

**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 51

Held at :

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

Tuesday, October 3, 2006

Tenue à:

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

Mardi, le 3 octobre 2006

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Mr. Pierre R. Dumais	Commission Counsel
Ms. Raija Pulkkinen	
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan	Cornwall Police Service Board
Mr. Peter Manderville	
Ms. Reena Lalji	
Ms. Diane Lahaie	Ontario Provincial Police
Dect.Staff Sgt.Colin Groskopf	
Mr. David Rose	Ontario Ministry of Community
Mr. Joe Neuberger	and Correctional Services and
Mr. Mike Lawless	Adult Community Corrections
Ms. Leslie McIntosh	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. David Bennett	The Men's Project
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall
	and Bishop Eugene LaRocque
Ms. Marie Henein	Mr. Jacques Leduc
Ms. Jill Makepeace	
Mr. Mark Wallace	Ontario Provincial Police
	Association
Ms. Nadya Tymochenka	Upper Canada District School
	Board
Ms. Jennifer Birrell	Catholic District School Board
Ms. Lynn H. Harnden	

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

2 L'audience débute à 14h04

3 **THE REGISTRAR:** This hearing of the Cornwall
4 Public Inquiry is now in session. The Honourable Mr.
5 Justice Normand Glaude presiding.

6 Please be seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you. Good
8 afternoon, all.

9 Mr. Engelmann.

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

12 **THE COMMISSIONER:** Good afternoon.

13 **MR. ENGELMANN:** Good afternoon, counsel.

14 This afternoon we have a number of things on
15 the agenda, but to start with, we have an application from
16 the Catholic District School Board of Eastern Ontario and
17 they are seeking standing here at the Cornwall Public
18 Inquiry. Their counsel, Jennifer Birrell and Lynn Harnden
19 are present to make that application.

20 **THE COMMISSIONER:** Thank you.

21 **MR. ENGELMANN:** After that application,
22 parties are present to give their opening statements, and I
23 can give you a sense as to the order as soon as we've heard
24 the standing application, sir.

25 **THE COMMISSIONER:** Thank you.

1 Good afternoon.

2 --- APPLICATION FOR STANDING BY MS. BIRRELL:

3 MS. BIRRELL: As Mr. Engelmann indicated, my
4 name is Jennifer Birrell and my partner Lynn Harnden is
5 here and we're here on behalf of the Catholic District
6 School Board of Eastern Ontario. As you might have seen
7 from our written material, we're here to seek full standing
8 for both Parts 1 and Parts 2 of this Inquiry, however,
9 limited to those issues which directly affect the Board's
10 interests.

11 In our written materials we've set out who
12 the Catholic District School Board is, that it's the
13 English language Roman Catholic District School Board
14 serving Stormont, Dundas and Glengarry, as well as other
15 areas. We've also set out the historical background to the
16 School Board, how it was created in 1998, following the
17 *School Boards Act*.

18 THE COMMISSIONER: M'hm.

19 MS. BIRRELL: We've also indicated that it
20 is the successor to the English section of the former
21 Stormont, Dundas and Glengarry Roman Catholic School Board.

22 THE COMMISSIONER: M'hm.

23 MS. BIRRELL: And it would be our submission
24 that the Catholic District School Board is directly and
25 substantially affected by both Parts 1 and Parts 2 of this

1 Inquiry.

2 In our application we've included some of
3 the statutory duties that the School Board has vis-à-vis
4 the students, in terms of their safety and security, both
5 under the *Education Act* and its regulations. We've also
6 indicated that the Board employs professionals who are
7 subject to the duties under the *Child and Families Services*
8 *Act*.

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

10 **MS. BIRRELL:** Both the Board and its
11 predecessors have had policies to deal with children in
12 need of protection. It's my understanding that those
13 policies have been examined as part of this Inquiry to
14 date, and I can confirm that the Board has been in receipt
15 of a request for some documents from Commission counsel.

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

17 **MS. BIRRELL:** And so it would be our
18 submission that we do meet the criteria of being
19 substantially and directly affected by Part 1 and Part 2.

20 It would also be our submission that it
21 represents a distinct and ascertainable interest and
22 perspective that's essential to the mandate of this
23 Inquiry. Specifically, it's the English language publicly
24 funded Catholic School Board serving this area. In
25 addition to the staff that it employs and the students it

1 serves, it's unique in terms of the denominational rights
2 that are of interest to it, and to that extent we would
3 expect that the recommendations would take into
4 consideration those denominational rights and that would
5 certainly be a perspective that we would put forward.

6 For those submissions, we would ask that you
7 grant the Board standing, and we're available to speak to
8 any questions you may have.

9 **THE COMMISSIONER:** Thank you.

10 No, I don't have any questions at this time.

11 What I could do is canvas the other parties
12 to see if they have any comments with respect to your
13 application and then we can get back to you.

14 **MS. BIRRELL:** Thank you.

15 **THE COMMISSIONER:** Thank you.

16 So does anyone having standing here today
17 have any comments with respect to the application for
18 standing by the Catholic District School Board of Eastern
19 Ontario?

20 I don't have my list of -- there's no one
21 rushing to the board. Here we go. Do you wish me to
22 canvas everyone or does the fact that everyone is sitting
23 mean that they have really no comments?

24 All right. Mr. Engelmann.

25 **MR. ENGELMANN:** I just want to say, sir,

1 that we had discussions with counsel for the Board about
2 what might take place if they were granted standing with
3 respect to corporate policy evidence, submissions, et
4 cetera. So those types of discussions have been had in the
5 event that standing is granted.

6 **THE COMMISSIONER:** All right.

7 **MR. ENGELMANN:** And they have indicated
8 flexibility with respect to our schedule given the timing
9 of their application.

10 **--- DECISION ON STANDING BY THE HONOURABLE JUSTICE NORMAN
11 GLAUDE:**

12 **THE COMMISSIONER:** All right.

13 Well, what I can advise at this point is
14 given the fact that I am anxious to get on with the opening
15 statements and the hearing of evidence, I am prepared to
16 grant the Catholic District School Board of Eastern Ontario
17 full standing with respect to Parts 1 and 2 of the Cornwall
18 Public Inquiry with respect to those issues which directly
19 affect the interests of the Catholic District School Board
20 of Eastern Ontario.

21 So you will have all rights and privileges
22 afforded to a party with standing.

23 Having said that, we are proceeding with the
24 opening statements, and I understand that disclosure and
25 all of that will be arranged very shortly. If you're in a

1 position to make any opening comments, we will put you on
2 the list for tomorrow, if you so wish to avail yourself of
3 that opening.

4 Otherwise, with respect to context and
5 experts or policy that you may wish to present, again,
6 given the fact that you're coming in a little late -- later
7 on in the proceedings, I should say -- I am intent on
8 having the evidentiary part dealt with as a priority and
9 then perhaps if it is your wish to present that kind of
10 evidence, you can have a discussion with Commission counsel
11 and we will see where we can fit that in.

12 **---EXHIBIT No P-61:**

13 Application of the Catholic District School
14 Board of Eastern Ontario Seeking Standing in
15 the Cornwall Public Inquiry

16 **THE COMMISSIONER:** All right? Thank you.
17 Mr. Engelmann.

18 Oh, I'm sorry -- what I have indicated was
19 that I am granting you standing for reasons that will
20 follow shortly.

21 Thank you.

22 **MR. ENGELMANN:** Arrangements will be made
23 forthwith to get disclosure to this new party under the
24 same conditions as disclosure has been granted to other
25 parties.

1 **THE COMMISSIONER:** Exactly. Thank you.

2 **MR. ENGELMANN:** Mr. Commissioner, there has
3 been a slight change in the order for this afternoon. I
4 had a request from Mr. Callaghan's office to allow him to
5 go first. He has some big news pending in Toronto, so
6 wanted to make sure that he had an opportunity to get back
7 there in time to receive it.

8 So if the Cornwall Community Police Services
9 could go first with respect to their opening statement,
10 that's just a slight adjustment on the schedule, but Mr.
11 Callaghan is here and prepared to go.

12 **THE COMMISSIONER:** Well, might I address the
13 crowd for ---

14 **MR. ENGELMANN:** I am so sorry. I am so
15 sorry. I remember you had some preliminary remarks you
16 wished to give before the opening statement. I'm just
17 anxious to get Mr. Callaghan back because I understand he
18 and his wife are expecting a third child.

19 **THE COMMISSIONER:** Well, that's good news.

20 **MR. ENGELMANN:** Yes.

21 **THE COMMISSIONER:** But ---

22 **MR. ENGELMANN:** I apologize.

23 **THE COMMISSIONER:** If you will be patient
24 with me, Mr. Callaghan, I have some few comments to make
25 and then we will get on with your address.

1 We are now about to begin the evidentiary
2 hearing stage of the Inquiry. So today and tomorrow we
3 will hear opening statements from the various parties as
4 well as Commission counsel and I'm hopeful to begin hearing
5 evidence as early as tomorrow afternoon.

6 Before we hear opening statements from
7 counsel, I think this is an opportune time to reorient
8 ourselves in the Inquiry process and to provide you with a
9 brief summary of activities, those of Commission counsel,
10 and those of the parties to date.

11 As you know, the Inquiry came into being on
12 April 14th, 2005. September of last year saw our offices
13 open here in Cornwall. The notices for application for
14 standing were issued and 14 parties responded. All but two
15 were immediately granted standing.

16 On the return date, I advised the Coalition
17 for Action on Children Sexual Abuse in Cornwall that I
18 required further information in order to properly assess
19 their application for funding and standing.

20 On that date, while I granted the Diocese
21 standing, the Diocese was asked to return to better explain
22 its request for funding.

23 The Coalition, in their letter dated
24 November 30th, 2005, officially withdrew their application.
25 While I was disappointed with this turn of events, I have

1 left the door open for them to return and to participate in
2 this inquiry if circumstances warrant.

3 Although the Coalition has not returned, the
4 Diocese did return and satisfied me that it met the test
5 for funding. The process for the exchange of massive
6 amounts of information between Commission counsel and the
7 parties then began.

8 During the course of the winter, the parties
9 had discussions as to the status of the Diocese as it
10 pertained to the Terms of Reference. The Diocese, when
11 asked, advised that they had assumed that they would fit in
12 the "other public and community sectors", while several
13 parties took the view that the Diocese should be considered
14 a public institution for the purpose of the Inquiry and
15 therefore under more direct scrutiny by this Inquiry.

16 After hearing thorough arguments from
17 counsel, I ruled that, in my view, under the Terms of
18 Reference, the Diocese should be considered a public
19 institution.

20 After my decision, the Diocese advised that
21 while it took the respectful view that I erred, it would
22 forego filing a judicial review in favour of fully
23 participating in the Inquiry.

24 Subsequently, the Diocese, the Citizens for
25 Community Renewal and the Victims Group, among others,

1 requested and were granted additional funding to deal with
2 the complexities of this Inquiry.

3 Another issue that arose was whether or not
4 persons who complained of sexual misconduct at the hands of
5 Father MacDonald would be permitted to testify.

6 My decision to deny Father MacDonald's
7 request to prohibit their testimony from being heard was
8 taken to Divisional Court, where after hearing from the
9 Appellants, the Court denied Father MacDonald's request.

10 Mr. Cipriano has now advised Commission
11 counsel that he is seeking leave to appeal to the Court of
12 Appeal. We have not heard further from Father MacDonald
13 and trust that it is unlikely that this process will hinder
14 the progress of these hearings.

15 As well, the issue of disclosure has been a
16 subject of much discussion. For those of you following the
17 Inquiry, the matter of document exchange has been a major
18 preoccupation. The great assistance of the parties in both
19 preparing and redacting and, in the case of the OPP and the
20 Cornwall Police Service, of re-redacting at my request has
21 been invaluable and should be recognized.

22 All of that to say that disclosure is an
23 ongoing process and issues arise which are discussed and,
24 for the most part, are resolved.

25 Of note is the issue of solicitor-client

1 privilege. These are documents that are not admissible and
2 therefore should not be disclosed. Our Rule 31 came out of
3 a process initiated at the Walkerton Inquiry. The process,
4 as I understood it, was an informal agreement between
5 counsel wherein the parties would meet and permit
6 Commission counsel to review documents. If Commission
7 counsel concluded that solicitor-client privilege applied,
8 they would immediately return the document and that would
9 end the matter.

10 Again, my understanding is that there are no
11 such disagreements.

12 The Ipperwash Inquiry codified this
13 procedure in its Rules and we adopted it for our purposes.
14 That process was contested and I decided that the Rules
15 should stand.

16 The Cornwall Police Services and the Diocese
17 sought judicial review. At the opening of the Divisional
18 Court hearing, discussions were held between the Court and
19 the parties which led to a decision to adopt the suggestion
20 of the Diocese to have a detailed list of the documents
21 claimed to be covered by solicitor-client privilege with
22 enough detail describing the contents of the document to
23 permit Commission counsel to make an informed decision on
24 that issue. Accordingly, that matter is now resolved.

25 We have had context hearings and they have

1 helped me to obtain a greater understanding of the
2 multitude of issues we are dealing with in this Inquiry and
3 provided insights into the types of problems this community
4 has faced over the years.

5 We have not completed our context hearings.
6 We still need to hear evidence from an expert prosecutor,
7 Wendy Harvey Van Tongeren and Father J.A. Loftus, an expert
8 in the institutional response of the Catholic Church.
9 Scheduling these two witnesses has been difficult, and
10 rather than delay the hearings any further, I have opted to
11 proceed with the evidence and to hear from them a bit
12 later.

13 Now, some say that this Inquiry and this
14 evidentiary part of the Inquiry will only serve to open old
15 wounds. As for the opening of old wounds, I say this. A
16 wound that has been allowed to fester for so long needs to
17 be tended. A wound that is reopened, properly examined and
18 treated will have a better chance to heal. Scars will
19 remain, but hopefully they will be well healed and cause
20 much less pain. Scars can only serve as a reminder of what
21 was, to reaffirm what is and what should be in the future.

22 Having said that, the time has come to hear
23 from the parties by way of their opening remarks. I expect
24 that these comments will serve to advise me as to the
25 parties' hopes and expectations and how they envisage this

1 stage of the inquiry to proceed.

2 Commission counsel will close with some
3 comments regarding the presentation of evidence. I will
4 have brief further comments before we begin hearing
5 testimony but, at this time, it's time to hear from the
6 parties.

7 So on that, we'll start with the Cornwall
8 Police Services and Mr. Callaghan.

9 **MR. CALLAGHAN:** Good afternoon Mr.
10 Commissioner.

11 **THE COMMISSIONER:** Good afternoon Sir.

12 --- OPENING STATEMENT BY / DÉCLARATION D'OUVERTURE PAR:

13 **MR. CALLAGHAN:** Thank you to you and
14 Commission Counsel for the accommodation to permit me to go
15 first. The name Norman Peters is high on the list now. I
16 hear you gave the opening on behalf of the Cornwall Police
17 Services, the board and its members.

18 First let me say that the Cornwall Police
19 Service welcomes this inquiry. It welcomes an opportunity
20 to address the many issues and concerns raised over the
21 years regarding the Project Truth investigations and their
22 antecedents. Most importantly, the Cornwall Police Service
23 and its members look forward to have an opportunity to have
24 the swirl of innuendo and rumour that has gripped this
25 community put to rest. Now at the outset, and without

1 hesitation, the Cornwall Police Service wishes to reiterate
2 what three (3) prior investigations have already concluded.

3 To date, there has been no credible evidence
4 presented that would support the unfound allegation that
5 there is, or was, a conspiracy between the Cornwall Police
6 Service and any institutions or individuals in respect to
7 the investigation of child sexual assaults in the City of
8 Cornwall.

9 If such rumours and innuendos are to be
10 addressed at this inquiry, let those who assert those
11 allegations come forward, swear to them and be cross-
12 examined. I would hope that no one would make such
13 allegations in this inquiry without first assuring
14 themselves that they can identify and deduce credible
15 evidence of which they speak. To do otherwise would risk
16 degenerating and denigrating this inquiry making it no more
17 than a conduit of unsubstantiated gossip.

18 Having said that, this inquiry is about much
19 more than those allegations. This inquiry is about the
20 response of the justice system and the public institutions
21 to the allegations of historical abuse of young persons in
22 the Cornwall area, including a review of the policies and
23 practices then in place to respond to such allegations.

24 The inquiry, as is commonly known, was
25 called in the wake of the Project Truth investigations.

1 Project Truth was an OPP operation. It is submitted that
2 those cases and those that led to Project Truth ought to be
3 and were intended to be the focus of this inquiry. To the
4 extent other cases are being examined, we would anticipate
5 there to be a rational link to the Project Truth cases.

6 An inquiry such as this poses real
7 difficulty for the Commission and the parties. First, the
8 inquiry is faced with addressing conduct of public
9 institutions stretching back decades. This presents issues
10 relating to deceased witnesses, incapacitated witnesses,
11 and fading or failing memories. The passage of time makes
12 it difficult for institutions and individuals to respond to
13 all issues raised. Additionally, any assessment of success
14 or failure of the public institutions must be measured
15 against the standards in place in similarly situated
16 communities in Ontario, at that time. Or, as the Order-in-
17 Council puts it, those standards then in place.

18 Justice O'Keefe in the very recent case of
19 *Stephens v. Canada* made this exact point in saying that any
20 conduct to be reviewed by an inquiry must be assessed on
21 known standards at the time that the conduct occurred or to
22 quote "it would be unfair to develop a standard at a point
23 in time after its conduct, being complained of, has
24 occurred". Lord Denning more vividly put it in *Rowe v.*
25 *Ministry of Health* as follows: "We must take care not to

1 look at the 1947 accident through 1956 spectacles". This
2 inquiry too suffers from the passage of time and we must be
3 mindful not to assess conduct in the '70s, '80s and '90s by
4 today's standards.

5 We already know the state of knowledge
6 regarding sexual assaults of young persons in Canada was
7 and continues to be incomplete. This lack of knowledge
8 transcends the justice system. This was a constant theme
9 of all contextual witnesses who have already testified
10 before this inquiry. Consider Dr. Wolf, who testified that
11 as late as 1980, the leading literature of the day
12 described the frequency of sexual assaults of young persons
13 as one in a million.

14 Indeed, in 1999, his undergraduate
15 psychology text had more abnormal child psychology became
16 the first in the world to devote even a chapter to this
17 problem.

18 Later in the inquiry, Dr. Trocmé explained
19 that the current thinking is the prevalence of males being
20 sexually assaulted is anywhere from 3.9% to 8.2% of the
21 male population, depending on the study. Even today, as
22 Dr. Trocmé warned, the data is big, contradictory and not
23 entirely reliable.

24 As stated, this lack of understanding has
25 transcended all of society including the justice system.

1 Dr. Bala, for example, told the inquiry about the impact of
2 judicial bias against the child witness. Without
3 corroboration prior to 1988, a child, unable to meet the
4 rigours of the oath, could not testify.

5 Indeed, the caution against the inherent
6 frailty of child witnesses continued right up to 1992, when
7 it was abrogated by the Supreme Court of Canada in *R. v.*
8 *WR.*

9 These are not just matters for legal
10 scholars. The law had a real impact on the police officers
11 in the field.

12 Consider the first case to be called by this
13 inquiry; it involves a complaint of a young boy where
14 corroborating evidence could not be found notwithstanding
15 the search by the now deceased police officer. When the
16 assaults occurred is not the issue for the inquiry. The
17 reality of the law as it existed at that time made a
18 conviction impossible without corroboration.

19 The police, like judges, had to accept this
20 reality, as harsh as it may seem now. However, the harsh
21 reality of the law ought not to be visited upon any police
22 service or officer.

23 In the same vein, institutions in Cornwall
24 ought to be seen as existing within the larger framework of
25 institutions in Ontario. They ought not to be judged on

1 some standard created just for them.

2 In policing, consider the evidence already
3 heard regarding the role of the Solicitor General in the
4 Ontario Police College. The Solicitor General, who
5 surprisingly is not a party to this inquiry, has a
6 responsibility to set policy direction for policing across
7 Ontario. Yet, the Solicitor General did not have a
8 directive on sexual assaults until 1996 and the directive
9 specifically excluded child sexual assaults. The Child
10 Abuse and Neglect Standard was not introduced until 2000.

11 Similarly, we have heard that the Ontario
12 Police College had only a Level 1 Sexual Assault Course
13 available in the early 1990s. Historic sexual assault
14 courses were not introduced until 2004.

15 Respective victim services such as Victims
16 Witness Assistance Programs, known as VWAP and Victim
17 Crisis Assistance and Referral Services, know as VICARS
18 were introduced to select Ontario communities by the
19 province in the late '80s, early '90s. Notwithstanding the
20 request by Cornwall, to be included in an early pilot
21 project of VICARS, that program did not come to Cornwall
22 until 2005 and VWAP did not arrive until 2001.

23 In short, those resources were not made
24 available to the people of Cornwall. These are simply
25 illustrations. And yet, police services such as Cornwall

1 have been successfully investigating child sexual assault
2 cases and historic sexual assault cases for a very long
3 time. Both Professor Bala and Detective Leaver have
4 described historic assault investigations as particularly
5 difficult given the passage of time.

6 Nonetheless, one of the first cases you will
7 hear is from 1986 where the Cornwall police successfully
8 investigated a priest of the Diocese who was later charged
9 and convicted with multiple counts of sexual offence
10 against altar boys.

11 It should be noted, however, that a
12 successful police investigation may result in no charges,
13 where none are warranted; either because of lack of
14 evidence or on the strength of the prevailing laws or legal
15 advice of the Crown. Moreover, the evidence to date,
16 further indicates that institutions in Cornwall were, in
17 some respects, more progressive than even larger
18 communities such as London.

19 Consider Mr. Listen, the head of London
20 Children's Aid Society, who, when he testified, agreed that
21 Cornwall's multi-institutional child abuse protocol in 1992
22 was better than the two (2) party protocol then in
23 existence in London.

24 Whatever failings may have existed, the
25 people of Cornwall should know that their community, with

1 comparable and sufficient resources, can and has exceeded
2 what is done elsewhere in the province.

3 I should add that the introspective nature
4 of inquiries can cause people to dwell on the few cases
5 presented and then jump to general sweeping conclusions
6 from those very few cases.

7 While this may be human nature, I would hope
8 that the people of Cornwall would see the larger picture.
9 From 1986 to 2004, the Cornwall Police Service investigated
10 one hundred and two thousands, five hundred and ninety four
11 (102,594) incidences of crime in Cornwall.

12 Of those matters investigated, one thousand
13 one hundred and ninety one (1,191) were sexual offences.
14 This inquiry will hear but a handful of those cases and
15 this inquiry will not hear of the vast majority of
16 successful investigations conducted by the Cornwall Police.

17 So we have heard, in 2004, the Compustat
18 consultants surveyed Cornwall residents; 92% of those
19 surveyed were proud of the police service in the Cornwall
20 area. I say to the people of Cornwall, you should continue
21 to maintain your pride. However, the people in Cornwall
22 should also recognize that their police service is robust
23 and dynamic and it looks forward to the challenge of this
24 inquiry and the lessons to be learned from it.

25 I should say a word about the role of

1 individuals. This inquiry will touch upon many good men
2 and women who work in institutions throughout Cornwall.
3 They have devoted themselves to the public good.

4 A review of the Order-in-Council clearly
5 indicates that the purpose of this inquiry is to examine
6 the institutional responses, to determine if the responses
7 were adequate and, if not, what should be done to improve
8 them. This is in contrast to other Orders-in-Council for
9 other inquiries which address the specific conduct of
10 individuals. While individuals are a part of the story of
11 institutions, they ought not to be the focus nor should
12 findings of misconduct of individuals be the focus. To do
13 so would be to miss the opportunity to alter the
14 institutional conduct which transcends any individual.

15 Mr. Justice Cory in the Krever case made
16 this point directly when he said, and I quote "Findings of
17 misconduct should not be the principle focus of this kind
18 of public inquiry, rather they should be made only in those
19 circumstances where they are required to carry out the
20 mandate of the inquiry." If you believe, Sir, it is
21 necessary to address individual misconduct, you should have
22 further regard to Justice Cory's words in Krever, wherein
23 he said and I quote "Nonetheless, procedural fairness is
24 essential, for the findings of the Commissioner may damage
25 the reputation of the witness. For most, a good reputation

1 is their most highly prized attribute". It follows that it
2 is essential that procedural fairness be demonstrated in
3 the hearings of the Commission.

4 I would submit that misconduct when it comes
5 to individuals, should only be an issue where it truly
6 affected the institution's ability to respond. Errors in
7 judgment made in good faith are not to drive this inquiry.
8 Individual misconduct should be something more. Even then,
9 I submit the standard for findings for misconduct for
10 individuals is higher than that of institutions generally.

11 Indeed, I was recently at a conference where
12 Mr. Justice Robert Armstrong of the Ontario Court of Appeal
13 spoke regarding his time as commission counsel to the Dubin
14 Inquiry which addressed the Ben Johnson affair and drugs in
15 sport.

16 Justice Armstrong said that he felt it was
17 incumbent upon Commission counsel to ensure that if
18 allegations of misconduct were to be made against
19 individuals, then Commission counsel must apply a high
20 standard to the evidence in support of the allegations of
21 misconduct.

22 Justice Armstrong went on to say that his
23 team sifted through the evidence, and only such evidence
24 that would be admissible in a court proceeding and which
25 demonstrated clear and cogent misconduct against a proven

1 standard was taken into consideration when addressing an
2 individual's conduct. To me this is the proper way to
3 approach an individual's conduct.

4 Mr. Justice Campbell in the Bernardo Inquiry
5 made a similar point when he refused to criticize
6 individual officers because the state of police training in
7 Ontario prior to 1996 was inadequate when it came to
8 investigating sexual assaults. Of course, as Mr. Justice
9 Binnie said in the *Consortium* case, judicial inquiries are
10 not ordeals by ambush. In order for these to be given,
11 they should ordinarily be given in advance of the person
12 giving testimony with as much particularity as possible.

13 I should add there are many individuals in
14 public institutions throughout Cornwall who have been
15 unfairly maligned over these past few years. Many of the
16 allegations have been spiteful and have hurt both the
17 individuals and their families. We are confident, however,
18 that a fair, impartial inquiry will assist in restoring
19 their good names.

20 In the end, this inquiry is about much more
21 than even the response of institutions in Cornwall. This
22 inquiry is about allowing the City of Cornwall to
23 understand what occurred in Project Truth and to allow such
24 healing as is necessary. In the meantime, the people of
25 Cornwall, their conceptual experts have had an opportunity

1 to hear how the province and Cornwall have learned and
2 adapted to the scourge of child sexual abuse since the
3 1970s.

4 Today it is a very different but still yet
5 imperfect world. We hope and trust that this inquiry will
6 further our understanding of the problems and benefit not
7 just the people of Cornwall but people throughout Ontario
8 and the rest of Canada. The Cornwall Police Services, the
9 Board and its members look forward to continuing their
10 working relationship with the Commission to make our
11 communities safer for children.

12 Thank you, Mr. Commissioner.

13 **THE COMMISSIONER:** Thank you, sir.

14 So I take it you're on your way, sir, or are
15 you staying?

16 **MR. CALLAGHAN:** I am on my way, if that
17 pleases the Court.

18 **THE COMMISSIONER:** That's fine. Thank you.
19 Best of luck to you and your family.

20 **MR. CALLAGHAN:** I appreciate that.

21 **THE COMMISSIONER:** Yes, sir.

22 **MR. ENGELMANN:** Mr. Commissioner, I believe
23 the next party up is the Ministry of Community Safety and
24 Correctional Services, Mr. Neuberger and Mr. Rose are here.
25 I believe Mr. Neuberger will be addressing you.

1 **THE COMMISSIONER:** Thank you.

2 **--- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MR.**
3 **NEUBERGER:**

4 **MR. NEUBERGER:** Good afternoon,
5 Mr. Commissioner.

6 It is my privilege, Mr. Commissioner, to
7 give the opening statement of the Ministry of Community
8 Safety and Correctional Services, Adult Corrections, for
9 Part I of the Cornwall Public Inquiry.

10 At the outset, the Ministry acknowledges
11 that two former probation and parole officers were
12 implicated in the sexual abuse of a number of young persons
13 who were clients of Correctional Services in the Cornwall
14 community.

15 This inquiry is a pivotal mechanism in
16 seeking an understanding of past events that have shaken
17 the faith and trust of members of the Cornwall community in
18 a vital and committed institution within the community of
19 this city and the province.

20 The institutional response of the
21 Correctional Services Division of the Ministry of Community
22 Safety and Correctional Services to the allegations of
23 abuse of young people, who were clients of the Ministry in
24 the Cornwall area, is a necessary question that must be
25 asked and answered.

1 The Ministry and Correctional Services have
2 been working closely with the Commission team to provide
3 relevant and comprehensive disclosure of documents and
4 information dating back in time to establish a thorough
5 basis to answer this question.

6 This process involves a review of not only
7 the historical policies and practices of the Correctional
8 Services and the Cornwall Probation and Parole Office
9 dating back some five decades, but also the review of
10 current policies, practices and the delivery of services to
11 our clients and the community at large.

12 We trust that the anticipated evidence will
13 shed much needed light on past events and will demonstrate
14 Correctional Services' commitment to enhance community
15 safety through effective offender supervision, care,
16 custody and intervention, thereby influencing positive
17 behavioural change and reintegration of offenders into the
18 community as law-abiding and productive citizens of this
19 province.

20 Of paramount concern is the protection of
21 the community from risks associated with offenders and a
22 commitment to the offenders to assist in their
23 rehabilitation and reintegration into the community. This,
24 by necessity, includes a commitment to building
25 relationships based upon respect for individual dignity.

1 Over the past five decades the Ministry's
2 mandate has evolved. The Ministry is responsible for
3 establishing, maintaining, operating and monitoring
4 Ontario's adult correctional institutions and probation and
5 parole offices. The manner in which those services are
6 provided has evolved significantly over the past five
7 decades to address community safety, the rehabilitative
8 needs of offenders under supervision, and to respond to the
9 needs of victims of crime.

10 This evolution has led the Ministry away
11 from its original institution-focused punitive
12 establishment for youth and adults to its present
13 community-based program-focused organization for adults
14 exclusively. Notions of rehabilitation within community-
15 based programs may at first blush seem unpopular in the
16 present climate, but we anticipate that the Ministry will
17 demonstrate how they result in practice, how an emphasis on
18 community safety and protecting victims has led the
19 Ministry to enhanced community safety in general and to an
20 improvement of its response to the type of allegations that
21 are the subject of this inquiry.

22 Naturally one of the concerns that will
23 emerge during this inquiry is how probation officers who
24 allegedly abused young clients were put in positions of
25 access and authority in the first place. Within my

1 client's ministry, these allegations did not go unnoticed
2 in reviewing and improving its internal hiring procedures.
3 There are stringent hiring, training and monitoring
4 practices now in place at the Ministry. Prospective
5 probation officers must display specific attributes in line
6 with their profession, go through extensive interviews,
7 have CPIC checks and attend a rigorous training program,
8 all before full authority in their position is attained.

9 The Ministry has also evolved by decreasing
10 caseloads and improving services through hiring more
11 probation officers and increasing supervision and
12 monitoring by increasing the number of area managers. All
13 probation officers must meet increased accountability
14 measures established by the Ministry including standards
15 for case supervision and recording and case management
16 reviews. These measurements were implemented well before
17 this inquiry was called, in order to address issues of
18 concerns. Other similar policy and practice
19 implementations include: conflict of interest, complaints,
20 investigations, ethical principles, responses to
21 allegations of serious criminal activity and
22 confidentiality.

23 Probation and parole officers have evolved
24 as well, especially in how they carry out their legislative
25 duties. The nature of their contact with and

1 accountability to offenders, victims, the public, police
2 and the courts has changed substantially, particularly in
3 order to share information wherever it is possible to do
4 so.

5 From 1984 to 2004 the Ministry had shared
6 responsibility for young offenders. The transfer of youth
7 justice responsibility for the custody, supervision and
8 rehabilitation of young persons 12 to 17 years of age, to
9 the Ministry of Children and Youth Services in 2004, has
10 allowed the Ministry of Community Safety and Correctional
11 Services to focus its efforts on adult offenders over the
12 age of 18. This split in jurisdiction has enhanced
13 development of specialized youth correctional personnel to
14 better address the unique and particular needs of young
15 persons within a system designed for their care. Adult
16 Corrections has similarly addressed the unique and
17 specialized needs of adult persons through
18 multidisciplinary personnel who provide a full range of
19 services to address the needs of adults.

20 To this end, this inquiry has already heard,
21 via our corporate presentation from officials within the
22 Ministry and Correctional Services, about past and current
23 functions or the broad range of services provided by
24 Corrections. We anticipate the inquiry will hear in
25 particular about those of the Cornwall Probation and Parole

1 Office.

2 We anticipate that you will hear from
3 various probation and parole officers who received
4 disclosure of many of the allegations and worked with the
5 victims to attach them to necessary supportive services
6 within the community of Cornwall, such as the Men's
7 Project, and to encourage those who wished to pursue an
8 investigation of the allegations by assisting them in
9 contacting the Cornwall Police Service and the Ontario
10 Provincial Police.

11 We anticipate that you will hear evidence
12 that in many cases probation and parole officers not only
13 assisted with the connections to community resources but
14 provided ongoing support by accompanying certain victims to
15 meetings with police and conducting follow-up meetings with
16 victims to gauge ongoing needs and care.

17 We anticipate that you will hear evidence
18 about the internal investigation of the allegations, and
19 the emotional and psychological impact these allegations
20 have had on the victims and the members of Correctional
21 Services who work within the community of Cornwall.

22 The Ministry takes seriously its
23 responsibility to the public for community safety, the
24 responsibility that it shares with its justice partners,
25 the police and the courts. Correctional Services has

1 evolved to meet that responsibility through new processes
2 and improved tools. This evolution has brought
3 Correctional Services to its present state; an effective,
4 accountable and dynamic organization committed to its
5 vision. We are committed to play an integral role in this
6 inquiry.

7 We anticipate that this journey will be a
8 difficult one. However, it is through a better
9 understanding of not only our institution and services, but
10 through an examination of all the institutions, public and
11 community sector, that will assist in the very important
12 work that will take place in Phase I and Phase II of the
13 inquiry and will encourage community healing and
14 reconciliation within the Cornwall community.

15 Thank you, Mr. Commissioner.

16 **THE COMMISSIONER:** Thank you, sir.

17 **MR. ENGELMANN:** Mr. Commissioner, the next
18 party is that of Jacques Leduc.

19 **THE COMMISSIONER:** Yes, thank you.

20 **MR. ENGELMANN:** Marie Henein and Jill
21 Makepeace are here and I believe Ms. Henein is coming forward.

22 **THE COMMISSIONER:** Louise. Louise.

23 Good afternoon.

24 **MS. HENEIN:** Good afternoon, Mr.
25 Commissioner.

1 **THE COMMISSIONER:** Louise, Madam Clerk,
2 could you put my screen on? Great.

3 Thank you very much.

4 **MS. HENEIN:** Thank you, Mr. Commissioner.

5 **--- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MS.**

6 **HENEIN:**

7 **MS. HENEIN:** Mr. Leduc was born in Cornwall,
8 where he has lived his entire life. As you know, on June
9 22nd, 1998, Mr. Leduc was charged with a number of sexual
10 offences. After a full preliminary inquiry, a trial, a
11 stay of proceedings, appeals all the way to the Supreme
12 Court of Canada and a re-trial, on November 10th, 2004,
13 nearly six and a half years after the charges were laid,
14 the charges were once again stayed because of excessive
15 delay.

16 As a result of the charges and the delay in
17 bringing those charges to the trial, Mr. Leduc suffered
18 extensively professionally, lost his professional
19 partnership, withdrew from participation in all of his
20 community activities, a community he dearly is committed
21 to, incurred substantial debts. Mr. Leduc, to this day, is
22 subjected to accusations on websites, labelling him "one of
23 a clan of pedophiles". His home and his office to this day
24 are vandalized. He regularly receives abusive letters and
25 phone calls. The hardship incurred by the charges was

1 unfortunately not restricted to Mr. Leduc.

2 His wife and daughter have also suffered as
3 a result of the continuous media coverage and the emotional
4 stress in their household.

5 There is no area of Mr. Leduc's life that
6 went undamaged as a result of these charges. His
7 relationship with his family, his emotional well being, his
8 financial situation, his professional life and his
9 community involvement were all affected by being charged
10 criminally and the life that he spent building in this
11 community was irreparably damaged by the charges and by the
12 delay bringing the charges to trial.

13 In this Commission we hope to assist in
14 bringing a unique perspective and highlighting certain
15 facts that are of assistance to this Honourable Commission.

16 Firstly, incomplete investigations that
17 result in wrongfully charged individuals cause undue
18 stigmatization. The stigma that attaches to charges of
19 criminal sexual misconduct cause irreparable harm. It is
20 in the interest of the public, of victims and of
21 individuals facing charges that public institutions
22 correctly and diligently investigate before charges are
23 laid.

24 Sensitivity to an alleged victim cannot and
25 should not reduce the role of a police officer to that of a

1 stenographer or note-taker. A sexual allegation should be
2 as rigorously and objectively investigated as any other
3 offence, and this approach to the investigative process
4 does not displace, nor is it consistent, in our respectful
5 submission, with conducting investigations in a manner that
6 is sensitive to the concerns of potential victims. We hope
7 to assist in highlighting those areas for the Commission.

8 Secondly, it's our respectful position that
9 the mandate of the Commission must include an examination
10 of the role of Perry Dunlop, a former police officer in the
11 Project Truth investigation.

12 It was indeed Mr. Dunlop, in the course of a
13 multimillion dollar lawsuit that he initiated, that the
14 term "clan of pedophiles" was phrased and the notion that
15 there was a conspiracy of silence in this community was
16 created. This belief caused him to enlist citizens and
17 civilians in his investigation, to seek out witnesses, take
18 statements, take videotapes, audiotapes and ultimately to
19 counsel some of these alleged victims regarding their
20 testimony. His involvement in no small part impeded the
21 proper adjudication of numerous charges and obstructed *bona*
22 *fide* police investigations.

23 As a result of his conduct, a number of
24 Project Truth cases were ultimately withdrawn or stayed
25 based on concerns of witness tainting and willful non

1 disclosure of evidence. Indeed, the non disclosure of
2 evidence and Perry Dunlop's role in it was central in
3 respect of Mr. Leduc's case.

4 It is time, in our respectful submission,
5 that the public, the citizens of Cornwall, be fully
6 informed of the role that he played and that it be examined
7 objectively and critically.

8 The existence of victims in the Cornwall
9 community is unfortunately not an anomaly. It is not an
10 anomaly in this province, nor indeed this country, but the
11 misinformation that is pervasive in this community serves
12 no member of the community and no victim. It has been
13 destructive rather than productive, divisive rather than
14 uniting and has been a tool of obfuscation rather than
15 illumination.

16 With hindsight, objectivity and the full
17 comprehensive picture, it is our confident hope that this
18 Commission will be able to ultimately finally distinguish
19 fact from fiction.

20 We look forward to assisting the Commission
21 in its work and contributing what, from our perspective,
22 are some relevant facts and factors for your consideration
23 in reviewing the policies and practice in place with
24 respect to allegations of sexual abuse.

25 Thank you.

1 **THE COMMISSIONER:** Thank you.

2 **MR. ENGELMANN:** Mr. Commissioner, the next
3 party to speak will be the Citizens for Community Renewal.
4 Peter Wardle is here for that party.

5 **THE COMMISSIONER:** Thank you.

6 Mr. Wardle.

7 --- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MR.

8 **WARDLE:**

9 **MR. WARDLE:** Good afternoon, Mr.
10 Commissioner.

11 **THE COMMISSIONER:** Good afternoon, sir.

12 **MR. WARDLE:** As you know, my client,
13 Citizens for Community Renewal, is a Cornwall-based
14 citizens group with over 200 members and its membership
15 consists of citizens who lived through the events that will
16 be the work of the Commission. It was granted standing on
17 the basis that it had a unique perspective that would
18 assist you in your work.

19 In our application for standing, CCR said
20 that the failure of local institutions in Cornwall to
21 respond adequately to allegations of historical abuse of
22 young people had had two profound effects on the community.

23 First, that it has led to a significant loss
24 of confidence in local institutions and, second -- and the
25 bulk of my remarks today will be addressed to this issue --

1 that it has left a cloud over Cornwall which has had a
2 negative effect and will impede efforts to rebuild and
3 revitalize the city.

4 We want to spend these few minutes, if we
5 can, in outlining our position on the mandate of the
6 Commission because, in our submission, the mandate will
7 allow you to address both of the community impacts that I
8 just spoke about.

9 I am going to make four general submissions
10 about the mandate before turning to some specific areas.

11 The first point I wish to make on behalf of
12 CCR is one that you've made already today, and that is that
13 your fact-finding mandate is of critical importance. There
14 are many people in Cornwall and elsewhere who believe we've
15 heard enough about the sexual abuse issue in this city.

16 Many of the events the Commission is
17 examining were widely reported at the time and formed the
18 subject matter of judicial proceedings. These people
19 believe we assume that enough is enough and it is time to
20 move ahead and stop examining the past.

21 My client doesn't share that view. In CCR's
22 submission, the problems Cornwall has faced have never had
23 a thorough public airing. Instead, the community has only
24 heard part of the story with many of the facts obscured
25 from public view, and equally important -- and some of my

1 colleagues have already referred to this -- the events in
2 Cornwall have given rise to a truly astonishing amount of
3 rumour and innuendo. The community has been unable to
4 distinguish fact from fiction, sensational journalism and
5 third-hand gossip from the real facts of what took place
6 and how were allegations investigated.

7 And complicating this has been the fact that
8 some of those involved, some of those involved with the
9 abuse that took place, were connected to important local
10 institutions: the Church; various players in the justice
11 system; the schools. The community can't be blamed for
12 feeling a profound loss of trust and a suspicion that
13 things may have been swept under the rug.

14 Now, in our submission the primary function
15 this Commission can play and its most constructive role
16 should be to outline for the community what really took
17 place. As Justice Cory put it in the Westray Mine case,
18 one of the primary functions of public inquiries is fact
19 finding. They are often convened in the wake of public
20 shock, horror, disillusionment or skepticism in order to
21 uncover the truth.

22 We agree and we believe that one of the most
23 important roles you can play is to outline the true facts
24 behind the allegations of historical sexual abuse in
25 Cornwall for the community and the broader public to see.

1 A second submission about your mandate is
2 that you should not give in to those who suggest that it
3 should be limited narrowly to Project Truth. Project
4 Truth, to put it simply, was a specific set of OPP
5 investigations that took place between 1997 and 2001.
6 While those investigations and the prosecutions that
7 resulted from Project Truth are an important part of the
8 Commission's work, the mandate in no way limits you to
9 Project Truth.

10 The systematic problems which prevented
11 allegations of abuse in Cornwall from coming forward prior
12 to Project Truth are equally important. The role of other
13 local institutions, the Diocese of Alexandria-Cornwall, the
14 school boards, CAS, various players in the justice system
15 in the events which preceded Project Truth are of great
16 importance and the mandate allows you and, in our
17 submission, requires you to take a wider view.

18 Our third submission about your mandate is
19 that in your fact-finding role, it is critical that you not
20 only find the facts, but to the extent possible, deal with
21 unfounded rumour. And here for a moment I'm on the same
22 page with my colleague, Ms. Henein. To take just one
23 example, for years allegations have circulated in this
24 community of a clan of pedophiles, an organized ring with
25 some degree of sophistication involved in ritualistic

1 practices. Linked with those allegations are those of a
2 massive cover-up involving a large number of participants
3 from the justice system, the police and the Church.

4 I expect, Mr. Commissioner, that we will
5 hear that many of these allegations, if not all of them,
6 were examined by the Ontario Provincial Police and found to
7 be baseless. It will be important for you to examine these
8 allegations and where they originated.

9 Similarly, in our submission, it is
10 impossible to consider the events in Cornwall without
11 considering the role of former Cornwall Police Constable
12 Perry Dunlop. Mr. Dunlop's involvement in these events has
13 given rise to a tremendous amount of rumour and
14 speculation. To many in the community, Perry Dunlop is
15 regarded as a hero for bringing some of these events to
16 public scrutiny. For some of the institutions in this
17 room, Perry Dunlop is a convenient scapegoat for failed
18 investigations and prosecutions. It would be helpful, of
19 course, for the Commission's work if Perry Dunlop
20 participated directly in the hearing process, but whether
21 that takes place or not, it is important for you to
22 consider carefully both his role and his interaction with
23 the institutional players, particularly the Children's Aid,
24 the Diocese, the Cornwall Police, the OPP and the Crown.

25 And finally in terms of my general remarks

1 on the mandate, CCR believes that to the greatest extent
2 possible, the hearings in Phase 1 should remain open to the
3 public with the least possible degree of restriction on the
4 publication of these proceedings.

5 I spoke a minute ago about the *Westray* case.
6 Well, in that case Justice Cory emphasized that the public
7 has a special interest in the work of public inquiries, a
8 right to know and a right to inform -- to form its opinion
9 as the hearing is taking place.

10 Here, in this inquiry, that element is even
11 more important because there has been this element, this
12 consistent theme throughout of rumour, suspicion and
13 innuendo. For this Commission to lift the cloud over
14 Cornwall, there has to be a public vetting of the facts, as
15 painful as that may be, and even given the incidental
16 effects on the reputation of some of the participants. It
17 has to be a public vetting of the facts, not a private one.

18 Now, let me turn, if I can quickly, to
19 specific topics that we believe the Commission should
20 address in Phase 1 and these are dealt with in detail in
21 our written material.

22 First, obviously, the allegations. Who were
23 the people who came forward? Who did they complain to and
24 when? What were they complaining about? Who were they
25 complaining about? We anticipate you will hear that many

1 of them didn't come forward until they were adults and the
2 reason for that is important. It's important for us to
3 understand why it took so long for many of these people to
4 come forward.

5 Secondly, the investigations, obviously.
6 Were the allegations investigated and, if not, why? And as
7 we've talked about before at this Commission, there may be
8 situations where if an institution decided that a
9 particular allegation was not credible, you will have to
10 determine whether that was a reasonable institutional
11 response. Were the investigations done thoroughly? We
12 anticipate, for example, that you will hear evidence that
13 in the period from 1992 to 1994, the allegations involving
14 Father Charles MacDonald were investigated successively by
15 the Cornwall Police and by the OPP with no charges laid
16 and, in fact, a press release issued by the Ontario
17 Provincial Police in December 1994 that there were no
18 grounds to lay criminal charges. It was only in March 1996
19 that a second OPP investigation led to criminal charges.
20 The community has never understood why these different
21 investigations and why it took so long for charges to be
22 laid in this case.

23 We anticipate that you will hear a lot --
24 and you have already heard it this afternoon from Mr.
25 Callaghan -- about how historical sexual abuse was an

1 evolving area and that it was not until, very recently,
2 that specific policies were developed on a province-wide
3 basis to allow local institutions such as the police and
4 others to respond. We don't accept that rationalization.

5 Finally, under the issue of investigation,
6 you will have to deal with the question of were allegations
7 suppressed. You're going to need to answer this question
8 because it is a burning interest to many community members.
9 For example -- and I'm just picking one example -- the
10 circumstances surrounding the 1993 civil settlement, the
11 release and the terms of that release are still of concern
12 to many community members in considering the response of
13 the Diocese to allegations against priests, and those
14 events, although they have been fully reported on from time
15 to time in the media, have never had a public airing.

16 Third, treatment of the victims. We have
17 already heard from Dr. Wolfe that a young person whose
18 allegations of abuse are not acted upon is further
19 traumatized. We anticipate that you will hear that in
20 certain instances, local institutions did not display the
21 kind of sensitivity to the needs of victims that we say is
22 necessary. You will also hear, I expect, about the
23 treatment of those persons by the courts and their
24 complaints about lack of information, the delays, the
25 feeling of powerlessness that sweeps one up when one is

1 involved in the judicial process.

2 The fourth issue that, in my submission, you
3 will have to address is the issue of coordination. We've
4 already heard much about the need for coordination in
5 dealing with allegations of child abuse and particularly in
6 the growth of interagency protocols. Many of the
7 allegations you will be hearing about involve more than one
8 institution. Was there effective coordination? If there
9 was not, did that contribute to an inadequate institutional
10 response?

11 To give one example, we know that disclosure
12 issues cause serious problems in at least one of the
13 Project Truth prosecutions that involve Mr. Leduc. Was
14 that a result of a lack of coordination between the OPP and
15 the Crown?

16 Fifth, in our submission, we believe you
17 should be interested in the prosecutions and the decision
18 making process once charges were laid. What resources were
19 employed in these prosecutions? To what extent were they
20 considered cases of priority? Why were a number of the
21 prosecutions ultimately stayed or dismissed on the basis of
22 delay? Many here will tell you that certain prosecutions
23 failed because of intermeddling by Mr. Dunlop and others
24 connected with him. Is that the complete answer?

25 Finally -- and this is really the last issue

1 I wish to address -- the information provided to the
2 community from time to time. How was the public kept
3 informed? To what extent was the public given what it
4 needed to know and is there more that could have been done
5 along the way to deal with rumour, gossip and innuendo?

6 That really concludes my remarks about the
7 fact-finding part of Phase 1.

8 With respect to the remaining part of the
9 mandate which deals with recommendations, we will certainly
10 be here at the end of the process, whenever that may be, to
11 make recommendations that will address, in a practical way,
12 the need for change in local institutions.

13 But we also believe that you should be
14 considering the broader perspective. The problems that
15 confronted Cornwall represented a legal and social crisis
16 that a small community was ill equipped to handle. In our
17 view, you should be making recommendations as to how
18 provincial resources need to be developed to provide
19 adequate and timely assistance to small communities.

20 Finally, Mr. Commissioner, with respect to
21 Phase 2, although it's a little premature, we wish to say
22 simply that, along with many others, we are encouraged by
23 the list of eminent persons appointed to the Advisory
24 Panel. We believe that Phase 2 should be dedicated to a
25 large extent to the needs of victims and to allow them a

1 voice, and we also believe that Phase 2 can be an
2 opportunity for dialogue and cooperation amongst many of
3 the participants who, in Phase 1, will be in a more
4 adversarial relationship with each other.

5 We look forward to working constructively
6 with all parties in Phase 2.

7 Thank you very much.

8 **THE COMMISSIONER:** Thank you, sir.

9 **MR. ENGELMANN:** Mr. Commissioner, I'm not
10 sure if this might be an appropriate time for the afternoon
11 break?

12 **THE COMMISSIONER:** Yes, it should be. All
13 right. We'll take 15 minutes.

14 **MR. ENGELMANN:** Thank you.

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

17 The hearing will reconvene at 3:25.

18 --- Upon recessing at 3:10 p.m./

19 L'audience est suspendue à 15h10

20 --- Upon resuming at 3:33 p.m./

21 L'audience est reprise à 15h33

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

24 This hearing of the Cornwall Public Inquiry
25 is now in session. Please be seated. Veuillez vous

1 asseoir.

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

3 **MR. ENGELMANN:** Mr. Commissioner, just
4 before I call on the next lawyer, I just wanted to ask your
5 indulgence for a moment. Several counsel have expressed a
6 desire to have a meeting amongst counsel in the morning.

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

8 **MR. ENGELMANN:** I'm wondering, with your
9 permission, we intend to meet at about 9:15 for about half
10 an hour or so. So if that was possible, if we could start
11 with the additional opening statements at 10:00?

12 **THE COMMISSIONER:** Yes, certainly.

13 **MR. ENGELMANN:** We would still finish them
14 up in the morning and start evidence from the first alleged
15 victim in the afternoon.

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

17 **MR. ENGELMANN:** Thank you.

18 So the next opening statement is from the
19 Diocese of Alexandria-Cornwall and Mr. David Sherriff-Scott
20 is here to make those submissions.

21 **THE COMMISSIONER:** Good afternoon, sir.

22 --- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MR.
23 **SHERRIFF-SCOTT:**

24 **MR. SHERRIFF-SCOTT:** Good afternoon,
25 Commissioner. I hope you are well and welcome the

1 opportunity to give a brief statement.

2 The Diocese is, as you know Commissioner, an
3 organization which has, since the birth of Cornwall, been a
4 fundamental part of its fabric and its support, its
5 survival, its vibrancy and its strength. Diocesan staff,
6 priests and others, have worked and dedicated their lives
7 to further the well being of parishioners and others in
8 this community, and that will continue. They will continue
9 to assist those in need: the poor; homeless; families and
10 the spiritual needs and education and well being of the
11 people in the city and the environs.

12 Have there been in the past exceptions to
13 that rule, people whose conduct has departed from those
14 standards? Yes. Some of the first witnesses will talk
15 about such a person who was part of the Diocese, but I
16 submit in this regard you will find, as the evidence
17 unfolds, that the Diocese is no different from any other
18 organization. There are always exceptions and they may be
19 shocking when that person is in a position of trust, but
20 there are always exceptions, and those exceptions find
21 their way into every institutional organization, community
22 organization or other.

23 But that does not necessarily, nor does it,
24 I submit, represent the character, the depth, the
25 commitment or the nature of the Diocese in this city.

1 Individuals who you will hear about, in particular the
2 first one, were rogue, operating undetected, just as they
3 have operated in other institutions, some of whom are
4 parties before you.

5 I submit that the evidence, when you hear it
6 and as it unfolds, will demonstrate that there was no clan
7 of pedophiles in this community that involved the Diocese.
8 There was no thwarting of the administration of justice in
9 which the Diocese or any of its staff were involved and we
10 welcome the opportunity to challenge the rumour, innuendo
11 and even hysteria whipped up by the purveyors of websites
12 who fanned the flames of those kinds of statements and
13 positions.

14 The Diocese has, as you have heard from the
15 Bishop who was installed here in 2002, conducted a
16 comprehensive review and has developed what I submit is a
17 state-of-the-art set of policies and procedures to address
18 the subject of your Inquiry. It will continue to modify
19 and address those issues as time unfolds, and that is a
20 commitment it has made in writing in the policies which it
21 has adopted and promulgated.

22 Now, just before I talk about what this
23 Inquiry is about from our point of view, I should say that
24 I echo and adopt the submissions of my friend Mr.
25 Callaghan, particularly concerning the scope of the

1 subjects here to be examined by the Inquiry, as well as the
2 type of standards that should be assessed and applied in
3 finding facts, and I know you will hear, for example, that
4 kind of issue echoed by Dr. Loftus when he does testify.
5 He is an individual who has published one of the only
6 studies on the profile of perpetrators who happen to be
7 religious in character and he, in that study, which was
8 published only a very short time ago, continues to lament
9 the dirth of information about the characteristics of this
10 problem.

11 Now, what is this Inquiry about and how is
12 it to be handled? Well, those are good questions and I
13 suspect the answer depends on who you ask and what they
14 want, but what people want is not always what they should
15 have, nor what people want, is not always consistent with
16 what is. In fact, this Inquiry is not about what people
17 want in as much as it is something that is classified and
18 characterized as a result of the compromises and will of
19 the legislature encapsulated in the Terms of Reference.
20 That is the document which you will have to grapple with
21 and that is the document that gives and limits your powers
22 here, and finding rational limits to your powers in that
23 document, I submit, is as important as any other task you
24 will face in terms of how you grapple with the evidence as
25 it unfolds, because without proper limits, the Commission's

1 powers can become unfocused and arbitrary, and that is
2 unhelpful to all.

3 I say, Commissioner, that safety in the
4 interpretation of your Terms of Reference lies in
5 applicable principles of interpretation, statutory
6 interpretation. There will be many principles that apply.
7 Seldom will one predominate to the total exclusion of
8 others. Subtlety and reason is required to reconcile and
9 prioritize them. That's not to say that some of those
10 principles may not have more particular importance in a
11 specific context, but that will be driven by the specific
12 context.

13 And so, I would urge you to carefully
14 consider and attempt to reconcile the many principles that
15 will apply to your document, your blueprint for the Inquiry
16 as you go forward.

17 Now, what are some of the important
18 principles the Diocese says are applicable in terms of the
19 Terms of Reference and how it is to be treated when we go
20 forward?

21 In my submissions, at page 3, I have set out
22 a series of statements which were made by the former Chief
23 Justice McRuer when he conducted a Commission of Inquiry
24 into Civil Rights in the Province and, in particular, one
25 that led to the present version of the *Public Inquiries*

1 Act, and some of these I read to you on an earlier date,
2 and I have added the comments from the Ontario Law Reform
3 Commission. In particular, I want to emphasize a few at
4 page 3, paragraph 12 and following, starting with the
5 quotation at the bottom of the page in paragraph 12 that:

6 "There can be no descent from the
7 proposition that the expressed scope of
8 an investigation should not be wider
9 than is necessary to implement the
10 policy of the Act conferring the
11 power."

12 At the top of the next page, Chief Justice,
13 as he then was, said that again, that:

14 "The scope of investigative powers and
15 inquiries should be no wider than
16 necessary."

17 And his comments and concerns were echoed
18 later by Law Reform Commission officials:

19 "Overbroad mandates..."

20 In paragraph 14:

21 "...threaten the fairness of inquiries,
22 limit their efficiency and increase
23 time required."

24 And of particular import is the quotation in
25 paragraph 15:

1 "...the need for specific, narrow and
2 clear limits of authority for the
3 Commission. It shouldn't be placed in a
4 position where it has the ability to
5 construe its mandate in any manner as
6 it pleases or be forced to construe it
7 as pressure directs."

8 So while the *Public Inquiries Act* may be
9 something that is given a liberal interpretation which has
10 been urged on you, and your Terms of Reference may also
11 attract that interpretive tool in circumstances, the
12 overarching imperative, I submit, is to construe your
13 mandate, not as broadly as necessary, but as rationally
14 particular as necessary and possible to efficaciously
15 accomplish your objective.

16 Investigative powers are coercive
17 instruments of the state and they should not be construed
18 unnecessarily broadly. They should be confined to their
19 clearly necessary rational purpose to implement the
20 objectives of the Act and the Terms of Reference.

21 I've already heard in this process many
22 times and no doubt will hear again, "This is a public
23 inquiry", as if that expression had some magic to justify
24 the broadest mandate for you or the incursion into
25 individual rights. Or that a large and liberal

1 construction should be applied to allow you to construe
2 your mandate as absolutely broadly as possible. I think
3 those are unfortunately oversimplified statements which
4 ignore the interdictions of Chief Justice McRuer that I've
5 read to you, as well as the appropriately expressed
6 principle that your powers, as instrument of the state,
7 have to be confided. They have to have rational limits.

8 I'd urge you to adopt that approach and a
9 consideration to be in the forefront of your mind as the
10 difficult process of the factual phase of the inquiry
11 unfolds.

12 I believe, second, that the caution I gave
13 you just now in terms of policy is rooted in, among other
14 things, the concern that public inquiries can very
15 profoundly affect individual rights and that, for that
16 reason, in the interpretation of your Terms of Reference
17 and how you handle your mandate you must be ever mindful of
18 the importance of those rights.

19 And for example, Commissioner, at paragraph
20 23 of my submissions, I quoted again from McRuer when he
21 said individual rights in the context of an inquiry are of
22 fundamental importance and should be safeguarded against
23 any unjustified encroachment. Their protection requires
24 vigilance. That is an interpretive tool which, I submit,
25 you should be cognizant of and follow. The primacy of

1 individual rights in this process cannot be overestimated.

2 Moreover, recently the Supreme Court of
3 Canada in the *Blood System* case in 1997, which was a
4 judicial review emanating out of that commission's work,
5 said:

6 "The inquiry's roles of investigation
7 and education of the public are of
8 great importance. Yet those roles
9 should not be fulfilled at the expense
10 of the denial of the rights of those
11 being investigated. The need for
12 careful balancing was recognized by
13 Decary J.A. when he [said]... 'The
14 search for truth does not excuse the
15 violation of rights of individuals
16 being investigated.' This means that
17 no matter how important the work of an
18 inquiry may be, it cannot be achieved
19 at the expense of the fundamental right
20 of each citizen to be treated fairly."

21 So I submit, in sum, on this point that
22 while there are those who will always urge you to construe
23 your mandate and your powers as broadly as possible, I ask
24 you to be mindful of the cautions I have just read to
25 ensure that in construing your powers you construe them as

1 rationally as possible, and in construing them, that you
2 recognize and reconcile the applicable principles which
3 govern the interpretation.

4 Moreover, I believe I can also say that the
5 individual rights and how they are treated in this process
6 will also affect the integrity and ultimate credibility of
7 your recommendations. A process which runs afoul of
8 individual rights is one which I submit institutions will
9 not respect and will therefore not have as much value to
10 them or to the community. In short, the ends will never
11 justify the means.

12 Now, some of the examples of the protection
13 of rights that I am concerned about and that I urge you to
14 consider as we go forward I have enumerated in the
15 submissions at paragraph 25. I don't propose to review
16 them in any detail. They are set out there.

17 I would add to that list, Commissioner,
18 another concern and point which is how you handle
19 evidentiary principles and in particular I express the
20 caution that great care should be taken by you not only to
21 facilitate the evidence of alleged victims because that
22 needs to come forward, but also to ensure that it is fairly
23 presented from the point of view of all and in particular
24 those being investigated.

25 Rules of evidence, while in your discretion,

1 cannot be rejected out of hand. They represent
2 reconciliation of how truth is to be arrived at, and
3 fairness demands, I submit, rigour in the application of
4 evidentiary rules, in particular with respect to the
5 evidence of alleged victims because much of what you'll
6 hear from them cannot be answered and because you cannot
7 and are not set up to adjudicate factual disputes as
8 between them and some institutions, not with respect to
9 perhaps how institutions behaved in handling allegations
10 but about the allegations themselves, and so great care
11 needs to be taken when these individuals testify on these
12 points.

13 Now, the Diocese welcomes the opportunity
14 and remains committed to participating in the inquiry. It
15 remains committed to revising, auditing and adapting its
16 current policies that it has undertaken to develop in
17 accordance with best practices and it looks forward to this
18 inquiry as a means to understanding best practices and how
19 they can be used by the Diocese as time unfolds.

20 The Diocese hopes that the process will be
21 productive and useful and healing to the community as well
22 as fair and principled for all involved.

23 Those are my submissions. Thank you,
24 Commissioner.

25 **THE COMMISSIONER:** Thank you, Mr. Sherriff-

1 Scott.

2 **MR. ENGELMANN:** Mr. Commissioner, the next
3 party to speak will be the Ontario Provincial Police
4 Association. Mr. Mark Wallace is present to make those
5 submissions.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Wallace.

8 --- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MR.
9 WALLACE:

10 **MR. WALLACE:** Good afternoon, Commissioner.

11 **THE COMMISSIONER:** Good afternoon, sir.

12 **MR. WALLACE:** Sir, the Ontario Provincial
13 Police Association on behalf of its members has authorized
14 me to once again express wholehearted support for the
15 Commission in the pursuit of its goals as set out in the
16 Order in Council.

17 We believe that the evidence will show that
18 the frontline officers involved in the Project Truth
19 investigations performed their duties with diligence,
20 professionalism, sensitivity towards the complainants, and
21 respect for the rights of those under investigation.

22 We are mindful that there was significant
23 and ongoing evolution in the approach to all aspects of the
24 investigation and prosecution of these types of offences.
25 Our membership is committed to affording the Commission

1 every assistance, secure in the belief that a full and
2 frank review of the matters in issue is possible if all of
3 the interested parties approach the task in the spirit of
4 cooperation and transparency.

5 The foregoing captures a number of
6 principles that should, in my submission, guide the inquiry
7 generally, in Phase I specifically. I wish to elaborate on
8 two of those.

9 Firstly, thoroughness; I would suggest that
10 the discovery of the facts must be thorough. We must
11 ensure that all of the relevant facts necessary to
12 establish an accurate and complete chronicle of the events
13 encompassed by your mandate are brought out. A thorough
14 exposé of the facts will allow the inquiry to educate the
15 public by answering the questions of what happened and
16 what, if anything, went wrong. It will also make any
17 recommendations flowing from those facts more meaningful.

18 In establishing those facts it is vitally
19 important, in my submission, that the process is fair. We
20 have been very fortunate thus far because your rulings have
21 been exactly that, very fair. You have recognized the need
22 for balancing the different interests that come into play
23 as this process unfolds. There is every reason to expect
24 that as we move forward that there will be many issues that
25 will call for your careful deliberation and judgment. And

1 with fairness as your guide no party will have cause to
2 complain.

3 This inquiry is very important. To be sure,
4 it's important to the people of Cornwall, but its
5 importance goes far beyond Cornwall because unfortunately
6 the evidence -- sorry, the incidence of child sexual abuse
7 goes far beyond Cornwall. It touches all communities, so
8 all communities and the institutions that serve them stand
9 to benefit from the work of this inquiry.

10 The Ontario Provincial Police Association
11 and its members are committed to assisting this inquiry
12 with its important work.

13 Thank you, sir.

14 **THE COMMISSIONER:** Thank you, sir.

15 **MR. ENGELMANN:** Mr. Commissioner, I
16 understand by agreement of counsel we'll next hear from the
17 Men's Project and they are represented by David Bennett.

18 **THE COMMISSIONER:** Yes, thank you.

19 --- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MR.
20 **BENNETT:**

21 **MR. BENNETT:** Good afternoon, Mr.
22 Commissioner.

23 As you know, the Men's Project is a
24 community-based charitable non-profit organization with
25 offices both in Cornwall and Ottawa, and its

1 multidisciplinary team of skilled clinicians backed by its
2 roster of volunteers have made the Men's Project a
3 provincial leader in providing training for healthcare and
4 other professional service providers in the field of trauma
5 and recovery for men.

6 And I'm not going to go into great detail
7 about the Men's Project. You have heard about it and we
8 had significant -- we set out the role of the Men's Project
9 in our initial application for standing.

10 Over the course of the last few months we've
11 heard a lot about what the Order in Council -- the exact
12 words of it. From our perspective it's basically you have
13 three things that need to be done. First is find out what
14 happened; secondly, make recommendations to prevent future
15 Cornwalls; and thirdly, recommend ways to promote healing
16 in Cornwall. It'll be a long, difficult and painful path
17 and yet it's extremely important.

18 As we go through the process it's essential
19 that all parties are mindful of all witnesses. It's going
20 to be extremely emotional for all participants. It'll be
21 important that all witnesses, whether they are survivors,
22 people in positions of authority or community members be
23 treated fairly and respectfully. We recognize that it is
24 important to proceed cautiously so as not to needlessly
25 damage reputations. At the same time, we wouldn't be here

1 if something had not happened.

2 We've heard from the experts during the
3 contextual evidence that false allegations of abuse are
4 extremely rare. While we are balancing the rights to be
5 presumed innocent, which is a concept that the Men's
6 Project fully embraces, we also must balance that with the
7 importance of not having the survivors feeling that their
8 veracity is being undermined.

9 Now to date the inquiry has mostly focused
10 on Part I. We should not, however, lose sight of the
11 importance of Part II. And again I would like to commend
12 you and the Director of Part II, Ms. Parish, on the
13 extremely impressive panel of experts you have to advise
14 you. The Men's Project was very pleased with the members
15 that were chosen.

16 In terms of Part I, as lawyers we're very
17 comfortable with the setting of Part I. We have a judge at
18 the front of a room. We have a witness box. We know that
19 there's going to be examination in-chief, cross-examination
20 and then there's going to be re-examination. We know that
21 we can object to evidence and make motions to exclude
22 evidence.

23 Part II, however, may look very different
24 and we urge all parties to approach it with an open
25 attitude. It may look very different than anything that we

1 as lawyers have ever seen before and just because it's
2 going to be different it doesn't mean there's something
3 wrong with it. Just because the lawyers may have no
4 control over Part II it doesn't make it necessarily bad.

5 And I know that for the lawyers in the room
6 that we get uncomfortable when we lose control or perhaps
7 cannot advise our clients about what may or may not happen,
8 but maybe the best thing that could happen for -- to ensure
9 the success of Part II is for all the lawyers to stand back
10 and let go of some of our control, and I urge all the
11 parties not to get too legalistic as Part II moves forward.
12 Part II is for the survivors and for the people of
13 Cornwall. Let them have their day and let the healing
14 process begin without being restricted by the legal system.

15 I'd like to talk about what the goals of the
16 Men's Project have been since we initially applied for
17 standing.

18 We wanted to have a voice in the process and
19 we have achieved that. We wanted support to be available
20 to the survivors who participate in this inquiry, and the
21 Commission has recognized this through the counselling
22 program which has been established. We would like to thank
23 you, Mr. Commissioner, for having this implemented and we
24 were very pleased that the counselling will be available to
25 anyone involved in this inquiry who requires it, whether a

1 witness, a family member, a survivor, Commission staff,
2 Counsel for any of the parties or anyone else affected by
3 the process. It is an excellent recognition of the toll
4 this issue may have on any of the participants.

5 We also requested the implementation of a
6 Witness Support Program. Again, we would like to thank
7 you, Mr. Commissioner, having provided for this. We are
8 confident that it will contribute to the success of this
9 Inquiry.

10 We're optimistic, that at the end of this
11 process, the Commission will have an understanding how the
12 lack of services for men contributed to the problem in
13 Cornwall. We have already heard during the contextual
14 evidence of Dr. Wolfe, Dr. Jaffe, Detective Leaver and Ms.
15 Faryna that services for male survivors of sexual abuse are
16 either limited or non existent.

17 As a result of this understanding, we are
18 looking for a recommendation in your final report that
19 service centres for male survivors of sexual abuse and/or
20 sexual assault be created province-wide. These centres
21 will need secure funding from the Ministry of the Attorney
22 General, similar to the funding arrangement with the 34
23 existing women's sexual assault centres in Ontario.

24 I also have a list of some other
25 recommendations we are hoping to see by the end of this

1 Commission and things for you to think of as you are
2 hearing evidence in Part 1 and also as we go through Part
3 2, that a training centre be established to offer
4 comprehensive training in effective practices and
5 techniques province-wide. It would be a significant
6 gesture to the community of Cornwall if the centre were to
7 be based here in Cornwall. Perhaps, the various public
8 institutions involved in this Inquiry be encouraged to
9 donate funds toward the cost of the setup and structure of
10 this centre.

11 That a province-wide 1-800 service for male
12 survivors of sexual abuse and/or sexual assault be created.

13 That emergency response protocols be
14 established and that organizations which provide counseling
15 and treatment services for both male and female victims be
16 an integral part of that response.

17 That an office and response protocol for an
18 advocate for sexual abuse victim services be created. This
19 would facilitate every victim of violence, whether male or
20 female, having access to services for counseling, victim
21 care advocacy and legal options.

22 That you look and examine whether creating a
23 position of an ombudsman for dealing with issues of sexual
24 abuse would be a good idea. If there had been a watchdog,
25 then perhaps there would have been a different response by

1 the various institutions involved. An ombudsman or an
2 advocate may have seen a pattern very early on in the
3 process and helped guide the various participants on how
4 they could have improved their responses.

5 We would also like the Commission to examine
6 whether the legal process has contributed to the lack of
7 healing. We would like to see an exploration of
8 alternative and more creative ways to approach redress.
9 The litigation process paralyzes the participants. It is
10 extremely difficult to move forward if acknowledgement or
11 apologizing equals liability.

12 We heard this from the evidence of Dr. Jaffe
13 on February 22nd. He talked about the experience at Maple
14 Leaf Gardens and Mr. Dryden when he was approached with a
15 letter. What he said in -- and this was Mr. Jaffe quoting
16 Mr. Dryden -- "So I went to my -- I sought legal advice
17 when someone asked me if I should give \$5,000 to a
18 survivor. My legal advice is "Don't say anything. Don't
19 do anything. Don't give them money. Don't write a letter.
20 Don't acknowledge." And then he went on to talk about how
21 this can cause a real freeze in resolving these types of
22 issues. Mr. Jaffe, in his testimony on the same page --
23 this is page 107 of the transcript on February 27 -- he
24 said:

25 "So I assure that sort of one of the

1 dilemmas as we get in these issues,
2 they're very complicated and there's
3 all kinds of legal ramifications which
4 I don't want to minimize, but clearly
5 the law does not always get us to do
6 the right thing."

7 And again, it is our submission, as you're
8 going through this, to examine whether the legal process is
9 not necessarily the best way to deal with these types of
10 issues.

11 We look forward to participating in both
12 phases of this Commission in order to identify other
13 recommendations and provide these as they emerge to the
14 Commission for your consideration.

15 Finally, we would like to say that we are
16 pleased by the establishment of this Commission. We know
17 you have a lot of work ahead of you and we wish you great
18 success.

19 Thank you.

20 **THE COMMISSIONER:** Thank you, Mr. Bennett.

21 **MR. ENGELMANN:** The next party, sir, is the
22 Victims Group and Mr. Dallas Lee is here to make those
23 submissions.

24 **THE COMMISSIONER:** Thank you.

25 --- OPENING STATEMENT BY/DÉCLARATION D'OUVERTURE PAR MR.

1 **LEE:**

2 **MR. LEE:** Good afternoon.

3 **THE COMMISSIONER:** Yes, sir.

4 **MR. LEE:** As you know, Mr. Commissioner, the
5 Victims Group has been granted full standing for both Parts
6 1 and 2 of this Inquiry.

7 It seems to me, in conversations I've had
8 recently with members of the community that there may be a
9 little bit of confusion about exactly who I represent and
10 who comprises the Victims Group. So I would like to take
11 this opportunity to clear that up a little bit.

12 The Victims Group is comprised of
13 individuals whose traumatic and life-altering experiences
14 when children constitute the very subject matter of this
15 Inquiry. They are victims of sexual abuse who have
16 suffered long-lasting, detrimental effects to their own
17 lives and the lives of those around them often, in large
18 part, as a result of the lack of appropriate institutional
19 responses to their pleas for help.

20 It is important to explain that the Victims
21 Group is not comprised of all victims of sexual abuse in
22 Cornwall. The Victims Group, rather, is a collection of
23 individuals who have come together to seek standing at the
24 Inquiry in order to actively participate in this process
25 and to seek funding to permit them to be represented by

1 counsel.

2 Some victims of abuse in the Cornwall area
3 have indicated that they do not wish to participate in this
4 Inquiry. Others undoubtedly have not found the strength to
5 disclose their abuse at all and others still are willing to
6 assist the Inquiry with its work but do not wish to do so
7 as part of a party with standing.

8 The point is that the Victims Group is a
9 collection of strong men and women who are all connected as
10 survivors of sexual abuse in this community. Sadly,
11 however, they are not the only victims. So that is who we
12 are.

13 The next question I would like to address is
14 why we're here. Many questions have been raised with
15 respect to this Inquiry's mandate and I am constantly
16 asked: "What is this Inquiry about?". I find, Mr.
17 Commissioner, that I generally get blank stares when I
18 respond, "It's about the institutional response of the
19 justice system and other public institutions in relation to
20 allegations of historical sexual abuse of young persons in
21 the Cornwall area." Nobody knows what that means, sir.

22 It has been suggested here today and earlier
23 than today that this is really a Project Truth inquiry,
24 that this Inquiry was called in reaction of Project Truth
25 and that its mandate is to examine Project Truth's

1 investigations and only those investigations.

2 With respect, sir, that is not the mandate
3 of this Inquiry. This Inquiry is much broader in scope.
4 Your mandate permits you to inquire into all allegations of
5 historical abuse of young people in the Cornwall area going
6 back as far as you need to.

7 You will hear from victims who complained of
8 their abuse decades before Project Truth. You will hear of
9 criminal prosecutions undertaken long before Project Truth
10 and, most of all, of course, you will hear of abuse that
11 took place long before Project Truth. In most cases, sir,
12 damage had been done long before Project Truth and that
13 project's failings made things worse in many cases, but it
14 did not cause the initial harm.

15 You have also heard and will hear in the
16 future all about Constable Perry Dunlop. Mostly, you will
17 hear from various institutions that Mr. Dunlop is to blame
18 for their failings. You will hear all about his contact
19 with victims of abuse and his lack of cooperation with
20 authorities. You will also, I hope, hear of his refusal to
21 permit allegations of abuse to be swept aside or kept
22 quiet. You will hear about victims of abuse flocking to
23 Mr. Dunlop to disclose their stories to the first
24 sympathetic figure many had ever known. You will hear
25 about his efforts to challenge the idea that sexual abuse

1 is best kept quiet. You will hear about how there likely
2 would not be a Cornwall Public Inquiry without Mr. Dunlop's
3 refusal to follow orders he knew to be wrong.

4 There are two sides to the Perry Dunlop
5 story as far as my clients are concerned, Mr. Commissioner.

6 And all of that being said, Perry Dunlop is
7 but one minor part of the events giving rise to this
8 inquiry. He is one player among hundreds and attempts to
9 begin and end the Cornwall story with Perry Dunlop are
10 misguided and unreasonable.

11 So the question that begs to be answered is
12 how do we go about assessing the institutional response
13 here?

14 As we have already begun with various
15 contextual witnesses, we are going to examine the policies
16 and procedures employed by various institutions. As we
17 have heard, these policies have evolved over time and they
18 continue to evolve. It will therefore be necessary to
19 examine the policies in place at specific times in order to
20 assess the applicable institutional responses.

21 As we proceed, however, we need to be
22 careful not to simply focus on policies and procedures. If
23 every action within these institutions we're examining
24 required a formal written policy, nothing would ever get
25 done. There is always room within any organization for its

1 people to act in accordance with principles of common
2 sense, compassion and decency.

3 Sexual abuse was as wrong 40 years ago as it
4 is today and no formal written policy has ever been
5 required to make it so. Society's understanding of issues
6 relating to child abuse informs the sophistication of the
7 response but not the basic requirement that children must
8 be protected and that perpetrators of sexual abuse must be
9 stopped.

10 So as we proceed, we need to ask ourselves
11 what happened. We need to uncover the truth -- as that
12 phrase has been thrown about quite a bit -- and we need to
13 figure out what went right and what went wrong. We need to
14 examine what allegations were made and to whom. We then
15 need to examine the response to those allegations in order
16 to determine whether it was appropriate or not. We must
17 keep in mind as we do this that doing absolutely nothing is
18 a form of response that must also be examined.

19 It is my client's position that the
20 institutional responses cannot be examined in isolation,
21 however. A broader appreciation of the factors influencing
22 those responses is critical. In order to properly and
23 fully assess any particular institutional response to an
24 allegation of sexual abuse, the Commission must inquire
25 into all of the factors influencing that response by

1 examining not only institutions, policies and procedures,
2 but also the specific individuals within that institution
3 who received, analyzed, responded to, considered, reported
4 upon or otherwise dealt with the allegation. And as part
5 of that analysis, as we've heard today, the Commission must
6 be cognizant that the need for a public inquiry resulted in
7 part from rumours, innuendo and allegations relating to a
8 ring or clan of persons within and without important public
9 institutions who not only actively perpetrated sexual abuse
10 upon Cornwall's youth but also conspired to prevent victims
11 from coming forward and to suppress those allegations that
12 were made.

13 In order to truly uncover the truth, this
14 Commission must inquire not only into allegations of abuse
15 and the responses thereto, but also into all the factors
16 influencing those responses.

17 The Victims Group submits that. should the
18 evidence lead you to the conclusion that the responses in
19 question were inappropriate or improper, you should be
20 prepared and willing to report on whether the failings were
21 the result of naiveté, ignorance, incompetence or something
22 more sinister.

23 Another key focus of this Inquiry, Mr.
24 Commissioner, should be the effects of abuse and failed
25 institutional responses on victims. As we've heard from

1 Drs. Wolfe and Jaffe, among others, the effects of
2 childhood sexual abuse are devastating. These effects
3 impact victims differently. As we have heard, many victims
4 of sexual abuse do not disclose their abuse for years or
5 even decades. Others don't disclose at all.

6 It is my client's strong desire that this
7 Commission hear from a small number of victims who did not
8 disclose their abuse for extended periods of time. There
9 are men and women in this community who do not fall within
10 the scope of this mandate because they did not disclose
11 their abuse until very recently or who disclose their abuse
12 only to a friend or advisor rather than to an institution.

13 My clients feel strongly that the Commission
14 and this community would benefit from hearing from these
15 people as to why they did not come forward and the
16 challenges they faced.

17 In addition to the great difficulty many
18 victims have in disclosing their abuse, the scope of sexual
19 abuse and its impact in terms of the physical, personal and
20 economic effects on victims is devastating.

21 A primary purpose of this Inquiry should be
22 to examine how the institutional responses to allegations
23 of sexual abuse affected the victims, the perpetrators in
24 this community. Victims and survivors of child sexual
25 abuse are deeply and permanently affected by their abuse

1 and the effects are numerous and long-lasting. While the
2 full effects are not known, many long-term effects of
3 sexual abuse have been identified and many have already
4 been touched on here during the contextual evidence.

5 In 1990, as we've heard, the Winter
6 Commission prepared a report on large-scale sexual abuse in
7 the Catholic Archdiocese of St. John's in Newfoundland. I
8 would like to read to you certain excerpts from that
9 report. With respect to the initial effects of sexual
10 abuse, Gordon Winter wrote:

11 "The initial effects of child abuse
12 present themselves differently
13 depending on the age or developmental
14 stage of the child. Very young
15 children tend to display mainly
16 internalized traits such as fear, anger
17 and hostility, guilt, diminished self
18 esteem, a sense of betrayal and self
19 hate. Older children, however, usually
20 exhibit more externalized symptoms such
21 as school problems, tendencies to run
22 away, temper tantrums, substance abuse,
23 inappropriate sexual behaviour and
24 suicide attempts. They may be repulsed
25 by their sexual feelings or develop a

1 heightened sexual awareness leading to
2 promiscuous behaviour."

3 With respect to some of the long-term
4 effects, Mr. Winter wrote:

5 "The most prevalent long-term effects
6 include such emotional reactions as
7 depression, self destructive behaviour,
8 anxiety, sleep problems, stigmatization
9 and negative self concept many victims
10 experience difficulties related to
11 their sexuality, an inability to enjoy
12 sex or a compulsive desire for sex and
13 reflect a confusion about their sexual
14 orientation. Other consequences might
15 include chronic pain, headaches,
16 nausea, eating disorders, problems in
17 schools, prostitution, alcohol and drug
18 abuse and sexually transmitted
19 diseases. Victims might also have
20 difficulty relating to others, forming
21 healthy relationships with adults and
22 with their own children and may be
23 vulnerable to victimization. Within
24 society, they feel powerlessness; have
25 problems with responsibility and self

1 control, or experience general problems
2 with adjustment or coping."

3 Mr. Winter also touched on the fact that
4 parents of the victims are affected. He wrote:

5 "Parents of victims tend to be
6 especially hard on themselves. While
7 they are trying to help their child,
8 they must also cope with their own deep
9 and complex feelings. They may torture
10 themselves with endless doubts about
11 the quality of their parenting and
12 tensions within the family may give
13 rise as the parents are beset by new
14 worries about the safety of their
15 children outside of the home, about
16 drug and alcohol abuse, fights or
17 suicide attempts."

18 And finally, he discussed the victims'
19 distrust of institutions. He wrote:

20 "If the person who abused the child was
21 a friend or a person entrusted with the
22 care of the child, the parents will
23 experience an enormous sense of
24 betrayal. It may be even greater if
25 the person is a teacher or clergyman

1 and the family will probably feel
2 betrayed not only by that person but by
3 the whole institution that the person
4 represents. That may lead to a
5 distrust of everyone and for parents
6 trying to teach their children how to
7 trust, a tremendous dilemma is
8 created."

9 The Victims' Group submits that this
10 Commission must not only ask whether the prevalence and
11 effects of sexual abuse would have been lessened had the
12 institutional responses to allegations been different; it
13 must also answer that question in its report.

14 To fulfill its mandate, this Commission must
15 not simply inquire into the propriety of institutional
16 responses. It must go further and analyze how appropriate
17 responses would have changed the course of history in
18 Cornwall.

19 If secrecy, incompetence or misconduct is
20 exposed during the course of the Commission's work, the
21 community is entitled to learn the economic, social,
22 spiritual and human cost thereof.

23 Phase 2 of this Inquiry is focused on
24 helping affected individuals, institutions in the
25 community, find healing and closure.

1 The Victims Group submits that the important
2 purposes of Phase 2 cannot be achieved without public
3 recognition flowing from Phase 1 that failed institutional
4 responses were not simply unfortunate but also harmful and
5 significant and contributed to the pain and hardship
6 experienced by the victims of abuse in Cornwall.

7 The victims of abuse submit that the
8 Cornwall Public Inquiry's mandate demands a full and
9 complete investigation into the institutional response to
10 allegations of sexual abuse no matter how complicated,
11 disheartening or controversial.

12 Mr. Commissioner, we also submit that there
13 is much at stake here. The people of this community and
14 the victims of sexual abuse that I represent have high
15 hopes for this Inquiry. They view the calling of this
16 inquiry as the first step towards recognition that
17 something has happened here in Cornwall that is not okay
18 and that is not acceptable.

19 In the past year, as you can imagine, I have
20 spent the vast majority of my time dealing with victims of
21 abuse in Cornwall. I have listened to their stories and
22 tried my best to understand what they have been through and
23 the challenges they continue to face.

24 I am sorry to tell you, Mr. Commissioner,
25 that I met with a new client a few weeks ago here in

1 Cornwall. I had unrealistically but optimistically hoped
2 that there were no new clients to be had. Of course, there
3 are more victims out there who have not yet been able to
4 disclose.

5 This one woman, however, called me and asked
6 to meet. I met with this woman and she told me of horrific
7 abuse at the hands of a family member. She told me of a
8 brave attempt at reporting her abuse as a young child, at
9 which time she was beaten and ordered to never speak of the
10 matter again.

11 She told me of her second attempt to report
12 the abuse after her own failed suicide attempt where she
13 reported to an institution charged with protecting her only
14 to be ignored. She told me of how her abuse continued for
15 years afterwards and how it became very clear to her that
16 she was worthless and entirely on her own.

17 She told me of her pregnancy at the hands of
18 her abuser and the child she gave up for adoption. She
19 told me of her failed education and of her failed marriage.

20 After hearing this story, I asked this woman
21 why she called me. She answered simply that I represent
22 the Victims Group at the Inquiry and that the Inquiry is
23 important. She explain that she could not sit by and let
24 this important process continue without doing something
25 because this was her one chance. She described it as a

1 "chance", as an opportunity, to help protect her
2 grandchildren and every other child that might be spared
3 the horrors of her childhood and the effects of failed
4 responses from those people in institutions that should
5 have protected her.

6 This Inquiry is important to my clients, Mr.
7 Commissioner, and it is important to this community and it
8 is important to this province.

9 In closing, I want to reassure you that the
10 Victims Group truly looks forward to supporting this
11 Commission in anyway that it can. Thank you.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Engelmann.

14 **MR. ENGELMANN:** Mr. Commissioner, the next
15 party is the Ministry of the Attorney General of Ontario.
16 Ms. Leslie McIntosh is here to make submissions on their
17 part.

18 **THE COMMISSIONER:** Did you want to hear that
19 now or -- did you want to proceed now or tomorrow morning?
20 How long would she be?

21 **MR. ENGELMANN:** Ms. McIntosh has estimated
22 about 15 minutes. I must say, sir, I am standing here
23 somewhat incredulous in the sense that my colleagues have,
24 I think with no exceptions, beaten the estimate they gave
25 us. So we have a number of lawyers who have spoken less

1 time than they indicated they would, which is a skill I've
2 never been able to master, but my colleagues have done
3 well.

4 I am in your hands, sir, if you want to
5 start with Ms. McIntosh today or tomorrow morning.

6 **THE COMMISSIONER:** Why don't we give her the
7 choice?

8 **MR. ENGELMANN:** Sure

9 **MS. MCINTOSH:** I am in your hands, Mr.
10 Commissioner. I'll be here tomorrow and happy to start
11 tomorrow or I am happy to do it today.

12 **THE COMMISSIONER:** Why don't we do it
13 tomorrow? I think we've done a number of them in -- I have
14 take extensive notes, but I would like to review some of
15 them before we start.

16 **MR. ENGELMANN:** Yes.

17 **THE COMMISSIONER:** So you have a meeting
18 tomorrow morning with counsel.

19 **MR. ENGELMANN:** Yes.

20 **THE COMMISSIONER:** So why don't -- for those
21 people who are on the web and members of the public, we
22 will be beginning at 10 o'clock tomorrow morning.

23 Would that be a fair estimate of time Mr.
24 Engelmann?

25 **MR. ENGELMANN:** Yes, sir, if that works for

1 you.

2 **THE COMMISSIONER:** Yes.

3 **MR. ENGELMANN:** And I believe the members of
4 the public will get notification and they should enter the
5 hearing room shortly before 10 o'clock. Counsel will be
6 meeting in this room.

7 **THE COMMISSIONER:** Terrific. Thank you very
8 much.

9 **MR. ENGELMANN:** Thank you.

10 **THE COMMISSIONER:** See you tomorrow.

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

13 This hearing of the Cornwall Public Inquiry
14 is now adjourned. L'audience est ajournée.

15 --- Upon adjourning at 4:19 p.m./

16 L'audience est ajournée à 16h19

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

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

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



Sean Prouse, CVR-CM