville, Me Ducasse and myself; we can canvas
5 that. But I think we're going to need to take a
6 break to determine how we're going to proceed.

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

8 **MR. ENGELMANN:** As I said, we don't have
9 hard copies of the Cornwall Police Service.

10 **THE COMMISSIONER:** All right.

11 So what do you suggest? We take a 15 minute
12 break and come back and see where we're - maybe you can
13 advise me in chambers on what's going on.

14 **MR. ENGELMANN:** And I'll get a sense,
15 actually, from other counsel about timing as well and how
16 long this might take.

17 **THE COMMISSIONER:** Very well. Thank you.
18 Let's take a break.

19 **THE REGISTRAR:** Order; all rise. À l'ordre.
20 Veuillez vous lever.

21 The hearing will reconvene at noon.

22 --- Upon recessing at 11:45 a.m./

23 L'audience est suspendue à 11h45

24 --- Upon resuming at 12:10 p.m./

25 L'audience est reprise à 12h10

1 **THE REGISTRAR:** Order. All rise. À
2 l'ordre. Veuillez vous lever.

3 This hearing of the Cornwall Public Inquiry
4 is now in session. Please be seated. Veuillez vous
5 asseoir.

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

7 **MR. ENGELMANN:** Mr. Commissioner, we've been
8 canvassing alternatives because of the insufficiency of
9 documents to proceed today.

10 **THE COMMISSIONER:** Right.

11 **MR. ENGELMANN:** Counsel is not available
12 next week during hearing weeks, but they've informed me,
13 the two counsel involved, that they are available the week
14 of June 5th.

15 **THE COMMISSIONER:** Right.

16 **MR. ENGELMANN:** So we would propose that the
17 Motion be argued the morning of June 6th.

18 **THE COMMISSIONER:** That's a Tuesday.

19 **MR. ENGELMANN:** That's a Tuesday, starting
20 at 10:00, and I think I can assure you on behalf of the
21 three of us who will be speaking that we will finish by the
22 noon break.

23 **THE COMMISSIONER:** All right.

24 And so you've canvassed the other lawyers to
25 ensure that they don't want to participate in it? They're

1 free to attend, I suppose.

2 **MR. ENGELMANN:** Yes. I've advised people
3 that they're free to attend. My understanding is that no
4 one wishes to participate, although there was some lobbying
5 going on at the break about trying to get people over on
6 one side or the other, and I can assure you I was not
7 lobbying.

8 But in any event, that would be Tuesday,
9 June 6th at 10:00 a.m.

10 **THE COMMISSIONER:** All right.

11 **MR. ENGELMANN:** So just to advise counsel
12 about next week, Monday the 29th at 2:00 p.m. we have the
13 Motion from the Diocese involving the redaction or removal
14 of certain names ---

15 **THE COMMISSIONER:** Yes.

16 **MR. ENGELMANN:** --- from the Victims' Group
17 affidavit. And I think we've only had two or three parties
18 that have filed material, so there may not be many speaking
19 to it. But that will be two o'clock on the 29th.

20 **THE COMMISSIONER:** Right.

21 **MR. ENGELMANN:** Then, starting the morning
22 of the 30th, we have witnesses from the Ontario Police
23 College, and there are three witnesses and I know parts of
24 all of their names but not all of their names, so I'm not
25 even going to try, but if counsel needs names, I can

1 provide it and I can speak to any counsel about disclosure
2 issues as well immediately after we break today, but we're
3 set to go on the 30th, 31st and 1st.

4 **THE COMMISSIONER:** And, Mr. Cipriano, may I
5 ask you -- we've heard from the church as to -- the Diocese
6 as to whether their appeal, how that's going on, can you
7 give me any idea as to when you will be in a position to
8 advise us of your position one way or the other?

9 **MR. CIPRIANO:** I did send a letter today to
10 your counsel indicating that we were likely going to seek a
11 review of the decision.

12 **THE COMMISSIONER:** Right.

13 **MR. CIPRIANO:** We haven't filed anything yet
14 and I was hoping to speak after today with counsel to
15 hammer out some details.

16 **THE COMMISSIONER:** All right. So when will
17 you be in the position to advise us. Are you telling ---

18 **MR. CIPRIANO:** I was going to ask counsel if
19 I could advise the Commission on Monday.

20 **THE COMMISSIONER:** All right. So we'll know
21 for sure on Monday what your plans are?

22 **MR. CIPRIANO:** Yes.

23 **THE COMMISSIONER:** All right, great. Thank
24 you.

25 Anything else then for the day?

1 Thank you. Today is Thursday, right? So
2 everyone is going to have a great long weekend again.

3 We will see you on Monday. Thank you.

4 **THE REGISTRAR:** Order. All rise. À
5 l'ordre. Veuillez vous lever.

6 The hearing is now adjourned. L'audience
7 est ajournée.

8 --- Upon adjourning at 12:13 p.m./

9 L'audience est ajournée à 12h13

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

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

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



Sean Prouse, CVR-CM