

**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 311**

**Held at :**

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

Tuesday, November 25, 2008

**Tenue à:**

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

Mardi, le 25 novembre 2008

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
Ms. Kelly Doctor	Commission Counsel
Mr. Mark Crane	Cornwall Community Police
Mr. Peter Manderville	Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
M <sup>e</sup> Claude Rouleau	Ontario Minister of Communit and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Peter Wardle	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDougald
M <sup>e</sup> Danielle Robitaille	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Ian Paul	Coalition for Action
Mr. Larry O'Brien	D/Insp. Randy Millar
Insp. Timothy Smith	

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1 --- Upon commencing at 9:15 a.m./

2 L'audience débute à 09h15

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 morning,  
10 all. I apologize for the delay.

11 Mr. Engelmann?

12 **INSPECTOR TIM SMITH, Resumed/Sous le même serment:**

13 --- **EXAMINATION IN-CHIEF/INTERROGATOIRE EN-CHEF PAR MR.**  
14 **ENGELMANN (cont'd/suite):**

15 **MR. ENGELMANN:** Thank you, sir. Good  
16 morning, Mr. Commissioner.

17 Good morning, Mr. Smith.

18 **INSP. SMITH:** Good morning, sir.

19 **MR. ENGELMANN:** When we left off yesterday,  
20 I wanted to deal with the conspiracy brief and I believe  
21 the conspiracy brief synopsis has not been entered as an  
22 exhibit. It is Document Number 714878. It's a loose  
23 document.

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

25 **THE COMMISSIONER:** Thank you.

1                   Exhibit 2669 is a synopsis of the Crown  
2                   brief on the conspiracy.

3                   **--- EXHIBIT NO./PIÈCE NO. P-2669:**

4                   (714878) - Synopsis re: David Silmser's  
5                   Sexual Assault Allegations

6                   **MR. ENGELMANN:** This is the 1994 conspiracy  
7                   investigation.

8                   **THE COMMISSIONER:** Thank you.

9                   **MR. ENGELMANN:** And, again, Mr. Smith, you  
10                  told us before that this would have been prepared either by  
11                  yourself or Detective Constable Fagan?

12                  **INSP. SMITH:** Or both. Yes, sir.

13                  **MR. ENGELMANN:** Or both. Yes.

14                  But in any event, you would have reviewed it  
15                  and approved it before it was sent to Mr. Griffiths?

16                  **INSP. SMITH:** Yes, sir.

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

18                  And in this statement -- we looked at the  
19                  Father MacDonald ones and in that one you said it was a  
20                  close call but no RP&G. In this one, much more definitive.  
21                  You're saying in the third paragraph:

22                                 "The OPP investigation has found no  
23                                 evidence to support an agreement to  
24                                 this end was ever made."

25                                 Correct?

1                   **INSP. SMITH:** That's correct.

2                   **MR. ENGELMANN:** So this one wasn't a close  
3 call. Is that fair?

4                   **INSP. SMITH:** No.

5                   **MR. ENGELMANN:** Yes. And, sir, with respect  
6 to this issue, we've talked about some of the contacts  
7 between players of some of these parties; parties being the  
8 Cornwall Police Service, Crown Attorney, Diocese of  
9 Alexandria-Cornwall. You spoke to Jacques Leduc and we  
10 know that he had discussions with Murray MacDonald;  
11 correct?

12                   **INSP. SMITH:** Yes, sir.

13                   **MR. ENGELMANN:** You spoke to Malcolm  
14 MacDonald and you knew that he had discussions with Murray  
15 MacDonald, with -- well, with everybody. He had  
16 discussions with Murray MacDonald. He had discussions with  
17 -- obviously with Leduc. He had discussions with the  
18 Bishop. He had discussions with Heidi Sebalj, Luc Brunet,  
19 et cetera.

20                   **INSP. SMITH:** Everybody but the Chief of  
21 Police.

22                   **MR. ENGELMANN:** Right. And you knew that  
23 both Staff Sergeant Brunet and Chief Shaver had spoken to  
24 the Crown?

25                   **INSP. SMITH:** Yes.



1                   **MR. ENGELMANN:** And you knew that they had  
2 spoken to the Bishop?

3                   **INSP. SMITH:** This was after the settlement  
4 though.

5                   **MR. ENGELMANN:** Yes, that's true. That's  
6 true.

7                   **INSP. SMITH:** Yes.

8                   **MR. ENGELMANN:** In early October.

9                   **INSP. SMITH:** Yes.

10                  **MR. ENGELMANN:** But this was all prior to  
11 your commencement of work on this issue?

12                  **INSP. SMITH:** Correct.

13                  **MR. ENGELMANN:** Which would have started in  
14 early '94?

15                  **INSP. SMITH:** Correct.

16                  **MR. ENGELMANN:** And despite all of these  
17 contacts between all of these people, you were of the view  
18 that not only was there not sufficient evidence to  
19 establish RP&G but there was absolutely no evidence?

20                  **INSP. SMITH:** Yes.

21                  **MR. ENGELMANN:** All right. And you told us  
22 earlier, sir, about how -- we looked at how this issue had  
23 changed, the scope of the issue from originally being, was  
24 there a conspiracy between the Cornwall Police and Catholic  
25 Diocese to effect a settlement with the alleged victim,

1       thus terminating a criminal proceeding, to what we see in  
2       this synopsis, essentially, was there an agreement reached  
3       by the Cornwall City Police Service, the Crown Attorney and  
4       the Diocese of Alexandria-Cornwall, to not proceed with  
5       charges where evidence indicated charges should have been  
6       laid and prosecuted. That sort of morphed over the course  
7       of your investigation?

8                   **INSP. SMITH:** Yes, sir.

9                   **MR. ENGELMANN:** And you already told that in  
10       your consideration of whether or not there was a  
11       conspiracy, you did not give any weight to whether there  
12       was RP&G in '93?

13                   **INSP. SMITH:** That would be fair.

14                   **MR. ENGELMANN:** Yes. And, sir, I note  
15       though on Bates page 822 of the synopsis, you do point out  
16       -- which is the last page ---

17                   **INSP. SMITH:** Yes, sir.

18                   **MR. ENGELMANN:** --- that the OPP  
19       investigation into Silmsers' complaint has resulted in the  
20       same decision made by the Cornwall Police Service, and that  
21       would be with respect to RP&G on Father Charles MacDonald;  
22       correct?

23                   **INSP. SMITH:** Yes, sir.

24                   **MR. ENGELMANN:** And you conclude the  
25       synopsis with the statement that when one reviews all of

1 the evidence in this case, there is a reasonable  
2 explanation why charges were never laid or proceeded with.  
3 And then you talk about no RP&G and no RPC?

4 **INSP. SMITH:** That's correct.

5 **MR. ENGELMANN:** So would you agree then,  
6 sir, that -- well, if the whole issue of RP&G was not to be  
7 a consideration in your conspiracy investigation, why did  
8 you include it here on the last page?

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **INSP. SMITH:** It takes time to read this  
11 over.

12 **MR. ENGELMANN:** Absolutely, sure. It's some  
13 time since you wrote it or had some say in it.

14 **INSP. SMITH:** Some time, yes.

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **INSP. SMITH:** I don't know if I quite  
17 understand your question. Could you repeat your question  
18 again, sir, in regard to ---

19 **MR. ENGELMANN:** Okay. If the issue of RP&G  
20 is really not a consideration in your conspiracy  
21 investigation, I'm wondering why you included these  
22 references on the final page?

23 **INSP. SMITH:** And, in particular, which  
24 reference, sir?

25 **MR. ENGELMANN:** Well, the reference to:

1 "The OPP investigation results in the  
2 same decision made by the CPS vis-à-vis  
3 the Silmsler complaint."

4 And lastly the comment about:

5 "There's a reasonable explanation why  
6 charges were never laid."

7 **INSP. SMITH:** That doesn't necessarily say  
8 in regard to the conspiracy.

9 **MR. ENGELMANN:** No, no, but it seems that  
10 the amended mandate, if I can call it that, which now  
11 includes a reference to:

12 "To not proceed with charges where  
13 evidence indicated charges should have  
14 been laid and prosecuted."

15 There's almost a threshold required that  
16 RP&G had to have been established before a conspiracy  
17 charge could be made out or, at least, that you'd have RP&G  
18 on the conspiracy charge, which is different than what you  
19 told us earlier.

20 **INSP. SMITH:** I'm confused.

21 **MR. ENGELMANN:** Well, we talked about how  
22 this changed. If you want, I mean, I read to you the  
23 original mandate, if I can call it that. That was at the  
24 very first page of your notes ---

25 **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** --- which is 1803.

2                   **INSP. SMITH:** Yes.

3                   **MR. ENGELMANN:** We looked at that on the  
4 first day of your evidence. I would have put to you that  
5 the conspiracy brief at the end seemed to have this  
6 requirement that you had to have reasonable and probable  
7 grounds and that that was a factor in determining whether  
8 or not there was a conspiracy.

9                   And you had indicated at the time, no, even  
10 though the wording had changed, in your view you were  
11 investigating the same thing, that RP&G wasn't really a  
12 consideration. But it seems to be clearly something you  
13 think is important enough to include in your Crown brief on  
14 the fourth page?

15                   **INSP. SMITH:** Maybe I could have reworded it  
16 to say that there was no evidence to support any charges,  
17 period.

18                   **MR. ENGELMANN:** Let's move onto your  
19 obstruction of justice brief. That is Exhibit 1164.  
20 Counsel, it's Document Number 714916.

21                   **(SHORT PAUSE/COURTE PAUSE)**

22                   **THE COMMISSIONER:** So 1174?

23                   **MR. ENGELMANN:** Eleven-sixty-four (1164),  
24 sir.

25                   **THE COMMISSIONER:** Sorry.

1                   **INSP. SMITH:** Thank you.

2                   **MR. ENGELMANN:** Mr. Smith, again, this would  
3                   be the Crown brief synopsis on the instruct issue that you  
4                   and Detective Fagan were looking at, Detective Constable  
5                   Fagan?

6                   **INSP. SMITH:** Yes.

7                   **MR. ENGELMANN:** All right. And, again,  
8                   either you prepared it, he prepared it or the two of  
9                   prepared it together?

10                  **INSP. SMITH:** Correct.

11                  **MR. ENGELMANN:** And in any event, you would  
12                  have reviewed and approved it before it went to Mr.  
13                  Griffiths?

14                  **INSP. SMITH:** Yes.

15                  **MR. ENGELMANN:** And the first part of the  
16                  synopsis seems to recount much of the same background that  
17                  we've seen in the other two. Is that fair; just about  
18                  background?

19                  **INSP. SMITH:** Yes, sir.

20                  **MR. ENGELMANN:** And I'd like you to turn to  
21                  the third paragraph where I think you set out your  
22                  conclusions. And you say, at the top of the page:

23                                "This document was prepared and  
24                                reviewed by three practicing lawyers  
25                                for the Province of Ontario."

1 Presumably, at this point-in-time, you're  
2 were referring not just to Malcolm MacDonald and Jacques  
3 Leduc, but also to Sean Adams. Is that fair?

4 **INSP. SMITH:** Yes.

5 **MR. ENGELMANN:** When you say three lawyers?

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** You're not referring to the  
8 fact that two of three consulted with Murray MacDonald?  
9 The lawyers you are referring to here are Leduc ---

10 **INSP. SMITH:** Correct.

11 **MR. ENGELMANN:** --- Malcolm MacDonald?

12 **INSP. SMITH:** Correct.

13 **INSP. SMITH:** --- and Sean Adams?

14 **INSP. SMITH:** Correct.

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

16 And you then say:

17 "It is difficult to understand how  
18 three knowledgeable and experienced  
19 solicitors could condone and approve of  
20 such a document not realizing section 2  
21 of the contract clearly obstructs  
22 justice."

23 Correct?

24 **INSP. SMITH:** Yes.

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

1                   And would you agree, sir, that at least in  
2                   this synopsis there's nothing at that time that singles out  
3                   Malcolm MacDonald with respect to the obstruct allegations?

4                   **INSP. SMITH:** That's correct.

5                   **MR. ENGELMANN:** And at this point-in-time,  
6                   it appears that you're concerned about all three of the  
7                   lawyers?

8                   **INSP. SMITH:** Yes.

9                   **MR. ENGELMANN:** Okay, and it's something  
10                  that you want the Crown to make a decision on, essentially?

11                  **INSP. SMITH:** Yes.

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

13                  **INSP. SMITH:** Yes.

14                  **MR. ENGELMANN:** Now, I've asked you a number  
15                  of questions about the mandate that you had, the three  
16                  investigations in 1994, and would it be fair to say that  
17                  the foundation of these investigations was this illegal  
18                  settlement with Mr. Silmser?

19                  **INSP. SMITH:** Yes, sir. I think that's  
20                  right, yes.

21                  **MR. ENGELMANN:** I mean, by the time you get  
22                  involved, which is February '94, that's been all over the  
23                  media and that's what leads to, in large part, this re-  
24                  investigation?

25                  **INSP. SMITH:** I'd agree with that, yes.



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

2                   And, as a result, even though you're dealing  
3                   with three different issues, there's inevitably overlap  
4                   between the potential witnesses, the potential suspects and  
5                   the potential illegal acts?

6                   **INSP. SMITH:** They're all intertwined, yes.

7                   **MR. ENGELMANN:** Right, okay.

8                   And you were aware, sir, that the terms of  
9                   the investigation that you were provided with were in large  
10                  part based on how these matters had been framed by the  
11                  media?

12                  **INSP. SMITH:** That was my understanding in  
13                  the letter that was sent by Acting Chief ---

14                  **MR. ENGELMANN:** Johnston?

15                  **INSP. SMITH:** Johnston, yes.

16                  **MR. ENGELMANN:** And this was because the  
17                  media had talked about allegations of conspiracy and cover-  
18                  up when this whole story broke?

19                  **INSP. SMITH:** I believe that's where it all  
20                  originated, yes. Conjecture.

21                  **MR. ENGELMANN:** Yes.

22                  And I'm just wondering, did you ever  
23                  consider -- or you, "the royal you", for the moment -- you  
24                  or the OPP, did you ever consider reframing the questions  
25                  or the issues that you were tasked to investigate?

1           **INSP. SMITH:** In what manner, sir.

2           **MR. ENGELMANN:** Well, instead of just  
3 setting them out the way the Cornwall Police had asked,  
4 which seemed to be based on the media allegations, and  
5 those media allegations were driven by people like Charlie  
6 Greenwell and some others in the community.

7                   Did you ever think of perhaps just  
8 approaching it in a different light? For example, wouldn't  
9 it have been easier if you had simply approached this as an  
10 investigation into an illegal settlement and looked at it  
11 from that view and gone out from there?

12           **INSP. SMITH:** In hindsight, yes.

13           **MR. ENGELMANN:** Okay, because ---

14           **INSP. SMITH:** When I get a man -- when I'm  
15 given a mandate and it comes down from our deputy  
16 commissioner, I try to follow those directions as closely  
17 as possible and I don't know if you know anything about our  
18 rank structure, but it's seldom that I argue with a deputy  
19 commissioner.

20           **MR. ENGELMANN:** I don't know much ---

21           **INSP. SMITH:** So I'll follow those, I'll  
22 follow those directions as closely as I can.

23           **MR. ENGELMANN:** I guess my question to you  
24 is, is there some give and take? Can you push back and  
25 say, why don't we just start with the *prima facie* crime,

1 the illegal clause in the settlement, and work out from  
2 there, rather than let the media frame these questions for  
3 us?

4 **INSP. SMITH:** Well, I would assume that who  
5 directed me to investigate that could have done that.

6 **MR. ENGELMANN:** Yes, no, that's true. But  
7 you're at that time an inspector rank?

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** Certainly an experienced  
10 police office at that point-in-time?

11 **INSP. SMITH:** I'd like to think so, yes.

12 **MR. ENGELMANN:** Yes, and you yourself said  
13 that clause, *prima facie*, illegal obstruct.

14 I'm just wondering if you had started there,  
15 you could just attempt to determine who was involved, what  
16 their involvement was, and the potential charges that might  
17 arise simply from that contract?

18 **INSP. SMITH:** Well, the major issue that I  
19 was looking at that was that here we have a victim that has  
20 reported a sexual assault and it seems to be way late or  
21 stymied. I thought it was better that I proceed there,  
22 initially, rather than worry about these side issues that  
23 would follow.

24 And at the same time too you have to realize  
25 that -- and we talked about this before -- there was a

1 parallel investigation with Inspector Hamelink. So there  
2 were a lot of things floating around at that time but the  
3 primary thing that I noticed, having investigated sexual  
4 assaults, was that we have a complaint and it stood still.  
5 Is there still merit to it? Can I still go on? Is that  
6 person still out there? So that's where my focus would be  
7 directed.

8 **MR. ENGELMANN:** And, sir, maybe my question  
9 was a bit misstated. I was meaning to suggest that you  
10 shouldn't have re-investigated Father MacDonald in those  
11 original allegations.

12 **INSP. SMITH:** No, but you pushed it aside,  
13 sir.

14 **MR. ENGELMANN:** No, but what I meant was  
15 rather than go off on this conspiracy theory that had been  
16 set up in the media, I mean, certainly re-investigate the  
17 allegations against Father MacDonald that Mr. Silmsler had  
18 made, but rather than go off on a conspiracy, which is  
19 going to involve all of these parties potentially, look at  
20 the attempt obstruct from the settlement and work out from  
21 there?

22 **INSP. SMITH:** But eventually that all came  
23 about, did it not?

24 **MR. ENGELMANN:** Well ---

25 **INSP. SMITH:** In my opinion it did.

1                   **MR. ENGELMANN:** Okay. Would you agree, sir,  
2                   that the fact that your investigation was framed by those  
3                   media allegations was in any way a detriment to being able  
4                   to fully investigate the circumstances of the illegal  
5                   settlement?

6                   **INSP. SMITH:** I don't think so.

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

8                   **THE COMMISSIONER:** So can we just stop for a  
9                   minute and talk about institutionally.

10                   Mr. Engelmann talked about push back, you're  
11                   talking about chain of command. I'm looking at it from  
12                   maybe a naïve and holistic way, but you're given an  
13                   assignment, all right. You're not a fourth class constable  
14                   who's going to go up and say I don't want to do this or  
15                   anything like that.

16                   Is there not any flexibility in your  
17                   organization so that if you do find something, as an  
18                   inspector, that you would feel comfortable going up to your  
19                   deputy commissioner and saying, look it, I know you've  
20                   given me this but this is where we're at so I need some  
21                   more instructions or direction or can we rethink that?

22                   **INSP. SMITH:** I could do that, yes.

23                   **MR. ENGELMANN:** So let's -- sorry.

24                   Let's go back to your notes for a minute;  
25                   1803. And we looked at Bates page 232, and just to orient

1       you if the handwriting's -- it's very small the print, but  
2       it's December of '94. And we looked at that page. We  
3       looked at the phone call you had with Peter Griffiths?

4               **INSP. SMITH:** Yes, at the top, sir.

5               **MR. ENGELMANN:** The top is the number, but  
6       let's flip over to the next page, which is 233.

7               So after you have the call with Mr.  
8       Griffiths and he provides you at least with some oral  
9       comments on the three briefs, and I think you referred to  
10      this briefly, you had contact with Mr. Silmsner?

11              **INSP. SMITH:** Yes, sir.

12              **MR. ENGELMANN:** And you told us that that  
13      was a good conversation, one of the better conversations  
14      you had with him?

15              **INSP. SMITH:** The only good one I had with  
16      him.

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

18              And there's some reference to a press  
19      release on this page?

20              **INSP. SMITH:** Yes, sir.

21              **MR. ENGELMANN:** And, sir, were you tasked  
22      with doing some work on a press release?

23              **INSP. SMITH:** Yes, sir.

24              **MR. ENGELMANN:** And that press release you  
25      work on -- and it's released shortly after you get the

1 written opinions back from Mr. Griffiths?

2 **INSP. SMITH:** Yes, sir.

3 **MR. ENGELMANN:** All right. So we'll come to  
4 that in just a couple of minutes.

5 You told us that he confirmed the opinion  
6 provided to you on December 20<sup>th</sup> by way of a couple of  
7 letters and I believe the letters are dated December 21,  
8 '94.

9 And the one I'd like to look at first is the  
10 letter regarding the Father Charles MacDonald re-  
11 investigation and that's Exhibit 393.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **INSP. SMITH:** Yes, sir.

14 **MR. ENGELMANN:** All right. So this is the  
15 letter that was sent to you dealing with the re-  
16 investigation of Father Charles MacDonald?

17 **INSP. SMITH:** That's correct.

18 **MR. ENGELMANN:** All right. And, sir, I just  
19 wanted to turn you to the last paragraph on page 3.

20 It appears what Mr. Griffiths is saying here  
21 is that, in his view, you have neither the objective or the  
22 subjective elements for reasonable and probable grounds.  
23 Would you agree with that?

24 **INSP. SMITH:** Yes, sir.

25 **MR. ENGELMANN:** That that's his analysis?

1           **INSP. SMITH:** Yes, sir.

2           **MR. ENGELMANN:** And in your notes that we  
3 looked at, and I don't know if you have them handy still,  
4 at page 232 what you've written, at least from your phone  
5 call from the day before, is that he told you objectively  
6 enough credible evidence, but subjectively not honest  
7 belief?

8           **INSP. SMITH:** That's what I've written down.

9           **MR. ENGELMANN:** Yeah. And I'm just  
10 wondering what might have changed overnight or why now he's  
11 saying the objective element isn't there either. Do you  
12 know?

13           **INSP. SMITH:** I don't know, sir.

14           **MR. ENGELMANN:** All right. We'll ask him.  
15 You wouldn't have had another discussion  
16 with him on the 21<sup>st</sup> before this letter came to you? It  
17 isn't noted in your notes.

18           **INSP. SMITH:** I don't believe so, sir.

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

20           **INSP. SMITH:** But I don't know.

21           **MR. ENGELMANN:** Do you recall if you ever  
22 sought to clarify that with Mr. Griffiths, that change?

23           **INSP. SMITH:** I can't remember.

24           **MR. ENGELMANN:** All right. In his letter,  
25 Mr. Griffiths, on the second page which is Bates page 474,



1 he goes into the second incident in some detail, and this  
2 is something that occurs at the retreat in his dormitory?

3 **INSP. SMITH:** That's correct.

4 **MR. ENGELMANN:** And in that last paragraph,  
5 he says:

6 "Mr. Silmser maintains that Father  
7 MacDonald was walking through the boys'  
8 dormitory naked telling dirty jokes."

9 Do you see that?

10 **INSP. SMITH:** Yes.

11 **MR. ENGELMANN:** This allegation was not in  
12 your synopsis and I'm wondering, did you make any reference  
13 of this incident in any of your conversations with Mr.  
14 Griffiths or is this something he would have just picked up  
15 from one of the statements?

16 **INSP. SMITH:** He more than likely would have  
17 got that through the statements that ---

18 **MR. ENGELMANN:** All right. And if you had  
19 discussed ---

20 **INSP. SMITH:** A synopsis, sir, is not --  
21 it's just a ---

22 **MR. ENGELMANN:** A summary?

23 **INSP. SMITH:** A general summary.

24 **MR. KOZLOFF:** Perhaps the witness -- we've  
25 had an enormous amount of focus by my friend on synopsis.

1 This witness is about to explain something. Perhaps he  
2 could be allowed to do that in his own words.

3 Thank you.

4 **THE COMMISSIONER:** Fine. Go ahead, sir.

5 **INSP. SMITH:** A synopsis is just a general  
6 overview of what's contained in the brief and an idea of  
7 how to follow and what to look for, but the meat of the  
8 matter is contained within the statements of the witnesses.

9 Mr. Griffiths was a very thorough Crown  
10 Attorney I dealt with on previous cases and I'm sure that  
11 he went through the brief with a fine toothcomb and that's  
12 probably -- well, that's where he's picked it up -- this  
13 up, not necessarily from a synopsis.

14 **MR. ENGELMANN:** Okay. So it wasn't Mr.  
15 Silmser that had maintained that position, but it was  
16 really from a third party. Do you recall that, his sister  
17 talking about what another person had said?

18 **INSP. SMITH:** Vaguely, but, again, that  
19 statement would be contained within the brief and Mr.  
20 Griffiths would read that.

21 **MR. ENGELMANN:** All right. Well, I'm just  
22 -- if it wasn't Mr. Silmser who'd maintained that point but  
23 rather it was something he heard from his sister who heard  
24 it from another party, it's quite different is it not?

25 **INSP. SMITH:** How? I cannot -- I'm going

1 back 14 years. I cannot split hairs with you, sir, on  
2 that. I don't remember.

3 **MR. ENGELMANN:** But Mr. Griffiths appears to  
4 place considerable significance on this point?

5 **INSP. SMITH:** Well, then, maybe you should  
6 put that question to him, sir.

7 **MR. ENGELMANN:** Well, I just ---

8 **INSP. SMITH:** It's his letter, yeah.

9 **MR. ENGELMANN:** No, I realize that. I'm  
10 wondering if -- presumably at the time you would have been  
11 familiar with the statements that Mr. Silmsen had made,  
12 both to you and the original statement to the Cornwall  
13 Police Service that he'd written out?

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** And Mr. Griffiths seems to  
16 place a lot of emphasis on this point. He says:

17 "This is an event so astonishing, that  
18 had it occurred it doubtless would have  
19 been recalled by other young people  
20 attending the retreat."

21 Do you see that?

22 **INSP. SMITH:** And where is that?

23 **THE COMMISSIONER:** The top of page 3, sir.

24 **INSP. SMITH:** Page 3, I'm sorry. Yes, sir.  
25 Now, this portion of the investigation, as I

1 told you before, the sexual assault with Father Charlie was  
2 done by Mike Fagan.

3 **MR. ENGELMANN:** Okay.

4 **INSP. SMITH:** I'm a supervisor on it. I  
5 read it, I may have missed it, but I wouldn't be as  
6 conversant with everything as Mike Fagan would have been.

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

8 **INSP. SMITH:** I don't recall preparing this  
9 portion that went to Mr. Griffiths, but I more than likely  
10 reviewed it.

11 **MR. ENGELMANN:** All right. So I guess my  
12 question is, you read the letter at the time, obviously,  
13 when you received it?

14 **INSP. SMITH:** I believe that letter was on  
15 the 21<sup>st</sup>. If he had had that on the 21<sup>st</sup>, I wouldn't have  
16 got that letter probably until at least maybe Christmas or  
17 just before Christmas.

18 **MR. ENGELMANN:** So you would not have had  
19 this letter before preparing for the press release?

20 **INSP. SMITH:** I may not have had. I said, I  
21 may not have had. My office was in Kingston; he's  
22 in -- he's in Ottawa.

23 **MR. ENGELMANN:** Do you recall, sir, if you  
24 ever would have suggested, or after receiving this letter,  
25 spoken to Mr. Griffiths and told him that he might have

1           been in error about who made that statement?

2                       **THE COMMISSIONER:** Mr. Engelmann.

3                       **INSP. SMITH:** No.

4                       **THE COMMISSIONER:** Mr. Neville?

5                       **MR. NEVILLE:** Commissioner, in Mr. Silmsen's  
6           original statement, which is Exhibit 262, he describes  
7           Father MacDonald as coming to his bed in the nude.

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

9                       **MR. ENGELMANN:** I'll go there, if you want,  
10          and I -- if we could look at Exhibit 262?

11                      I wasn't going to go here, but I think the  
12          point that I was making is nothing to do with my friend's  
13          interjection, it has something to do with another paragraph  
14          in that statement.

15                      **THE COMMISSIONER:** Thank you. Two-  
16          sixty-two (262)?

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

18                      **INSP. SMITH:** Yes, sir.

19                      **MR. ENGELMANN:** Mr. Smith, if you could turn  
20          to page 4 of the statement? It's Bates page 7098616. It's  
21          the first full paragraph.

22                      "I have learned from my sister, Donna,  
23                      that she remembers that..."

24          And this individual has a moniker here, C-9 ---

25                      **INSP. SMITH:** M'hm?

1                   **MR. ENGELMANN:** "...who now is a police  
2                                   officer in Cornwall, said that Father  
3                                   MacDonald was running around in the  
4                                   nude telling dirty jokes."

5                   Okay? So this is a statement that he's  
6                   hearing from his sister ---

7                   **INSP. SMITH:** M'hm.

8                   **MR. ENGELMANN:** --- who's heard this from a  
9                   fellow, who was a former altar boy who was there.

10                  **INSP. SMITH:** I believe both of those people  
11                  were interviewed.

12                  **MR. ENGELMANN:** Okay.

13                  **INSP. SMITH:** I can't remember what their  
14                  statements contained, but I know they were interviewed.

15                  **MR. ENGELMANN:** My point is, if it's not Mr.  
16                  Silmser who says Father MacDonald was running around in the  
17                  nude telling dirty jokes but rather his sister who heard it  
18                  from another, it's sort of a double hearsay, as opposed  
19                  to ---

20                  **INSP. SMITH:** Well ---

21                  **MR. ENGELMANN:** --- the complainant  
22                  maintaining it.

23                  **INSP. SMITH:** That's what he says here, yes.

24                  **MR. ENGELMANN:** Yes, all right.

25                  And you don't recall having any discussion

1 with Peter Griffiths about that, about who had perhaps made  
2 that comment to start with?

3 **INSP. SMITH:** No, sir.

4 **MR. ENGELMANN:** All right.

5 Now, the second letter to you on December  
6 21<sup>st</sup> involved the conspiracy brief, and that is Exhibit  
7 1148.

8 **INSP. SMITH:** I'll do some housecleaning  
9 here.

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

11 **INSP. SMITH:** I'll do some housecleaning  
12 here.

13 **MR. ENGELMANN:** Okay. Make sure you keep  
14 your notes 18 and 3.

15 **INSP. SMITH:** Yes, I've got those. And  
16 you're referring to what, sir?

17 **MR. ENGELMANN:** It's Exhibit 1148. It's the  
18 second letter that is at least dated December 21<sup>st</sup>, '94,  
19 from Mr. Griffiths to yourself.

20 **INSP. SMITH:** Okay, I've got that.

21 **THE COMMISSIONER:** Dated what date?

22 **MR. ENGELMANN:** December 21<sup>st</sup>, again, sir,  
23 1994.

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

25 **MR. ENGELMANN:** The caption is:

1 "Investigation into Alleged Collusion  
2 between Crown, Church and Police of  
3 Cornwall."

4 And this is the conspiracy brief.

5 **INSP. SMITH:** Yes, I have that, sir.

6 **MR. ENGELMANN:** Now, on the second page,  
7 middle paragraph, the final conclusion of Mr. Griffiths is  
8 that there's no evidence, direct or indirect, of any  
9 agreement between those parties. This would reflect your  
10 statement in the synopsis, that there was no evidence? Is  
11 that fair?

12 **INSP. SMITH:** Yes, sir.

13 **MR. ENGELMANN:** And would I be correct, sir,  
14 in saying that following this there would have been no  
15 further discussions with the Crown with respect to the  
16 conspiracy investigation?

17 **INSP. SMITH:** I don't believe there was,  
18 sir.

19 **MR. ENGELMANN:** Right. And this matter  
20 would have been final as of December 21<sup>st</sup>?

21 **INSP. SMITH:** Yes, sir.

22 **MR. ENGELMANN:** Okay. And, unlike the  
23 Father MacDonald one, while although a decision had been  
24 made, you were leaving it open in the event that something  
25 else might have come up?



1                   INSP. SMITH: Correct.

2                   MR. ENGELMANN: All right.

3                   INSP. SMITH: And also there was the other  
4 aspect as far as Malcolm MacDonald was concerned.

5                   MR. ENGELMANN: Yes. I was just going to go  
6 there.

7                   INSP. SMITH: Yes.

8                   MR. ENGELMANN: On the obstruct justice  
9 issue ---

10                  INSP. SMITH: Yes.

11                  MR. ENGELMANN: --- as I understand it, you  
12 did not get a letter on December 21<sup>st</sup> ---

13                  INSP. SMITH: No.

14                  MR. ENGELMANN: --- from Mr. Griffiths?

15                  INSP. SMITH: No. And that was -- that was  
16 left open.

17                  MR. ENGELMANN: Right.

18                             And if you go back to your notes -- and  
19 let's just go there right now, 1803, and I believe, sir,  
20 it's Bates page 233 or 34. I'll just be a moment. I'm  
21 sorry, 235.

22                             You receive a call the following day,  
23 December 22<sup>nd</sup>, from Mr. Griffiths, and is he commenting  
24 about that matter then?

25                  INSP. SMITH: Yes, there's a problem with

1 Malcolm MacDonald's.

2 **MR. ENGELMANN:** And can you just read that  
3 for us, if it's possible? It's on the screen as well, sir,  
4 if that's easier.

5 **INSP. SMITH:** Oh, okay;

6 "Call from Peter Griffiths..."

7 **THE COMMISSIONER:** "...re-investigation  
8 and recommendations"?

9 **INSP. SMITH:** Yes:

10 "Re-investigation recommendations.

11 Problem with Malcolm MacDonald.

12 Possible obstruct. Further

13 consultations to be done."

14 And he gave me his home phone numbers, et cetera,  
15 et cetera.

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

17 We looked at this back at Bates page 232 of  
18 your notes and at that time he had told you:

19 "Obstruct lawyers; appropriate to  
20 contact Law Society; obstruct justice;  
21 less than criminal but  
22 unprofessional."

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** And now he's saying:

25 "Problem with Malcolm MacDonald,

1 possible obstruct, further  
2 consultations."

3 Did he explain to you what might have  
4 intervened there?

5 **INSP. SMITH:** Yes. I recall that he  
6 discussed that evidence with some other Crown Attorneys,  
7 and there were different opinions on it.

8 **MR. ENGELMANN:** All right.

9 **INSP. SMITH:** So he wanted to go outside,  
10 and he gave me the name of a Crown that was familiar with  
11 these types of investigations and wanted him to review it  
12 to see what his thoughts were on it, so there'd be some  
13 delay ---

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

15 **INSP. SMITH:** --- and that's what he did.

16 **MR. ENGELMANN:** All right. So at this  
17 point-in-time he'd ready discussed it with one or two other  
18 Crowns, and he was going to send it off to yet another?

19 **INSP. SMITH:** That was my understanding,  
20 yes, sir.

21 **MR. ENGELMANN:** And, in fact, if we move  
22 ahead just for a minute onto the next Bates page of your  
23 note, there appears to be a reference to that at the bottom  
24 of Bates page 236 happening in late January of '95? Can  
25 you ---

1                   **INSP. SMITH:** Yes.

2                   **MR. ENGELMANN:** --- just confirm that for  
3 me?

4                   **INSP. SMITH:** The 30<sup>th</sup> of January, I got a  
5 call from him.

6                   **MR. ENGELMANN:** Can you just tell us what he  
7 says then to you, at about 4:30 ---

8                   **INSP SMITH:** About 4:30, yes.

9                   **MR. ENGELMANN:** --- in the afternoon?

10                   **INSP. SMITH:** I received a call from Peter  
11 Griffiths, the Regional Crown, and I put down:

12                                 "Don McDougald has reviewed all the  
13 evidence re. Malcolm MacDonald and  
14 advises RP&G exists to believe  
15 MacDonald did attempt to obstruct  
16 justice. There exists a reasonable  
17 prospect of conviction and it is in the  
18 public interest to prosecute. Mr.  
19 Griffiths advised of..."

20 -- something ---

21                   **MR. ENGELMANN:** Maybe if we could ---

22                   **INSP. SMITH:** "...release format sent."

23                   **MR. ENGELMANN:** Could we blow that up on the  
24 screen for a minute?

25                   **INSP. SMITH:** I might add, these aren't

1 the -- my writing's small, but somebody's reduced this.

2 MR. ENGELMANN: Oh, all right.

3 INSP. SMITH: It's not always this small.

4 THE COMMISSIONER: We understand, sir, it's  
5 okay. It comes with old age, I think.

6 (LAUGHTER/RIRES)

7 INSP. SMITH: Yes. Somebody reduced it.

8 MR. ENGELMANN: If we can go right down to  
9 the bottom of the page, Madam Clerk? Oh, this doesn't ---

10 THE COMMISSIONER: It's not the right page.

11 MR. ENGELMANN: No, this isn't the right  
12 page. Are we on -- we should be on Bates page 236.

13 INSP. SMITH: Well, I'm on 236, 237.

14 MR. ENGELMANN: Right to the bottom? There  
15 we go.

16 INSP. SMITH: Yes. That's what I just read,  
17 I believe.

18 THE COMMISSIONER: M'hm.

19 MR. ENGELMANN: Oh, did you get right  
20 through it?

21 INSP. SMITH: Yeah. And then the next page  
22 ---

23 MR. ENGELMANN: What does it say right at  
24 the last line, sir, "Mr. Griffiths..."?

25 INSP. SMITH: Format -- "Mr. Griffiths

1                   advised of release format sent."

2                   **MR. ENGELMANN:** Okay. All right. And then  
3                   on to 237.

4                   **INSP. SMITH:** "...by Leduc to MacDonald  
5                   and no mention of criminal matters were  
6                   contained within. Mr. Griffiths  
7                   advised he would draw up the contents  
8                   of the information for the charge and I  
9                   ..."

10                  **THE COMMISSIONER:** "If I call him at..."

11                  **INSP. SMITH:** "If I call him at 10:00  
12                  hours tomorrow he will have more..."

13                  **THE COMMISSIONER:** "...he'll have some  
14                  available."

15                  **INSP. SMITH:** "...same available." Yes.

16                  **MR. ENGELMANN:** All right. All right.  
17                  So let's go back then to December after the  
18                  two letters are at least written, and you told us that you  
19                  were to work on a press release?

20                  **INSP. SMITH:** Yes, sir.

21                  **MR. ENGELMANN:** Now, typically, did you work  
22                  on press releases or were they done by someone in Orillia  
23                  or East Region? How did that work?

24                  **INSP. SMITH:** What happens is that I gather  
25                  the information in concert usually with the Crown Attorney

1 involved if charges are to be laid, and we determine what  
2 we can release to the press without affecting a future  
3 trial.

4 In this case, there were three issues that  
5 we wanted to address, and that first one was the assault  
6 complaint of Mr. Silmser.

7 MR. ENGELMANN: Yes.

8 INSP. SMITH: Secondly was the conspiracy  
9 theory.

10 MR. ENGELMANN: Yes.

11 INSP. SMITH: And, thirdly, was the obstruct  
12 justice.

13 MR. ENGELMANN: All right.

14 INSP. SMITH: So I had input from Mr.  
15 Griffiths on that back and forth, and I believe there was  
16 some fax messages that we sent back and forth.

17 MR. ENGELMANN: Okay. Well, I'll show you  
18 what we have.

19 INSP. SMITH: Okay.

20 MR. ENGELMANN: And tell us whether that ---

21 INSP. SMITH: I'll continue on if you want  
22 me to tell you how it works?

23 MR. ENGELMANN: Yeah.

24 INSP. SMITH: Yeah, okay. Once they get all  
25 of that together then I put together a draft and send it to

1       our media relations people in Orillia, and from that then  
2       they'll put the wording that they want to put to it. And  
3       they have contact with all the media outlets throughout the  
4       province. And they'll release the -- they'll release it.

5               **MR. ENGELMANN:** Now, if they make  
6       significant changes to your draft, are you consulted?

7               **INSP. SMITH:** Yes. They're very generic and  
8       they're very careful, they're professionals, and I've never  
9       had any difficulty with any of the material they've  
10       released being inaccurate.

11              **MR. ENGELMANN:** Would it be fair to say that  
12       the final say is theirs? In other words, they'll consult  
13       with you, but you can't veto changes?

14              **INSP. SMITH:** Generally, yes, I'd say it's  
15       theirs, but if I saw some glaring thing that was in there  
16       that would affect a trial, then I'd bring it to their  
17       attention but, like I say, I've never -- they're  
18       professionals, they know what they're doing.

19              **MR. ENGELMANN:** So if we could take a brief  
20       look at -- it's Document Number 720774.

21              **THE COMMISSIONER:** Thank you.

22                       Exhibit 2670 is a press release re. alleged  
23       sexual assaults by Father Charlie MacDonald< Cornwall,  
24       Ontario, between 1972 and '74.

25       --- **EXHIBIT NO./PIÉCE NO. 2670:**



1 (720774) - Press Release re: Alleged Sexual  
2 Assaults by Father Charles MacDonald between  
3 '72-'74

4 **INSP. SMITH:** This appears to be what I  
5 would have sent them.

6 **MR. ENGELMANN:** All right. It has "Smith's  
7 suggestions" written in hand?

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** That's not your  
10 handwriting or is it?

11 **INSP. SMITH:** I don't usually print, so I  
12 don't think that is.

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

14 But it appears we have two documents here,  
15 and just from reading them earlier am I correct in saying  
16 that the first one would be your first effort or the draft  
17 that you did, and the second one is some comments by Mr.  
18 Griffiths on your draft?

19 **INSP. SMITH:** May I have a moment, sir?

20 **MR. ENGELMANN:** Oh, absolutely.

21 (SHORT PAUSE/COURTE PAUSE)

22 **INSP. SMITH:** Yes, one would appear but --  
23 was what I would get to the news media, our media people.  
24 And the other one appears to be made up by Mr. Griffiths.

25 **MR. ENGELMANN:** So do you recall, did you

1 send yours to him and ask him for feedback and then send  
2 both to Orillia?

3 **INSP. SMITH:** I believe we had an exchange  
4 and then I think if I recall correctly, then -- it appears  
5 that this would be sent to our media relations and they  
6 could glean from this to make a news release.

7 **MR. ENGELMANN:** All right. So the first two  
8 paragraphs of your work referred to the re-investigation of  
9 Father MacDonald?

10 **INSP. SMITH:** That's correct.

11 **MR. ENGELMANN:** Then after that you refer to  
12 the conspiracy investigation using the original words that  
13 you had in your notes, that is:

14 "Conspiracy existed between Cornwall  
15 Police, Crown, and Diocese to effect a  
16 civil settlement with the victim that's  
17 terminated criminal proceedings."

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** And you describe that.

20 And then you say in your final paragraph  
21 that no charges are going to be preferred against the  
22 priest relating to the allegations of the male victim and  
23 that there was absolutely no evidence on the conspiracy as  
24 originally framed?

25 **INSP. SMITH:** That's correct.

1                   **MR. ENGELMANN:** All right. You make no  
2 comment about the obstruct here?

3                   **INSP. SMITH:** About who?

4                   **MR. ENGELMANN:** The obstruct investigation -  
5 --

6                   **INSP. SMITH:** No.

7                   **MR. ENGELMANN:** --- and where it's at?  
8 And you use the term "absolutely no  
9 evidence" when it comes to the conspiracy?

10                   **INSP. SMITH:** Yes.

11                   **MR. ENGELMANN:** And I note Mr. Griffiths  
12 uses the term "no evidence to provide reasonable and  
13 probable grounds". Do you see that at the end of his?

14                   **INSP. SMITH:** Well, that's his terminology,  
15 that's mine.

16                   **MR. ENGELMANN:** All right. And neither of  
17 you refer to the obstruct at this time; correct?

18                   **INSP. SMITH:** That's correct.

19                   **MR. ENGELMANN:** And neither of you refer to  
20 the existence of an illegal settlement, an illegal clause  
21 in a settlement?

22                   **INSP. SMITH:** That's the obstruct.

23                   **MR. ENGELMANN:** Well, yes, but it's  
24 something that obviously you're aware of when you're  
25 looking at the ---

1                   INSP. SMITH: Okay.

2                   MR. ENGELMANN: --- conspiracy or other  
3 issues?

4                   INSP. SMITH: This is what I pass on to  
5 them.

6                   MR. ENGELMANN: Right.

7                   INSP. SMITH: The finished product is what  
8 goes out and may we look at that?

9                   MR. ENGELMANN: Absolutely. Go right there.  
10 That is Exhibit 1000.

11                   INSP. SMITH: And I believe it's addressed  
12 in there.

13                   MR. ENGELMANN: The Document Number is  
14 720738.

15                   (SHORT PAUSE/COURTE PAUSE)

16                   INSP. SMITH: I guess that's it. They  
17 didn't address it.

18                   MR. ENGELMANN: Well they address ---

19                   INSP. SMITH: Two abusers.

20                   MR. ENGELMANN: --- the conspiracy.

21                   INSP. SMITH: Yes.

22                   MR. ENGELMANN: And they address the  
23 reinvestigation of Father MacDonald, which were both  
24 addressed by you in longer fashion.

25                   INSP. SMITH: M'hm.

1 MR. ENGELMANN: Correct?

2 INSP. SMITH: That's correct.

3 MR. ENGELMANN: But they make no reference  
4 to an illegal settlement?

5 INSP. SMITH: No.

6 MR. ENGELMANN: They make no reference to  
7 the fact that one or more lawyers or their clients may have  
8 attempted to obstruct justice?

9 INSP. SMITH: No.

10 MR. ENGELMANN: And the impression that's  
11 left, perhaps is left with the reader, is that there's  
12 really no issue here. Do you agree?

13 INSP. SMITH: It appears on the face, yes.

14 MR. ENGELMANN: Yes. Was that your  
15 intention, sir?

16 INSP. SMITH: I beg your pardon?

17 MR. ENGELMANN: Was that your intention to  
18 leave that impression?

19 INSP. SMITH: No.

20 MR. ENGELMANN: All right.

21 INSP. SMITH: No. We were still working on  
22 that. That was -- it's obvious we were still working on  
23 that.

24 INSP. SMITH: Sir, you do issue -- the OPP  
25 does issue a further press release a couple of months later

1 dealing with the obstruct justice issue.

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** But at the time your nine-  
4 month investigation in Cornwall ends, that's what the  
5 public is left with, that press release.

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** And that's why I said ---

8 **INSP. SMITH:** M'hm.

9 **MR. ENGELMANN:** --- you would agree that,  
10 the public might be left with the impression there's no  
11 issue.

12 **INSP. SMITH:** Yes, I -- no, I agree that  
13 there should have been something there.

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

15 Now, sir, with respect to Malcolm MacDonald,  
16 we've looked at your notes and the fact that you spoke with  
17 Mr. Griffiths on the 30<sup>th</sup> of January. He would have advised  
18 you about his consultation with outside Crown. And just to  
19 go back to those notes for a moment, and that's 1803 -- and  
20 I believe it was Bates page 236, but I'll just be a moment.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. ENGELMANN:** Just at the bottom of the  
23 page where it says:

24 "Mr. Griffiths advised of release  
25 precedent sent by Leduc to MacDonald

1                                   and no mention of criminal matters were  
2                                   contained within."

3                   **INSP. SMITH:** I'm sorry. What page, sir?

4                   **MR. ENGELMANN:** Sorry. It's the bottom of  
5                   236 onto 237. We looked at it a few minutes ago.

6                   **INSP. SMITH:** Oh, sorry.

7                   **MR. ENGELMANN:** The reference to the release  
8                   precedent.

9                   **INSP. SMITH:** Yes. Okay.

10                  **MR. ENGELMANN:** Now at this point in time,  
11                  sir, it's my understanding that you would have had a one-  
12                  paragraph French precedent that would have been provided by  
13                  Mr. Leduc to Constable Fagan?

14                  **INSP. SMITH:** Right.

15                  **MR. ENGELMANN:** Did you have more?

16                  **INSP. SMITH:** No. The one I looked at, I  
17                  thought was in French and it was only a few paragraphs --  
18                  three or four lines.

19                  **MR. ENGELMANN:** Yes.

20                  **INSP. SMITH:** It had not been translated.

21                  **MR. ENGELMANN:** Yes. All right. So that  
22                  may have been the information that you would have based  
23                  this comment to Mr. Griffiths on at the time?

24                  **INSP. SMITH:** That's quite possible.

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

1                   And in fact -- so after this and after  
2                   having received the advice from the Crown, you charged  
3                   Malcolm MacDonald with attempt obstruct justice. Correct?

4                   **INSP. SMITH:** Yes, sir.

5                   **MR. ENGELMANN:** And sir, there was a press  
6                   release on that. I'm just going to find it. It's Document  
7                   Number 720779.

8                   **THE COMMISSIONER:** Thank you.

9                   Exhibit Number 2671 is a press release dated  
10                  -- well, there's a -- someone has dated it the 23<sup>rd</sup> of  
11                  December 1994.

12                  **--- EXHIBIT NO./PIÈCE NO. P-2671:**

13   (720779) - Press Release dated 23 Dec  
14   94

15                  **INSP. SMITH:** This would be prepared by  
16                  myself and sent to the media relations. This isn't  
17                  necessarily -- I don't make a press release.

18                  **MR. ENGELMANN:** Okay. So this is a draft  
19                  you would have prepared?

20                  **INSP. SMITH:** I would, and I would forward  
21                  that to our media relations.

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

23                  **INSP. SMITH:** And from that -- from this  
24                  they would, as you've seen before, make up their own  
25                  release.



1                   **MR. ENGELMANN:** All right. So this isn't  
2 the final? The date that's put on there; do you know why  
3 that date was handwritten at the top?

4                   **INSP. SMITH:** It may have referred back to  
5 another one that had been released on the 23<sup>rd</sup>.

6                   **MR. ENGELMANN:** Okay.

7                   **INSP. SMITH:** That's not my handwriting ---

8                   **MR. ENGELMANN:** Yes.

9                   **INSP. SMITH:** --- but it's possible somebody  
10 had marked down the 23<sup>rd</sup> of December; this is further to a  
11 release that was made on the 23<sup>rd</sup>.

12                   **MR. ENGELMANN:** All right. All right.  
13 Because the information in this release clearly happens --  
14 some of it clearly happens after December 23<sup>rd</sup>.

15                   **INSP. SMITH:** Yes, that's the only  
16 explanation I would have for that.

17                   **MR. ENGELMANN:** So presumably you would have  
18 written this probably sometime in February of 1995? I'm  
19 just looking at the fact that you know when he's appearing  
20 in court, for example.

21                   **INSP. SMITH:** I would make this after the  
22 Information was laid.

23                   **MR. ENGELMANN:** Fair enough.

24                   **INSP. SMITH:** Within hours, probably.

25                   **MR. ENGELMANN:** All right. And if you'd had

1 the discussion with Mr. Griffiths on the 30<sup>th</sup> and he was  
2 giving you wording for the next morning, it would have been  
3 laid sometime at the end of January, beginning of February.

4 **INSP. SMITH:** Within a day or so, sir.

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

6 So in any event, this is likely the document  
7 you would have prepared for Orillia to prepare a formal  
8 press release on the obstruct justice?

9 **INSP. SMITH:** Yes.

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

11 **INSP. SMITH:** And I think again, this covers  
12 the entire investigation; all three aspects.

13 **MR. ENGELMANN:** We'll see if we can locate  
14 the final version of that, Mr. Smith.

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** I don't have it handy.

17 All right. So let's turn to the calendar  
18 year '95. We've started the year with the obstruct justice  
19 issue. There are other matters that arise involving Mr.  
20 Silmsler in 1995. Am I correct?

21 **INSP. SMITH:** Help me out.

22 **MR. ENGELMANN:** All right. I realize it's a  
23 long time ago.

24 Well, let's look at your notes.

25 **INSP. SMITH:** Okay, sir.

1                   **MR. ENGELMANN:** Eighteen zero three (1803),  
2                   if you look at Bates page 238, there's a reference to a  
3                   name at the very bottom of the page; Brian Simser.

4                   **INSP. SMITH:** Yes, sir.

5                   **MR. ENGELMANN:** And then there's a  
6                   discussion with him on Bates page 240. And sir, it's my  
7                   understanding that this individual, who was apparently a  
8                   first cousin of David Silmsen ---

9                   **INSP. SMITH:** Yes, sir.

10                  **MR. ENGELMANN:** --- and he and another  
11                  fellow suggested to, I believe the Cornwall Police and then  
12                  to your Force, that Mr. Silmsen had embellished his story  
13                  quite a bit, about what had happened to him.

14                  **INSP. SMITH:** I believe they told that to  
15                  the Cornwall Police.

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

17                  **INSP. SMITH:** The Cornwall Police contacted  
18                  us and then we contacted these individuals.

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

20                  **MR. ENGELMANN:** And you would have  
21                  interviewed Bryan Simser sometime in April of 1995,  
22                  according to your note?

23                  **INSP. SMITH:** Yes, sir. On the 21<sup>st</sup> of  
24                  April, I believe.

25                  **MR. ENGELMANN:** All right. And as a result

1 of your interview of him, did you commence any  
2 investigation into Mr. Silmsen or did you go any further  
3 with what Brian Simser had told you?

4 **INSP. SMITH:** Well, what Brian Simser had  
5 told me was disturbing, to say the least. He'd indicated  
6 basically that David had stated that he lied, et cetera,  
7 that it hadn't happened and that's the way you get money.  
8 And as a result of that, then I contacted the regional  
9 director for some instructions as to how to proceed on an  
10 investigation against Silmsen for possible mischief.

11 We talked about the possibility of a  
12 polygraph, which in some cases may help but won't in  
13 others, but there had been a directive that came out from  
14 the Attorney General a few years prior that we don't  
15 polygraph victims of sexual assaults. So I didn't know  
16 whether that would still apply or not.

17 **THE COMMISSIONER:** But you wouldn't be  
18 investigating him as a victim of sexual assault, you'd be  
19 investigating him as a suspect on a mischief charge?

20 **INSP. SMITH:** Yes, but then again I'm still  
21 investigating -- he's still I think either before the  
22 courts at that point or about to be before the courts as a  
23 victim. It was a double-edged sword.

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

25 **INSP. SMITH:** And so, in any event, I was

1 instructed or advised by Mr. Griffiths that no, don't  
2 polygraph him.

3 **MR. ENGELMANN:** Did you consider  
4 polygraphing either of the Silmsers or both?

5 **INSP. SMITH:** No, I believe it was set. I  
6 believe the statement was sent.

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

8 **INSP. SMITH:** I had two witnesses there. A  
9 fellow by the name of Leonard, who is since deceased, died  
10 in a fire. But, no, I believe David Silmser sent it to  
11 them, but I'm also suspect about Brian, Brian Simser.

12 **MR. ENGELMANN:** Did you uncover any  
13 animosity between the two?

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** So you did not proceed with  
16 a mischief investigation against David Silmser at that  
17 time?

18 **INSP. SMITH:** No, I spoke to Mr. Geoffrey  
19 and indicated that I'd like to interview him in regard to  
20 that and he said he'd get back to me but he never did and  
21 then later on I received a call from Silmser. He knew that  
22 I'd been speaking to ---

23 **MR. ENGELMANN:** David Silmser?

24 **INSP. SMITH:** David Silmser, he was angry  
25 that I had been speaking to his cousin in regard to

1 everything and he knew it was set. But at the end of the  
2 day it wasn't unusual for David Silmser to make outlandish  
3 remarks in hotels and other places about such things.

4 **MR. ENGELMANN:** Were you aware of an alcohol  
5 or drug problem at that time?

6 **INSP. SMITH:** Well, I don't know -- I know  
7 that he consumed liquor on a number of occasions.  
8 Certainly any of the phone calls that I got or my secretary  
9 has received, it appeared that he had been consuming  
10 alcohol or drugs.

11 I had never personally seen him face to face  
12 where he appeared that way but ---

13 **MR. ENGELMANN:** Let's talk about a couple of  
14 other things that came up then with Mr. Silmser in the year  
15 1995, or Silmser and/or Father MacDonald?

16 You have a note on May 1<sup>st</sup> in your notes, and  
17 it's Bates page 245 to ---

18 **INSP. SMITH:** A new call from Fagan about a  
19 new complainant?

20 **MR. ENGELMANN:** Right.

21 **INSP. SMITH:** Is there a ---

22 **MR. ENGELMANN:** No, there is no moniker  
23 there.

24 **INSP. SMITH:** Oh, okay.

25 **MR. ENGELMANN:** But in any event, there's an

1 individual that comes forward as another alleged victim of  
2 Father MacDonald; am I reading it right?

3 **INSP. SMITH:** Yes, sir.

4 **MR. ENGELMANN:** And this individual, as I  
5 understand it, alleges that two men had sexually abused  
6 him? Father MacDonald and another fellow; were you aware  
7 of that?

8 **INSP. SMITH:** I don't see that in my notes,  
9 sir.

10 **MR. ENGELMANN:** Okay. Did you become aware  
11 of the fact that when he attended at a local OPP detachment  
12 here, he would have alleged he was assaulted, not just by  
13 Father MacDonald but also by another individual who had  
14 been a boarder in his parents' home?

15 **INSP. SMITH:** I don't recall, sir.

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

17 **INSP. SMITH:** But I'm -- further on I was  
18 probably aware. I'm just -- this is a call on May 1<sup>st</sup> that  
19 Fagan is updating me on something. I don't recall ever  
20 interviewing this person.

21 **MR. ENGELMANN:** I believe it may have been  
22 Constable Fagan. Just give me a moment, sir, I might be  
23 able to help.

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

25 **MR. ENGELMANN:** At the bottom of Bates page

1 245, you say:

2 "Advised Geoffrey we had another  
3 alleged victim of Father MacDonald..."

4 And what do you say, "...came forward and  
5 we..." It's right at the bottom of the page.

6 Perhaps we could blow it up.

7 **INSP. SMITH:** I can't read my own writing.

8 **MR. ENGELMANN:** "Advised Geoffrey," no  
9 sorry.

10 **THE COMMISSIONER:** Just can't get that last  
11 line.

12 **MR. ENGELMANN:** I would like to speak to ---

13 **INSP. SMITH:** We had, "another alleged  
14 victim of Father MacDonald and..." if you can scroll that  
15 up just a bit.

16 **THE COMMISSIONER:** No, we can't. So we have  
17 to go to the page, which is page number?

18 **MR. ENGELMANN:** It's Bates page 1054245,  
19 "come forward and we [something] to interview him"; I  
20 believe?

21 **INSP. SMITH:** That appears to be.

22 **MR. ENGELMANN:** Can you tell us what it then  
23 says on the following Bates page, sir? That might be  
24 easier to look at.

25 **INSP. SMITH:** Yeah.



1                   **MR. ENGELMANN:** Top of 246.

2                   **INSP. SMITH:** "...him, Geoffrey, in about  
3   two weeks after we had..."

4                   **THE COMMISSIONER:** Consulted?

5                   **INSP. SMITH:** "...consulted with the  
6   Regional Director Crown attorney."

7                   **MR. ENGELMANN:** I don't know if you can  
8   explain this for me but it appears that you then have,  
9   unless the one is cut off of the call to Peter Griffiths,  
10    but it appears we go from May 10<sup>th</sup> to May 9<sup>th</sup>? Do you see  
11    that on the top of the page, it says "10 May"?

12                   **INSP. SMITH:** Yes.

13                   **MR. ENGELMANN:** Is that presumably the 19<sup>th</sup>,  
14    would that be unlikely that your note would be out of  
15    order?

16                   **INSP. SMITH:** No.

17                   **MR. ENGELMANN:** All right, so perhaps on the  
18    19<sup>th</sup> of May, you have a call with Peter Griffiths; and is  
19    this about this new allegation, sir?

20                   **INSP. SMITH:** The top of page 246 ---

21                   **MR. ENGELMANN:** Yes.

22                   **INSP. SMITH:** --- appears to be a  
23    continuation of 245.

24                   **MR. ENGELMANN:** Right, but then the next  
25    item after that we see a "9 May" and I suspect it may be a

1 19?

2 INSP. SMITH: "Call to Peter Griffiths,  
3 update..."

4 MR. ENGELMANN: "...update re Silmser  
5 matter and new allegations."

6 INSP. SMITH: M'hm.

7 MR. ENGELMANN: I'm looking on the screen:  
8 "He advises..."

9 INSP. SMITH: Okay:  
10 "...speak to Silmser and lawyer under  
11 caution. Suggest not to pursue  
12 polygraph matter as it will not provide  
13 any conclusive evidence one way or the  
14 other for court purposes."

15 MR. ENGELMANN: Sorry, that's the matter you  
16 talked about before?

17 INSP. SMITH: Yes.

18 MR. ENGELMANN: All right. And then there  
19 is a reference to a call that Silmser makes to Mike Fagan?

20 INSP. SMITH: Yes, and Chris McDonell at  
21 Cornwall ---

22 MR. ENGELMANN: "Says he has another  
23 victim from..."

24 INSP. SMITH: "Out west."

25 MR. ENGELMANN: "...out west..."

1                   **INSP. SMITH:** "...who was sexually  
2    assaulted by Father Charles MacDonald.  
3    Silmser..."

4                   **MR. ENGELMANN:** Irrational, maybe?

5                   **INSP. SMITH:** "...irrational."

6                   **MR. ENGELMANN:** Yes.

7                   **INSP. SMITH:** "Says we will have egg all  
8    over our face."

9                   **MR. ENGELMANN:** All right and then there's a  
10                                        reference a little later down the page to, "speaking to  
11                                        John MacDonald in September"?

12                   **INSP. SMITH:** Yes, I spoke to him.

13                   **MR. ENGELMANN:** All right, so you can't  
14                                        comment -- let's just go back to the fellow who comes  
15                                        forward in the spring and the name is Albert Lalonde.

16                                        You can't comment on why there is no  
17                                        decision to go further with that in the spring of '95, you  
18                                        had been involved?

19                   **INSP. SMITH:** I believe he was interviewed  
20                                        by Fagan.

21                   **MR. ENGELMANN:** Okay.

22                   **INSP. SMITH:** I can't recall.

23                   **MR. ENGELMANN:** That's fine. With respect  
24                                        to John MacDonald, in your notes, you note the call that  
25                                        Silmser makes to Fagan in August.

1                   **INSP. SMITH:** M'hm.

2                   **MR. ENGELMANN:** And it says that you speak  
3 to him September 25<sup>th</sup> to set up an interview. Rick Abell's  
4 testified here that he would have called you shortly before  
5 you would have called John MacDonald to advise you that he  
6 wanted to speak to you. Do you have any recollection of  
7 that, sir; getting contact information from Rick Abell?

8                   **INSP. SMITH:** I don't -- I vaguely remember  
9 something but I can't be sure. I know there was some  
10 conversation from Mr. Abell to myself in regard to that,  
11 and I think it related to counselling.

12                   **MR. ENGELMANN:** All right. He indicated  
13 that he worked on the counselling end of it, that this  
14 fellow, John MacDonald, was very anxious to speak to the  
15 police and that he was pleased that you said you'd get  
16 right at it.

17                   **INSP. SMITH:** Well, I thought -- we made  
18 arrangements to -- I know that he'd retained Bryce Geoffrey  
19 and he wanted the lawyer present. And we'd made an  
20 arrangement to conduct an interview and I think it was at  
21 the first reasonable time that we could, that Geoffrey  
22 could be available. And we did a taped interview of him.

23                   **MR. ENGELMANN:** All right. But with respect  
24 to the interaction with Mr. Abell, you're just -- it's not  
25 in your notes.

1                   **INSP. SMITH:** No. But I recall that Mr.  
2                   MacDonald was quite emotional. He'd had a therapist or  
3                   somebody that had been helping him for a number of years  
4                   that had just died or had died recently.

5                   **MR. ENGELMANN:** Okay.

6                   **INSP. SMITH:** And I think there was some  
7                   attempt through Mr. Abell and the Diocese that they  
8                   obtained some counselling for ---

9                   **MR. ENGELMANN:** For Mr. MacDonald.

10                  **INSP. SMITH:** --- for Mr. MacDonald.

11                  **MR. ENGELMANN:** John MacDonald.

12                  **INSP. SMITH:** John MacDonald, yes.

13                  **MR. ENGELMANN:** And we've heard that.

14                  **INSP. SMITH:** Oh, okay.

15                  **MR. ENGELMANN:** Yes. No. So were you aware  
16                  prior to meeting with John MacDonald, that he'd written a  
17                  letter to a local priest by the name of Kevin Maloney,  
18                  regarding his allegations of abuse by Father MacDonald and  
19                  requesting an apology from the Church and also some  
20                  counselling?

21                  **INSP. SMITH:** I don't think so, sir. There  
22                  were a lot of things going on at that time. I know that he  
23                  was making -- shortly after Silmsen called us, I think  
24                  they'd had contact with Carson Chisholm and Perry Dunlop  
25                  and there were letters to prepare and there were letters

1 delivered to the police department and I know there was  
2 some contact with the Diocese. But I wasn't privy to all  
3 of that until ---

4 **MR. ENGELMANN:** All right.

5 **INSP. SMITH:** --- I got to do the interview  
6 with him and Mr. Bryce Geoffrey.

7 **MR. ENGELMANN:** Were you at all aware of  
8 this priest, Father Maloney retaining a lawyer, Sean Adams,  
9 whom you would have known, regarding John MacDonald's  
10 contact with him?

11 **INSP. SMITH:** I learned that later, sir. I  
12 learned that I guess there was some -- a complaint made to  
13 the police about harassment by MacDonald, I guess.

14 **MR. ENGELMANN:** MacDonald and Silmser?

15 **INSP. SMITH:** And Silmser. And a police  
16 officer was sent to speak to them and ---

17 **MR. ENGELMANN:** Okay.

18 **INSP. SMITH:** --- that wasn't really any  
19 concern of mine. I just wanted to -- let's get on with it.  
20 "What do you have to say, Mr. MacDonald?" And let's get on  
21 with it.

22 There were a lot of things happening back in  
23 ---

24 **MR. ENGELMANN:** Yes. Well, according to  
25 your notes, at least at the bottom of that page, September

1 28<sup>th</sup>, I believe you meet with people from the Cornwall  
2 Police Service and it's agreed that you would investigate  
3 the complaint by John MacDonald on the basis of your  
4 previous experience, because the complaint could have taken  
5 place within OPP jurisdiction.

6 **INSP. SMITH:** Yes, and also it was the same  
7 Father Charles.

8 **MR. ENGELMANN:** Right.

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** And then you would have  
11 interviewed John MacDonald?

12 **INSP. SMITH:** Yes.

13 **THE COMMISSIONER:** But surely -- while you  
14 were concentrating on that, surely you must have been aware  
15 of what the consequences to Silmsers and MacDonald would be.  
16 I mean you've got Silmsers sitting there. He makes this  
17 settlement. It blows up in his face in the sense that it's  
18 all over in the news media. Then he turns around and, I  
19 suspect, he's trying to make phone calls to Maloney; makes  
20 one or two phone calls. So does ---

21 **INSP. SMITH:** John.

22 **THE COMMISSIONER:** --- John MacDonald and lo  
23 and behold, they turn around again and they're the accused.  
24 I mean, they put -- they're treated like suspects. And  
25 you've got Sean Adams, who gave Silmsers independent legal

1 advice, who's now the lawyer for the priest.

2 **INSP. SMITH:** Yes.

3 **THE COMMISSIONER:** And so if you look at a  
4 troubled soul, this certainly was stirring up the pot for  
5 Silmsen.

6 **INSP. SMITH:** Well, it was a rat's nest, to  
7 put it bluntly. It was hard to sort out and hard to  
8 investigate, Mr. Commissioner. But what I was trying to do  
9 is to let all those side issues go aside ---

10 **THE COMMISSIONER:** Right.

11 **INSP. SMITH:** --- and stay with the sexual  
12 assault. And then see what happens; what falls by the  
13 wayside after.

14 I've got a complaint of sexual assault.  
15 There were a number of things that are going on elsewhere.  
16 You know, I was going to stay focused on the sexual assault  
17 complaint.

18 **MR. ENGELMANN:** Do you recall if you would  
19 have given any advice to the Cornwall Police Service about  
20 this issue that the Commissioner has just raised;  
21 sensitivity, et cetera?

22 **INSP. SMITH:** No, I wouldn't interfere on  
23 that end. That was in their jurisdiction. They had a  
24 complaint. They have to respond to it. They responded to  
25 it in what eventually I thought was not too bad. I thought



1           it was reasonable: Don't phone; leave him alone. That's  
2           all they wanted.

3                       **MR. ENGELMANN:** I didn't ask you this, but  
4           with respect to the conspiracy brief, we know that ended  
5           with the letters and the press release. We know with the  
6           Father MacDonald reinvestigation, it never really ended.  
7           You left the file open because you thought something else  
8           might come forward. With the obstruct justice issue, once  
9           the guilty plea came in from Malcolm MacDonald, did you do  
10          any further work on that?

11                      **INSP. SMITH:** No.

12                      **MR. ENGELMANN:** Just because we've seen the  
13          name, Sean Adams now arise.

14                      **INSP. SMITH:** Well, I still don't have any  
15          difficulty with Sean Adams.

16                      **MR. ENGELMANN:** You didn't reinvestigate him  
17          though, did you?

18                      **INSP. SMITH:** No.

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

20                      **INSP. SMITH:** It's not unusual Sean Adams  
21          would be -- if you look at small towns, sir, and if you  
22          look at Dave Silmser; he's got Geoffrey, who is in Ottawa;  
23          he has Sean Adams here in town, that has served him before.  
24          So if he has difficulties, he calls Sean. This was just a  
25          -- it was a minor complaint as far as harassment goes. I

1 don't think it would be unusual that if he had contact from  
2 the police that he'd call Sean Adams. And I guess Sean  
3 intervened, just to cool things down.

4 **MR. ENGELMANN:** Did you reinvestigate anyone  
5 else on the obstruct issue; Mr. Leduc or the Diocese or  
6 others?

7 **INSP. SMITH:** No.

8 **MR. ENGELMANN:** Okay.

9 Back to your notes then, if I can. At Bates  
10 page 247, you indicate -- it's a little further down on the  
11 page. I think it's in November of '95. There was an issue  
12 about, I think Mr. MacDonald and possibly Mr. Silmser  
13 speaking to one another?

14 **INSP. SMITH:** Yes, sir.

15 **MR. ENGELMANN:** And you might have had some  
16 concerns about that?

17 **INSP. SMITH:** Yes, sir.

18 **MR. ENGELMANN:** And I think you note that in  
19 your notes. It's a bit hard to read but perhaps you could  
20 help us?

21 **INSP. SMITH:** Yes, sir.

22 On the 8<sup>th</sup> of November?

23 **MR. ENGELMANN:** Yes.

24 **INSP. SMITH:** I received -- of 1995.

25 "I received a call from John MacDonald

1 and I returned the call and I spoke to  
2 his wife. She said that John was upset  
3 as he had heard nothing. I advised  
4 that we were attempting to locate altar  
5 boys that he had named. It's apparent  
6 he and David Silmser are speaking and  
7 meeting with each other. She says also  
8 [C-3] is coming in with John. John  
9 came on the phone and I spoke to him.  
10 They're all meeting this Saturday. I  
11 told him it was not a good idea. Don't  
12 discuss your evidence or specifics,  
13 what happened, and they should not  
14 discuss what happened. Write down all  
15 that is said and they are..."

16 And I can't see what the next line is.

17 **MR. ENGELMANN:** It seems to have, yes,  
18 disappeared.

19 **INSP. SMITH:** Yes, and ---

20 **MR. ENGELMANN:** What does it say on the top  
21 of the next page?

22 **INSP. SMITH:** Well:

23 "Testify against Father Charles."

24 **MR. ENGELMANN:** And just be careful about  
25 the names again.

1                   **INSP. SMITH:** Yes, I'm sorry about that.

2                   **MR. ENGELMANN:** "Told John..."

3                   **INSP. SMITH:** "Told John to have..."

4                   **MR. ENGELMANN:** "...C-3 call us if he..."

5                   **INSP. SMITH:** Yes, "... call me if he

6   wants to testify."

7                   **MR. ENGELMANN:** "Again told him not to

8   discuss..."

9                   **INSP. SMITH:** Yes, "Again told

10   him not to discuss evidence."

11                   **MR. ENGELMANN:** All right.

12                   **INSP. SMITH:** "John said it didn't matter

13   as they already have the statement. I

14   said it did matter and could affect the

15   case."

16                   I had to hang up because Heidi Sebalj was on

17                   the phone right then; had been calling me.

18                   **MR. ENGELMANN:** Calling you or calling him?

19                   **INSP. SMITH:** Calling me.

20                   **MR. ENGELMANN:** Oh, okay.

21                   **INSP. SMITH:** Yes. I was -- and I told him

22                   that I'd call him right back:

23   "I spoke to Heidi. She advised Silmser

24   called angry. Heard someone had told

25   him he was now on a drug project. Not

1                   so. His information was on OMPPAC and  
2                   it was protected because of a previous  
3                   leak."

4                   Apparently, somebody within Cornwall Police  
5                   was going to Silmser with that information.

6                   "She also advised Silmser, C-3..."

7                   -- I think that is.

8                   **MR. ENGELMANN:** Yes.

9                   **INSP. SMITH:** "...and MacDonald were  
10                   meeting this Saturday to discuss Father  
11                   MacDonald's issue. I advised that I  
12                   heard the same from MacDonald just now.  
13                   She also said she had information  
14                   Father Charles was out of the country,  
15                   far away, and advised I'd heard that  
16                   also. She will forward me a copy of  
17                   her notes for my file. I then tried to  
18                   get back to MacDonald and I made  
19                   several phone calls, but there was no  
20                   answer. Eventually, I spoke to his  
21                   wife and she said he's at the meeting  
22                   with his lawyer. I advised I wanted to  
23                   up-date, that I had additional names of  
24                   altar boys who may have..."

25                   I can't even read that:

1                                    "...and we were in the process of  
2                                    attempting to locate them."

3                                    **THE COMMISSIONER:** "Who may know of events  
4                                    and...". Is that what ---

5                                    **INSP. SMITH:** "Know of events" maybe?

6                                    **THE COMMISSIONER:** "Know of  
7                                    events, and we were in the process of  
8                                    attempting to locate same."

9                                    **INSP. SMITH:** "...to locate same." Yes.

10                                   **THE COMMISSIONER:** All right.

11                                   **INSP. SMITH:** "Will be in Cornwall  
12                                   tomorrow with Mike Fagan, just for  
13                                   their information."

14                                   **MR. ENGELMANN:** Sir, you, within a few days  
15                                   of this on November 24<sup>th</sup>, and I think it's in your notes as  
16                                   well, you end up meeting with C-3? If you ---

17                                   **INSP. SMITH:** Yes.

18                                   **MR. ENGELMANN:** --- locate Bates page 252?  
19                                   It's 105425 -- pardon me, sorry -- it's the bottom of 251;  
20                                   I apologize.

21                                   "November 24<sup>th</sup> at Kanata Detachment with  
22                                   P.C. Fagan to interview C-3 with  
23                                   lawyer, Bryce Geoffrey."

24                                   **INSP. SMITH:** Yes, sir.

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

1                   And then there's a reference on the top of  
2                   the next page -- oh, that's the interview I think you have  
3                   with -- are you meeting with Bishop LaRocque at that time?

4                   **INSP. SMITH:** Yes. It must have been --:  
5                   "Call came to Cathy at the Intelligence  
6                   Branch for us at 8:50 in the morning."  
7                   And that was on the 24<sup>th</sup> of November.

8                   **MR. ENGELMANN:** Right. And then you've got  
9                   "December 18<sup>th</sup>" there as well?

10                  **INSP. SMITH:** "And I met Bishop, lawyer's  
11                  office in Cornwall."

12                  **MR. ENGELMANN:** Does it say:  
13                  "Request to speak to Father MacDonald"?

14                  **INSP. SMITH:** Yes.

15                  **MR. ENGELMANN:** And you were given the  
16                  number of a lawyer?

17                  **INSP. SMITH:** Yes, a lawyer, Mr. Hebert.

18                  **MR. ENGELMANN:** At Scott & Aylen. Is that  
19                  correct?

20                  **INSP. SMITH:** It would be where?

21                  **MR. ENGELMANN:** At Scott & Aylen?

22                  **INSP. SMITH:** Is that the firm? Yes.

23                  **MR. ENGELMANN:** And this was the -- these  
24                  were the lawyers for the Diocese?

25                  **INSP. SMITH:** I believe, yes.

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

2                   So, sir, do you know how C-3 got together  
3 with MacDonald and Silmser?

4                   **INSP. SMITH:** I think it was brokered  
5 through Perry Dunlop.

6                   **MR. ENGELMANN:** Okay. Were you told that by  
7 someone?

8                   **INSP. SMITH:** Well, my understanding was  
9 that the three of them were meeting with Perry Dunlop on  
10 that Saturday.

11                   **MR. ENGELMANN:** Did you ask C-3 how it is he  
12 came to know about Silmser and MacDonald, or do you recall?

13                   **INSP. SMITH:** I don't recall.

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

15                   Now, sir, your notes indicate -- and the  
16 notes being on Bates page 252 -- a call to Peter Griffiths  
17 with respect to the re-investigation on January 3<sup>rd</sup> of 1996?  
18 Is that correct? I believe you're indicating to him that  
19 you'll have a brief to him within a couple of weeks?

20                   **INSP. SMITH:** Yes.

21                   **MR. ENGELMANN:** If you could just read that  
22 for us, the reference to January 3<sup>rd</sup>, '96? Is it 9:40 in  
23 the morning?

24                   **INSP. SMITH:** That's what it appears to be.

25                   "Call Peter Griffiths re. investigation



1 up-date. Advise we will have a brief  
2 in place within two weeks and wish him  
3 to review with recommendations. We  
4 feel..."

5 **THE COMMISSIONER:** "...with additional  
6 two..."

7 **INSP. SMITH:** "...with additional two  
8 victims, there is RP&G to lay indecent  
9 assault charges. Griffiths has advised  
10 he will review and possibly have Bob  
11 Pelletier at the office to prosecute."

12 So that he'd be present to review and prosecute.

13 **MR. ENGELMANN:** So this would be a -- now if  
14 I could call it a supplementary brief or another brief with  
15 respect to possible charges against Father MacDonald?

16 **INSP. SMITH:** Correct.

17 **MR. ENGELMANN:** And did you, in fact, submit  
18 a Crown brief to Griffiths later in January of 1996?

19 **INSP. SMITH:** I believe we did.

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

21 Mr. Commissioner, when you did want to break  
22 this morning? I know we started at 9:00, but I'm in your  
23 hands, if you want to go to 11:00 or if you want to break  
24 now?

25 **THE COMMISSIONER:** No, we should break now.

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

2                   **THE COMMISSIONER:** Thank you. Let's take  
3 the morning break.

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

6                   This hearing will resume at 11:00 a.m.

7 --- Upon adjourning at 10:43 a.m./

8                   L'audience est ajournée à 10h43

9 --- Upon resuming at 11:05 a.m. /

10                   L'audience est reprise à 11h05

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

13                   This hearing is now resumed. Please be  
14 seated; veuillez vous asseoir.

15 **INSPECTOR TIM SMITH, Resumed/Sous le même serment:**

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

17 **ENGELMANN (cont'd/suite):**

18                   **MR. ENGELMANN:** Mr. Smith, we were talking  
19 about the re-investigation of Father MacDonald and the  
20 Crown brief that you would have been involved in preparing  
21 in or around of January of '96, and I just wanted to show  
22 you a synopsis of that brief if I could? It's Document  
23 Number 715048.

24                   **THE COMMISSIONER:** Thank you.

25                   Exhibit 2672 is a document

1 entitled "Synopsis". So synopsis of what now?

2 --- EXHIBIT NO./PIÈCE NO. P-2672:

3 (715048) - Crown Brief Synopsis of  
4 David Silmser, John MacDonald & C-3 re:  
5 Allegations against Charles MacDonald

6 MR. ENGELMANN: Sir, is it -- oh, I'm sorry.

7 THE COMMISSIONER: Exhibit 2672 is a  
8 synopsis, but a synopsis of what?

9 MR. ENGELMANN: It's a synopsis -- I'll have  
10 the witness confirm this, but I believe it's a synopsis of  
11 a Crown brief dealing with allegations by David Silmser, C-  
12 3, and John MacDonald against Father Charles MacDonald.  
13 I'll just give the witness a moment to look at it and  
14 confirm.

15 (SHORT PAUSE/COURTE PAUSE)

16 THE COMMISSIONER: There should be a  
17 publication ban on this document.

18 MR. ENGELMANN: Yes, I apologize, there  
19 should be a stamp. C-3 is mentioned a few times.

20 (SHORT PAUSE/COURTE PAUSE)

21 INSP. SMITH: Yes, sir.

22 MR. ENGELMANN: First question was, is this  
23 -- is this a Crown brief synopsis for the allegations made  
24 by David Simser, John MacDonald, and C-3 with respect to  
25 Father Charles MacDonald?

1                   **INSP. SMITH:** I don't know if it's a Crown  
2 brief synopsis, but we do them in legal, but it appears  
3 what would be a Crown brief synopsis.

4                   **MR. ENGELMANN:** All right. And, sir, would  
5 you have been either responsible for putting this together  
6 or would you have been consulted in putting it together?

7                   **INSP. SMITH:** Fagan and I would do it  
8 together I would imagine, yes.

9                   **MR. ENGELMANN:** All right. But if there are  
10 errors and omissions in the synopsis you'd accept  
11 responsibility for them?

12                   **INSP. SMITH:** Yes, sir.

13                   **MR. ENGELMANN:** All right. So, for example,  
14 and I'll just refer to a couple issues if I may. We appear  
15 to have the dates, '68 to '72 reoccurring?

16                   **INSP. SMITH:** Yeah. We mentioned that  
17 before and I --

18                   **MR. ENGELMANN:** Yeah.

19                   **INSP. SMITH:** -- and I agree, yeah.

20                   **MR. ENGELMANN:** But that was in the '94  
21 brief, this is now '96.

22                   **INSP. SMITH:** Yes.

23                   **MR. ENGELMANN:** We see them getting --

24                   **INSP. SMITH:** It -- it continues, yes.

25                   **MR. ENGELMANN:** Yeah. So this --

1                   **INSP. SMITH:** There's no -- no dispute on  
2                   that ---

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

4                   **INSP. SMITH:** --- I -- the dates ---

5                   **MR. ENGELMANN:** You have reference to a  
6                   civil suit in the fifth paragraph. We don't have any  
7                   reference in the brief to the illegal nature of the release  
8                   or the fact that terminated criminal proceedings; correct?

9                   **INSP. SMITH:** Again, I'm going to go back.  
10                  A synopsis is -- is to give just a background of some of  
11                  the events of what is contained in the -- in the brief  
12                  itself. The synopsis is not evidence in itself, sir, it's  
13                  a -- it's what to look for in the brief.

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

15                  **MR. KOZLOFF:** Sorry, did my friend suggest  
16                  there's nothing in the synopsis -- excuse me, sir.

17                  Did my friend suggest that there's nothing  
18                  in the synopsis about the illegal nature of the release? I  
19                  mean, if you go to the bottom of the first page -- do you  
20                  want me to read it out loud, Mr. Commissioner?

21                  **THE COMMISSIONER:** I'll read it:  
22                  "The Church went on record to indicate an error had been  
23                  made with the settlement with Silmsers whereby Silmsers  
24                  agreed not to proceed criminally in exchange for a cash  
25                  settlement."

1                   **MR. KOZLOFF:** That seems -- that seems to me  
2                   to be a reference to the illegal nature of the settlement.

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

4                   **MR. ENGELMANN:** I guess I don't share the  
5                   same interpretation.

6                   **THE COMMISSIONER:** Well, okay. It's a  
7                   little bit of both, I suppose. The Church went on record  
8                   to indicate an error had been made within the settlement  
9                   whereas ---

10                  **MR. ENGELMANN:** I mean, by this point in  
11                  time we had a guilty plea on an attempt obstruct justice.

12                  **THE COMMISSIONER:** Okay. Well, it's --  
13                  it's couched there.

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

15                  **THE COMMISSIONER:** Let's go on.

16                  **MR. ENGELMANN:** There's no reference to  
17                  that, is there, sir, the attempt obstruct justice and what  
18                  had happened?

19                  **INSP. SMITH:** In the synopsis? No.

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

21                  **INSP. SMITH:** But I'll tell you that I'm  
22                  giving this to Mr. Griffiths; he knows.

23                  **MR. ENGELMANN:** Yes. No, and again, your  
24                  point about the synopsis as well, if you're giving it to  
25                  Mr. Griffiths, he knows the file.

1                   **INSP. SMITH:** I hope so, yes.

2                   **MR. ENGELMANN:** Right. But doesn't this end  
3 up going to Mr. Pelletier?

4                   **INSP. SMITH:** Yes, he was aware it was -- he  
5 was well aware of what was going on.

6                   **MR. ENGELMANN:** All right. And so on the  
7 third page you say, in the second paragraph:

8                   "Part of the suspicion would be supported  
9 by the Church provided a monetary settlement to Silmsier  
10 without the necessity of a court hearing."

11                   **INSP. SMITH:** Yes, that -- there's a bit of  
12 suspicion there.

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

14                   **INSP. SMITH:** And it's weak evidence, but  
15 it's --

16                   **MR. ENGELMANN:** Yeah.

17                   **INSP. SMITH:** -- why would they settle, you  
18 know --

19                   **MR. ENGELMANN:** Right.

20                   **INSP. SMITH:** -- if it didn't happen.

21                   **MR. ENGELMANN:** Presumably the fact that  
22 Father MacDonald might have contributed as well, might have  
23 been a weak inference as well?

24                   **INSP. SMITH:** It's -- it's good general  
25 information for the prosecutor, I would say.

1                   **MR. ENGELMANN:** And the person that's  
2 referred to in the second-last paragraph, he of course was  
3 involved earlier, but not as a formal complainant?

4                   **INSP. SMITH:** That's correct, yes.

5                   **MR. ENGELMANN:** All right. And at the very  
6 end there does not appear to be, at least on your part, a  
7 recommendation that charges should be laid?

8                   **INSP. SMITH:** No, sir.

9                   **MR. ENGELMANN:** All right. And I just --  
10 I'm wondering, in your notes you indicate:

11                                 "We feel with additional two  
12 victims there are reasonable and  
13 probable grounds to lay..."

14                   I think it says, "indecent assault charges."  
15 Yet in your brief filed within a couple weeks of that it's  
16 almost suggesting that you're leaning against the laying of  
17 the charges?

18                   **INSP. SMITH:** I don't know if that was  
19 between the time that I learned that the three of them got  
20 together or not, and -- and when I prepared this I -- I had  
21 some misgivings when -- when the three got together and  
22 were talking about their case.

23                   **MR. ENGELMANN:** That was back in November,  
24 sir.

25                   **INSP. SMITH:** Yeah.



1                   **MR. ENGELMANN:** This is January. You have a  
2 call with Mr. Griffiths.

3                   **INSP. SMITH:** I believe that we -- we  
4 discussed some of this and I believe that -- I believe that  
5 there were assaults, but I believe that there were  
6 difficulties because of the -- of the meetings that they've  
7 had together. It was going to be a difficult prosecution,  
8 in any event.

9                   **MR. ENGELMANN:** Fair enough. But there's a  
10 as we've heard between reasonable and probable grounds and  
11 the test and reasonable prospect of conviction.

12                   **INSP. SMITH:** Okay. Let me put it this way.  
13 I had RPS&G. I could lay the charges, no  
14 problem. Was there a reasonable prospect of a conviction?  
15 I'm -- it's really touchy.

16                   **MR. ENGELMANN:** But you're ---

17                   **INSP. SMITH:** So what I'm -- so what I'm  
18 going to do, I'm not going to -- I'm going to see what they  
19 say about it -- the Crown say about it -- and if they feel  
20 that there's no reasonable prospect of a conviction, then  
21 I'm going to wait and I'm going to find myself another  
22 victim somewhere along the line because once I lay a  
23 charge, the clock starts ticking, and if there's no  
24 reasonable prospect of a conviction those charges are gone.  
25 They never get another chance before the

1 courts and this has happened -- this has happened a number  
2 of times -- well, a few times anyway in St. Joseph's and  
3 St. John's Training School.

4 **THE COMMISSIONER:** Okay. What do you mean  
5 once the charges are laid?

6 **INSP. SMITH:** Once I lay the charges the  
7 clock, I say, starts ticking and then the prosecutors  
8 decide that there's no reasonable prospect of a conviction,  
9 they withdraw the charges or they're stayed. I can't  
10 revisit those. I can't go back and re-lay those charges,  
11 so those victims would never be before -- never get before  
12 a courts.

13 **MR. ENGELMANN:** So when you -- sorry.

14 **THE COMMISSIONER:** So on a stay you're  
15 saying that Crown doesn't have a year to come back and  
16 review?

17 **INSP. SMITH:** Well, I've never seen it done.  
18 In my -- maybe it has since, but in my experience I've  
19 never seen a stay revisited.

20 **MR. ENGELMANN:** So your concern in January  
21 of '96 wasn't a lack of reasonable and probable grounds, it  
22 was a concern about a reasonable prospect of conviction?

23 **INSP. SMITH:** I'd agree with that.

24 **THE COMMISSIONER:** Which is a decision the  
25 Crown has to make?

1                   **INSP. SMITH:** Whether he prosecutes or not.

2                   **THE COMMISSIONER:** Yeah.

3                   **INSP. SMITH:** We make the decision whether  
4 to lay the charge or not. Now, I've got RP&G, that doesn't  
5 mean I have to lay the charge.

6                   **MR. ENGELMANN:** Fair enough.

7                   **INSP. SMITH:** But I'm trying to work  
8 together with the Crown. What's the Crown going to tell me  
9 about all this when I give them all this information?

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

11                   **INSP. SMITH:** And there is -- you'll see  
12 there is a letter that comes back on it.

13                   **MR. ENGELMANN:** And -- yes. And I have no  
14 doubt -- in your notes you indicate you're telling the  
15 Crown you have RPS&G?

16                   **INSP. SMITH:** Yes.

17                   **MR. ENGELMANN:** But your synopsis doesn't  
18 say that?

19                   **INSP. SMITH:** No.

20                   **MR. ENGELMANN:** I'm just wondering why not?

21                   **INSP. SMITH:** I just -- I'm going to leave  
22 it to them -- leave it. I want to see what they have to  
23 say.

24                   **MR. ENGELMANN:** Okay. Because it has that  
25 catchall clause that you had before ---

1                   **INSP. SMITH:** Well ---

2                   **MR. ENGELMANN:** --- that says:

3                               "Should a review of all of the evidence  
4                               by the prosecutors indicate the  
5                               investigators have misinterpreted the  
6                               evidence obtained and there exists  
7                               probable grounds, charges may still be  
8                               preferred."

9                   It suggests, at least from this that, in  
10                   fact, you're saying you don't have reasonable and probable  
11                   grounds in spite of what you told Mr. Griffiths?

12                   **INSP. SMITH:** Well, I'm saying if we -- the  
13                   investigators had misinterpreted the evidence obtained.

14                   **THE COMMISSIONER:** I know, but ---

15                   **INSP. SMITH:** Now, we're playing on words  
16                   then? And ---

17                   **MR. ENGELMANN:** No, not at all.

18                   **THE COMMISSIONER:** No, no, sir.

19                   **MR. ENGELMANN:** Not at all.

20                   **THE COMMISSIONER:** I think the idea is this.

21                               If you had R&PG, you know, why not say to  
22                   the Crown, look it, I've got R&PG, I'm prepared to go. Now  
23                   it's up to you to decide whether or not you have -- you  
24                   want to proceed on -- with a reasonable prospect of  
25                   conviction.

1                   **INSP. SMITH:** Well, I ---

2                   **THE COMMISSIONER:** It's just if you're  
3 reading this, it looks a little ---

4                   **INSP. SMITH:** I see. I see the way you're  
5 taking it.

6                   **THE COMMISSIONER:** Like fence sitting maybe.

7                   **INSP. SMITH:** Well, I could have laid the  
8 charges. I could tell you that right now.

9                   **THE COMMISSIONER:** Okay.

10                  **MR. ENGELMANN:** Let's look at your notes  
11 again with respect to your follow-up on this, and I'm at --  
12 well, if you look at Bates page 253 and this is again --  
13 I'm in Exhibit 1803, Bates page 1054253, there's a  
14 reference on January 31<sup>st</sup> to Bob Pelletier?

15                  **INSP. SMITH:** Yes.

16                  **MR. ENGELMANN:** All right. And so he  
17 becomes involved in this matter at that time?

18                  **INSP. SMITH:** That's correct.

19                  **MR. ENGELMANN:** And you've known him for  
20 several years. You worked on the Alfred matter together?

21                  **INSP. SMITH:** And others, yes.

22                  **MR. ENGELMANN:** Yes. Okay.

23                                 And can you just give us a sense as to what  
24 your note says under the reference to him?

25                  **INSP. SMITH:** "Request also the civil

1 records, pleadings, discoveries,  
2 affidavits, all things that can be had  
3 by the public. Request Geoffrey supply  
4 all of these things. Without it, we  
5 cannot make a decision. Fagan to get  
6 what is filed at court and what the  
7 costs will be. Briefs of Seguin will  
8 be forwarded to Fagan from Orillia."

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

10 **INSP. SMITH:** And ---

11 **MR. ENGELMANN:** Then you have a meeting --  
12 so you have a meeting with Mr. Pelletier again on February  
13 21<sup>st</sup>, '96?

14 **INSP. SMITH:** On the 21<sup>st</sup> with Mike Fagan.

15 **MR. ENGELMANN:** Can you tell us what's  
16 discussed then?

17 **INSP. SMITH:** "He's reviewed all the  
18 briefs and statements at this time. It  
19 appears he will recommend charges  
20 against Father Charlie, but..."

21 **MR. ENGELMANN:** Is that, "...wants to read  
22 civil transcript"?

23 **INSP. SMITH:** "...wants to read the civil  
24 transcript of the witnesses prior to  
25 giving his written recommendations."

1                   So these were -- that would pertain to the  
2           civil suit.

3           **MR. ENGELMANN:** All right. What does it say  
4           after that?

5           **INSP. SMITH:** "He was looking at  
6                   three charges of indecent assault where  
7                   Silmer's the victim; three charges of  
8                   indecent assault where MacDonald is the  
9                   victim; and one charge of indecent for  
10                  C-3."

11           **MR. ENGELMANN:** And it says;  
12                   "Pelletier gave us sections of..."

13           **INSP. SMITH:** "...*Criminal Code*..."

14           **MR. ENGELMANN:** Okay. "...and statute"?

15           **INSP. SMITH:** "...and statute."

16           **MR. ENGELMANN:** And this -- because of the  
17           historical nature there may be some issues about ---

18           **INSP. SMITH:** Yes. Perhaps the most  
19           experienced Crown Attorney at that time in sexual assault  
20           investigation in Canada was Bob Pelletier. He had  
21           researched the *Criminal Code* from 1932, I think, right to  
22           the present, all the requirements that were in the statutes  
23           of all the sexual offences, and we asked which ones would  
24           apply and that's what he provided us.

25           **MR. ENGELMANN:** Because some of these had

1 evolved over time?

2 **INSP. SMITH:** Well, he prosecuted cases from  
3 1936, I think, right through to the late seventies.

4 **MR. ENGELMANN:** He personally prosecuted  
5 cases from 1936?

6 **INSP. SMITH:** Well, cases that had ---

7 **MR. ENGELMANN:** He researched -- he  
8 researched, is that what you're saying?

9 **INSP. SMITH:** Well, during the St.  
10 Joseph's/St. John's ---

11 **MR. ENGELMANN:** Oh, oh, I see, the  
12 historical ---

13 **INSP. SMITH:** --- there were ---

14 **MR. ENGELMANN:** I apologize.

15 **INSP. SMITH:** There were some of those cases  
16 went back into the forties.

17 **MR. ENGELMANN:** Yeah, okay.

18 **THE COMMISSIONER:** I think Mr. Engelmann was  
19 trying to age Mr. Pelletier prematurely.

20 **INSP. SMITH:** I haven't seen him in a long  
21 time, sir, but ---

22 **MR. ENGELMANN:** No. No.

23 **INSP. SMITH:** -- I don't think he's that  
24 old.

25 **MR. ENGELMANN:** What you're saying is he was



1 prosecuting cases that ---

2 **INSP. SMITH:** In that era.

3 **MR. ENGELMANN:** -- the events took place  
4 back as early as 1936?

5 **INSP. SMITH:** That took place over many  
6 years, yes.

7 **MR. ENGELMANN:** All right. So he had to be  
8 very familiar with the changes to the *Criminal Code* at the  
9 time?

10 **INSP. SMITH:** He was, yes.

11 **MR. ENGELMANN:** And you were seeking some  
12 assurance that you had the right sections, et cetera?

13 **INSP. SMITH:** Yes.

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

15 And what do we then have on the following  
16 page, 254, after the personal information about Father  
17 MacDonald:

18 "We will make up an information..."

19 **INSP. SMITH:** Yes:

20 "We will make up an information re:  
21 charges all on one information..."

22 Multiple count -- multiple -- well, long information, a  
23 long information we call them:

24 "...and fax it to him for his review.

25 He'll make any changes necessary. Mike

1 to get the brief from him and make two  
2 complete copies. One will be for  
3 complete disclosure. Father Charlie to  
4 be summonsed. Ask lawyer to bring him  
5 to Long Sault. Process and issue a  
6 summons for the date yet to be decided  
7 and I will make out a news release and  
8 give out the same after MacDonald's  
9 processed and the information is sworn.  
10 Before the news release, I will advise  
11 Bryce Geoffrey who can advise his  
12 clients re. charges coming down."

13 And it's our policy always to, where  
14 possible, with victims is to let them know that  
15 there are going to be charges coming down rather  
16 than read it in the newspaper.

17 **MR. ENGELMANN:** Okay.

18 **INSP. SMITH:** But sometimes the victims will  
19 go to the press before we get the release made.

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

21 **INSP. SMITH:** And that happened in this  
22 case, I think.

23 **MR. ENGELMANN:** And you describe, I think on  
24 March 6th, speaking to Crown Pelletier, and --- you also  
25 describe maybe -- I'm not sure of the date at the bottom of

1 the page. You were advising various people about these  
2 charges that were coming out?

3 **INSP. SMITH:** That's correct.

4 **MR. ENGELMANN:** Bryce Geoffrey. You're also  
5 advising the Bishop.

6 **INSP. SMITH:** Yes, I did.

7 **MR. ENGELMANN:** And some others, that there  
8 were going to be charges the following week?

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** All right. And, sir, I  
11 believe some of your discussions with Mr. Pelletier are  
12 also referenced in a note he has.

13 So let's take a look at that. It's Document  
14 Number 112884.

15 **THE COMMISSIONER:** Thank you.

16 Exhibit 2673 is a document dated February  
17 1<sup>st</sup>, 1996, Note to File re. Charles MacDonald. And it's  
18 from Robert Pelletier.

19 **--- EXHIBIT NO./PIÈCE NO. P-2673:**

20 (112884) - Note to File from Robert  
21 Pelletier re: Charles MacDonald - dated  
22 February 1, 1996

23 **MR. ENGELMANN:** Mr. Smith, I don't know if  
24 you've seen this before in preparation for this hearing.

25 **INSP. SMITH:** May I read it?

1                   **MR. ENGELMANN:** Oh, of course.

2                   **(SHORT PAUSE/COURTE PAUSE)**

3                   **INSP. SMITH:** Yes, sir.

4                   **MR. ENGELMANN:** All right.

5                   **INSP. SMITH:** I don't recall this. That  
6 seems -- to the events that occurred around that period of  
7 time.

8                   **MR. ENGELMANN:** All right. You don't take  
9 issue with anything he's said there?

10                  **INSP. SMITH:** No, no.

11                  **MR. ENGELMANN:** Because it would appear just  
12 looking at the first page, Bates page 074, that the brief  
13 is put together at or around January 18<sup>th</sup> and that's when he  
14 reviews it the first time; second paragraph?

15                  **INSP. SMITH:** Yes, sir.

16                  **MR. ENGELMANN:** And then in the third  
17 paragraph, he references a meeting that you reference in  
18 your notes as well, a January 31<sup>st</sup> meeting with you and  
19 Constable Fagan?

20                  **INSP. SMITH:** That's correct.

21                  **MR. ENGELMANN:** And he talks about all of  
22 the materials he's provided.

23                  **INSP. SMITH:** Yes.

24                  **MR. ENGELMANN:** And he said there was one  
25 brief that he didn't have that he wanted?

1                   INSP. SMITH: Yes.

2                   MR. ENGELMANN: And that was the extortion  
3                   brief ---

4                   INSP. SMITH: Yes.

5                   MR. ENGELMANN: --- by Inspector Hamelink.

6                   INSP. SMITH: Yes.

7                   MR. ENGELMANN: Was that in fact provided to  
8                   him?

9                   INSP. SMITH: Yes.

10                  MR. ENGELMANN: All right. And was that  
11                  provided to him in advance of the meeting that you would  
12                  have had on February 21<sup>st</sup>, to your knowledge?

13                  INSP. SMITH: I believe it was. It was ---

14                  MR. ENGELMANN: All right.

15                  And did he indicate to you, sir, that he was  
16                  having discussions with lawyers for Father MacDonald?

17                  INSP. SMITH: I don't recall that.

18                  MR. ENGELMANN: Okay. Because in this note  
19                  he talks about a conversation he has with Colin McKinnon --  
20                  -

21                  INSP. SMITH: Yes.

22                  MR. ENGELMANN: --- who is apparently the  
23                  lawyer for Father MacDonald with respect to the criminal  
24                  matters, and a fellow by the name of Mike Hebert, who was  
25                  acting for Father MacDonald in civil matters.

1                   **INSP. SMITH:** I don't recall that.

2                   **MR. ENGELMANN:** Sir, you were aware that Mr.  
3 McKinnon had acted for Chief Shaver and, in fact, the  
4 statement that you had received, the typed statement you'd  
5 received for Claude Shaver, was something he provided ---

6                   **INSP. SMITH:** Yes, I was aware of that.

7                   **MR. ENGELMANN:** --- to Mr. McKinnon?

8                   **INSP. SMITH:** Yes.

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

10                   And Mr. Hebert, were you aware or were you  
11 advised that you didn't have to -- you and/or Mr. Fagan --  
12 or Constable Fagan, did not have to get these transcripts  
13 from the court but that Mr. Hebert would be providing them?

14                   **INSP. SMITH:** That's what I see here. It  
15 was provided. I know that we didn't pay for them. I know  
16 that.

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

18                   **INSP. SMITH:** I never did see them.

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

20                   **INSP. SMITH:** I never did see the  
21 transcripts of the civil ---

22                   **MR. ENGELMANN:** All right. They were  
23 provided directly to the Crown prosecutor?

24                   **INSP. SMITH:** Yes, I believe so.

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

1                   Now, after your meetings with Mr. Pelletier  
2                   and his opportunity to review all of the briefs including  
3                   the Hamelink extortion brief, he expresses an opinion that  
4                   reasonable and probable grounds exist for the laying of  
5                   seven counts in respect of these three complainants and  
6                   confirms this in writing does he not?

7                   **INSP. SMITH:** There's a letter somewhere, I  
8                   recall.

9                   **MR. ENGELMANN:** That letter is Exhibit 394.

10                  **INSP. SMITH:** Three-nine-four (394)? That's  
11                  all I've got here.

12                  **(SHORT PAUSE/COURTE PAUSE)**

13                  **INSP. SMITH:** Thank you.

14                  Yes, sir. I have a letter here dated March  
15                  the 5<sup>th</sup>, 1996, addressed to me from Robert Pelletier.

16                  **MR. ENGELMANN:** All right. Copies were also  
17                  sent to Mr. Griffiths, Mr. Murray MacDonald and Constable  
18                  Fagan?

19                  **INSP. SMITH:** That's correct.

20                  **MR. ENGELMANN:** All right. And in it, Mr.  
21                  Pelletier is confirming his oral advice to you, that you  
22                  should proceed and he's referring though only to three of  
23                  the four allegations of Mr. Silmsler. Is that correct if  
24                  you look at page 3 of the document at Bates page 955?

25                  **INSP. SMITH:** May I quickly read this?

1 MR. ENGELMANN: Sure.

2 (SHORT PAUSE/COURTE PAUSE)

3 INSP. SMITH: And you are referring to the  
4 second paragraph, page 3, sir?

5 MR. ENGELMANN: Yeah, I'm referring to the  
6 first and second paragraphs.

7 INSP. SMITH: Okay.

8 MR. ENGELMANN: It appears -- you indicated  
9 this to us earlier that you thought one of the allegations  
10 was a bit of an outlier, if I can use that term.

11 INSP. SMITH: Yes, sir.

12 MR. ENGELMANN: And Mr. Pelletier's agreed  
13 essentially?

14 INSP. SMITH: It appears, yes, that he has,  
15 yes.

16 MR. ENGELMANN: And the reference at  
17 paragraph, the second paragraph at page three, he's giving  
18 reasons why there shouldn't be a fourth count involving Mr.  
19 Silmsen and Father MacDonald?

20 INSP. SMITH: Yes, sir.

21 MR. ENGELMANN: All right.

22 And in fact, sir, this advice is taken and  
23 information is laid with the seven counts shortly  
24 thereafter?

25 INSP. SMITH: That's my belief, yes.



1                   **MR. ENGELMANN:** Right. And he gives advice  
2                   on the need for an arrest. Is that something that's  
3                   typically done by the Crown?

4                   **INSP. SMITH:** I'm sorry, the ---

5                   **MR. ENGELMANN:** The second last paragraph on  
6                   page three.

7                   **THE COMMISSIONER:** That's there's no need to  
8                   arrest Father Charles MacDonald.

9                   **INSP. SMITH:** Yes. It's been my position  
10                  and I'm -- we have police orders that when we arrest people  
11                  we handcuff them and we waltz them in and out of the courts  
12                  mainly for, I guess, for the media to see them.

13                  I probably went against the rules more than  
14                  anybody else as a police officer, but I rarely brought  
15                  anybody in handcuffs into jail or into court.

16                  With all of the brothers that we arrested  
17                  and the civilians that we arrested in St. Joe's and St.  
18                  John's, none of them were handcuffed. I never had any  
19                  difficulties with them. It left them a little -- my  
20                  position is that they are a suspect. They are not found  
21                  guilty of anything at that point. Why demean them. And I  
22                  think Mr. Pelletier took that view also for Father Charles.

23                  Father Charles had always appeared whenever  
24                  we asked him. There was no plea of him hurting anybody --  
25                  or no fear of him hurting anybody or fleeing or running.

1           Why arrest him?

2                       **MR. ENGELMANN:** And it just backs my  
3           question; is that something the Crown prosecutor would  
4           typically give advice on?

5                       **INSP. SMITH:** No, but Bob -- not normally  
6           but Bob and I were of the same opinion in a lot of these  
7           cases.

8                       **MR. ENGELMANN:** All right.

9                       **INSP. SMITH:** We'd worked together on  
10          numerous cases.

11                      **MR. ENGELMANN:** Okay.

12                      **INSP. SMITH:** If I may, it's not his  
13          decision, it's my decision.

14                      **MR. ENGELMANN:** Yes. But from time to time  
15          a Crown prosecutor can make a recommendation with respect  
16          to how to do arrest?

17                      **INSP. SMITH:** Oh, he could but I wouldn't  
18          have to take it.

19                      **MR. ENGELMANN:** No. It would be a  
20          recommendation only?

21                      **INSP. SMITH:** Yeah.

22                      **MR. ENGELMANN:** It would always be your  
23          decision, just like the laying of the charges your  
24          decision?

25                      **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** The method of arrest, or the

2                   ---

3                   **INSP. SMITH:** Yes.

4                   **MR. ENGELMANN:** All right. I'll just be a  
5                   moment.

6                   **(SHORT PAUSE/COURTE PAUSE)**

7                   **MR. ENGELMANN:** All right. And then I  
8                   believe if we go back to your notes at Exhibit 1803, Bates  
9                   page 255, you have a reference to the processing of Father  
10                  MacDonald on the 11<sup>th</sup> of March '96, if I'm reading that  
11                  correctly.

12                  **INSP. SMITH:** Two fifty-five (255), sir?

13                  **MR. ENGELMANN:** Yes.

14                  **INSP. SMITH:** Yes.

15                                 "Long Sault Detachment, Father Charles  
16                                 MacDonald, re: processing downstairs in  
17                                 the boardroom of District Headquarters  
18                                 and Fagan issues a summons; read out  
19                                 the charges and his Charter and  
20                                 MacDonald has spoken to his lawyer and  
21                                 he has advised him to say nothing. He  
22                                 exercises his rights to remain silent."

23                                 (As read)

24                  **MR. ENGELMANN:** All right.

25                                 Now, that's March 11<sup>th</sup>, '96.

1                   **INSP. SMITH:** Yes, sir.

2                   **MR. ENGELMANN:** And then, sir, if we look at  
3 your notes we seem to jump from March 11<sup>th</sup>, 1996 up until  
4 your next notes with respect to Father MacDonald or  
5 anything to do with an investigation or prosecution of him  
6 start up on March 18<sup>th</sup>, '97.

7                   **INSP. SMITH:** That's correct.

8                   **MR. ENGELMANN:** And I'm assuming that you're  
9 busy working on other matters for that year. Tell us  
10 yourself if ---

11                   **INSP. SMITH:** Well, that was pretty well --  
12 the charges were before the courts. Mike Fagan, as the  
13 investigating officer, would follow the procedures there.  
14 And in most cases I'm not involved until the case is  
15 finalized. So if Mike Fagan told me, okay that it resulted  
16 in a plea of guilty or if there was a dismissal then he  
17 would tell me and then I would finalize my report. But  
18 other than that, as you heard, we were very busy.

19                   I know that I had cases in Knoxville,  
20 Tennessee and Nashville, a serial killer I was working on.  
21 I had projects here in Cornwall with the RTF. We had  
22 officers stealing goods so I did up an investigation with  
23 the RCMP here.

24                   **MR. ENGELMANN:** Okay. So you were not ---

25                   **INSP. SMITH:** I had murders. I had ---

1                   **MR. ENGELMANN:** You were not actively  
2 involved in the Father MacDonald case for about a year?

3                   **INSP. SMITH:** That's correct, sir.

4                   **MR. ENGELMANN:** All right.

5                   But there were perhaps a couple of things  
6 that came up during that year where things might have been  
7 brought to your attention and I just want to point out a  
8 few if I can. All right?

9                   **INSP. SMITH:** Yeah.

10                  **MR. ENGELMANN:** I know we don't have the  
11 luxury of your notes.

12                  **INSP. SMITH:** No.

13                  **MR. ENGELMANN:** But I do have a little bit  
14 of correspondence.

15                  After Father MacDonald was charged, did you  
16 become aware of a fellow by the name of Charles Bourgeois  
17 who was at the time in the summer of 1996 a lawyer for  
18 Perry Dunlop?

19                  **INSP. SMITH:** Yes.

20                  **MR. ENGELMANN:** Yes. As I understand that  
21 he was contacting the Ontario Provincial Police requesting  
22 information from the investigative file of Father  
23 MacDonald.

24                  **INSP. SMITH:** I believe that he made a  
25 request to the Commissioner and I believe the Commissioner

1 sent me a letter to respond to him.

2 I contacted Bob Pelletier and he advised me  
3 that it would be inappropriate and I responded to Bourgeois  
4 that I wouldn't give him anything and I think there is  
5 correspondence somewhere on that.

6 **MR. ENGELMANN:** Yes. I'm just going to take  
7 you through a couple of letters, if I may.

8 **INSP. SMITH:** Oh, okay.

9 **MR. ENGELMANN:** Okay. If the witness could  
10 be shown Document Number 723655, it's in the late  
11 disclosure.

12 This is a letter dated July 18<sup>th</sup>, '96  
13 addressed to Commissioner T.B. O'Grady from Charles  
14 Bourgeois. It's filed by the OPP.

15 **INSP. SMITH:** It's not often the  
16 Commissioner personally sends me a letter.

17 **MR. ENGELMANN:** Does this ---

18 **INSP. SMITH:** Mr. Commissioner.

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

20 **THE COMMISSIONER:** No, it doesn't look like  
21 we have it.

22 **MR. ENGELMANN:** No.

23 **THE COMMISSIONER:** Do you want to put it on  
24 the screen and we'll ---

25 **MR. KOZLOFF:** Registrar, you were given six

1 copies of this letter way back during the first week that  
2 the detective inspectors first testified.

3 **THE COMMISSIONER:** Mr. Kozloff, I'm getting  
4 the determined and frantic wave from the interpreters who  
5 are saying you're not standing near the mike and that  
6 really, really drives them crazy.

7 **MR. KOZLOFF:** Je m'excuse.

8 **THE COMMISSIONER:** De rien. Well, there you  
9 go.

10 **MR. KOZLOFF:** I believe these were provided  
11 to the Registrar.

12 **THE COMMISSIONER:** I'm sure they were.

13 So can we put the letter on and we'll call  
14 it an exhibit and then we'll get the paper copy later.

15 Oh, well there we go. So is this the one?  
16 So here's a letter dated July 18<sup>th</sup>, 1996 which will be  
17 Exhibit 2674, addressed to Commissioner O'Grady from  
18 Charles Bourgeois.

19 **---EXHIBIT NO./PIÈCE NO. P-2674:**

20 (723655) Letter from Charles Bourgeois to  
21 Thomas O'Grady dated 18 July '96

22 **MR. ENGELMANN:** So, sir, this would have  
23 been the letter that starts this process, Mr. Bourgeois  
24 writing to the Commissioner?

25 **INSP. SMITH:** I believe so, yes, sir.

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

2                   And to help you with that, if we look at  
3 Document Number 723656, which is a letter Commissioner  
4 O'Grady writes to Charles Bourgeois copying you.

5                   **THE COMMISSIONER:** This will be Exhibit  
6 2675, a letter dated July 18<sup>th</sup>, 1996, from Commissioner  
7 O'Grady --

8                   **MR. ENGELMANN:** Sir, it's July 30<sup>th</sup>.

9                   **THE COMMISSIONER:** No -- no, sorry, I  
10 thought we already had it on the thing, sorry.

11                   There we go. So Exhibit Number 2675 is a  
12 letter from Commissioner O'Grady to Charles Bourgeois dated  
13 July 30<sup>th</sup>, 1996.

14                   **---EXHIBIT NO./PIÈCE NO. P-2675:**

15                   (723656) - Letter from Thomas O'Grady to  
16 Charles Bourgeois dated 30 Jul 96

17                   **INSP. SMITH:** Yes, I recall that letter.

18                   **MR. ENGELMANN:** Okay. So Exhibit 2675 again  
19 for the record, is Document Number 723656, and it appears,  
20 sir, that Commissioner O'Grady is sending you a copy of the  
21 July 18<sup>th</sup> letter and he's asking you to -- to deal with this  
22 matter.

23                   **INSP. SMITH:** Yes, sir.

24                   **MR. ENGELMANN:** All right.

25                   And just before going further, have you ever



1 had a request of this nature before where a -- there's a  
2 civil action ongoing and a lawyer for a criminal  
3 complainant is asking for access to the investigative file  
4 to pursue a civil action or to help pursue a civil action?

5 **THE COMMISSIONER:** What did you say, you  
6 said a lawyer for criminal complainant?

7 **MR. ENGELMANN:** A lawyer for an individual  
8 who's a complainant in a criminal charge.

9 **THE COMMISSIONER:** And -- no, Mr. --

10 **MR. ENGELMANN:** Oh, I'm sorry, not even.

11 **THE COMMISSIONER:** No.

12 **MR. ENGELMANN:** Not even. I apologize.

13 This is Mr. Bourgeois acting for Mr. Dunlop,  
14 Constable Dunlop, who has a -- has filed a civil lawsuit  
15 against a variety of defendants, including the Cornwall  
16 Police Service.

17 **INSP. SMITH:** That's correct, sir.

18 **MR. ENGELMANN:** And he's asking for  
19 information from your criminal files -- like, your criminal  
20 investigative files in this matter. And I'm wondering if  
21 you'd ever had a request like this before?

22 **INSP. SMITH:** Never.

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

24 And, sir, if we could look at -- it's  
25 Document Number 723657. It's a letter dated August 6<sup>th</sup>,

1 1996, from Mr. Bourgeois to Detective Inspector Smith.

2 **THE COMMISSIONER:** All right. So is this  
3 the one? You want this to be an exhibit now?

4 **MR. ENGELMANN:** Yes, please.

5 **THE COMMISSIONER:** So 2676 is a letter dated  
6 August 6<sup>th</sup>, 1996, to Detective Inspector Tim Smith from  
7 Charles Bourgeois.

8 **---EXHIBIT NO./PIÈCE NO. P-2676:**

9 (723657) - Letter from Charles Bourgeois to  
10 Tim Smith dated 06 Aug 96

11 **MR. ENGELMANN:** All right.

12 So it appears that after receiving  
13 Commissioner O'Grady's letter Mr. Bourgeois then follows up  
14 directly with you.

15 **INSP. SMITH:** Yes.

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

17 And, sir, if we could then look at Document  
18 Number 701632, it appears to be a letter from yourself to  
19 Mr. Bourgeois dated August 15<sup>th</sup>, 1996.

20 **THE COMMISSIONER:** Exhibit 2677 is a letter  
21 dated 15<sup>th</sup> of August 1996, addressed to Mr. Bourgeois from  
22 Detective Inspector Smith.

23 **---EXHIBIT NO./PIÈCE NO. P-2677:**

24 (701632) - Letter from Tim Smith to Charles  
25 Bourgeois dated 15 Aug 96

1                   **MR. ENGELMANN:** Mr. Smith, is this in fact a  
2 letter, although you didn't sign it, a letter that you  
3 would have had prepared and sent to Mr. Bourgeois?

4                   **INSP. SMITH:** Yes, sir.

5                   **MR. ENGELMANN:** And in it, sir, you're  
6 saying that before you respond you want to have a  
7 discussion with the prosecutor who's involved in the  
8 criminal case.

9                   **INSP. SMITH:** That's correct, sir.

10                   **MR. ENGELMANN:** And then you have a hand-  
11 written note at the bottom ---

12                   **INSP. SMITH:** Yes.

13                   **MR. ENGELMANN:** --- of your letter.  
14 Can you tell us what it says, sir?

15                   **INSP. SMITH:** Could you raise it up just a  
16 bit please?

17                   **INSP. SMITH:** "19<sup>th</sup> of August '96, 14:40,  
18 [which would be 2:40 p.m.] I spoke to  
19 Bob Pelletier re: the above request.  
20 He advised that since the case is  
21 before the courts the criminal  
22 process..." ---

23                   **THE COMMISSIONER:** "The evidence and  
24 disclosure for other purposes  
25 would not be prudent until the Crown

1 process..." ---

2 **INSP. SMITH:** The Crown process has been  
3 completed.

4 **THE COMMISSIONER:** "...has been completed."

5 **INSP. SMITH:** "Letter to be sent to  
6 Bourgeois re: same."

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

8 And presumably you had a phone call with Mr.  
9 Pelletier ---

10 **INSP. SMITH:** Yes.

11 **MR. ENGELMANN:** --- and he would have told  
12 you that it would not be prudent to disclose these files  
13 until the criminal process had been completed.

14 **INSP. SMITH:** Yes, sir.

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

16 And would you then have drafted a response  
17 in accordance with that conversation? And if we could look  
18 at Document Number 701613, that may assist.

19 **INSP. SMITH:** Yeah.

20 **THE COMMISSIONER:** So is this a new exhibit,  
21 sir?

22 **MR. ENGELMANN:** Yes, it could be, 701613 is  
23 the doc number.

24 **INSP. SMITH:** Okay. Quite often I was away.  
25 Rarely was I in my office. I had -- my office was a car

1 pretty well, or whatever, a motel or whatever it was. When  
2 I got -- when I did get some correspondence or calls then I  
3 would write out something and fax it and my secretary would  
4 type it and sign it for me. And this appears as what's  
5 happened on this one.

6 **MR. ENGELMANN:** Would her name be Cindy?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** And therefore the note on  
9 the sticky ---

10 **INSP. SMITH:** I think so.

11 **MR. ENGELMANN:** --- probably there?

12 All right.

13 **THE COMMISSIONER:** So can we make it an  
14 exhibit?

15 **MR. ENGELMANN:** Yes, please.

16 **THE COMMISSIONER:** So 2678, a letter dated -  
17 - well -- yeah, a draft, I guess, 19<sup>th</sup> of August 1996, to  
18 Mr. Bourgeois from Mr. Smith.

19 **---EXHIBIT NO./PIÈCE NO. P-2678:**

20 (701613) - Letter from Tim Smith to Charles  
21 Bourgeois dated 19 Aug 96

22 **MR. ENGELMANN:** And, sir, to your knowledge  
23 was this typed up and sent to Mr. Bourgeois?

24 **INSP. SMITH:** Yes, she -- it would have  
25 been. She's a very capable secretary.

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

2                   And you're indicating that you've now had an  
3                   opportunity to consult with the Crown attorney. He advises  
4                   since the case is before the courts it would not be prudent  
5                   to make disclosure until that criminal process is  
6                   completed.

7                   **INSP. SMITH:** Yes.

8                   **MR. ENGELMANN:** And you're also saying that  
9                   at no time during your investigation did you speak with Mr.  
10                  Bourgeois' client -- that would be Mr. Dunlop.

11                  **INSP. SMITH:** Yes.

12                  **MR. ENGELMANN:** Is that what you're  
13                  indicating in the third paragraph?

14                  **INSP. SMITH:** Yes. And involving his *Police*  
15                  *Act* hearings, dealings or investigations.

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

17                  So you're saying essentially that you'd had  
18                  no prior involvement with him?

19                  **INSP. SMITH:** That's correct.

20                  **MR. ENGELMANN:** Do you know if you ever  
21                  heard from him after that?

22                  **INSP. SMITH:** I don't believe I did.

23                  **MR. ENGELMANN:** Now, in mid-March you start  
24                  to have notes again, and this starts at Bates page 259 of  
25                  Exhibit 1803.

1                   **INSP. SMITH:** Yes, sir.

2                   **MR. ENGELMANN:** But before then were you  
3                   made aware of the fact that on or about January 23<sup>rd</sup> of  
4                   1997, OPP Constable Genier took a couple of statements from  
5                   an individual who's identified here as C-8?

6                   Inspector Smith could just be shown the  
7                   moniker.

8                   **INSP. SMITH:** No.

9                   **MR. ENGELMANN:** You were not made aware of  
10                  that ---

11                  **INSP. SMITH:** I was not -- I don't think so.

12                  **MR. ENGELMANN:** --- at the time it happened.  
13                  Okay.

14                  This fellow came in with his lawyer who  
15                  happens -- who happened to be Charles Bourgeois to give a  
16                  couple statements at a local OPP detachment.

17                  **INSP. SMITH:** In regard to what?

18                  **MR. ENGELMANN:** In regard to alleged abuse  
19                  by Father MacDonald and by a teacher by the name of Marcel  
20                  Lalonde.

21                  **INSP. SMITH:** I don't think I was made aware  
22                  of that at that point.

23                  **MR. ENGELMANN:** Were you made aware of the  
24                  fact that there was some media attention to C-8's  
25                  allegations during the course of the preliminary inquiry of

1 Father MacDonald that took place in late February of '97?

2 **INSP. SMITH:** I think for the best part of  
3 February, in '97, I know I was out of the country for  
4 almost three weeks.

5 **MR. ENGELMANN:** Fair enough. So these are  
6 things you may have found out about later, that ---

7 **INSP. SMITH:** Could be, yes.

8 **MR. ENGELMANN:** --- you weren't aware of at  
9 the time?

10 **INSP. SMITH:** Yes, sir.

11 **MR. ENGELMANN:** All right, that's fine.

12 Now, in your notes -- they start on Bates  
13 page 1054259, 18 March, '97 -- "Call Bob Pelletier re:..." --  
14 -

15 **INSP. SMITH:** Info received from Fantino.

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

17 And, sir, sometime during the month of  
18 February of 1997, were you provided with a binder of  
19 materials which had been submitted by Mr. Dunlop's lawyer,  
20 Mr. Bourgeois, to then Chief Fantino of the London police?

21 **INSP. SMITH:** Yes, sir.

22 **MR. ENGELMANN:** And would you have been made  
23 aware that material would have been given to him sometime  
24 in mid-December of '96?

25 **INSP. SMITH:** I learned that later, yes.



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

2                   And we've referred to this binder here as  
3                   the Fantino brief.

4                   **INSP. SMITH:** Yes, sir.

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

6                   **INSP. SMITH:** I believe it was  
7                   on the 18th of February, that on my return to my office, it  
8                   was on my desk. There was a briefcase, a canvas-coloured  
9                   briefcase. There was a cassette tape, and there was a  
10                  videotape of Fifth Estate in it.

11                  And I know that Commissioner (sic) Fantino's  
12                  been looking for that briefcase, and I have it. I plan to  
13                  keep it.

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

15                  **INSP. SMITH:** But that's a ---

16                  **MR. ENGELMANN:** I hope it's a nice briefcase.

17                  **INSP. SMITH:** Well, it had a liquor label on  
18                  it, so I don't think he'd want it.

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

20                  **INSP. SMITH:** But that was the entirety of  
21                  what arrived on my desk.

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

23                  The brief that you were given -- rather than  
24                  try and recreate all of it, I simply want to show you a  
25                  table of contents and ask you if that ring's a bell with

1           you, and that's the paper brief now, not the tapes.

2                   **INSP. SMITH:** Yes, it was in a black folder.

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

4                   **INSP. SMITH:** Yes.

5                   **MR. ENGELMANN:** And if the witness could be  
6 shown Exhibit 729.

7                   Sir, it's my understanding this is a table  
8 of contents of the Fantino brief.

9                   **INSP. SMITH:** I recall there were a number  
10 of photographs in it, mine included.

11                   **THE COMMISSIONER:** Where did you say,  
12 Mr. Engelmann?

13                   **MR. ENGELMANN:** Exhibit 729.

14                   Counsel, it's Document Number 705770.

15                   **THE COMMISSIONER:** Yeah, okay.

16

17                   **INSP. SMITH:** It looks familiar.

18                   **MR. ENGELMANN:** It's been identified here as  
19 the table of contents for the Fantino brief.

20                   **INSP. SMITH:** I believe that, yeah, there  
21 was around 74 different ---

22                   **MR. ENGELMANN:** Yeah, tabs.

23                   **INSP. SMITH:** --- tabs, yes. That looks  
24 familiar.

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

1                   And although it doesn't list a photograph of  
2                   you, you think there -- you were in this somewhere or at  
3                   least in the media coverage of it, perhaps?

4                   **INSP. SMITH:** No, there was a -- I remember  
5                   seeing -- maybe in the excerpts from the Boys Don't Cry  
6                   book, number 74. I know ---

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

8                   **INSP. SMITH:** --- I was surprised to see it.

9                   **MR. ENGELMANN:** Okay. And do you know how  
10                  these documents got to your desk?

11                  **INSP. SMITH:** My understanding is that -- if  
12                  I -- Mr. Fantino got it around Christmastime. He had a  
13                  meeting with Chief Superintendent Frechette sometime in  
14                  January, mid-January, in Ingersoll, I believe. The binder  
15                  was returned to Orillia, and there were -- there'd be  
16                  discussion with the senior officers as to what to do.

17                  But, I think at the same time, Bourgeois  
18                  showed up at Orillia detachment with Leroux and they did  
19                  video statements to the two officers there, Bell and  
20                  Anthony.

21                  **MR. ENGELMANN:** Yes, we ---

22                  **INSP. SMITH:** And then at the same time, or  
23                  in around the same time, the Chief of Police of Cornwall  
24                  received some documentation and so did the CAS. So there  
25                  was documentation floating all over the place in this -- at

1           this period of time.

2                         So as far as the brief goes, when it had  
3           been reviewed it was forwarded to me, to my desk, and I  
4           know that I had been away, and on my return it was on my  
5           desk ---

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

7                         **INSP. SMITH:** --- and I received a phone  
8           call to -- to look into it.

9                         **MR. ENGELMANN:** And would that phone call  
10          have come from Officer Frechette?

11                        **INSP. SMITH:** I believe so.

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

13                        And do you know why you were chosen to look  
14          into this?

15                        **INSP. SMITH:** Because he didn't like me.

16                        Probably because I'd been involved in the  
17          previous one and then I was probably one of the few  
18          officers that had dealt with historical sexual abuse.

19                        I indicated to him that I was planning to  
20          retire, and that I'd look at it, and I'd give him a year.

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

22                        Presumably this was because you had  
23          investigated the Father MacDonald case?

24                        **INSP. SMITH:** And other cases, yes.

25                        **MR. ENGELMANN:** And do you recall what

1 instructions you were given with respect to the binder?

2 **INSP. SMITH:** I really wasn't given any  
3 instructions, just take care of it, you know, and he'd  
4 been -- and Chief Frechette, I guess, had quite a -- he had  
5 faith in me, that I would take care of it.

6 So there wasn't a request that really came  
7 in to do it. So I made arrangements to see Bob Pelletier  
8 and the regional director, provide them with the copies of  
9 it and asked them to ask us to investigate it.

10 A director of Crown attorneys can request  
11 any investigation of our force to be done, and there hadn't  
12 been a request of this nature. So that was one of the  
13 first things.

14 And I recall that with the content that was  
15 in there that I thought that I should contact the CAS and  
16 have them review everything to see if there's anything  
17 current there and I did that.

18 **MR. ENGELMANN:** So you're contacting CAS;  
19 you're contacting Bob Pelletier?

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** Would that be because of the  
22 possible relevance that this material had to the on-going  
23 MacDonald prosecution?

24 **INSP. SMITH:** Well, it was there, and there  
25 was also a death threat that was in there, that -- there

1           were multiple allegations all over, you know, that ---

2                       **MR. ENGELMANN:** All right.

3                       So when you were given the binder were you  
4           also given transcripts or notes from these interviews with  
5           Ron Leroux that had happened in Orillia on February 7<sup>th</sup>?

6                       **INSP. SMITH:** They came later.

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

8                       **INSP. SMITH:** The only thing that I received  
9           that date was the binder, the Fifth Estate, and a  
10          videotaped interview with Dunlop, with a fellow by the name  
11          of -- I don't know if he's protected or not, but -- but a  
12          videotape of a victim -- or a video -- a cassette, the  
13          small cassette tape.

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

15                      Sir, do you recall whether you would have  
16          discussed this matter with Julian Fantino?

17                      **INSP. SMITH:** Yes, I -- when I received it,  
18          I'd worked before with Mr. Fantino many years ago when he  
19          was on Metro Police Force and I'd had some small dealings  
20          with him in York Regional. I knew him personally.

21                      And so I phoned him and we discussed for  
22          about -- not generally this, but we -- he told me how it  
23          came about. He said it looked well-prepared, definitely a  
24          lot of the things that had to be investigated in there.  
25          And then most of our discussion was in regard to Project

1 Guardian that he'd had. And we compared notes with St.  
2 Joe's and St. John's, and the fact that his wasn't really  
3 historical, but he had a number of videotapes that assisted  
4 him with his. He had funding. He had all kinds of things  
5 that -- he ran a real bang-up job on -- down there in  
6 Project Guardian.

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

8 So he gave you some background into how  
9 things worked in London when they investigated Project  
10 Guardian?

11 **INSP. SMITH:** And we talked about victims,  
12 and I know that he's very victim-oriented, and I asked him  
13 in regard, how did he handle that, and he said that they'd  
14 made a tape that they found most helpful for young victims.  
15 And there were two or three of them, I think, within the  
16 tape. We reviewed -- he sent the tape to me, because I had  
17 -- we had nothing here to provide our victims. And it was  
18 a feeble attempt by us to counsel or help out the victims.

19 **MR. ENGELMANN:** This was a victim assistance  
20 tape, essentially?

21 **INSP. SMITH:** Well, yes, but made by Fantino  
22 and his crew down in London.

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

24 **INSP. SMITH:** I'd never seen one before but  
25 it was good. For that period of time, it was all -- again,

1           there was nothing in -- we didn't have anything in St.  
2           Joseph's and St. John's other than the victim assistance  
3           people and the therapists, who were excellent.

4                   **MR. ENGELMANN:** Yes, you told us that.

5                   **INSP. SMITH:** But we didn't have anything on  
6           tape or anything of that nature, nor did Mount Cashel.

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

8                   So he thought this might be of assistance to  
9           you as you investigated some of these allegations?

10                   **INSP. SMITH:** Yes. Yes. I didn't have  
11           anything and I couldn't get victim assistance. There was  
12           no funding anywhere. So that was our feeble attempt at  
13           trying to ---

14                   **MR. ENGELMANN:** Okay.

15                   **INSP. SMITH:** --- help out the victims.

16                   **MR. ENGELMANN:** So you traded some notes  
17           about -- he telling you about Project Guardian; you're  
18           talking about St. John's and St. Joe's and talking about  
19           victims. Does he say anything else about this brief, other  
20           than, I think you said, he thought it was well-prepared or  
21           words to that effect?

22                   **INSP. SMITH:** Well, he didn't like the way  
23           it was dumped on him.

24                   **MR. ENGELMANN:** Okay.

25                   **INSP. SMITH:** He thought that that was



1           improper; there were other ways of doing things. But he  
2           passed it on.

3                       **MR. ENGELMANN:** Did you explain to him some  
4           of the interaction you'd had with Charles Bourgeois earlier  
5           that year?

6                       **INSP. SMITH:** No.

7                       **MR. ENGELMANN:** Okay.

8                       **INSP. SMITH:** I believe the -- it was a  
9           telephone conversation, maybe 15 minutes, 20 minutes  
10          talking to him.

11                      **MR. ENGELMANN:** All right.

12                      And that was it as far as contact with him  
13          about this matter?

14                      **INSP. SMITH:** Well, I had another call with  
15          him later on in regard to the tape or anything else that he  
16          could provide.

17                      **MR. ENGELMANN:** Do you have some sense as to  
18          when that was?

19                      **INSP. SMITH:** Oh, that would have been a few  
20          months down the line.

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

22                      **INSP. SMITH:** He was very helpful.

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

24                      So issues that need to be looked at almost  
25          immediately, sir, with respect to the Fantino brief would

1 include, you said there was a death threats aspect?

2 **INSP. SMITH:** Yes, we had to get on that  
3 quickly, yes.

4 **MR. ENGELMANN:** There was looking at the  
5 relevance, if any, to the Father MacDonald prosecution?

6 **INSP. SMITH:** Well, that would be one  
7 because we had to make disclosure.

8 **MR. ENGELMANN:** Exactly.

9 **INSP. SMITH:** And then the other fact was  
10 that there were a number of new alleged offenders that I  
11 thought that the CAS should be made aware.

12 **MR. ENGELMANN:** So there's sort of three new  
13 areas; there's the death threats, the relevance to Father  
14 MacDonald and new allegations?

15 **INSP. SMITH:** Yes, I would say those were  
16 the priorities.

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

18 So let's talk about the death threats issue

19 ---

20 **INSP. SMITH:** Yes, sir.

21 **MR. ENGELMANN:** --- briefly, if we can.

22 As I understand it, the Fantino brief  
23 contained a copy of an amended statement of claim in a  
24 civil action that Mr. Dunlop had filed against the Cornwall  
25 Police Service, the Diocese and some others. And these

1 amendments included a new allegation regarding death  
2 threats made or some form of conspiracy to harm Mr. Dunlop  
3 and his family. Do you recall that?

4 **INSP. SMITH:** Do you have a document on  
5 that, that I could look at?

6 I remember something of it but I ---

7 **MR. ENGELMANN:** Yeah, there is a -- it's  
8 Exhibit 672, if you want to look at that briefly.

9 I'll just find you a page that refers to it.  
10 It's just one page.

11 **INSP. SMITH:** I believe prior to this too,  
12 that Mrs. Dunlop had reported that to Long Sault detachment  
13 or in about that time and I think that Steve Seguin was the  
14 investigating officer of it, I believe.

15 **MR. ENGELMANN:** Okay. Well this particular  
16 document we're about to look at would have been filed in or  
17 around November of '96.

18 **INSP. SMITH:** Okay.

19 **MR. ENGELMANN:** And I believe it was part of  
20 the Fantino brief that you would have looked at.

21 And I'm looking at Bates page 005. So it's  
22 7011005. It's also page 47 of this very long document.

23 **THE COMMISSIONER:** Actually 57.

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

25 **THE COMMISSIONER:** Oh, 1005. Sorry. I

1 misspoke.

2 **MR. ENGELMANN:** It's on the screen now.

3 **THE COMMISSIONER:** Page 47.

4 **INSP. SMITH:** Forty-seven (47)?

5 **THE COMMISSIONER:** Yeah.

6 **INSP. SMITH:** Okay. Yes, sir.

7 The top of the page 92:

8 "Dunlop states that death threats were  
9 uttered against the victim on or about  
10 the 24<sup>th</sup> of November, 1993 by Father  
11 Charles MacDonald and Ken Seguin." (As  
12 read)

13 **MR. ENGELMANN:** So this is like some three  
14 years or maybe a bit longer, earlier ---

15 **INSP. SMITH:** Yes, sir.

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

17 **INSP. SMITH:** Yes, sir.

18 **MR. ENGELMANN:** And there's more about it in  
19 paragraph 93, as well, referring to a meeting; correct?

20 **INSP. SMITH:** I'm sorry?

21 **MR. ENGELMANN:** There's more in the  
22 subsequent paragraph, paragraph 93 where he's alleging that  
23 there was a meeting where ---

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** Yeah.

1                   **INSP. SMITH:** Yes.

2                   **MR. ENGELMANN:** Okay. And sir, was it your  
3 understanding that this information came to him through a  
4 third party?

5                   **INSP. SMITH:** I believe it was from Leroux.

6                   **MR. ENGELMANN:** Yes. Okay. And I'm just  
7 wondering, you say you may have had some knowledge at the  
8 time that Mrs. Dunlop had complained already to one of the  
9 detachments, local detachments?

10                  **INSP. SMITH:** I don't know when, but I'm  
11 aware somewhere in around that period of time that I  
12 received this brief, that a complaint had been made at the  
13 Long Sault detachment of a death threat. Not in '93. I  
14 believe this was probably '97 or late '96 maybe.

15                  **MR. ENGELMANN:** So again, nothing within the  
16 first year or two. If things were complained of, it was in  
17 '96 or '97. That's your understanding?

18                  **INSP. SMITH:** Not to my knowledge, no.

19                  **MR. ENGELMANN:** Yeah.

20                  **INSP. SMITH:** This was the first I'd heard  
21 of it.

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

23                         So I want to just take you to two things.  
24 Let's look briefly at Tab 45. Oh, sorry, Document Number  
25 703229.

1                   **INSP. SMITH:** Two-two-nine (229). I don't -

2                   --

3                   **THE COMMISSIONER:** No.

4                   **MR. ENGELMANN:** No, it's coming to you.

5                   It's a document entitled Summerstown "Clan".

6                   **THE COMMISSIONER:** Exhibit 2679.

7                   **--- EXHIBIT NO./PIÈCE NO. P-2679:**

8                   (703229) - Summary of the Video Interviews

9                   re: Summerstown "Clan" dated 07 Feb 97

10                  **MR. ENGELMANN:** This would be a summary of  
11                  the video interviews Mr. Leroux would have done in Orillia  
12                  on the 7<sup>th</sup> of February. Is that correct?

13                  **INSP. SMITH:** It appears to be, yes. It's  
14                  taken by Bell and Anthony, Constables.

15                  **MR. ENGELMANN:** And sir, there's a reference  
16                  to the fact -- it's about the middle of the way through  
17                  Bates page 481:

18                                 "Leroux also referred to an overheard  
19                                 conversation involving a planned 'hit'  
20                                 against Perry Dunlop and his family."

21                  So there's some reference to the death  
22                  threats that arises in this interview.

23                  **INSP. SMITH:** I'm still ---

24                  **MR. ENGELMANN:** See that?

25                  **INSP. SMITH:** I'm still looking for it.

1                   **MR. ENGELMANN:** It's about the middle of the  
2                   bullets; the fifth one down.

3                   **INSP. SMITH:** "Overheard conversation  
4                   involving a planned hit against Perry  
5                   Dunlop and family."

6                   Yes.

7                   **MR. ENGELMANN:** Yeah, and it's referred to  
8                   briefly in the note at the bottom.

9                   **INSP. SMITH:** Okay. Yes.

10                  **MR. ENGELMANN:** All right. And, sir, your  
11                  notes, again at Bates page 259.

12                  On the 19<sup>th</sup> of March '97, the first recording  
13                  on March 19<sup>th</sup>, there's a reference to Steve Seguin:

14                                 "Complaint filed by Mrs. Dunlop re  
15                                 alleged death threats."

16                  **INSP. SMITH:** Yes.

17                  **MR. ENGELMANN:** And she was calling -- can  
18                  you just tell us what it says there? I think it says:

19                                 "Mr. Grasman asks about what's been  
20                                 done and who's assigned?"

21                  et cetera.

22                  **INSP. SMITH:** Okay. I'm sorry, I was  
23                  looking further down.

24                  Steve Seguin and his phone number:

25                                 "Complaint filed by Mrs. Dunlop re

1                   alleged death threats."

2                   Klancy Grasman, who was our Deputy Director  
3           at the time of the Criminal Investigation Branch, asks:

4                    "What is being done re the same.  
5                    I advised I have been away. Who  
6                    was assigned and where are the  
7                    threats coming from. The only  
8                    ones I was aware of are the ones  
9                    mentioned in the OPP Orillia from  
10                  Ron Leroux about a hit that  
11                  mentions he overheard  
12                  conversation of a planned hit  
13                  against Perry Dunlop. I advised  
14                  Klancy I would contact Seguin to  
15                  find out what is happening and  
16                  get back."

17                  And that was on the 19<sup>th</sup> of March, '97.

18                  **MR. ENGELMANN:** And it's a reference to a  
19                  call you have with Mrs. Dunlop that afternoon?

20                  **INSP. SMITH:** Yes.

21                  **MR. ENGELMANN:** Discuss allegations of  
22                  threats, she wants to know who's investigating treats?

23                  **INSP. SMITH:** Yes.

24                  **MR. ENGELMANN:** "Advised her I would  
25                  supervise same and have other



1 officers do investigation."

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** "She wanted..."

4 **INSP. SMITH:** "...to be updated as to  
5 its progress. I stated would.

6 Discussion that I did not

7 want to be involved in the civil

8 disputes that they had."

9 I knew that they had ongoing difficulties  
10 with the police force and I didn't want to be involved in  
11 that at all.

12 **MR. ENGELMANN:** And you were aware of that  
13 from the Fantino brief amongst other things?

14 **INSP. SMITH:** Oh, well, it was common  
15 knowledge all through. This is in '97. I think ---

16 **MR. ENGELMANN:** Yeah.

17 **INSP. SMITH:** --- I think Dunlop was still  
18 on sick leave. He'd been on sick leave for three months  
19 and it was news all about the town.

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

21 **INSP. SMITH:** "I discussed jurisdictional  
22 problems. She states they came from  
23 Summerstown, so..."

24 That's right, she that came from Summerstown not Cornwall,  
25 but she lives in Cornwall.

1 "She states her lawyer, Bourgeois, has  
2 information that will help, that made  
3 to her husband..."

4 I can't make ---

5 "...rumour that her daughter was..."

6 There was a death threat or there were threats made against  
7 her daughter by somebody that was unrelated to this ---

8 **MR. ENGELMANN:** Right.

9 **INSP. SMITH:** --- that would have been  
10 handled by the Cornwall Police, and she told me about that.

11 **MR. ENGELMANN:** Okay.

12 And then if we look at the next page of your  
13 notes, you request assistance to investigate this matter,  
14 if you look at about five or six lines down?

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** You ask for a particular  
17 officer?

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** And why is that, sir?

20 **INSP. SMITH:** Well, when I reviewed this  
21 brief that was brought in and everything else was coming  
22 in, I knew that it was going to be a large-scale  
23 investigation. It was going to require certain expertise.  
24 I wasn't going to be able to be there on an ongoing basis,  
25 I had a full plate. I had a number of homicides on the go

1 and major cases on the go. I think I had three wiretap  
2 operations and prison murders.

3 **MR. ENGELMANN:** And you were close to  
4 retirement, I think you told us as well?

5 **INSP. SMITH:** Well, for ---

6 **MR. ENGELMANN:** Or you hoped to be.

7 **INSP. SMITH:** --- for a year. I had enough  
8 to -- I had enough work on my plate to last me five years,  
9 but I was going to try to get it done in -- in one year.  
10 And then this came up.

11 So the best officer that I know in the OPP,  
12 and I've dealt with him for years and years, who should  
13 have been in the CIB but for some reason wasn't, was a  
14 fellow by the name of Pat Hall. Most experienced  
15 investigator that I know. And if I was going to take this  
16 case then I wanted him.

17 So I called Bob Eamer, he was Bob Eamer's  
18 man, and Bob Eamer was the Chief Superintendent of the  
19 Eastern Region, and he said yes.

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

21 **INSP. SMITH:** So there is my start.

22 **MR. ENGELMANN:** And that was to assign --  
23 you wanted then Detective Sergeant Hall to investigate the  
24 death threats issue?

25 **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** Were you already considering  
2 him for the broader Fantino brief issues?

3                   **INSP. SMITH:** Yeah, but I didn't tell them  
4 that at the time because I ---

5                   **MR. ENGELMANN:** You didn't tell him?

6                   **INSP. SMITH:** No.

7                   **MR. ENGELMANN:** Did you tell his boss that?

8                   **INSP. SMITH:** No.

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

10                  **INSP. SMITH:** I thought once I had him, I  
11 had him, and then he wasn't going back and that's the way  
12 it worked. If I'd only asked for that -- for him once,  
13 somebody else would steal him from me.

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

15                  **THE COMMISSIONER:** Do you do much fishing?

16                  **INSP. SMITH:** I'm sorry?

17                  **THE COMMISSIONER:** Do you do much fishing?

18                  **INSP. SMITH:** Yes.

19                  **MR. ENGELMANN:** So you wanted to make sure  
20 you had him hooked real good?

21                  **INSP. SMITH:** Well, well, in our game, sir,  
22 good investigators, we had a tendency to steal them from  
23 each other.

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

25                  **INSP. SMITH:** So I got Pat Hall on board.

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

2                   And I see from your notes that aside from  
3 speaking to Helen Dunlop, you also spoke to Chief Repa of  
4 the Cornwall Police?

5                   **INSP. SMITH:** Yes, sir.

6                   **MR. ENGELMANN:** And you would have advised  
7 him that you were going to be responsible for this death  
8 threats investigation?

9                   **INSP. SMITH:** Yes, sir.

10                  **MR. ENGELMANN:** And did you ask him as well  
11 to put the Dunlop's name on their hazardous address file?

12                  **INSP. SMITH:** Yes, we discussed that and he  
13 placed that on his correspondence I think we had back and  
14 forth in regard to that, that it ---

15                  **MR. ENGELMANN:** Yeah.

16                  **INSP. SMITH:** -- that it was done.

17                  **MR. ENGELMANN:** All right. And we had Chief  
18 Repa talk about that here.

19                  **INSP. SMITH:** Oh, okay.

20                  **MR. ENGELMANN:** So would it be fair to say  
21 that after getting Detective Sergeant Hall and assigning  
22 him to the death threats file, that you had little direct  
23 involvement in that investigation?

24                  **INSP. SMITH:** I stayed at arm's length, I  
25 had none.

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

2                   So, sir, on the 18<sup>th</sup> of March and we looked  
3 at this, your call to Bob Pelletier, we knew he was  
4 conducting the prosecution of Father MacDonald?

5                   **INSP. SMITH:** That's correct.

6                   **MR. ENGELMANN:** And after that initial call,  
7 well, you talked about some of this new information you  
8 had.

9                   As I understand it, a meeting was set up  
10 with him, yourself and Officer Fagan on March 20<sup>th</sup>, 1997,  
11 and that's noted on Bates page 260 of your notes; correct?

12                   **INSP. SMITH:** Yes, sir.

13                   **MR. ENGELMANN:** And would this have been the  
14 first time that Mr. Pelletier would have had an opportunity  
15 to view the Fantino brief?

16                   **INSP. SMITH:** I believe so.

17                   **MR. ENGELMANN:** And was one of the purposes  
18 of your meeting to review the brief with him and the briefs  
19 obtained from Orillia and determine issues involving  
20 possible disclosure in the MacDonald prosecution?

21                   **INSP. SMITH:** Yes.

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

23                   And at this meeting, was it decided to copy  
24 and forward the materials from the Fantino brief to Mr.  
25 Neville, the defence counsel representing Father MacDonald?

1                   **INSP. SMITH:** Yes.

2                   **MR. ENGELMANN:** And do you recall, sir,  
3 whether you would have sent the whole brief or just  
4 portions thereof?

5                   **INSP. SMITH:** I believe -- I believe it was  
6 the whole brief.

7                   **MR. ENGELMANN:** Okay. That would have been  
8 Mr. Pelletier's call presumably?

9                   **INSP. SMITH:** Yes, for fear of not missing  
10 anything. Very unusual for us to -- I've never seen that  
11 in my career that we make disclosure before we've even  
12 investigated, but we had to.

13                   **MR. ENGELMANN:** And that decision, of  
14 course, you provide the documents to the prosecutor but the  
15 prosecutor makes the call on what to disclose?

16                   **INSP. SMITH:** Yes.

17                   **MR. ENGELMANN:** Okay. So you're disclosing  
18 information to a defence counsel where you haven't had an  
19 opportunity to investigate?

20                   **INSP. SMITH:** Correct.

21                   **MR. ENGELMANN:** And there were all sorts of  
22 allegations involving other people as well, not Father  
23 MacDonald, right, in the Fantino brief?

24                   **INSP. SMITH:** There were, but they  
25 were -- everything was -- could be argued that they're

1 intertwined, so I ---

2 MR. ENGELMANN: Okay.

3 INSP. SMITH: --- I didn't disagree with Mr.  
4 Pelletier.

5 MR. ENGELMANN: Yes.

6 INSP. SMITH: Anything to stop fail to  
7 disclose, we got caught in that there -- that's, you  
8 know ---

9 MR. ENGELMANN: Then again it was his  
10 decision and he decided to disclose ---

11 INSP. SMITH: Well, it's always his  
12 decision, yes. Yes.

13 MR. ENGELMANN: Okay.

14 INSP. SMITH: Yes.

15 MR. ENGELMANN: Now, did you discuss at this  
16 point the new allegations that were contained in the  
17 materials and get some of his views about further  
18 investigation and what might be required?

19 INSP. SMITH: Well, what I'd asked for at  
20 that point was that we have a meeting with Peter Griffiths  
21 and himself and that we look -- and I gave him the brief, a  
22 copy of this brief and that, and he wanted to sit down and  
23 go through it so that -- and both Peter Griffiths -- to go  
24 through it, and then we'd have a meeting and say, Okay,  
25 where are we going to go on this, you know.



1                   And then, ultimately, we did have the  
2                   meeting and then I asked Mr. Griffiths at that point to  
3                   send a letter to my superiors requesting that I investigate  
4                   it.

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

6                   **INSP. SMITH:** Now, the terms of -- we've  
7                   heard about the mandate and everything -- the mandate of  
8                   Project Truth was the Fantino brief, what was contained in  
9                   the Fantino brief.

10                  **MR. ENGELMANN:** Okay, you're jumping ahead  
11                  of me just a bit.

12                  **INSP. SMITH:** Well ---

13                  **MR. ENGELMANN:** Just ---

14                  **INSP. SMITH:** --- just -- but I'm -- just to  
15                  let you know. That's -- that was the only thing that I was  
16                  going to investigate, what was in the Fantino brief.

17                  **THE COMMISSIONER:** And we should continue  
18                  that after lunch.

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

20                  **THE COMMISSIONER:** Thank you. I'll see you  
21                  at 2:00.

22                  **THE REGISTRAR:** Order; all rise. Veuillez  
23                  vous lever.

24                  This hearing will resume at 2:00 p.m.

25                  --- Upon adjourning at 12:29 p.m. /

1 L'audience est adjournée à 12h29

2 --- Upon resuming at 2:04 p.m. /

3 L'audience est reprise à 14h04

4 **THE REGISTRAR:** Order; all rise. Veuillez  
5 vous lever.

6 This hearing is now resumed. Please be  
7 seated. Veuillez vous asseoir.

8 **INSPECTOR TIM SMITH, Resumed/Sous le même serment:**

9 --- **EXAMINATION IN-CHIEF/INTERROGATOIRE EN-CHEF PAR MR.**  
10 **ENGELMANN (cont'd/suite):**

11 **THE COMMISSIONER:** Good afternoon. Good  
12 afternoon, Mr. Engelmann.

13 **MR. ENGELMANN:** Good afternoon,  
14 Mr. Commissioner. Good afternoon, Mr. Smith.

15 Sir, when we left off this morning we were  
16 talking about a period in time, approximately March of '97,  
17 March-April, and you had received the Fantino brief.

18 You'd had some discussions with Bob  
19 Pelletier, and I believe you were of the view that further  
20 investigation was required and a meeting was to be set up  
21 with Peter Griffiths?

22 **INSP. SMITH:** Correct, sir.

23 **MR. ENGELMANN:** All right. And were you of  
24 the view at this time, before the meeting with Griffiths at  
25 the end of April, that the information you'd received

1 called for some form of special investigation in the form  
2 of a project?

3 **INSP. SMITH:** Oh, definitely, yes, sir.

4 **MR. ENGELMANN:** All right. And given your  
5 previous involvement in this matter, were you of the view  
6 that you should be involved in some capacity in that  
7 further investigation; at the time?

8 **INSP. SMITH:** Truthfully, I didn't really  
9 want the investigation but, to answer you, yes.

10 **MR. ENGELMANN:** Okay. Well, would you have  
11 said that to Bob Pelletier?

12 **INSP. SMITH:** No, I wouldn't have said that  
13 to him, I would have said that to my superiors.

14 **MR. ENGELMANN:** All right. Said what?  
15 About not wanting it or ---

16 **INSP. SMITH:** Well ---

17 **MR. ENGELMANN:** --- or that you should be  
18 involved?

19 **INSP. SMITH:** --- I didn't really want  
20 the -- I was -- I'd just come off probably six or seven  
21 years of this ---

22 **MR. ENGELMANN:** Yes.

23 **INSP. SMITH:** --- and I would have liked a  
24 break but, I guess, there was nobody else really at the  
25 time -- I'm not patting myself on the shoulders or anything

1 -- but that maybe had the qualifications I had to do this.

2 MR. ENGELMANN: All right.

3 And, sir, were you aware that Mr. Pelletier  
4 would have written a letter to Mr. Griffiths in advance of  
5 that meeting?

6 And I'm referring to -- it's a letter that's  
7 Exhibit 228; 228. It's Document Number 113942, and this is  
8 a letter from Robert Pelletier to Peter Griffiths dated  
9 April 2<sup>nd</sup>, 1997. The subject is "Regina v. Charles  
10 MacDonald" and then it also says, "Recent developments".

11 INSP. SMITH: Ten (10) pages?

12 MR. ENGELMANN: Yes. I'm not going to ask  
13 you to read it, just -- do you know if -- you're not copied  
14 on it. Do you know if that's something that would have  
15 been provided to you then?

16 INSP. SMITH: I don't think so, sir.

17 MR. ENGELMANN: All right. And so if you've  
18 seen this letter, it would have only been in preparation  
19 for this Inquiry?

20 INSP. SMITH: I don't know if I've even read  
21 that.

22 MR. ENGELMANN: All right.

23 INSP. SMITH: Can you tell me what the gist  
24 of it is?

25 MR. ENGELMANN: Well, the gist is, this is,

1 as I see it, background to the case in the first two or  
2 three pages.

3 Then reviewing some of the allegations made  
4 by Perry Dunlop in his statement of claim, sort of pages 3  
5 through 6.

6 Then a general discussion of the Fantino  
7 brief, pages 7 through 9, and a discussion about laying  
8 further charges or not and the effects this might have, and  
9 that's at page 9.

10 And I'd just -- if you didn't read it at the  
11 time and you haven't read it recently, there's no need for  
12 us to go to it now.

13 **INSP. SMITH:** Oh, okay.

14 **MR. ENGELMANN:** Okay? But you were aware  
15 that Mr. Pelletier was to discuss matters with  
16 Mr. Griffiths, perhaps providing him some background, and  
17 then you were all going to try and have a meeting with Mr.  
18 Griffiths?

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** All right. So it wouldn't  
21 surprise you that Mr. Pelletier would have provided --  
22 would have prepared some kind of a briefing note or  
23 something ---

24 **INSP. SMITH:** No, that ---

25 **MR. ENGELMANN:** --- like this for

1 Mr. Griffiths?

2 INSP. SMITH: --- that wouldn't surprise me.

3 MR. ENGELMANN: All right.

4 INSP. SMITH: Excuse me. I take it that  
5 that letter was written after he had read the Fantino  
6 brief?

7 MR. ENGELMANN: Absolutely.

8 INSP. SMITH: Okay.

9 MR. ENGELMANN: Yes.

10 INSP. SMITH: Okay.

11 MR. ENGELMANN: The letter was written in  
12 early April.

13 INSP. SMITH: Okay.

14 MR. ENGELMANN: And we know that you would  
15 have provided him that brief back in -- I believe in  
16 February. You met with him on February 21<sup>st</sup> ---

17 INSP. SMITH: February, yes.

18 MR. ENGELMANN: --- and there may have been  
19 other meetings as well.

20 You do have a reference in your notes,  
21 Exhibit 1803, Bates page 261, April 2<sup>nd</sup>, '97:

22 "Speak with Bob Pelletier re. case.

23 Meeting set up with Peter Griffiths for

24 24 April 97 in Ottawa to review

25 allegations and decide how

1 investigation into new matters will be  
2 conducted."

3 **INSP. SMITH:** That's correct.

4 **MR. ENGELMANN:** Do you see that ---

5 **INSP. SMITH:** Yes.

6 **MR. ENGELMANN:** --- right at the bottom?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** And:

9 "P.C. Fagan and Don Genier to be  
10 present."

11 **INSP. SMITH:** Yes.

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

13 And, sir, with respect to those who are to  
14 be present, would that have been a decision by Mr.  
15 Griffiths or did you have some say in that?

16 **INSP. SMITH:** I believe I had some say in  
17 that.

18 **MR. ENGELMANN:** Okay.

19 **INSP. SMITH:** More than likely at my request  
20 that we all get together.

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

22 Sir, just at the top of that page, there's a  
23 reference to a call from someone from the Metro Police  
24 Force. Would that be Metro Toronto? Right at the top of  
25 the page.

1                   **INSP. SMITH:** Yes. That's Inspector Ken  
2                   Cenzura. He's in charge of their sexual assault squad.

3                   **MR. ENGELMANN:** And can you tell us what  
4                   that note says?

5                   **INSP. SMITH:** I received a telephone call  
6                   from Inspector Cenzura and he indicated that Dunlop was in  
7                   with the -- with Adrienne McLennal (sic) -- McLennan, I  
8                   think was the name? A press consultant. And he wanted to  
9                   do a video of -- of a pedophile clan, in Cornwall, and he  
10                  wanted -- they wanted to speak to the Chief and the  
11                  Deputy -- and they never consulted -- or they didn't  
12                  consent.

13                  **MR. ENGELMANN:** All right. So this is a  
14                  fellow you knew at Metro Toronto advising you that  
15                  Mr. Dunlop had come in and wanted to do something with  
16                  them ---

17                  **INSP. SMITH:** Yes.

18                  **MR. ENGELMANN:** --- about issues in  
19                  Cornwall, and they had rebuffed him or ---

20                  **INSP. SMITH:** They -- and they wanted ---

21                  **MR. ENGELMANN:** --- decided they weren't  
22                  interested?

23                  **INSP. SMITH:** Yes, and they wanted to leave  
24                  some material, but they wouldn't accept it.

25                  **MR. ENGELMANN:** All right. And he was just



1           letting you know that?

2                           **INSP. SMITH:** Yes.

3                           **MR. ENGELMANN:** All right. Did you know if  
4           that was, in effect, the Fantino brief or something  
5           similar?

6                           **INSP. SMITH:** No, I don't know the ---

7                           **MR. ENGELMANN:** Now, there's a note on the  
8           next page at Bates page 262, a call from someone from the  
9           Policing Services Division?

10                          **INSP. SMITH:** Yeah, that's Art Caron, I  
11           guess it is.

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

13                          And is Mr. Caron advising you that Mr.  
14           Dunlop had attempted to deliver a package and a letter to  
15           the Solicitor General's office?

16                          **INSP. SMITH:** Yes, and they refused it. And  
17           he -- and said he referred it to the Ontario Civilian  
18           Policing Services I guess.

19                          **MR. ENGELMANN:** That's otherwise known as  
20           OCOPS?

21                          **INSP. SMITH:** I guess, yes.

22                          **MR. ENGELMANN:** Yes.

23                          And we've heard evidence here, Mr. Smith,  
24           and I believe you later became aware of this, that Mr.  
25           Dunlop delivered a number of binders to the Ministry, the

1 Attorney General and to OCOPS on April 7, 1997?

2 INSP. SMITH: I'm aware that he attempted to  
3 deliver ---

4 MR. ENGELMANN: All right.

5 INSP. SMITH: --- boxes everywhere.

6 MR. ENGELMANN: Yeah, but you were notified  
7 on the 14th that he's, in fact, delivered something to  
8 OCOPS, perhaps not to the AG, but to OCOPS; correct?

9 INSP. SMITH: They refused it.

10 MR. ENGELMANN: No, the Solicitor General's  
11 office had refused it?

12 INSP. SMITH: Yes, okay. I -- well, I don't  
13 know if OCOPS accepted it or not.

14 MR. ENGELMANN: Okay. Did you make any  
15 effort to follow up with that to find out what might have  
16 been sent to OCOPS?

17 INSP. SMITH: No. I assume that it's the  
18 same thing that Fantino got. I -- we were getting stuff  
19 from Orillia, from the Cornwall Police, from CAS and then  
20 from London Police Force. I assumed it was probably the  
21 same thing.

22 MR. ENGELMANN: Orillia was subsequent to  
23 the brief he delivered to Fantino, right? Fantino was in  
24 December; Orillia was in February?

25 INSP. SMITH: Where the videotapes were

1 taken?

2 MR. ENGELMANN: Yes?

3 INSP. SMITH: I guess, yes. This is in  
4 April.

5 MR. ENGELMANN: Yes. I'm just wondering,  
6 sir ---

7 INSP. SMITH: So ---

8 MR. ENGELMANN: --- if you're taking any  
9 steps to see if Dunlop is still investigating?

10 INSP. SMITH: No, I didn't.

11 MR. ENGELMANN: Okay. Because we find out  
12 later that in fact there was further investigation post-  
13 December up to the time that these documents are delivered  
14 on April 7, '97, by Dunlop?

15 INSP. SMITH: By myself?

16 MR. ENGELMANN: No, by Dunlop.

17 INSP. SMITH: Oh. I don't know.

18 MR. ENGELMANN: All right.

19 Now, you meet with -- you attend a meeting  
20 at Mr. Griffiths' office on April 24<sup>th</sup>, '97, and that's  
21 referenced at Bates page 263 of your notes?

22 INSP. SMITH: Yes.

23 MR. ENGELMANN: And it appears that Peter  
24 Griffiths, Bob Pelletier, Murray MacDonald, I think it's  
25 supposed to be Don Genier, there's a name crossed out?

1                   INSP. SMITH: Yes, that's right.

2                   MR. ENGELMANN: It was there.

3                   INSP. SMITH: Yeah, Don Genier.

4                   MR. ENGELMANN: Pat Hall?

5                   INSP. SMITH: Yes.

6                   MR. ENGELMANN: Mike Fagan and yourself?

7                   INSP. SMITH: Correct.

8                   MR. ENGELMANN: All right.

9                   And did you determine the police officers  
10                  who were to be there and Mr. Griffiths would have  
11                  determined the Crowns?

12                  INSP. SMITH: I would have determined the  
13                  police officers to be there.

14                  MR. ENGELMANN: Right.

15                  And with respect to the Crown attorneys,  
16                  that wasn't your call?

17                  INSP. SMITH: No.

18                  MR. ENGELMANN: Okay. Did you know why  
19                  Murray MacDonald was present?

20                  INSP. SMITH: No, but I assumed it was  
21                  because a lot of this went on in his jurisdiction.

22                  MR. ENGELMANN: All right.

23                  Were you aware that he was named as a person  
24                  in the Fantino brief?

25                  INSP. SMITH: Yes.

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

2                   Did that concern you at all that he would be  
3 present and possibly the subject matter -- matters that  
4 came up in the brief?

5                   **INSP. SMITH:** No.

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

7                   And I understand that the meeting began with  
8 a review of the allegations and investigations to date?

9                   **INSP. SMITH:** That's correct.

10                  **MR. ENGELMANN:** And I take it that all or at  
11 least most of the people present, with the possible  
12 exception of Pat Hall, would have been aware -- well aware  
13 of many of the events leading up to the meeting?

14                  **INSP. SMITH:** He'd have -- he'd have a  
15 pretty good understanding because he'd read the brief  
16 completely.

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

18                  So he'd read the brief before the meeting as  
19 well?

20                  **INSP. SMITH:** Yes. All of the officers had,  
21 perhaps with the exception of Fagan. The reason they  
22 brought Fagan on board was that there was still outstanding  
23 issues against Father Charles that he was involved with.

24                  **MR. ENGELMANN:** All right.

25                  And it was decided at this meeting that the

1 new allegations would be investigated by yourself and a  
2 team of officers working under your direction?

3 **INSP. SMITH:** That's correct.

4 **MR. ENGELMANN:** And you had told us that you  
5 were of the view that the new allegations needed to be  
6 investigated. I take it that was your position at the  
7 meeting?

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** And was there a consensus on  
10 this at the time?

11 **INSP. SMITH:** Yes.

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

13 Now, there's also a reference in the second  
14 paragraph, "Decision: finish preliminary witnesses." It  
15 says:

16 "MacDonald and Silmser asked for  
17 adjournment prior to decision."

18 Am I reading it correctly?

19 **INSP. SMITH:** I'm trying to find that, sir.  
20 Where are you?

21 **MR. ENGELMANN:** It's about seven or eight  
22 lines down the page.

23 **INSP. SMITH:** Okay. I'm just making notes  
24 of what's being said. It was asked ---

25 "We'll ask for an adjournment prior

1 to the decision on the ongoing  
2 preliminary hearing is going then."

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

4 So there's ---

5 **INSP. SMITH:** So there's -- the preliminary  
6 hearing of the three witnesses was ongoing at that point.

7 **MR. ENGELMANN:** Right.

8 **INSP. SMITH:** So prior to a decision being  
9 made whether there's a committal or not, they were going to  
10 ask for an adjournment.

11 **MR. ENGELMANN:** An adjournment of the  
12 preliminary inquiry?

13 **INSP. SMITH:** Right.

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

15 **INSP. SMITH:** That's my understanding.

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

17 And that would have been presumably a  
18 prosecutorial decision at this meeting, not one that would  
19 have been made by you or ---

20 **INSP. SMITH:** No. No, I had no input in  
21 that.

22 **MR. ENGELMANN:** Yeah. Do you know if there  
23 was any discussion about the possible consequences of  
24 delaying matters?

25 **INSP. SMITH:** I don't recall that.

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

2                   **INSP. SMITH:** No.

3                   **MR. ENGELMANN:** And was it your  
4 understanding that following this meeting that you would be  
5 assembling an investigative team and developing an  
6 operational plan in order to retain special funding and  
7 commence the investigations as a special project?

8                   **INSP. SMITH:** Following the request made by  
9 the regional director ---

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

11                   **INSP. SMITH:** --- the Crown attorneys to my  
12 superiors and their acceptance of it.

13                   **MR. ENGELMANN:** So the idea was that Mr.  
14 Griffiths would write a letter?

15                   **INSP. SMITH:** Yes, I asked him to. I said I  
16 can't start without it.

17                   **MR. ENGELMANN:** But he has the power to do  
18 that?

19                   **INSP. SMITH:** Yes, he does.

20                   **MR. ENGELMANN:** And ---

21                   **INSP. SMITH:** It's under the *Crown Attorneys*  
22 *Act*, I believe.

23                   **MR. ENGELMANN:** And then the OPP is  
24 essentially ---

25                   **INSP. SMITH:** Well, we're saddled with it.



1                   **MR. ENGELMANN:** Right.

2                   **INSP. SMITH:** We have to comply.

3                   **MR. ENGELMANN:** Was one of the first steps  
4 that you had to do was -- would that have been to identify  
5 members of the team?

6                   **INSP. SMITH:** It would be one of the first  
7 ones. The first area though, sir, I think is the -- to try  
8 and get a grip on the scope of it.

9                   **MR. ENGELMANN:** Yes.

10                  **INSP. SMITH:** What am I -- what am I going  
11 to need? How long is it going to last? What resources do  
12 I need financially? What are the -- what is the mandate,  
13 you know, and then when I -- when I can figure -- I have a  
14 rough idea of what that is, then I can assess the personnel  
15 requirements that I need.

16                  **MR. ENGELMANN:** The only reason I ask is you  
17 seem to have some names listed right here on this first  
18 page/

19                  **INSP. SMITH:** Yes.

20                  **MR. ENGELMANN:** Were you already thinking  
21 ahead?

22                  **INSP. SMITH:** Well, I was thinking ahead,  
23 but I knew I was going to need personnel, and I -- first of  
24 all, I wanted to make sure that I had a bilingual officer.  
25 I had difficulty in my previous investigation getting

1       bilingual officers. So the first officer that I wanted was  
2       a bilingual officer and a detective and somebody that had  
3       experience with sexual assaults. And Don Genier was -- fit  
4       that bill.

5                   **MR. ENGELMANN:** Is he fully bilingual, sir?

6                   **INSP. SMITH:** He's fully bilingual, yes.

7                   **MR. ENGELMANN:** And you also list here Steve  
8       Seguin and Pat Hall?

9                   **INSP. SMITH:** Well, yes. Well, I'd already  
10       had Pat Hall because I'd ---

11                   **MR. ENGELMANN:** Yes.

12                   **INSP. SMITH:** --- been working on the death  
13       threat and I'd had an opportunity to see Steve Seguin's  
14       work when they were working on the -- with Pat Hall with  
15       working on the death threat.

16                   **MR. ENGELMANN:** Okay.

17                   **INSP. SMITH:** And I also found that he'd had  
18       some experience with sexual assaults in the past and he was  
19       eager, personable and well-respected by his other fellow  
20       officers and I thought, well, yeah, I can use him. He'll  
21       fit in well.

22                   **MR. ENGELMANN:** Were you aware at this time  
23       of the officer -- you have these officers' names written  
24       here on Bates page 263 of your notes, and I'm assuming  
25       that's because you were possibly considering them to assist

1       you with this investigation. Did you have some knowledge  
2       of their experience in investigating sexual abuse and/or  
3       historical sexual abuse in particular?

4               **INSP. SMITH:** Well, nobody had experience in  
5       historical abuse. There are very few, but they had -- they  
6       all had experience in sexual assaults, in particular, Pat  
7       Hall. Pat Hall was ---

8               **MR. ENGELMANN:** Yes.

9               **INSP. SMITH:** Pat Hall investigated numerous  
10       sexual assaults. He was also the sexual assault co-  
11       ordinator for Number 10 district, which covered Perth.

12              **MR. ENGELMANN:** All right. What about  
13       Officers Seguin and Genier to your knowledge?

14              **INSP. SMITH:** Well, I just told you, they  
15       had experience investigating sexual assaults.

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

17              **THE COMMISSIONER:** Wasn't there someone here  
18       local that was taking care of sexual assaults as well or  
19       for this region?

20              **INSP. SMITH:** They were in the throws then,  
21       sir, of going from districts to a region, and there was a  
22       regional co-ordinator who had just come in there and -- I  
23       remember her name before she was married, but ---

24              **MR. ENGELMANN:** Was that Heather ---

25              **INSP. SMITH:** Heather Lamarche, but I think

1 she goes by another name.

2 MR. ENGELMANN: Yeah.

3 INSP. SMITH: But she just finished a course  
4 in sexual assault and was assigned there. And my  
5 understanding was that she'd worked on the Cumberland  
6 double homicide for seven or eight years and she was going  
7 to be returning to that, it had been reopened. And that  
8 position would be sort of in abeyance until she returned  
9 from that.

10 MR. ENGELMANN: She's someone you were  
11 considering at the time?

12 INSP. SMITH: No. One of the difficulties  
13 we had in the initial stages, especially with Dave Silmser,  
14 is that he didn't want a female. And she had -- she'd  
15 taken a course, but she didn't have any history in  
16 historical sexual abuse of males.

17 MR. ENGELMANN: Sorry, had Mr. Silmser  
18 expressed that to you as well? Like, we knew he expressed  
19 that in January.

20 INSP. SMITH: No, he expressed that to Heidi  
21 ---

22 MR. ENGELMANN: CPS?

23 INSP. SMITH: --- Heidi, yeah.

24 MR. ENGELMANN: Yeah. Are you familiar with  
25 -- I'm so bad with names -- Isabel McVey, I believe?

1                   **INSP. SMITH:** Yes, I know the name, yeah.

2                   **MR. ENGELMANN:** Who did work on Prescott in  
3 the case they were working on?

4                   **INSP. SMITH:** Well, I'm familiar with that  
5 case, my cohort worked on that. Yeah.

6                   No, I didn't consider taking Isabel. Again,  
7 that was a long running case and that case was incestual,  
8 generational, familial. A lot different than this.

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

10                  **INSP. SMITH:** A lot different than this type  
11 of a case.

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

13                  **INSP. SMITH:** I might add if you're -- if  
14 you -- when I was looking for personnel and the difficulty  
15 that I ran into with St. John's Training School and St.  
16 Joseph's was that my investigators were imposed upon me. I  
17 had no choice in those matters, they were sent to me.

18                  At one time I had up to 22 investigators and  
19 I would say that, through no fault of their own, they were  
20 not qualified to do these types of investigations. I'd  
21 send them out for interviews and I'd have to do re-  
22 interviews. They didn't know how to take proper  
23 statements. I didn't have time to train them. And they  
24 came from all over the province. I lost two days a week to  
25 them for travel because no overtime was allowed.

1                   And it caused me -- and there were personal  
2                   problems that they had, being so far away from home, and it  
3                   was an aggravation that I didn't need on top of everything  
4                   else that I had.

5                   So in this case, I decided that I would go  
6                   with a smaller group, local, fairly local investigators,  
7                   that are not people that are investigators, people that I  
8                   could train, and people that were in for the long-term and  
9                   wanted to work here. And I got the people I wanted. I was  
10                  quite pleased with the team I got.

11                  **MR. ENGELMANN:** On May 14<sup>th</sup>, according to  
12                  your notes, Bates page 264, you meet with Chief Repa from  
13                  the Cornwall Police Service?

14                  **INSP. SMITH:** That's correct.

15                  **MR. ENGELMANN:** And you advise him that  
16                  you'll be investigating all of the allegations addressed by  
17                  Mr. Dunlop and Mr. Bourgeois, both in Cornwall and in the  
18                  surrounding area?

19                  **INSP. SMITH:** That's right.

20                  **MR. ENGELMANN:** And you also asked Chief  
21                  Repa if you can arrange a meeting with Mr. Dunlop?

22                  **INSP. SMITH:** That's right.

23                  **MR. ENGELMANN:** Now, at this point-in-time,  
24                  he's just coming back to work. Is that correct?

25                  **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** And why is it that you  
2 wanted to speak with him then?

3                   **INSP. SMITH:** I wanted to lay down some  
4 ground rules, I think, insofar as what would be done. I  
5 had his brief and I had everything else and I was going to  
6 thank him. That was good, that was far enough, don't  
7 interfere, I'll -- we will -- we'll investigate all of your  
8 allegations. If anybody comes to you, then I'd ask that  
9 you refer them to us. I'd ask that you refrain from making  
10 any comments in the press that could jeopardise our  
11 investigation, and I asked him to give us a chance.

12                   **MR. ENGELMANN:** Okay. Well, that comes up  
13 in June; correct?

14                   **INSP. SMITH:** Well, that's what I want to  
15 tell him.

16                   **MR. ENGELMANN:** Yeah, okay.

17                   **INSP. SMITH:** You know.

18                   **MR. ENGELMANN:** And then on May 21<sup>st</sup>,  
19 according to your notes, Bates page 265, you meet with  
20 Richard Abell and Bill Carriere from the local CIS?

21                   **INSP. SMITH:** Yes.

22                   **MR. ENGELMANN:** And you're accompanied by  
23 Officers Seguin and Genier; correct?

24                                 And this is before any kind of a plan is  
25 approved, but this is in preparation presumably for

1 commencing an investigation?

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** And can you just briefly  
4 tell us why you felt it was important to meet with them and  
5 what the purpose of the meeting was?

6 **INSP. SMITH:** I don't know if that's when I  
7 provided them a copy of the Fantino brief or not. I  
8 imagine it may have been, but I wanted -- I wanted their  
9 co-operation in the investigation. I wanted -- I kept them  
10 that -- I told them that we would keep them apprised of  
11 everything, they could have copies of every statement that  
12 we took. I can't ---

13 **MR. ENGELMANN:** So Mr. Abell has perhaps a  
14 slightly fuller description of the meeting?

15 **INSP. SMITH:** Oh, I would imagine, yes.

16 **MR. ENGELMANN:** Can I just take you there?

17 **INSP. SMITH:** Yes, sir, you can.

18 **MR. ENGELMANN:** It's Exhibit 2462. His  
19 notes are quite easy to read too.

20 **INSP. SMITH:** Thank you.

21 **MR. ENGELMANN:** Okay. And you're going to  
22 want, sir, Bates page 513. Counsel, the Document Number is  
23 721620; 513.

24 **INSP. SMITH:** Sorry, I'm --

25 **THE COMMISSIONER:** So Exhibit 2462.



1                   INSP. SMITH: 2462 ---  
2                   THE COMMISSIONER: Yes.  
3                   INSP. SMITH: I have that.  
4                   THE COMMISSIONER: Okay, 513. The last  
5                   three digits.  
6                   INSP. SMITH: So 513?  
7                   THE COMMISSIONER: Yeah.  
8                   MR. ENGELMANN: Yeah. It should be right at  
9                   the beginning or maybe not.  
10                  THE COMMISSIONER: Oh, no, no.  
11                  MR. ENGELMANN: Okay. My version is. I  
12                  have an excerpt, I apologize.  
13                  THE COMMISSIONER: So 7080513.  
14                  INSP. SMITH: I don't have it here. I've  
15                  got -- I go from 0477 to 1620.  
16                  MR. ENGELMANN: Here we go.  
17                  INSP. SMITH: Oh, okay, 513. Pardon me.  
18                  May 22<sup>nd</sup>, yes.  
19                  MR. ENGELMANN: So just very quickly, he  
20                  says, "Tim", and that's you:  
21                                 "...gives extensive background of  
22                                 OPP involvement in the case. We  
23                                 exchange a lot of information,  
24                                 verbal written. Tim leaves the  
25                                 Charles Bourgeois binder that was

1 provided to the London Police and  
2 OPP."

3 So you had thought you had left it ---

4 **INSP. SMITH:** M'hm.

5 **MR. ENGELMANN:** --- Abell is saying you  
6 did.

7 And then they go through some of the things  
8 that were agreed to:

9 "a) OPP will interview Ron  
10 Leroux without us present.  
11 We can provide them with  
12 questions we want answered.  
13 b) OPP will give us all records  
14 of interviews. c) We keep  
15 in close contact so as not to  
16 create any co-ordination  
17 difficulties. d) We can  
18 proceed with our work without  
19 any fear of causing problems  
20 for the police investigation.  
21 e) We will attempt to  
22 interview Tom Swabey, counsel  
23 for Father Kevin and  
24 Monsignor McDougald. After we  
25 will speak to senior church

1 officials re access of the accused  
2 to kids."

3 It goes on.

4 **INSP. SMITH:** Yes.

5 **MR. ENGELMANN:** Anything in here that you  
6 would disagree with, sir, that you've seen?

7 **INSP. SMITH:** No, sir. I thought we had a  
8 good working relationship. I found him to be very  
9 professional and concerned and we'd work together.

10 **MR. ENGELMANN:** Mr. Abell had similar  
11 comments, sir. One of the things he did tell us, however,  
12 was he would have liked perhaps a letter exchanged or at  
13 least some confirmation of what each side was going to do  
14 and some kind of a protocol.

15 **INSP. SMITH:** That probably would have been  
16 a good idea.

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

18 **INSP. SMITH:** One of the many things I  
19 didn't get around to I guess.

20 **MR. ENGELMANN:** No, he just thought it might  
21 have been better if things were formalized.

22 **INSP. SMITH:** No, I agree.

23 **MR. ENGELMANN:** Yeah.

24 **INSP. SMITH:** But despite that, I don't  
25 think we ever had any difficulties.

1                   **MR. ENGELMANN:** Another thing that he had  
2 mentioned was that having been advised of names of alleged  
3 perpetrators that were not being investigated or that you  
4 decided not to charge might have been useful to them as  
5 well, just in the child protection work they were doing.

6                   **INSP. SMITH:** I believe we provided all  
7 names and offered them every statement we took.

8                   **MR. ENGELMANN:** Well, he actually said  
9 thankfully you didn't because of the numbers.

10                  **INSP. SMITH:** Well, then, sir, the names of  
11 everybody that we came across would have been in there.

12                  **MR. ENGELMANN:** So you would have provided  
13 them with names of alleged perpetrators that you decided  
14 not to proceed with charges against?

15                  **INSP. SMITH:** Yes, yes.

16                  **MR. ENGELMANN:** Okay.

17                  **INSP. SMITH:** He was entitled to have  
18 anything we had, any statement. Anything we had he could  
19 have.

20                  **MR. ENGELMANN:** But with respect to what you  
21 actually did, sir, my understanding is he would have been  
22 provided with names of people who were about to be charged  
23 shortly before they were charged, perhaps the day before, a  
24 week before.

25                  **INSP. SMITH:** Well, we had always advised

1 him of that, yes -- you know, and I'm sure that he was  
2 aware. Within those statements, those people just didn't  
3 appear out of the blue. Those people had been looked at  
4 for some period of time. So he would be aware.

5 **MR. ENGELMANN:** I'm just -- I just want to  
6 make sure I understand, sir. Are you saying that you  
7 would, on a regular basis, send the CAS copies of  
8 statements that you would take?

9 **INSP. SMITH:** They were offered to them and  
10 Mr. Carriere was permitted to come to our office any time  
11 and read any statements we had in our register.

12 **MR. ENGELMANN:** Yes, but you weren't -- I  
13 mean, if they came they could look at things but you  
14 weren't advising them unless -- my understanding was when  
15 you gave them names, you were giving names of people who  
16 were about to be charged.

17 **INSP. SMITH:** Well, my understanding, sir,  
18 is that if we had a suspect ---

19 **MR. ENGELMANN:** Yes.

20 **INSP. SMITH:** --- they were advised.

21 **MR. ENGELMANN:** Okay.

22 **INSP. SMITH:** We'd want to know what did  
23 they have, you know, what did they have on these people.

24 **MR. ENGELMANN:** And did you have a regular  
25 person on your team that was to liaise with the CAS?

1                   **INSP. SMITH:** Well, Pat Hall would be the  
2 person to speak to. He kept the register of pretty well  
3 everything; who was notified, when, where, and why.

4                   **MR. ENGELMANN:** Sir, when you worked on the  
5 St. Joseph's and St. John's Training School cases, would  
6 you have had involvement with CAS officials?

7                   **INSP. SMITH:** No, we didn't.

8                   **MR. ENGELMANN:** None at all?

9                   **INSP. SMITH:** No.

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

11                   Did you have previous experience working  
12 with CAS officials from other cases?

13                  **INSP. SMITH:** Yes.

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

15                   And those would be other child sexual abuse  
16 cases?

17                  **INSP. SMITH:** Yes. I was the child abuse  
18 sexual coordinator in 1983 to '87 in Barrie and we set up a  
19 protocol with the CAS there at that time and we had an open  
20 exchange with Simcoe County Children's Aid in regard to any  
21 abuse on children.

22                  **MR. ENGELMANN:** Now, sir ---

23                  **INSP. SMITH:** In the St. Joseph, St. John's  
24 Training School I did have some contact at one time with  
25 the CAS in Toronto, and the majority of our suspects were

1 in their 70's and 80's and were invalids. However, we  
2 found that one of them that was supposed to be in the old  
3 age home was found wandering around the schoolyard.

4 And I indicated to the brothers that that  
5 wasn't to be and I wanted a letter from them confirming  
6 that they would make sure that they stayed in the LaSalle  
7 Manor where there was no access to children. They failed  
8 to provide me with that letter.

9 I sent letters to the Catholic Children's  
10 Aid in Toronto and I sent it to the Children's Aid in  
11 Toronto outlining my concerns. I never received a reply.

12 **MR. ENGELMANN:** I assume the other alleged  
13 or the suspects that you were looking at in those cases  
14 then were not in caregiver roles with children by the time  
15 you ---

16 **INSP. SMITH:** Not at that time, no. They  
17 were on their last legs, so to speak.

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

19 Sir, just at your notes again, if I may, at  
20 Bates page 266 top of the page, May 26<sup>th</sup>, '97, you're  
21 speaking with Peter Griffiths regarding a letter,

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** I think at this point he  
24 still hasn't written that letter but you want a letter from  
25 him to CIB requesting the investigation.

1                   **INSP. SMITH:** That's correct, sir.

2                   **MR. ENGELMANN:** And it's my understanding he  
3 writes the letter the next day.

4                   **INSP. SMITH:** I know that there was one that  
5 came fairly shortly afterwards.

6                   **MR. ENGELMANN:** Let's just take a quick look  
7 at it. It's Document Number 103212.

8                   **THE COMMISSIONER:** Exhibit 2680 is a letter  
9 dated May 27<sup>th</sup>, 1997 to Superintendent Edgar from Peter  
10 Griffiths.

11                   **--- EXHIBIT NO./PIÈCE NO. P-2680:**

12                                   (113212) Letter from Peter Griffiths to  
13 Superintendent L.I. Edgar dated 27 May 97

14                   **MR. ENGELMANN:** Sir, would you have been  
15 provided a copy of this at or about this time? You're not  
16 cc'd, but ---

17                   **INSP. SMITH:** I think I was.

18                   **MR. ENGELMANN:** There's a reference in the  
19 first paragraph to the Father MacDonald case and the fact  
20 that the matter is before the courts and it talks about the  
21 fact that information was shared with Perry Dunlop by  
22 complainants and then it goes on to talk about his lawsuit  
23 and conspiracy issues.

24                                   Was it your understanding, sir, that Mr.  
25 Griffiths was to request an investigation into all of the



1 new allegations that were set out in the Fantino brief?

2 INSP. SMITH: Yes.

3 MR. ENGELMANN: All right.

4 MR. ENGELMANN: And, sir, you told us that  
5 the Fantino brief then essentially became your mandate.

6 INSP. SMITH: Yes, sir.

7 MR. ENGELMANN: I don't want to -- I think  
8 those were essentially the words you used or something very  
9 similar.

10 INSP. SMITH: Yes.

11 MR. ENGELMANN: And the Fantino brief or  
12 sorry, the Project Trust mandate itself is Exhibit 331.

13 INSP. SMITH: Yes, which should cover the --  
14 -

15 MR. ENGELMANN: I think it covers it and  
16 then some, but ---

17 INSP. SMITH: Well, we made up that mandate  
18 from that brief. We expanded upon it. It might be in  
19 areas that in any other involvement that Perry Dunlop had  
20 with any other victims or suspects.

21 MR. ENGELMANN: I just want you to have it  
22 before you ---

23 INSP. SMITH: Okay.

24 MR. ENGELMANN: Before you answer some  
25 questions about it.

1                   **INSP. SMITH:** I can't even remember the  
2                   number?

3                   **THE REGISTRAR:** It's 331.

4                   **MR. ENGELMANN:** Three-three-one (331).

5                   **INSP. SMITH:** I can work from the screen. I  
6                   know it very well.

7                   **MR. ENGELMANN:** You can have my copy. I'll  
8                   work from the screen.

9                                   **(SHORT PAUSE/COURTE PAUSE)**

10                   **MR. ENGELMANN:** If you could make it just a  
11                   bit larger for me, Madam Clerk. Thank you.

12                                   So, Mr. Smith, is this the mandate as you  
13                   knew it?

14                   **INSP. SMITH:** This is the mandate as we made  
15                   it up, yes.

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

17                                   And "we" being you and Pat Hall?

18                   **INSP. SMITH:** Yes.

19                   **MR. ENGELMANN:** And that would have been  
20                   after an extensive review of the Fantino brief that both of  
21                   you would have made?

22                   **INSP. SMITH:** Yes, with Peter Griffiths and  
23                   his letter.

24                   **MR. ENGELMANN:** And this would have been  
25                   developed sometime in the late spring of 1997?

1                   **INSP. SMITH:** Yes, that's fair to say.

2                   **MR. ENGELMANN:** All right.

3                   And aside from the three of you, was there  
4 anybody else involved in the mandate, scoping it?

5                   **INSP. SMITH:** I don't believe so, sir.

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

7                   The mandate doesn't refer specifically to  
8 the Fantino brief; correct?

9                   **INSP. SMITH:** No, it doesn't.

10                  **MR. ENGELMANN:** Nor does it refer to Perry  
11 Dunlop?

12                  **INSP. SMITH:** No, sir.

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

14                  But it's your evidence that it was to cover  
15 those allegations and perhaps then some?

16                  **INSP. SMITH:** Well, I didn't put it in, but  
17 it speaks for itself, sir. The only reason we're doing  
18 this is because of the Fantino brief.

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

20                  And it talks about alleged suspects are  
21 prominent and respected citizens of Cornwall, include  
22 lawyers, Catholic priests, a Catholic bishop, teachers,  
23 probation officers, businessmen, a former chief of police  
24 and the present Crown attorney.

25                  **INSP. SMITH:** Correct.

1                   **MR. ENGELMANN:** And in drafting the mandate  
2                   this would -- well, the allegations would have -- it would  
3                   have covered the allegations in the Fantino brief and  
4                   perhaps also those allegations that may have been contained  
5                   in that Summerstown clan brief, the Orillia discussions  
6                   with Ron Leroux?

7                   **INSP. SMITH:** I believe so, yes.

8                   **MR. ENGELMANN:** And I note that there's a  
9                   reference to teachers, probation officers, and businessmen,  
10                  a reference to probation officers. There were some  
11                  allegations, I believe, dealing with Ken Seguin and/or  
12                  Nelson Barque in those materials from ---

13                  **INSP. SMITH:** Nelson Barque was still alive.

14                  **MR. ENGELMANN:** Yes.

15                  **INSP. SMITH:** So he was a probation officer.

16                  **MR. ENGELMANN:** Right. And I just -- my  
17                  question was going to be there was some reference to them  
18                  in the brief itself, to your knowledge?

19                  **INSP. SMITH:** To my -- in the Fantino brief?

20                  **MR. ENGELMANN:** Yes.

21                  **INSP. SMITH:** Oh, yes.

22                  **MR. ENGELMANN:** Yeah. And were you aware,  
23                  sir, that Nelson Barque had recently been successfully  
24                  prosecuted by the local OPP in conjunction with the CPS in  
25                  or about '95?

1                   **INSP. SMITH:** At that time I don't believe I  
2 was, sir.

3                   **MR. ENGELMANN:** Okay. That's fine.

4                   **INSP. SMITH:** I thought the -- my memory was  
5 something back in the '80s that he was investigated for and  
6 he left the probation office.

7                   **MR. ENGELMANN:** Yes, in the early '80s,  
8 that's correct. There was a Corrections investigation.  
9 There may have been an OPP investigation as well.

10                   **INSP. SMITH:** I don't know. That's --

11                   **MR. ENGELMANN:** All right.

12                   And although it describes some professions,  
13 sir, you would have also investigated some individuals who  
14 might have associated or been affiliated with the probation  
15 officer or some of the others here?

16                   For example, at one point in time there was  
17 a fellow by the name of Richard Hickerson who works at  
18 Manpower ---

19                   **INSP. SMITH:** Yes.

20                   **MR. ENGELMANN:** --- who has an association  
21 relationship with some of the probation officers.

22                   **INSP. SMITH:** It was distant, but we felt  
23 yeah, that would fit in our mandate.

24                   **MR. ENGELMANN:** All right.

25                   And would it have also included perhaps

1 justice officials or youth workers on a case-by-case basis?

2 **INSP. SMITH:** Well, prominent citizen, yes.

3 **MR. ENGELMANN:** Okay. And there didn't  
4 appear to be a requirement that the individual in question,  
5 the alleged suspect, be in a position of trust or  
6 authority, at least in your mandate?

7 **INSP. SMITH:** No, sir.

8 **MR. ENGELMANN:** All right.

9 And with respect to the businessmen, how did  
10 you make decisions on whether people were to be prominent  
11 or not?

12 **INSP. SMITH:** Well, prominently known. He  
13 could be a restaurateur at maybe just the corner lunch but  
14 he was a prominent citizen in the town.

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

16 **INSP. SMITH:** There was a jeweller. He's a  
17 prominent citizen of the town. There were -- they weren't  
18 huge businesses, but they were -- they were prominent  
19 people in the town not necessarily financially but they  
20 were well-known ---

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

22 **INSP. SMITH:** --- long-established.

23 **MR. ENGELMANN:** Was it important, given the  
24 mandate, to have discussions with local OPP detachments and  
25 the Cornwall Police Service because of possible

1 jurisdictional issues?

2 **INSP. SMITH:** We worked on the Fantino  
3 brief, and if we had some difficulties anywhere else then  
4 we spoke to the police. I recall speaking to Chief Repa  
5 and he said he didn't want this to become that we're the  
6 task force that does every sexual assault in town, that his  
7 force was fully capable of doing them. And I  
8 agreed ---

9 **MR. ENGELMANN:** Yeah.

10 **INSP. SMITH:** --- that it's not a task  
11 force, it's strictly to look at the issues that were  
12 contained in that Fantino brief. And then once we've done  
13 that then that's our end of the investigation. However, I  
14 knew that from time to time that there would be maybe some  
15 conflicting areas, and we could discuss that.

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

17 **INSP. SMITH:** I know for a fact that by the  
18 time we could get this going that Marcel Lalonde was well  
19 underway. Well, I'm not going to take over an  
20 investigation that's well underway. Had I -- had Marcel  
21 Lalonde not been being investigated at this time, we would  
22 have taken it. He would have fit in our mandate. And as  
23 it turns out maybe it's a good thing because, I mean, he  
24 was convicted and we didn't have very many convictions.

25 **MR. ENGELMANN:** Sir, aside from

1        investigating sexual abuse cases, sexual assault cases, it  
2        appears from reading it that -- and given some of the  
3        allegations that Dunlop and his lawyer were making, that  
4        the conspiracy issue from '94 is resurfaced.

5                    **INSP. SMITH:**    Yes, we decided that --  
6        because that issue would not die, that I spoke to Pat Hall  
7        and I said, "Okay, Pat" -- and he's from completely out of  
8        the area. I asked him to review Fagan's and my complete  
9        investigation before in regard to the conspiracy and also  
10       the sexual assaults ---

11                   **MR. ENGELMANN:** All right.

12                   **INSP. SMITH:** --- and see what he comes up  
13       with.

14                   **MR. ENGELMANN:** So aside from the  
15       reinvestigation of the conspiracy issue, if I can call it  
16       that, or looking at that again ---

17                   **INSP. SMITH:** M'hm.

18                   **MR. ENGELMANN:** --- and the issue of looking  
19       at individuals who may or may not have engaged in sexual  
20       abuse of young people, did your mandate also -- there's a  
21       reference at least in the Leroux material to a "clan of  
22       paedophiles" or "ring of paedophiles." Do you recall that?

23                   **INSP. SMITH:** Yes, I recall reading -- I  
24       don't know where that originated. I think it originated in  
25       the press, I think.



1                   **MR. ENGELMANN:** Okay.

2                   **INSP. SMITH:** But then once that term came  
3 out it was rampant, it was all over, and it was difficult  
4 to determine where it originated, really originated.

5                   **MR. ENGELMANN:** Well, did you ever consider  
6 it part of your mandate to investigate whether there was a  
7 paedophile ring or a clan of paedophiles?

8                   **INSP. SMITH:** I would say rather than a  
9 ring, I would say a group of organized paedophiles. Yes,  
10 that will be part of our mandate.

11                   **MR. ENGELMANN:** Well, if you were looking  
12 for a group of organized paedophiles, would you be looking  
13 for alleged perpetrators that would be associated to one  
14 another?

15                   **INSP. SMITH:** Yes, and mainly the ones that  
16 were named here in, you know, the first paragraph of our  
17 mandate.

18                   Were they organized? Were they a group that  
19 -- were they a group of paedophiles? Now, that's what  
20 we're looking at. And they were investigated individually  
21 to see where they all tied together was another facet of  
22 the investigation.

23                   **MR. ENGELMANN:** Well, there's a difference  
24 between investigating individuals for that type of activity  
25 and investigating the existence of a ring or a group, is

1           there not?

2                           **INSP. SMITH:** Well, if you investigate  
3 individuals and their connections to other individuals of  
4 the same persuasion, and you've got common -- and you have  
5 common victims, then it's part and parcel, is it not?

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

7                           So if you're investigating the group then  
8 you'd be looking for associations? You'd be looking for  
9 whether they have victims in common?

10                          **INSP. SMITH:** Yes.

11                          **MR. ENGELMANN:** You'd be looking at  
12 individuals who would have knowledge of each other's  
13 activities?

14                          **INSP. SMITH:** Yes.

15                          **MR. ENGELMANN:** You'd be looking at  
16 individuals with knowledge of activities that might cover  
17 up abuse in some kind of an organized way?

18                          **INSP. SMITH:** I'd agree with you, yes.

19                          **MR. ENGELMANN:** You might be looking at  
20 whether there's some form of organization that facilitated  
21 the abuse?

22                          **INSP. SMITH:** Yes, sir.

23                          **MR. ENGELMANN:** And some form of  
24 organization that conspired to abuse?

25                          **INSP. SMITH:** Yes, sir.

1                   **MR. ENGELMANN:** And would you say that that  
2 was the focus of your mandate?

3                   **INSP. SMITH:** I believe a part of it.

4                   **MR. ENGELMANN:** All right.

5                   **INSP. SMITH:** Not the total of it.

6                   **MR. ENGELMANN:** And if that was a focus,  
7 would you consider using techniques such as the use of  
8 wiretaps, undercover officers, other forms of surveillance?

9                   **INSP. SMITH:** No, sir.

10                  **MR. ENGELMANN:** And why is that?

11                  **INSP. SMITH:** I don't have anything active  
12 at present. The only two active ones that I was aware of  
13 at that time were -- was Mr. Leduc and Jean-Paul ---

14                  **MR. ENGELMANN:** Jean-Luc Leblanc?

15                  **INSP. SMITH:** Jean-Luc Leblanc, yeah. The  
16 rest -- I'm not going to do wiretaps on historical sexual  
17 abuses. I don't know what judge would give me an  
18 authorization on that.

19                  **MR. ENGELMANN:** Sir, with the respect to the  
20 operational plan ---

21                  **INSP. SMITH:** Yes, sir.

22                  **MR. ENGELMANN:** --- you talked to us about  
23 the letter from Griffiths dated May 27<sup>th</sup>. And you would  
24 have begun drafting an operational plan at or around that  
25 time when his request came in?

1                   **INSP. SMITH:** I imagine we commenced drawing  
2                   one up probably in March.

3                   **MR. ENGELMANN:** Okay.

4                   **INSP. SMITH:** It's something that takes a  
5                   bit of time to put together.

6                   **MR. ENGELMANN:** Had you drafted one of these  
7                   plans before?

8                   **INSP. SMITH:** Many.

9                   **MR. ENGELMANN:** Okay. And there are certain  
10                  requirements for them?

11                  **INSP. SMITH:** Yes. It goes to special fund  
12                  and it's not funded by the district or the region, it's  
13                  funded by a special fund from the -- that's set aside with  
14                  the OPP for major investigations.

15                  **MR. ENGELMANN:** And, therefore, there's some  
16                  thresholds that need to be met to access that money?

17                  **INSP. SMITH:** Yes, sir.

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

19                  I think on page 267 of your notes, you refer  
20                  to this 1803, Bates page 267, there's a reference to a  
21                  fellow by the name of Detective Inspector Jim Millar.  
22                  Would he have been involved in this?

23                  **INSP. SMITH:** At 1803?

24                  **MR. ENGELMANN:** At 1803, your notes.

25                  **INSP. SMITH:** And ---

1                   **MR. ENGELMANN:** Bates page 267 and I believe  
2                   it's the 17th of June. There's a couple of items under the  
3                   17th, the second one.

4                   **INSP. SMITH:** Okay. Yes. I believe my  
5                   operational plan was completed at that time and I was  
6                   trying to get it to Orillia, and Inspector Miller was in  
7                   the detachment and he said he would deliver it for  
8                   signatures. I had to get signatures from four or five  
9                   senior officers.

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

11                  There's a reference then, I think it's the  
12                  9th of July, indicating that the -- I think it's the deputy  
13                  commissioner required more information?

14                  **INSP. SMITH:** Yes.

15                  **MR. ENGELMANN:** So matters came back to you  
16                  to do that?

17                  **INSP. SMITH:** Yes.

18                  **MR. ENGELMANN:** And it appears that -- did  
19                  you respond right away?

20                  **INSP. SMITH:** Yes, I did. I spoke to Klancy  
21                  Grasman and I got the information and they sent it to him  
22                  and I was hoping that the secretaries would type it and put  
23                  it in the operational plan but I guess they just put it in  
24                  rough and the deputy wasn't happy with that and he returned  
25                  it again.

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

2                   But it appears, at least by July 24th, if  
3 I'm looking correctly at the next page of your notes, at  
4 Bates page 268, you're receiving the plan back with a  
5 notation.

6                   **INSP. SMITH:** Yes, again.

7                   **MR. ENGELMANN:** What's the status at this  
8 point?

9                   **INSP. SMITH:** He wants more information I  
10 imagine. He's -- let me tell you what happened. We were  
11 in the throes of change within the OPP and we had a new  
12 deputy commissioner who had no investigative experience  
13 whatsoever and who was, what I would call, a bean counter.  
14 And I had four senior officers that had all kinds of  
15 investigative experience and had written operational plans  
16 who had signed my operational plan and there were games  
17 being played.

18                   I think we were in the throes of having a  
19 new commissioner at that time and there were people  
20 jockeying for that position and I think that I got caught  
21 in the middle of that because the same man at the same time  
22 gave me an -- signed an operational plan that I had for  
23 three or four hundred thousand dollars to run a project --  
24 a drug project, and there's no problem with that.

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

1                   **INSP. SMITH:** So in the meantime I had been  
2                   -- I had expenses out and I was a senior inspector and  
3                   usually when I started a plan I'd start it and the money  
4                   would come in later after the paperwork went. It didn't  
5                   happen in this case and ---

6                   **MR. ENGELMANN:** So you're -- I don't want to  
7                   get into all the reasons, but ---

8                   **INSP. SMITH:** No, but I ----

9                   **MR. ENGELMANN:** --- what you're suggesting  
10                  is the content of your work should have been sufficient to  
11                  have that plan approved?

12                  **INSP. SMITH:** Eventually. I figured if he  
13                  couldn't read between the lines I was going to send him the  
14                  Fantino brief and he could read that.

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

16                  **INSP. SMITH:** I figured that if he couldn't  
17                  understand what was in the operational plan that I would  
18                  send him the Fantino brief and maybe he could understand  
19                  that.

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

21                  So there were -- there were some delays in  
22                  getting this plan approved?

23                  **INSP. SMITH:** Well, thanks to Chief  
24                  Superintendent Frechette I think he had a quiet word with  
25                  this individual and Pat Hall raced up to Orillia and we had

1 the funds the next day and we were rolling.

2 MR. ENGELMANN: And I'm just trying to get a  
3 sense, sir, as to when that was, and was that ---

4 INSP. SMITH: July.

5 MR. ENGELMANN: Was that July 28th? And  
6 maybe you can just help me ---

7 INSP. SMITH: In around that period.

8 I would have liked to have had -- I would  
9 have liked to have had this money back in June.

10 MR. ENGELMANN: Right.

11 INSP. SMITH: A month rather than playing  
12 games back and forth with paperwork. I'm a police officer.  
13 I do -- I'm -- I do the work.

14 MR. ENGELMANN: Yeah.

15 INSP. SMITH: Give me the money and let me  
16 roll.

17 But, in any event, that officer picked up  
18 the new position in the Ministry somewhere and was no  
19 longer a police officer shortly after this.

20 MR. ENGELMANN: Okay. So at or about the  
21 28th of July -- and I'm just trying to look at your notes  
22 at Bates page 268 -- you're advised that this is a go.

23 INSP. SMITH: On the 28th? I'm trying to  
24 see.

25 MR. ENGELMANN: Well, there's a reference to



1 July 25th, "Klancy Grasman spoke to press."

2 **INSP. SMITH:** Ottawa Sun, yeah.

3 **MR. ENGELMANN:** "Gave them brief  
4 background on Cornwall  
5 investigation."

6 **INSP. SMITH:** Yes. Okay. Here -- the 24th,  
7 yeah. Pat Hall was headed to Orillia. He'll have a cheque  
8 for 5,000 to get us started and my recollection is when he  
9 got up there, Frechette was able to bump it up to 10,000  
10 and we were rolling.

11 **MR. ENGELMANN:** Okay. In the meantime, you  
12 were -- you and/or Detective Sergeant Hall may have been  
13 self-funding some of your expenses?

14 **INSP. SMITH:** Oh, yes, that's not unusual.

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

16 **INSP. SMITH:** And scrounging vehicles and  
17 equipment and we were pretty good at that, but we needed  
18 some cash.

19 **MR. ENGELMANN:** Okay. So just a couple of  
20 questions then again to talk about the launch. The Exhibit  
21 1149 -- I don't know if you have that binder, sir.

22 **THE COMMISSIONER:** Nope.

23 **INSP. SMITH:** I might add that we were only  
24 asking for \$300,000 for a year.

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

1                   **INSP. SMITH:** We were only asking for  
2                   \$300,000 for a year ---

3                   **MR. ENGELMANN:** Yeah.

4                   **INSP. SMITH:** --- which wasn't a lot of  
5                   money.

6                   **MR. ENGELMANN:** Okay. If we could do this  
7                   again we'd have a much bigger desk up there.

8                   **THE COMMISSIONER:** But we're not.

9                                   **( LAUGHTER/RIRES )**

10                   **INSP. SMITH:** The ---

11                   **MR. ENGELMANN:** Eleven forty-nine (1149).

12                   **THE COMMISSIONER:** Just a minute.

13                   **INSP. SMITH:** Yes, sir. It appears to be a  
14                   press release.

15                   **MR. ENGELMANN:** Sir, would this have been  
16                   the press release announcing the commencement of the  
17                   Project Truth investigation?

18                   **INSP. SMITH:** That appears to be it, yes,  
19                   sir.

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

21                                   And so this would have been immediately  
22                   after your operational plan was approved?

23                   **INSP. SMITH:** That appears to be it, yes.

24                   **MR. ENGELMANN:** All right.

25                                   And would you have had some input into this

1 release?

2 **INSP. SMITH:** No, not in this one, sir, no.

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

4 And, sir, while I'm at it, it does indicate  
5 that you have been doing some investigating since the early  
6 spring.

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** Is that in fact accurate?

9 **INSP. SMITH:** Yes, we were doing the -- we  
10 were doing the death threats.

11 **MR. ENGELMANN:** Oh yes, okay.

12 **INSP. SMITH:** And we'd been with the CAS, we  
13 were doing work and -- yes.

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

15 Okay, I'd like to show the witness Document  
16 Number 726536. And Mr. Smith, it is a copy of the  
17 operational plan.

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** But I'm a little confused  
20 about the dates. Maybe this is something that had to be  
21 redone but I think it is a final version.

22 **INSP. SMITH:** Okay.

23 **MR. ENGELMANN:** I just want to show it to  
24 you.

25 **INSP. SMITH:** If you go to the last page and

1 everybody has signed it ---

2 MR. ENGELMANN: Yes.

3 INSP. SMITH: --- that's the final.

4 MR. ENGELMANN: They have but the dates

5 ---

6 INSP. SMITH: The ones that I had that kept  
7 coming back, you'll see that there's a man by the name  
8 Boose and if his signature is not there, that's the one  
9 that he sent back.

10 MR. ENGELMANN: Well, let me show you what  
11 I've got.

12 INSP. SMITH: Okay.

13 THE COMMISSIONER: Exhibit 2681 is something  
14 called the Ontario Provincial Police Operational Plan  
15 Funding Request Project Truth.

16 --- EXHIBIT NO./PIÈCE NO. P-2681:

17 (726536) - Ontario Provincial Police  
18 Operational Plan/Funding Request 'Project  
19 Truth' dated 03 Oct 97

20  
21 INSP. SMITH: Oh, I haven't seen this.  
22 It went by Boose. Deputy Nagel signed it.  
23 That's the first that I've seen that.

24 MR. ENGELMANN: All right.

25 So apparently a deputy commissioner signed

1 it on June 15<sup>th</sup>, '98?

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** The others don't sign until  
4 the fall. And I just -- at least on this document, and I  
5 just wondered if you could help us with that because it  
6 appears clear that this was approved in July in a press  
7 release.

8 **INSP. SMITH:** That's '98 though, see. I  
9 think what's happened -- this is interesting. There are  
10 other operational plans that are out there ---

11 **MR. ENGELMANN:** All right.

12 **INSP. SMITH:** --- that had dates and  
13 signatures on them, and I think you'll find the dates are  
14 June of '97.

15 **MR. ENGELMANN:** Okay.

16 **INSP. SMITH:** I never did see one with  
17 Deputy Boose's signature. In order for this to go through  
18 for the special fund there has to be a deputy  
19 commissioner's signature on it.

20 I see that his name has been scratched out  
21 and Deputy Commissioner Diane Nagel has signed that back in  
22 June the 15<sup>th</sup> '98, so that that would be on file with the  
23 special fund to cover the funds that I got.

24 **MR. ENGELMANN:** Actually I'm just looking at  
25 the date. That signature is June 15<sup>th</sup>, '98.

1                   INSP. SMITH: Yes.

2                   MR. ENGELMANN: And the others are the fall  
3 of '97.

4                   INSP. SMITH: Yes.

5                   MR. ENGELMANN: But what you're saying is  
6 there should be one that has signatures from July '97?

7                   INSP. SMITH: Oh yeah, yes. There were --  
8 this is interesting.

9                   MR. ENGELMANN: But is this the ---

10                  MR. KOZLOFF: Mr. Commissioner, for the  
11 record, there are a series of operational plans which as  
12 the witness has testified were signed by three people; one  
13 I believe was the head of CIB, one was the head of east  
14 region. I can't remember the third but they were signed  
15 and sent off to Orillia for signature by the fourth, and  
16 they came back.

17                  So there are a series of these that were  
18 signed beginning in July of 1997 and what has been shown  
19 the witness is the one that was ultimately signed in June  
20 of 1998. It doesn't seem to have stopped the project from  
21 starting, in any event.

22                  THE COMMISSIONER: M'hm.

23                  MR. ENGELMANN: Sir, just from a quick  
24 perusal, this would have been the operational plan you  
25 would have worked on? Let's just forget the signature page

1 for a minute.

2 INSP. SMITH: It appears to be the plan that  
3 I put in, yes.

4 MR. ENGELMANN: All right.

5 INSP. SMITH: Or one of the many.

6 MR. ENGELMANN: But after a certain period  
7 of time, sometime in July, you stopped submitting these  
8 because you were under the view or under the impression  
9 that things were ---

10 INSP. SMITH: Yes, Frechette, he said go  
11 ahead and I guess he got it signed somehow or other.

12 MR. ENGELMANN: All right.

13 INSP. SMITH: Had he not I still wouldn't  
14 have been here, I don't think. I'd still be fighting for  
15 money.

16 MR. ENGELMANN: All right.

17 Now, again, just to turn back to 1149 for a  
18 minute. The press release itself is fairly generic, fairly  
19 broad. All it says is that the major cases section of the  
20 Criminal Investigation Bureau of the Ontario Provincial  
21 Police is investigating allegations of sexual abuse in the  
22 Cornwall, Ontario area, right?

23 INSP. SMITH: Yes, sir.

24 MR. ENGELMANN: And it talks about how long  
25 you've been investigating, but as far as the scope or the

1 mandate from this press release, in any event, it seemed to  
2 be quite broad.

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** All right.

5 Now, sir, I want to talk to you very briefly  
6 about case management systems and I assure you it will be  
7 brief. I have decided to ask most of these questions of  
8 Mr. Hall who will be coming a bit later.

9 **INSP. SMITH:** He'd be probably better, yes.

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

11 But after you receive the approval for the  
12 funding ---

13 **INSP. SMITH:** Yes.

14 **MR. ENGELMANN:** --- and you've been working  
15 on an investigative plan, you indicate in your notes -- and  
16 if we could turn to them at Bates page 268.

17 **INSP. SMITH:** Yes, sir.

18 **MR. ENGELMANN:** There's a reference to the  
19 identification of 293 assignments ---

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** --- involving 18 suspects,  
22 20 potential victims and six confirmed victims.

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** And did you allocate those  
25 assignments amongst the officers you had on your team?



1                   **INSP. SMITH:** No, what we did was that we  
2 all got together within the brief and everything else that  
3 we had and tried to determine what had to be done and each  
4 individual thing to be done is an assignment.

5                   So that was our initial review of the brief  
6 that would show that we had at least 293 separate  
7 assignments, that there was 18 possible suspects, I  
8 believe, and -- I'm trying to read my writing again --  
9 potential I put, potentially 20 known victims and there  
10 were six confirmed victims within that brief. So that was  
11 the start.

12                   Now, each interview that you take would  
13 generate more assignments. The calls that came in with a  
14 report would generate more assignments and it just  
15 escalates as it goes on and each time something different  
16 came in a new assignment would be made.

17                   On a register we would put, okay, once we  
18 had all the -- or we had a good nucleus of the assignments,  
19 we would assign to an officer maybe four or five  
20 assignments and he would do them and he would mark the date  
21 they were assigned to him and the date that he completed  
22 them.

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

24                   The assignment register, if I can call it  
25 that, that would be part of a case management system you

1 had to put together?

2 **INSP. SMITH:** Yes, it is, yeah

3 **MR. ENGELMANN:** And was that primarily  
4 coordinated by then Detective Sergeant Hall?

5 **INSP. SMITH:** Yes.

6 **MR. ENGELMANN:** And would he have created a  
7 number of tracking systems?

8 **INSP. SMITH:** Oh, he did. He made several  
9 tracking systems.

10 **MR. ENGELMANN:** For example, tracking  
11 suspects, alleged victims, persons giving statements, Crown  
12 briefs, charges, court appearances; those things would be  
13 tracked?

14 **INSP. SMITH:** Disclosure. And these would  
15 be updated on an ongoing basis. There was a computer  
16 program that he had made up for that.

17 **MR. ENGELMANN:** As the case manager were you  
18 satisfied with those case management systems?

19 **INSP. SMITH:** I thought it was excellent.  
20 We -- that would be an enhanced case management plan. We  
21 were just -- prior to this we were doing everything on  
22 paper. This is one of the first ones that we started doing  
23 on computers.

24 **MR. ENGELMANN:** All right.

25 Now, you obtained a number of resources,

1 perhaps some both before and after the formal approval of  
2 the funding, but some of those were human resources.

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** And you've talked about some  
5 of them.

6 For example, your notes indicate on July 5<sup>th</sup>  
7 -- and that's at Bates page 268 -- that you were assigned a  
8 secretary by the name of Ms. Burns.

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** And was she assigned to the  
11 team on a full-time or a part-time basis?

12 **INSP. SMITH:** Originally, 17 hours, I think,  
13 a week, but once we got them, I can manage to get the 40  
14 hours a week or 35 that they require.

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

16 Your notes also indicate -- well, after you  
17 obtained the funding approval, you would have obtained some  
18 additional resources. I note there's a reference for an  
19 additional officer?

20 And if I can just have minute?

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **INSP. SMITH:** Well, I would have liked to  
23 have had two.

24 **MR. ENGELMANN:** Yes. Well, you're making a  
25 request, at least in early August -- I'm on Bates

1 page 269 -- for an additional officer by the name of Frank  
2 West (sic)?

3 **INSP. SMITH:** Yes. Frank Wertz.

4 **MR. ENGELMANN:** Sorry? Frank Wertz?

5 **INSP. SMITH:** Frank Wertz, yes.

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

7 **INSP. SMITH:** My plan at that time, sir, was  
8 that I would have liked to have a bilingual officer to  
9 start with, a detective, and a younger officer, and then I  
10 wanted two older officers, detectives.

11 My plan at that point, and Pat's, was  
12 that -- Detective Hall's, Sergeant Hall's -- was that we  
13 would have two teams ---

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

15 **INSP. SMITH:** --- one with an older officer  
16 and one with a younger, and Hall would supervise. I knew  
17 that I could only be here probably, at best, one day a  
18 week, if that, and that they needed on-site supervision.  
19 So I didn't want anybody on our team that was not fully  
20 dedicated and wanted to do that.

21 Wertz was an excellent police officer, and  
22 he struggled with it, but he asked that he not be taken. I  
23 had been looking to Joe Dupuis too, in addition, but I  
24 didn't want to have to take two from one detachment, but I  
25 did, and Joe Dupuis was my second. Well, I shouldn't say

1 "second". He would have been my second elder police  
2 officer.

3 **MR. ENGELMANN:** Did they both have similar  
4 backgrounds, sir?

5 **INSP. SMITH:** Frank Wertz didn't, but Frank  
6 had worked homicides with me, and he was the type of  
7 officer that could take direction and was really good with  
8 victims, really with good with victims.

9 **MR. ENGELMANN:** But that didn't work out ---

10 **INSP. SMITH:** No.

11 **MR. ENGELMANN:** --- but Mr. Dupuis did?

12 **INSP. SMITH:** Yes. I wanted Dupuis but,  
13 again, I was in trouble with Randy Millar, taking two out  
14 of his detachment.

15 **MR. ENGELMANN:** That didn't happen until  
16 later in the fall?

17 **INSP. SMITH:** Well, in September, yes.

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

19 **INSP. SMITH:** I want to go on to -- and I  
20 won't be long, but the officers that I had were dedicated  
21 in that when they came to me, the understanding was that  
22 they would -- they didn't get any overtime, and we have a  
23 Memorandum of Understanding and Association, and these  
24 officers gave up a lot.

25 They -- if they'd stayed in their

1 detachments, they would have made anywhere from \$5,000 to  
2 \$10,000 a year overtime, maybe more, because of call-outs.  
3 Because they came with me, they lost that. So the officers  
4 that stayed with me for three, four or five years lost up  
5 to \$50,000 to work on this project, and they were  
6 dedicated. So I want the public to know that, that this  
7 wasn't a free ride for them, you know.

8 **MR. ENGELMANN:** Some of these officers would  
9 have been assigned for six or seven years?

10 **INSP. SMITH:** Well, yes.

11 **MR. ENGELMANN:** Because the project went  
12 from ---

13 **INSP. SMITH:** Well ---

14 **MR. ENGELMANN:** --- '97 until sometime  
15 in ---

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** --- 2004?

18 **INSP. SMITH:** Yes. Now, I could work all  
19 the overtime I want. I'm allowed. I don't have to get  
20 permission anywhere. I can work 100 hours a week, and  
21 they'll pay me for it, but those other officers do.

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

23 **INSP. SMITH:** And they worked overtime that  
24 they didn't put in for.

25 **MR. ENGELMANN:** Sir, did you want to take a

1 break now?

2 **THE COMMISSIONER:** Maybe now, yes. That  
3 would be a good idea. Let's take the afternoon break.

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

6 This hearing will resume at 3:30 p.m.

7 --- Upon adjourning at 3:16 p.m. /

8 L'audience est adjournée à 15h16

9 --- Upon resuming at 3:33 p.m. /

10 L'audience est reprise à 15h33

11 **THE REGISTRAR:** This hearing is now resumed.  
12 Please be seated; veuillez vous asseoir.

13 **INSPECTOR TIM SMITH, Resumed/Sous le même serment:**

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

16 **MR. ENGELMANN:** Mr. Smith, just before the  
17 break we were talking about some of the resources for your  
18 Project Truth team, and my understanding is that at some  
19 point, fairly early on in the Project, you asked as well  
20 for some funding for a crime analyst? Do you recall that,  
21 sir?

22 **INSP. SMITH:** No, sir.

23 **MR. ENGELMANN:** Okay.

24 **INSP. SMITH:** Is there documentation on that  
25 someplace?

1                   **MR. ENGELMANN:** There is.

2                   **INSP. SMITH:** Would it be in the operational  
3 plan? I don't remember, sir, but it's possible that I did.

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

5                   **MR. ENGELMANN:** I'm not going to find it  
6 quickly, so I'll ask Mr. Hall.

7                   **INSP. SMITH:** It wouldn't be unusual.

8                   **MR. ENGELMANN:** Yes.

9                   **THE COMMISSIONER:** So what is a crime  
10 analyst?

11                   **INSP. SMITH:** Crime analysis is one that  
12 will analyze all the suspects with all the victims and try  
13 to tie them all in together, Mr. Commissioner ---

14                   **THE COMMISSIONER:** Oh.

15                   **INSP. SMITH:** --- in a nice, neat package,  
16 on a bristle board, I guess.

17                   **THE COMMISSIONER:** Or making linkages,  
18 if possible?

19                   **INSP. SMITH:** Yes.

20                   **THE COMMISSIONER:** Okay.

21                   **MR. ENGELMANN:** I understand that in the  
22 absence of a crime analyst you were able to obtain a  
23 computer program called "Access," A-C-C-E-S-S? Do you ---

24                   **INSP. SMITH:** Yes, sir.

25                   **MR. ENGELMANN:** --- recall that?



1                   **INSP. SMITH:** Yes.

2                   **MR. ENGELMANN:** And that allowed you to do  
3 some tracking of the investigation electronically?

4                   **INSP. SMITH:** It did, yes.

5                   **MR. ENGELMANN:** And as I understand it, the  
6 system was put in place by Staff Sergeant Hall at the time,  
7 or Detective Sergeant Hall?

8                   **INSP. SMITH:** He put it in, and it was a  
9 new -- it was a fairly new program at that time, yes.

10                   **MR. ENGELMANN:** And was that, in effect, how  
11 crime analysis was done, using this -- by Detective  
12 Sergeant Hall and the use of this program?

13                   **INSP. SMITH:** I think you'd best ask him on  
14 that, sir.

15                   **MR. ENGELMANN:** Fair enough.

16                   If we could then look at your notes for  
17 August 18<sup>th</sup>, there's a reference at the bottom of Bates page  
18 271 -- this is 1803 -- to a meeting you have with Detective  
19 Constable Genier and Crown Curt Flanagan?

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

21                   **MR. ENGELMANN:** If you'll just have a look  
22 at that? It's my understanding that during the course of  
23 that discussion there would have been some talk about  
24 having a dedicated Crown to prosecute allegations arising  
25 out of Project Truth?

1 Do you see that? Right at ---

2 INSP. SMITH: Yes.

3 MR. ENGELMANN: --- the bottom of ---

4 INSP. SMITH: Yes, sir.

5 MR. ENGELMANN: --- Bates ---

6 INSP. SMITH: Yes.

7 MR. ENGELMANN: --- page 271?

8 INSP. SMITH: Yes.

9 MR. ENGELMANN: Is that something that you  
10 would -- you wanted towards the beginning of this  
11 investigation?

12 INSP. SMITH: Yes.

13 MR. ENGELMANN: All right.

14 Did that ever happen, sir?

15 INSP. SMITH: Not really, sir. We -- may I  
16 explain what happened?

17 MR. ENGELMANN: Yes.

18 INSP. SMITH: And I'll be brief.

19 Mr. Flanagan was going to be assigned for Father Charlie  
20 and Malcolm MacDonald. He got sent away by the Ministry, I  
21 believe, to -- it was -- I believe it was something to do  
22 with gaming, a secondment, and he was gone.

23 In the meantime, Mr. Pelletier was going to  
24 take care of the Father Charlie issue, and Peter Griffiths  
25 was going to oversee and give us information, or advice, as

1 we put it in.

2 Mr. Griffiths was appointed to the Bench.  
3 Mr. Stuart was to take his place. Mr. Stuart was seconded  
4 to the SIU for a year in Toronto.

5 And then the Acting Regional Director was  
6 Bob Pelletier, and in his absence Murray MacDonald was  
7 there. So we had difficulties getting a designated Crown  
8 attorney.

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

10 Let's talk about victims assistance, victim  
11 services for a minute.

12 **INSP. SMITH:** Yes.

13 **MR. ENGELMANN:** Bates page 273, there's a  
14 reference to calling Cossette Chaffe, I believe

15 **INSP. SMITH:** Two seven three (273)?

16 **MR. ENGELMANN:** The top of page 273.

17 **INSP. SMITH:** Yes. I know I called.

18 **MR. ENGELMANN:** Were you aware, sir, that  
19 she was providing victims assistance or support, I believe  
20 in the Ottawa area?

21 **INSP. SMITH:** Well, I'd worked with Cossette  
22 all through St. Joseph's Training School ---

23 **MR. ENGELMANN:** Okay.

24 **INSP. SMITH:** --- through all the court  
25 process and everywhere else, and I was asking her for

1 information on what I could do, and she indicated there was  
2 no funding. It was gone. I asked Murray MacDonald, and  
3 there was no funding. There was nothing here in Cornwall.

4 **MR. ENGELMANN:** So what you were trying to  
5 do, sir, was get some funding to provide victims services  
6 as you had in St. John's and St. Joseph's?

7 **INSP. SMITH:** I would have liked to have had  
8 it, yes.

9 **MR. ENGELMANN:** All right.  
10 And that didn't come through doing your --  
11 -

12 **INSP. SMITH:** No.

13 **MR. ENGELMANN:** --- your work on Project  
14 Truth?

15 **INSP. SMITH:** No. I learned later that  
16 Shelley Hallett was able to get it, but -- and how she got  
17 it, I don't know, but during my time, I didn't get it.  
18 Budgets were tight. Nobody wanted to give funding to  
19 anybody.

20 **MR. ENGELMANN:** And that's something, sir,  
21 that in your view would have obviously been a good idea?

22 **INSP. SMITH:** Oh, I -- we may not be here  
23 today if I'd had it.

24 **MR. ENGELMANN:** So I want to ask you briefly  
25 about some interactions you had with Perry Dunlop. I

1 believe you told us earlier about a call that you'd had  
2 with him in 1994 shortly after you took on the first  
3 investigation.

4 **INSP. SMITH:** In January, yes.

5 **MR. ENGELMANN:** I want to talk to you about  
6 later interactions. Would it be fair to say, sir, that  
7 there were no interactions between the one in '94 until  
8 sometime in '97?

9 **INSP. SMITH:** That's correct.

10 **MR. ENGELMANN:** And we talked about the fact  
11 that you wanted to meet with him fairly early on in the  
12 project Truth Process?

13 **INSP. SMITH:** Yes.

14 **MR. ENGELMANN:** That you spoke to Chief  
15 Repa?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** And we know, sir, that you  
18 ended up meeting with him in June of '97?

19 **INSP. SMITH:** That's correct, when he  
20 returned form sick leave.

21 **MR. ENGELMANN:** Yes. Were you advised, sir,  
22 by any of the officers that you were working with that Mr.  
23 Dunlop had actually attended at parts of the Father  
24 MacDonald preliminary hearing?

25 **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** Earlier in '97?

2                   **INSP. SMITH:** Yes.

3                   **MR. ENGELMANN:** And did that cause you any  
4 concerns?

5                   **INSP. SMITH:** He was subpoenaed.

6                   **MR. ENGELMANN:** Oh, okay. He was there for  
7 that reason. All right.

8                   **INSP. SMITH:** His actions there though  
9 caused me some concerns.

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

11                                   And what was that, sir?

12                  **INSP. SMITH:** He showed in uniform and he  
13 made derogatory remarks to defence counsel and Father  
14 Charlie.

15                  **MR. ENGELMANN:** And that had gotten back to  
16 you?

17                  **INSP. SMITH:** Yes. And I didn't think that  
18 was very professional.

19                  **MR. ENGELMANN:** And you had several meetings  
20 with him during the course of the time that you were the  
21 officer in charge of Project Truth?

22                  **INSP. SMITH:** I believe three times.

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

24                                   And did you ever have a concern, sir, that  
25 any of those meetings were recorded in any way by Mr.

1 Dunlop?

2 **INSP. SMITH:** No doubt in my mind they were.

3 **MR. ENGELMANN:** And why do you say that,  
4 sir?

5 **INSP. SMITH:** Pat Hall had made a call, I  
6 guess, to the house to speak to Mrs. Dunlop on one occasion  
7 and one of the daughters had answered the telephone and she  
8 said words to the effect that -- this is hearsay Pat told  
9 me, I was there -- "Hurry, Mommy, get the tape recorder,  
10 the police are on the line." And then I saw some of the --  
11 later on I saw some of the notes that Perry Dunlop had made  
12 at the meetings that we had, and they were accurate. They  
13 were very accurate, to the point where they had to be  
14 recorded.

15 **MR. ENGELMANN:** Some of them were quite  
16 lengthy?

17 **INSP. SMITH:** Yes.

18 **MR. ENGELMANN:** And you know that he had  
19 notes in a duty notebook ---

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** --- and a will  
22 state ---

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** --- a very long will state  
25 that he prepared?

1                   **INSP. SMITH:** Now, I don't mind that he tape  
2 recorded, don't get me wrong. He tape recorded a number of  
3 things, and that's fine.

4                   **MR. ENGELMANN:** Did he ever tell you that he  
5 was tape recording ---

6                   **INSP. SMITH:** No.

7                   **MR. ENGELMANN:** --- conversations? And you  
8 suspect he was given the length and accuracy of some of his  
9 notes ---

10                  **INSP. SMITH:** Yeah.

11                  **MR. ENGELMANN:** --- and also the fact that  
12 you'd heard this from Pat Hall?

13                  **INSP. SMITH:** Yes.

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

15                  **INSP. SMITH:** And I think Mr. Hall may have  
16 some evidence of that also.

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

18                                 Now, let's talk about a few of those  
19 meetings. I think the first one was on June 11<sup>th</sup>, and  
20 that's noted in your Notebook 1803 at Bates page 266, about  
21 a third of the way down the page.

22                  **INSP. SMITH:** I can't see.

23                  **MR. ENGELMANN:** June 11<sup>th</sup>. "Meet with Perry  
24 Dunlop."

25                  **INSP. SMITH:** At 266?



1                   **MR. ENGELMANN:** Yeah. It starts with  
2                                   "Meet with Perry Dunlop and Rick Trew,  
3                                   Inspector in his office..."

4                   **INSP. SMITH:** Yes.

5                   **MR. ENGELMANN:** "...Cornwall."

6                   **INSP. SMITH:** Yes, sir. Yes, sir.

7                   **MR. ENGELMANN:** "Advise Dunlop about  
8                                   investigation into his  
9                                   allegations contained in brief.  
10                                  All will be investigated."

11                   Was that the purpose of the meeting or the  
12                   major purpose was to let him know that you had taken this  
13                   on and you were investigating?

14                   **INSP. SMITH:** This was, I believe, my --  
15                   yes, my first face to face ---

16                   **MR. ENGELMANN:** Yes.

17                   **INSP. SMITH:** --- with him, and I realised  
18                   that he had -- he'd made this brief and there were  
19                   allegations and he'd had difficulties with the police  
20                   department, and I think at that point he'd been on Fifth  
21                   Estate or something, and I just wanted to let him know that  
22                   we were investigating this, and I told him what we were  
23                   doing and what we were going about it. And I requested his  
24                   cooperation and he said he would cooperate 100 percent.  
25                   Actually it was a good meeting.

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

2                   I just want to paraphrase some of the things  
3 I think he told you from your notes, or that you told him  
4 that all investigations in his brief, what we called the  
5 Fantino brief, will be investigated?

6                   **INSP. SMITH:** Yes.

7                   **MR. ENGELMANN:** Did you tell him that you  
8 have a team of three investigators, one sergeant and two  
9 constables who've been assigned?

10                  **INSP. SMITH:** Yes.

11                  **MR. ENGELMANN:** You advised him that Curt  
12 Flanagan's been assigned as a Crown?

13                  **INSP. SMITH:** He had been at that time.

14                  **MR. ENGELMANN:** At that time, yeah. You  
15 advised Dunlop -- and as a police officer to police  
16 officer, should he have any information or any victims come  
17 forward pertaining to this investigation, that they be  
18 referred to our investigative team and not interviewed by  
19 his lawyer or Mr. Chisholm?

20                  **INSP. SMITH:** Yes.

21                  **MR. ENGELMANN:** And you wanted to ensure  
22 that so that there would not be issues about contamination  
23 of evidence or things of that nature?

24                  **INSP. SMITH:** Yes, sir.

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

1                   And it appears what you're doing is trying  
2                   to ensure that any new information that comes in, that he  
3                   turns it over to you so that you can deal with it fresh as  
4                   opposed to having it go through him?

5                   **INSP. SMITH:** Yes, sir.

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

7                   You requested his cooperation to allow you  
8                   to investigate?

9                   **INSP. SMITH:** Yes.

10                  **MR. ENGELMANN:** And you advised him that you  
11                  expected him to conduct himself in a professional manner  
12                  when he goes to court?

13                  **INSP. SMITH:** Yes, sir. And ---

14                  **MR. ENGELMANN:** Would that have referred  
15                  back to the Father MacDonald preliminary ---

16                  **INSP. SMITH:** Yes, sir.

17                  **MR. ENGELMANN:** And you advised him that any  
18                  information he has as a police officer regarding your  
19                  investigation should not be disclosed to the press as it is  
20                  not -- it is not your policy to discuss with the press when  
21                  ongoing investigations -- well, when investigations are  
22                  ongoing?

23                  **INSP. SMITH:** That's correct, sir.

24                  **MR. ENGELMANN:** He agreed to cooperate?

25                  **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** And you advised him that you  
2 did not want to become involved in his civil matter, and  
3 that your mandate was solely to investigate criminal  
4 matters which are alleged to have occurred in Canada?

5                   **INSP. SMITH:** Yes.

6                   **MR. ENGELMANN:** And your note also indicates  
7 you shook hands and left the meeting without any  
8 disagreement?

9                   **INSP. SMITH:** That's correct.

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

11                   Now, sir, he has some extra notes of that  
12 meeting, and I just want to turn to them, if I may. But I  
13 don't see a request amongst the requests that at least at  
14 that time that he should turn over any notes that he hadn't  
15 turned over already?

16                  **INSP. SMITH:** No.

17                  **MR. ENGELMANN:** And that's something that  
18 perhaps is requested at a subsequent ---

19                  **INSP. SMITH:** That was later, yes.

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

21                   Now, he has this very long will state  
22 document that was prepared in early 2000. It is Exhibit  
23 579. If we could go there briefly? I'm just going to try  
24 and -- and I'm looking at Bates page 959, 7114959.

25                  **INSP. SMITH:** Nine five nine (959)?

1                   **MR. ENGELMANN:** Yes. It's page 58 of 110,  
2 if that helps too, at the bottom.

3                   **INSP. SMITH:** Yes, sir.

4                   **MR. ENGELMANN:** All right.

5                   He indicates at the bottom of the page that  
6 Inspector Trew asks Simms to come and meet with you. Do  
7 you know, by the way, sir, if he had been made aware that  
8 you were going to meet that day or do you recall?

9                   **INSP. SMITH:** I don't know. I knew that I  
10 had asked to speak to him. Now, whether he told him or  
11 not, I don't know.

12                   **MR. ENGELMANN:** Fair enough.

13                   He said that he recognized you from the --  
14 from seeing you on television as well as in the book Boys  
15 Don't Cry. That was a book about Alfred, sir?

16                   **INSP. SMITH:** Yes, sir.

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

18                   The next paragraph, he's indicating that he  
19 -- that you will be the lead investigator and that you're  
20 in possession of the Fantino brief?

21                   **INSP. SMITH:** Yes.

22                   **MR. ENGELMANN:** And I don't know if you said  
23 this, but was told the investigation may take up to six  
24 months to complete?

25                   **INSP. SMITH:** I don't know if I'd say six

1 months. I was planning on a year.

2 MR. ENGELMANN: Okay. Fair enough.

3 INSP. SMITH: Yeah. Yeah.

4 MR. ENGELMANN: And it ended up taking quite  
5 a bit longer?

6 INSP. SMITH: Yes. Right.

7 MR. ENGELMANN: Sir, in the next paragraph  
8 there's a discussion about the Varley matter?

9 INSP. SMITH: Yes, I -- yes.

10 MR. ENGELMANN: Do you remember if you would  
11 have talked to him about that?

12 INSP. SMITH: Yeah, I probably did. Yes.

13 MR. ENGELMANN: Indicated he had  
14 investigated the incident in Summerstown where Travis Varley  
15 shot his cousin accidentally a couple of years earlier.  
16 Several young people, probation, drinking at Ken's, et cetera?

17 INSP. SMITH: M'hm.

18 MR. ENGELMANN: "Inspector Smith indicated  
19 he made Probation aware of this fact,  
20 but that nothing was every done."

21 INSP. SMITH: I don't think I said that.

22 MR. ENGELMANN: All right.

23 INSP. SMITH: I know what I told Probation.

24 MR. ENGELMANN: Yes. Did you ever get any  
25 feedback from Probation as to whether they did anything?

1                   **INSP. SMITH:** I heard there was -- there was  
2 a letter put on his file.

3                   **MR. ENGELMANN:** Now, there's a comment in  
4 the next paragraph that says:

5                                 "Inspector Tim Smith indicated he  
6                                 knew Malcolm MacDonald was a  
7                                 pedophile."

8                   **INSP. SMITH:** No.

9                   **MR. ENGELMANN:** "Was aware that  
10                                MacDonald molested boys, males in  
11                                Florida and Pennsylvania."

12                   **INSP. SMITH:** No, I didn't say that.

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

14                                Do you know if you would have talked to him  
15 at all about Malcolm MacDonald?

16                   **INSP. SMITH:** I imagine we had the  
17 discussion, but I'd never say that he was a pedophile.

18                   **MR. ENGELMANN:** Okay. Well, then the next  
19 sentence talks about CAS and the fact that you reported to  
20 CAS two years ago that Marcel Lalonde was a pedophile?

21                   **INSP. SMITH:** No, I reported to CAS that  
22 Marcel Lalonde had been identified, I guess, by Silmsen.

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

24                                So if you had referred to these gentlemen,  
25 you would have probably said alleged abuser as opposed to

1 pedophile?

2 **INSP. SMITH:** Yes. Yes, I wouldn't -- no,  
3 I'd never -- no, I didn't say he was a pedophile.

4 **THE COMMISSIONER:** Well, did you say  
5 anything close? I mean, it says here you said -- you knew  
6 Malcolm MacDonald was a pedophile and was aware that  
7 Malcolm MacDonald molested boys, males in Florida and  
8 Pennsylvania.

9 Did you have any intelligence to that  
10 effect?

11 **INSP. SMITH:** I had some information that  
12 Malcolm MacDonald liked boys.

13 **THE COMMISSIONER:** So is it possible you  
14 told him that?

15 **INSP. SMITH:** I told him that. Now, as far  
16 as the -- he's saying that he's a pedophile, I didn't say  
17 that, Mr. Commissioner.

18 **THE COMMISSIONER:** Well ---

19 **INSP. SMITH:** Yeah, he can put his own words  
20 in there, but generally ---

21 **THE COMMISSIONER:** But it's not an out and  
22 out lie. Let's assume he's used different words. You did  
23 tell him that as far as you knew Malcolm MacDonald liked  
24 little boys?

25 **INSP. SMITH:** Yes.



1                   **THE COMMISSIONER:** Okay.

2                   **MR. ENGELMANN:** All right.

3                   Then there's -- he says:

4                                 "David Silmser has made Inspector Tim  
5                                 Smith aware of this fact."

6                   This is the fact of Marcel Lalonde?

7                   **INSP. SMITH:** Yes.

8                   **MR. ENGELMANN:** And he had talked about ---

9                   **INSP. SMITH:** I guess he's -- yeah.

10                  **MR. ENGELMANN:** It says:

11                                 "Inspector Smith indicated knowledge  
12                                 of a group of pedophiles in the  
13                                 Cornwall area. The problem is how to  
14                                 get them flushed out and how to get  
15                                 victims to come forward."

16                  Do you remember if you might have used language similar to  
17                  that?

18                   **INSP. SMITH:** I don't say that I have --  
19                   that there was -- I had knowledge there was a group of  
20                   pedophiles in Cornwall, but I know that it's difficult to  
21                   get victims to come forward.

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

23                                 Again, might you have used alleged abusers  
24                                 or words to that effect as opposed to pedophile, or do you  
25                                 know?

1                   **INSP. SMITH:** It could be.

2                   **MR. ENGELMANN:** All right.

3                   And it says in the next paragraph, there's  
4                   stuff about him -- you say:

5                                 "Wanted me to forward all further  
6                                 victims to him. Coppers on the file  
7                                 who are experts in the field of  
8                                 sexual assault investigation."

9                   He mentions some names and I think one of them is clearly  
10                   wrong. Is that Lefebvre?

11                   **INSP. SMITH:** Yes.

12                   **MR. ENGELMANN:** The others were members of  
13                   your team?

14                   **INSP. SMITH:** Genier, yeah; Seguin, yes.

15                   **MR. ENGELMANN:** And then it says:

16                                 "Inspector Tim Smith then made  
17                                 reference to the pornographic tapes  
18                                 that were taken from Ron Leroux's  
19                                 residence on the search warrant. He  
20                                 said that they were destroyed by OPP  
21                                 Lancaster. Inspector Smith indicated  
22                                 he would like to have them as it  
23                                 would make his investigation a lot  
24                                 easier."

25                   **INSP. SMITH:** No, I didn't say that.

1                   **MR. ENGELMANN:** Do you remember any  
2 discussion about these tapes?

3                   **INSP. SMITH:** Oh, kind of. We discussed the  
4 tapes. He said that there were tapes there and I  
5 indicated to him that they'd been destroyed and that they  
6 were -- the information I had was that they were adult  
7 commercial tapes. He put -- he's throwing in things here  
8 that -- they're partial truths, but then he's embellishing  
9 ---

10                   **MR. ENGELMANN:** Okay.

11                   **INSP. SMITH:** --- things in here that I  
12 didn't say.

13                   **MR. ENGELMANN:** I just want to go through it  
14 briefly because ---

15                   **INSP. SMITH:** Yeah, that's fine.

16                   **MR. ENGELMANN:** This is a meeting with you.

17                   **INSP. SMITH:** No.

18                   **MR. ENGELMANN:** Then there's something about  
19 the Dunlop -- took exception, Dunlop/Bourgeois brief where  
20 it was mentioned that he kissed the Archbishop's ring.

21                   **INSP. SMITH:** No, he got that all wrong.

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

23                   **INSP. SMITH:** Actually -- see, he twists  
24 things around. Ron Wilson was with me, a constable, when  
25 we were ---

1                   **MR. ENGELMANN:** He's an OPP constable?

2                   **INSP. SMITH:** Yes. When we were  
3 interviewing the Bishop in the initial stages of Alfred, we  
4 were led to a room and left waiting there for some period  
5 of time. There was quite a rug. You could sink your  
6 ankles in it and there was a small bench up above and I  
7 jokingly said to Ron, I said, "Now, when he comes in you  
8 have to genuflect and kiss his ring; otherwise he won't  
9 talk to us."

10                   **MR. ENGELMANN:** Okay.

11                   **INSP. SMITH:** And that ended up in the book,  
12 I guess.

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

14                   **INSP. SMITH:** But I -- it wasn't me about  
15 kissing a ring.

16                   **MR. ENGELMANN:** Right.

17                   **THE COMMISSIONER:** So did he?

18                   **INSP. SMITH:** No. I ---

19                                   **( LAUGHTER/RIRES )**

20                   **INSP. SMITH:** I let him off the hook, so to  
21 speak, Mr. Commissioner.

22                   **THE COMMISSIONER:** All right.

23                   **MR. ENGELMANN:** Sir, a couple of other  
24 things, if I may. There's a reference at the top of page  
25 961:

1 "Inspector Smith indicated that  
2 although he was Catholic, he no longer  
3 attends church and, in fact, is  
4 currently being sued by the Roman  
5 Catholic Church. Indicated to me  
6 he wanted to keep the criminal  
7 investigation separate from the civil  
8 suit."

9 Any discussion of suits of your own or was  
10 it just about his suit, or do you know what that's about?

11 **INSP. SMITH:** That probably -- I was being  
12 sued by the Archdiocese, or no, I was being sued by one of  
13 the brothers.

14 **MR. ENGELMANN:** This is out of Alfred?

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** For investigating?

17 **INSP. SMITH:** Malicious prosecution, I  
18 think.

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

20 Then in any event, it talks about some of  
21 the -- you talked to him about some of the difficulties in  
22 proving things when you only have one victim and you  
23 explain why Father MacDonald was not proceeded with the  
24 first time. There's a very lengthy review of this.  
25 There's a reference, and I know this is in your notes,

1 about:

2 "Inspector Smith saying that "I should  
3 advise my brother-in-law, Carson  
4 Chisholm, not to take any more  
5 statements. Indicated the more people  
6 that become involved, the more  
7 difficult the prosecution would be."

8 You did say that?

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** And there was some  
11 discussion about Malcolm a bit later on at the top of the  
12 next page, pleading, and there's a comment about five  
13 paragraphs down:

14 "I distinctly remember at this  
15 meeting I inquired as to victims,  
16 more specifically sexual assault  
17 victims who come forward to me or if  
18 they wish my presence at a statement  
19 they may give to the police.

20 Inspector Tim Smith indicated there  
21 was no problem with that."

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** Is that accurate?

24 **INSP. SMITH:** Yes, and what I said to him at  
25 that point, "If they won't talk to me, then convince them

1           that you can come and be present when we take the  
2           statement."

3                       **MR. ENGELMANN:** It says:

4                               "The message was clear; get the  
5                               statement. That was the priority."

6                       **INSP. SMITH:** Well, no. The message was  
7           that "Get the person to come to us."

8                       **MR. ENGELMANN:** All right.

9                               That's his interpretation ---

10                       **INSP. SMITH:** Yeah.

11                       **MR. ENGELMANN:** --- of your message? All  
12           right.

13                               And there was some discussion about help for  
14           survivors as well?

15                       **INSP. SMITH:** Yes.

16                       **MR. ENGELMANN:** Is it accurate that  
17           Inspector Trew said little or nothing during the meeting?

18                       **INSP. SMITH:** Yes.

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

20                               Now, there's another meeting on August 7<sup>th</sup>,  
21           '97, and again Inspector Trew is present. And this meeting  
22           is found at Bates pages 270 and 71 of your notes. And  
23           you'll see that, sir, about three-quarters of the way down  
24           the page.

25                               And do you recall, sir, the purpose of this

1 meeting at that time, and in particular whether there had  
2 recently been any comments in the press or media that rings  
3 a bell?

4 **INSP. SMITH:** Yes, I -- I think there was  
5 something in the press the day before that was detrimental  
6 to our investigation.

7 **MR. ENGELMANN:** All right. Well, your note  
8 says, "Advise him of press and media attention.  
9 Investigation has received." Am I reading that correctly?

10 **INSP. SMITH:** "Advise him of press and  
11 media attention, investigation has  
12 received, in fact he assured us he  
13 would not speak to them. He's done so.  
14 This does not please me and can hinder  
15 the investigation. Advised him it  
16 could spook suspects and if they had  
17 any photos, et cetera, trophies that we  
18 call, they could get rid of them. He  
19 agreed and says he would not speak to  
20 the press, he said they caught him off  
21 guard."

22 And then I redress the issues of -- of the  
23 death threats and that Pat Hall was investigating, and  
24 Silmser's complaint. Now, Silmser's complaint was -- as  
25 you saw earlier today, he complained that he found out that



1 his name was on OMPPAC, on the drug, ---

2 MR. ENGELMANN: M'hm.

3 INSP. SMITH: --- on a drug register thing.

4 And he came after us on that. Well, that could have only

5 come from one place and that was Dunlop telling him that.

6 And so I told Dunlop to straighten that out with Silmsers.

7 MR. ENGELMANN: Well, the -- the

8 straightening out with Silmsers, wasn't that an issue over

9 the death threats. Silmsers had told you that Dunlop had

10 told him that someone had threatened to kill Silmsers.

11 There was some confusion about that? Dunlop denies telling

12 Silmsers this and you tell Dunlop to call Silmsers and

13 straighten it out? If you look at Bates page 271 of your

14 notes.

15 INSP. SMITH: I can't remember.

16 MR. ENGELMANN: All right. Well, it is fair

17 to say this, sir, that you asked Dunlop to call Silmsers to

18 straighten something out?

19 INSP. SMITH: Yes. And that -- that could

20 have been maybe a death threat, I don't recall that, but I

21 remember the -- the fact of the -- the OMPPAC drug thing.

22 MR. ENGELMANN: All right. And that would

23 have been an exception to your rule about him contacting

24 victims?

25 INSP. SMITH: Well, he already -- he'd been

1 in touch with Silmser and he'd been buying booze for him.  
2 He'd been all over the place with him. So that was nothing  
3 unusual, just get in touch with him, tell him -- tell him  
4 it's not true.

5 **MR. ENGELMANN:** But the -- the major purpose  
6 here of this meeting was the talking to the press, and in  
7 fact, sir, on this page, I think you make reference to the  
8 fact that Inspector Trew advised Constable Dunlop that he  
9 was going to be getting something in writing about not  
10 talking to the press.

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** All right. And, sir, did  
13 you have -- did you have any input into that?

14 **INSP. SMITH:** No, I -- he's -- he's an  
15 officer of the Cornwall police force. I brought it to  
16 their attention that I wasn't pleased with him speaking  
17 about my investigation and I asked them to instruct him to  
18 discontinue that.

19 **MR. ENGELMANN:** All right. Mr. Dunlop has a  
20 very brief note on this meeting, I don't even think I'll  
21 take you to it. It simply says the meeting was about  
22 unauthorized release to the media. And that -- that was  
23 the major thrust of this meeting all of a sudden.

24 **INSP. SMITH:** Yes, I would say that. And  
25 then anytime I had a chance to address my day perhaps on

1 other issues like I did here, with -- with Silmser.

2 **MR. ENGELMANN:** The issue with Silmser.

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** Yeah, okay. Now, the other  
5 thing that comes up at this meeting, you do ask him to give  
6 you his notes and statements and names and addresses of 14  
7 complainants. And I believe he tells you that he will do  
8 this by August 15, so approximately one week from the date  
9 of that meeting.

10 **INSP. SMITH:** Yes. I believe in that press  
11 release that he had that he had the names of all of these  
12 people and that that's where I got that information. And I  
13 wanted it.

14 **MR. ENGELMANN:** Now, do you recall Dunlop  
15 saying something to the effect that victims may not come  
16 forward unless he was involved in the case.

17 **INSP. SMITH:** Yes, sir.

18 **MR. ENGELMANN:** And that you might have said  
19 to him something like if all else fails in getting a victim  
20 to come forward then he could be used possibly as a coach  
21 to bring the victim in, but that he would not be actively  
22 involved in the case?

23 **INSP. SMITH:** I -- I think we said that in  
24 the previous interview that I had with him. That -- that  
25 if he -- if the victim wanted him to be present, and that

1 was the only way we could get the statement and finally  
2 bring him in, he could stay there, but we would take the  
3 statement.

4 And that would continue if -- if the  
5 victim's not going to come and see us under any conditions  
6 but the only way that he would show up was with Dunlop then  
7 I'll accept that.

8 **MR. ENGELMANN:** The -- the only reason I  
9 mentioned that August 7<sup>th</sup> is Inspector Trew has a comment  
10 like that in his notes for August 7<sup>th</sup> just about just what I  
11 just read to you.

12 **INSP. SMITH:** Okay. I don't disagree with  
13 that, no.

14 **MR. ENGELMANN:** All right. Okay. But  
15 again, he wasn't to do the active investigation?

16 **INSP. SMITH:** No, I -- I saw the way he took  
17 statements and -- and I wanted to write our statements.

18 **THE COMMISSIONER:** So why do you think -- do  
19 you have any idea why he wouldn't buy into this, Dunlop,  
20 that is, in the sense that here's Project Truth, you're a  
21 respected investigator, lots of experience for sexual  
22 assaults, so what went wrong?

23 **INSP. SMITH:** I -- I've asked myself that  
24 question a thousand times, Mr. Commissioner, and I think  
25 that he felt that I'm part of the enemy, I'm part of police

1 -- part of the police conspiracy and no matter how I can  
2 speak to him or whatever I would say to him wouldn't change  
3 that.

4 All I asked him for was give us a chance and  
5 at the end of the day if you don't like it, then fine, but  
6 give us a chance, but we were -- it was a struggle.

7 **MR. ENGELMANN:** Sir, I understand there was  
8 one further meeting you had ---

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** --- with Officer Dunlop, and  
11 that wasn't until July of 1998.

12 **INSP. SMITH:** Yes, sir.

13 **MR. ENGELMANN:** All right. But before we  
14 get there, I'll cover a couple of other areas. Would it be  
15 fair to say that after August 7<sup>th</sup>, with the exception of the  
16 July 23<sup>rd</sup>, '98, any meetings that would have taken place  
17 would have been Inspector or Detective Sergeant or  
18 Detective Inspector Hall as opposed to yourself after that  
19 with Dunlop, with that one exception?

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** All right. And were you  
22 aware that in later attempts to get documents from Mr.  
23 Dunlop -- Constable Dunlop, that there were some  
24 difficulties in getting disclosure from him out of his  
25 notes and/or documents?

1                   **INSP. SMITH:** Oh, definitely, yes. Yeah.

2                   **MR. ENGELMANN:** And were you aware that from  
3 time to time his lawyer would intervene, Mr. Bourgeois, and  
4 raise issues such as solicitor/client privilege or issues  
5 of that nature?

6                   **INSP. SMITH:** Yes, sir.

7                   **MR. ENGELMANN:** All right. And would  
8 Detective Sergeant Hall be bringing those types of issues  
9 back to you from time to time to keep you apprised?

10                   **INSP. SMITH:** He kept me apprised of them,  
11 yes.

12                   **MR. ENGELMANN:** Sir, I note in -- again in -  
13 - in your notes, there's a reference to a conversation with  
14 Pat Hall on September 17<sup>th</sup>, 1997, at page 272. And this is  
15 just before you're to have another press release that's  
16 going to go out in late September.

17                   **INSP. SMITH:** Yes.

18                   **MR. ENGELMANN:** And I'm just going to find  
19 the note, yeah, sorry. It's Bates page 272.

20                               "Call from Pat Hall. Office pretty  
21 well set up. Investigations are doing  
22 interviews going through what Dunlop  
23 gave them. Dunlop has not yet provided  
24 notes. Mrs. Dunlop quoted in press..."

25                               I can't read the next line.

1                   INSP. SMITH: "...who have reported same."

2                   MR. ENGELMANN: Want to put out something  
3                   about Project Truth?

4                   INSP. SMITH: Yes, our phone number and ---

5                   INSP. SMITH: Yes:

6                                 "We are planning press release,  
7                                 hopefully next week."

8                   INSP. SMITH: Yes.

9                   MR. ENGELMANN: "Charlie Greenwell called  
10                                 in."

11                   -- et cetera.

12                   INSP. SMITH: Yes.

13                   MR. ENGELMANN: All right. So there's a  
14                   concern to -- you've sent out a press release in July but  
15                   now that you've got an office, you've got a phone number?

16                   INSP. SMITH: M'hm.

17                   MR. ENGELMANN: You want to make this  
18                   available to the public?

19                   INSP. SMITH: Yes.

20                   MR. ENGELMANN: And in fact after the July  
21                   release, you had some immediate responses?

22                   INSP. SMITH: Yes.

23                   MR. ENGELMANN: Did you not?

24                   INSP. SMITH: Yes.

25                   MR. ENGELMANN: For example, Claude Marleau

1           came in?

2                           **INSP. SMITH:** Yes, the next day or if not  
3           that day.

4                           **MR. ENGELMANN:** Right. And so were there in  
5           fact some immediate responses after the September release  
6           as well?

7                           **INSP. SMITH:** I believe there were, sir,  
8           yes.

9                           **MR. ENGELMANN:** And, sir, as I understand  
10          it, a press release was planned. In fact, a press  
11          conference was held?

12                          **INSP. SMITH:** It was a conference, yes, sir.

13                          **MR. ENGELMANN:** Yes, on September 25<sup>th</sup>, '97?

14                          **INSP. SMITH:** Yes.

15                          **MR. ENGELMANN:** Were you in attendance, sir?

16                          **INSP. SMITH:** No, sir.

17                          **MR. ENGELMANN:** All right. Do you know who  
18          was representing the team?

19                          **INSP. SMITH:** I believe Superintendent  
20          Fougere conducted that one and then the previous one was  
21          Superintendent Edgar.

22                          **MR. ENGELMANN:** Yes, there's a reference in  
23          your notes, Bates page 273:

24                                        "September 24<sup>th</sup>, '97, Project Truth,  
25                                        Cornwall, press conference preparation



1 and work on case."

2 **INSP. SMITH:** Okay.

3 **MR. ENGELMANN:** Correct?

4 And at that time, you were typically in the  
5 office either a Thursday or a Friday, or one day a week,  
6 sometimes two if necessary?

7 **INSP. SMITH:** I tried to be there usually on  
8 Thursday afternoons and we'd have a brief. We'd go out for  
9 dinner, talk about the case, Friday morning make the plans  
10 for the next week. I would get the information I required  
11 to report to our headquarters how the progress was going  
12 and then I would go on to my other cases.

13 **MR. ENGELMANN:** And the document that was  
14 prepared for the press release, that's Exhibit 1531?

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **MR. ENGELMANN:** The Document Number for  
17 counsel is 730452.

18 Mr. Smith, I believe we've heard from a  
19 former inspector, Carson Fougere?

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** That the first two pages of  
22 this document were prepared to be released to the press at  
23 the conference on September 25<sup>th</sup>, 1997? Do you have any  
24 knowledge of that, sir?

25 **INSP. SMITH:** That would have been prepared

1 by one of our news media people, I believe, from the  
2 region. Since deceased, she was killed in a car accident,  
3 but I forget her name.

4 She would have prepared this from the  
5 overview that we gave. This was an overview of the  
6 investigation, everything to date that we gave to her to  
7 make this up.

8 **MR. ENGELMANN:** Would this have been part of  
9 the overview that would have been used for the operational  
10 plan?

11 **INSP. SMITH:** Yes. Yes, I think so.

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

13 **INSP. SMITH:** What happens in these cases is  
14 that Carson Fougere wouldn't be fully aware of everything  
15 that was going on that we were doing. So what we would do  
16 is we would provide an overview of our investigation, where  
17 we'd been, what we were doing, what we hoped to do, so that  
18 he could answer those questions from the press.

19 And Fougere was also bilingual and that  
20 helped on this case, whereas Edgar wasn't. That's why he  
21 did it instead of Edgar.

22 **MR. ENGELMANN:** So would you have been  
23 responsible for putting some of this package together for  
24 him?

25 **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** All right. And would you  
2 have had a meeting with him beforehand to brief him or  
3 would someone?

4                   **INSP. SMITH:** Yes.

5                   **MR. ENGELMANN:** And that would have been the  
6 day before, sir, or ---

7                   **INSP. SMITH:** I believe it was early that  
8 morning.

9                   **MR. ENGELMANN:** All right. Were others  
10 involved in that briefing as well?

11                   **INSP. SMITH:** I'm sorry.

12                   **MR. ENGELMANN:** Would others have been  
13 involved in that briefing also?

14                   **INSP. SMITH:** Pat Hall would have been with  
15 me.

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

17                   Aside from your involvement in the  
18 preparation for this press conference, were you involved in  
19 any other media reports issued as a result of Project  
20 Truth?

21                   **INSP. SMITH:** Not that I can recall, sir.

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

23                   **INSP. SMITH:** The difficulty with that is if  
24 I start speaking to the press, I've got -- or Pat Hall --  
25 we've got too much knowledge and they could ask questions

1 that could get into evidence and the old standard answer  
2 really doesn't wash, it doesn't go well, you know. I can't  
3 reply to that because this is an ongoing case or it's  
4 before the courts, it's inappropriate to reply. The press  
5 doesn't like that.

6 **MR. ENGELMANN:** Whereas someone at Officer  
7 Fougere's level wouldn't have that active working knowledge  
8 of the file?

9 **INSP. SMITH:** Yes, sir.

10 **MR. ENGELMANN:** So could avoid perhaps those  
11 questions?

12 **INSP. SMITH:** Yes, sir.

13 **MR. ENGELMANN:** In an easier fashion?

14 **INSP. SMITH:** Yes, sir.

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

16 So let's talk briefly about the daily  
17 workings of Project Truth. As I understand it, once the  
18 project was up and running, your role was to act as the  
19 case manager?

20 **INSP. SMITH:** Yes, sir.

21 **MR. ENGELMANN:** And that Inspector Hall  
22 would -- would Inspector Hall be making most of the day-to-  
23 day decisions about the project?

24 **INSP. SMITH:** Yes, he would, yes.

25 **MR. ENGELMANN:** And he would presumably seek

1 your advice on various issues?

2 **INSP. SMITH:** We were in close contact  
3 pretty well on everything.

4 **MR. ENGELMANN:** Can you give us a sense as  
5 to how frequently you would be in contact or would it vary  
6 from week to week?

7 **INSP. SMITH:** Oh, at least a few times a  
8 week and then I'd be down there on Thursday or Friday.

9 **MR. ENGELMANN:** All right. It was typically  
10 phone contact and then you'd be down ---

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** --- as you've just  
13 described?

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** And, sir, would project  
16 officers speak with you directly to ask for your advice or  
17 would they generally approach Pat Hall first?

18 **INSP. SMITH:** Pat Hall; he's their  
19 supervisor, yes.

20 **MR. ENGELMANN:** Just based on a review of  
21 the notes, just during the seven years or so that Project  
22 Truth was on, formal statements taken by yourself, I've  
23 only got about five. There were a couple of individuals,  
24 alleged victims, that you would have interviewed in mid-  
25 December of '97?

1                   **INSP. SMITH:** Yes.

2                   **MR. ENGELMANN:** I understand that they may  
3 have been out west?

4                   **INSP. SMITH:** Yes, I had some other work to  
5 do out in Vancouver and Victoria and that was an  
6 opportunity to -- rather than send somebody else out, I  
7 think I took two or three statements pertaining to this  
8 investigation and a number of other statements that  
9 pertained to St. John's, and I think another one was on a  
10 homicide.

11                   **MR. ENGELMANN:** And aside from those two,  
12 you would have interviewed Murray MacDonald and Bishop  
13 LaRocque December 17<sup>th</sup> and December 18<sup>th</sup> of 1998?

14                   **INSP. SMITH:** Yes, with Pat Hall.

15                   **MR. ENGELMANN:** And you were involved in  
16 those two because you had been involved in them before?

17                   **INSP. SMITH:** Prior, yes.

18                   **MR. ENGELMANN:** And I understand as well you  
19 were involved at least in an attempted interview to take a  
20 statement at the Saltaire Motel in Fort Lauderdale, Florida  
21 in May of '99?

22                   **INSP. SMITH:** Yes. I'll quickly explain  
23 that.

24                   I was -- a few weeks prior to that, I was  
25 called to testify on a homicide case down at Fort

1       Lauderdale and I'd had contact -- it was a fellow that we  
2       picked up here in '93 who had murdered somebody in Fort  
3       Lauderdale.

4                   And I worked on the extradition and I  
5       developed a rapport with two detectives from Fort  
6       Lauderdale, Tony Lewis and Dave Apps (phonetic). And when  
7       I was down there for the -- I don't know the court  
8       procedure but prior to the trial, maybe it was the grand  
9       jury or whatever it was, they took me around and showed me  
10      the areas -- the Saltaire; where the old Red Flamingo Hotel  
11      had been but it was destroyed.

12                   And I was going to be called down a week or  
13      two later to testify again in the trial and I thought that  
14      would be a good opportunity for Pat, since he had taken  
15      over from me.

16                   I was still -- I still carried my badge, I  
17      was still a police officer, until effectively September  
18      the 30th.

19                   So, we decided that we'd go down and attempt  
20      to speak to them, at the Solitaire. I didn't call ahead,  
21      and we waited until about 2:00 o'clock in the afternoon,  
22      which usually is the quiet time in a motel, and we went in  
23      with the detective and Pat Hall and myself and -- I forget  
24      his last name, but Bill was not very receptive at all to  
25      our presence there, and ordered us off the property. He'd

1 "had enough," et cetera, et cetera.

2 But I had the opportunity to speak to his  
3 wife and -- briefly, and she said, "Call tomorrow." She  
4 said, "He's been harassed to no end, and just call tomorrow  
5 and I'll speak to you."

6 **MR. ENGELMANN:** As I understand it, sir,  
7 this interview -- this attempted interview was conducted in  
8 response to allegations that had been made by Ron Leroux  
9 and also in response to allegations published in the media  
10 by a member of the Provincial parliament, Garry Guzzo?

11 **INSP. SMITH:** That's correct.

12 **MR. ENGELMANN:** And, essentially, that there  
13 were individuals from Cornwall who were committing sexual  
14 offences with minors in the vicinity of this motel?

15 **INSP. SMITH:** That's correct.

16 **MR. ENGELMANN:** And this would presumably be  
17 a matter that, typically, American law enforcement ---

18 **INSP. SMITH:** Exactly.

19 **MR. ENGELMANN:** --- individuals would  
20 investigate?

21 **INSP. SMITH:** Exactly.

22 But it -- I felt, at that time, it may  
23 be -- in the big scheme of everything, it would be a good  
24 idea to speak with this individual and see -- see if, in  
25 fact, there were records that these people were there, and



1           there was maybe some of this activity that went on.

2                       **MR. ENGELMANN:** All right.

3                       **INSP. SMITH:** I can tell you that the motel  
4 was modest; it was a family motel. I saw kids in the  
5 swimming pool.

6                       It wasn't a dump. It was two blocks off the  
7 main drag. That area was rampant with gay people, of all  
8 ages.

9                       **MR. ENGELMANN:** I'm sorry, gay...?

10                      **INSP. SMITH:** Of gay people of all ages.

11                      Two blocks behind the motel was a Covenant's  
12 House where there were runaways from all over the country  
13 that would show up. We asked them about, you know, young  
14 people, and they said, "Well, come with us," and it was an  
15 eye-opener.

16                      It was just -- it was everything that you  
17 could think of on the -- on the beach and on the streets.

18                      Restaurants at night that we saw, there'd be  
19 200 people there, that was -- there wasn't a female to be  
20 seen. It as very openly gay.

21                      They -- we eventually did get to speak to  
22 the lady and Pat made -- by correspondence, got a statement  
23 from her, and they co-operated.

24                      **MR. ENGELMANN:** Just before you go there

25                      ---

1                   **INSP. SMITH:** Yes?

2                   **MR. ENGLEMANN:** --- the strip you talked  
3                   about, were there male prostitutes?

4                   **INSP. SMITH:** Oh!

5                   **MR. ENGLEMANN:** Just off ---

6                   **INSP. SMITH:** Yeah.

7                   In fact, the reason I was down there for  
8                   that trial, was that male -- there were two male  
9                   prostitutes who killed a gay man, stole his car, and one of  
10                  them ended up here, the other ended up in Boise, Idaho, and  
11                  both are serving life in prison for his murder now.

12                  **MR. ENGELMANN:** And were there some young  
13                  people who ---

14                  **INSP. SMITH:** Yes.

15                  They were -- they were 18, but it -- it was  
16                  obvious that there were people that looked younger than 18  
17                  on the strip.

18                  **MR. ENGELMANN:** But the motel itself, when  
19                  you were there, appeared to be a family-run motel ---

20                  **INSP. SMITH:** Yes.

21                  **MR. ENGELMANN:** --- with family clients?

22                  **INSP. SMITH:** Yes.

23                  Subsequently, I learned, though, that many  
24                  years prior, that it was frequented by gays, but the owner  
25                  had slowly changed the outlook of the motel and it became

1 more of a family motel.

2 MR. ENGELMANN: And you were -- even though  
3 the owner himself wasn't keen on meeting with you, his wife  
4 did speak to you the next day?

5 INSP. SMITH: She spoke to me on the  
6 telephone ---

7 MR. ENGELMANN: All right.

8 INSP. SMITH: --- and agreed that we could  
9 ask our questions and everything by correspondence.

10 And Inspector Hall put together a package of  
11 what we were looking at, sent it to her, and there was  
12 correspondence back and forth, and -- and that's where  
13 it -- I think there's a statement that ---

14 MR. ENGELMANN: And, sir, I understand you  
15 wrote this up in the form of a Will Say?

16 INSP. SMITH: Yes.

17 MR. ENGELMANN: And that's Document Number  
18 712259?

19 INSP. SMITH: Yeah, in the meantime, while  
20 they're getting -- we also went to the Fort Lauderdale  
21 Police Department, and we spoke to detectives there, and we  
22 went through their computer system for every -- all of the  
23 names that showed up in our investigation here, and ran  
24 them through their computer, and with negative results.

25 We also went for any of the occurrences that

1           they had there, and I think the only thing we found was a  
2           stolen wallet or a lost wallet.

3                   **MR. ENGELMANN:** And, sir, when it came to  
4           actually talking to the wife's -- the owner's wife, I  
5           should say, she was able to identify Malcolm MacDonald ---

6                   **INSP. SMITH:** Yes.

7                   **MR. ENGELMANN:** --- but not some of the  
8           other individuals that you asked about?

9                   **INSP. SMITH:** As I recall, she -- she  
10          referred to Malcolm as very quiet, kept to himself, and had  
11          come there for a number of years and was a -- a good  
12          tenant, and she didn't see anything untoward.

13                   **THE COMMISSIONER:** So Exhibit 2682 is a Will  
14          Say of -- re attempted interviews of owners of Saltaire  
15          Motel, Fort Lauderdale, Florida.

16          ---EXHIBIT NO./PIÈCE NO-2682:

17                               (712259) - Will Say of Tim Smith re:  
18                               Attempted interview of Owners  
19                               Saltaire Motel, Fort Lauderdale, FLA

20                   **MR. ENGELMANN:** I'm sorry, sir, I missed the  
21          number.

22                   **THE COMMISSIONER:** Two, six, eight, two  
23          (2682).

24                   **MR. ENGELMANN:** And, Mr. Smith, when  
25          Mr. Guzzo was here, he talked to us about meeting with a

1 former bookkeeper ---

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** --- from this motel, and  
4 looking at some records.

5 Do you know -- did you inquire about the  
6 name of a former bookkeeper, or try and meet with a former  
7 bookkeeper from the motel?

8 **INSP. SMITH:** I was unaware of any of that,  
9 at that time.

10 **MR. ENGELMANN:** Okay.

11 **INSP. SMITH:** But I think, if you put that  
12 question to Inspector Hall, I believe he did some follow-up  
13 on that.

14 **MR. ENGELMANN:** Fair enough.

15 **INSP. SMITH:** And we also attempted to find  
16 out if there was a retired detective that had worked there  
17 with but the police indicated to us that there were a  
18 number of people did it, and they couldn't lead us in that  
19 direction.

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

21 In fact, if I remember correctly, as well  
22 you would have -- perhaps this was Mr. Hall, but written  
23 questions were sent to the owner of the motel, and answers  
24 were provided?

25 **INSP. SMITH:** I'm told that's what -- I

1 didn't see them.

2 MR. ENGELMANN: Fair enough.

3 INSP. SMITH: I was -- for all intents and  
4 purposes, I was pretty well retired at this point.

5 MR. ENGELMANN: Right.

6 And, sir, just talking about some of the  
7 other things you have going, because you told us that you  
8 did have a number of things going during -- even while you  
9 were the case manager ---

10 INSP. SMITH: Yes, sir.

11 MR. ENGELMANN: --- responsible for Project  
12 Truth, and before your retirement.

13 There are significant gaps of time ---

14 INSP. SMITH: Yes.

15 MR. ENGELMANN: --- in your notes.

16 INSP. SMITH: Yes.

17 MR. ENGELMANN: So, for example -- I can  
18 just give you the Bates pages -- but Bates pages 273, 274,  
19 277, we've got nothing between 24 September and December of  
20 '97, with the exception of one contact on November 7th.

21 INSP. SMITH: Okay.

22 MR. ENGELMANN: Then ---

23 INSP. SMITH: I can explain that.

24 MR. ENGELMANN: So you're -- you're doing  
25 other work -- is that ---

1                   **INSP. SMITH:** Well, yes, I was, and I was  
2 down here in late August, and my father, who lives alone,  
3 took a stroke, and so I spent a month with him while he  
4 died, and then I returned.

5                   **MR. ENGELMANN:** Okay.

6                   Sir, other gaps were March 31<sup>st</sup>, '98 to 14th  
7 of May, '98; July 22<sup>nd</sup>, '98, through December 4<sup>th</sup>, '98; and  
8 then December 18<sup>th</sup>, '98 to March 10<sup>th</sup>, '99.

9                   **INSP. SMITH:** For all intents and purposes,  
10 sir, in -- I was ready to retire probably in June, I guess,  
11 and I was asked if I wanted to take a case on in  
12 Newfoundland, and it was a nice case to -- to take on, to  
13 finish my career with, and I -- it was three or four months  
14 in Newfoundland, maybe up until November, I guess.

15                   And so I took it and then I returned and, by  
16 that time, things had progressed so much in this that it  
17 was difficult for me to stay up on it.

18                   Pat Hall had been successful in a  
19 competition to become an inspector. He was running the  
20 show pretty well.

21                   **MR. ENGELMANN:** So when -- when there are no  
22 notes, that indicates perhaps no active involvement on your  
23 part, but there may have been a phone call ---

24                   **INSP. SMITH:** Oh, yes.

25                   **MR. ENGELMANN:** --- during that time ---

1                   **INSP. SMITH:** We -- there'd be ---

2                   **MR. ENGELMANN:** --- that you wouldn't have  
3 noted?

4                   **INSP. SMITH:** Yes, there'd be phone calls  
5 when I was down in Newfoundland. I know I called them back  
6 and forth and ---

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

8                   **INSP. SMITH:** Yes.

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

10                   And when you were in charge of the Project  
11 Truth investigation as the case manager, would you report  
12 to a director or deputy director of the CIB unit in  
13 Orillia?

14                   **INSP. SMITH:** Yes.

15                   I was to report to the director, but quite  
16 often, he was out of the office so it would be the deputy  
17 director, Klancy Grasman.

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

19                   **INSP. SMITH:** At that time.

20                   **MR. ENGELMANN:** And did that reporting  
21 relationship change at all during the project?

22                   **INSP. SMITH:** I don't believe so, sir.

23                   **MR. ENGELMANN:** All right. And would either  
24 yourself or Pat Hall have been responsible for writing  
25 periodic reports to the CRB about the case?



1                   **INSP. SMITH:** Yeah. Yes.

2                   **MR. ENGELMANN:** And was this typically Mr.  
3 Hall who would write those reports?

4                   **MR. ENGELMANN:** Most often, yes.

5                   **MR. ENGELMANN:** Okay. And you would have  
6 reviewed them and been satisfied with the contents?

7                   **INSP. SMITH:** I may not have been around  
8 when he -- when he sent them in. I may have been in  
9 Newfoundland or elsewhere.

10                   **MR. ENGELMANN:** Fair enough.

11                   **INSP. SMITH:** Yeah.

12                   **MR. ENGELMANN:** But if you were here, you  
13 would have reviewed them?

14                   **INSP. SMITH:** Yes.

15                   **MR. ENGELMANN:** Now, with respect to the  
16 Father MacDonald allegations in '97, we talked a little bit  
17 about that issue and that it arose in April at the initial  
18 meeting, Project Truth, and there were issues about  
19 disclosure to his counsel.

20                   **INSP. SMITH:** Yes.

21                   **MR. ENGELMANN:** We know that there was a  
22 preliminary inquiry in February and then it resumed in  
23 September and that in late October of '97 Father MacDonald  
24 was committed for trial on the first set of charges, the  
25 charges involving Silmser/MacDonald and C-3; you were aware

1 of that?

2 **INSP. SMITH:** I -- I -- probably, yes. I

3 ---

4 **MR. ENGELMANN:** All right. And were you  
5 also aware that the Project Truth team began interviewing  
6 some other possible witnesses in the fall of '97, and this  
7 would have been after the press conference?

8 **INSP. SMITH:** I can't remember, but it's  
9 likely, yeah.

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

11 Were you aware, sir, that a Crown brief was  
12 submitted by Officer Dupuis to Crown Pelletier about new  
13 alleged victims of Father MacDonald in early January of  
14 '98?

15 **INSP. SMITH:** I can't remember, sir.

16 **MR. ENGELMANN:** All right. I'll ask Mr.  
17 Hall. Do you recall if you had any discussions with the  
18 Crown Attorney, Mr. Pelletier, about the -- about giving  
19 this investigation priority or trying to speed it up, if I  
20 can use that term, because of any ongoing concerns about  
21 delay?

22 **INSP. SMITH:** No, sir.

23 **MR. ENGELMANN:** All right. Were you aware  
24 at all of a conversation that may have occurred between the  
25 Crown Attorney and Father MacDonald's lawyer about whether

1       these charges, the first set of charges and then the second  
2       set of charges should be held together or consolidated in a  
3       single trial?

4               **INSP. SMITH:** Yes, I remember receiving a  
5       call from Pelletier to go ahead with those charges and then  
6       shortly after that, I -- I spoke to Neville and he was tied  
7       up in a homicide in Carleton Place, I believe, and he was  
8       aware that those charges were before -- were before the  
9       courts or were going to be before the courts when Father  
10      Charles came in.

11              **MR. ENGELMANN:** All right. Sorry.

12              Were you advised by Officer Dupuis about any  
13      conversation that may have occurred between Mr. Pelletier  
14      and Father MacDonald's counsel about any waiver of Section  
15      11(b) *Charter* rights?

16              **INSP. SMITH:** No, sir.

17              **MR. ENGELMANN:** Sir, with respect to Claude  
18      Marleau, you were aware that shortly after the initial  
19      press release that talked about broadly investigating  
20      sexual abuse, sexual assault in July of '98, that -- that  
21      Claude Marleau contacted the OPP and was referred to  
22      Project Truth?

23              **INSP. SMITH:** Yes, sir.

24              **MR. ENGELMANN:** All right. There's a  
25      reference to this in your notes at around Bates page 268.

1                   **INSP. SMITH:** Yes, I received a phone call  
2                   from Superintendent Edgar to call Claude Marleau at eleven  
3                   o'clock on the 28th of July '97.

4                   **MR. ENGELMANN:** And as we've indicated  
5                   earlier, this was right after that initial press release?

6                   **INSP. SMITH:** Yes, sir.

7                   **MR. ENGELMANN:** All right. And I'll just be  
8                   a second.

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

10                   **(SHORT PAUSE/COURTE PAUSE)**

11                   **MR. ENGELMANN:** Sir, if you'll turn the page  
12                   to Bates page 269, it appears that on or about the first of  
13                   August, according to your notes, August '97, you were  
14                   advised by Officers Genier and Paul that they've  
15                   interviewed two victims. This was Mr. Marleau and another  
16                   fellow, and they now have 10 new suspects; I think it says  
17                   four priests, six civilians?

18                   **INSP. SMITH:** And one doctor.

19                   **MR. ENGELMANN:** And one doctor?

20                   **INSP. SMITH:** Yes.

21                   **MR. ENGELMANN:** Okay. So after interviewing  
22                   Mr. Marleau and this other fellow, it appears that the  
23                   number of victims, the number of suspects you were looking  
24                   at grew quite a bit?

25                   **INSP. SMITH:** Oh, it did.

1                   **MR. ENGELMANN:** From the Dunlop review?

2                   **INSP. SMITH:** Yes. Yes.

3                   **MR. ENGELMANN:** All right. So this was a  
4 major part of the investigation?

5                   **INSP. SMITH:** I would say it was, yes, sir.

6                   **MR. ENGELMANN:** And was there any discussion  
7 that you would have had with then Detective Sergeant Hall  
8 about whether or not these allegations were within your  
9 mandate?

10                   **INSP. SMITH:** Yes.

11                   **MR. ENGELMANN:** Okay. I mean, they didn't  
12 come from Dunlop; they didn't come from the Fantino brief?

13                   **INSP. SMITH:** No, but there was a doctor and  
14 I believe he was a coroner.

15                   **MR. ENGELMANN:** Okay?

16                   **INSP. SMITH:** Dr. Peachy. I figured that  
17 that would fit in our mandate.

18                   **MR. ENGELMANN:** And you had several priests?

19                   **INSP. SMITH:** Yes.

20                   **MR. ENGELMANN:** And you had some business  
21 people?

22                   **INSP. SMITH:** Yes. And -- and it was  
23 historic.

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

25                   **INSP. SMITH:** And it was historic.

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

2                   **(SHORT PAUSE/COURTE PAUSE)**

3                   **MR. ENGELMANN:** Now, there was another  
4 fellow that was looked at by the name of Lionel Carriere.  
5 Does that name ring a bell, sir?

6                   **INSP. SMITH:** Yes, sir.

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

8                   **MR. ENGELMANN:** There's no moniker, but I --  
9 if I can avoid to use names I do. You're familiar, sir,  
10 with the fact that I believe he was a brother. Am I  
11 correct on that?

12                   And actually a brother who had been at -- he  
13 had another name as well. I believe the name was George  
14 Edmond, this fellow, Carriere?

15                   **INSP. SMITH:** I can't remember, sir.

16                   **MR. ENGELMANN:** All right. Would you  
17 recall, sir, whether the complaints against him would have  
18 resulted from alleged abuse at St. Joseph's?

19                   **INSP. SMITH:** Was that the fellow I  
20 interviewed out in Lions's Head in Victoria that gave me  
21 that?

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

23                   **INSP. SMITH:** I interviewed somebody out in  
24 Lions's Head ---

25                   **MR. ENGELMANN:** The two fellows you

1 interviewed out West?

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** No, neither of them.

4 **INSP. SMITH:** The one that was at -- that  
5 made a complaint against a brother at St. Joseph's and he  
6 had a brother?

7 **MR. ENGELMANN:** No, that's another  
8 individual.

9 **INSP. SMITH:** Oh. Well, then I can't  
10 remember.

11 **MR. ENGELMANN:** All right.

12 **INSP. SMITH:** I can't remember.

13 **MR. ENGELMANN:** Do you recall in the  
14 investigation of -- and I can ask Mr. Hall this -- but at  
15 the investigation of Brother Carriere, whether there was  
16 some discussion as to whether allegations relating to  
17 Alfred should be included within Project Truth or not?

18 **INSP. SMITH:** I would say no.

19 **MR. ENGELMANN:** Okay. Well it does appear  
20 that there were several that were excluded for that reason,  
21 and I was just wondering if you know why this one might  
22 have been included?

23 **INSP. SMITH:** I'm not familiar with it.

24 **MR. ENGELMANN:** Now, sir, from time to time,  
25 would you have discussions with the Cornwall Police Service

1 about whether a case was within their mandate or within  
2 your own?

3 **INSP. SMITH:** Yes, sir.

4 **MR. ENGELMANN:** All right.

5 And I know, sir, that there is some  
6 reference to this in notes of Inspector Trew. And I don't  
7 believe notice was given on this. I want to just refer to  
8 it very briefly. It's Exhibit 773. And this is taking  
9 place in or about February of '98.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. ENGELMANN:** The Document Number is  
12 713870.

13 **THE COMMISSIONER:** Just put it on the screen  
14 for him. It's okay.

15 **MR. ENGELMANN:** I can hand up my copy,  
16 713870.

17 **INSP. SMITH:** Thank you.

18 **MR. ENGELMANN:** It's really just the first  
19 page, Mr. Smith, perhaps a little onto the second. There's  
20 no reference in your notes to this, but it's something that  
21 happens on February 3<sup>rd</sup> of '98. And what I'm -- it says:

22 "Smith briefs me..."

23 About four lines down:

24 "...that they have five to seven  
25 further victims that are historical



1 sexual assaults on males by adult  
2 males. Basically calls to let CPS know  
3 they will be working on them. A  
4 discussion takes place with Insp. Smith  
5 and I on the possibility that some are  
6 or could be solely in the jurisdiction  
7 of Cornwall."

8 I'm sorry, I'm on Bates page 7053373.

9 **INSP. SMITH:** Yes, I'm following you. Yes.

10 **MR. ENGELMANN:** "Discussion takes place."

11 Sorry:

12 "I advise Insp. Smith that I will be  
13 speaking to Chief Repa pertaining to  
14 our discussion, its jurisdiction..."

15 February 3<sup>rd</sup>, '98, this is:

16 "Trew spoke with Chief Repa. He  
17 advised me to sit with Insp. Smith, go  
18 through these new cases one by one.  
19 Chief feels that if there was some  
20 cases that do not connect with the  
21 Father Charlie incident or P.C. Dunlop  
22 association..."

23 And again, that would have been the Fantino  
24 brief, essentially?

25 **INSP. SMITH:** Yes.

1                   **MR. ENGELMANN:** "...that the CPS should be  
2                                    investigating if it is in our  
3                                    jurisdiction."

4                   And then there's a note of a meeting he,  
5                   Trew, has with you that day:

6                                    "Met with Insp. Smith. Went over  
7                                    recent cases involving male victims  
8                                    that came forward or were found through  
9                                    investigational techniques by Project  
10                                   Truth investigators. All of these  
11                                   victims are historical sexual assaults  
12                                   that range from the '60s up to '83.  
13                                   Close to half of the allegations took  
14                                   place outside Cornwall's jurisdiction  
15                                   or occurred in both areas. Some of  
16                                   these victims..."

17                   And it goes on.

18                                   So it appears that there were some ongoing  
19                   discussions about whether you should be taking these on or  
20                   whether they should, and this would be one example?

21                                   **INSP. SMITH:** Yes, sir.

22                                   **MR. ENGELMANN:** And how was that decision  
23                   essentially made? Was it a case-by-case basis?

24                                   **INSP. SMITH:** I believe so. I was in close  
25                   contact with Trew on all cases and all our suspects, we

1 discussed who would do them, and it was multi-  
2 jurisdictional, though it could be -- if it happened in  
3 Cornwall and it was historical and it involved Father  
4 Charlie, we did it.

5 If it happened partially in our jurisdiction  
6 and partially in Cornwall and it involved Father Charlie or  
7 it was part of the Fantino brief, we did it.

8 I don't think there's any dispute.

9 **MR. ENGELMANN:** But what if they were new  
10 allegations?

11 **INSP. SMITH:** Well, if they were new and it  
12 didn't pertain to the Fantino brief, then Cornwall would do  
13 it.

14 **MR. ENGELMANN:** Now, there were a number of  
15 ---

16 **INSP. SMITH:** If it was in their  
17 jurisdiction.

18 **MR. ENGELMANN:** Right.

19 **INSP. SMITH:** And that's what it goes back -  
20 - remember the conversation I said I had with Repa, that he  
21 didn't want us to investigate all sexual abuse cases that  
22 had occurred in the area?

23 **MR. ENGELMANN:** Yeah.

24 **INSP. SMITH:** He didn't want a taskforce.  
25 He felt his own people were capable, which they were.

1                   **MR. ENGELMANN:** And there may have been  
2 concerns from time to time about whether you were  
3 encroaching upon his jurisdiction and vice versa?

4                   **INSP. SMITH:** We didn't have any arguments  
5 on -- it was -- if there's a sexual assault, it was going  
6 to be investigated. It wasn't passing a buck.

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

8                   And some of these cases were investigated by  
9 both forces?

10                  **INSP. SMITH:** I think so. Not on Project  
11 Truth though, but on ---

12                  **MR. ENGELMANN:** Well, Lalonde would be an  
13 example?

14                  **INSP. SMITH:** Yeah, but that would be OPP  
15 Long Sault, Lancaster, and Cornwall, but not Truth and  
16 Cornwall.

17                  **MR. ENGELMANN:** Okay. Sir, in your notes at  
18 -- I'll just be a second.

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

20                  **MR. KOZLOFF:** It should be noted for the  
21 record that the Lalonde case arises before Project Truth.

22                  **THE COMMISSIONER:** Okay.

23                  **MR. ENGELMANN:** Well, it started before  
24 Project Truth. There were things that -- charges that were  
25 laid subsequent to the start of Project Truth, I believe.

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

2                   **MR. KOZLOFF:** If I may, I believe the  
3 investigation begins in late 1996, Detective Genier, and  
4 then Detectives Snyder and Desrosiers of the Cornwall  
5 Police begin investigating early in 1997 and there are  
6 arrests made in early April. I believe they make an arrest  
7 in April.

8                   **MR. ENGELMANN:** I'll just be a moment, sir.

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

10                   **(SHORT PAUSE/COURTE PAUSE)**

11                   **MR. ENGELMANN:** Now, on Bates page 482 of  
12 your notes -- and this is now in the spring of 1998 ---

13                   **INSP. SMITH:** Yes, sir.

14                   **MR. ENGELMANN:** --- we have some indication,  
15 for example, in May of '98 that you're at the CAS advising  
16 them of a complaint against Leduc ---

17                   **INSP. SMITH:** Yes, sir.

18                   **MR. ENGELMANN:** --- and update on  
19 investigation?

20                   **INSP. SMITH:** Yes, sir.

21                   **MR. ENGELMANN:** And this is at a time when  
22 you have begun an investigation on Jacques Leduc?

23                   **INSP. SMITH:** Yes, sir.

24                   **MR. ENGELMANN:** And, sir, there were a  
25 number of Crown briefs being prepared at this time. Would

1           you have been involved in the preparation of some of the  
2           early Crown briefs, like the Crown briefs on the Marleau  
3           matter?

4                       **INSP. SMITH:** No, sir.

5                       **MR. ENGELMANN:** Okay. So just with respect  
6           to Mr. Leduc, you would have been informed, I believe, by  
7           Pat Hall, that same Bates page of your notes, on May 14<sup>th</sup>,  
8           that there was a complaint received about Mr. Leduc and  
9           there's some indication that you advised Mr. Edgar and Mr.  
10          Pelletier about this?

11                      **INSP. SMITH:** What date, sir?

12                      **MR. ENGELMANN:** Sorry, 14 May '98.

13                      **INSP. SMITH:** I don't have the 14<sup>th</sup> of May.

14          I have ---

15                      **MR. ENGELMANN:** It's Bates page 482.

16                      **INSP. SMITH:** That's June I have up there, I  
17          think.

18                      **MR. ENGELMANN:** We might have the wrong page  
19          on the screen.

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

21                                Oh, this is that extra page. It's Exhibit  
22          1803A, I apologize.

23                                **THE COMMISSIONER:** Eighteen-zero-three A  
24          (1803A).

25                                **MR. ENGELMANN:** So the Bates page is ---

1                   **INSP. SMITH:** Okay, I see.

2                   **MR. ENGELMANN:** --- probably wrong. I  
3 apologize.

4                   **INSP. SMITH:** Yes, I see this, okay.

5                   **MR. ENGELMANN:** All right, so there's a  
6 reference, May 14<sup>th</sup>:

7                   "Advised by Pat Hall, lawyer Jacques  
8 Leduc has complained against him,  
9 sexual in nature. We will investigate  
10 and take complete ---"

11                   **INSP. SMITH:** "Statements."

12                   **MR. ENGELMANN:** "--- statements, advise  
13 Edgar and Pelletier."

14                   **INSP. SMITH:** Yeah.

15                   **MR. ENGELMANN:** All right? So, presumably,  
16 if you're advising Edgar and Pelletier, it's because this  
17 was a significant development?

18                   **INSP. SMITH:** Yes.

19                   **MR. ENGELMANN:** And Mr. Leduc had been known  
20 to you, but for other reasons?

21                   **INSP. SMITH:** Yes.

22                   **MR. ENGELMANN:** And that would have been as  
23 a result of the obstruct justice issue in the settlement,  
24 et cetera?

25                   **INSP. SMITH:** Yes, sir.

1                   **MR. ENGELMANN:** And shortly thereafter, as  
2 we've just noted, you notify the CAS so that they can check  
3 their records?

4                   **INSP. SMITH:** Yes.

5                   **MR. ENGELMANN:** And then you have a  
6 conversation about Bob Pelletier -- or, with Bob Pelletier,  
7 about this on June 1<sup>st</sup>, at the bottom of the page?

8                   **INSP. SMITH:** Yes, sir.

9                   **MR. ENGELMANN:** And there's a reference  
10 to -- just at the very bottom of the page, I believe,  
11 there's a note about -- that might be on the next page.

12                   I'll just be a second.

13                   There's a concern, sir, and I'm just trying  
14 to find it, about Mr. Leduc actively recruiting someone to  
15 work for him that summer, at his cottage?

16                   **INSP. SMITH:** I recall a call came in  
17 and -- from one of the complainants, that Mr. Leduc had  
18 contacted him and asked him to do some work at his place,  
19 and we felt that, okay, if -- if he's not going to go, he  
20 may recruit somebody else; we've got to move quickly.

21                   **MR. ENGELMANN:** All right. So there was a  
22 concern that -- that he may be trying to employ a young  
23 male, or someone under the age of 16, for the summer, and  
24 you had to act quickly?

25                   **INSP. SMITH:** It's possible, yes.



1                   **MR. ENGELMANN:** Sir, we've heard that -- on  
2                   June 15<sup>th</sup>, 1998, that Constable Dupuis visited the mother,  
3                   the home of one of the complainants, or he visited C-16's  
4                   mother ---

5                   **THE COMMISSIONER:** Ah!

6                   **MR. ENGELMANN:** Oh.

7                   **THE COMMISSIONER:** C-16's mother.

8                   **MR. ENGELMANN:** I'm sorry.

9                   **THE COMMISSIONER:** It's getting late.

10                  **MR. ENGELMANN:** We learned that Constable  
11                  Dupuis had been in contact with C-16's mother on June 15th,  
12                  1998?

13                  **INSP. SMITH:** I believe he went there to  
14                  pick up a tape.

15                  **MR. ENGELMANN:** Correct. This, I believe,  
16                  was the tape you'd received ---

17                  **INSP. SMITH:** Yes.

18                  **MR. ENGELMANN:** --- from Chief Fantino?

19                  **INSP. SMITH:** Correct.

20                  **MR. ENGELMANN:** A victim assistance tape.  
21                  Now, there's no reference to this in your notes, but, my  
22                  understanding is, this was brought to your attention by  
23                  Constable Dupuis sometime shortly after ---

24                  **INSP. SMITH:** That's correct.

25                  **MR. ENGELMANN:** --- he had attended there?

1 And I believe that he would have told you, as well, that he  
2 learned from C-16's mother that Constable Dunlop had been  
3 in touch with her that day as well? This being June 15<sup>th</sup>,  
4 1998.

5 **INSP. SMITH:** Well, my recollection, sir, is  
6 that he said, when he was there getting the tape, Dunlop  
7 was on the telephone.

8 **MR. ENGELMANN:** Yes, something to that  
9 effect, yes. And Dupuis would have mentioned this --  
10 Constable Dupuis would have mentioned this to you?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** Okay. But you don't have a  
13 reference to that in your notes.

14 **INSP. SMITH:** No.

15 **MR. ENGELMANN:** All right. And, sir, on  
16 June 18<sup>th</sup>, we have a reference to the fact that you'd left a  
17 message for Mr. Pelletier indicating that you felt Mr.  
18 Leduc should be arrested immediately, for two reasons:  
19 One, that it was now common knowledge you were  
20 investigating him, and, two, that he was attempting to have  
21 one of the alleged victims work for him over the summer?

22 **INSP. SMITH:** M'hm. Well, yes, and the  
23 common knowledge was two lawyers were aware of it, a lawyer  
24 by the name of Miller, and L'Original was talking, and a  
25 lawyer by the name of Langlois had made a request

1 for -- for the statement of the victim.

2 And there was some talk going around at that  
3 point, and so it didn't surprise me that Dunlop was in  
4 there also, when I heard it.

5 **MR. ENGELMANN:** All right. And, sir, as I  
6 understand it, on June 22<sup>nd</sup> -- sorry, on June 19<sup>th</sup> -- and I'm  
7 at Bates page 283 of your notes -- there's a reference to  
8 your advising Klancy Grasman?

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** Or speaking to him? Would  
11 that have been about the upcoming arrest of Mr. Leduc?

12 **INSP. SMITH:** Yes, sir.

13 **MR. ENGELMANN:** All right. And there's been  
14 a reference to this issue in your notes at June 22<sup>nd</sup>, as  
15 well; correct?

16 And that while Mr. Leduc was being arrested  
17 at the station, you would have attended at his residence  
18 and spoken with his wife?

19 **INSP. SMITH:** That's correct.

20 **MR. ENGELMANN:** All right. And, as I  
21 understand it, sir, there were some concerns, either on  
22 your part or on the team's part, about a possible suicide  
23 attempt because of two other individuals, who were  
24 suspects, who had just recently committed suicide at that  
25 point?

1                   **INSP. SMITH:** We had a series of suicides  
2                   and -- and an attempt. Oh, I also knew that there were a  
3                   number of other people that were very fragile.

4                   **MR. ENGELMANN:** All right.

5                   **INSP. SMITH:** I also knew that Mr. Leduc's  
6                   wife was on sick leave, and my understanding was that she  
7                   was fragile.

8                   **MR. ENGELMANN:** All right. So you thought  
9                   that I was important ---

10                  **THE COMMISSIONER:** Hold on.

11                  **MR. ENGELMANN:** ---to attend personally? So  
12                  you planned to be with her at the time when he was arrested  
13                  and ---

14                  **INSP. SMITH:** Well, there were a few reasons  
15                  that ---

16                  **MR. ENGELMANN:** Well, I think you were  
17                  concerned about the possible suicide, and you were  
18                  concerned that she was fragile?

19                  **INSP. SMITH:** I beg your pardon?

20                  **MR. ENGELMANN:** And you were concerned that  
21                  she was fragile? You mentioned that.

22                  **INSP. SMITH:** Yes.

23                  **MR. ENGELMANN:** Yes. And, sir, he would  
24                  have been then arrested before a Crown brief was prepared?

25                  **INSP. SMITH:** Yes.

1 MR. ENGELMANN: Unlike some ---

2 INSP. SMITH: Yes.

3 MR. ENGELMANN: --- of the others you were  
4 dealing with?

5 INSP. SMITH: Yes.

6 MR. ENGELMANN: Okay. And you would not  
7 have been responsible for the preparation of the Crown  
8 brief for him?

9 INSP. SMITH: No, sir.

10 MR. ENGELMANN: Nor would you have been  
11 responsible for the provision of disclosure to the Crown?

12 INSP. SMITH: No, sir.

13 MR. ENGELMANN: Okay.

14 INSP. SMITH: We didn't have Crown then.

15 MR. ENGELMANN: All right. Well, in  
16 providing a Crown brief?

17 INSP. SMITH: Eventually?

18 MR. ENGELMANN: Yes.

19 INSP. SMITH: No, I didn't.

20 MR. ENGELMANN: All right.

21 MR. ENGELMANN: And did you later become  
22 aware, sir, that the brief that was sent to the Crown did  
23 not contain a reference to Mr. Dunlop, or Constable  
24 Dunlop's contact with the mother of C-16?

25 INSP. SMITH: I became aware of that in

1 2001, I guess, when I came down here for a trial.

2 MR. ENGELMANN: All right. You didn't know  
3 about it before then?

4 INSP. SMITH: No.

5 MR. KOZLOFF: Mr. Commissioner it's five  
6 o'clock, sir.

7 THE COMMISSIONER: Yes it is.

8 MR. KOZLOFF: The witness has been going  
9 since nine o'clock this morning.

10 THE COMMISSIONER: Yes, sir.

11 MR. KOZLOFF: I wonder if we can consider --

12 -

13 THE COMMISSIONER: Well, how you doing?

14 INSP. SMITH: Let's go.

15 THE COMMISSIONER: Well, let's go, do you  
16 mean quit for the day?

17 INSP. SMITH: Well -- no, no, another half -

18 --

19 THE COMMISSIONER: Another half -- another  
20 half hour. No?

21 INSP. SMITH: Well ---

22 MR. ENGELMANN: Do you want a few minutes --

23 -

24 INSP. SMITH: No, maybe a five minute break.

25 THE COMMISSIONER: Sure.

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

3                   This hearing will resume at 5:05 p.m.

4 --- Upon recessing at 5:00 p.m./

5                   L'audience débute à 05h00

6 --- Upon resuming at 05:07p.m./

7                   L'audience débute à 05h07

8                   **THE REGISTRAR:** All rise. This hearing is  
9 now resumed. Please be seated. Veuillez vous asseoir.

10 --- **EXAMINATION BY/INTERROGATOIRE PAR INSPECTOR SMITH:**

11 **(Continued/Suite)**

12 **PETER SMITH: Resumed**

13                   **MR. ENGELMANN:** Mr. Smith, just the  
14 timeframe I'd like to situate you in. Late spring '98,  
15 well, in or around May it appears that a number of Crown  
16 briefs are being submitted of Project Truth investigations;  
17 certainly several of the ones involving Claude Marleau for  
18 example.

19                   It appears that a number of individuals are  
20 all arrested on the same day on or about the 9<sup>th</sup> of July,  
21 1998. Was there a reason why all of these individuals were  
22 arrested essentially on the same day?

23                   **INSP. SMITH:** I believe that's when we -- as  
24 soon as we had our decisions all in place then we effected  
25 that we do all our arrests on the same day and make a news

1 release the same day, all set the same court dates. That's  
2 not unusual to do in projects.

3 **MR. ENGELMANN:** Okay. So there were a  
4 number of notes and communications with Crowns about who  
5 would be assigned to each one of these prosecutions? I  
6 guess that's something that you do from time-to-time as  
7 well?

8 **INSP. SMITH:** Yes, sir.

9 **MR. ENGELMANN:** And do -- and I think you  
10 had told us that just prior to this time, I believe, in  
11 June, you'd had two alleged perpetrators, Mr. Hickerson and  
12 Mr. Barque, commit suicide, either just before or just  
13 after being arrested? In Mr. Hickerson's case, before.

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** I think in Mr. Barque's  
16 case, after. And these were June 19<sup>th</sup> and June 29<sup>th</sup>?

17 **INSP. SMITH:** I think there was an attempt  
18 in there too.

19 **MR. ENGELMANN:** Yes. And this was all  
20 happening at or about the same time?

21 **INSP. SMITH:** Yes.

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

23 **INSP. SMITH:** I think you'll see too I had -  
24 - had a discussion Murray MacDonald, I had grave concerns  
25 about this and how to avoid it, and ---



1                   **MR. ENGELMANN:** Yes, that's on June 30<sup>th</sup>, is  
2                   it not, sir, at the top of Bates page 285?

3                   **INSP. SMITH:** Yes.

4                   **MR. ENGELMANN:** You're requesting advice ---

5                   **INSP. SMITH:** Well, I'm trying to get some  
6                   type of advice because we have a number of people that  
7                   think they're suspects and now we've had people committing  
8                   suicide. I -- I was concerned at what was happening in  
9                   town.

10                  **MR. ENGELMANN:** You request advice:

11                                "Re: Should we arrest suspects now and  
12                                have..."

13                   I can't ---

14                                "... court's release re..."

15                   Is that, "re-possibility of further  
16                   suicide"?

17                   **INSP. SMITH:** Yes.

18                                "Could the courts release..."

19                   I can't ---

20                  **MR. ENGELMANN:** "In such manner as to  
21                                prevent suspects from hurting selves."

22                   **INSP. SMITH:** Yes.

23                  **MR. ENGELMANN:** "Two persons have already  
24                                committed suicide, not charged; where  
25                                do we stand if suspects commit

1 further..."

2 I can't read that.

3 **INSP. SMITH:** "Suicides".

4 **MR. ENGELMANN:** All right.

5 **INSP. SMITH:** "What should we do, rest  
6 now or leave until we have  
7 decided to charge on the 9<sup>th</sup> of  
8 July, still have a Crown sign.  
9 I've been asking for one for over  
10 two months."

11 **MR. ENGELMANN:** All right. So you're ready  
12 to go, you're waiting for a Crown to be assigned?

13 **INSP. SMITH:** Yeah.

14 **MR. ENGELMANN:** And you're concerned about  
15 these suicides that the two -- the two suicides and the one  
16 attempt that have just happened?

17 **INSP. SMITH:** Well, this was -- this isn't  
18 unusual and in -- in Alfred and St. John's I had 13  
19 suicides of victims and -- and these people had counselling  
20 and some of them were doing -- doing well.

21 In this case it's the opposite, although we  
22 had I think two attempt on victims, but now all of a  
23 sudden, because of the media attention and everything else,  
24 I've got -- I've got suicides all over the place.

25 And as a police officer you're sworn to

1 protect life and property. What do I do to protect life?  
2 How -- what can I do, you know? We don't have a death  
3 sentence in this country, but just the mere mention that  
4 somebody may be paedophile or is going to be arrested, is a  
5 death sentence to some of them, and that bothered me.

6 And you know, how can I do my job at the  
7 same time make the arrests that I have to but what can I do  
8 to maybe stop these people from taking their lives. Then  
9 that -- that wore on all of us, you know.

10 **MR. ENGELMANN:** And that was a concern when  
11 you did the multiple arrests on July 9<sup>th</sup>?

12 **INSP. SMITH:** Yes. We -- one person didn't  
13 show and I knew right off the bat and I had them  
14 immediately go there and do a door kick and he was lying on  
15 the floor. And he managed to live, he survived, but that -  
16 - that takes its toll on investigators too, you know.

17 **MR. ENGELMANN:** And -- and these were your  
18 Project Truth officers who ---

19 **INSP. SMITH:** They -- they and one --

20 **MR. ENGELMANN:** --- kicked that door in.

21 **INSP. SMITH:** Yes, they and one Cornwall  
22 officer went immediately.

23 **MR. ENGELMANN:** Sir, I want to take you  
24 briefly to a meeting on July 23<sup>rd</sup>, 1998, I think we talked  
25 about it earlier. This would have been your third meeting

1 with Perry Dunlop?

2 INSP. SMITH: Yes, sir.

3 MR. ENGELMANN: And I understand, sir, that  
4 Inspectors Hall and Trew were also present at that meeting?

5 INSP. SMITH: That's correct.

6 MR. ENGELMANN: And you have a reference to  
7 that meeting in your notes?

8 INSP. SMITH: Yes, sir.

9 MR. ENGELMANN: And that's at Bates page  
10 288; starting near the top of the page.

11 INSP. SMITH: Yes, sir.

12 MR. ENGELMANN: I think the -- the first  
13 note is in a pre-meeting, you're meeting with Rick Trew?

14 INSP. SMITH: Yes.

15 MR. ENGELMANN: And then a bit later down on  
16 the page at 1430 is that when you meet with Perry Dunlop?

17 INSP. SMITH: That's correct.

18 MR. ENGELMANN: And you -- you note that --  
19 again you're present, Rick Trew, Pat Hall and Perry Dunlop?

20 INSP. SMITH: That's correct.

21 MR. ENGELMANN: And in the previous meeting  
22 in the morning with Rick Trew your note indicates request  
23 meeting this date with Perry Dunlop on material he has  
24 provided us or re material he has provided us?

25 INSP. SMITH: Re material he has provided

1 us.

2 I want to make sure we have all re  
3 disclosure. If not, I want him to provide all material  
4 interviews, tapes, notes of victims the lawyers may have --  
5 the lawyer may have in his possession. He can give us a  
6 letter directing his lawyer to give us the material.

7 **MR. ENGELMANN:** All right. And then you  
8 say:

9 "At Cornwall Police Force, speak with  
10 Rick Trew."

11 **INSP. SMITH:** M'hm.

12 **MR. ENGELMANN:** Oh, that's regarding another  
13 matter?

14 **INSP. SMITH:** Yeah. Yes.

15 **MR. ENGELMANN:** And then at 1430,  
16 "Speak with Perry Dunlop.  
17 Present: self, Rick Trew, Pat  
18 Hall."

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** "Discuss all material he  
21 gave us.

22 **INSP. SMITH:** That's correct.

23 **MR. ENGELMANN:** Can you just help us out on  
24 the rest, sir?

25 **INSP. SMITH:** "Asked if this was

1 Everything; notes, tapes, videos,  
2 et cetera.

3 And he advised, yes. He advised we needed  
4 the same for disclosure.

5 During the conversation I found we only had  
6 -- during the conversation I found we only had one volume  
7 binder. Dunlop states he gave the sole Gen -- the Attorney  
8 General's office banker's boxes containing four volumes. I  
9 did not get them nor was I aware there were -- were more.

10 "-- only got what he gave Julian  
11 Fantino, one volume and a covering  
12 letter. Dunlop will photocopy his  
13 four original volumes and provide  
14 same to us by the 7th of August, '98.  
15 Spoke to Dunlop re Adverse press  
16 our investigation was getting as a  
17 result of comments his wife made to  
18 the press. Advised him this affects  
19 our investigation and potential  
20 victims may be reluctant to report if  
21 they feel an investigation is  
22 suspect. Asked him to discontinue or  
23 request his wife to stop. When the  
24 investigation is complete, if she is  
25 dissatisfied then criticize. I asked

1                                   them to at least give us a chance.

2                                   She ---"

3                                   **MR. ENGELMANN:**

4                                   "... said he would speak to wife."

5                                   **INSP. SMITH:**

6                                   "He would speak to wife, but she does  
7                                   what she wants."

8                                   **MR. ENGELMANN:** And does it go on to the  
9                                   next page, sir?

10                                  **INSP. SMITH:**

11                                  "Discussed death  
12                                  investigation -- threat  
13                                  investigation; discussed bail  
14                                  hearing, Leduc."

15                                  He was upset that he was released.

16                                  "Discussed ..."

17                                  I can't make that word out.

18                                  **THE COMMISSIONER:** What was that?

19                                  "Discuss fact all  
20                                  allegations could be ..."

21                                  **MR. ENGELMANN:**

22                                  "... investigated and briefs ..."

23                                  **THE COMMISSIONER:**

24                                  "... investigated and briefs --"

25                                  **INSP. SMITH:**

1 "... prepared."

2 Yes, sir.

3 "The same given to Crown for outside  
4 regions for recommendations. When  
5 the investigation is complete, all  
6 our material is subject to FOI if he  
7 wants same and he can apply  
8 for -- apply for that."

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

10 So there's two main issues, if can call it  
11 that, at this -- at this meeting.

12 **INSP. SMITH:** Yeah.

13 **MR. ENGELMANN:** One is, again, there's been  
14 at least -- there's been more in the press?

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** And whether it's Mr. or Mrs.  
17 Dunlop, they -- they've been talking to the media and  
18 that's a concern?

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** And that's something that  
21 you've brought up in both your previous meetings?

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** A second issue and -- or  
24 perhaps the principal issue was the issue of disclosure.

25 **INSP. SMITH:** That was the main one that we



1 wanted to address.

2 MR. ENGELMANN: And you're very -- you're  
3 concerned that you don't have everything from him?

4 INSP. SMITH: Yes.

5 MR. ENGELMANN: And, in fact, you find out  
6 that there are -- there is some material that you don't  
7 have that -- that he's given over to the Ministry of the  
8 Attorney General and OCOPS in April of the year before?

9 INSP. SMITH: Well, that's what he tells us  
10 about.

11 MR. ENGELMANN: Yes?

12 INSP. SMITH: It's in the four -- four  
13 Bankers boxes. I -- but it -- it turns out it was,  
14 evidently, four volumes.

15 MR. ENGELMANN: All right.

16 Well, we've learned that several of those  
17 materials were actually the same materials that you  
18 received in the Fantino brief?

19 INSP. SMITH: Yes.

20 MR. ENGELMANN: There was some further  
21 investigation and then there were all the *Police Service*  
22 *Acts*.

23 INSP. SMITH: I -- I think what happened,  
24 and -- and Pat Hall went through it, he can better describe  
25 it -- but the -- the Fantino brief was broken at two

1           briefs, and the other briefs pertained to his *Police Act*  
2           civil matter.

3                       **MR. ENGELMANN:** Right.

4                       **INSP. SMITH:** Yes.

5                       **MR. ENGELMANN:** And they were -- they were  
6           just a few additional tabs to the ---

7                       **INSP. SMITH:** And -- and of everything, if I  
8           recall correctly, there were three additional names, but we  
9           already had them.

10                      **MR. ENGELMANN:** Okay.

11                      **INSP. SMITH:** So, in effect, really the -- I  
12           think we had all of that material, but I didn't -- we  
13           didn't know that at the time.

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

15                      Now, sir, as I understand it, another thing  
16           that came up at this meeting that you raised -- it's not in  
17           your notes, but you did raise it -- was his contact with C-  
18           16's mother ---

19                      **INSP. SMITH:** Yes.

20                      **MR. ENGELMANN:** --- back in June?

21                      **INSP. SMITH:** Yes.

22                      **MR. ENGELMANN:** And can you tell us why you  
23           would have raised that?

24                      **INSP. SMITH:** Well, another thing to bring  
25           up is that I -- I'd asked him prior not to contact victims

1 or witnesses.

2 MR. ENGELMANN: Right.

3 INSP. SMITH: And I -- and I said, you know,  
4 here we are again, you're speaking to -- to witnesses. And  
5 he said: "She called me." and I said: "Well, why did you  
6 call her back?" And -- and he said: "Just to offer support  
7 and see how -- if she was all right."

8 And then, I said: "Well, okay." Now, here  
9 we go again, but ---

10 MR. ENGELMANN: Did you reiterate that you  
11 did not want him to talk to witnesses?

12 INSP. SMITH: It didn't matter what I said  
13 to him in regard to talking to witnesses or anybody else,  
14 he did what he wanted.

15 MR. ENGELMANN: Well, you -- you thought it  
16 was significant to raise this issue with Mr. Dunlop?

17 INSP. SMITH: Well, I ---

18 MR. ENGELMANN: The fact that he'd contacted  
19 C-16's mother?

20 INSP. SMITH: I wanted him to know that --  
21 that I knew what he was doing.

22 MR. ENGELMANN: Right.

23 Why would you not put that in your note that  
24 you'd brought that up with him and you'd spoken to him  
25 about that particular person and that contact?

1                   **INSP. SMITH:** Probably because I was more  
2                   amazed about these four binders that were in there and that  
3                   was a side issue that ---

4                   **MR. ENGELMANN:** All right.

5                   **INSP. SMITH:** The main thing I wanted to --  
6                   and -- and Pat Hall wanted, was disclosure.

7                   We were getting close and -- and there --  
8                   there was more disclosure there that he was not providing.

9                   **MR. ENGELMANN:** Sir, I want to ask you a few  
10                  questions about an investigation Project Truth engaged in  
11                  dealing with a -- a suspect by the name of Jean-Luc  
12                  Leblanc.

13                  And if you turn to page 290 of your notes,  
14                  Exhibit 1803, it appears that, on December 18<sup>th</sup>, you  
15                  received information about alleged abuse perpetrated by  
16                  him?

17                  **INSP. SMITH:** That's correct.

18                  **MR. ENGELMANN:** And is this as a result of a  
19                  call from Mr. Hall?

20                  **INSP. SMITH:** I believe it was, yes.

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

22                  And is there a decision made at that time to  
23                  conduct surveillance of this individual?

24                  **INSP. SMITH:** Well, I contacted Randy Miller  
25                  and -- and asked him if he had any information on him or if

1 he'd done anything because, evidently, the report had gone  
2 to him from Cornwall Police that -- that he would -- this  
3 man was residing in their area and he would -- had been  
4 seen in town and at the race track with young boys.

5 And he had indicated that -- that he didn't  
6 have the manpower to conduct the surveillance and I said  
7 ---

8 **MR. ENGELMANN:** Would -- would you have  
9 contacted Detective Inspector Miller or -- or would Mr. --  
10 or would Detective Inspector Hall have done that?

11 **INSP. SMITH:** I did.

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

13 And you would -- would have been aware that  
14 he or his office had been notified two or three months  
15 earlier about this individual, Jean-Luc Leblanc?

16 **INSP. SMITH:** Well, there was an OMPPAC --  
17 Pat Hall had found an OMPPAC report that that had been  
18 reported to the -- reported to the City, first of all.

19 **MR. ENGELMANN:** Right.

20 **INSP. SMITH:** And then, the City had  
21 reported this to Sergeant Miller at the time, that -- as --  
22 as information, I guess.

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

24 And that was back in September, I believe of  
25 '98?

1                   **INSP. SMITH:** That sounds -- that sounds in  
2                   -- in that period.

3                   Once it came to my attention and I -- I  
4                   spoke to Randy and I said: "Well, you know, what -- what  
5                   has been done?" and he said: "Nothing. He hasn't got any  
6                   manpower." I said: "Well, you've got to do something. We  
7                   -- we have to do something. This guy is there and we --  
8                   it's come to our attention." And he said: "Well, I can't.  
9                   You've got all -- you've got all my personnel." I said:  
10                  "Well, Christmas is coming, the kids will be off, why --  
11                  you can have two of my officers and we'll run a  
12                  surveillance and see what -- what happens."

13                  Running surveillance in a small town is  
14                  really tough but, you know, you -- what we refer to "being  
15                  burned quickly", a strange car and -- and everybody calls  
16                  the police.

17                  But they ran it for a few days and they were  
18                  successful in speaking to a young lad who gave information  
19                  that Jean-Luc had -- had stopped looking.

20                  **MR. ENGELMANN:** All right. So let's just  
21                  dissect that a little bit if I can.

22                  If we're looking at your notes for a second,  
23                  you've got a reference at -- at the page -- Bates page 290.  
24                  You say:

25                  "Has been seen last summer in Cornwall

1 area,"

2 and -- and you talk about the Speedway:

3 "Young boys, eight to ten."

4 **INSP. SMITH:** Eight -- eight to ten.

5 **MR. ENGELMANN:** Yeah, eight to ten years  
6 old.

7 "Cornwall Police Force were advised  
8 by victim's mother."

9 That's victims from his previous -- the previous complaint  
10 against him in -- in the 80s?

11 **INSP. SMITH:** I believe.

12 **MR. ENGELMANN:**

13 "Randy Miller has been advised -- or  
14 had been advised. We now have  
15 complaint re Leblanc. Occurred  
16 approximately '84 ..."

17 and you have the victim's name?

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** And were you aware that this  
20 particular individual, the alleged victim, had been  
21 interviewed the evening of December 16th?

22 **INSP. SMITH:** Yes.

23 And the allegation went back to '84 and it  
24 required some work, as I recall.

25 The allegation was a little far-fetched in

1 that it had occurred in an aircraft and the one that was  
2 with them was now dead and he had somebody stitch up an  
3 injury that he had. It required more work.

4 **MR. ENGELMANN:** Were you asked or consulted  
5 about whether he should simply be arrested on the basis of  
6 that statement that had been taken the night of the 16<sup>th</sup>?

7 **INSP. SMITH:** No, we wouldn't arrest on that  
8 one, not without further work.

9 **MR. ENGELMANN:** And then you have the note  
10 about contacting Randy Millar?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** "Surveillance to be  
13 conducted over Xmas holidays?"

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** "On Leblanc to see what---"

16 **INSP. SMITH:** "His activities are".

17 **MR. ENGELMANN:** All right. And it goes on.  
18 "We will attempt to", can you tell us what that says?

19 **INSP. SMITH:** "See if he's associating with  
20 young boys and identify where they live.

21 **MR. ENGELMANN:** All right. And sir, it's  
22 not in your notes but were you advised that on or about the  
23 29<sup>th</sup> or 30<sup>th</sup> of December another victim was identified as a  
24 result of ---

25 **INSP. SMITH:** I believe that was on the 30<sup>th</sup>



1 I got a phone call at home.

2 MR. ENGELMANN: I'm sorry?

3 INSP. SMITH: I believe that was on the 30<sup>th</sup>  
4 I got a phone call at home.

5 MR. ENGELMANN: All right, and were you  
6 consulted about whether or not he should be arrested then  
7 or later?

8 INSP. SMITH: We discussed it and ultimately  
9 it was my decision, and probably the worst decision I had  
10 made in my whole career, to not arrest but to arrest him in  
11 five days time. And fortunately between that time and the  
12 time he was arrested, nothing had happened but I had left  
13 myself wide open for something that could have been  
14 catastrophic.

15 MR. ENGELMANN: You're saying that it was  
16 not a good decision to wait and arrest him on the 5<sup>th</sup>?

17 INSP. SMITH: No, it was a bad decision,  
18 poor judgment on my part.

19 MR. ENGELMANN: Because he could have  
20 committed further ---

21 INSP. SMITH: Yeah, he could have and that  
22 would be hard to live with.

23 MR. ENGELMANN: And when he was arrested on  
24 the 5<sup>th</sup>, that was the date he was to be returning to work?

25 INSP. SMITH: Yes, and prior arrangements

1 had been made with his bus driver and the school. They  
2 were aware that he wouldn't be there, so things went on and  
3 then the investigation would continue.

4 I can tell you, after making that decision I  
5 spoke to my wife and she said, "That's it, you retire," and  
6 I did.

7 **MR. ENGELMANN:** Now we know, sir, that he  
8 was a school bus driver?

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** And he was arrested on the  
11 day he was supposed to be going back to work?

12 **INSP. SMITH:** The morning, yes.

13 **MR. ENGELMANN:** And we also know that as a  
14 result of further investigations there were multiple  
15 victims of this individual?

16 **INSP. SMITH:** He cooperated fully with the  
17 officers and there were multiple victims that were found  
18 over a period of time. And it's my understanding that he  
19 received 10 years in prison.

20 **MR. ENGELMANN:** Sir, did you raise any  
21 concerns about any of the delay in acting upon the  
22 information that the Cornwall police would have given to  
23 your local detachment? By that I mean, as I understand it,  
24 they made either Detective Inspector Millar, or Detective  
25 Sergeant Millar, if he was that at that time---

1                   **INSP. SMITH:** I spoke ---

2                   **MR. ENGELMANN:** --- or others aware of this  
3 back in September.

4                   **INSP. SMITH:** I'm a senior officer to him  
5 and I'm not his officer but I dressed him down a touch on  
6 that. You know, "Come on Randy, you know," and he -- you  
7 know, "This could backfire, this could be bad, it was a --  
8 you know, you should have done something." And he agreed  
9 and I thought that was the end of it.

10                   I'm not a great proponent of writing people  
11 up and calling in Professional Standards and people of this  
12 nature. They've ruined good investigators. He knew what  
13 he was to do.

14                   **MR. ENGELMANN:** So I take it then the answer  
15 to my next question is -- I was going to ask you if you  
16 took any steps to write him up or write any ---

17                   **INSP. SMITH:** No, I counselled him.

18                   **MR. ENGELMANN:** And did you instruct  
19 Detective Inspector Hall to take any steps in this regard?

20                   **INSP. SMITH:** No.

21                   **MR. ENGELMANN:** So were you aware that he  
22 raised the matter with more senior management?

23                   **INSP. SMITH:** Yes, he did that when I  
24 retired, yes. And it was then his show and he saw it in a  
25 different light.

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

2                   **INSP. SMITH:** But I thought I'd dealt with  
3 it appropriately. And then subsequently, six years later,  
4 I find out there's another complaint that's made by the  
5 Force and I've got people contacting me wanting a statement  
6 in regard to this, and I refused to speak to them.

7                   **MR. ENGELMANN:** Well, in fact, if I can just  
8 jump there if I may, you were contacted, as I understand  
9 it, sometime in early January of 2006 about this matter.

10                  **INSP. SMITH:** Yes.

11                  **MR. ENGELMANN:** And you were asked to  
12 provide a statement in an internal investigation?

13                  **INSP. SMITH:** Yes.

14                  **MR. ENGELMANN:** I'll just be a moment.

15                               **(SHORT PAUSE/COURTE PAUSE)**

16                  **MR. ENGELMANN:** I'll just be a moment, sir.

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

18                  **MR. ENGELMANN:** If the witness could be  
19 shown -- maybe we'll end on this -- Exhibit 2510.

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

21                  **INSP. SMITH:** Yes.

22                  **MR. ENGELMANN:** At Bates page 340, sir, at  
23 the bottom of the page there's a reference to a detective  
24 sergeant from the Professional Standards Branch who  
25 attempted to interview you on the 7<sup>th</sup> of January, 2006.

1                   **INSP. SMITH:** Yes, and I'll tell you how  
2                   that came about, and that disturbs me.

3                   This woman approached me as a sort of an old  
4                   friend and an old working colleague and then put some  
5                   questions to me. And we had a private discussion and I  
6                   didn't expect to see this, some of the comments that she  
7                   put in here.

8                   She doesn't mention the conversation we had  
9                   about the difficulties that she had with her mate and  
10                  separating, and things of that nature.

11                  **MR. ENGELMANN:** Sir, did you realize that  
12                  you were being interviewed for this purpose or did you---

13                  **INSP. SMITH:** Well, she wanted an interview  
14                  and I said, "No, I'm not going to give an interview," and  
15                  then we had a discussion and then she made these notes.

16                  **MR. ENGELMANN:** Is there something ---

17                  **INSP. SMITH:** I don't entirely agree with --  
18                  -

19                  **MR. ENGELMANN:** If there's something that --  
20                  -

21                  **INSP. SMITH:** "He expressed his concerns  
22                  with McQuade's handling of the entire investigation."  
23                  That's not true.

24                  **MR. ENGELMANN:** Would that be of the  
25                  investigation of this matter, the matter involving ---

1                   **INSP. SMITH:** No, Project Truth, and I did  
2                   express concerns that McQuade had not spoken to me about  
3                   this investigation.

4                   **MR. ENGELMANN:** Again, this investigation is  
5                   the investigation into Officer Millar?

6                   **INSP. SMITH:** No, Project Truth.

7                   **MR. ENGELMANN:** Oh, Project Truth. I'm  
8                   sorry.

9                   **INSP. SMITH:** I'd been involved and she took  
10                  it over and I thought, well, you know, maybe she would  
11                  speak to me. I said, "Well, I'm kind of" -- you know, it  
12                  would be nice if she spoke to me in regard to it. She  
13                  never did.

14                  And then I know that the officer from  
15                  Professional Standards that's doing this investigation I  
16                  have no respect for whatsoever, and Pat Hall will get into  
17                  that with you on this. And that if they wanted any  
18                  information that I'd speak to Colleen McQuade. And then  
19                  that was it. But I couldn't understand why, so many years  
20                  later, they wanted to open this up.

21                  **MR. ENGELMANN:** Sir, here you told us that  
22                  you spoke to Officer Millar about this; you counselled him,  
23                  he acknowledged that -- I can't remember the words you  
24                  used.

25                  **INSP. SMITH:** He acknowledged he should have

1 done something.

2 **MR. ENGELMANN:** Yeah.

3 **INSP. SMITH:** He didn't have the manpower.  
4 He could have given out an alert or put it on OMPPAC or  
5 done something. The other thing is really he could have  
6 sent somebody out and they did one day surveillance, and  
7 nothing showed up and then that would be the end of it and  
8 nobody could criticize him.

9 **MR. ENGELMANN:** Okay, but here in this note  
10 you say -- you're quoted as saying, or "quoted" may be the  
11 wrong word:

12 "He concluded by saying he didn't feel  
13 that Randy Millar did anything wrong.  
14 He did not elaborate on that any  
15 further."

16 **INSP. SMITH:** Well, okay, he didn't do  
17 anything wrong. He didn't do anything. That's what the  
18 problem is.

19 **MR. ENGELMANN:** All right. But you didn't  
20 believe he should be disciplined or charged under the  
21 *Police Services Act*.

22 **INSP. SMITH:** No. I spoke to him.

23 **MR. ENGELMANN:** Okay.

24 Sir, can we continue for a bit longer?

25 **INSP. SMITH:** You promised half an hour and

1 I'm wilting and I thought we were going to be finished,  
2 sir.

3 **MR. ENGELMANN:** That's fine.

4 **THE COMMISSIONER:** Okay. Then we're done.  
5 We'll start tomorrow morning, 9 o'clock.

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

8 This hearing is adjourned until tomorrow  
9 morning at 9:00 a.m.

10 --- Upon adjourning at 5:39 p.m. /

11 L'audience est ajournée à 17h39

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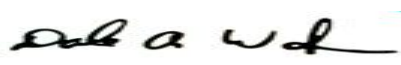


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C E R T I F I C A T I O N

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