

**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 300

Held at :

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

Monday, November 10, 2008

Tenue à:

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

Lundi, le 10 novembre 2008

Appearances/Comparutions

Ms. Brigitte Beaulne	Registrar
M ^e Pierre R. Dumais	Commission Counsel
Ms. Reena Lalji	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff Ms. Diane Lahaie	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Kevin Hille	Attorney General for Ontario
Ms. Michele R.J. Allinotte	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. William Carroll Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn Mr. Ian Paul	Coalition for Action
Mr. Larry O'Brien	Randy Millar
Mr. Stephan McDougald	

Table of Contents / Table des matières

	Page
List of Exhibits :	iv
STEPHAN McDOUGALD, Sworn/Assermenté	2
Examination in-Chief by/Interrogatoire en-chef par Mr. Pierre Dumais	2
Cross-Examination by/Contre-interrogatoire par Ms. Helen Daley	60
Cross-Examination by/Contre-interrogatoire par Mr. Ian Paul	91
Cross-Examination by/Contre-interrogatoire par Mr. Dallas Lee	117
Cross-Examination by/Contre-interrogatoire par Mr. William Carroll	126
Motion by Ms. Helen Daley in the matter of Supplementary funding for the Citizens for Community Renewal/Requête par Ms. Helen Daley concernant des Fonds supplémentaires pour le Citizens for Community Renewal	128

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-2553	(200295) - Career Profile of Cst. Stephan McDougald	3
P-2554	(733586) - Project Truth Inquiry Officer Report of Steve McDougald dated 29 Jun 05	5
P-2555	(733587) - Notes of Steve McDougald dated 20 Dec 92	10
P-2556	(703891) - Notes of Patrick Dussault dated 17 Feb 93	39

1 -- Upon commencing at 2:04 p.m./

2 L'audience débute à 14h04

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good
10 afternoon.

11 **MR. DUMAIS:** Good afternoon, Mr.
12 Commissioner.

13 Before I call our next witness, just one
14 matter I want to address. There's a document that was
15 filed last week as Exhibit 2646 (sic), and that document is
16 an excerpt of Document Number 116253. So my understanding
17 is that ---

18 **THE COMMISSIONER:** Two-five-four-six (2546)?

19 **MR. DUMAIS:** Two-five-four-six (2546), thank
20 you.

21 And the following pages were filed: Bates
22 pages 1095004 and 1095011 through 014, and it is simply not
23 indicated for the record that that was an excerpt and so I
24 just wanted to correct the record.

25 **THE COMMISSIONER:** And introduce the new

1 counsel for the Attorney General, Mr. Hill, is it?

2 Good afternoon, sir. Welcome aboard.

3 **MR. DUMAIS:** And on that note, Mr.
4 Commissioner, if we can call Constable Stephan McDougald.

5 **THE COMMISSIONER:** Yes.

6 Good afternoon, sir. Madam Clerk?

7 **STEPHAN McDOUGALD, Sworn/Assermenté:**

8 **THE COMMISSIONER:** Thank you. Good
9 afternoon, sir.

10 **CST. McDOUGALD:** Good afternoon.

11 **THE COMMISSIONER:** Yes. Come on up and
12 bring the microphone down to your level or up to your
13 level. There's water and fresh glasses. There's a little
14 speaker in front of you in case you want to increase the
15 volume.

16 The bottom line is you've given evidence
17 before I'm sure. If there's anything that bothers you or
18 you need a break, let me know. And in the meantime, answer
19 the questions as best you can.

20 **CST. McDOUGALD:** Thank you, Commissioner.

21 **THE COMMISSIONER:** Thank you. Maître
22 Dumais?

23 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
24 **DUMAIS:**

25 **MR. DUMAIS:** Good afternoon, Constable.

1 **CST. McDOUGALD:** Good afternoon.

2 **MR. DUMAIS:** Thank you for making yourself
3 available on such short notice.

4 I'm going to ask Madam Clerk to put a
5 document in front of you which is Document Number 200295.

6 **THE COMMISSIONER:** Thank you.

7 Exhibit 2553 is a C.V. of Constable Stephan
8 McDonald (sic).

9 **CST. McDOUGALD:** McDougald.

10 **THE COMMISSIONER:** McDougald, I'm sorry.

11 --- **EXHIBIT NO./PIÈCE NO. P-2553:**

12 (200295) - Career Profile of Constable
13 Stephan McDougald

14 **MR. DUMAIS:** Now, Constable, you've seen
15 this career profile that was prepared on your behalf?

16 **CST. McDOUGALD:** Yes.

17 **MR. DUMAIS:** And it's accurate as far as you
18 can tell?

19 **CST. McDOUGALD:** My transfer to the Regional
20 Task Force in Cornwall occurred in 1994.

21 **MR. DUMAIS:** So that date would be the 2nd ay
22 of February, 991?

23 **CST. McDOUGALD:** Excuse me, no, to the
24 Regional Task Force in Cornwall, they have May, 1997 to
25 July 9th, 2000.

1 **MR. DUMAIS:** Yes?

2 **CST. McDOUGALD:** That actually occurred on
3 1994 to the year 2000.

4 **MR. DUMAIS:** All right.

5 And perhaps if you look, there's a notation
6 between those two dates, so the February 3rd, 1992 entry and
7 the May, 1997 to July 9th, 2000 entry, and it appears to
8 indicate that you were transferred to the Regional Task
9 Force but not officially before May, 1997. Is that right?

10 **CST. McDOUGALD:** Correct.

11 **MR. DUMAIS:** Okay. And if we can just then
12 briefly have a look at when you first started. My
13 understanding is you were probationer constable on November
14 2nd, 1987 at the Marathon Detachment?

15 **CST. McDOUGALD:** Yes.

16 **MR. DUMAIS:** And you became a Constable on
17 September 3rd, 1998?

18 **THE COMMISSIONER:** Eighty-eight ('88).

19 **MR. DUMAIS:** Eighty-eight ('88), sorry.

20 **CST. McDOUGALD:** Yes.

21 **MR. DUMAIS:** And then you transferred out to
22 the Lancaster Detachment on February 3rd, 1992?

23 **CST. McDOUGALD:** Yes.

24 **MR. DUMAIS:** And we are going to ask you a
25 few questions about one specific investigation that you're

1 involved with at around that period of time and, as you've
2 indicated, you transferred shortly thereafter to the
3 Regional Task Force; correct?

4 **CST. McDOUGALD:** Yes.

5 **MR. DUMAIS:** All right.

6 Now, pages 2 and 3 of your career profile
7 set out a number of courses and so these are all courses
8 that you've attended and completed. Is that correct?

9 **CST. McDOUGALD:** Yes.

10 **MR. DUMAIS:** All right.

11 So then if I can just take you to another
12 document which is Document Number 733586.

13 **THE COMMISSIONER:** Thank you.

14 This is a document called "Project Truth
15 Inquiry Officer Report"; the date is June 29th, 2005.

16 Publication ban on the document, please.

17 **--- EXHIBIT NO./PIÈCE NO. P-2554:**

18 (733586) - Project Truth Inquiry Officer
19 Report of Steve McDougald dated January 29,
20 2005

21 **MR. DUMAIS:** Thank you.

22 **THE COMMISSIONER:** Can we show it to the
23 public, Madam Clerk, but -- it can?

24 **MR. DUMAIS:** It can.

25 **THE COMMISSIONER:** It can?

1 **MR. DUMAIS:** Yes.

2 **THE COMMISSIONER:** So my screen is off now,
3 Madam Clerk, so you may -- okay. Mr. ---

4 **MR. LEE:** We take it off the public screen.

5 **THE COMMISSIONER:** We want to take it off
6 the public screen? Okay.

7 **MR. LEE:** It's off the public screens now?

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

9 **MR. LEE:** I'm not exactly sure of this, but
10 C-8 is identified in this document. He testified in
11 camera.

12 **THE COMMISSIONER:** Yes.

13 **MR. LEE:** He was given, as I understood, the
14 fullest protection available to him. So I would think that
15 it should not be on the public screens. It's not a typical
16 moniker in that it's not a typical pub ban. It's a moniker
17 of an individual who testified in camera.

18 **THE COMMISSIONER:** I was just looking around
19 and while I don't know about the public over there, but
20 they look pretty well like OPP officers to me. I don't
21 know and the people over there are from CCR who signed
22 undertakings, but ---

23 **MR. LEE:** Generally, though, my bigger
24 concern is if somebody were to come to the front desk.

25 **THE COMMISSIONER:** Fine, thank you.

1 **MR. DUMAIS:** I mean, this we may -- I want
2 to redress this particular moniker for C-8 because I
3 believe it was somewhat treated differently because he gave
4 his evidence in camera, but I think he can be protected by
5 a simple moniker for the remainder of the evidence here at
6 the Inquiry, Mr. Commissioner.

7 **THE COMMISSIONER:** Right, but what Mr. Lee
8 is saying is if someone comes up to the desk and says, "I
9 want Exhibit 2554", right?

10 **MR. DUMAIS:** Yes?

11 **THE COMMISSIONER:** They shouldn't be able to
12 get it unless the name is struck out because there's not
13 only a ban of publication, there was a ban on his name
14 being known at any time.

15 **MR. DUMAIS:** Yes, but, I mean, perhaps I'll
16 just leave that argument aside for now. I mean, this is
17 something I need to address with you when we do the
18 corrections on monikers and publication bans.

19 **THE COMMISSIONER:** Okay. So for the time
20 being, Madam Clerk, just highlight on this exhibit that it
21 is not to be released without blacking out C-8's name; for
22 the time being. That's just an interim precaution so that
23 Mr. Lee will be happy and you will be happy.

24 **MR. DUMAIS:** Thank you.

25 **THE COMMISSIONER:** All right.

1 **MR. DUMAIS:** All right, Constable.

2 So this document -- essentially, you
3 prepared this document, Constable?

4 **CST. McDOUGALD:** Yes.

5 **MR. DUMAIS:** Yes. And this is a chronology
6 of the events that occurred on about December 18th, 1992
7 when you received a complaint at the Lancaster Detachment.
8 Is that correct?

9 **CST. McDOUGALD:** Yes.

10 **MR. DUMAIS:** And the complaint you received
11 was from a gentleman that we refer to here as C-8, correct?

12 **CST. McDOUGALD:** Correct.

13 **MR. DUMAIS:** And my understanding is that C-
14 8 was complaining or filed a complaint with you regarding a
15 Mr. Ron Leroux; is that correct?

16 **CST. McDOUGALD:** Correct.

17 **MR. DUMAIS:** And as I understand it, C-8 was
18 complaining that Mr. Leroux was harassing him. He also
19 made a mention that he was perhaps suicidal and mentioned
20 as well that he was in possession of a number of weapons;
21 is that correct?

22 **CST. McDOUGALD:** Correct.

23 **MR. DUMAIS:** My understanding is that after
24 this conversation -- and C-8 also indicated to you that he
25 was presently in possession of Ron Leroux's weapons; is

1 that correct?

2 **CST. McDOUGALD:** He was in possession of
3 four of the weapons.

4 **MR. DUMAIS:** All right.

5 And I understand that arrangements were made
6 to have C-8 attend at the detachment for the purpose of
7 obtaining those weapons from him; is that correct?

8 **CST. McDOUGALD:** Arrangements were made for
9 C-8 to attend the office to give a statement and to bring
10 the four weapons with him.

11 **MR. DUMAIS:** Okay. And did C-8 do that?

12 **CST. McDOUGALD:** Yes, he did.

13 **MR. DUMAIS:** All right.

14 So he gave the weapons to you. You took
15 possession of them and stored them at the detachment?

16 **CST. McDOUGALD:** Yes.

17 **MR. DUMAIS:** He also gave you a statement
18 about essentially what he had told you over the phone; is
19 that correct?

20 **CST. McDOUGALD:** Yes.

21 **MR. DUMAIS:** All right.

22 Now, my understanding is that following his
23 attendance at the detachment you would have made
24 arrangements to attend at Mr. Leroux's residence to speak
25 with him.

1 CST. McDOUGALD: Yes.

2 MR. DUMAIS: And as I understand as you are
3 going through these investigative steps you're taking down
4 notes in your notebook; is that correct?

5 CST. McDOUGALD: Yes.

6 MR. DUMAIS: All right.

7 And perhaps if we can put Document Number
8 733587 to you.

9 THE COMMISSIONER: Thank you.

10 Exhibit 2555 are police officer's notes of
11 Officer Steve McDougald. First, do we have an idea of what
12 years they ---

13 MR. DUMAIS: They would start in 19 -- in
14 December of 1992 through April or May 1993.

15 THE COMMISSIONER: Okay. That's Exhibit
16 2555.

17 --- EXHIBIT NO./PIÈCE NO. P-2555:

18 (733587) Notes of Steve McDougald dated 20
19 Dec 92

20 MR. DUMAIS: Again, these notes contain a
21 reference to C-8.

22 THE COMMISSIONER: All right. Same thing,
23 Madam Clerk.

24 MR. DUMAIS: So, Constable, you'll notice
25 that there's a number at the top left-hand corner of the

1 document, and that's what we call the Bates page. So I'm
2 going to refer you -- refer you to the specific Bates page
3 that I want you to look at, so 7130990.

4 **CST. McDOUGALD:** Could you repeat the
5 number, please?

6 **MR. DUMAIS:** Seven-one-three-zero-nine-nine-
7 zero (7130990).

8 **CST. McDOUGALD:** Yes, all right.

9 **MR. DUMAIS:** So these are your notes that
10 start on December 20th, 1992.

11 **CST. McDOUGALD:** Yes.

12 **MR. DUMAIS:** And you're attending at Mr.
13 Leroux's residence that morning; is that correct?

14 **CST. McDOUGALD:** Yes.

15 **MR. DUMAIS:** And you are accompanied by a
16 fellow officer, Constable Dussault; is that correct?

17 **CST. McDOUGALD:** Correct.

18 **MR. DUMAIS:** All right.

19 And do you recall whether or not you are
20 addressing Mr. Leroux or is it Constable Dussault?

21 **CST. McDOUGALD:** I am addressing Mr. Leroux.

22 **MR. DUMAIS:** All right.

23 And can you tell us a bit about that
24 conversation, what you told him and what he was telling
25 you?

1 **CST. McDOUGALD:** I advised Mr. Leroux of the
2 complaint received by C-8 and the particulars of the
3 complaint. Mr. Leroux denied any harassment or that he was
4 harassing anybody. He initially advised that he was --
5 because we were dealing with the harassing aspect and also
6 the potential of suicidal -- he advised that he was not
7 suicidal, had never mentioned anything about suicide.

8 **MR. DUMAIS:** Does he also confirm that he's
9 having some sort of a -- he acknowledges some sort of a
10 dispute with C-8?

11 **CST. McDOUGALD:** I'll just find that in my
12 notes here.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. DUMAIS:** Okay.

15 **CST. McDOUGALD:** Yes. He advised that he
16 was in the process of signing over his house to C-8 and
17 that he was speaking with his personal lawyer about that
18 matter, which was a civil matter at the time.

19 **MR. DUMAIS:** All right.
20 And he identifies the lawyer to you?

21 **CST. McDOUGALD:** Yes.

22 **MR. DUMAIS:** And he indicates that Malcolm
23 MacDonald is acting for him; correct?

24 **CST. McDOUGALD:** Right, he does.

25 **MR. DUMAIS:** All right.

1 And when you attend there that morning and
2 you meet with Mr. Leroux, this is just part of your
3 investigation? You're not there to arrest him; is that
4 correct?

5 **CST. McDOUGALD:** No, I am not.

6 **MR. DUMAIS:** And after you speak with him
7 you don't arrest him either; correct?

8 **CST. McDOUGALD:** No, Mr. Leroux was issued a
9 warning for the harassment and advised if the harassment or
10 if any harassment were to continue that we would take
11 further action and that he would be arrested and charged
12 for offences.

13 **MR. DUMAIS:** All right.

14 And do you have any discussion with him with
15 respect to the weapons that are now in your possession?

16 **CST. McDOUGALD:** Yes.

17 **MR. DUMAIS:** And what do you tell him and
18 what's his position?

19 **CST. McDOUGALD:** He's advised that four of
20 the weapons were turned over to us by C-8 and that we were
21 currently holding those weapons at the detachment in
22 Lancaster for safekeeping. Mr. Leroux made it known to
23 myself that he didn't care about the guns and as far as he
24 was concerned we can either keep the guns.

25 **MR. DUMAIS:** He wasn't too concerned about

1 the return of the guns or where the ---

2 CST. McDOUGALD: Not at all.

3 MR. DUMAIS: All right.

4 And your meeting with -- you met with Mr.
5 Ron Leroux at his residence; correct?

6 CST. McDOUGALD: Correct.

7 MR. DUMAIS: And that's the same residence
8 where later on you would execute a search warrant; is that
9 correct?

10 CST. McDOUGALD: Correct.

11 MR. DUMAIS: Did you ever ask C-8 where he
12 had obtained the four weapons that he gave to you?

13 CST. McDOUGALD: I don't recall.

14 MR. DUMAIS: Now, I understand that on
15 January 10th, 1993 Mr. Leroux would have spoken to you and I
16 think you make that entry at Bates pages 993. I'm just
17 going to name the last three numbers. So that's the entry
18 on January 10th, 1993. Are you there?

19 CST. McDOUGALD: Yes.

20 MR. DUMAIS: And this would have been a
21 telephone conversation that you would have had with him
22 where he was indicating that he wasn't too concerned about
23 the return of the weapons; correct?

24 CST. McDOUGALD: At that point Mr. Leroux
25 advised as far as he was concerned C-8 could have the

1 weapons. I advised him at that particular time I did not
2 believe C-8 had the proper permits to possess and that if
3 he was to have the weapons he would have to go through the
4 appropriate procedure.

5 **MR. DUMAIS:** And if I can just have you go
6 back to the previous page, Constable, which would be Bates
7 pages 992?

8 And I'm just looking at the entry that
9 starts in the left-hand margin? There is a word indicated.
10 I believe it's "note" is that correct?

11 **CST. McDOUGALD:** Correct.

12 **MR. DUMAIS:** Okay. So I'll just read it out
13 for you:

14 "It appears Leroux is holding something
15 back. Yet, at this time there are no
16 legal grounds to keep guns as he
17 doesn't appear...." ...

18 **CST. McDOUGALD:** "...appear..."

19 **MR. DUMAIS:** "...on surface as suicidal."

20 So the first part of your note is that Mr.
21 Leroux appears to be holding something back. Do you recall
22 what your thoughts were at that time?

23 **CST. McDOUGALD:** Mr. Leroux appeared to be
24 holding back his involvement with C-8 but my determination
25 of his mental being or suicidal aspect which was -- which

1 was what I was looking at the particular time, there was no
2 evidence at all that he appeared suicidal to myself.

3 **MR. DUMAIS:** Okay.

4 **CST. McDOUGALD:** So that's what I'm
5 referring to at that point.

6 **MR. DUMAIS:** So you believe he was holding
7 back as to his involvement in the harassment of C-8?

8 **CST. McDOUGALD:** Not in the harassment; it
9 would be holding back as to what was happening with the
10 house. He explained that, obviously they had been looking
11 together ---

12 **THE COMMISSIONER:** No, no. You have to be
13 careful. We can't give any -- allude to anything that
14 would help to identify C-8 as well.

15 **CST. McDOUGALD:** Right. Sorry Commissioner.

16 **MR. DUMAIS:** All right. So he wasn't
17 forthcoming with some of the details of his involvement
18 with C-8?

19 **CST. McDOUGALD:** I believe he was not
20 forthcoming with some of the civil aspect.

21 **MR. DUMAIS:** All right. Fair enough. Now,
22 I understand that on -- a couple days afterwards, so I'm
23 looking at the entries on January 12th, 1993 and that's at
24 Bates page 994 -- you would have had some sort of
25 conversation with the staff sergeant as well as another

1 officer at the detachment. I believe it was Sergeant
2 Vanderwood?

3 **CST. McDOUGALD:** Correct.

4 **MR. DUMAIS:** Am I pronouncing that right?

5 **CST. McDOUGALD:** Yes.

6 **MR. DUMAIS:** All right. And I think the
7 discussion at this point in time is you were seeking some
8 advice as to what you should be doing with the weapons.

9 And they would have told you something to
10 the effect "Well, we'll keep the weapons. If ever Mr.
11 Leroux wants the weapons back, we can apply to court for
12 some sort of a probation order." Am I -- do I have that
13 right?

14 **CST. McDOUGALD:** Correct.

15 **MR. DUMAIS:** So at this point in time, are
16 you still investigating the matter or does that essentially
17 terminate your involvement until you receive information to
18 get the search warrant? Are you still interviewing people
19 or do you have the weapons? No one wants them back.
20 Nothing's happening. Is that fair?

21 **CST. McDOUGALD:** I believe I have a notation
22 at one point in my notes that I was waiting for Mr. Leroux
23 to get back to me; that he was going to confer with his
24 lawyer, Malcolm MacDonald, as to what he wanted to do with
25 the weapons.

1 **MR. DUMAIS:** All right.

2 **CST. McDOUGALD:** That was my first opinion
3 that he didn't want the weapons back and that he was
4 probably either going to turn them over to the OPP for
5 destruction and he wanted to confer with his lawyer at that
6 time. And I was waiting for that reply to come back from
7 him.

8 **MR. DUMAIS:** All right. Then my
9 understanding is that your staff sergeant would have
10 received some information that Mr. Leroux may had had other
11 weapons registered to his name. Is that correct?

12 **CST. McDOUGALD:** Yes.

13 **MR. DUMAIS:** All right. And he would have
14 gotten a search done at the -- through the RCMP office;
15 received the results; and then calls you into his office
16 and gives you this information. Is that correct?

17 **CST. McDOUGALD:** Yes, my staff sergeant did
18 confer with myself at a later date stating that there were
19 still two outstanding guns and that he had acquired that
20 information.

21 **MR. DUMAIS:** All right. So, at one point in
22 time, a decision is made to swear an Information to Obtain
23 a search warrant. Is that correct?

24 **CST. McDOUGALD:** Yes.

25 **MR. DUMAIS:** All right. And we've looked at

1 **THE COMMISSIONER:** Six-zero-three (603)?

2 The warrant is -- yes, the warrant is there;
3 Appendix A and B are there; and so is the return -- no, not
4 the return. Okay.

5 **MR. DUMAIS:** It's the way it was filed.

6 **THE COMMISSIONER:** Yes, I know. Okay.

7 **MR. DUMAIS:** All right. So, Constable, you
8 obtain the warrant; you want to execute this warrant -- you
9 want to execute the warrant and sign -- the Information was
10 obtained by you on February 9th; the warrant was obtained on
11 February 10th.

12 You are attempting to find a means to get
13 access to the residence. Is that correct?

14 **CST. McDOUGALD:** Correct. Once the warrant
15 was sworn, Detective Constable Millar and myself attended
16 the residence immediately afterwards. And there was nobody
17 at the residence at that particular time; the building was
18 locked up.

19 **MR. DUMAIS:** All right. My understanding,
20 Constable, is that before attending at the residence, you
21 would have made a few calls to find out if someone had the
22 key to the residence.

23 **CST. McDOUGALD:** No. We attended the
24 residence first ---

25 **MR. DUMAIS:** Yes.

1 **CST. McDOUGALD:** --- in an attempt to
2 execute the warrant. Upon arriving at the residence, the
3 residence was locked; there was no answer.

4 **MR. DUMAIS:** Okay.

5 **CST. McDOUGALD:** There was no exigent
6 circumstances to enter the house by breaking a door,
7 breaking a window ---

8 **MR. DUMAIS:** Yes.

9 **CST. McDOUGALD:** --- at that particular
10 time. So we re-attended the detachment in Lancaster in an
11 attempt to see if we could locate a key so we could make a
12 less intrusive entry.

13 **MR. DUMAIS:** All right. So then one of the
14 calls you are making is to C-8. Is that correct? That's
15 the first call you make?

16 **CST. McDOUGALD:** If I can refer to my notes,
17 I believe that might have been the second.

18 **MR. DUMAIS:** Yes, that's Bates page 997.

19 **CST. McDOUGALD:** The first phone call that
20 was made upon returning to the detachment would have been
21 to Mr. Leroux' lawyer Malcolm MacDonald ---

22 **MR. DUMAIS:** Yes.

23 **CST. McDOUGALD:** --- as I was aware that he
24 was his personal lawyer. At that time, I asked Mr. Malcolm
25 MacDonald if he was aware of a key existing or where we can

1 get a key for the entry into the house. And he advised at
2 that point that he did not.

3 **MR. DUMAIS:** And you would have given C-8 a
4 call; correct?

5 **CST. McDOUGALD:** Correct.

6 **MR. DUMAIS:** And he was trying to locate a
7 key as well.

8 **CST. McDOUGALD:** That I don't know. I was
9 just advised that he did not have one.

10 **MR. DUMAIS:** Okay. Certainly Mr. MacDonald
11 was not interested in attending at the residence with you
12 to witness the execution of the warrant?

13 **CST. McDOUGALD:** I made another phone call
14 after speaking to C-8. I did call Mr. Malcolm MacDonald
15 back. At that particular time, I did advise him that we
16 have the warrant that we're going to be executing. Out of
17 courtesy for Mr. Leroux, I asked Mr. MacDonald if he wanted
18 to attend the residence. During the first phone call, Mr.
19 MacDonald advised that Mr. Leroux was in Florida, so he was
20 gone for two weeks and would not be available to attend the
21 house.

22 We were going to be executing the warrant
23 that day, knowing that there was not going to be anybody at
24 the house. I asked Mr. MacDonald if he wanted to be there
25 on behalf of his client, just to ensure that nothing was

1 done to the house and that the search was done amicably;
2 there was no destruction or anything that we could be
3 accused of after.

4 **MR. DUMAIS:** All right.

5 **CST. McDOUGALD:** And Mr. MacDonald advised
6 that he did not want to attend.

7 **MR. DUMAIS:** So my understanding is that C-8
8 would then have called you shortly afterwards and indicated
9 that he had a key to the residence and he was actually at
10 the residence. Is that correct?

11 **CST. McDOUGALD:** Correct. We received a
12 telephone call after by C-8, advising that he had located
13 the key and that he was currently at the residence, and had
14 also located one of the hand guns. C-8 was instructed by
15 myself not to do anything further and to remain at the
16 residence until we arrived.

17 **MR. DUMAIS:** All right. Now, when you first
18 attended the residence that morning do you recall whether
19 or not you were accompanied by a fellow officer?

20 **CST. McDOUGALD:** Yes, I was. Detective
21 Constable Randy Millar.

22 **MR. DUMAIS:** Okay. And did he attend with
23 you at the residence on the second time as well?

24 **CST. McDOUGALD:** He attended on the first
25 attempt when we went to the residence after leaving

1 Cornwall and he came back to the residence with me when we
2 executed the warrant.

3 **MR. DUMAIS:** Okay. Do you recall how
4 Detective Millar became involved? Did you ask him to
5 accompany you or did he make that request from you? Do you
6 recall how this happened?

7 **CST. McDOUGALD:** I don't recall the
8 specifics of how he became involved. It was to assist
9 myself, as I believe this was the first warrant that I was
10 involved in and I was looking for assistance from somebody
11 who had the experience of being in the position to have
12 executed warrants in the past.

13 **MR. DUMAIS:** All right. So then do you
14 finally -- you attend the house. I understand you meet C-8
15 there. As you -- when you get there you give him a copy of
16 the warrant and he gives you one of the weapons that had
17 been identified on the search warrant. Is that correct?

18 **CST. McDOUGALD:** Correct.

19 **MR. DUMAIS:** Following this, I understand
20 that you make entry in the residence and you start
21 searching the house; correct?

22 **CST. McDOUGALD:** Correct.

23 **MR. DUMAIS:** Okay. Can you tell us what you
24 remember from that, who was doing what, and where you were
25 and where Detective Millar was?

1 **CST. McDOUGALD:** No, I can't tell you. I
2 don't have a recollection of -- I remember entering the
3 house, being met by C-8. I remember explaining the
4 warrant, showing him a copy of the warrant; remember
5 receiving one of the hand guns from C-8 and at that
6 particular time dealing with that.

7 **MR. DUMAIS:** All right. So the information
8 that you had at this point-in-time was that there's two
9 weapons. One you already have, so you're looking for the
10 other one; correct?

11 **CST. McDOUGALD:** Correct.

12 **MR. DUMAIS:** And was it your understanding
13 that this weapon was a hand gun?

14 **CST. McDOUGALD:** Correct.

15 **MR. DUMAIS:** All right. And I'm just
16 looking at your notes, Bates pages 998, so the last six or
17 seven lines in the entry read as follows:

18 "Search upstairs P.C. Millar. Found in
19 closet behind bathtub."

20 Perhaps I can ask you to read the rest.

21 **CST. McDOUGALD:** "Hiding place, two loose
22 apparent pornographic tapes."

23 **MR. DUMAIS:** All right. So it appears that
24 Detective Millar would have found some pornographic
25 material. Is that correct?

1 CST. McDOUGALD: Correct.

2 MR. DUMAIS: All right. Do you recall
3 whether or not you were with him when the material was
4 found?

5 CST. McDOUGALD: I was not with him.

6 MR. DUMAIS: Okay. And so it appears that
7 he's upstairs. Do you recall whether or not you went up
8 there -- he asked you to go up there -- or does he find you
9 downstairs, or how does that happen?

10 CST. McDOUGALD: I do not recall going
11 upstairs in the house myself. I do recall at one point
12 Detective Constable Millar coming downstairs with items.

13 MR. DUMAIS: All right. And do you recall
14 what he had with him?

15 CST. McDOUGALD: Excuse me?

16 MR. DUMAIS: Did you recall what he had with
17 him?

18 CST. McDOUGALD: He had two loose VHS
19 videotapes and a small suitcase that had a lock, a little
20 padlock, on it.

21 MR. DUMAIS: Okay, so -- and when you first
22 see this suitcase is it open or is it still locked?

23 CST. McDOUGALD: It's locked.

24 MR. DUMAIS: Okay. And I understand that at
25 one point-in-time a decision was made to open the suitcase?

1 **CST. McDOUGALD:** Correct.

2 **MR. DUMAIS:** So did you guys have to break
3 the lock to get into the suitcase?

4 **CST. McDOUGALD:** I did not open the suitcase
5 so I don't recall how it was opened.

6 **MR. DUMAIS:** Okay. And it was Detective
7 Millar that did?

8 **CST. McDOUGALD:** I don't recall. I just
9 know I did not open the suitcase.

10 **MR. DUMAIS:** Okay. Suffice to say that at
11 one point someone opens the suitcase and that's been done
12 right at the house; correct?

13 **CST. McDOUGALD:** Correct.

14 **MR. DUMAIS:** And I understand as well that
15 the suitcase contained a number of videotapes?

16 **CST. McDOUGALD:** Correct, it did.

17 **MR. DUMAIS:** Can you -- do you recall what
18 those tapes looked like? Can you describe them for us?

19 **CST. McDOUGALD:** They appeared to be
20 standard VHS videotapes.

21 **MR. DUMAIS:** All right. And so do they look
22 like the tapes, the blank tapes, that you'd buy at the
23 store to record something on them?

24 **CST. McDOUGALD:** Some appeared to be blank
25 tapes with labels on them. Other tapes appeared to be

1 commercially bought tapes.

2 MR. DUMAIS: Okay. So is it a combination
3 of the two?

4 CST. McDOUGALD: Correct.

5 MR. DUMAIS: All right. And do you recall
6 what -- any of the inscriptions on some of the labels?

7 CST. McDOUGALD: The only one that stands
8 out in my mind is "The Boys From Company C".

9 MR. DUMAIS: All right. And my
10 understanding is that you would have viewed some of the
11 tapes at the residence itself. Is that correct?

12 CST. McDOUGALD: One VHS tape was placed in
13 a video recorder at the residence ---

14 MR. DUMAIS: Okay.

15 CST. McDOUGALD: --- and viewed on the TV
16 screen.

17 MR. DUMAIS: Okay. And do you recall why
18 you would have done that; do you know?

19 CST. McDOUGALD: I don't remember the
20 specific conversation.

21 MR. DUMAIS: Okay. And what did you observe
22 when you viewed the tape at the residence?

23 CST. McDOUGALD: Male homosexual acts.

24 MR. DUMAIS: All right.

25 So at one point-in-time a decision is made

1 to take possession of these tapes and bring them back to
2 the detachment. Is that correct?

3 **CST. McDOUGALD:** Yes.

4 **MR. DUMAIS:** All right.

5 And I understand that you also found a
6 further weapon. Is that correct?

7 **CST. McDOUGALD:** That is correct.

8 **MR. DUMAIS:** Now, I'm just looking at your
9 notes again and this is an entry that you have at Bates
10 page 999, and it's about the 12th line. It starts with
11 "statement", so:

12 "Statement taken from C-8 from myself."

13 **CST. McDOUGALD:** Correct.

14 **MR. DUMAIS:** So you took a statement from
15 him. Do you recall what the statement was about?

16 **CST. McDOUGALD:** I don't recall at this
17 time.

18 **MR. DUMAIS:** All right. So you don't recall
19 whether or not you're taking a statement with respect to
20 the complaint or whether or not you had asked him any
21 questions about the videotapes?

22 **CST. McDOUGALD:** There was no questions
23 about the videotape and C-8 never mentioned anything about
24 the videotapes in our presence.

25 **MR. DUMAIS:** Okay. When you were viewing

1 these tapes, was C-8 at the same -- in the same area that
2 you were?

3 **CST. McDOUGALD:** I don't recall.

4 **MR. DUMAIS:** All right.

5 So then you returned to the detachment,
6 you've got these weapons; my understanding is that you
7 would have secured the weapons in your exhibit locker. Is
8 that correct?

9 **CST. McDOUGALD:** That's correct. They were
10 lodged in the detachment vault.

11 **MR. DUMAIS:** All right.

12 **CST. McDOUGALD:** Exhibit vault.

13 **MR. DUMAIS:** And at one point in time, you
14 would have had a conversation with Staff Sergeant McWade as
15 to what should be done about these tapes. Is that correct?

16 **CST. McDOUGALD:** Correct.

17 **MR. DUMAIS:** All right.

18 Do you recall that conversation and what was
19 said?

20 **CST. McDOUGALD:** I don't recall the
21 conversation, obviously, verbatim. The detachment
22 commander was advised that the tapes were located at the
23 residence. They were brought back by myself for further
24 inspection to see if there was any criminality occurring
25 within the tapes and that was the reason why we brought

1 them back. I had put a request into my detachment
2 commander that the tapes be sent to a section within the
3 OPP called Project P ---

4 **MR. DUMAIS:** Yes.

5 **CST. McDOUGALD:** --- which is out of our
6 headquarters in Orillia, as I believed that they were the
7 proper people to view the tapes in their entirety. My
8 detachment commander advised me that he wanted me to review
9 the tapes locally at the detachment. I was aware that
10 Project P was a small section at that point; I believe only
11 four or five members and the discussion was that they would
12 be too busy with other investigations, provincially, to be
13 looking at 22 tapes.

14 **MR. DUMAIS:** All right.

15 And you're getting this explanation from
16 your staff sergeant?

17 **CST. McDOUGALD:** Correct. We would have had
18 that conversation in the detachment.

19 **MR. DUMAIS:** Okay.

20 It appears that Detective Millar may have
21 called Project P from the residence when you guys were
22 executing the warrant. Were you made aware of that?

23 **CST. McDOUGALD:** No, I was not.

24 **MR. DUMAIS:** Okay.

25 And ---

1 **THE COMMISSIONER:** Were you later made aware
2 of that?

3 **CST. McDOUGALD:** Excuse me, Commissioner?

4 **THE COMMISSIONER:** Sorry, were you later
5 made aware of that?

6 **CST. McDOUGALD:** Just recently.

7 **THE COMMISSIONER:** Okay.

8 **MR. DUMAIS:** And while you're having this
9 conversation with your staff sergeant, is Detective Millar
10 still around?

11 **CST. McDOUGALD:** That I can't say.

12 **MR. DUMAIS:** All right.

13 **CST. McDOUGALD:** We would have returned to
14 the detachment at that same time because we were in the
15 same vehicle. Where he was during some of this
16 conversation, I can't say.

17 **MR. DUMAIS:** Now, I understand that you then
18 obtained instructions from your staff sergeant to review
19 those tapes. Is that correct?

20 **CST. McDOUGALD:** Correct.

21 **MR. DUMAIS:** And do you recall what specific
22 instructions as to how you should review the tapes and what
23 you should be looking for?

24 **CST. McDOUGALD:** The discussion was between
25 myself and the staff sergeant as to how sometimes tapes may

1 be doctored up with other material that of criminal nature
2 and sometimes that these may be placed part way through an
3 existing tape.

4 **MR. DUMAIS:** Yes.

5 **CST. McDOUGALD:** The instructions were --
6 because as stated, I advised him I was not interested in
7 viewing the tapes; I didn't feel comfortable viewing the
8 tapes in their entirety. He had advised me to individually
9 go through the tapes by pressing play, fast forward, fast
10 forward and fast forward, skipping through certain parts;
11 like view the beginning of the tape, skip through maybe a
12 segment, press fast play again and that's what I ended up
13 doing with the tapes.

14 **MR. DUMAIS:** Okay.

15 So your instructions then from the staff
16 sergeant were not to view these tapes from beginning to
17 end; correct?

18 **CST. McDOUGALD:** Correct.

19 **MR. DUMAIS:** All right.

20 And ---

21 **THE COMMISSIONER:** But did he tell you what
22 you were looking for?

23 **CST. McDOUGALD:** Well, I had explained to
24 him the reason why I brought the tapes back and that ---

25 **THE COMMISSIONER:** And that was ---

1 **CST. McDOUGALD:** --- and the discussion
2 between the two of us was based on the fact that there
3 could be something on the tape that -- of criminal nature
4 like child pornography, snuff films, bondage films, you
5 know, and that's what we were looking for.

6 **MR. DUMAIS:** Do you recall your staff
7 sergeant indicating something to the effect; you should be
8 looking for homemade tapes of local people?

9 **CST. McDOUGALD:** He never mentioned that.
10 That's just my note taking.

11 **MR. DUMAIS:** All right.

12 **THE COMMISSIONER:** Your note taking?

13 **CST. McDOUGALD:** That's my note taking.
14 This -- my notes are to refresh my memory down the road ---

15 **THE COMMISSIONER:** Yes.

16 **CST. McDOUGALD:** --- so that is just a
17 comment that I placed in my notes. I was never instructed
18 by my staff sergeant to look for local people; that is just
19 something that I placed in my notes as I'm making my notes.

20 **THE COMMISSIONER:** So why would you put that
21 in your notes?

22 **CST. McDOUGALD:** Just to refresh my memory
23 that I'm looking for these videos to see if there's any
24 criminal nature in ---

25 **MR. DUMAIS:** All right.

1 **THE COMMISSIONER:** That doesn't quite -- the
2 logic there kind of escapes me in the sense that there
3 could be pornographic material, it could be about bondage,
4 it could be about children, but why would you write down to
5 look for residents.

6 **CST. McDOUGALD:** It's a wrong terminology
7 that I'm not looking for local residents. It's just a word
8 I put in my notebooks as I'm sitting down trying to get
9 caught up on my notes. The tapes were specifically seized
10 to look at to see if there was anything on there like
11 criminal nature of bondage, snuff films or pornography. We
12 weren't looking specifically to see if there was a local
13 person on. It was to see if there was anything of criminal
14 nature.

15 **MR. DUMAIS:** All right.

16 Now, my understanding is that you would have
17 prepared a property report ---

18 **CST. McDOUGALD:** Yes.

19 **MR. DUMAIS:** --- to properly store these
20 tapes when you got to the detachment.

21 And if Madam Clerk can just put to you doc -
22 - Exhibit Number 1144?

23 **THE COMMISSIONER:** Exhibit 1144.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MR. DUMAIS:** Did you prepare this document,

1 Constable?

2 **CST. McDOUGALD:** Yes, I did.

3 **MR. DUMAIS:** All right.

4 So essentially -- and that is your signature
5 at about mid-page?

6 **CST. McDOUGALD:** Yes, it is.

7 **MR. DUMAIS:** All right.

8 And in order for you to store anything in
9 the vault, you need to fill out one of these property
10 sheets. Is that correct?

11 **CST. McDOUGALD:** Correct.

12 **MR. DUMAIS:** All right.

13 And this property sheet identifies the 20
14 pornographic videos and the other two loose videos that had
15 been seized from the house. Is that correct?

16 **CST. McDOUGALD:** Correct, it identifies the
17 suitcase that the 20 cassettes were placed in; the 20
18 videos and the two loose videos.

19 **MR. DUMAIS:** Yes, thank you.

20 So then once the sheet is filled out, you're
21 storing these tapes in the vault. Do I have the right
22 terminology? Is that where you put them?

23 **CST. McDOUGALD:** They were stored in the
24 property vault; that's correct.

25 **MR. DUMAIS:** Okay.

1 And that property vault is locked?

2 **CST. McDOUGALD:** Correct.

3 **MR. DUMAIS:** All right.

4 Does everyone have access to that; all
5 officers working at the detachment?

6 **CST. McDOUGALD:** Sixteen (16) years ago,
7 yes.

8 **MR. DUMAIS:** Okay.

9 It's no longer like that today?

10 **CST. McDOUGALD:** That's correct; it's not
11 like that today.

12 **MR. DUMAIS:** Okay.

13 So essentially, everyone that works at the
14 station can walk in and out of the vault, back then?

15 **CST. McDOUGALD:** Uniformed members.

16 **MR. DUMAIS:** Uniformed members, okay.

17 And what about the caretaker, did he have
18 access to the vault?

19 **CST. McDOUGALD:** That I can't answer.

20 **MR. DUMAIS:** And this property report would
21 have been prepared on the same date that the search warrant
22 was executed, so on February 10th, 1993?

23 **CST. McDOUGALD:** Correct.

24 **MR. DUMAIS:** Okay.

25 And my understanding is that the next time

1 you would have seen these tapes would have been on February
2 17th when you started reviewing them, and I'm looking here
3 at Bates pages 002 of your notes, Constable.

4 **CST. McDOUGALD:** Yes.

5 **MR. DUMAIS:** And perhaps -- can you just
6 read out the entry there on whatever you wrote down on
7 February 17th, 1993?

8 **CST. McDOUGALD:**

9 "10/7 detachment follow..."

10 Which would be follow-up on:

11 "...92-02915 viewing of porn videos."

12 **MR. DUMAIS:** And then the next entry?

13 **CST. McDOUGALD:** "10:08: patrol with..."

14 And then I don't have the next line.

15 **MR. DUMAIS:** Okay.

16 So does this essentially mean that you would
17 have started reviewing these videotapes, and perhaps you
18 can just tell me what that time is there on the top of your
19 notes?

20 **CST. McDOUGALD:** It appears to me to be

21 21:10.

22 **MR. DUMAIS:** Twenty-one-ten (21:10) and to

23 23:50. Is that correct?

24 **CST. McDOUGALD:** Correct.

25 **MR. DUMAIS:** So you would have spent about

1 two-and-a-half hours or so reviewing these tapes. Is that
2 correct?

3 **CST. McDOUGALD:** Correct. There is another
4 entry that does not show up on this page. A little later
5 in the evening or earlier in the morning, I re-attended the
6 detachment and continued viewing videos again.

7 **MR. DUMAIS:** Okay. Do you recall if anyone
8 was assisting you in reviewing these tapes?

9 **CST. McDOUGALD:** Constable Dussault.

10 **MR. DUMAIS:** All right. And do you recall
11 whether he assisted you, both at 2100 hrs or so and the
12 second time as well, later in the evening?

13 **CST. McDOUGALD:** I would have to refer to my
14 note for that section, and I can't say that right now.

15 **MR. DUMAIS:** All right. And perhaps
16 Constable Dussault's notes may be of some assistance.

17 It's Document Number 703891.

18 **THE COMMISSIONER:** Thank you.

19 Exhibit Number 2556 is notes of Constable
20 Pat Dussault and I think the first date is the 17th of
21 February, 1993.

22 --- **EXHIBIT NO./PIÈCE NO. P-2556:**

23 (703891) - Notes of Patrick Dussault dated
24 February 17, 1993

25 **MR. DUMAIS:** So these, I believe, are

1 Constable Dussault's notes and they appear to indicate that
2 at 001 hours he would have assisted you with "reviewing the
3 porno videos", I believe it reads.

4 So from 001 to 0230 I think; does that help
5 you?

6 **CST. McDOUGALD:** Correct.

7 **MR. DUMAIS:** And if we look back at your
8 notes, Constable, it appears at 2350 that you would have
9 left the detachment to be on patrol?

10 **CST. McDOUGALD:** Correct.

11 **MR. DUMAIS:** All right. Is it possible that
12 you did one portion of the reviewing of the tapes and
13 Constable Dussault would have done the latter portion?

14 **CST. McDOUGALD:** No. I believe I reviewed
15 some of the tapes by myself and Constable Dussault assisted
16 me with the remainder.

17 **MR. DUMAIS:** Okay.

18 **CST. McDOUGALD:** I'm not aware at any point
19 that he viewed any tapes by himself.

20 **MR. DUMAIS:** All right. Back in 1993, one
21 T.V. and one VCR at the detachment?

22 **CST. McDOUGALD:** Correct.

23 **MR. DUMAIS:** And as you are reviewing these
24 tapes, are you keeping some sort of a log identifying the
25 tapes, sort of indicating what portion of it you looked at,

1 how long the tape was, anything of that sort?

2 **CST. McDOUGALD:** No. At that particular
3 time, there was no investigation. We were just viewing the
4 tapes to ensure that there wasn't anything of criminality
5 on them. So we were just going through the tapes.

6 **MR. DUMAIS:** And, generally speaking, can
7 you give us an indication of what was on the tapes?

8 **CST. McDOUGALD:** All the tapes that I viewed
9 were of male homosexual acts. I viewed one segment that
10 included a female, and they all appeared to be of
11 professional manufacturing.

12 **MR. DUMAIS:** All right.

13 So you would not have found any child
14 pornography?

15 **CST. McDOUGALD:** No. Nothing was viewed
16 that showed or appeared to be of any criminal matter.

17 **MR. DUMAIS:** If you can just have a look at
18 Exhibit 603 just for a second? Just the last page, so the
19 return made to Justice.

20 **CST. McDOUGALD:** Yes.

21 **MR. DUMAIS:** So if you can just have that in
22 front of you, and I'm just going to ask you to refer to
23 your notes as well, Constable.

24 I'm looking at Bates pages 000 and 001. So
25 if you can just read for us the last six lines of your

1 notes.

2 **CST. McDOUGALD:** If I have the right page,
3 are you referring to:

4 "10-7 detachment reports - property
5 stores, the vault. P.C. Millar to make
6 return to J.P. next shift. Occurrence
7 to follow after rest days."

8 **MR. DUMAIS:** Yes.

9 **CST. McDOUGALD:** Yes.

10 **MR. DUMAIS:** So my question here is it's
11 indicated here that P.C. Millar is to make the return to
12 Justice on the next shift. Do you recall whether or not
13 you did the return to Justice or whether or not P.C. Millar
14 does it?

15 **CST. McDOUGALD:** I did the return to the
16 Justice. Further down in my notes it would reflect that
17 and, even before this, I was actually in on an overtime
18 shift that date to execute the warrant. And after that
19 shift, I was going on rest days. I was not going to be in
20 the detachment. So I would not have been there to have
21 completed the return to the Justice.

22 When I returned from being off on rest days,
23 the return had not been made, and that's when I made the
24 return.

25 **MR. DUMAIS:** I see. So then -- and you're

1 looking, I take it, at the entry on Bates page 001, the
2 notation of February 16th, 1993?

3 **CST. McDOUGALD:** Correct.

4 **MR. DUMAIS:** And where it reads at 1430
5 hrs.:

6 "10-8 to J.P. for return on search
7 warrant."

8 Is that correct?

9 **CST. McDOUGALD:** Correct.

10 **MR. DUMAIS:** Okay. Do you recall whether or
11 not anyone accompanied you there or were you alone?

12 **CST. McDOUGALD:** I don't recall.

13 **MR. DUMAIS:** So then if you could just have
14 a look at the last page of Exhibit 603. So this is your
15 handwriting then; you prepared the return?

16 **CST. McDOUGALD:** Yes, I did.

17 **MR. DUMAIS:** All right. And if you look at
18 about mid-page there, there's a box that's checked off and
19 these are some of the times that you seize pursuant to
20 Section 487. Is that correct?

21 **CST. McDOUGALD:** Correct.

22 **MR. DUMAIS:** And you have also checked off
23 Section 489, which would be items that were seized that had
24 not previously been identified on your search warrant?

25 **CST. McDOUGALD:** Yes.

1 **MR. DUMAIS:** And if you look at the bottom
2 there, there are two entries.

3 So the first one is:

4 "Seize Item 2, unknown weapon, 45
5 calibre, Serial Number 3."

6 which appears to be the second weapon identified on your
7 Information to Obtain and your search warrant. And the
8 second item appears to be a weapon that had not previously
9 been identified on the search warrant?

10 **CST. McDOUGALD:** Correct.

11 **MR. DUMAIS:** All right. And nowhere on this
12 return to Justice are the videos or a suitcase identified?

13 **CST. McDOUGALD:** Correct.

14 **MR. DUMAIS:** And do you have an explanation
15 for that?

16 **CST. McDOUGALD:** That was an error on my
17 part for not putting it on when I left. I have no
18 explanation why I would have left it off but it was an
19 error on my part.

20 **MR. DUMAIS:** Okay. And when you're checking
21 off the box which is section 489, what are you referring to
22 here?

23 **CST. McDOUGALD:** I would have been referring
24 to -- I am referring to the unidentified restricted weapon
25 that was located at the residence and the videotapes that

1 were in the suitcase, the videotapes that were taken from
2 the residence.

3 **MR. DUMAIS:** Okay.

4 **CST. McDOUGALD:** And like I said, it's my
5 error for having neglected not to put it on.

6 **THE COMMISSIONER:** So the Justice of the
7 Peace was at no time aware of these pornographic videotapes
8 that were seized?

9 **CST. McDOUGALD:** Commissioner, I cannot
10 recall the conversation. I know I explained to the Justice
11 of the Peace what happened at the execution of the warrant,
12 and I don't recall if he was advised about that. I know he
13 was advised about the execution of the warrant and items
14 that were taken from the house, hence the fact the return
15 was made.

16 **THE COMMISSIONER:** Thank you.

17 **MR. DUMAIS:** Constable, if you can just have
18 -- do you have Exhibit 2554 in front of you?

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **THE COMMISSIONER:** Right.

21 **MR. DUMAIS:** So I'm just looking at Bates
22 pages 986, Constable, which is the last page of your
23 statement. So on the second line about right in the middle
24 of the sentence, right in the middle of the line it reads
25 as:

1 "On the 25th day of April, 1993 Ron
2 Leroux signed the Property Form Quit
3 Claim. Leroux left the detachment
4 shortly after being served all
5 documents relating to his charges."

6 **CST. McDOUGALD:** Correct.

7 **MR. DUMAIS:** So my understanding is that
8 sometime later on you had had a conversation or a meeting
9 with Mr. Leroux. Is that correct?

10 **CST. McDOUGALD:** On that date, on the 25th.

11 **MR. DUMAIS:** It was on the 25th?

12 **CST. McDOUGALD:** Mr. Leroux attended the
13 Lancaster detachment to meet with myself reference the
14 investigation pertaining to the firearms.

15 **MR. DUMAIS:** Okay. And he attended at your
16 invitation. Is that correct?

17 **CST. McDOUGALD:** Correct.

18 **MR. DUMAIS:** All right. And my
19 understanding is that there were weapons charges that were
20 laid, so you dealt with that on that day. Is that correct?

21 **CST. McDOUGALD:** The predominant reason for
22 him to attend the detachment was related to the firearms --

23 -

24 **MR. DUMAIS:** Okay.

25 **CST. McDOUGALD:** --- investigation. He was

1 -- I took a statement from Mr. Leroux. He was arrested.
2 He was charged, I do believe, with 11 *Criminal Code*
3 firearms-related offences. He was processed by myself. He
4 was fingerprinted, released at that particular time
5 pertaining to the firearms offences.

6 **MR. DUMAIS:** All right. And my
7 understanding is on that day as well you would have struck
8 a conversation with him with respect to the videotapes. Is
9 that correct?

10 **CST. McDOUGALD:** Correct; prior to him
11 leaving the detachment.

12 **MR. DUMAIS:** Okay. And my understanding is
13 that you were at this point in time prepared to return the
14 videotapes to him. Is that correct?

15 **CST. McDOUGALD:** That is correct.

16 **MR. DUMAIS:** And did he -- what did he
17 indicate to you?

18 **CST. McDOUGALD:** I advised Mr. Leroux that
19 we had no need to keep the tapes and that he could have the
20 tapes back. I asked them if they were his, and that he
21 could have them back. Mr. Leroux advised me that they
22 weren't his tapes and explained that while he was working
23 as a park warden at the Raisin River Park in South -- would
24 have been Charlottenburg township at that point, which is
25 now South Glengarry -- that he was bringing garbage to a

1 large dumpster and that while he was at that dumpster he
2 observed a suitcase, which is the suitcase in question that
3 we're talking about.

4 He advised me that he had taken the suitcase
5 out of the dumpster and that he observed that this suitcase
6 contained these videotapes, and that he took them from the
7 dumpster because he didn't want the videotapes falling into
8 the hands of children who might be at the park while he was
9 working.

10 **MR. DUMAIS:** All right.

11 **CST. McDOUGALD:** And that was the
12 explanation as to why he had this suitcase with the
13 videotapes at his house. I explained to him that obviously
14 we weren't going to keep the tapes and that he could have
15 them back. Mr. Leroux was emphatic that he did not want
16 them back at that time. He was explaining to me that
17 nobody should have those tapes, nobody should be in
18 possession of tapes like that.

19 I explained to Mr. Leroux at that point that
20 if he wanted to sign the Quit Claim on the property report,
21 if he did not want the tapes back we could have the tapes
22 destroyed locally, and Mr. Leroux was in full agreement to
23 that. As I stated, he kept explaining that nobody should
24 have tapes like that, they shouldn't be out there, and that
25 the best things for the tapes would be that they be

1 destroyed.

2 MR. DUMAIS: All right.

3 CST. McDOUGALD: And at that point he signed
4 the Quit Claim.

5 MR. DUMAIS: Okay. So then you witnessed
6 his signature on the property report, which is Exhibit
7 1144?

8 CST. McDOUGALD: I'll just make sure I have
9 the right -- yes. Yes, I did.

10 MR. DUMAIS: So then we're on April 25th,
11 1993. What happens afterwards with respect to the
12 destruction, or how -- or what happened afterwards?

13 CST. McDOUGALD: The property report with
14 the signed Quit Claim would be placed back in the filing
15 system from my NCO ---

16 MR. DUMAIS: Yes.

17 CST. McDOUGALD: --- to observe, and to be
18 processed at that point.

19 MR. DUMAIS: And what's your involvement in
20 that process?

21 CST. McDOUGALD: I do not have any
22 involvement at that point.

23 MR. DUMAIS: All right. So you would have
24 witnessed Mr. Leroux's signature and then just given the --
25 do you give the property report to your -- the staff

1 sergeant?

2 **CST. McDOUGALD:** I don't recall who I gave
3 it to. I don't recall if I put it in a filing bin that we
4 have for administrative paperwork in the detachment. It
5 would have been placed there and -- for proper procedure
6 afterwards.

7 **MR. DUMAIS:** Okay. But is there anyone at
8 the detachment that's responsible for that, for disposing
9 of property? Is there anyone assigned that duty?

10 **CST. McDOUGALD:** At that time, 16 years ago,
11 my understanding, it was the detachment commander or his
12 designate.

13 **MR. DUMAIS:** Okay. Any reason why you would
14 not get involved with the destruction of these tapes?

15 **CST. McDOUGALD:** That was not my role within
16 the detachment.

17 **MR. DUMAIS:** Okay. And you're certainly not
18 designated by the -- your staff sergeant to do so? He
19 didn't tell you to destroy those tapes?

20 **CST. McDOUGALD:** Well, no. No, I had no
21 dealings with the tapes after that. Could I have been
22 designated to dispose of something from the vault, I may
23 have been, had I been designated by my detachment
24 commander, but I was not involved in the destruction of
25 these tapes.

1 **MR. DUMAIS:** Okay. All right. So I'm back
2 at Document Number 2554, which is your officer report,
3 Constable.

4 **THE COMMISSIONER:** What exhibit?

5 **MR. DUMAIS:** Pardon me?

6 **THE COMMISSIONER:** What exhibit?

7 **MR. DUMAIS:** Two five five four (2544).

8 **THE COMMISSIONER:** Right. I'm sorry. Thank
9 you.

10 **MR. DUMAIS:** So again I'm at the last page,
11 Constable. So on about the fourth line:

12 "On the fourth day of May, 1993 I was
13 advised by Staff Sergeant McWade that
14 our detachment caretaker destroyed all
15 videotapes and the suitcase locally.
16 The method of destruction was by
17 burning the material in the detachment
18 45-gallon drum."

19 **CST. McDOUGALD:** Correct; that's what I have
20 written.

21 **MR. DUMAIS:** Right. So do you have that --
22 do you recall that conversation with your staff sergeant?

23 **CST. McDOUGALD:** I don't at this particular
24 time remember that specific conversation. I do remember
25 being advised by my detachment commander that the suitcase

1 and 22 tapes were destroyed locally.

2 MR. DUMAIS: All right. And certainly he
3 appears to have indicated to you who was involved in the
4 destruction, because you note down here that it was done by
5 the caretaker; right?

6 CST. McDOUGALD: One moment, please.

7 This Will Say was prepared by myself, dated
8 the 29th of June 2005. And I'm going by what I could recall
9 at that particular time.

10 MR. DUMAIS: Pardon me?

11 CST. McDOUGALD: I said the preparation of
12 this Will Say was the 29th of June 2005 ---

13 MR. DUMAIS: Yes.

14 CST. McDOUGALD: --- several years after.
15 So when I'm preparing it, I'm just going by my
16 recollection.

17 MR. DUMAIS: All right. But I mean,
18 certainly when you're preparing this officer report ---

19 CST. McDOUGALD: Correct.

20 MR. DUMAIS: --- you have your notes with
21 you and you're reviewing your notes to refresh your memory?

22 CST. McDOUGALD: Yes.

23 MR. DUMAIS: Is that correct?

24 CST. McDOUGALD: Yes.

25 MR. DUMAIS: The fact that the caretaker

1 would have been involved in the destruction or the notation
2 you make in your note, was that something unusual?

3 **CST. McDOUGALD:** I don't believe it would
4 have been unusual for him to be involved, no.

5 **MR. DUMAIS:** Was he -- was part of the
6 duties of the caretaker to assist in the destruction of
7 property from time to time?

8 **CST. McDOUGALD:** That I could not answer. I
9 don't know what the specific details of the caretaker were.

10 **MR. DUMAIS:** All right.

11 You were at that detachment for a very short
12 period of time, Constable, is that correct?

13 **CST. McDOUGALD:** Before?

14 **MR. DUMAIS:** Before being transferred to the
15 Regional Task Force?

16 **CST. McDOUGALD:** Correct. Right.

17 **MR. DUMAIS:** So would this search and
18 seizure that we talked about this afternoon have been one
19 of the only one that you would have performed during that
20 period of time?

21 **CST. McDOUGALD:** I don't recall without
22 reviewing my notes at this point.

23 **MR. DUMAIS:** Okay. Now, I understand that
24 later on, so in 1998, you would have provided a statement
25 to Detective Sergeant Pat Hall. Do you recall that?

1 **CST. McDOUGALD:** I remember giving a
2 statement. I don't remember specific dates of it.

3 **MR. DUMAIS:** Okay. So and you would have
4 given two statements, Constable. Is that correct?

5 **CST. McDOUGALD:** Correct.

6 **MR. DUMAIS:** And if you can just have a look
7 at Exhibit 690.

8 **THE COMMISSIONER:** Six-nine-zero (690).
9 Yes. What page, sir?

10 **MR. DUMAIS:** Bates page 550. So the third-
11 last paragraph. So you -- when you were giving your
12 statement to Detective Sergeant Hall, you did indicate to
13 him and I'll just read it out:

14 "I was advised by Staff Sergeant McWade
15 on the 4th day of May 1993 that the
16 videotapes and the suitcase was
17 destroyed..."

18 **CST. McDOUGALD:** Excuse me, could you just -
19 - what was the number please; the reference on that?

20 **THE COMMISSIONER:** Five-five-zero (550).
21 The last three numbers on the left-hand side are 550.

22 **CST. McDOUGALD:** Five-five ---

23 **THE COMMISSIONER:** Page 3 of 3 in ---

24 **CST. McDOUGALD:** Five-five-zero (550); yes.
25 Sorry.

1 **THE COMMISSIONER:** So the before last -- the
2 third-last paragraph, "I was advised." Okay.

3 Do you have that?

4 **MR. DUMAIS:** So I'll just read out again,
5 Constable, third-last paragraph on that page. So:

6 "I was advised by Staff Sergeant McWade
7 on the 4th day of May 1993 that the
8 videotapes and the suitcase was
9 destroyed locally by the caretaker,
10 burning them in a 45-gallon drum that
11 date."

12 All right?

13 **CST. McDOUGALD:** Correct.

14 **MR. DUMAIS:** And then if you look right
15 under this paragraph, it's indicated that or Detective
16 Sergeant is asking you a question:

17 "Was Ken Seguin ever questioned about
18 these videotapes?"

19 And then, your answer is:

20 "Not by myself or by anybody that I
21 know of."

22 So do you recall why he was asking you this
23 question?

24 **CST. McDOUGALD:** Offhand now, no, I don't
25 recall.

1 **MR. DUMAIS:** Okay.

2 When you were executing the warrant, back in
3 1993, did you know who Ken Seguin was?

4 **CST. McDOUGALD:** No, I did not.

5 **MR. DUMAIS:** So you didn't know he was a
6 probation officer in town?

7 **CST. McDOUGALD:** No, I did not.

8 **MR. DUMAIS:** All right. And you didn't know
9 either that he lived close by to Mr. Leroux' residence?

10 **CST. McDOUGALD:** At that particular time, I
11 knew nothing of Mr. Seguin.

12 **MR. DUMAIS:** Okay.

13 And this is the statement that you would
14 have given to Detective Sergeant Hall on the 11th of
15 December 1998; you would have also given him a statement on
16 September 2nd, 1998. Is that correct?

17 **CST. McDOUGALD:** I believe so.

18 **MR. DUMAIS:** And that -- the other statement
19 is at Exhibit 1163.

20 **CST. McDOUGALD:** Yes.

21 **MR. DUMAIS:** So you gave two statements on
22 the same matter within a very short period of time?

23 **CST. McDOUGALD:** Correct.

24 **MR. DUMAIS:** And the first statement
25 essentially ---

1 **THE COMMISSIONER:** Which first statement?

2 **MR. DUMAIS:** Sorry, the one -- Exhibit 1163

3 ---

4 **THE COMMISSIONER:** Yes.

5 **MR. DUMAIS:** --- for the one dated September
6 2nd, 1998, you're being asked questions about your executing
7 a warrant at Mr. Leroux' residence. Is that correct?

8 **CST. McDOUGALD:** Correct. Right.

9 **MR. DUMAIS:** And initially, in September of
10 1998, there were no discussions about videotapes. Is that
11 correct?

12 **CST. McDOUGALD:** Any discussions with who?

13 **MR. DUMAIS:** With Detective Sergeant Hall.

14 **CST. McDOUGALD:** Not that I'm aware of.

15 **MR. DUMAIS:** You gave him your statement;
16 correct?

17 **CST. McDOUGALD:** That's correct.

18 **MR. DUMAIS:** There were -- the questions he
19 was asking you were with respect to the execution of the
20 warrant and the seizure of the weapons and I believe he
21 does ask you at one point in time whether or not C-8 had
22 indicated that he had been sexually abused by Mr. Leroux.
23 Is that correct?

24 **CST. McDOUGALD:** He indicated C-8 was
25 sexually abused by who?

1 **MR. DUMAIS:** He was asking you that; whether
2 or not C-8 -- I'm just looking at the last page ---

3 **CST. McDOUGALD:** Oh, that was ---

4 **MR. DUMAIS:** --- of your statement.

5 **CST. McDOUGALD:** --- a question he asked me,
6 if I was aware of?

7 You're referring to question "Did he ever --
8 -

9 **MR. DUMAIS:** I'm referring to Bates page
10 541, so the last two lines.

11 **CST. McDOUGALD:** Yes, that was a question
12 that was asked.

13 **MR. DUMAIS:** All right.

14 So then Detective Sergeant Hall comes back
15 to you in December of 1998 and does he explain to you why
16 he wants to re-interview you about the same matter?

17 **CST. McDOUGALD:** I don't recall the
18 discussion that he would have had with me at this time.

19 **MR. DUMAIS:** All right.

20 Now, later on, Mr. Leroux would have given a
21 statement indicating that the tapes that had been seized at
22 his house were actually the tapes of Ken Seguin and that
23 they had been stored at his house. Are you aware of that
24 now?

25 **CST. McDOUGALD:** I am aware of that now.

1 **MR. DUMAIS:** All right. So you just became
2 aware of that as a result of your preparation for your
3 giving evidence at the Inquiry?

4 **CST. McDOUGALD:** Correct.

5 **MR. DUMAIS:** Okay. So you had never been
6 made aware that Mr. Leroux had made that statement back
7 then?

8 **CST. McDOUGALD:** I was not aware of that
9 statement.

10 **MR. DUMAIS:** I believe these are my
11 questions, Mr. Commissioner.

12 If we can take the afternoon break?

13 **THE COMMISSIONER:** Thank you.

14 We will break, come back in 15.

15 **MR. DUMAIS:** Thank you.

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

18 This hearing will resume at 3:35 p.m.

19 --- Upon recessing at 3:24 p.m. /

20 L'audience est suspendue à 15h24

21 --- Upon resuming at 3:47 p.m. /

22 L'audience est reprise à 15h47

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

25 This hearing is now resumed. Please be

1 seated. Veuillez vous asseoir.

2 **THE COMMISSIONER:** Thank you.

3 Where is the witness? Thank you. Thank
4 you, sir.

5 **STEPHEN McDOUGALD, Resumed/Sous le même serment:**

6 **MR. DUMAIS:** I have no further questions,
7 Constable, and I understand you don't wish to make a
8 statement at this point in time; is that correct?

9 **CST. McDOUGALD:** No, I'm not prepared at
10 this point.

11 **MR. DUMAIS:** All right. Thank you.

12 **THE COMMISSIONER:** Thank you.

13 Ms. Daley.

14 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

15 **DALEY:**

16 **MS. DALEY:** Officer McDougald, my name is
17 Helen Daley. I'm counsel for the Citizens for Community
18 Renewal and that's a local citizens group with standing at
19 this Inquiry whose interest is in institutional reform.

20 So I have some questions for you about your
21 interactions with C-8 and Mr. Leroux. And the first
22 questions will focus on the weapons part of your dealings
23 with Mr. Leroux, the guns part of that story.

24 I take it by the time of your first contact
25 with C-8 he already had possession of four handguns?

1 CST. McDOUGALD: That is correct.

2 MS. DALEY: And his purpose in possessing
3 those guns was for safekeeping, as your notes suggest?

4 CST. McDOUGALD: That's what he explained to
5 me.

6 MS. DALEY: That's what he said to you.

7 And from that point at least, he was not
8 fearing any harm to either Leroux or anyone else from those
9 four guns because those four guns were in his possession
10 and shortly delivered to your possession?

11 CST. McDOUGALD: Correct.

12 MS. DALEY: Is that fair?

13 And again, as your notes indicate, your
14 Force receives those weapons for safekeeping purposes?

15 CST. McDOUGALD: Correct.

16 MS. DALEY: And what I took that to mean is
17 rather than evidence of a crime you're taking custody of
18 these weapons because it's just safer?

19 CST. McDOUGALD: At that time, yes.

20 MS. DALEY: That was the intent?

21 CST. McDOUGALD: At that time, yes.

22 MS. DALEY: All right.

23 And at the time of your dealings on the guns
24 issue did you form a view as to whether it was legal or
25 otherwise for C-8 to have had possession of those four

1 guns?

2 CST. McDOUGALD: Not at that time.

3 MS. DALEY: Did that ever become a matter of
4 relevance to you?

5 CST. McDOUGALD: No, it did not.

6 MS. DALEY: Now, I'm working with your notes
7 -- that's Exhibit 2555. There were just some additional
8 details or some information that you learned from C-8 on
9 your first meeting with him.

10 CST. McDOUGALD: I don't have my notes at
11 this time.

12 THE COMMISSIONER: Just hang on. It's at --

13 -

14 MS. DALEY: Two-five-five-five (2555).

15 THE COMMISSIONER: Yeah, so if you look in -

16 --

17 (SHORT PAUSE/COURTE PAUSE)

18 CST. McDOUGALD: The number again? Sorry.

19 MS. DALEY: Exhibit 2555.

20 CST. McDOUGALD: Okay.

21 MS. DALEY: Did you find that?

22 The very first page of your notes talks
23 about what you testified with us here, and that's the
24 harassment by Ron Leroux and that this is a person that C-8
25 used to live with. So again, you get that information

1 early on from Mr. C-8, that he and Leroux ---

2 **THE COMMISSIONER:** We have to be careful
3 about establishing relationships.

4 **MS. DALEY:** All right.

5 Anyway, that's information that you have
6 available to you?

7 **CST. McDOUGALD:** Correct.

8 **MS. DALEY:** And based on the information
9 that you had available to you, did you develop the
10 understanding that Leroux and C-8 had had an ongoing
11 relationship, a significant relationship?

12 **CST. McDOUGALD:** What do you mean by
13 relationship?

14 **MS. DALEY:** A sexual relationship.

15 **CST. McDOUGALD:** I had no information of
16 that.

17 **MS. DALEY:** Did you -- looking at the
18 information you have recorded on page 988, you have some
19 information about C-8 wanting to move away from Mr.
20 Leroux's home in the past and having a gun pointed at him
21 in the past when he wanted to do that, and your notes had
22 said has always felt threatened to stay and then I think
23 your note says:

24 "When girls got involved became
25 jealous."

1 Is that what you've written there?

2 CST. McDOUGALD: Yes.

3 MS. DALEY: Okay. So that's also
4 information that C-8 provided to you about what was
5 occurring.

6 CST. McDOUGALD: Yes.

7 MS. DALEY: And did you attend at all in
8 your mind to the relative ages of C-8 and Mr. Leroux? Did
9 you understand that Mr. C-8 was a man in his late 20s, Mr.
10 Leroux in his late 40s?

11 CST. McDOUGALD: Mr. C-8 alluded at one
12 point during the interview that -- just trying to say this
13 without being -- compromising the relationship. It was
14 like a big brother relationship.

15 MS. DALEY: That's how he described it?

16 CST. McDOUGALD: That's how he described it.
17 His mother was aware of the situation when he was younger
18 in his teens when he first met Mr. Leroux and it was like a
19 big brother relationship and at one point he was allowed to
20 spend time with Mr. Leroux and move into Mr. Leroux's
21 residence with the permission of his mother.

22 MS. DALEY: So those are the things you came
23 to understand from C-8?

24 CST. McDOUGALD: Yes.

25 MS. DALEY: And did he ever say to you that

1 he felt he had been sexually abused in that relationship?

2 CST. McDOUGALD: There was never any
3 mention, hint, about any sexual improprieties.

4 MS. DALEY: Now, I take it you also learned
5 in your dealings with these people, both Mr. Leroux and C-
6 8, that there had been a transfer of Leroux's home to C-8?

7 CST. McDOUGALD: I'm not aware of the full
8 details.

9 MS. DALEY: You learned something to that
10 effect?

11 CST. McDOUGALD: There was a mention about
12 the house being signed over. It was a civil matter and I
13 did not get any details as to what stage it was at.

14 MS. DALEY: Did you have some information to
15 the effect that C-8 was going to lease the property back to
16 Leroux?

17 CST. McDOUGALD: I was not aware of that.

18 MS. DALEY: Didn't know about that? All
19 right.

20 Did you form the impression that this civil
21 matter between C-8 and Leroux was contentious, in other
22 words there was a dispute between them?

23 CST. McDOUGALD: I was not able to formulate
24 that. There was no indication that there was any
25 hostilities between the two. It was brought to my

1 attention that there was a possible civil matter starting
2 but there never appeared to be any animosity between the
3 two.

4 **MS. DALEY:** What is it that C-8 was being
5 harassed about then?

6 **CST. McDOUGALD:** He advised that they were
7 receiving phone calls from Mr. Leroux and that Mr. Leroux
8 at times would drive by the house and C-8 wanted that to
9 stop and that's why he approached the police, wanting Mr.
10 Leroux to be spoken to and have him stop that harassing.

11 **MS. DALEY:** Did you have the impression that
12 C-8 felt threatened by Leroux's guns; that he thought the
13 guns would be used against him?

14 **CST. McDOUGALD:** No.

15 **MS. DALEY:** No? That wasn't part of why the
16 guns were brought to you?

17 **CST. McDOUGALD:** He advised that he had
18 taken them for safekeeping but he never indicated to me
19 that he felt threatened at that particular time.

20 **MS. DALEY:** All right.

21 So he was protecting Mr. Leroux from
22 himself, from a suicide risk?

23 **CST. McDOUGALD:** C-8 had mentioned that Mr.
24 Leroux had stated something about suicide in the past.
25 There was nothing indicated that it was a current at that

1 particular time when he approached the detachment with the
2 complaint. The complaint was about being harassed, getting
3 phone calls, and Mr. Leroux going by a particular house.

4 **MS. DALEY:** I take it, though, that the risk
5 that Mr. Leroux might harm himself was something that you
6 were slightly concerned about because you looked into that?

7 **CST. McDOUGALD:** Obviously, that was one of
8 the things I was going to look into when I spoke to Mr.
9 Leroux.

10 **MS. DALEY:** All right.

11 And so that -- perhaps not to you, but that
12 suggests to me that something of significance had happened
13 between C-8 and Leroux if Leroux was potentially suicidal,
14 given that C-8 had moved out.

15 Did you put those things together at all?

16 **CST. McDOUGALD:** There was no indication
17 that C-8 moved out of the house because of suicidal
18 tendencies. C-8 indicated that he had a girlfriend and he
19 was with this girlfriend, and I believe he stated that he
20 was either living with her or spending most of his time
21 with her.

22 **MS. DALEY:** I was thinking about it in
23 reverse order, putting the cart and the horse in a
24 different place. Did you ever get the impression from the
25 information you gleaned that C-8 thought that Mr. Leroux

1 was somewhat suicidal because C-8 had left him and had
2 moved in with a woman?

3 **CST. McDOUGALD:** Not at that particular
4 time.

5 **MS. DALEY:** Did you at some later time come
6 to that impression?

7 **CST. McDOUGALD:** No, because at a later time
8 I spoke to Mr. Leroux and I determined after dealing with
9 Mr. Leroux in my first meeting, that he did not appear
10 suicidal to me.

11 **MS. DALEY:** All right.

12 I did review with you, very briefly, an
13 entry on Bates 988 of the note, and actually it's the
14 section that Madam Clerk has right up for us on the screen.
15 And you've recorded that C-8 felt threatened to stay.

16 Did you take that information any further?
17 In other words, that C-8 expressing he felt threatened by
18 Leroux to continue living with him, did you develop that
19 information any further in the course of what you did?

20 **CST. McDOUGALD:** I took that as he felt in
21 the past threatened, when he was younger, not at this
22 particular time.

23 **MS. DALEY:** All right.

24 Now, sir, just help me to get clear about
25 something. And, again, in your notes -- just give me one

1 second.

2 I was -- just if I could ask you to look at
3 Bates 994 for a moment, and then I'm going to take you
4 quickly to the following page, 995. But on 994 we have
5 your entry of January 12th, '93 essentially dealing with the
6 safe storage of the four weapons that you have. That's how
7 matters have been left at that point?

8 **CST. McDOUGALD:** Yes.

9 **MS. DALEY:** And I take it you had no
10 particular concerns because Leroux didn't have any interest
11 in getting the weapons back, so there was nothing to be
12 concerned about?

13 **CST. McDOUGALD:** At that particular time,
14 Mr. Leroux advised that he did not want the guns back.

15 **MS. DALEY:** Right.

16 **CST. McDOUGALD:** Yes.

17 **MS. DALEY:** The next thing that happens, as
18 recorded in your notes, is some information that you
19 received from your staff sergeant on February 9th, 1993. Do
20 you see that, sir? It's on the following Bates page.

21 **CST. McDOUGALD:** Yes.

22 **MS. DALEY:** And he gives you information
23 about two specific weapons, the Smith and Wesson 22 and the
24 unknown-make European hand gun?

25 **CST. McDOUGALD:** Correct.

1 **MS. DALEY:** Do you see that?

2 **CST. McDOUGALD:** Yes.

3 **MS. DALEY:** Now, first question, sir.

4 Do you know anything about what gave rise to
5 the staff sergeant obtaining that additional information at
6 this time?

7 **CST. McDOUGALD:** No, I don't at this time.

8 **MS. DALEY:** I take it that between those two
9 events, between January, '93 and February 9, '93 when you
10 start working on the Information to Obtain, you haven't
11 heard anything further from C-8 in between those two times?

12 **CST. McDOUGALD:** I don't have any
13 recollection at this time. There are other notes that
14 would have been made in our reporting system at detachment
15 that may have had entries at that point.

16 **MS. DALEY:** Other handwritten notes?

17 **CST. McDOUGALD:** That would have been our
18 reporting system, our occurrence reporting system, at
19 detachment.

20 **MS. DALEY:** Can you just give me a few words
21 of explanation for how that works?

22 **CST. McDOUGALD:** When you have an
23 occurrence, back 16 years ago in '92 or 1993, when we had
24 an occurrence we had forms -- a specific form and I do not
25 recall the exact form number at this time, but the

1 occurrence would be written out on that form and it would
2 be left open pending follow-up and conclusion of the
3 occurrence. So every time you dealt with the occurrence
4 that would be updated in detail.

5 MS. DALEY: All right. So if what -- if
6 I've understood it correctly then, in addition to the notes
7 that we have from you, the exhibit, there is an occurrence
8 form that the office maintained?

9 CST. McDOUGALD: Maintained at that time.

10 MS. DALEY: And I'm assuming a typewritten
11 form?

12 CST. McDOUGALD: No, it was handwritten.

13 MS. DALEY: Handwritten by you?

14 CST. McDOUGALD: Yes.

15 MS. DALEY: So what you're saying is that
16 there's a possibility that you had contact with C-8 between
17 Feb 9 and the prior date, which was Jan 12th.

18 CST. McDOUGALD: Yes.

19 MS. DALEY: But it's not reflected as such
20 in your notebook?

21 CST. McDOUGALD: No.

22 MS. DALEY: All right. And you have no
23 recollection of that happening. You're just telling me
24 that's a possibility?

25 CST. McDOUGALD: Yes. Those documents at

1 detachment level would have been purged two years current.

2 MS. DALEY: All right.

3 Dealing now with the Information to Obtain
4 and the search warrant, did you ask your staff sergeant or
5 do you recall asking your staff sergeant any questions or
6 any -- or for any information about what you should do with
7 what you've now learned and that is, I assume, two other
8 guns registered to Mr. Leroux?

9 CST. McDOUGALD: Could you restate, please?

10 It's ---

11 MS. DALEY: Yeah. I take it what's
12 happening on Feb 9th is your staff sergeant is advising you
13 about two other hand guns. Is that correct, sir?

14 CST. McDOUGALD: Correct.

15 MS. DALEY: And they're both registered to
16 Mr. Leroux?

17 CST. McDOUGALD: Correct.

18 MS. DALEY: On, I presume, a system operated
19 by the RCMP?

20 CST. McDOUGALD: Correct.

21 MS. DALEY: Did you ask your staff sergeant
22 what to do with this information or did you receive
23 directions from him as to what you should do?

24 CST. McDOUGALD: I do not recall any
25 conversations that took place.

1 MS. DALEY: All right.

2 I take it it follows then, sir, that you
3 have no specific recollection of being told by your staff
4 sergeant or instructed to prepare an Information to Obtain
5 and to get a search warrant for those weapons?

6 CST. McDOUGALD: I have no recollection of
7 that conversation.

8 MS. DALEY: All right. Now, sir, the --
9 sorry, one second.

10 The Information to Obtain that you have
11 testified about, that's Exhibit 2521. Do you have that?

12 CST. McDOUGALD: Yes.

13 MS. DALEY: This Information to Obtain
14 identifies the exact same weapons, including model and
15 serial number, as you were given by your staff sergeant?

16 CST. McDOUGALD: Yes.

17 MS. DALEY: So that was your intent, I take
18 it ---

19 CST. McDOUGALD: Yes.

20 MS. DALEY: --- to try to find these weapons
21 that he had told you existed?

22 CST. McDOUGALD: Correct.

23 MS. DALEY: Is that fair? All right.

24 Now, as to the unknown European weapon, I
25 take it that's the one that C-8 handed over to you as soon

1 as you arrived at Mr. Leroux's home on the day you executed
2 the warrant; correct?

3 **CST. McDOUGALD:** Correct.

4 **MS. DALEY:** In fact, I think before you got
5 there he told you on the telephone, "I found that weapon,"
6 and he presented it to you when you arrived. So you knew
7 the whereabouts of that weapon?

8 **CST. McDOUGALD:** Correct.

9 **MS. DALEY:** If I could ask you also --
10 sorry, sir, do you have your notes handy? That was Exhibit
11 2555, and I'm asking you to look at Bates 999.

12 You testified about this in part in-chief,
13 but about a quarter of the way down your note says:

14 "Statement taken from C-8 from myself
15 and ..."

16 I take it he's now telling you the
17 whereabouts of the other weapon, which is where the
18 22 calibre is. Can you just read me some of those words?
19 Does it say:

20 "He reports stating he knew that the 22
21 calibre supposedly was sold to an
22 individual about two to three years
23 ago, as the person had a farm with
24 roosters getting attacked by dogs."

25 **CST. McDOUGALD:** That's correct.

1 **MS. DALEY:** "The gun was to protect the
2 birds."

3 **CST. McDOUGALD:** Correct.

4 **MS. DALEY:** And then there's some
5 information that Officer Millar is giving to the
6 conversation; correct? Can you just read me that, please?
7 I can't quite make it out.

8 **CST. McDOUGALD:** No. There's no indication
9 that Detective Millar is getting involved in the
10 conversation at this point. It's just an additional note
11 that I've made that I'm being advised by Detective
12 Constable Millar.

13 **MS. DALEY:** What is it that he advised you?

14 **CST. McDOUGALD:** That he had done a search
15 warrant in past and seized a 32-calibre handgun registered
16 to Mr. Silmser.

17 **MS. DALEY:** Can you read the rest of it?

18 **CST. McDOUGALD:** I just can't make that out
19 fully.

20 **MS. DALEY:** Does it say something:

21 "Parties keep quiet as not to get
22 Leroux into trouble..."

23 **CST. McDOUGALD:** "...for selling the
24 handgun."

25 **MS. DALEY:** "...for selling the handgun"?

1 CST. McDOUGALD: Yes.

2 THE COMMISSIONER: What's Mr. Silmsers have
3 to do with all of this? I'll -- what's Mr. Silmsers have to
4 do? How does that come up?

5 CST. McDOUGALD: I don't recall. It's
6 something that Detective Constable Millar mentioned to me.
7 Mr. Leroux had purchased one of the handguns that we had at
8 the detachment, one of the four handguns that we had at the
9 detachment was actually registered to Mr. Silmsers. This
10 was learnt after the check with the RCMP, and that was one
11 of the *Criminal Code* firearms related charges that were
12 laid against Mr. Leroux.

13 MS. DALEY: It was a Mr. Silmsers, but it was
14 not, in fact, the David Silmsers.

15 THE COMMISSIONER: Oh, okay. Okay.

16 CST. McDOUGALD: No, no. It was a Mr.
17 Silmsers.

18 MS. DALEY: It was a Mr. Silmsers.

19 CST. McDOUGALD: A Mr. Silmsers.

20 THE COMMISSIONER: Okay. Good.

21 MS. DALEY: You're feeling better now?

22 THE COMMISSIONER: I'm feeling a lot better,
23 yes.

24 CST. McDOUGALD: This Mr. Silmsers was
25 deceased at this time.

1 **THE COMMISSIONER:** Okay. Okay.

2 **CST. McDOUGALD:** He was an elderly gentleman
3 in Cornwall.

4 **MS. DALEY:** But just to help us break down
5 what you are now learning. The first piece of it is Mr. C-
6 8 reporting to you that to his knowledge, this 22-calibre
7 weapon on your Information to Obtain was sold a few years
8 ago?

9 **CST. McDOUGALD:** May have.

10 **MS. DALEY:** May have been.

11 **CST. McDOUGALD:** He was not -- it may have.

12 **MS. DALEY:** All right, but certainly, I take
13 it, sir, he seemed to you to be fairly familiar with Mr.
14 Leroux' possessions. I mean he, for example, had found the
15 European gun; he brought you the four other weapons. So he
16 seemed to have some knowledge about what the situation was
17 concerning Mr. Leroux and his guns?

18 **CST. McDOUGALD:** I'm not familiar with what
19 knowledge he had.

20 **MS. DALEY:** Certainly, the information he
21 gave -- well, was this information which he gave you
22 reliable? Did this check out about the 22 calibre?

23 **CST. McDOUGALD:** We weren't able to confirm
24 that.

25 **MS. DALEY:** All right. Certainly, you never

1 found that weapon on Mr. Leroux' property though?

2 CST. McDOUGALD: No, a second weapon was
3 found on the property though.

4 MS. DALEY: Which you also seized, I assume,
5 pursuant to the warrant?

6 CST. McDOUGALD: That's correct.

7 MS. DALEY: All right. Now, we are very
8 clear -- I think we're clear from your testimony that when
9 Officer Millar goes upstairs in the Leroux residence -- I'm
10 talking about the execution of the warrant, when he goes
11 upstairs and finds what he finds in the bathroom, you're
12 not with him?

13 CST. McDOUGALD: No.

14 MS. DALEY: And if you can help me with this
15 detail; did you hear C-8 direct Millar to look upstairs?

16 CST. McDOUGALD: I'm not aware of that.

17 MS. DALEY: All right. Do you recall
18 hearing any conversations at all between C-8 and Officer
19 Millar pertaining -- during the search?

20 CST. McDOUGALD: I have no recollection of
21 any conversations between the two of them.

22 MS. DALEY: And do you recall any
23 conversations that you had with Mr. C-8 during the
24 enforcement of the warrant?

25 CST. McDOUGALD: I have no independent

1 recollection at this time of the conversation.

2 MS. DALEY: So, for example, you have no
3 recollection of him saying, "Ron has some videotapes
4 upstairs" or "You guys should go look in the bathroom,"
5 nothing like that -- recall?

6 CST. McDOUGALD: There was never mentioned -
7 - there was never any mention of any videocassettes.

8 MS. DALEY: All right. Now, in terms of
9 these tapes then, if I've understood your testimony in-
10 chief, my impression was that it was your decision to seize
11 as opposed to Officer Millar's?

12 CST. McDOUGALD: I cannot confirm the
13 decision; who made the decision. I seized the videotapes.

14 MS. DALEY: Was it you who decided to review
15 the one tape at Leroux' home or did Officer Millar decide
16 that that should be done?

17 CST. McDOUGALD: I don't recall who put the
18 video in or who suggested it. I was taking some direction
19 from Detective Constable Millar as the fact that he was the
20 Detective Constable in the detachment at the time with more
21 experience than I had.

22 MS. DALEY: Would it be right to say that
23 the decision was made to seize the videos after the one
24 tape had been reviewed?

25 CST. McDOUGALD: I don't recall at this time

1 when the decision was made.

2 MS. DALEY: Certainly by the time you left
3 the premises having taken the videos with you, you had
4 reviewed the one tape?

5 CST. McDOUGALD: Yes.

6 MS. DALEY: And the tape that you did review
7 was commercial, adult male pornography?

8 CST. McDOUGALD: That's what it appeared to
9 be.

10 MS. DALEY: Was there any discussion between
11 yourself and Officer Millar as to the legality of seizing
12 the tapes under the warrant that you had?

13 CST. McDOUGALD: There was a discussion.

14 MS. DALEY: Do you remember it?

15 CST. McDOUGALD: There definitely was a
16 discussion. I just cannot tell you what the discussion
17 was.

18 MS. DALEY: Is it your recollection that --
19 well, sorry, let me backtrack.

20 Officer Millar, as you mentioned a moment
21 ago, was somewhat more experienced than you, sir?

22 CST. McDOUGALD: In service time and
23 experience he was the Detective Constable in the
24 detachment, yes.

25 MS. DALEY: To your knowledge, did he have

1 more experience than you in executing warrants?

2 **CST. McDOUGALD:** Definitely.

3 **MS. DALEY:** Did you look to him for any
4 direction or guidance as to the legality of taking the
5 tapes?

6 **CST. McDOUGALD:** I definitely looked to him
7 for assistance and guidance with his experience. I cannot
8 tell you any conversations or what conversations took place
9 because I don't know verbatim what was said.

10 **MS. DALEY:** All right.

11 **THE COMMISSIONER:** Well never mind verbatim.
12 What about the gist of what was said?

13 **CST. McDOUGALD:** Yes, sir, it was a
14 discussion about the tapes. There was a discussion about
15 taking the tapes.

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

17 **CST. McDOUGALD:** The tapes, it was -- in my
18 opinion, it was good faith, that we were going to take the
19 tapes to look to make sure that there was no criminality or
20 something of criminal nature within the tapes.

21 **THE COMMISSIONER:** Of good faith?

22 **CST. McDOUGALD:** That's -- we were taking
23 the tapes under the search warrant.

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

25 **CST. McDOUGALD:** Obviously to bring back to

1 the detachment to view at a later time to confirm that
2 there was no criminal activities within the tapes.

3 **MS. DALEY:** You did understand, although you
4 weren't present, that the tapes were concealed; in other
5 words, they weren't in plain view in the bathroom?

6 **CST. McDOUGALD:** I have no -- I was not
7 there when they were located so I don't know where they
8 were.

9 **MS. DALEY:** All right. Did you learn from
10 Officer Millar the precise place where he found them?

11 **CST. McDOUGALD:** He explained where they
12 were found, but I mean I did not go up to see where they
13 were found. So I'm just going by explanation.

14 **MS. DALEY:** I thought your own notes
15 suggested it was a hiding place.

16 **CST. McDOUGALD:** It was explained to me
17 where they were located.

18 **MS. DALEY:** As a hiding place?
19 Did you wonder at all how it happened that
20 Officer Millar found them there?

21 **CST. McDOUGALD:** No. We're searching for
22 handguns, which means that you can search in any location,
23 large or small.

24 **MS. DALEY:** I understand that, and I
25 understand your rationale for opening the suitcase because

1 presumably if you -- or the briefcase -- because until you
2 open it ---

3 **CST. McDOUGALD:** It was a suitcase.

4 **MS. DALEY:** --- you don't know that there
5 might not be a handgun there; correct?

6 **CST. McDOUGALD:** Correct.

7 **MS. DALEY:** But once you've done that and
8 you've seen what you have are tapes, some of which is gay
9 pornography, ultimately the decision that you and he made
10 was to take them?

11 **CST. McDOUGALD:** Correct.

12 **MS. DALEY:** Now, just to conclude on this
13 point, I thought I'd understood you to say that there was a
14 concern that illegal content, be it child pornography, what
15 you call "snuff films" or something of that sort, could be
16 sandwiched inside a tape? You had been led to believe that
17 it was possible?

18 **CST. McDOUGALD:** Yes.

19 **MS. DALEY:** And was it your staff sergeant
20 or detachment commander who told you that?

21 **CST. McDOUGALD:** No, it was not.

22 **MS. DALEY:** You had that understanding from
23 somewhere else?

24 **CST. McDOUGALD:** From attending training
25 courses in the past, yes.

1 **MS. DALEY:** All right. Are we agreed that
2 if that's the concern, that some illegal content has been
3 concealed inside a tape, we're agreed that the method that
4 was used to review those tapes wouldn't necessarily catch
5 that, would it?

6 **CST. McDOUGALD:** I believe at that time,
7 yes, it did -- it was.

8 **MS. DALEY:** Well, is this not logical, sir?
9 If the concern is that there might be illegal content in
10 the midst of a commercial tape, wouldn't you pretty much
11 have to watch the whole tape to determine whether or not
12 there was such illegal content?

13 **CST. McDOUGALD:** I believed at the time,
14 fast forwarding through was sufficient.

15 **THE COMMISSIONER:** Is that your belief now?

16 **CST. McDOUGALD:** Sixteen (16) years ago,
17 there was no allegations of any sexual impropriety. We
18 were not investigating anything other than harassment and
19 handguns. Yes, that's what I believed then.

20 Today, with the knowledge that I have now,
21 it's different.

22 **THE COMMISSIONER:** It's what?

23 **CST. McDOUGALD:** It's different. Now, with
24 the knowledge I have today ---

25 **THE COMMISSIONER:** Well, what's the

1 knowledge that you have today?

2 **CST. McDOUGALD:** I would have preferred that
3 the tapes would have been sent to Project P and viewed by
4 somebody in that section.

5 **THE COMMISSIONER:** Okay, but we're getting
6 off track, I guess, a little bit.

7 I mean, you're saying that back then,
8 looking at it as you did intermittently, that that was
9 sufficient?

10 **CST. McDOUGALD:** Yes, I believe back then.

11 **THE COMMISSIONER:** Okay and now would you do
12 the -- never mind Project P, do you agree that there may
13 have been some spots in there where something was put in
14 and you wouldn't have seen it?

15 **CST. McDOUGALD:** I believe the method we
16 use, we more than likely would have seen something had it
17 been placed into the tape.

18 **MS. DALEY:** Just on a random look? Just
19 looking randomly?

20 **CST. McDOUGALD:** Yes.

21 **MS. DALEY:** Are you able to say for any
22 individual tape, how much random sampling you did? I mean,
23 how many actual minutes would you have looked at?

24 **CST. McDOUGALD:** That I couldn't tell you.

25 **MS. DALEY:** You did testify in your evidence

1 in-chief that you felt not comfortable reviewing the tapes.

2 CST. McDOUGALD: Correct.

3 MS. DALEY: And I wonder if you could expand
4 on that a little bit? Without going -- without
5 personalizing it, did you have an aversion to the content?

6 CST. McDOUGALD: I just did not feel
7 comfortable viewing that type of tape, ma'am.

8 MS. DALEY: But why not?

9 CST. McDOUGALD: I just did not feel
10 comfortable.

11 MS. DALEY: Did that make -- I assume the
12 discomfort made it difficult then for you to review them?

13 CST. McDOUGALD: No, I had my job to do and
14 I did my job.

15 MS. DALEY: And sir, one final question
16 about this aspect of things; is there a reason why you
17 didn't itemize each of the 22 tapes in your property report
18 or in your notes or in any fashion at all?

19 CST. McDOUGALD: At that time, I was dealing
20 with the allegations of the weapons. I was not
21 investigating any other occurrence relating to sexual
22 assaults or anything. That's why I did not make any notes
23 at that time about itemizing the tapes. It's just that I
24 viewed the tapes and nothing was found on the tapes.

25 MS. DALEY: All right.

1 I guess the way I would look at that -- you
2 may disagree, but were you not at least to some extent
3 investigating whether the tapes that had been seized
4 contained illegal content?

5 CST. McDOUGALD: Yes.

6 MS. DALEY: Would that not have required
7 them to be itemized?

8 CST. McDOUGALD: In what fashion?

9 MS. DALEY: Well, one fashion might be
10 simply to record the label on each tape, to give a
11 description including how it's labelled, whether it has a
12 title on it, whether it has a handwritten label on it; that
13 type of information.

14 CST. McDOUGALD: I did not do that in my
15 notebook.

16 MS. DALEY: All right.

17 Just -- if you can help me with one final
18 detail, you did remember the title of one of these videos;
19 is it your recollection that they all had titled labels on
20 them?

21 THE COMMISSIONER: You mean commercial ---

22 MS. DALEY: Yes.

23 THE COMMISSIONER: --- labels?

24 MS. DALEY: In one piece -- the movie that
25 you recalled the title of, I assume that was a commercial

1 label on the videotape.

2 CST. McDOUGALD: Yes.

3 MS. DALEY: Now, do you remember whether all
4 of the other ones had a commercial label with titles on
5 them?

6 CST. McDOUGALD: I believe they all did.

7 MS. DALEY: They all did. All right.

8 Just -- my -- the final area I want to speak
9 to you about has to do with the release -- I'm sorry, the
10 Quit Claim incident and then the destruction of these
11 tapes.

12 Bear with me one second, sir. If you could
13 have Exhibit 1145 handy. Sorry, 44; this is the property
14 report.

15 CST. McDOUGALD: Yes.

16 MS. DALEY: And just tell me if I've got
17 this right, sir. My understanding of how this report came
18 to be filled out is that you filled out the top portion of
19 it identifying the briefcase, the pornographic videos and
20 then you -- is that your signature, your officer I.D.
21 number and the date February 10th, '93 that we see on the
22 line halfway down?

23 CST. McDOUGALD: Yes.

24 MS. DALEY: So everything up to that point
25 is your handwriting?

1 CST. McDOUGALD: Yes.

2 MS. DALEY: And the balance of the form, we
3 see Mr. Leroux has signed this form on April 25, '93. Do
4 you see that?

5 CST. McDOUGALD: Yes.

6 MS. DALEY: And that's not your handwriting;
7 is it, sir?

8 CST. McDOUGALD: That is my handwriting.

9 MS. DALEY: That's your handwriting?

10 CST. McDOUGALD: Yes.

11 MS. DALEY: The April 25 date? All right.
12 It was suggested to you that you had
13 witnessed his signature. You didn't sign as a witness?

14 CST. McDOUGALD: No.

15 MS. DALEY: What confused me about the
16 question is you signed above that at February 10th, '03, but
17 Mr. Leroux comes in and signs on April 25th, '93 so that's
18 several months later. Do you understand what I'm asking
19 you?

20 CST. McDOUGALD: The date, 10 February '93,
21 is myself placing the property into the detachment vault.

22 MS. DALEY: Right.

23 CST. McDOUGALD: That's what that date is
24 about. It shows storage location, detachment vault, my
25 signature and my badge number.

1 MS. DALEY: Right.

2 CST. McDOUGALD: The next date, which is the
3 25th April '93, is the date that Mr. Leroux signed the Quit
4 Claim.

5 MS. DALEY: But is it your handwriting that
6 has put the date in there?

7 CST. McDOUGALD: Yes.

8 MS. DALEY: That was you, all right.

9 CST. McDOUGALD: And I have itemized one and
10 two as the items he is placing on Quit Claim.

11 MS. DALEY: Right.

12 And then the remaining writing on this page,
13 I take it that's not you; that's Mr. -- or Officer McWade
14 or do you know?

15 CST. McDOUGALD: That's not my signature.

16 MS. DALEY: All right.

17 CST. McDOUGALD: And that's not my writing.

18 MS. DALEY: All right.

19 Now, I did look at your notes for April 25th,
20 '93, Exhibit 2555 -- let me give you the right page, sir --
21 starting at page 1005.

22 CST. McDOUGALD: Yes.

23 MS. DALEY: And over on the next page is the
24 balance of that note, and that deals with your dealings
25 with Mr. Leroux on April 25th, 1993.

1 **CST. McDOUGALD:** Correct.

2 **MS. DALEY:** And that relates to the weapons
3 incidents; correct, sir?

4 **CST. McDOUGALD:** Right.

5 **MS. DALEY:** There's no note here of him
6 giving you this additional information about how he found
7 the suitcase, where he found the suitcase, what he wanted
8 to happen with the suitcase. That's not noted in your
9 notebook; correct?

10 **CST. McDOUGALD:** That's correct.

11 **MS. DALEY:** All right.

12 Those are my questions. Thank you kindly.

13 **THE COMMISSIONER:** Thank you.

14 Who's going? Mr. Paul?

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

16 **PAUL:**

17 **MR. PAUL:** Constable McDougald, my name is
18 Ian Paul. I appear for the Coalition for Action which is a
19 citizens group. I had a few questions for you, first of
20 all, in relation to Mr. Leroux and your interaction with
21 Mr. Leroux.

22 Now, I understand that you just indicated
23 that you signed a Quit Claim deed giving up any rights to
24 the tapes.

25 **CST. McDOUGALD:** Correct.

1 **MR. PAUL:** And he was -- I think you
2 indicated that he was given the opportunity to take the
3 tapes himself.

4 **CST. McDOUGALD:** Yes.

5 **MR. PAUL:** And did he appear nervous with
6 the prospect of getting the tapes back?

7 **CST. McDOUGALD:** I don't recall that.

8 **MR. PAUL:** Okay.

9 But he certainly presented himself as
10 someone who did not want to be associated with the tapes.

11 **CST. McDOUGALD:** That's correct.

12 **MR. PAUL:** And he presented himself as
13 someone who was distancing himself from the tapes by giving
14 explanations that he was not even the owner -- original
15 owner. He had found them abandoned; correct?

16 **CST. McDOUGALD:** That is the explanation
17 that he gave to me; that he had found them and didn't want
18 them.

19 **MR. PAUL:** Now, in the discussion at any
20 point -- at any point when he's asked to sign the Quit
21 Claim deed, does he express any doubt about the meaning of
22 the document and specifically, does he, at any point, think
23 that he's signing a document and getting the tapes back
24 originally?

25 **CST. McDOUGALD:** There was no -- any

1 indication of that, no.

2 **MR. PAUL:** All right. So at least no verbal
3 indication to you, that you recall?

4 **CST. McDOUGALD:** No, I explained to him the
5 process of, he can have the property back or if he did not
6 want it back, he can sign the Quit Claim and I explained
7 what that meant to him.

8 **MR. PAUL:** Now, as far as the actual search
9 of the residence, I wanted to ask you one point in terms of
10 the manner of the search. Did you view it as an exhaustive
11 search of the entire residence or did the search cease at
12 some point when you found what you were looking for in
13 terms of weapons?

14 **CST. McDOUGALD:** I do not recall, at this
15 point, when the search ceased.

16 **MR. PAUL:** All right.

17 So you don't recall if finding a weapon at
18 some point ended -- resulted in the search ending at that
19 point?

20 **CST. McDOUGALD:** No, no, it did not. It
21 continued on for a period of time.

22 **MR. PAUL:** So as far as you can recall, the
23 best of your recollection is, is that it was a search of
24 the entire residence?

25 **CST. McDOUGALD:** I have no full recollection

1 at this point of the entirety of the search.

2 MR. PAUL: I wanted to ask you about
3 something in relation to a portion of Mr. Leroux' testimony
4 here at the Inquiry in which he suggested -- his suggestion
5 is that there were ripped up tapes in the bottom of a
6 barrel, a laundry barrel.

7 I want to ask you, do you have any
8 recollection of seeing any ripped up tapes?

9 CST. McDOUGALD: I never saw any ripped up
10 tapes.

11 MR. PAUL: All right. Do you have any
12 recollection of a laundry barrel being searched?

13 CST. McDOUGALD: I don't have a recollection
14 of ever seeing a laundry barrel.

15 Now, what type of barrel are we talking
16 about, Mr. Paul?

17 MR. PAUL: It would be a barrel -- it
18 indicates a 45-gallon, if my recollection is correct, a
19 large barrel used as a laundry hamper.

20 CST. McDOUGALD: Are we talking like a 45-
21 gallon steel?

22 MR. PAUL: He indicated a 45-gallon barrel
23 used for a laundry hamper.

24 CST. McDOUGALD: I don't recall seeing that.

25 MR. PAUL: Now, in terms of the process of

1 reviewing the tapes, there was the review of one tape at
2 the residence; correct? And you were involved in that?

3 **CST. McDOUGALD:** Yes.

4 **MR. PAUL:** And subsequently, the police
5 station had the balance of the tapes are reviewed primarily
6 by you and Constable Dussault?

7 **CST. McDOUGALD:** Correct.

8 **MR. PAUL:** Now, if the tapes had been
9 reviewed by Project P as an alternative, are you familiar
10 with that process in the sense of would there have been a
11 written report that would have come back if there was a
12 review by that office?

13 **CST. McDOUGALD:** I am not aware of what
14 their process was in 1993.

15 **MR. PAUL:** All right. As far as your
16 process, there was no written report on your findings of
17 the tapes; correct?

18 **CST. McDOUGALD:** There would have been a
19 written report done by myself and that would have been on
20 the occurrence report at the detachment level.

21 **MR. PAUL:** An occurrence report?

22 **CST. McDOUGALD:** Yes.

23 **MR. PAUL:** And would that occurrence report
24 outline facts surrounding what the tapes were?

25 **CST. McDOUGALD:** Yes.

1 **MR. PAUL:** Did you ever put to writing names
2 that appeared on the labels of all the tapes?

3 **CST. McDOUGALD:** I do not recall at this
4 time what was in the report. It would have been a detailed
5 report of what I did and what I found.

6 **MR. PAUL:** Do you recall if you ever put to
7 writing for example actually the contents of the tapes if
8 when the tape is run if there's a title; if there's names
9 of actors; that type of thing that would signify a
10 commercial as opposed to a homemade tape?

11 **CST. McDOUGALD:** I don't recall if it was
12 written in that fashion.

13 **MR. PAUL:** As far as an individual by the
14 name of Ken Seguin, you indicated at that time you didn't
15 know who Ken Seguin was.

16 **CST. McDOUGALD:** I did not know who Ken
17 Seguin was.

18 **MR. PAUL:** So as far as you being able to
19 identify whether he was on the tape or not, you wouldn't
20 have been able to identify him at that point; you didn't
21 know him?

22 **CST. McDOUGALD:** As I stated, all the
23 material that I viewed on the tapes, in my opinion, were
24 commercially made.

25 **MR. PAUL:** At this point though, you agree

1 you can't provide the Commission with, for example, names
2 of the movies or names of actors who appeared in them?

3 **CST. McDOUGALD:** No.

4 **MR. PAUL:** they're So as far as any actual
5 indicia of why you're saying that they're commercial tapes,
6 would that be lists of actors appearing on the movies,
7 names -- titles of the movies or for example, quality of the
8 tapes, and breaking that down into the individual tapes,
9 you obviously can't do that today?

10 **CST. McDOUGALD:** Oh, I can't break it down
11 today, no.

12 **MR. PAUL:** As far as other individuals,
13 Malcolm MacDonald, there was conversations with him on the
14 phone; is he someone you knew back then?

15 **CST. McDOUGALD:** No, I did not know him.

16 **MR. PAUL:** Okay. So as to say, for example,
17 whether Malcolm MacDonald appeared on any tapes; is that
18 something you could have said or you would have been able
19 to identify him at that point?

20 **CST. McDOUGALD:** My understanding Mr.
21 MacDonald was elderly in age and I did not view anybody of
22 that age.

23 **MR. PAUL:** All right. Would you have known
24 Bishop LaRocque at the time?

25 **CST. McDOUGALD:** No.

1 **MR. PAUL:** Would you have known Claude
2 Shaver at the time; Chief of Cornwall police?

3 **CST. McDOUGALD:** I did not know him
4 personally.

5 **MR. PAUL:** Oh, but to visualize him, he's
6 somebody you'd be able to identify or not from publicity in
7 newspapers?

8 **CST. McDOUGALD:** I may have but ---

9 **MR. PAUL:** You're not sure at this point?

10 **CST. McDOUGALD:** No.

11 **MR. PAUL:** A couple of questions about
12 Detective Constable Millar. I just want to clarify, who
13 actually was the exhibit officer during the search; was
14 that you or was that Officer Millar?

15 **CST. McDOUGALD:** I was.

16 **MR. PAUL:** So in terms of once the items
17 were located, you become the custodian and responsible for
18 continuity back to the police station?

19 **CST. McDOUGALD:** Correct.

20 **MR. PAUL:** Another thing I didn't understand
21 completely. You were -- are you actually present when the
22 suitcase with the tapes is opened or are you certain
23 whether you were there at the time?

24 **CST. McDOUGALD:** I was present when the
25 suitcase was opened downstairs.

1 **MR. PAUL:** And in terms of at what point the
2 tapes get handed over, when do you take control for
3 continuity purposes of the tapes?

4 **CST. McDOUGALD:** At that particular time.

5 **MR. PAUL:** Upon the opening?

6 **CST. McDOUGALD:** Yes.

7 **MR. PAUL:** And are you aware that there's
8 other tapes, perhaps one or two other tapes that were not
9 in the suitcase?

10 **CST. McDOUGALD:** Yes.

11 **MR. PAUL:** And at what point do you take
12 control of those?

13 **CST. McDOUGALD:** I don't recall that time
14 frame.

15 **MR. PAUL:** I want to ask you in relation to
16 the investigations of Mr. David Silmser, I want to ask you
17 -- you're familiar at this point, the Cornwall police was
18 conducting investigations back then of David Silmser?

19 **CST. McDOUGALD:** I'm familiar -- at what
20 timeframe do I become?

21 **MR. PAUL:** You're aware -- today, you're
22 aware generally of the allegations involving David Silmser
23 against Ken Seguin and Charles MacDonald? You're aware of
24 that today?

25 **CST. McDOUGALD:** I'm not aware fully of the

1 full allegations. I am aware of the allegation against
2 Father MacDonald.

3 **MR. PAUL:** Now, what I wanted to ask you, is
4 back at the time when the matters involving Leroux/C-8 were
5 being looked at by you, December -- sorry C-8 and Mr.
6 Leroux were being looked at by you, did you have any
7 knowledge of any Cornwall police investigation at that
8 time?

9 **CST. McDOUGALD:** Absolutely not.

10 **MR. PAUL:** And up until the search warrant,
11 you had no knowledge of that matter?

12 **CST. McDOUGALD:** I had not heard of any
13 names or any investigations ongoing.

14 **MR. PAUL:** Now when you were conducting the
15 investigation, were you advised at some point by C-8 that
16 he alleged that one of the guns or a gun was pointed at him
17 in some fashion seven to eight years before?

18 **CST. McDOUGALD:** Yes.

19 **MR. PAUL:** And was that -- did you
20 understand that to be pointed in a threatening manner?

21 **CST. McDOUGALD:** C-8 indicated that he was
22 not looking for charges; that he wanted the harassment to
23 stop.

24 **MR. PAUL:** All right. So I was going to ask
25 if there was any reason for not charging Mr. Leroux at that

1 point. Was that because of a lack of desire to press
2 charges?

3 **CST. McDOUGALD:** Yes.

4 **MR. PAUL:** I want to ask you about a portion
5 of your notes; the Exhibit 2555, the page ending in 991.

6 Now there's a portion towards the bottom of
7 the page making reference to C-8 and there's an allegation
8 of Leroux. Leroux alleges that C-8 is making up some of
9 the allegations. It's indication:

10 "I think C-8 made story up so as not
11 to get into trouble for having guns at
12 his house."

13 **CST. McDOUGALD:** Yes.

14 **MR. PAUL:** So, in terms -- is that speaking
15 of the four guns that are originally turned over?

16 **CST. McDOUGALD:** Correct.

17 **MR. PAUL:** So the suggestion by Mr. Leroux
18 is he is denying responsibility; is that -- so your
19 understanding he's denying responsibility for those four
20 guns?

21 **CST. McDOUGALD:** No.

22 **MR. PAUL:** How is it you're interpreting?
23 Why are you putting in the notes that C-8 made the story
24 up? What does that signify?

25 **THE COMMISSIONER:** I think it says "thinks."

1 Is that "thinks" you think or Leroux thinks that's C-8?

2 CST. McDOUGALD: Just reading that now,
3 Commissioner.

4 THE COMMISSIONER: Okay.

5 CST. McDOUGALD: That would be Leroux
6 thinking that C-8 made the story up about the harassment
7 and the suicide. And that would be in respect to why C-8
8 had the guns at his residence.

9 MR. PAUL: Right. So does it apply to the
10 harassment only or also the harassment and the weapons?

11 CST. McDOUGALD: Can you restate that? I
12 don't understand what you mean.

13 MR. PAUL: Does the phrase "making it up,"
14 is that a suggestion by Leroux that applies to the
15 harassment or both the harassment and the presence of
16 weapons?

17 MR. CARROLL: I don't recollect the witness
18 saying that Leroux made it up with respect to the presence
19 of weapons and I read that -- it looks to me, you know,
20 look at what's above it; it deals with threats, not the
21 presence of weapons.

22 MR. PAUL: Well, in response, I didn't
23 suggest that was the case. I'm asking ---

24 THE COMMISSIONER: No, I realize you didn't
25 suggest that but what Mr. Carroll is saying is that the

1 things could be related back up and says:

2 "States never threatened to take life
3 or anyone else."

4 And then:

5 "Thinks C-8 made story up so as not
6 to get into trouble for having guns at
7 his house illegally."

8 **MR. PAUL:** So is it your recollection that
9 that comment applies to the harassment aspect?

10 **CST. McDOUGALD:** Correct.

11 **MR. PAUL:** In terms of the warrant
12 application, the warrant application later on in February
13 generally doesn't make reference to the harassment issues?
14 And I can give you the document, Mr. McDougald.

15 **CST. McDOUGALD:** Yes, please.

16 **THE COMMISSIONER:** So 603?

17 **MR. PAUL:** I'm thinking of -- I believe it's
18 Exhibit C-603, I believe it is.

19 **THE COMMISSIONER:** And the appendix is -- I
20 think it's clear, Mr. Paul, that the appendixes say that
21 the RCMP have a record that Leroux had guns, restricted
22 weapons that had to be at a residence on a certain street.
23 He obviously had moved and so it was rather a -- more of a
24 technical thing -- well, I'm not going -- I don't want to
25 belittle the point of restricted weapons but that was the

1 reason why the warrant?

2 **CST. McDOUGALD:** Yes, Commissioner, but as
3 stated earlier, 11 various charges were laid under firearms
4 related. Some were pertaining to paperwork, obviously not
5 updating the paper. Others were related to having
6 restricted weapons.

7 **MR. PAUL:** So you would not have given the
8 entire background in the warrant application, the entire
9 background of the parties to a Justice of the Peace?

10 **CST. McDOUGALD:** For this application we
11 were looking for the two outstanding handguns that were in
12 Mr. Leroux' name.

13 **MR. PAUL:** Now, when you're about to
14 commence the execution of the warrant you've indicated
15 there was contact with Malcolm MacDonald?

16 **CST. McDOUGALD:** Excuse me?

17 **MR. PAUL:** There was contact with Malcolm
18 MacDonald?

19 **CST. McDOUGALD:** Correct.

20 **MR. PAUL:** And he is invited to be present
21 at the execution of the warrant?

22 **CST. McDOUGALD:** During my second
23 conversation with him, yes.

24 **MR. PAUL:** And is the idea that he is to be
25 present just as an observer or are you hoping that he'll

1 assist you in any way?

2 **CST. McDOUGALD:** Strictly as an observor
3 because at this particular time I'm aware that Mr.
4 MacDonald is Mr. Leroux' personal lawyer. And being that
5 we're aware at that particular time that Mr. Leroux is away
6 and out of country for two weeks and will not be present
7 during the warrant, I just thought it was being courteous
8 and invited him if he wanted to come down just to be, not a
9 witness or partake in the execution of the warrant, be
10 there on his client's behalf.

11 **MR. PAUL:** And as far as C-8, you actually
12 do get his assistance and obtain entry to the premises?

13 **THE COMMISSIONER:** He's the one who lets you
14 in?

15 **CST. McDOUGALD:** He lets us in but he's not
16 instructed to do so. He calls back at a later time
17 advising "When I contact C-8 ask him if he has a key" and
18 he advises me initially no, he does not. He then calls us
19 back at a later time that date and advises that he was able
20 to locate a key and that he was actually at the residence
21 at that particular time.

22 **MR. PAUL:** When you contacted him it is with
23 the hope that he'll have a key to let you in; correct?

24 **CST. McDOUGALD:** That's correct. As stated,
25 the residence was locked and we were looking at the least

1 intrusive way of entering into the house.

2 MR. PAUL: And ultimately when you arrived
3 does he present you with one of the guns?

4 CST. McDOUGALD: Correct.

5 MR. PAUL: So are you pleased that he's done
6 some of your work for you already?

7 CST. McDOUGALD: No.

8 MR. PAUL: So I take it that at that point
9 you might have some concern that his intervention may cause
10 some difficulties for you in proving your case?

11 CST. McDOUGALD: I don't know what his
12 intervention will or may cause. As stated, he was not
13 instructed by myself to go to the residence. He was not
14 instructed to assist in any manner.

15 MR. PAUL: So fair to say generally you
16 would not want a civilian present during the execution of a
17 warrant being involved if he's not named in the warrant?

18 CST. McDOUGALD: Civilians are -- we don't
19 have control who was at locations sometimes when we execute
20 warrants, obviously because if I were to have attended the
21 residence, Mr. Leroux could have been home and there could
22 have been some friends over.

23 MR. PAUL: To your knowledge, your knowledge
24 at the time, it is Mr. Leroux' residence; correct?

25 CST. McDOUGALD: Excuse me?

1 **MR. PAUL:** Your understanding is it is Mr.
2 Leroux' residence?

3 **CST. McDOUGALD:** Correct.

4 **MR. PAUL:** And that he is away at the time?

5 **CST. McDOUGALD:** Correct.

6 **MR. PAUL:** And it's not your understanding
7 that C-8 is living there at the time?

8 **CST. McDOUGALD:** Correct.

9 **MR. PAUL:** So you would perhaps have some
10 concerns with his intervention at the time?

11 **CST. McDOUGALD:** I contacted C-8 based on
12 the fact that he used to live at the residence and just
13 trying to inquire if he would have had a key handy for us
14 to enter the residence.

15 **MR. PAUL:** Is C-8 allowed to stay present
16 during the execution of the search?

17 **CST. McDOUGALD:** He is in the building, in
18 the house.

19 **MR. PAUL:** So he is not asked to leave at
20 any point?

21 **CST. McDOUGALD:** No.

22 **MR. PAUL:** But he is -- you're saying there
23 is no assistance sought from him?

24 **CST. McDOUGALD:** No assistance at all.

25 **MR. PAUL:** Did the -- in terms of the tapes,

1 the tapes are found fairly quickly after the entry?

2 CST. McDOUGALD: M'hm.

3 MR. PAUL: Your notes make reference to it,
4 just again the same document, the 2555. I believe it's at
5 page 998.

6 CST. McDOUGALD: I'm sorry, the number
7 again, please?

8 MR. PAUL: Page ending in 998.

9 CST. McDOUGALD: Eleven (11) minutes after
10 entry.

11 MR. PAUL: Now, I just want to ask you, the
12 quick finding of the tapes, 11 minutes; is that in anyway
13 through any assistance of any other persons such as C-8 or
14 Malcolm MacDonald or anybody else?

15 CST. McDOUGALD: Could you state that again?
16 I think that's ---

17 MR. PAUL: The quick finding of the tapes.

18 CST. McDOUGALD: Yes.

19 MR. PAUL: Is that coincidental or is it
20 with assistance of C-8 or anybody else?

21 CST. McDOUGALD: That would assume that you
22 consider that a quick find. It might not be that quick
23 find.

24 MR. PAUL: Okay, but did you have any
25 knowledge in advance that tapes might be anywhere in the

1 residence or is it fairly coincidental that you find the
2 tapes that quick?

3 **CST. McDOUGALD:** Solely coincidental.

4 **MR. PAUL:** Now, in terms of the finding of
5 the tapes in a briefcase, I would assume that -- initiate
6 the opening of the briefcase is to look to see for
7 potentially firearms in the briefcase. Is that ---

8 **CST. McDOUGALD:** Correct.

9 **MR. PAUL:** But once you have the tapes I
10 would suggest that it was not necessarily clear from the
11 labelling on the tapes that this would be child pornography
12 or anything illegal. Is that what you're saying?

13 **CST. McDOUGALD:** There was nothing on any of
14 the tapes that indicated anything of that nature.

15 **MR. PAUL:** And you do test one tape and play
16 one tape at the residence; correct?

17 **CST. McDOUGALD:** Correct.

18 **MR. PAUL:** And you don't locate anything
19 indicating child pornography? That's what your evidence
20 is?

21 **CST. McDOUGALD:** The tape would have been in
22 the recorder for a matter of seconds. We didn't test the
23 whole tape. It was just placed in, press play, saw what
24 was on it, turned it off.

25 **MR. PAUL:** Now, finding the tapes in that

1 manner, in terms of the discussions you had with Detective
2 Constable Miller, are you relying upon the plain view
3 doctrine, offence-related property is found in plain view?

4 **CST. McDOUGALD:** At that particular time,
5 yes.

6 **MR. PAUL:** Now, you didn't see any
7 difficulty with the plain view doctrine given the viewing
8 of one tape and not identifying anything illegal on it?

9 **CST. McDOUGALD:** I don't follow you.

10 **MR. PAUL:** Well, in terms of the plain view
11 doctrine would you not agree that you don't -- from the
12 tape you saw you didn't identify any offence and from the
13 labelling on the tapes you didn't seem to identify any
14 offence or any suspicion of an offence?

15 **CST. McDOUGALD:** As stated, the tapes were
16 brought back so that we can view them at another location.

17 **MR. PAUL:** And you didn't identify any
18 difficulties with that along the lines of the plain view
19 doctrine?

20 **CST. McDOUGALD:** No.

21 **MR. PAUL:** Just in terms of, first of all,
22 the reaction of Sergeant McWade, I want to ask you about a
23 portion of Document 117639. I believe it's Exhibit C-619;
24 be at page 2.

25 **CST. McDOUGALD:** Sorry, 117?

1 **THE COMMISSIONER:** No, no, Exhibit 619?

2 **MR. PAUL:** C-619, yes, at page 2.

3 **CST. McDOUGALD:** Six-one-nine (619)?

4 **THE COMMISSIONER:** Yes. Page 2.

5 **MR. PAUL:** Perhaps I could show him page 1
6 first, just to identify the document?

7 **THE COMMISSIONER:** Sure.

8 **MR. PAUL:** Just to identify the document, I
9 believe it's an interview, 11th December, '98 conducted by
10 Detective Sergeant Hall.

11 **CST. McDOUGALD:** Correct.

12 **MR. PAUL:** And prior to the interview, are
13 you under the understanding that the purpose of the
14 interview is to -- in part at least to deal with the issue
15 of the tapes?

16 **CST. McDOUGALD:** I'm not familiar with what
17 I was aware with at the time of the interview, until the
18 interview progressed.

19 **MR. PAUL:** Were you aware of what function
20 Detective Hall was performing at the time, what
21 investigations he was conducting?

22 **CST. McDOUGALD:** I wasn't familiar with any
23 detail. I was familiar with where he was assigned.

24 **MR. PAUL:** All right. And I assume that you
25 were trying to give as many details surrounding the tapes

1 to the best of your recollection?

2 **CST. McDOUGALD:** I was answering any
3 question that he put forth to me in the best of my
4 recollection, yes.

5 **MR. PAUL:** And was he conducting the
6 interview in a fair manner, in the sense he wasn't trying
7 to put words in your mouth?

8 **CST. McDOUGALD:** At this time I'm not
9 familiar with or I cannot recall the interview and what
10 transpired at the time of the interview.

11 **MR. PAUL:** All right.

12 I did want to ask you a portion of page 2 of
13 the interview. There's a portion in the middle where it
14 indicates:

15 "It was determined by Staff Sergeant J.
16 McWade that I view the videotape
17 randomly to ascertain if there was any
18 child pornography or home videos of
19 local people."

20 Do you recall putting that in your
21 statement?

22 **CST. McDOUGALD:** I don't recall giving the
23 statement -- like I said, I don't recall the statement
24 being given, right now, at that particular time, but ---

25 **MR. PAUL:** Do you agree that that seems to

1 suggest almost that there's a direction from Staff Sergeant
2 McWade to look for both child pornography or home videos of
3 local people?

4 **CST. McDOUGALD:** Staff Sergeant McWade never
5 directed me. As I stated earlier, that was my own wording
6 that I placed in there. I was never directed by Staff
7 Sergeant McWade to look for any local people. That was
8 just the terminology I used at that particular time.

9 **MR. PAUL:** And you have no explanation today
10 why you would have used the specific terminology of "home
11 videos of local people" -- why you would have said that?

12 **CST. McDOUGALD:** I meant to myself, and this
13 is a refresher of myself, that we were looking for anything
14 that would have been of an illegal nature. And, as I
15 stated, child pornography, snuff films -- that's just a
16 terminology that I put in there.

17 **MR. PAUL:** You would agree that home videos
18 of local people by themselves would not necessarily be of a
19 legal interest to you in the sense of whether it's a
20 criminal offence?

21 **CST. McDOUGALD:** Exactly, and we're not
22 interested in that. We're interested in anything that
23 might have been of a criminal offence.

24 **MR. PAUL:** All right. So if, in fact, you
25 had been directed only to look for child pornography, there

1 wouldn't be any reason to mention home videos of local
2 people, would there?

3 **CST. McDOUGALD:** In what context do you
4 mean?

5 **MR. PAUL:** If you're only concern was
6 looking for the criminal aspect of child pornography, there
7 would be no reason for you to say in your statement that
8 you were looking for home videos of local people?

9 **CST. McDOUGALD:** Like I said, it may not
10 have been the best words to use in my statement. We were
11 looking for anything of a criminal nature -- anything of
12 criminal nature, not necessarily just child pornography.

13 **THE COMMISSIONER:** Officer McDougald, we
14 know that in 1992 Silmsler is being investigated by the
15 Cornwall Police. You may not know that, and that's fair.

16 But, sir, we've got an allegation that there
17 are some tapes that are around here some place circulating,
18 okay, just out of this Inquiry. There's allegations that
19 the police may have looked at these things, seen some
20 people and destroyed them.

21 **CST. McDOUGALD:** Right.

22 **THE COMMISSIONER:** Now we don't know whether
23 they were destroyed or not or by whom. You go to the
24 Justice of the Peace and you forget to list the videos ---

25 **CST. McDOUGALD:** Right.

1 **THE COMMISSIONER:** --- which does not
2 conformed to law, right? Then you write in your notebook,
3 not once but twice -- or in statements -- that the
4 commander has told you that he and the janitor have
5 destroyed the tapes.

6 So what we're looking at is, if we're
7 looking at from the point-of-view of a sinister look at it,
8 the fact that you put in "and of local people", I mean,
9 almost mimics what Project Truth was all about, about
10 looking for prominent people abusing young people. And
11 so can you see how some people might well look at that and
12 have some kind of suspicion or doubt as to what went on?

13 **CST. McDOUGALD:** That is just a term that I
14 used. The tapes were seized long before I had any
15 knowledge of any allegation of any form of any sense, and I
16 used that terminology then and it was just -- like I said,
17 maybe it was bad use of wording by myself. We were looking
18 for anything of criminal nature by whoever.

19 **THE COMMISSIONER:** No, no, no. You were
20 looking for guns.

21 **CST. McDOUGALD:** For the -- yes. I'm
22 referring to the tapes here, Commissioner.

23 **THE COMMISSIONER:** Okay.

24 **MR. PAUL:** So just to be clear on that last
25 point, the terminology of "home videos of local people",

1 you're saying clearly that that was your terminology, that
2 was not terminology suggested by Detective Sergeant Hall?

3 **CST. McDOUGALD:** That's correct.

4 **MR. PAUL:** And generally in terms of some of
5 the potential difficulties with the way the search was
6 conducted, they've been referred to -- "the plain view
7 doctrine" as one; another, the potential difficulty of
8 having a civilian present at the scene; issues surrounding
9 the return to the Justice of Peace.

10 I just want to ask you generally was there
11 any lack of concern about obtaining evidence in a manner
12 that at a later point could withstand the scrutiny of the
13 courts? Was there a general lack of concern about
14 obtaining evidence that would be sufficient to withstand
15 court scrutiny at a later point in relation to the guns?

16 **CST. McDOUGALD:** At that time I did not
17 think so.

18 **MR. PAUL:** And I want to also ask you
19 generally, was the focus at some point of the investigation
20 more on the tapes actually than on the guns?

21 **CST. McDOUGALD:** No, they were on the guns.

22 **MR. PAUL:** I just want to ask you generally,
23 briefly, about a few individuals.

24 I believe you've confirmed that Ken Seguin,
25 you had no knowledge of him at the time?

1 **CST. McDOUGALD:** That's correct. I did not
2 know of him.

3 **MR. PAUL:** Did you have any association with
4 the Knights of Columbus?

5 **CST. McDOUGALD:** Yes.

6 **MR. PAUL:** And were you a member at the
7 time?

8 **CST. McDOUGALD:** No, I don't believe so.

9 **MR. PAUL:** Did you have any association with
10 Charles MacDonald or Bishop LaRocque?

11 **CST. McDOUGALD:** No.

12 **MR. PAUL:** I believe those are my questions,
13 Mr. Commissioner.

14 **THE COMMISSIONER:** Thank you. Mr. Lee?

15 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

16 **MR. LEE:**

17 **MR. LEE:** Officer McDougald, my name is
18 Dallas Lee. I'm on for the Victims' Group. I just have a
19 few areas I'd like to talk with you about and I won't be
20 long.

21 Can you turn up your notes, please, to
22 start? Exhibit 2555 and Bates page ending in 002. That's
23 the 17th of February, 1993 entry. Do you have that?

24 **CST. McDOUGALD:** Yes.

25 **MR. LEE:** And that's the one that shows at

1 21:10 hours, the viewing of tapes and at 23:50 you being
2 out on patrol. Do you see that?

3 **CST. McDOUGALD:** Yes.

4 **MR. LEE:** And Mr. Dumais had you confirm in-
5 chief the accuracy of that note, but you suggested that
6 following you leaving to go on patrol, you returned to the
7 detachment and viewed the tapes again. Is that right?

8 **CST. McDOUGALD:** Yes.

9 **MR. LEE:** And we don't have a notebook entry
10 relating to that, but you have some memory of that?

11 **CST. McDOUGALD:** There was a notebook entry,
12 but it's not here.

13 **MR. LEE:** Okay. Do you have any
14 recollection of the amount of time that you would have
15 spent the second time around?

16 **CST. McDOUGALD:** I don't have an independent
17 recollection now, no.

18 **MR. LEE:** It looks like the entry we do have
19 in your notebook is approximately 2 hours and 40 minutes.
20 Would it have been more or less than that; do you recall?

21 **CST. McDOUGALD:** I don't recall.

22 **MR. LEE:** So your recollection, at the very
23 least, is that there is a notebook entry and it's just not
24 in front of you here?

25 **CST. McDOUGALD:** Correct.

1 **MR. LEE:** Okay. Perhaps we'll have your
2 counsel take a look for that after the day is done and we
3 can get that.

4 Can you look please at Exhibit C-619. This
5 is your statement to Pat Hall in December of 1998, Exhibit
6 619.

7 You have that, sir?

8 **CST. McDOUGALD:** I do.

9 **MR. LEE:** And so we have the February 17th
10 viewing of the tape in two separate sessions, you've now
11 told us. Did you view the tapes outside of those two
12 sessions or was that all of it?

13 **CST. McDOUGALD:** I don't have any other
14 recollection.

15 **MR. LEE:** And if you look at Exhibit 619 on
16 the second page, the first full paragraph, the second
17 sentence reads:

18 "The videos were reviewed by myself and
19 Provincial Constable Pat Dussault
20 periodically through the next several
21 day shifts."

22 Do you see that?

23 **CST. McDOUGALD:** I'm just trying to find
24 that.

25 **MR. LEE:** First full paragraph, second

1 sentence.

2 **THE COMMISSIONER:** What page again, Mr. Lee?

3 **MR. LEE:** Page 2 of 3, the paragraph that
4 begins, "It was determined by Staff Sergeant J. McWade"; if
5 you look at the second sentence of that paragraph.

6 **CST. McDOUGALD:** Yes, I see that.

7 **MR. LEE:** And would you agree with me, given
8 that your note of February 17th shows that you -- it's
9 either an evening or an overnight shift, you begin
10 reviewing tapes at 21:10 hours, that the comment here about
11 "periodic review of the tapes through the next several day
12 shifts" must be an error?

13 **CST. McDOUGALD:** The which one must be an
14 error, sir?

15 **MR. LEE:** Well, I presume that you would
16 have more confidence in your notebook, in the entry we have
17 there, than you would in your recollection of the time
18 you're meeting with Pat Hall.

19 **CST. McDOUGALD:** Yeah, I don't have any
20 recollection besides what's in my notebook.

21 **MR. LEE:** Okay.

22 And Mr. Paul asked you a moment ago about
23 the first sentence of that paragraph about Staff Sergeant
24 McWade having asked you to ascertain if there was any child
25 pornography or home videos of local people. And are you

1 aware, sir, that Officer McWade testified here recently?

2 **CST. McDOUGALD:** I am aware now.

3 **MR. LEE:** And, Madam Clerk, can we pull up
4 Transcript Volume 298, please?

5 **THE COMMISSIONER:** Thank you, what page?

6 **MR. LEE:** We will begin on page 84. Do you
7 have that, sir?

8 **CST. McDOUGALD:** Which page, sorry?

9 **MR. LEE:** Eighty-four (84).

10 **CST. McDOUGALD:** Yes.

11 **MR. LEE:** And if you see the longest
12 question that I'm asking Officer McWade on the page, I put
13 that reference out of your statement to him. Do you see
14 that?

15 "It was determined by Staff Sergeant J.
16 McWade that I view the videotapes..."

17 **CST. McDOUGALD:** What line would that be on,
18 please?

19 **MR. LEE:** It begins on line 17.

20 **CST. McDOUGALD:** Okay.

21 "It was determined by Staff Sergeant J.
22 McWade..."

23 **MR. LEE:** Right. So all I'm doing there is
24 I'm putting to Officer McWade the sentence that we've been
25 looking at from the Exhibit 619; okay?

1 CST. McDOUGALD: Right.

2 MR. LEE: And I ask him about what he has to
3 say about that, and if you look onto page 85, line 12, I
4 ask him:

5 "Are you telling us that you definitely
6 did not say that or that you simply
7 cannot recall saying that?"

8 And that's referring to the videos of local
9 people.

10 And he answers:

11 "I can't recall saying anything in that
12 terminology."

13 CST. McDOUGALD: I see that.

14 MR. LEE: And if you follow down, at line
15 24, I say:

16 "Presumably to say something like that,
17 you would have had some suspicion
18 then."

19 And at the top of page 86, the answer is:

20 "Well, no, I was thinking along the
21 lines of before you get into bondage,
22 deeper stuff that might have been
23 homemade, something that might be
24 classified as..."

25 And the question:

1 "So in other words, homemade
2 pornography that would be illegal?"

3 And his answer:

4 "Yeah, yeah."

5 Do you see that?

6 **CST. McDOUGALD:** Yes, I see that.

7 **MR. LEE:** You would agree with me that your
8 memory in 1998 at the time of your interview by Pat Hall
9 would have been better than it is today, sir?

10 **CST. McDOUGALD:** On certain things maybe,
11 but not everything.

12 **MR. LEE:** Would you agree with me, given
13 what you told Pat Hall 10 years ago and what Officer McWade
14 testified to here, that it is at least possible that he
15 instructed you to ascertain whether or not there were
16 videos of -- home videos of local people on those tapes?

17 **CST. McDOUGALD:** I don't recall getting that
18 direction from him.

19 **MR. LEE:** Is it possible, sir?

20 **CST. McDOUGALD:** Well, I have no
21 recollection of the conversation of getting that, so.

22 **MR. LEE:** And do you still have Exhibit C-
23 619 in front of you? That's your interview of December
24 11th, '98 with Pat Hall?

25 **CST. McDOUGALD:** Yes.

1 **MR. LEE:** And if you turn to the last page,
2 you see the final question on the page, the paragraph above
3 that, you've been taken to it today. It reads:

4 "I was advised by Staff Sergeant McWade
5 on the 4 May '93 that the videotapes
6 and suitcase was destroyed locally by
7 the caretaker burning them in a 45-
8 gallon drum that date."

9 Do you see that, sir?

10 **CST. McDOUGALD:** Yes, I do.

11 **MR. LEE:** And you can turn it up if you
12 wish, but you may want to -- or you can take my -- let's
13 turn it up. Exhibit 1144, please.

14 This is the -- Madam Clerk, I don't have
15 this in front of me. Can you scroll to the top of the
16 page, so I can see what the document is titled, please?

17 **THE COMMISSIONER:** Property Report.

18 **MR. LEE:** So this is the Property Report and
19 if you look down at the very bottom of the page, sir,
20 you'll see that 4 May '93 is the date that disposal was
21 approved by Detachment Commander McWade. Do you see that?

22 **CST. McDOUGALD:** I see that.

23 **MR. LEE:** And your statement, as I just read
24 you, says that you were advised on that date that they had
25 been destroyed locally by the caretaker burning them in a

1 45-gallon drum.

2 Do you have any specific recollection of
3 having a conversation with Staff Sergeant McWade on the 4th
4 of May 1993?

5 **CST. McDOUGALD:** No, I don't.

6 **MR. LEE:** And you have no notebook entry
7 relating to that?

8 **CST. McDOUGALD:** That's correct.

9 **MR. LEE:** And so, again, would you agree
10 with me that your memory in 1998 is likely to be better
11 than your memory today?

12 **THE COMMISSIONER:** On this issue?

13 **MR. LEE:** On this issue?

14 **CST. McDOUGALD:** On that particular
15 question?

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

17 **CST. McDOUGALD:** Yes.

18 **MR. LEE:** And, finally, sir, the search
19 warrant that you obtained in relation to Mr. Leroux's
20 residence stipulated that the areas to be searched included
21 the dwelling house, the garage, and the boathouse. Do you
22 recall that?

23 **CST. McDOUGALD:** Yes.

24 **MR. LEE:** Do you recall conducting any
25 search of either the garage or the boathouse?

1 **CST. McDOUGALD:** I don't have a recollection
2 of that at this point.

3 **MR. LEE:** Okay. Thank you. Those are my
4 questions.

5 **THE COMMISSIONER:** Thank you.

6 Ms. Allinotte? No questions.

7 Mr. Neuberger?

8 **MR. NEUBERGER:** No questions.

9 **THE COMMISSIONER:** Thank you. Mr. Hill?

10 **MR. HILL:** No questions.

11 **THE COMMISSIONER:** Ms. Lahaie?

12 **MS. LAHAIE:** No questions.

13 **THE COMMISSIONER:** No questions. Mr.
14 Carroll?

15 **MR. CARROLL:** Just one, thank you.

16 **THE COMMISSIONER:** Just one question? Okay.

17 **MR. CARROLL:** Just one area, probably three
18 questions. Nice shirt.

19 **THE COMMISSIONER:** Sorry, Cornwall Police?

20 **MS. LALJI:** I have no questions.

21 **THE COMMISSIONER:** Sorry, sorry.

22 Yes, very nice shirt! Good choice there,
23 sir.

24 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
25 **CARROLL:**

1 **MR. CARROLL:** Constable, you were asked by
2 Mr. Paul about the videos and your viewing of them and he
3 gave certain names. You recall he mentioned Malcolm
4 MacDonald, Ken Seguin, Bishop LaRocque, Claude Shaver.

5 And you indicated you were not -- recognised
6 them. You didn't know them to see them at that point when
7 you were looking at the videos, right?

8 **CST. McDOUGALD:** Correct. Possibly the
9 Chief of Police, I might have ---

10 **MR. CARROLL:** Shaver, yeah.

11 **CST. McDOUGALD:** Yes.

12 **MR. CARROLL:** That was in 1993. Have you
13 been in the Eastern Region and specifically in this area
14 for the last 15 years?

15 **CST. McDOUGALD:** Yes.

16 **MR. CARROLL:** Have you ever seen anyone in
17 this local area that you remember seeing in any of those
18 movies that you looked at?

19 **CST. McDOUGALD:** No, I did not see anybody.

20 **MR. CARROLL:** Thank you.

21 **THE COMMISSIONER:** Four questions. Maître
22 Dumais?

23 **MR. DUMAIS:** No re-examination, thank you.

24 **THE COMMISSIONER:** Thank you very much, sir.
25 Thank you very much for your attendance. Thank you.

1 **CST. McDOUGALD:** Thank you, Mr.
2 Commissioner.

3 **THE COMMISSIONER:** Do you want to deal with
4 the motion?

5 **MR. DUMAIS:** Sure.

6 **THE COMMISSIONER:** Okay.

7 **--- MOTION BY MS. HELEN DALEY IN THE MATTER OF**
8 **SUPPLEMENTARY FUNDING FOR THE CITIZENS FOR COMMUNITY**
9 **RENEWAL/REQUÊTE PAR MS. HELEN DALEY CONCERNANT DES FONDS**
10 **SUPPLÉMENTAIRES POUR LE CITIZENS FOR COMMUNITY RENEWAL:**

11 **MR. DUMAIS:** We received a motion record
12 from the CCR, Mr. Commissioner, and I do have three paper
13 copies. It should be filed as the next standing and
14 funding exhibit. I believe it's 6.7, Madam Clerk.

15 **THE COMMISSIONER:** Thank you.

16 **MR. DUMAIS:** We've received no responding
17 materials and Ms. Daley is prepared the argument ---

18 **THE COMMISSIONER:** Well, is there anyone
19 opposed to this who wishes to comment?

20 Ms. Daley, I find that your written material
21 is exceptionally well done and I don't need to hear from
22 you, other than I'll tell you right now that I'm prepared
23 to recommend that -- I've looked and there are 12 weeks
24 left until the thing, so the 750 hours for law clerk
25 funding is a little high, in my regard. So why don't we

1 say 400 hours and we'll see where we go.

2 So the application is really for more law
3 clerk ---

4 **MS. DALEY:** It's exclusively for law clerk
5 services.

6 **THE COMMISSIONER:** Exactly. Given the fact
7 that we are sitting very regularly until the end of this
8 Inquiry, and given the fact that you will not have very
9 much time to make your written submissions, I think that
10 the 400 hours is warranted at this point.

11 There will be a letter going out to the
12 Attorney General in due course.

13 **MS. DALEY:** Thank you, sir.

14 **THE COMMISSIONER:** Thank you. Maître
15 Dumais?

16 **MR. DUMAIS:** We're done for the day, thanks.

17 **THE COMMISSIONER:** Thank you. See you
18 tomorrow at 9:30.

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

21 This hearing is adjourned until tomorrow
22 morning at 9:30 a.m.

23 --- Upon adjourning at 5:09 p.m. /

24 L'audience est ajournée à 17h09

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

I, Dale Waterman 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, Dale Waterman, 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.



Dale Waterman, CVR-CM