

**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 296

Held at :

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

Tuesday, October 28, 2008

Tenue à:

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

Mardi, le 28 octobre 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
Mr. John E. Callaghan	Cornwall Community Police
Mr. Mark Crane	Service and Cornwall Police Service Board
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Jodie-Lynn Waddilove	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of
Ms. Michele R.J. Allinotte	the United Counties
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. William Carroll	Ontario Provincial Police Association
Ms. Kimberley Ishmael	Upper Canada District School Board
Mr. Frank T. Horn	Coalition for Action
Mr. Richard Abell	CAS

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1 --- Upon commencing at 9:36 a.m./

2 L'audience débute à 09h36

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning all. Good
10 morning, sir.

11 **MR. ABELL:** Good morning, sir.

12 **THE COMMISSIONER:** Good morning, Ms. Daley.

13 **RICHARD ABELL, Resumed/Sous le même serment:**

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

15 **DALEY:**

16 **MS. DALEY:** Good morning, sir. Good
17 morning, Mr. Abell.

18 **MR. ABELL:** Good morning.

19 **MS. DALEY:** My name is Helen Daley. I am
20 counsel to the Citizens for Community Renewal, a local
21 group with an interest in reforming institutions.

22 The first area I want to touch upon with
23 you, sir, I want, if you could, to put back on your
24 clinical hat, and I have a question or two for you about
25 your experience as a childcare professional in the '60s and

1 '70s, before you came to Cornwall. All right?

2 MR. ABELL: Sure.

3 MS. DALEY: And we know from your CV
4 obviously that you were working as a childcare worker from
5 and after 1968?

6 MR. ABELL: Yes.

7 MS. DALEY: So that's when your experience
8 starts?

9 MR. ABELL: Yes.

10 MS. DALEY: And you did work in a frontline
11 capacity throughout at least part of the 1970s?

12 MR. ABELL: Yes.

13 MS. DALEY: Now, my question for you is
14 this: In that timeframe, were you called upon to deal with
15 children who had been sexually abused?

16 MR. ABELL: I can't recall that I was. I
17 think that was largely off the radar at that time.

18 MS. DALEY: Were you in a protection
19 capacity, child protection?

20 MR. ABELL: Yes, I began in a busy set of
21 childcare role, which is working in group homes and
22 institutions.

23 MS. DALEY: Right.

24 MR. ABELL: And -- as a staff member; and
25 then I proceeded onto social work role in child protection.

1 **MS. DALEY:** All right. So putting together
2 that experience and drawing upon that experience from, I
3 guess, the very late '60s into the '70s, did you ever have
4 occasion to work with children who needed protection as a
5 result of sexual abuse of any sort?

6 **MR. ABELL:** Yes, latterly. Yes, I did.
7 Yes.

8 **MS. DALEY:** When you say latterly, I take it
9 you mean in the latter part of that timeframe I gave you?

10 **MR. ABELL:** In the latter part of my time in
11 a front -- sorry, in a frontline capacity. That's correct,
12 I did, yes.

13 **MS. DALEY:** All right. And just to attach
14 dates to that, would that be in the mid to late 1970s, sir?

15 **MR. ABELL:** That would be in the '70s.
16 That's right.

17 **MS. DALEY:** All right. Now, in the '60s and
18 '70s, sir, did you have an awareness of sexual abuse of
19 children as a social phenomenon, as something that existed
20 in society?

21 **MR. ABELL:** I would have had an awareness of
22 it, yes.

23 **MS. DALEY:** And would you agree with this
24 statement, sir, that a childcare professional -- we should
25 reasonably expect a childcare professional to have a higher

1 level of awareness about issues such as sexual abuse of
2 children than society at large might have? Is that not a
3 reasonable expectation?

4 **MR. ABELL:** That's a reasonable principle,
5 yes.

6 **MS. DALEY:** All right. Thank you. And sir,
7 obviously, the bulk of the questions I am going to ask you
8 about relate to the 1990s when you're in a leadership role
9 at this CAS. I take it, sir, by the 1990s, sexual abuse of
10 children by adults, whether within or without the family,
11 was a more common phenomenon in a childcare worker's
12 experience?

13 **MR. ABELL:** Yes.

14 **MS. DALEY:** And certainly by -- if we can
15 use 1990, just as a convenient cut-off -- by that point,
16 sir, would you expect childcare professionals to have their
17 radar up, so to speak, for child sexual abuse?

18 **MR. ABELL:** Yes.

19 **MS. DALEY:** Thank you. Now, I want to talk
20 to you in some detail about your role as Executive Director
21 of this Children's Aid Society, and I'm particularly
22 interested in how your Agency was interacting with the
23 local police around some of the topics that we've
24 discussed.

25 To start at a general level, sir, would I be

1 right to suggest that the CAS' relationship with the
2 Cornwall Police would be one of the most important
3 relationships your institution had?

4 MR. ABELL: Yes.

5 MS. DALEY: And would you go so far as to
6 say if we had to pick, it's probably the most important
7 relationship?

8 MR. ABELL: It's one of the most important
9 relationships.

10 MS. DALEY: All right. Not to downplay that
11 you need other community partners, but it's certainly a
12 very important relationship to you?

13 MR. ABELL: It's central, yes.

14 MS. DALEY: And you gave us a little
15 evidence about that relationship, but just to try to put it
16 in a small capsule, I take it that throughout your tenure
17 as E.D., there are many occasions when your employees were
18 working jointly with CPS members?

19 MR. ABELL: Well, on a daily basis, yes.

20 MS. DALEY: On a daily basis.

21 MR. ABELL: Daily and nightly basis, yes.

22 MS. DALEY: And, in fact, your predecessor,
23 Mr. O'Brien, suggested that at least two Cornwall Police
24 officers were almost a fixture in your office and that was
25 a measure of how closely they worked together. I take it

1 you would agree with that?

2 **MR. ABELL:** I would agree with that, yes.

3 **MS. DALEY:** And as the '90s progressed, did
4 that -- were there more and more occasions where your
5 agencies were working jointly on an investigation?

6 **MR. ABELL:** I would say overall, yes. That
7 was an emphasis of the training that grew out of the child
8 welfare institute -- at least the child abuse institute and
9 there was quite a bit of joint training that was conducted
10 and that obviously was meant to underpin a collaborative --
11 a much more collaborative approach between the two
12 organizations.

13 **MS. DALEY:** Understood. The agents were
14 meant to be collaborative and the agencies were meant to
15 almost work as partners certainly in any joint capacity
16 they undertook. Is that ---

17 **MR. ABELL:** Well, they were meant to, but
18 also I want to emphasize that it's been a long tradition --
19 -

20 **MS. DALEY:** Yes.

21 **MR. ABELL:** --- in child welfare that there
22 are close working relationships with police in your
23 jurisdiction.

24 **MS. DALEY:** All right.

25 **MR. ABELL:** That's what I mean; it wasn't

1 new to the child abuse or at least the child sexual abuse
2 phenomenon. It was heightened.

3 **MS. DALEY:** It was part of the social
4 institutional history of the CAS to work closely with
5 police?

6 **MR. ABELL:** And with many other community
7 organizations.

8 **MS. DALEY:** I understand. Now, you made a
9 comment in one of your documents about -- if I could put it
10 in quotes -- "the small town factor" about operating an
11 agency in Cornwall. And is what you meant by that, that
12 the relationship between these two institutions, for
13 example, was largely conducted by the people at the top in
14 both cases. In other words, it functioned a bit on
15 personal relationships?

16 **MR. ABELL:** I just want to be careful.
17 Personal not social and personal in the sense of, it was
18 the done thing to talk directly to your counterparts, which
19 was not my experience in other jurisdictions.

20 **MS. DALEY:** I understand. So what was a
21 little bit unique here was that there was direct line of
22 communication between you, as the head of the CAS, for
23 example, and whoever was the head of the police
24 organization. That was a direct line of communication?

25 **MR. ABELL:** Yes. I would not hesitate to

1 pick up the phone and call the chief of police in any time
2 here in Cornwall.

3 **MS. DALEY:** And would I be right to suggest,
4 sir, as a result of the importance of this relationship, it
5 would be important not to jeopardize it? In other words,
6 you'd be mindful as the head of the CAS that you didn't
7 want to jeopardize a good working relationship with the
8 Cornwall police?

9 **MR. ABELL:** Yes, as a principle, that's
10 right.

11 **MS. DALEY:** All right. Now, you spoke to us
12 -- and just to refresh your mind, this was in the context
13 of the evidence you gave about Earl Landry, Jr. I just
14 want to put it in that context.

15 My question to you, sir, is had your CAS
16 ever dealt with a complaint of suspected child abuse
17 against either a member of the Cornwall Police Service or a
18 very close family member; had that ever happened?

19 **MR. ABELL:** I can't speak to ever. I mean
20 our organization has been around a long time. In my
21 experience ---

22 **MS. DALEY:** No, no. Sorry, just during your
23 tenure, sir.

24 **MR. ABELL:** In my tenure. Thank you. In my
25 experience, no, that I can recall.

1 **MS. DALEY:** And had, during your tenure,
2 your Agency ever had to deal with a complaint of suspected
3 child abuse against a former member of the police service
4 or a close relative of such? Would that be the same
5 answer?

6 **MR. ABELL:** Yes.

7 **MS. DALEY:** All right. Now, I know that you
8 weren't living and working in Cornwall in the 1980s, but
9 you were aware when you joined the Agency and -- as E.D.
10 that Mr. Landry, Jr.'s father, Earl Landry, Sr., had been
11 the chief of police in this town?

12 **MR. ABELL:** Well, I didn't -- we arrived in
13 '89. I mean, I didn't know about Mr. Landry, Sr. at that
14 point. It was only through my work at the office when the
15 Earl Landry, Jr. case came up was I apprised of his family
16 connections.

17 **MS. DALEY:** That's what I wanted to
18 understand.

19 So by the time your agency is dealing with
20 Landry, Jr., you've been informed that his father was the
21 former Chief?

22 **MR. ABELL:** Once we were dealing with it, I
23 was informed, yes.

24 **MS. DALEY:** All right.

25 And I take it you never had occasion to deal

1 with a similar situation as you described? There had never
2 been another child abuse complaint that pertained to either
3 an officer or a close family member?

4 **MR. ABELL:** Not in my experience, no.

5 **MS. DALEY:** All right. Now, you explained
6 to us that between the years '93 when the Earl Landry, Jr.
7 matter first came to your attention and '96 when he was
8 finally charged, you said that your team suffered from what
9 you call "group think" and I put air quotes around that.
10 And I think what you explained was that the group had
11 unnecessarily become tied up in the issue of identifying
12 Landry, Jr. Is that fair?

13 **MR. ABELL:** The group think reference I made
14 was to the issue of reporting ---

15 **MS. DALEY:** Yes.

16 **MR. ABELL:** --- him or speaking to his
17 employer. That's correct.

18 **MS. DALEY:** Right. So in relation to the
19 issue of whether you should report the suspected abuse to
20 his employer, you suggested that your team suffered from
21 group think and got, for want of a better word, somewhat
22 paralyzed about going forward because they were concerned
23 about identifying Landry, Jr. as the alleged perpetrator.
24 Is that correct?

25 **MR. ABELL:** I think I talked about a blind

1 alley. But, I mean, I guess pick your metaphor but we got
2 ourselves on a track that didn't lead us to doing what
3 needed to be done, which was inform the employer.

4 **MS. DALEY:** Right. And so I take it what
5 you would say is that the group failed to reach the right
6 decision and your explanation for that is that they became
7 bogged down in a -- unfortunately in an irrelevant detail?

8 **MR. ABELL:** Well, if by relative you mean
9 minors, it's not -- in our view it's not a minor decision.
10 As I explained in my earlier testimony, it's a very serious
11 decision to go to someone's employer and say, "This is what
12 we've got". It's devastating. So that's what we focussed
13 on.

14 **MS. DALEY:** No, no. I understand that
15 that's a serious step but if I've understood you correctly,
16 the reason why the team failed to take that step is because
17 they had become mired in identifying Mr. Landry, Jr. when
18 they oughtn't have been. Is that not fair?

19 **MR. ABELL:** Well, it's a consideration. The
20 issue of identity is a consideration. It was given far too
21 much weight in my view when I look back at the record.

22 **MS. DALEY:** Can I ask you this question,
23 sir? Was there any real doubt in the workers' minds that
24 the complainant had in fact identified Earl Landry, Jr.?

25 **MR. CHISHOLM:** I'm not sure how Mr. Abell

1 can speak to what was in the minds of the workers.

2 **MS. DALEY:** In terms of what they reflected
3 to you in the meetings, sir.

4 **MR. ENGELMANN:** We've already had this from
5 both Mr. Carriere and I think he was quite honest about the
6 fact that they overemphasized this issue and that they got
7 fixated on the name when they shouldn't have been given the
8 circumstances they had. And I think he's closer to this
9 than Mr. Abell, quite frankly.

10 **MS. DALEY:** My only interest is to see what
11 the Executive Director perceived and whether there was
12 anything he could have brought to the situation to change
13 it. That's why I'm asking the question.

14 **THE COMMISSIONER:** Is there anything you
15 could have perceived as Executive Director?

16 **MR. ABELL:** My recollection was that we had
17 the person identified. The issue was being able to stand a
18 challenge on our view. That was my recollection of the
19 debate.

20 **MS. DALEY:** And from what source were you
21 expecting the challenge?

22 **MR. ABELL:** Mr. Landry, Jr. himself, his
23 counsel.

24 **MS. DALEY:** Sir, let me ask this question.
25 I take it that the CAS did not, in fact, open an

1 investigation to try and determine whether children
2 presently using the park were at risk from this individual?

3 MR. ABELL: Not that I recall, no.

4 MS. DALEY: All right.

5 Now, was this group think problem that you
6 described to us, sir, was that typical of how the team
7 worked in this period of time -- that would be '93 through
8 '96?

9 MR. ABELL: Was it typical?

10 MS. DALEY: Yes.

11 MR. ABELL: No.

12 MS. DALEY: In fact, it was atypical?

13 MR. ABELL: Correct.

14 MS. DALEY: Looking back on how that issue
15 was dealt with -- in other words, first the decision to
16 communicate with the employer and then, essentially, the
17 not doing so. Looking at that circumstance, would you
18 agree that that is another example of what might not have
19 been your agency's finest hour?

20 MR. ABELL: That's on the record and I will
21 repeat it again; yes.

22 THE COMMISSIONER: So can we move on now?

23 MS. DALEY: Yes.

24 If I could just ask you briefly about the
25 standards that you would have been -- sorry, the standards

1 that you were familiar with in 1985? I'm now taking you to
2 the prior time that your agency had knowledge of Landry,
3 Jr.

4 I know you weren't there at the time, but by
5 the standards of that time would you have expected a child
6 protection worker to see Mr. Landry, Jr., a parks employee
7 with access to children, as a person who is a potential
8 risk to children?

9 **MR. ABELL:** Can you try that again, please?

10 **MS. DALEY:** I'm asking you to just sort of
11 think about your level of knowledge and the standards that
12 you were familiar with in the mid-1980s, 1985. Right?

13 **MR. ABELL:** Yes.

14 **MS. DALEY:** So putting yourself in that
15 mindset.

16 **MR. ABELL:** Yes.

17 **MS. DALEY:** Would you expect a child
18 protection worker to see that the Landry, Jr. situation,
19 which was a park worker with access to children in a park
20 and a clubhouse, would you expect a child protection worker
21 to see that situation as potentially one of risk to
22 children using the park?

23 **MR. ABELL:** To see it as a potential risk to
24 children in the park, yes.

25 **MS. DALEY:** All right.

1 Now, let me move to another topic and the
2 framework is still your agency's relationship with the
3 Cornwall Police. Now what I want to talk to you about is
4 the disclosure of the Silmsler information to you by Mr.
5 Dunlop.

6 **MR. ABELL:** Yes.

7 **MS. DALEY:** That general topic. And I want
8 to just -- I want some help from you as to your evidence
9 here.

10 Would we be right to say that the situation
11 that Silmsler presented, which was abuse by a priest in the
12 past but the priest is still active in the community as a
13 pastor, is that a scenario that in your mind was clearly
14 reportable to the Children's Aid Society?

15 **MR. ABELL:** In our view, it was reportable,
16 yes.

17 **MS. DALEY:** Indeed, what you told us is that
18 Officer Dunlop -- who was not even a sex abuse investigator
19 -- he saw it as reportable and that's why he reported to
20 you?

21 **MR. ABELL:** Yes.

22 **MS. DALEY:** Now, did you ever in your
23 dealings with either Officer Derochie or Chief Shaver or
24 anyone else, say to them, "Listen, you folks made a mistake
25 here. You ought to have reported this to us directly when

1 you first heard these allegations from Mr. Silmser"?

2 **MR. ABELL:** Well, no, I didn't put it in
3 those terms. In the early discussions, this topic
4 obviously was key and our views were made known, that this
5 was something that interested us and we would have liked to
6 have heard. That's -- I know it's in my notes. It's on
7 record.

8 **MS. DALEY:** What you make clear is that you
9 felt it should have been reported?

10 **MR. ABELL:** It was -- we saw it as
11 reportable, yes.

12 **MS. DALEY:** And it follows then that the
13 officers who were dealing with it directly ought to have
14 reported it -- the investigating officer?

15 **MR. ABELL:** Well, in our view it was
16 reportable, which means that it would have required a
17 police officer to report it.

18 **MS. DALEY:** All right. Now, was it your
19 conclusion that the failure of that officer or her senior
20 officer to report was due to a lack of comprehension or was
21 it due to something else? Did you form any impression
22 about that based on your dealings with the police?

23 **MR. ABELL:** My impression was, and is, that
24 there was a lack of clarity about it. I believe I've said
25 earlier there may -- that lack of clarity may well have

1 extended to our own organization. I don't think it's
2 entirely with the police. It's a relationship issue; it's
3 an awareness issue.

4 The whole matter of what to report when is
5 one that never goes away. It's always one that people
6 struggle with, and so I saw it in that light, that it was
7 just -- it was a lack of clarity.

8 **MS. DALEY:** Sir, there's some reference in a
9 conversation you have with Staff Sergeant Derochie about
10 that topic, but did you ever do follow-up work with the CPS
11 in terms of bringing clarity to the issue?

12 **MR. ABELL:** Well, I commented to -- I
13 remember commenting to Chief Shaver right from the start
14 and possibly to Staff Sergeant Derochie that we needed a
15 protocol. Really what I was saying is we need to bring
16 clarity to this. I know that Mr. Carrière did quite a bit
17 of work with, I think, Staff Sergeant Luc Brunet on this.
18 We didn't formalize anything in terms of a written
19 document, but certainly there've been, always, ongoing
20 discussions between ourselves and the police force about
21 how we relate together, how we communicate. So that would
22 have been part and parcel of that, as I say, ongoing
23 discussion.

24 **MS. DALEY:** Do you see in hindsight that
25 there could have been some benefit in a formal document

1 being generated about this ---

2 MR. ABELL: There could have been.

3 MS. DALEY: --- so that all officers would
4 know their position?

5 MR. ABELL: Yeah, there could have been. I
6 -- you know where I was aware, in preparing for this and
7 looking at the record, that was one area that we hadn't
8 pursued in terms of a formal document.

9 MS. DALEY: Now one other thing that you
10 touched upon in your testimony in-chief was that you came
11 to understand that some discipline was brought to bear on
12 Officer Dunlop as a result of his disclosure to you, at
13 least that was your understanding of what occurred.

14 MR. ABELL: Yes.

15 MS. DALEY: I'm assuming you would have been
16 concerned about that, because the message that that would
17 give to police officers is that, potentially, they're in
18 jeopardy if they disclose to the CAS.

19 Was that a concern?

20 MR. ABELL: Yes, it was a concern.

21 MS. DALEY: Did you directly raise that
22 concern with anyone at the Cornwall Police Service?

23 MR. ABELL: That I can't recall.

24 MS. DALEY: All right.

25 I have just one or two quick questions for

1 you about the other individuals that Silmsler disclosed had
2 abused him.

3 Starting with Ken Séguin, just a ---

4 **MR. ABELL:** Yes.

5 **MS. DALEY:** --- quick question about that.

6 If I understood your testimony in-chief
7 correctly, there was a threshold issue about the Séguin
8 allegation and the threshold issue for you, as the CAS, was
9 whether he was in fact acting as a probation officer with
10 people under the age of 16 or not.

11 Was that the threshold issue?

12 **MR. ABELL:** Yes.

13 **MS. DALEY:** And the question I need to ask
14 you is, could that question not have been very easily
15 resolved by asking -- asking the right institution?

16 The reason I'm asking is because, if he's
17 working with people over 16, regardless of what Mr. Silmsler
18 says, you wouldn't have a basis to investigate; correct?

19 **MR. ABELL:** Well he -- he -- I mean, yes, in
20 terms of his formal work assignments. If he was dealing
21 with individuals over 16, we wouldn't have had a mandate
22 role. But I mean he may have had other roles in his life.
23 Let's say he was a Cub Leader, something like that, I mean.
24 So our interest would not have stopped until we were quite
25 sure that there weren't any of those other kinds of roles

1 active with him.

2 MS. DALEY: I'm just wondering this, sir:
3 Did anyone in your team ask the threshold question, in
4 other words, confirm that he was not working with people
5 under 16?

6 MR. ABELL: Well, we did. You may remember
7 there was a record of me talking to my Program Supervisor
8 from the Ministry and that was the specific purpose of me
9 saying to her, "Can you find out which Ministry and where
10 he is?" I mean, we had this debate; the Commissioner got
11 involved and ---

12 MS. DALEY: Was there an answer that you
13 ever received?

14 MR. ABELL: I can't recall if there was.

15 MS. DALEY: All right.

16 THE COMMISSIONER: Yes, there was.

17 MR. ABELL: Was there?

18 THE COMMISSIONER: That he wasn't in your
19 Ministry ---

20 MR. ABELL: Okay.

21 THE COMMISSIONER: --- in that Ministry of -
22 - where Phase 1 and youth were there. I think that was
23 shown that he was a probation officer for people over 16 --
24 -

25 MS. DALEY: All right. So ---

1 **THE COMMISSIONER:** --- at that time.

2 **MS. DALEY:** At the time Mr. Silmser is
3 speaking to you?

4 **THE COMMISSIONER:** Exactly.

5 **MR. ABELL:** Correct.

6 **MS. DALEY:** All right.

7 Sir, you made mention, a moment or two ago,
8 that sometimes there was lack of clarity within your own
9 Agency about whether it should take an interest in historic
10 sexual abuse allegations.

11 **MR. ABELL:** Yes. I would say that's fair.

12 **MS. DALEY:** And can you just very quickly
13 look at Exhibit 2467? I don't know if you have that handy?
14 And I think from memory, just looking at the first two
15 pages will be sufficient.

16 Remember that there's a publication ban that
17 attaches to this, so we're not going to mention the name of
18 the person who came to your Agency. But I just want you to
19 take a moment, refresh your mind about that allegation,
20 sir.

21 **MR. ABELL:** Okay.

22 **MS. DALEY:** That's a person who came to
23 Intake. And if you look at the second page of the document
24 -- Bates 326, Madam Clerk.

25 Your Intake Worker, Fran Lepage has dealt

1 with him. Please just scroll down to the bottom of that
2 page, Madam Clerk? That's fine.

3 And if I could just paraphrase; this
4 individual says he's abused by a group home worker, in a
5 sexual way, and that he is coming to the Agency because, in
6 the more recent past, eight years ago, he's -- he believes
7 that this person is working in childcare in Brampton.
8 Right? That's the circumstances being presented here?

9 **MR. ABELL:** M'hm.

10 **MS. DALEY:** And the action taken by the
11 worker is that he report the matter to the police and that
12 the Agency is to have no further role in it.

13 Do you see that, sir?

14 **MR. ABELL:** And the Agency -- sorry?

15 **MS. DALEY:** If -- Madam Clerk, if you just
16 go back to the first page, if you look at the bottom of
17 that form -- that's right:

18 "Reason for Termination: No further
19 service required."

20 **MR. ABELL:** I see that.

21 **MS. DALEY:** All right.

22 So that person's allegation is -- is not
23 taken up by the CAS and he's told to go to the police.

24 Is that the outcome?

25 **MR. ABELL:** It appears so. That's what I

1 see, yes.

2 **MS. DALEY:** Notwithstanding that he is
3 making -- notwithstanding that he is making an allegation
4 of sexual abuse about a person who may in fact be working
5 with children at the present time, albeit not in Cornwall?

6 **MR. ABELL:** I'm having a bit of trouble with
7 -- sorry, I'm just having a bit of trouble with the
8 handwriting. I just need to find the piece that refers to
9 his working -- okay, I see. "Knowledge of other boys in
10 the group home also being abused."

11 Can you take me to the piece that speaks to
12 the current risk that I think you're talking to?

13 **MS. DALEY:** It's on page two of the
14 document, sir ---

15 **MR. ABELL:** Yeah.

16 **MS. DALEY:** --- in Miss Lepage's
17 handwriting, and ---

18 **MR. ABELL:** First or second paragraph?

19 **MS. DALEY:** The person says that
20 approximately eight years ago, he met Brian Dufour in
21 Brampton. He told him that he was operating a group home
22 for boys. And then he goes on to say that the wife of
23 Brian Dufour is Marianne Gratton-Dufour.

24 And then he gives Ms. Lepage a reason as to
25 why he's making the disclosure. That's where I'm looking.

1 **MR. ABELL:** Okay:

2 "He told him he was operating a group
3 home for boys in Brampton, Ontario."

4 Okay.

5 **MS. DALEY:** Right.

6 **MR. ABELL:** Thank you.

7 **MS. DALEY:** Do you know if Marianne Gratton
8 was a former employee of the CAS here?

9 **MR. ABELL:** Yes, she was.

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

11 She's the spouse of the person against whom
12 this allegation is being made?

13 **MR. ABELL:** Didn't know that.

14 **MS. DALEY:** In any event, the disposition is
15 that he's referred to the police and that no further work
16 is going to be undertaken.

17 **MR. ABELL:** Okay.

18 **MR. CHISHOLM:** Well, if I could -- perhaps
19 Miss Daley can bring the witness to Bates page 334?

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

21 Sorry, I -- in fairness it does appear that
22 there's a phone call made.

23 **MR. ABELL:** I see that.

24 **MS. DALEY:** All right.

25 So -- but in terms -- thank you, counsel.

1 But in terms of initiating an investigation
2 or providing further service to this individual, he's not
3 necessarily seen as within the mandate?

4 **MR. ABELL:** No. In this case it's, I would
5 presume, seen as an historical matter that, you know, we
6 take one small action ---

7 **MS. DALEY:** All right.

8 **MR. ABELL:** --- in terms of an alert to
9 another organization.

10 **MS. DALEY:** I guess -- I'm trying to look at
11 this from a public perspective to understand ---

12 **MR. ABELL:** Okay.

13 **MS. DALEY:** --- what matters you devote
14 resources to and which ones you don't, and I'm going to ask
15 the question in this fashion.

16 Is it possible that when the allegations
17 from Mr. Silmsler come forward that your agency focuses the
18 attention that it does on Father Charles because that was
19 Perry Dunlop's focus?

20 **MR. ABELL:** If I get your question, it
21 wasn't a matter of the person or personality who brings it
22 forward. It's a matter of looking at every allegation that
23 comes to the organization saying -- someone sitting down
24 saying, "What is it? What have we got?" and "What's the
25 appropriate action?"

1 **MS. DALEY:** All right. So you would
2 disagree that the fact that Mr. Dunlop was personally very
3 concerned about this played a role in the decisions that
4 you made?

5 **MR. ABELL:** That it was -- our decision was
6 particular to the fact that it was Perry Dunlop who brought
7 in the information? Is that what you're asking?

8 **MS. DALEY:** Yes.

9 **MR. ABELL:** No.

10 **MS. DALEY:** Is it possible that his
11 perspective on just how serious the Father Charles
12 situation potentially was, was a factor in the decisions
13 that you made?

14 **MR. ABELL:** It wasn't discounted. I mean,
15 it wasn't as if we kind of blanked our mind out.
16 Obviously, I was very aware of Perry's views, but that
17 wasn't -- that didn't factor into our decision.

18 I mean, I can put my mind back to the
19 discussion I had with my colleagues and, I mean, that
20 wasn't -- that didn't form part of our decision-making.

21 **MS. DALEY:** I take it it's clear you were
22 personally aware that Mr. -- Officer Dunlop was facing
23 consequences at his employment as a result of the step he'd
24 taken?

25 **MR. ABELL:** Yes.

1 **MS. DALEY:** You knew about that?

2 **MR. ABELL:** He'd made that very plain to me.

3 **MS. DALEY:** All right. And was it any part
4 of your thinking that he would be vindicated if indeed you
5 found children at risk from Father Charles or were able to
6 verify Silmsner's allegation?

7 **MR. ABELL:** No. Our job is to protect
8 children ---

9 **MS. DALEY:** All right.

10 **MR. ABELL:** --- not the police officers or
11 anybody else.

12 **MS. DALEY:** Just a few questions about your
13 relationship with him and the end of that relationship -- I
14 take it that the end of the friendship.

15 Did it hurt your relationship with him that
16 he had suggested the existence of a pedophile ring in this
17 town but not, in fact, provided information to support that
18 suggestion?

19 Did that -- was that part of what hurt your
20 relationship with him?

21 **MR. ABELL:** No.

22 **MS. DALEY:** All right. Did you ever
23 confront Perry Dunlop, in your personal or professional
24 capacity, about the fact he had alleged a ring of
25 pedophiles but not come forward to provide further

1 information about that to your workers who were on Project
2 Blue?

3 MR. ABELL: No, I didn't.

4 MS. DALEY: Again -- maybe you will disagree
5 with this -- but it struck me that for a person to make an
6 allegation of that sort to a CAS officer is like yelling
7 fire in a crowded theatre because obviously if there is a
8 pedophile ring that's operating in this town, the CAS would
9 be concerned about. Is that not fair?

10 MR. ABELL: Yes, the CAS is concerned about
11 allegations of a pedophile ring, yes.

12 MS. DALEY: But I take it you don't have a
13 recollection that the CAS became concerned that Officer
14 Dunlop had alleged a ring but not provided any supporting
15 information?

16 MR. ABELL: Well, it was -- again, it's in
17 the record of a number of Project Blue -- or a few Project
18 Blue team meetings that that matter was of interest to us.
19 It was therefore a concern that we get all the information
20 we could from Mr. Dunlop, and efforts were made to sit down
21 with him and pursue that.

22 MS. DALEY: Did you draw any conclusion or
23 inference from the fact that he ultimately did not provide
24 further information?

25 MR. ABELL: Did I draw inference? I don't

1 believe so.

2 MS. DALEY: All right.

3 MR. ABELL: I assumed on the face of it he
4 either didn't have information or didn't want to share what
5 he had with us. It seemed to me the logical conclusion.

6 MS. DALEY: All right.

7 The final area I want to speak to you about
8 is a different topic. And that's how the CAS, while you
9 were in charge, how it dealt with allegations of abuse by
10 former children in care when the allegation is directed
11 either to a group home worker or to a foster parent.
12 That's what I want to talk about next. All right?

13 And, obviously, the example that we have to
14 deal with of that circumstance would be Jeannette Antoine.
15 All right?

16 Now, we know that you had a bit of
17 information going into your role as Executive Director
18 about that whole situation. It's information you got from
19 Mr. O'Brien in the transition period?

20 MR. ABELL: That's correct.

21 MS. DALEY: I take it you understood from
22 that, that at least on a superficial level, Ms. Antoine had
23 some credibility because what she said was there was
24 physical abuse in the Second Street Group Home and what you
25 knew was that the staff, in fact, of that group home had

1 been terminated for that very reason.

2 So, at least on the face of it, her
3 allegation had credibility with you, did it not, sir?

4 **MR. ABELL:** The allegation of physical
5 mistreatment certainly had credibility, yes.

6 **MS. DALEY:** All right. Now, I'm wondering
7 this, sir.

8 Did Mr. O'Brien ever share with you his
9 opinion, which he shared with us, that Mr. Keough was
10 likely not a perpetrator of any sexual abuse? Did he share
11 that view with you?

12 **MR. ABELL:** I don't recall that he did in
13 our discussions, no.

14 **MS. DALEY:** All right. Did you hear that
15 view expressed by anyone else? This is back in the
16 transition period when you're taking over your role.

17 **MR. ABELL:** No, I don't believe so.

18 **MS. DALEY:** All right.

19 Again, I don't know if perhaps you can put
20 on your clinical hat when you think about this question,
21 but it's obvious that starting in 1989 before you became
22 Executive Director and for the ensuing three or four years,
23 Ms. Antoine comes back again and again to the CAS with this
24 allegation of abuse. That's ---

25 **MR. ABELL:** She maintained it and persisted

1 in that view, yes.

2 MS. DALEY: And she came to you on October
3 of 1991; you had the restaurant meeting. She came to you
4 again in July of '92 I think by telephone. You gave some
5 evidence that perhaps Carleen Cummings played a role here.
6 And so again and again she comes back.

7 Did you not take from that that this was a
8 person who needed something further, perhaps from you as
9 the head of the CAS or from the institution itself?

10 MR. ABELL: Needed something further?

11 MS. DALEY: Yes.

12 MR. ABELL: She had, as I recall, two major
13 issues that preoccupied her. One was the issue of Bryan
14 Keough and the other was pursuing, you know, pursuing these
15 allegations that she had made.

16 She -- as to what we would provide at the
17 time, frankly, I mean we were working with her as a mom, we
18 had staff in there. I know our staff put a lot of work and
19 effort and time to support her in her mother role and to
20 work with her through that situation.

21 As to her history and her issue around her
22 allegations of abuse, I'm not sure. I mean, was she
23 talking about something like counselling support or what do
24 you have in mind?

25 MS. DALEY: Anything of that nature.

1 **MR. ABELL:** I don't recall that coming up
2 between myself and Ms. Antoine in discussions. Certainly
3 that's something that I think I would have presumed that
4 she was either getting or our staff were open to. I mean,
5 we had -- a lot of our clients we did counsel or provide
6 access to counselling for, so I think I probably presumed
7 that piece was addressed by my staff.

8 **MS. DALEY:** Was she looking for the CAS to
9 validate what she said her experience was at that group
10 home? Is that what she needed?

11 **MR. ABELL:** I don't remember her expressing
12 it, but certainly I think that's a fair way of putting what
13 was behind, her wanting to have this thing addressed.

14 **MS. DALEY:** As the head of the organization
15 though, were you in a position where for liability purposes
16 or other purposes, you just couldn't provide that?

17 **MR. ABELL:** Well, I certainly wasn't in a
18 position to say, "Yes, Jeannette, you were sexually
19 molested as you alleged by Mr. Keough".

20 **MS. DALEY:** Right.

21 **MR. ABELL:** I mean, I didn't know. And we
22 don't know to this point the fact of that. And this would
23 -- I discussed earlier, making apologies, quite frankly
24 from a corporate point of view, has got its risks.

25 I tried to be, and was, humane with her.

1 She's a -- I mean, I knew her family history. I mean I
2 knew her own history. It's a sad one. It's an unhappy
3 one. I mean, it'd touch anybody reading it but beyond
4 that, no, I can't think of offerings that were made on my
5 part.

6 **MS. DALEY:** Just a few questions for you
7 about Ms. Fitzpatrick's role with Ms. Antoine in November
8 of 1993. I take it you didn't know about it at the time it
9 happened?

10 **MR. ABELL:** No.

11 **MS. DALEY:** But she disclosed it to you
12 roughly two years later in a conversation that happened in
13 August of '95?

14 **MR. ABELL:** Yes.

15 **MS. DALEY:** Now, the interview that occurred
16 at the police station involving Officer Sebalj, was it
17 outside of normal channels for Ms. Fitzpatrick to involve
18 herself in that?

19 **MR. ABELL:** Well, the -- as I understand
20 what happened, yes, that was outside the channels. Yes.

21 **MS. DALEY:** In your view as the head of the
22 organization, was it inappropriate for her to have involved
23 herself in that interview?

24 **MR. ABELL:** Yes.

25 **MS. DALEY:** And I take it you have a limited

1 recollection of the conversation you had with her in August
2 of 1995. Did you tell her that you thought it was outside
3 of proper channels for that interview to have happened?

4 **MR. ABELL:** I don't recall hearing about the
5 specifics of how that interview took place, quite frankly,
6 and I do have only a dim recollection of that exchange with
7 her. My recollection such as it is, is that she wanted to
8 go through individuals who were in the home, staff who were
9 in the home, raise her concerns. That's all that I recall
10 and when I look at my notes, I mean, that's what she
11 presented to me.

12 So I, quite frankly, although I can't stand
13 behind my memory on this, Ms. Daley, I don't think the
14 sketch was made for me of, frankly, the background or the
15 setting up of that interview. If she did, I didn't record
16 it and certainly don't remember it. I'm dubious that it
17 was provided to me.

18 **MS. DALEY:** Obviously, there were no tapes
19 of that interview in Ms. Fitzpatrick's possession?

20 **MR. ABELL:** No, it was an exchange in my
21 office.

22 **MS. DALEY:** All right. Now, I looked at the
23 exhibit, which was your notes of the Fitzpatrick
24 conversation in August of '95, and it's Exhibit 2450, if
25 you wish to have a look. I don't need to look there

1 myself, but that's the number of it if you want to see it.
2 Was she not trying to say to you essentially that Ms.
3 Antoine was alleging abuse in the group home, was naming
4 names of other children who were potentially also abused
5 and also referred to the foster parents, the Reynens that
6 they've been involved with prior. Do you recall Ms.
7 Fitzpatrick presenting to you, "Listen, we have a former
8 ward who alleges sexual abuse in a foster home and abuse in
9 a group home"? Was that the gist of what she was telling
10 you?

11 **MR. ABELL:** I'm presuming it was, but again,
12 quite frankly, I don't have a clear recollection. It was a
13 very jumbled, quick, poof, sort of popped on my lap.

14 **MS. DALEY:** Did you ---

15 **MR. ABELL:** And I never -- what I recall --
16 what I do recall was walking away thinking, "Well, where
17 does that fit?" Like, I mean, we had the information. We
18 knew that the allegations had been made. We knew about the
19 group home obviously.

20 I remember talking to Mr. Carriere and
21 saying, "What do you think this is -- what do you think
22 this is about?" I don't think either of us, frankly,
23 clearly understood.

24 **MS. DALEY:** So there was nothing that was
25 put before you that you saw requiring any further action on

1 your part or on the part of anyone ---

2 MR. ABELL: I don't recall -- I would have.
3 No, I don't -- you know I didn't come away thinking, "Oh,
4 okay, this is a fresh twist." I mean I just don't recall
5 anything of that nature. When I first was shown those
6 notes, I think I said this earlier, I couldn't even
7 remember -- I didn't -- I looked at the notes, I know
8 they're mine, but can't remember.

9 MS. DALEY: All right. That's fine, sir.

10 Now, the next thing then that happens is
11 that Ms. Antoine speaks to Mr. Greenwell and suddenly in
12 January of '94, her story is also in the press together
13 with the Silmsler story; correct?

14 MR. ABELL: Correct.

15 MS. DALEY: And again, I'm speaking to you
16 from a community interest perspective, can you appreciate
17 that that looks like an agency that would prefer to sweep
18 things under the rug until the matter goes public? Can you
19 see how the community might see that?

20 MR. ABELL: Well, I can see how the
21 community would see that.

22 MS. DALEY: Given that Ms. Antoine ---

23 MR. ABELL: We're talking about, obviously,
24 a matter that's painful to Ms. Antoine and also to the
25 organization. So I mean it's not something that anybody

1 has any pride in.

2 I mean if the implication is that the Agency
3 should have been public about this before, I would frankly
4 question that in terms of what that would do to anybody who
5 is involved in that situation, particularly the youth who
6 were in there and the residents. I mean ---

7 **MS. DALEY:** Apart from making a public
8 statement about it before Ms. Antoine does, does it not
9 suggest that perhaps more work at the Agency level with her
10 should have occurred?

11 In other words, she shouldn't have just been
12 left to come back every year and be told, "Go talk to the
13 police"?

14 **MR. ABELL:** Well, it was -- simply, it was
15 the police that had to deal with it. I mean that was a
16 historical allegation of criminal conduct that she was
17 making; that's where it had to go. I mean that was our
18 policy. That remains our policy.

19 Yes, it needs to be done in a humane way and
20 with an eye to, "are there any other supports that would be
21 appropriate?" But that's the message.

22 I mean, to not have said to her go and talk
23 to the police, we'd be standing here and you'd be telling
24 me well, were you trying to shovel it under the carpet by
25 not having anybody else know about it.

1 **MS. DALEY:** I guess the proposition I'm
2 putting to you is that there's two streams of activity that
3 can happen at the same time. There can be a police
4 investigation of a police matter. There can also be the
5 Agency doing something for a former ward. Those are not
6 mutually exclusive; are they?

7 **MR. ABELL:** Which -- well, and as I've
8 explained earlier, that's -- those streams were going. I
9 mean, she was receiving services from the Society.

10 **MS. DALEY:** Did you ever consider whether,
11 given that she kept coming back, that perhaps you could
12 have picked up the phone and spoken to your counterpart at
13 Cornwall Police Service about this lady and her
14 allegations, if they were that troubling to you?

15 **MR. ABELL:** Well, I had communication with
16 Cornwall City Police about Ms. Antoine's allegations not
17 when the first investigation was done, but certainly on the
18 second one.

19 I mean, we were an active player in terms of
20 here's our information; here's our staff; we're openly
21 accessible to you, you know ---

22 **MS. DALEY:** I understand all of that, sir.
23 That happens after she's gone public?

24 **MR. ABELL:** Yes.

25 **MS. DALEY:** All right. So what the public

1 sees is she goes public. The Cornwall police then
2 investigate.

3 MR. ABELL: M'hm.

4 MS. DALEY: Right?

5 MR. ABELL: Yes.

6 MS. DALEY: That is the sequence of events.

7 MR. ABELL: M'hm.

8 MS. DALEY: I guess all I was driving at is
9 she was in your Agency talking about this several times
10 before she went public. At that point, did it ever occur
11 to you that perhaps you could pick up the phone and say,
12 "Listen, there could be a police issue here. This lady
13 keeps coming back. She may or may not be coming to you,
14 but I want you to do something."

15 MR. ABELL: I could have spoken to the
16 Cornwall City Police on this matter. I could have, yes.

17 MS. DALEY: I'm assuming it didn't -- it
18 wasn't under consideration at the time?

19 MR. ABELL: Well, I didn't consider it;
20 therefore, I didn't do it. So -- but I could have, yes.

21 MS. DALEY: That's fine.

22 Now, let's just then move to the end of this
23 situation and we're now in November of 1994 and Shawn White
24 is sharing with you the result of his actual investigation.

25 MR. ABELL: Yes.

1 **MS. DALEY:** If I could put you in that
2 timeframe. Now, can I have your candid view on this?

3 Do you think that the CPS should have been
4 more detailed in what they presented to you at that time
5 concerning their findings?

6 **MR. ABELL:** I hope my views have been candid
7 up till now. I want to assure you they have been.

8 **MS. DALEY:** You haven't been asked that
9 question though.

10 Do you feel in all candour that Officer
11 White or the senior officer with him -- I've forgotten whom
12 -- should have been more candid and told you, "Listen, what
13 we saw here suggests a systemic problem in your Agency back
14 in the '70s, perhaps early '80s, involving foster parents
15 and childcare workers"?

16 **MR. ABELL:** I wish they had given me more
17 information. I wish they'd given me the information that
18 they had, and I wish I had been more active in saying, "I
19 really want everything you got."

20 **MS. DALEY:** I take it if you had had more
21 detailed information, you could have reached out to some of
22 those former wards.

23 **MR. ABELL:** Yes.

24 **MS. DALEY:** And at least offered assistance
25 of the sort you spoke about yesterday?

1 **MR. ABELL:** We would have -- I believe we
2 would have had the basis and the incentive to do so.

3 **MS. DALEY:** And you would have seen fit to
4 do that notwithstanding the absence of any criminal
5 charges?

6 **MR. ABELL:** Yes.

7 **MS. DALEY:** And would you have also seen fit
8 to, apart from reaching out to the former wards, could you
9 also have done something internal to satisfy yourself that
10 such circumstances never occurred again?

11 **MR. ABELL:** Well, yes. The issue of
12 mistreatment and abuse of children in the care of the
13 Society in fact had been and continues to be a major issue.

14 This would have been another wake-up call
15 but, quite frankly, by the time this matter was reported to
16 us by the Cornwall City Police, we were heavily, heavily
17 involved in reviewing all of our procedures, all of the
18 training, all the screening, orientation, monitoring,
19 support and development of foster parents, to the point
20 that our agency has become one that other CAS's come to
21 talk to.

22 So, trust me, this has been a major
23 preoccupation of our Society and we have the results to
24 show that we've been effective in this area.

25 **MS. DALEY:** I understand that, but surely if

1 you'd had more information of the sort that Shawn White
2 had, perhaps it would have even assisted that process?

3 **MR. ABELL:** Yes, yes.

4 **MS. DALEY:** Now, you also were -- you also
5 acknowledged that you should have been more proactive too
6 and probed for more information?

7 **MR. ABELL:** Yes.

8 **MS. DALEY:** And I take it there was enough
9 that was disclosed to you that -- there was enough that was
10 disclosed to you to prompt some concerns?

11 **MR. ABELL:** Yes.

12 **MS. DALEY:** Now, did the agency at this
13 point-in-time, late 1994, have any policies or operating
14 procedures to internally investigate allegations of that
15 sort?

16 **MR. ABELL:** Sure.

17 **MS. DALEY:** But they weren't engaged?

18 **MR. ABELL:** M'hm ---

19 **MS. DALEY:** As a result of what you heard
20 from Mr. ---

21 **MR. ABELL:** Well, no. No, I made some
22 enquiries of -- again, it's on the record -- but no, in
23 terms of launching what we'll call an internal
24 investigation, no.

25 **MS. DALEY:** So just a few final questions

1 dealing with the media around this and I'm going to ask you
2 some questions about the website as well. All right?

3 As we all know, Ms. Antoine and Mr.
4 Silmsen's allegation are presented to the public in 1994
5 and, without going into great depth or detail, you're aware
6 that essentially what the community is being told is that
7 there has been institutional cover-up by several Cornwall
8 institutions and that becomes the story of the year?

9 MR. ABELL: That's the theme, yes.

10 MS. DALEY: That's the theme.

11 Now, that had an unfortunate impact on your
12 ability to deal with Mr. Silmsen; correct?

13 MR. ABELL: It was a factor in his dealing
14 with us, yes.

15 MS. DALEY: I think that ---

16 MR. ABELL: I believe it was, yeah.

17 MS. DALEY: I think you told us you believe
18 that Mr. Silmsen perhaps expresses this in conversations
19 directly with you. He decides that he's not going to come
20 forward and give you more information either about Seguin
21 or Lalonde or anything else because he distrusts
22 institutions as a result of the disclosure of his
23 statement. You understood that was his perspective?

24 MR. ABELL: I don't recall Mr. Silmsen
25 expressing it that directly, that clearly. Certainly, I

1 believe -- I understood that was implied.

2 MS. DALEY: All right.

3 MR. ABELL: As we've discussed, I know he
4 was devastated by the release of that statement.

5 MS. DALEY: As anyone would be, right?

6 MR. ABELL: Correct, yeah.

7 MS. DALEY: Now, did you do -- take any
8 steps to determine if his statement had been disclosed to
9 the press by anyone at the Children's Aid Society?

10 MR. ABELL: M'hm, at that -- yes. At that
11 time, we were still tightly in-house, I thought, and I
12 talked to our team and as a matter of form said to them,
13 has anybody done this, and I was assured, no, and I had
14 absolute confidence in the people that were on that team.

15 MS. DALEY: We've heard some evidence here
16 that a person not on that team named Pat Garrahan had a
17 personal relationship with Mr. Greenwell. Did that ever
18 come to light?

19 MR. ABELL: I think I heard that buzz at
20 some point later; actually quite a bit later I think. I
21 think I only heard that in preparation for the Inquiry.

22 MS. DALEY: I take it that's not something
23 that was on the table at the time for anyone to look into?

24 MR. ABELL: No.

25 MS. DALEY: All right.

1 Just some questions then about the -- if I
2 can call it the website era, the time when we're now in the
3 late 1990s, maybe the year 2000, and you're aware that
4 there's a website operated by a fellow named Mr. Nadeau
5 that deals with allegations of widespread sexual abuse?

6 **MR. ABELL:** I was aware of it, yes.

7 **MS. DALEY:** All right. And in general
8 terms, you understand that website alleged a ring or a clan
9 of pedophiles in this town and named some -- named many
10 names including names of high ranking people?

11 **MR. ABELL:** I knew that because of public
12 reports about it. I never looked at it.

13 **MS. DALEY:** All right. But you -- the
14 website itself was being reported on at other media?

15 **MR. ABELL:** Correct.

16 **MS. DALEY:** So that's -- you learned that
17 that was the content of this website?

18 **MR. ABELL:** Yes.

19 **MS. DALEY:** And I take it in part, that's
20 why I asked you the questions earlier on about Officer
21 Dunlop and his allegation of a ring or a clan, was it not
22 the same sort of content but in a more elaborate way that
23 found itself onto the website?

24 **MR. ABELL:** I don't know. I didn't look at
25 it.

1 **MS. DALEY:** All right.

2 **MR. ABELL:** The position I took -- I had
3 some people speak to me about it, people enquiring whether
4 I'd looked at it, and I recall my position being if
5 somebody in the community has information about this matter
6 or about children being at risk, they know how to reach me.
7 They know how to reach all of our staff. I mean, if I was
8 going to receive information, that was how I wanted it, not
9 on a website.

10 **MS. DALEY:** Do I take it that no one ever
11 did come forward and make reports of the sort found on the
12 website to the CAS directly?

13 **MR. ABELL:** Well, I don't know specifically
14 what was on the website, so I don't know.

15 **MS. DALEY:** That's a fair question.
16 Did -- I take it though, notwithstanding the
17 website, these people weren't rushing to your agency to
18 allege abuse?

19 **MR. ABELL:** M'hm, well ---

20 **MS. DALEY:** If you recall?

21 **MR. ABELL:** Well, just let me think.
22 The closest I think I can come to that to
23 respond to you is that Mr. Nadeau dropped by my office one
24 day to say -- he wasn't speaking about the website but he
25 came to say that there was about to be some public

1 announcement about a number of people being abused in our
2 community and that some of them were alleging that the
3 Society hadn't responded back in their time, words to that
4 effect, and he was giving me this heads-up and I said fine,
5 thank you, and off he went.

6 MS. DALEY: All right.

7 MR. ABELL: That's as close as I ever got to
8 the website. I had one meeting with Mr. Nadeau; and it
9 wasn't a meeting.

10 MS. DALEY: Did you feel that anything that
11 was posted on that website was detrimental to your agency's
12 role or mandate or reputation?

13 MR. ABELL: I never looked at the website.

14 MS. DALEY: Based on what you learned about
15 it, you never came to that conclusion?

16 MR. ABELL: I was told that there were some
17 uncomplimentary remarks or whatever on the website about
18 our Society. Somebody had an issue with our Society or me,
19 I expected them to come to me or the Society.

20 MS. DALEY: Did you consider whether there
21 was any public statement that could have been made by your
22 organization at this point-in-time when matters have come
23 to this extent, to allay the fears of a pedophile clan?

24 MR. ABELL: To allay the fears of a
25 pedophile ---

1 **MS. DALEY:** To allay the fears that might be

2 ---

3 **MR. ABELL:** Oh, of that ---

4 **MS. DALEY:** --- engendered by that website
5 and its content?

6 **MR. ABELL:** All right, sorry.

7 Well, a quick answer, yes we could have, but
8 didn't consider it. We did our job. We made some public
9 announcements about our job, did the business as we saw it
10 appropriate.

11 **MS. DALEY:** Sorry.

12 **MR. ABELL:** We did our business as we saw it
13 appropriate in a public sense.

14 **MS. DALEY:** All right. Just let me collect
15 my thoughts. I have just a few more questions I might ask
16 you.

17 In terms of, again, going back to the bigger
18 theme, which was your interaction with the Cornwall Police
19 through this whole piece, do you -- and this is a
20 recommendation type of question, sir, not a factual
21 question -- do you believe that it could be useful for
22 specific recommendations to be made concerning how the CAS
23 and the police will interact when they are in a perceived
24 situation of conflict. Here's what I mean by that.

25 Either your agency is dealing with alleged

1 abuse by someone associated with the police or members of
2 your Agency might potentially be involved in the criminal
3 abuse of children which would be of interest to the
4 Cornwall Police. So that's what I mean by a perceived
5 conflict. Thinking back, do you think that it would be
6 helpful in this community for there to be some specific
7 recommendation about how those two agencies operate when a
8 perceived conflict of those sorts arise?

9 **MR. ABELL:** I don't see it as a conflict in
10 roles. I mean if the police have information that a member
11 of Children's Aid Society staff may be involved in an
12 illegal or criminal matter, then their job is to do their
13 job and vice versa. If, you know, the gist of your comment
14 is -- we work together closely in the normal course of
15 events and how can people who do that actually look at each
16 other, well, I mean I look to professionalism and the
17 accountability structures that are in place for all of us.
18 Might there be a role for a third party? There might be,
19 but I guess the informed perspective of not involving
20 people that have had direct formal relationships -- in
21 other words, if a police officer has worked closely with a
22 social worker and is asked to investigate that person, that
23 obviously raises issues. But to me, roles and duties are
24 clear and need to be done in a professional, accountable
25 way and when it's done at the end of the day, you can put

1 it out on the table for everybody to look at and say here's
2 what I did.

3 **MS. DALEY:** You don't think it's worthwhile
4 to consider going to a third-party institution in
5 circumstances such as that?

6 **MR. ABELL:** Well, I said that that could
7 well be one of the considerations, a third-party
8 involvement. On a routine basis, you know, to me there
9 would need to be some circumstance that says this needs to
10 go out. Other than that I think people need to do their
11 jobs.

12 **MS. DALEY:** Would it be at all helpful for
13 this Inquiry to articulate circumstances in which perhaps a
14 third-party institution should be involved?

15 **MR. ABELL:** It may be. I don't know.

16 **MS. DALEY:** Just one question for you about
17 the informing of employers in situations where you have
18 suspected abuse.

19 **MR. ABELL:** Yes.

20 **MS. DALEY:** You said that it's a balancing
21 act between three interests, privacy, the so-called
22 perpetrator's interests and the safety of the children. Do
23 you recall talking about that?

24 **MR. ABELL:** With the safety of children as
25 the priority. Yes.

1 **MS. DALEY:** That's what I would have thought
2 you'd say. Is it not clear in that situation that the
3 safety of children should be the primary objective and
4 others should yield to it?

5 **MR. ABELL:** Yes.

6 **MS. DALEY:** And do you think it would be
7 helpful for that to be clarified in the form of a
8 recommendation by this Inquiry?

9 **MR. ABELL:** It would, and I can tell you in
10 talking to the current Director of the Children's Aid
11 Society here in Cornwall, that that matter has already been
12 referred to our provincial association and there is a
13 working group that's been formed at the provincial level to
14 do some work on that, because it's -- obviously it's an
15 issue that cuts well beyond Cornwall to all of our
16 societies.

17 **MS. DALEY:** Can you just help me just a
18 little bit on this, and a ballpark estimate would be fine,
19 but in situations where you have suspected but not yet
20 verified abuse by someone who is in a position where he has
21 contact with children, can you give us any idea the
22 frequency with which the Agency would be reporting that to
23 the employer?

24 **MR. ABELL:** Again, Mr. Carriere would be
25 your best source on this. I'm going to take a stab and say

1 we might do it four to six times a year, if that. But
2 that's a stab.

3 **MS. DALEY:** Would that represent a
4 relatively small percentage of the number of allegations
5 you have? On a percentage basis ---

6 **MR. ABELL:** Yes, that would not be a huge --
7 that's not a large number in terms of what we go through in
8 investigations.

9 **MS. DALEY:** Well under 50 percent?

10 **MR. ABELL:** Oh, way under. Yes, way under.

11 **MS. DALEY:** Those are my questions for you.

12 Thank you, sir.

13 **MR. ABELL:** Thank you.

14 **THE COMMISSIONER:** Thank you.

15 Mr. Horn?

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **THE COMMISSIONER:** Good morning, Mr. Horn.

18 **MR. HORN:** Good morning.

19 I've given notice on a document, Number
20 715256, in which there will be an alleged victim and
21 there's no moniker as yet and so I'm just wondering how we
22 could deal with this, by way of a moniker or just refrain
23 from using her name.

24 **THE COMMISSIONER:** Well, there would be a
25 ban on publication of the name, if it is an alleged victim.

1 **MR. ENGELMANN:** It's a statement by an
2 alleged victim. She does not have a moniker. I suggest
3 that it's a name that will need to be spoken to in camera.
4 I'm prepared to do that. If Mr. Horn feels that the
5 person's name needs to be used, then we should assign a
6 moniker but if he can do his questions without that and I'm
7 sure Mr. Abell can answer without that, then there wouldn't
8 be a need.

9 **THE COMMISSIONER:** What do you think, Mr.
10 Horn? Moniker or not?

11 **MR. HORN:** If I give a copy of the document
12 to Mr. Abell ---

13 **THE COMMISSIONER:** No. Well, do we have it
14 Madam Clerk? Did you give it to the clerk? Give it to the
15 clerk and then we'll ---

16 **MR. HORN:** It's a document -- 715387. Here.

17 **THE COMMISSIONER:** No, just a minute. So
18 we'll make it an exhibit to start off with. And the minute
19 we're going to say it's a statement of somebody ---

20 **MR. ENGELMANN:** Yes. If Mr. Horn is using
21 documents that he's given late notice on -- he's aware of
22 his requirement to provide copies et cetera. I just don't
23 know if this is a late notice document or not.

24 **MR. HORN:** Yes, it is. I've made a number
25 of copies. I've given it to everyone.

1 **THE COMMISSIONER:** Okay. Just a second.

2 Can I see the document now?

3 Hold it now. There are two here.

4 **MR. HORN:** It's the same one. One is the
5 written one and the other, it's a typed version.

6 **THE COMMISSIONER:** Well, we're going to give
7 this person a moniker then. What's the next moniker? C-
8 87.

9 Exhibit 2483 will be a handwritten interview
10 report of C-87 taken on the 21st of April, 1994 and 2483A
11 will be the typed copy of the interview report.

12 --- **EXHIBIT NO./PIÈCE NO. P-2483:**

13 (715387) Handwritten interview report
14 of C-87 - 21 Apr 94

15 --- **EXHIBIT NO./PIÈCE NO. P-2483A:**

16 (715256) Typed interview report of C-87
17 - 21 Apr 94

18 **THE COMMISSIONER:** Okay. So now you can
19 give that to the witness.

20 You don't have a copy for the witness? We
21 don't have a copy for the witness?

22 **MR. HORN:** I have another. I've got another
23 copy here.

24 **THE COMMISSIONER:** Do you have one?

25 **MR. HORN:** Yes.

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

2 HORN:

3 MR. HORN: My name is Frank Horn, sir. And
4 I represent the Coalition for Action, a citizens group and
5 we've agitated for this public Inquiry and I'd like to ask
6 you a few questions.

7 First of all, you became Executive Director
8 in -- was it in 1990?

9 MR. ABELL: That's correct.

10 MR. HORN: Okay. And it wasn't too long
11 afterward when you had a meeting with Jeannette Antoine.
12 You'd spoken to her a number of times and had a meeting
13 with her at a restaurant?

14 MR. ABELL: Yes. Sub -- yeah.

15 MR. HORN: Okay. And now, what I'm
16 interested in is this; during this time that you were
17 talking to her and getting some ideas about what she was
18 concerned about, did you go to any of the people that
19 worked with you who were around back in 1976?

20 MR. ABELL: Yes, I recall speaking to my
21 staff, yes.

22 MR. HORN: The ones that would know quite a
23 bit about what happened back then?

24 MR. ABELL: That's correct.

25 MR. HORN: Did they fill you in on all

1 pertinent information regarding who were the wards that
2 were staying at that home -- the group home?

3 **MR. ABELL:** Well, we had our file records
4 and also, as I say, I spoke to some of our long-serving
5 staff to plumb their memories about the situation back
6 then, yes.

7 **MR. HORN:** Do you remember whether you
8 checked out Ms. Antoine's name? Did you find out that she
9 was there at that time?

10 **MR. ABELL:** Yes.

11 **MR. HORN:** What about the monikered one, C-
12 87; do you know anything about her?

13 **MR. ABELL:** It doesn't ring a bell as I look
14 at it.

15 **MR. HORN:** Pardon?

16 **MR. ABELL:** It doesn't bring it back to me,
17 the name as I look at it.

18 **MR. HORN:** Now, I understand that the
19 interview that took place -- there was a couple of
20 interviews with her. I understand that the city also or
21 the Cornwall police also interviewed this individual?

22 **MR. ABELL:** Ms. ---

23 **MR. CHISHOLM:** Just for the purposes of
24 clarity, he's speaking of C-87 not Ms. Antoine.

25 **MR. HORN:** C-87, yes. C-87. And they were

1 done not too far apart in time. I understand that they
2 were done in 1994. That would be a couple of years after
3 meeting with her.

4 And she was interviewed by the Cornwall
5 Police Services and also the OPP around -- I think it was
6 in April the OPP interviewed her and Shawn White
7 interviewed her in May of 1994.

8 **MR. ABELL:** Just for my own clarity, so
9 we're talking about this individual ---

10 **MR. HORN:** Yes, this individual, yes.

11 **MR. ABELL:** --- not Ms. Antoine?

12 **MR. HORN:** Yes. Not Ms. Antoine but this
13 individual, yes.

14 **MR. ABELL:** Okay. Thank you. I've got it.
15 Okay.

16 **MR. HORN:** And now did you get a chance to
17 read the ---

18 **MR. ABELL:** No, I haven't read it.

19 **THE COMMISSIONER:** Take the time. Do you
20 have the typed portion?

21 **MR. ABELL:** I have the typed portion.

22 **THE COMMISSIONER:** Yeah, have him ---

23 **MR. HORN:** You take a look at it.

24 **MR. ABELL:** Thank you.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **THE COMMISSIONER:** Yes, sir, we need a
2 publication ban.

3 **MR. CALLAGHAN:** Mr. Commissioner, my friend
4 referred to Shawn White and I'm not sure where that comes
5 in this document.

6 **MR. HORN:** It's not in this document. There
7 was another -- there were two interviews of this particular
8 individual; one was done by Cornwall Police Services and
9 one by OPP. It's not referred to in this document.

10 **MR. ABELL:** Thank you.

11 **THE COMMISSIONER:** For the record, this
12 interview report is done by Detective Constables C.R.
13 McDonald and Fagan.

14 **MR. HORN:** That's right.

15 **THE COMMISSIONER:** Okay.

16 **MR. HORN:** And some of the revelations that
17 are in there are quite interesting and they're quite
18 shocking, but it involves Ken Seguin to a certain extent.

19 And what was interesting about it is that he
20 was going to the group home and taking the young person out
21 of the group home, according to the statement. Did you
22 ever know anything about that?

23 **MR. ABELL:** No.

24 **MR. HORN:** Do you think that any of your
25 staff would have known about this? Particularly the fact

1 that at that time she was there when the group home was
2 functioning and then it was closed-up. She would have been
3 one of the individuals that would have been involved in
4 that incident.

5 **THE COMMISSIONER:** Wait a minute.

6 It doesn't necessarily say that the group
7 home -- she was there when the group home was closed. It
8 says:

9 "I was sent to a group home on Second
10 Street West, it was run by Children's
11 Aid. Things didn't go well there. I
12 was there for five or six months. When
13 I left the group home, I returned to
14 live with my mother."

15 **MR. HORN:** Yes. From what I understand, the
16 group home was open basically about a year early in 1976
17 and it was closed at the end of that year. And the
18 problems took place around halfway through it and then they
19 basically phased it out for the last six months.

20 **THE COMMISSIONER:** Right.

21 **MR. HORN:** So she would have been there
22 during -- some time for about six to five months at that
23 time.

24 **THE COMMISSIONER:** Five to six months, but
25 it could have been when Mr. -- it starts with an L ---

1 **MR. HORN:** Rabey?

2 **THE COMMISSIONER:** Rabey, R, yeah. And it
3 could have been -- there could have been some overlap; we
4 don't know.

5 **MR. HORN:** Okay. And the -- Mr. Tenger and
6 Mr. Keough only were there for two months and that would
7 have been around I think it was March and April of that
8 year. Okay.

9 But the information that is in this shows
10 that there was a -- Mr. Seguin was going to the group home
11 and taking this girl out.

12 **MR. ABELL:** That's the report, yes.

13 **MR. HORN:** Okay. Is there a record that has
14 to be kept every time somebody's taken out by somebody?

15 **MR. ABELL:** Was there a record then? I
16 don't know if a log was kept.

17 **MR. HORN:** But it -- is there a log kept on
18 the coming and going on anybody and who it is that would
19 take out that individual?

20 **MR. ABELL:** That would be usual practice but
21 I don't know back in the mid-'70s if that was done.

22 **MR. HORN:** That's the usual practice now?

23 **MR. ABELL:** Yes.

24 **MR. HORN:** But back then, do you think it
25 would have been the same?

1 **MR. ABELL:** I mean it's likely, Mr. Horn,
2 but I really don't know.

3 **MR. HORN:** Do you know if the log book was
4 ever found?

5 **MR. ABELL:** No, there were number of
6 references in the material I read from the police -- second
7 police investigation, number of references by staff and the
8 young people to log books. And all of the staff said that
9 they hadn't seen the log books for a long time. As far as
10 I know, they were never located. Those would be daily
11 event books and that's the kind of thing I believe you're
12 talking about.

13 **MR. HORN:** Okay. Did you know Mr. Seguin at
14 any time?

15 **MR. ABELL:** No.

16 **MR. HORN:** Did you know -- was he mentioned
17 to you by Jeannette Antoine when you were speaking to her?

18 **MR. ABELL:** No, not -- well, not that I
19 recall.

20 **MR. HORN:** And -- so anything that you read
21 here is something that's totally new to you?

22 **MR. ABELL:** I believe so.

23 **MR. HORN:** Okay. Now, it's quite
24 disturbing; isn't it though, the information that was
25 contained -- is contained in this document?

1 **MR. ABELL:** Yes.

2 **MR. HORN:** And if you had been, let's say,
3 director or somebody involved back then, what would you
4 have done in such a situation if you had been the director
5 at that time?

6 **MR. CHISHOLM:** If my friend can give some
7 context in terms of what was he done -- what did he do and
8 presented with a set of facts.

9 **MR. HORN:** All right. If you had known the
10 -- not only the circumstances but the allegations that are
11 here. If you had found out about it back then, 1976, you'd
12 been involved in it, what would the Society have done in
13 that situation?

14 **MR. ABELL:** Well, if the Society knew all
15 this, obviously the -- I say obviously, he would have had
16 no access to her.

17 **MR. HORN:** Pardon?

18 **MR. ABELL:** He would have had no access to
19 her.

20 **MR. HORN:** Is that -- is that --

21 **THE COMMISSIONER:** Mr. Seguin would not have
22 access to ---

23 **MR. HORN:** Okay. That would have been the
24 end of the story? Would you have gone to the police?

25 **MR. ABELL:** Yes. These are criminal matters

1 that are being alleged, I mean, this -- you'd first and
2 foremost make sure the child was safe which would mean, I
3 believe, seeing that she had no contact with Mr. Seguin and
4 that the matter then would be promptly be put in the hands
5 of the police.

6 MR. HORN: So if these allegations are true,
7 then from 1976 to 1989 when you became involved and when --
8 during that whole period of time, this situation never came
9 to light with the Society as far as ---

10 MR. ABELL: As far as I'm aware, no.

11 (SHORT PAUSE/COURTE PAUSE)

12 MR. HORN: Do you know the -- a little bit
13 about the circumstances involved -- about how the group
14 home was closed up?

15 MR. ABELL: Yes.

16 MR. HORN: Okay. Did you know that when
17 these allegations came forth about the Antoine situation
18 and the other kids that ran away and came back later ---

19 MR. ABELL: Yes.

20 MR. HORN: --- were you aware that they had
21 been -- they were basically taken and split up?

22 MR. ABELL: Do you mean for interview
23 purposes or for placement?

24 MR. HORN: No. They were no longer at that
25 group home but they were sent elsewhere?

1 **MR. ABELL:** That was my understanding, that
2 they were put into other placements, yes.

3 **MR. HORN:** And that Ms. Antoine was sent to
4 Minden?

5 **MR. ABELL:** I recall that in her record,
6 yes.

7 **MR. HORN:** And she was there, and she never
8 really had any contact with the other group -- members of
9 the group home. Is that possible that that happened?

10 **MR. ABELL:** Is it possible? Yes.

11 **MR. HORN:** And do you know if that's what
12 happened? They were basically separated for good, except
13 her and her sister?

14 **MR. CHISHOLM:** I'm not sure how this witness
15 can state what Miss Antoine had -- and to her contact with
16 other children.

17 **THE COMMISSIONER:** What's the relevance?
18 What point are you trying to make here?

19 **MR. HORN:** What I'm trying to make -- what I
20 want to find out is, this is the situation that was -- that
21 happened at the group home which was under the supervision
22 of the Cornwall Children's Aid Society here.

23 **THE COMMISSIONER:** Yes?

24 **MR. HORN:** And for 13 years, these sorts of
25 things were kept under the lid. They never came out until

1 back -- until around when you came on the scene.

2 **THE COMMISSIONER:** Whoa -- until 1990 -- for
3 this witness, it's 1994 when she was interviewed, okay? So
4 what's the point?

5 **MR. HORN:** The point is, this was not known.
6 When it was found out, what steps were taken by anybody?
7 Did the -- now that you've seen the interview, were you
8 ever contacted? You were the Director of the CAS at the
9 time, 1994.

10 **MR. CHISHOLM:** In terms of when Mr. Abell
11 has seen this interview report, his evidence may very well
12 be that it is in preparation for this forum.

13 **THE COMMISSIONER:** Mr. -- Sir, did you --
14 when did you see this? Just now, right?

15 **MR. ABELL:** I believe just now. I'm
16 wondering if it was one of the interviews -- no, it
17 wouldn't have been in Shawn White's -- no, this is it, this
18 is it.

19 **THE COMMISSIONER:** He only found out today.

20 **MR. HORN:** Okay. So the OPP never informed
21 you about this?

22 **MR. ABELL:** No. No.

23 **MR. HORN:** Was there ever any disclosure to
24 you regarding these allegations to anybody that you know at
25 the Children's Aid Society?

1 **THE COMMISSIONER:** Mr. Horn. In 1994, Mr.
2 Seguin was no longer with us.

3 **MR. HORN:** I understand.

4 **THE COMMISSIONER:** So for the police, what
5 would they have reported to Children's Aid Society? That
6 this person alleges that when she was under the age of 16
7 she was abused by Ken Seguin? Fact is he's dead, so I
8 don't know that the police would take very much interest in
9 that.

10 **MR. HORN:** Well, I think the police would be
11 interested in historical sexual abuse that took place back
12 in the 1970s and it was never disclosed, and how come that
13 was never disclosed.

14 **THE COMMISSIONER:** Well, you can ask that of
15 the OPP. This gentleman is saying he just found out about
16 it now.

17 Mr. Engelmann?

18 **MR. ENGELMANN:** Yeah, I think - if I could
19 just interject for a minute?

20 I think one of the things Mr. Abell has said
21 though is he was interested in knowing about ---

22 **THE COMMISSIONER:** Oh, absolutely.

23 **MR. ENGELMANN:** --- abuse of former wards in
24 the event that the agency would then try and contact them -
25 --

1 **THE COMMISSIONER:** Yes.

2 **MR. ENGELMANN:** --- with respect to possibly
3 counseling or support ---

4 **THE COMMISSIONER:** That's all there.

5 **MR. ENGELMANN:** --- given their parental
6 status. So I just want ---

7 **THE COMMISSIONER:** No, that's fair. Thank
8 you very much. But the fact of the matter is, he wasn't
9 advised about C-87.

10 **MR. HORN:** So you were never advised
11 regarding this situation, this individual, and what had
12 happened to her?

13 **MR. ABELL:** I've just read this now for the
14 first time.

15 **MR. HORN:** Now, initially when -- you and
16 Perry were -- and your wife and Helen were good friends
17 with -- socializing together. Initially when Perry came to
18 you, you were very supportive, weren't you?

19 **MR. ABELL:** I was very supportive of ---

20 **MR. HORN:** What he was doing?

21 **MR. ABELL:** I believed he had done the right
22 thing in coming to me with that information and so in that
23 respect, yes, I was supportive of his disclosure.

24 **MR. HORN:** And when he -- when you got a
25 copy of the settlement documents and you went back to speak

1 to your staff, were you given any legal advice regarding
2 what to do?

3 **MR. CHISHOLM:** In terms of the evidence, I
4 believe the evidence was the copy of Mr. Silmser's
5 statement that was given to Mr. Abell and he took that
6 document back to his staff.

7 **THE COMMISSIONER:** Right, but is that what -
8 - he might be going back to another spot.

9 **MR. HORN:** Okay, that's -- when you went to
10 his house and got the document, you brought it back to your
11 staff?

12 **THE COMMISSIONER:** Okay, well for the
13 record, it is not the settlement documents. It is a
14 statement that was given to the Cornwall Police by Mr.
15 Silmser.

16 **MR. HORN:** Okay.

17 That statement, when you got it, you brought
18 it back to your staff. At that point, you got a legal
19 opinion?

20 **MR. ABELL:** Yes. Our lawyer was part of the
21 -- I consulted with her and she became part of our team.

22 **THE COMMISSIONER:** Well, it depends, now.
23 "Legal opinion" is a term of -- what do you mean by legal
24 opinion?

25 **MR. HORN:** I -- just ---

1 **THE COMMISSIONER:** Did you get her thoughts

2 ---

3 **MR. HORN:** Did you get advice, legal advice,
4 regarding whether Mr. Dunlop did the right thing? That he
5 was obligated to do it? He was duty bound to do it?

6 **MR. ABELL:** I don't recall putting that
7 directly to our counsel. Her -- the opinion I sought from
8 her was whether she felt we had sufficient grounds within
9 that statement to open up an investigation based on current
10 -- possibility of current risk. I -- that was the scope I
11 spoke to her about.

12 **MR. HORN:** Okay.

13 Can we take a look at Exhibit 2322?

14 **THE COMMISSIONER:** Why don't we do that
15 after the break?

16 Thank you.

17 **THE REGISTRAR:** Order. All rise. À
18 l'ordre. Veuillez vous lever.

19 This hearing will resume at 11:20 a.m.

20 --- Upon recessing at 11:05 a.m. /

21 L'audience est suspendue à 11h05

22 --- Upon resuming at 11:24 a.m./

23 L'audience est reprise à 11h24

24 **THE REGISTRAR:** Order. All rise. À
25 l'ordre. Veuillez vous lever.

1 This hearing is now resumed. Please be
2 seated. Veuillez vous asseoir.

3 **RICHARD ABELL, Resumed/Sous le même serment:**

4 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. HORN**
5 **(cont'd/suite):**

6 **THE COMMISSIONER:** Thank you.

7 Mr. Horn?

8 **MR. HORN:** Yes. Exhibit 2322. It's notes -
9 - I believe it's your notes of meetings that took place
10 soon after you got the document.

11 **THE COMMISSIONER:** What page?

12 **MR. HORN:** It would be 068.

13 **THE COMMISSIONER:** Okay.

14 **MR. ABELL:** I have it.

15 **MR. HORN:** Okay. At 1:15 p.m.

16 Now, I'll just read the part that deals with
17 some of the discussions. You were having a meeting with
18 Elizabeth MacLennan, who was the lawyer for the Society?

19 **MR. ABELL:** She was there with others, yes.

20 **MR. HORN:** Pardon?

21 **MR. ABELL:** There were other people there.

22 **MR. HORN:** Okay. And it says:

23 "Very likely there was other abuse of
24 Silmser not mentioned in the statement,
25 likely other victims, good possibility

1 of present abuse of children by Charlie
2 MacDonald."

3 **MR. ABELL:** Yes.

4 **MR. HORN:** Okay, and then it says,
5 "Elizabeth..." -- what does it say there? What's that word,
6 do you know?

7 **MR. ABELL:** "Anyone reading the statement
8 has a duty to report..."
9 Yes.

10 **MR. HORN:** "Anyone reading the statement
11 has a duty to report under the CFSA."

12 **MR. ABELL:** "CFSA," correct. That's our
13 Act, yes.

14 **MR. HORN:** Okay. So that was what you
15 learned then that Dunlop did the right thing?

16 **MR. ABELL:** She was -- you're correct.
17 She's supporting the view that he made the right call.

18 **MR. HORN:** Okay. Did you communicate that
19 to him?

20 **THE COMMISSIONER:** Communicate that to whom?

21 **MR. HORN:** The fact that he did the right
22 thing. Did you tell Perry that he did the right thing?

23 **MR. ABELL:** Not as a consequence of this.
24 I, in our very initial discussion on the Sunday, I said to
25 him this falls in duty to report. That's appropriate and

1 the right thing.

2 MR. HORN: Okay. It was ---

3 MR. ABELL: I can't remember if I used those
4 terms, but certainly that was the gist.

5 MR. HORN: Did you tell him that it was the
6 -- not the right thing to do morally and ethically, but was
7 it the legal thing that he had to do?

8 MR. ABELL: Yeah, he was well within the
9 bounds of -- I don't know if I told him -- actually, I
10 probably did. I probably did tell him, "Yeah, this falls
11 within the duty to report."

12 MR. HORN: Okay, because I have another
13 statement that I'd like you to turn to. It's a statement
14 by Constable Perry Dunlop, but it's in 2000, April the 7th.
15 The Document Number is 117548.

16 MR. ENGELMANN: It's Exhibit 579, sir.

17 THE COMMISSIONER: Five-seven-nine (579)?
18 We need a new book. Thank you. And what page, sir?

19 MR. HORN: It would be 588.

20 THE COMMISSIONER: Five-eight-eight (588).
21 I don't think so. Try again?

22 MR. HORN: On the Will Say, page 8 of 110.

23 THE COMMISSIONER: Okay, if you look at the
24 bottom, sir.

25 Okay, we're there.

1 **MR. HORN:** Yes, in paragraph 16, it says:
2 "I first brought this matter to the
3 attention of Mr. Richard Abell,
4 Executive Director of the Children's
5 Aid Society, on September 25th, 1993,
6 the day after I photocopied the witness
7 statements. In my conversations with
8 Mr. Abell, I told him about this case
9 and my fear for the children who were
10 presently at risk. The following day,
11 on September 26th, 1993, I had a
12 conversation with Mr. Abell and brought
13 a copy of the victim's statement over
14 to Mr. Abell's home. Mr. Abell viewed
15 the statement, but I retained the
16 possession of it. Mr. Abell informed
17 me that I, as a police officer, had a
18 duty to report any suspected child
19 abuse. I was aware of the statutory
20 duty to report already and believed
21 that I was acting in accordance with my
22 duty to report when I first approached
23 Mr. Abell."

24 **MR. ABELL:** Yeah.

25 **MR. HORN:** Is that the gist of your

1 conversation with Mr. Dunlop?

2 MR. ABELL: That's fair, yes.

3 MR. HORN: So you basically told him that
4 what he did was legally -- he was obligated to do it?

5 MR. ABELL: Correct.

6 MR. HORN: Okay. So when later on he was
7 disciplined before the disciplinary hearings, did you go
8 and testify on his behalf?

9 THE COMMISSIONER: Whoa, whoa. Mr. Dunlop
10 was never disciplined. Mr. Dunlop was brought up on
11 charges for which he was totally, completely exonerated.

12 MR. HORN: Okay. He was exonerated, yes.
13 Did you testify at his hearing?

14 MR. ABELL: No.

15 MR. HORN: Were you asked to do so?

16 THE COMMISSIONER: Bon, now we ---

17 MR. ENGELMANN: Sir, we know the hearing
18 never went ahead.

19 THE COMMISSIONER: Right.

20 MR. ENGELMANN: There was an application for
21 a stay saying that it couldn't proceed because of his
22 obligation to CFSA; there were no witnesses.

23 MR. HORN: Were you asked to testify ---

24 MR. ABELL: No.

25 MR. HORN: --- by Mr. Dunlop?

1 **MR. ABELL:** No.

2 **MR. HORN:** Would you have testified if they
3 did have a hearing?

4 **THE COMMISSIONER:** No. "Would you," "would
5 I" -- those are all hypotheticals. What is the point, Mr.
6 Horn?

7 **MR. HORN:** The point is Mr. Dunlop was told
8 that he did the right thing.

9 **THE COMMISSIONER:** Yes.

10 **MR. HORN:** Your ---

11 **THE COMMISSIONER:** No, no, you're talking to
12 me now. Never mind the witness.

13 **MR. HORN:** Okay. He was told that he did
14 the right thing by Mr. Abell.

15 **THE COMMISSIONER:** Yes.

16 **MR. HORN:** He followed Mr. Abell's
17 instructions and he did exactly what he was told to do. He
18 was ---

19 **THE COMMISSIONER:** Not quite. Not quite.
20 Not quite. Now, on this issue, he provided a statement to
21 Mr. Abell, yes, okay.

22 Remember, later on he was told, "Come on in
23 and tell us about all the rest" and that didn't happen. We
24 are not going there.

25 **MR. HORN:** We are not going there. We are

1 just dealing with this one issue.

2 THE COMMISSIONER: Yes.

3 MR. HORN: At the time when this occurred,
4 as far as Mr. Dunlop was concerned, you agreed with what he
5 did. He did -- what he did was legally the appropriate
6 thing for him to do.

7 THE COMMISSIONER: Yes, Mr. Horn. Now get
8 on with it.

9 MR. HORN: All right. So ---

10 THE COMMISSIONER: What is the point?

11 MR. HORN: --- you gave him the impression
12 then that you were going to back him up all the way? Is
13 that what -- the impression you gave him?

14 MR. ABELL: The impression that I was going
15 to back him up all the way?

16 MR. HORN: Yeah, if he's going to be
17 disciplined, he knew he was going to -- were you aware that
18 he knew he was going to be disciplined or he was going to
19 get in trouble because of what he was doing?

20 MR. ABELL: He knew there was a possibility
21 of that, yes, a good possibility.

22 THE COMMISSIONER: He was never disciplined.
23 Do not put it that way please, sir.

24 MR. HORN: Okay. When he did this, was he
25 aware that there was going to be a lot of problems because

1 of it? Did he tell you that?

2 **THE COMMISSIONER:** He's saved by that.

3 Did he tell you that he was expecting
4 problems?

5 **MR. ABELL:** Yes.

6 **MR. HORN:** He told you that. Okay. So did
7 you give him -- did you say to him that, "I'm going to back
8 you up, if you get into trouble, I'm going to be with you"?

9 **MR. ABELL:** No.

10 **MR. HORN:** You never said that?

11 **MR. ABELL:** No.

12 **MR. HORN:** Okay, so is that the beginning of
13 the parting of the ways at that point?

14 **MR. ABELL:** No.

15 **MR. HORN:** Pardon?

16 **MR. ABELL:** No.

17 **MR. CHISHOLM:** Just in terms of the timeline
18 is; what's the beginning? When Mr. Abell did not say
19 something?

20 **MR. HORN:** No, when the -- your relationship
21 starts falling apart.

22 **MR. CHISHOLM:** I'm mindful of the timeline
23 that Mr. Horn is putting to the witness.

24 **THE COMMISSIONER:** Mr. Horn was putting to
25 the witness that when he gave -- when Mr. Dunlop gave Mr.

1 Abell the statement, was that the beginning of the parting
2 of the ways? To which the answer was "no"; that wasn't the
3 beginning.

4 MR. HORN: Okay. So when you -- you didn't
5 tell him that you were going to back him up when he'd get
6 in trouble?

7 MR. ABELL: I didn't make that statement to
8 him, no.

9 MR. HORN: Did you give him the impression
10 you were going to do that not only as a friend but the fact
11 that you had talked to him about it and you gave him the
12 impression that he was doing the right thing?

13 MR. ABELL: I'm sorry, I'm not getting it.

14 MR. HORN: Okay, as a friend -- you were
15 friends, right, at the time?

16 MR. ABELL: Yes.

17 MR. HORN: Okay, and not only was he your
18 friend but he was now going to be facing -- possibly facing
19 big problems because of what he has done?

20 MR. ABELL: Possible.

21 MR. HORN: Okay. And so as a friend and
22 also the fact that you spoke to him about it and he knew he
23 was going to face it, did you feel that you should have
24 backed him up?

25 MR. ABELL: My position is, as you have

1 stated, that I felt he did the correct thing in coming to
2 me. This business of backing up, the only thing I can say
3 to you, Mr. Horn, is that if at any point someone said to
4 me, and it was said to me, "Do you think that Mr. Dunlop
5 did the right thing in coming to you with his concerns?" I
6 would say and I did say, "yes". You know, I've never been
7 -- I've never hidden that. I've never -- I've always been
8 very clear about that, that he did the right thing. I'm on
9 record as saying that.

10 **MR. HORN:** Okay. Can we look at an article
11 in the newspaper, number 115941?

12 **THE COMMISSIONER:** Exhibit 2484 is a
13 newspaper clipping by Sean Fine, the 7/22 -- I don't know
14 if there's another date on this thing. Do you know what
15 year this was, Mr. Horn?

16 **MS. DALEY:** I'll just try to help. My
17 information would suggest that's July 22nd, 1995.

18 **THE COMMISSIONER:** Nineteen ninety-five
19 (1995), thank you.

20 **MS. DALEY:** Yes.

21 **--- EXHIBIT NO./PIÈCE No. P-2484:**

22 (115941) News clipping "Reported claim of
23 sex abuse, policeman under fire" - 22 Jul,
24 95

25 **MR. HORN:** July 22nd?

1 Okay. If you could go to page 4 of the
2 article, it's near the end of the article. I'm just
3 wondering if you agree with the story that was written
4 about the situation.

5 **THE COMMISSIONER:** I don't know where --
6 page 4 is the last page of this thing.

7 **MR. HORN:** Page 4, 4 of 4.

8 **THE COMMISSIONER:** Yes, okay. Where?

9 **MR. HORN:** It says: "Good God, Mr. Abell
10 of the CAS, when told of the
11 Commission's argument about children in
12 general, it's disheartening it's an arm
13 of government. Mr. Abell said that
14 when the events involving Constable
15 Dunlop occurred, he decided to read
16 Unholy Orders."

17 **THE COMMISSIONER:** Where are you reading
18 this from? "Oh, good God", right. Okay. I got it.

19 **MR. HORN:** "Unholy Orders, a book by
20 journalist Michael Harris about Canada's
21 most notorious cover-up of sexual abuse of
22 children at Mount Cashel's boys home in St.
23 John's. The book hit him hard in describing
24 how church, police, social services and
25 government officials came together to

1 suppress the truth about Mount Cashel. I
2 remember reading that thinking holy smokes,
3 surely that's just in Newfoundland and 15 to
4 20 years ago.' But he said that he has come
5 to see as a result of events in Cornwall and
6 elsewhere in Canada that Harris draws out in
7 that book is real and is still going on and
8 is in no way confined to Newfoundland.

9 'That was a kind of an awakening for me.'"

10 Is that basically what you felt at that time
11 and after reading that book?

12 **MR. ABELL:** Yes.

13 **MR. HORN:** Pardon?

14 **MR. ABELL:** Yes.

15 **MR. HORN:** That there was a -- that a lot of
16 the circumstances that took place at Mount Cashel was also
17 something that you were facing here?

18 **MR. ABELL:** Well, no, I wasn't.

19 **THE COMMISSIONER:** He's asking you whether
20 or not you agree there was a cover-up here.

21 Be careful with Mr. Horn; you've got to --
22 that's what he's asking you.

23 **MR. ABELL:** What I believe I was speaking to
24 there was this was the first time I had really read
25 extensively, and this wasn't the only piece of work, about

1 these very high profile, large scale abuse situations.

2 I've mentioned in earlier testimony the
3 matter up at Alfred, the St. Georges scandal in Kingston,
4 and really what I believe I was saying there, Mr. Horn, was
5 that it really was an education for me to take a look at
6 the unfolding of those -- we'll call them scandals --and
7 how those forces were at play.

8 I don't believe I intended, or if I said in
9 here that that was in some way a statement that this
10 necessarily was exactly what was going on in Cornwall. I
11 was reading background material.

12 **MR. HORN:** Okay. There are just a couple of
13 other issues that I want to raise with you.

14 Can we look at the letter that was written
15 to your Agency from the Cornwall Police?

16 **THE COMMISSIONER:** Sure. Which exhibit?

17 **MR. HORN:** I don't have the exhibit number.
18 It's 739042.

19 **MS. DALEY:** Seventeen seventy (1770).

20 **MR. HORN:** Seventeen (17)?

21 **MS. DALEY:** Seventeen seventy (1770).

22 **THE COMMISSIONER:** One seven seven zero
23 (1770) is a letter to Richard Abell dated January 12th, 1994
24 from Joseph St. Denis, Deputy Chief.

25 Okay. Your question is?

1 **MR. HORN:** Yes. This is in regards to the
2 police investigation that was going to be done by the
3 Cornwall Police of the Jeannette Antoine/Lapointe matter.

4 **MR. ABELL:** Yes.

5 **MR. HORN:** Okay. Now, after receiving that
6 letter, how did you feel about the final words?

7 "This letter is simply to advise you
8 that interviews will be conducted with
9 various people, not excluding personnel
10 from your agency."

11 Would you think that might be a little bit
12 of a warning to you that they're going to go through your
13 department and they're going to start questioning you about
14 what happened at the Second Street Group Home?

15 **MR. ABELL:** I saw it as a professional
16 courtesy.

17 **MR. HORN:** And you might have been concerned
18 that they might uncover something there? Were you
19 concerned about the -- what they might uncover because of
20 what happened at the Second Street Group Home?

21 **MR. ABELL:** No.

22 **MR. HORN:** Pardon?

23 **MR. ABELL:** No. Our -- if you recall, Mr.
24 Horn, our suggestion to Ms. Antoine throughout had been,
25 "speak to the police", obviously with the understanding

1 that if the police responded, that that would involve our
2 organization and its history.

3 **MR. HORN:** So you weren't concerned that
4 they might go and interview certain people that were still
5 with the agency of things that happened back in 1976 and
6 that nothing ever came out for 13 years?

7 **MR. ABELL:** My expectation was that they
8 would do their job. They would be thorough and look into
9 the matter.

10 **MR. HORN:** Is it because that maybe you felt
11 it wasn't under your watch but it was under somebody else's
12 watch when these things occurred?

13 **MR. ABELL:** You'll have to help me.

14 **MR. HORN:** You weren't the Executive
15 Director in 1976; somebody else was?

16 **MR. ABELL:** Correct.

17 **MR. HORN:** So really you're not involved in
18 this except coming in afterwards?

19 **MR. ABELL:** So no skin off my nose.

20 Not at all, Mr. Horn. I care about the
21 reputation of the agency. We're 100 years old, and
22 something that reflects badly in our organization from year
23 one is something that I took to heart.

24 **MR. HORN:** Can I have you go to another
25 newspaper article, 728396? I don't know what the exhibit

1 number is -- 728396. There's not an exhibit?

2 MR. ENGELMANN: It needs to be entered.

3 (SHORT PAUSE/COURTE PAUSE)

4 THE COMMISSIONER: Thank you. Exhibit
5 Number 2485 is a newspaper clipping of Friday, January 28th,
6 1994 in the Standard Freeholder.

7 --- EXHIBIT NO./PIECE NO. P-2485:

8 (728396) Standard Freeholder news clipping
9 "CAS, police agree clearer guidelines
10 needed" - 28 Jan, 94

11 MR. HORN: Okay. In this article, it would
12 seem that you're backing off from your initial position
13 that police officers are duty-bound, that they have to
14 report. You're more or less backing away from that
15 position in this article. There is also -- on the third
16 column at the bottom, right there:

17 "There is also no requirement in the
18 statute of the *Family Services Act* that
19 police must report to the CAS when a
20 complaint is given by an adult. 'There
21 is no specific requirement for police
22 to report allegations made by adults',
23 Abell said. Instead he said, 'It is a
24 judgment call by police.'"

25 Your initial discussion with Mr. Dunlop was

1 that he was duty-bound to what he did, but now you're
2 basically backing off from that position, are you?

3 **MR. ABELL:** No.

4 **MR. HORN:** Okay. Can you explain?

5 **MR. ABELL:** It's -- what I've stated in this
6 article is factually correct, Mr. Horn. There is no
7 statutory requirement for police to report allegations of
8 historical abuse made by adults. There is none, as far as
9 I know. That's not inconsistent with me saying to Perry
10 Dunlop, "You did the right thing." This article, as I
11 recall it and looking at it now, really talks about the
12 fact that it is a judgment call and that guidelines for
13 everybody involved are important, particularly because
14 there is no, you know, clear-cut statutory wording around
15 this issue.

16 **MR. HORN:** So if Mr. Dunlop were to read
17 this article and -- or just any police officer, would you
18 be giving them the feeling that you're telling them that
19 they don't have to report historical sexual abuse; it's a
20 judgment call; it's not mandatory?

21 **MR. ABELL:** The issue, Mr. Horn, has to do
22 whether an officer as was the case with Mr. Dunlop,
23 believes that the historical event has implications for
24 children in the present. That's the issue. That's where
25 the judgment call comes in.

1 **THE COMMISSIONER:** But isn't it the duty --
2 if the police officer comes up and he's got an allegation
3 of historical sexual abuse by an adult but when he was a
4 child, isn't the judgment call yours as to whether or not
5 you will investigate?

6 **MR. ABELL:** Ultimately, yes. You are
7 correct.

8 **THE COMMISSIONER:** All right.
9 And that his duty, if those facts come up,
10 the bare facts, that it's up to you and your Society to
11 evaluate whether or not there is any risk to any children,
12 so that in fact ---

13 **MR. ABELL:** Correct.

14 **THE COMMISSIONER:** --- if a -- the police
15 officer would have an obligation, because he doesn't know
16 whether or not the person is with children or what he's
17 doing?

18 **MR. ABELL:** That's true, but as you're aware
19 in the legislation, sir, there is no -- that, I'll call it
20 a line, has not been drawn.

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

22 **MR. ABELL:** It hasn't been. It's just not
23 there. And what we have -- I mean, all of us work with the
24 legislation in hand, and so the reality is, no requirement;
25 judgment call.

1 **THE COMMISSIONER:** Okay.

2 **MR. ABELL:** But I take your point. In any
3 referral allegation, it's ultimately our decision as a
4 child welfare agency. We've got the mandate to decide
5 whether we're going to investigate or not. And that's the
6 reason that on a constant and ongoing basis, our message to
7 our community partners and the general public is, consult.
8 Talk to us. You don't even have to give us a name. Just
9 talk to us. What have you got?

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

11 **MR. ABELL:** So I mean that was constantly
12 going out.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Horn.

15 **MR. HORN:** Yes. Okay. So would you agree
16 with me when I say that when you initially dealt with Mr.
17 Dunlop, you gave him the idea that he had a statutory
18 obligation to report historical sexual abuse and you
19 basically told him that he did the right thing, and my
20 suggestion to you is that you gave him the impression that
21 you and your society were going to get behind him and you
22 were going to support him no matter what happened, because
23 you knew he was going to get himself into trouble?

24 **MR. ABELL:** Mr. Horn, my and my agency's
25 responsibility was not to support Perry Dunlop through any

1 troubles he might have with his own organization. That had
2 to be his to deal with and Perry knew that very clearly.
3 Perry had his eyes wide open.

4 **MR. HORN:** Okay. So when you wrote that
5 letter ---

6 **THE COMMISSIONER:** What letter?

7 **MR. HORN:** I'm talking about the letter
8 where he was going to be awarded a ---

9 **THE COMMISSIONER:** Some award by the
10 Government of Canada.

11 **MR. HORN:** Yes, some award that he was going
12 to be getting, and ---

13 **MR. ENGELMANN:** It's Exhibit 2470.

14 **THE COMMISSIONER:** Thank you.

15 **MR. ENGELMANN:** I would remind Mr. Horn to
16 please have his exhibit numbers. It makes it go so much
17 faster.

18 **MR. HORN:** I had it here, but I can't find
19 it right now. Oh, here it is.

20 **THE COMMISSIONER:** Okay. I don't need it.
21 Mr. Horn, go ahead.

22 **MR. HORN:** Okay. I'm suggesting to you that
23 this letter is very misleading because you didn't point out
24 clearly that it was because of your involvement initially
25 that Perry Dunlop felt that he had your backing, that you

1 were going to back him up and you gave him that impression.
2 He went ahead, got himself into trouble and he thought that
3 because not only were you a friend but your agency was
4 going to get behind him, and when he got in trouble, you
5 backed off and in fact, years later, you write a letter
6 saying that he did something very wrong and you're
7 completely going back against your initial involvement --
8 what you said when you initially were involved with Perry
9 Dunlop.

10 **THE COMMISSIONER:** First of all, sir, he
11 didn't -- the question is full of inaccuracies. First of
12 all, he never said he was going to back Dunlop, but I think
13 throughout he said, if he was asked -- and he still
14 maintains he did the right thing.

15 The letter of March 21st, 2001, I believe
16 sets out and says in the first part, look it, he did right.
17 But after that, circumstances changed. So you can't put
18 both of them together.

19 If you want to argue about the issue of the
20 first -- Dunlop giving him the statement, I think it's
21 clear that this gentleman has never wavered in saying that
22 Dunlop did the right thing.

23 **MR. HORN:** Then he should have backed him up
24 right all the way through this whole thing.

25 **THE COMMISSIONER:** Argumentative and not

1 based on anything.

2 MR. HORN: All right. I'm just saying that
3 he should have never backed off ---

4 THE COMMISSIONER: No, whoa, whoa. You can
5 say whatever you want in submissions.

6 MR. HORN: Okay.

7 THE COMMISSIONER: If you want to put
8 questions to him, that's fine. Any further questions?

9 MR. HORN: Do you think that you should have
10 written a letter which was more emphasising the fact that
11 not only did he do the -- that Perry did do the right
12 thing, but that you knew that he was going to get himself
13 into trouble and that you should have backed him up? Is
14 that what you should have written?

15 THE COMMISSIONER: Well, first of all,
16 you're talking about the letter for ---

17 MR. HORN: That's right. This is his
18 friend. This is somebody that he -- is his friend. He
19 should have backed him up.

20 THE COMMISSIONER: All right. Thank you.
21 You don't need to answer that. Thank you.

22 Mr. Lee?

23 MR. LEE: Good morning, Mr. Commissioner.

24 THE COMMISSIONER: Perhaps to give some
25 justice to Mr. Horn, at any time through all of this, do

1 you have any regrets about having written that letter?

2 **MR. ABELL:** No.

3 **THE COMMISSIONER:** Do you feel that, at some
4 point, you should have and could have given more moral
5 support to Dunlop?

6 **MR. ABELL:** No.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Lee?

9 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE:**

10 **MR. LEE:** Mr. Abell, you know that I act for
11 the Victims' Group?

12 **MR. ABELL:** Yes, I do, Mr. Lee.

13 **MR. LEE:** I have a few areas I want to
14 canvas with you.

15 I would like to start by going back to
16 something Mr. Horn raised with you. He showed you a
17 newspaper article a moment ago where it's suggested there's
18 no legal requirement for police officers to report an
19 allegation of historic abuse to the CAS. Do you recall
20 that?

21 **MR. ABELL:** I do.

22 **MR. LEE:** Would you agree with me that the
23 rule should be that the police notify the CAS every time
24 they receive an allegation of historic abuse if the alleged
25 perpetrator is still alive?

1 **MR. ABELL:** Every time there's an allegation
2 of historical abuse where the perpetrator is still alive.
3 I think it should be considered.

4 **MR. LEE:** Do you think that would make sense
5 that it became part of the standard operating procedure for
6 police forces?

7 **MR. ABELL:** Again, Mr. Lee, I mean,
8 typically these things are far less straightforward that
9 they appear. I would suggest it's worth looking at and
10 given some serious consideration both from a child welfare
11 point of view and also from a criminal investigation point
12 of view.

13 **MR. LEE:** I know I've just sprung this on
14 you now but can you, off the top of your head, think of any
15 problems with that being a policy?

16 **MR. ABELL:** Not right off the bat. I mean,
17 I can't see the volume being huge. I mean, no, but just my
18 sense of it, sir, is -- and I'm not trying to be difficult
19 here -- I just -- it would bear some looking into; it
20 really would.

21 **MR. LEE:** As a general principle, what do
22 you think of the statement that a person who is alleged to
23 have abused in the past should always be considered a risk
24 until due diligence by the Children's Aid Society shows
25 otherwise?

1 **MR. ABELL:** Well, I mean, the whole field of
2 causality, and I've done some reading in that area, has led
3 me over the years to say that -- or to believe that the
4 statement of the best predictor of future behaviour tends
5 to be past behaviour. And so I think that speaks to your
6 issue.

7 It's not an absolute world so, again, I
8 would say there are many shades of grey in this and so,
9 again, it would bear a lot of thought.

10 **MR. LEE:** Were you present when Mr. Carriere
11 testified here?

12 **MR. ABELL:** Present?

13 **MR. LEE:** Yes?

14 **MR. ABELL:** No, I wasn't.

15 **MR. LEE:** Did you have an opportunity to
16 watch the Webcast or read the transcripts?

17 **MR. ABELL:** I read some of his transcripts,
18 yes.

19 **MR. LEE:** During my cross-examination of Mr.
20 Carriere, I asked him about a meeting that you and Mr.
21 Carriere would have had with OPP Officers Tim Smith and Pat
22 Hall on May 21st, 1998, where you would have been advised
23 that charges were pending against Jacques Leduc.

24 **MR. ABELL:** Okay. I don't recall
25 specifically, but sure.

1 **MR. LEE:** Can we turn up, Madam Clerk,
2 Exhibit 2379, please?

3 **THE COMMISSIONER:** What page?

4 **MR. LEE:** Bates page 827, please.

5 **MR. ABELL:** Eight-two-seven (827)?

6 **MR. LEE:** Eight-two-seven (827), yes.

7 **MR. ABELL:** Yes?

8 **MR. LEE:** And I went through with Mr.
9 Carriere the fact that, as I said, the date of these notes
10 are May 21st, 1998.

11 If you look at the bottom of page 827, you
12 see an entry at 1615 hours in the margin?

13 **MR. ABELL:** Yes.

14 **MR. LEE:** If you follow along, my reading of
15 that is:

16 "Attended CAS office. Meet with
17 Richard Abell and Bill Carriere.
18 Detective Superintendent Smith outlined
19 some aspects of our investigations.
20 Notified about Jacques Leduc and
21 Richard Hickerson. Discussed pending
22 charges."

23 **MR. ABELL:** I see that.

24 **MR. LEE:** Okay. Do you recall having that
25 meeting with these OPP officers?

1 **MR. ABELL:** I believe, yes, I believe I have
2 a recollection of it, yes.

3 **MR. LEE:** And do you recall the fact that
4 Jacques Leduc was discussed and the fact that there were
5 pending charges?

6 **MR. ABELL:** Yes, that's what stays in my
7 mind, yes.

8 **MR. LEE:** Was it your understanding that
9 Officers Smith and Hall were meeting with the CAS pursuant
10 to their duty to report?

11 **MR. ABELL:** My recollection is that it was
12 part of the ongoing exchange of information that we had set
13 up or agreed with them as they conducted Project Truth, my
14 recollection.

15 **MR. LEE:** And as I said, this was May 21st,
16 1998. We now know that Mr. Leduc was charged with numerous
17 offences relating to people known here as C-16 and C-17 on
18 June 22nd, '98, so about a month after this meeting.

19 And there was a third complainant, C-22, who
20 was not known to the OPP at the time of this meeting but
21 who they met with later, and charges were ultimately laid
22 in relation to him.

23 So I guess my first question: Have you come
24 across during your preparation for the Inquiry any notes
25 made by you relating to this meeting?

1 **MR. ABELL:** No.

2 **MR. LEE:** Do you have any recollection of
3 what information these OPP Officers shared with you at that
4 meeting in relation to Mr. Leduc? I'm not concerned about
5 Mr. Hickerson.

6 **MR. ABELL:** I don't recall it being
7 extensive. The fact that they had -- they were preparing
8 charges, and there were -- there was a few, a number of
9 victims. That's all I recall.

10 **MR. LEE:** I went through a significant
11 number of statements with Mr. Carriere and I'm not going to
12 do that with you. They've all been marked as exhibits.

13 What I went through with him were the
14 various statements given to the OPP by C-16, C-17, and C-
15 22. And I went through the statements with him and pointed
16 to various parts where I thought there was information that
17 may have been relevant to the CAS in terms of deciding
18 whether or not this was something that fell within its
19 mandate.

20 If I can just generally summarise what these
21 statements amounted to in relation to each, the question I
22 want to ask is whether or not you have a recollection of
23 any or all of that information being shared with you?

24 **MR. ABELL:** Okay.

25 **MR. LEE:** Okay. So in relation to C-16, he

1 alleged to the OPP that he was sexually abused when he was
2 under 16 years of age; that Mr. Leduc was his employer;
3 that the abuse took place in Mr. Leduc's home; that he was
4 a neighbour of Mr. Leduc who lived around the corner; that
5 Mr. Leduc told C-16's parents that he had always wanted a
6 son and that helping C-16 makes them closer; that he was
7 paid cash for the work that he did, sometimes by having it
8 left on the nightstand in Mr. Leduc's bedroom after sexual
9 activity; that he was receiving other perks and he believed
10 they were being given for both friendship and sex, and that
11 he feared losing those perks.

12 Okay? So that if you amalgamate what was in
13 the various statements C-16 gave, those are -- that's the
14 information I pulled out as being relevant to the CAS.

15 Do you have a recollection of hearing any of
16 that information during the meeting with Officers Smith and
17 Hall?

18 **MR. ABELL:** What I recall was that one or
19 more of these young people were in Mr. Leduc's employ, as I
20 guess he has a farm or a farm-type operation, I don't know,
21 and that that was in that context of that sort of employer-
22 employee relationship that there were sexual acts that took
23 place.

24 That's as much as I frankly recall of what
25 we heard.

1 **MR. LEE:** So you recall sex acts and you
2 recall people in Mr. Leduc's employ.

3 Do you recall any conversation of the age of
4 these complainants?

5 **MR. ABELL:** I don't, no.

6 **MR. LEE:** And the other details I read off
7 to you don't bring back ---

8 **MR. ABELL:** They don't come to mind, no.

9 **MR. LEE:** In relation to C-17, he alleged to
10 the OPP that, again, Mr. Leduc was his employer; that he
11 was a neighbour of Mr. Leduc's; that the abuse took place
12 in Mr. Leduc's home as well at a family member's home that
13 he was paid sometimes after sex; that he received other
14 perks from Mr. Leduc; that there was drinking of alcohol
15 involved at one point, and the first reported activities of
16 concern took place when he was 15 years old?

17 **MR. ABELL:** Well, again, the -- a youth in
18 the neighbourhood and in the employ.

19 **MR. LEE:** Okay.

20 **MR. ABELL:** And sexual acts, yes.

21 **MR. LEE:** And finally we have C-22 who was -
22 - as I said, the OPP learned of later and interviewed him.
23 He alleged to the OPP that Mr. Leduc had become his lawyer
24 when he was 14 years old, that ---

25 **MR. ABELL:** Sorry, he alleged?

1 **MR. LEE:** That Mr. -- you know that Mr.
2 Leduc is a lawyer?

3 **MR. ABELL:** I do, yes.

4 **MR. LEE:** C-22 alleged that he had retained
5 Mr. Leduc to do legal work for him when he was 14 years old
6 in relation to a criminal charge he was facing.

7 **MR. ABELL:** Okay. Oh, I see. Okay.

8 **MR. LEE:** That Mr. Leduc soon thereafter
9 became his employer; that the abuse took place in Mr.
10 Leduc's home and began when he was under 16 years of age;
11 that the received free clothing and legal services; and he
12 described Mr. Leduc as being "a father figure" in his life.

13 **MR. ABELL:** I don't recall any of that.

14 **MR. LEE:** Do you recall whether or not the
15 OPP gave you the names of the alleged victims?

16 **MR. ABELL:** I don't ---

17 **MR. LEE:** There would have had two at that
18 time.

19 **MR. ABELL:** I don't believe we did get
20 names, no.

21 **MR. LEE:** Do you recall whether or not the
22 details of the alleged abuse were described in terms of the
23 sex acts themselves?

24 **MR. ABELL:** No. No, that I don't recall.

25 **MR. LEE:** Do you recall whether or not you

1 were provided with copies of witness statements?

2 MR. ABELL: No.

3 MR. LEE: No, you were not or?

4 MR. ABELL: I was not, no, sir.

5 MR. LEE: You know that you can say that
6 with some certainty?

7 MR. ABELL: I'm quite sure we weren't, no.
8 This really was a verbal exchange.

9 MR. LEE: When I asked Mr. Carriere about
10 the CAS response to the information that the OPP did
11 provide about the pending charges against Mr. Leduc, he
12 cannot recollect any response in terms of follow-up. There
13 was some follow-up about whether or not Mr. Leduc was
14 involved with Big Brothers, but in terms of an
15 investigation, he couldn't recall anything.

16 Do you have any recollection of any CAS
17 response to the meeting with the OPP as it related to Mr.
18 Leduc?

19 MR. ABELL: No, I think Mr. Carriere's
20 accurate. We had an ongoing understanding. It was
21 repeated on a number of times. If the police had any
22 concerns about current abuse of children, we would hear
23 about it.

24 So I can recall nothing that came up in that
25 meeting along that line. So, again, Mr. Carriere is right.

1 I don't think we -- other than take the information under
2 advisement, I don't think we did anything further.

3 **MR. LEE:** There's obviously some kind of
4 disconnect here. There's a meeting with the OPP who has a
5 lot of information and they're having a meeting with the
6 CAS and we have the CAS saying "Yeah, but we didn't get any
7 information that led to us having to do anything."

8 Do you recall having asked any questions?
9 Did you ask to meet with the alleged victims? Did you meet
10 with Mr. Leduc? I mean ---

11 **MR. ABELL:** No. I mean this was -- I mean,
12 again, if you recall the context of Project Truth and the
13 understanding with the Society, this was a police criminal
14 investigation. It was made very clear from the beginning
15 and we accepted it.

16 Again, on the understanding that if the
17 officers had any concern about risks to children we would
18 hear about it.

19 **MR. LEE:** Isn't the fact that the OPP --
20 that Officers Smith and Hall came to the CAS, some
21 indication of the fact they must have had some concern? I
22 mean, they're notifying the CAS for a reason in relation to
23 Mr. Leduc.

24 **MR. ABELL:** They were -- this was part of
25 the pattern of them informing us at the time or prior to

1 the laying of charges.

2 MR. LEE: You would agree, based on the
3 inform -- based on the allegations made to the OPP that Mr.
4 Leduc would have been considered in a care giving role for
5 the CAS' purposes?

6 MR. ABELL: I think we talked about that.
7 And certainly the employer relationship was one that --
8 employer of a minor would put one in a care giving role, so
9 yes.

10 MR. LEE: The fact that he had them in his
11 home.

12 MR. ABELL: In his home, yes.

13 MR. LEE: Perhaps that he was in need ---

14 MR. ABELL: Well, it depends on the
15 circumstances, but one would typically think yes.

16 MR. LEE: Being described as a father
17 figure, things along those lines?

18 MR. ABELL: Yes.

19 MR. LEE: I mean, can we agree that, at very
20 least, had the CAS had all of this information, it would
21 have needed to look into the situation?

22 MR. ABELL: If we had all the information?
23 Yeah, we would have had a decision to make. Again, we
24 thought we had the information that was relevant, which was
25 the opinion of the officers that there weren't children at

1 risk.

2 **THE COMMISSIONER:** Was that ever voiced to
3 you that there was ---

4 **MR. ABELL:** Yes. Oh, yeah. I mean, as I
5 said earlier, the -- I can recall -- I forget who with --
6 perhaps, I had a number of chats with Inspector Hall and
7 there was a sergeant I spoke to and I can recall him saying
8 "Look, we don't have anything about children currently at
9 risk."

10 **THE COMMISSIONER:** I know, but I thought in
11 our conversation, it would be up to you folks who protect
12 children to make that determination. So my question would
13 be ---

14 **MR. ABELL:** Well, the determination, sir,
15 would whether we would -- when given information, we would
16 act on it in terms of opening an investigation.

17 **THE COMMISSIONER:** Right. So you don't know
18 -- in this case, I mean, how is this any different than the
19 Father Charles scenario in the sense that you've got a
20 fellow who the police say they're going to charge. You
21 don't know whether his wife's running a daycare in their
22 house. You don't know how many children ---

23 **MR. ABELL:** That's fair enough.

24 **THE COMMISSIONER:** --- are there. You don't
25 know whether he's coaching hockey or ---

1 **MR. ABELL:** The police do, sir.

2 **THE COMMISSIONER:** Pardon me?

3 **MR. ABELL:** The police do, presumably.

4 **THE COMMISSIONER:** Right. But I guess what
5 I'm saying is that the police look after criminal
6 investigations. Your organization protects children. And
7 so as we've seen in this Inquiry, people come at things at
8 different ways.

9 **MR. ABELL:** Yes, I agree.

10 **THE COMMISSIONER:** And that -- do you not
11 think it would be important for the Children's Aid Society
12 to make that determination? Because you are the defenders
13 of children.

14 **MR. ABELL:** Well, the police -- most police
15 have got a pretty keen eye as to whether children are at
16 risk. I mean, Perry Dunlop had it.

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

18 **MR. ABELL:** And there's lots of others that
19 have it, who can -- people who can say "Oh, hang on,
20 something's not right here or there may be something not
21 right." We had quite an extensive discussion with
22 Inspector Smith and his staff at the beginning about the
23 framework for this understanding and it certainly left us
24 in the confidence that these were people who had a
25 background in this area. I mean, Inspector Smith in

1 particular had investigated Alfred. He had very active
2 involvement. Now, this guy was an expert in the field as
3 far as we were concerned.

4 So quite frankly, we took it on trust that
5 these were the people we were dealing with. Were we wrong
6 to trust our police colleagues? Perhaps that can be argued
7 in hindsight, but we did. I mean, I have to say we did.
8 We accepted that that was the framework that would serve
9 the purpose for the day.

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

11 Sorry, Mr. Lee.

12 **MR. LEE:** The basic information you would
13 have had is that Mr. Leduc was alleged to have abused
14 children?

15 **MR. ABELL:** That's correct, or he was going
16 to be charged for alleged offences, yes.

17 **MR. LEE:** He was still alive and he was
18 still in the community.

19 **MR. ABELL:** Obviously.

20 **MR. LEE:** What else do you need to
21 investigate?

22 **MR. ABELL:** A concern that children
23 currently are at risk.

24 **MR. LEE:** He was alleged to have abused
25 children.

1 **MR. ABELL:** Yes.

2 **MR. LEE:** He is still alive and he is in the
3 community.

4 **MR. ABELL:** Yes.

5 **MR. LEE:** Is that not sufficient cause for
6 concern on its own?

7 **MR. ABELL:** Our decision at that point,
8 obviously it was not. We had no information that children
9 were at risk.

10 **MR. LEE:** You would have learned at some
11 point through the media at very least that Mr. Leduc was in
12 fact charged?

13 **MR. ABELL:** Yes, we were aware that he was
14 charged, yes.

15 **MR. LEE:** That was a big story in this town?

16 **MR. ABELL:** Yes.

17 **MR. LEE:** And it was story for a long time
18 as the prosecutions came around ---

19 **MR. ABELL:** Yeah, it was high profile, yes.

20 **MR. LEE:** Do you recall making inquiries at
21 any point during any of that process with the police as an
22 example or with the Crown Attorney's Office about whether
23 or not the CAS needed to be involved?

24 **MR. ABELL:** Needed to be involved? In terms
25 of opening an abuse investigation?

1 **MR. LEE:** Yes.

2 **MR. ABELL:** Not with the Crown. And again -
3 - I keep going back to it -- we had no information from our
4 police partners that there were any children at risk. That
5 was the position we took.

6 **MR. LEE:** I want to talk about Cathy
7 Sutherland.

8 **MR. ABELL:** Sure.

9 **MR. LEE:** You told us in-chief that you were
10 not involved with her disclosure request until 1997. Is
11 that right?

12 **MR. ABELL:** I can't give you the exact date,
13 but it was further on.

14 **MR. LEE:** Nineteen ninety-seven (1997) is as
15 far as I can tell when you would have become involved when
16 you start corresponding directly with Ms. Sutherland.

17 **MR. ABELL:** Whatever. I mean, I'd accept
18 the record, Mr. Lee.

19 **MR. LEE:** In 1997, when you became involved,
20 Cathy would have already received a summary that was
21 created by Marc Boisvenue in August of 1995.

22 **MR. ABELL:** Okay.

23 **MR. LEE:** And I take it by 1997, given that
24 you become involved, you would have understood that she
25 wasn't fully satisfied with the disclosure she'd received

1 up to that point?

2 MR. ABELL: She had gotten back to us and
3 said that the summary she received left her with a number
4 of questions, yes.

5 MR. LEE: And you agreed yesterday that it
6 took an inordinate amount of time for Cathy to go through
7 the disclosure process, but you also suggested that this
8 was in part because of an ongoing back and forth between
9 the CAS and Cathy. Do you recall that?

10 MR. ABELL: Yes.

11 MR. LEE: And as you described it, she would
12 ask for disclosure and the CAS would provide something.
13 Some period would pass; she would ask for further
14 disclosure. And it went on and on like that?

15 MR. ABELL: Yes, that was the pattern, yes.

16 MR. LEE: And would you agree with me that
17 had the CAS simply provided her with proper disclosure in
18 the first place, there would not have been that back and
19 forth?

20 MR. ABELL: Well, what's proper disclosure?
21 At the time, our practice was that we provided summaries.

22 It was evident from Ms. Sutherland that that
23 wasn't satisfactory and so the issue went on from there.
24 Ultimately, we provided what we felt was all the
25 information we could.

1 **MR. LEE:** During the course of your
2 preparation for this Inquiry, you would have looked at some
3 of these disclosure issues?

4 **MR. ABELL:** Yes.

5 **MR. LEE:** With Ms. Sutherland and with
6 others?

7 **MR. ABELL:** Yes.

8 **MR. LEE:** And you would have had an
9 opportunity to review some of the summaries that the CAS
10 provided to former wards?

11 **MR. ABELL:** Yes, I've seen them. Yes.

12 **MR. LEE:** Can you agree with me that the
13 summaries that we've seen don't accurately reflect the
14 information provided in the file in any of those cases?

15 **MR. ABELL:** Well, that becomes a highly
16 debatable contention, Mr. Lee. Summaries obviously are a
17 rephrasing, in large measure, of facts and circumstances
18 and historical developments. So they're open to debate.

19 **MR. LEE:** Ms. Sutherland was very clear from
20 the outset of her dealings with the CAS that she wanted all
21 of the information.

22 **MR. ABELL:** Yes, and that's not uncommon.

23 **MR. LEE:** And do you recall seeing in the
24 file that she was asked for specific questions by the CAS
25 and made it rather clear that she could not remember enough

1 to ask specific questions?

2 MR. ABELL: Could you say that again,
3 please?

4 MR. LEE: Ms. Sutherland was asked at one
5 point -- she was told that if she could ask specific
6 questions, it would make the disclosure process easier and
7 Ms. Sutherland replied that she wasn't in a position to
8 even be able to ask specific questions.

9 MR. ABELL: Okay.

10 MR. LEE: Do you recall that?

11 MR. ABELL: No, I've forgotten it, sir.

12 MR. LEE: Can we look please at Exhibit 452?
13 Do you have that, sir?

14 MR. ABELL: I do.

15 MR. LEE: This is an April 21st, 1995, letter
16 from Ms. Sutherland to Lise Stanley of the CAS. And if you
17 look at the middle of the third line, Ms. Sutherland
18 writes:

19 "In addition, you asked me to highlight
20 the information that I was looking for.
21 As I pointed out in our conversation, I
22 have had a great deal of difficulty
23 remembering certain aspects of my
24 childhood and it is therefore difficult
25 to pinpoint specific times and

1 episodes. In essence, that is why I am
2 trying to obtain the file."

3 Do you see that?

4 **MR. ABELL:** Yes, I do.

5 **MR. LEE:** And if you turn over to Exhibit
6 453, Ms. Sutherland writes again, following another
7 conversation with Ms. Stanley, and says that she's
8 extremely interested in learning anything about her prior
9 health. She's been asked specifically about medical
10 information.

11 **MR. ABELL:** Yes.

12 **MR. LEE:** And the last sentence reads:

13 "This further elaboration does not in
14 any way negate requests outlined in my
15 previous letters."

16 Do you see that?

17 **MR. ABELL:** Yes.

18 **MR. LEE:** And if you can turn, hopefully in
19 the same binder, to Exhibit 487?

20 **MR. ABELL:** Yes.

21 **MR. LEE:** This is a letter of March 28, '96,
22 to Mark Boisvenue, and if you can turn to the last page,
23 please. The second-last paragraph begins, "When I look
24 back..."

25 **MR. ABELL:** Yes.

1 **MR. LEE:** She writes:
2 "When I look back at my childhood, it
3 is nothing more than a series of
4 disjointed snapshots and I have no
5 access to pictures, report cards, baby
6 books, toys or anything else that would
7 enhance such a connection. I have no
8 idea what I looked like before I was 14
9 and short of the various statements in
10 your letter, I have little idea of the
11 kind of child I was. One of the
12 greatest difficulties I have had has
13 been trying to find a way to convey the
14 importance of retrieving those lost
15 memories. For many people, actively
16 searching out what trauma has
17 suppressed just does not appear
18 reasonable. They are the same ones
19 that visit their relatives and surround
20 themselves with vintage artefacts from
21 the past. Good, bad or indifferent, I
22 need the facts if I am to ever really
23 know who I am and it is with that
24 starving need for knowledge that I beg
25 your continued support and assistance."

1 It was very clear throughout, what Ms.
2 Sutherland was asking for; you'd agree with that?

3 **MR. ABELL:** Yes.

4 **MR. LEE:** You commented yesterday that you
5 can understand that it must have felt to Cathy like she was
6 pulling teeth during this process. Do you recall saying
7 that?

8 **MR. ABELL:** I recall that remark, yes.

9 **MR. LEE:** Is that in part because having
10 reviewed the file, you recognize the extraordinary lengths
11 the CAS was making her go through in her search for
12 disclosure?

13 **MR. ABELL:** I wouldn't agree it was
14 extraordinary in that there were others who shared her
15 unhappy experience, thankfully not too many, but some.
16 Yes, it was way, way too long.

17 **MR. LEE:** So it wasn't extraordinary because
18 this was the norm for the CAS, or you just don't think it
19 was all that bad?

20 **MR. ABELL:** That's not what I said. Okay.
21 What I said was there were other instances, Mr. Lee, where
22 people had to wait a very long period of time, which I
23 regret.

24 **MR. LEE:** Am I right that you, at any time,
25 could have ordered this information produced to Ms.

1 Sutherland?

2 MR. ABELL: I did get involved and I did ask
3 for the information to be provided. At one point, I
4 responded myself to a number of questions that she had sent
5 us. I'm not sure if it's this letter or not, but I put
6 quite a bit of time into trying to answer a number of
7 questions she had posed, following receipt of the summary.

8 MR. LEE: Again, hopefully in the same
9 binder, Exhibit 458. In my review of the records, I have
10 this identified as the first direct contact you have with
11 Ms. Sutherland, so this is Ms. Sutherland writing to you in
12 January of 1997. And you end up writing back to her on
13 February 11th, and I'll take you to that, but this is the
14 first contact I can see.

15 And if you look at the first page, the end
16 of the third line, she notes that:

17 "This began in the early part of 1995
18 when after a number of personal issues
19 I found myself needing more knowledge
20 about my childhood."

21 Do you see that?

22 MR. ABELL: Yes, I do.

23 MR. LEE: So she's speaking about a process
24 that began a couple of years earlier. And if you look
25 through the letter, she gives you dates. "On April 8th,

1 '95, I wrote a letter", she says. And further down on the
2 page, she speaks of July of that year and then March of '96
3 and then another letter in June. She gives you an idea of
4 the chronology.

5 **MR. ABELL:** I see.

6 **MR. LEE:** And if you turn over to the next
7 page, she speaks of a letter on October 1st from Mark
8 Boisvenue, saying that the agency would expedite the matter
9 and then she says, "It's now January, 10 months since my
10 letter was sent." And now it's going to undergo a second
11 review.

12 Do you see that?

13 **MR. ABELL:** Yes, I do.

14 **MR. LEE:** And the long middle paragraph on
15 that page, can you read that to yourself, sir?

16 **MR. ABELL:** I beg your pardon?

17 **MR. LEE:** Can you just read to yourself, the
18 middle paragraph, "I have tried to handle that..." down all
19 the way to the final paragraph that begins, "In closing..."?

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. ABELL:** I've read it.

22 **MR. LEE:** The last sentence in that
23 paragraph:

24 "I know people take holidays, that
25 there are government cutbacks, that

1 there are current and ongoing
2 investigations that require priority
3 application of personnel to
4 requirements, but what is a realistic
5 expectation and have I not exceeded
6 it?"

7 It was fairly clear from this letter that
8 Ms. Sutherland was frustrated?

9 **MR. ABELL:** Yes.

10 **MR. LEE:** She wanted answers now?

11 **MR. ABELL:** Yes.

12 **MR. LEE:** And again, there was absolutely no
13 doubt from that paragraph how important disclosure of this
14 information was to Ms. Sutherland?

15 **MR. ABELL:** She made it plain.

16 **MR. LEE:** Exhibit 459 is your response to
17 her, roughly five weeks later. Do you recall whether or
18 not you would have reviewed Mr. Boisvenue's August '95
19 summary that she'd been sent ---

20 **MR. ABELL:** Yes. I believe I did. Yes.

21 **MR. LEE:** She had referenced it in a letter
22 and that essentially is -- is that right?

23 **MR. ABELL:** That is correct.

24 **MR. LEE:** And would you have reviewed her --
25 the files relevant to Ms. Sutherland's case ---

1 MR. ABELL: Yes.

2 MR. LEE: --- prior to drafting your letter?

3 MR. ABELL: I did, yes.

4 MR. LEE: Can I presume that would mean the
5 child file, the family file and perhaps one of the foster
6 home files?

7 MR. ABELL: I can't recall specifically, but
8 I certainly would have read her foster file and possibly
9 the child file.

10 MR. LEE: Do you recall what your reaction
11 was, as you were reading Ms. Sutherland's files?

12 MR. ABELL: My reaction?

13 MR. LEE: In terms of the content?

14 MR. ABELL: I can't recall a specific
15 reaction to it, no.

16 MR. LEE: Let me give you a word. Do you
17 recall feeling horrified at the content of those files?

18 MR. ABELL: They're stark. I can't say I
19 was horrified. I mean, I've read a lot of histories, Mr.
20 Lee, and some very tragic ones. I mean, it's certainly a
21 stark history, yes.

22 MR. LEE: If you turn to the second page of
23 the document, page 965, the third paragraph begins -- in
24 the first full paragraph, and you go on -- well, in the
25 first full paragraph on page 2, you raise a question of the

1 type of injury sustained by the initial foster mother and
2 whether foul play had been suspected. And you write:

3 "I am assuming that you were asking
4 about the injuries that you had at the
5 time of coming into care and what the
6 Society understood about the causation
7 of those injuries."

8 Do you see that?

9 **MR. ABELL:** Yes. Yes, I do.

10 **MR. LEE:** And you go on in the next
11 paragraph to briefly describe burned feet, the beginning of
12 bronchial pneumonia, moderate malnutrition, things along
13 those lines.

14 Do you see that?

15 **MR. ABELL:** Yes, I do.

16 **MR. LEE:** And if you just take a moment and
17 let me know when you've read those two paragraphs?

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. ABELL:** I've read that. Thank you.

20 **MR. LEE:** Would you agree with me that those
21 two paragraphs do not come anywhere close to capturing the
22 facts contained in the CAS files, or the tone of the
23 caseworker's notes in the CAS files relating to Cathy's
24 mistreatment by her mother?

25 **MR. ABELL:** Well, it wasn't intended that

1 they would. The -- I was responding to, as I recall it,
2 the questions that Miss Sutherland had raised in her letter
3 to me.

4 **MR. LEE:** In the next paragraph you refer
5 to, "in the matter of Steven's death." You understood that
6 Miss Sutherland had questions about a younger brother ---

7 **MR. ABELL:** Yes.

8 **MR. LEE:** --- who died as a child?

9 **MR. ABELL:** Yes.

10 **MR. LEE:** And you'll agree that in that
11 paragraph there's nothing about -- as reflected in the file
12 about the Coroner saying that he was prepared to lay
13 charges?

14 **MR. ABELL:** Just let me read it, please.

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

16 **MR. ABELL:** Your question again on that
17 paragraph?

18 **MR. LEE:** The file indicates that following
19 this Steven's death, that the Coroner was prepared to lay
20 charges, stated right in the file.

21 **MR. ABELL:** Okay.

22 **MR. LEE:** And what I'm asking you is
23 you'll agree with me you don't include that information for
24 Ms. Sutherland?

25 **MR. ABELL:** It's not in there, no.

1 **MR. LEE:** There's nothing in here about Ms.
2 Sutherland's mother having taken active steps to hide her
3 pregnancy and the subsequent birth of the child from the
4 CAS, as reflected in the file?

5 **MR. ABELL:** Well, this isn't a summary of
6 the file.

7 **MR. LEE:** Nothing about ---

8 **MR. ABELL:** This is a response to the
9 questions that Ms. Sutherland had raised in her letter to
10 me.

11 **MR. LEE:** Sir, I don't think you can tell
12 me, in all honesty, that this comes anywhere close to being
13 a response to the questions that Ms. Sutherland was asking?

14 **MR. ABELL:** Well, it is, Mr. Lee.

15 **MR. LEE:** Let me be blunt.

16 **MR. ABELL:** Well, it may not be satisfactory
17 to you, but it's -- it was my best-effort response to her
18 letter.

19 **MR. LEE:** Would you agree with me that
20 nobody reading Mr. Boisvenue's summary and your letter
21 together could then look at the file and say in any honesty
22 that that's an adequate summary of those files?

23 **MR. ABELL:** Nobody could say that? That's
24 quite sweeping, Mr. Lee.

25 **MR. LEE:** That nobody -- let me ask you your

1 opinion. Is it your evidence that Mr. Boisvenue's summary,
2 when combined with this letter, served to provide Ms.
3 Sutherland with an adequate summary of her case files at
4 the CAS?

5 **MR. ABELL:** I can't recall if I reviewed it,
6 Mr. Boisvenue's summary, before it went. Somebody would
7 have and either myself or somebody would have considered it
8 appropriate for her request.

9 **MR. LEE:** Can I presume ---

10 **MR. ABELL:** Again, the summaries are re-
11 statements, and they are not word for word content of files
12 and they are open to interpretation, certainly by people
13 writing them and open to interpretation by people reading
14 them.

15 **MR. LEE:** Can we -- by the time you send
16 this letter on February 11th, 1977 (sic) ---

17 **THE COMMISSIONER:** Ninety-seven (97).

18 **MR. LEE:** Ninety-seven (97), sorry -- would
19 you have been satisfied at this point that the CAS had
20 satisfied its obligation towards Ms. Sutherland to provide
21 disclosure?

22 **MR. ABELL:** We were attempting to do so. I
23 was very aware that we were not satisfying Ms. Sutherland
24 and I felt that we were making a good-faith effort to do
25 so. I didn't know if it would be successful.

1 **MR. LEE:** The next step, if you look at
2 Exhibit 460, you'll recall that a copy of Ms. Sutherland's
3 child file was sent to Hamilton with a worker ---

4 **MR. ABELL:** Yes.

5 **MR. LEE:** --- for her review. Do you recall
6 that?

7 **MR. ABELL:** I do.

8 **MR. LEE:** And this is the letter that
9 explains that process. There are -- if you look in the --
10 in the first paragraph, it specifically states:

11 "It shall be permitted to read the
12 child file as we do not have legal
13 prerogative to allow you to read your
14 parents' file, so Patricia, the worker,
15 will not be bringing that file with
16 her."

17 Do you see that?

18 **MR. ABELL:** Yes.

19 **MR. LEE:** You speak of you do not have the
20 'legal prerogative'. What are you referring to there?

21 **MR. ABELL:** Well, it's the information
22 that's in the parents' file that is not about Ms.
23 Sutherland.

24 **MR. LEE:** Any policy or legislation that
25 would have dictated you weren't permitted to show her that

1 file?

2 MR. ABELL: Oh, very much.

3 MR. LEE: At that time?

4 MR. ABELL: Yes.

5 MR. LEE: Can you expand on that?

6 MR. ABELL: By -- oh yeah. We had the
7 undeclared Part 8 of the *Child and Family Services Act* that
8 was very clear about what information could and couldn't be
9 released by societies. And that Part 8, although not
10 proclaimed, Mr. Lee, was used as a basis for Ministry
11 policy, policy guidelines that we follow.

12 MR. LEE: Written policy?

13 MR. ABELL: Yes. Yeah, there was a binder
14 of policy on disclosure of information that we had from the
15 Ministry.

16 MR. LEE: By 1997?

17 MR. ABELL: Oh yeah. Yes.

18 MR. LEE: Do you know whether those
19 materials are still available?

20 MR. ABELL: I don't.

21 MR. LEE: Would you agree with me that the
22 family file relating to Ms. Sutherland contained
23 significant information not available in the child file?

24 In particular, I can tell you that the child
25 file commences when she's apprehended and contains no

1 details of the apprehension time ---

2 MR. ABELL: Well, they're two different
3 files.

4 MR. LEE: I understand that, but what I'm
5 asking you is will you agree with me that the family file
6 would have had information relevant to Ms. Sutherland not
7 available in the child file?

8 MR. ABELL: Yes. Yes.

9 MR. LEE: Was there any reason that that
10 information could not have been provided to her, if it
11 related to her?

12 MR. ABELL: Well, keep in mind the initial
13 summaries that she received spoke to her -- a bit of her
14 background, not a lot, so some of it would have been spoken
15 to in that report.

16 MR. LEE: The fourth paragraph, it
17 references that:

18 "With respect to medical reports, we
19 would refer you to your family
20 physician who, with your written
21 consent, can obtain your records from
22 the Cornwall General Hospital and can
23 then provide a medical interpretation
24 of those records."

25 Do you see that?

1 **MR. ABELL:** Yes, I do.

2 **MR. LEE:** Would it have been your
3 understanding at that time that medical records relating to
4 Catherine Sutherland as a patient should be properly
5 considered her property and not the property of the CAS or
6 anyone else?

7 **MR. ABELL:** My recollection, Mr. Lee, is
8 that medical reports did -- were not -- we were not
9 permitted to release them, but we were required to inform
10 people that if we had a report that wasn't ours to release,
11 but "here's where we got it from" and "suggest you access
12 your report from that institution".

13 **MR. LEE:** What do you mean by "not permitted
14 to release"?

15 **MR. ABELL:** Exactly that.

16 **MR. LEE:** Who was forbidding release of
17 those documents?

18 **MR. ABELL:** It was the legislation, as I
19 understood at the time.

20 **MR. LEE:** The legislation that was not
21 proclaimed?

22 **MR. ABELL:** Sorry?

23 **MR. LEE:** The legislation that was not
24 proclaimed or legislation that was in force?

25 **MR. ABELL:** No, I believe that was the

1 *Hospitals Act*, or something. I -- frankly, I can't recall
2 specifically the legislation.

3 **MR. LEE:** It also notes in the second-last
4 paragraph that Patricia would be available for three to
5 four hours and that Ms. Sutherland could take notes or use
6 a dictation machine.

7 Do you see that?

8 **MR. ABELL:** I do.

9 **MR. LEE:** Was there any particular reason
10 for that, or was that a decision made on a case-by-case
11 basis?

12 **MR. ABELL:** Well, this was a new
13 circumstance for us. We had never before sent anybody out
14 of office to be with somebody, particularly at that
15 distance. And so we were -- again, this is something we
16 were going beyond our normal practice. Out of our
17 discussions about how we would manage this and how we would
18 do it came that decision.

19 **MR. LEE:** And in the last paragraph on that
20 page:

21 "Patricia blacked out some information
22 which is not identifying but which she
23 felt might be upsetting to you."

24 Do you see that?

25 **MR. ABELL:** Yes, I do.

1 **MR. LEE:** Do you recall a moment ago we
2 looked at Exhibit 487 where Ms. Sutherland stated she
3 wanted the information good, bad or indifferent.

4 Do you recall that?

5 **MR. ABELL:** Yes.

6 **MR. LEE:** Was there any statutory or
7 legislative provision that required you to black out
8 upsetting information?

9 **MR. ABELL:** No.

10 **MR. LEE:** Can you help me understand why you
11 would do that then?

12 **MR. ABELL:** It's called compassion, casework
13 decision that some of it might have a very negative impact
14 on people. It's a casework judgment call that's made from
15 time to time.

16 **MR. LEE:** Mr. Commissioner, I have maybe 10
17 to 15 minutes left.

18 **THE COMMISSIONER:** We'll take lunch.

19 Can I get some idea -- I know there's a
20 storm coming and that's -- I'm worried about that.

21 How much -- sir, you've got 10-15 more
22 minutes?

23 **MR. LEE:** Yes.

24 **THE COMMISSIONER:** Can we get some idea --
25 Mr. Neville, will you have any questions?

1 **MR. NEVILLE:** Yes, sir, about three-quarters
2 of an hour.

3 **THE COMMISSIONER:** Three-quarters of an
4 hour.

5 All right. Mr. Chisholm? I'm just going
6 down the list.

7 **MR. CHISHOLM:** Half an hour, sir, or less.

8 **THE COMMISSIONER:** An hour and fifteen.
9 Monsieur Rouleau?

10 **MR. ROULEAU:** Nothing so far, sir.

11 **THE COMMISSIONER:** Ms. Waddilove?

12 **MS. WADDILOVE:** No questions, sir.

13 **THE COMMISSIONER:** Mr. Glick?

14 **MR. GLICK:** Probably about seven minutes
15 worth.

16 **THE COMMISSIONER:** Seven minutes worth?

17 **MR. GLICK:** Yes.

18 **THE COMMISSIONER:** Good.

19 The Diocese isn't here.

20 Mr. Callaghan, welcome back.

21 **MR. CALLAGHAN:** Thank you. Forty-five (45)
22 minutes to an hour.

23 **THE COMMISSIONER:** Ms. Lahaie?

24 **MS. LAHAIE:** Maybe less than 15 minutes.

25 **THE COMMISSIONER:** Mr. Carroll?

1 **MR. CARROLL:** Five to ten minutes.

2 **THE COMMISSIONER:** And Ms. Ishmael?

3 **MS. ISHMAEL:** About five minutes.

4 **THE COMMISSIONER:** Okay. So we're going for
5 a while. Thank you. We'll see you at two o'clock.

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

8 This hearing will resume at 2:00 p.m.

9 --- Upon recessing at 12:35 p.m. /

10 L'audience est suspendue à 12h35

11 --- Upon resuming at 14:03 p.m. /

12 L'audience est reprise à 14h03

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

15 This hearing has now resumed. Please be
16 seated. Veuillez vous asseoir.

17 **THE COMMISSIONER:** Good afternoon, all.

18 Mr. Lee.

19 **MR. LEE:** Mr. Commissioner.

20 **RICHARD ABELL, Resumed/Sous le même serment:**

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

22 **LEE (cont'd/suite):**

23 **MR. LEE:** Mr. Abell, when we left off at
24 lunch we were discussing Ms. Sutherland having an
25 opportunity to review part of her child file in Hamilton.

1 **MR. ABELL:** Yes.

2 **MR. LEE:** One of the documents that hasn't
3 been marked yet is 200306.

4 **THE COMMISSIONER:** Thank you. So 2486 is
5 the exhibit for -- what do you call this -- the case
6 history for Catherine Donnelly?

7 **MR. LEE:** These are the case recordings from
8 a child file of Catherine Donnelly. I believe this was the
9 document that was sent to Hamilton with the case worker.
10 So you'll notice, Mr. Commissioner, that we have page 1 and
11 then we skip to page 8. I don't think that's a mistake;
12 this is what was sent.

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

14 **--- EXHIBIT NO./PIÈCE No. P-2486:**

15 (200306) Child File of Cathy Sutherland -
16 Social History

17 **MR. LEE:** Do you have that before you, Mr.
18 Abell?

19 **MR. ABELL:** Beg your pardon?

20 **MR. LEE:** Do you have that document before
21 you?

22 **MR. ABELL:** I do.

23 **MR. LEE:** And as I mentioned to Mr.
24 Commissioner, if you look through, you'll see a number of
25 redactions and you'll also notice that pages 2 through 7

1 are missing. Do you see that?

2 **THE COMMISSIONER:** Are you asking me?

3 **MR. LEE:** No, Mr. Abell.

4 **MR. ABELL:** I see that.

5 **MR. LEE:** And this has been identified to us
6 as the document that would have been sent for Ms.
7 Sutherland to view in Hamilton. Does this look familiar to
8 you?

9 **MR. ABELL:** I presume so.

10 **MR. LEE:** Okay. Do you have any explanation
11 for why pages 2 through 7 were not sent to Hamilton?

12 **MR. ABELL:** I can't recall a reason for why
13 that material wouldn't have been sent. I don't know.

14 **MR. LEE:** We had some evidence from Ms.
15 Sutherland when she was here that there were a number of
16 pages at the beginning of the file that were missing and
17 now we have this document. You don't have any specific
18 recollection of discussions about omitting those pages or
19 reasons for that?

20 **MR. ABELL:** No. The intent was to provide
21 the information that we could, so we went to some lengths
22 to do that.

23 **MR. LEE:** When Mr. Carriere was here we
24 asked him about contact with Ms. Sutherland in 1997 and
25 1999, so I don't need to go back there with you. The final

1 chapter in this history comes in 2006 when a disclosure
2 request came from a man named Dr. Cornfield relating to a
3 Criminal Injuries Compensation Board application that was
4 underway. Do you recall that?

5 **MR. ABELL:** Yes, I do.

6 **MR. LEE:** I just want to enter a few
7 documents if I could. The first is 739879.

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. LEE:** If it's easier, Madam Clerk, I
10 have three documents I want to enter. I can give you all
11 the numbers now. The first one is 739879, then 739881 and
12 739884.

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

14 **THE COMMISSIONER:** Thank you. Exhibit 2847
15 is a letter to the Coordinator of Services, Children's Aid
16 Society, Stormont-Dundas-Glengarry, dated January 27th, 2006
17 from Dr. Mark Cornfield.

18 **--- EXHIBIT NO./PIÈCE No. P-2487:**

19 (739879) Letter from Dr. Mark Cornfield to
20 Richard Abell re Cathy Sutherland - 27 Jan,
21 06

22 **THE COMMISSIONER:** The next letter is --
23 exhibit is 2488, which is a letter again to the same people
24 from the same doctor, dated March 16th, 2006.

25 **--- EXHIBIT NO./PIÈCE No. P-2488:**

1 (739881) Letter from Dr. Mark Cornfield to
2 Richard Abell re Cathy Sutherland - 16 Mar,
3 06

4 **THE COMMISSIONER:** And then a letter --
5 Exhibit 2489 is a letter to Dr. Cornfield from Lisa Savage-
6 Arsenault and Jennifer Ray of the Children's Aid Society,
7 June 7th, 2006.

8 --- **EXHIBIT NO./PIÈCE No. P-2489:**

9 (739884) Letter from Lisa Savage-Arsenault
10 to Dr. Mark Cornfield re Cathy Sutherland -
11 07 Jun, 06

12 **MR. LEE:** Do you have all those before you,
13 Mr. Abell?

14 **MR. ABELL:** Yes, I do.

15 **MR. LEE:** And these letters aren't addressed
16 to you or from you, but it's my understanding that you
17 would have had some supervisory role throughout this
18 process? You would have been consulted?

19 **MR. ABELL:** I was aware of them, yes.

20 **MR. LEE:** And if you look at Exhibit 2847,
21 which is the January 27, '06 letter, we have Dr. Cornfield
22 identifying himself as a psychiatrist treating Ms.
23 Sutherland and he references the point that Ms. Sutherland
24 will soon be coming in front of the Criminal Injuries
25 Compensation Board. Do you see that?

1 **MR. CHISHOLM:** That exhibit should be, I
2 believe, 2487.

3 **THE COMMISSIONER:** Two eight what?

4 **MR. CHISHOLM:** Two four eight seven.

5 **THE COMMISSIONER:** That's the letter from
6 Dr. Cornfield dated January 27th, 2006?

7 **MR. CHISHOLM:** It was a couple of dates
8 later.

9 **THE COMMISSIONER:** Two eight four seven
10 (2847).

11 **MR. CHISHOLM:** Two four eight seven (2487).

12 **MR. LEE:** Right.

13 **THE COMMISSIONER:** Oh, okay, I see. Well --
14 I see, 2487. Okay.

15 **MR. LEE:** So, Mr. Abell, you see that the
16 reference is from the psychiatrist who is seeking records
17 to assist with the Criminal Injuries Compensation Board --
18 -

19 **MR. ABELL:** I do.

20 **MR. LEE:** --- application?

21 **MR. ABELL:** Yes.

22 **MR. LEE:** Would a request like this be given
23 any kind of priority as opposed to a normal disclosure
24 request?

25 **MR. ABELL:** It should have been. It was

1 timelined.

2 **MR. LEE:** And the CAS would have some
3 assistance in assisting as much as it could in terms of a
4 CICB application?

5 **MR. ABELL:** Yes.

6 **MR. LEE:** And so if you turn to Exhibit
7 2488, we have a March 16th follow-up from Dr. Cornfield
8 where he's asking for a response and enclosing a copy of
9 his original letter?

10 **MR. ABELL:** Yes.

11 **MR. LEE:** Do you see that?

12 **MR. ABELL:** Yes, I do.

13 **MR. LEE:** And then we have at 2489 a
14 response from a telephone intake worker who is tasked with
15 providing this disclosure and she notes that she's
16 enclosing a copy of the Donnelly file, which is the family
17 file. Do you see that?

18 **MR. ABELL:** Yes.

19 **MR. LEE:** And she notes that all information
20 pertaining to anyone other than Ms. Sutherland has been
21 blocked out?

22 **MR. ABELL:** Yes.

23 **MR. LEE:** And do you have any -- well, if
24 you look at the second paragraph, she notes that it had
25 been requested that any information relating directly to

1 Ms. Sutherland's relationship with her mother, as well as
2 any information relating to her stay in the foster home of
3 Carl Virgin and the CAS notes that in the absence of signed
4 consents and release of information, whether it could
5 obtain those, and the final sentence reads:

6 "In consultation with our legal counsel, we
7 were advised that in relation to a request
8 for records disclosure, the Society is not
9 required to seek out consents on behalf of
10 our clients; rather it is their
11 responsibility to provide these, therefore,
12 the Society was unable to accommodate this
13 request."

14 **MR. ABELL:** Yes.

15 **MR. LEE:** Was there any discussion in making
16 an exception to the rule in this case and taking -- making
17 some efforts to ---

18 **MR. ABELL:** Could you repeat that, please?

19 **MR. LEE:** Was there any discussion in
20 relation to this specific request, given the Society's
21 history with Cathy Sutherland and the issues she'd faced
22 with file disclosure, of going the extra mile, I suppose,
23 and taking some steps to try to obtain these consents?

24 **MR. ABELL:** Yeah, I can't recall.

25 **MR. LEE:** Okay.

1 And, I believe -- if we can just briefly
2 look at Exhibit 2321, please?

3 **THE COMMISSIONER:** Two-three-two-one (2321)?

4 **MR. LEE:** This was marked during the
5 evidence of Mr. Carriere.

6 **THE COMMISSIONER:** So 2321, which page?

7 **MR. LEE:** Just the entire file, I just want
8 to -- I believe that this was a ---

9 **THE COMMISSIONER:** Okay.

10 **MR. LEE:** --- this is the redacted copy of
11 the Donnelly file that was sent along with the request to
12 Dr. Cornfield, I believe.

13 Do you recognize this document as being that
14 Mr. Abell?

15 **MR. ABELL:** I've seen it in preparation,
16 yes.

17 **MR. LEE:** And so this is what would have
18 been sent to Dr. Cornfield pursuant to his request?

19 **MR. ABELL:** It's my understanding, yes.

20 **MR. LEE:** Do you recall whether or not you
21 would have reviewed this redacted copy against the
22 original; I mean, you personally against the original to
23 ensure that it was accurate or would that have been left to
24 somebody else?

25 **MR. ABELL:** To ensure it was accurate?

1 **MR. LEE:** Sorry?

2 **MR. ABELL:** What do you mean? To ensure it
3 was accurate?

4 **MR. LEE:** I'm asking -- well, to ensure that
5 the redactions are appropriate and that all of the
6 information that could be conveyed was being conveyed.

7 **MR. ABELL:** I don't recall doing it. My
8 best guess would be, Mr. Lee, that it was our senior
9 counsel who would have done that reviewing.

10 **MR. LEE:** Okay.

11 I want to ask you very briefly about Mary
12 Miller. She was a long-time caseworker. Is that right?

13 **MR. ABELL:** She was.

14 **MR. LEE:** Are you aware that she was the
15 worker for Roberta Judd at the time -- or Roberta
16 Archambault now -- at one point in the early 1980s?

17 **MR. ABELL:** I believe I was aware of that,
18 yes.

19 **MR. LEE:** Is it fair to say that Ms. Miller
20 had major issues with following accepted practices relating
21 to file recording and to case note-keeping?

22 **MR. ABELL:** That would be fair.

23 **MR. LEE:** And it became evident at one point
24 that her file recordings through the years were often not
25 done?

1 **MR. ABELL:** Correct.

2 **MR. LEE:** And they certainly weren't timely
3 when they were done?

4 **MR. ABELL:** Correct.

5 **MR. LEE:** And there were -- at various
6 times, there were -- these issues were raised with Ms.
7 Miller informally and via discipline?

8 **MR. ABELL:** Correct.

9 **MR. LEE:** And she was eventually terminated
10 from the CAS in 1993?

11 **MR. ABELL:** She was. She was, yes.

12 **MR. LEE:** And is it fair to say that a major
13 factor in that decision related to poor recording
14 practices?

15 **MR. ABELL:** Yes.

16 **MR. LEE:** Can we just look very, very
17 briefly at Exhibit 2339, please?

18 **THE COMMISSIONER:** Two-three-three-nine
19 (2339).

20 You should have that, it's in the same book;
21 2339.

22 **MR. ABELL:** Thank you.

23 **MR. LEE:** And I'm interested in Bates page
24 ending 641, please. Well, let's start at 640 if we could.

25 And at page 640, sir, we have a very lengthy

1 summary recording that goes on for many pages and it
2 concludes on page 640 and it's signed off on July 4th, 1983.
3 Do you see that?

4 MR. ABELL: Yes, I do.

5 MR. LEE: And then if you turn the page
6 over, we have an annual and closing summary with the worker
7 noted as Mary Miller; the period covered being July '83 to
8 September '84; and the date this was typed as being January
9 21, 1992?

10 MR. ABELL: I see that.

11 MR. LEE: You see that? So there's no
12 recording. It would appear that the recording on the
13 closing summary was not done for seven-and-a-half years or
14 so?

15 MR. ABELL: Correct.

16 MR. LEE: And would this be an example of an
17 issue that you would have had with recording practices?

18 MR. ABELL: I presume, yes.

19 MR. LEE: And I take this closing summary
20 should have been done ideally sometime in 1984?

21 MR. ABELL: Yes.

22 MR. LEE: And would -- obviously, the
23 primary responsibility for recording would be with the
24 worker. Would there also be some fault with the supervisor
25 here not ensuring that the closing summary was entered?

1 **MR. ABELL:** The responsibility was to see
2 that recording schedules were followed. That was a
3 constant struggle with Ms. Miller and others, but yeah,
4 they -- definitely the front line supervisor had
5 responsibility in this as well.

6 **MR. LEE:** And the last area I wanted to ask
7 you about. Were you present for the evidence of Geraldine
8 Fitzpatrick?

9 **MR. ABELL:** No.

10 **MR. LEE:** When she was here, she gave us
11 some evidence about a conversation she would have had in
12 early 1994 with Patricia Garrahan, where she was advised
13 that Ms. Garrahan was dating Charles -- Charlie Greenwell.
14 Did you hear that evidence at all?

15 **MR. ABELL:** No.

16 **MR. LEE:** That was the evidence of a
17 conversation that she had where Ms. Garrahan let Ms.
18 Fitzpatrick and other workers know that she was dating
19 Charlie Greenwell at the time. And does that come as a
20 surprise to you or you haven't heard this before?

21 **MR. ABELL:** Well, I've heard in evidence
22 that there was a rumour to that effect or there was
23 information to that effect.

24 **MR. LEE:** Do you have any knowledge of Ms.
25 Garrahan ever having been questioned in relation to that by

1 the CAS?

2 MR. ABELL: "That" being the relationship
3 with Charlie Greenwood?

4 MR. LEE: Yes.

5 MR. ABELL: No.

6 MR. LEE: And the reason I'm asking is you
7 know that there were some issues with Mr. Silmsers to the
8 police being leaked to the media, in particular, airing on
9 Mr. Greenwell's program?

10 MR. ABELL: Yes.

11 MR. LEE: And you know that at one point
12 Staff Sergeant Wells looked into the release of the
13 Silmsers statement?

14 MR. ABELL: He did.

15 MR. LEE: Do you have any knowledge of Staff
16 Sergeant Wells being made aware of the CAS -- of Ms.
17 Garrahan's relationship with Mr. Greenwell at that time?

18 MR. ABELL: I've no idea.

19 MR. LEE: You don't know whether that was
20 looked into either by the CAS or the CPS at that time?

21 MR. ABELL: I've no idea about CPS. And I
22 have absolutely no recollection of this information coming
23 to the Society. If we were investigating a staff member
24 about a relationship of that nature, I would have known
25 about it. And so my answer to you is no on either count.

1 **MR. LEE:** Okay.

2 Thank you. Those are my questions.

3 **THE COMMISSIONER:** Thank you.

4 Mr. Neville?

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

6 **NEVILLE:**

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

8 **MR. NEVILLE:** Good afternoon, Commissioner.

9 Good afternoon, Mr. Abell. My name is
10 Michael Neville and I represent Father Charles MacDonald.

11 **MR. ABELL:** Sure.

12 **MR. NEVILLE:** I also represent the Estate of
13 Ken Seguin, his brother Douglas and family members.

14 **MR. ABELL:** Okay. Thank you.

15 **MR. NEVILLE:** I'd like to start my questions
16 of you this afternoon with exploring just a bit further
17 your relationship with Perry Dunlop.

18 And you told the Commissioner that in
19 September of 1993 when the statement issue happens, you and
20 he had been friends for approximately three years?

21 **MR. ABELL:** I can't say specific -- I'd say
22 a bit less than that would be my guess.

23 **MR. NEVILLE:** Okay.

24 **MR. ABELL:** In fact, I'm pretty sure it was
25 less than that, sir.

1 **MR. NEVILLE:** From your C.V., I think you
2 joined the Cornwall CAS in '89?

3 **MR. ABELL:** Late '89, that's correct.

4 **MR. NEVILLE:** And you met him perhaps a
5 couple of years later. Is that ---

6 **MR. ABELL:** A couple of years later would be
7 fair, yes.

8 **MR. NEVILLE:** So when the events of
9 September '93 happen, you've been friends with him you
10 would estimate two years?

11 **MR. ABELL:** A year or two.

12 **MR. NEVILLE:** It's now a year is it?

13 **MR. ABELL:** A year or two.

14 **MR. NEVILLE:** A year or two. And your wives
15 were friends?

16 **MR. ABELL:** Well, we were friends as
17 couples, yes.

18 **MR. NEVILLE:** As couples, right. And you
19 said the kids played together or did things together?

20 **MR. ABELL:** At times, yes.

21 **MR. NEVILLE:** Were you neighbours?

22 **MR. ABELL:** No. No.

23 **MR. NEVILLE:** And so you would see each
24 other on a social basis, the families or the couples,
25 weekly?

1 **MR. ABELL:** Thereabouts.

2 **MR. NEVILLE:** All right.

3 So he's far from a stranger when you see him
4 in the Inn -- the parking lot of Queen's Inn on September
5 25th?

6 **MR. ABELL:** Well, he was a friend. He
7 wasn't a stranger.

8 **MR. NEVILLE:** All right. That's what I
9 said. He's far from a stranger. You knew him quite well?

10 **MR. ABELL:** I knew him quite well.

11 **MR. NEVILLE:** All right. And I think you
12 used the phrase for the Commissioner that he sort of poured
13 out his story?

14 **MR. ABELL:** Yes.

15 **MR. NEVILLE:** How long did he speak to you?

16 **MR. ABELL:** Ten (10), well, maybe 15
17 minutes.

18 **MR. NEVILLE:** Do you remember any details he
19 told you?

20 **MR. ABELL:** Yes.

21 **MR. NEVILLE:** What did he tell you?

22 **MR. ABELL:** He told me of having heard --
23 overheard the conversation between a couple of other
24 officers of hearing the name -- I believe he said he heard
25 the name Father MacDonald mentioned; went and got the --

1 spoke to the officer investigating; got the statement.

2 Had looked at it and was really very upset
3 with what he'd learned. He'd done some digging around. I
4 guess he'd looked for a file; tried to get some information
5 with his own organization; hadn't found any.

6 **MR. NEVILLE:** Okay. And then you see him on
7 the 26th, the 29th and the 30th?

8 **MR. ABELL:** It sounds right.

9 **MR. NEVILLE:** And you learn in stages,
10 various more pieces of information from him, culminating
11 with the statement?

12 **MR. ABELL:** Yes. Yeah.

13 **MR. NEVILLE:** Is that a fair summary?

14 **MR. ABELL:** Yeah, yeah, it's reasonable.

15 **MR. NEVILLE:** Sorry?

16 **MR. ABELL:** That's reasonable, yeah.

17 **MR. NEVILLE:** Okay.

18 Now, at the point you got the statement on
19 September 30th, you're obviously still friends, that's why
20 he's sharing it with you and, of course, the position you
21 hold?

22 **MR. ABELL:** Well,, he shared it with me
23 because he felt he had a duty to report.

24 **MR. NEVILLE:** I understand that. And when
25 is the next time, in relation to the 30th when you get the

1 statement, when is the next time you remember talking with
2 him about these events?

3 MR. ABELL: The events being?

4 MR. NEVILLE: The events that led him to
5 give you the statement.

6 MR. ABELL: Well,, anytime we were together
7 thereafter, it would come up in some way.

8 MR. NEVILLE: Would you not consider --
9 continue to see him and Helen as a couple, basically at the
10 same -- at the same pace, about once a week?

11 MR. ABELL: Initially I would say yes.

12 MR. NEVILLE: All right.

13 And did the topic of what was going on,
14 flowing from your receiving the statement, did that topic
15 come up?

16 MR. ABELL: Flowing from my receiving the
17 statement, well, the work that we were doing as a Society,
18 I wasn't at liberty to discuss with him, so I was trying to
19 be very careful not to betray professional confidences.
20 The matter was very much on the minds of Helen and Perry
21 and so they -- they talked about their end of it a lot.

22 MR. NEVILLE: Well,, that's what I'm trying
23 to get at here.

24 You would maintain your confidence, your
25 professional confidence, within the CAS. Would they

1 continue to talk about matters from their perspective?

2 MR. ABELL: They talked about it from their
3 perspective, yes.

4 MR. NEVILLE: Did they advise you, he or
5 they, that there was some kind of internal investigation
6 on?

7 MR. ABELL: You mean initially?

8 MR. NEVILLE: Yes.

9 MR. ABELL: I don't recall it, no.

10 MR. NEVILLE: You learned yourself there was
11 one from Officer Derochie?

12 MR. ABELL: Yes, in time. Yes.

13 MR. NEVILLE: Well,, fairly quickly, didn't
14 you? Within a couple of weeks?

15 MR. ABELL: Well,, whenever I was informed
16 by ---

17 MR. NEVILLE: Right.

18 MR. ABELL: --- Staff Sergeant Derochie, I
19 was informed.

20 MR. NEVILLE: Well,, the Commissioner we
21 understand, Mr. Abell, has heard quite a bit of evidence
22 about all of this, and that Mr. Dunlop took a leave of
23 absence during one of his shifts when the suggestion that
24 he was being investigated came up. Did he tell you about
25 that?

1 **MR. ABELL:** No, I don't recall it.

2 **MR. NEVILLE:** The Commissioner has also
3 learned that by early '94 he left regular service with the
4 police force, went on stress or sick leave and was gone for
5 over three years. Did you know that?

6 **MR. ABELL:** I was aware of that, yes.

7 **MR. NEVILLE:** How did you learn that?

8 **MR. ABELL:** I recall one day dropping by to
9 see him and, in fact, he told me then that he was off work
10 on a leave, which I took this to be a stress leave. So
11 that's how I became aware of it.

12 **MR. NEVILLE:** Do you recall when it was you
13 went to see him about his stress leave and how he was
14 doing, I take it? That's the purpose of the visit, was it?

15 **MR. ABELL:** No.

16 **MR. NEVILLE:** He was a friend.

17 **MR. ABELL:** Yes. So I dropped by on a
18 social basis ---

19 **MR. NEVILLE:** All right.

20 **MR. ABELL:** --- and at that point, he told
21 me that he was off on a leave.

22 **MR. NEVILLE:** All right. So when would this
23 have been?

24 **MR. ABELL:** Well,, it would have been -- I
25 don't have the date, but it would have been at the time

1 that he would be on record that he went on stress leave.

2 **MR. NEVILLE:** Well,, we know he went on
3 stress leave early in January, 1994.

4 **MR. ABELL:** Okay. Well, then, that would be
5 at that time.

6 **MR. NEVILLE:** All right.

7 Well,, we know that the verification meeting
8 and the letter to Father MacDonald, the meeting was in --
9 an initial meeting in late January, a more detailed one in
10 mid-February and a letter in March.

11 **MR. ABELL:** Okay.

12 **MR. NEVILLE:** You've been asked questions
13 about that, right?

14 **MR. ABELL:** Yes.

15 **MR. NEVILLE:** This visit to Perry to see how
16 he is, the visit as a friend, was it before the letter went
17 to Father MacDonald?

18 **MR. ABELL:** I'd have to look at the record,
19 Mr. Neville, I can't -- you know, I'm not frankly good on
20 dates so I can't put the two together.

21 **MR. NEVILLE:** M'hm.

22 Can we look, Commissioner, at Exhibit 1441?

23 **THE COMMISSIONER:** What page?

24 **MR. NEVILLE:** Yes, sorry, sir.

25 It's Bates page 561, Commissioner. It's

1 January 31st, 1994.

2 MR. ABELL: Five-six-one (561)?

3 MR. NEVILLE: Five-six-one (561), sir.

4 MR. ABELL: I have it, thank you.

5 MR. NEVILLE: The Document Number for
6 others, Commissioner, is 721621.

7 Now, just to put a bit of context to this
8 page reference, Mr. Abell. There's an investigation going
9 on within your agency. It's being headed up by Mr.
10 Carriere, it's being conducted on the ground, so to speak,
11 by Mr. Bell and Ms. De Bellis and there are regular team
12 meetings, essentially chaired by you?

13 MR. ABELL: That's correct.

14 MR. NEVILLE: And you're being kept up to
15 speed and informed as to what's going on?

16 MR. ABELL: That's correct.

17 MR. NEVILLE: And you come to learn, I'm
18 sure, that on more than one occasion between November of
19 '93 and January of '94, your friend, Mr. Dunlop, has
20 claimed to have knowledge of a ring, not just an ordinary
21 ring, but a ring of pedophiles.

22 Pedophiles are people who abuse children
23 sexually, right?

24 MR. ABELL: Yes.

25 MR. NEVILLE: And the purpose or the

1 business of the CAS is protecting children?

2 MR. ABELL: Yes.

3 MR. NEVILLE: When you dropped in to see
4 Perry when he was on sick leave or stress leave, did you
5 ask him about the ring of pedophiles?

6 MR. ABELL: No.

7 MR. NEVILLE: Why not?

8 MR. ABELL: I was there on a social basis.

9 MR. NEVILLE: That's not the point.

10 MR. ABELL: Well,, I answered your question,
11 sir.

12 MR. NEVILLE: You have a police officer who
13 has told your agency over and over for several weeks about
14 the knowledge he has of a ring of pedophiles.

15 MR. ABELL: All right. Actually, he didn't
16 do that, sir.

17 MR. ENGELMANN: Just to correct the fact,
18 there was one occasion stated and it's in the ---

19 MR. NEVILLE: Well, there's actually at
20 least too, but -- and if we're going to set aside the
21 reading of the warning to him about the Act, fine. But it
22 comes up at least twice, sir, and twice where he mentions
23 notes. Then he's also read the warning about Section 72,
24 but, let's go to January 31st.

25 THE COMMISSIONER: Yeah, let's.

1 **MR. NEVILLE:** Do you have that page, sir?

2 **MR. ABELL:** I'm sorry, I'm having a little
3 trouble hearing. We've got the heavy rain ---

4 **MR. NEVILLE:** I understand.

5 **MR. ABELL:** --- I apologize.

6 **MR. NEVILLE:** It's a tin roof apparently.

7 **MR. ABELL:** Five-six-one (561), is that the
8 page?

9 **THE COMMISSIONER:** That's right.

10 **MR. NEVILLE:** Yes.

11 **MR. ABELL:** Thank you.

12 **MR. NEVILLE:** You've got it?

13 **MR. ABELL:** I have, sir.

14 **MR. NEVILLE:** Okay. It's paragraph or
15 bullet item number 2, called Update?

16 **MR. ABELL:** Yes.

17 **MR. NEVILLE:** The fourth item:
18 "No further contact from Perry Dunlop. Decision: we won't
19 pursue him."

20 **MR. ABELL:** Yes.

21 **MR. NEVILLE:** Now, that's not -- ceasing to
22 pursue him about his knowledge and apparently notes
23 relevant to the issue of a clan of pedophiles or a ring of
24 pedophiles.

25 **MR. ABELL:** Yes.

1 **MR. NEVILLE:** And please help as to why your
2 agency would put that aside and forget about it?

3 **MR. ABELL:** Well, it wasn't a matter of
4 forgetting about it, it was very much on our minds. That
5 was the -- had been the focus of our investigation.

6 As you're aware from the record, sir, we --
7 our staff -- not "we", our staff -- had made a number of
8 efforts to get Mr. Dunlop to come in and to provide the
9 additional information that he said he had. And up to that
10 point, they had not been successful.

11 **MR. NEVILLE:** Please if you can, Mr. Abell,
12 tell me why you wouldn't go to your friend and say, "Perry,
13 what are you talking about?"

14 **MR. ABELL:** Well, I've said on a number of
15 occasions, Mr. Neville, I was very aware of the need to
16 maintain a professional line in the relationship I had with
17 Mr. Dunlop. My staff, very competent, and had been
18 persistent in trying to get him to provide that
19 information. And it would have been a complete stepping
20 out of my role to -- to have done so. And that's the
21 reason I didn't do it.

22 **MR. NEVILLE:** In the spring of 1994, the OPP
23 are re-investigating the entire matter. You knew that?

24 **MR. ABELL:** I was aware of that, yes.

25 **MR. NEVILLE:** You, in fact, were at at least

1 one meeting that included Inspector Smith?

2 MR. ABELL: Yes.

3 MR. NEVILLE: Did you ever advise Inspector
4 Smith that Mr. Dunlop had purportedly had this knowledge?

5 MR. ABELL: Of the pedophile -- of the
6 alleged pedophile ---

7 MR. NEVILLE: Yes, of the alleged pedophile
8 ring?

9 MR. ABELL: Oh, Inspector Smith I believe
10 was fully conversant with the information; had all the
11 information.

12 MR. NEVILLE: From whom?

13 MR. ABELL: From whom?

14 MR. NEVILLE: Yes.

15 MR. ABELL: It'd been a matter of public
16 record by then.

17 MR. NEVILLE: That there was a pedophile
18 ring?

19 MR. ABELL: That was on public record.
20 There'd been articles, discussions and by then it was ---

21 MR. NEVILLE: By March of '94?

22 MR. ABELL: Yes, I mean, the thing -- the
23 whole issue went public in early January of '94.

24 MR. NEVILLE: Well, the information in your
25 colleagues' notes is not only is there a ring but one of

1 the members is allegedly Malcolm MacDonald. Your agency
2 continued to deal with him throughout 1994.

3 **MR. ABELL:** I'm missing your point, sir,
4 I'm sorry.

5 **MR. NEVILLE:** You're missing my point.
6 Did you tell Inspector Smith that the ring
7 of pedophiles allegedly included Malcolm MacDonald?

8 **MR. ABELL:** I have no idea if we did at that
9 time.

10 **MR. ENGELMANN:** We have that evidence, sir,
11 with Mr. Carriere. The name was redacted. The other
12 information was provided.

13 **THE COMMISSIONER:** Yes, we do.

14 **MR. NEVILLE:** In the summer of 1995 -- and
15 Mr. Horn raised this with you -- you are quoted in a
16 newspaper article in the Globe and Mail speaking in a
17 supportive fashion for Mr. Dunlop.

18 **MR. ABELL:** Can I see the article?

19 **MR. NEVILLE:** Pardon me?

20 **MR. ABELL:** Could I see the article?
21 There's been a number of articles.

22 **MR. NEVILLE:** It's the one that he quoted to
23 you where there's a reference to the book Holy Orders --
24 Unholy Orders?

25 **MR. ABELL:** I remember that one. Okay. I

1 recall, yes.

2 MR. NEVILLE: Yeah, and you're responding to
3 the fact that Mr. Dunlop doing the right thing.

4 MR. ABELL: Correct, yeah.

5 MR. NEVILLE: Right?

6 MR. ABELL: Yeah.

7 MR. NEVILLE: Okay.

8 MR. ABELL: Well, if we're going to debate
9 it, I really would appreciate having the letter in front of
10 me.

11 MR. NEVILLE: The article? Well, I don't
12 have a copy ---

13 MR. ABELL: The article.

14 MR. NEVILLE: --- personally on me.

15 THE COMMISSIONER: It's an article that was
16 filed this morning.

17 MR. ABELL: Yes.

18 THE COMMISSIONER: So it would be in the
19 latest book of the 24th.

20 MR. NEVILLE: Actually, it's referred to
21 also, Commissioner, in ---

22 THE COMMISSIONER: Two-four-eight-five
23 (2485).

24 MR. NEVILLE: Right.

25 (SHORT PAUSE/COURTE PAUSE)

1 **THE COMMISSIONER:** No, 2485 is -- no, that's
2 not the Globe and Mail. Hang on. There's one before that.
3 So let's say it's 2484.

4 **MR. NEVILLE:** Yes, it is. I've just been
5 loaned a copy, Commissioner. You are right; it is 2484.

6 **MR. ABELL:** Two-four-four (244)?

7 **THE COMMISSIONER:** Two-four-eight-four
8 (2484).

9 **MR. NEVILLE:** Two-four-eight-four (2484),
10 sorry.

11 **MR. ABELL:** Thank you.

12 **THE COMMISSIONER:** Okay. So we're there.

13 **MR. NEVILLE:** Do you have it, Mr. Abell?

14 **MR. ABELL:** I do, yes.

15 **MR. NEVILLE:** And you've found the spot that
16 I'm talking about?

17 **MR. ABELL:** Which spot are you referring to?

18 **THE COMMISSIONER:** Last page.

19 **MR. NEVILLE:** It's the last page of the
20 article, the last column.

21 **MR. ABELL:** I have the last page, the last
22 column, yes.

23 **MR. NEVILLE:** The last paragraph, basically.

24 **MR. ABELL:** The last paragraph?

25 **MR. NEVILLE:** Yes.

1 **MR. ABELL:** I see it.

2 "Certainly, among local residents..."

3 Is that ---

4 **MR. NEVILLE:** And if you turn over to the
5 next page ---

6 **MR. ABELL:** I don't have one, sir.

7 **MR. NEVILLE:** Well, I'm using somebody
8 else's copy here, so I have a page 4 of 4, Commissioner.

9 **THE COMMISSIONER:** Yes, so do we.

10 **MR. NEVILLE:** That has Mr. Abell quoted.

11 **THE COMMISSIONER:** Yes, we're there.

12 **MR. NEVILLE:** You have that, Mr. Abell?

13 **MR. ABELL:** I have ---

14 **THE COMMISSIONER:** Okay. You were reading
15 on 3 of 4?

16 **MR. NEVILLE:** Yes, I was, sir.

17 **THE COMMISSIONER:** So on 3 of 4 at the
18 bottom:

19 "Mr. Abell recalled Constable Dunlop's
20 demeanour in those meetings; very upset
21 and concerned."

22 **MR. ABELL:** Oh.

23 **MR. NEVILLE:** And if we turn over, the
24 continuation, sir.

25 **THE COMMISSIONER:** Right.

1 So there:

2 "Perry is a very straightforward guy
3 who believes in right and wrong. He
4 came to me out of what I saw was a very
5 sincere belief that there might be kids
6 at risk."

7 Okay. So yes, he was -- you were supporting
8 that decision.

9 **MR. ABELL:** Yes.

10 **MR. NEVILLE:** Right?

11 **MR. ABELL:** Yes.

12 **MR. NEVILLE:** So that's gets us to the
13 summer of '95. Can we now look briefly, sir, at Exhibit
14 2463? It's Document, Commissioner, 721627.

15 Do you have it, sir?

16 **MR. ABELL:** I have that, yes.

17 **MR. NEVILLE:** All right.

18 The document starts with -- these are your
19 notes? Mr. Abell, these are your notes?

20 **MR. ABELL:** Yes, sir. Yes, they are.

21 **MR. NEVILLE:** All right.

22 And these are what you have recorded as
23 things being told to you by Charles Bourgeois on the 19th of
24 December 1996?

25 **MR. ABELL:** That's correct.

1 **MR. NEVILLE:** And you knew Mr. Bourgeois to
2 be Perry Dunlop's lawyer?

3 **MR. ABELL:** I did.

4 **MR. NEVILLE:** And it appears what he's
5 providing you here is a list of suspected pedophiles.

6 **MR. ABELL:** It's what it is.

7 **MR. NEVILLE:** I'm sorry?

8 **MR. ABELL:** That's what it is.

9 **MR. NEVILLE:** And you recognized a number of
10 those names?

11 **MR. ABELL:** I did.

12 **MR. NEVILLE:** You probably knew some of
13 them.

14 **MR. ABELL:** Yes.

15 **MR. NEVILLE:** All right.

16 Let's look at the next page. This records
17 some of the exchanges between yourself and Mr. Bourgeois on
18 the topic including his, as you saw it and were telling
19 him, his duty to report by providing more information.
20 Right?

21 **MR. ABELL:** He was telling me that this was
22 -- he was providing this information out of his
23 understanding of the duty to report, yes.

24 **MR. NEVILLE:** And you told him you needed
25 more?

1 **MR. ABELL:** Yes, I wanted the information on
2 which these names were given to me.

3 **MR. NEVILLE:** Right. Turn to the next page,
4 please.

5 **MR. ABELL:** Yes.

6 **MR. NEVILLE:** It's dated the 20th of December
7 1996.

8 **MR. ABELL:** Yes.

9 **MR. NEVILLE:** It starts with you attempting
10 to reach Mr. Bourgeois at 11:45 in the morning?

11 **MR. ABELL:** Yes.

12 **MR. NEVILLE:** The next entry is 3:40 p.m.,
13 "Left message with Perry Dunlop."

14 **MR. ABELL:** Yes.

15 **MR. NEVILLE:** Wasn't the message that you
16 left with Perry Dunlop about what you were talking about
17 with Mr. Bourgeois?

18 **MR. ABELL:** I don't recall. I was asked
19 earlier, and I can't recall the purpose of that call to Mr.
20 Dunlop.

21 **MR. NEVILLE:** Please, calm down, Mr. Abell.
22 This entry is on the same set of notes as
23 your conversations with Mr. Bourgeois about an alleged list
24 of pedophiles.

25 **MR. ABELL:** Yes.

1 **MR. NEVILLE:** Are you suggesting to me that
2 your call recorded here for Perry Dunlop wasn't related to
3 those previous entries?

4 **MR. ABELL:** It appears it is, but ---

5 **MR. NEVILLE:** Of course it is.

6 **MR. ABELL:** --- I can't recall.

7 **THE COMMISSIONER:** Well, just a second
8 please. He says, "Of course, it is," but you cut him off.
9 He doesn't recall.

10 **MR. NEVILLE:** You don't recall?

11 Do you agree with me, sir, that given its
12 juxtaposition on this page, it is almost certainly about
13 that topic?

14 **MR. ABELL:** Well, when I was asked about it
15 earlier, I believe I advanced that very speculation that it
16 may well have been something that had to do with my
17 conversation with Mr. Bourgeois.

18 **MR. NEVILLE:** Sure. His lawyer; that is to
19 say Dunlop's, right?

20 **MR. ABELL:** Yes.

21 **MR. NEVILLE:** And I'm suggesting, sir, that
22 you were calling Mr. Dunlop to find out what is your lawyer
23 talking about?

24 **MR. ABELL:** No.

25 **MR. NEVILLE:** You certainly had no

1 hesitation or problem, I take it, in calling Mr. Dunlop
2 that day?

3 **MR. ABELL:** I had no hesitation? What do
4 you mean?

5 **MR. NEVILLE:** You felt you could call him
6 and leave him a message to call you?

7 **MR. ABELL:** Yes, I did feel that.

8 **MR. NEVILLE:** All right.

9 So can we then look at Exhibit 2470? This
10 is your letter in 2001.

11 **MR. ABELL:** Yes.

12 **MR. NEVILLE:** Page 2.

13 **MR. ABELL:** Yes.

14 **MR. NEVILLE:** The last paragraph.

15 **MR. ABELL:** Yes.

16 **MR. NEVILLE:** "Given the above, I cannot say
17 that Perry's action to bringing this
18 matter to light has brought 'honour to
19 Canada'. It is impossible for me to
20 separate the initial action taken by
21 Perry from all that has followed, as
22 indicated in your criteria for the
23 granting of the meritorious service
24 direction."

25 So when you say "all that has followed" at

1 what point in time were you talking about?

2 **MR. ABELL:** Well, the initial -- the initial
3 bringing the matter to light was the first part and then
4 the events thereafter, which was Perry and Helen's
5 investigation, all the latter events, which I mention in
6 the letter.

7 **MR. NEVILLE:** Mr. Abell, you've told the
8 Commissioner that you're not sure; you can't remember when
9 it was that this friendship tapered off. It became other
10 than a friendship; is that right?

11 **MR. ABELL:** Well, it became a past
12 friendship, right.

13 **MR. NEVILLE:** When would you say that had
14 come about?

15 **MR. ABELL:** It tapered off over a few years.

16 **MR. NEVILLE:** Was it over when you tried to
17 reach him on December 20th, 1996?

18 **MR. ABELL:** Let me try -- I would say, if we
19 had a relationship, then it was much less of one, much,
20 much less.

21 **MR. NEVILLE:** You knew at that point Mr.
22 Dunlop had a high-profile lawsuit?

23 **MR. ABELL:** Yes.

24 **MR. NEVILLE:** It had been filed and
25 publicized in the local media here in June of 1996 -- July

1 of 1996, with a great deal of coverage. You were probably
2 aware of it?

3 MR. ABELL: Yes.

4 MR. NEVILLE: Were you aware of the
5 allegations he made in his subsequent Statement of Claim in
6 the fall of '96 when he first put forward the concept of a
7 clan of pedophiles?

8 MR. ABELL: Was I aware of a subsequent
9 claim?

10 MR. NEVILLE: Yes, alleging the existence of
11 a clan of pedophiles.

12 MR. ABELL: I don't know if I was.

13 MR. NEVILLE: At some point you must have
14 been?

15 MR. ABELL: Well, Perry had long talked
16 about a clan of pedophiles, so ---

17 MR. NEVILLE: When did he first talk to you
18 about a clan of pedophiles?

19 MR. ABELL: Very early in the whole matter.

20 MR. NEVILLE: How early?

21 MR. ABELL: I couldn't give you a date, sir.

22 MR. NEVILLE: Prior to his going on leave
23 in '94, likely then?

24 MR. ABELL: I -- I can't give you an
25 accurate answer on that, I don't recall.

1 **MR. NEVILLE:** You recall him using the
2 phrase "clan of pedophiles"?

3 **MR. ABELL:** Oh, I -- that was a term that
4 was used, yes.

5 **MR. NEVILLE:** It was?

6 **MR. ABELL:** Yes.

7 **MR. NEVILLE:** Was it prior to your dealing
8 with Mr. Bourgeois in December of '96?

9 **MR. ABELL:** I would presume so, yes.

10 **MR. NEVILLE:** All right.

11 **MR. ABELL:** Can we just go back briefly to
12 Exhibit 1441, Bates page 662, Commissioner? It's the
13 chronological start of these notes.

14 **THE COMMISSIONER:** I'm there.

15 **MR. NEVILLE:** It operates from back to
16 front, Mr. Abell, as you may know, so ---

17 **MR. ABELL:** I beg your pardon?

18 **MR. NEVILLE:** It sort of operates from back
19 to front, this document.

20 **MR. ABELL:** Okay.

21 **MR. NEVILLE:** It's where you recreate the
22 events starting on September 25th.

23 **MR. ABELL:** Okay.

24 **MR. NEVILLE:** You have it there?

25 **MR. ABELL:** I have 2441 in front of me.

1 **MR. NEVILLE:** Yes -- no, 1441.

2 **MR. ABELL:** Excuse me.

3 **MR. NEVILLE:** Bates page 662.

4 **MR. ABELL:** I don't believe I have the
5 binder, unless I need to switch. Sorry, 1141?

6 **MR. NEVILLE:** Yes.

7 **MR. ABELL:** And Bates ---?

8 **MR. NEVILLE:** Six-six-two (662).

9 **MR. ABELL:** Six-six-two (662).

10 **MR. NEVILLE:** If it's like ours, it'll be
11 near the back because the document runs from back to front.
12 This is your first entry, basically, on
13 September -- speaking of September 25th.

14 **MR. ABELL:** I have it, sir.

15 **MR. NEVILLE:** You have it?

16 **MR. ABELL:** Yes, I do.

17 **MR. NEVILLE:** All right.

18 And I take it what you have recorded here as
19 best you could with some accuracy, was what he had said to
20 you?

21 **MR. ABELL:** That's correct.

22 **MR. NEVILLE:** If we can look under the
23 headings of Saturday, September 25th?

24 **MR. ABELL:** Yes.

25 **MR. NEVILLE:** Did he advise you that the

1 complaint came in in November, '92, was assigned to Heidi
2 Black, "And no work done on this since then". Is that what
3 he told you?

4 MR. ABELL: Yes.

5 MR. NEVILLE: And you took that to mean,
6 literally, nothing?

7 MR. ABELL: He said there was no work done.

8 MR. NEVILLE: So you took it to mean the
9 file lay dormant with nothing done on it?

10 MR. ABELL: That's the implication, yes.

11 MR. NEVILLE: Okay.

12 Just further down, the third bullet from the
13 bottom says:

14 "Nothing put on internal record system
15 (computer) - Stuart McDonald..."

16 And then "Inspector" is in brackets:

17 "...directed that everything stay on
18 paper."

19 Is that something he said to you?

20 MR. ABELL: Yes.

21 MR. NEVILLE: Did you know who
22 Stuart McDonald was?

23 MR. ABELL: He was a senior officer in
24 Cornwall Police Service.

25 MR. NEVILLE: Did you know if he had any

1 relationship to Perry Dunlop?

2 MR. ABELL: Yes, there was a family -- there
3 was a family connection, I believe.

4 MR. NEVILLE: What was it?

5 MR. ABELL: I believe Inspector McDonald is
6 married to a sister of Helen Dunlop.

7 MR. NEVILLE: He's a brother-in-law, isn't
8 he?

9 MR. ABELL: I beg your pardon?

10 MR. NEVILLE: He's Perry's brother-in-law?

11 MR. ABELL: Being his brother-in-law, yes.

12 MR. NEVILLE: Okay.

13 So the next thing that happens is you get
14 the statement -- well, no, it's not the next thing, but
15 eventually in sequence you get the statement and you
16 consult your staff and eventually Project Blue gets
17 underway?

18 MR. ABELL: Yes.

19 MR. NEVILLE: All right.

20 Now, did your staff, either Mr. Bell or Mr.
21 Carriere, keep you advised as to various things they were
22 learning as they conducted interviews?

23 MR. ABELL: Well, my source of information
24 was primarily the team meetings.

25 MR. NEVILLE: Yes.

1 **MR. ABELL:** And at that time, as you've seen
2 on the record, we would be given an update and that's where
3 I would learn information.

4 **MR. NEVILLE:** Did you learn that your staff
5 had met with the Cornwall Police Service and, in
6 particular, Staff Sergeant Brunet and Constable Sebalj, the
7 investigator?

8 **MR. ABELL:** I -- yes, I believe there's
9 record of that, yes.

10 **MR. NEVILLE:** All right.
11 Did you read from time-to-time Mr. Bell's
12 notes?

13 **MR. ABELL:** His case notes ---

14 **MR. NEVILLE:** Yes.

15 **MR. ABELL:** --- field notes? No.

16 **MR. NEVILLE:** Okay. Were you advised of
17 their meeting with those two officers?

18 **MR. ABELL:** I believe -- I recall that being
19 on the record, yes.

20 **MR. NEVILLE:** Were you advised that Officer
21 Sebalj, just prior to the settlement by the Diocese, had
22 come to the conclusion that she lacked reasonable and
23 probable grounds to lay a charge against Father MacDonald?
24 Were you advised of that?

25 **MR. ABELL:** I can't recall.

1 **MR. NEVILLE:** Were you advised that Staff
2 Sergeant Brunet has gone to see the Crown and had received
3 a letter from the Crown confirming, among other things,
4 that Constable Sebalj lacked reasonable and probably
5 grounds to lay a charge? Were you advised of that?

6 **MR. ABELL:** I think I've -- I think I have
7 been aware of it, but it's -- I'm not confident about that,
8 sir.

9 **MR. NEVILLE:** Did you come to learn that in
10 fact prior to the settlement even being done, that Father
11 MacDonald's counsel, Mr. MacDonald, Malcolm, had advised
12 the Crown of the pending settlement?

13 **MR. ABELL:** I don't know if I knew that.

14 **MR. NEVILLE:** Can I refer the witness,
15 Commissioner, to Exhibit 1441, Bates page 648?

16 **THE COMMISSIONER:** So 648.

17 **MR. NEVILLE:** Do you have it, sir?

18 **MR. ABELL:** Yes, sir.

19 **MR. NEVILLE:** These are Ms. McLennan's
20 notes?

21 **MR. ABELL:** I would presume so by the
22 initials.

23 **MR. NEVILLE:** And they have been provided to
24 us at least as apparently part of your Project Blue file?

25 **MR. ABELL:** Okay.

1 **MR. NEVILLE:** Therefore, likely in your
2 file?

3 **MR. ABELL:** I -- yes, I presume so.

4 **MR. NEVILLE:** If you look at the bottom of
5 that page, sir.

6 **MR. ABELL:** Yes.

7 **MR. NEVILLE:** "Malcolm MacDonald contacted
8 Crown and explained situation and said
9 they were going to settle and wanted
10 Crown to be aware of the
11 circumstances."

12 **MR. ABELL:** Okay.

13 **MR. NEVILLE:** And the date of those notes is
14 October the 15th, 1993.

15 **MR. ABELL:** I see that.

16 **MR. NEVILLE:** So likely again something that
17 was brought to your attention?

18 **MR. ABELL:** I would presume, yes.

19 **MR. NEVILLE:** Okay.

20 **MR. ABELL:** Yes.

21 **MR. NEVILLE:** So what's been brought to your
22 attention by at least the 21st of October or shortly after
23 is the Crown were advised of a pending settlement. Just
24 prior to the settlement, the arresting officer -- or
25 investigating officer I should say -- lacked reasonable and

1 probably grounds and then a settlement happened, right?

2 MR. ABELL: Yes.

3 MR. NEVILLE: You knew all that?

4 MR. ABELL: Okay, yes.

5 MR. NEVILLE: So would you agree with me
6 then that compared to what Mr. Dunlop had told you on the
7 25th, that nothing had been done on the file, that's hardly
8 the case is it?

9 MR. ABELL: It would appear so.

10 MR. NEVILLE: Yes. Well, when you learned
11 all that, did a little bell go off saying, "M'hm, what's
12 going on here?"

13 MR. ABELL: I can't recall a discussion that
14 particular.

15 MR. NEVILLE: Did you know Murray MacDonald?

16 MR. ABELL: I beg your pardon?

17 MR. NEVILLE: Did you know Murray MacDonald?

18 MR. ABELL: Did I know -- I knew him, yes.

19 MR. NEVILLE: Yes. He was the local senior
20 Crown?

21 MR. ABELL: Correct.

22 MR. NEVILLE: Did it occur to you to go and
23 see him or call him and say, "Here's what I understand,
24 Murray".

25 MR. ABELL: I can't hear you, sir.

1 **MR. NEVILLE:** Yes. Did it occur to you -- I
2 apologize.

3 **MR. ABELL:** I cannot hear you.

4 **MR. NEVILLE:** I understand. Did it occur to
5 you to go to Murray, call him or go to see him, and say,
6 "Here's what I understand is the case. Can you tell me
7 what you know?"

8 **MR. ABELL:** I don't recall that coming up as
9 an option.

10 **MR. NEVILLE:** Now, you knew that the OPP
11 came into the city and were redoing the case through a
12 great portion of 1994?

13 **MR. ABELL:** Yes.

14 **MR. NEVILLE:** And you were advised, I'm
15 sure, through your staff that one of the things the OPP did
16 was they took a statement, an interview statement, from
17 Father MacDonald?

18 **MR. ABELL:** I would presume I knew that.

19 **MR. NEVILLE:** And as part of which he
20 brought to the police's attention some documents that
21 appear to be inconsistent with Mr. Silmsen's claim? And
22 that's reflected in Mr. Bell's notes?

23 **THE COMMISSIONER:** What document would be
24 inconsistent?

25 **MR. NEVILLE:** That he was associating --the

1 letter, Commissioner?

2 THE COMMISSIONER: Yes?

3 MR. NEVILLE: The letter written from jail?

4 THE COMMISSIONER: Well, some people might
5 take it as inconsistent.

6 MR. NEVILLE: Some people might and some
7 people night not, sir.

8 THE COMMISSIONER: You're quite right, yes.

9 MR. NEVILLE: And some people might.

10 THE COMMISSIONER: Yes.

11 MR. NEVILLE: Right.

12 THE COMMISSIONER: Yes.

13 MR. NEVILLE: And some people, I suggest to
14 the witness, might want to see it and look at it, and
15 that's my question.

16 THE COMMISSIONER: Okay.

17 MR. NEVILLE: You knew all that had
18 happened ---

19 MR. ABELL: Would you ---

20 MR. NEVILLE: --- that they did an
21 interview ---

22 MR. ABELL: Would you repeat that again,
23 sir?

24 MR. NEVILLE: Yes, sir.

25 Your colleague -- Mr. Bell's notes --

1 reflect that he was advised by Inspector Smith and/or
2 Detective Constable Fagan, that the officers had
3 interrogated Father Macdonald; he had provided them a
4 history of his contacts with Mr. Silmser, including one or
5 more documents showing ongoing contacts between the two
6 men.

7 **MR. ABELL:** Okay.

8 **MR. NEVILLE:** Including a letter from prison
9 that was very friendly and supportive.

10 **MR. ABELL:** Okay.

11 **MR. NEVILLE:** It would appear that you and
12 your agency made no effort to obtain that statement or the
13 documents, correct?

14 **MR. ENGELMANN:** We've been through this
15 before and Mr. Neville went through this with Mr. Carriere.
16 It's a letter from 1975. I don't think this witness knows
17 about it. We went through the fact that Malcolm MacDonald
18 had an opportunity to provide documents at the time, during
19 Project Blue. He chose, for whatever reason, not to
20 provide that. I'm not sure why we're going here again.

21 **THE COMMISSIONER:** Why are we going there,
22 Mr. Neville?

23 **MR. NEVILLE:** Well, Commissioner, I'm going
24 to refer the witness to documents that, in fact, he
25 authored.

1 **THE COMMISSIONER:** And why?

2 **MR. NEVILLE:** Showing that in my respectful
3 view and I'll suggest to the witness that what's gone on
4 here is less than objective.

5 **MR. ENGELMANN:** Sir, even if my friend wants
6 to advance that position, this letter that wasn't given to
7 the ---

8 **THE COMMISSIONER:** --- Children's Aid.

9 **MR. ENGELMANN:** --- to the CAS by Father
10 MacDonald's lawyer, how can he advance it for that cause?
11 I don't see the relevance.

12 **THE COMMISSIONER:** Well ---

13 **MR. NEVILLE:** Well, I don't want to take up
14 too much time, sir, but in fact way before the interview
15 took place, Monsignor McDougald advised his agency of the
16 letter ---

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

18 **MR. NEVILLE:** --- and of the relationship
19 that had gone on and of the support that Father MacDonald
20 had provided as far back as early October of 1993, all of
21 which appears not to have factored into the equation.

22 **THE COMMISSIONER:** Did that factor into the
23 equation?

24 **MR. ABELL:** I'm sorry, sir?

25 **THE COMMISSIONER:** Did any of that factor

1 into the equation?

2 MR. ABELL: Factor in? I'm sorry.

3 THE COMMISSIONER: The equation of making a
4 finding of verification, I guess is where you're going at,
5 right?

6 MR. NEVILLE: Well, it would be hard at that
7 point. Certainly, obviously what Monsignor McDougald told
8 them didn't and the verification has been sent prior to the
9 OPP interview. The interview has been offered and the
10 document has been offered and not asked for, and now I'm
11 going to deal with the verification.

12 THE COMMISSIONER: Go ahead.

13 MR. NEVILLE: Mr. Abell, a verification
14 session began in late January and completed on the 17th of
15 February and a letter was sent to Father MacDonald, right?

16 MR. ABELL: Right.

17 MR. NEVILLE: And do you agree with me that
18 it had been indicated throughout that process up to the
19 sending of the letter to Father MacDonald -- it had been
20 indicated to your agency by Malcolm MacDonald that Father
21 MacDonald could not attend for an interview. He could not
22 leave Southdown.

23 MR. ABELL: I don't recall the exchange on
24 that matter.

25 MR. NEVILLE: You had no knowledge of that?

1 **MR. ABELL:** Well, I had knowledge, but I
2 don't remember the particulars of it. It was handled by my
3 staff.

4 **MR. NEVILLE:** Were you told that he could
5 not leave Southdown?

6 **MR. ABELL:** That he could not leave
7 Southdown? I may have. I don't recall.

8 **MR. NEVILLE:** All right.
9 Can we look, Commissioner, at Exhibit
10 721641?

11 **THE COMMISSIONER:** I don't think that's an
12 exhibit.

13 **MR. NEVILLE:** No, it's not. I think some of
14 the letters may be, sir, but this particular document is
15 not.

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **MR. NEVILLE:** One-six-five (165).

18 **THE COMMISSIONER:** Do we have it?

19 **THE REGISTRAR:** It is an exhibit.

20 **THE COMMISSIONER:** I'm sorry?

21 **THE REGISTRAR:** It is an exhibit.

22 **THE COMMISSIONER:** It's already an exhibit?

23 **THE REGISTRAR:** Yes.

24 **THE COMMISSIONER:** What's the exhibit?

25 **THE REGISTRAR:** Two-seventy-seven (277).

1 **THE COMMISSIONER:** Two-seventy-seven (277).

2 It's ---

3 **MR. NEVILLE:** And there's another one --
4 there's a companion document, Commissioner. It's a letter
5 of 25 January '94 sent to Father MacDonald.

6 **THE COMMISSIONER:** Yes. Well, let's find it
7 on a break. We'll take the afternoon break.

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

10 This hearing will resume at 3:15 p.m.

11 --- Upon recessing at 2:57 p.m./

12 L'audience est suspendue à 14h57

13 --- Upon resuming at 3:19 p.m./

14 L'audience est reprise à 15h19

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

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

19 **THE COMMISSIONER:** How much longer, Mr.
20 Neville?

21 **MR. NEVILLE:** For up to 10 minutes, sir.

22 **THE COMMISSIONER:** Go ahead.

23 **MR. NEVILLE:** The exhibit number,
24 Commissioner, for the first letter I wanted to refer Mr.
25 Abell to, is 2249. It's -- so you know, sir, and Mr.

1 Abell, it was the letter to Charles MacDonald that he sends
2 back with handwriting on it.

3 Two-two-four-nine (2249).

4 There is a response, Commissioner, which I
5 don't believe is an exhibit and it's within 721641. That's
6 why I was using that document.

7 (SHORT PAUSE/COURTE PAUSE)

8 RICHARD ABELL, Resumed/Sous le même serment:

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

10 NEVILLE (cont'd/suite):

11 MR. NEVILLE: You have the letter in front
12 of you, Mr. Abell?

13 MR. ABELL: I do.

14 MR. NEVILLE: I'm sorry?

15 MR. ABELL: I do.

16 MR. NEVILLE: You do. If you'll just look
17 at the signature page, it appears that you've signed it for
18 your two colleagues?

19 MR. ABELL: Yes.

20 MR. NEVILLE: And if you'd look at the first
21 page, paragraph four:

22 "I have attempted to schedule a meeting
23 with you at my office to Mr. Malcolm
24 MacDonald, who has indicated he acts as
25 legal counsel for you in this matter.

1 He has indicated, however, that you
2 will not attend such a meeting."

3 And this letter comes back with a response
4 written on it by Father MacDonald on the second page.

5 **MR. ABELL:** Yes.

6 **MR. NEVILLE:** May I refer the witness,
7 Commissioner, to 721641, Bates page 165?

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **THE COMMISSIONER:** Is that going to be a new
10 exhibit?

11 **MR. NEVILLE:** I've checked and I don't think
12 this one is, sir. So it would have to be.

13 **THE COMMISSIONER:** Okay.

14 So, Madame Clerk, do you have it?

15 **THE REGISTRAR:** Two-four-nine-zero (2490).

16 **THE COMMISSIONER:** Two-four-nine-three
17 (2493)?

18 **THE REGISTRAR:** Two-four-nine-zero (2490).

19 **THE COMMISSIONER:** I'm sorry. Okay.
20 Where's the document? Okay. That's what I was asking.
21 Okay.

22 Put it on the screen, please?

23 All right. So Exhibit 2490, Madame Clerk?

24 All right. And that's a letter dated February 9th, 1994, to
25 the Children's Aid Society by Mr. Malcolm MacDonald.

1 --- EXHIBIT NO./PIÈCE NO. P-2490:

2 (721627) Excerpt: 7081165 - Letter From
3 A. M. MacDonald to Richard Abell - 09
4 Feb, 94

5 MR. NEVILLE: Do you have it in front of
6 you, Mr. Abell?

7 MR. ABELL: I have it on the screen, yes.

8 MR. NEVILLE: And it's addressed to you?

9 MR. ABELL: Yes.

10 MR. NEVILLE: And this is the return of your
11 January 25th letter in which you find the emphatic "no" by
12 Father MacDonald. I would like to refer you to the third
13 sentence, third line:

14 "My client asked me to point out to you
15 your comments in paragraph 4."

16 That's the paragraph where you say to Father
17 MacDonald that he will not attend.

18 MR. ABELL: Yes.

19 MR. NEVILLE: "My client tells me that it
20 was not possible for him to leave
21 Southdown and therefore could not
22 attend your office in Cornwall."

23 And you appear to have received that letter
24 on the 9th of February, 1994.

25 MR. ABELL: It appears so.

1 **MR. NEVILLE:** You went ahead with the
2 verification meeting with no input from Father MacDonald
3 knowing he couldn't be there, right?

4 **MR. ABELL:** Well, we have his input on the
5 return letter of January 25th.

6 **MR. NEVILLE:** That's his input?
7 I take it an emphatic "no" wasn't much of an
8 input in terms of the outcome?

9 **MR. ABELL:** Sorry?

10 **MR. NEVILLE:** The outcome was not exactly in
11 his favour in the March letter.

12 It said to him that he abused David Silmser,
13 didn't it?

14 **MR. ABELL:** In the March letter?

15 **MR. NEVILLE:** The letter that was sent to
16 him with the outcome.

17 **THE COMMISSIONER:** The verification letter.

18 **MR. ABELL:** Oh, the verification letter.
19 I'm sorry.

20 **MR. NEVILLE:** Said he was ---

21 **MR. ABELL:** That was our position, yes.

22 **MR. NEVILLE:** So his emphatic no ---

23 **MR. ABELL:** Correct.

24 **MR. NEVILLE:** --- did not exactly carry the
25 day, did it?

1 **MR. ABELL:** Well, obviously not, no.

2 **MR. NEVILLE:** No.

3 Now, may I refer the witness, Commissioner,
4 to Exhibit 2461, Bates page 680. It's Exhibit 2461,
5 Document Number 721622.

6 **THE COMMISSIONER:** This is the indictment?

7 **MR. NEVILLE:** Pardon me, sir?

8 **THE COMMISSIONER:** Two two six one (2261)?

9 **MR. NEVILLE:** No, no, 2461. Too many
10 numbers at once. It's -- 721622 was the document number,
11 Commissioner.

12 **THE COMMISSIONER:** Two four six one (2461).
13 All right. What page?

14 **MR. NEVILLE:** Bates page 680.

15 Now, just for -- sorry, I will wait for the
16 Commissioner.

17 **THE COMMISSIONER:** I'm there.

18 **MR. NEVILLE:** Just for context, Mr. Abell,
19 this is after the Standard Freeholder article quoting the
20 Bishop about the Diocese and its willingness to cooperate?

21 **MR. ABELL:** Yes.

22 **MR. NEVILLE:** And you then draft a media
23 release which has been explored with you?

24 **MR. ABELL:** Yes.

25 **MR. NEVILLE:** And you also wrote comments on

1 the Diocesan Guidelines on Sexual Abuse by Clergy?

2 MR. ABELL: Yes.

3 MR. NEVILLE: This is your writing?

4 MR. ABELL: Some of it.

5 MR. NEVILLE: At the bottom of the page:

6 "Phase 3, meeting with the suspected
7 aggressor, Item B Objectives."

8 Is that your writing?

9 MR. ABELL: Page 3?

10 MR. NEVILLE: No, no, Phase 3.

11 MR. ABELL: Oh, phase 3, meeting with the
12 suspected aggressor. Yes, the underlining which his rights
13 and which are -- that's my comment, yes.

14 MR. NEVILLE: All right.

15 So this is under "Objectives" in terms of
16 dealing with the alleged perpetrator:

17 "Notify the suspected aggressor of the
18 complaint that was made against him.
19 Reassure him that his rights will be
20 respected."

21 And you have written, "which are".

22 MR. ABELL: Yes.

23 MR. NEVILLE: Are you familiar with a
24 principle known as the presumption of innocence?

25 MR. ABELL: Yes.

1 **MR. NEVILLE:** Are you serious when you said
2 on here, "which are" in terms of his rights?

3 **THE COMMISSIONER:** Well, Mr. Neville, are
4 you asking him on the basis of criminal law or on the basis
5 of CFSA and how he goes about making his verification?

6 **MR. NEVILLE:** Let me ask that question
7 because that one interests me too, Commissioner.

8 **THE COMMISSIONER:** All right.

9 **MR. NEVILLE:** You understand there are
10 certain rights in our legal system?

11 **MR. ABELL:** Yes, sir.

12 **MR. NEVILLE:** And you accept those?

13 **MR. ABELL:** Yes.

14 **MR. NEVILLE:** One of them is the presumption
15 of innocence?

16 **MR. ABELL:** Yes.

17 **MR. NEVILLE:** One of them is the right to
18 remain silent?

19 **MR. ABELL:** Yes.

20 **MR. NEVILLE:** Among others, right?

21 **MR. ABELL:** Yes.

22 **MR. NEVILLE:** Right to a fair trial. We can
23 go through the list. Fair enough.

24 So when you wrote, "Reassure him that his
25 rights which are", what were you meaning?

1 **MR. ABELL:** This is a Diocesan document.

2 **MR. NEVILLE:** Right.

3 **MR. ABELL:** This was drafted and published
4 by the Diocese, this area, for its own internal use. This
5 isn't a criminal law document. It's not a civil document.
6 This is a Diocesan document.

7 **MR. NEVILLE:** Yes.

8 **MR. ABELL:** And I was curious when I went
9 through this, and I think I gave my testimony that it was a
10 run through and just jotted down some things that came to
11 mind. I wondered what they were referring to. I presumed
12 it was more canon law, frankly.

13 **MR. NEVILLE:** Did you inquire?

14 **MR. ABELL:** No.

15 **MR. NEVILLE:** That's fine.

16 Now, let me just refer you briefly, if I
17 may, to Exhibit 2462, Document Number 721620.

18 **MR. ABELL:** Yes.

19 **THE COMMISSIONER:** What page?

20 **MR. NEVILLE:** It starts, Commissioner, on
21 Bates page 507.

22 Do you have it, sir?

23 **MR. ABELL:** Yes, I do.

24 **MR. NEVILLE:** These are your notes?

25 **MR. ABELL:** Yes.

1 **MR. NEVILLE:** Recording information from
2 Inspector Smith on the 15th of May?

3 **MR. ABELL:** Yes.

4 **MR. NEVILLE:** Okay. He refers in the middle
5 of the page of your notes, "On public record - Statement of
6 Claim". You understood that to mean Mr. Dunlop's Statement
7 of Claim?

8 **MR. ABELL:** I presume so, yes.

9 **MR. NEVILLE:** And you've got in quotation
10 marks the next recorded entry, double quotation marks, "Out
11 everywhere".

12 **MR. ABELL:** Yes.

13 **MR. NEVILLE:** Meaning Mr. Dunlop's
14 allegations as in the Statement of Claim were out
15 everywhere?

16 **MR. ABELL:** That's my presumption, yes.

17 **MR. NEVILLE:** Out in this community at
18 large?

19 **MR. ABELL:** That's my presumption, yes.

20 **MR. NEVILLE:** Can we look for a moment at
21 Bates page 513. Do you have it?

22 **MR. ABELL:** I have it, sir.

23 **MR. NEVILLE:** This is part of your notes of
24 a meeting where the OPP, including Inspector Smith, come to
25 your office?

1 **MR. ABELL:** Yes.

2 **MR. NEVILLE:** And I'm looking at the fourth
3 line from the top in your writing, "Tim", meaning Officer
4 Smith:

5 "...leaves the Charles Bourgeois binder
6 that was provided to the London Police
7 and OPP."

8 **MR. ABELL:** Yes.

9 **MR. NEVILLE:** So on that occasion what we
10 have come to be calling the Fantino Brief, a version or
11 copy of it was made available to you?

12 **MR. ABELL:** It was.

13 **MR. NEVILLE:** By the OPP, in particular
14 Inspector Smith?

15 **MR. ABELL:** Correct.

16 **MR. NEVILLE:** Now, you've -- you looked at
17 the material that he provided you through the Fantino
18 Brief?

19 **MR. ABELL:** Yes, it was a binder.

20 **MR. NEVILLE:** Pardon me?

21 **MR. ABELL:** It was a binder.

22 **MR. NEVILLE:** Yes, and there was in there,
23 among other things, the affidavit by Mr. Leroux?

24 **MR. ABELL:** I can't -- frankly, I can't
25 recall specifics of the content. There was a lot of

1 material in there, a lot of pictures and statements and
2 documents.

3 **MR. NEVILLE:** Okay. There were statements
4 in there making allegations of sexual abuse against a
5 number of people?

6 **MR. ABELL:** Correct.

7 **MR. NEVILLE:** A number of clergy?

8 **MR. ABELL:** Correct.

9 **MR. NEVILLE:** Including my client, Father
10 MacDonald?

11 **MR. ABELL:** I presume so. I'm quite sure he
12 was in there, yes.

13 **MR. NEVILLE:** And there were other priests
14 in there, some of whom you knew, including Father Maloney,
15 Father McDougald, the man who came to see you shortly
16 thereafter with copies of some of the same material?

17 **MR. ABELL:** That's correct, yes.

18 **MR. NEVILLE:** Pardon me?

19 **MR. ABELL:** That's correct, sir.

20 **MR. NEVILLE:** Yes. And did the CAS launch
21 into any kind of investigation similar to the Charles
22 MacDonald one on any of those persons?

23 **MR. ABELL:** No, we didn't, sir.

24 **MR. NEVILLE:** Those are my questions. Thank
25 you.

1 **THE COMMISSIONER:** Did I ask Maître Rouleau?

2 **MR. ROULEAU:** I have no questions.

3 **THE COMMISSIONER:** All right.

4 Ms. Waddilove?

5 **MS. WADDILOVE:** I have no questions.

6 **THE COMMISSIONER:** All right.

7 Mr. Glick?

8 **MR. GLICK:** Yes, just a few.

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

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

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

12 **GLICK:**

13 **MR. GLICK:** Good afternoon, Mr. Abell. My
14 name is Jordan Glick. I represent Mr. Leduc.

15 **MR. ABELL:** Thank you.

16 **MR. GLICK:** I'm only here to canvass really
17 one area and that's yours and your investigatory team's
18 interactions with Mr. Leduc during Project Blue.

19 So now, I understand that you spoke directly
20 with Mr. Leduc at the beginning of Project Blue?

21 **MR. ABELL:** Yes, early on.

22 **MR. GLICK:** And you directed that Mr. Leduc
23 be in contact with Mr. Greg Bell and Mr. Bill Carriere who
24 were going to be the investigators with respect to the
25 Silmsler allegations?

1 MR. ABELL: That's correct.

2 MR. GLICK: And Mr. Leduc was in fact in
3 contact with Greg Bell on October 15th, 1993?

4 MR. ABELL: If it's on the ---

5 MR. GLICK: Let me direct you. It's Exhibit
6 2324 and it's Bates page 7081863.

7 MR. ABELL: Can I have the Bates page again
8 please, sir?

9 MR. GLICK: Sure. It's 7081860 -- I'm
10 sorry, 1863.

11 MR. ABELL: One eight six three (1863).

12 MR. GLICK: And you can see about halfway
13 down the page, "Called Jacques Leduc". This is Greg Bell
14 and it's with regards to scheduling a meeting.

15 THE COMMISSIONER: Okay. We're there.

16 MR. ABELL: Not quite, sorry. I apologize,
17 sir.

18 THE COMMISSIONER: Sorry, 1863.

19 MR. ABELL: Sorry, I have 1863.

20 THE COMMISSIONER: And then there's "Called
21 Jacques Leduc."

22 MR. ABELL: Oh sorry, excuse me, yes.

23 THE COMMISSIONER: All right.

24 MR. GLICK: And you see just below it says:
25 "They agreed to meet at CAS."

1 **MR. ABELL:** "Agreed," yes.

2 **MR. GLICK:** And now if you turn back just
3 one page to 1862, we're looking at the second paragraph.
4 We're looking at the last line of Mr. Bell's notes where he
5 indicates that:

6 "Mr. Leduc indicated that the Diocese
7 intended to provide full cooperation
8 with respect to the CAS investigation"

9 **MR. ABELL:** Yes, I see the line, yes.

10 **MR. GLICK:** Now, is that your understanding
11 that the Diocese did intend to provide full cooperation
12 with respect to the CAS investigation?

13 **MR. ABELL:** That was my understanding, yes.

14 **THE COMMISSIONER:** Mr. Glick, that is how
15 you pronounce your name?

16 **MR. GLICK:** Yes.

17 **THE COMMISSIONER:** All right.

18 That sounds like an institutional response
19 of the Diocese. You're here to represent his interests
20 presumably with respect to his charges.

21 **MR. GLICK:** Yes. No, my intention is to
22 show just all the conversations that Mr. Leduc had. Mr.
23 Leduc was in fact acting on behalf of the Diocese at the
24 time. So I'm just following through on a timeline. But
25 I'll get ---

1 **THE COMMISSIONER:** Well, we'll agree that
2 you talked to -- that he did because we've been through all
3 of that already.

4 **MR. GLICK:** Okay. And Mr. Leduc facilitated
5 -- well, Mr. Leduc did, in fact, facilitate most of the
6 interaction between the CAS and the Diocese, correct?

7 **MR. ABELL:** We were to work through him was
8 my recollection, yes -- my staff were.

9 **MR. GLICK:** And he stayed in phone contact
10 with the CAS?

11 **MR. ABELL:** There was phone contact, yes.

12 **MR. GLICK:** With the investigators?

13 **MR. ABELL:** Yes.

14 **MR. GLICK:** And he set up and attended
15 interviews with the CAS?

16 **MR. ABELL:** Yes. Yes.

17 **MR. GLICK:** And he provided to the CAS an
18 account of what the Silmsler allegation was?

19 **MR. ABELL:** We had information from him,
20 yes.

21 **MR. GLICK:** And he also -- let me take you
22 to 7081868.

23 **MR. ABELL:** One eight six eight (1868)?

24 **MR. GLICK:** Yes. And we're looking at the
25 second paragraph.

1 MR. ABELL: Something ---

2 MR. GLICK: And it says:

3 "Jacques..."

4 MR. ABELL: Okay, sorry.

5 MR. GLICK: "Jacques Leduc agreed to the
6 following..."

7 MR. ABELL: Okay.

8 MR. GLICK: "That he would try to persuade
9 Bishop LaRocque to not allow Father
10 Charles MacDonald to return to the
11 parish..."

12 MR. ABELL: I see that.

13 MR. GLICK: "...and to persuade Mr.
14 Silmsen to talk to the CAS."

15 MR. ABELL: Yes.

16 MR. GLICK: "And he also agreed to provide
17 the CAS with internal documents."

18 MR. ABELL: Yes, I see that.

19 MR. GLICK: Now, Mr. Leduc also facilitated
20 meetings between the CAS and the Diocese?

21 THE COMMISSIONER: We've been through all of
22 that.

23 MR. GLICK: Yes. Particularly, there's just
24 one meeting that I want to highlight and that's a meeting
25 with Father Vaillancourt and Monsignor McDougald which did,

1 in fact, happen. If I could draw your attention to 1880.

2 THE COMMISSIONER: One eight eight zero
3 (1880).

4 MR. ABELL: Yes.

5 MR. GLICK: And then again about halfway
6 down ---

7 MR. ABELL: Yes.

8 MR. GLICK: --- that there was a meeting in
9 fact with Father Vaillancourt and a meeting, on 1882, with
10 Father McDougald.

11 MR. ABELL: Okay.

12 MR. GLICK: And it's your understanding that
13 these meetings took place in an open environment?

14 THE COMMISSIONER: What are you -- what do
15 you mean "open environment?"

16 MR. GLICK: Sorry, that they -- that at that
17 point, Mr. Leduc was trying to facilitate these meetings
18 for the CAS.

19 THE COMMISSIONER: I don't know what he was
20 trying to do, but he did.

21 MR. GLICK: He did. Okay.

22 Thank you very much. That's all my
23 questions.

24 THE COMMISSIONER: Thank you.
25 Mr. Callaghan?

1 **MR. CALLAGHAN:** Good afternoon, sir.

2 **THE COMMISSIONER:** Good afternoon.

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

4 **CALLAGHAN:**

5 **MR. CALLAGHAN:** Mr. Abell, as you know, my
6 name is John Callaghan and I represent the Cornwall Police
7 Services.

8 **MR. ABELL:** Yes, sir.

9 **MR. CALLAGHAN:** What I'd like to do is start
10 by putting some context around the areas which I'm going to
11 examine, and one of the areas I want to examine is this
12 idea of how we get to a misunderstanding about the duty to
13 report by various people. You've indicated, for example,
14 not all your staff understood the duty to report, correct?

15 **MR. ABELL:** No, I was referring to the issue
16 of particularly historical abuse.

17 **MR. CALLAGHAN:** Yeah, I agree. I'm sorry.
18 I should have made that caveat; in respect of that issue?

19 **MR. ABELL:** Which is part of the duty to
20 report, yes.

21 **MR. CALLAGHAN:** All right.

22 So what I want to do is just quickly just
23 outline the hierarchy of things we need to consider. First
24 of all, you are governed by legislation?

25 **MR. ABELL:** Correct.

1 **MR. CALLAGHAN:** All right.

2 And so that's the legislature making policy
3 decisions, correct?

4 **MR. ABELL:** Correct. It drives them, yes.

5 **MR. CALLAGHAN:** And you have to work within
6 that framework, correct?

7 **MR. ABELL:** Indeed.

8 **MR. CALLAGHAN:** All right.

9 And below that you have the Ministry who
10 will provide you with policies and set standards, correct?

11 **MR. ABELL:** Again driven by the statute,
12 yes.

13 **MR. CALLAGHAN:** Driven by the statute. And
14 -- but they are someone whom you have to listen to,
15 correct?

16 **MR. ABELL:** Very much, yes.

17 **MR. CALLAGHAN:** All right.

18 And then below that, you, at the local
19 level, are able to set perhaps best practices, set local
20 standards as to how to implement both the legislation and
21 the standards and policies provided by the Ministry,
22 correct?

23 **MR. ABELL:** Our job is to develop policy and
24 practice which will allow us to meet the requirements of
25 the statute and Ministry policy, yes.

1 **MR. CALLAGHAN:** All right.

2 And in that context, is there a committee of
3 senior social workers who advises the Ministry?

4 **MR. ABELL:** Actually, there are a number of
5 those types of committees. Children's Aid Societies in
6 this province have a provincial association, the Ontario
7 Association of Children's Aid Societies, and they do a
8 great deal of advocacy, communication work with government
9 and the Ministry. And in that capacity, where issues are
10 identified, provincial working groups will be called
11 together and agencies will be canvassed for their experts
12 on whatever particular topics it might be.

13 And I mean, I've been part of them; Mr.
14 Carriere has been part of them. A number of our staff
15 have. And you're called in to Ottawa or to Toronto
16 typically for one or more meetings and there's a working --
17 they become working groups and often there's ministry
18 representation there as well. So it's a joint working
19 group.

20 **MR. CALLAGHAN:** And the working groups are
21 ad hoc. In other words, they're set up on an as-needed
22 basis?

23 **MR. ABELL:** In the main they are, sir, yes.

24 **MR. CALLAGHAN:** All right.

25 And you'll agree that when you're dealing

1 with these issues, I think what we've seen here today and
2 through your testimony, there are often competing
3 interests. You have the interest of privacy on the one
4 hand perhaps and child protection on the other. Those are
5 some of the competing issues that are dealt with both in
6 the legislation and both in the policies and standards set
7 by the Province, correct?

8 **MR. ABELL:** That's correct. And there are
9 many other competing interests as well.

10 **MR. CALLAGHAN:** And you have to look towards
11 those documents first. You just can't go off and do your
12 own thing. You have to have regard to those two things?

13 **MR. ABELL:** Very true.

14 **MR. CALLAGHAN:** All right.

15 I'd like to start then with that background
16 with Exhibit 2323, and I'm at Bates page 924.

17 **THE COMMISSIONER:** Two three two three
18 (2323)?

19 **MR. CALLAGHAN:** Yes, sir. It should be a
20 bundle of documents ---

21 **THE COMMISSIONER:** No.

22 **MR. CALLAGHAN:** --- but I'm at Bates page
23 0924.

24 **THE COMMISSIONER:** Two three two three
25 (2323) is one page.

1 **MR. CALLAGHAN:** One second, sir.

2 **THE COMMISSIONER:** You've been away too
3 long.

4 **MR. CALLAGHAN:** Can I -- I think it was
5 referred to earlier. I have it. It's -- if I could -- the
6 Doc Number is 721630.

7 **THE COMMISSIONER:** Yes, that's right.

8 **MR. CALLAGHAN:** Two three two two (2322)
9 that includes the intake form.

10 **THE COMMISSIONER:** What do you want to refer
11 to, sir?

12 **MR. CALLAGHAN:** I want to refer to the
13 multi-service reporting system service intake record for
14 David Silmser.

15 **THE COMMISSIONER:** What's the Bates page
16 again, last four numbers?

17 **MR. CALLAGHAN:** The last four numbers are
18 0924.

19 **THE COMMISSIONER:** You've got me.

20 **MR. CALLAGHAN:** I understood it to have been
21 introduced through William Carriere. It actually might
22 actually also have under the Doc Number 7080943. I'm told
23 it can be pulled up on the screen.

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

25 **MR. CALLAGHAN:** I have a couple of documents

1 within that bundle, so let's start with Bates page 0924.

2 All right. Now ---

3 **THE COMMISSIONER:** Just a second. We have -

4 --

5 **MR. CALLAGHAN:** Can we have a soft -- a
6 hardcopy. We have an electronic copy.

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

8 **MR. CALLAGHAN:** What I ---

9 **THE COMMISSIONER:** What I need to know is if
10 this is already an exhibit because if not I'll make it an
11 exhibit now.

12 **MR. CALLAGHAN:** I think we should make it an
13 exhibit and for the purpose of the present question, I am
14 going to come back to the bundle of documents; I'm looking
15 at Bates page 0924 through to Bates page 0932.

16 **THE COMMISSIONER:** All right.

17 So part of Document Number 721630, which are
18 Bates pages 7080924 to 7080932 will be the next Exhibit,
19 which is 2491.

20 **MR. CALLAGHAN:** Thank you, Mr. Commissioner.

21 --- **EXHIBIT NO./PIÈCE NO. P-2491:**

22 (721630) Excerpt: 7080924-0932 -

23 Multiservice Reporting System Service Intake
24 Record - October 1, 1993

25 **MR. CALLAGHAN:** Now, sir, the service intake

1 record, if we have it scrolled down to the bottom, we'll
2 see it's signed by you?

3 MR. ABELL: That's correct.

4 MR. CALLAGHAN: Now, I take it you as a
5 Director would not ordinarily fill out an intake record?

6 MR. ABELL: That's correct.

7 MR. CALLAGHAN: This is an unusual
8 circumstance?

9 MR. ABELL: That's correct.

10 MR. CALLAGHAN: Had you -- can you think of
11 another circumstance where you would have taken -- filled
12 out an intake record?

13 MR. ABELL: It may have happened, but you're
14 right, it's quite unusual.

15 MR. CALLAGHAN: And you had said yesterday -
16 - or pardon me, today -- about having someone else deal
17 with Mr. Dunlop at a later time. Is there any reason why
18 you wouldn't have spoken to Mr. Carriere saying, "Perry
19 Dunlop, who's a friend of mine, has spoken to me. Would
20 you please deal with him?"

21 MR. ABELL: Well, that's in effect what
22 happened. I mean, I got this thing started because it came
23 to me, so I created the record that opened the file and
24 then it was turned over to Mr. Carriere.

25 MR. CALLAGHAN: But that was October 1st or

1 thereabouts?

2 **MR. ABELL:** No, it was really the day that I
3 received the statement.

4 **MR. CALLAGHAN:** Right.

5 **MR. ABELL:** And met with my staff.

6 **MR. CALLAGHAN:** All right.

7 That's good because that's key. It's the
8 day you received the statement. Just so I'm clear, when
9 you came to Cornwall, you came in in the Director's
10 capacity; correct?

11 **MR. ABELL:** No.

12 **MR. CALLAGHAN:** Sorry ---

13 **MR. ABELL:** I came ---

14 **MR. CALLAGHAN:** --- a managerial capacity,
15 perhaps I should have said?

16 **MR. ABELL:** I came as Clinical Director,
17 which was the senior service manager.

18 **MR. CALLAGHAN:** But you wouldn't have been
19 doing this type of intake work even then?

20 **MR. ABELL:** Correct.

21 **MR. CALLAGHAN:** Right. So the nuts and
22 bolts stuff was left to the frontline service providers;
23 correct?

24 **MR. ABELL:** Very much so.

25 **MR. CALLAGHAN:** All right. Now, if I can

1 just take you to Bates page 0931, and this is -- and if I
2 can have it blown up at the very top -- that's it.

3 You'll see that it says:

4 "Child Protection Intake Risk
5 Assessment Priority Rating."

6 And you give this a low risk priority. Do
7 you see that?

8 **MR. ABELL:** I see that.

9 **MR. CALLAGHAN:** Right, and you had a choice
10 of calling it a high risk or a medium risk; correct?

11 **MR. ABELL:** Correct.

12 **MR. CALLAGHAN:** And what is the risk, the
13 risk to children?

14 **MR. ABELL:** Correct.

15 **MR. CALLAGHAN:** And you say in here:

16 "We have no information identifying any
17 children currently at risk of sexual
18 molestation."

19 Do you see that?

20 **MR. ABELL:** I do.

21 **MR. CALLAGHAN:** All right. And that was an
22 accurate statement when you made it?

23 **MR. ABELL:** Yes.

24 **MR. CALLAGHAN:** All right. And that's
25 because you only had the allegation in David Silmsen's

1 statement that's only related to him; correct?

2 MR. ABELL: That's correct.

3 MR. CALLAGHAN: And you had obviously no
4 evidence of a child who was at risk of molestation in that
5 statement; correct?

6 MR. ABELL: That's correct.

7 MR. CALLAGHAN: All right.

8 And if I could ask you then to -- if you
9 want to take a look at Exhibit 25, Tab 5.

10 And just so I'm clear, since receiving --
11 since all this has happened, you don't know of any other
12 information that was available at that time that was
13 different than Mr. Silmsers's statement? In other words, as
14 far as you're aware, when you got the statement from Mr.
15 Dunlop, that was the main concern which was in Silmsers's
16 statement? There isn't any other information that you're
17 aware of?

18 MR. ABELL: I see, I think I said yes -- no
19 -- what we had from -- the information that was contained
20 in the Silmsers statement was what we had to work with.

21 MR. CALLAGHAN: And that's the basis ---

22 MR. ABELL: And obviously it's the
23 information that had been provided to me by Mr. Dunlop.

24 MR. CALLAGHAN: Right, but his was really no
25 different was it? Like, that's what caused you to create

1 that risk assessment of "low"?

2 **MR. ABELL:** That's correct.

3 **MR. CALLAGHAN:** And if we look at -- these
4 are the standards which were provided to you and you'll see
5 in the first page, they're August '92.

6 Do you see that? That's the date. So it's
7 almost 14 months or thereabouts before you meet with Mr.
8 Dunlop?

9 **MR. ABELL:** Correct. Thirteen/fourteen
10 months. That's right.

11 **MR. CALLAGHAN:** And if you go over to the
12 Bates page ---

13 **THE COMMISSIONER:** We don't have the Bates
14 page, well, go ahead.

15 **MR. CALLAGHAN:** Nine-six-nine (969). I'm
16 sure you all know where it is.

17 **THE COMMISSIONER:** We've got eight pages in.
18 You wanted -- where are you going to?

19 **MR. CALLAGHAN:** Nine-six-nine (969).

20 **THE COMMISSIONER:** I don't have the Bates
21 page, so you have to tell me what ---

22 **MR. CALLAGHAN:** Oh, it's the ---

23 **THE COMMISSIONER:** Pardon me?

24 **MR. CALLAGHAN:** Page 9 of the document, sir.

25 **THE COMMISSIONER:** I don't have page numbers

1 either.

2 **MR. CALLAGHAN:** It should be at the bottom,
3 usually.

4 **THE COMMISSIONER:** Yeah, so it's "Response"
5 ---

6 **MR. CALLAGHAN:** It's the Response to Report,
7 so what you've seen before.

8 **THE COMMISSIONER:** We've been there before.

9 **MR. CALLAGHAN:** We've seen this before.

10 **MR. ABELL:** We've been there, yeah.

11 **MR. CALLAGHAN:** All right. And I want to go
12 back to that comment. It says:

13 "The Society will initiate a further
14 investigation only if there is an
15 allegation or evidence that a child
16 under the age of 16 may be at risk or
17 may have been abused."

18 Do you see that?

19 **MR. ABELL:** Yes, I do.

20 **MR. CALLAGHAN:** And you'll agree that as you
21 just indicated, you didn't have an allegation or evidence
22 in that regard, correct, which is what you put on the
23 intake form?

24 **MR. ABELL:** What we didn't have was a name
25 of a child.

1 **MR. CALLAGHAN:** No, no, well, why wouldn't -
2 - sorry:

3 "We have no information identifying any
4 children currently at risk of sexual
5 molestation."

6 **MR. ABELL:** Correct.

7 **MR. CALLAGHAN:** And you called it a low
8 risk?

9 **MR. ABELL:** Correct.

10 **MR. CALLAGHAN:** So are you saying that
11 there's some other child?

12 **MR. ABELL:** We had concerns that based on
13 the history that had been provided to us in the statement,
14 that the children may be at risk.

15 **MR. CALLAGHAN:** And you -- did you have --
16 you didn't have reasonable grounds, you just had a
17 suspicion; correct?

18 **MR. ABELL:** We had a suspicion.

19 **MR. CALLAGHAN:** Right.

20 **MR. ABELL:** The grounds were the statement.

21 **MR. CALLAGHAN:** Right, but they didn't, as
22 you indicate, provide identity of any child currently at
23 risk of sexual molestation; correct?

24 **MR. ABELL:** Correct.

25 **MR. CALLAGHAN:** Right. So you didn't have

1 any evidence at that time; correct?

2 MR. ABELL: We had the statement.

3 MR. CALLAGHAN: I understand and the
4 statement ---

5 MR. ABELL: We had no child in terms of
6 Johnny Jones; we didn't have any information that Johnny
7 Jones was at risk.

8 MR. CALLAGHAN: Right.

9 MR. ABELL: We had a concern based on the
10 historical statement.

11 MR. CALLAGHAN: And you realised that this
12 document was predicated on the legislation as it existed,
13 which was a person who believes on reasonable grounds that
14 a child is or may be in need of protection?

15 MR. ABELL: May be in need, yes.

16 MR. CALLAGHAN: Right. "Believes on
17 reasonable grounds"; correct?

18 MR. ABELL: Correct, yes.

19 MR. CALLAGHAN: And that was changed later
20 wasn't it? It was changed to "suspicion"; that is "Has
21 reasonable grounds to suspect"?

22 MR. ABELL: "To suspect", that's right.

23 MR. CALLAGHAN: Which is a lower standard;
24 correct?

25 MR. ABELL: Yes.

1 **MR. CALLAGHAN:** And were you part of any
2 committee that made recommendations to the Ministry on
3 that?

4 **MR. ABELL:** Not on that piece, no.

5 **MR. CALLAGHAN:** And that change comes long
6 after I believe, on May 4th, '99; correct?

7 **MR. ABELL:** Yeah, that was the next major
8 change, yes.

9 **MR. CALLAGHAN:** But if one were to read this
10 document and the documents you had, that is, re. the
11 standard predicated on the legislation and the document and
12 your assessment, isn't it fair to say there'd be some
13 confusion as to how that -- the two apply?

14 **MR. ABELL:** There's debate.

15 **MR. CALLAGHAN:** There's a debate, sure there
16 is.

17 **MR. ABELL:** Right, yeah.

18 **MR. CALLAGHAN:** Right, and there's a debate
19 within the Children's Aid?

20 **MR. ABELL:** Yeah, there's -- that's -- I've
21 said a number of times in my testimony that in situations
22 of allegations of historical abuse is always a judgment
23 call as to whether or not we have sufficient grounds to
24 believe the children presently may be at risk.

25 **MR. CALLAGHAN:** No, but it's more than that

1 because the standards refers to only if there is an
2 allegation, which you did not have, or evidence, which you
3 did not have in this case. Is the standard wrong?

4 MR. ABELL: The standard's not wrong.

5 MR. CALLAGHAN: Is the standard -- it
6 arguably -- I'll say this, it arguably differs with what
7 the Divisional Court later says in the Dunlop case,
8 arguably, does it not?

9 MR. ABELL: Okay.

10 MR. CALLAGHAN: Would you not agree?

11 MR. ABELL: Yes.

12 MR. CALLAGHAN: All right.

13 So we have a little confusion, not only
14 within the Cornwall Police, not only within the CAS, but
15 arguably the standard itself may not be consistent with
16 what the Divisional Court said the legislation said in
17 1995; correct?

18 MR. ABELL: It could be taken that way.

19 MR. CALLAGHAN: Well, and I'm going to come
20 to it later, but as far as you're aware, nobody at the
21 Ministry came and spoke to you and said, "Gees, you've got
22 this problem down here. Can you help us straighten out
23 this legislation?"

24 MR. ABELL: Nobody did that, no.

25 MR. CALLAGHAN: If I can take you then just

1 to follow this point across a little further, to Exhibit
2 2322 to the comment that Mr. Horn took you to.

3 **THE COMMISSIONER:** Two-three-two-two (2322).
4 What page?

5 **MR. CALLAGHAN:** We're at -- it's Bates page
6 068.

7 **THE COMMISSIONER:** Zero-six-eight (068)?
8 Yes.

9 **MR. CALLAGHAN:** Do you have it, sir?

10 **MR. ABELL:** I have it.

11 **MR. CALLAGHAN:** Those are your notes?

12 **MR. ABELL:** Two-three-two-two (2322)? Yeah.
13 I'm sorry, what was the Bates page number?

14 **MR. CALLAGHAN:** Zero-six-eight (068), which
15 is the note that Mr. Horn took you, where it says
16 "Elizabeth"?

17 **MR. ABELL:** Zero-six-eight (068). Correct.

18 **MR. CALLAGHAN:** So let's situate ourselves.
19 These are notes you're making on October 1st of your events
20 between September 25th through to September 30th; correct?

21 **MR. ABELL:** They are. They are.

22 **MR. CALLAGHAN:** All right.

23 Just so I -- I may have missed this and I've
24 read the transcripts, but did you have any scratch pad
25 notes?

1 **MR. ABELL:** Scratch pad notes?

2 **MR. CALLAGHAN:** Well, I mean ---

3 **MR. ABELL:** Rougher than this?

4 **MR. CALLAGHAN:** --- rough notes?

5 **MR. ABELL:** No. No.

6 **MR. CALLAGHAN:** So you're doing this all
7 from memory?

8 **MR. ABELL:** This is my -- my recollection at
9 the time, yes.

10 **MR. CALLAGHAN:** All right.

11 So when you have things down here, you're
12 doing this without the benefit of even side notes that
13 you've taken at the time?

14 **MR. ABELL:** I don't recall having made any
15 scratch notes.

16 **MR. CALLAGHAN:** All right.

17 So you didn't go from the parking lot and
18 make notes of what Mr. Dunlop told you, for example?

19 **MR. ABELL:** No, I did not.

20 **MR. CALLAGHAN:** All right.

21 So here we are; it's September 30th, you've
22 already picked up the statement and you get a meeting, and
23 you have your team together; correct?

24 **MR. ABELL:** Yes.

25 **MR. CALLAGHAN:** And I take it you told Mr.

1 Engelmann these notes wouldn't reflect all that happened
2 but would reflect the important things that happened.

3 **MR. ABELL:** Yes.

4 **MR. CALLAGHAN:** Have I got that right?

5 **MR. ABELL:** Yes.

6 **MR. CALLAGHAN:** So you made a note that it
7 was important to say: "Elizabeth - anyone reading this
8 statement has a duty on a *CFSA*". Correct?

9 **MR. ABELL:** Yes.

10 **MR. CALLAGHAN:** Well was there some doubt
11 about in your group? We've heard Mr. Towndale say he
12 wasn't clear on the standard at the time, but was there
13 doubt in your group as to whether there was a duty to
14 report?

15 **MR. ABELL:** It was a matter for discussion
16 and decision. It wasn't -- there was no, you know, crystal
17 clear, black and white guideline, or directive on this; it
18 was a guideline.

19 **MR. CALLAGHAN:** And you were concerned that
20 having got the statement, you want to be sure that you had
21 the right to have it under the *CFSA*, correct?

22 **MR. ABELL:** No.

23 **MR. CALLAGHAN:** No?

24 **MR. ABELL:** No, I wasn't -- that wasn't the
25 issue. The issue at hand, Mr. Callaghan was, is there

1 sufficient grounds? And we'd received this ---

2 MR. CALLAGHAN: But that's not what the note
3 says:

4 "Anyone reading the statement has a
5 duty to report."

6 MR. ABELL: That's her opinion -- she's ---

7 MR. CALLAGHAN: But that's what the note
8 says.

9 MR. ABELL: ---she's providing her opinion.

10 MR. CALLAGHAN: Well you knew the opinion
11 was wrong right off the bat, didn't you, because it's not
12 anyone, it's professionals who were enumerated in the Act,
13 the professionals who have that obligation. It's not
14 anyone, is it? Her statement to you is wrong, then, as
15 taken down by you; correct?

16 MR. ABELL: The duty to report covers
17 everyone.

18 MR. CALLAGHAN: In this period of time, the
19 duty to report covers everyone ---

20 MR. ABELL: Yes.

21 MR. CALLAGHAN: --- or does it not just
22 cover professionals? Doesn't that -- isn't that ---

23 MR. ABELL: No, you're wrong, Mr. Callaghan.

24 MR. CALLAGHAN: Am I wrong?

25 MR. ABELL: Yes.

1 **MR. CALLAGHAN:** All right.

2 I thought I was right. Okay.

3 I will accept that, it wouldn't the first
4 time I was told I was wrong. And I've been told I was
5 wrong by people ---

6 **THE COMMISSIONER:** When will you accept it,
7 though?

8 **(LAUGHTER/RIRES)**

9 **MR. CALLAGHAN:** Well, we'll wait till the
10 end of the day.

11 So you're saying that, at that time it would
12 have ended beyond the professionals? I mean, not that it
13 matters, I just read it. I had thought that was ---

14 **MR. ABELL:** It matters a great deal. It's a
15 public duty. There's no issue there.

16 **MR. CALLAGHAN:** All right.

17 **MR. ABELL:** And I would hope that isn't
18 debatable.

19 **MR. CALLAGHAN:** But let me just ask you
20 this, though. You're there, why do you need to have this
21 discussion with her when you've already got the statement?

22 **MR. ABELL:** Well as I've been -- as it's
23 been commented to me a number of times over the last few
24 days, it's the responsibility of the Children's Aid Society
25 when receiving information about possible abuse of children

1 to make a -- to look at the information and make a decision
2 as to whether or not an investigation or response will be
3 opened up.

4 I had received this information from Perry
5 Dunlop under circumstances that have been described at
6 great length. I was well aware of my social relationship
7 with Mr. Dunlop ---

8 **MR. CALLAGHAN:** Right.

9 **MR. ABELL:** --- outside the organization, so
10 I perceived it initially outside my professional role. And
11 I wanted to make absolutely sure ---

12 **MR. CALLAGHAN:** Sorry. Go ahead.

13 Sorry, if I read -- if I've read -- my
14 friend has brought me.

15 You go back -- and maybe I'm misreading
16 this, sir, but if I go back to Exhibit 25, Tab 5, page 46,
17 on the duty to report; Section 72(3) ---

18 **MR. ABELL:** I'm going to need to be taken
19 there. Sorry.

20 **MR. CALLAGHAN:** I'm sorry, sir. Page 46 ---

21 **THE COMMISSIONER:** Okay, Tab 5, there is ---

22 **MR. ABELL:** Tab 5?

23 **THE COMMISSIONER:** --- yes, it's about 10
24 pages from the back.

25 **MR. CALLAGHAN:** And you don't have Bates

1 numbers on these things; do you?

2 THE COMMISSIONER: No.

3 MR. ABELL: I have "Duty to Report Child
4 Abuse"?

5 THE COMMISSIONER: That's the one.

6 MR. CALLAGHAN: Right.

7 And it says ---

8 MR. ABELL: Sub C?

9 THE COMMISSIONER: Sub C, yes.

10 MR. CALLAGHAN: Right. But I thought -- if

11 I read this correctly, I thought that the duty to report

12 under Section 72 is circumscribed as Subsection 4.

13 Subsection 3, the duty, "applies to every person who

14 performs professional, official duties with respect to a
15 child, including," and it lists them.

16 So it doesn't apply to everyone; does it?

17 Or am I missing something sir?

18 MR. ABELL: Sub D? Next page?

19 MR. CALLAGHAN: Am I right on that?

20 MR. ABELL: Sub D? Next page?

21 MR. CALLAGHAN: Sub 4?

22 THE COMMISSIONER: Sub D.

23 MR. ABELL: Sub D; A-B-C-D.

24 MR. CALLAGHAN: "A solicitor" ---

25 THE COMMISSIONER: No. No, no.

1 Big D, pass that. Another page.

2 "The duty to report a child in need of protection."

3 **MR. CALLAGHAN:** Right.

4 **THE COMMISSIONER:** "A person", is what he's
5 saying.

6 **MR. CALLAGHAN:** So this is -- I'm sorry, so
7 I've misread this? So the duties of child abuse is
8 different than the child in need of protection? So one is
9 to report child abuse.

10 So in other words, someone would have to
11 report the abuse but the child in need of protection is
12 someone who -- of a child in protection at that time.

13 Is that what I'm to understand?

14 **MR. ABELL:** I'm concerned we're both going
15 to be confused here very soon, sir. I'm sorry.

16 **MR. CALLAGHAN:** Well I'm just trying to
17 understand. I thought that this circumscribed the duty in
18 Section 72?

19 **THE COMMISSIONER:** Well, no.

20 **MR. ABELL:** There is -- sorry, sir.

21 **THE COMMISSIONER:** Can I just throw this in?

22 **MR. CALLAGHAN:** Sure.

23 **THE COMMISSIONER:** The profession -- I
24 always thought the difference between -- there wasn't -- it
25 listed the professionals because only the professionals

1 could be charged under the *CFSA*?

2 **MR. CALLAGHAN:** Right. I was going to come
3 to that point when I talk about Mr. Dunlop not reporting
4 but I had thought that that applied to the duty, but it's
5 more than that.

6 So anyone has -- can report. The only ones
7 who are obligated under prosecution are professionals. Is
8 that the way you understand it, sir?

9 **MR. ABELL:** I can't -- there were some
10 specifics around the professional duty to report that were
11 different than the general requirements and I -- I-- it's
12 been too long for me to recall it.

13 **MR. CALLAGHAN:** Because as I understood Mr.
14 Dunlop's defense, it was based on 72, Sub 4, but maybe I've
15 misunderstood it which would be a shame after all these
16 years.

17 The -- if I then could take you back into
18 the document that we were looking at which has not been
19 made an exhibit, Document 721630?

20 I'm now at Bates page 0954 through to 1630
21 (sic).

22 **MR. ABELL:** Do we have that?

23 **THE COMMISSIONER:** I don't know.

24 **MR. CALLAGHAN:** It's, again, Document
25 721630, and it's Bates page 0954 through to 0958.

1 **THE COMMISSIONER:** Thank you.

2 Exhibit 2492 is an excerpt of document
3 721630 which consists of Bates pages 7080954 through to
4 7080960.

5 **---EXHIBIT NO./PIÈCE NO P-2492**

6 (721630) Excerpt: 7080954-0960 - Supervision
7 Session notes - May 25, 1994

8 **MR. CALLAGHAN:** Can you tell me, sir, what
9 this is?

10 **MR. ABELL:** These are notes of a supervision
11 session between a front line and his or her supervisor. In
12 this case, it's Mr. Greg Bell who's our lead investigator
13 and his supervisor for Project Blue, William Carriere.

14 **MR. CALLAGHAN:** Okay.

15 And if I can, this looks like it's at the
16 end of the investigation. If I -- this is after you've
17 interviewed all the children; correct?

18 **MR. ABELL:** This is May of '94.

19 **MR. CALLAGHAN:** It's dated -- if I can take
20 you to the back, it seems to be dated sometime in '96,
21 either September or August.

22 **MR. ABELL:** I see. Actually, I see '95 and
23 '96.

24 **MR. CALLAGHAN:** And it says:

25 "No identified risk to any specific

1 child."

2 Correct?

3 **MR. ABELL:** Where do you see that, sir?

4 **MR. CALLAGHAN:** On page 58, 058. Right
5 there, Risk level.

6 **MR. ABELL:** I see that.

7 **MR. CALLAGHAN:** So this is after the
8 investigation has been conducted?

9 **MR. ABELL:** This looks to me like they're
10 cleaning up their paperwork after the investigation, yes.

11 **MR. CALLAGHAN:** And if you go back one page
12 to page 4 ---

13 **MR. ABELL:** To page 4, yes.

14 **MR. CALLAGHAN:** --- it says they have a list
15 of things you can check off.

16 **MR. ABELL:** Yes.

17 **MR. CALLAGHAN:** And the third one is:

18 "Child abuse is verified and
19 reportable".

20 What does reportable mean in that context?

21 **MR. ABELL:** Reportable to the Child Abuse
22 Register.

23 **MR. CALLAGHAN:** The Child Abuse Register.

24 **MR. ABELL:** The provincial Child Abuse
25 Register.

1 **MR. CALLAGHAN:** So that has a different
2 standard again than the duty to report, correct?

3 **MR. ABELL:** That's correct. That's a matter
4 specific to Children's Aid Societies and it's a set of
5 requirements around providing the provincial abuse register
6 with names of abusers under particular circumstances.

7 **MR. CALLAGHAN:** And it says:

8 "Not reported due to the fact that Mr.
9 Silmsner is an adult and Society does
10 not..."

11 **MR. ABELL:** "Register."

12 **MR. CALLAGHAN:** "...register cases when
13 victim is over 60."

14 **MR. ABELL:** Over 60, correct.

15 **MR. CALLAGHAN:** Just out of curiosity, why
16 wouldn't you, if it's a Child Abuse Registry, if you had a
17 belief of the underlying allegation?

18 **MR. ABELL:** I can't remember. Mr. Carriere
19 would be your best source of information on that one, sir.

20 **MR. CALLAGHAN:** So that's just a different
21 standard for a different issue?

22 **MR. ABELL:** Yes. Obviously -- I guess I'll
23 call it a refinement of requirements.

24 **MR. CALLAGHAN:** Okay. You were taken to,
25 earlier, Mr. Bell's notes and for the sake of time, I won't

1 go there, which is Exhibit 2324, and in it, Mr. Bell, at
2 Bates page 2049 and actually during January 12th and January
3 13th, he's trying to get Mr. Dunlop to come forward and he
4 takes the time to explain to him the duty to report. If
5 you'd taken the time to explain it to Mr. Dunlop, why would
6 Mr. Bell have to?

7 **MR. ABELL:** Because Mr. Dunlop wasn't being
8 particularly forthcoming.

9 **MR. CALLAGHAN:** Was there some debate
10 amongst you that he didn't understand what you'd told him -
11 --

12 **MR. ABELL:** No.

13 **MR. CALLAGHAN:** --- or really the fact that
14 he wasn't producing documents or information?

15 **MR. ABELL:** It was the latter, yes.

16 **MR. CALLAGHAN:** All right.

17 So it was a precautionary?

18 **MR. ABELL:** It was a reminder.

19 **MR. CALLAGHAN:** In your mind, you understood
20 that he knew his duty as a professional under that section
21 we looked at, and he was not abiding by it. Is that what
22 you understood?

23 **MR. ABELL:** I knew that Perry Dunlop knew
24 the duty to report.

25 **MR. CALLAGHAN:** Right. And he wasn't

1 abiding by it?

2 MR. ABELL: He wasn't abiding by it.

3 MR. CALLAGHAN: Let me put it this way; he's
4 either lying to Greg Bell and to everybody else that
5 there's some ring or he's contravening the Act; correct?
6 There are only two choices.

7 MR. ABELL: He's lying or he's contravening
8 the Act?

9 MR. CALLAGHAN: Well, he's either lying
10 about saying that there are other perpetrators that he
11 knows of or he's not reporting.

12 MR. ABELL: He's not -- yes. He didn't
13 provide us the basis of his allegation; that's correct.

14 MR. CALLAGHAN: And he, under Section 72(4)
15 I believe it was we looked at, as a professional, had an
16 obligation as opposed to anyone can report. He had a
17 statutory obligation; correct?

18 MR. ABELL: That's correct.

19 MR. CALLAGHAN: So do you have -- do you, in
20 your own mind, have an understanding as to whether he was
21 lying or whether he was just refusing to report and not
22 abiding by the Act?

23 MR. ABELL: My understanding was he was not
24 prepared to report. We know that he provided information
25 to another source.

1 **MR. CALLAGHAN:** We saw a moment ago -- and
2 again, this was Exhibit 2325, when Mr. Neville took you
3 there, there was a meeting of January 31st, 1994 where it's
4 recorded in your handwriting:

5 "No further contact from Perry Dunlop.

6 Decision: We won't pursue him."

7 Do you see that?

8 **MR. ABELL:** Yes.

9 **MR. CALLAGHAN:** All right.

10 **MR. ABELL:** Well, I saw it, yes.

11 **MR. CALLAGHAN:** That's right.

12 And you said something about the OPP. Are
13 you aware that the OPP weren't engaged in this matter until
14 sometime in February?

15 **MR. ABELL:** I don't remember saying anything
16 about the OPP in that regard to Mr. Neville.

17 **MR. CALLAGHAN:** I thought you said that the
18 reason why you weren't pursuing him at that time was
19 because the OPP was dealing with it.

20 **MR. ABELL:** I don't believe so, no.

21 **MR. CALLAGHAN:** All right.

22 So then perhaps I misunderstood. Why
23 wouldn't you have either a) spoken to the Cornwall Police
24 and said, "Mr. Dunlop's given us this information; will you
25 assist?" which you didn't do; or 2) charge him under the

1 Act?

2 MR. ABELL: We -- my recollection is we were
3 pursuing our investigation and intended to carry on until
4 its end and that was our focus.

5 MR. CALLAGHAN: But ---

6 MR. ABELL: The issue, the concern about the
7 children that may be at risk in St. Andrew's Parish.

8 MR. CALLAGHAN: But the only investigation
9 you're doing is Father Charlie; correct?

10 MR. ABELL: That's correct.

11 MR. CALLAGHAN: Ken Seguin, you're not
12 doing; correct?

13 MR. ABELL: Sorry?

14 MR. CALLAGHAN: Ken Seguin is dead?

15 THE COMMISSIONER: Ken Seguin.

16 MR. ABELL: Oh, Ken Seguin. Yes, we were
17 trying to get more information concerning the original --
18 the name we were given regarding Ken Seguin. We were
19 trying to follow up with Mr. Silmsen.

20 MR. CALLAGHAN: But you -- I thought you --
21 I thought you didn't investigate. Ken Seguin is now dead.

22 THE COMMISSIONER: Well, it depends now.
23 What period of time ---

24 MR. CALLAGHAN: January 31st, '94.

25 THE COMMISSIONER: Okay. January 31st, '94,

1 he's deceased.

2 MR. CALLAGHAN: And you'd had disclosure in
3 November '93 about Marcel Lalonde. Was that being pursued?

4 MR. ABELL: Yes, it was. We were trying to
5 get a chance to sit down with Mr. Silmsler and get his
6 information. He said he had quite a bit. We were never
7 able to get it.

8 MR. CALLAGHAN: So he wasn't cooperative?

9 MR. ABELL: He wasn't forthcoming.

10 MR. CALLAGHAN: And I take it you advised
11 the OPP about that but not the Cornwall Police; correct?

12 MR. ABELL: I'm pretty sure that they were
13 quite aware of that. We were in constant communication
14 with the Cornwall Police.

15 MR. CALLAGHAN: Well, do you want me to take
16 you to the correspondence where Mr. Luc Brunet found out
17 about it in 1995, I believe, and asked for information? He
18 had not been advised.

19 MR. ABELL: If that's the record, then fair
20 enough, but my understanding was that we were in quite
21 routine conversation with the Cornwall City Police.

22 MR. CALLAGHAN: No, but I mean -- I just
23 want to be clear -- you never told anybody?

24 MR. ABELL: I personally?

25 MR. CALLAGHAN: Right. You never had a

1 discussion that you recall?

2 **THE COMMISSIONER:** With?

3 **MR. ABELL:** Discussion with?

4 **MR. CALLAGHAN:** With the Cornwall Police
5 regarding Marcel Lalonde? I just want to be absolutely
6 clear.

7 **MR. ABELL:** I did not, no.

8 **MR. CALLAGHAN:** I want to just move ahead
9 then. I want to go to that article, Exhibit 2484. This is
10 the article that deals with the hearing between -- in front
11 of the Police Services Board.

12 **MR. ABELL:** I'm just going to need to get
13 that document, sir.

14 Do we have that, sir?

15 **THE COMMISSIONER:** Yes, we do. It's 2484.
16 I don't know if you have that book. It seems that you do.

17 **MR. ABELL:** Yes, I have it.

18 **MR. CALLAGHAN:** All right.

19 And I what I would just like to point out is
20 first, I think you've already indicated this and the
21 Commissioner actually indicated as well, what's going on
22 amongst the institutions is they each have different
23 constituencies. You have child protection; the police had
24 criminal activity, essentially, correct?

25 **MR. ABELL:** Right.

1 **MR. CALLAGHAN:** And one of the interplays
2 there was the interplay about internal discipline relating
3 to Perry Dunlop, correct? He was charged?

4 **MR. ABELL:** Interplay being ---

5 **MR. CALLAGHAN:** His release of the statement
6 and the internal discipline that was trying to be meted out
7 to him through the Police Complaints Commission.

8 **MR. ABELL:** You're talking about the charges
9 that were brought?

10 **MR. CALLAGHAN:** Right.

11 **MR. ABELL:** Yes. Okay. I was aware of
12 that.

13 **MR. CALLAGHAN:** And you're aware that one of
14 the reasons for the charge was, after you had suggested he
15 go speak to Luc Brunet, he spoke to Luc Brunet, who told
16 him to return the statement. He then turned it over to
17 you, correct?

18 **MR. ABELL:** I didn't suggest he speak to Luc
19 Brunet.

20 **MR. CALLAGHAN:** Oh, I'm sorry. I thought
21 that was your evidence.

22 **MR. ABELL:** That was his plan.

23 **MR. CALLAGHAN:** That was his plan?

24 **MR. ABELL:** I wasn't directing Perry Dunlop

25 ---

1 **MR. CALLAGHAN:** I misunderstood then.

2 **MR. ABELL:** --- in any way, shape or form
3 regarding his conduct within his organization. It wasn't
4 my purview.

5 **MR. CALLAGHAN:** But you'll -- I think it was
6 read to you by Mr. Horn and it says -- I'm on the first
7 page and this is Jean Iu, who's a lawyer with the Ontario
8 Police Complaints Division.

9 "An officer cannot contravene the
10 direct orders of his or her supervising
11 officer and expect immunity from
12 discipline."

13 That was the provincial authority's view.
14 Were you aware of that view at the time?

15 **THE COMMISSIONER:** At what time?

16 **MR. CALLAGHAN:** At the time when Mr. Dunlop
17 was charged, that that was an issue?

18 **MR. ABELL:** An officer -- you mean, the
19 quote, "An officer cannot ..." ---

20 **MR. CALLAGHAN:** No, the principle that is
21 being enunciated:

22 "An officer cannot contravene the
23 direct orders of his or her supervising
24 officer and expect immunity from
25 discipline."

1 He'd been directly ordered by Mr. Brunet not
2 to turn the statement over to you and he did.

3 **MR. ABELL:** Well, I knew an order was an
4 order.

5 **MR. CALLAGHAN:** And if we can go over to the
6 third page of that article -- and I'll just read -- it says
7 ---

8 **THE COMMISSIONER:** Where?

9 **MR. CALLAGHAN:** The third page, the far
10 right column, if it's the third page. I think it's --
11 sorry, the fourth page, the third page from where I was,
12 pardon me. And it says right at the top ---

13 **MR. ABELL:** Which page are we on?

14 **THE COMMISSIONER:** We're getting there.

15 **MR. CALLAGHAN:** Yeah, you got there, page
16 404, on the far right side there.

17 **MR. ABELL:** Yes.

18 **MR. CALLAGHAN:** Okay:

19 "The Police Complaints Commission hopes
20 to circumscribe officers' duty to
21 report child abuse. It argues that
22 Constable Dunlop did not learn of the
23 suspected abuse during his official
24 duties since he wasn't part of the
25 investigation. It also argues that the

1 law refers to a child in need of
2 protection, but that Constable Dunlop
3 did not have any specific child in
4 mind. 'The specific reference to 'a
5 child' in the singular excluded
6 children in general who may be at risk
7 because of potential exposure to an
8 historic pedophile', it said in its
9 appeal of the Board of Inquiry ruling."

10 In that, they are referring to the Public
11 Complaints Commissioner's statement.

12 **MR. ABELL:** I understand that.

13 **MR. CALLAGHAN:** And your response is:

14 "'Good God', Mr. Abell of the CAS said
15 when told of the Commission's arguments
16 about children in general 'That's
17 disheartening; that's an arm of
18 government.'"

19 Do you see that?

20 **MR. ABELL:** Yes.

21 **MR. CALLAGHAN:** All right. What I'm going
22 to ask is did you go back to the ministry and say "You
23 people have it all wrong. The government has it wrong."

24 **MR. ABELL:** Government has ---

25 **MR. CALLAGHAN:** Through the working groups,

1 the ad hoc committees, to say even your government doesn't
2 understand this?

3 **THE COMMISSIONER:** He wasn't on and ad hoc
4 committee ---

5 **MR. CALLAGHAN:** I'm just saying ---

6 **THE COMMISSIONER:** --- for the duty to
7 report.

8 **MR. CALLAGHAN:** I'm not suggesting there was
9 one. I'm saying go back to the ministry and form one. And
10 say "We've got a problem here."

11 I'm just wondering what the provincial
12 response is because we've heard nothing from the provincial
13 response. And I'm wondering if Mr. Abell can assist us in
14 the provincial response.

15 **THE COMMISSIONER:** Oh, provincial response
16 from?

17 **MR. CALLAGHAN:** Well, from the ministry. We
18 have a problem here. People don't understand it. We have
19 one arm of government who doesn't understand it; you have
20 Mr. Abell saying that internal is institution, there are
21 issues about how to deal with historical; you have the
22 standard. I'm just wondering, here we are in 1995, Mr.
23 Abell's identified that the government doesn't seem to
24 understand it. I just want to know ---

25 **THE COMMISSIONER:** Wait a minute. The

1 government -- are you talking about the Public Complaints
2 Commissioner?

3 **MR. CALLAGHAN:** Disheartening. That's an
4 arm of government.

5 **THE COMMISSIONER:** Well, first of all -- oh,
6 come on, Mr. Callaghan. We've got things to do here ---

7 **MR. CALLAGHAN:** And Mr. ---

8 **THE COMMISSIONER:** ---- this is a report --
9 this is a newspaper clipping. It's not a transcript of
10 testimony. He's not an expert other than being an
11 Executive Director.

12 **MR. CALLAGHAN:** And all I'm trying to
13 articulate, sir, is his comment that he sees an arm of
14 government who doesn't understand the duty to report in
15 1995, I'm just asking what is being done because nothing
16 seems to be done until 1999. Because when we have Mr.
17 Bourgeois who says -- and I'll go to that next, Exhibit
18 734.

19 **THE COMMISSIONER:** Okay. So what you're
20 saying is that there -- as far as you're concerned, there's
21 confusion all around about the duty to report.

22 **MR. CALLAGHAN:** And what I'm asking and this
23 witness agrees and now we're in 1995 and the point I'm
24 asking is let's go up a chain. What's the province doing?
25 What's the ministry doing? We've got the '92 standards.

1 Are they just oblivious to it?

2 I think it's important for us to know
3 because as we talked about in the beginning, the local
4 institutions, police, CAS, take direction from the
5 Province, and I don't see any direction.

6 And I'm trying to articulate through this
7 witness that no direction was given, unless I hear
8 otherwise.

9 Was any direction given as far as you are
10 aware on these issues?

11 **MR. ABELL:** There was no direction given
12 other than the standards materials that we began with.

13 **MR. CALLAGHAN:** All right.

14 **MR. ABELL:** I did, however ---

15 **MR. CALLAGHAN:** Sorry.

16 **MR. ABELL:** To give you a response, I do
17 recall discussing this matter with my program supervisor
18 from the Ministry of Community and Social Services as part
19 of briefing her on this matter on an ongoing basis and I
20 made her aware that one of the issues that was at the heart
21 of the whole matter, Mr. Callaghan, was the issue of
22 reporting historical abuse.

23 **MR. CALLAGHAN:** And did the Province do
24 anything to your knowledge?

25 **MR. ABELL:** Well, the Province is a big --

1 -

2 MR. CALLAGHAN: Well, the Ministry?

3 MR. ABELL: I don't know. I mean, there is
4 nothing that I'm aware of, sir.

5 MR. CALLAGHAN: All right.

6 And would you expect to have been aware of
7 it, given your position, if there was?

8 MR. ABELL: Would I have ---

9 MR. CALLAGHAN: Expected to be aware, given
10 your position, if there was something done?

11 MR. ABELL: Well, I spoke to my immediate
12 contact in the Ministry.

13 MR. CALLAGHAN: All right.

14 If I can just ask you, in 1996, in December
15 1996, when you're talking to Mr. Bourgeois, you have a
16 discussion with him and he indicates that he doesn't
17 believe he has a duty to tell you about the details
18 relating to the reports he wanted to make, right?

19 MR. ABELL: It eventually got to that.

20 MR. CALLAGHAN: Right. And he says ---

21 MR. ABELL: The reason I say that, sir, is
22 initially in our very first conversation, he said to me he
23 was going to provide that information.

24 MR. CALLAGHAN: Right. And then you
25 suggested he call the Ministry and he called the Ministry

1 and the minute he reports to you at least that the Ministry
2 told him he didn't have that obligation that you were
3 suggesting to provide the details?

4 **MR. ABELL:** Yeah. The position he got from
5 my program supervisor, who was the same person, Lenore
6 Jones, as I understood it from her in a later conversation,
7 was that if he didn't have a specific child, named child --
8 she took that position -- then he didn't have to report.

9 **MR. CALLAGHAN:** All right. So ---

10 **MR. ABELL:** We, by the way, continued to ask
11 him. We continued to press him for that information.

12 **MR. CALLAGHAN:** And I'm not suggesting you
13 didn't. What I'm trying to get at is again the Ministry is
14 taking a different view, correct?

15 **MR. ABELL:** Yes, it would appear to.

16 **MR. CALLAGHAN:** The -- I want to talk a
17 moment about your obligation to keep confidential
18 documents. I take it your Ministry has a duty to retain
19 confidentiality in the documents you have under your
20 control, correct?

21 **MR. ABELL:** Yes.

22 **MR. CALLAGHAN:** All right.

23 I want to take you to Exhibit 1337. These
24 are Mr. -- Staff Sergeant Derochie's notes. And I'm at
25 page 34 of the notes. And these are the notes regarding

1 the Antoine investigation and it's January 1994.

2 Now, your confidentiality comes from the
3 *Child and Family Services Act* or does it come from the
4 municipal freedom -- pardon me, the *Freedom of Information*
5 *Act* as well?

6 **MR. ABELL:** It comes from *Child and Family*
7 *Services Act* and policies written by the Ministry.

8 **MR. CALLAGHAN:** And you'd be aware that
9 police have similar obligations?

10 **MR. ABELL:** Yes.

11 **MR. CALLAGHAN:** All right.

12 So let's just look. Here we go. Call --
13 this is Staff Sergeant Derochie's note:

14 "Called Mr. Richard Abell and told him
15 that we were going to reinvestigate
16 Antoine's allegations. I asked him
17 what access would the Service have to
18 CAS records. He advised that he would
19 check with the agency ---

20 **MR. ABELL:** I'm sorry, Mr. Callaghan, I'm
21 not sure I know where ---

22 **MR. CALLAGHAN:** Page 34.

23 **THE COMMISSIONER:** Page 34.

24 **MR. ABELL:** Page 34. Thank you.

25 **MR. CALLAGHAN:** "Called Mr. Richard Abell

1 and told him that we were going to
2 reinvestigate Antoine's allegations. I
3 asked him what access would the Service
4 have to CAS records. He advised that
5 he would check with the agency's
6 attorneys and would get back to me."

7 Go over -- and go to the bottom, he says --

8 I should say, it said:

9 "Abell did get back to me and reported
10 the following. On the matter of access
11 to CAS records, we can see and make
12 notes from anything they had on file.
13 Should we wish to remove any documents,
14 he would like us to do so with a
15 warrant."

16 Okay?

17 **MR. ABELL:** Yes.

18 **MR. CALLAGHAN:** And we've heard other
19 evidence to that effect, that that's the way the procedure
20 worked, that you were able to look at the documents but you
21 weren't able to leave the documents -- leave with the
22 documents without a search warrant.

23 **MR. ABELL:** Some documentation compelling us
24 to do so.

25 **MR. CALLAGHAN:** Right. And we've heard from

1 Shawn White that that's the situation. That's what he was
2 left to do. And we've also heard that your case workers
3 would come and look at the documents but not remove them
4 from the CPS. Were you aware of that practice?

5 **MR. ABELL:** You mean our staff going over to
6 the Cornwall ---

7 **MR. CALLAGHAN:** M'hm.

8 **MR. ABELL:** I can't say has anybody briefed
9 me on that specifically, but it makes sense.

10 **MR. CALLAGHAN:** It makes sense, right.

11 So I'm going to suggest that had one of your
12 case workers wanted to find out about the David Silmsers
13 case, he would have been invited to review the statement
14 but not take it with him outside the Cornwall Police
15 Service.

16 **MR. ABELL:** This is going back to the
17 Silmsers statement.

18 **MR. CALLAGHAN:** Right.

19 **MR. ABELL:** Yes.

20 **MR. CALLAGHAN:** Do you understand that that
21 would have been the protocol at the time?

22 **MR. ABELL:** Yeah, I presume so, yes.

23 **MR. CALLAGHAN:** Right.

24 And so that when you asked Mr. Dunlop for
25 the document, it broke the protocol that was in existence,

1 correct?

2 MR. ABELL: No.

3 MR. CALLAGHAN: Why not?

4 MR. ABELL: I was -- I asked him for the
5 document on the basis of his duty to report. That was the
6 basis on which he made his allegations that he was
7 concerned about children at risk. That's the --
8 specifically in the duty to report.

9 MR. CALLAGHAN: Well, the duty to report
10 talks about giving all the documents? Then why wouldn't
11 the police have to give over all the documents all the
12 time?

13 MR. ABELL: The duty to report asks -- says
14 that it's the requirement of a citizen or a professional to
15 provide the information on which the concern is based, and
16 that's what it was.

17 MR. CALLAGHAN: And I'm not suggesting that
18 that wouldn't have happened. What I'm suggesting is what
19 happened, which is the document left the Cornwall Police
20 Service and control was lost of the document because the
21 protocol wasn't followed.

22 MR. ABELL: I hear you. Again, we're going
23 -- we're not going to connect on this one, Mr. Callaghan.
24 It was a duty to report issue as I saw it and as Perry
25 Dunlop saw it. It wasn't a protocol issue.

1 **MR. CHISHOLM:** Just to clarify the record, I
2 understand a copy of the document was given to Mr. Abell
3 not the original, it's my understanding.

4 **THE COMMISSIONER:** Well, okay, but ---

5 **MR. CALLAGHAN:** No, I think the point is
6 very clear.

7 **THE COMMISSIONER:** So but what are you ---

8 **MR. CALLAGHAN:** Well the point is very --
9 what my suggestion here is, is we have a situation ---

10 **THE COMMISSIONER:** Yes.

11 **MR. CALLAGHAN:** --- where Mr. Abell is a
12 senior man in CAS.

13 **THE COMMISSIONER:** Right.

14 **MR. CALLAGHAN:** He's not at the grassroots.
15 He asked Mr. Dunlop for the document. Mr. Dunlop gives him
16 the document.

17 **THE COMMISSIONER:** Right.

18 **MR. CALLAGHAN:** I suggest a caseworker, an
19 intake person would have gone over and said, "I'd like to
20 see the document" he would have seen the document. The
21 document would not be floating around; had to be shown on
22 television, et cetera. And it seems to me I'm entitled to
23 canvas this with him so we can figure out what the facts
24 are from his perspective.

25 He's already said he wasn't -- he wouldn't

1 have generally been at this level; he wasn't familiar with
2 the protocol that was going, but he says that he would have
3 gotten the document in any event.

4 I would like to challenge that because I
5 don't think he would have gotten the document, and I don't
6 think he -- anyone got documents after that on the other
7 cases.

8 **THE COMMISSIONER:** Yes, but how is that --
9 well ---

10 **MR. CHISHOLM:** I am wondering if Mr.
11 Callaghan's suggestion that the document that was shown on
12 television came from the Children's Aid Society. That
13 seems to be the premise of a comment he just made.

14 **MR. CALLAGHAN:** Well, the premise of the
15 comment is, unless Mr. Greenwell is going to testify, I
16 don't know where it came from.

17 **THE COMMISSIONER:** Then don't ---

18 **MR. CALLAGHAN:** Well, I'm not suggesting,
19 but it's been suggested the other way, including from his
20 notes. And what I'm trying to suggest is I'd like to now
21 ask you have the document, who at CAS has the documents.
22 He referred to them being numbered. I don't think I've
23 seen the numbered documents returned.

24 How do you know that your agency kept
25 control of that document?

1 **THE COMMISSIONER:** And so how is that
2 relevant now?

3 **MR. CALLAGHAN:** Because the -- I presume
4 part of your report will deal with how this situation came
5 to be.

6 **THE COMMISSIONER:** Right.

7 **MR. CALLAGHAN:** And one of the key features
8 is the release of the document. How did it get out in the
9 public domain?

10 **THE COMMISSIONER:** Okay.

11 **MR. CALLAGHAN:** There are two avenues that
12 we know: We know the police had one at least. We know the
13 CAS had one.

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

15 **MR. CALLAGHAN:** We've heard the information
16 regarding who had the relationship with Mr. Greenwell.
17 We've heard a lot of information. And if it's a dead end;
18 it's a dead end. If it doesn't matter; it doesn't matter.

19 But what I'm trying to get at is we had
20 protocols in place that people would come over and look at
21 documents. We didn't release the documents, so we wouldn't
22 have this problem that we've now got.

23 **THE COMMISSIONER:** No, no, whoa. Well,
24 you're assuming that if someone from the Children's Aid
25 Society would have gone over to the Cornwall police, okay,

1 and said, let's see now, after all of this has gone on, the
2 settlement's done and everything like that, I thought we
3 had an order from the Police Chief that, you know, all
4 hands off all of this, what would have been the answer?

5 **MR. CALLAGHAN:** I'm not sure we had an
6 order. I don't remember that evidence, all hands off.
7 What I understand ---

8 **THE COMMISSIONER:** Oh, well, just a minute,
9 it was put in a project file.

10 **MR. CALLAGHAN:** Right, this is after it's
11 come out. This is after Dunlop has handed the statement
12 over. This is after he's gone to Luc Brunet. So what I'm
13 saying is if Mr. Abell came over or one of his agency
14 workers came over and said, "You know, we've got this
15 issue. You don't understand the duty to report. We're
16 being advised you got it wrong."

17 Because we all know that afterwards that was
18 a complete understanding between the two agencies.
19 Everything got reported. There's no question there.

20 **THE COMMISSIONER:** Right.

21 **MR. CALLAGHAN:** All I'm saying is we have
22 this blip. We have this one case as far as we are aware
23 that this has happened.

24 **THE COMMISSIONER:** Yes.

25 **MR. CALLAGHAN:** And what I'm trying to

1 figure out is had there been the following of the protocol,
2 that is, they would come over and take a look at the
3 documents and ask to see the documents, would there be an
4 issue, now that they know because of Mr. Dunlop, admittedly
5 because they know because of Mr. Dunlop.

6 **THE COMMISSIONER:** Well, yes, but -- let me
7 go and then you can.

8 I don't know whether or not the Children's
9 Aid Society can waltz into the Cornwall Police Service and
10 say, "By the way, I know you have a file. I know you have
11 a complaint, and I want to see it."

12 I always thought it was the police phone up
13 and say, "Look it, we've got this." And so then they are
14 invited to come over because there might be some child
15 welfare complaint.

16 **MR. CALLAGHAN:** There is no question. You
17 are not going to hear from me at the end of the day, sir,
18 that we understood this was reportable. We had the same
19 confusion others had regarding this.

20 What I'm -- the point is that if Mr. Abell
21 had gone to his counterpart or gone to Mr. Carriere who had
22 gone to his counterpart, we wouldn't have had this release
23 of statement, the loss of control of statements. We
24 wouldn't have had it.

25 What you would have had is the matter coming

1 to a head. Mr. Abell's position because -- and we'll talk
2 about in a second, but nobody had objected to Mr. Abell's
3 position that it all should be reported. When it was all
4 over, nobody cared. Long before the Div Court's decision,
5 they were reported.

6 **THE COMMISSIONER:** Mr. Abell?

7 **MR. CALLAGHAN:** All right, Mr. Abell, we've
8 talked enough.

9 **MR. ABELL:** I've testified earlier Mr.
10 Neville that -- Mr. Callaghan, excuse me, that ---

11 **THE COMMISSIONER:** Yes, not Mr. Neville.

12 **MR. ABELL:** --- I apologize -- that I had a
13 clear understanding with Mr. Dunlop that -- I mean, he was
14 going to go to his superior, talk it over. And if he got
15 the reaction he wanted or whatever, things moved ahead to
16 his satisfaction, I wouldn't -- he wouldn't have handed me
17 the document.

18 What I said to him was, "Without it from
19 you, I will be going to your Force and asking for it or
20 asking to hear about this."

21 So I mean one way or the other, it was going
22 to happen. So the protocol that you talk about would have
23 come into effect in terms of me going, if it had worked out
24 that way, and saying, "I have information from one of your
25 officers that you're investigating a matter. I would like

1 to see your information."

2 So that was the planned step.

3 **MR. CALLAGHAN:** But the way you advised of
4 the situation on the 29th and then still got the statement
5 on the 30th? Why wouldn't you have gone and said, "Look, I
6 don't understand this situation with Mr. Dunlop."

7 Why would you just give the statement over?

8 **MR. ABELL:** I ---

9 **THE COMMISSIONER:** Because he went to see --
10 Dunlop talks to him and says, "Give me a couple of days,
11 I'll try to check with my officers."

12 He goes and sees Luc Brunet. Luc Brunet
13 says, "You are not to take that document. You're supposed
14 to give it back to me."

15 **MR. CALLAGHAN:** Right, and that's on
16 September 29th.

17 **THE COMMISSIONER:** Right.

18 **MR. CALLAGHAN:** And he advises -- it's in
19 the notes -- he advises Mr. Abell. Yet, he goes and picks
20 up the statement on September 30th from Dunlop.

21 Why wouldn't he just go in to Luc Brunet or
22 to Shaver to say "Look, this is not working here, people."

23 **MR. ABELL:** I had this understanding with
24 Perry.

25 **MR. CALLAGHAN:** But shouldn't you have the

1 understanding with the Chief?

2 **MR. ABELL:** The answer is -- well, we can
3 "should" all we want on this. The "shoulds" don't count
4 frankly in terms of what happened. I can't change that.
5 Okay. That was the understanding I had with Mr. Dunlop.
6 We moved ahead on that. And had it not worked out that
7 way, as I've said, I would have gone and said, "Chief
8 Shaver, may I please see some information?"

9 By the way, when I met with Chief Shaver on
10 the 1st of October and the 8th of October and the 1st of
11 October in particular and said to him, "I've been given the
12 statement," there was never a word about returning the
13 document, none whatsoever.

14 There was none, okay? And frankly I can
15 remember it crossing my mind thinking "Is he going to want
16 this thing back?" Because I wanted to have a copy of it.

17 **MR. CALLAGHAN:** But you did have a
18 discussion later because on the 17th of November '93, you
19 had an understanding that if you got any official
20 information from the Cornwall police, it would have to come
21 directly from the Cornwall police; correct?

22 Soon afterward, you had that understanding;
23 you couldn't get it from Perry. If it was official
24 information from the Cornwall police that you were going to
25 get, it had to come from the Cornwall police.

1 I can show you the note on November 17th,
2 1993.

3 MR. ABELL: Well, I can -- I can recall
4 discussion with the team, saying we want to make sure that
5 when we are getting information, it is up front and not
6 back channelled. And we discussed that earlier.

7 MR. CALLAGHAN: "If he is giving official
8 information, ..." ---

9 MR. ABELL: That's it.

10 MR. CALLAGHAN: --- "... CPS needs to be
11 notified."

12 MR. ABELL: That's it.

13 MR. CALLAGHAN: Right. So you understood
14 the CPS had an interest in the documents that were in the
15 CPS; correct?

16 MR. ABELL: Obviously, yeah.

17 MR. CALLAGHAN: And obviously, the same way
18 you had an interest in the documents in the CAS, which is
19 what you told Garry Derochie on Antoine; right?

20 Or you said, "You want them, you can look at
21 them, take them out, you'd better get a warrant." Correct?

22 Correct statement, is it?

23 MR. ABELL: I'm getting tired. Could you
24 please run that through again?

25 MR. ENGELMANN: I don't see the difference

1 quite frankly between what happened, this whole issue about
2 notification. I mean the very day or the next day after
3 Mr. Abell gets the document from Mr. Dunlop, the very same
4 day, he notifies the Cornwall police.

5 He says on November 17th if we are going to
6 get further information from Mr. Dunlop, we need to consult
7 with the Cornwall police. I don't see a change in the
8 position quite frankly.

9 **MR. CALLAGHAN:** Well, I mean, I guess the
10 point, sir, is very simple. We have legislation in place
11 that protects the confidentiality of information; correct?

12 **MR. ABELL:** We have that.

13 **MR. CALLAGHAN:** Okay.

14 **MR. ABELL:** We also have a duty to report.

15 **MR. CALLAGHAN:** And you told -- and the
16 protocol was, according to the notes of Mr. Derochie, that
17 you could look but you couldn't take from the CAS. If you
18 wanted to take, you needed a judicial warrant; correct?

19 **MR. ABELL:** Yes.

20 **MR. CALLAGHAN:** All right. And the protocol
21 had been same, absent this one situation with Dunlop; that
22 is, the CAS would come and look, but they wouldn't take.

23 **MR. ABELL:** Yeah, I hear you, yeah.

24 **MR. CALLAGHAN:** You agree? Except for this
25 one situation?

1 **MR. ABELL:** We have duty -- you said to me
2 earlier, Mr. Callaghan, that we have competing interests?
3 We have competing interests?

4 **MR. CALLAGHAN:** Yes, yes, right, I did say
5 that. I did point that.

6 **MR. ABELL:** And you did say that ---

7 **MR. CALLAGHAN:** In points in time.

8 **MR. ABELL:** --- and you made that point
9 quite clearly.

10 **MR. CALLAGHAN:** Yeah.

11 **MR. ABELL:** And in this instance, we had a
12 practice, which you call a protocol, and we also had a
13 duty-to-report situation, and the duty-to-report situation,
14 in that case, stepped aside around protocol. That's what
15 it did.

16 **MR. CALLAGHAN:** Are you able to tell me
17 whether there's another case in which a police officer gave
18 you directly, without -- through channels, any information
19 of this type?

20 **MR. ABELL:** None that I can think of.

21 **MR. CALLAGHAN:** If I can then move on ---

22 **THE COMMISSIONER:** Thank you.

23 **MR. CALLAGHAN:** Just to be clear, I just
24 want to make sure this is part of the exhibit, now that I
25 know about it. It's exhibit 2462 -- I'm at Bates page 540.

1 **THE COMMISSIONER:** Six two five four zero.

2 **MR. CALLAGHAN:** And I'm doing this by way of
3 illustration, sir, and I'm going to do this twice. This
4 is ---

5 **MR. ABELL:** Sorry, just before you go on, do
6 we have this?

7 **THE COMMISSIONER:** Yes, you do, 2463.

8 **MR. CALLAGHAN:** Two four six two (2462),
9 sir.

10 **THE COMMISSIONER:** Two four six two (2462)?
11 Yes, you're right. You're right.

12 **MR. ABELL:** Two four six two (2462)?

13 **MR. CALLAGHAN:** It's a note of yours, August
14 21st, '95.

15 **MR. ABELL:** I have 246 -- which Bates page?

16 **THE COMMISSIONER:** Five four zero (540).

17 **MR. CALLAGHAN:** Five four zero (540).

18 **MR. ABELL:** Thank you, sir.

19 **MR. CALLAGHAN:** I think the Commissioner is
20 well ahead of where I'm going.

21 **MR. ABELL:** I have it.

22 **MR. CALLAGHAN:** Right. And I'm just doing
23 this to illustrate, so the record is absolutely clear,
24 these are your notes and it says:

25 "Informed by Lorenzo Murphy, Tuesday

1 a.m. last week, he'd had a call from
2 Rick Trew at CPS to report the new
3 allegation which has come in through
4 Father Maloney. I told Lorenzo I'd get
5 back to Inspector Trew."

6 Do you see that?

7 **MR. ABELL:** Yes.

8 **MR. CALLAGHAN:** All right.

9 So there's no question that the discussions
10 that you talked about between Carriere and Staff Sergeant
11 Brunet resulted in reporting the right types of things,
12 correct?

13 **MR. ABELL:** Yes.

14 **MR. CALLAGHAN:** In other words, in this case
15 they're talking about John MacDonald, and it's the same
16 situation as Mr. Silmsler, historical sexual assault with no
17 knowledge of a child under the age of 16 in the
18 statement ---

19 **MR. ABELL:** Correct.

20 **MR. CALLAGHAN:** --- correct?

21 **MR. ABELL:** Correct.

22 **MR. CALLAGHAN:** Now, if we could just go
23 to 78 -- I'm hoping this is the same document, 505. I
24 didn't make a note of it.

25 **THE COMMISSIONER:** So Bates page 505, sir?

1 **MR. CALLAGHAN:** Yes, sir.

2 **THE COMMISSIONER:** The amendment for recent
3 developments ---

4 **MR. CALLAGHAN:** Right.

5 **THE COMMISSIONER:** --- 22nd, 05, '97.

6 **MR. CALLAGHAN:** All right.

7 And so here it is in May of '97. Similarly,
8 you're getting from Chief Repa and also from Angelo
9 Towndale some information that comes in, in a lawsuit, a
10 demand for particulars and a response to demand for
11 particulars. Do you see that?

12 **MR. ABELL:** Yes, I do.

13 **MR. CALLAGHAN:** All right.

14 When you received that information, did you
15 read it?

16 **MR. ABELL:** I remember flipping through it.

17 **MR. CALLAGHAN:** Okay. There are some really
18 quite outlandish allegations, and this is May, '97. Mr.
19 Neville asked you about your last contact with Mr. Dunlop,
20 and he showed a note of December 20th, '96. Do you know
21 whether you spoke to him after May, '97, when you saw at
22 least the outlandish allegations and the response of the
23 request for particulars?

24 **MR. ABELL:** I don't recall reading
25 outlandish allegations. As I said, I just did a quick flip

1 through it, so I couldn't speak to that. So did I speak to
2 Perry Dunlop? It's quite possible.

3 **MR. CALLAGHAN:** You didn't read the
4 allegations of a meeting on an island ---

5 **MR. ABELL:** Oh, I ---

6 **MR. CALLAGHAN:** No?

7 **MR. ABELL:** Well, I mean, that information
8 was in the ---

9 **THE COMMISSIONER:** You don't have to -- no.
10 No, no, no.

11 **MR. CALLAGHAN:** Well, I just wanted to ---

12 **THE COMMISSIONER:** You don't have to
13 characterize it by "outlandish" ---

14 **MR. CALLAGHAN:** What's that?

15 **THE COMMISSIONER:** --- not at all. You
16 don't have to characterize it by "outlandish."

17 **MR. CALLAGHAN:** Oh, I do, because they were,
18 and I -- and they were outlandish, and they've been
19 denounced by the author.

20 What I'm trying to get at is did he talk to
21 Mr. Dunlop? I'm trying to find out what communications are
22 happening with Mr. Dunlop, and they're -- and this seems to
23 be a bellweather -- one would, reading those, understanding
24 the allegations, and I'm just trying to figure out, when
25 does he stop speaking to Mr. Dunlop.

1 **THE COMMISSIONER:** When do you stop speaking
2 to Mr. Dunlop?

3 **MR. ABELL:** I don't have a date, sir. I ---

4 **THE COMMISSIONER:** Do you -- anything around
5 this time?

6 **MR. ABELL:** I didn't log it.

7 **THE COMMISSIONER:** Pardon me?

8 **MR. ABELL:** I didn't log it. Certainly, by
9 the time the suit came out, I was seeing very little of
10 Perry. I recall seeing him one day, and he said -- I think
11 he even had it with him, but he had ---

12 **THE COMMISSIONER:** He had what with him?

13 **MR. ABELL:** The actual document, the
14 suit ---

15 **THE COMMISSIONER:** Yes.

16 **MR. ABELL:** --- the paper document. As to
17 the date, I'm sorry; I just can't help you.

18 **MR. CALLAGHAN:** And did you talk to him
19 about it?

20 **MR. ABELL:** No. I mean, I -- I had a line,
21 socially and professionally, and I wasn't going to get into
22 it with him.

23 I -- to go back to your point,
24 Mr. Callaghan, the information that was in the suit, when
25 you talk about meeting at the islands and that, I mean

1 that -- that had -- I was aware of that -- those
2 allegations. I mean, that had been back into what you
3 people call the Fantino brief. I mean, that ---

4 **MR. CALLAGHAN:** But the Fantino brief ---

5 **MR. ABELL:** That information has been around
6 quite a while.

7 **MR. CALLAGHAN:** Not by this time, sir, no,
8 it hadn't. That Fantino brief doesn't exist until the end
9 of December, '96.

10 **MR. ABELL:** Well, I ---

11 **MR. CALLAGHAN:** I'm talking about May
12 of '97.

13 **MR. ABELL:** Okay. In that case, I'll stand
14 corrected.

15 **MR. CALLAGHAN:** That's three months later.
16 That's three or four -- you'll have to go back to find out
17 when the Fantino brief is brought together. And you got
18 the Fantino brief, as I understand it, in May, '97?

19 **MR. ABELL:** Okay. I'll accept that.

20 **MR. CALLAGHAN:** So just coming back to the
21 Commissioner and my question, did you speak to him after
22 you got the Fantino brief?

23 **MR. ABELL:** Did I speak to him?

24 **MR. CALLAGHAN:** Perry Dunlop?

25 **MR. ABELL:** Yes, I probably did.

1 **MR. CALLAGHAN:** And you never talked to him
2 at all about these allegations?

3 **MR. ABELL:** I did not talk to him about
4 these allegations.

5 **MR. CALLAGHAN:** There was discussion with
6 Mr. Englemann about Ken Seguin, and I just want to be clear
7 about who -- and I seem to be a little confused, who raised
8 the issue about contacting Social -- your agency, about Ken
9 Seguin. And he took you to a note of Mr. Dunlop's -- or
10 Mr. Dunlop's -- Staff Sergeant Derochie's, and that's
11 Exhibit 2322, which are your notes, at Bates page 073.

12 **THE COMMISSIONER:** Just a second, 23 ---

13 **MR. CALLAGHAN:** Sorry, 1073 of your notes.
14 Sorry, Exhibit 2322, Bates page 073.

15 **THE COMMISSIONER:** Exhibit 2322. Okay.

16 **MR. CALLAGHAN:** Those are the notes of ---

17 **MR. ABELL:** And could I have the Bates page,
18 please?

19 **MR. CALLAGHAN:** Yes, 073, October 1st, '93.

20 **MR. ABELL:** Okay.

21 **MR. CALLAGHAN:** And this is your
22 discussion -- we'll come back to this discussion
23 briefly -- with Chief Shaver, and you're telling
24 Chief Shaver:

25 "I indicated I would need to alert MCSS

1 regarding the potential of the case,
2 plus the involvement of Seguin."

3 Do you see this?

4 **MR. ABELL:** I see that.

5 **MR. CALLAGHAN:** This is well before your
6 discussion with Staff Sergeant Derochie?

7 **MR. ABELL:** Okay.

8 **MR. CALLAGHAN:** And then over at
9 page -- Bates page 085 on the 14th of October ---

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

11 **MR. CALLAGHAN:** "I briefed Lenore
12 Jones..."

13 At the bottom:

14 "...on the case. She reads the file;
15 she agrees to see if Seguin is with
16 their ministry. I will keep her
17 informed of major developments."

18 Now, I didn't see a response, but this is
19 you, independent, not because of Staff Sergeant Derochie.
20 You independently are trying to find out Seguin's status
21 with the ministry, are you?

22 **MR. ABELL:** Yes.

23 **MR. CALLAGHAN:** And what I don't understand
24 is why would you do that? I know we heard about Phase 1
25 and Phase 2, but why ---

1 **MR. ABELL:** That's the answer.

2 **MR. CALLAGHAN:** All right.

3 So you can inform an employer, if it's the
4 same employer? Is that the rule?

5 **MR. ABELL:** No. The issue there was the
6 ages of the children, or the -- of the youth that he was
7 involved with professionally. We were trying to determine
8 which portion of the ministry he was in, of the probation
9 work.

10 **MR. CALLAGHAN:** That was it, it was just ---

11 **MR. ABELL:** Phase 1, Phase 2, I think was
12 the terminology.

13 **MR. CALLAGHAN:** This wasn't to start an
14 internal investigation at the ministry at all, as an -- as
15 to one of their employees?

16 **MR. ABELL:** This wasn't to start an internal
17 investigation, no.

18 **MR. CALLAGHAN:** At the ministry ---

19 **MR. ABELL:** We -- no.

20 **MR. CALLAGHAN:** --- as to one of their
21 employees?

22 **MR. ABELL:** No. We were gathering
23 information for our own purposes.

24 **MR. CALLAGHAN:** In this note we have the
25 comment about Chief Shaver, and it's three pages back.

1 When you talked to Chief Shaver on October 1st, he told you
2 that he had not actually read the file because it hadn't
3 been inputted, correct?

4 **MR. ABELL:** Which is -- I'm sorry, which is
5 the Bates page you went to?

6 **MR. CALLAGHAN:** Sorry. It's Bates page 071.

7 **THE COMMISSIONER:** Zero seven one (071).

8 **MR. ABELL:** Okay. That's the October 1st
9 meeting with Chief Shaver?

10 **MR. CALLAGHAN:** Right.

11 **MR. ABELL:** Yes.

12 **MR. CALLAGHAN:** And you say -- I take it
13 your understanding is that Chief Shaver hadn't actually
14 read the file because it hadn't been put together yet,
15 correct?

16 **MR. ABELL:** Yes. He said he'd -- he
17 had -- he left the office and the file was being assembled,
18 something to that effect.

19 **MR. CALLAGHAN:** Right. And when he was
20 upset, if I read the notes correctly, was he predominantly
21 upset about what he understood to be the length of time it
22 took?

23 **MR. ABELL:** That was one of his issues, I
24 believe, yes.

25 **MR. CALLAGHAN:** And the ---

1 **MR. ABELL:** Is there a specific comment in
2 here I've missed?

3 **MR. CALLAGHAN:** Well it says,
4 "Investigation not done, put on back
5 burner, ie., black basin. Discipline,
6 Luc Brunet did not supervise
7 adequately."

8 **MR. ABELL:** Yes, I recall that.

9 **MR. CALLAGHAN:** What I'm trying to get at
10 is, is that at the time Chief Shaver would not have had
11 access to the file if it hadn't been put together?

12 **MR. ABELL:** That was my understanding.

13 **MR. CALLAGHAN:** Could your note really be
14 read "screwed up long time", if you could take a look at
15 it. It looks like "long" to me.

16 **THE COMMISSIONER:** No, no.

17 **MR. ENGELMANN:** The big times, it's in Mr.
18 Derochie's notes. It's in several ---

19 **MR. CALLAGHAN:** Well, let's let the witness
20 answer, please.

21 **MR. ENGELMANN:** I mean, there's no
22 confusion.

23 **THE COMMISSIONER:** First of all ---

24 **MR. CALLAGHAN:** There's no confusion when
25 you're giving him the answer.

1 **MR. ENGELMANN:** No, but ---

2 **THE COMMISSIONER:** Okay, gentlemen. No, no.
3 Mr. Callaghan, that's not fair.

4 **MR. CALLAGHAN:** Well ---

5 **THE COMMISSIONER:** Mr. Engelmann, you sit
6 down. This is his -- can you read that word?

7 **MR. ABELL:** I read "big", sir.

8 **MR. CALLAGHAN:** It reads "B". But why can't
9 I ask the question? I don't understand this.

10 But you're aware that he hasn't read the
11 file, right? Like he doesn't have the details, all he
12 knows is it's taken a long time?

13 **MR. ABELL:** He's told me that.

14 **MR. CALLAGHAN:** All right.

15 And I just want to take you to Exhibit 2324.

16 **MR. ABELL:** Yes.

17 **MR. CALLAGHAN:** All right, and I want to
18 take you to the sixth page, which is Bates page 860. And
19 after the Cornwall Police are involved, your Agency asked
20 the OPP to get involved; is that correct?

21 **MR. ABELL:** I don't believe it was our
22 request.

23 **MR. CALLAGHAN:** Well, whose request would it
24 be, do you know?

25 **MR. ABELL:** No, it was our request, you're

1 right because the allegations -- we were outside the city
2 then. You're correct, yes.

3 **MR. CALLAGHAN:** And it says at the bottom,
4 "Constable Wilson indicated that he has
5 discussed the case with OPP and will
6 not be able to take any action unless
7 we have a victim."

8 He indicated that:

9 "As soon as we have an identified
10 victim I can talk at them and he'll be
11 able to become involved."

12 **MR. ABELL:** Okay.

13 **MR. CALLAGHAN:** So he had indicated that he
14 had to speak to David Silmsen, correct? Was that your
15 understanding? In other words, you wouldn't just take it
16 on your information? You needed to see -- have a victim?

17 **MR. ABELL:** He's saying he would need a
18 victim, yes, a person.

19 **MR. CALLAGHAN:** He needed a live body to
20 talk to; he needed the person?

21 **MR. ABELL:** That's how I read this, yes.

22 **MR. CALLAGHAN:** And do you know if that
23 happened at that time?

24 **MR. ABELL:** I don't know.

25 **MR. CALLAGHAN:** Geraldine Fitzpatrick

1 testified that she had heard -- overheard you talking to
2 her. Pardon me, I may be wrong, if it was you, but someone
3 at CAS talking about naming Project Blue Project Truth.
4 Was there ever an indication that Project Blue would be
5 Project Truth?

6 MR. ABELL: No.

7 MR. CALLAGHAN: And Project Blue is Project
8 Blue because of the great blue jays of 1993?

9 MR. ABELL: Very good.

10 MR. CALLAGHAN: All right. Now my last area,
11 I'd like to on the -- you discussed the issue of Antoine
12 briefly and I would like to take you to Exhibit 2214 and
13 I'm going to the very last page.

14 THE COMMISSIONER: Two-two-one-four (2214).

15 MR. CALLAGHAN: It should be the notes of
16 Shawn White.

17 (SHORT PAUSE/COURTE PAUSE)

18 THE COMMISSIONER: Do we have that, 2214?

19 MR. CALLAGHAN: If you put it on the screen,
20 Mr. Commissioner, it may be a little easier. These are the
21 notes, it's just one page.

22 THE COMMISSIONER: Yeah, I know but I make
23 notes.

24 MR. CALLAGHAN: Oh, I'm sorry, sir. Yes, of
25 course. Yes, that makes perfect sense.

1 **THE COMMISSIONER:** Two-two-one-four (2214).

2 **MR. CALLAGHAN:** The notes of Shawn White.
3 They were when Mr. Towndale testified.

4 **THE COMMISSIONER:** Thank you; 2214. Okay,
5 what page?

6 **MR. CALLAGHAN:** Last page.

7 **THE COMMISSIONER:** Last page.

8 **MR. CALLAGHAN:** So Bates page 179.

9 You had testified, sir, about not having
10 certain information, as I understood it regarding the
11 Antoine investigation but were you not involved in a
12 meeting on November 3rd, 1994 with Chief Johnston and
13 Inspector Trew? Shawn White met with you and Angelo
14 Towndale to discuss the case?

15 **MR. ABELL:** He did.

16 **MR. CALLAGHAN:** Were you not briefed on what
17 the case was about in general context?

18 **MR. ABELL:** What do you mean?

19 **MR. CALLAGHAN:** Well, maybe you can tell me.
20 I don't have any notes. Do you have any notes of this
21 meeting?

22 **MR. ABELL:** I don't have any notes of that
23 meeting, no.

24 **MR. CALLAGHAN:** Do you know what happened at
25 that meeting?

1 **MR. ABELL:** That meeting was a reporting
2 session. Detective White told me the outcome of this --
3 well, the broad outline of his investigation of the
4 allegations by Ms. Antoine and the position that they had
5 arrived at as a police force.

6 **MR. CALLAGHAN:** And he advised you, at least
7 he testified he advised Mr. Towndale, but I assume he also
8 advised you that there was a systemic problem in the past
9 about reporting to the Cornwall Police?

10 **MR. ABELL:** There was a systemic problem in
11 the past about reporting to the Cornwall Police?

12 **MR. CALLAGHAN:** When there was alleged
13 criminal conduct. I believe that was his testimony.

14 **MR. ABELL:** I don't recall it. That wasn't
15 my -- what I heard from him.

16 **MR. CALLAGHAN:** What did you hear?

17 **THE COMMISSIONER:** Go ahead.

18 **MR. ABELL:** That there had been an extensive
19 investigation of the allegations; that they weren't in a
20 position to charge and that there had been other children
21 in the home who had been abused but there would be no
22 further police action, no further police involvement.

23 **MR. CALLAGHAN:** And members of the CAS, your
24 employees and former employees, would have been part of
25 those investigated as you understood it?

1 **MR. ABELL:** Yes, they each spoke to a number
2 of our staff, yes.

3 **MR. CALLAGHAN:** And what is the complaint
4 then about what you were advised? Mr. Engelmann, maybe I
5 misunderstood. I thought there was some criticism that you
6 weren't advised about Shawn White's investigation?

7 **MR. ABELL:** No, I was advised about it.
8 What I said was two things. I, in retrospect I wish I had
9 asked for more information. I've only recently seen the
10 Crown brief that he prepared, an extensive document, and
11 contained far more information than any of us in our
12 organization had ever known about the allegations that came
13 out of that situation. So that was the ---

14 **MR. CALLAGHAN:** I believe Mr. White, Sgt.
15 White testified that one of the situations at the time was
16 there were, as you noted in that article, there were these
17 new allegations regarding institutional abuse and that
18 wouldn't be customary to share all the information with the
19 institution?

20 **MR. ABELL:** I accepted he had his reasons.
21 I mean I didn't read his transcript or anything but I mean
22 he would have had his reasons. I still, frankly in my
23 part, wish I had pursued it further.

24 **MR. CALLAGHAN:** And maybe there could be an
25 agency that can be an intermediary when you're

1 investigating an institution that could deal with that?

2 **MR. ABELL:** Well, it wouldn't so much -- I
3 mean, simply I mean yes, it was institutional in that
4 instance, Mr. Callaghan, but I mean in any circumstance
5 where police have information that could bear on decisions
6 and actions by Children's Aid Society, in a situation like
7 that.

8 **MR. CALLAGHAN:** Let me give you the
9 converse. When the Cornwall Police were being investigated
10 by the OPP there were plenty of documents that you had that
11 weren't shared with the Cornwall Police; is that correct?

12 **MR. ABELL:** I can't think what those would
13 be.

14 **MR. CALLAGHAN:** Well, the Fantino brief
15 would be the first.

16 **THE COMMISSIONER:** Run that by me again.

17 **MR. CALLAGHAN:** There were documents in the
18 possession ---

19 **THE COMMISSIONER:** When the Ottawa Police?

20 **MR. CALLAGHAN:** No, when the OPP were
21 investigating Cornwall Police.

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

23 **MR. CALLAGHAN:** I think what they did, the
24 illustration point is when your agency is under
25 investigation, you may not have all the information and

1 indeed in the circumstance where the Cornwall Police were
2 under investigation, it was the CAS who had the Fantino
3 brief. We didn't have it, and indeed when Mr. -- when Tony
4 Repa sent the Leroux -- you may recall this. When he sent
5 you Leroux's affidavit, when he got it the first time to
6 comply with his duty to report, you had noted you already
7 had it from 1997 and he was sending it to you in 1999; do
8 you recall that?

9 MR. ABELL: I don't recall it specifically.

10 MR. CALLAGHAN: I'm just going to put that
11 last document in then. I was going to do that. If I could
12 then give you -- it's back in that document 721620.

13 (SHORT PAUSE/COURTE PAUSE)

14 MR. CALLAGHAN: Bates page 0486. Okay, this
15 is a letter that Mr. Abell writes you. Pardon me. Strike
16 that. Mr. Repa writes you and he's under his obligations
17 to the duty report, he's enclosing an affidavit from Ron
18 Leroux, and that will be the third page in. You'll see the
19 third page, that's the affidavit of Ron Leroux, November
20 13th, '96.

21 And if you go back one page, and we're at --
22 back to Bates page 0485 -- 0487 I should say, you'll see at
23 the bottom. You're saying this to Pat Hall, because you're
24 keeping them apprised:

25 "This came in from CPS. We've seen it. It came in the

1 original allegations from Perry Dunlop, back when you first
2 set up in Cornwall, which was May 1997."

3 MR. ABELL: I see it

4 MR. CALLAGHAN: So I'm trying to illustrate
5 -- and sir, is this a document -- is this an exhibit yet?

6 This is Exhibit 2462 for the record.

7 So you can appreciate that, if an agency is
8 under investigation, they may not get all the information.
9 That's something you can accept?

10 MR. ABELL: I understand that, yes.

11 MR. CALLAGHAN: Thank you.

12 MR. ABELL: Mr. Commissioner?

13 THE COMMISSIONER: Yes?

14 MR. ABELL: Could I ask for a brief break,
15 please?

16 THE COMMISSIONER: Good idea.

17 MR. ABELL: Thank you.

18 THE REGISTRAR: Order. All rise. À
19 l'ordre. Veuillez vous lever.

20 This hearing will resume at 5:10 p.m.

21 --- Upon recessing at 4:56 p.m./L'audience est suspendue à
22 16h56.

23 --- Upon resuming at 5:03 p.m./ L'audience est reprise à
24 17h03.

25 THE REGISTRAR: This hearing is now resumed.

1 Please be seated. Veuillez vous asseoir.

2 **THE COMMISSIONER:** You need not kneel, Mr.
3 Carroll.

4 **(LAUGHTER/RIRES)**

5 **MR. CARROLL:** We'll see. Ms. Lahaie has no
6 questions, sir.

7 **THE COMMISSIONER:** Oh, are you speaking for
8 her? Good, thank you.

9 And while we're speaking for others, I've
10 taken the liberty of sending, or advising the witness that
11 she need not stay, because given the hour and the snow, it
12 might be wise just to finish off your two questions and Mr.
13 Chisholm's five and we'll be done.

14 Oh. I'm sorry?

15 **MR. CARROLL:** Oh, I may have jumped the
16 queue, then?

17 **THE COMMISSIONER:** Oh, you must have jumped
18 the queue, then.

19 **MR. CARROLL:** I apologize. That wasn't one
20 question or two, was it?

21 **RICHARD ABELL:** Resumed/Sous le même serment

22 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

23 **ISHMAEL:**

24 **MS. ISHMAEL:** Good afternoon, Commissioner,
25 Mr. Abell.

1 **THE COMMISSIONER:** Good afternoon.

2 **MS. ISHMAEL:** My name is Kimberley Ishmael

3 **THE COMMISSIONER:** Yes.

4 **MS. ISHMAEL:** And I'm counsel for the Upper
5 Canada District School Board.

6 Just have a very few questions for you.

7 Now the majority of my questions are focused
8 on the issue that was discussed earlier in your testimony
9 about the information sharing between the CAS and employers
10 when there's possible employee misconduct.

11 **MR. ABELL:** Yes.

12 **MS. ISHMAEL:** So my questions are relating
13 primarily to CAS' perspective during your tenure as
14 Executive Director, as well as if you're aware of any
15 present or upcoming practices or protocols that may be in
16 the works? If you have that information that would also be
17 useful.

18 **MR. ABELL:** Sure.

19 **MS. ISHMAEL:** So let me just begin.

20 I mean, are you aware at all whether the
21 Ministry, MCSS, that being the Ministry of Community and
22 Social Services, whether they had a practice or protocol
23 that was applicable to all CAS' with respect to the release
24 of information to employers?

25 **MR. ABELL:** I can't recall. Certainly is

1 clear policy guidelines around release of information.

2 MS. ISHMAEL: M'hm.

3 MR. ABELL: Quite frankly, I'm not clear in
4 my mind how that specifically relates to informing
5 employers. I can't recall.

6 MS. ISHMAEL: Okay.

7 You would agree with me, though, that it
8 would be -- so it may possibly be the individual
9 responsibility of each CAS to determine a set of standard
10 considerations and factors when they're assessing whether
11 to inform an employer or to release information to an
12 employer?

13 MR. ABELL: I'm not on really strong
14 grounds, here. There are others who would give you a
15 better answer on that.

16 MS. ISHMAEL: Okay.

17 No, that's fine, any information you have
18 would be useful.

19 MR. ABELL: I can certainly speak to some of
20 our practice but I'm sorry with respect to the policy.

21 MS. ISHMAEL: Okay. So then you wouldn't be
22 aware whether Cornwall CAS in particular ever established a
23 practice or protocol.

24 MR. ABELL: We had practice, yes.

25 MS. ISHMAEL: You did have a practice?

1 **MR. ABELL:** Yes.

2 **MS. ISHMAEL:** And can you explain further
3 what that practice would have been?

4 **MR. ABELL:** Well depending on the sort of
5 immediacy of the risk issues, certainly if we had verified
6 that somebody who had the care and control of children, but
7 not a parental role, we verified then our practice was to
8 notify.

9 **MS. ISHMAEL:** Was to notify.

10 And where there any standard considerations,
11 in terms of, for example the age of the victim, the number
12 of victims, whether criminal charges were laid, anything on
13 that?

14 **MR. ABELL:** Those would factor into it but
15 fundamentally the issue would be whether we believed that
16 that individual posed a risk.

17 **MS. ISHMAEL:** Okay.

18 And are you aware of any other CAS' in the
19 province that had similar practice or was this something
20 that was particular to Cornwall CAS?

21 **MR. ABELL:** Oh no, it's a province-wide --
22 it's province-wide practice.

23 **MS. ISHMAEL:** Okay.

24 Now you mentioned in your earlier testimony
25 that you did consider the privacy interests of the victim

1 as well as the perpetrator, or possible employee. Were you
2 all considering, and I know you have mentioned to ensure
3 that the employer had sufficient information or enough
4 information in order to be able to act.

5 **MR. ABELL:** Yes.

6 **MS. ISHMAEL:** And I'm just wondering what
7 you mean by "enough information," or what? If you have any
8 further detail on that?

9 **MR. ABELL:** Enough would be the knowledge
10 that we had investigated an allegation and that we had come
11 to a particular conclusion. And beyond that, it would be a
12 matter of a case specific decision about what -- what
13 further information could be provided.

14 **MS. ISHMAEL:** Okay. So there would be in
15 some cases more detail versus others depending on what
16 information you had?

17 **MR. ABELL:** Yes.

18 **MS. ISHMAEL:** It wasn't a standard?

19 **MR. ABELL:** That's my understanding, yes.

20 **MS. ISHMAEL:** Okay.

21 And in cases where information was released
22 to an employer, are you aware of whether there was more or
23 less detail provided to an employer who initially reported
24 the allegation versus an employer that was completely
25 unaware of an allegation?

1 **MR. ABELL:** I don't -- I couldn't remark on
2 that.

3 **MS. ISHMAEL:** No, that's fair enough.
4 You would agree with me, though, that, Mr.
5 Abell, typically investigation notes, details of the
6 allegation wouldn't typically have been released to an
7 employer?

8 **MR. ABELL:** Would or would not?

9 **MS. ISHMAEL:** Would not.

10 **MR. ABELL:** In the investigation notes?

11 **MS. ISHMAEL:** Yes.

12 **MR. ABELL:** No. The file materials that
13 were gathered up would typically not be provided to an
14 employer.

15 **MS. ISHMAEL:** Okay.

16 But it wouldn't just be a written statement
17 to the employer that there had been an allegation, it had
18 been verified and it would be left up to the employer to
19 decide what to do with that information?

20 **MR. ABELL:** I mean -- no, I mean, employers
21 are going to want to understand what they're dealing with,
22 so why there would have to be some consideration of, I
23 mean, if -- the intent on our part was to protect children.

24 We would want an employer equipped
25 sufficiently to make a reasonable decision in that, so it's

1 a matter of individual case judgement about what was
2 sufficient information. I was being cautious about the
3 limits on our capacity to provide that information.

4 **MS. ISHMAEL:** And do you know whether any
5 distinctions were drawn between public institutions such as
6 school boards versus private employers, or whether they're
7 treated the same?

8 **MR. ABELL:** No, I don't believe there was
9 any practice or policy around distinctions between
10 employers. I don't believe.

11 **MS. ISHMAEL:** Okay. Not that you're aware
12 of? All right.

13 And my last question, keeping it very short.
14 In terms of a child victim, you would agree that it may be
15 difficult to not only report an allegation but then to
16 possibly be interviewed by CAS, the police and then
17 possibly an employer, in the case of employee misconduct.

18 Do you know of whether or not there was ever
19 a process whereby an employer would be able to obtain
20 detailed information directly from CAS rather than having
21 to interview the victims themselves?

22 **MR. ABELL:** Not that I'm aware of.

23 **MS. ISHMAEL:** Okay. And, I mean, in the
24 examples where perhaps a parent may not want the child to
25 have to endure an additional investigation. Are you aware

1 of any cases where information was provided to an employer
2 in that instance?

3 MR. ABELL: I'm not. No.

4 MS. ISHMAEL: Yeah. Okay.

5 And those are my questions. Thank you for
6 your time.

7 MR. ABELL: Thank you.

8 THE COMMISSIONER: Thank you very much.
9 Mr. Carroll?

10 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
11 CARROLL:

12 MR. CARROLL: Good evening, sir.

13 My name is Bill Carroll and I'm counsel for
14 the Ontario Provincial Police Association.

15 And I have just one area to ask you about.
16 And that is, earlier this afternoon, you talked about your
17 dealings with Smith and then Hall and other members of the
18 Truth team.

19 You described a pattern of ongoing
20 information sharing and cooperation between the OPP and
21 your agency; correct?

22 MR. ABELL: Yes. That's correct.

23 MR. CARROLL: And I just wanted to take you
24 to Exhibit 2462, it's Document -- Bates page is 513. It
25 was referenced in part earlier by Mr. Neville. And I just

1 want to take you a little bit further into that document,
2 once you have it, sir.

3 **THE COMMISSIONER:** So Exhibit 2462?

4 **MR. CARROLL:** Twenty four sixty two (2462).

5 **THE COMMISSIONER:** All right then. Bates
6 page 513, sir.

7 **MR. CARROLL:** That's right.

8 **MR. ABELL:** Thank you.

9 **MR. CARROLL:** Just let me know when you've
10 got it, sir?

11 **MR. ABELL:** Five-one-three (513)? Yes, I
12 have that.

13 **MR. CARROLL:** You have that? Okay.

14 And that, if I read it correctly, is a
15 series of notes that you made on the 22nd of May concerning
16 a meeting that you had on the 21st of May.

17 Am I right on that?

18 **MR. ABELL:** I believe so, yes.

19 **MR. CARROLL:** Okay. And this was a meeting
20 that you had with Tim Smith and Steve Seguin and Don
21 Genier, members of the Truth team?

22 **MR. ABELL:** Correct.

23 **MR. CARROLL:** Mr. Neville referred you, sir,
24 to the passage in your notes, which deals with the Charles
25 Bourgeois binder, as you described it?

1 **MR. ABELL:** Yes.

2 **MR. CARROLL:** All right.

3 I'd like to just go a little further as to
4 the contents of that meeting, sir, and dropping down the
5 page, because it seems that this entry here reflects the
6 level of cooperation between the two agencies.

7 Immediately after the Bourgeois binder
8 entry, the note says:

9 "Bill will go and view some interview
10 tapes."

11 I take it that's Bill Carriere?

12 **MR. ABELL:** That's correct.

13 **MR. CARROLL:** And those are tapes that the
14 OPP advised that they had in their possession in relation
15 to the investigation and they were prepared to let you or
16 your people look at them?

17 **MR. ABELL:** The offer was made, yes.

18 **MR. CARROLL:** It goes on to say:

19 "It was also agreed that the OPP was
20 going to interview Ron Leroux."

21 You people would not be present; that is,
22 your agency people would not be present, but that you could
23 provide Smith or his people with a series of questions that
24 they would put to Leroux on your behalf?

25 **MR. ABELL:** That's what I understand, yes.

1 **MR. CARROLL:** And those questions would
2 advance the interests and the concerns of the CAS, right?

3 **MR. ABELL:** That was the intent, yes.

4 **MR. CARROLL:** That was the intent.

5 Further, it says that:

6 "The OPP will give you all records of
7 interviews."

8 **MR. ABELL:** Yes.

9 **MR. CARROLL:** Right?

10 **MR. ABELL:** Yes, sir.

11 **MR. CARROLL:** And as I go through these,
12 these were not things you had to extract from Smith. This
13 was an agreement that was worked out quite amicably between
14 the two agencies, correct?

15 **MR. ABELL:** Mr. Smith or Inspector Smith --
16 sorry -- came in and was very -- I mean, he was clear in
17 his own mind what he wanted us to proceed with by way of an
18 understanding, and I recall that these were his -- I'll
19 call them offerings.

20 **MR. CARROLL:** And in further of that -- in
21 furtherance of that, rather, he suggested that there be
22 close contact between the two agencies so that there were
23 no coordination problems?

24 **MR. ABELL:** Exactly.

25 **MR. CARROLL:** And going on, he indicated to

1 you that you can certainly proceed with your work; that is
2 to say the work on behalf of the CAS, without causing --
3 fear of it causing any problems for the police
4 investigation, correct?

5 **MR. ABELL:** Correct.

6 **MR. CARROLL:** In addition to that, there's -
7 - it says there:

8 "We will attempt to interview Tom
9 Swabey, counsel for Father Kevin and
10 Monsignor McDougald."

11 When you say "we", is that you or is that
12 word "he"?

13 **MR. ABELL:** That's "we" and it's the CAS,
14 sir.

15 **MR. CARROLL:** So you were going to look
16 after that?

17 **MR. ABELL:** We were going to do that piece
18 and we did, yes.

19 **MR. CARROLL:** Okay. And further, I guess
20 then you -- that is, the CAS -- will also speak to the
21 senior church officials regarding access of the accused to
22 children.

23 **MR. ABELL:** Yes.

24 **MR. CARROLL:** Okay. Now, another important
25 feature of this cooperation, as I see it, was the protocol

1 worked out with respect to how to treat victims and
2 potential -- or alleged victims as it related to treatment.
3 And if you go to g) in your sheets there ---

4 **MR. ABELL:** Yes, sir.

5 **MR. CARROLL:** --- it says:

6 "CAS to explore treatment resources for
7 any victims who come forward."

8 **MR. ABELL:** Yes.

9 **MR. CARROLL:** Right?

10 And in order to facilitate that, we have the
11 following entries, not so much the media one, but dropping
12 down to i):

13 "If CAS is approached by victims, we
14 will take statements and encourage
15 individuals to speak to the police."

16 **MR. ABELL:** Yes.

17 **MR. CARROLL:** And:

18 "The police will inform victims that
19 they see that they are working with us
20 and that those people should talk with
21 us."

22 Meaning the CAS?

23 **MR. ABELL:** Yes, sir.

24 **MR. CARROLL:** And I take it, sir, that was
25 done so that you could then explore the possibility, as

1 you've said in g) of explaining treatment resources?

2 **MR. ABELL:** In part, yes.

3 **MR. CARROLL:** And you were to -- the entry
4 h):

5 "Our response to media will include..."

6 **MR. ABELL:** "...a public invitation to
7 victims and possible victims to come
8 forward to either police or CAS."

9 **MR. CARROLL:** So is this something the CAS
10 is going to put out through a media release of some sort?
11 Was that the plan?

12 **MR. ABELL:** If I recall, sir, I believe the
13 project -- your project team put together a little flyer
14 and ---

15 **MR. CARROLL:** Right.

16 **MR. ABELL:** --- we had it up in our waiting
17 room, and I think it went right around the city.

18 **MR. CARROLL:** I see. So you made it
19 available to the people that you were dealing with?

20 **MR. ABELL:** Very much so.

21 **MR. CARROLL:** And, sir, this -- there are
22 other examples in your notes, but I don't need to take any
23 more time. Can I suggest to you that what I've just read
24 to you is reflective again of the level of cooperation
25 between the two agencies as this matter went forward?

1 **MR. ABELL:** The cooperation was, in my view,
2 first rate.

3 **MR. CARROLL:** Thank you very much, sir.
4 Thank you.

5 **THE COMMISSIONER:** Thank you.
6 Mr. Chisholm.

7 **MR. CHISHOLM:** Thank you, sir.

8 **THE COMMISSIONER:** How long do you think
9 you're going to be, Mr. Chisholm?

10 **MR. CHISHOLM:** Twenty (20) minutes or less.

11 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
12 **CHISHOLM:**

13 **MR. CHISHOLM:** Good evening, Mr. Abell. We
14 know each other.

15 **MR. ABELL:** Yes, sir.

16 **MR. CHISHOLM:** If I could take you through a
17 few areas that you touched upon during the course of your
18 evidence. You spoke about Kevin Malloy and during your
19 evidence in-chief you indicated that you had not recalled
20 Mr. -- Constable Malloy being on the CAS Board of
21 Directors?

22 **MR. ABELL:** That's correct, I don't.

23 **MR. CHISHOLM:** Is it fair to say you don't
24 recall him being at any of the Board meetings that you
25 would have been at?

1 **MR. ABELL:** Yes, I have no -- I mean,
2 Constable Malloy is somebody you don't forget. I mean,
3 he's a particular individual, and I just don't have any
4 mental picture of him sitting in Board meetings.

5 **MR. CHISHOLM:** Moving on to the topic of
6 David Silmser.

7 Do you recall ever receiving any information
8 from Perry Dunlop that would indicate that David Silmser
9 had approached the CAS with his complaint concerning Father
10 MacDonald before he went to the Cornwall Police Service?

11 **MR. ABELL:** No.

12 **MR. CHISHOLM:** If I could take you, please,
13 to Exhibit 2454?

14 **THE COMMISSIONER:** Two four five four
15 (2454).

16 **MR. ABELL:** Yes, sir.

17 **MR. CHISHOLM:** That's a Standard Freeholder
18 article of January the 14th. In the furthest right-hand
19 column, the third-last paragraph, it reads:

20 "He added the incident was never
21 reported to Cornwall Police because
22 provincial legislation requiring police
23 to be notified did not come until
24 1979."

25 Do you recall that portion of the article?

1 **MR. ABELL:** I see it.

2 **MR. CHISHOLM:** And Mr. Engelmann asked you
3 where you had got that information and you indicated you
4 did not know and you wondered if it was a misunderstanding
5 on the part of the reporter or if it was something the
6 reporter had put in. Do you recall saying that?

7 **MR. ABELL:** I recall the exchange, yes, with
8 Mr. Engelmann.

9 **MR. CHISHOLM:** Is it -- if you did say that,
10 is it possible that you were making reference to the
11 Standards and Guidelines for the Management of Child Abuse
12 cases under the *Child Welfare Act* of 1978?

13 **MR. ABELL:** It's possible, but I really
14 don't know.

15 **MR. CHISHOLM:** And I won't take you there,
16 but that's Exhibit 25, Tab 4, pages 33 to 35.

17 During your evidence you spoke of Jacques
18 Leduc being used in the capacity of community counsel?

19 **MR. ABELL:** I did.

20 **MR. CHISHOLM:** That would be for child
21 welfare work? Is that right?

22 **MR. ABELL:** Correct.

23 **MR. CHISHOLM:** And am I right that other
24 counsel in Mr. Leduc's firm were also utilized from time to
25 time?

1 MR. ABELL: That's correct.

2 MR. CHISHOLM: If I could take you, please,
3 to Exhibit 1441? The Bates page is 616.

4 MR. ABELL: Bates page?

5 MR. CHISHOLM: Bates page 616.

6 MR. ABELL: Six one six (616), I have it.

7 MR. CHISHOLM: That's a scrap piece of paper
8 that Mr. Commissioner asked you about yesterday. Is that
9 right?

10 MR. ABELL: Yes.

11 THE COMMISSIONER: Well, actually, I was
12 asking him about 618, but it's the same phone number.

13 MR. CHISHOLM: Okay. Can we go to 618,
14 please? And you indicated that that was a group of mothers
15 who were protesting, Mr. Abell?

16 MR. ABELL: That was my recollection, yes.

17 MR. CHISHOLM: Is it possible that protest
18 was province-wide and not just limited to the local CAS?

19 MR. ABELL: No, I remember it being local.

20 MR. CHISHOLM: You recall protestors being
21 local?

22 MR. ABELL: Yes.

23 MR. CHISHOLM: But do you know if the -- was
24 the protest only directed at the local CAS or did it -- was
25 it broader than that?

1 **MR. ABELL:** No, it was at the local CAS, if
2 I'm correct in what I, you know, think this is.

3 **MR. CHISHOLM:** If I could take you please to
4 Exhibit 2462, and the Bates page 546.

5 **MR. ABELL:** Two-four-six-two (2462)?

6 **THE COMMISSIONER:** Five-four-six (546).

7 **MR. ABELL:** Five-four-six (546)?

8 **THE COMMISSIONER:** M'hm. July of 1994.

9 **MR. ABELL:** Yes.

10 **MR. CHISHOLM:** This is a -- these are the
11 minutes from a July 7th, '94 Project Blue team meeting. Is
12 that right?

13 **MR. ABELL:** Yes.

14 **MR. CHISHOLM:** Mr. Bell was present amongst
15 other people. Is that right?

16 **MR. ABELL:** He is.

17 **MR. CHISHOLM:** And the first line reads,
18 "Update communication from Inspector Tim Smith of OPP."

19 **MR. ABELL:** Yes.

20 **MR. CHISHOLM:** "Recommending that we
21 advise school board of Marcel Lalonde."

22 Do you see that?

23 **MR. ABELL:** Yes.

24 **MR. CHISHOLM:** Yesterday, Mr. Engelmann
25 suggested that you were providing an update at that meeting

1 about a conversation that you had with Inspector Smith, and
2 you agreed with him. Do you recall that?

3 MR. ABELL: Can you ---

4 MR. CHISHOLM: Yesterday, Mr. Engelmann was
5 suggested to you when he reviewed this document that you
6 were providing an update about a conversation ---

7 MR. ABELL: Yes, I'm sorry.

8 MR. CHISHOLM: --- that you had with
9 Inspector Smith, and you agreed with him?

10 MR. ABELL: That was the source of this
11 comment, yes.

12 MR. CHISHOLM: Is it possible that you're
13 mistaken with respect to who it was that had that
14 conversation with Inspector Smith, and is it possible that
15 it was Greg Bell who had the conversation?

16 MR. ABELL: It's possible. It doesn't
17 identify whom -- "Communication from ..." -- so it's
18 possible. We'd have to see in Greg's notes.

19 MR. CHISHOLM: And if we could pull up
20 Exhibit 2324, which are Mr. Bell's notes.

21 MR. ABELL: Thank you.

22 THE COMMISSIONER: You have the book.

23 MR. ABELL: Oh!

24 THE COMMISSIONER: But I think the clerk is
25 coming up with the notes now. So what page?

1 **MR. CHISHOLM:** I'm sorry, I don't have the
2 Bates page.

3 **THE COMMISSIONER:** Oh, great.

4 **MR. CHISHOLM:** It's page 219 of Mr. Bell's -
5 - Mr. Engelmann is going to come -- 2087, Madam Clerk.

6 Thank you, Mr. Engelmann.

7 You will see that at the top of the page, it
8 appears -- again, this is Mr. Bell's writing. It looks
9 like it's June 27th, '94, 14:50 hours.

10 **MR. ABELL:** Yes.

11 **MR. CHISHOLM:** "Called Inspector Tim Smith,
12 OPP Kingston." At the top.

13 And then if I take you down to point No. 6,
14 the last paragraph on the page.

15 And the premise to this is, "We relayed the
16 following" I believe it reads.

17 **THE COMMISSIONER:** "He" not "we."

18 **MR. CHISHOLM:** Sorry, "he."

19 **THE COMMISSIONER:** "He" or "We"?

20 **MR. CHISHOLM:** Maybe it's "He" -- "He
21 relayed the following..." I would put my money on "He" sir.

22 **THE COMMISSIONER:** Okay.

23 **MR. CHISHOLM:** Number 6:

24 "That OPP do not have enough to
25 investigate Marcel Lalonde, the

1 teacher. D. Simlser alleged that
2 abused him but that he thinks CAS
3 should at least advise the school board
4 of the allegations."

5 MR. ABELL: I see that.

6 MR. CHISHOLM: So?

7 MR. ABELL: I was wrong. It was Mr. Bell.

8 MR. CHISHOLM: You would accept it was Mr.
9 Bell?

10 MR. ABELL: Indeed. Yes, indeed, it's
11 clear.

12 MR. CHISHOLM: But you had other
13 conversations with Mr. Smith -- Inspector Smith, excuse me,
14 during the course of ---

15 MR. ABELL: Off and on, yes.

16 MR. CHISHOLM: Yes.

17 We have heard some discussion about
18 notification to employers by the CAS once a verification
19 has taken place.

20 MR. ABELL: Yes.

21 MR. CHISHOLM: Are you aware of any
22 standards, guidelines or legislation that would require a
23 CAS to notify an employer once an alleged abuser -- once an
24 allegation of abuse is made against an alleged abuser has
25 been verified?

1 **MR. ABELL:** I believe that's the question
2 that was asked by the school board representative ---

3 **MR. CHISHOLM:** Ms. ---

4 **MR. ABELL:** --- and I have to admit I can't
5 ---

6 **MR. CHISHOLM:** You are not aware of any?

7 **MR. ABELL:** I can't bring one up in my head.
8 I'm sorry.

9 **MR. CHISHOLM:** Yesterday, you spoke about
10 Father Dubé?

11 **MR. ABELL:** Yes.

12 **MR. CHISHOLM:** And specifically your
13 interactions you had with Bishop LaRocque?

14 **MR. ABELL:** Yes.

15 **MR. CHISHOLM:** If I could take you please to
16 Exhibit 2462.

17 **THE COMMISSIONER:** What page?

18 **MR. CHISHOLM:** That's Bates page 504.

19 **MR. ABELL:** I have it.

20 **MR. CHISHOLM:** I'll just wait for it to come
21 up on the screen.

22 There it is. This is your note, is that
23 right, Mr. Abell, of July 5th, nineteen ---

24 **MR. ABELL:** Ninety-nine ('99).

25 **MR. CHISHOLM:** --- ninety-nine ('99).

1 **MR. ABELL:** Those are my notes, yes.

2 **MR. CHISHOLM:** And then the first line
3 reads:

4 "Yesterday, spoke to me on the phone. I
5 called about article in The Freeholder. I
6 had read protocol - Bishop had freedom to
7 refuse the resignation ..."

8 Do I take it that this was your note made
9 with respect to a telephone conversation that you had with
10 Bishop LaRocque?

11 **MR. ABELL:** Yes.

12 **MR. CHISHOLM:** Do I take it the "I called"
13 makes reference to the fact that you called Bishop
14 LaRocque?

15 **MR. ABELL:** It appears so.

16 **MR. CHISHOLM:** In the same exhibit, if I
17 take you to Bates page 476.

18 **MR. ABELL:** Yes.

19 **MR. CHISHOLM:** This is a letter of June 30th,
20 1999 that you sent to Bishop LaRocque. Is that right?

21 **MR. ABELL:** Yes.

22 **MR. CHISHOLM:** Looking at the third
23 paragraph. It reads:

24 "On the basis, I urge you to accept
25 Father Dubé's offer to step down from

1 his parish duties until such time as
2 the court has given its judgment on the
3 allegations against him."

4 Was that the main purpose in writing this
5 letter?

6 **MR. ABELL:** Yes.

7 **MR. CHISHOLM:** And looking at the first
8 paragraph, it reads:

9 "I have been hoping to speak to you
10 regarding the recent developments in
11 this matter that were reported in the
12 last Saturday's Standard Freeholder."

13 Do you recall the article in particular that
14 you referenced?

15 **MR. ABELL:** I believe I do, yes.

16 **MR. CHISHOLM:** And was it an article that
17 touched upon Father Dubé?

18 **MR. ABELL:** Yes.

19 **MR. CHISHOLM:** And do I take it that this
20 was your initiative to write this letter rather than the
21 Bishop contacting you. You contacted the Bishop?

22 **MR. ABELL:** That's my recollection of it,
23 yes.

24 **MR. CHISHOLM:** Moving on to another area.
25 Geraldine Fitzpatrick testified at this

1 Inquiry, and she testified when the Jeannette Antoine
2 allegations came to light, you became very hard on the
3 staff. What would you say to that?

4 **MR. ABELL:** She said I became very hard on
5 staff?

6 **MR. CHISHOLM:** Yes.

7 **MR. ABELL:** I don't know what to say to it.
8 I would need to know what she meant or what she -- I mean,
9 did she elaborate?

10 **MR. CHISHOLM:** I took it to be intimidation,
11 but ---

12 **THE COMMISSIONER:** No, no, no.
13 He doesn't know what -- he doesn't know.
14 Can't respond. Let's carry on.

15 **MR. ABELL:** Well, if I may, sir, I can't
16 recall anything related to Jeannette Antoine that would
17 cause me to take a position with my entire staff.

18 **THE COMMISSIONER:** It's okay.

19 **MR. ABELL:** It doesn't make sense to me.

20 **THE COMMISSIONER:** It's okay, minor point.

21 **MR. CHISHOLM:** Ms. Fitzpatrick testified
22 that you and Perry Dunlop were conducting your own joint
23 investigations. What would you say to that?

24 **MR. ABELL:** It's nonsense.

25 **MR. CHISHOLM:** If I could bring you, please,

1 to Exhibit 2464 and the Bates 0903?

2 MR. ABELL: Yes.

3 MR. CHISHOLM: Are these minutes that you
4 would have kept with respect to a meeting on December the
5 24th, 1996?

6 MR. ABELL: Yes.

7 MR. CHISHOLM: And Mr. Carriere was present
8 and Ms. MacLennan participated by way of telephone; is that
9 right?

10 MR. ABELL: Yes.

11 MR. CHISHOLM: I take it you were there as
12 well?

13 MR. ABELL: Yes.

14 MR. CHISHOLM: And do you know who C-8 is?
15 I don't want you to read out any names, but do you know who
16 has the moniker C-8 in these proceedings?

17 THE COMMISSIONER: If you look in the
18 before-last paragraph, the number 2 there ---

19 MR. ABELL: Yes.

20 THE COMMISSIONER: Okay. That's C-8. All
21 right?

22 MR. ABELL: Yes. And your question is?

23 MR. CHISHOLM: Ms. Fitzpatrick testified
24 that she attended at a risk management conference and
25 presented information about Marcel Lalonde, and as a

1 result, you immediately got up and called the
2 superintendent and the police.

3 I'm wondering, first of all, does that ring
4 any bells with you in terms of what Ms. Fitzpatrick
5 testified to?

6 **MR. ABELL:** That I was in a case conference
7 and then got up and called ---

8 **MR. CHISHOLM:** After she presented
9 information to you with respect to Marcel Lalonde.

10 **MR. ABELL:** Sorry, I don't have a
11 recollection of an incident like that.

12 **MR. CHISHOLM:** You do not have a
13 recollection?

14 **MR. ABELL:** No, I don't. No.

15 **MR. CHISHOLM:** Looking at the document in
16 front of you at Bates page 0903, I take it this would
17 indicate that -- there's no indication that Ms. Fitzpatrick
18 was at this meeting?

19 **MR. ABELL:** None.

20 **MR. CHISHOLM:** There is a discussion with
21 respect to C-8, amongst others ---

22 **MR. ABELL:** There's a reference ---

23 **MR. CHISHOLM:** --- in relation to the
24 teacher. Is that right?

25 **MR. ABELL:** Yes.

1 That's in the last -- you're speaking to the
2 last paragraph there, I take it, in reference to the school
3 board?

4 **MR. CHISHOLM:** Yes and there's -- the last
5 few paragraphs.

6 **MR. ABELL:** Okay.

7 **MR. CHISHOLM:** If I could take you next,
8 please, to Exhibit 2467? Ms. Daley took you to this, this
9 morning I believe.

10 **MR. ABELL:** Yes, sir.

11 **MR. CHISHOLM:** Do you recall?

12 **MR. ABELL:** I do.

13 **MR. CHISHOLM:** You had a chance to look at
14 this document to some extent; is that right?

15 **MR. ABELL:** Yes, this morning.

16 **MR. CHISHOLM:** And do I understand that the
17 alleged perpetrator was residing outside of the geographic
18 area serviced by your CAS?

19 **MR. ABELL:** That's what I took from this,
20 yes.

21 **MR. CHISHOLM:** And would that be reason to
22 contact the Brampton CAS?

23 **MR. ABELL:** Correct.

24 **MR. CHISHOLM:** And because the matter was
25 alleged to have taken place in this jurisdiction, the

1 criminal aspect of it, would that be a reason to notify the
2 Cornwall Police Service?

3 MR. ABELL: It would.

4 MR. CHISHOLM: If I could take you, please,
5 to Exhibit 1441, to Bates page 0650.

6 THE COMMISSIONER: Zero-six-five-zero
7 (0650).

8 MR. CHISHOLM: This question relates to an
9 area Ms. Daley took you to this morning with respect to
10 whether you let it be known to the Cornwall Police that you
11 would have concerns about officers being disciplined if
12 they were to come forward pursuant to their duty to report.

13 MR. ABELL: Yes.

14 MR. CHISHOLM: We're looking at Bates page
15 650. I take that to be your notes with respect to a visit
16 of October 14, 1993 from Sergeant Garry Derochie?

17 MR. ABELL: That's correct.

18 MR. CHISHOLM: Now I'll have you turn the
19 page over to Bates page 651.

20 MR. ABELL: Yes.

21 MR. CHISHOLM: The last paragraph reads:
22 "Said I'd be available if he wanted
23 further info (also that I would have
24 serious problems if the word went out
25 to police officers that they could be

1 charged for making reports to CAS)."

2 **MR. ABELL:** Yes.

3 **MR. CHISHOLM:** Do I take that to mean you
4 told Sergeant Derochie of that concern that is indicated
5 there?

6 **MR. ABELL:** Yes.

7 **MR. CHISHOLM:** Thank you very much, Mr.
8 Abell. Enjoy your trip to Ethiopia.

9 **MR. ABELL:** Thank you, sir.

10 **THE COMMISSIONER:** Mr. Abell, I have one
11 question before you go.

12 Mr. Engelmann, if you don't mind?

13 You've indicated to Mr. Neville that when
14 you got the affidavit from -- of Mr. Leroux, outlining a
15 bunch of allegations against different priests and things,
16 that you didn't direct your employees to do an
17 investigation similar to that of -- that you'd done with
18 Father Charles MacDonald.

19 **MR. ABELL:** Correct.

20 **THE COMMISSIONER:** Is there a reason -- did
21 you ever stop and say, "Oh, we will or we will not make --
22 do that." Or how ---

23 **MR. ABELL:** No. I believe that's the
24 information that we passed on to the Project Truth, if I've
25 got this right.

1 **THE COMMISSIONER:** Yes. But once you get
2 the affidavit of Leroux, it goes in and says that there are
3 a bunch of people here that are abusing young people.

4 **MR. ABELL:** M'hm.

5 **THE COMMISSIONER:** Or children. So is there
6 a reason why you did not start an investigation as you did
7 with Father MacDonald?

8 **MR. ABELL:** MacDonald? Oh boy. The date --
9 when did we get that affidavit? This is what we got from --
10 -- okay, I'm sorry. Sequencing is really lost in my mind.
11 Sorry.

12 **THE COMMISSIONER:** Okay.

13 Mr. Engelmann?

14 **MR. ENGELMANN:** If it's helpful, that would
15 have been in around May of '97, I believe. That perhaps --
16 -

17 **THE COMMISSIONER:** May of '97, does that
18 help?

19 **MR. ENGELMANN:** --- from the OPP.

20 **MR. ABELL:** All right. I can't recall a
21 specific reason at this time, sir.

22 **THE COMMISSIONER:** All right.

23 ---RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. ENGELMANN:

24 **MR. ENGELMANN:** Sir, I just have one
25 question for you.

1 **MR. ABELL:** Yes.

2 **MR. ENGELMANN:** You were turned to this page
3 by a number of counsel. It's Exhibit 1441.

4 **THE COMMISSIONER:** We're there. What page?

5 **MR. ENGELMANN:** The Bates page is 7080664.
6 It's right at the bottom of the page. There was the --
7 this is the meeting you're having with some senior staff
8 including your internal lawyer, Elizabeth MacLennan ---

9 **MR. ABELL:** Yes.

10 **MR. ENGELMANN:** --- and the comment was
11 read:

12 "Elizabeth, anyone regarding this
13 statement has a duty to report under
14 CFSA."

15 And then underneath that it says:

16 "Strong consensus we have duty to open
17 an investigation based on concern for
18 present abuse of children."

19 **MR. ABELL:** Yes.

20 **MR. ENGELMANN:** Right.

21 So I'm just wondering, sir, did anybody at
22 the Ministry, because we know you talked to Lenore Jones
23 and others, but did anybody at the Ministry ever tell your
24 agency before, during or after your Project Blue
25 investigation that you should not have proceeded because

1 you didn't meet a threshold in a provincial standard or for
2 any other reasons?

3 **MR. ABELL:** No.

4 **MR. ENGELMANN:** Okay. Thank you, sir.

5 Thank you very much for answering all the questions from
6 all counsel.

7 **MR. ABELL:** Thank you, sir.

8 **THE COMMISSIONER:** Mr. Abell, I've enjoyed
9 your testimony. I hear you're off to Ethiopia?

10 **MR. ABELL:** Yes, sir.

11 **THE COMMISSIONER:** Have an enjoyable trip,
12 knowing that you've contributed greatly to this Inquiry and
13 that your testimony will be seriously considered.

14 **MR. ABELL:** Thank you, sir.

15 **THE COMMISSIONER:** Thank you.

16 Let's close up.

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 5:41 p.m./

22 L'audience est ajournée à 17h41

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

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



Marc Demers, CM