

**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 293

Held at :

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

Thursday, October 23, 2008

Tenue à:

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

Jeudi, le 23 octobre 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
M ^e Pierre R. Dumais	Commission Counsel
Ms. Maya Hamou	
Ms. Mary Simms	
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Christopher Thompson	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Ms. Michele R.J. Allinotte	
Ms. Josée Quesnel	
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. Jordan Glick	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Thomas O'Brien	CAS
Mr. Richard Abell	CAS

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1 --- Upon commencing at 9:32 a.m./

2 L'audience débute à 9h32

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

6 Please be seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you.

8 Good morning, all.

9 --- **OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MS. HAMOU:**

10 **MS. HAMOU:** Good morning, Mr. Commissioner.

11 **THE COMMISSIONER:** Good morning. How are
12 you today?

13 **MS. HAMOU:** I am very well.

14 **THE COMMISSIONER:** Good.

15 Just a moment; before we begin, what I
16 intend to do today is we will hear the ODE of Father
17 McDougald till around 10:15. I plan to break very shortly
18 simply to go back and get a statement that I will be giving
19 at 10:15 and then we will proceed with Mr. O'Brien.

20 As you know, Mr. O'Brien has some health
21 concerns and I'm very much intent on having his evidence
22 completed before lunch.

23 Go ahead then, please.

24 **MS. HAMOU:** Mr. Commissioner, we're seeking
25 to introduce an Overview of Documentary Evidence, as well

1 as accompanying documents for Monsignor McDougald this
2 morning.

3 Monsignor McDougald was part of the Diocese
4 of Alexandria-Cornwall. In the course of his work in the
5 Diocese, Monsignor McDougald acted as the Bishop's delegate
6 and was involved in the response to allegations of sexual
7 abuse made by David Silmsler to the Diocese of Alexandria-
8 Cornwall.

9 Further to your decision of September 12th,
10 2008 and your written reasons of October 20th, 2008
11 Monsignor McDougald has been excused from testifying at the
12 Cornwall Public Inquiry, further to a medical report
13 presented in Exhibit M16-A1.

14 In our view, the filing of an ODE will
15 assist the public and your understanding of events in
16 issue.

17 In preparing the overview, counsel have
18 attempted to capture the themes and issues that arise in a
19 neutral and thorough fashion. A draft of the ODE was sent
20 to the parties and we've had communications with counsel
21 and counsels' comments have, in many respects, been
22 included in the final version.

23 The ODE is not intended to be a substitute
24 for Monsignor McDougald's testimony and we acknowledge the
25 evidentiary value is clearly less than the documents used

1 in its preparation. In case of any conflict between the
2 ODE and the documents, the content of the documents should
3 prevail.

4 The parties will have had an opportunity and
5 will have an opportunity to address this evidence during
6 the institutional response and through additional documents
7 and *viva voce* evidence from witnesses who work within the
8 institutions.

9 It's possible that the additional evidence
10 may or may not be consistent with the contents of the ODE
11 and the documents used in its preparation. If there are
12 inconsistencies you may, of course, take those into account
13 when weighing the evidence before you.

14 As stated in your Ruling of May 29th, 2007
15 the matter of admissibility of the ODE is dealt with on a
16 case-by-case basis and the parties are aware that whether
17 or not they object to this particular ODE, they will remain
18 free to raise objections with respect to future ODE's.

19 I'd like to open the floor to any comments,
20 if the parties had any objections.

21 **THE COMMISSIONER:** Mr. Crane, do you wish to
22 bring forward the Manderville objection or comments rather?

23 **MR. CRANE:** For the sake of consistency,
24 sir, we would oppose the use of the ODE to support the
25 finding of any misconduct and that the use of the ODE

1 should not be used to tract or bolster the evidence of
2 someone who testified here *viva voce*.

3 Thank you, sir.

4 **THE COMMISSIONER:** Thank you. Your comments
5 are duly noted. Thank you.

6 Anyone else?

7 Thank you. Go ahead.

8 **MS. HAMOU:** Mr. Commissioner, I'd now like
9 to file the ODE as Exhibit 2435. I believe that's the next
10 exhibit.

11 **THE COMMISSIONER:** Thank you. Yes, 2435.

12 --- **EXHIBIT NO./PIÈCE NO. P-2435:**

13 Overview of Documentary Evidence of
14 Monsignor Donald McDougald

15 **MS. HAMOU:** And there are names in the ODE
16 that are subject to confidentiality measures so I'd like to
17 ask for a publication ban on the ODE.

18 **THE COMMISSIONER:** Thank you.

19 **MS. HAMOU:** In my reading of the ODE there
20 are names of people who are subject to confidentiality. I
21 won't read their names, I will read the monikers that have
22 been attributed to them.

23 **THE COMMISSIONER:** Thank you very much.

24 **MS. HAMOU:** Now I'd like to enter -- there
25 are a few documents, new documents I'd like to enter.

1 **THE COMMISSIONER:** Yes.

2 **MS. HAMOU:** Some of them contain names of
3 people again subject to confidentiality. I'll be
4 requesting publication bans on those.

5 The first document on my list is 129945.

6 **THE COMMISSIONER:** Thank you.

7 This is a letter dated August 17th, 2001 to
8 Mr. David Sherriff-Scott from Thomas Conway. It will be
9 Exhibit 2436.

10 --- **EXHIBIT NO./PIÈCE NO. P-2436:**

11 (129945) Letter from Thomas G. Conway to
12 David Sherriff-Scott dated 17 Aug 01

13 **MS. HAMOU:** The next document is 129948.

14 **THE COMMISSIONER:** Thank you.

15 That's a letter dated August 13, 2001 to
16 David Sherriff-Scott from Bradley Davis and that will be
17 Exhibit 2437.

18 --- **EXHIBIT NO./PIÈCE NO. P-2437:**

19 (129948) Letter from Bradley M. Davis to
20 David Sherriff-Scott dated 13 Aug 01

21 **MS. HAMOU:** The next document is 709814.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit Number 2438 is ---

24 **MS. HAMOU:** It's a resume of Monsignor
25 McDougald.

1 **THE COMMISSIONER:** Thank you very much. And
2 it's Document Number 709814 for identification purposes.

3 **--- EXHIBIT NO./PIÈCE NO. P-2438:**

4 (709814) Resume of Monsignor Donald
5 McDougald

6 **MS. HAMOU:** The next document is 709911.

7 **THE COMMISSIONER:** Thank you.

8 Exhibit 2439 is an audio taped interview
9 report of Monsignor Donald McDougald and the date of that
10 interview is May 31st, 2000.

11 **--- EXHIBIT NO./PIÈCE NO. P-2439:**

12 (709911) Audio Taped Interview Report of
13 Monsignor Donald McDougald dated 31 May 00

14 **MS. HAMOU:** The next document is 710304 and
15 I'd like to ask for a publication ban on this document.

16 **THE COMMISSIONER:** Yes. Exhibit 2440 is an
17 audio taped interview report of Father Monsignor Donald
18 McDougald on the 30th day of July 1999 and the stamp will
19 apply.

20 **--- EXHIBIT NO./PIÈCE NO. P-2440:**

21 (710304) Audio Taped Interview Report of
22 Monsignor Donald McDougald dated 30 Jul 00

23 **MS. HAMOU:** The next document is 711989.

24 **THE COMMISSIONER:** Thank you.

25 Now, what's this?

1 **MS. HAMOU:** These are handwritten notes of
2 Richard Abell dated October 15th, 1993.

3 **THE COMMISSIONER:** Thank you.
4 Exhibit 2441.

5 **--- EXHIBIT NO./PIÈCE NO. P-2441:**
6 (711989) Handwritten notes of Richard Abell
7 dated 15 Oct 93

8 **MS. HAMOU:** The next document is 738014.

9 **THE COMMISSIONER:** Thank you.
10 Exhibit Number 2442 is a letter dated
11 February 21st, 1996 to a number of lawyers from Peter Annis.

12 **--- EXHIBIT NO./PIÈCE NO. P-2442:**
13 (738014) Letter from Peter Annis to various
14 dated 21 Feb 96

15 **MS. HAMOU:** The last document, sir, I
16 believe it was just brought in, is 738048.

17 **THE COMMISSIONER:** Hot off the press is a
18 letter dated February 3rd, 1994 addressed to -- doesn't this
19 gentleman have a -- does this gentleman have a moniker?

20 **MS. HAMOU:** Yes, and I'd like to request a
21 publication ban.

22 **THE COMMISSIONER:** So it's C-3. It's
23 addressed to C-3 from Monsignor McDougald dated February
24 3rd, 1994. Again, Exhibit 2443.

25 **--- EXHIBIT NO./PIÈCE NO. P-2443:**

1 (738048) Letter from Monsignor Donald
2 McDougald to C-3 dated 03 Feb 94

3 **THE COMMISSIONER:** Fine. Go ahead.

4 --- OVERVIEW OF DOCUMENTARY EVIDENCE OF MONSIGNOR DONALD
5 McDOUGALD BY/SURVOL DE LA PREUVE DOCUMENTAIRE DE
6 MONSEIGNEUR DONALD McDOUGALD PAR MS. HAMOU:

7 **MS. HAMOU:** "Donald Bernard McDougald was
8 born on August 3rd, 1925. He is a Roman Catholic priest in
9 the Diocese of Alexandria-Cornwall.

10 He was ordained into the priesthood on May
11 19th, 1951 at a ceremony held at St. Finnan's Cathedral in
12 Alexandria. Following his ordination into the priesthood,
13 Monsignor McDougald served as a curate, administrator and
14 pastor in several parishes in Eastern Ontario, including
15 two assignments of St. Columban's Parish in Cornwall.

16 The first assignment at St. Columban's
17 Parish as a curate was from June 19th, 1951 to November 30th,
18 1957. He was appointed as pastor at St. Columban's Parish
19 on May 6th, 1968 and remained in this position until June
20 29th, 1979.

21 In 1979 he was named Director of St.
22 Finnan's Cathedral in Alexandria, and on August 15th of the
23 same year he was named Vicar-General of the Diocese of
24 Alexandria-Cornwall.

25 Monsignor McDougald was named as Prelate of

1 Honour in December 1980 and given the title of Monsignor.

2 In January 1987 Monsignor McDougald accepted
3 responsibility for the Mission Church of St. Alexander of
4 Lochiel.

5 In June 1988 he became pastor of St.
6 Raphael's Parish and in November 1993 he was named
7 Administrator of St. Margaret's of Scotland Parish in Glen
8 Nevis, a position held until 1996.

9 Monsignor McDougald has been retired since
10 1996."

11 Reference: Exhibit 2438.

12 Involvement in the Senate.

13 "On September 25th, 1986 Monsignor McDougald
14 attended a meeting of the Senate, also called the Council
15 of Priests. He was the Vicar-General of the Diocese of
16 Alexandria-Cornwall at the time. During the meeting there
17 was a discussion among those present about the Father
18 Gilles Deslauriers matter. The discussion concerned
19 whether they should have a committee to advise them about
20 what to do and to give them a line of conduct in similar
21 situations."

22 Reference: Exhibit 58, Tab 5.

23 "Monsignor McDougald was present at a
24 meeting of the Senate on May 16th, 1989. During this
25 meeting, the subject of a Committee for the Study of Cases

1 of Sexual Aggression was discussed. It was further
2 discussed that the:

3 'Insurance companies require that such
4 a committee be in place so as to
5 protect the Diocese and the insurance
6 companies themselves. Any incident of
7 sexual aggression must be reported
8 within 24 hours following the
9 incident'."

10 Reference: Exhibit 2084.

11 "Monsignor McDougald was present at a
12 meeting of the Senate on September 13th, 1989. During the
13 meeting, a report was provided on the issue of cases of
14 sexual aggression as addressed by the Bishops of Ontario.
15 The importance of establishing a definite policy or
16 guideline at the provincial and national levels was also
17 discussed and to be addressed at the bishops' meeting in
18 Ottawa.

19 The draft presented to the Diocese by the
20 insurance companies was for the protection of the insurance
21 companies. It was appended to the minutes of the meeting
22 as Annex B."

23 Reference: Exhibit 1858.

24 "Monsignor McDougald was present at a
25 meeting of the Senate on September 18th, 1990. During the

1 meeting, there was a discussion that the time had come to
2 set up a Committee on Sexual Abuse. The process used in
3 the Diocese of Toronto was discussed. A recommendation was
4 made that a psychiatrist or a psychologist be a member of
5 such a committee and that Dr. Denise Mercier, who worked at
6 the Cornwall General Hospital, could be a person they were
7 looking for."

8 Reference: Exhibit 58, Tab 16.

9 "Monsignor McDougald was present at the
10 meeting of the Senate on May 29th, 1990. During this
11 meeting, the subject of a Diocesan Committee on Sexual
12 Abuse was discussed and the following question and answer
13 was posed:

14 'Should we organize something at the
15 diocesan level or should we wait for
16 the Bishop's report? It was decided to
17 wait'."

18 Reference: Exhibit 58, Tab 15.

19 "Monsignor McDougald was present at a
20 meeting of the Senate on January 22nd, 1991. During the
21 meeting, it was decided that it was time to set up a
22 Committee on Sexual Abuse. The Executive discussed the
23 appointment of an ombudsman who would be responsible to
24 contact the person accused within 24 hours of a complaint
25 being received. The purpose of this initial contact would

1 be to verify the accusation.

2 The names of Father Gérald Poirier and
3 Monsignor Donald McDougald were suggested as ombudsman.
4 Monsignor Bernard Guindon was appointed to lead the
5 investigation, if one proved necessary, along with a
6 psychologist, a priest, a couple and a lawyer.

7 It was decided that the ombudsman would
8 conduct the initial investigation when the accusation was
9 made. The ombudsman would then report his findings to the
10 Investigation Committee. This process would apply to
11 anyone involved in pastoral work and Father Denis
12 Vaillancourt was to provide guidelines for the work of the
13 Committee."

14 Reference: Exhibit 58, Tab 18.

15 "Monsignor McDougald was present at the
16 meeting of the Senate held on May 19th, 1992. During this
17 meeting, reference was made to the protocol regarding
18 sexual abuse and the Canadian Conference of Catholic
19 Bishops. Reference was also made to a document prepared by
20 Father Denis Vaillancourt. The minutes also reflected that
21 Father Poirier and Monsignor McDougald were responsible for
22 the Committee."

23 Reference: Exhibit 58, Tab 24.

24 "Allegations by David Silmsler against Father
25 Charles MacDonald.

1 Monsignor McDougald became aware of a
2 complaint of sexual abuse against Father Charles MacDonald
3 in December, 1992. The complainant, David Silmser, met
4 with Monsignor Peter Schonenbach, the Bishop's delegate for
5 the Ottawa Diocese, at Enunciation of our Lord Parish in
6 Ottawa on December 10th, 1992.

7 At this meeting, Silmser alleged that he was
8 a victim of sexual abuse when he was an altar boy at St.
9 Columban's Parish in Cornwall. Monsignor Schonenbach
10 documented Silmser's disclosure in a letter addressed to
11 Monsignor McDougald dated December 11th, 1992. The letter
12 was copied to Bishop Eugene LaRocque."

13 Reference: Exhibit 311.

14 "Monsignor McDougald was interviewed by the
15 Ontario Provincial Police in relation to the Charles
16 MacDonald matter on October 14th, 1994. On May 31st, 2000,
17 he was interviewed by the OPP as part of an investigation
18 into allegations of a conspiracy between the Cornwall-
19 Alexandria Diocese, the Crown Attorney's Office and the
20 Cornwall Police Service regarding the investigation of
21 sexual assault allegations against Father MacDonald.

22 In the 2000 interview, Monsignor McDougald
23 indicated he was appointed by fellow priests and the Bishop
24 to be the individual who would speak to any priests in the
25 Diocese who may be 'confused with impropriety in a sexual

1 nature'."

2 Reference: Exhibit 1891 and Exhibit 2439.

3 "In both interviews, Monsignor McDougald
4 said he met with Father MacDonald about the allegations
5 made against him by Silmsler after receiving the letter from
6 Monsignor Schonenbach. In the 1994 interview, Monsignor
7 McDougald said he showed Father MacDonald the letter. In
8 both interviews, Monsignor McDougald said Father MacDonald
9 denied the accusations, and that he recommended Father
10 MacDonald obtain legal counsel because of the seriousness
11 of the accusations."

12 Reference: Exhibit 1891 and Exhibit 2439.

13 "In his 1994 interview with the OPP,
14 Monsignor McDougald indicated he spoke to Silmsler after
15 receiving the December 11th letter from Monsignor
16 Schonenbach. During this conversation, Silmsler said he
17 wanted an apology from Father MacDonald. Monsignor
18 McDougald told the OPP that because it was getting close to
19 Christmas and they were rather busy -- they being the
20 Diocese -- didn't contact Silmsler.

21 In 2000, Monsignor McDougald told the OPP
22 that a meeting was not convened between Diocese officials
23 and Silmsler until a later date, mainly because it was a
24 busy time and it was not absolutely fundamental that they
25 continue at that particular time. A meeting was arranged

1 for a date in February."

2 Reference: Exhibit 1891 and Exhibit 2439.

3 "On December 17th, 1992, Monsignor McDougald
4 met with Malcolm MacDonald to review the substance of the
5 allegations of David Silmser."

6 Reference: Exhibit 863 and Exhibit 2442.

7 "Monsignor McDougald received a letter dated
8 December 21st, 1992 from Malcolm MacDonald, counsel for
9 Father MacDonald. The letter states that Father MacDonald
10 denies the allegations made by Silmser. Malcolm MacDonald
11 requested that Silmser provide a statement, preferably
12 under oath, detailing the allegations against Father
13 MacDonald. The letter also states that Father MacDonald is
14 willing to submit to a polygraph examination. It is also
15 suggested that perhaps Silmser be questioned as to his
16 taking a lie detector test on his statement. The letter
17 makes reference to Silmser's criminal record.

18 The postscript states that Malcolm MacDonald
19 had spoken with Bishop LaRocque and brought him up to date
20 on what they were doing and that Bishop LaRocque indicated
21 he should continue to deal with Monsignor McDougald until
22 advised otherwise."

23 Reference: Exhibit 1161.

24 "On February 9th, 1993, Monsignor McDougald
25 attended a meeting at the Diocesan Centre in Cornwall with

1 Silmsers, Jacques Leduc, a diocesan lawyer, and Father
2 Vaillancourt. Monsignor McDougald told the OPP on October
3 14th, 1994 that the meeting began without any display of
4 animosity, however, Silmsers became agitated when questioned
5 for specifics of his allegations against Father MacDonald.
6 Monsignor McDougald said the meeting ended with Silmsers
7 stating he was going to the Cornwall Police Service.
8 Monsignor McDougald said he was later told by Malcolm
9 MacDonald that Silmsers had in fact reported to the Cornwall
10 Police Service.

11 In 2000, Monsignor McDougald told the OPP
12 that Silmsers may have gone to the police before the
13 February meeting, but he didn't know, but Silmsers certainly
14 said he was going to the police after the meeting."

15 Reference: Exhibit 1888; Exhibit 1891;
16 Exhibit 2439.

17 "When interviewed by the OPP in 2000,
18 Monsignor McDougald said that he did not believe some of
19 the things stated by Silmsers at this meeting because he
20 knew Father MacDonald was not a violent person."

21 Reference: Exhibit 2439.

22 "In October 1994 Monsignor McDougald told
23 the OPP that at the point when Silmsers went to the police
24 certain aspects of the Diocesan policy were not followed.
25 In his statement to the OPP in May 2000, Monsignor

1 McDougald stated that he felt the Diocesan protocol on
2 sexual abuse allegations 'was followed but maybe it was
3 slow.'

4 He said maybe they should have reacted
5 within the timeframe a little more quickly and that since
6 it was that time of year, perhaps they didn't take it as
7 seriously as they should have."

8 Reference: Exhibit 1891; Exhibit 2439.

9 "According to his 1994 statement to the OPP,
10 Monsignor McDougald made Bishop LaRocque aware of what
11 transpired and told him about Silmser's attitude at the
12 February 9th, 1993 meeting and that he had stated he was
13 going to the police."

14 Reference: Exhibit 1891.

15 "In his statement to the OPP in 1994
16 Monsignor McDougald said he did not meet with Silmser again
17 but he did receive approximately 10 phone calls from him
18 following the February meeting. He said the calls usually
19 came late at night and he expressed the opinion that
20 Silmser was under the influence when he called. Monsignor
21 McDougald said Silmser was angry and he no longer wanted an
22 apology. He was going to sue the Diocese and make it
23 unpleasant for all involved.

24 In 2000, Monsignor McDougald told the OPP
25 that frequently in the first three years or so after the

1 February meeting he would get calls from Silmsers, often at
2 night. Very often the calls ended with Silmsers saying he
3 was going to get everybody that he could to verify that he
4 was telling the truth."

5 Reference: Exhibit 1891; Exhibit 2439.

6 Settlement With Silmsers.

7 "In 1994 Monsignor McDougald told the OPP
8 that he spoke with Silmsers on the telephone in August of
9 1993. Silmsers suggested that the police were going nowhere
10 and that the Diocese wasn't doing anything either. He
11 wanted to know what the Diocese was going to do for him.

12 Monsignor McDougald said he told Leduc and
13 possibly Malcolm MacDonald about the conversation with
14 Silmsers. Monsignor McDougald also spoke about this
15 telephone call in his May 31st, 2000 statement. In this
16 statement Monsignor McDougald indicated he had told Malcolm
17 MacDonald in August of 1993 of a phone call he had received
18 from Silmsers. In that interview Monsignor McDougald said
19 he told Silmsers, 'It's in the hands of the police. It's up
20 to them.'"

21 Reference: Exhibit 1891 and Exhibit 2439.

22 "On October 14th, 1994 Monsignor McDougald
23 told the OPP he had received a telephone call from Malcolm
24 MacDonald in August 1993. MacDonald told him that the
25 settlement was 'in view'. Monsignor McDougald said he did

1 not think any specific amount was mentioned. He said he
2 asked Malcolm MacDonald if this was legal. He was told
3 there was something known as a 'quit claim' in cases where
4 people rationalized that they were not willing to proceed
5 or were not going to proceed and a settlement could be
6 made.

7 Monsignor McDougald said that was all he was
8 aware of until he heard that a settlement had been made.
9 He said he had no involvement in preparing settlement
10 documents and never saw it."

11 Reference: Exhibit 1891.

12 "In 2000, when discussing the settlement,
13 Monsignor McDougald told the OPP that he had nothing to do
14 with any settlement and no other priest in the Diocese had
15 anything to do with it. It was a matter between Bishop
16 LaRocque and the lawyer. He believed the settlement
17 agreement was framed by the lawyers and nobody read it,
18 including Leduc, the Diocesan lawyer.

19 Monsignor McDougald also said that the
20 Bishop probably should have gone to the Cornwall police to
21 find out whether the case was proceeding but the
22 impression, from what Silmsler told Monsignor McDougald, was
23 that the police were not acting on it, so he wanted some
24 compensation. Monsignor McDougald said he did not hear
25 about the \$32,000 payment to Silmsler until after it was

1 made."

2 Reference: Exhibit 2439.

3 "In both OPP interviews Monsignor McDougald
4 spoke about Father MacDonald. In 1994 Monsignor McDougald
5 told the OPP that he was in charge of St. Columban's Parish
6 between 1968 and 1974. He said Father MacDonald had a good
7 rapport with youth. Monsignor McDougald noted that he did
8 not have a rapport with youth and was glad there was
9 someone who did because this was an important part of the
10 ministry.

11 In his May 31st, 2000 statement Monsignor
12 McDougald also mentioned that Father MacDonald was in
13 charge of the youth group. Prior to Father MacDonald
14 coming to St. Columban's there was no real organization
15 with respect to a youth group."

16 Reference: Exhibit 1891; Exhibit 2439.

17 "In 1994 Monsignor McDougald told the OPP
18 that Father MacDonald was a person who operates on his own
19 and wasn't the type to frequently seek counsel. In 2000 he
20 said that Father MacDonald was a very private person. In
21 both interviews he said that although he had lived with
22 Father MacDonald he was not close to him."

23 Reference: Exhibit 1891 and Exhibit 2439.

24 "In both interviews with the OPP, Monsignor
25 McDougald said he never heard any complaints about Father

1 MacDonald. In 2000 Monsignor McDougald told the OPP that
2 he did not discuss the allegations against Father MacDonald
3 with anyone other than Bishop LaRocque until it got into
4 the public domain, then he talked to other priests. He
5 indicated he had discussed the matter with Father George
6 and Father Kelvin and they had never seen anything."

7 Reference: Exhibit 1891 and Exhibit 2439.

8 "In 1994 Monsignor McDougald told the OPP
9 that he had received information about a year before the
10 Silmser complaint from a person who was about 28 years old.
11 Father MacDonald had made a sexual overture to him which he
12 rebuffed. Monsignor McDougald thought this incident
13 occurred on a trip to Ireland."

14 Reference: Exhibit 1891.

15 "In 2000 Monsignor McDougald told the OPP
16 that he was present when Bishop LaRocque told Father
17 MacDonald he would have to leave the Parish. That was when
18 the comment was made in regards to Father MacDonald
19 admitting relationships with other males. Monsignor
20 McDougald said he seemed to indicate that he had but it was
21 not a present concern. Father MacDonald did not disclose
22 to Monsignor McDougald with whom he had those
23 relationships."

24 Reference: Exhibit 2439.

25 "In his interview with the OPP in May 2000

1 Monsignor McDougald spoke about the Diocesan protocol on
2 sexual abuse allegations and how it changed since the
3 Silmsers matter. At the time the protocol dictated that a
4 representative priest, in this case Monsignor McDougald,
5 would go to the person involved. At the time of the OPP
6 interview the policy was that the complaint is simply
7 reported to the police.

8 Monsignor McDougald explained to the
9 officers that his sole responsibility within the context of
10 the Diocesan protocol at the time was to see the person
11 accused and report back to the Bishop, who would operate
12 from that point on."

13 Reference: Exhibit 2439.

14 Statement Given for Silmsers v. MacDonald Action

15 "On February 3rd, 1994 Monsignor McDougald
16 was interviewed as part of the civil action brought by
17 Silmsers against Father MacDonald and others. In this
18 statement Monsignor McDougald discussed the meeting he
19 attended with Silmsers, Leduc, and Father Vaillancourt on
20 February 9th, 1993.

21 At the time of the alleged incident Father
22 MacDonald and Monsignor McDougald both worked at St.
23 Columban's and resided at the rectory. Monsignor McDougald
24 noted that with Father MacDonald's background and teaching
25 experience, it had never entered his mind that anything

1 improper could have happened."

2 Reference: Exhibit 2097.

3 "In his statement Monsignor McDougald
4 explained that Father MacDonald helped Silmser when he got
5 in trouble. Father MacDonald would take him to the rectory
6 and visit him in reform school. Monsignor McDougald had
7 difficulty reconciling Silmser's complaint and the fact
8 that Father MacDonald had received a letter of appreciation
9 from Silmser.

10 Monsignor McDougald said he asked Silmser
11 why he would have been associating with his alleged abuser
12 10 years later. He said Silmser replied 'he was going to
13 get him'. Monsignor McDougald said Silmser got agitated
14 and angry when asked about specifics and suggested he was
15 going to court. Monsignor McDougald did not discourage him
16 from pursuing his rights."

17 Reference: Exhibit 2097.

18 "When asked whether he considered going to
19 the Children's Aid Society, Monsignor McDougald replied
20 that maybe they should have gone to the CAS. but at the
21 time there was no discussion about doing so. He assumed
22 that if Silmser was taking his complaint to the police they
23 would see that the CAS was advised.

24 Monsignor McDougald said there was some
25 doubt about whether it was required under the CAS policy.

1 He indicated he did not look at the policy and that Leduc
2 did not advise them to notify the CAS."

3 Reference: Exhibit 2097.

4 "According to his statement, Leduc insisted
5 that notes be taken of the meeting with Silmsers and that
6 they report to the Bishop. Father Vaillancourt wrote a
7 report which was later erased from his computer."

8 Reference: Exhibit 2097.

9 "In his statement, Monsignor McDougald said
10 he met with Bishop LaRocque after the meeting. He told
11 Bishop LaRocque that Silmsers had not been able or willing
12 to provide any precision or details about his allegations
13 and that at one point vindictiveness had been shown.

14 According to his statement, Monsignor
15 McDougald did not recommend anything to Bishop LaRocque
16 because Silmsers had indicated he was going to the police
17 and the file was dormant. Bishop LaRocque did not specify
18 what they were going to do."

19 Reference: Exhibit 2097.

20 "Monsignor McDougald said in this statement
21 that they were never apprised of other complaints and would
22 never have pursued a settlement with Silmsers had they been
23 so apprised. He said he was not directly involved in any
24 of the settlement discussions between Malcolm MacDonald,
25 Leduc and Bishop LaRocque. He did not discuss the

1 settlement with Bishop LaRocque, although he did have
2 discussions with Leduc and Malcolm MacDonald from time-to-
3 time."

4 Reference: Exhibit 2097.

5 "Monsignor McDougald indicated in this
6 statement that at some point Malcolm MacDonald phoned him
7 to discuss a dollar figure for the settlement. Monsignor
8 McDougald said he indicated to Malcolm MacDonald and Leduc
9 that it sounded like a buy-off, but either one or both of
10 them indicated this was a standard procedure in such
11 matters.

12 On that basis, Monsignor McDougald accepted
13 that it was in the nature of a nuisance settlement,
14 basically to get rid of the whole thing."

15 Reference: Exhibit 2097.

16 "Monsignor McDougald said there were no
17 discussions about the settlement putting an end to the
18 criminal proceedings. Only civil matters were discussed.
19 He hoped, however, that the whole matter would go away and
20 that the settlement might contribute to do that although
21 this was never specifically discussed. It was Monsignor
22 McDougald's understanding that the police were not going to
23 lay charges and, therefore, the criminal case was going to
24 go away."

25 Reference: Exhibit 2097.

1 "In his statement, Monsignor McDougald
2 agreed that Bishop LaRocque was forewarned about Father
3 MacDonald's homosexual tendencies. He said they had
4 complaints about him, but that these would not have been
5 known by Leduc and Vaillancourt. Monsignor McDougald said
6 he thinks he advised Bishop LaRocque about the 28-year old
7 man who alleged that Father MacDonald had made a sexual
8 overture towards him while they were on holidays together.
9 At the same time, Bishop LaRocque instructed Monsignor
10 McDougald to speak to Father Charles about that and other
11 related incidents about which Monsignor McDougald was given
12 no details. Monsignor McDougald said he saw Father
13 MacDonald about this and while he did not deny the claim,
14 he suggested it was not as serious as had been alleged."

15 Reference: Exhibit 2097.

16 "Monsignor McDougald said in this statement
17 that Father Charles surrounded himself with young people
18 and he came under some criticism from other priests who
19 felt this was improper conduct for a priest. Monsignor
20 McDougald was not aware of any incidents of impropriety in
21 this regard."

22 Reference: Exhibit 2097.

23 Information from Monsignor McDougald in
24 answers to undertakings given to Bishop LaRocque.

25 **THE COMMISSIONER:** "Given by".

1 MS. HAMOU: By Bishop LaRocque:

2 "On February 21st, 1996, a letter was sent by
3 Peter Annis to various parties in civil litigation action
4 *Silmser v. MacDonald et al* and *MacDonald v. MacDonald et*
5 *al.* This letter contained replies to undertakings given
6 during the examination for discovery of Bishop LaRocque."

7 Reference: Exhibit 2442.

8 "Bishop LaRocque was asked to speak to
9 Monsignor McDougald to obtain from him details and
10 information regarding the steps taken to supervise and
11 monitor the work of Father MacDonald when at St. Columban's
12 from 1969 to 1975.

13 Monsignor McDougald advised him that
14 assistants were assigned duties and unless a problem was
15 brought to his attention, supervision was simply on an
16 ongoing basis as the positions required. Monsignor
17 McDougald stated it was not his style to interfere with
18 activities of assistants as long as they complied with the
19 expectations of a priest serving the diocese and clergy.
20 Monsignor McDougald further said he was personally pleased
21 when a priest like Father MacDonald showed an interest in
22 working with youth, as it relieved him from some of his
23 responsibilities with respect to these tasks."

24 Reference: Exhibit 2442.

25 "Bishop LaRocque was asked to advise whether

1 Monsignor McDougald was made aware of any improprieties
2 including breaches of civil, criminal or canon law by
3 Father MacDonald and, if so, provide details of what
4 actions Monsignor McDougald took in response.

5 Bishop LaRocque was advised by Monsignor
6 McDougald that at no time during Monsignor McDougald's term
7 of office from 1968 to 1979 did anyone, either inside or
8 outside the parish to the best of his recollection, ever
9 complain about Father MacDonald or suggest any
10 improprieties."

11 Reference: Exhibit 2442.

12 "Bishop LaRocque was asked to confirm with
13 Monsignor McDougald that the reasons he stopped following
14 diocesan guidelines after February 9th, 1993 meeting was
15 because Silmsier indicated he had retained lawyers and had
16 gone to the police. Monsignor McDougald confirmed that
17 this was the reason they stopped following the guidelines."

18 Reference: Exhibit 2442.

19 "Bishop LaRocque was asked to inquire of
20 Monsignor McDougald to the criticism from other priests
21 concerning Father MacDonald having too many young people
22 hanging around the rectory. Monsignor McDougald advised
23 the criticism related to Allan Sauvé living in the
24 residence and that it was felt there were too many teens
25 around the parish residence."

1 Reference: Exhibit 2442.

2 OPP interview of Monsignor McDougald July
3 30th, 1999:

4 "Monsignor McDougald was interviewed by
5 Detective Constable Dupuis of the OPP on July 30th, 1999 in
6 relation to allegations of sexual assault investigation
7 involving clergy and other people in Cornwall and the
8 surrounding areas.

9 During this interview, Monsignor McDougald
10 said he attended some dinner parties at the parish in St.
11 Andrew's. He said there were no lay people involved in
12 these dinner parties. He said the dinners he went to were
13 not of a social nature, they were connected with some
14 [forgive my pronunciation] liturgical functions in the
15 church. The only exception was on a couple of occasions
16 the clergy got together for social afternoons to play cards
17 and have a meal. Monsignor McDougald said there were no
18 altar boys or young persons present and he was not aware of
19 any sexual activities occurring at these parties."

20 Reference: Exhibit 2440.

21 "Monsignor McDougald told the police he had
22 never been to Ken Seguin's house in Summerstown, nor had he
23 ever been to Malcolm MacDonald's cottage on Stanley Island.
24 He said he knew Malcolm MacDonald quite well and that
25 Malcolm MacDonald's sister had provided her cottage on

1 Cameron's Point for a meeting of priests some time before
2 Bishop LaRocque joined the Diocese. After Bishop LaRocque
3 came to the diocese, "Fun Days for Young People" were
4 organized at Bishop Brodeur's summer residence. That
5 location was also referred to as Bishop's Point."

6 Reference: Exhibit 2440.

7 "Monsignor McDougald said he went to Florida
8 on a golf holiday with two other priests and a layman but
9 never attended the Saltaire Motel."

10 Reference: Exhibit 2442.

11 "Monsignor McDougald told Detective
12 Constable Dupuis that he thought Silmsers' main concern was
13 money. He also expressed his opinion to the police about
14 the allegations of a 'clan of pedophiles' in Cornwall. He
15 said he had never heard of a clan of pedophiles until these
16 accusations were made."

17 Reference: Exhibit 2442.

18 "Monsignor McDougald told the police that
19 Ken Seguin used to be in the seminary and was friends with
20 Father MacDonald. Occasionally, when Monsignor McDougald
21 was there, Ken Seguin would drop by to visit Father
22 MacDonald."

23 Reference: Exhibit 2442.

24 Involvement with C-3.

25 "On February 3rd, 1994, Monsignor McDougald

1 wrote a letter to C-3. In the letter he says that Bishop
2 LaRocque told him about C-3's allegations of sexual abuse
3 by Father MacDonald. Monsignor McDougald also indicated in
4 the letter that a willingness on C-3's part to testify in
5 open court would facilitate the process of seeing that
6 justice prevails. He said giving testimony in court is
7 probably the only way in which the truth can be established
8 in this particular case."

9 Reference: Exhibit 2443 and Exhibit 416.

10 Involvement with the Children's Aid Society.

11 "During his May 31st, 2000 interview with the
12 OPP, Monsignor McDougald was asked whether he did any
13 investigation on his own in regards to confirming or
14 denying the allegations against Father MacDonald. He
15 responded that the CAS had asked for a list of names of
16 altar servers in St. Andrew's Parish and that he arranged
17 to obtain that list.

18 According to the notes of Richard Abell of
19 the CAS, Monsignor McDougald dropped off the list.
20 Monsignor McDougald also told the police that Bishop
21 LaRocque understood that there was going to be an
22 investigation in the parish by CAS and that it was at that
23 time that Bishop LaRocque asked for Father MacDonald's
24 removal."

25 Reference: Exhibit 2439 and Exhibit 2441.

1 "Monsignor McDougald told the OPP that when
2 the brief from Newmarket came out, the Diocese reported
3 this to the CAS and the Diocese's lawyer prepared a brief
4 and sent it to the CAS."

5 Reference: Exhibit 2439.

6 "According to Abell's notes, Monsignor
7 McDougald and Father Kevin Maloney went to the CAS office
8 on May 15th, 1997. They brought materials arising from the
9 civil suit which contained allegations against numerous
10 clergy, including themselves. The notes indicate, 'They
11 want to cooperate, will make the materials available if we
12 want it.' Abell told them he would get back to them."

13 Reference: Exhibit 1860.

14 "Father Maloney wrote a letter to Abell
15 dated May 20th, 1997. The letter stated that on behalf of
16 Father Maloney, Monsignor McDougald, the Bishop and members
17 of the clergy against whom allegations have been made,
18 copies of documents recently came into their possession are
19 being included with the letter. According to the letter,
20 also included were letters dated May 15th, 1997 to the
21 solicitor for Perry Dunlop from Thomas Swabey, the
22 solicitor with whom Monsignor McDougald and Father Maloney
23 had conferred regarding this matter."

24 Reference: Exhibit 1861.

25 "On June 30th (sic), 1997, Monsignor

1 McDougald..."

2 **THE COMMISSIONER:** June 20th?

3 **MS. HAMOU:** Pardon me?

4 **THE COMMISSIONER:** June 20th? You said June
5 30th, but it's June 20th, I believe.

6 **MS. HAMOU:** I'm sorry. I'm getting a little
7 tongue-tied at this point.

8 **THE COMMISSIONER:** I know.

9 **MS. HAMOU:** Two more paragraphs.

10 "On June 20th, 1997, Monsignor McDougald
11 attended a meeting at the office of Thomas Swabey. Also in
12 attendance were Father Maloney, Abell, and Bill Carriere of
13 the CAS. According to a letter from Swabey to Patrick
14 Rudden dated June 25th, 1997, the purpose of the meeting was
15 to provide the CAS with further information about the
16 allegations being made against Father Maloney and Monsignor
17 McDougald."

18 Reference: Exhibit 1863.

19 "On June 27th, 1997, Swabey wrote a letter to
20 Abell forwarding, among other things, a document outlining
21 Monsignor McDougald's response to allegations contained in
22 the response to demands for particulars in the action
23 commenced by Perry Dunlop."

24 Reference: Exhibit 1862.

25 The final heading, "Civil Litigation".

1 "Monsieur McDougald was one of several local
2 priests from the Diocese who, along with Bishop LaRocque,
3 commenced a defamation action on September 19th, 2000
4 against Richard Nadeau and others seeking monetary damages
5 and an injunction. The suit alleged that defamatory
6 comments had been made against the plaintiff with malice in
7 certain publications. The parties settled the action on
8 the basis that their defendant not republish or give
9 consent to the material at issue being republished.

10 On August 13th, 2001, the action was settled
11 with NBC Internet Inc. on the basis of a dismissal without
12 costs on a `with prejudice' basis.

13 On August 17th, 2001, the action was settled
14 with Tera-Byte Dot Com on the basis of a dismissal without
15 costs.

16 On August 23rd, 2001, the action was settled
17 with Nadeau on the basis of a dismissal without costs.

18 On March 14th, 2003, the action was settled
19 with the Wanderer Printing Company, Paul Likoudis and
20 Alphonse Matt on the basis of a dismissal with costs
21 assessed at \$11,500 payable by the plaintiff.

22 On June 27th, 2003, the action was settled
23 with James Bateman on the basis of a dismissal with costs
24 assessed at \$5,000 payable by the plaintiff."

25 References: Exhibit 799; Exhibit 801;

1 Exhibit 802; Exhibit 2436; Exhibit 2437; Exhibit 2191 and
2 Exhibit 2192.

3 This concludes the ODE, Mr. Commissioner.

4 **THE COMMISSIONER:** Thank you very much.

5 As I've indicated, we'll take a five-minute
6 break. I'll come back, give my statement and then we'll
7 continue with Mr. O'Brien.

8 Thank you.

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

11 This hearing will resume at 10:25 a.m.

12 --- Upon recessing at 10:19 a.m./

13 L'audience est suspendue à 10h19

14 --- Upon resuming at 10:25 a.m./

15 L'audience est reprise à 10h25

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

18 This hearing is now resumed. Please be
19 seated. Veuillez vous asseoir.

20 ---**STATEMENT BY THE COMMISSIONER/DÉCLARATION PAR LE**
21 **COMMISSAIRE:**

22 **THE COMMISSIONER:** Thank you.

23 Before we go on to complete Mr. O'Brien's
24 evidence, I want to address an Order in Council that
25 affects some aspects of this Inquiry's work.

1 As you may know, an Order in Council for an
2 inquiry is a constituting document that sets parameters for
3 its work. The Order in Council for this Inquiry has
4 recently been amended.

5 This Order in Council provides that the
6 hearings of this Inquiry must end by January 30th, 2009.
7 This was the date that I was targeting and that I had
8 announced in earlier statements.

9 The Order in Council provides that all oral
10 and written submissions must be completed by February 27th,
11 2009. For those who have been following the Inquiry, we
12 had planned to hear submissions in the month of March.

13 The Order in Council provides for my report
14 to be delivered to the Government of Ontario by July 31st,
15 2009.

16 The Commissioner is subject to the
17 directions of lawful authorities. Cabinet has directed
18 this Inquiry in terms of timing at the end of the
19 testimony, timing of submissions and timing of the report.

20 I intend to do everything I can to meet the
21 timelines established.

22 Counsel for parties will be required to make
23 written and oral submission in February 2009 for both Phase
24 1 and Phase 2 to meet the deadline to complete submissions
25 by February 27th, 2009.

1 Lead counsel will be contacting party
2 counsel with the detailed information needed to comply with
3 this deadline.

4 In terms of other impacts, the Order in
5 Council says all activities of this Inquiry will cease
6 January 30th, 2009 other than counselling support. This
7 turns our main focus this winter to the consideration of
8 submissions and the writing of the report of this Inquiry.

9 The reality is that this means some planned
10 Phase 2 activities will be affected. I will do our best to
11 reorganize activities to the extent possible. Commission
12 staff will be in touch with those who may be affected.

13 Looking forward, however, I want to say
14 again that formulation of recommendations regarding
15 programs, services and processes that could support healing
16 and reconciliation is an important part of my mandate. The
17 government indicates that it wants these recommendations
18 this summer.

19 So for those individuals, particularly
20 survivors -- and as I've learnt last night, perhaps we
21 should call them overcomers -- who are interested in those
22 aspects of my report related to Phase 2, I ask for your
23 patience as I move to the report-writing stage. My
24 recommendations on both Phase 1 and Phase 2 will be
25 submitted to the Government of Ontario this summer.

1 Under the Order-in-Council, counselling
2 support continues to up to 90 days after the release of my
3 report. The 90-day period of continuation was announced by
4 me last year. My report will have recommendations on
5 counselling support.

6 It is my intention to complete our work in a
7 professional and purposeful manner, accomplishing all that
8 needs to be accomplished within the time provided. I know
9 I can count on the dedicated staff of the Inquiry in this
10 regard. I also expect the full cooperation of party
11 counsel in serving both the interests of their clients and
12 the public interest.

13 Thank you.

14 And now we can proceed with Mr. O'Brien's
15 testimony.

16 Just a minute, sir. Madam Clerk, do we have
17 a chair for ---

18 **MR. CHISHOLM:** Mr. O'Brien indicated last
19 night that he'd be fine with the chair that ---

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

21 **THOMAS O'BRIEN Resumed/Sous le même serment:**

22 **THE COMMISSIONER:** Good morning, Mr.
23 O'Brien.

24 **MR. O'BRIEN:** Good morning, sir.

25 **THE COMMISSIONER:** Do you understand you're

1 still under oath?

2 MR. O'BRIEN: Yes, sir.

3 THE COMMISSIONER: All right. And, again,
4 if at any time you require a breather or anything like
5 that, you just let me know.

6 MR. O'BRIEN: Thank you very much.

7 THE COMMISSIONER: All right. Thank you.
8 Mr. Lee.

9 MR. LEE: Good morning, sir.

10 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

11 MR. LEE:

12 MR. LEE: Madam Clerk, if we can start with
13 Exhibit 2419, which is the Testimony Facilitation Outline.
14 Do you have that in front of you, sir?

15 MR. O'BRIEN: Yes, sir.

16 MR. LEE: And I should introduce myself. My
17 name is Dallas Lee. I'm counsel for the Victims Group. I
18 have a few areas I'd like to ask you about and I'll move as
19 quickly as I can; okay?

20 MR. O'BRIEN: Yes.

21 MR. LEE: If you can turn to paragraph 8 of
22 that exhibit, please.

23 MR. O'BRIEN: Yes.

24 MR. LEE: And you'll see that the reference
25 here is your recollection. The last sentence of that

1 paragraph reads:

2 "During his entire time as Executive
3 Director, the budget for CAS was always
4 in a deficit and the Ministry would
5 cover the deficit."

6 Do you see that?

7 **MR. O'BRIEN:** Yes, I do.

8 **MR. LEE:** And if you scroll down to
9 paragraph 10, the first sentence there reads:

10 "O'Brien does not believe the CAS had
11 enough staff, nor did they have
12 sufficient money for staff training.
13 There was no flexibility in the CAS
14 budget whatsoever."

15 Do you see that?

16 **MR. O'BRIEN:** Yes.

17 **MR. LEE:** And I'm wondering if you can help
18 me understand how we can reconcile those two concepts.

19 In paragraph 8, what you're telling us is
20 that as the Executive Director, the budget was always in a
21 deficit and the Ministry, essentially, would just pay the
22 bill.

23 And at number 10 you're telling us that you
24 don't believe you had enough staff or sufficient money for
25 staff training and you had no flexibility.

1 Can you help me understand how those two
2 things can operate at the same time?

3 **MR. O'BRIEN:** The Ontario Government at that
4 time had a most peculiar way of operating. They told you
5 in advance that you could not run a deficit. If, in fact,
6 we had a deficit and it was in the area of child care or
7 foster care, they always picked it up.

8 If, though, I thought we should have more
9 training or more staff and I went out and hired somebody
10 contrary to what they wanted, they probably would not have
11 picked that up.

12 **MR. LEE:** Was that your ---

13 **MR. O'BRIEN:** In other words, what pertained
14 directly to child care or families, they always picked up
15 the deficit.

16 **MR. LEE:** Can you recall any time where you
17 spent funds and it was not covered by the Ministry?

18 **MR. O'BRIEN:** No.

19 **MR. LEE:** In paragraph 10, you refer to, as
20 I said, your belief that you did not have enough staff or
21 sufficient money for staff training.

22 Do you recall making any efforts at any
23 point to convince the Ministry of that and to have the
24 budget increased for those purposes?

25 **MR. O'BRIEN:** We were in touch with the

1 Ministry regularly. The people who were responsible for
2 the operation of this particular Children's Aid Society
3 were stationed in Ottawa, and probably every time we met we
4 talked about needing more staff, particularly in what we
5 call the protection area. In other words, the area where
6 people are investigating allegations that parents were not
7 looking after their children properly.

8 We always talked about it but it didn't do
9 much good.

10 **MR. LEE:** Do you recall drafting any
11 correspondence, putting formal written requests, formal
12 proposals, anything like that that you would have prepared
13 in your time as Executive Director seeking additional
14 funding?

15 **MR. O'BRIEN:** No. No, because I had regular
16 contact with Ministry personnel. Face-to-face contact was
17 much better than writing -- drafting letters that nobody
18 would read anyway.

19 **MR. LEE:** Was it your belief at any point
20 that these -- I suppose I'll call them budget shortfalls --
21 led to an increased risk for children in your protection?
22 Did you see a direct correlation between budget shortfalls
23 and the care that you were able to provide?

24 **MR. O'BRIEN:** I have no recollection or
25 proof of definite risk situations, but I think the

1 protection staff should have had more opportunity to meet
2 with the clients than they had, and if they had done that
3 they would have been able to do a better job.

4 MR. LEE: So your belief, it's safe to say,
5 is that the -- or fair to say, rather, that the resources
6 you had were not ideal?

7 MR. O'BRIEN: That's correct.

8 MR. LEE: Would you agree with me, though,
9 that they were adequate?

10 MR. O'BRIEN: That's highly questionable.

11 MR. LEE: Do you recall Derry Tenger?

12 MR. O'BRIEN: Yes.

13 MR. LEE: When did you first meet
14 Mr. Tenger?

15 MR. O'BRIEN: I don't recall the date. I
16 knew him fairly well, I thought.

17 MR. LEE: Would you have met him after you
18 came to the CAS or would it have been prior to that?

19 MR. O'BRIEN: After I came to the CAS?

20 MR. LEE: Yes.

21 MR. O'BRIEN: Yes, after I came. Yes.

22 MR. LEE: You told us about the fact that
23 you had been a probation officer for a period of time prior
24 to coming to the CAS. Did you know Mr. Tenger during that
25 period at all?

1 **MR. O'BRIEN:** No.

2 **MR. LEE:** Did you have any role in
3 Mr. Tenger's hiring?

4 **MR. O'BRIEN:** I probably hired him.

5 **MR. LEE:** Do you know -- my understanding
6 from what we have in the documents anyway, Mr. Tenger
7 didn't have any history of social work or child protection
8 or anything like that. Do you remember what it was about
9 his qualifications that appealed to you?

10 **MR. O'BRIEN:** No, I don't recall
11 specifically.

12 I think what would have happened as I
13 questioned him in interviewing him for employment, I would
14 probably have gained from the interview the perception that
15 he had a genuine interest in the work of the Children's Aid
16 Society, but his background at this time I can't recall. I
17 think during the War he probably had been in the British
18 Navy, but I'm not sure of that.

19 **MR. LEE:** We've had some evidence that he
20 had worked on ships.

21 Can you turn over, please, to paragraph 20
22 of the document you have in front of you? And you touched
23 on this a little bit during your evidence. It reads:

24 "During the sixties and seventies,
25 communities never openly admitted that

1 sexual abuse of children even existed."

2 Do you see that?

3 **MR. O'BRIEN:** Yes.

4 **MR. LEE:** And would you agree with me that
5 what was happening in the community and the level of the
6 knowledge within the community, was not necessarily
7 identical to the level of knowledge within a specialized
8 agency such as the CAS?

9 **MR. O'BRIEN:** I'm not sure there was much
10 difference.

11 **MR. LEE:** The Children's Aid Society would,
12 on an everyday basis, see things that people in the
13 community at large would never be exposed to in terms of
14 neglect and abuse and horrible situations. Isn't that
15 true?

16 **MR. O'BRIEN:** That's correct.

17 **MR. LEE:** Certainly by the sixties and
18 seventies, a social worker with the Children's Aid Society
19 would have had some knowledge that sexual abuse of children
20 was a reality?

21 **MR. O'BRIEN:** Certainly not in the sixties.
22 Yes, in the seventies, but I think later in the seventies,
23 not in the early part of the seventies.

24 But your staff of the Children's Aid Society
25 was, at that time, obviously part of society and society

1 was denying that this kind of thing existed.

2 MR. LEE: I understand ---

3 MR. O'BRIEN: I hear what you're saying but
4 I don't ---

5 MR. LEE: If we were to go back into the
6 files of the Children's Aid Society there would be cases in
7 the 1960s where a father had sexually abused his daughter,
8 would there not?

9 MR. O'BRIEN: I do not recall seeing that.

10 MR. LEE: You don't recall there being --
11 this CAS having dealt with a single allegation of sexual
12 abuse in the 1960's; is that your evidence?

13 MR. O'BRIEN: I don't recall seeing that on
14 any file.

15 MR. LEE: Can you scroll down to paragraph
16 25, please? This deals with file management and what you
17 tell us there is that there was no written policy in place
18 that directed a newly-assigned worker to review the case
19 notes and recorded summaries of the previous worker but
20 that the supervisors were aware that you expected these
21 reviews to be done and they would provide a direction to
22 the social workers on that.

23 MR. O'BRIEN: Yes.

24 MR. LEE: So I take it when that says a
25 newly-assigned worker that doesn't mean a new hire to the

1 CAS. That means that if one worker took over a child's
2 file from another worker; is that right? So for example,
3 if Cam Copeland ---

4 MR. O'BRIEN: Yes. Yes, you're correct.
5 That's what this is about.

6 MR. LEE: If Cam Copeland, as an example,
7 had a file and for whatever reason it was transferred to
8 Bryan Keough, Bryan Keough would be expected to go back and
9 review all the case notes and recorded summaries on that
10 file?

11 MR. O'BRIEN: That's correct.

12 MR. LEE: And despite the fact there was no
13 written policy, it was clear to you that that had to be
14 done?

15 MR. O'BRIEN: Yes, and I presumed at that
16 time that it was being done.

17 MR. LEE: And policy or not, would you agree
18 with me that commonsense would dictate that the worker
19 would do that?

20 MR. O'BRIEN: Commonsense would dictate it
21 but if I had to do it over again I would make sure there
22 was a written policy.

23 MR. LEE: And given that this is what you
24 were advising your supervisors at the time and what you
25 expected the supervisors to advise the workers, if we flip

1 it around it would be obvious to caseworkers that it's
2 important to keep detailed notes and to do detailed
3 recordings because down the road people may need to rely on
4 those; is that fair?

5 **MR. O'BRIEN:** Yes, it was expected and it
6 was not only expected but the supervisors took steps to see
7 that social workers recorded on a regular basis.

8 **MR. LEE:** And I take it the general rule was
9 that everything important needed to be recorded in the
10 file; is that correct?

11 **MR. O'BRIEN:** Yes.

12 **MR. LEE:** And certainly, in the number of
13 contacts some social workers would have had with some
14 children you wouldn't expect a chronology of every single
15 contact of every single thing that happened but the
16 important stuff needs to go in?

17 **MR. O'BRIEN:** I think that's reasonable.

18 **MR. LEE:** In paragraph 26 you state that
19 social workers' case notes were to be completed within 24
20 hours. I take it there is no written policy on that but
21 that was the ideal?

22 **MR. O'BRIEN:** I would suspect there was a
23 written policy if it says within 24 hours but you notice
24 that's case notes. That is not recordings for a file.

25 **MR. LEE:** Yes, and we've had some evidence

1 on the difference between those two.

2 Do you recall any systems being in place to
3 ensure compliance with the 24-hour rule; for example,
4 random checks of a worker's notes?

5 **MR. O'BRIEN:** No, what I recall is we had
6 some difficulty in getting the social workers to record --
7 some of them. They tended to put it off because they felt
8 that the actual contact with children or families was more
9 important than writing up notes.

10 But I considered it so important that not
11 only did I insist that the supervisors see that it was done
12 but I also personally took an interest in reviewing what
13 was going on with the individual social workers and sort of
14 getting on their back if they weren't complying.

15 **MR. LEE:** Do you recall ever having to
16 discipline a worker for failing to take proper notes or
17 timely recording of note?

18 **MR. O'BRIEN:** Yes.

19 **MR. LEE:** Who was that?

20 **MR. O'BRIEN:** Who was that?

21 **MR. LEE:** Yes.

22 **MR. O'BRIEN:** I have to give a name?

23 **THE COMMISSIONER:** Yes.

24 Mr. O'Brien, yes, you have to give the name.

25 I can reassure you that if there is anything improper in

1 the question, Mr. Chisholm is going to object or I will
2 intervene or Commission counsel will intervene. So yes,
3 you have to give the name.

4 MR. O'BRIEN: One -- the lady that I had the
5 most difficulty with her name was Mary Miller.

6 MR. LEE: Okay. Anybody else that you
7 recall having to discipline in relation to case notes or
8 case recordings?

9 MR. O'BRIEN: No, Mary was the most tardy of
10 all of the staff.

11 MR. LEE: Okay. I think I'm going to have
12 some questions for Mr. Abell about Miss Miller so I'll save
13 that for him.

14 MR. O'BRIEN: I think when Mr. Abell came
15 she was gone. I'm not sure. She went to Windsor.

16 MR. LEE: Can you turn to page -- or
17 paragraph, rather, 36 of the summary, please, and this
18 deals with the Cieselwicz foster home. And in that first
19 paragraph you state two things. One is that you have no
20 independent recollection of that foster home or the
21 allegations; and that's true?

22 MR. O'BRIEN: Yes.

23 MR. LEE: But in the second paragraph you
24 tell us that all of your notes and correspondence are
25 accurate and complete. And would you agree with me, given

1 that you have no independent recollection, that you can't
2 swear to the accuracy or to the completeness of those notes
3 or records?

4 **MR. O'BRIEN:** What I intended to imply by
5 the statement was that if my name is there I don't doubt
6 that -- whatever the notes say.

7 **MR. LEE:** And that ---

8 **MR. O'BRIEN:** And if I didn't have those
9 notes in front of me I do not have independent
10 recollection.

11 **MR. LEE:** And that was your intention in
12 that paragraph, is just to let us know that you stand by
13 the documents that you've seen; is that right?

14 **MR. O'BRIEN:** Yes.

15 **MR. LEE:** Okay. Now, you need to remember
16 when we deal with the Cieselwicz home that these girls have
17 monikers so we won't be saying their name. We'll be using
18 C-77 and things like that. I will remind you as we go
19 through what the moniker for each girl is.

20 **MR. O'BRIEN:** Thank you.

21 **MR. LEE:** Okay? And I don't want to spend a
22 lot of time on this but if you go down to paragraph 39 this
23 deals with -- you see the name there at paragraph 39?
24 That's C-77.

25 Okay?

1 **MR. O'BRIEN:** Yes.

2 **MR. LEE:** And you'll see the second
3 paragraph is that on September 24, 1973 C-77 attended at a
4 police station along with her brother and complained that
5 her adoptive father had been molesting her.

6 Do you see that?

7 **MR. O'BRIEN:** Yes.

8 **MR. LEE:** Do you -- when we look at the case
9 notes, which I won't bring you to, it essentially says that
10 same information about the police station but it doesn't
11 tell us which police force or the name of an officer or
12 anything like that. Do you have any knowledge about which
13 police station she would have attended?

14 **MR. O'BRIEN:** No, and I can't -- was that
15 foster home in Dundas County?

16 **MR. LEE:** I frankly don't know which county
17 that was in. I believe it was in -- is it -- we know that
18 the Cieselwicz home was located in Maxville.

19 **MR. O'BRIEN:** Okay.

20 **MR. LEE:** But I don't know if we can infer
21 from that that she went to -- I have no information. I'm
22 asking you whether you have any information about that.

23 **MR. O'BRIEN:** No, there was an OPP officer -
24 - only one -- stationed in Maxville in the late '60s, I
25 know.

1 **MR. LEE:** And was there a detachment there?
2 Was there a physical building? It says police station.
3 Was there a police station in Maxville, as far as you can
4 recall, in 1973?

5 **MR. O'BRIEN:** I was never in the police
6 station. I knew the officer well that was there because as
7 a probation officer I worked closely with him.

8 **MR. LEE:** What's that officer's name?

9 **MR. O'BRIEN:** I don't recall his name but
10 why I worked so closely with him was he had an excellent
11 rapport with the community and information was brought to
12 him about certain crimes that a lot of police officers who
13 weren't community-minded would not have obtained but Don --
14 I'm not sure whether it was Maxwell or not.

15 **MR. LEE:** Okay.

16 **MR. O'BRIEN:** But I had a lot of respect for
17 him.

18 **MR. LEE:** Thank you.

19 The paragraphs numbering 37 all the way
20 through to 50 make reference to the case file for the
21 Cieselwicz home and case files for a number of girls, being
22 C-77 and C-78 and C-76. Were you able to review all of
23 those files in preparation for the Inquiry of those case
24 files?

25 **MR. O'BRIEN:** Yes.

1 **MR. LEE:** You went through and read all
2 those notes?

3 **MR. O'BRIEN:** Yes.

4 **MR. LEE:** Now, if you turn to page 52 of
5 your summary here ---

6 **THE COMMISSIONER:** Page 52?

7 **MR. LEE:** Sorry, paragraph 52.

8 **THE COMMISSIONER:** Paragraph 52, okay.

9 **MR. O'BRIEN:** Yes.

10 **MR. LEE:** This references a letter that you
11 wrote to the Director of Child Welfare, the Child Welfare
12 branch on October 31, 1978. Do you see that?

13 **MR. O'BRIEN:** Yes.

14 **MR. LEE:** And that's a letter where you, as
15 it states in the paragraph, provide a report on the
16 receiving foster home and describe the four complaints of a
17 sexual nature made against Mr. Cieslewicz over the years?

18 **MR. O'BRIEN:** Yes.

19 **MR. LEE:** And if you can -- if we can turn
20 to that document, please, Madam Clerk? It's Exhibit 2337.
21 Do you have that, sir?

22 **MR. O'BRIEN:** Yes, I do.

23 **MR. LEE:** And so this is addressed to Mr.
24 Barry Dalby, the Director of Child Welfare. Do you see
25 that?

1 **MR. O'BRIEN:** Yes, I do.

2 **MR. LEE:** And you would agree with me that
3 as an Executive Director of the CAS at the time, you would
4 have had an obligation to provide honest and complete
5 information to the Director of Child Welfare?

6 **MR. O'BRIEN:** To provide what?

7 **MR. LEE:** Honest and complete information?

8 **MR. O'BRIEN:** Yes.

9 **MR. LEE:** Do you recall where you got the
10 information that you provide to Mr. Dalby from? What was
11 your source for this information?

12 **MR. O'BRIEN:** One of the childcare workers.

13 **MR. LEE:** Do you recall which worker that
14 was?

15 **MR. O'BRIEN:** Yes.

16 **MR. LEE:** Who was it?

17 **MR. O'BRIEN:** Her initials are at the bottom
18 of that letter.

19 **MR. LEE:** Fran Lepage.

20 **MR. O'BRIEN:** Fran Lepage.

21 **MR. LEE:** And do you recall -- did you have
22 a meeting with Ms. Lepage? Did she give you a memo? How
23 did that work exactly?

24 **MR. O'BRIEN:** If I drafted a lengthy letter
25 like that, I obviously would have met with her. With Mrs.

1 Lepage? Yes.

2 MR. LEE: Okay. And you referenced at the
3 bottom of page 2 the initials F.L.

4 MR. O'BRIEN: Yes.

5 MR. LEE: Does that suggest that Ms. Lepage
6 was the author of this letter?

7 MR. O'BRIEN: Yes.

8 MR. LEE: And so she would have drafted and
9 you would have signed it. Is that right?

10 MR. O'BRIEN: That's correct, yes.

11 MR. LEE: And was that typical practice at
12 the time?

13 MR. O'BRIEN: If a letter went to the
14 Director of Child Welfare for the Province of Ontario, no
15 matter who drafted it, I signed.

16 MR. LEE: And you would have read it?

17 MR. O'BRIEN: Hopefully, yes.

18 MR. LEE: And you would have asked some
19 questions about it and made sure that you were okay with
20 it?

21 MR. O'BRIEN: Yes.

22 MR. LEE: Now, do you recall whether or not
23 -- you told us that you reviewed the girls' files in
24 preparation for the Inquiry. Do you recall if you had
25 reviewed the girls' files before this letter went out?

1 **MR. O'BRIEN:** No, I do not recall.

2 **MR. LEE:** You don't recall?

3 **MR. O'BRIEN:** No.

4 **MR. LEE:** Okay. Do you recall whether or
5 not you met with these girls yourself before sending this
6 letter? There's no reference in the letter to you having
7 met with them, but do you have any recollection of having
8 done so?

9 **MR. O'BRIEN:** No, I do not.

10 **MR. LEE:** Do you think that it may have been
11 useful to meet with them yourself in order to assess their
12 credibility, given that you comment on their credibility in
13 the letter?

14 **MR. O'BRIEN:** Do I think I should have met
15 with the children? Is that what you're asking?

16 **MR. LEE:** Well, the -- you make extensive
17 comments in the letter about the credibility of these
18 complaints and about the complainants themselves. And I'll
19 take you to some of that. And what I'm wondering is if you
20 think it would have been prudent to meet with the girls and
21 assess their credibility for yourself before writing to the
22 Director of Child Welfare?

23 **MR. O'BRIEN:** No, because I knew this case
24 worker very well and I would have had full confidence in
25 what she told me. So if there was a question in her mind

1 about the accuracy of the complaints, she would have
2 informed me of that and it would have necessitated more
3 action on our part.

4 MR. LEE: In your preparation for the
5 Inquiry, as you reviewed the files and this letter, did it
6 come to your attention that there were some problems with
7 the accuracy of the information contained in this letter?

8 MR. O'BRIEN: I'm not quite sure of your
9 question, sir.

10 MR. LEE: Okay. That's fine.

11 Let's look at the last paragraph on page 1
12 of the letter. It reads:

13 "Over the years, we have received four
14 complaints of a sexual nature against
15 Mr. Cieslewicz. The first girl who
16 made an allegation against the foster
17 father was not only promiscuous but had
18 made allegations of the same nature
19 against her own father. She was also
20 mildly retarded and known to be a
21 compulsive liar."

22 That relates, sir, to the girl who is now
23 monikered as C-77.

24 MR. O'BRIEN: Yes.

25 MR. LEE: And I wonder whether you knew that

1 C-77's file indicates that she had indeed made allegations
2 of the same nature against her own father and that he had
3 admitted those allegations?

4 MR. O'BRIEN: Are you saying did I see that
5 on a file?

6 MR. LEE: I'm wondering if at the time this
7 letter went out you knew that the allegations against this
8 girl's father had been admitted to by the father?

9 MR. O'BRIEN: I don't believe so.

10 MR. LEE: And you would agree with me that
11 that's certainly an important piece of information for the
12 child of -- or the Director of Child Welfare to know?

13 MR. O'BRIEN: Yes.

14 MR. LEE: And certainly if you're making
15 direct reference in the letter to allegations, it would be
16 important to say that the allegations were proven to be
17 true?

18 MR. O'BRIEN: Yes.

19 MR. LEE: And given the content of that
20 paragraph, I take it you would agree with me that the
21 perception that the reader would inevitably be left with is
22 that C-77's allegations should not have been taken as
23 credible because she is a compulsive liar; she's mildly
24 retarded, and this isn't her first go-round making
25 allegations of sexual abuse?

1 MR. O'BRIEN: Yes.

2 MR. LEE: That's the intention of that
3 paragraph, is it not?

4 MR. O'BRIEN: Yes.

5 MR. LEE: If you turn the page over it
6 refers to the second complaint, and that refers to who we
7 now call C-78. And I don't need you -- well, hold on,
8 maybe I do need you to turn it up.

9 I don't believe that the child file relating
10 to C-78 has been marked an exhibit. It's Document Number
11 742304.

12 THE COMMISSIONER: Any issues about
13 publication bans? Oh yes.

14 MR. LEE: Given that she's monikered, yes,
15 sir.

16 THE COMMISSIONER: Of course. Sorry.
17 Exhibit Number 2444 is the case file ---

18 MR. LEE: Of C-78, sir.

19 THE COMMISSIONER: Thank you. Of C-78 and
20 the first date on the top of the document is June '67. Oh,
21 that may be her date of -- no, that's the date of
22 admission. Thank you.

23 --- EXHIBIT NO./PIÈCE NO. P-2444:

24 (742304) Child Case File of C-78

25 MR. LEE: And, sir, I'm not going to take

1 you through this file, but you're welcome to read it once I
2 put my question to you, if you like. The first paragraph
3 at the top of page 2 concludes with the sentence:

4 "We also learned at this time that the
5 complainant had previously made
6 allegations of this type against staff
7 and residents of past placements,
8 including our own staffed group home."

9 **THE COMMISSIONER:** Where is this now?

10 **MR. LEE:** Sorry, I'm back at Exhibit ---

11 **THE COMMISSIONER:** Oh, the letter?

12 **MR. LEE:** The letter, yes.

13 **THE COMMISSIONER:** Right.

14 **MR. O'BRIEN:** What page?

15 **MR. LEE:** Sorry, page 2 of the letter, sir,
16 of the letter to Mr. Dalby.

17 **MR. O'BRIEN:** Yes.

18 **MR. LEE:** The top paragraph, the last
19 sentence. So if you look at the very end, four line up it
20 begins, "We also..."

21 **THE COMMISSIONER:** I don't think he's
22 looking ---

23 **MR. O'BRIEN:** Are we talking ---

24 **THE COMMISSIONER:** He wants you to go back
25 to Exhibit 2337, which is the letter you sent to the

1 Ministry.

2 MR. O'BRIEN: Yes, yes, okay.

3 THE COMMISSIONER: On the back page, page 2,
4 it says -- show us where -- the second complaint?

5 MR. LEE: The first paragraph, last
6 sentence, sir.

7 THE COMMISSIONER: Right. So it says:
8 "We also learned at this time that the
9 complainant..."

10 Do you see that?

11 MR. O'BRIEN: Yes, I do, Your Honour.

12 THE COMMISSIONER: Okay. There you go.

13 MR. LEE: It reads, sir:

14 "We also learned at this time that the
15 complainant had previously made
16 allegations of this type against staff
17 and residents of past placements,
18 including our own staffed group home."

19 Do you see that?

20 MR. O'BRIEN: Yes, I do.

21 MR. LEE: And the exhibit that we just
22 filed, being her child file, I'm wondering whether you
23 would be surprised to hear me say that there's nothing in
24 that file at all relating to allegations of sexual
25 misconduct?

1 **MR. O'BRIEN:** Is this the document you're
2 talking about?

3 **MR. LEE:** It is.

4 **MR. O'BRIEN:** Pardon?

5 **MR. LEE:** It is. That is the document I'm
6 speaking of, and I can tell you that we've reviewed that
7 document and we see nothing at all about prior allegations
8 of sexual misconduct.

9 So do you know where you got that
10 information from, or I guess where Ms. Lepage got that
11 information from? Can you help me with that?

12 **MR. O'BRIEN:** There are only two possible
13 sources where she would get it, and one would have been
14 from the children in the home -- the children themselves in
15 the home or from Mr. Towndale, but I'm not positive as to
16 where she got it.

17 **MR. LEE:** Would you expect that, having
18 received such information, Ms. Lepage would have entered
19 that into the child file?

20 **MR. O'BRIEN:** I would have thought so, yes.

21 **MR. LEE:** And if we go down to the middle
22 paragraph, you'll see it begins, "The fourth complaint..."

23 **MR. O'BRIEN:** Yes.

24 **MR. LEE:** "Fourth complaint came from a
25 ward of the Province of Quebec who had

1 run away from a group home in
2 St-Hyacinthe and was placed in the
3 Cieslewicz home for two days."

4 **MR. O'BRIEN:** Yes.

5 **MR. LEE:** "She also made allegations of a
6 Sexual nature against Mr. Cieslewicz.
7 She was questioned at our office but we
8 had doubts as to her credibility since
9 she had quite openly made sexual
10 advances, while in the car, towards the
11 male worker who apprehended her.
12 During the investigation she related
13 very casually many sexual experiences
14 she had had in the past."

15 And that relates to who we're calling C-79
16 and we know from the file, sir, that C-79 made a rather
17 detailed allegation of sexual abuse that included an
18 allegation that Mr. Cieslewicz had masturbated and
19 ejaculated onto her and that she had wiped the semen with
20 her sleeve, and at the time she was being interviewed by
21 the CAS workers she showed them a stain on her sleeve.

22 Would you not agree with me, sir, that that
23 fact was rather important and should have been included in
24 the letter to the Director of Child Welfare?

25 **MR. O'BRIEN:** Yes.

1 **MR. LEE:** Sir, would you agree with me,
2 based on these things that we've just gone through, that
3 this letter to Mr. Barry Dalby was not accurate, nor was it
4 complete?

5 **MR. O'BRIEN:** Now that you ask the
6 questions, I would say I agree that it was not as complete
7 as it ought to have been.

8 **MR. LEE:** And sir, we know that in relation
9 to the Cieslewicz home there was a meeting with the Crown
10 Attorney.

11 **MR. O'BRIEN:** Yes.

12 **MR. LEE:** Would the information provided to
13 the Crown Attorney be fairly well reflected in the
14 information provided to the Director of Child Welfare?

15 **MR. O'BRIEN:** Yes.

16 **THE COMMISSIONER:** Wait a minute, wait a
17 minute.

18 I'm reading in Exhibit 2444.

19 **MR. LEE:** Two-four-four-four (2444) is that
20 the ---

21 **THE COMMISSIONER:** That's the home ---

22 **MR. LEE:** The home file or the child file,
23 sir?

24 **THE COMMISSIONER:** I don't know. It's the
25 one -- the child file.

1 **MR. LEE:** Yes.

2 **THE COMMISSIONER:** If you look at page 20,
3 last paragraph:

4 "On March 26, '76 she was removed from
5 this home upon the request of the
6 foster mother. They could not cope
7 with her behaviour. This placement
8 failed also as, according to the ward,
9 the foster father made sexual advances
10 towards her."

11 **MR. LEE:** That relates to the Cieslewicz
12 home, which is the -- the gist of the letter to the
13 Ministry is the fact we know that she made allegations in
14 relation to the Cieslewicz home.

15 **THE COMMISSIONER:** Right.

16 **MR. LEE:** The gist of the letter to Barry
17 Dalby is that, "And this isn't the first go-round for her.
18 She's made other allegations in the past relating to other
19 places."

20 **THE COMMISSIONER:** Okay, okay.

21 **MR. LEE:** So no, you're absolutely right,
22 Mr. Commissioner, but we know of the Cieslewicz allegations
23 and essentially, as I read the letter to Barry Dalby, the
24 suggestion is that this isn't the first time.

25 **THE COMMISSIONER:** Okay.

1 **MR. LEE:** Sir, can you look at paragraph 51,
2 please, of Exhibit 2419. That's the Testimony Outline.

3 **THE COMMISSIONER:** Excuse me, Mr. Lee.

4 If we go back to the letter to ---

5 **MR. LEE:** Mr. Dalby?

6 **THE COMMISSIONER:** --- Mr. Dalby, it says at
7 the bottom:

8 "We also understand the claimant had
9 previously made allegations of this
10 type against staff and residents of
11 past placement, including our own staff
12 group home."

13 Would that be the Second Street?

14 **MR. LEE:** I believe it would be, in all
15 likelihood, the Anson Group Home in Minden, Ontario.

16 **THE COMMISSIONER:** Okay.

17 **MR. LEE:** That would be my -- if you look,
18 sir, beginning at page -- sorry, paragraph 55 of the
19 Testimony Outline.

20 **THE COMMISSIONER:** Yes.

21 **MR. LEE:** It relates to David Phillips of
22 that home having made a complaint.

23 **THE COMMISSIONER:** Right.

24 **MR. LEE:** Or having written to the Child
25 Welfare Branch in relation to complaints made by Jeannette

1 Antoine and C whatever her name is -- C-78?

2 **THE COMMISSIONER:** Yes.

3 **MR. LEE:** And so I think that's what that
4 relates to, sir. But I mean, frankly, I'm a little bit
5 confused by it. I don't exactly understand the chronology
6 there of how that would have worked.

7 **THE COMMISSIONER:** No, but would that not --

8 -

9 **MR. LEE:** Well, the problem we have is that
10 we have these events in the Cieslewicz home occurring in --
11 she's placed in the Cieslewicz home in February of 1976.

12 **THE COMMISSIONER:** Right.

13 **MR. LEE:** And the allegation is made shortly
14 thereafter and it would appear to me, based on the
15 Testimony Outline, that we're dealing with the Anson Group
16 Home in '78.

17 **THE COMMISSIONER:** Yeah, okay. So, "had
18 previously made allegations of this type."

19 **MR. LEE:** So I don't think it can relate to
20 the group -- to that group home anyways, but ---

21 **THE COMMISSIONER:** Fair enough.

22 **MR. LEE:** Mr. O'Brien, I'd ask you to look
23 at paragraph 51 and that reads:

24 "On October 25, 1978 O'Brien wrote to
25 Mr. and Mrs. Cieslewicz acknowledging

1 receipt of Mrs. Cieslewicz's letter of
2 October 16, 1978..."

3 **THE COMMISSIONER:** Whoa, whoa, whoa. Hang
4 on a second.

5 **MR. LEE:** I'm sorry, sir.

6 **MR. O'BRIEN:** Yes, I have it.

7 **MR. LEE:** The gist of it is that you receive
8 a letter from Mrs. Cieslewicz; you reply to that. Nine
9 days later you thank them for their help and for the
10 tenderness exhibited towards the children.

11 **MR. O'BRIEN:** Yes.

12 **MR. LEE:** Can you help me understand why you
13 would have done that, sir, given the allegations that had
14 been made and the decision to close the home?

15 **MR. O'BRIEN:** I expect that there was
16 evidence that in fact they had helped some children and
17 they had exhibited tenderness. So they were not
18 necessarily contradictory.

19 **MR. LEE:** It was not what?

20 **MR. O'BRIEN:** They were not necessarily
21 contradictory.

22 **MR. LEE:** You were asked -- Ms. Daley, who
23 first cross-examined you here on behalf of the Citizens for
24 Community Renewal, asked you about your assessment of
25 credibility relating to Jeannette Antoine's allegations

1 against Bryan Keough. You remember that?

2 **MR. O'BRIEN:** Yes.

3 **MR. LEE:** And she broke it down between the
4 allegations of a sexual nature and the allegations of a
5 physical nature.

6 **MR. O'BRIEN:** Yes.

7 **MR. LEE:** And in relation to the allegations
8 of a sexual nature you told us you had concerns with the
9 credibility of those. But when she switched -- when
10 Ms. Daley asked you about the allegations of a physical
11 nature, what you told us is that you did not doubt her in
12 relation to those.

13 And you went on to say that, even so, you
14 weren't concerned about Mr. Keough remaining on staff
15 because he would not be in a position to discipline
16 children in his role as a caseworker.

17 **MR. O'BRIEN:** That's correct.

18 **MR. LEE:** And the point you were making
19 there was that -- I take it was that regardless of what had
20 happened previously, he wasn't a risk any more because he
21 wasn't in a group home setting?

22 **MR. O'BRIEN:** That's correct.

23 **MR. LEE:** And so my question for you is did
24 it not concern you that he would be in charge of monitoring
25 the care that foster parents were providing, given the

1 allegations of physical abuse against him? He may no
2 longer have been in a position to physically discipline or
3 physically abuse a child but he was responsible for making
4 sure that others didn't do it either.

5 Did that concern you at any point?

6 **MR. O'BRIEN:** Because he didn't have direct
7 access I was not concerned but, if I look back on it now,
8 his attitude toward physical punishment I did not agree
9 with then and perhaps I might have been more cautious in
10 keeping an eye on the way he was handling the foster homes
11 with the children in them.

12 And at that time I must admit that it was
13 more prevalent to allow physical punishment of children in
14 general than it is today, and we were not really cognizant
15 of the various things that you could do to discipline
16 children that would be less punitive and less physical and
17 even more effective. As we became -- as these other
18 methods of discipline became known to us we included them
19 in our foster parent training but earlier on we did not
20 have the knowledge and we did not impart it to our foster
21 parents.

22 **MR. LEE:** When you came back to the CAS in
23 April of 1976 from your leave of absence ---

24 **MR. O'BRIEN:** Yes.

25 **MR. LEE:** --- you were brought up to speed

1 on what had happened at Second Street?

2 MR. O'BRIEN: Yes.

3 MR. LEE: And you disagreed with what that
4 group staff had done there to those kids?

5 MR. O'BRIEN: Yes.

6 MR. LEE: And you knew Mr. Keough was not a
7 staff member, as you put it, but you knew he had some
8 involvement in that home?

9 MR. O'BRIEN: Yes.

10 MR. LEE: And would it have been your
11 understanding at that time that Mr. Keough would have had
12 some idea of what was happening in that home?

13 MR. O'BRIEN: In the group home?

14 MR. LEE: Yeah.

15 MR. O'BRIEN: Yes.

16 MR. LEE: And there were some allegations of
17 him having participated directly in some of the
18 inappropriate punishments. Is that right?

19 MR. O'BRIEN: Yes.

20 MR. LEE: And as I take your evidence here,
21 you're telling us that at the time you said to yourself,
22 "Well, I don't need to worry about Bryan Keough even if he
23 does have some problems because he's not going to have an
24 opportunity to lay a hand on a kid anyways"?

25 MR. O'BRIEN: Even though he used discipline

1 in the group home that I didn't personally agree with, when
2 he was with John from the group home and brought back to
3 only his own caseload where he was supervising children in
4 foster care, I assumed that he would have no opportunity to
5 physically punish children and, therefore, I wasn't too
6 concerned about his -- well, actually, his thinking still
7 at that time. While I didn't agree with it, I wasn't
8 concerned that it would happen to any of our children that
9 he was supervising.

10 **MR. LEE:** I'm going to give you a
11 hypothetical example here, and I want to be very clear, I'm
12 not suggesting for a second that this applies directly to
13 Bryan Keough but I'm having problems explaining to you
14 exactly what I mean; okay?

15 If you had a worker who you were convinced
16 had sexually abused a child, you would obviously be
17 concerned about keeping that worker away from kids directly
18 so that he didn't sexually abuse them. But I would assume
19 at the same time you wouldn't want that social worker
20 monitoring foster parents either, out of fear that he may
21 let foster parents sexually abuse children.

22 Do you see my point?

23 **MR. O'BRIEN:** Yes.

24 **MR. LEE:** So we tie it back to Mr. Keough.
25 I understand that you took care of the risk of Mr. Keough

1 physically abusing a child, but you leave him in a position
2 where he's supervising others where he should be ensuring
3 that they don't physically abuse children either. But if
4 he's okay with it why wouldn't he be okay with the foster
5 parents doing it, essentially is my thinking. Did that
6 occur to you or did that concern you at all?

7 **MR. O'BRIEN:** It did not at that time, but
8 as you put the question and as I think about it now, I
9 would have been much more cautious.

10 **MR. LEE:** Thank you.

11 Do you remember being asked questions about
12 Roberta Judd?

13 **MR. O'BRIEN:** Yes, I remember being asked
14 the questions.

15 **MR. LEE:** Okay. She is a client of mine and
16 I just have a few questions about that for you. The
17 discussion in the summary document begins at paragraph 71
18 in relation to Roberta. Now, I want to start at paragraph
19 74.

20 **MR. O'BRIEN:** On December 1st?

21 **MR. LEE:** Yeah, that's the one.

22 And this is where Ian MacLean completes a
23 serious occurrence report containing allegations that Brian
24 Lapensée had sexually molested girls in the Lapensée Group
25 Home. Okay?

1 MR. O'BRIEN: Yes.

2 MR. LEE: And so if you look further down in
3 that paragraph, he recommends sending a letter of warning
4 to Brian Lapensée and also a letter to Lapensée parents
5 that he never be allowed on the group home premises and
6 that the agency be notified if he moves back to the area.
7 That's what Mr. MacLean recommends; okay?

8 MR. O'BRIEN: Yes.

9 MR. LEE: And so if we go down to the next
10 paragraph, the very next day you write to Robert Nadon,
11 program supervisor, outlining the serious occurrence
12 report. Do you see that?

13 MR. O'BRIEN: Yes.

14 MR. LEE: And the summary there is that you
15 indicate in that letter that you're satisfied that there is
16 no further immediate risk to the children involved due to
17 the fact that Brian Lapensée had left the area, and that
18 you did not expect any action on the part of the Crown
19 Attorney or police but decided to discuss the matter with
20 the Crown Attorney?

21 MR. O'BRIEN: Yes.

22 MR. LEE: That's the gist of your letter?

23 MR. O'BRIEN: Yes.

24 MR. LEE: And this is December of 1982.
25 Were you aware in December of 1982 that a few years earlier

1 Brian Lapensée had impregnated a ward of the CAS entrusted
2 to the care of the Lapensées?

3 MR. O'BRIEN: No, I don't recall that.

4 MR. LEE: And were you aware that Brian
5 Lapensée and that ward that he had impregnated had run away
6 out west and that the CAS had lost contact with her?

7 MR. O'BRIEN: I think I read it somewhere.
8 I was not aware of it at the time.

9 MR. LEE: Okay. And were you aware at this
10 time that Brian's older brother, Larry, had also
11 impregnated a ward at the CAS entrusted to the care of the
12 Lapensées a few years before Brian?

13 MR. O'BRIEN: No, I was not aware.

14 MR. LEE: And were you aware that Larry
15 Lapensée by this time was a worker in the Lapensée Group
16 Home?

17 THE COMMISSIONER: Say that again?

18 MR. O'BRIEN: I don't recall the name Larry.

19 MR. LEE: Larry Lapensée, the older brother
20 of Brian Lapensée who had had -- you'll recall with Mr.
21 MacLean I went through the evidence that he was in his
22 early 20's and he impregnated a 15-year old ward. He later
23 went on to be a worker in the Lapensée Group Home. So the
24 son of the Lapensées ended up working in the group home.

25 THE COMMISSIONER: Larry.

1 **MR. LEE:** Larry, not Brian. Yeah, we're
2 talking Larry here.

3 And so I'm asking Mr. O'Brien whether he had
4 any knowledge of that at all.

5 **MR. O'BRIEN:** I don't recall knowing about
6 that.

7 **MR. LEE:** And would you agree with me that
8 if the CAS had knowledge of what Larry Lapensée had done in
9 impregnating a ward and then it happened again with another
10 son, Brian, in the late '70s, that should have been the end
11 of that home?

12 **MR. O'BRIEN:** Yes, it might have been the
13 end of the home after we knew about Larry, never mind the
14 two boys, but even knowing about Larry was enough grounds
15 to close it.

16 **MR. LEE:** So by '82, we have the Larry
17 incident and we have the Brian incident and now we have
18 Brian misbehaving again.

19 **MR. O'BRIEN:** Yes.

20 **MR. LEE:** And would you agree with me that
21 surely by that point, that home needed to be closed?

22 **MR. O'BRIEN:** Yes.

23 **MR. LEE:** Well, what we know from the
24 history is it wasn't closed and we end up with Roberta Judd
25 being permitted to spend Christmas with the Lapensée

1 families with the knowledge of the CAS that Brian would be
2 there and, finally, we move on to Easter, 1983, and we have
3 finally the straw that broke the camel's back. We have an
4 incident at Easter and Roberta ends up trying to kill
5 herself and finally the home is closed; okay? Do you
6 remember that chronology?

7 MR. O'BRIEN: Yes.

8 MR. LEE: Now, when Mr. Ian MacLean was here
9 I put some questions to him, and he told me that even
10 though he was the case worker for Roberta Judd -- who was
11 in that home and Mr. MacLean was at the front line dealing
12 with this -- he had no idea until the Cornwall Public
13 Inquiry came about that Larry Lapensée had impregnated a
14 ward or about any of that history; okay? That's what he
15 told me.

16 MR. O'BRIEN: Yes.

17 MR. LEE: And when we look back at the file,
18 we see that Cam Copeland was the worker for that girl who
19 became pregnant and it's well documented what had happened
20 in her file, but it never makes its way into the Lapensée
21 home file.

22 Now, I take it you'll agree with me that
23 that's a major error?

24 MR. O'BRIEN: Yes.

25 MR. LEE: And that Mr. Copeland had an

1 obligation to put that in the Lapensée home file?

2 MR. O'BRIEN: Yes.

3 MR. LEE: And that his supervisor had an
4 obligation to catch that error and to make sure that that
5 happened?

6 MR. O'BRIEN: If the supervisor knew about
7 it, yes.

8 MR. LEE: Well, presumably the supervisor
9 would have reviewed the case recordings for the girl who
10 became pregnant.

11 MR. O'BRIEN: Oh, the child's file?

12 MR. LEE: Yes.

13 MR. O'BRIEN: Yes.

14 MR. LEE: And the supervisor, I take it,
15 would be expected, when there's a major development like
16 that, to ensure that that is properly recorded elsewhere if
17 it needs to be?

18 MR. O'BRIEN: Yes, that's correct.

19 MR. LEE: And knowing what you know now
20 about the Lapensée home and the chain of events there,
21 would you agree with me that the CAS failed the girls that
22 it was putting into that home?

23 MR. O'BRIEN: Knowing what I know now, I
24 think we should have been much more thorough in our
25 investigations and, if necessary, taken action to close the

1 home.

2 MR. LEE: And, as I mentioned, there was an
3 incident that happened at Easter of 1983 and following that
4 we have another serious occurrence report, and you end up
5 sending that to Assistant Crown Attorney Alan Ain?

6 MR. O'BRIEN: Yes.

7 MR. LEE: And that's reflected in paragraph
8 90 of the summary, if you want to take a look at that just
9 to help you with the chronology.

10 MR. O'BRIEN: I'm sorry, where is it?

11 MR. LEE: Ninety (90).

12 And what you write to Alan Ain at that
13 point, what you do is you enclose that second serious
14 occurrence report. You send the whole thing to him. So
15 you're not just summarizing. You actually send him the
16 serious occurrence report.

17 And when you write to him, you say that
18 you'd like to take the liberty of giving you -- or giving
19 him your opinion that it would not be necessary to pursue
20 charges.

21 But what you don't do, sir, as far as I can
22 tell, is lay out the entire history of what's happened
23 relating to Brian Lapensée. He doesn't get the first
24 Serious Occurrence Report; he isn't told of the pregnancy
25 in '79. Is there a reason for that, sir?

1 **MR. O'BRIEN:** I don't recall.

2 **MR. LEE:** Would you agree with me that it
3 would have been important to provide the Crown attorney
4 with all of the facts, and that should have included a
5 complete history of Brian Lapensée's involvement with wards
6 of the CAS?

7 **MR. O'BRIEN:** All I can say is that I should
8 have provided the Crown attorney with enough information
9 for him to make a decision regarding charges.

10 Does that answer your question?

11 **MR. LEE:** You would have dealt with Crown
12 attorneys enough to know that they're quite fond of always
13 qualifying their opinion by saying their opinion is based
14 on the facts as they understand them and if there are other
15 facts that are relevant their opinion may change. You
16 would have heard a Crown attorney say that, wouldn't you
17 have?

18 **MR. O'BRIEN:** I didn't hear those specific
19 words. I knew that for a Crown attorney to make a decision
20 he had to have all the facts. I knew that.

21 **MR. LEE:** Okay.

22 **MR. O'BRIEN:** And I tried to provide them in
23 any cases I discussed with Crown attorneys, and if I was
24 not giving them sufficient facts I knew them well enough to
25 know they'd tell me.

1 **MR. LEE:** But you also knew well enough that
2 they had no way of knowing what all of the facts were and
3 so it was incumbent upon you to provide them with all of
4 the facts. Is that right?

5 **MR. O'BRIEN:** Yes and no, because I knew
6 them well enough to know that if they -- I mean, I'm sure
7 they would have asked me the simple question, "Have I got
8 everything?" I mean that's logical.

9 **MR. LEE:** Can you look at paragraph 91, sir?
10 This relates to -- this is post-Lapensée now dealing with
11 Roberta.

12 **MR. O'BRIEN:** Yes.

13 **MR. LEE:** She's Archambault now but was Judd
14 at the time you would have dealt with her.

15 It states that a request was made on June
16 15th, 1983 that Archambault received continued care and
17 maintenance past her 18th birthday until she finished high
18 school in June 1984. Do you see that?

19 **MR. O'BRIEN:** Yes.

20 **MR. LEE:** So that was a little bit atypical,
21 I take it, having continued care and maintenance past 18?

22 **MR. O'BRIEN:** Under the law we couldn't have
23 authority on someone who was over 18 years of age. So if
24 there was reason to think that we should continue helping a
25 child beyond their 18th birthday, we had to ask the Ministry

1 for permission to continue with finances in order to ensure
2 that they got what they needed.

3 MR. LEE: And you would fill out a form, you
4 would send a request along?

5 MR. O'BRIEN: You'd send a letter, yes.

6 MR. LEE: And you would need to articulate
7 some reason for the request?

8 MR. O'BRIEN: We would have to have
9 indicated in the letter we felt very positive that this
10 should be granted because it would help this particular
11 child.

12 MR. LEE: Let's look at the request form
13 please, sir. It's Exhibit 2422.

14 MR. O'BRIEN: Yes.

15 MR. LEE: Now, this is a form relating to,
16 as you see, Roberta Judd at the top.

17 MR. O'BRIEN: Yes, I do.

18 MR. LEE: And you see that the reason,
19 extended care and maintenance required, in the middle of
20 the page, and she's a full-time student, will not graduate
21 until June '84, high school. Do you see that?

22 MR. O'BRIEN: Yes.

23 MR. LEE: So it's been accurately summarized
24 at paragraph 91 of the testimony facilitation document.

25 And if you look under "Additional Comments"

1 one of the comments that's made in the middle is that the
2 child has experienced emotional, physical and sexual abuse.
3 Do you see that?

4 MR. O'BRIEN: Yes.

5 MR. LEE: Do you recall what the details of
6 these various forms of abuse were, as you sit here today?

7 MR. O'BRIEN: No, I don't recall but I would
8 have to have been picking it up from the child's file.

9 MR. LEE: Because we have -- this is -- keep
10 in mind this is 1983. So this is after the Lapensée home.
11 So I think when we look at sexual abuse we can probably
12 presume that that would have related to the incidents in
13 the Lapensée home.

14 MR. O'BRIEN: I just don't know.

15 MR. LEE: Okay. And what confuses me is the
16 emotional and physical abuse, because I've reviewed the
17 files and we know that Roberta initially came into care
18 from the CAS as a result of neglect, okay, and there's no
19 mention in that period of time in the files of any physical
20 or emotional abuse, or sexual for that matter, but no
21 abuse; it's neglect. There were problems with alcoholism
22 in the home, things along those lines. Okay?

23 MR. O'BRIEN: Yes.

24 MR. LEE: And then we don't have, as I
25 understand it, any suggestion by Roberta of emotional or

1 physical abuse at the hands of the Lapensées. Her
2 allegations relating to the Lapensées are restricted to
3 Brian Lapensée. He was the problem, not the Lapensée
4 parents. Okay? They didn't beat her, they didn't
5 emotionally abuse her.

6 When Roberta Judd testified here at this
7 Inquiry she told us that she was emotionally and physically
8 abused by her previous foster family, the Huberts.

9 MR. O'BRIEN: The who?

10 MR. LEE: Okay?

11 MR. O'BRIEN: What family?

12 MR. LEE: The Huberts.

13 And her evidence was that she disclosed that
14 physical abuse to her worker at the time, Bryan Keough.

15 MR. O'BRIEN: Yes.

16 MR. LEE: And what we know from this Inquiry
17 is that there is no record whatsoever in Mr. Keough's
18 recordings about having received such a disclosure, and in
19 fact, when Mr. Keough testified here he denied ever having
20 received such a disclosure from Ms. Judd. Okay?

21 MR. O'BRIEN: Yes.

22 MR. LEE: So the evidence we have at this
23 point is that Ms. Judd is saying that she was abused and
24 that she told Mr. Keough, and Mr. Keough is saying it's not
25 in the notes and the reason it's not in the notes is

1 because it never happened, she didn't tell me that. So
2 that's the evidence we have at this point.

3 But that's what leaves me confused, sir,
4 about this 1983 form that speaks of emotional, physical and
5 sexual abuse having been experienced by the child.

6 And so can we agree that the source of that
7 information would have had to have been her caseworker?

8 **MR. O'BRIEN:** Would have had to have been
9 what?

10 **MR. LEE:** Ms. Judd's caseworker.

11 **MR. O'BRIEN:** It would have to have come
12 from a file.

13 **MR. LEE:** Well, it's not in a file. We know
14 that. And you wouldn't have had knowledge of that; you
15 weren't her worker; you weren't having direct dealings with
16 Ms. Judd, were you?

17 **MR. O'BRIEN:** No.

18 **MR. LEE:** And you have no specific
19 recollection of where that information would have come
20 from, sitting here today?

21 **MR. O'BRIEN:** No.

22 **MR. LEE:** Mr. Commissioner, I should just
23 point out, I won't take the witness to the document ---

24 **MR. O'BRIEN:** Well, it must have come from
25 some written notes somewhere otherwise I wouldn't have

1 stated it, but I don't know from where.

2 **MR. LEE:** I think we're agreed you got that
3 information from somewhere but we haven't seen a note yet
4 that would explain it, sir.

5 Mr. Commissioner, the -- you'll notice that
6 this form is not dated nor is it signed. I don't need to
7 take you there, but Ms. Judd's file is Exhibit 2339 and at
8 Bates page 7170643 there's a heading titled "Court
9 Activity" that states that her Crown wardship finished on
10 her 18th birthday but she continued as a non-ward until
11 discharge in September with the approval of the Executive
12 Director and the Ministry of Community and Social Services.

13 **THE COMMISSIONER:** What ---

14 **MR. LEE:** Exhibit ---

15 **THE COMMISSIONER:** No, I've got the exhibit.
16 What Bates page?

17 **MR. LEE:** Page 643 at the very top of the
18 page, sir.

19 So we know that she was ultimately
20 discharged in September of '84 with the approval of the
21 Director and the Ministry.

22 **THE COMMISSIONER:** That's fine.

23 We might want to take a break at this point,
24 Mr. Lee.

25 **MR. LEE:** Sure.

1 **THE COMMISSIONER:** The hour is up.

2 **MR. LEE:** I don't have much to go.

3 **THE COMMISSIONER:** That's fine.

4 So we'll take our 15-minute break.

5 **MR. O'BRIEN:** Five is good enough for me,

6 Your Honour.

7 **THE COMMISSIONER:** Well, I know, but I need

8 15.

9 **MR. O'BRIEN:** Sorry. It's all right.

10 **THE COMMISSIONER:** Thank you.

11 **THE REGISTRAR:** Order; all rise. À l'ordre;

12 veuillez vous lever.

13 This hearing will resume at 11:45 a.m.

14 ---Upon recessing at 11:27 a.m./

15 L'audience est suspendue à 11h27

16 ---Upon resuming at 11:45 a.m./

17 L'audience est reprise à 11h45

18 **THE REGISTRAR:** Order; all rise. À l'ordre;

19 veuillez vous lever.

20 This hearing is now resumed. Please be

21 seated. Veuillez vous asseoir.

22 **THOMAS O'BRIEN, Resumed/Sous le même serment:**

23 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE

24 (Cont'd/Suite):

25 **MR. LEE:** Mr. O'Brien, can you turn to

1 paragraph 95 of the summary, please? That's Exhibit 2419,
2 paragraph 95.

3 MR. O'BRIEN: Yes.

4 MR. LEE: And you see a name there. That
5 person's referred to here as C-14.

6 MR. O'BRIEN: Yes.

7 MR. LEE: Okay. And you were asked a few
8 questions about this, and my understanding of the situation
9 is that you had no knowledge of anything that was going on
10 in the Barber home or about allegations made by C-14 of
11 physical abuse after leaving the Barber home, at the time?
12 Is that correct, you weren't involved in that?

13 MR. O'BRIEN: That's correct.

14 MR. LEE: You have no recollection of having
15 been briefed on any of that?

16 MR. O'BRIEN: That's correct.

17 MR. LEE: Should you have been briefed?

18 I mean, to give you the context, the gist of
19 it is that C-14 leaves the Barber home and reports to Mr.
20 Towndale that he was subjected to, essentially, vicious
21 beatings, severe physical abuse, and that Mr. Keough was, I
22 suppose, negligent for not helping to protect him.

23 Is that something that should have come to
24 your attention or was that properly handled at Mr.
25 Towndale's level?

1 **MR. O'BRIEN:** It would have been properly
2 handled at his level and particularly by him because I had
3 the utmost confidence in his ability, his knowledge, and
4 the way he would handle things.

5 **MR. LEE:** So even today you're okay with Mr.
6 Towndale not having brought that to your attention?

7 **MR. O'BRIEN:** Yes.

8 **MR. LEE:** Do you believe in a case where a
9 Crown ward alleges serious physical abuse -- and I'm not
10 talking corporal punishment here; I'm talking the
11 allegation was of serious abuse -- should that have in the
12 late 1970s, as a matter of practice, been brought to the
13 Crown Attorney or the police?

14 **MR. O'BRIEN:** If it came to my attention and
15 I felt that either the police or the Crown should have been
16 informed, I would have done so.

17 **MR. LEE:** Those are my only questions for
18 you, sir. Thank you.

19 **MR. O'BRIEN:** Thank you.

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

21 Mr. Neville, any questions?

22 Mr. Neuberger or -- I'm sorry, okay.

23 They're not here.

24 Mr. Thompson.

25 **MR. THOMPSON:** I do have some questions.

1 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
2 THOMPSON:

3 MR. THOMPSON: Good morning, Mr. O'Brien.

4 MR. O'BRIEN: Good morning.

5 MR. THOMPSON: As has been said before, I
6 don't have that many questions for you, but if you feel the
7 need to stop please let me know.

8 I want to discuss first with you what ---

9 MR. CHISHOLM: If Mr. Thompson could just
10 indicate to the witness who he acts for?

11 MR. THOMPSON: Sorry, my apologies.

12 My name is Chris Thompson. I'm counsel for
13 the Ministry of the Attorney General.

14 MR. O'BRIEN: Yes.

15 MR. THOMPSON: And I just want to ask you
16 some questions to start with about what you've described as
17 a practice of going to the Crown Attorney.

18 MR. O'BRIEN: Yes.

19 MR. THOMPSON: And I think you mentioned
20 before, in particular with respect to Mr. Johnston, the
21 Crown Attorney ---

22 MR. O'BRIEN: Yes.

23 MR. THOMPSON: --- that you had confidence
24 in his abilities and you had respect for his
25 professionalism and his experience?

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: And that factored into your
3 decisions to go to the Crown Attorney?

4 MR. O'BRIEN: Well, as I mentioned
5 yesterday, I think, my experience started in late 1959 with
6 the Crown Attorney at the time, Percy Milligan. And if I
7 had questions about the way I was operating or should
8 operate, I felt very comfortable, because Cornwall is a
9 small city, in going to the Crown and asking for advice.

10 Does that answer your question?

11 MR. THOMPSON: Yes, thank you.

12 And I wanted to ask you about a statutory
13 provision that came up in the evidence of Mr. MacLean. I'm
14 just going to read it. It's very short.

15 This was in the *Child Welfare Act* from 1965
16 to '78 and it states:

17 "Every person having information of the
18 abandonment, desertion, physical ill
19 treatment, of need for protection of a
20 child shall report the information to a
21 Children's Aid Society or a Crown
22 Attorney."

23 So every person having information of the
24 abandonment, desertion, physical ill treatment, of need for
25 protection of a child shall report the information to a

1 Children's Aid Society or Crown Attorney.

2 Now, this provision seems to suggest that
3 appropriate parties in which to report allegations of abuse
4 would be the Children's Aid Society or a Crown Attorney.
5 And my question for you is whether that provision factored
6 into your decision-making in going to speak with a Crown
7 Attorney about these matters?

8 **MR. O'BRIEN:** I don't recall a Crown
9 Attorney ever contacting me about allegations that had been
10 made to him. And the only reason I would consult a Crown
11 Attorney was if I felt there was some action I should be
12 taking, but I was unclear as to what I ought to do, then
13 I'd go to the Crown Attorney.

14 **MR. THOMPSON:** So do I take it then that
15 this provision wasn't in your mind when you went to speak
16 to the Crown Attorney? Is that what you're saying?

17 **MR. O'BRIEN:** No, this provision was not in
18 my mind, no, it was not.

19 **MR. THOMPSON:** All right. That's fine.
20 Thank you.

21 And when you mention that you had some
22 confidence in Mr. Johnston's abilities, I take it that that
23 was mutual, that he had some confidence in your abilities?

24 **THE COMMISSIONER:** How would he know that?

25 **MR. THOMPSON:** Well, I'm asking if that was

1 his view.

2 THE COMMISSIONER: Did you think -- so why?

3 MR. THOMPSON: Well, I'll put it this way.

4 I'll rephrase it.

5 I take it you had a good working
6 relationship with Mr. Johnston?

7 MR. O'BRIEN: Yes.

8 MR. THOMPSON: And I take it that at the
9 time you were the Executive Director?

10 MR. O'BRIEN: Yes.

11 MR. THOMPSON: And that as the Executive
12 Director, you would have had considerable experience in
13 child welfare matters?

14 MR. O'BRIEN: Yes.

15 MR. THOMPSON: And perhaps if not the most
16 experience in the community, one of the individuals in the
17 community with the most experience in those sorts of
18 matters?

19 MR. O'BRIEN: In terms of child welfare?

20 MR. THOMPSON: Yes.

21 MR. O'BRIEN: As the Executive Director of
22 the Children's Aid, I probably had more intimate knowledge
23 of child welfare than most people.

24 Is that what you're asking?

25 MR. THOMPSON: Yes.

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: Thank you.

3 Now, I'd like to talk a little bit about the
4 Cieselwicz home.

5 MR. O'BRIEN: Yes.

6 MR. THOMPSON: And my friend referred you to
7 an exhibit, and I don't intend to go through it in the same
8 sort of detail -- and that's Exhibit 2337. That's the
9 letter to Mr. Dalby.

10 (SHORT PAUSE/COURTE PAUSE)

11 MR. O'BRIEN: Yes, I have it.

12 MR. THOMPSON: I'm looking at the first
13 page, the third paragraph, about four or five lines down
14 starting with "Since". It's the last line in the -- last
15 word on the line.

16 MR. O'BRIEN: Are you talking about the
17 first page to Mr. Dalby?

18 MR. THOMPSON: First page, third paragraph,
19 five lines down, last word on the line. It starts with
20 "Since".

21 I can read it out and perhaps you can follow
22 it.

23 MR. O'BRIEN: Yeah, I haven't found it.

24 MR. THOMPSON: See, it's highlighted on the
25 screen there?

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: With the cursor?

3 MR. O'BRIEN: Yes, okay, I'm sorry, I've got
4 it now.

5 MR. THOMPSON: Yeah, that's quite all right.
6 I'm just going to read it out. And it says:

7 "Since placement, C-76 settled in the
8 Cieselwicz home and has made
9 remarkable progress. The non-
10 acceptable behaviour she exhibited
11 gradually attained a manageable level.
12 Her school performance also improved.
13 Last year and this year have been the
14 best academic years she has had. The
15 progress she has made has to be
16 attributed to the foster parents,
17 especially to Mrs. Cieselwicz, who has
18 been an affectionate, understanding,
19 patient and caring mother not only to
20 C-76 but to all the children placed in
21 her home."

22 MR. O'BRIEN: Yes.

23 MR. THOMPSON: And I take it you'd agree
24 with me there that that's a fairly positive endorsement of
25 the Cieselwicz home?

1 **MR. O'BRIEN:** That is, yes.

2 **MR. THOMPSON:** And I'm not going to go
3 through all of the rest of the letter in any sort of
4 detail, but the next paragraph is sort of where it starts
5 to discuss some of the allegations that were made.

6 And I think Mr. Lee asked you questions
7 earlier and it was suggested that this paragraph really
8 raised some credibility concerns about that complaint?

9 **MR. O'BRIEN:** Do I have questions about the
10 credibility of the girl?

11 **MR. THOMPSON:** I guess what my question for
12 you is that this paragraph suggests that there are
13 credibility questions about the girl?

14 **MR. O'BRIEN:** Yes.

15 **MR. THOMPSON:** All right.

16 And if we flip over to the next page, the
17 first paragraph is entitled, "The Second Complaint" and Mr.
18 Lee read the last half of that paragraph; I'm not going to
19 read it again.

20 Is it fair to say that credibility concerns
21 were raised about this complaint as well?

22 **MR. O'BRIEN:** Yes.

23 **MR. THOMPSON:** And then Mr. Lee took you to
24 two paragraphs after that, starting with the fourth
25 complaint?

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: And he read to you part or
3 all of that paragraph, and fair to say that this paragraph
4 reflects credibility concerns with that complaint?

5 To make it perhaps quicker, if you go right
6 to the next paragraph it says, "While we question the
7 credibility of this girl"?

8 MR. O'BRIEN: Yes.

9 MR. THOMPSON: So fair to say then that the
10 tenor of this letter is that there are serious credibility
11 concerns with the complaints that have been made?

12 MR. O'BRIEN: Yes.

13 MR. THOMPSON: And certainly that these
14 allegations, if they had these credibility concerns, would
15 not rise to the level of being able to be proved beyond a
16 reasonable doubt? And I appreciate that you're not a
17 criminal attorney.

18 MR. CHISHOLM: I object to that question.
19 This witness isn't in a position to answer that question.

20 THE COMMISSIONER: I agree.

21 MR. THOMPSON: Right. I'll move on.

22 THE COMMISSIONER: M'hm.

23 MR. THOMPSON: So, sir, if you could turn to
24 the next -- or Exhibit 2338?

25 MR. O'BRIEN: Yes.

1 **MR. THOMPSON:** And you advised Mr. Lee
2 earlier that the information that was provided to the
3 Ministry, to Mr. Dalby, reflected the information that
4 would have been provided to the Crown Attorney.

5 **MR. O'BRIEN:** Yes.

6 **MR. THOMPSON:** And so my question to you is,
7 in this letter in the second paragraph -- and this is a
8 letter dated November 1st, 1978 from yourself to Mr. Dalby
9 again at the Ministry -- in the second paragraph it states:

10 "After considering the facts which we
11 presented to him, Mr. Johnson was of
12 the opinion that there was insufficient
13 evidence to proceed with any charges
14 against Mr. Cieslewicz."

15 Now, I take it that that conclusion, having
16 regard to your previous letter, was satisfactory to you?

17 **MR. O'BRIEN:** What was your question, sir?

18 **MR. THOMPSON:** I take it that the conclusion
19 that you identified to the Ministry that Mr. Johnson
20 provided to you, that there was insufficient evidence to
21 proceed with any charges, I take it, having regard to your
22 previous letter, that that was satisfactory to you?

23 **MR. O'BRIEN:** Yes.

24 **MR. THOMPSON:** Okay.

25 I'm going to move on to a different topic.

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: And this is the Lapensée
3 home.

4 MR. O'BRIEN: Lapensée.

5 MR. THOMPSON: Sorry, Lapensée, and I'd ask
6 you to please turn to Exhibit 133.

7 THE COMMISSIONER: That's a new book, sir.
8 I don't think you have it.

9 (SHORT PAUSE/COURTE PAUSE)

10 MR. O'BRIEN: Thank you.

11 MR. THOMPSON: Do you have that, sir? It's
12 a letter from yourself to the Assistant Crown Attorney,
13 Alan Ain, dated ---

14 MR. O'BRIEN: Yes, I do have it.

15 MR. THOMPSON: Okay.

16 This is working backwards a little bit just
17 to orient you, and I have a lot of questions, but this
18 would have been the last letter in respect of the Lapensée
19 -- and in this letter you've already spoken about it, and I
20 think it's in your Exhibit 2419, that you recommend that
21 charges not be laid against Mr. Lapensée?

22 MR. O'BRIEN: Yes.

23 MR. THOMPSON: And then you provide sort of
24 three-prong views of why that charges should not be laid,
25 and that's in the second-last paragraph there?

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: And I just want to go to
3 Exhibit 134, which is a letter dated the same day, April
4 22nd, 1983.

5 MR. O'BRIEN: Yes.

6 MR. THOMPSON: And this is a letter from
7 yourself to Mr. Nadon, Program Supervisor?

8 MR. O'BRIEN: Yes, Mr. Nadon.

9 MR. THOMPSON: Right.

10 And in this letter, in the first paragraph
11 second sentence, it states:

12 "It was the opinion of the Assistant
13 Crown Attorney that there would not be
14 a point in pursuing charges against
15 Bryan Lapensée at this time."

16 MR. O'BRIEN: Yes.

17 MR. THOMPSON: You see that?

18 And so I take it -- this letter is dated the
19 same day as the letter we just looked at, and I take it you
20 would have expressed your views to Mr. Ain at that time
21 regarding ---

22 MR. O'BRIEN: Yes, yes.

23 MR. THOMPSON: And there's one other exhibit
24 I'd ask you to turn to, and that is Exhibit 130.

25 MR. O'BRIEN: I have that letter.

1 **MR. THOMPSON:** Okay, thank you.

2 And this is earlier in time, a letter dated
3 December 6th, 1982 from yourself to Mr. Nadon, and it
4 recounts another discussion that you had had with the Crown
5 Attorney, and it states in the second -- and this is Crown
6 Attorney Johnson. It states, the second sentence of the
7 first paragraph:

8 "After brief discussion and perusal of
9 the report, it was felt that no further
10 legal action would be taken."

11 **MR. O'BRIEN:** Yes.

12 **MR. THOMPSON:** And just two questions on
13 that.

14 One is your views later on in time to
15 Mr. Ain were that charges wouldn't be warranted, and I take
16 it that was your view earlier on as well?

17 **MR. O'BRIEN:** Yes.

18 **MR. THOMPSON:** And when you have down here
19 a, "Brief discussion and perusal of the report", I take it
20 by that you mean you didn't sit down and go over the report
21 line-by-line, but you would have explained what was in the
22 report, perhaps looking at parts of it? Or what do you
23 mean by that, "Perusal of the report"? If you can't
24 remember -- it was some time ago.

25 **MR. O'BRIEN:** I'm not sure what report we're

1 talking about.

2 MR. THOMPSON: That would have been the
3 serious occurrence report.

4 MR. O'BRIEN: Yes. What is the question?

5 MR. THOMPSON: You use the word "perusal" of
6 the report.

7 MR. O'BRIEN: Yes.

8 MR. THOMPSON: And I'm just asking you what
9 do you mean by that?

10 MR. O'BRIEN: Well, obviously it's reading
11 the report.

12 MR. THOMPSON: Sorry, I didn't hear that,
13 sir.

14 THE COMMISSIONER: He said obviously it's
15 reading the report.

16 MR. THOMPSON: So reading the report cover-
17 to-cover? Is that what you mean by that?

18 MR. O'BRIEN: All I can say is that it
19 indicates that I looked at the report. Do you want further
20 information?

21 MR. THOMPSON: No, that's fine, sir. That's
22 fine. I appreciate that.

23 Moving along, I'd like to speak about
24 Jeannette Antoine.

25 MR. O'BRIEN: Yes.

1 **MR. THOMPSON:** And in that respect, if you
2 could turn to your notes which are Exhibit 1505?

3 **(SHORT PAUSE/COURTE PAUSE)**

4 **MR. O'BRIEN:** Yes, I have it.

5 **MR. THOMPSON:** And, in particular, I'm
6 looking at the date of September 25th, '89 which is on page
7 2, which is Bates page ending 7233.

8 **MR. O'BRIEN:** September the 8th?

9 **MR. THOMPSON:** Twenty-five (25).

10 **MR. O'BRIEN:** September 8th?

11 **MR. THOMPSON:** September 25. It's at the
12 very bottom of page 2.

13 **MR. O'BRIEN:** Yeah, okay.

14 **MR. THOMPSON:** And this -- I'll just read it
15 out. It says:

16 "A meeting with the Crown Attorney and
17 the City Police could not be set up
18 until today. When the meeting did take
19 place the Crown Attorney, Don Johnson,
20 was present. The Deputy Chief, Joe St.
21 Denis, and Inspector Rick Trew of City
22 Police attending as well."

23 So it seems in this circumstance that you
24 would have gone to both the Crown and the police here in
25 1989?

1 MR. O'BRIEN: Yes.

2 MR. THOMPSON: And the next paragraph

3 states:

4 "I explained to those present why we
5 were involved with Jeannette at the
6 present time and that she was telling
7 us about our past handling of her as a
8 child in care. I also advised them
9 that I had made an offer to her on the
10 telephone to see her but that she did
11 not contact me since that time. I
12 suggested that at this time I was in a
13 quandary as to how to proceed. During
14 the course of our meeting we talked
15 about the strapping that had taken
16 place in the group home and the fact
17 that this was not necessarily a
18 criminal act, in that it was not
19 against any section in the *Criminal*
20 *Code.*"

21 My question is, do you recall any discussion
22 of any limitation period at that time?

23 MR. O'BRIEN: Do I recall any discussion of
24 what?

25 MR. THOMPSON: A limitation period. A

1 limitation period on proceeding with charges. Do you
2 remember if that was discussed?

3 **MR. O'BRIEN:** No, I don't recall.

4 **MR. THOMPSON:** Okay.

5 The next paragraph states:

6 "As a result of our conversation, it
7 was suggested that I send a registered
8 letter to Jeannette, inviting her to
9 come to see me, and that in it I ought
10 to enclose a copy of our Complaints
11 Procedure. It was suggested that if
12 Jeannette did not take any further
13 action there need be nothing further
14 done on our part."

15 And my question to you is that, it doesn't
16 say anything in here -- well, first my question is -- is it
17 fair to say that this was a consensual decision, that the
18 parties there agreed to this course of action?

19 **THE COMMISSIONER:** How about a mutual
20 decision?

21 **MR. THOMPSON:** Sure. A mutual decision?

22 **THE COMMISSIONER:** Did everybody agree with
23 that decision?

24 **MR. O'BRIEN:** Yes, your Honour.

25 **MR. THOMPSON:** And, obviously, it doesn't

1 say in here, for example, that Mr. Johnson was provided
2 with the entire file on this. You agree with me that that
3 doesn't say that here?

4 MR. O'BRIEN: I gave Mr. Johnson everything
5 I had; all notes that I had. In other words, the entire
6 file -- and I think that's what you're saying, the entire
7 file?

8 MR. THOMPSON: Right, and my question to you
9 is it doesn't say that here though?

10 MR. O'BRIEN: Well ---

11 MR. THOMPSON: I think what -- let me
12 perhaps refresh your memory.

13 This was the first meeting that you had and
14 then you discussed about the strapping, and then you
15 learned from Ms. Robinson's notes some allegations of
16 sexual assault.

17 And then you had another meeting with the
18 police and after that you went to the Crown again and said,
19 you know, "Here's the entire file. You know, do you want
20 the entire file?" and he said, "No. If the police have it,
21 they can contact me."

22 Is that about right?

23 MR. O'BRIEN: Yes, that's correct.

24 MR. THOMPSON: All right.

25 So I just want to clarify one thing in

1 Exhibit 2419. That is the Testimony Facilitation Overview.

2 MR. O'BRIEN: I'm sorry -- yes, I have it,
3 2419. Yes.

4 MR. THOMPSON: It's 2419 and I'm looking at
5 paragraph 62; sorry, paragraph 60 first and then 62. It's
6 on page 11.

7 MR. O'BRIEN: Yes, I have it.

8 MR. THOMPSON: And so paragraph 60 states
9 that you don't have a firm recollection of the specifics
10 but that your recordings, documentation and correspondence
11 are accurate and complete?

12 MR. O'BRIEN: Yes.

13 MR. THOMPSON: Right? And so when we go
14 down to 62 -- and this may just be some confusion but it
15 says here:

16 "O'Brien recalls speaking with the CPS
17 Deputy Chief of Police, Joseph St.
18 Denis, about the complaints and
19 providing Antoine's entire file to the
20 Crown Attorney's Office, and in
21 particular to Don Johnson, who reviewed
22 the file and told O'Brien that he did
23 not have to take any further action."

24 So, just in respect, I think we clarified
25 that that file was proposed to be provided to Mr. Johnson

1 after the second meeting with the police. Is that right?

2 MR. O'BRIEN: That's correct, yes.

3 MR. THOMPSON: And in terms of that first
4 meeting, that no further action be taken, that was a mutual
5 decision?

6 MR. O'BRIEN: Yes.

7 MR. THOMPSON: Okay. Just one last area.

8 In paragraph 60, you talk about not having a
9 firm recollection of specifics but your notes and
10 recordings or documentation would be accurate, and that
11 paragraph is repeated in a few other paragraphs in respect
12 of a few other homes.

13 I guess yesterday you mentioned you were
14 discussing about the Crown having advised you or not having
15 advised you to go to the police on certain occasions?

16 MR. O'BRIEN: Yes.

17 MR. THOMPSON: Remember that? And I take it
18 that you don't have a specific recollection of any time you
19 would have met with the Crown as to what was discussed?

20 MR. O'BRIEN: The only situation that I
21 recall fairly well is the one where I took the entire file
22 to him, and I believe that I met with him as Crown after
23 having gone to the police, because when I went to the
24 police I was there to get help in determining whether I
25 should be doing something about this situation.

1 And if I recall correctly, the police
2 indicated -- I think this is either Mr. St. Denis or the
3 Chief, I'm not sure which -- said, "No, you don't have to
4 do anything. You don't have enough to go on."

5 So I know I went back to the office and some
6 time later, whether it was the next day or several days
7 later, I was still in a quandary as to whether there was
8 action I should be taking, so I went to the Crown. It's a
9 bit unusual, but I brought the whole file with me because I
10 wanted him to have everything and at that time he said,
11 "No, you don't have to do anything further".

12 Is that answering your question?

13 **MR. THOMPSON:** Not exactly. I'll come back
14 to that though.

15 **MR. O'BRIEN:** Sorry.

16 **MR. THOMPSON:** Were you just speaking about
17 the Antoine case there, I take it?

18 **MR. O'BRIEN:** Yes.

19 **MR. THOMPSON:** Okay. Perhaps I need to be
20 more clear.

21 Yesterday it was asked of you do you recall
22 the Crown ever saying you should go to the police, and I
23 think your answer was, no, you don't recall that. And I
24 guess what I'm suggesting to you is that you don't remember
25 either way because you can't -- you don't remember if he

1 said go to the police or don't go to the police or said
2 nothing, because you can't remember the specifics of every
3 conversation you would have had?

4 **MR. O'BRIEN:** That's basically correct, yes.

5 **MR. THOMPSON:** Okay.

6 Those are all my questions. Thank you, sir.

7 **MR. O'BRIEN:** Thank you very much.

8 **THE COMMISSIONER:** Mr. Glick, do you have
9 any questions?

10 **MR. GLICK:** No thank you, Commissioner.

11 **THE COMMISSIONER:** Mr. Crane?

12 **MR. CRANE:** No questions. Thank you.

13 **THE COMMISSIONER:** Ms. Lahaie?

14 **MS. LAHAIE:** No questions, Mr. Commissioner.

15 Thank you.

16 **THE COMMISSIONER:** Mr. Wallace?

17 **MR. WALLACE:** No, thank you.

18 **THE COMMISSIONER:** Thank you.

19 Mr. Chisholm?

20 **MR. CHISHOLM:** I think Ms. Allinotte ---

21 **THE COMMISSIONER:** I'm sorry, Ms. Allinotte.

22 Now, it's 12:15. How long do you think
23 you're going to be?

24 **MS. ALLINOTTE:** I'll need about 15 minutes

25 but I really don't think Mr. O'Brien can go much longer. I

1 know he has to ---

2 **THE COMMISSIONER:** That's what I'm saying.

3 Do you wish -- it's 12:15. Do you want to
4 take a break for your medicine or for ---

5 **MR. O'BRIEN:** How long am I going to be?

6 **MS. ALLINOTTE:** It will go past 12:30
7 likely.

8 **MR. O'BRIEN:** I beg your pardon?

9 **MS. ALLINOTTE:** I likely would go past
10 12:30, Mr. O'Brien.

11 **MR. O'BRIEN:** Okay.

12 **MS. ALLINOTTE:** What, we'll come back after
13 lunch?

14 **MR. O'BRIEN:** No, no. Well, how long are
15 you going to take?

16 **(LAUGHTER/RIRES)**

17 **MS. ALLINOTTE:** That's what I said; it will
18 go past 12:30.

19 **THE COMMISSIONER:** That's not good enough.

20 **MR. O'BRIEN:** No, I mean do I have
21 15 minutes or two hours?

22 **(LAUGHTER/RIRES)**

23 **MR. O'BRIEN:** I'm serious.

24 **THE COMMISSIONER:** Mr. O'Brien, that's good.

25 **MS. ALLINOTTE:** I will be 15 minutes to half

1 an hour, depending on how you answer the questions.

2 (LAUGHTER/RIRES)

3 THE COMMISSIONER: Whoa!

4 MR. O'BRIEN: Well, I think maybe I ought to
5 have lunch because of my diabetes.

6 MS. ALLINOTTE: Right.

7 THE COMMISSIONER: Okay, let's have lunch.

8 MS. ALLINOTTE: Okay.

9 THE COMMISSIONER: So we'll come back at
10 1:45, sir.

11 MR. O'BRIEN: Yes, all right.

12 THE COMMISSIONER: Thank you very much.

13 THE REGISTRAR: Order; all rise. À l'ordre;
14 veuillez vous lever.

15 This hearing will resume at 1:45 p.m.

16 --- Upon recessing at 12:15 p.m./

17 L'audience est suspendue à 12h15

18 --- Upon resuming at 1:47 p.m./

19 L'audience est reprise à 13h47

20 THE REGISTRAR: Order; all rise. À l'ordre;
21 veuillez vous lever.

22 This hearing is now resumed.

23 MS. ALLINOTTE: Good afternoon. We're just
24 waiting for the witness.

25 THE COMMISSIONER: Good afternoon, sir.

1 **MR. O'BRIEN:** Sorry, Your Honour.

2 **THE COMMISSIONER:** Not a problem.

3 **MS. ALLINOTTE:** Did you want to get some
4 water or anything before we get started?

5 **MR. O'BRIEN:** No, I'm fine, ma'am.

6 **THOMAS O'BRIEN, Resumed/Sous le même serment:**

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

8 **ALLINOTTE:**

9 **MS. ALLINOTTE:** I don't need to introduce
10 myself to you, but for the record I'll just say that I am
11 Michelle Allinotte, counsel for the Children's Aid Society
12 of the United Counties of Stormont, Dundas and Glengarry,
13 but you knew that already. I have some questions that
14 arose out of your testimony, some clarifications I wanted
15 to make.

16 I believe that Mr. Dumais asked you if you
17 did ever speak to any other executive directors in regards
18 to the Antoine matter in 1989 because your notes indicated
19 that you were going to do that, and you couldn't recall
20 whether you had or not.

21 But how often did you meet with other
22 executive directors on a regular basis?

23 **MR. O'BRIEN:** To clarify, first of all, I
24 think somewhere it says that there were two specific
25 directors I was going to talk to. One was Ottawa; one was

1 Renfrew.

2 But to answer the latter part of your
3 question, the local directors of Eastern Ontario, there
4 were eight or ten of us who met about once a month and
5 discussed things of mutual interest or concern.

6 **MS. ALLINOTTE:** So this kind of issue might
7 have been one of concern?

8 **MR. O'BRIEN:** I beg your pardon?

9 **MS. ALLINOTTE:** The issues that arose with
10 Jeannette Antoine in 1989 would have been an issue of
11 concern that may have been discussed?

12 **MR. O'BRIEN:** No, if I -- I wouldn't know.
13 We never named a case when we were talking. We might have
14 asked how we would handle -- the other people how they
15 would handle a given situation, but you never used a case
16 name.

17 **MS. ALLINOTTE:** Do you recall if the other
18 directors faced any similar issues and sought advice on
19 them?

20 **MR. O'BRIEN:** No.

21 **MS. ALLINOTTE:** No? Okay.

22 Also in your testimony in regards to
23 Jeannette Antoine in 1989 still, I believe you indicated
24 that you doubted what was being told to you, some aspects
25 of it. We can bring you to an exhibit, but I don't know

1 that it's necessary, but the notes that Suzie Robinson took
2 when she first met with Jeannette -- when her and Greg Bell
3 first met with Jeannette -- you feature fairly prominently
4 in that and you were away during the time that these events
5 occurred; correct?

6 **MR. O'BRIEN:** Yes.

7 **MS. ALLINOTTE:** So is that some of the
8 reason why you were doubting some of the allegations being
9 made?

10 **MR. O'BRIEN:** Are you talking about the
11 physical abuse or sexual abuse, or both, in the group home?

12 **MS. ALLINOTTE:** Well, just the fact that
13 you're indicated to have appeared at meetings and whatnot,
14 and you were not physically present in Cornwall during
15 those dates.

16 **MR. O'BRIEN:** During the meetings that took
17 place with the Board of Directors and Mr. Towndale? Are
18 those the meetings you're talking about?

19 **MS. ALLINOTTE:** Yes.

20 **MR. O'BRIEN:** I was not present at them, no.

21 **MS. ALLINOTTE:** Right. But the notes
22 indicated that you were present. So that was a factual
23 inaccuracy in the notes?

24 **MR. O'BRIEN:** There's no notes indicating I
25 was present.

1 **MS. ALLINOTTE:** No, I meant when Jeannette
2 Antoine's story when she first met with Greg Bell and Suzie
3 Robinson.

4 **THE COMMISSIONER:** The point has been made.
5 Thank you.

6 **MS. ALLINOTTE:** Okay. Now, in regards to
7 the Antoine matter again, you went to the Crown and the
8 police on two occasions. Did -- on either occasion, did
9 either a representative from the police force or the Crown
10 indicate that you were dealing with this matter
11 inappropriately?

12 **MR. O'BRIEN:** No.

13 **MS. ALLINOTTE:** No?

14 So as far as you knew, you had reported that
15 -- those incidents to other public institutions?

16 **MR. O'BRIEN:** Yes.

17 **MS. ALLINOTTE:** Okay. And following the
18 decision of the police not to proceed any further, there
19 was no CAS investigation conducted. At that time, would it
20 have been appropriate for you to conduct your own
21 investigation on your own employee?

22 **MR. O'BRIEN:** It would have been
23 appropriate, yes.

24 **MS. ALLINOTTE:** Because in the early
25 nineties, the agency started having outside agencies

1 investigate similar matters. So is that a more appropriate
2 way to deal with it?

3 **MR. O'BRIEN:** It would probably be more
4 objective, yes.

5 **MS. ALLINOTTE:** Okay.

6 There was some confusion as to when you were
7 speaking about Bryan Keough. His decision to leave the
8 agency, do you recall if that was before he knew about the
9 Antoine allegations? Because I think his evidence is that
10 he'd already intended to leave before he heard about the
11 allegations.

12 **MR. O'BRIEN:** I think he left the agency
13 before she came back and telephoned me. I'm not sure of
14 the year that she telephoned me. I think it must have been
15 '89.

16 **MS. ALLINOTTE:** M'hm.

17 **MR. O'BRIEN:** And I think Bryan was gone at
18 that point.

19 **MS. ALLINOTTE:** No, he leaves some months
20 later, but his evidence is that he'd already formed the
21 intention to leave the agency and had already made the
22 application to the theological college.

23 **THE COMMISSIONER:** Were you aware, before
24 you talked to him about these allegations, that he was
25 thinking of applying to go to ---

1 MR. O'BRIEN: Bible college?

2 THE COMMISSIONER: --- Bible college?

3 MR. O'BRIEN: I don't recall, Your Honour.

4 I don't recall.

5 MS. ALLINOTTE: And one other minor
6 inconsistency with Bryan Keough's evidence is that you
7 indicated that he was one of the individuals that dressed
8 in black. His evidence was that that was his brother. Do
9 you recall that at all?

10 MR. O'BRIEN: No, Bryan was probably dressed
11 in black too.

12 MS. ALLINOTTE: Okay.

13 MR. O'BRIEN: He and Tenger. They're the
14 only two I remember.

15 MS. ALLINOTTE: Okay.

16 How long were you on the CAS Board following
17 your retirement, what years?

18 MR. O'BRIEN: Well, first of all, I was on
19 for two years.

20 MS. ALLINOTTE: And that's the entire time?

21 MR. O'BRIEN: Yes, and that was enough. The
22 reason I got off was I found out that the staff, who was
23 much larger than when I was there, were spending, in my
24 humble opinion, too much time on paperwork and not enough
25 time on dealing with clients. Now, that wasn't the fault

1 of the agency. That's the way things were.

2 MS. ALLINOTTE: M'hm.

3 MR. O'BRIEN: But I thought it was rather
4 ridiculous. I didn't want to be involved in some
5 organization spending so much time on paperwork they
6 weren't getting on with the job.

7 MS. ALLINOTTE: Okay. I just wanted to
8 clarify that.

9 MR. O'BRIEN: Is that clear?

10 MS. ALLINOTTE: That is clear. Thank you.
11 There's been lots of discussion about your
12 relationship with other institutions. I think you've
13 indicated clearly that the OPP, the Cornwall Police
14 Service, Probation, the school boards and the Diocese, you
15 had a good relationship with all those institutions?

16 MR. O'BRIEN: Yes.

17 MS. ALLINOTTE: And you had clear
18 understandings about communication and, as far as you were
19 concerned, there were no barriers between the institutions
20 in terms of sharing information?

21 MR. O'BRIEN: There was no what?

22 MS. ALLINOTTE: Barriers?

23 MR. O'BRIEN: Barriers? Sorry.

24 THE COMMISSIONER: Obstacles, anything ---

25 MS. ALLINOTTE: Obstacles, yes.

1 MR. O'BRIEN: In terms of what?

2 THE COMMISSIONER: Ill feelings, people --

3 -

4 MR. O'BRIEN: No, no, we had good
5 relationships.

6 THE COMMISSIONER: It was a two-way street
7 and the doors were wide open?

8 MR. O'BRIEN: Yes.

9 THE COMMISSIONER: Okay.

10 MS. ALLINOTTE: Thank you.

11 In terms of training on sexual abuse, you
12 indicated that in the early stages, the agency just didn't
13 know what to do. Do you know how the agency sought out
14 training in relation to dealing with sexual abuse cases?
15 Do you recall that?

16 MR. O'BRIEN: No, I don't recall exactly.
17 It was a very gradual thing, the whole business of
18 indicating that more sexual abuse existed than we knew.
19 How to deal with it was new to us. We weren't sure how to
20 deal with it. Dealing with it from a legal matter is not
21 sufficient. Then what do you do with the child? And, as a
22 matter of fact, as I may have mentioned -- I don't know
23 whether I mentioned it in testimony here, but we had two
24 social workers full time running groups for abused children
25 -- sexually abused children.

1 And my reason for that was I felt that you
2 can't take a child into care who has been sexually abused
3 and simply put them in a foster home and forget about them.
4 What are you going to do to allow them to discuss their
5 abuse and to do something about it so that when they return
6 to the community, they'll be able to live a productive
7 life?

8 Those two groups went on for, I think,
9 approximately two years and then, believe it or not, the
10 Province of Ontario decided that was an inappropriate
11 function of a Children's Aid Society, which is disgraceful.

12 **MS. ALLINOTTE:** So when Mr. Lee asked you
13 about whether or not there was instances where the Ministry
14 didn't cover your funding, that would have been one example
15 of that?

16 **MR. O'BRIEN:** Yes.

17 **MS. ALLINOTTE:** Okay.

18 **MR. O'BRIEN:** The main area of lack of
19 funding for us though, as I may have mentioned before, was
20 to give us enough protection staff. Those are the people
21 that investigated allegations of any kind of ill treatment
22 of children. I would have wanted to have more staff do
23 those investigations because some of them had to be done
24 immediately, some of them were long and drawn out, some of
25 them were very deep, and we did not, in my opinion, have

1 enough staff to do the job that I thought we should be
2 doing in the protection department of the Children's Aid.

3 **MS. ALLINOTTE:** This is an additional
4 question I forgot to ask you in terms of your testimony.

5 When my friend from the Ministry of the
6 Attorney General was questioning you, he asked whether or
7 not any of the times you'd gone to the Crown about a
8 serious occurrence if you'd been recommended to go to the
9 police and you answered no. My question is what would you
10 have done if you'd been recommended to go to the police?

11 **MR. O'BRIEN:** Do as I was told.

12 **MS. ALLINOTTE:** Excuse me?

13 **MR. O'BRIEN:** Do as I was told.

14 **MS. ALLINOTTE:** You would do as you were
15 told?

16 **MR. THOMPSON:** Sorry, I'm not sure that was
17 what his answer was actually. I think his answer was that
18 because he couldn't remember the specifics of every time he
19 went to the Crown Attorney, he wasn't sure if he had been
20 recommended or hadn't been recommended. That was my
21 recollection.

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

23 **MS. ALLINOTTE:** So if you had been
24 recommended to go to the police, you would have done so?

25 **MR. O'BRIEN:** Yes.

1 **MS. ALLINOTTE:** In Exhibit 2419, which is
2 your testimony facilitation document, you indicate that
3 there was about 80 percent of your time was spent on
4 budgets and human resources and whatnot and only about 20
5 percent of that time was on more clinical matters?

6 **MR. O'BRIEN:** Yes.

7 **MS. ALLINOTTE:** Do you recall when Ross
8 Dawson did the review of the agency in the late eighties,
9 he recommended implementing a clinical director position?

10 **MR. O'BRIEN:** Yes.

11 **MS. ALLINOTTE:** And that would have been a
12 reflection of the amount of work that you had to do and how
13 short -- how thinly your time was being stretched?

14 **MR. O'BRIEN:** Yes.

15 **MS. ALLINOTTE:** Okay.

16 **MR. O'BRIEN:** And that was done by the way.

17 **MS. ALLINOTTE:** Yes, I know it was done.

18 Do you recall when the first occasion was
19 where there was an allegation made against a foster parent
20 or an employee of the agency? Do you recall the year that
21 would have happened?

22 **MR. O'BRIEN:** No.

23 **MS. ALLINOTTE:** No? But from what we've
24 seen it's likely sometime in the seventies, late seventies,
25 perhaps?

1 **MR. O'BRIEN:** Late seventies I would say.

2 **MS. ALLINOTTE:** Do you recall ever speaking
3 to other executive directors about how they would have
4 handled such matters, theoretically?

5 **MR. O'BRIEN:** I don't recall specific
6 instances, but as it became more evident that more sexual
7 abuse cases existed in society than we thought, that
8 certainly would have been one of our main topics of
9 discussion because none of us were trained in handling it.
10 Well, if we weren't trained how could we train our staff?

11 **MS. ALLINOTTE:** Historically, the CAS
12 mandate has been about dealing with abuse inside of
13 families.

14 **MR. O'BRIEN:** Yes.

15 **MS. ALLINOTTE:** And you've talked several
16 times over the course of your testimony about how things
17 have evolved.

18 How did you deal with the challenges of
19 dealing with different types of abuse, such as abuse
20 occurring outside of the family or historical allegations
21 of abuse? That's a two part question, sorry.

22 **MR. O'BRIEN:** What do you mean by abuse
23 outside the family?

24 **MS. ALLINOTTE:** For example, Earl Landry,
25 Jr. was not a caregiver, he was not a family member, yet

1 the CAS got involved in that matter. How did you deal with
2 the challenges presented by those cases?

3 MR. O'BRIEN: In terms of sexual abuse
4 allegations, if there was a child under 16 involved we
5 would have become involved, not from the criminal aspect
6 but from the point of aspect of seeing to the welfare of
7 the child.

8 MS. ALLINOTTE: Ensuring that they were not
9 a child in need of protection or if they were ---

10 MR. O'BRIEN: That's correct, yes.

11 MS. ALLINOTTE: --- getting involved?

12 And in terms of dealing with historical
13 allegations, do you recall how you started to deal with
14 that once those challenges were presented?

15 MR. O'BRIEN: I don't recall.

16 MS. ALLINOTTE: I wanted to talk briefly
17 about file-keeping I guess. I think we've spoke once about
18 how far back the CAS files go. Do you recall how far back
19 the CAS client files will go?

20 MR. O'BRIEN: If my memory is correct, the
21 first files were in the vault in the Children's Aid were
22 something around 1909.

23 MS. ALLINOTTE: Okay. And when you were
24 Director how were the ---

25 MR. O'BRIEN: And there's practically

1 nothing on them.

2 MS. ALLINOTTE: What was that?

3 MR. O'BRIEN: There was practically nothing
4 on them.

5 MS. ALLINOTTE: Yes.

6 And when you were Director how were the
7 files stored?

8 MR. O'BRIEN: In the vault.

9 MS. ALLINOTTE: In the vault. And how ---

10 MR. O'BRIEN: In the walk-in vault.

11 MS. ALLINOTTE: And how would one go about
12 retrieving a file if you just had a name?

13 MR. O'BRIEN: Because on top of the filing
14 cabinets there were little card indexes indicating the name
15 and number of the file and you just -- obviously, the
16 drawers were marked with numbers, so very easy to find.

17 MS. ALLINOTTE: Okay. I think I'm almost
18 finished.

19 I think you mentioned already the Family
20 Sexual Abuse Treatment Program.

21 MR. O'BRIEN: Yes.

22 MS. ALLINOTTE: Do you need a moment?

23 MR. O'BRIEN: No, go ahead.

24 MS. ALLINOTTE: That was put in place by the
25 agency because there weren't a lot of resources available

1 in the community?

2 MR. O'BRIEN: There would have been no
3 resources, if my memory is correct, to serve the number of
4 children that required service.

5 MS. ALLINOTTE: And that -- go ahead.

6 MR. O'BRIEN: There wasn't in the community.

7 MS. ALLINOTTE: So that was your response to
8 try and deal with the lack of resources available?

9 MR. O'BRIEN: Not entirely. My reason for
10 sanctioning it was simply that, as I mentioned a few
11 minutes ago, if you take a child into care who has been
12 sexually abused, what are you going to do for the child who
13 will someday be returned to the community?

14 You have to do something for the child a) in
15 terms of understanding the abuse; and b) in terms of how
16 they will deal with it in their future lives.

17 I thought there was the obligation. You
18 couldn't just stick a child in a foster home and forget him
19 -- who was sexually abused -- you had to deal with that.
20 You had to help that young person readjust to society when
21 necessary and that demanded effort on our part to do
22 something to help them.

23 MS. ALLINOTTE: Those are all my questions.
24 I just wanted to take this opportunity to thank the
25 Commissioner and the Commission for accommodating you and

1 to thank you for being so accommodating with us.

2 MR. O'BRIEN: Thank you very much.

3 And if I may say so publicly, Mr.

4 Commissioner, I'm very pleased with the efforts you made to
5 accommodate me. I know that they were genuine and I hope
6 that my responses honoured what you were doing for me. I
7 appreciate what you have done, sir.

8 THE COMMISSIONER: Thank you.

9 I don't know if Mr. Dumais has any questions
10 though.

11 MR. DUMAIS: That's fine, Mr. Commissioner.

12 THE COMMISSIONER: Thank you.

13 MR. DUMAIS: Thank you.

14 THE COMMISSIONER: And in return, Mr.

15 O'Brien, I want to thank you for having the courage and the
16 stamina to come back and complete your testimony and I wish
17 you all the best.

18 MR. O'BRIEN: Thank you, sir. I'm just
19 happy that you only were making judgments on my physical
20 health and you weren't obliged to make any on my mental
21 health.

22 (LAUGHTER/RIRES)

23 THE COMMISSIONER: I think you're still as
24 sharp as a -- what's the expression -- as a needle or
25 something. Pretty sharp, sir.

1 Why don't we take a -- what's next now?

2 **MR. DUMAIS:** Calling Mr. Rick Abell, Mr.
3 Commissioner.

4 **THE COMMISSIONER:** All right.

5 **MR. DUMAIS:** So we just need a few minutes
6 to get organized.

7 **THE COMMISSIONER:** So I'll take a short
8 break.

9 Best of luck, sir.

10 **MR. O'BRIEN:** Thank you, sir.

11 **THE COMMISSIONER:** Thank you.

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

14 This hearing will resume at 2:15 p.m.

15 ---Upon recessing at 2:05 p.m./

16 L'audience est suspendue à 14h05

17 ---Upon resuming at 2:15 p.m./

18 L'audience est reprise à 14h15

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

21 This hearing is now resumed. Please be
22 seated. Veuillez vous asseoir.

23 **MR. ENGELMANN:** Good afternoon, Mr.
24 Commissioner.

25 **THE COMMISSIONER:** Yes. Good afternoon,

1 sir.

2 MR. ENGELMANN: The next witness for the
3 Commission is Richard Abell.

4 Good afternoon, Mr. Abell.

5 MR. ABELL: Good afternoon.

6 MR. ENGELMANN: If the witness could be
7 sworn.

8 RICHARD ABELL, Sworn/Assertion:

9 THE COMMISSIONER: Good afternoon, sir.

10 MR. ABELL: Good afternoon, sir.

11 THE COMMISSIONER: You'll see that you have
12 a fresh glass of water, a microphone. Please speak into
13 the microphone. We will likely be looking at a few
14 documents so they'll be in hardcopy and on the screen.
15 Please answer the questions as best you can and, again,
16 more importantly, if at any time you need a break or there
17 is something you don't understand just let me know and I'll
18 help you out.

19 MR. ABELL: Thank you, sir.

20 THE COMMISSIONER: Thank you.

21 Mr. Engelmann.

22 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
23 ENGELMANN:

24 MR. ENGELMANN: Thanks. And if you can't
25 hear me, Mr. Abell, you have a speaker just beside you and

1 it has a volume control.

2 MR. ABELL: Thank you.

3 MR. ENGELMANN: Okay.

4 Sir, I understand you're presently retired.

5 MR. ABELL: I am.

6 MR. ENGELMANN: And that you retired from
7 the Children's Aid Society sometime last year?

8 MR. ABELL: I did.

9 MR. ENGELMANN: And you retired as the
10 Executive Director?

11 MR. ABELL: That's correct.

12 MR. ENGELMANN: Sir, I understand that you
13 would have joined the local Children's Aid -- and when I
14 say Children's Aid I'm going to be referring really to
15 Stormont, Dundas, Glengarry.

16 MR. ABELL: Yes.

17 MR. ENGELMANN: All right? That you joined
18 the CAS in late '89?

19 MR. ABELL: That's correct.

20 MR. ENGELMANN: And when you first joined it
21 was as the Clinical Director?

22 MR. ABELL: That's right.

23 MR. ENGELMANN: And then, as I understand
24 it, within less than a year you became the Executive
25 Director?

1 **MR. ABELL:** May of 1990.

2 **MR. ENGELMANN:** All right.

3 Sir, I'd like to ask you just a very few
4 questions about your background, sir, if I may? And I
5 understand a short CV has been prepared and it's just going
6 to be shown to you in a moment, sir.

7 Mr. Commissioner, I would ask that this
8 short CV or biography -- it's two pages -- be marked as the
9 next exhibit?

10 **THE COMMISSIONER:** Thank you, Exhibit 2445
11 will be the biography of Richard Abell.

12 --- **EXHIBIT NO./PIÈCE NO. P-2445:**

13 CV of Richard Abell

14 **MR. ENGELMANN:** Mr. Abell, is this something
15 you've reviewed?

16 **MR. ABELL:** Yes, it is.

17 **MR. ENGELMANN:** And confirmed its accuracy?

18 **MR. ABELL:** I can.

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

20 And sir, as I understand it, by way of
21 education you have both a Bachelor and a Master's degree in
22 social work?

23 **MR. ABELL:** That's correct.

24 **MR. ENGELMANN:** And as far as work
25 experience, prior to working at the Children's Aid Society

1 here you had work experience with Children's Aid in Metro
2 Toronto?

3 MR. ABELL: Yes.

4 MR. ENGELMANN: You did similar work in
5 Australia for some period of time?

6 MR. ABELL: As a child and youth worker,
7 yes.

8 MR. ENGELMANN: And then back to Metro
9 Toronto Children's Aid?

10 MR. ABELL: Correct.

11 MR. ENGELMANN: And you also worked for the
12 Department of Health and Social Services in PEI?

13 MR. ABELL: That's right.

14 MR. ENGELMANN: And then after that back to
15 the Children's Aid Society of Guelph and Wellington County
16 as a social worker?

17 MR. ABELL: Yes.

18 MR. ENGELMANN: And then you became a social
19 work supervisor there?

20 MR. ABELL: That's right.

21 MR. ENGELMANN: And that's where you were
22 for approximately -- in that title for approximately five
23 years before being hired on as the Clinical Director here?

24 MR. ABELL: That's correct.

25 MR. ENGELMANN: And sir, you've had both

1 experience as a frontline worker and as a supervisor in the
2 Children's Aid Society other than the CAS here in Cornwall?

3 MR. ABELL: That's right.

4 MR. ENGELMANN: And sir, during your career
5 I understand you've also been involved in a number of
6 community initiatives?

7 MR. ABELL: Yes, I did.

8 MR. ENGELMANN: And you've also had some
9 teaching experience?

10 MR. ABELL: Yes.

11 MR. ENGELMANN: And some of those community
12 involvements and teaching experiences would be set out on
13 page 2 of your CV?

14 MR. ABELL: They are.

15 MR. ENGELMANN: All right. Sir, can you
16 tell us how it is you came to apply for the position of
17 Clinical Director here in Cornwall?

18 MR. ABELL: I had applied actually for a
19 position as Executive Director of the Guelph Children's
20 Aid. It opened up while I was there. I wasn't a
21 successful candidate so I was looking around to move ahead
22 in my career, saw that the Clinical Director position had
23 opened up at the local Agency here and applied for it.

24 MR. ENGELMANN: All right.

25 Did you have any previous connection with

1 anybody here in the city of Cornwall before that?

2 MR. ABELL: No.

3 MR. ENGELMANN: We've heard from a previous
4 witness, Bill Carriere, whom you worked with for many
5 years, I understand?

6 MR. ABELL: I did.

7 MR. ENGELMANN: That the position of
8 Clinical Director was created as a result of a
9 recommendation known as the Dawson Review.

10 MR. ABELL: It was.

11 MR. ENGELMANN: And the Dawson Review was a
12 review that came about as a result of matters that had
13 occurred here that were reported to the Ministry, et
14 cetera, and the Dawson Report was one of the
15 recommendations following a Ministry investigation?

16 MR. ABELL: That's correct.

17 MR. ENGELMANN: And the Dawson Review called
18 for a -- I don't know if I want to say major overhaul but
19 certainly a change in structures and systems here at the
20 local CAS?

21 MR. ABELL: It called for a significant
22 reworking of operations within the organization; that's
23 correct.

24 MR. ENGELMANN: All right.

25 And one of those significant reworkings was

1 creating the position of Clinical Director?

2 MR. ABELL: That was one of them, yes.

3 MR. ENGELMANN: And what did you understand
4 that role to involve when you took it on?

5 MR. ABELL: Well, the Clinical Director
6 position really was meant to bring together under the aegis
7 of one, the management position, all of the services being
8 provided by the Children's Aid Society. Dawson had
9 identified concerns about coordination and oversight of the
10 service delivery system in the Agency and it was felt one
11 of the significant steps forward for the Agency would be to
12 create a new position to do that.

13 MR. ENGELMANN: All right.

14 And was that at least in some part to assist
15 with quality assurance of the work that was being done
16 here?

17 MR. ABELL: Yes, it was. Yes, that was one
18 piece of it.

19 MR. ENGELMANN: And sir, presumably shortly
20 after starting here or perhaps even before you would have
21 reviewed the Dawson report?

22 MR. ABELL: I did.

23 MR. ENGELMANN: And would have been well
24 aware of the implementation strategies that were suggested?

25 MR. ABELL: I was.

1 **MR. ENGELMANN:** And were you involved in
2 that implementation, sir?

3 **MR. ABELL:** Very much so.

4 **MR. ENGELMANN:** Now, a number of -- I don't
5 think we need to actually go to the report but would you
6 agree that there were a number of challenges and weaknesses
7 that were identified by Mr. Dawson and Mr. James in the
8 report that was prepared?

9 **MR. ABELL:** Yes.

10 **MR. ENGELMANN:** And were those similar to
11 some of the challenges and difficulties that you faced when
12 you worked at other Children's Aid Societies in this
13 province?

14 **MR. ABELL:** Yes, they're not unique.

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

16 And can you just very briefly give us an
17 idea of the duties that you held as Clinical Director?

18 **MR. ABELL:** As I said a moment ago, it's the
19 ultimate responsibility for service delivery. So really
20 ensuring that staff -- there are sufficient staff to
21 deliver the services; that staff are trained and
22 knowledgeable; staff are supervised by frontline
23 supervisors; that reporting is done as required and
24 appropriate.

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

1 Was it a direct report, sir, to the
2 Executive Director?

3 **MR. ABELL:** Yes, it was a direct report to
4 the Executive Director; also, involvement with the Board of
5 Directors to support the Executive Director in his
6 reporting to that level; involved liaison coordination with
7 Ministry representatives and a significant amount of
8 community involvement as well.

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

10 Sir, I want to ask you perhaps about some of
11 the differences that may have existed between the CAS here
12 and others you were involved with. And in particular I
13 want to just point some things out and ask you if there
14 were some significant differences in these examples.

15 The relationship the Agency had with the
16 community here in Cornwall?

17 **MR. ABELL:** Excellent.

18 **MR. ENGELMANN:** Okay, and would you describe
19 that relationship as better or worse than ones you were
20 familiar with perhaps in Guelph and in Toronto?

21 **MR. ABELL:** Better, yeah. In a very clear
22 way it was better.

23 **MR. ENGELMANN:** All right.

24 What about the use of interagency protocols
25 and where things were at? And when I say interagency

1 protocols I mean work that the local CAS may have been
2 doing with local police and others.

3 **MR. ABELL:** All of the societies at the time
4 that I came here had gone through a process of establishing
5 abuse investigation protocols. It had been mandated
6 provincially so we all had done it. Certainly, the
7 impression I had when I came here was that the process of
8 achieving a protocol had been very well done in terms of
9 building some very solid, constructive working
10 relationships with community partners. And that credit
11 goes to Bill Carriere. He led that initiative for us.

12 **MR. ENGELMANN:** We heard from Mr. Carriere
13 that between the years 1989 and 1992 he worked together
14 with others in the community to develop an interagency
15 protocol to deal with the investigation and joint
16 investigations of child abuse cases.

17 **MR. ABELL:** That's correct. That work was
18 well in hand, well underway by the time I arrived.

19 **MR. ENGELMANN:** Would you agree with me that
20 there would be a heightened attention to procedure due to
21 this recent review?

22 **MR. ABELL:** Yes.

23 **MR. ENGELMANN:** And sir, I think you've
24 agreed that there were substantial changes to both policies
25 and procedures as a result of that report?

1 **MR. ABELL:** There was.

2 **MR. ENGELMANN:** In your view, did those
3 changes in both policy and procedure assist in improving
4 the CAS's responses to child protection matters?

5 **MR. ABELL:** I would say yes.

6 **MR. ENGELMANN:** Can you give us some
7 examples of why you believe that, sir?

8 **MR. ABELL:** There really was a particular
9 emphasis placed on what I would call systematization or
10 procedure in terms of ensuring that the necessary steps at
11 all stages of investigations of delivering ongoing service
12 work to families of care for children who came into the
13 care of the Society that the steps were identified and were
14 carried out.

15 A new documentation system was brought in, a
16 very extensive documentation system that really was not
17 only a record-keeping tool but also was a means to take
18 people through on a step-by-step basis what needed to be
19 done when.

20 **MR. ENGELMANN:** Sir, there were some
21 staffing changes here at the CAS throughout your tenure?

22 **MR. ABELL:** Yes.

23 **MR. ENGELMANN:** And when you started there
24 were approximately how many workers?

25 **MR. ABELL:** I think there were 52 staff in

1 total.

2 MR. ENGELMANN: And by the time you left in
3 2007?

4 MR. ABELL: We were close to 120.

5 MR. ENGELMANN: And did that increase over
6 time, with perhaps one exception?

7 MR. ABELL: Yes. Well, it was pretty steady
8 until the mid-nineties. Mid-nineties we had some
9 significant staff cuts due to recession, but by the later-
10 on nineties there was a significant increase in staffing,
11 due to a change in our funding formula, and really from
12 sort of the late nineties through to when I left there was
13 a very, very marked increase in staff.

14 MR. ENGELMANN: All right.

15 Sir, I understand as well there was a --
16 after the Dawson Review, which was the late eighties, and
17 your implementation shortly thereafter, there was a further
18 major overhaul of CAS policy and procedure in approximately
19 the year 2000?

20 MR. ABELL: Yes, there was that. I believe
21 what you're referring to was our work to prepare for
22 provincial accreditation.

23 MR. ENGELMANN: Yes.

24 MR. ABELL: That's correct then. Yes.

25 MR. ENGELMANN: Now, just to be clear, you

1 would have again been the Executive Director at that time?

2 MR. ABELL: I was.

3 MR. ENGELMANN: Was this a voluntary
4 process, this accreditation process?

5 MR. ABELL: Yes.

6 MR. ENGELMANN: And why, if it's not
7 required, would you have engaged in it?

8 MR. ABELL: I felt it was an accountability
9 measure that our Society could meet, and it was one that I
10 wanted to be able to take the community and say we believe
11 that -- we not only believe that we meet current standards
12 but we have a third-party assessment of that, and in fact
13 we now do.

14 MR. ENGELMANN: When was that accreditation
15 obtained?

16 MR. ABELL: That was in -- the audit was in
17 June of '01 and we get the Accreditation Notice I think
18 October of that year.

19 MR. ENGELMANN: And are most CASs in the
20 province accredited?

21 MR. ABELL: I don't know now, Mr. Engelmann,
22 because I've lost track. At that time it was still a
23 minority of societies who had achieved accreditation. It's
24 a significant, significant undertaking.

25 MR. ENGELMANN: All right.

1 Sir, when you were hired as the Clinical
2 Director was it with the view of succeeding Mr. O'Brien as
3 the Executive Director?

4 MR. ABELL: No.

5 MR. ENGELMANN: Okay.

6 When did you become aware of his intention
7 to retire?

8 MR. ABELL: It wasn't long after I came to
9 the Society. I don't recall the date when he called the
10 management team into the boardroom and said he'd tendered
11 his resignation.

12 MR. ENGELMANN: So you weren't expecting it?

13 MR. ABELL: Not at all, no.

14 MR. ENGELMANN: And I understand there was
15 an application process for the position?

16 MR. ABELL: Yes, there was.

17 MR. ENGELMANN: And you were one of several
18 candidates?

19 MR. ABELL: Yes.

20 MR. ENGELMANN: All right. And that's --
21 you were successful and became the Executive Director then
22 in the spring of 1990?

23 MR. ABELL: Correct.

24 MR. ENGELMANN: Do you recall, sir, whether
25 there was a transitional period or a hand-off process where

1 Mr. O'Brien would have worked with you in preparing you to
2 assume your new role?

3 MR. ABELL: There was.

4 MR. ENGELMANN: Can you give us a sense as
5 to how long that was and what it might have consisted of?

6 MR. ABELL: I don't have a clear
7 recollection of the period of time, Mr. Engelmann. The
8 process was one of my -- of a series of meetings with
9 Mr. O'Brien where he briefed me on various files, various
10 issues that were active with him. I guess words to the
11 wise and just a general hand-off of anything he thought was
12 important for me to know, and for me to ask him questions.

13 He talked to me about the Board and in
14 particular the responsibilities I had for supporting the
15 Board of Directors in their role. That's about it.

16 MR. ENGELMANN: All right.

17 Well, you indicated to us that part of your
18 role as Clinical Director was making some contacts in the
19 community.

20 MR. ABELL: Correct.

21 MR. ENGELMANN: Would he have assisted in
22 making further contacts because of the role of the
23 Executive Director?

24 MR. ABELL: I don't believe so. I think he
25 -- my recollection was that Mr. O'Brien let me know

1 relationships we had with particular agencies, and left it
2 to me to follow up and build relationships as I could and
3 would.

4 **MR. ENGELMANN:** Was that something you were
5 working on in any event ---

6 **MR. ABELL:** Oh yes.

7 **MR. ENGELMANN:** --- as the Clinical
8 Director?

9 **MR. ABELL:** Very much so. It's a critically
10 important role of anybody in a senior role in a Children's
11 Aid Society.

12 **MR. ENGELMANN:** And that would assist,
13 presumably, in establishing connections between your Agency
14 and others?

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

16 **MR. ENGELMANN:** And raising the profile of
17 the local CAS?

18 **MR. ABELL:** That too.

19 **MR. ENGELMANN:** Sir, would you have begun to
20 develop relationships with, for example, the schools or the
21 school boards?

22 **MR. ABELL:** Well, in particular, the school
23 boards. Yes.

24 **MR. ENGELMANN:** What about the local police?

25 **MR. ABELL:** In particular the police.

1 **MR. ENGELMANN:** Some as well with local OPP
2 detachments?

3 **MR. ABELL:** Not so much with them. I don't
4 recall pursuing initially a working relationship with them.
5 That probably evolved out of issues that arose. Certainly
6 the women's shelters, the transition houses.

7 **MR. ENGELMANN:** Yes.

8 **MR. ABELL:** Family counselling, children's
9 mental health. Those were the core agencies.

10 **MR. ENGELMANN:** So a number of -- sorry.

11 **MR. ABELL:** Those were the core agencies.

12 **MR. ENGELMANN:** A number of other agencies
13 that would be providing some assistance to children?

14 **MR. ABELL:** Oh yes, very much. Yes.

15 **MR. ENGELMANN:** Équipe psycho-sociale?

16 **MR. ABELL:** That was one, yes.

17 **MR. ENGELMANN:** Laurencrest?

18 **MR. ABELL:** Yes.

19 **MR. ENGELMANN:** When you say the police, is
20 that tried to establish a relationship with the then Chief,
21 Claude Shaver?

22 **MR. ABELL:** Yes, yes.

23 **MR. ENGELMANN:** You would have had some
24 contacts with him?

25 **MR. ABELL:** Yes, I did. Yeah.

1 **MR. ENGELMANN:** And perhaps the Deputy
2 Chief?

3 **MR. ABELL:** I don't recall connecting with
4 the Deputy Chief. I mean I had contact with him on a
5 business basis, but ---

6 **MR. ENGELMANN:** Do you recall if you had any
7 contacts with people from the Ministry of Corrections?

8 **MR. ABELL:** None.

9 **MR. ENGELMANN:** All right.
10 And from time to time would you have to deal
11 with the local media?

12 **MR. ABELL:** Oh yes.

13 **MR. ENGELMANN:** Okay. That was part of your
14 job?

15 **MR. ABELL:** That was part of my job, yeah.

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

17 And, of course, a variety of different
18 people who would sit on your Board from time to time?

19 **MR. ABELL:** Community representatives and,
20 at that time, municipal representatives.

21 **MR. ENGELMANN:** All right.

22 And when you say "municipal
23 representatives," some politicians?

24 **MR. ABELL:** That's correct. From both the
25 City Council in Cornwall and also the Council for United

1 Counties.

2 MR. ENGELMANN: Right. Would there also be
3 police representatives from time to time?

4 MR. ABELL: They were, but they were there
5 as community representatives.

6 MR. ENGELMANN: All right.
7 And then there would be just representatives
8 from the community itself?

9 MR. ABELL: Yes, in a cross-section of walks
10 of life and professions.

11 MR. ENGELMANN: Approximately how often
12 would you meet with your Board?

13 MR. ABELL: Monthly except for the summer.
14 So 10 meetings a year and then committee meetings and then
15 any special events.

16 MR. ENGELMANN: All right.
17 And, sir, you indicated to us that as part
18 of the transitional process with Tom O'Brien, he would have
19 alerted you to perhaps some files of particular importance.

20 MR. ABELL: He did.

21 MR. ENGELMANN: Right. And those would be
22 files that he might have paid particular attention to, kept
23 notes on et cetera?

24 MR. ABELL: That's correct.

25 MR. ENGELMANN: Was one of those files a

1 file involving a woman by the name of Jeannette Antoine?

2 MR. ABELL: It was.

3 MR. ENGELMANN: All right.

4 And I understand, sir, that allegations had
5 been made by Ms. Antoine that she had been abused during
6 her period as a CAS ward.

7 MR. ABELL: That's correct. She did.

8 MR. ENGELMANN: Sir, do you have some
9 independent recollection of this matter being discussed
10 with you in this transitional or hand-off period?

11 MR. ABELL: I do, yes.

12 MR. ENGELMANN: All right. And was that one
13 of the significant files Tom O'Brien would have mentioned?

14 MR. ABELL: Yes. In fact that happens to be
15 the one that stands out most clearly in my mind.

16 MR. ENGELMANN: All right.

17 And in fact, sir, I believe we've identified
18 a memo to you from Mr. O'Brien, and I just want to take you
19 to that now if I may. I'll just be a moment. The document
20 number is 739318. It's a memo dated May the 8th, 1990 from
21 T.J. O'Brien to Rick Abell.

22 Now, if we're talking about something that's
23 dated May 8th, 1990 that would be days before you would have
24 taken over as Executive Director?

25 MR. ABELL: That's correct.

1 **THE COMMISSIONER:** Thank you.

2 Exhibit 2446 is a memo to Rick Abell from
3 T.J. O'Brien dated May 8, 1990.

4 This might already be an exhibit?

5 **MR. ENGELMANN:** I believe it is the cover
6 page to another exhibit, which is 1505. That was my note
7 but ---

8 **THE COMMISSIONER:** So if it's there already,
9 let's see ---

10 **MR. ENGELMANN:** It's already an exhibit,
11 sorry?

12 **THE COMMISSIONER:** I don't know. We'll
13 check.

14 **MR. ENGELMANN:** Two four two nine (2429).

15 **THE COMMISSIONER:** It's not fifteen ---

16 **MR. ENGELMANN:** So it may have just been
17 entered through Mr. O'Brien. I apologize, sir. Two four
18 two nine (2429) is the exhibit.

19 **THE COMMISSIONER:** Okay, so we'll cancel
20 this one.

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

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

23 So this is a document you would have
24 received from Mr. O'Brien?

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

1 **MR. ENGELMANN:** And he's referring to the
2 fact -- clearly from his note he's had contact with
3 Detective Malloy at the Cornwall Police Service?

4 **MR. ABELL:** That's right.

5 **MR. ENGELMANN:** And apparently some contact
6 from the Crown?

7 **MR. ABELL:** Yes.

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

9 But he indicates that he had not, on any
10 occasion, received a letter from the Crown Attorney, not
11 sure that he ever will. Do you recall him perhaps
12 expressing to you why it was he was seeking a letter from
13 the Crown Attorney?

14 **MR. ABELL:** What I recall was he was looking
15 for a final sign-off position from the Crown Attorney on
16 this matter.

17 **MR. ENGELMANN:** All right. So closure on
18 the issues?

19 **MR. ABELL:** Yes, at least as far as the
20 Crown Attorney's position was concerned.

21 **MR. ENGELMANN:** All right.

22 And it appears, at least from Mr. O'Brien's
23 perspective, that at this point-in-time this is not longer
24 a contentious issue? I'm looking at the last paragraph.

25 **MR. ABELL:** I see his wording, yes.

1 **MR. ENGELMANN:** Okay. Because it's been
2 left with the police and apparently they're not proceeding?

3 **MR. ABELL:** Yes.

4 **MR. ENGELMANN:** And do you know, sir, if
5 around that time you would have had any discussion with the
6 police? This is May of 1990.

7 **MR. ABELL:** My recollection is I was asked
8 to follow-up with Constable Malloy. I'm not sure if I did.

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

10 **MR. ABELL:** If I did have any further
11 contact with him.

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

13 **MR. ABELL:** I'm not sure if I did have any
14 further contact with him. Sorry.

15 **MR. ENGELMANN:** At or around that time?

16 **MR. ABELL:** That's correct.

17 **MR. ENGELMANN:** Okay.

18 Let's just have a look -- the document
19 refers to some notes. Do you see that?

20 **MR. ABELL:** Yes, I do.

21 **MR. ENGELMANN:** And I believe those notes
22 are Exhibit 1505. So I want to just take a look at those
23 if we can.

24 **THE COMMISSIONER:** Fifteen-zero-five (1505)?

25 **MR. ENGELMANN:** Yes. Counsel, the Document

1 Number is 739308.

2 Do you have those, sir?

3 **MR. ABELL:** I do.

4 **MR. ENGELMANN:** And, in fact, if you look
5 back at the previous exhibit, it says:

6 "Please see the notes I made on page 7,
7 dated February 21st, 1990."

8 If you turn to the last page of Exhibit 1505

9 ---

10 **MR. ABELL:** Yes.

11 **MR. ENGELMANN:** --- you will see a reference
12 to February 21st, 1990?

13 **MR. ABELL:** Yes.

14 **MR. ENGELMANN:** "I contacted Detective
15 Malloy a couple of times since last
16 week to obtain a copy of the Crown's
17 letter, but up to this time, Kevin has
18 not received one."

19 **MR. ABELL:** Yes.

20 **MR. ENGELMANN:** "In future, the Executive
21 Director should a) pursue the obtaining
22 of the Crown's letter; b) advise the
23 program supervisor of events to
24 date..."

25 And by the way, the program supervisor,

1 that's someone at the Ministry?

2 MR. ABELL: That was Leonora Jones at the
3 time.

4 MR. ENGELMANN: All right.

5 MR. ABELL: The Ministry of Community and
6 Social Services.

7 MR. ENGELMANN: All right.

8 That would be someone in Toronto or ---

9 MR. ABELL: Ottawa.

10 MR. ENGELMANN: Ottawa. Okay.

11 "...and c) advise the Executive
12 Committee of the current situation."

13 MR. ABELL: Yes.

14 MR. ENGELMANN: And do you recall who the
15 executive committee was at that time?

16 MR. ABELL: Well, the President at that time
17 was a Mr. Bissonnette, and I can't recall who the other
18 members of the committee would be.

19 MR. ENGELMANN: But these would be -- this
20 is an executive committee of your Board, sir?

21 MR. ABELL: That's correct, yes.

22 MR. ENGELMANN: All right.

23 MR. ABELL: So they would be the senior
24 people on the Board.

25 MR. ENGELMANN: And do you have some sense,

1 sir, if you might have reviewed other material with respect
2 to Jeannette Antoine at that time or do you think these
3 notes would have been about it?

4 **MR. ABELL:** I imagine I took a -- I don't
5 have a clear recollection. My guess would be, given the
6 importance that Mr. O'Brien placed on it, I would have
7 looked at the client file.

8 **MR. ENGELMANN:** All right. So in looking at
9 the client file, sir, you probably would have looked back
10 to allegations that had been made back in the mid-seventies
11 dealing with the Second Street Group Home?

12 **MR. ABELL:** That's correct. That's correct.

13 **MR. ENGELMANN:** Because I note that, sir,
14 that's certainly referenced even on the first page of these
15 notes.

16 **MR. ABELL:** Yes.

17 **MR. ENGELMANN:** We see at Bates page -- and
18 that's the number at the top left -- 7177232. So the
19 reference, for example, Mr. O'Brien makes under the caption
20 August 23rd, '89 to back in '76 ---

21 **MR. ABELL:** Yes.

22 **MR. ENGELMANN:** And you were aware, sir,
23 that Ms. Antoine was one of the CAS wards at the Second
24 Street Group Home at that time?

25 **MR. ABELL:** I was.

1 **MR. ENGELMANN:** And you would have reviewed
2 documentation and/or have been provided with information
3 about what had taken place in 1976?

4 **MR. ABELL:** That's correct.

5 **MR. ENGELMANN:** And the fact that a number
6 of staff had been asked to resign ---

7 **MR. ABELL:** Yes.

8 **MR. ENGELMANN:** --- as a result of excessive
9 discipline, issues of that nature?

10 **MR. ABELL:** Yes.

11 **MR. ENGELMANN:** Now, sir, just before I
12 leave that page, I'm going to ask you a question because
13 I've seen this in a couple of places and I don't really
14 know what it means.

15 If you look at the second -- the middle
16 reference on the first page, 232, August 22nd:

17 "I reviewed the microfilmed material,
18 the placement cards, the statement
19 Jeannette had signed, Suzie Robinson's
20 notes and some minutes of the Personnel
21 Committee meeting we had in a
22 confidential file."

23 And we've heard about various CAS files.
24 We've heard about files that sometimes are opened in the
25 name of an alleged perpetrator. We've certainly had family

1 files. We've had foster home files. I've seen that term
2 before and I'm wondering what that means when it says,
3 "Some minutes of the Personnel Committee meeting". It just
4 seems like all of this material is in a confidential file,
5 and I'm wondering if you could help us with that?

6 **MR. ABELL:** As I read that, my terminology
7 would be if I had written it, it would be an administrative
8 file. My practice was when I was dealing with a
9 contentious matter, I wasn't a service -- I wasn't
10 providing service, but if I was involved in it, I would be
11 making a record. The Project Blue notes would be one
12 example. I would keep a file folder in my desk where I
13 would -- activity that I had or related documentation that
14 I wanted to keep, I would set it up in the file and keep it
15 there so that I had something -- really a working file,
16 it's an administrative working file to refer to.

17 There were files held in particular
18 confidence. I mean, there was a locked filed cabinet in
19 the Director's office where certain files were kept, but we
20 didn't have a category or classification of confidential
21 files. I mean, everything was confidential.

22 **MR. ENGELMANN:** So would that be a judgment
23 call of the Executive Director?

24 **MR. ABELL:** If I understand this correctly,
25 because certainly that's the only way I can think that that

1 makes sense, it was simply -- at least to us -- simply an
2 administrative file.

3 **MR. ENGELMANN:** Okay. So whether we call it
4 a confidential or administrative file, presumably that was
5 not widely shared, if it had that term?

6 **MR. ABELL:** Presumably, yeah.

7 **MR. ENGELMANN:** And do you recall seeing
8 such a file when you would have had this turnover from Mr.
9 O'Brien, a file that would have had, for example, these
10 matters in it?

11 **MR. ABELL:** When he briefed me, he had such
12 a file and he said, "There's the material that I've
13 gathered".

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

15 **MR. ABELL:** He turned that over to me and I
16 kept that and I left it when I left my office.

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

18 And you would have left that just like you
19 left your admin/confidential file on Project Blue?

20 **MR. ABELL:** Correct.

21 **MR. ENGELMANN:** But that is separate and
22 apart from, say, a child file or a foster home file, et
23 cetera?

24 **MR. ABELL:** It is separate and apart, yes.
25 It's a working file for a director.

1 **MR. ENGELMANN:** And would anybody but an
2 executive director have a file like that, to your
3 knowledge?

4 **MR. ABELL:** It's possible that -- yeah, I
5 mean, it's not an uncommon habit to keep material together,
6 so any of the managers. A supervisor might have had, apart
7 from a service file, wanted to keep material separately
8 collected, so they set up a file.

9 **MR. ENGELMANN:** Do you know where it goes
10 afterwards, like where a file like this would go when it's
11 filed?

12 **MR. ABELL:** That's always a good question.
13 The -- some of them were just plain kept.

14 **MR. ENGELMANN:** Okay.

15 **MR. ABELL:** And some of them, their question
16 would be "How much of it, if the matter is well and truly
17 finished with, how much of that material would be
18 incorporated into the client file?" Some of it may be;
19 some of it might not be. It's really sort of a question of
20 judgment in the particular circumstances.

21 **MR. ENGELMANN:** All right.

22 Now, sir, at Bates page 236 -- that's
23 7177236 -- there's a reference to a meeting that you're at
24 on January 23rd, 1990, right at the bottom of the page?

25 **MR. ABELL:** I have it.

1 **MR. ENGELMANN:** There's a reference to the
2 meeting and the discussion about how to handle Brian
3 Keough's application to be a foster parent with a view to
4 adopting a specific child?

5 **MR. ABELL:** There is.

6 **MR. ENGELMANN:** All right.

7 And do you recall being involved in
8 discussions about that?

9 **MR. ABELL:** I don't have clear recollections
10 of it.

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

12 Well, were you aware, for example, that Ms.
13 Antoine -- one of the people she was complaining about was
14 Bryan Keough?

15 **MR. ABELL:** I was.

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

17 And there is a reference to having another
18 agency do the home study in the circumstances.

19 **MR. ABELL:** There is.

20 **MR. ENGELMANN:** Were you in agreement with
21 that recommendation at the time?

22 **MR. ABELL:** Yes, I would have been, yes.

23 **MR. ENGELMANN:** Yeah, and when you have
24 meetings of this nature is there an effort to come to a
25 consensus when you're making decisions?

1 **MR. ABELL:** Typically.

2 **MR. ENGELMANN:** And is that typically how
3 things, end with a consensus as opposed to a majority and
4 minority report?

5 **MR. ABELL:** The practice is that we would
6 reach a consensus. If not the -- I guess the senior or
7 ranking person would have to ultimately take a decision
8 that would be carried out by everybody else.

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

10 So again, just going back to the last page
11 then of this exhibit, there's a reference to three things;
12 pursue the obtaining of the Crown's letter, advise the
13 Program Supervisor of events to date, and advise the
14 Executive Committee of the current situation.

15 Do you recall, sir, doing one or more of
16 those things?

17 **MR. ABELL:** I don't have particular
18 recollections of speaking to the Executive Committee. I
19 can't see faces in my mind's eye but I can assure you I
20 would have done it. I was a new Executive Director and had
21 been given those marching orders so I would have followed
22 them.

23 **MR. ENGELMANN:** All right.

24 What about the Program Supervisor?

25 **MR. ABELL:** Yes. In fact, I think there is

1 record of my discussion with him.

2 **MR. ENGELMANN:** What about the obtaining of
3 the letter from the Crown? Do you recall if there was ever
4 any effort on your part to either speak with the Crown or
5 the police about this?

6 **MR. ABELL:** My recollection is, and we
7 referenced this earlier -- I haven't a clear recollection
8 of following up with Constable Malloy but that would have
9 been the course that I would have taken. That's what Tom
10 had advised me he was trying to do; that was the avenue he
11 was taking.

12 **MR. ENGELMANN:** All right.

13 I'm just wondering if there were any notes
14 or discussions about referring the matter to be
15 investigated, for example, by another CAS or another
16 agency?

17 **MR. ABELL:** There wasn't at that time, no.

18 **MR. ENGELMANN:** All right.

19 Is that something that you might have
20 considered?

21 **MR. ABELL:** I don't recall considering it at
22 the time. I had come in. The situation appeared to be
23 drawing to a close from Mr. O'Brien's point of view and so
24 really I was getting handed off with some follow up and,
25 certainly, I have to say at the time I don't believe it

1 occurred to me to pursue it further.

2 MR. ENGELMANN: All right.

3 Well, these were historical allegations.

4 MR. ABELL: Correct.

5 MR. ENGELMANN: Alleged criminal conduct.

6 MR. ABELL: Yes.

7 MR. ENGELMANN: Were you of the view at the
8 time that that was the police's work; do you recall?

9 MR. ABELL: Yes. In the day that was the
10 perspective that made sense ---

11 MR. ENGELMANN: And to determine whether or
12 not they had reasonable probable grounds to lay a charge?

13 MR. ABELL: That's correct.

14 MR. ENGELMANN: Sir, would you agree with me
15 that Mr. Keough would be, as a child protection worker, in
16 a position of trust with children?

17 MR. ABELL: Definitely.

18 MR. ENGELMANN: All right.

19 And would you have an interest in
20 identifying any potential misconduct or abuse by one of
21 your workers in a position of trust?

22 MR. ABELL: Yes.

23 MR. ENGELMANN: Would that be the case even
24 if it didn't result in a criminal charge?

25 MR. ABELL: Yes.

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

2 So I'm just wondering at the time if you
3 might have considered any kind of internal investigation or
4 anything else just to make sure?

5 **MR. ABELL:** I didn't that I recall. I can't
6 say that I did. And certainly, hindsight, and certainly in
7 line with today's practice, there would have been
8 considerably more follow up by the Society, including
9 options like standing somebody down from any active
10 service, putting it in the hands of another society,
11 bringing in some third party to take a look at it.

12 I mean, today's practice is considerably
13 different from this, I can assure you.

14 **MR. ENGELMANN:** Well, even at the time were
15 there some practices sometimes of suspending someone either
16 with or without pay while an internal investigation could
17 take place?

18 **MR. ABELL:** There hadn't been in my
19 experience, in my previous years with other societies. And
20 as far as I know from Mr. O'Brien, this was new ground for
21 us. So really, we really were essentially feeling our way
22 through it.

23 **MR. ENGELMANN:** You don't recall any
24 suggestion like that coming from your Ministry
25 representative, for example?

1 **MR. ABELL:** I don't, no.

2 **MR. ENGELMANN:** Now, we've heard from the
3 evidence of both Constable Malloy and Staff Sergeant
4 Derochie on the matter of correspondence with Crown
5 prosecutors.

6 **MR. ABELL:** M'hm.

7 **MR. ENGELMANN:** And there were two letters
8 that dealt with this matter during the month of April 1990.
9 These letters were -- they're in evidence on their own but
10 they are reproduced in one spot and I thought maybe it's
11 easier if I just take you to the one spot. And it's in an
12 exhibit that's already filed. It's Exhibit 1286. It's
13 Document Number 739110. I hadn't intended to go here but I
14 think it's just easier if we look at this document. It's
15 already in evidence. It's Exhibit 1286.

16 Mr. Commissioner, you'll recall this is one
17 of the administrative reviews done by Staff Sergeant Gary
18 Derochie, this being the review of their investigation in
19 the Antoine matter.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. ENGELMANN:** Sir, do you have Exhibit
22 1286?

23 **MR. ABELL:** I do.

24 **MR. ENGELMANN:** All right.

25 If you could turn to -- it's Bates page

1 7175644. It also has the number "6" at the bottom right
2 corner.

3 MR. ABELL: I have it.

4 MR. ENGELMANN: All right.

5 Could you just have a quick look at that,
6 sir? It's a letter dated April 4th, 1990. It's reproduced
7 in this report but it's a letter from the local Crown
8 attorney at the time, a fellow named Don Johnston.

9 MR. ABELL: Yes.

10 MR. ENGELMANN: To a Crown attorney in
11 Ottawa named Norman Douglas.

12 (SHORT PAUSE/COURTE PAUSE)

13 MR. ENGELMANN: Sir, I realize this was
14 slightly before you became the Executive Director -- the
15 date of the letter is ---

16 MR. ABELL: Yes.

17 MR. ENGELMANN: --- April 4th of 1990. You
18 became the Executive Director sometime in May?

19 MR. ABELL: Yes.

20 MR. ENGELMANN: This letter was copied to
21 both Chief Shaver and to Constable Kevin Malloy. I'm
22 wondering if this was something that would have been
23 brought to your attention at the time?

24 MR. ABELL: At the time, no.

25 MR. ENGELMANN: Do you recall if Mr. O'Brien

1 mentioned any correspondence back and forth between Crown
2 prosecutors that he became aware of?

3 **MR. ABELL:** I don't.

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

5 Sir, if you didn't see the first letter you
6 probably didn't see the second but I'd like to take you
7 there anyway. It's on the next page. It's a return letter
8 from Mr. Douglas to Mr. Johnston dated April 10th, 1990.
9 According to the report we're looking at -- that's Staff
10 Sergeant Derochie's report -- Mr. Johnston claimed never to
11 have received the reply letter.

12 Just if you could have a really quick look
13 at it and, again, tell us if this was something that would
14 have been brought to your attention at the time?

15 **MR. ABELL:** This is the thank you for your
16 letter of April the 4th?

17 **MR. ENGELMANN:** That's correct.

18 **MR. ABELL:** Thank you.

19 No, I hadn't seen it at the time.

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

21 **MR. ABELL:** No.

22 **MR. ENGELMANN:** Again, sir, no recollection
23 of this having been brought to your attention or the
24 contents being brought to your attention by Mr. O'Brien?

25 **MR. ABELL:** I don't, no.

1 **MR. ENGELMANN:** Sorry?

2 **MR. ABELL:** I have no recollection of him
3 bringing it to my attention.

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

5 Now, sir, if I'm correct, at least from
6 reading the materials and perhaps from a briefing from Mr.
7 O'Brien, it would have been your understanding at the time
8 that the matter had been investigated by the CPS or at
9 least to some extent by the CPS?

10 **MR. ABELL:** Yes. Constable Malloy had done
11 the work, the investigative work, yes.

12 **MR. ENGELMANN:** All right.

13 And would you have been informed or read
14 that the CPS had determined that no charges would be laid
15 at that time?

16 **MR. ABELL:** That was my understanding.

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

18 And you just had a quick look at these
19 letters but the letters suggest that a full investigation
20 has not yet taken place?

21 **MR. ABELL:** Certainly, the police are
22 encouraged to open one up.

23 **MR. ENGELMANN:** Right.

24 **MR. ABELL:** That's what I say in the April
25 10th letter.

1 **MR. ENGELMANN:** All right. And that was
2 never relayed back to you as the Executive Director or the
3 Clinical Director of the CAS at the time?

4 **MR. ABELL:** No, not that I can recall.

5 **MR. ENGELMANN:** And do you recall having any
6 impression at that time, either from your file review or
7 discussions with Mr. O'Brien, whether the police had fully
8 investigated this matter?

9 **MR. ABELL:** No.

10 **MR. ENGELMANN:** So you just weren't sure of
11 the extent of their investigation?

12 **MR. ABELL:** No, I don't recall getting
13 details or any specifics of what kind of ground was covered
14 and how extensive that work was.

15 **MR. ENGELMANN:** All right. So let's turn to
16 the following year then; 1991.

17 I understand there was further contact
18 between Ms. Antoine and your Agency in the fall of 1991.

19 **MR. ABELL:** Yes.

20 **MR. ENGELMANN:** And in fact there was some
21 direct contact with you personally?

22 **MR. ABELL:** Yes.

23 **MR. ENGELMANN:** All right. And I understand
24 this arose essentially as she had requested access to her
25 file.

1 **MR. ABELL:** That's correct.

2 **MR. ENGELMANN:** And she had also renewed her
3 allegations of prior abuse?

4 **MR. ABELL:** Yes.

5 **MR. ENGELMANN:** And, sir, did this
6 information come out in a discussion with Greg Bell which
7 was then referred to you?

8 **MR. ABELL:** That's correct.

9 **MR. ENGELMANN:** And I'm going to ask you to
10 refer to a letter. This is a letter from you to your
11 Ministry dated October 15th -- if I could just have a
12 moment. October 15th, 1991. The letter is Document Number
13 739320. It's letter from Richard Abell to a woman by the
14 name of Susan -- and I may be mispronouncing the name -
15 Bihun?

16 **MR. ABELL:** Bihun.

17 **MR. ENGELMANN:** Sorry?

18 **MR. ABELL:** Bihun.

19 **MR. ENGELMANN:** Bihun. Okay.

20 **MR. ABELL:** Do I have that document?

21 **THE COMMISSIONER:** Just a second.

22 **MR. ENGELMANN:** It's coming.

23 **THE COMMISSIONER:** Thank you. Exhibit 2446
24 is a letter dated October 15th, 1991, addressed to Susan
25 Bihun and from Richard Abell.

1 --- EXHIBIT NO./PIÈCE NO. P-2446:

2 (739320) Letter from Richard Abell to Susan
3 Bihun re Jeannette Antoine dated 15 Oct 91

4 MR. ENGELMANN: Do you have that letter,
5 sir?

6 MR. ABELL: I do.

7 MR. ENGELMANN: So if you just explain to
8 me, was this a predecessor or a successor to Lenore Jones
9 or are there two program supervisors?

10 MR. ABELL: She would have been a successor

11 ---

12 MR. ENGELMANN: All right.

13 MR. ABELL: --- to Lenore Jones, I believe,
14 at that time.

15 MR. ENGELMANN: Because doesn't Lenore Jones
16 -- her name comes up again during Project Blue, in that
17 timeframe, a bit later in the nineties?

18 MR. ABELL: She does. We had a number of
19 changes in Program Supervisor ---

20 MR. ENGELMANN: All right.

21 MR. ABELL: --- and so -- and I'm frankly
22 not clear on the whole succession, but Susan Bihun and
23 Lenore Jones were both program supervisors at various
24 times.

25 MR. ENGELMANN: All right. So these would

1 be -- I don't want to use the word -- well, they're the
2 person you report to at the Ministry?

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

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

5 And, sir, you are writing to her because of
6 a concern that this matter has some potential for a
7 community profile?

8 **MR. ABELL:** That's correct.

9 **MR. ENGELMANN:** Now, is that jargon for
10 "this might get out in the press"? This has ---

11 **MR. ABELL:** Yeah.

12 **MR. ENGELMANN:** All right.

13 **MR. ABELL:** "This could get some publicity."

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

15 **MR. ABELL:** Ministries, as you know, are
16 very sensitive to publicity about agencies such as
17 Children's Aid Societies, so it was a routine part of our
18 work to give the Ottawa area office of the Ministry a
19 heads-up if we thought something would in fact end up in
20 the press.

21 **MR. ENGELMANN:** All right.

22 And if I understand correctly, you would
23 have called her first?

24 **MR. ABELL:** Yes, that's what it says.

25 **MR. ENGELMANN:** And as a result of that call

1 there was a decision made that you put some of the details
2 in writing?

3 **MR. ABELL:** Yes.

4 **MR. ENGELMANN:** But why is it, sir, you were
5 concerned that this had the potential to become a public
6 matter?

7 **MR. ABELL:** I would presume out of my
8 discussions with Jeannette or review of the issues that I
9 felt this matter could in fact become public. I can't
10 remember, you know, the specific event that would have
11 triggered that.

12 **MR. ENGELMANN:** All right.

13 **MR. ABELL:** Just some sense.

14 **MR. ENGELMANN:** Well, in your letter -- I'm
15 just trying to find the reference, sir -- you give the
16 background from March of '76, correct, at the Second Street
17 Group Home?

18 **MR. ABELL:** Yes.

19 **MR. ENGELMANN:** You talk about some of the
20 fallout thereafter.

21 **MR. ABELL:** The Board activity.

22 **MR. ENGELMANN:** Right. Reports of excessive
23 corporal punishment, highly questionable discipline
24 practices et cetera.

25 **MR. ABELL:** Yes.

1 **MR. ENGELMANN:** You talk about August of '89
2 -- now, this would have all been reported to you or you
3 would have read it in file material?

4 **MR. ABELL:** Yes, the file content that I'm
5 relaying to her.

6 **MR. ENGELMANN:** And you talk again about how
7 this matter comes up in 1989 when, in fact, two members of
8 your staff were investigating Ms. Antoine.

9 **MR. ABELL:** Yes.

10 **MR. ENGELMANN:** And how she brought this up
11 at that time?

12 **MR. ABELL:** Yes.

13 **MR. ENGELMANN:** That's she'd been seriously
14 abused and misused while in CAS care?

15 **MR. ABELL:** Yeah.

16 **MR. ENGELMANN:** You talk about Mr. O'Brien
17 meeting with the Crown attorney and senior members of the
18 Cornwall Police Department?

19 **MR. ABELL:** Yes.

20 **MR. ENGELMANN:** And how then in February of
21 1999 -- sorry, of 1990 -- the police indicated they'd not
22 been able to gain Mrs. Antoine's cooperation?

23 **MR. ABELL:** Yes.

24 **MR. ENGELMANN:** And presumably that was
25 information that your Agency had obtained from the police?

1 **MR. ABELL:** I would believe so, yes.

2 **MR. ENGELMANN:** Right. And it talks about
3 Mr. O'Brien approaching the police and the Crown?

4 **MR. ABELL:** Yes.

5 **MR. ENGELMANN:** And again, is this something
6 that you're gleaning, again, as a result of a file review
7 and then reporting?

8 **MR. ABELL:** Yes.

9 **MR. ENGELMANN:** All right.
10 And you say in the middle paragraph on the
11 second page:

12 "I was informed last week by a social
13 worker that Jeannette has called asking
14 to see information in her file. She's
15 talking of a possible lawsuit against
16 the Agency, again based on allegations
17 of mistreatment while in our care."

18 **MR. ABELL:** Yes.

19 **MR. ENGELMANN:** So that seems to be the
20 culminating incident. That seems to be the reason now why
21 you're reporting all this background. Is that fair?

22 **MR. ABELL:** That would be appear to be it,
23 yeah, and she has in fact made that statement ---

24 **MR. ENGELMANN:** All right.

25 **MR. ABELL:** --- as reported to me by the

1 worker.

2 MR. ENGELMANN: You also note that you're in
3 the process of copying her file and that once you have all
4 the material you'll be convening a case conference to
5 review the matter.

6 MR. ABELL: Yes.

7 MR. ENGELMANN: And it goes on and says:
8 "The non-service information on the
9 file indicates that there was evidence
10 of improper behaviour and management
11 practices on the part of our Agency
12 staff."

13 MR. ABELL: Yes.

14 MR. ENGELMANN: Would that be a reference
15 back to the events at the Second Street Group Home?

16 MR. ABELL: That's correct.

17 MR. ENGELMANN: Now, I'd just like to refer
18 you to some notes, and talking about matters that took
19 place in the fall of 1991 with respect to some of her
20 allegations.

21 THE COMMISSIONER: Can we take a short
22 break, Mr. Engelmann? I know it's a little early but ---

23 MR. ENGELMANN: Certainly, sir.

24 THE COMMISSIONER: Let's take the afternoon
25 break.

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

3 This hearing will resume at 3:20 p.m.

4 --- Upon recessing at 3:05 p.m./

5 L'audience est suspendue à 15h05

6 --- Upon resuming at 3:23 a.m./

7 L'audience est reprise à 15h23

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

10 This hearing is now resumed. Please be
11 seated. Veuillez vous asseoir.

12 **THE COMMISSIONER:** Yes, we'll go till 4:30
13 today. All right?

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

15 **RICHARD ABELL Resumed/Sous le même serment:**

16 --- **EXAMINATION BY/INTERROGATOIRE PAR MR. ENGELMANN**

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

18 **MR. ENGELMANN:** Mr. Abell, when we left off
19 I was, I believe, taking you to some notes.

20 **MR. ABELL:** Yes.

21 **MR. ENGELMANN:** Madam Clerk, I don't know if
22 I gave you the document number. It would be Document
23 Number 739356.

24 **THE COMMISSIONER:** Thank you. And whose
25 notes are these?

1 **MR. ENGELMANN:** I think Mr. Abell is about
2 to tell us they're his.

3 **THE COMMISSIONER:** Is that right, sir?

4 **MR. ABELL:** Yes, sir.

5 **THE COMMISSIONER:** All right. So Exhibit
6 2447 is an excerpt of Document 739356, which are --
7 Jeannette Antoine is the title of it and ---

8 **MR. ENGELMANN:** Yes, and it says in brackets
9 "Lapointe," which was her -- I believe her maiden name.

10 **MR. ABELL:** Yes.

11 **THE COMMISSIONER:** And the first date is the
12 15th of October, 1991.

13 --- **EXHIBIT NO./PIÈCE NO. P-2447:**

14 (739356) Notes of Richard Abell re Jeannette
15 Antoine dated Oct/Nov 91

16 **MR. ABELL:** Just to let you know, I have a
17 really bad photocopy.

18 **MR. ENGELMANN:** Yeah, I do too.

19 **MR. ABELL:** Okay.

20 **MR. ENGELMANN:** So what we may have to do --
21 I'm not going to refer to much of this but we may have to
22 try onscreen. It might be a little better ---

23 **MR. ABELL:** Sure.

24 **MR. ENGELMANN:** --- because the clerk can
25 blow things up from time to time -- I mean on the screen.

1 So just before we go into these notes, sir,
2 we're going to be looking at some other notes that you've
3 taken as well, and I wanted just to ask you a couple of
4 questions about note taking, if I may.

5 **MR. ABELL:** Yes, certainly.

6 **MR. ENGELMANN:** Can you give us a sense as
7 to in what circumstances you would take notes?

8 **MR. ABELL:** Any matter that I considered
9 important enough to create a record.

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

11 So any matter of significance you would try
12 and take a note?

13 **MR. ABELL:** Correct.

14 **MR. ENGELMANN:** And when you took notes did
15 you typically take them in handwritten form or typed?

16 **MR. ABELL:** Primarily handwritten.

17 **MR. ENGELMANN:** Did you attempt to make your
18 notes as detailed as possible?

19 **MR. ABELL:** I made them as detailed as I
20 felt the circumstances warranted.

21 **MR. ENGELMANN:** All right.

22 And, sir, when you made your notes would you
23 make them during the course of an interview or discussion,
24 immediately after; was there a practice?

25 **MR. ABELL:** Both. Some of my roughest note

1 taking was scratched certainly during phone conversations
2 when I'd have a piece of paper in front of me and as the
3 conversation was going I would jot down items. Better
4 notes were done when the conversation was finished. On
5 some occasions I would -- there would be a time gap.

6 I attempted, and primarily -- usually
7 followed the rule that I would make a note within 24 hours
8 of having the contact. So I tried to keep them as
9 contemporaneous as I could.

10 **MR. ENGELMANN:** And, sir, if they weren't
11 contemporaneous, if they weren't within that 24-hour gap,
12 would you note that?

13 **MR. ABELL:** I would by way of dating. I
14 would date when I made the note and then I would put in the
15 date of the circumstance being referred to.

16 **MR. ENGELMANN:** So if the circumstance was
17 on a Friday and you didn't actually make the note till
18 Monday you would note that fact?

19 **MR. ABELL:** Correct. Got a call from so-
20 and-so on Friday the 25th or whatever.

21 **MR. ENGELMANN:** And generally speaking would
22 your notes accurately reflect what you were told in
23 conversations and/or interviews?

24 **MR. ABELL:** Yes, to the best of my ability.

25 **MR. ENGELMANN:** Right.

1 And did you attempt to make clear, sir, when
2 your notes were recording what you said as opposed to what
3 you heard?

4 **MR. ABELL:** Yes. It may not have always
5 been clear but I attempted to.

6 **MR. ENGELMANN:** All right.

7 And, sir, if you were actually -- I note
8 sometimes in your notes you would use a double quotation --
9 -

10 **MR. ABELL:** Yes.

11 **MR. ENGELMANN:** --- and occasionally you use
12 a single quotation.

13 **MR. ABELL:** Yes.

14 **MR. ENGELMANN:** Can you tell us the
15 distinction, if any?

16 **MR. ABELL:** If I heard a word or a comment
17 that I wanted to capture that was verbatim, that I knew
18 somebody said I saw Mary I would put I saw Mary in quotes -
19 - in double quotes. If I wasn't exactly sure of the
20 precise wording I would put it in single quotes.

21 **MR. ENGELMANN:** Okay.

22 **MR. ABELL:** So I was -- it's possible it was
23 completely accurate, possible that I had inserted some of
24 my own wording.

25 **MR. ENGELMANN:** So if it had been I had seen

1 Mary you might have single quotes for I saw Mary?

2 MR. ABELL: Yeah.

3 MR. ENGELMANN: But if you knew that was
4 what was said it would be a double quote?

5 MR. ABELL: If I absolutely was sure that
6 somebody had said -- made the comment I would put it in
7 double quotes -- and that it was worth capturing.

8 MR. ENGELMANN: Now, sir, notes such as
9 these that we have here would they be kept in the Antoine
10 family case file or might they have been kept separately,
11 as you said, in an administrative or confidential file?

12 MR. ABELL: These are notes that I would
13 have kept in my own working file, my own administrative
14 file.

15 MR. ENGELMANN: All right.

16 And presumably those would be kept in your
17 own office then?

18 MR. ABELL: Correct.

19 MR. ENGELMANN: All right.

20 Do you know, sir, whether there would be any
21 indication in either the Antoine child file or in the
22 family file that there was a separate set of notes kept?

23 MR. ABELL: I don't believe there would have
24 been any indication.

25 MR. ENGELMANN: All right.

1 Now, sir, it appears from these notes -- and
2 I know they're difficult to read, but it appears that there
3 was some contact, and in fact it would appear that there
4 was a phone call, and it says "Phone call to" so you would
5 have made a phone call to her on October 15th, 1991.

6 **MR. ABELL:** Yes.

7 **MR. ENGELMANN:** As I understand it, sir, you
8 were seeking a meeting for the 18th and that, in fact, then
9 occurred. You were seeking a meeting and the meeting was
10 in fact arranged for the 18th.

11 If you want to just take a look.

12 **MR. ABELL:** Boy, I'm struggling with this.
13 I'm sorry.

14 **MR. ENGELMANN:** Well, we have a reference on
15 the second page, sir, which is 315 -- 7177315 ---

16 **MR. ABELL:** I have it.

17 **MR. ENGELMANN:** --- to the fact that you
18 actually meet on the 18th.

19 **MR. ABELL:** Yes, I have that.

20 **MR. ENGELMANN:** And the references before
21 then are two phone calls, phone calls with her and also
22 with Kevin Malloy.

23 **MR. ABELL:** Constable Malloy, correct.

24 **MR. ENGELMANN:** All right.

25 And am I correct in saying you're being told

1 she's been advised not to talk?

2 MR. ABELL: That was her comment to me.

3 MR. ENGELMANN: And you're saying:

4 "I explained further she's made
5 allegations, would like to discuss
6 them."

7 MR. ABELL: Where is that? I'm sorry.

8 MR. ENGELMANN: That's about the fourth or
9 fifth line down on the first page.

10 MR. ABELL: The fourth or fifth line down on
11 the first page. Okay, yeah, I've heard that she's made
12 allegations and I would like to discuss them. Sorry.

13 MR. ENGELMANN: Right.

14 MR. ABELL: Okay.

15 MR. ENGELMANN: And then you're told, "I
16 don't mind."

17 MR. ABELL: Yeah, and then she replies to
18 me, "I don't mind."

19 MR. ENGELMANN: "It will all soon be
20 public..."

21 MR. ABELL: "...anyway." Yes.

22 MR. ENGELMANN: Okay.

23 THE COMMISSIONER: Well, "(I'm not afraid)"
24 and then ---

25 MR. ENGELMANN: Yes.

1 **THE COMMISSIONER:** --- "It will all soon be
2 public anyways."

3 **MR. ABELL:** Yes.

4 **MR. ENGELMANN:** Now, the brackets, is that
5 something that's said or is that just something that you're
6 interpreting from the comment?

7 **MR. ABELL:** It looks to me I put it into the
8 brackets because it sounded like that was an interjection
9 she made in her own sentence. I mean, I've got it in
10 double quotes so I'm taking from that I heard that from her
11 in that way.

12 **MR. ENGELMANN:** All right.

13 And, sir, at the bottom of the page there's
14 a reference to -- well, first of all, you attempt to call
15 Kevin Malloy, in about the middle of the page.

16 **MR. ABELL:** Yes.

17 **MR. ENGELMANN:** And at the bottom of the
18 page you call again.

19 **MR. ABELL:** Yes, 16 October.

20 **MR. ENGELMANN:** Right.

21 **MR. ABELL:** Yes.

22 **MR. ENGELMANN:** So you try and call him on
23 the 15th; then on the 16th you call again and you get him
24 this time.

25 **MR. ABELL:** Yes.

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MR. ENGELMANN: And it says:

"Told him Jeannette has alleged to
Greg..."

MR. ABELL: Greg Bell.

MR. ENGELMANN: "...that she was
discouraged by Kevin (you will be
taking on some important people..."

MR. ABELL: "...in this town."

MR. ENGELMANN: "...in this town."

MR. ABELL: Yes. And that ---

MR. ENGELMANN: So discouraged -- so what
was reported presumably to Greg Bell, or at least this is
how it was told to you, was the discouragement were those
words?

MR. ABELL: Correct.

MR. ENGELMANN: All right.

So discouraged from proceeding with her
complaint when the matter was given to him back in October
of '89.

And you were calling him to see if that was,
in fact, the case, sir?

MR. ABELL: Well, I was calling to let him
know that this had been said about his involvement with
her.

MR. ENGELMANN: All right.

1 MR. ABELL: I felt he needed to know that.

2 MR. ENGELMANN: Right. You wanted to
3 apprise him of that?

4 MR. ABELL: Correct.

5 MR. ENGELMANN: And when it says, "said he"
6 this is Kevin Malloy to you; "said he wouldn't say that"?

7 MR. ABELL: Said he wouldn't say that. I'm
8 sorry; yes, it's not clear there, but it's Kevin speaking
9 to me.

10 MR. ENGELMANN: Right. "He will look in the
11 file and check the record."

12 MR. ABELL: Yes.

13 MR. ENGELMANN: So he's going to -- he
14 doesn't think it's something he would say so he's going to
15 check the records?

16 MR. ABELL: Yes.

17 MR. ENGELMANN: All right.

18 MR. ABELL: And that's not at all uncommon -
19 --

20 MR. ENGELMANN: All right.

21 MR. ABELL: --- to hear comments come
22 attributed to you that you didn't make. I mean ---

23 MR. ENGELMANN: All right.

24 And you were putting him on notice about
25 this and he was going to check it out?

1 **MR. ABELL:** Exactly.

2 **MR. ENGELMANN:** All right.

3 And you're also telling him that you're
4 seeing her on Friday?

5 **MR. ABELL:** Yes.

6 **MR. ENGELMANN:** All right.

7 Now, you believe you may have had some
8 contact with Kevin Malloy at or about the time you became
9 the Executive Director on this matter, or do you think this
10 was the first contact with him about Jeannette Antoine?

11 **MR. ABELL:** I can't be precise. I think I
12 had some separate discussion with Kevin by phone --
13 Constable Malloy -- regarding the -- what I was left by Mr.
14 O'Brien, which was the follow-up on that Crown letter, I
15 think.

16 **MR. ENGELMANN:** Whether you did or not you
17 would have presumably had some contact with him about other
18 matters in any event?

19 **MR. ABELL:** Oh, yeah, yes.

20 **MR. ENGELMANN:** Because he was doing -- he
21 was working in their youth bureau ---

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

23 **MR. ENGELMANN:** --- at the time?

24 **MR. ABELL:** Yeah.

25 **MR. ENGELMANN:** So you and others from the

1 Agency would have contact with him?

2 MR. ABELL: Well, the frontline staff and
3 supervisors much more so than I, but, yes. I mean, he was
4 -- let's put it this way. He was commonly seen around the
5 Society at that time.

6 MR. ENGELMANN: And, in fact, sir, at this
7 point in time was he not a member of your Board?

8 MR. ABELL: No. No.

9 MR. ENGELMANN: Okay. Well, we'll look at
10 that a bit later. But I think there's some notes that
11 indicate that he's on the Board from March of '90 until
12 sometime in '92. You don't recall that at this point?

13 MR. ABELL: I never remember Constable
14 Malloy being on our Board.

15 MR. ENGELMANN: All right. Well, we'll come
16 to that.

17 MR. ABELL: Okay.

18 MR. ENGELMANN: I think there's a note that
19 talks about that.

20 MR. ABELL: Okay.

21 MR. ENGELMANN: And I think there was also
22 Staff Sergeant Brunet was on your Board ---

23 MR. ABELL: That's correct.

24 MR. ENGELMANN: --- at some time as well.

25 MR. ABELL: That's correct.

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

2 Now, sir, you have fairly extensive notes of
3 your meeting with Ms. Antoine on October 18th?

4 **MR. ABELL:** Yes.

5 **MR. ENGELMANN:** Do you recall what the
6 purpose of that meeting was, sir?

7 **MR. ABELL:** In my discussion with her I said
8 I had heard that she had made allegations and did she want
9 to meet with me. And we set up that meeting.

10 **MR. ENGELMANN:** What were you hoping to
11 achieve by meeting with her that day? I mean, you're the
12 Executive Director.

13 **MR. ABELL:** Correct.

14 **MR. ENGELMANN:** Why was this not delegated
15 to a staff member?

16 **MR. ABELL:** I believe my thinking, Mr.
17 Engelmann, was that I had an obligation to speak to her
18 directly. I mean she was a former ward. She had made some
19 serious allegations and that I was prepared to show her
20 that somebody was ready to listen to her.

21 **MR. ENGELMANN:** All right.

22 **MR. ABELL:** Or I was ready to listen to her.

23 **MR. ENGELMANN:** So you were hoping to ensure
24 her that she would get a full hearing with you?

25 **MR. ABELL:** Well, yes, I was going to give

1 her a hearing, yes. I wanted to hear what she had to say.
2 I mean, keep in mind Mr. O'Brien had offered to meet with
3 her as well so I guess I had that -- we'll call it a
4 precedent in mind when I made the offer to her.

5 **MR. ENGELMANN:** And presumably you were
6 hoping to resolve outstanding issues that she might have
7 with the Agency if that was possible?

8 **MR. ABELL:** I don't suspect I went into it
9 thinking I could resolve it. It was more a matter of me
10 hearing from her directly what was her experience and what
11 were her issues and what would she like me to do.

12 I would typically in a discussion like that,
13 whether by phone or in person with the question, "What
14 would you like me to do about it?"

15 **MR. ENGELMANN:** Well, as I said, sir, the
16 notes are extensive. I don't intend to go through them in
17 any detail but what I'd like to ask you is did you form
18 certain impressions or opinions about her during the course
19 of that meeting?

20 **MR. ABELL:** I remember her anger,
21 particularly directed at Bryan Keough; very, very angry
22 about Mr. Keough and the treatment that she said that she
23 had received at his hands. I recall her saying that she
24 didn't think she was being listened to and she had the
25 experience of the allegations being investigated and

1 nothing coming of it, in terms of charges. She was
2 convinced at that time that Mr. Keough was still a member
3 of our staff.

4 MR. ENGELMANN: Yes.

5 MR. ABELL: And he wasn't.

6 MR. ENGELMANN: But he had been the previous
7 year when this had come up, right?

8 MR. ABELL: He had been, that's correct.

9 MR. ENGELMANN: Yes.

10 MR. ABELL: But she was -- just a lot of
11 anger and hurt directed toward Mr. Keough. A really
12 unhappy young lady, that was my impression of her.

13 MR. ENGELMANN: At this point in time, some
14 14 or 15 years after the Second Street incident and some of
15 the abuse allegations she had against Mr. Keough, she was
16 still -- she still had a desire to have him charged.

17 MR. ABELL: Yes.

18 MR. ENGELMANN: Is that fair?

19 MR. ABELL: Yes.

20 MR. ENGELMANN: And was she also seeking an
21 apology from the Society?

22 MR. ABELL: I don't remember her asking for
23 an apology.

24 MR. ENGELMANN: Would you take a look at
25 Bates page 318?

1 MR. ABELL: Three-one-eight (318)?

2 MR. ENGELMANN: Yeah, it's about the third
3 page into your notes.

4 MR. ABELL: Okay, I have it.

5 MR. ENGELMANN: It's about two-thirds of the
6 way down, maybe just up over half. It says, "She wants
7 Bryan charged."

8 MR. ABELL: And an apology, okay.

9 MR. ENGELMANN: "And an apology from the
10 Society for what was done to her."

11 MR. ABELL: You're right.

12 MR. ENGELMANN: "She's spoken to a lawyer
13 about charges or a suit..." I'm not sure about the rest of
14 that sentence.

15 MR. ABELL: I can't make it out either.

16 MR. ENGELMANN: "She mentioned having
17 previously spoken to Kevin Malloy at
18 CPS but was vague regarding a comment
19 about the length of time since the
20 events occurred [et cetera]."

21 MR. ABELL: Okay.

22 MR. ENGELMANN: Okay. I don't know if we
23 can decipher the part in the middle but in any event she
24 was apparently seeking an apology?

25 MR. ABELL: Yes, yes.

1 **MR. ENGELMANN:** You don't take issue with
2 your own note, of course?

3 **MR. ABELL:** No, I don't.

4 **MR. ENGELMANN:** Okay. And did you have some
5 sense as to whether or not that was something that you or
6 someone at the Society would be able to give her?

7 **MR. ABELL:** Always tricky ground. I mean
8 particularly if an individual is talking about suits and
9 then you get into issues of liability and corporate risk
10 perspective would say be cautious.

11 **MR. ENGELMANN:** Do you know if that's
12 something you would have considered or perhaps sought some
13 advice on from your internal counsel?

14 **MR. ABELL:** Yes, I would have, yes.

15 **MR. ENGELMANN:** About whether or not that's
16 something you could have done at the time?

17 **MR. ABELL:** Yeah. Now, that it's come up I
18 can recall going back and discussing that with our Agency
19 counsel and that is -- I believe I tried to address it in a
20 follow-up letter to her in terms of talking about what had
21 happened to her.

22 **MR. ENGELMANN:** Okay. Well, what was the
23 outcome of the meeting? Do you recall how it was left at
24 the end?

25 **MR. ABELL:** Well, let's look at the notes.

1 I may have ---

2 MR. ENGELMANN: I'm just looking at the
3 bottom of 318:

4 "We ended with my saying that she
5 presented very clearly a lot of pain
6 regarding her early life experience. I
7 said she need have no fear of the
8 Society taking her children as a result
9 of any actions she was contemplating."

10 MR. ABELL: Yes.

11 MR. ENGELMANN: That would be a possible
12 action against the Society?

13 MR. ABELL: No.

14 MR. ENGELMANN: Or what?

15 MR. ABELL: She would have expressed to me
16 then, based on that note, that if she was to pursue her
17 allegations that we might retaliate, and that's not
18 uncommon.

19 MR. ENGELMANN: Yes, yes. Oh, that's what I
20 thought it meant.

21 MR. ABELL: Okay, sorry.

22 MR. ENGELMANN: No, no, that's fine.

23 "And that I was available..."

24 MR. ABELL: If she wanted to talk further.

25 MR. ENGELMANN: She was -- I think it's

1 considerably something by the end of our talk, about one
2 hour.

3 All right. Well, in any event, sir, did you
4 follow up your meeting with her with a letter?

5 **MR. ABELL:** Yes, I did.

6 **MR. ENGELMANN:** All right.

7 Perhaps the witness could be shown -- it's
8 Exhibit 506.

9 (SHORT PAUSE/COURTE PAUSE)

10 **MR. ABELL:** I have it.

11 **MR. ENGELMANN:** And it would appear you
12 would have written this letter to her about 10 days after
13 you met with her?

14 **MR. ABELL:** Yes.

15 **MR. ENGELMANN:** And your purpose in writing
16 the letter? What were you trying to convey, sir?

17 **MR. ABELL:** Well, I had gone back and had
18 further discussions and further consideration and was
19 following up on the request she had made to see her file
20 information.

21 **MR. ENGELMANN:** All right.

22 The letter doesn't express regret or an
23 apology for the actions of the CAS?

24 **MR. ABELL:** The closest I get to it is the
25 first line on the second page:

1 "The discipline imposed on you and
2 other people was harsh and was
3 definitely seen as such when it came to
4 the attention of the Board of
5 Directors."

6 I mean that's as close as I got to an
7 acknowledgement.

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

9 **MR. ABELL:** Yes, it happened. It was real.
10 It's not an apology.

11 **MR. ENGELMANN:** No.

12 **MR. ABELL:** No.

13 **MR. ENGELMANN:** And it was written this way
14 after you had had some advice?

15 **MR. ABELL:** Correct.

16 **MR. ENGELMANN:** So whether that was how you
17 wanted to write the letter or not, that's how you wrote the
18 letter?

19 **MR. ABELL:** That's correct. But let me say,
20 Mr. Engelmann, I wouldn't have written a letter that I
21 didn't want to write.

22 **MR. ENGELMANN:** Fair enough.

23 **MR. ABELL:** Okay, all right.

24 **MR. ENGELMANN:** But I mean -- okay, so at
25 that point in time ---

1 **MR. ABELL:** This was what I felt I could say
2 to her and express some kind of compassion and support for
3 what she told me.

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

5 Would you agree, though, sir, she was really
6 looking for some kind of an expression of regret or
7 apology?

8 **MR. ABELL:** I agree with that, yeah.

9 **MR. ENGELMANN:** And sir, you indicate that:
10 "When we talked you indicate you wanted
11 Bryan Keough charged. That is a police
12 matter. I will leave it with you to
13 pursue that issue as you will with the
14 Cornwall Police Service."

15 **MR. ABELL:** Correct.

16 **MR. ENGELMANN:** And at that point in time
17 had Mr. Keough not only left the Agency but also left the
18 province, if I'm not mistaken?

19 **MR. ABELL:** That's correct.

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

21 Now, in the letter you indicate a further
22 file review on your part?

23 **MR. ABELL:** Yes.

24 **MR. ENGELMANN:** And I believe also reviewing
25 not only matters involving Jeannette herself but also her

1 siblings, perhaps one of her sisters?

2 **MR. ABELL:** Is that in here?

3 **MR. ENGELMANN:** I believe so. Well, you
4 talk in the second -- third paragraph on the first page:

5 "I spent some time reading the record
6 of your time in the care of the
7 Society. It's evident that your very
8 first months were bad for you and all
9 of your family. As well, a number of
10 social workers really did try hard to
11 find you and Lorraine."

12 Lorraine was your sister, right?

13 **MR. ABELL:** That's correct, yes.

14 **MR. ENGELMANN:** You were reading not only
15 about her but a sister that was in your care as well?

16 **MR. ABELL:** Yes, I would have been. Yes.

17 Well, also, there would have been references
18 to her sister Lorraine in her own file.

19 **MR. ENGELMANN:** Fair enough, fair enough.

20 I believe there are some notes that you made
21 while you were doing this review and I just would like to
22 show them to you briefly if I could.

23 It's Document Number 739309.

24 **THE COMMISSIONER:** No, that's a new one,
25 sir.

1 **MR. ENGELMANN:** And, sir, I'm looking at an
2 excerpt of that document number. Just for the record, the
3 excerpt starts at Bates page 7177239 and runs to 7177244.
4 And these are notes, again I recognize, of Mr. Abell, and I
5 believe, sir -- we'll come to this, but I believe this may
6 have been while you were reviewing these files. It starts
7 with the caption, "Staff, Derry Tenger, Director."

8 **THE COMMISSIONER:** Exhibit 2448 are a
9 portion of Mr. Abell's notes with the top indication,
10 "Staff, Derry Tenger, Director."

11 --- **EXHIBIT NO./PIÈCE NO. P-2448:**

12 (739309) Notes of Richard Abell re Jeanette
13 Antoine dated Fall '91

14 **MR. ENGELMANN:** If you just want to take a
15 moment, sir, to skim what we have here? But the question
16 that I really have is would these have been notes you would
17 have made while reviewing her file, perhaps information
18 about her siblings as well?

19 **MR. ABELL:** That's correct.

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

21 **MR. ABELL:** This was really my effort to
22 familiarize myself with the sequence of events.

23 **MR. ENGELMANN:** Do you have a sense, sir --
24 you indicate this in the letter, so presumably after you
25 met with her, you did some further file review before you

1 wrote your letter?

2 MR. ABELL: Yes.

3 MR. ENGELMANN: All right.

4 And, sir, it also talks about, on the second
5 page, which is Bates page 7177240 ---

6 MR. ABELL: I have it.

7 MR. ENGELMANN: --- "Report of Personnel
8 Committee." Do you see that at the top?

9 MR. ABELL: I do.

10 MR. ENGELMANN: And would you have reviewed
11 a report that would have been prepared in or around April
12 of 1976?

13 MR. ABELL: Yes.

14 MR. ENGELMANN: And that was something
15 called a Personnel Committee report?

16 MR. ABELL: I think actually they were
17 minutes, if I recall. They were minutes of a Personnel
18 Committee meeting of the Board of Directors.

19 MR. ENGELMANN: All right.

20 Let me just take a real quick look at that.

21 (SHORT PAUSE/COURTE PAUSE)

22 MR. ENGELMANN: It's Exhibit 2212.

23 MR. ABELL: I have it.

24 MR. ENGELMANN: So, sorry, it may be minutes
25 but it's entitled "Report of Personnel Committee"; correct?

1 **MR. ABELL:** You're quite right.

2 **MR. ENGELMANN:** All right.

3 And I just want to try and understand; would
4 you have been reviewing this for the first time in or about
5 mid-October of '91 or is this something you might have
6 reviewed much earlier?

7 **MR. ABELL:** I suspect I had reviewed most of
8 this file material earlier.

9 **MR. ENGELMANN:** Okay.

10 **MR. ABELL:** I was going back to it after
11 having spoken to Jeanette in person.

12 **MR. ENGELMANN:** Fair enough.

13 So much of this you would have reviewed in
14 that transition period with ---

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

16 **MR. ENGELMANN:** --- Mr. O'Brien when he was
17 bringing it to your attention?

18 **MR. ABELL:** That's correct.

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

20 And when you referred in your letter that we
21 looked at a few minutes ago to Ms. Bihun ---

22 **MR. ABELL:** Yes.

23 **MR. ENGELMANN:** --- to evidence of improper
24 behaviour, management practices, et cetera, was this what
25 you might have been referring to, comments from this ---

1 **MR. ABELL:** This list.

2 **MR. ENGELMANN:** --- report of the Personnel
3 Committee?

4 **MR. ABELL:** This was the source document for
5 me of what went on in the group home at that time.

6 **MR. ENGELMANN:** All right.

7 And again, where would something like this
8 be kept? Would this be an administrative or confidential
9 file or would this have been somewhere else, as far as --
10 I'm just wondering how you keep things straight with
11 respect to Jeanette Antoine?

12 **MR. ABELL:** It's a Board document. My
13 presumption is, Mr. Engelmann, that it would have been in
14 the Board file -- in the Board minutes.

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

16 **MR. ABELL:** I'm presuming. Now, it may also
17 have been part of other files. I'm not sure where I,
18 frankly, got it from. I would -- I'm pretty sure I would
19 have received a copy from Mr. O'Brien in the material he
20 handed me when he handed this thing off.

21 **MR. ENGELMANN:** Now, sir, after you review
22 these materials in the fall of '91, you report, as we know,
23 to the Ministry just because there might be community
24 profile, to use your term?

25 **MR. ABELL:** Yes.

1 **MR. ENGELMANN:** Was there some kind of a
2 case conference convened to review what was going on in
3 this matter? Do you recall?

4 **MR. ABELL:** After my meeting with ---

5 **MR. ENGELMANN:** Yes.

6 **MR. ABELL:** --- Ms. Antoine? I can't
7 specifically recall, unless there's a record of it. I
8 certainly would have come back to consult with staff.

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

10 Because I didn't see a record. I know in
11 some cases we see things like risk management conferences
12 or other minutes.

13 **MR. ABELL:** Yes.

14 **MR. ENGELMANN:** Not necessarily in this
15 case?

16 **MR. ABELL:** It's not necessarily the case,
17 no.

18 **MR. ENGELMANN:** All right.

19 **MR. ABELL:** This wasn't -- her allegations
20 concerning her treatment -- mistreatment in the group home
21 were not a "service matter" at that time. I mean, she was
22 being -- she was an open protection file with us because of
23 concerns about her daughter, as you're aware. So it's
24 quite likely that I would have had just gone directly to
25 discussions with relevant staff rather than put together a

1 risk conference meeting, which is more typical, really, of
2 a service delivery issue.

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

4 Well, it appears that you gave some
5 instructions on the file, in particular, instructions vis-
6 à-vis closure in or around February of '92. And again, I
7 think that's what we glean from some notes. And I'll just
8 take you to those notes, if I can.

9 **MR. ABELL:** Okay.

10 **MR. ENGELMANN:** It's Document Number 739328.

11 And, Mr. Abell, I believe these are your notes dated -- I
12 believe the date is February 28th, 1992 and the caption is
13 "Lapointe."

14 **THE COMMISSIONER:** Thank you. Exhibit 2449
15 are Mr. Abell's notes dated 28th of February 1992.

16 --- **EXHIBIT NO./PIÈCE NO. P-2449:**

17 (739328) Notes of Richard Abell re Jeanette
18 Antoine dated 28 Feb '92

19 **MR. ENGELMANN:** If you could just help us
20 out here with deciphering a little bit?

21 **MR. ABELL:** Yes.

22 **MR. ENGELMANN:** And we're going to blow it
23 up a little bit on the screen if we can.

24 **MR. ABELL:** Yeah.

25 **MR. ENGELMANN:** Do you know what, if

1 anything, it says below the date, up near where the cursor
2 is?

3 MR. ABELL: I wonder if that's Carlene ---

4 THE COMMISSIONER: Yes, I think so.

5 MR. ABELL: Carlene C. Carlene Cummings is
6 one of our -- was at that time one of our child protection
7 staff.

8 MR. ENGELMANN: All right.

9 MR. ABELL: And that makes sense to me
10 because I know Carlene is referenced further on. So it may
11 well be Carlene C.

12 MR. ENGELMANN: Sir, often in your notes you
13 would have a reference to whether other people are
14 referenced in the top right corner?

15 MR. ABELL: Frankly, I'm not sure why I put
16 that there.

17 MR. ENGELMANN: Okay. Do you know whether
18 you were having a discussion with or about this, sir?

19 MR. ABELL: I'm not sure. I may well have,
20 but I'm not sure, Mr. Engelmann.

21 MR. ENGELMANN: All right.

22 So we've got the note "Last seen" -- is it
23 10th of February or 13th of February?

24 MR. ABELL: The 13th of February.

25 MR. ENGELMANN: All right.

1 And presumably that wasn't by you, sir?

2 That was perhaps by the worker?

3 **MR. ABELL:** I would assume the worker, yes.

4 **MR. ENGELMANN:** Okay.

5 "Hasn't gone to police."

6 **MR. ABELL:** Okay. So Jeanette has not gone
7 to the police regarding the allegations.

8 **MR. ENGELMANN:** Well, you knew, sir, that
9 she had gone to the police back in 1989, however?

10 **MR. ABELL:** Yeah.

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

12 So you weren't saying that she'd never gone
13 to the police?

14 **MR. ABELL:** Oh no.

15 **MR. ENGELMANN:** Just hadn't gone to the
16 police since she met with you in the fall?

17 **MR. ABELL:** Correct.

18 **MR. ENGELMANN:** All right.

19 **MR. ABELL:** That's how I read that.

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

21 "Won't name lawyer."

22 **MR. ABELL:** She, I believe, had said to me
23 when we met at the restaurant that she had spoken to or had
24 engaged a lawyer. I can't remember. We'd have to go back
25 to the notes, but my guess is that's what that refers to.

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

2 **MR. ABELL:** We asked her -- wanted her to
3 let us know if she had done that and we didn't get any
4 information.

5 **MR. ENGELMANN:** "Not asking for further
6 file information, not raising further
7 issues re: alleged abuse."

8 **MR. ABELL:** Correct.

9 **MR. ENGELMANN:** Now, this is all information
10 you're gleaning from one of your workers?

11 **MR. ABELL:** I presume, yes.

12 **MR. ENGELMANN:** Okay. Because you didn't
13 meet with her again in February?

14 **MR. ABELL:** No, I didn't. No.

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

16 "Ask Carlene to write closing letter.
17 Put file together. Bill us."

18 **MR. ABELL:** She was on -- that "bill us"
19 assists me. She was doing some contract work for us at
20 that time, I think cleaning up some cases.

21 **MR. ENGELMANN:** All right.

22 So at this point in time you're -- you had
23 an Antoine file open and it's now going to be closed. Is
24 that what I'm understanding?

25 **MR. ABELL:** That's what I'm reading; the

1 service file.

2 MR. ENGELMANN: All right.

3 So at this point in time there's no
4 indication that there's going to be any further pursuit of
5 this matter by the police?

6 MR. ABELL: Correct.

7 MR. ENGELMANN: Nor is there any indication
8 that a civil lawsuit was to be commenced?

9 MR. ABELL: Correct.

10 MR. ENGELMANN: And it was your view at that
11 time, presumably, that there were no further steps that the
12 CAS ought to take regarding her allegations?

13 MR. ABELL: That's my assumption, given the
14 direction to close that file.

15 MR. ENGELMANN: All right.

16 Now, if we could go back -- and I don't know
17 if you still have this handy. It's Exhibit 1286. It's the
18 administrative review done by Staff Sergeant Derochie of
19 the Cornwall police.

20 MR. ABELL: I'm going to need some help
21 finding that.

22 MR. ENGELMANN: Yeah. Someone is about to
23 help.

24 MR. ABELL: Great; thank you.

25 (SHORT PAUSE/COURTE PAUSE)

1 **MR. ABELL:** I have it.

2 **MR. ENGELMANN:** There's a suggestion at the
3 bottom of page -- Bates page 7175646.

4 **MR. ABELL:** I have that page.

5 **MR. ENGELMANN:** Right. Right at the bottom.

6 **MR. ABELL:** This is, "The case again fell
7 into a state of dormancy"?

8 **MR. ENGELMANN:** Yes, and I think he's
9 referring to, when he says that, the work of the Cornwall
10 Police Service, not any work at your office.

11 **MR. ABELL:** Okay.

12 **MR. ENGELMANN:** But in any event, it says --
13 right at the last sentence or last two sentences:

14 "Later on that same month, July 1992,
15 Antoine contacted Abell again and once
16 more complains to him. Mr. Abell
17 refers Antoine to the police yet
18 again."

19 Do you have any recollection of that, sir?

20 **MR. ABELL:** It sounds like my contact with
21 her -- my discussion, follow-up meeting and then follow-up
22 letter after. That's what it sounds like.

23 **MR. ENGELMANN:** But that -- you did that in
24 the fall of 1991.

25 **MR. ABELL:** That was '91, so I don't ---

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

2 **MR. ABELL:** But that's the sequence of
3 events that it sounds like.

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

5 **MR. ABELL:** That's the sequence. You know,
6 her contacting me again and ---

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

8 But you have no recollection, sir, of any
9 contact with her the following summer; 1992?

10 **MR. ABELL:** No, I don't.

11 **MR. ENGELMANN:** All right. Just one moment.

12 Perhaps we could have the witness shown --
13 it's Document Number 739327. It's in the cross documents,
14 Madam Clerk.

15 I think there may have been some confusion
16 on this and I'm just trying to clear it up right now if we
17 can.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **THE COMMISSIONER:** Thank you. Exhibit
20 Number 2450; again notes from Mr. Abell? Is that your ---

21 **MR. ENGELMANN:** These are not the
22 handwriting of Mr. Abell that I'm familiar with.

23 But perhaps you could help us out,
24 Mr. Abell. Is this your handwriting?

25 **MR. ABELL:** The "Jeanine" in the middle of

1 the top is mine.

2 MR. ENGELMANN: Okay, but the rest of it?

3 MR. ABELL: No, that's not mine.

4 MR. ENGELMANN: All right.

5 THE COMMISSIONER: Well, in any event it's
6 Exhibit 2450 and the date on the document is the 15th of
7 July, 1992.

8 --- EXHIBIT NO./PIÈCE NO. P-2450:

9 (739327) Note to Richard Abell dated 15 Jul
10 92

11 MR. ENGELMANN: Sir, this, I believe, from
12 our records, was in the Jeannette Antoine file, and we know
13 that Staff Sergeant Derochie reviewed that. To your
14 knowledge is this note about Ms. Antoine or is it perhaps
15 about someone else, or can you help us?

16 MR. ABELL: It's a note to me. It, you
17 know, appears to be an update. It's what, 15 July --
18 15 July, '92?

19 THE COMMISSIONER: That's what I thought.

20 MR. ENGELMANN: Well, I look at number 4 and
21 there's a name. The first name is also Jeannette but it's
22 a different last name. Is that a name that you knew
23 Jeannette Antoine to go by at all?

24 MR. ABELL: No.

25 MR. ENGELMANN: Okay.

1 So to your knowledge did this have anything
2 to do with her, this note?

3 **MR. ABELL:** I'm really not sure.

4 **MR. ENGELMANN:** Okay.

5 **MR. ABELL:** I'm sorry.

6 **MR. ENGELMANN:** I'm just trying to clear up
7 perhaps some confusion about -- yes, okay.

8 So in any event, you have no recollection
9 and no notes, to your knowledge, of meeting with
10 Ms. Antoine in July of 1992?

11 **MR. ABELL:** I certainly have no
12 recollection.

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

14 And if you had notes, would they have been
15 presumably with your other Antoine notes?

16 **MR. ABELL:** Yes. Yes, I was thinking
17 earlier, when you raised it, I believe I would have had
18 notes if I had a contact with her, in the same way as I did
19 the earlier contacts.

20 **MR. ENGELMANN:** All right. And they would
21 have been left with the Society, as your other notes were?

22 **MR. ABELL:** Correct.

23 **MR. ENGELMANN:** All right.

24 Now, sir, we've heard at the Inquiry that
25 Jeannette Antoine was again interviewed about her

1 allegations of abuse while a ward of the CAS in late 1993,
2 and in fact in or around the month of November, and that
3 the interview was conducted by a CAS worker named Geraldine
4 Fitzpatrick and a CPS officer by the name of Heidi Sebalj.

5 Were you aware of that interview at the
6 time?

7 **MR. ABELL:** No, I wasn't.

8 **MR. ENGELMANN:** Do you have some sense, sir,
9 as to when you became aware that that interview took place?

10 **MR. ABELL:** Well, during preparation I was
11 shown a document that was some notes that I had made that
12 were headed, I believe, "Antoine Tapes." When I first saw
13 it I didn't recognize it, frankly. When you brought it to
14 my attention again I realized it related to an exchange
15 that I had with the worker, Geraldine Fitzpatrick, where
16 she spoke to me about that interview; some of the contents
17 of that interview.

18 **MR. ENGELMANN:** All right. I was going to
19 go there a bit later but perhaps we'll go there right now,
20 just to set aside that date.

21 Madam Clerk, it's Document Number 739226.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **THE COMMISSIONER:** Thank you.

24 **MR. ABELL:** Thank you.

25 **THE COMMISSIONER:** Exhibit 2451 are -- these

1 are your notes, sir?

2 MR. ABELL: These are.

3 THE COMMISSIONER: They are?

4 MR. ABELL: These are. Yes, sir.

5 THE COMMISSIONER: Right, sorry, so -- and
6 they're entitled The Antoine Tapes, August 22nd, 1995.

7 --- EXHIBIT NO./PIÈCE NO. P-2451:

8 (739226) Notes of Richard Abell dated 22 Aug
9 95 of Jeannette Antoine recorded tapes dated
10 12 Nov 93

11 MR. ENGELMANN: So it appears, sir, that in
12 or around August of 1995 you happened to review the tapes
13 of the interview of Jeannette Antoine by Constable Sebalj
14 and Geraldine Fitzpatrick.

15 MR. ABELL: I don't believe I reviewed
16 tapes. My recollection of this exchange was that
17 Ms. Fitzpatrick came to my office, asked to meet with me,
18 and she proceeded to lay out her issues and concerns about
19 the matters that had come to light in the group home.

20 MR. ENGELMANN: In the?

21 MR. ABELL: In the group home.

22 MR. ENGELMANN: Okay.

23 MR. ABELL: As you can see, it's referenced
24 in there.

25 And I was jotting notes and she was talking.

1 That was the -- it wasn't a particularly long exchange but
2 that was the content of it. I believe that I titled this
3 Antoine Tapes because she did tell me that she'd been part
4 of an interview where Jeannette had been interviewed and
5 had been put on tape, but I don't recall actually listening
6 to tapes.

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

8 And so you believe ---

9 **MR. ABELL:** I'm quite sure I didn't. I'm
10 quite sure I did not listen to tapes.

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

12 Do you know whether you might have reviewed
13 a transcript of what was on those tapes?

14 **MR. ABELL:** No, I don't recall seeing a
15 transcript.

16 **MR. ENGELMANN:** So you're saying then that
17 what you've written on these three pages or possibly four
18 pages -- I'm looking at Bates pages 850 to 853 -- these
19 notes were as a result of a meeting you would have had with
20 Ms. Fitzpatrick ---

21 **MR. ABELL:** Yes.

22 **MR. ENGELMANN:** --- who was explaining to
23 you the fact that she and Constable Sebalj had had this
24 interview?

25 **MR. ABELL:** I can't -- frankly, I'm fuzzy on

1 the whole matter, other than we did have the discussion. I
2 can't recall how she set it up in terms of coming to me to
3 say why she wanted to talk to me about this. I have no
4 recollection of that.

5 And the structure of these notes is what
6 frankly puzzled me when I first saw them. They're just
7 jottings. It's not in case conference format; it's not in
8 supervisory session format. I mean, we had a number of
9 formats for particular exchanges.

10 **MR. ENGELMANN:** Right.

11 **MR. ABELL:** This was her coming in to tell
12 me all this stuff and I just frankly don't recall how on
13 earth she set it up for me -- here's why I'm -- "Rick,
14 here's why I want to talk to you about this."

15 **MR. ENGELMANN:** And I was wondering about
16 the timing, sir. Is there something involving the Antoine
17 matter that would have come up that summer ---

18 **MR. ABELL:** I have no idea.

19 **MR. ENGELMANN:** --- that led you to do this?

20 **MR. ABELL:** I have no idea. No, this -- I
21 recall -- what I can recall was that it came out of the
22 blue. I got this essentially kind of put in my lap, and
23 there it was. It was material that -- I mean, I was well
24 aware of the background. I read the file materials, such
25 as we had, on the group home situation. But she'd brought

1 this in to me.

2 MR. ENGELMANN: Do you have any idea what
3 the numbers refer to? You see that, you have numbers ---

4 MR. ABELL: Yes.

5 MR. ENGELMANN: --- given to some of the
6 group home staff.

7 MR. ABELL: I see that.

8 MR. ENGELMANN: You have numbers next to
9 some of the children.

10 MR. ABELL: Yeah.

11 MR. ENGELMANN: It's almost like it's a
12 guide for another document or something.

13 MR. ABELL: I don't know. I don't know what
14 they are, Mr. Engelmann. I'm sorry.

15 MR. ENGELMANN: All right.

16 So let's go back then to 1993, and you were
17 not aware then at the time that the interview took place?

18 MR. ABELL: No.

19 MR. ENGELMANN: Do you have any idea if one
20 of your supervisors was aware that Ms. Fitzpatrick had done
21 this interview with Constable Sebalj?

22 MR. ABELL: My recent understanding is that
23 nobody knew.

24 MR. ENGELMANN: All right.

25 But in any event, to your knowledge, it

1 wasn't reported to you or a senior manager?

2 **MR. ABELL:** Correct.

3 **MR. ENGELMANN:** Were you aware of any
4 concerns that Ms. Fitzpatrick or other CAS staff may have
5 had about the manner in which her allegations -- her
6 allegations being Ms. Antoine's allegations -- were handed
7 in that first timeframe, '89 through '91?

8 **MR. ABELL:** Not that I was aware of, no.

9 **MR. ENGELMANN:** Were you aware of any
10 concerns that Constable Sebalj or any other CPS officers
11 may have had about the way the CAS handled her allegations?

12 **MR. ABELL:** No.

13 **MR. ENGELMANN:** Sir, in early 1994 there
14 were a number of media stories that certainly concerned the
15 CAS here in Cornwall.

16 **MR. ABELL:** Yes, sir.

17 **MR. ENGELMANN:** And we're going to get to
18 some dealing with a fellow by the name of David Silmser.
19 Those, of course, were of some concern to you; correct?

20 **MR. ABELL:** Sure. Yes.

21 **MR. ENGELMANN:** And there were also some
22 media stories about the Jeannette Antoine matter.

23 **MR. ABELL:** There was one in particular I
24 recall.

25 **MR. ENGELMANN:** Okay. And I know there was

1 an article in the newspaper but there was also a television
2 reporter who was asking questions about her.

3 MR. ABELL: Could have been. I don't -- I'm
4 not clear on it.

5 MR. ENGELMANN: A fellow by the name of
6 Charlie Greenwell.

7 MR. ABELL: Oh, Mr. Greenwell, yes. Yes,
8 yes, yes.

9 MR. ENGELMANN: In fact I think at one point
10 you were asked to provide Ms. Antoine with a form so that
11 she could consent so that you could release information to
12 him.

13 MR. ABELL: I believe I recall that, yes.

14 MR. ENGELMANN: Okay. And do you recall if
15 the media interest would have actually started with him --
16 Mr. Greenwell?

17 MR. ABELL: I think the first media interest
18 was the Standard Freeholder article.

19 MR. ENGELMANN: Okay.

20 MR. ABELL: I think.

21 MR. ENGELMANN: But just with Mr. Greenwell
22 for a minute, he wasn't someone you would have contacted
23 about Jeannette Antoine?

24 MR. ABELL: No.

25 MR. ENGELMANN: So the contact that did

1 happen was from him to you.

2 **MR. ABELL:** Correct.

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

4 **MR. ABELL:** Correct.

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

6 And did you have any knowledge of the time
7 as to how he happened to have information about her
8 situation and her complaint?

9 **MR. ABELL:** I presume not. I don't have a
10 specific recollection and I presume not. I mean, reporters
11 aren't usually giving their sources.

12 **MR. ENGELMANN:** Were you aware at the time
13 that he had also contacted the Cornwall Police Service for
14 comment?

15 **MR. ABELL:** I don't recall knowing that or
16 hearing that, no.

17 **MR. ENGELMANN:** It wouldn't surprise you
18 though, would it, sir?

19 **MR. ABELL:** No, not at all, no.

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

21 You were aware he was trying to get comments
22 from both you and the Cornwall Police Service about the
23 other matter?

24 **MR. ABELL:** So he was following up, yes.

25 **MR. ENGELMANN:** And the other matter being

1 the Silmsers matter.

2 MR. ABELL: Oh, the Silmsers -- yes. Yes.

3 MR. ENGELMANN: And the media interest in
4 Antoine came immediately after the large media interest in
5 the Silmsers matter.

6 MR. ABELL: Yes.

7 MR. ENGELMANN: And as I understand it, some
8 of the media interest was that there were allegations of
9 institutional cover-up, for lack of a better word.

10 MR. ABELL: Yes, that was certainly one of
11 the themes.

12 MR. ENGELMANN: Right, that either the CPS
13 or the CAS or others were covering up these allegations
14 from the past.

15 MR. ABELL: Correct.

16 MR. ENGELMANN: All right.

17 Sir, I'm reminded by my friend Mr. Chisholm
18 that I neglected to ask for a publication ban stamp on
19 Exhibit 2451 and some of the group home children certainly
20 have been named and we've gone in-camera with them. So if
21 it could have a stamp.

22 THE COMMISSIONER: Sure.

23 MR. ENGELMANN: I apologize. Thank you.

24 And, sir, do you recall, as a result of this
25 media interest, having discussions with officials at the

1 Cornwall police and in particular having a call with the
2 Deputy Chief, a fellow named Joseph St. Denis?

3 **MR. ABELL:** I don't have a specific
4 recollection.

5 **MR. ENGELMANN:** I'm just going to try and
6 refresh that then if I can.

7 **MR. ABELL:** Please.

8 **MR. ENGELMANN:** It's Document Number 739330.

9 **THE COMMISSIONER:** Thank you.

10 Exhibit Number 2452 is a letter to Mr.
11 Richard Abell dated January 12th, 1994 from Deputy Chief St.
12 Denis.

13 --- **EXHIBIT NO./PIECE NO. P-2452:**

14 (739330) Letter from Joseph St. Denis to
15 Richard Abell dated 12 Jan 94

16 **MR. ABELL:** Okay. Thank you.

17 **MR. ENGELMANN:** Does the letter, sir, at all
18 remind you of perhaps speaking with him at that time?

19 **MR. ABELL:** Certainly it says I did but I
20 don't have a recollection of the conversation, Mr.
21 Engelmann.

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

23 Well, the letter confirms a few things and I
24 just wanted just to have you confirm them, if you may.
25 That the Cornwall Police Service acknowledges that

1 allegations were made by her back in 1989?

2 **MR. ABELL:** Yes.

3 **MR. ENGELMANN:** That they were reviewing
4 their previous investigation of the matter?

5 **MR. ABELL:** Yes.

6 **MR. ENGELMANN:** And that they would likely
7 be interviewing CAS staff?

8 **MR. ABELL:** Yes.

9 **MR. ENGELMANN:** And, sir, you were aware
10 that sometime in 1994 the Cornwall Police Service did
11 assign an officer to investigate, not just this
12 reinvestigation of what they had done by Staff Sergeant
13 Derochie, but that an officer was assigned to investigate
14 these matters?

15 **MR. ABELL:** In a very full way.

16 **MR. ENGELMANN:** Yes, and who was that, sir?

17 **MR. ABELL:** Constable -- or Detective
18 Constable Shawn White.

19 **MR. ENGELMANN:** Right. And you and your
20 staff would have had some dealings with him?

21 **MR. ABELL:** We did.

22 **MR. ENGELMANN:** And, sir, it's my
23 understanding in response to some media interest with
24 respect to Jeannette Antoine you would have issued a press
25 release?

1 **MR. ABELL:** I did.

2 **MR. ENGELMANN:** And I just want to show it
3 to you, if I may. It's the day after this letter from Joe
4 St. Denis. So that's January 12th. If we look at Document
5 Number 739275 --

6 Mr. Commissioner, it's a document titled,
7 "Statement of Executive Director" and it's dated January
8 13th '94.

9 **THE COMMISSIONER:** Exhibit 2453.

10 --- **EXHIBIT NO./PIÈCE NO. P-2453:**

11 (739275) Statement of Executive Director
12 'Press Release' dated 13 Jan 94

13 **MR. ENGELMANN:** Sir, I know this says
14 statement but is this in effect a press release?

15 **MR. ABELL:** It is.

16 **MR. ENGELMANN:** Is this a document, sir,
17 that you would have drafted yourself or had someone draft
18 for you?

19 **MR. ABELL:** I believe I wrote this myself.

20 **MR. ENGELMANN:** I'll just give you a minute,
21 sir, if you need it.

22 **MR. ABELL:** Yeah, well, I would have drafted
23 it and then reviewed it with counsel, Bill Carriere, and
24 then did some editing and sent it out.

25 **MR. ENGELMANN:** Was that the standard

1 procedure that press releases typically you would draft and
2 then you would review it with some senior staff?

3 MR. ABELL: Yes.

4 MR. ENGELMANN: And typically with your in-
5 house lawyer?

6 MR. ABELL: Correct.

7 MR. ENGELMANN: All right.

8 Did you require any kind of approval from
9 the Ministry to do this?

10 MR. ABELL: No.

11 MR. ENGELMANN: What about your Board?

12 MR. ABELL: No.

13 MR. ENGELMANN: All right.

14 Now, there's nothing in this press release
15 that refers to the subject matter for complaints, and by
16 the subject matter I mean there's nothing here that talks
17 about allegations of either physical or sexual abuse?

18 MR. ABELL: This is talking about -- the
19 theme here was the Society took action.

20 MR. ENGELMANN: Okay. Did you not think it
21 was important to talk about what her allegations were
22 initially about, sir?

23 MR. ABELL: Well, just keep in mind this was
24 in response to an article that was in the paper.

25 MR. ENGELMANN: Well, this is January 13th.

1 MR. ABELL: Yes.

2 MR. ENGELMANN: This is the day after the
3 letter from Joseph St. Denis and the article that I think
4 is in the paper -- let me see if I can find it for you,
5 sir.

6 MR. ABELL: Okay.

7 (SHORT PAUSE/COURTE PAUSE)

8 MR. ENGELMANN: Document Number 739124.

9 THE COMMISSIONER: Thank you. Exhibit 2454
10 is the Cornwall Standard-Freeholder article, front page,
11 14th of January, 1994.

12 --- EXHIBIT NO./PIÈCE NO. P-2454:

13 (739124) Standard-Freeholder Article Police
14 review abuse claim at former CAS group home
15 dated 14 Jan 94

16 MR. ABELL: I have it, thank you.

17 MR. ENGELMANN: There is a much younger
18 looking Rick Abell on the screen.

19 MR. ABELL: Let's move on, Mr. Engelmann.

20 MR. ENGELMANN: Fair enough.

21 (LAUGHTER/RIRES)

22 MR. ENGELMANN: Sir, my point is this.

23 MR. ABELL: Yes.

24 MR. ENGELMANN: And I'll get right to it.

25 The letter from Joseph St. Denis was January

1 12th.

2 MR. ABELL: Yes.

3 MR. ENGELMANN: Your press release is
4 January 13th. This is in the Freeholder on January 14th.

5 MR. ABELL: Yes.

6 MR. ENGELMANN: Are we missing an article?

7 MR. ABELL: I'm wondering because I ---

8 MR. ENGELMANN: Because this is all I have.

9 MR. ABELL: Yes, and I'm puzzled because as
10 I read this, this press release, to my mind, is in response
11 to an article. The sequencing is incorrect so I'm not
12 sure.

13 MR. ENGELMANN: Okay. Well, could it have
14 been in response to inquiries that are being made by Mr.
15 Greenwell?

16 MR. ABELL: No, no. Well ---

17 MR. ENGELMANN: Okay, but in any event would
18 you agree with me, sir, and I'll come back to the article
19 in a minute -- would you agree with me that the press
20 release does not refer to the nature of the complaints?

21 MR. ABELL: That's correct.

22 MR. ENGELMANN: Nor does it refer to
23 anything about excessive discipline or corporal discipline?

24 MR. ABELL: No, it just says information
25 that came to the Agency; you're right.

1 **MR. ENGELMANN:** And I just am wondering why
2 it's not more descriptive, why it's vague on these issues.

3 **MR. ABELL:** I can't recall a discussion. I
4 would imagine there would have been discussion about how
5 much information to put into our release and I would have
6 decided to handle it that way.

7 **MR. ENGELMANN:** I'll just be a moment, sir.

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

9 **MR. ENGELMANN:** Sir, I missed the exhibit
10 number for the article. I apologize.

11 **THE COMMISSIONER:** Two-four-five-four
12 (2454).

13 **MR. ENGELMANN:** Two-four-five-four (2454)?

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

15 **MR. ENGELMANN:** Sir, perhaps we could --
16 Madam Clerk, perhaps we could look at Document Number
17 739346?

18 These are some notes, Mr. Abell, of yours
19 from about that time. The caption is "Antoine" and the
20 date is, I believe, 14 January '94.

21 **THE COMMISSIONER:** Thank you. Exhibit
22 Number 2455.

23 --- **EXHIBIT NO./PIÈCE NO. P-2455:**

24 (739346) Notes of Richard Abell re
25 Jeannette Antoine dated 14 Jan 94

1 **MR. ENGELMANN:** Again, sir, these would be
2 your notes?

3 **MR. ABELL:** They are.

4 **MR. ENGELMANN:** Do I have the date right?

5 **MR. ABELL:** Fourteen (14) January '94.

6 **MR. ENGELMANN:** All right.

7 And it appears to describe two, possibly
8 three telephone calls?

9 **MR. ABELL:** Yes, yes.

10 **MR. ENGELMANN:** Okay. The third one at the
11 bottom, the Lenore ---

12 **MR. ABELL:** Lenore.

13 **MR. ENGELMANN:** This is the woman from the
14 Ministry, again, Lenore Jones?

15 **MR. ABELL:** Correct, yes.

16 **MR. ENGELMANN:** And she's calling you
17 because of a TV report the night before where the cover-up
18 was the story?

19 **MR. ABELL:** Yes.

20 **MR. ENGELMANN:** Was that the Ministry's
21 principal concern about this matter at that time, sir, to
22 your understanding?

23 **MR. ABELL:** I don't recall a particular
24 focus of their concern other than just knowing what was
25 going on.

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

2 Well, we know that you had the article in
3 the Freeholder on the 14th ---

4 **MR. ABELL:** Fourteenth (14th), correct.

5 **MR. ENGELMANN:** --- that we just looked at
6 it, and it appears there's also something on television?

7 **MR. ABELL:** Yes, that would be Mr.
8 Greenwell.

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

10 And the notes suggest that Greenwell is
11 referencing some form of statement from you, sir?

12 **MR. ABELL:** Sorry; could you repeat that,
13 please?

14 **MR. ENGELMANN:** It appears that this
15 discussion you're having with Lenore Jones ---

16 **MR. ABELL:** Yes.

17 **MR. ENGELMANN:** --- when it says "Greenwell
18 says I said police didn't act" Greenwell is referring to
19 some statement of yours apparently?

20 **MR. ABELL:** Yes, it appears so.

21 **MR. ENGELMANN:** Okay. And that clearly
22 isn't in your press release.

23 **MR. ABELL:** No.

24 **MR. ENGELMANN:** Nor did I find that in the
25 Freeholder story.

1 **MR. ABELL:** No.

2 **MR. ENGELMANN:** I'm just wondering what he
3 might have been referring to?

4 **MR. ABELL:** I wouldn't presume to know what
5 Mr. Greenwell ---

6 **MR. ENGELMANN:** All right:
7 "Jeannette in profile claims,
8 'scrubbing in bra/panties.'" "

9 **MR. ABELL:** Yes.

10 **MR. ENGELMANN:** Profile meaning the
11 television story, presumably?

12 **MR. ABELL:** Yes.

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

14 Do you recall whether you would have seen
15 that television story yourself, sir?

16 **MR. ABELL:** No, I didn't see it.

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

18 Do you recall if you would have given an
19 interview or a statement to Charlie Greenwell about this
20 matter?

21 **MR. ABELL:** I can recall a couple of
22 exchanges with Mr. Greenwell about this and also the Mr.
23 Silmser matter but other than being careful not to provide
24 privileged information there was not much that went on
25 between us.

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

2 Well, do you recall ever suggesting to him
3 that the police didn't act, or words to that effect?

4 **MR. ABELL:** No, I would not have -- I
5 wouldn't have said that to him if that was said in that
6 kind of a judgmental way. I mean if it means that charges
7 weren't laid then fine, I would have said charges weren't
8 laid.

9 **MR. ENGELMANN:** Okay.

10 **MR. ABELL:** But I mean that looks to me to
11 be more judgmental.

12 **MR. ENGELMANN:** All right.

13 **MR. ABELL:** I wouldn't have walked into that
14 one.

15 **MR. ENGELMANN:** So if it was didn't act it
16 was didn't act by laying charges?

17 **MR. ABELL:** Yeah, they didn't proceed with
18 charges, and that's Mr. Greenwell's wording, putting words
19 in my mouth.

20 **MR. ENGELMANN:** And do you know what's being
21 attributed to him at the bottom of the page there as well?

22 I think it says "Charlie" and then it says:
23 "I called the matter in '76 excessive
24 discipline."

25 **MR. ABELL:** "I called the matter in '76

1 excessive discipline." I can't make out the first part of
2 that second-last line, sorry. "Charlie [something] e-d."
3 I don't know.

4 **MR. ENGELMANN:** Well, in any event, sir, do
5 you recall, in speaking with Mr. Greenwell, that you would
6 have made that comment about what happened back in the
7 '70s?

8 **MR. ABELL:** I don't recall saying that to
9 him. I might have, but I don't recall.

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

11 And then just turning back to The Freeholder
12 article for a minute at 2454, you're quoted fairly
13 extensively in that article?

14 **MR. ABELL:** This is the January 14th article?

15 **MR. ENGELMANN:** Yes.

16 **MR. ABELL:** Yes.

17 **MR. ENGELMANN:** And I don't know if you've
18 had a chance to have a quick look at it, sir; I'm just
19 wondering if there's anything there that you disagree with?
20 You're quoted as saying that:

21 "At the time, the Society acted very
22 quickly and very decisively."

23 **MR. ABELL:** Yes.

24 **MR. ENGELMANN:** Which is consistent with
25 your press release.

1 And certainly the matter of the allegations
2 was dealt with at the time of the investigation?

3 **MR. ABELL:** Yes.

4 **MR. ENGELMANN:** I'm not sure what that
5 means. You're simply saying it was dealt with quickly?

6 **MR. ABELL:** It was dealt with, yes.

7 **MR. ENGELMANN:** And it said:

8 "He added the incident was never
9 reported to Cornwall Police because
10 provincial legislation requiring police
11 to be notified did not come until
12 1979."

13 Do you see that?

14 **MR. ABELL:** I see that.

15 **MR. ENGELMANN:** Where did you get that
16 information from, sir?

17 **MR. ABELL:** I don't know, and I'm wondering,
18 frankly, if that wasn't either a misunderstanding of my
19 comment or something the reporter put in. I'm not sure.

20 **MR. ENGELMANN:** Sir, it would appear from
21 what you're saying that it's somewhat of an excuse for
22 actions or inactions by ---

23 **MR. ABELL:** That's ---

24 **MR. ENGELMANN:** --- your predecessor.

25 **MR. ABELL:** Explanation, if anything.

1 **MR. ENGELMANN:** Okay.

2 **MR. CHISHOLM:** I'm not sure that Mr. Abell
3 has adopted that statement. As he's suggested, it may be a
4 misinterpretation by the reporter.

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

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

7 If the statement was made though, sir, would
8 you agree that whether or not it was required to report to
9 the police back in the mid '70s, it might have been a good
10 idea at the time?

11 **MR. ABELL:** Yes.

12 **MR. ENGELMANN:** I know you weren't there.

13 **MR. ABELL:** No, that's okay.

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

15 Perhaps we'll leave it.

16 **MR. ABELL:** Mr. Engelmann ---

17 **MR. ENGELMANN:** Sir, do you -- oh, I'm
18 sorry.

19 **MR. ABELL:** Mr. Engelmann, can I just go
20 back to one issue?

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

22 **MR. ABELL:** Very quickly. The statement of
23 the Executive Director, 2453, which is dated January 13,
24 and we're wondering why that date predates by a day this
25 article, I'm just wondering if I knew this media attention

1 was coming out and I prepared it on the 13th for a release.
2 That's the only thing that makes any sense to me.

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

4 **MR. ABELL:** Just as a suggestion.

5 **MR. ENGELMANN:** I'm just wondering if you
6 didn't know as well because of that conversation you would
7 have had with Joseph St. Denis ---

8 **MR. ABELL:** Yes.

9 **MR. ENGELMANN:** --- just trying to get your
10 facts straight about what it ---

11 **MR. ABELL:** That may well close the circle.

12 **MR. ENGELMANN:** All right.

13 **THE COMMISSIONER:** Let's call it a day.

14 Come back tomorrow morning at 9:30, sir?

15 **MR. ABELL:** Yes, sir.

16 **THE COMMISSIONER:** Thank you.

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

19 This hearing is adjourned until tomorrow
20 morning at 9:30 a.m.

21 --- Upon adjourning at 4:28 p.m./

22 L'audience est ajournée à 16h28

23

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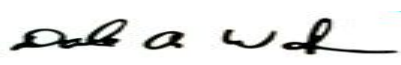
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C E R T I F I C A T I O N

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

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



Dale Waterman, CVR-CM