

**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 137

Held at :

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

Tenue à:

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

Wednesday, September 12, 2007

Mercredi, le 12 septembre 2007

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Mr. Peter Manderville Ms. Deborah Templer	Cornwall Police Service Board
Mr. Neil Kozloff Ms. Diane Lahaie	Ontario Provincial Police
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. William Carroll	Ontario Provincial Police Association
Ms. Nadya Tymochenko	Upper Canada District School Board
Ms. Jennifer Birrell	Catholic District School Board
Mr. Frank T. Horn	Mr. Carson Chisholm

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1 --- Upon commencing at 9:46 a.m./

2 L'audience débute à 9h46

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Good morning, Mr. Engelmann.

11 **MR. ENGELMANN:** Good morning, Mr.
12 Commissioner.

13 Mr. Commissioner, before we started this
14 morning -- and I apologize for the late start -- we had an
15 all-counsel meeting and the purpose of the all-counsel
16 meeting was to discuss what it is by way of a process we
17 will follow given the fact that Mr. Leroux cannot continue
18 with his cross-examination.

19 As, of course, you know, he was excused
20 after the application by his counsel and the provision of
21 medical evidence, and an oral ruling was issued on that
22 with reasons to follow.

23 So I spoke with counsel who are present this
24 morning about what to do with his evidence. There was a
25 consensus that the evidence that was given was important to

1 the Inquiry and no one has suggested that that evidence
2 should be expunged in any way.

3 So the question was really what do we do
4 about the fact that counsel for the parties with standing
5 did not have an opportunity or, in the case of the CCR, a
6 full opportunity to complete cross-examination.

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

8 **MR. ENGELMANN:** So there was some discussion
9 about a process that would be similar to the process that
10 was followed with Mr. Silmsler, and I'm going to allow a
11 couple of counsel to comment on this because I may not have
12 received their views and translated them to you
13 appropriately. I'm just doing this from memory now.

14 But essentially, counsel will prepare some
15 form of written outline. The outline would include the
16 objectives that they hoped to attain through their cross-
17 examination and, again, it would refer to a number of the
18 documents that they would put to Mr. Leroux to establish
19 that objective.

20 **THE COMMISSIONER:** And are you saying you're
21 going to receive that beforehand?

22 **MR. ENGELMANN:** That is what counsel has
23 proposed.

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

25 **MR. ENGELMANN:** Obviously, that would be

1 helpful to Commission counsel as well so that if there are
2 any concerns about the outline, we could provide those
3 concerns to counsel in advance to ensure that the actual
4 oral presentation would proceed in an efficient and
5 complete manner.

6 Of course, counsel are busy preparing for
7 next week's witness, so it was thought that next week would
8 be too early to have to submit any form of written outline
9 and actually give oral submissions. So we are, with your
10 permission, looking at sometime the week of October 1st,
11 depending on witness schedules and other availability, but
12 the consensus, again, from counsel here was that with a
13 brief written outline in advance, that the oral submissions
14 from all counsel would be completed within one day.

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

16 **MR. ENGELMANN:** So, sir, I'm going to just
17 turn the mic over to a couple of these lawyers who may want
18 to add something further.

19 **THE COMMISSIONER:** Okay. Thank you.

20 Anyone wish -- Mr. Manson, do you wish to
21 say anything?

22 **MR. MANSON:** I'll wait until I hear from
23 anyone else. I think other people have a larger interest
24 in this than we do.

25 **THE COMMISSIONER:** Okay.

1 Mr. Lee?

2 **MR. LEE:** Nothing, sir.

3 **THE COMMISSIONER:** All right.

4 Mr. Chisholm?

5 **MR. CHISHOLM:** No, sir. Thank you.

6 **THE COMMISSIONER:** Thank you.

7 **THE COMMISSIONER:** Maître Rouleau?

8 **MR. ROULEAU:** Nothing to add.

9 **THE COMMISSIONER:** Thank you.

10 Mr. Scharbach?

11 **MR. SCHARBACH:** Nothing to add. Thank you.

12 **THE COMMISSIONER:** Thank you.

13 Wait a minute now. Okay. No one here for
14 the church.

15 Mr. Manderville, other than introducing your
16 new associate?

17 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANDERVILLE:**

18 **MR. MANDERVILLE:** And I will do that too.

19 Deborah Templer of our office who will be dealing with the
20 witnesses today.

21 **MS. TEMPLER:** Good morning.

22 **THE COMMISSIONER:** Right.

23 **MR. MANDERVILLE:** Two points. Mr. Engelmann
24 has accurately summarized what the consensus in the room
25 seems to be.

1 The only two points I would raise are
2 similar to the points I raised with you when we had the
3 situation with D.S., and that is we would be urging you not
4 to make any findings of misconduct on the basis of untested
5 -- what has now become untested evidence of Mr. Leroux and
6 also that it now having been determined that he will not
7 continue, that he is precluded from changing his mind and
8 coming back after we've engaged in this process.

9 Those are the only two points I would leave
10 with you.

11 **THE COMMISSIONER:** All right. Okay.

12 And I'll repeat what I told you when you did
13 that. I don't know if it will be verbatim. I will
14 determine notices of misconduct as I deem fit based on the
15 law, and I'll leave it at that.

16 Second of all, whether or not -- I have made
17 the determination that Mr. Leroux will not come back. It
18 is not up to him to change his mind. However, we never
19 close the door on anything. If there are circumstances
20 that come forward, we'll deal with them in due course.

21 **MR. MANDERVILLE:** Thank you, Mr.
22 Commissioner.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Kozloff?

25 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. KOZLOFF:

1 **MR. KOZLOFF:** Good morning, sir.

2 **THE COMMISSIONER:** Good morning.

3 **MR. KOZLOFF:** First of all, I want to tell
4 you that I told Mr. Manderville you'd say that, but ---

5 **(LAUGHTER/RIRES)**

6 **THE COMMISSIONER:** But he's young still. He
7 will learn.

8 **MR. KOZLOFF:** That's right. The old bulls
9 understand.

10 **THE COMMISSIONER:** There you go.

11 **MR. KOZLOFF:** The other thing I want to say
12 is that Mr. Engelmann summarized the meeting impeccably. I
13 anticipate the process will be much more succinct than last
14 time.

15 **THE COMMISSIONER:** Yes.

16 **MR. KOZLOFF:** And I don't propose to argue
17 with you.

18 **THE COMMISSIONER:** Thank you very much.
19 Mr. Carroll?

20 **MR. CARROLL:** Nothing. Thank you.

21 **THE COMMISSIONER:** So that takes care of
22 that issue. Then we will be proceeding with the witness
23 today.

24 A couple of -- well, one is really an
25 administrative matter. I'm advised that people persist in

1 parking in other places around the area other than in the
2 Cornwall Public Inquiry parking lot, and I'm advised that
3 the time for hesitation is through and people who park
4 where they are not supposed to will be towed. And there
5 you go.

6 Now, the second matter is with respect to
7 our friends of the Jewish faith. I understand that they
8 wish to leave as soon as possible after the completion of
9 today's evidence. The only matter left for this afternoon
10 at 2:00 is that of my decision with respect to the
11 Coalition's application for standing and funding, and I
12 could well understand if those persons -- well, we'll put
13 it this way -- those persons of the Jewish faith will be
14 excused from the two o'clock hearing. The rest of you I
15 expect to be here.

16 Thank you.

17 **MR. ENGELMANN:** It reminds me of years ago -
18 - anyway, I won't go there -- a story about going to school
19 in Germany, missing class if you were not of a certain
20 religious faith seen as a benefit because you didn't have
21 to go.

22 **THE COMMISSIONER:** Ms. Brannan, I see you're
23 leaving now.

24 **(LAUGHTER/RIRES)**

25 **MR. ENGELMANN:** Again, a couple other

1 housekeeping matters, if I may, sir. I've advised counsel
2 and wish to advise the public that we'll be starting at one
3 o'clock on Monday ---

4 **THE COMMISSIONER:** Yes.

5 **MR. ENGELMANN:** --- September 17th.

6 **THE COMMISSIONER:** Good point.

7 **MR. ENGELMANN:** I've advised counsel that
8 you will have an address ---

9 **THE COMMISSIONER:** Yes.

10 **MR. ENGELMANN:** --- for counsel and the
11 public at that time, right at one o'clock, and I anticipate
12 we will then start with the evidence of Perry Dunlop.

13 **THE COMMISSIONER:** That's right.

14 **MR. ENGELMANN:** So I just, again, wanted to
15 say that for counsel who may be leaving and also for the
16 public.

17 Sir, other than that, if there are counsel
18 who have parked incorrectly, they might want to take
19 advantage of your warning now, as we get started, and I
20 don't think it would be that embarrassing if someone were
21 to leave the room.

22 We are ready to go then, sir, with the
23 evidence from Dr. Donaleen Hawes, who is a Superintendent
24 with the Catholic District School Board of Eastern Ontario,
25 and I'm wondering if Dr. Hawes could be sworn in?

1 **THE COMMISSIONER:** Thank you.

2 **MR. ENGELMANN:** I think the clerk is just
3 going to get her now.

4 I was neglectful in not introducing to you
5 Ms. Templer who is here for the Cornwall Police Service.
6 You will recall Nadya Tymochenko who is here ---

7 **THE COMMISSIONER:** Yes, good morning.

8 **MR. ENGELMANN:** --- from the Upper Canada
9 School Board and hasn't been with us for a while, and of
10 course Jennifer Burrell who's here from the Catholic
11 District School Board of Eastern Ontario. I believe
12 everyone else is a familiar face.

13 **THE COMMISSIONER:** I see Mr. Lee has been
14 pushed back to the backbencher and so ---

15 **MR. ENGELMANN:** Well, he has been there for
16 a while now ---

17 **THE COMMISSIONER:** Oh, is that right?

18 **MR. ENGELMANN:** --- so this may be a new
19 role for him and a new spot for him.

20 I anticipate, Mr. Commissioner, being
21 perhaps an hour-and-a-half with this witness.

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

23 **MR. ENGELMANN:** And I haven't had any
24 indication from counsel that there will be any lengthy
25 cross-examinations. So my hope would be that we would

1 finish this witness before we break for the afternoon and
2 if that requires staying a bit past 12:30, I would propose
3 that we do that.

4 **THE COMMISSIONER:** Sure.

5 **MR. ENGELMANN:** Dr. Hawes is just coming
6 forward now.

7 **THE COMMISSIONER:** Thank you.

8 **DONALEEN HAWES, SWORN/ASSERMENTÉE:**

9 **THE COMMISSIONER:** Thank you. Good morning
10 Dr. Hawes.

11 **DR. HAWES:** Good morning.

12 **THE COMMISSIONER:** How are you doing today?

13 **DR. HAWES:** Thank you. Fine.

14 **THE COMMISSIONER:** A few preliminary
15 matters, take some water, yes ---

16 **DR. HAWES:** Thank you.

17 **THE COMMISSIONER:** --- there is -- I don't
18 know -- will there be documents?

19 **MR. ENGELMANN:** Yes.

20 **THE COMMISSIONER:** All right.

21 So exhibits will be brought to you. You can
22 view them on the screen or in a hard copy. Please speak
23 into the microphone as much as possible. If you have any
24 questions about where we're going with something, you're
25 free to ask me about that. If at any time you need a

1 break, let me know. And if you don't understand something,
2 just let us know as well. All right?

3 DR. HAWES: Yes.

4 THE COMMISSIONER: Thank you. I seem to
5 gather you're a soft-spoken person so if you -- when you
6 get old like me, you get a little hard of hearing, so if
7 you could speak up, I'd appreciate it.

8 DR. HAWES: All right.

9 THE COMMISSIONER: Thank you.

10 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
11 ENGELMANN:

12 MR. ENGELMANN: Dr. Hawes, either lean
13 forward or just -- you might want to pull the microphone
14 back a bit. The little machine to the right of the screen
15 is a speaker.

16 DR. HAWES: All right.

17 MR. ENGELMANN: So if you're having trouble
18 hearing me, you can actually adjust that. I'm going to be
19 giving some documents in a moment to look at and they'll
20 also be on the screen. So you'll have a choice of reading
21 a hard copy or the screen.

22 DR. HAWES: Thank you.

23 MR. ENGELMANN: Is that fair?

24 DR. HAWES: Yes, thank you.

25 MR. ENGELMANN: All right. So if the

1 witness could be shown a Book of Documents with her name on
2 it, Donaleen Hawes.

3 THE COMMISSIONER: All right. Thank you.

4 MR. ENGELMANN: And just before asking you
5 to make that an exhibit, Mr. Commissioner, I'm going to ask
6 her a couple of questions about it.

7 THE COMMISSIONER: Certainly.

8 MR. ENGELMANN: Dr. Hawes, this is a
9 document that you've seen before?

10 DR. HAWES: Yes, I have.

11 MR. ENGELMANN: All right. It's got your
12 name on the front; correct?

13 DR. HAWES: Yes, it does.

14 MR. ENGELMANN: And if you could turn to Tab
15 1 please. You should have an index and then a list of
16 attachments and then a report. Is that fair?

17 DR. HAWES: Yes, it is.

18 MR. ENGELMANN: And it's my understanding,
19 Dr. Hawes, that this is a report that was prepared by you
20 along with your counsel, Ms. Burrell.

21 DR. HAWES: Yes, it was, in consultation
22 with our Superintendent of Human Resources and staff in our
23 board.

24 MR. ENGELMANN: So there were a number of
25 people that should get some credit for this document. Is

1 that fair?

2 DR. HAWES: Yes, that's correct.

3 MR. ENGELMANN: All right. And at page 4 of
4 the document, there is a brief biographical sketch of your
5 own. Is that fair?

6 DR. HAWES: Yes, it is.

7 MR. ENGELMANN: And it talks essentially
8 about the fact that you've been with the former Lanark,
9 Leeds and Grenville Board since 1985. And that was one of
10 the boards that then makes up this new board that you're
11 now with, the Catholic District School Board of Eastern
12 Ontario?

13 DR. HAWES: Yes, it does.

14 MR. ENGELMANN: All right. And there is a
15 reference to Tab A which is a -- is that a current copy of
16 your Curriculum Vitae?

17 DR. HAWES: Yes, it is.

18 MR. ENGELMANN: And Tabs B through P, are
19 these all documents that are referred to at one place or
20 another in the report?

21 DR. HAWES: Yes, they are.

22 MR. ENGELMANN: All right. Mr.
23 Commissioner, if this document could be our next ---

24 THE COMMISSIONER: Yes.

25 MR. ENGELMANN: --- be a Book of Documents

1 for Dr. Hawes, if that could be entered as our next
2 exhibit?

3 **THE COMMISSIONER:** Yes, Exhibit 640.

4 **---EXHIBIT NO./PIÈCE NO P-640:**

5 Book of Documents for Dr. Donaleen Hawes

6 **MR. ENGELMANN:** So, Dr. Hawes, what I'll do
7 then is I'll either refer to the document as Exhibit 640 or
8 your Book of Documents and I'll try and give you a tab
9 number when I am referring to something.

10 **DR. HAWES:** Thank you.

11 **MR. ENGELMANN:** All right. So a little bit
12 about your background. You are currently, as I understand
13 it, the Superintendent of Special Education for the school
14 board?

15 **DR. HAWES:** Yes, I am responsible for
16 special education across the board and also a
17 superintendent of education responsible for three families
18 of schools.

19 **MR. ENGELMANN:** All right. So you have
20 essentially two roles?

21 **DR. HAWES:** I do.

22 **MR. ENGELMANN:** All right. And this -- the
23 position with respect to special education; you've been
24 that since approximately 1999?

25 **DR. HAWES:** That's correct.

1 **MR. ENGELMANN:** Would that also hold true of
2 your other role?

3 **DR. HAWES:** Yes, it does.

4 **MR. ENGELMANN:** All right. And just so that
5 we go through that, your role with respect to schools and
6 responsibilities for schools, are you responsible for a
7 specific district within the school board?

8 **DR. HAWES:** I am responsible for the western
9 district office which is in Smiths Falls and I'm also --
10 the three families of schools are in the -- two are in the
11 central and the rest are in the western region.

12 **MR. ENGELMANN:** And were there certain
13 qualifications that you had to attain to become a
14 superintendent with the board?

15 **DR. HAWES:** Yes, there is. A superintendent
16 has to have certain qualifications of experience; either
17 Masters or equivalent and principal's qualifications. And
18 then there are five courses or modules that an individual
19 must take and an oral examination.

20 **MR. ENGELMANN:** And you went through all
21 that?

22 **DR. HAWES:** Yes, I did.

23 **MR. ENGELMANN:** All right. And do you have
24 some staffing responsibilities as a superintendent?

25 **DR. HAWES:** Yes, I am responsible in my role

1 of special education for staffing the special education
2 teachers and educational systems and student support
3 workers for all of our schools. And then as superintendent
4 for my families of schools, I am responsible for the
5 teacher staffing for those schools.

6 **MR. ENGELMANN:** All right. So as a result,
7 you would have to have some knowledge of policies and
8 procedures that are in place that pertain to staffing
9 issues such as the hiring of staff or the screening that
10 needs to take place?

11 **DR. HAWES:** Yes, I do.

12 **MR. ENGELMANN:** And do you have any
13 responsibility -- your responsibility is for academic
14 staff. Is that fair?

15 **DR. HAWES:** Yes, it is.

16 **MR. ENGELMANN:** Any responsibility for non-
17 teaching staff?

18 **DR. HAWES:** The educational assistants and
19 the student support workers are non-teaching staff and they
20 assist in the program delivery of special education, so I
21 am responsible for those staff.

22 **MR. ENGELMANN:** And in your two
23 superintendent roles, who do you report to?

24 **DR. HAWES:** I report to the Director of
25 Education.

1 MR. ENGELMANN: In both capacities?

2 DR. HAWES: In both capacities of
3 superintendent.

4 MR. ENGELMANN: And the Director of
5 Education is who?

6 DR. HAWES: Bill Gartland, William Gartland.

7 MR. ENGELMANN: Approximately how many
8 superintendents are there in the board?

9 DR. HAWES: There are three educational or
10 academic superintendents; one business superintendent.

11 MR. ENGELMANN: Now with respect to the
12 board itself, the board is an amalgam of several boards;
13 correct?

14 DR. HAWES: Yes, it is.

15 MR. ENGELMANN: And it was created in or
16 about 1998?

17 DR. HAWES: Yes, it was.

18 MR. ENGELMANN: And you describe that at
19 page 5 of your report ---

20 DR. HAWES: I do.

21 MR. ENGELMANN: --- and that's page 5 of Tab
22 1. Is that correct?

23 DR. HAWES: Yes, correct.

24 MR. ENGELMANN: And was this board a
25 creation of what was known as the *Fewer Schools Act* at the

1 time?

2 DR. HAWES: Yes, it does.

3 MR. ENGELMANN: A bill passed by the Ontario
4 Government?

5 DR. HAWES: Yes, it was.

6 MR. ENGELMANN: And can you just tell us
7 then which boards were merged or amalgamated to form the
8 Catholic District School Board of Eastern Ontario?

9 DR. HAWES: Ah yes, the amalgamation was the
10 English section of the former Stormont Dundas & Glengarry
11 County Roman Catholic Separate School Board; the Lanark,
12 Leeds and Grenville Roman Catholic Separate School Board;
13 and the Prescott and Russell Roman Catholic English-
14 Language Separate School Board.

15 MR. ENGELMANN: And the board then would
16 have been in this region, the Cornwall area, which one was
17 that?

18 DR. HAWES: That was the Stormont Dundas &
19 Glengarry County Roman Catholic School Board.

20 MR. ENGELMANN: All right. And this all
21 took place in or about 1998?

22 DR. HAWES: Nineteen-ninety-eight (1998).

23 MR. ENGELMANN: As I understand it, prior to
24 the amalgamation, there were both French- and English-
25 language sections of the Stormont Dundas & Glengarry Roman

1 Catholic School Board. Is that correct?

2 DR. HAWES: Yes, that's correct.

3 MR. ENGELMANN: Did they operate under a
4 single board prior to the amalgamation?

5 DR. HAWES: Prior to the amalgamation, it
6 was one single board with both an English- and French-
7 language section within one board.

8 MR. ENGELMANN: All right. And since then
9 though it's only been English-language instruction?

10 DR. HAWES: It has.

11 MR. ENGELMANN: And what has happened to the
12 French-language section of the former board?

13 DR. HAWES: At the time of amalgamation, the
14 French section of the board took on the lead role and they
15 joined with the French sections of the Lanark, Leeds and
16 Grenville Roman Catholic Separate School Board and became
17 the CDSBEO Board which is an English- and French-language
18 school board.

19 MR. ENGELMANN: Okay. And what do you mean
20 by lead board or lead role for the French section of the
21 former board?

22 DR. HAWES: CSDBEO Board, in their capacity
23 of lead board, assume the responsibility for all corporate
24 records which were for the former Stormont Dundas Glengarry
25 County Roman Catholic School Board.

1 **MR. ENGELMANN:** All right. So the records
2 for the former board, English and French, then went to
3 them?

4 **DR. HAWES:** They did.

5 **MR. ENGELMANN:** All right. So in order to
6 obtain some of the old policies or procedures you and or
7 your colleagues would have had to go to the French board?

8 **DR. HAWES:** The French board, yes, we would.
9 The French board has all of the documents so in gathering
10 all of the documents that I have and presented here were
11 documents that I found within our board, that we would have
12 had copies.

13 **MR. ENGELMANN:** So if you don't have copies
14 of former policies or procedures then we would have to
15 obtain them from the French board?

16 **DR. HAWES:** We would need to make
17 application.

18 **MR. ENGELMANN:** Yes. That is the conseil
19 scolaire du district catholique de l'est Ontario or the
20 acronym is CSDCEO?

21 **DR. HAWES:** Yes.

22 **MR. ENGELMANN:** Okay. Now, with respect to
23 your background with the board, is that fairly well set
24 out? I'm looking at Tab A, page 2.

25 **DR. HAWES:** Yes, it is.

1 **MR. ENGELMANN:** And it starts with you
2 working, just tell me if I'm correct, as Coordinator of
3 Special Education?

4 **DR. HAWES:** That's correct.

5 **MR. ENGELMANN:** And that's 1986 to '96?

6 **DR. HAWES:** Correct.

7 **MR. ENGELMANN:** Now, you've got the current
8 board down, but when you started which board would it have
9 been?

10 **DR. HAWES:** It was the Lanark, Leeds and
11 Grenville Separate School Board.

12 **MR. ENGELMANN:** So you've had a long
13 involvement in special education with the board?

14 **DR. HAWES:** Yes, I have.

15 **MR. ENGELMANN:** And, Dr. Hawes, you are
16 trained as a psychologist?

17 **DR. HAWES:** I am.

18 **MR. ENGELMANN:** And do you work as -- do you
19 have supervising psychologist duties with the board in your
20 current role?

21 **DR. HAWES:** I do.

22 **MR. ENGELMANN:** What does that entail?

23 **DR. HAWES:** It entails ensuring that the
24 staff within the psychology department are supervised and
25 that the all of the regulations for the professions of

1 psychology are followed.

2 **MR. ENGELMANN:** So would you have other
3 psychologists or psychometrists or social workers working
4 under your direction?

5 **DR. HAWES:** We currently have one
6 psychologist and four psycho-educational consultants.

7 **MR. ENGELMANN:** Now, in that role as both
8 the psychologist and, of course, your role now as the
9 superintendent responsible for special education, would you
10 have had some experience working on protocols dealing with
11 allegations with child sexual abuse?

12 **DR. HAWES:** Yes, I have.

13 **MR. ENGELMANN:** And can you tell us just by
14 looking at the tabs which protocols that you would have
15 worked on? I believe they may be towards the end if I can
16 offer some assistance.

17 **DR. HAWES:** They are. It's Tab N and Tab O.

18 **MR. ENGELMANN:** Okay, and N is the Child
19 Protection School Handbook?

20 **DR. HAWES:** Yes.

21 **MR. ENGELMANN:** Coordinator Response in
22 Eastern Ontario, and Tab O, Child Protection Protocol
23 Coordinated Response in Eastern Ontario?

24 **DR. HAWES:** Correct.

25 **MR. ENGELMANN:** And I believe we've seen

1 these documents elsewhere, but you had a direct role in the
2 creation of these protocols?

3 **DR. HAWES:** Yes, I did.

4 **MR. ENGELMANN:** So we'll come to that in a
5 bit, but can you tell us who was involved in the creation
6 of those protocols?

7 **DR. HAWES:** Yes. It was a coordinated
8 response across Eastern Ontario and that involved both
9 school boards, several individuals from both school boards,
10 but it also involved all of the Children's Aid Societies
11 across all eight counties, and the police, and inspectors
12 or chief of police, as well as a number of community
13 partners in mental health.

14 **MR. ENGELMANN:** So if we wanted to find out
15 just how broad that representation was, could we turn to
16 page 3 of Tab N?

17 **DR. HAWES:** Page 3 of Tab N does identify
18 the committee members, and the entire committee that worked
19 on a coordinated response in Tab 0 is the first page of the
20 document so there are ---

21 **MR. ENGELMANN:** So did you and a colleague,
22 Sue Giff, work on the protocol set out at Tab 0?

23 **DR. HAWES:** That's correct.

24 **MR. ENGELMANN:** Amongst many, many other
25 employees of other agencies?

1 DR. HAWES: Yes, that's correct.

2 MR. ENGELMANN: And as well with respect to
3 the handbook at Tab NEB, you and your colleagues, Dianne
4 Gauthier and Sue Giff ---

5 DR. HAWES: And Pam Dunk.

6 MR. ENGELMANN: Okay. And, yes, Pam Dunk
7 and then there are a number of people from the Upper Canada
8 Board, from various police services and Children's Aid
9 Societies?

10 DR. HAWES: Yes, it was a subcommittee.

11 MR. ENGELMANN: All right. And do you know
12 what prompted the development of the protocol itself that
13 we see at Tab O?

14 DR. HAWES: As was mentioned with the
15 amalgamation of the school boards, the school board now had
16 eight counties and so we were certainly interested in a
17 coordinated response across all eight counties that would
18 be a protocol for our entire jurisdiction. Also, there
19 were changes in the legislation and I think most
20 importantly at that time all partners believed that it was
21 important to work together and to come with a coordinated
22 and systematic response that was --- had participation of
23 all parties.

24 MR. ENGELMANN: So you thought it was
25 important to meet and get to know people from some of these

1 other agencies you were working with?

2 DR. HAWES: Absolutely.

3 MR. ENGELMANN: And your role in working on
4 these protocols if you recall was what?

5 DR. HAWES: In the Coordinated Response
6 Protocol, my role --- our board chaired the process and my
7 role was really to participate in the process and to help
8 to develop and ensure that it reflected the voice of
9 education, as well as supporting the voice of all of the
10 other partners.

11 MR. ENGELMANN: And did you have some crisis
12 workers from your board working on this?

13 DR. HAWES: We did. Sue Giff, as was
14 mentioned, is a key member in both of these protocols, the
15 school handbook which is Tab N, and the school protocol
16 also involved Pam Dunk and Dianne Gauthier who are both
17 crisis workers.

18 MR. ENGELMANN: And can you explain just
19 very briefly just what a crisis worker is?

20 DR. HAWES: All right. Each of them has a
21 jurisdiction of the board and they support schools when
22 there are issues involving outside agencies, a child is in
23 crisis or in need of protection or in need of mental health
24 support, so they would facilitate and support accessing
25 that support, as well as supporting the school staff in

1 implementing.

2 **MR. ENGELMANN:** All right. So they would
3 support school staff and they would also work directly with
4 those children and their parents?

5 **DR. HAWES:** They do.

6 **THE COMMISSIONER:** Excuse me, can I just
7 interrupt a moment? What's the difference between the
8 Child Protection School Handbook and the Child Protection
9 Protocol?

10 **DR. HAWES:** The Child Protection Protocol is
11 --- with the police and school board --- is actually
12 excerpts from, so it is a smaller version and specifically
13 for the protocol for the school, so it's a sub-section.
14 The headings appear slightly different but the content is
15 taken directly from the protocol.

16 **THE COMMISSIONER:** Okay.

17 **MR. ENGELMANN:** So, Tab NEB, which is the
18 Child Protection School Handbook, is effective about a year
19 later?

20 **DR. HAWES:** Correct.

21 **MR. ENGELMANN:** Does it sort of subsume the
22 first one or -- sorry, what we see at Tab O, or do they
23 continue as two separate protocols?

24 **DR. HAWES:** They continue as two separate
25 protocols as the school protocol is just an executive

1 summary, if you want. It is excerpts from the larger
2 documents so schools would have a copy of both and the
3 protocol provides additional information in terms, for
4 example, police protocol or the CAS protocol. And so it is
5 an excellent resource for school staff.

6 **MR. ENGELMANN:** So where would these
7 protocols be found?

8 **DR. HAWES:** They would be found in every one
9 of our schools as well as in the board offices.

10 **THE COMMISSIONER:** Is this document reviewed
11 with the staff on a regular basis?

12 **DR. HAWES:** The individuals mentioned --
13 sorry. The individuals mentioned, Sue Giff, Pam Dunk, and
14 Dianne Gauthier, those three individuals and myself do
15 review the documents. They review it and bring any
16 recommendations.

17 **THE COMMISSIONER:** No, that's not quite --
18 it's okay, I ---

19 **MR. ENGELMANN:** I think we'll come to it,
20 sir ---

21 **THE COMMISSIONER:** All right.

22 **MR. ENGELMANN:** --- but you're concerned
23 about training for other staff?

24 **THE COMMISSIONER:** Right. Good.

25 **MR. ENGELMANN:** Yes, we will come to that

1 for sure.

2 DR. HAWES: My apologies.

3 THE COMMISSIONER: No, no harm.

4 MR. ENGELMANN: Perhaps we could just start
5 then with just very briefly turning back to page 5 of your
6 reported Tab 1. There's a section entitled "Geographic
7 Jurisdiction of the Board"; correct?

8 DR. HAWES: Yes.

9 MR. ENGELMANN: And as I understand it, this
10 board, the CDSBEO, became responsible for quite a large
11 area?

12 DR. HAWES: Yes, it does.

13 MR. ENGELMANN: And is that what we see at
14 Tab D of the materials, a map outlining that area?

15 DR. HAWES: Yes, it is.

16 MR. ENGELMANN: And I understand the area is
17 approximately the size of France?

18 DR. HAWES: Yes, it is.

19 MR. ENGELMANN: And if we look at the map,
20 it would appear the counties are set out that you cover?
21 Lanark, Leeds, Granville, Dundas, Stormont, Glengarry and
22 Prescott? And Russell?

23 DR. HAWES: Yes, it does.

24 MR. ENGELMANN: And so it goes from
25 approximately Gananoque to the Quebec border?

1 DR. HAWES: It does.

2 MR. ENGELMANN: Right, and I'm not sure --
3 and I made that -- the section at the end there, is that
4 not part of the board? Just as we go east towards Montreal
5 or is that already part of Quebec?

6 DR. HAWES: It's my understanding it's part
7 of Quebec.

8 MR. ENGELMANN: All right. And you told us
9 that you covered in your role, as a superintendent of a
10 family of schools in the western district. Where would we
11 see that on the map?

12 DR. HAWES: Smiths Falls is where our board
13 office is ---

14 MR. ENGELMANN: Yes.

15 DR. HAWES: --- and the schools in Lanark,
16 Perth, Carleton Place, Almonte, Kemptville, Toledo and --
17 or in Westport, are the schools in my families.

18 MR. ENGELMANN: So they would be in Lanark
19 County; a bit into Leeds County as well?

20 DR. HAWES: And a little into Grenville.

21 MR. ENGELMANN: All right. Thank you.
22 So the central office of the board is in
23 Smiths Falls?

24 DR. HAWES: Central office for the board is
25 Kemptville.

1 MR. ENGELMANN: I apologize.

2 DR. HAWES: And the western office is in
3 Smiths Falls and that's the office that my office is in.

4 MR. ENGELMANN: And is there an eastern
5 office, as well?

6 DR. HAWES: Yes, there is. It's in
7 Cornwall.

8 MR. ENGELMANN: Right here in Cornwall?

9 DR. HAWES: Yes, it is.

10 MR. ENGELMANN: Okay. Now just to get a
11 sense as to how many schools are operating within this area
12 that we're looking at, at Tab B?

13 DR. HAWES: All right. There are 40
14 elementary schools and 10 secondary schools.

15 MR. ENGELMANN: And are those schools all
16 listed at Tab C?

17 DR. HAWES: Yes, they are.

18 MR. ENGELMANN: So these would be all of the
19 schools in the board?

20 DR. HAWES: Yes, it is.

21 MR. ENGELMANN: And that would include both
22 elementary and secondary schools?

23 DR. HAWES: That's correct.

24 MR. ENGELMANN: And can you just very
25 quickly tell us which of these schools are in the City of

1 Cornwall or in the surrounding area of Cornwall?

2 DR. HAWES: Yes.

3 MR. ENGELMANN: And I'm looking at Tab C.
4 For example, Bishop Macdonell Separate School. That's
5 right here in the City of Cornwall?

6 DR. HAWES: Yes, it is.

7 MR. ENGELMANN: And you've got something
8 listed below that, a summer school?

9 DR. HAWES: Yes, yes it is. It's operated
10 at the St. Matthew School site.

11 MR. ENGELMANN: From the title, is that
12 something that only operates in the summer?

13 DR. HAWES: Yes, it is.

14 MR. ENGELMANN: And then on the next page,
15 are there some schools here in the City of Cornwall?

16 DR. HAWES: Holy Trinity Catholic Elementary
17 and Secondary School as well as Immaculate Conception
18 Separate School.

19 MR. ENGELMANN: All right. And then on the
20 following page?

21 DR. HAWES: Iona Academy.

22 MR. ENGELMANN: Okay, that's Williamstown,
23 which is close to the City of Cornwall?

24 DR. HAWES: Yes, it is.

25 MR. ENGELMANN: And then on the following

1 page?

2 DR. HAWES: The following page -- again Our
3 Lady of Good Counsel which is outside of Cornwall but it's
4 Ingleside in the Cornwall area.

5 MR. ENGELMANN: All right. And then the
6 following page?

7 DR. HAWES: Sacred Heart School is in
8 Cornwall and we have a Section 23 Program.

9 MR. ENGELMANN: What does that mean?

10 DR. HAWES: Section 23 is a care and
11 treatment program offered with the Ministry. It's in
12 partnership with a treatment agency.

13 MR. ENGELMANN: So are there actually
14 students who attend?

15 DR. HAWES: Yes, there are.

16 MR. ENGELMANN: All right. And ---

17 DR. HAWES: And St. Andrew's Separate School
18 is, of course, in St. Andrews West, close to Cornwall.

19 MR. ENGELMANN: Then on the following page?

20 DR. HAWES: St. Anne's School and St.
21 Columban's Catholic Elementary School are both in Cornwall.

22 MR. ENGELMANN: All right. And as well on
23 that page, St. Finnan's, that would be in Alexandria, so
24 close to here?

25 DR. HAWES: Yes, it is.

1 **MR. ENGELMANN:** All right. Any other
2 schools in the document that are listed in Cornwall or the
3 Cornwall area?

4 **DR. HAWES:** Yes, there are. Not on the next
5 page but on the following page, there is St. George's which
6 is in Long Sault, close by the ---

7 **MR. ENGELMANN:** Just to the west of
8 Cornwall?

9 **DR. HAWES:** Just to the west, correct. And
10 two pages after that, St. Joseph's Catholic Secondary
11 School is in Cornwall ---

12 **MR. ENGELMANN:** Yes.

13 **DR. HAWES:** And two pages after that, St.
14 Matthew Catholic Learning Centre is in Cornwall.

15 And starting at the bottom of the next page
16 is St. Peter's School, which is in Cornwall.

17 **MR. ENGELMANN:** All right and lastly, is
18 there night school as well?

19 **DR. HAWES:** There is. St. Matthew Catholic
20 Learning Centre Night School.

21 **MR. ENGELMANN:** And is that for -- is that a
22 secondary school?

23 **DR. HAWES:** It is a Night School for an
24 adult program.

25 **MR. ENGELMANN:** And would that be to obtain

1 some secondary education for adults coming back?

2 DR. HAWES: Yes, it is.

3 MR. ENGELMANN: All right. So approximately
4 how many students would the board have throughout its
5 jurisdiction?

6 DR. HAWES: We have approximately 15,000
7 students.

8 MR. ENGELMANN: And how many teachers and
9 how many support staff?

10 DR. HAWES: Approximately 850 teachers and
11 450 support staff.

12 MR. ENGELMANN: All right. So just turning
13 back then to Tab 1 at page 6, you've set out the
14 organizational structure of the board?

15 DR. HAWES: Yes, we have.

16 MR. ENGELMANN: As I understand it, that
17 this is governed by provisions in the *Education Act*?

18 DR. HAWES: That's correct.

19 MR. ENGELMANN: And, for example, Sections
20 170 and 171 set out some of the duties and powers of
21 various officials with the school board?

22 DR. HAWES: Yes, that's true.

23 MR. ENGELMANN: So we've got the board
24 itself which is referred to as "Trustees of the Board";
25 correct?

1 DR. HAWES: Yes, correct.

2 MR. ENGELMANN: And it sets out some of
3 their duties and powers right there on the page, the
4 straight bullets?

5 DR. HAWES: Yes, it does.

6 MR. ENGELMANN: And then as well the title
7 of "Director of Education" is set out?

8 DR. HAWES: Yes, it is.

9 MR. ENGELMANN: And you've already informed
10 us that it's Mr. Gartland who is that official?

11 DR. HAWES: Yes, he is.

12 MR. ENGELMANN: And then superintendents and
13 some of their duties and powers were set out at the top of
14 page 7?

15 DR. HAWES: Yes, that's correct.

16 MR. ENGELMANN: And again, principals, and
17 some of their duties, powers and responsibilities are set
18 out?

19 DR. HAWES: Yes.

20 MR. ENGELMANN: And again, we can find
21 references to those duties and powers right in the
22 *Education Act*?

23 DR. HAWES: Yes, that's correct.

24 MR. ENGELMANN: Is there anything you wanted
25 to add about those, other than what we see here on the

1 page?

2 DR. HAWES: No, it's listed as 286 for
3 superintendents and they go into detail in terms of the
4 responsibilities for superintendents, as is the case for
5 principals, and the operation of our schools is
6 specifically defined.

7 MR. ENGELMANN: I'll just be a moment.

8 DR. HAWES: M'hm.

9 MR. ENGELMANN: I just wanted to ask a quick
10 question. On page 6, under "The Board", there is -- and
11 I'm looking at the third bullet. It appears to be some
12 specific responsibilities for the board when it comes to
13 when allegations of criminal misconduct are made against
14 teachers?

15 DR. HAWES: Yes, there is.

16 MR. ENGELMANN: And again, would that be set
17 out in one of those sections of the *Education Act*, either
18 170 or 171, to your knowledge?

19 DR. HAWES: Yes, the wording here is
20 directly taken from section 170 from the *Education Act*.

21 MR. ENGELMANN: Do you know -- I don't know
22 if you do -- but do you know what might be meant by where
23 it says:

24 "That, in the opinion of the board,
25 indicates that pupils may be at risk."

1 Do you know what they're referring to by "at
2 risk"?

3 DR. HAWES: At risk? If they're concerned,
4 as is specified here, of sexual misconduct, then -- or any
5 allegations of abuse -- then the board would assume that
6 the students were at risk and would be required to remove
7 that teacher or employee.

8 MR. ENGELMANN: All right.

9 So the provision that's set out there,
10 that's a specific action that the board is required to take
11 as a result of the *Education Act*?

12 DR. HAWES: Yes, that's correct.

13 MR. ENGELMANN: Do you know how long -- and
14 again, how long a section like that has been in place? Has
15 it been around since you've been involved with the board?

16 DR. HAWES: As long as I've been involved.
17 I'm not sure of the original date of the legislation, but
18 it has been as long as I've been a superintendent.

19 MR. ENGELMANN: All right.

20 And just one of the other references we've
21 made to people as part of this structure, under
22 "Principals" on page 7, there appears to be a regulation
23 that's listed that talks about responsibilities of
24 principals when it comes to determining issues of safety or
25 well-being?

1 DR. HAWES: Yes, there is.

2 MR. ENGELMANN: And can you just give us an
3 example of a situation which a person's presence might be
4 detrimental to the physical or mental well-being of pupils,
5 something that might arise?

6 DR. HAWES: Well, for example, if there was
7 an individual who entered the school and was agitated and
8 upset and making threats, then the principal would
9 determine that that could put an individual at risk.

10 MR. ENGELMANN: Okay. Now, we note under
11 the next section, it says "Relationship with the
12 Diocese/Archdiocese"; correct?

13 DR. HAWES: Yes.

14 MR. ENGELMANN: And it notes that there are
15 three involved in the board?

16 DR. HAWES: Yes, there are. There are three
17 dioceses.

18 MR. ENGELMANN: So you have an Archdiocese
19 of Kingston, Archdiocese of Ottawa and the Diocese of
20 Alexandria-Cornwall?

21 DR. HAWES: That's correct.

22 MR. ENGELMANN: And can you just give us a
23 sense, practically speaking, how a catholic school might be
24 somewhat different than a public school on a day-to-day
25 basis?

1 **DR. HAWES:** On a day-to-day basis? Well,
2 the catholic schools have a religion and family life
3 program, begin the day with prayer and reflection on Gospel
4 teachings and every day there is -- the curriculum is
5 connected to how we can further our faith and celebrate
6 God's love.

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

8 And that's in partnership with a parish
9 and/or a diocese?

10 **DR. HAWES:** Absolutely. It is the home
11 school and the parish is sort of the foundation of catholic
12 education.

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

14 And you've set out the fact that there is a
15 relationship between the school board and these three
16 dioceses or archdioceses and you've also set out in your
17 report some canon law provisions. Is that fair?

18 **DR. HAWES:** Yes, that's correct.

19 **MR. ENGELMANN:** We've recently heard from a
20 couple of experts in canon law, and I don't think they
21 dealt with these canons, but they certainly dealt with many
22 others.

23 But we've been told by one of those experts,
24 Father Francis Morrisey, that canon law is a collection of
25 regulations that govern the outward or social activities of

1 the church, its membership, its leadership, those who are
2 appointed to it and the responsibilities, the rights and
3 the obligations of members of the church.

4 Would it be fair to say that that would then
5 also tie into catholic school boards to some extent as an
6 extension?

7 DR. HAWES: Yes, it does.

8 MR. ENGELMANN: All right.

9 And you've set out some of those canons at
10 the bottom of page 7 and the top of page 8. And I'm
11 assuming that's not an exhaustive list of ---

12 DR. HAWES: No.

13 MR. ENGELMANN: --- canons that might be of
14 some relevance to the board, but they're some examples?

15 DR. HAWES: Yes, it is.

16 MR. ENGELMANN: All right.

17 And these are canons that deal with catholic
18 education in schools and set out the scope of authority
19 that exists in a relationship between a catholic school and
20 a local ordinary?

21 DR. HAWES: Yes, it does.

22 MR. ENGELMANN: And by ordinary, would that
23 typically mean the local bishop or archbishop?

24 DR. HAWES: Yes, it does.

25 MR. ENGELMANN: And those canons are there.

1 I wanted just to ask you perhaps about one or two of them.

2 At page 8, Canon 804 talks about how
3 catholic religious instruction is subject to the authority
4 of the church and that the Conference of Bishops -- well,
5 it's subject to the authority of the church and there's a
6 reference to the Conference of Bishops.

7 Can you tell us how that might work with
8 respect to religious instruction?

9 **DR. HAWES:** Yes. The Council of Bishops
10 approves the religion programs and any changes to -- that
11 are recommended by the Institute of Catholic Education.

12 **MR. ENGELMANN:** Okay. And in Canon 805
13 there's a reference to the local ordinary having the right
14 to appoint or approve teachers.

15 In your experience with your school board
16 and these three dioceses, how involved has the local bishop
17 been with respect to appointing or approving teachers of
18 religion?

19 **DR. HAWES:** In practice, they're not
20 involved in the appointment of those teachers. It's the
21 principals who are making the decision in consultation with
22 the superintendents. They certainly have a right to, and
23 would consult, if they had concerns regarding morality
24 reasons, but in practice it is the Board of Trustees who
25 approve the teachers' hiring.

1 **MR. ENGELMANN:** And just on Canon 806,
2 there's a reference to the right of the bishop to watch
3 over and visit. Can you just give us a sense as to what
4 that means in practice?

5 **DR. HAWES:** Well, in practice the
6 superintendent of religion and our director, for example,
7 would meet with the bishop and archbishops, and in that way
8 the bishop would be aware of what -- and have an
9 opportunity to discuss and in that way watch over. They
10 certainly, where possible, visit, and in Cornwall we're
11 very fortunate that the bishop is close and is able to
12 visit. So in practice, it's wherever possible the
13 involvement in the celebration with the schools.

14 **MR. ENGELMANN:** It does as well indicate a
15 power to remove or demand they be removed. Would that
16 demand or removal have to be in accordance with policies
17 and/or collective agreements that you might have in place
18 with teachers?

19 **DR. HAWES:** It's the removal of the teacher
20 of religion. It's not the removal of the teacher of the
21 board, but it's teaching of religion. So certainly, if
22 there were concerns it would be in consultation with the
23 Superintendent of Human Resources. But it would -- as
24 mentioned here, in Ontario, governance is given the
25 authority of the Board of Trustees for the removal of the

1 teacher from the board.

2 MR. ENGELMANN: All right.

3 And you have a reference to prescripts in
4 Canon 806 and there is, I think, some examples of them
5 further down on the page?

6 DR. HAWES: Yes, there are, in terms of our
7 religious education programs, family life education
8 programs and our pastoral care program.

9 MR. ENGELMANN: So those are examples of
10 prescripts?

11 DR. HAWES: Yes.

12 MR. ENGELMANN: Now, in catholic schools
13 within your board, would there be priests present in the
14 schools on a day-to-day basis?

15 DR. HAWES: We have liaison priests with our
16 parishes, and every school would have at least one parish
17 attached to the school, depending on the jurisdiction. The
18 priests, of course, wouldn't be visiting the school every
19 day, but they would be able to visit the school and
20 celebrate liturgical celebrations with the students.

21 In our high schools, we do have chaplain
22 priests as well as lay chaplains.

23 MR. ENGELMANN: Okay. So you have a liaison
24 priest, but you also may have a priest as a chaplain?

25 DR. HAWES: That's correct.

1 **MR. ENGELMANN:** But you may also have
2 laypeople who act as chaplain?

3 **DR. HAWES:** That's correct.

4 **MR. ENGELMANN:** So the distinction would be,
5 what, that the lay chaplain just couldn't celebrate the
6 mass?

7 **DR. HAWES:** Correct, sacramental ---

8 **MR. ENGELMANN:** Yes.

9 **DR. HAWES:** Yes.

10 **MR. ENGELMANN:** And what is the difference
11 in between a school chaplain and a liaison priest? What
12 are their roles within the school?

13 **DR. HAWES:** The liaison priests at the
14 elementary level, we don't have chaplains. We rely on our
15 liaison priests from our parish to be involved, and they
16 would be involved in certainly -- not only in masses but
17 prayer celebrations and liturgical -- throughout the
18 liturgical year, Advent and Lenten celebrations, also
19 confessions and opportunities to participate in the life of
20 the school.

21 In the case of the chaplain at the secondary
22 school, they would be involved in also looking at retreats,
23 for example, with the students and because they're there
24 more frequently, they're able to participate in programming
25 at the school.

1 **MR. ENGELMANN:** So what about mass and
2 confession, if I can for a minute? Would mass actually
3 take place in the schools?

4 **DR. HAWES:** Where we're fortunate enough to
5 be close to a church, then the children would walk to the
6 church and mass would be celebrated at the church.

7 In some cases certainly mass is held in the
8 gymnasium of the school.

9 **MR. ENGELMANN:** And what about confession?

10 **DR. HAWES:** Confessions, again, sometimes
11 they're held at the church where we set up stations, for
12 example. If there's a number of priests, it may be held at
13 the church. Typically, it would be held at the school,
14 either in the gymnasium, again in centres if we have more
15 priests, or it would be held in another location in the
16 school.

17 **MR. ENGELMANN:** And can you give us a sense
18 as to how regularly mass and/or confession would be held
19 for your students?

20 **DR. HAWES:** Mass is typically held once a
21 month, for example, for schools, but sometimes there are
22 other saints days or occasions that would be celebrated, or
23 graduations, they have a special mass, special events. In
24 addition, during Lent and Advent there would be other
25 celebrations with the priest.

1 **MR. ENGELMANN:** Would the same apply for the
2 regularity of confessions?

3 **DR. HAWES:** Confessions typically are in
4 Advent and in the Lenten season. Sometimes, we're again
5 fortunate enough to have them more frequently. Certainly,
6 if children request to have confessions when the priests
7 are in, then they would certainly hold confessions, and
8 they can participate also in their parish confessions.

9 **MR. ENGELMANN:** We've heard a little bit
10 about confessions in schools in the past, and I'm wondering
11 if there's a practice and/or protocol now with respect to
12 who is present and where that might take place within a
13 school?

14 **DR. HAWES:** It does vary, depending on the
15 school, because of the size of the school ---

16 **MR. ENGELMANN:** Sure.

17 **DR. HAWES:** --- and the number of students
18 and, as I mentioned, the number of priests. Sometimes
19 priests will join together and they will invite each other,
20 so there might be four priests, and then they would set up
21 stations, for example, in a gymnasium, or if there was two.

22 They may -- in other situations, the class
23 lines up and each child would have time with the priests
24 and the teacher would sort of escort the children to meet
25 with the priest, and then, you know, sort of next, next,

1 next. So it moves quite quickly.

2 MR. ENGELMANN: All right.

3 So the priest has an opportunity to speak to
4 the student privately?

5 DR. HAWES: Yes, they do.

6 MR. ENGELMANN: But there is a teacher or an
7 adult in the room when that happens?

8 DR. HAWES: They're in close proximity.
9 Like, they're either in the room or at the door or, you
10 know, depending on the size of the room, sometimes it's ---

11 MR. ENGELMANN: They're in the room though?

12 DR. HAWES: They're in the room. Like in a
13 gymnasium, they would be in the room in close proximity.
14 They may be, if I could, be standing at the door in a
15 little room. They wouldn't actually be right in the little
16 rooms. So it really depends on ---

17 MR. ENGELMANN: It would depend on the size
18 of the room?

19 DR. HAWES: Right, but they're in very close
20 proximity.

21 MR. ENGELMANN: And ---

22 THE COMMISSIONER: But the question is
23 though, is this a protocol? Is it written someplace that
24 this is the way confession will be held and you are to be
25 where you're supposed to be, or is this just something that

1 evolves as a practice in every individual school?

2 **DR. HAWES:** It's my understanding it's not
3 specified that it must be. It is practice, but it is both
4 practised by the -- determined by both the bishop and
5 archbishop, as well as the school board. So it's
6 standardized but differs because of the nature of whether
7 it's in the gymnasium or in a classroom.

8 **MR. ENGELMANN:** The position of liaison
9 priests and the assignment to a specific school, who
10 actually makes that decision?

11 **DR. HAWES:** The decision of the liaison
12 priest is of the parishes involved. So that, of course,
13 would be the bishop or the archbishop's decision.

14 In terms of the chaplains, the priests, it
15 is in consultation with the school board in terms of the
16 selection of who would take on that responsibility. As far
17 as the lay chaplains, the board interviews and then they
18 recommend the lay chaplains to the bishop or archbishop.

19 **THE COMMISSIONER:** Lay chaplains would
20 normally be teachers?

21 **DR. HAWES:** They may be teachers, but not
22 necessarily.

23 **MR. ENGELMANN:** So the final say on a
24 chaplain, whether a priest and/or a lay chaplain, would be
25 that of the bishop?

1 DR. HAWES: Yes.

2 MR. ENGELMANN: And would these positions be
3 positions of the board? In other words, would the board
4 pay their salaries or would that be something that would be
5 paid by the local diocese?

6 DR. HAWES: No, the chaplain role is paid by
7 the board as an employee of the board.

8 MR. ENGELMANN: But with respect to the
9 liaison priest, that would be part of the priest's function
10 as a member of a diocese presumably?

11 DR. HAWES: That's correct.

12 MR. ENGELMANN: And do you know; is there a
13 board screening process for clergy who are in the school or
14 does the board rely on a diocese to do that?

15 DR. HAWES: In terms of the employees,
16 whether they're priests or lay chaplains, they would be
17 required to submit their criminal reference check to the
18 board.

19 In the case of liaison priests, it would be
20 handled by the diocese, but the diocese does provide in
21 writing that the priests have in fact completed the
22 screening process and have provided the -- have had a
23 criminal reference check.

24 MR. ENGELMANN: Okay. So with respect to
25 the priests, that's something that the diocese takes on?

1 DR. HAWES: That's correct.

2 MR. ENGELMANN: So just looking then at Tab
3 1 again, page 9, you set out the regulatory framework of
4 the board and what the board is subject to by way of
5 regulation?

6 DR. HAWES: Yes, we selected and referenced
7 the *Education Act* and, of course, the *Ontario College of*
8 *Teachers Act*.

9 MR. ENGELMANN: All right.
10 We've talked a little bit about the
11 *Education Act* already and it sets out some of the hierarchy
12 for a board; in other words, responsibilities and powers of
13 the board and the director and the superintendent. The
14 *Education Act* also defines what a teacher is or who a
15 teacher is?

16 DR. HAWES: Yes, it does.

17 MR. ENGELMANN: And that teacher needs to be
18 a member of the Ontario College of Teachers?

19 DR. HAWES: Correct.

20 MR. ENGELMANN: All right.

21 And I understand that the College of
22 Teachers is a relatively new college, if I can use that
23 term?

24 DR. HAWES: Yes, instituted -- established
25 in 1997.

1 **MR. ENGELMANN:** And effectively, as with
2 other self-regulating professions, it's an independent body
3 that would regulate the teaching profession?

4 **DR. HAWES:** That's correct.

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

6 And do you know how teachers were regulated
7 prior to the College of Teachers?

8 **DR. HAWES:** Prior to the College of
9 Teachers, they were regulated by the *Teachers Profession*
10 *Act* and the federation.

11 **MR. ENGELMANN:** And that again was something
12 that was done by statute?

13 **DR. HAWES:** Yes, it was.

14 **MR. ENGELMANN:** And if people are
15 interested, that's what we see at Tab E of your Book of
16 Documents. Is that fair, the former Act?

17 **DR. HAWES:** Yes, it is.

18 **MR. ENGELMANN:** And we have at both pages 9
19 and 10 of your report some of the objects of the College of
20 Teachers?

21 **DR. HAWES:** Yes, we do.

22 **MR. ENGELMANN:** Okay. And for example, they
23 talk about control of certificates. And what is the
24 importance of that, the suspension, cancellation, revoking
25 or reinstating of certificates?

1 **DR. HAWES:** The certificate is
2 qualifications and registrations to be a teacher; is
3 governed by the College of Teachers, and if there is
4 disciplinary action they could revoke and/or cancel that
5 certificate.

6 **MR. ENGELMANN:** And if the board, sorry, if
7 the College of Teachers in fact does that, is there
8 notification to the board?

9 **DR. HAWES:** Yes, there would be.

10 **MR. ENGELMANN:** And what about the issue of
11 a criminal records check? Is the College of Teachers at
12 all involved in that?

13 **DR. HAWES:** No, it is the responsibility of
14 the school board.

15 **MR. ENGELMANN:** Is that what we see set out
16 at page 12 with respect to criminal background checks?

17 **DR. HAWES:** Yes, it is.

18 **MR. ENGELMANN:** All right. So there is
19 regulation that's been passed under the *Education Act* that
20 requires boards to do that?

21 **DR. HAWES:** Yes, that was passed on March
22 31st, 2002.

23 **MR. ENGELMANN:** And before then, do you know
24 if the board did that?

25 **DR. HAWES:** Our board, the amalgamated board

1 or the previous boards, did not collect criminal reference
2 checks, but you can see that the Ontario College of
3 Teachers prior to that did require a criminal reference
4 check from 1999. So that was the policy prior to.

5 **MR. ENGELMANN:** So the College of Teachers
6 did something from '99 on and the board, once it was
7 required to do so by law, started to do it in 2002?

8 **DR. HAWES:** Two thousand and two (2002) is
9 when it took into effect.

10 **MR. ENGELMANN:** All right. And if I'm
11 looking at the middle of page 12, it required boards to
12 collect a criminal background check on their current
13 employees by the end of July, 2003.

14 **DR. HAWES:** That's correct.

15 **MR. ENGELMANN:** All right. And that would
16 be all employees?

17 **DR. HAWES:** That was all employees.

18 **MR. ENGELMANN:** So that wouldn't just be
19 your teachers, that would your non-academic staff as well?

20 **DR. HAWES:** That's correct.

21 **MR. ENGELMANN:** Now, at page 10, you set out
22 some duties of the board with respect to reporting to the
23 College of Teachers?

24 **DR. HAWES:** Yes, it does.

25 **MR. ENGELMANN:** And, for example, it gives

1 some examples of when the board must report to the college?

2 DR. HAWES: Yes.

3 MR. ENGELMANN: And a number of them are set
4 out in the bullets, but particularly there is a reference
5 to this issue at the third bullet is there not?

6 DR. HAWES: Yes, there is.

7 MR. ENGELMANN: Can you just explain to us
8 what the requirement is?

9 DR. HAWES: The requirement is for the board
10 to notify the college if an individual resigns. For
11 example, if they are in the middle of an investigation or
12 allegations or if it is proven that has caused the board to
13 terminate a member's employment for example, wherever there
14 is misconduct concerning allegations of sexual abuse
15 against a pupil, the board certainly -- the teacher would
16 be required to also -- to notify the Children's Aid
17 Society.

18 MR. ENGELMANN: All right. And the
19 reporting conditions from the actual Act, is that what we
20 see at Tab D of your report; Reporting Requirements Related
21 to Professional Misconduct?

22 DR. HAWES: Yes, it is.

23 MR. ENGELMANN: And some of the actual
24 offences are set out on the second page at 43.3.1? For
25 example:

1 "A. Becomes aware that a member who is
2 or has been employed by the employer
3 has been charged with or convicted of
4 an offence under the *Criminal Code*
5 involving sexual contact in minors."

6 DR. HAWES: Yes.

7 MR. ENGELMANN: So that's clearly a
8 reference to child sexual abuse?

9 DR. HAWES: Yes, absolutely.

10 MR. ENGELMANN: So that becomes a
11 requirement upon the charge?

12 DR. HAWES: Yes, it does.

13 MR. ENGELMANN: Now does this Act require a
14 timeframe for reporting?

15 DR. HAWES: It does indicate that you must
16 report within 30 days.

17 MR. ENGELMANN: And do you know if it's 30
18 days from what?

19 DR. HAWES: It identifies that when there
20 are reasons for professional misconduct have been
21 identified, then the employer shall file within 30 days
22 after, let's say, the resignation of the written report.

23 MR. ENGELMANN: All right.

24 THE COMMISSIONER: Are there any penalties
25 for the employer for not reporting?

1 DR. HAWES: I'm not exactly sure what the
2 penalty is.

3 MR. ENGELMANN: I'm not sure if there is
4 either in the sense that this really regulates teachers?

5 DR. HAWES: Yes, it does. It regulates
6 teachers and the college regulates the board -- it's a
7 requirement to, you know, to notify. I am not sure if they
8 specify a consequence for boards. Certainly in terms of
9 teachers, the consequence could be disciplinary action.

10 MR. ENGELMANN: All right. And the
11 reference to the report to the Children's Aid Society, I
12 note that it's your third bullet. I see, the reference is
13 to your child abuse protocol?

14 DR. HAWES: Yes, it is.

15 MR. ENGELMANN: That's not something that
16 comes from the *College of Teachers Act*?

17 DR. HAWES: No, this -- here, I'm
18 referencing that the board would -- child abuse protocol.
19 But the College does require teachers to follow the
20 *Children and Family Services Act* and take their
21 professional responsibility.

22 MR. ENGELMANN: Fair enough. And the
23 reporting requirement of teachers, would that also include
24 if an allegation was made against a principal?

25 DR. HAWES: Yes, it would.

1 **MR. ENGELMANN:** So they're considered
2 teachers for the purposes of the Act?

3 **DR. HAWES:** Yes.

4 **MR. ENGELMANN:** And what about non-teaching
5 staff and non-principals; no college to report to?

6 **DR. HAWES:** No.

7 **MR. ENGELMANN:** So then you would simply
8 follow presumably the board's policies and protocols?

9 **DR. HAWES:** That's correct.

10 **MR. ENGELMANN:** And it talks about the
11 requirement to report and how it relates from Section 43.3
12 of the Act. Is there a protocol that you know of, or
13 perhaps practice, with respect to once criminal proceedings
14 commence, the board's obligation to follow those criminal
15 proceedings? Do you know what I mean?

16 **DR. HAWES:** No, I don't.

17 **MR. ENGELMANN:** For example, a teacher --
18 the board -- a teacher is charged with child sexual abuse -
19 --

20 **DR. HAWES:** Yes.

21 **MR. ENGELMANN:** --- the board, presumably,
22 follows the requirement in the Act ---

23 **DR. HAWES:** Yes.

24 **MR. ENGELMANN:** --- reports to the College
25 of Teachers. What about the monitoring or following of a

1 criminal process that involves that teacher and those
2 allegations?

3 DR. HAWES: Yes, boards are required to
4 remove the teacher from their duties and responsibility
5 with a student to ensure that the student isn't at risk.

6 MR. ENGELMANN: All right. Now, that's a
7 statutory response?

8 DR. HAWES: That's a statutory response.

9 MR. ENGELMANN: Is there a protocol that
10 actually deals with the monitoring of that criminal process
11 with respect to that teacher? In other words, to follow
12 the criminal process from the time of the first appearance
13 in court through a finding of guilt or innocence or what
14 have you at the end?

15 DR. HAWES: Certainly the board does do
16 that, but I don't know if there is any regulation that
17 requires us to do that.

18 MR. ENGELMANN: All right. So that may just
19 be a practice, but you're not aware of a protocol dealing
20 with that?

21 DR. HAWES: No. The requirement would be if
22 you know -- to ensure that a teacher doesn't return to duty
23 until CAS has notified that either the investigation is
24 completed or the charge has been -- they've not been found
25 guilty.

1 **MR. ENGELMANN:** So there would be some need
2 to receive some information before you reinstate the
3 teacher?

4 **DR. HAWES:** That's a requirement.

5 **MR. ENGELMANN:** You describe, do you not as
6 well, in page 11, a process before the College of Teachers?

7 **DR. HAWES:** Yes, I do.

8 **MR. ENGELMANN:** And do I understand that's
9 not a process that you're personally familiar with?

10 **DR. HAWES:** No, it is a process of the
11 college. It just quickly summarizes the steps the College
12 would take in its disciplinary committee, but the Board is
13 not a party to that process unless requested.

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

15 We've talked about the criminal background
16 checks. I'll just be a moment. You reference in the
17 second full paragraph under "Criminal Background Checks" on
18 page 12 that the requirement now requires all teachers,
19 administrative staff, volunteers, chaplains, priests and
20 bus drivers to have these?

21 **DR. HAWES:** Yes, I do.

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

23 **THE COMMISSIONER:** Where do we see that
24 again?

25 **MR. ENGELMANN:** Sir, I'm in about the middle

1 of page 12 ---

2 THE COMMISSIONER: Yes.

3 MR. ENGELMANN: --- and it's Regulation
4 52101 and that's a regulation that's passed pursuant to the
5 *Education Act*. Is that correct?

6 DR. HAWES: Yes, it is.

7 MR. ENGELMANN: So I'm assuming that that
8 would have been in place, and looking at the preceding
9 paragraph, that would have been a requirement from July of
10 2003 on?

11 DR. HAWES: That's my understanding.

12 THE COMMISSIONER: I guess ---

13 MR. MANSON: Page 11?

14 MR. ENGELMANN: Page 12.

15 THE COMMISSIONER: Yes, it is.

16 It's just in your question you indicated the
17 criminal background checks for priests, and I don't see
18 that word there and I think maybe it may be a slip of the -
19 - I think you've indicated before it is the Board's
20 responsibility to get a criminal records check or for an
21 employee to give you the criminal records check and in the
22 case of priests, if that priest is an employee as a
23 teacher, then it's his responsibility to give it to you.

24 If the priest is here as a liaison person,
25 then he will not submit a criminal record check to you.

1 You will get a written letter from the bishop or archbishop
2 saying that it's been done.

3 DR. HAWES: That's correct.

4 THE COMMISSIONER: All right. Sorry.

5 MR. ENGELMANN: Fair enough. It seems to be
6 contradictory.

7 I'm looking a little further up on page 12;
8 there's a reference to the regulation and it says:

9 "The board is required to collect a
10 personal criminal history of every
11 employee or service provider at a
12 school site of the board."

13 And then it then describes what a personal
14 criminal history is, correct?

15 DR. HAWES: Yes, that's correct.

16 MR. ENGELMANN: Do you know what is meant by
17 a service provider at a school site?

18 DR. HAWES: We were looking at service
19 providers as in regulated health professionals, for
20 example, a service provider of children's mental health,
21 for example, would be a service provider. Speech and
22 language pathologist would be a service provider.

23 MR. ENGELMANN: All right.

24 And then just to go then to that next
25 paragraph -- and I think the Commissioner just took you

1 there -- the Board is obtaining criminal reference checks
2 for some of these occupations but not for all. For
3 example, priests, that's being done by the diocese and it
4 appears with bus drivers that's being done by the bus
5 company that's providing the service?

6 **DR. HAWES:** Yes, the Board has the
7 requirement for if they have hired the individual and
8 they're an employee of the Board, the hiring would require
9 the criminal reference checks for teachers, staff,
10 chaplains and that would be chaplain priests because
11 they're as employees.

12 With respect to the bus drivers, the
13 criminal reference check goes to the bus company because
14 they are not our direct employee. As would be the case
15 with liaison priests or other service providers, it would
16 be the employer.

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

18 So if the priest is a chaplain priest and
19 actually employed by the Board, the Board obtains the
20 criminal reference checks ---

21 **DR. HAWES:** That's correct.

22 **MR. ENGELMANN:** Whereas if it's a liaison
23 priest, the Board relies on the diocese to do that?

24 **DR. HAWES:** Yes, that's my understanding.

25 **MR. ENGELMANN:** All right. Okay. I've got

1 it.

2 **THE COMMISSIONER:** It might be time for the
3 morning break, Mr. Engelmann.

4 **MR. ENGELMANN:** Certainly.

5 **THE COMMISSIONER:** Thank you. Let's take
6 the break.

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

9 The hearing will resume at 11:15 a.m.

10 --- Upon recessing at 11:00 a.m./

11 L'audience est suspendue à 11h00

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

13 L'audience est reprise à 11h24

14 **THE REGISTRAR:** The hearing is now resumed.
15 Please be seated. Veuillez vous asseoir.

16 **THE COMMISSIONER:** Mr. Engelmann.

17 **MR. ENGELMANN:** Sir, just before we start
18 with the witness, Ms. Birrell was kind enough to provide me
19 with her copy of the *Ontario College of Teachers Act, 1996*.

20 **THE COMMISSIONER:** Right.

21 **MR. ENGELMANN:** And you had asked a question
22 about whether or not there as any penalty or sanction if
23 the Board, as the employer, did not report pursuant to
24 section 43, and in fact there is. There is an offence
25 under the Act and it's under 48.1, and it says:

1 "Every employer who contravenes
2 subsection 43.2(1), (2) or (3), or
3 subsection 43.3(1) or (2) is guilty of
4 an offence and, on conviction, is
5 liable to a fine of not more than
6 \$25,000."

7 **THE COMMISSIONER:** Okay.

8 **MR. ENGELMANN:** Of course, that's that 30-
9 day reporting requirement we talked about.

10 **THE COMMISSIONER:** Thank you.

11 **DONALEEN HAWES, Resumed/Sous le même serment:**

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

14 **MR. ENGELMANN:** Dr. Hawes, when we left off,
15 we were talking a little bit about the criminal background
16 checks. We've talked about some employees and service
17 providers, and I just wanted to ask you about volunteers,
18 because that doesn't come from the *Education Act*, but as I
19 understand it there is a Board policy that deals with this
20 issue?

21 **DR. HAWES:** Yes, there is.

22 **MR. ENGELMANN:** And do we find that at Tab
23 F?

24 **DR. HAWES:** We do.

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

1 So can you just give us an example then of
2 screening requirements for volunteers in certain
3 circumstances?

4 **DR. HAWES:** It identifies that the screening
5 process is involved by the -- at the school level by the
6 principal and certainly we encourage volunteers. There is
7 an application for school volunteers form, and part of the
8 form does identify the individual to sign, "I hereby
9 authorize the school principal a personal reference from
10 the people named above" and it also asks that they will
11 participate in a criminal reference check.

12 The policy specifically does indicate that
13 any volunteers involved with direct and regular contact
14 would be required to have a criminal reference check.

15 **MR. ENGELMANN:** So that's set out at the
16 second page of Tab F; is that correct?

17 **DR. HAWES:** Yes, it is.

18 **MR. ENGELMANN:** So the parent who
19 occasionally volunteers to come into the classroom to
20 assist the teacher might not be required -- or to go on a
21 field trip, let's say, with their kids wouldn't have to do
22 this?

23 **DR. HAWES:** No.

24 **MR. ENGELMANN:** But if you were involved in
25 some of these activities like coaching overnight trips, et

1 cetera, there would be a requirement?

2 DR. HAWES: Yes, that's correct.

3 MR. ENGELMANN: And this policy came into
4 place in September of 2006?

5 DR. HAWES: Yes, it did.

6 MR. ENGELMANN: Do you know if there was
7 something similar before then or is this a new policy?

8 DR. HAWES: This was a new policy.

9 MR. ENGELMANN: All right.

10 And the form that we see then at the third
11 page is the actual form that's in use?

12 DR. HAWES: That's the form provided to
13 schools to use, yes.

14 MR. ENGELMANN: All right.

15 Now, just then to move on in your report at
16 Tab 1, you have quality assurance and work reviews at page
17 13. Can you give us an indication of why this is in here
18 as far as this issue dealing with concerns about child
19 sexual abuse and policies and protocols, how this might be
20 significant?

21 DR. HAWES: The teacher's performance
22 appraisal is the process required for principals to review
23 regarding the professional standards with teachers. We
24 felt that it would be useful to include here in case there
25 was any questions about the supervision of teachers and how

1 that information would be handled by a Board on a regular
2 and ongoing basis.

3 In regards to sexual abuse specifically, it
4 would not be handled by this process.

5 **MR. ENGELMANN:** Right.

6 **DR. HAWES:** It would be handled through the
7 protocol.

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

9 And the requirement or the process for
10 evaluations, is that an annual process or is that something
11 that happens less frequently?

12 **DR. HAWES:** There is an annual plan that
13 teachers provide principals. So that part is annual. The
14 actual teacher performance appraisal is now -- specifies
15 for new teachers, that there would be the two appraisals.
16 It actually has been changed. It was every three
17 consecutive years. It's now being changed to introduce
18 five consecutive years, starting this year.

19 **MR. ENGELMANN:** You then have provisions
20 dealing with the *Child and Family Services Act* in your
21 report. Is that correct?

22 **DR. HAWES:** Yes, we do.

23 **MR. ENGELMANN:** Now, we've heard about this
24 Act from a number of witnesses. Can you give us a sense of
25 what's significant about the Act in terms of how the board

1 regulates itself with respect to this issue of child sexual
2 abuse?

3 **DR. HAWES:** As indicated here, the *Child and*
4 *Family Services Act* is very specific in regards to the duty
5 to report by professionals, and that includes all of our
6 teachers and support staff, and if there are reasonable
7 grounds, and they are required to, as according to the
8 sections outlined in that Act.

9 **MR. ENGELMANN:** All right. And has this
10 changed over time? You've said there's a specific
11 reference now to teachers and/or other school board
12 employees with respect to the duty to report. Was that
13 always there, from your knowledge?

14 **DR. HAWES:** No. The duty to report, the
15 *Child and Family Services Act*, in 1984, it was specific
16 that professionals had a duty to report. Certainly, all
17 individuals have a duty, but specifically professionals and
18 the fine attached to professionals was introduced in 1984.

19 **MR. ENGELMANN:** So not only a duty but
20 actually a consequence, at least on paper, that there could
21 be a penalty if they don't?

22 **DR. HAWES:** Yes.

23 **MR. ENGELMANN:** All right. And I understand
24 that over time, the Catholic District School Board of
25 Eastern Ontario and some of its predecessor boards has had

1 different policies that incorporate the duty to report?

2 DR. HAWES: Yes, that is correct.

3 MR. ENGELMANN: And we're going to take a
4 look at some of those in just a few minutes.

5 On page 15, as a matter of fact, you set out
6 under "Policies and Procedures in Place" some background on
7 how this has happened historically ---

8 DR. HAWES: Yes.

9 MR. ENGELMANN: --- and there are references
10 on page 15 to a number of protocols that were in place in
11 the past. Is that fair?

12 DR. HAWES: Yes, that's correct.

13 MR. ENGELMANN: And then on page 16 you have
14 a summary of the current protocols?

15 DR. HAWES: I do.

16 MR. ENGELMANN: And, for example, we've
17 talked about Tab 0 which we see at the top of page 16, the
18 Child Protection Protocol?

19 DR. HAWES: Yes, it is.

20 MR. ENGELMANN: Now, in your historical
21 section you have found material or you're aware of material
22 of protocols dealing with allegations of child sexual abuse
23 from as early as 1986?

24 DR. HAWES: Yes, that's correct.

25 MR. ENGELMANN: And correct me if I'm

1 mistaken, but that's at or about the time you joined the
2 board in Leeds Grenville?

3 DR. HAWES: Yes, it is.

4 MR. ENGELMANN: All right. Do you know if
5 there were policies in place before then or were those
6 really the first?

7 DR. HAWES: It's my understanding that that
8 was the first joint protocol that was developed.

9 MR. ENGELMANN: And there are in the record
10 here protocol with respect to the then Stormont, Dundas and
11 Glengarry Board?

12 DR. HAWES: Yes, there is.

13 MR. ENGELMANN: And that's a protocol that
14 you're familiar with on paper. You didn't have an
15 opportunity to work under it?

16 DR. HAWES: Correct.

17 MR. ENGELMANN: All right. So one that you
18 would have been familiar with and perhaps worked with was
19 the protocol that we see at Tab J. Is that correct?

20 DR. HAWES: Yes, that's correct.

21 MR. ENGELMANN: That's a protocol that talks
22 about and it says in its title "A Coordinated Response in
23 Lanark County"?

24 DR. HAWES: Yes, it is.

25 MR. ENGELMANN: And there was a similar

1 protocol in place here in Stormont, Dundas, Glengarry?

2 DR. HAWES: Yes.

3 MR. ENGELMANN: And is that what we see at
4 Tab L?

5 DR. HAWES: Yes, it is.

6 MR. ENGELMANN: All right. Do you know if
7 the third board had a protocol at that time? You had three
8 predecessor boards? These are two that you're aware of?

9 DR. HAWES: Yes. I did contact the previous
10 superintendent responsible for Prescott and Russell and he
11 indicated that they did not have a board protocol. They
12 utilized the Ottawa-Carleton Board protocol as a guideline.

13 MR. ENGELMANN: All right. So if we look at
14 Tab J for a moment, again, the partners in this coordinated
15 response would be listed on the inside page, in the second
16 page in?

17 DR. HAWES: Yes.

18 MR. ENGELMANN: And you were at this board
19 at that time?

20 DR. HAWES: Yes, I was.

21 MR. ENGELMANN: Were you involved in the
22 preparation of this document then as well?

23 DR. HAWES: No. At the last page, Appendix
24 D identifies the actual individuals, and Frank Musca, the
25 Director of Education, was the board senior management that

1 participated.

2 **MR. ENGELMANN:** Okay. And if we look at
3 that last page, we see that there are a number of officials
4 from various agencies, including Family and Children
5 Services, hospitals, your school board and the police that
6 were involved in this inter-agency protocol?

7 **DR. HAWES:** Yes, that's correct.

8 **MR. ENGELMANN:** Do you know how this
9 protocol came into existence?

10 **DR. HAWES:** It came into existence by the
11 initiation of the Children's Aid Society at a partners'
12 committee and it was recommended that -- at the Children
13 Services Coordinating and Advisory Committee, and that they
14 develop a joint coordinated response. So all the boards --
15 both boards participated.

16 **MR. ENGELMANN:** All right. So given the
17 nature of the teaching profession and, of course, other
18 individuals working in schools, the extent of contact with
19 children, the likelihood of a teacher perhaps having to
20 deal with the possibility of having to report would be much
21 higher perhaps than other people who live in our
22 communities. Is that fair?

23 **DR. HAWES:** Yes, that's fair.

24 **MR. ENGELMANN:** So some help and direction
25 in how to respond to these allegations and reporting would

1 be useful?

2 DR. HAWES: Absolutely. It was very useful
3 in terms of sharing and in-servicing teachers and
4 principals and a wonderful resource for them.

5 MR. ENGELMANN: So I'm just looking at the
6 Table of Contents in Tab J, but there's reference to the
7 duty to report, reporting child abuse and recognizing child
8 abuse, the indicators; correct?

9 DR. HAWES: Yes.

10 MR. ENGELMANN: And then it appears that
11 much of the document or protocol deals with the specific
12 response of the CAS and the police force?

13 DR. HAWES: Yes, that's correct.

14 MR. ENGELMANN: And it appears at that time,
15 in any event, they were often working as a team. For
16 example, if I'm looking at page 12, they talk about joint
17 interviews ---

18 DR. HAWES: M'hm.

19 MR. ENGELMANN: --- and how a CAS worker and
20 a police officer should work together in investigating and
21 dealing with allegations of this nature?

22 DR. HAWES: Yes.

23 MR. ENGELMANN: And at page 4, there's
24 reference to the reporting responsibility to the CAS?

25 DR. HAWES: Yes, there is.

1 **MR. ENGELMANN:** And I note at that time
2 there's a reference to:

3 "The law holds the person who suspects
4 abuse individually responsible for
5 reporting to the Children's Aid
6 Society."

7 Then it says:

8 "The internal procedures of some
9 organizations may call for the person
10 who suspects abuse to report to a
11 designated staff person who then makes
12 the report to the CAS."

13 Do you see that?

14 **DR. HAWES:** Yes, I do.

15 **MR. ENGELMANN:** And I recall at least some
16 of these protocols -- and perhaps this is one of them --
17 there was an obligation on the teacher to first go to the
18 principal. Was that the case here at that time?

19 **DR. HAWES:** It was the case that they would
20 go and share that information with the principal, and then
21 the principal could make the call as specified here.

22 **MR. ENGELMANN:** And at pages 6 and 7, I
23 think we talked about this earlier, you had listed some
24 child abuse indicators, and I'm looking under "Sexual
25 Abuse".

1 There were a number of signs that were given
2 for -- and I assume, was this particular document was it
3 given out to teachers in the school or was it just
4 something that was available for them to look at from time-
5 to-time?

6 **DR. HAWES:** When the document was developed,
7 in-services were offered with school staff so that they
8 could go through the document and, for example, review the
9 child abuse indicators and talk about the process and the
10 supports that would be in place. So that that opportunity
11 was given to staffs as well as the document was provided to
12 school staffs.

13 **MR. ENGELMANN:** And were you trained on this
14 specific protocol? I assume you were given ---

15 **DR. HAWES:** Yes.

16 **MR. ENGELMANN:** --- the type of work you
17 were doing ---

18 **DR. HAWES:** Yes, I was.

19 **MR. ENGELMANN:** In special education?

20 **DR. HAWES:** Yes. I did -- I was a member of
21 the coordinating advisory group in Lanark so I certainly --
22 I wasn't part of the development of this on the sub-
23 committee but in the implementation, I was involved.

24 **MR. ENGELMANN:** And do you know at the time
25 if there was annual training, or the frequency of the

1 training?

2 DR. HAWES: As mentioned initially, when the
3 document was first developed it was introduced to all
4 schools. Following that, it was the principal who would
5 share with staff and review at a staff meeting because the
6 document was in the school and also when Sue Giff, who was
7 the crisis worker, or members of the CAS, they would also
8 individually talk about and review information when they
9 met on cases or concerns. But it was a systematic -- in-
10 service wasn't delivered after it was initiated.

11 MR. ENGELMANN: All right. So it was an in-
12 service where the principal would talk to the staff?

13 DR. HAWES: That's right.

14 MR. ENGELMANN: And would indicate that
15 there was a protocol available?

16 DR. HAWES: That's my understanding.

17 MR. ENGELMANN: There wouldn't have been any
18 joint training with the CAS or local police for staff?

19 DR. HAWES: Not after the initial one is my
20 understanding, until the next protocol came into being.

21 MR. ENGELMANN: And at Tab K is that a
22 follow-up to what we saw at Tab J? Is that a second
23 protocol then for Leeds Grenville?

24 DR. HAWES: It is Leeds Grenville protocol
25 and that was developed in 1993. Being a Lanark, Leeds and

1 Grenville school board, we worked both with the Lanark
2 County CAS and the Leeds Grenville CAS. So the one is with
3 the Lanark County and this one is Leeds Grenville ---

4 **MR. ENGELMANN:** I'm sorry.

5 **DR. HAWES:** --- that was introduced. It was
6 shared, though, with all of our staff.

7 **MR. ENGELMANN:** All right. I'm just noting
8 at the preamble, the protocol synopsis, it says:

9 "Historically..."

10 And this is 1993:

11 "...the reporting and investigating of
12 child abuse has been unchartered
13 territory for professionals and lay
14 people alike. Up until the 1980's
15 reporting occurred on a very
16 inconsistent basis and investigations
17 were not carried out in any
18 predetermined, coordinated fashion,
19 following an agreed upon protocol. As
20 time passed and it became evident how
21 poorly prepared and inconsistent we as
22 professionals were to cope with the
23 magnitude and complexity of cases that
24 arose, we eagerly sought out one of
25 those expertise to formulate a

1 consistent and comprehensive response
2 to child abuse in our community."

3 It seems they're recognizing a problem ---

4 **DR. HAWES:** Yes.

5 **MR. ENGELMANN:** --- that they feel needs to
6 be addressed, and this is 1993?

7 **DR. HAWES:** Yes, that's correct.

8 **MR. ENGELMANN:** Now, again, is this one you
9 would have had something to do with or been involved in its
10 implementation in any way?

11 **DR. HAWES:** I was involved in its
12 implementation. Sister Hilda -- I think on page 48 --
13 Sister Hilda was our board representative who was directly
14 on the committee on this particular protocol.

15 **MR. ENGELMANN:** All right. So if we wanted
16 to know who was involved, page 48 sets it out?

17 **DR. HAWES:** Yes, it does.

18 **MR. ENGELMANN:** Now, this protocol's a lot
19 longer than the last one, and I just noted again they talk
20 about a team approach being used with CAS workers and I'm
21 looking at page 13, for example?

22 **DR. HAWES:** I guess it does.

23 **MR. ENGELMANN:** Yes, and that:

24 "Team approach is the desired method of
25 intervention; joint interviews being

1 done wherever possible."

2 DR. HAWES: Yes.

3 MR. ENGELMANN: Now, it also references
4 issues about access to children in schools?

5 DR. HAWES: Yes.

6 MR. ENGELMANN: All right. And there also
7 appears to be a role, at least suggested in the protocol at
8 page 19, that the teacher act in some form of support role
9 when children are being jointly interviewed by the CAS and
10 the police?

11 DR. HAWES: Yes.

12 MR. ENGELMANN: And that could be a teacher,
13 a counselor, or a non-offending parent?

14 DR. HAWES: Yes, if the -- as a support to
15 the child.

16 MR. ENGELMANN: Right. And do you recall a
17 training for the school board staff on this particular
18 protocol?

19 DR. HAWES: Yes. This did involve
20 individuals from both the police and CAS participating in a
21 joint in-service for staff and also Sue Giff did have
22 school sessions with staff. So she went to different
23 schools.

24 MR. ENGELMANN: So there was an in-service
25 for certain staff and then there was -- sorry, there was

1 training from the CAS and police for certain staff and then
2 those staff trained others?

3 DR. HAWES: The staff -- the joint meetings
4 that were held, it's my understanding it was open to any
5 staff; it was after school. And then it was followed up by
6 bringing it to every staff; not as much detail in those
7 sessions and it didn't have the opportunity of the panel.

8 MR. ENGELMANN: Now, then we have Tab L, we
9 have the first protocol for Stormont, Dundas and Glengarry,
10 that you were familiar with or aware of?

11 DR. HAWES: Yes, it is.

12 MR. ENGELMANN: And you didn't work with
13 this protocol?

14 DR. HAWES: No, I did not.

15 MR. ENGELMANN: But, again, we have some
16 background on the first full page setting out why this was
17 set up?

18 DR. HAWES: Yes.

19 MR. ENGELMANN: And definitions of intra-
20 familial and extra-familial abuse?

21 DR. HAWES: Yes.

22 MR. ENGELMANN: And, again, as we're oft to
23 see in these protocols, we have some principles at page 3
24 and a procedure that starts at page 4. Is that fair?

25 DR. HAWES: Yes, it is.

1 **MR. ENGELMANN:** All right. And then a
2 specific school procedure starting at the middle of page 5?

3 **DR. HAWES:** That's correct.

4 **MR. ENGELMANN:** And this is with respect to
5 the school itself and what employees of the school should
6 do?

7 **DR. HAWES:** Yes.

8 **MR. ENGELMANN:** And, again, we have this
9 time frame where there is a responsibility of the teacher
10 or staff member to report to the principal and then the
11 principal's making a decision as to whether or not he or
12 she is reporting in place of the teacher?

13 **DR. HAWES:** Yes.

14 **MR. ENGELMANN:** Despite the fact that the
15 teacher does have a responsibility under the Act itself?

16 **DR. HAWES:** The teacher has a duty to ensure
17 that it is reported. At this time the *Child and Family*
18 *Services Act* did not require that they themselves were the
19 one who made the report.

20 It allowed for a designate of the board. In
21 this case, the board designated the principal as being the
22 individual who would report and the teacher had a duty to
23 ensure that it was reported.

24 **MR. ENGELMANN:** And the school procedures
25 are set out at the bottom of that page and right through

1 the top of the next page?

2 DR. HAWES: Yes, it is.

3 MR. ENGELMANN: And then there's a chart
4 which is somewhat complicated, on page 8?

5 DR. HAWES: Yes.

6 MR. ENGELMANN: About who reports what type
7 of abuse; correct?

8 DR. HAWES: Yes, it is.

9 MR. ENGELMANN: And if the abuse was extra-
10 familial but by a teacher or a staff member, I assume it
11 fell under that last category of alleged in-school
12 molesting?

13 DR. HAWES: That's my understanding.

14 MR. ENGELMANN: Okay. And, again, you may
15 not be able to answer this, but if the alleged abuse was by
16 a staff member but not in the school itself, do you know
17 whether it would fall under extra-familial or alleged in-
18 school molesting?

19 DR. HAWES: I don't know the -- I don't have
20 the answer to that.

21 MR. ENGELMANN: Okay. That's fair. That's
22 fair.

23 But there just seems to be different
24 reporting requirements, depending on the type of child
25 sexual abuse?

1 DR. HAWES: Yes.

2 MR. ENGELMANN: At least at this time?

3 DR. HAWES: At this time.

4 MR. ENGELMANN: And in fact there's a
5 specific reference. I'm looking at page 9 under
6 "Investigators may seek access to pupils in the school". It
7 says:

8 "In all cases of alleged child sexual
9 abuse within a school perpetrated by a
10 staff member, the protocol should be
11 put in the hands of the superintendent
12 and director to ensure impartiality in
13 determining access and protection of
14 pupils."

15 DR. HAWES: Yes.

16 MR. ENGELMANN: That was the ---

17 DR. HAWES: That was their protocol.

18 MR. ENGELMANN: Now, were you able to
19 ascertain if there was any training in this protocol
20 offered in the SD&G Board at the time?

21 DR. HAWES: In contact with the previous
22 superintendent who is retired, he indicated that the -- it
23 was shared with all school principals and the school
24 principal did an in-service -- supported staff in the
25 school.

1 MR. ENGELMANN: Okay.

2 DR. HAWES: So school-by-school.

3 MR. ENGELMANN: All right. And then at Tab
4 M we have a later version of this protocol from 1988?

5 DR. HAWES: Yes.

6 MR. ENGELMANN: And do you know or have some
7 sense through your enquiries as to what prompted this
8 revision two years later?

9 DR. HAWES: The document is almost
10 identical. The initial background that appears in the
11 first '86 document where it's giving a specific number of
12 cases, for example, it was felt that that was no longer
13 relevant because it was time-specific.

14 So in the second revised copy they took out
15 the "Background" section out.

16 MR. ENGELMANN: And how else is it
17 different, if at all?

18 DR. HAWES: It is almost identical. There
19 was, I think, two words that were different, and I'm trying
20 to remember which words they were, but in examining the
21 documents, it was basically verbatim.

22 MR. ENGELMANN: And it appears that one
23 other change might have been on the classification of
24 abuse?

25 DR. HAWES: Oh, thank you, sir. That was

1 the difference. In the first document they distinguished
2 two types of -- in doing the classification in terms of
3 "intra" and in the second document they combined those to
4 being one classification.

5 **MR. ENGELMANN:** So parents, guardians and
6 other members of the family all included as one?

7 **DR. HAWES:** Yes.

8 **MR. ENGELMANN:** All right. Now, then we get
9 to a protocol -- the next protocol that appears for the
10 school boards appears to be in 2001?

11 **DR. HAWES:** That's correct.

12 **MR. ENGELMANN:** So for SD&G we go from 1988
13 -- we have a protocol in place that then is succeeded by
14 the Child Protection Protocol that's effective 2001 at Tab
15 O?

16 **DR. HAWES:** That's my understanding.

17 **MR. ENGELMANN:** Right. And for some of the
18 other predecessor boards, we had one from 1993 ---

19 **DR. HAWES:** That's correct.

20 **MR. ENGELMANN:** --- for example, and I
21 believe in -- I'm not sure of my dates anymore, but we have
22 late '80s, early '90s, and they're all rolled together into
23 a larger Child Protection Protocol which is effective 2001?

24 **DR. HAWES:** Yes.

25 **MR. ENGELMANN:** You've told us about who was

1 involved and we've gone to a much larger geographic area
2 and many more agencies?

3 DR. HAWES: Yes.

4 MR. ENGELMANN: Is that fair?

5 DR. HAWES: Yes.

6 MR. ENGELMANN: And one of the things that
7 happens when these protocols are issued is people get
8 together who are doing this work. And I presume you'd
9 agree that that's a positive thing?

10 DR. HAWES: Yes, it was very positive.

11 MR. ENGELMANN: And, in fact, given the
12 issuance of both O and N in 2001 and 2002, would it be fair
13 to assume that there would have been a number of meetings
14 between institutional officials like yourselves in dealing
15 with this issue of child sexual abuse or child abuse?

16 DR. HAWES: Yes, there was.

17 MR. ENGELMANN: So just generally speaking,
18 when we're looking at O, from the perspective of the Board,
19 what is significant about this protocol and this new
20 approach that is developed in 2001?

21 DR. HAWES: I think significantly, I think
22 you might have noted that it's much longer and much more
23 detailed in terms of describing and including the
24 investigation and the police reporting procedures and
25 outlines the roles and responsibilities, for example, in

1 child protection, of the police, of the community partners,
2 of the Children's Aid Society.

3 So it really clarifies all of the partners
4 and their role and responsibility in great detail, and it
5 also provides just more information on joint interviewing
6 and protection of children. It also goes into some
7 additional information in terms of what agencies you can
8 access to support children. It provides lists and things.

9 The other difference is the legislation. It
10 includes the changes in legislation. So in that way it's
11 different from the predecessor.

12 **MR. ENGELMANN:** So, for example -- and I'm
13 not going to go through it in any detail -- but at page 40
14 of Tab O we get into investigations in educational,
15 childcare and residential settings?

16 **DR. HAWES:** Yes.

17 **MR. ENGELMANN:** And some of the procedures
18 to be followed?

19 **DR. HAWES:** That's correct.

20 **MR. ENGELMANN:** And then at page 45, special
21 investigations, including sexual abuse investigations?

22 **DR. HAWES:** Yes.

23 **MR. ENGELMANN:** Correct?

24 **DR. HAWES:** Yes, correct.

25 **MR. ENGELMANN:** And at page 49 there is a

1 protocol, "Implementation and Training"?

2 DR. HAWES: Yes.

3 MR. ENGELMANN: All right. And there's some
4 responsibilities there that the partners are taking on with
5 respect to training?

6 DR. HAWES: Yes, there is.

7 MR. ENGELMANN: And at page 55 you have a
8 flowchart for reporting procedures?

9 DR. HAWES: Yes, there is.

10 MR. ENGELMANN: And at page 59, what's
11 called "Stages in a Child Protection Investigation" and
12 talking about the different roles of some of the different
13 players?

14 DR. HAWES: Yes.

15 MR. ENGELMANN: Now, training on this
16 protocol for your staff ---

17 DR. HAWES: Yes.

18 MR. ENGELMANN: --- how did that take place?

19 DR. HAWES: As indicated here, the initial
20 training was provided by all of the partners and there were
21 training sessions which were jointly provided and open to -
22 - geographically provided and open to members within
23 different agencies, as well as both school boards and on
24 new hiring. It was introduced that when we hired, that
25 that information would be shared and that it would -- the

1 community training would develop ways of uniting together,
2 I guess, as a team.

3 **MR. ENGELMANN:** All right. So at page 16 of
4 Tab 1, near the bottom, you have a reference to:

5 "Presently training on the protocol as
6 provided to staff follows..."

7 And it appears as a recommendation to principals in the
8 board that they review CAS protocols at staff meetings
9 early in the school year?

10 **DR. HAWES:** Yes, that's correct.

11 **MR. ENGELMANN:** All right. So that's not a
12 requirement, it's a recommendation?

13 **DR. HAWES:** Yes.

14 **MR. ENGELMANN:** And you state that in the
15 past the CAS has been invited to come into train staff on
16 protocols?

17 **DR. HAWES:** Yes, they have.

18 **MR. ENGELMANN:** But you do not have a formal
19 training agreement with them?

20 **DR. HAWES:** No, we don't.

21 **MR. ENGELMANN:** All right. And when you say
22 in the past, is it fair to say that that's not happening
23 now?

24 **DR. HAWES:** I did check to see when the last
25 -- reviewed the training. Last year, there was joint

1 training with our principals. We did bring in family
2 services and the police to provide training for our
3 principals again at the school level.

4 In the spring of this year, when they
5 reviewed the protocol, it was determined that this fall
6 they would bring together all of the partners, and it's my
7 understanding Isabelle Fitzpatrick with the police
8 department, the OPP, is initiating that process. So we've
9 agreed to again host and help to coordinate.

10 **MR. ENGELMANN:** You agree that teachers
11 would have a lot more contact with the students than the
12 principals?

13 **DR. HAWES:** Yes.

14 **MR. ENGELMANN:** And that would be important
15 to have training for teachers as well?

16 **DR. HAWES:** Yes, it is. I might also
17 mention that the chart that's included in this handbook as
18 well as the school protocol is posted ---

19 **MR. ENGELMANN:** Yes.

20 **DR. HAWES:** --- so in the school, we have
21 three copies of the protocol. Also, the Ontario government
22 puts out a pamphlet ---

23 **MR. ENGELMANN:** Yes.

24 **DR. HAWES:** --- and it was updated in 2005
25 and that is provided in the school to share with

1 volunteers, with parents, and of course with staff. So
2 there is ongoing and informal ways when our community
3 partners are in and they share recent publications for
4 example.

5 **MR. ENGELMANN:** Okay. And would the
6 pamphlet set out sort of the procedure that should be
7 followed in these cases?

8 **DR. HAWES:** It does. It summarizes the
9 *Children and Family Services Act* and there is a duty to
10 report.

11 **MR. ENGELMANN:** We've talked briefly about
12 what we see at Tab N and that's the Child Protection School
13 Handbook ---

14 **DR. HAWES:** Yes.

15 **MR. ENGELMANN:** --- that was issued in 2002
16 and you've mentioned your involvement in that; right?

17 **DR. HAWES:** Yes, I have.

18 **MR. ENGELMANN:** And I think -- is it fair to
19 say that -- you may have said this, I apologize -- that
20 this particular document may be more useful to teachers
21 when it comes to this issue than the other protocol, Tab O?

22 **DR. HAWES:** I think that it's specific to
23 their duty and that's probably more user-friendly in the
24 fact that it's more compact. And so -- it's when they go
25 to it, in terms of the definitions and their duty to report

1 and their professional responsibility, it's right there.
2 The other document though is very useful for teachers as a
3 resource guide.

4 **MR. ENGELMANN:** Right.

5 **DR. HAWES:** And they can access information
6 that they might need to fully understand the process.

7 **MR. ENGELMANN:** So the purpose of the
8 handbook is set out at page 4; correct?

9 **DR. HAWES:** Yes, that's correct.

10 **MR. ENGELMANN:** And then with respect to
11 this issue of reporting abuse and who should be
12 investigating it, we see some direction to teachers at page
13 10?

14 **DR. HAWES:** Yes, we do.

15 **MR. ENGELMANN:** And what are teachers being
16 told essentially?

17 **DR. HAWES:** Teachers are essentially being
18 told that they have a duty to report although they can
19 discuss it with the principal. They have to, if they have
20 reasonable grounds to suspect abuse, they must immediately
21 report the abuse. In addition, at this time, the
22 legislation identifies the teachers. There is an ongoing
23 duty to report and the "ongoing" is if they see bruises in
24 the future or any other suspicious concerns, they would
25 have a duty to report.

1 On page 10, it does remind them that their
2 duty is to report on reasonable grounds; it is not to
3 conduct an investigation.

4 **MR. ENGELMANN:** And for example then, there
5 are provisions dealing with investigations in educational
6 settings at pages 16 through 18?

7 **DR. HAWES:** Yes, there are.

8 **MR. ENGELMANN:** And an actual form that, you
9 know, is clearly an inter-agency form at Tab 30 for
10 reporting?

11 **DR. HAWES:** Yes, there is.

12 **MR. ENGELMANN:** Okay. Now, do you know, Dr.
13 Hawes, if there any plans for a revision to either the
14 Child Protection School Handbook or the Child Protection
15 Protocol at Tabs N and O?

16 **DR. HAWES:** Yes, this fall, the plan is to
17 re-coordinate all of the parties and to review and to make
18 changes.

19 **MR. ENGELMANN:** M'hm. One of our context
20 experts who had been an executive director of a Children's
21 Aid Society for many years told us that protocols were
22 important, but as well it was very important that those
23 people that are acting upon those protocols get direction
24 in leadership as to their importance?

25 **DR. HAWES:** Yes.

1 **MR. ENGELMANN:** And also that they get
2 together with other staff from other agencies from time-
3 to-time to deal with these issues. Would you agree with
4 that?

5 **DR. HAWES:** Yes, I do.

6 **MR. ENGELMANN:** And do you see opportunities
7 to work on revisions as an important way to maintain and
8 develop those relationships?

9 **DR. HAWES:** Yes. Since this document was
10 written, there has been discussions amongst the parties but
11 within, for example, each of the jurisdictions, rather than
12 one entire board-wide because board-wide is such a large
13 geographical and involves so many partners.

14 So we've taken the approach it's important
15 within, let's say, Stormont Dundas & Glengarry and Lanark,
16 Leeds and Grenville for those partners to come together to
17 review and discuss. But we felt that this year, it was
18 time for everyone to come collectively because there are
19 some minor changes to -- CAS felt that should be
20 incorporated.

21 **MR. ENGELMANN:** So back to your report, Tab
22 1, page 17, you do talk about some barriers to training and
23 I'm about two-thirds of the way down the page. Could you
24 just elaborate upon that?

25 **DR. HAWES:** As I mentioned, the size of our

1 board -- maybe challenges would be a better term to have
2 used. It is difficult with size and time and sometimes
3 turnover of staff with different agencies to get that
4 consistency of who might be the individual working with the
5 school staff, and we really felt that, you know, that
6 partnership is key.

7 **MR. ENGELMANN:** All right. You make a
8 reference to "no consistent key lead" in partnership
9 agencies. What are you referring to there and how can that
10 be ameliorated?

11 **DR. HAWES:** Well, when I -- the feedback
12 received by our staff was that the -- you're working with a
13 variety of agencies but this is not -- the board doesn't
14 take a lead; CAS doesn't take a lead. It's sort of
15 coordinated.

16 So when it's in terms of deciding when some
17 of the sort of consistency within that partnership of --
18 they felt that it would be good to have someone to be the
19 lead, I guess, to coordinate the meetings or to say, "Now
20 we should". I think that's what they were referring to.
21 So they made that as a recommendation.

22 **MR. ENGELMANN:** All right. Now, as well on
23 page 17, you have a caption "Training for Students on
24 Issues of Abuse"?

25 **DR. HAWES:** Yes.

1 **MR. ENGELMANN:** Given your involvement with
2 this work and I am just curious about the views of -- your
3 own views and those of the board with respect to making
4 children aware. Is that an important part of this?

5 **DR. HAWES:** Yes, it is.

6 **MR. ENGELMANN:** All right. And you make
7 reference to Tab P, a copy of Care for Kids. Can you tell
8 us what that is and how that's come about?

9 **DR. HAWES:** Care for Kids is a program
10 looking at addressing healthy sexuality in our kindergarten
11 program and, as you indicated in Tab P, there's sort of a
12 synopsis of some of the issues that would be covered. And
13 it is in -- it was developed in conjunction with the Leeds,
14 Grenville and Lanark Health Unit.

15 **MR. ENGELMANN:** I note there is a reference
16 on the first page:

17 "Because of the increased number of
18 reported cases of child sexual abuse,
19 an increased request to confront this
20 crime with programs for prevention
21 become apparent that formal
22 education was needed."

23 **DR. HAWES:** Yes.

24 **MR. ENGELMANN:** The formal education that's
25 being referred to -- that's formal education for students

1 in the schools?

2 DR. HAWES: Yes.

3 MR. ENGELMANN: And some of the messages
4 that you're trying to teach the children are set out at
5 page 2. Is that fair?

6 DR. HAWES: Yes, that's correct.

7 MR. ENGELMANN: And this program has been
8 implemented?

9 DR. HAWES: Yes, it is.

10 MR. ENGELMANN: And have you seen some
11 results?

12 DR. HAWES: It certainly -- we found that
13 the teachers are reporting that -- and parents, that
14 children are feeling more comfortable to talk about -- and
15 there have been cases where children have come forward and
16 identified in the discussions or after the fact. So they
17 really felt that this opened up and gave them a vehicle to
18 talk to students and to model the messages around
19 inappropriate touching and the importance of reporting.

20 MR. ENGELMANN: All right. So let's go to
21 page 18 of your report then, Tab 1, Board's Response to
22 Allegations of Abuse.

23 I think we've talked about two requirements
24 of the board and board staff. One is the duty to report
25 under the *Child and Family Services*; correct?

1 DR. HAWES: Yes.

2 MR. ENGELMANN: And the other is the duty to
3 report. For example, if it's a member of the teaching
4 staff to the College of Teachers?

5 DR. HAWES: Yes.

6 MR. ENGELMANN: With respect to the duty to
7 report to the Children's Aid Society, when is that report
8 made?

9 DR. HAWES: The report by the teacher is
10 made immediately upon when they have reasonable grounds
11 that they have concerns.

12 MR. ENGELMANN: Is there any protocol with
13 respect to assisting teachers if they have some doubt about
14 reporting?

15 DR. HAWES: The handbook does address that.
16 If teachers have any suspicions, that they can always call
17 CAS and share their, you know, questions and have them
18 answered.

19 Certainly we also encourage them to clarify
20 if they have any suspicions whatsoever and that's why the
21 indicators are so important because sometimes it's not a
22 child who specifically identifies, but it's by their
23 behaviour and things that they may have observed. So it's
24 really important to make the report.

25 MR. ENGELMANN: Now, you talk about at page

1 18:

2 "If an accusation of physical or sexual
3 abuse is made against a staff member,
4 he or she is immediately removed from
5 the classroom and the staff member is
6 suspended with pay pending the
7 investigation by the CAS and/or
8 disposition of any criminal charges."

9 Now, is that a policy that is set out in a
10 protocol or is that a practice?

11 **DR. HAWES:** It's a requirement to remove the
12 teacher from their duties with students and ---

13 **MR. ENGELMANN:** And that's a legislative
14 requirement?

15 **DR. HAWES:** That's a legislative requirement
16 if they're under investigation.

17 The board has the opportunity to have the
18 employee work in another capacity, for example, at the
19 board office where there wouldn't be involvement with
20 students.

21 **MR. ENGELMANN:** Well, I was just curious
22 because at the end of that section it says:

23 "Each circumstance is addressed on a
24 case-by-case basis."

25 So you're not suggesting that removing that

1 teacher or the alleged perpetrator, whether it's a teacher
2 or other staff member, from contact with students. That is
3 a requirement?

4 DR. HAWES: Yes.

5 MR. ENGELMANN: The case-by-case is what may
6 happen to them in the meantime?

7 DR. HAWES: And in terms of the
8 investigation of charges, the earlier paragraphs. So it's
9 referring to -- case-by-case is handled by CAS. There may
10 be a situation where Children's Aid Society says that
11 they're not going to investigate at this time or they don't
12 feel it's required to take the teacher out.

13 That would not be the case in the sexual
14 abuse cases though.

15 MR. ENGELMANN: So what happens if the
16 alleged perpetrator is not your employee? For example, if
17 it's the liaison priest or perhaps the bus driver?

18 DR. HAWES: In all cases, the board is
19 required if they feel students are at risk, to have the
20 individual not be in contact with the students if the
21 belief was they were at risk. And they would discuss that
22 with Children's Aid and take our direction with Children's
23 Aid Society.

24 MR. ENGELMANN: Would there be some
25 requirement to discuss that issue with that individual's

1 employer, whether that be the diocese or a bus company?

2 DR. HAWES: Yes, there would be.

3 THE COMMISSIONER: In paragraph 5 you, as
4 true teachers, seem to want to guard me against impeding in
5 the denominational rights of the catholic education for
6 students. And as a good student, I will heed that
7 recommendation, but don't you think there is a possibility
8 of a conflict in the sense that if there is an allegation
9 against a liaison priest, we've heard beforehand that it is
10 the bishop that controls who goes into the school.

11 Do you have any protocol dealing with that
12 situation, or is that on a case-by-case basis?

13 DR. HAWES: There is no specific protocol
14 that would specify, that I'm aware of, but the same
15 protocol is in place in the sense that the individual, if
16 we felt the students -- if there was any question from CAS
17 that there was -- that they were at risk, then those
18 cautions would be put into place. I would put -- it would
19 be in conjunction with the archdiocese or the diocese. CAS
20 would work with them to -- I'm not answering, I'm sorry.

21 THE COMMISSIONER: Well, you are, but what
22 you're saying though is that -- what I want to see is, if
23 there is a risk ---

24 DR. HAWES: Yes.

25 THE COMMISSIONER: --- who makes the

1 determination that the liaison priest is not to go with the
2 children?

3 And so, for example, let's assume that the
4 school board has reported a case to the Children's Aid
5 Society against a liaison priest, and you feel that the
6 liaison priest should be excluded and the bishop feels that
7 the liaison priest is going to stay. What happens then?

8 Is there a protocol? First of all, no
9 matter what, is there a protocol to deal with that
10 situation?

11 **DR. HAWES:** I don't know if there's a
12 protocol to deal with that, but we would be obliged to --
13 we would be obligated to ensure that no one is on our
14 premises or with our students, that we're putting them at
15 risk.

16 I don't think it would change that the law
17 would require that, you know, that *The Education Act* would
18 require that anyone who was going to put a child at risk
19 could not be on the premises, so that situation, if the
20 board felt that an individual, bus driver or priest, was
21 going -- any individual, it doesn't change whether the
22 individual is -- it's specific that you could not allow
23 anyone who is going to put a child at risk. So ---

24 **THE COMMISSIONER:** There would be a conflict
25 there between church and school?

1 **DR. HAWES:** In terms of a discussion, I know
2 that from my experience that I don't think there would be
3 that conflict just given the situations I've been in. But
4 we do discuss and coordinate. It would be our director;
5 our Superintendent of Religious and Family Studies would
6 certainly be involved, but my experience is it's, you know,
7 we're all in agreement in terms of ensuring the safety of
8 our children.

9 **THE COMMISSIONER:** We're always in agreement
10 when there's no disagreement.

11 **DR. HAWES:** Okay.

12 **THE COMMISSIONER:** When there is a specific
13 problem, it's always good to have a protocol to fall back
14 on.

15 **DR. HAWES:** Okay.

16 **THE COMMISSIONER:** Okay, thank you.

17 **DR. HAWES:** Thank you.

18 **MR. ENGELMANN:** Just in closing on this
19 issue of special concerns for the Roman Catholic School
20 Board, the board says it doesn't want to see any
21 recommendations which would impede its denomination right
22 to the provision of a catholic education for its students.

23 Could you give us an example of one that you
24 might think of? Because, you know, when I looked at this
25 initially I was wondering how this might come about.

1 DR. HAWES: I think we just wanted to close
2 with the ---

3 THE COMMISSIONER: The shot across the bow.

4 DR. HAWES: I'm not exactly sure how to
5 reply.

6 It was just more of a general framework of
7 the importance of our parish priests and our involvement
8 with the bishops as far as liturgical celebrations and
9 involvement in our schools for all sacraments, and whether
10 it's reconciliation or it is celebration of the Eucharist.
11 That is so important to our ---

12 MR. ENGELMANN: I understand the importance,
13 perhaps not as well as you do, but I was just wondering why
14 that would conflict with a recommendation to assist in
15 either preventing or eradicating or better dealing with
16 this important problem of child sexual abuse. I don't see
17 it as being a religious issue in any way.

18 DR. HAWES: I don't think it would conflict.
19 It's more in terms of a framework. We talked earlier about
20 confessionals. We wouldn't want any recommendations that
21 would impede on priests being able to ---

22 MR. ENGELMANN: To hear confessions?

23 DR. HAWES: To hear confessions, yes.

24 MR. ENGELMANN: Okay. That would be an
25 example?

1 DR. HAWES: That would be an example.

2 MR. ENGELMANN: Thank you.

3 Dr. Dawes (sic), thank you very much -- Dr.
4 Hawes, I apologize -- thank you very much for answering my
5 questions. There may be a few questions from some of the
6 other counsel and they will identify themselves before
7 asking you questions.

8 DR. HAWES: Okay. Thank you.

9 THE COMMISSIONER: Mr. Manson.

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

11 MANSON:

12 MR. MANSON: Hello, Dr. Hawes. My name is
13 Allan Manson and I'm one of the lawyers for the Citizens
14 for Community Renewal, which is a community group in
15 Cornwall concerned about institutional reform and
16 especially the protection of children.

17 I do have a few questions for you. First,
18 just to confirm, am I correct that your Board didn't screen
19 staff and volunteers, for example, criminal background
20 checks, before January 1, 1999?

21 DR. HAWES: That's my understanding is there
22 was no policy in place.

23 MR. MANSON: But there was no screening as
24 well?

25 DR. HAWES: That's correct.

1 **MR. MANSON:** I'd like to move to the
2 question of bus drivers for a second. It seems that you,
3 at the moment, leave the question of background checks to
4 their employers. Is that correct?

5 **DR. HAWES:** That's correct.

6 **MR. MANSON:** And how many subcontractors
7 does your Board have?

8 **DR. HAWES:** I don't know exactly how many
9 subcontractors we would have.

10 **MR. MANSON:** More than one?

11 **DR. HAWES:** Oh, absolutely. We would have -
12 --

13 **MR. MANSON:** Less than 10?

14 **DR. HAWES:** I would think around 10, but I -
15 - it would certainly be greater than one.

16 **MR. MANSON:** And how many employees would
17 each subcontractor have on average?

18 **DR. HAWES:** Transportation isn't my area.
19 How many employees?

20 **THE COMMISSIONER:** How many bus drivers?

21 **DR. HAWES:** How many bus drivers?

22 **MR. MANSON:** That's a much better way of
23 putting it. Thank you, Commissioner.

24 That's -- the concern is the bus drivers,
25 not the other employees. Thank you.

1 DR. HAWES: Well, probably 200.

2 MR. MANSON: Do you do anything to audit the
3 checks by the subcontractors?

4 DR. HAWES: It is my understanding that the
5 Transportation Department does have written assurances from
6 the bus company that they have the criminal reference
7 checks on all bus drivers that drive for our School Board.

8 MR. MANSON: And is that done annually?

9 DR. HAWES: It's my understanding it's done
10 annually. The bus drivers, as all employees, are required
11 to have an annual -- sign an annual declaration, and so
12 it's my understanding that they notify the Board that the
13 annual declaration for continued bus drivers or new
14 criminal reference checks for new bus drivers are done.

15 MR. MANSON: And do you know when this
16 started with the bus drivers, the annual audit of their
17 checks?

18 DR. HAWES: I'm sorry, I don't.

19 MR. MANSON: Can we move on to the duty
20 under the *Child and Family Services Act*, the section 72
21 duty to report?

22 DR. HAWES: Yes.

23 MR. MANSON: I take it that you leave the
24 training of teachers up to the individual principals?

25 DR. HAWES: The regular training we do leave

1 up to the principals, but as I mentioned, there are
2 sessions provided that are -- like when this protocol came
3 into being -- so periodically but not annually is it
4 provided. It's left up annually to the principals, except
5 for new teachers.

6 **MR. MANSON:** Are principals -- and they're
7 not required to do this annually; it's just recommended?

8 **DR. HAWES:** They are asked to, at one of the
9 first staff meetings in the year, to review the protocol.

10 **MR. MANSON:** Your outline indicated that
11 it's recommended.

12 **DR. HAWES:** Yes.

13 **MR. MANSON:** So they're not required?

14 **DR. HAWES:** They're not legally required to
15 do it.

16 **MR. MANSON:** Well, I mean, your Board
17 doesn't require each principal to do this. Is that
18 correct?

19 **DR. HAWES:** Well, I guess I'm hesitating
20 because I always think when the superintendent asks them,
21 that means they're required, but no, it's not a requirement
22 as in a legal requirement.

23 **MR. MANSON:** The word "recommended" was your
24 word?

25 **DR. HAWES:** Yes.

1 **MR. MANSON:** Do you ask them to keep notes
2 or minutes of the kind of training?

3 **DR. HAWES:** No, I don't.

4 **MR. MANSON:** And so there's no audit by the
5 Board of the training sessions because you don't ask them
6 to keep minutes, so there's no reports to you?

7 **DR. HAWES:** That's correct.

8 **MR. MANSON:** If we could just for a minute
9 talk about the current protocols with respect to reporting.
10 You describe the new Tab O, the 2001 protocol, as being
11 "larger and more detailed", "it clarifies in great detail".
12 That was your comments to Mr. Engelmann a few minutes ago,
13 correct?

14 **DR. HAWES:** Yes.

15 **MR. MANSON:** But it doesn't say very much
16 about teachers and principals and their interaction, does
17 it?

18 **DR. HAWES:** No, it doesn't have a detailed
19 section on that. It's really reviewing the procedures from
20 the responsibility of the CAS, although it does certainly -
21 - the teachers' responsibility to cooperate and to assist
22 and certainly to report.

23 **MR. MANSON:** But it does require the teacher
24 to report to the principal prior to reporting to the CAS,
25 doesn't it?

1 DR. HAWES: It doesn't require that a
2 teacher report it to the principal.

3 THE COMMISSIONER: It used to, but not under
4 the new one.

5 MR. MANSON: I understand that, Mr.
6 Commissioner, but I'm looking at the flowchart.

7 THE COMMISSIONER: Yeah. M'hm.

8 MR. MANSON: Can we bring up the flowchart?
9 It's page 55 of Tab O.

10 THE COMMISSIONER: Okay. Page 55, Tab O.

11 MR. MANSON: There. "Does the setting have
12 a supervisor?" "Yes, professional consults immediately
13 with supervisor."

14 THE COMMISSIONER: Okay. I've got page 13
15 of N.

16 DR. HAWES: Yes.

17 THE COMMISSIONER: And that one shows it
18 differently. So that's a good point that you've got there,
19 Mr. Manson.

20 MR. MANSON: Well, let's look at page 13 of
21 Tab N.

22 THE COMMISSIONER: Hold on. Tab N, page 13.
23 That's not it. "N" as in Norman.

24 MR. MANSON: It's on the reverse page, 12 --
25 13 comes before 12.

1 **THE COMMISSIONER:** Oh, okay, 13 comes before
2 12.

3 **DR. HAWES:** Sorry.

4 **MR. MANSON:** There is a flowchart, Tab N.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **THE COMMISSIONER:** There you go. Go up some
7 more.

8 Mr. Manson, we have it on the screen now and
9 you're quite -- this is the one I was looking at when I was
10 trying to understand that that antiquated thing of
11 reporting to the principal was out, and I looked at this
12 one to satisfy myself of that, but you're saying that this
13 one here ---

14 **MR. MANSON:** If you look down the middle ---
15 can we could just scroll up a touch -- "Professional
16 immediately informs principal or delegate".

17 **THE COMMISSIONER:** Yes, okay, but look at
18 three. There's an asterisk there and it says:

19 "Notification to the principal or
20 designate should occur either before or
21 immediately after the referral to
22 Children's Aid Society Family and
23 Children's Services."

24 So there's that.

25 **MR. MANSON:** It's slightly different than --

1 -

2 **THE COMMISSIONER:** It is.

3 **MR. MANSON:** The asterisk in number 3 on the
4 document 0 reads:

5 "This consultation is to inform
6 supervisors or administrators that the
7 staff member is reporting suspected
8 child abuse or neglect."

9 My question for you was, is that simply a
10 recording role for the principal?

11 **DR. HAWES:** Yes, it is.

12 **MR. MANSON:** Do you have any material
13 indicating how you expect the principal to respond to a
14 teacher who comes and says, "I am now in a Section 72 duty
15 to report position"?

16 **DR. HAWES:** The principal is required to
17 ensure that the teacher understands their obligation to
18 report and that they make that report to CAS. Okay? It
19 may be that the teacher understands their rights and
20 responsibilities without any assistance, but that's the
21 direction to the principal and to ensure that it is
22 followed up and that they assist when the police and CAS
23 come in ---

24 **MR. MANSON:** We're not at that -- my
25 question is, do you have any policy or protocol that speaks

1 to what the principal should do when a teacher comes and
2 says, "I have grounds to report under Section 72"?

3 DR. HAWES: No. This handbook outlines the
4 duties but it doesn't --- other than that, no we don't.

5 THE COMMISSIONER: I'm sorry, Mr. Manson,
6 but to just assist a little bit. Look at page 40 of O.

7 I don't know that it completely answers
8 your question or your concern but if you look at page 40,
9 the fourth paragraph, it says:

10 "Given the contentious nature of the
11 reporting process, many school boards'
12 procedures historically had the teacher
13 reporting their suspicion to the
14 principal who then relayed the referral
15 to the CAS."

16 And they say:

17 "The new reporting requirements under
18 CAS no longer sanction this process."

19 So it says that it has to be the teacher but
20 then it falls back into maybe old ways:

21 "One option available to the various
22 school boards that are signatories to
23 this process may be to develop a
24 strategy whereby teachers can still
25 seek the counsel or advice of the

1 principal."

2 **MR. MANSON:** Exactly.

3 **THE COMMISSIONER:** Okay. Then it says
4 something about it's often very crucial in responding
5 referrals that the person act forthwith and the teacher or
6 staff member must not unduly wait for the principal's
7 consultation to report.

8 So there, I think that's the best they've
9 got so far and I leave it to you now.

10 **MR. MANSON:** My concern, Dr. Hawes, is that
11 how do we understand the role of the principal in your
12 board? Is the principal simply a scribe who makes a note
13 that the teacher is going to report, or do you expect the
14 principal to engage the teacher in a discussion of the
15 issue?

16 **DR. HAWES:** I think we would see it that
17 their role is to assist and it may be just to scribe
18 because the teacher is clear on the practice and informs
19 them this happened. "I'm going to call", and they call and
20 they make note that it occurred and ensure that the
21 paperwork is done and make sure that the investigation is
22 assisted with. It may be that the principal needs to
23 assist in helping them to understand ---

24 **MR. MANSON:** Excuse me. Helping him to
25 understand what?

1 **DR. HAWES:** What the protocol is, their duty
2 to respond. Sometimes it's not a clear-cut -- they may
3 have a suspicion or concern and they may discuss, you know,
4 would this be something that would be reasonable grounds.
5 So they may want to engage with the principal and the
6 principal's role certainly is to assist and to ensure that
7 they make that call even based on suspicion.

8 **MR. MANSON:** But you don't have any
9 document, any policy or protocol, that would assist the
10 principal in understanding their role in these
11 circumstances?

12 **DR. HAWES:** Not beyond this document, no,
13 sir.

14 **MR. MANSON:** My other concern is with
15 respect to confidentiality. In the handbook you have a
16 number of suggestions of things that a teacher might say to
17 a young person. This is at page 8 -- or page 10, I guess,
18 of the handbook.

19 I don't mean this to be judgmental or for
20 you to consider it as a criticism, but the one thing that
21 nothing deals with is how to assist a teacher when a young
22 kid says, "Can I tell you something in confidence?".

23 **DR. HAWES:** I thought that there is a
24 section that does help teachers to look at how to word
25 their questions so that they're not leading questions.

1 **MR. MANSON:** That's not my point. It's not
2 about leading questions.

3 **DR. HAWES:** But still, how to engage a child
4 so that they will feel comfortable in sharing their
5 concerns. Approaching children, this is -- I believe on
6 page 63, sir ---

7 **MR. MANSON:** Page 10 of Tab N, you've got
8 some --- Tab N, page 10 ---

9 **DR. HAWES:** Sorry, again.

10 **MR. MANSON:** Page 10, if I've got this down
11 correctly ---

12 **DR. HAWES:** Yes.

13 **MR. MANSON:** --- you've got some suggestions
14 ---

15 **DR. HAWES:** Yes.

16 **MR. MANSON:** --- things like, "I really care
17 about what happens to you". "I'd like to help you sort out
18 any problems or worries."?

19 **DR. HAWES:** Yes.

20 **MR. MANSON:** But the situation that I'm
21 concerned about this is. A young person comes in to the
22 teacher and says, "I want to tell you something in
23 confidence. Can I?"

24 You've got nothing to assist the teacher in
25 how to respond to that, do you? I'm not being critical ---

1 DR. HAWES: No, no.

2 MR. MANSON: --- I think this is a ---

3 DR. HAWES: No. I appreciate you're
4 concern. I'm just trying to search my mind if there's any
5 section in here that specifically addresses that.

6 MR. MANSON: You understand the problem
7 don't you? If the student says to the teacher, "Can I tell
8 you something and it won't go any further, will it?".

9 DR. HAWES: I'll try to find the section.
10 Teachers are instructed that as far as confidentiality that
11 their confidentiality -- they need to make it clear to the
12 child that they would have to share that information with
13 CAS. Okay?

14 MR. MANSON: Exactly.

15 DR. HAWES: If they're concerned for their
16 well-being and protection -- so they are obligated to do
17 that.

18 MR. MANSON: And that's in fact at page 8 of
19 the handbook. It says:

20 "... even if it involves confidential
21 information."

22 DR. HAWES: Yes.

23 MR. MANSON: The teacher's duty to report
24 even if it involves confidential information.

25 DR. HAWES: Yes. Absolutely.

1 **MR. MANSON:** So my concern is the teacher
2 when faced with a young person who says, "Can I tell you
3 something just between you and me?", the teacher has a
4 dilemma that you don't address anywhere. Isn't that
5 correct?

6 **DR. HAWES:** Absolutely, we don't
7 specifically address it. I ---

8 **MR. MANSON:** But the dilemma, just to be
9 frank about it, is either to say, "Please tell me and it's
10 just between us" which would be a lie, wouldn't it?

11 **DR. HAWES:** I don't think that would be the
12 intention here. I think ---

13 **MR. MANSON:** But that would certainly be a
14 lie to say that to a student?

15 **DR. HAWES:** Oh, absolutely. I think the
16 teacher, if a child said that, they may not realize that
17 the confidence that they were giving -- but it doesn't
18 address that. No, it doesn't.

19 **MR. MANSON:** Because the alternative would
20 be to say, "Whatever you tell me, if it is an allegation of
21 sexual abuse, I will report this to the CAS". That would
22 be the correct answer according to these documents; right?

23 **THE COMMISSIONER:** Not necessarily. If it's
24 any kind of abuse that I must report, I will report.

25 **MR. MANSON:** Yes.

1 THE COMMISSIONER: Yes.

2 DR. HAWES: M'hm.

3 MR. MANSON: That would be -- my point, Dr.
4 Hawes, is simply at that stage, the student might say,
5 "Well, I'm not talking to you".

6 DR. HAWES: M'hm.

7 MR. MANSON: Isn't that correct?

8 DR. HAWES: That may be.

9 MR. MANSON: And so the duty to report can
10 be a barrier to a teacher developing some rapport with a
11 student whereby the student might be able to confront the
12 abuse situation?

13 DR. HAWES: If I can, in a situation where
14 an individual started to report, they had concerns and
15 seemed to be upset and anxious and distraught but the once
16 they were told that, they backed away, to me that would be
17 reasonable grounds to report that you were concerned for
18 the well-being of that child. And I think ---

19 MR. MANSON: I am not disagreeing with you,
20 but I am saying that may not be what the child wants;
21 correct?

22 DR. HAWES: It may not be, no.

23 MR. MANSON: And once that gets known that
24 might not be helpful to other children in a similar
25 situation; correct?

1 **DR. HAWES:** I think, no, certainly not and
2 that's really --- there was a fair amount of time I know
3 that we discussed the -- again on page 10 that you referred
4 to, not to try to investigate but just, you know, to --
5 once you have a concern, a suspicion, that, you know, that
6 this child's safety is in need of protection ---

7 **MR. MANSON:** All I'm trying to suggest, Dr.
8 Hawes, is this mandatory duty ---

9 **DR. HAWES:** Yes?

10 **MR. MANSON:** --- might place a teacher in a
11 real dilemma if you've got a student who's not quite sure
12 whether they want to go beyond this conversation with the
13 teacher. Would you agree with that? That that would a
14 dilemma for a teacher?

15 **DR. HAWES:** It might be a dilemma. I think
16 the legislation is quite clear ---

17 **MR. MANSON:** Oh, I'm not saying the
18 legislation's not clear. I'm just wondering whether it's a
19 good idea.

20 Those are all my questions, Dr. Hawes.

21 **DR. HAWES:** Thank you very much.

22 **THE COMMISSIONER:** Mr. Lee.

23 Well, okay, maybe we should canvass how much
24 time we're going to be. If we're going to be more than 20
25 minutes or half-and-hour in all, we'll take the lunch break

1 and we'll come back later.

2 **MR. LEE:** I think that means we'll be taking
3 the lunch break, sir. I'll probably be 20-to-30 minutes
4 myself.

5 **THE COMMISSIONER:** All right. So let's take
6 the lunch break; we'll come back at 2:00. Thank you.

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

9 The hearing will resume at 2:00 p.m.

10 --- Upon recessing at 12:42 p.m. /

11 L'audience est suspendue à 12h42

12 --- Upon resuming at 2:04 p.m. /

13 L'audience est reprise à 14h04

14 **THE REGISTRAR:** The hearing is now resumed.
15 Please be seated. Veuillez vous asseoir.

16 **DONALEEN HAWES, Resumed/Sous le même serment:**

17 **THE COMMISSIONER:** Good afternoon.

18 Mr. Lee?

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

20 **MR. LEE:** Good afternoon Mr. Commissioner.

21 Dr. Hawes, my name is Dallas Lee. I
22 represent a party at the Inquiry known as the Victims
23 Group.

24 I just have a few questions for you. I'd
25 like to start with Tab L of your Book of Documents. That's

1 the 1986 Child Abuse Protocol.

2 My understanding from your evidence in-chief
3 is that this is the first child abuse protocol that you
4 know of?

5 DR. HAWES: That I know of, yes.

6 MR. LEE: You have no information indicating
7 there was anything earlier?

8 DR. HAWES: No, I don't.

9 MR. LEE: Can I take you to page 1 in that
10 document. So there is the title page, the table of
11 contents and then page 1. Are you there?

12 DR. HAWES: Yes, I am, sir.

13 MR. LEE: At the start of that document we
14 have the background, and you explained to us that this was
15 one of the sections that was taken out of the 1988
16 revision. Is that right?

17 DR. HAWES: That's my understanding.

18 MR. LEE: The second paragraph of that, I'd
19 like to read it to you:

20 "School employees being in daily
21 contact with children are in an
22 excellent position to identify abuse or
23 neglect. Last year alone, statistics
24 for the three united counties show that
25 149 cases of child abuse were reported.

1 This is a substantial increase from the
2 previous year. It is evidently a
3 serious problem which requires our
4 attention."

5 Do you see that there?

6 **DR. HAWES:** Yes, I do.

7 **MR. LEE:** Would you agree with that
8 statement?

9 **DR. HAWES:** I ---

10 **MR. LEE:** In particular, let's take the
11 first sentence. Let's take the first sentence, that school
12 employees are in daily contact with children and are
13 therefore in an excellent position to identify abuse or
14 neglect?

15 **DR. HAWES:** Yes, I do.

16 **MR. LEE:** And I think you touched on that a
17 little bit with Mr. Engelmann, the idea that teachers are
18 in a unique position given the day-to-day contact how much
19 they work with them.

20 And I take it the fact that this isn't
21 included in the '88 revision doesn't change the fact that
22 you agree with that statement. It's just something that
23 didn't make it in because it was background. Is that
24 right?

25 **DR. HAWES:** Yes, that is my understanding.

1 **MR. LEE:** If you turn to page 2 of the
2 protocol, there are four categories of abuse listed;
3 physical abuse; emotional abuse; neglect; and sexual abuse.
4 And would you agree with me that this protocol is designed
5 to deal with all those forms of abuse?

6 **DR. HAWES:** Yes, sir.

7 **MR. LEE:** This isn't a sexual abuse
8 protocol, it's a child abuse protocol. Is that right?

9 **DR. HAWES:** Yes.

10 **MR. LEE:** On page 3, we have a list of
11 principles that I take it are provided to guide those who
12 are bound by the protocol. It begins by reading:

13 "Every situation involving child abuse
14 . . ."

15 And, again, child abuse I take it refers to
16 those four categories. Do you agree with that?

17 **DR. HAWES:** Yes, sir.

18 **MR. LEE:** ". . . must be assessed
19 individually to determine the best
20 interest of the child involved.
21 Creative application of the following
22 principles will help to guide us."

23 And I am particularly interested in number 2
24 which reads:

25 "Following disclosure of abuse, the

1 child victim and adult offender should
2 be separated immediately."

3 I think in your examination in-chief, you
4 told Mr. Engelmann:

5 "Now that's essentially a legislative
6 requirement that the person against
7 whom an allegation has been made needs
8 to be removed immediately from contact
9 with children."

10 Is that right?

11 **DR. HAWES:** Yes.

12 **MR. LEE:** And this protocol pre-dates that
13 legislative requirement but it's taken as a guiding
14 principle. Is that right?

15 **DR. HAWES:** Yes.

16 **MR. LEE:** And would you agree with me that
17 makes sense?

18 **DR. HAWES:** Yes.

19 **MR. LEE:** It seems like something fairly
20 obvious that you're going to separate the two of them.

21 I don't need to take you to them, but I
22 certainly will if you would like me to, but this is
23 repeated again in the 1988 protocol and it's also in the
24 larger joint protocol of 1986. And if I -- you're flipping
25 your pages, so Tab M of your Book of Documents is the

1 revision of the 1988 document.

2 DR. HAWES: Yes.

3 MR. LEE: And if you look at page 2 of that,
4 near the middle of the page, you have "Principles" again.
5 And we have again:

6 "Following disclosure of abuse, the
7 child victim and adult offender should
8 be separated immediately".

9 In one or the other, just to help out, when
10 you were talking with Mr. Engelmann about the difference
11 between the two of them, you said there were a couple of
12 words. You'll see above in the document you have opened
13 now, you have the period immediately before the enumerated
14 list reads:

15 "Application of the following
16 principles will help to guide us."

17 If you go back to the '86, it's the
18 "creative application". So that's one of the ones that --
19 it sounds like perhaps this was not so optional any more it
20 sounds to me. Would you agree with that?

21 DR. HAWES: They had removed the word
22 "creative", but it still says "will help to guide you" so I
23 am not sure ---

24 MR. LEE: You were involved in removing it?

25 DR. HAWES: I wasn't involved and I can't

1 speak to that.

2 MR. LEE: Fair enough. The other reference
3 I would just briefly bring you to is in Tab J of your Book
4 of Documents which is the Lanark County 1986 Guidelines.
5 And if you look at the very first page of those guidelines,
6 there is a statement of principles and this is the document
7 that has as a party to it a number of different agencies
8 including the school board. Is that correct?

9 DR. HAWES: Yes, that's correct.

10 MR. LEE: And if you look at number 7:

11 "Following disclosure of sexual abuse,
12 the child/victim and offender should be
13 separated".

14 DR. HAWES: Yes.

15 MR. LEE: So, similar principles ---

16 DR. HAWES: Yes.

17 MR. LEE: --- between the three policies.

18 Is that right?

19 DR. HAWES: Absolutely.

20 MR. LEE: Can you please turn to page 7 of
21 Tab L, so that's the 1986 protocol, the earliest one, page
22 7. And this page is titled "School Procedure" and
23 subtitled "Reports of Child Sexual Abuse and Suggested
24 Action Sources of Report".

25 Number 4 is titled "Suspicion of Teacher"

1 and the first bullet under that is "Gather Documentation".
2 Can you shed any light on exactly what's meant by "Gather
3 Documentation" there. Do you know?

4 **DR. HAWES:** I can't in that I didn't discuss
5 that with the -- any of the office of the document. It's
6 to gather the documentation, whatever notes, for example,
7 they would have made or information if there was any
8 notations. That would be what I would presume
9 documentation would be. But I can't -- I have no personal
10 knowledge of the document.

11 **MR. LEE:** Fair enough. The reason I asked
12 is that this is the only reference in this document I see
13 anything akin to record-keeping and that's what I'd like to
14 discuss with you. So I didn't exactly know what we were
15 dealing with there.

16 Are you in a position to be able to help us
17 understand whether it's a written policy or a procedure or
18 just a general practice in place if we take this era, so
19 1986, on record-keeping when an allegation of abuse is
20 received by a teacher, by a principal, by whoever it is?
21 Do you know anything about what the policy in place at that
22 time would have been?

23 **DR. HAWES:** It's my understanding that this
24 is the guideline and procedure for the response at the time
25 in Stormont, Dundas and Glengarry County. This would be

1 the procedure, that you would gather -- as you've
2 identified, gather the documents if you had a suspicion.
3 But there wouldn't be an additional policy that would
4 determine any further information. This is the policy
5 that I was directed to.

6 **MR. LEE:** The reason I ask, and the problem
7 I have is it's not on the documentation side of things,
8 it's not detailed. It doesn't tell us what documentation
9 should be created, as an example. It doesn't have any
10 suggestion of "a principal must keep the following notes"
11 or "must create the following file".

12 Do you know of any policy at that time that
13 existed in that regard?

14 **DR. HAWES:** No, I don't.

15 **MR. LEE:** And you don't know of anything
16 earlier than that I take it?

17 **DR. HAWES:** No, I don't.

18 **MR. LEE:** Would you agree with me, generally
19 that -- I understand there is not a policy in place -- but
20 generally that it would be important for a principal
21 receiving an allegation to document that allegation and his
22 steps that he took?

23 **DR. HAWES:** Yes.

24 **MR. LEE:** And can you help me understand if
25 that occurred, where those notes or those documents or

1 those reports would be kept?

2 I mean, my understanding is there is an
3 Ontario Student Record, and I'll bring you the document
4 later, and my guess is going to be it wouldn't be kept
5 there?

6 DR. HAWES: No.

7 MR. LEE: So what other kind of file systems
8 would be in place? Can you help me with that at all?

9 DR. HAWES: Can I ask just as a point of
10 clarification, sir, are you asking me at the time that this
11 document was written what would have been the policies for
12 documentation or currently what ---

13 MR. LEE: At this point, I'm concerned with
14 historically.

15 DR. HAWES: Okay.

16 MR. LEE: So if you want to take -- let's
17 take 1960 as the starting date to 1986 when this was
18 written, if there were variations that you know of in there
19 I'm happy to hear about those, but generally if you can
20 help me out with that?

21 DR. HAWES: If I can rephrase your question,
22 you're asking at this time whether there -- what would have
23 been the filing system for documentation for principals, if
24 they kept documentation?

25 MR. LEE: Yes. I don't understand if ---

1 DR. HAWES: Okay.

2 MR. LEE: --- I've never been in a
3 principal's office ---

4 THE COMMISSIONER: Really?

5 MR. LEE: Officially. Officially, thank you
6 for asking.

7 (LAUGHTER/RIRES)

8 MR. LEE: It was ---

9 THE COMMISSIONER: Could we get records of
10 your school?

11 MR. LEE: I'm not here to answer questions,
12 Mr. Commissioner.

13 (LAUGHTER/RIRES)

14 MR. LEE: I don't know what the file
15 breakdown is.

16 DR. HAWES: Okay.

17 MR. LEE: I don't know. Does every teacher
18 have a file? Does every student have two files? Does the
19 principal have a miscellaneous file? I just have no idea,
20 so anything you can tell me about that would be helpful.

21 DR. HAWES: Okay. It's difficult to speak
22 to at this time in this area what they would have advised,
23 but in my experience both at that time in the board that
24 I've worked with, the direction for principals would be
25 that -- as you mentioned there's an Ontario Student Record

1 which it would not be kept in.

2 There is a documentation file but this kind
3 of information wouldn't be kept in it. Principals would
4 keep a file of their notes so they would make notations on
5 many things in their file and they would have kept a file
6 with their private -- might include a daily log where they
7 would have, you know, identified time and note of
8 information that they felt that they would want to refer
9 to.

10 They may have had a specific file for that,
11 it would depend on the individual. There wasn't any thing
12 that determined exactly how, other than if they kept -- any
13 documentation kept could be subpoenaed. And that they had
14 to keep the documentation to refer to at a later time.

15 So that was really the only directions I
16 remember being given because that would have been prior to
17 any legislation on Freedom of Information.

18 **MR. LEE:** It sounds to me like it's -- what
19 you're striving is essentially -- it's, you know, it's a
20 part of the job that any professional has?

21 **DR. HAWES:** Yes.

22 **MR. LEE:** When things happen, you write it
23 down.

24 **DR. HAWES:** Exactly.

25 **MR. LEE:** And whatever the file format,

1 whatever it is, you take your notes, you put your dates in
2 and that's how you keep it. Is that correct?

3 **DR. HAWES:** Yes.

4 **MR. LEE:** No different for a principal?

5 **DR. HAWES:** No, I don't believe so.

6 **MR. LEE:** Do any of your answers or what
7 you've just told me change in relation -- I put it to you
8 with an -- when they receive an allegation of sexual abuse,
9 does it change it at all if that allegation later on is not
10 corroborated, is not supported, is not followed up on?
11 When they receive an allegation, they write it down. Is
12 that your understanding?

13 **DR. HAWES:** Yes.

14 **MR. LEE:** Again, I've reviewed the 1988
15 protocol and there's nothing on documentation or record-
16 keeping in there.

17 I do want to take you though to the more
18 recent documents and if I can take you to Tab O of your
19 Book of Documents, which is the 2001 Child Protection
20 Handbook Protocol. And if I can take you near the back to
21 page 56. Let me take you to page 55 first and this is a
22 flow chart.

23 So the flow chart is titled "Appendix 2,
24 Child Abuse and Neglect Reporting Procedures for Children
25 and Youth Under Age 16" and a couple of pages later on page

1 57 we have the flow chart for over 16.

2 So if I can take you back to page 56. So
3 this follows the under age 16 category, and we have
4 asterisk number two; reads:

5 "All agencies should have a simple
6 reporting form that is used to record
7 the information that will be conveyed
8 to child welfare and to document the
9 report to child welfare. This form
10 should not be used to prompt staff to
11 investigate abuse or neglect but simply
12 to provide a record of their concerns."

13 So there is some guidance on reporting and
14 documentation here. Do you agree with that?

15 **DR. HAWES:** Yes.

16 **MR. LEE:** Can you tell me, at the time this
17 protocol was put into place what happened to those forms?

18 **DR. HAWES:** The ---

19 **MR. LEE:** And, again, I'm looking from the
20 record-keeping perspective. Where do those go?

21 **DR. HAWES:** Right. You can see I believe,
22 the child protection reporting form on 73. It identifies
23 the date that it was completed and who the report was made.
24 I thought it all -- a copy is shared with the Children's
25 Aid Society and principals keep a copy of the form that

1 they complete at the school.

2 **MR. LEE:** Do you know where? I mean, is
3 there anywhere in particular? I'm going to take you to the
4 next protocol and there's a little more guidance and
5 there's a change there I want to discuss with you.

6 At the time, in 2001, do you know
7 specifically if there's a specific protocol and place that
8 we don't have here that dictates where things are going to
9 be kept or how they'll be stored or anything along those
10 lines?

11 **DR. HAWES:** No, I don't.

12 **MR. LEE:** Okay. If we can -- and I
13 mentioned that there is an under 16 and an over 16 bullet
14 two and those are identical, so there's no difference there
15 in terms of that section.

16 **DR. HAWES:** Right.

17 **MR. LEE:** If I can take you to Tab N which
18 is the next year's -- the 2002 handbook protocol and this
19 time it comes earlier in the document, page 12. If I can
20 take you there, please.

21 I am quite certain that I have the wrong
22 page. Okay. The pages seem to be out of order here.

23 If I can take you to -- it is page 12, but
24 it appears in my notes after two pages 13. I can't -- if
25 we can go, Madam Clerk, go earlier than -- or after page

1 13, I'm sorry. No, the other way please. There.

2 So this is page 12 and you'll see at the top
3 it's titled "Under 16" and the following page will have a
4 box at the top. It says "16 and Over".

5 If we can look at bullet two this time, and
6 I'll read it into the record:

7 "Boards of education have a child
8 protection reporting form to record the
9 information that will be conveyed to
10 child welfare and a document to report
11 to child welfare. This form should not
12 be used to prompt staff to investigate
13 abuse or neglect but simply to provide
14 a record of their concerns. The
15 completed form is faxed to CAS/FCS
16 following a referral and is stored in a
17 confidential child protection reports
18 file under the supervision of the
19 principal. Do not store in the child's
20 OSR."

21 So some of that information is the same but
22 it goes a little bit further than that, doesn't it?

23 **DR. HAWES:** Yes.

24 **MR. LEE:** First it tells us don't store it
25 in the OSR and it tells us instead store it in this

1 confidential child protection report?

2 DR. HAWES: M'hm.

3 MR. LEE: Is that right?

4 DR. HAWES: Yes.

5 MR. LEE: And you would agree that this is a
6 new practice put into place in 2002?

7 DR. HAWES: Yes. In terms of the policy,
8 that's not to say that principals might not have had a file
9 that they put all of the forms in and information, but this
10 is the first document that we have that specifies that.

11 MR. LEE: Right. If I can take you to your
12 outline of evidence which is Tab 1 of that document and to
13 page 18, please. Are you there, Dr. Hawes?

14 DR. HAWES: Yes, I am, sir.

15 MR. LEE: We have heading E "The Board's
16 Response to Allegations of Abuse". And if we go to the
17 second paragraph under that, just to set up what the sub-
18 bullets are, it reads:

19 "If an accusation of physical or sexual
20 abuse is made against a staff member,
21 he or she is immediately removed from
22 the classroom ..."

23 To interrupt, that's the legislative
24 requirement you're talking about. Is that right?

25 DR. HAWES: Yes, it is.

1 **MR. LEE:** "... and the staff member is
2 suspended with pay pending
3 investigation by the CAS and/or
4 disposition of any criminal charges.
5 At that time a professional association
6 is notified."

7 And the second bullet reads:

8 "If Children's Aid closes the file, no
9 criminal charges are laid and there is
10 no stated risk associated with the
11 teacher's return to the classroom, the
12 Board will notify the employee that he
13 or she may return to work. The Board
14 may retain on the employee's file any
15 documentation related to the alleged
16 incident for a period of time."

17 **MR. LEE:** Do you see that?

18 **DR. HAWES:** Yes, I do.

19 **MR. LEE:** The language that caught my eye
20 there is that the Board "may" retain some documentation and
21 if they choose to do so they can do it for a period of
22 time. You would agree with me that this appears to be
23 discretionary?

24 **DR. HAWES:** Yes.

25 **MR. LEE:** This isn't --- it's part of the

1 protocol but it's not mandatory. It's not something that
2 you have to do. Is that correct?

3 DR. HAWES: It's not legislated that we're
4 required to.

5 MR. LEE: Is there any policy or practice --
6 and the distinction I use is a policy is generally written,
7 a practice is the way it works -- that dictates these
8 documents should be kept whether the allegation is
9 ultimately proven or not?

10 DR. HAWES: For example, for a teacher, the
11 employee file, if something is put in the employee file it
12 would remain in the file unless a decision was made to
13 remove it.

14 So, for example, if the case was closed and
15 it was found that the accusations were, you know, erroneous
16 and the decision was that it was inappropriate to remain in
17 the file, then a decision would be made to remove it or if
18 an arbitrator just required the board to remove it. So,
19 those are --- it may change depending on a decision.

20 MR. LEE: Okay. The last area I want to
21 talk to you about is found on page 8 of your outline, if I
22 can take you there towards the bottom.

23 This is dealing with the -- I know you've
24 dealt with this a fair bit but I want to make sure I want
25 to understand, dealing with the screening process of

1 candidates and priests and everything else.

2 The last paragraph on that page reads:

3 "The CDSBEO is advised that the
4 archdiocese/diocese undertakes a
5 screening process of priests,
6 candidates and all clergy are required
7 to have a criminal reference check
8 submitted to the archdiocese/diocese.
9 While the board does not receive the
10 particulars concerning the screening
11 results, the board does receive
12 assurances by the diocese that the
13 process is completed. Within the
14 schools, priests are subject to the
15 same protocols as are applicable to
16 staff and other volunteers."

17 It's the first full paragraph on page 9 that
18 I'm interested in, the one about the board not receiving
19 particulars relating to screening results but assurances
20 from the diocese.

21 My understanding of your evidence today was
22 -- my reading of it anyway, was that it slightly in
23 contradiction of that, and my understanding today is that
24 you receive written confirmation from the diocese that the
25 screening process had been completed. Is that right?

1 DR. HAWES: That's my understanding.

2 MR. LEE: Have you seen one of these letters
3 or whatever format it comes in; memos or whatever they are?

4 DR. HAWES: I discussed this with the
5 Superintendent of Human Resources and they were looking at
6 the document. I didn't actually look at the document but,
7 you know, they did confirm or she confirmed that there was
8 a written document, but I didn't actually read it.

9 MR. LEE: My interest is what assurances are
10 being given by the diocese because it seems to me there
11 were a couple of options.

12 The diocese could write and say, "We're
13 required to conduct a criminal record check and we've done
14 so"; full stop. Or alternatively, "We're required to
15 conduct a criminal record check, we've done so and it came
16 back clean".

17 Do you get details of anything or is this
18 just the fact that the law has been complied with or the
19 rule has been complied with?

20 DR. HAWES: It's my understanding that it is
21 that they had been completed and that there are no criminal
22 charges that are listed. So that the particulars aren't
23 given but the assurance isn't just that it was completed,
24 but that it is isn't problematic.

25 MR. LEE: You're getting an assurance from

1 the bishop or archbishop that they are okay with this guy
2 coming into the schools?

3 DR. HAWES: That's my understanding.

4 MR. LEE: And I think you've essentially
5 said to us that that's the bishop or archbishop's decision
6 there. You rely on the bishop or the archbishop to let you
7 know that?

8 DR. HAWES: We do.

9 MR. LEE: And you put faith in the bishop
10 that that decision is a sound one. Is that right? There's
11 no -- can I assume you don't scrutinize the bishop's
12 decision on that point when he gives his assurances that
13 the priest is okay?

14 DR. HAWES: Certainly the Superintendent of
15 Human Resources would be in lots of conversations because
16 she's also the superintendent responsible for religion and
17 family life. So if there were any questions -- they would
18 certainly have a discussion if there was any enquiry but,
19 yes, we do trust that the archbishop is being truthful in
20 the statements.

21 MR. LEE: Or the bishop?

22 DR. HAWES: Or the bishop.

23 MR. LEE: Do you know whether or not, and
24 I'm not asking for specific cases, do you know whether or
25 not there exists with the school board essentially a veto

1 power on a priest?

2 DR. HAWES: M'hm ---

3 MR. LEE: The bishop says this guy's okay
4 and here's the guy I'm sending?

5 DR. HAWES: A priest -- to be a liaison
6 priest?

7 MR. LEE: Yes.

8 DR. HAWES: The liaison priests are the
9 parish priests so we wouldn't veto the decision of which
10 parish a priest would be appointed to, if that's your
11 question.

12 MR. LEE: So is it a hard-and-fast rule if
13 you're the parish priest at St. Mary's you're working at
14 St. Mary's school?

15 DR. HAWES: As a liaison, we want the parish
16 involvement -- the parents, the parish and the school. So
17 those priests would be involved in -- for example, when the
18 children receive sacraments within the church, they would
19 be involved. So they're not an employee of the board.

20 They are the parish priests and parish
21 priests come into the school and work with our schools so
22 that we can ensure parish, home and school involvement.

23 MR. LEE: That hasn't changed recently I
24 take it? That's always been the way it's been done and
25 that's the way it's being done now?

1 DR. HAWES: That's my understanding.

2 MR. LEE: Dr. Hawes, those are all my
3 questions. Thank you very much.

4 DR. HAWES: Thank you.

5 THE COMMISSIONER: Thank you, Mr. Lee.
6 Mr. Chisholm?

7 MR. CHISHOLM: Good afternoon, sir.

8 THE COMMISSIONER: Good afternoon, sir.

9 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
10 CHISHOLM:

11 MR. CHISHOLM: Good afternoon, Dr. Hawes.
12 My name is Peter Chisholm. I'm counsel for the local
13 Children's Aid Society.

14 This morning you spoke to us about a number
15 of the protocols that your board was involved in and you
16 started off with a 1986 protocol, Tab L; right?

17 DR. HAWES: Right.

18 MR. CHISHOLM: Then the '88 protocol at Tab
19 M. I don't know that I need to take you to those right
20 now. And finally the 2001 protocol.

21 DR. HAWES: M'hm.

22 MR. CHISHOLM: I'm wondering if you have
23 before you --- Madam Registrar would have placed a copy of
24 Exhibit P-25 before you. It's coming, I think. If I could
25 take you to Tab 29 of that document? Do you have that

1 before you "The Child Sexual Abuse Protocol-A Coordinated
2 Response in the United Counties of Stormont, Dundas and
3 Glengarry"?

4 DR. HAWES: I do, sir.

5 MR. CHISHOLM: Okay. And you may not have
6 seen this document before. I understand that the
7 amalgamation of the boards took place in 1998. Is that
8 right?

9 DR. HAWES: That's correct, sir.

10 MR. CHISHOLM: And do I understand that some
11 of the documents that would have been part of the Stormont,
12 Dundas and Glengarry Roman Catholic Separate School Board
13 documents would have perhaps have gone on to the French
14 side?

15 DR. HAWES: Yes. All corporate records were
16 transferred with the French section.

17 MR. CHISHOLM: Okay. So into the French
18 board and if I told you that -- would this qualify as a
19 corporate record?

20 DR. HAWES: If it was the protocol being
21 used at the time prior to amalgamation then it could be
22 part of corporate records.

23 MR. CHISHOLM: And if I could take you to
24 the third page of 103, the "Acknowledgements" page? Sorry,
25 the third of the electronic.

1 DR. HAWES: Okay, yes.

2 MR. CHISHOLM: Do you recognize the fourth
3 and fifth names down; Bernard Warner also known as Bunny
4 Warner?

5 DR. HAWES: Yes.

6 MR. CHISHOLM: And René Carrière?

7 DR. HAWES: Yes.

8 MR. CHISHOLM: They were officials within
9 the pre-existing separate board. Is that right?

10 DR. HAWES: Yes, they were.

11 MR. CHISHOLM: And you may not be aware of
12 this, but if I told you there was a -- this protocol came
13 out of work that started in the late 80s and was finalized
14 in 1992 and involved Mr. Carrière and Mr. Warner. Based on
15 what you see in front of you, you wouldn't disagree with
16 me?

17 DR. HAWES: No. Certainly they -- it
18 appears they were involved.

19 MR. CHISHOLM: Okay. And you were speaking
20 this morning -- I can leave that protocol now, I just
21 wanted to touch base with that.

22 DR. HAWES: Okay.

23 MR. CHISHOLM: You spoke of the safety of
24 the pupils in the school this morning. With respect to the
25 ultimate call in terms of which teachers or in terms of

1 which teachers or which employees of the Board or people
2 visiting have access to the school or to the students,
3 would you agree with me that the final decision is that of
4 the School Board's and not the CAS?

5 **DR. HAWES:** I'm sorry, sir; could you repeat
6 the beginning? The decision for who comes into a school?

7 **MR. CHISHOLM:** Well, let's take a teacher --
8 whether or not a teacher stays teaching within a classroom,
9 would you agree that that decision is ultimately the
10 decision of the School Board and not the CAS?

11 **DR. HAWES:** Yes. Well, if, according to --
12 because as I said earlier, the Board is required to follow
13 the College of Teachers' regulations, so it may be the
14 College of Teachers who would determine that a teacher's
15 licence was revoked, and then the Board would be required.
16 So it would be whether the teacher was in good standing,
17 but it would be -- to terminate an employee, it is a
18 decision of the Board.

19 **MR. CHISHOLM:** Right.

20 Or even to suspend the employee and take him
21 or her out of the classroom is a decision that the Board
22 ultimately has to make?

23 **DR. HAWES:** Yes.

24 **MR. CHISHOLM:** But perhaps in consultation
25 with the CAS?

1 DR. HAWES: Oh, absolutely.

2 MR. CHISHOLM: Okay. And an area that you
3 did not touch upon today but I want to ask you about, that
4 of the Board's policy with respect to corporal punishment
5 at the present time today. Do I take it the Board's policy
6 would be that there is no corporal punishment in your
7 School Board today?

8 DR. HAWES: That's correct.

9 MR. CHISHOLM: Okay. And do you know what
10 the history of the policy would be with respect to corporal
11 punishment? Has it always been that way?

12 DR. HAWES: No. The -- in the Catholic
13 District School Board, since 1998, absolutely. Prior to
14 that there would have been corporal punishment in the
15 previous boards.

16 MR. CHISHOLM: That was not uncommon?

17 DR. HAWES: That was not uncommon to strap
18 children prior to -- you know, in the '60s or ---

19 MR. CHISHOLM: And you became a teacher in
20 1977; is that right?

21 DR. HAWES: Yes.

22 MR. CHISHOLM: And what do you -- do you
23 have any recollection of the strap being used in schools in
24 the capacity of a teacher?

25 DR. HAWES: Not in a capacity of a teacher,

1 no student was strapped.

2 MR. CHISHOLM: And I'm not saying you
3 strapped them, but were you ever present in a school when a
4 student was strapped?

5 DR. HAWES: No, I wasn't.

6 MR. CHISHOLM: As a teacher?

7 DR. HAWES: No.

8 MR. CHISHOLM: How about as a student?

9 DR. HAWES: Yes.

10 MR. CHISHOLM: Yes. And in terms of the
11 last ---

12 THE COMMISSIONER: Present company excepted.

13 DR. HAWES: No, I was strapped, actually.

14 MR. CHISHOLM: I wasn't asking if you were
15 strapped, but during your career as a student, that was not
16 an unknown occurrence?

17 DR. HAWES: It was common.

18 MR. CHISHOLM: It was common?

19 DR. HAWES: When I was a student.

20 MR. CHISHOLM: And in terms of straps being
21 issued to principals, for instance, did you ever hear of
22 that taking place?

23 DR. HAWES: As a student?

24 MR. CHISHOLM: Yes.

25 DR. HAWES: Yes, straps were issued to ---

1 MR. CHISHOLM: Okay.

2 DR. HAWES: --- schools.

3 MR. CHISHOLM: Those are my questions for
4 you. Thank you very much for coming, doctor.

5 DR. HAWES: Thank you.

6 THE COMMISSIONER: Thank you.

7 Maître Rouleau?

8 MR. ROULEAU: No questions.

9 THE COMMISSIONER: You do?

10 MR. ROULEAU: No questions.

11 THE COMMISSIONER: Okay. Thank you.

12 Mr. Scharbach?

13 MR. SCHARBACH: Good afternoon, Mr.

14 Commissioner. Good afternoon, Dr. Hawes. My name is
15 Stephen Scharbach. I'm counsel for the Ontario Ministry of
16 the Attorney General. I found your evidence very
17 illuminating and I have no questions for you.

18 Thank you.

19 DR. HAWES: Thank you very much.

20 THE COMMISSIONER: Thank you.

21 Ms. Templer?

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

23 **TEMPLER:**

24 **MS. TEMPLER:** Good afternoon, Dr. Hawes. My
25 name is Deborah Templer. I'm here representing the

1 Cornwall Police Services.

2 I just have a couple of brief questions for
3 you. You spoke during your examination about the various
4 parties that were involved in the development of the Child
5 Protection Protocols, the current ones found at Tabs N and
6 O, the protocol and the handbook.

7 And my question for you is to your
8 knowledge, did any of the various dioceses within the
9 jurisdiction of your School Board, whether that be the
10 Diocese of Alexandria-Cornwall or another diocese, play a
11 role in the development of these protocols, being the
12 current protocols?

13 **DR. HAWES:** In terms of our staff, we did
14 participate, but if there wasn't a priest or a clergy
15 member that was part of the protocol, but I referenced, you
16 know, Sister Hilda or Mr. Musca or myself's involvement.
17 We were as Catholic educators, as was the French Catholic
18 Board.

19 **MS. TEMPLER:** I see. So what you're saying
20 is that staff members of the School Board were certainly
21 involved but not necessarily priests directly ---

22 **DR. HAWES:** From the diocese's office, yes.

23 **MS. TEMPLER:** And so are there any joint
24 protocols dealing with child protection or child abuse
25 between the School Board and any diocese?

1 **DR. HAWES:** Not to my awareness that there
2 would be separate ones with the diocese, no.

3 **MS. TEMPLER:** Thank you.

4 And secondly, I want to ask you about the
5 instance of where there are priests or nuns working as
6 teachers in the schools. And you spoke a bit about the
7 role of liaison priests in the schools and priests working
8 as religious instructors, and you spoke about the
9 jurisdiction of the Church in terms of appointing and
10 removing priests as religious instructors.

11
12 Mr. Commissioner asked you a few questions
13 about potential for conflict between the School Board and
14 the Church in that instance. But I would like to ask you
15 more specifically about where priests or nuns are teachers
16 of non-religious subjects, and my general question is just
17 who has general authority -- who has ultimate authority or
18 control over those teachers?

19 **DR. HAWES:** Like any teacher, it's the
20 authority regarding the teaching and practices within the
21 school would fall to the authority of the School Board.
22 Certainly, there would be, you know, authority outside of
23 the schools from a religious perspective, but if we have a
24 sister who is teaching Grade 2, then they would have the
25 same requirements as any teacher.

1 **MS. TEMPLER:** So to be a bit more specific
2 then, if allegations of criminal misconduct were made
3 against a teacher who was also a priest, it would fall to
4 the School Board to determine whether or not to remove that
5 teacher and the Church would play no role in that decision.
6 Is that correct?

7 **DR. HAWES:** Yes. It would be the same
8 decision for any teacher, whether they were clergy or non-
9 clergy.

10 **MS. TEMPLER:** I see. Okay.

11 And just finally, this is just a minor point
12 of clarification. If I could take you to Tab L of your
13 document brief, and I believe that you said that this
14 protocol was the first protocol in Stormont, Dundas,
15 Glengarry to do with child abuse. Is that correct?

16 **DR. HAWES:** That I was made aware of.

17 **MS. TEMPLER:** That you were made aware of,
18 sure.

19 And again, just at the bottom there I see it
20 says "Revised June 12th, 1986"?

21 **DR. HAWES:** Yes.

22 **MS. TEMPLER:** Was it revised from a protocol
23 from a different jurisdiction?

24 **DR. HAWES:** I did enquire of Mr. Warner if
25 there was a previous document given that it was revised.

1 His recollection was that prior to that it was draft, so
2 that this distinguished that this was the revised one but
3 that -- there wasn't a document prior to -- just before
4 this, and I'm not sure how much before, whether it was
5 February and this was a June version, but he said that this
6 was, to his recollection, the first document for child
7 abuse protocol.

8 **MS. TEMPLER:** I see.

9 Thank you very much, Dr. Hawes. Those are
10 my questions. Thank you.

11 **THE COMMISSIONER:** Thank you.

12 Ms. Lahaie.

13 **MS. LAHAIE:** Good afternoon. My name is
14 Diane Lahaie and I'm counsel for the Ontario Provincial
15 Police. I would like to thank you for your participation,
16 and I have no questions for you.

17 Thank you very much.

18 **DR. HAWES:** Thank you.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Carroll?

21 **MR. CARROLL:** No questions.

22 **THE COMMISSIONER:** Thank you.

23 Ms. Tymochenko?

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

25 **TYMOCHENKO:**

1 **MS. TYMOCHENKO:** Good afternoon, Doctor. My
2 name is Nadya Tymochenko and I'm counsel for the co-
3 terminus board, the Upper Canada District School Board.

4 I just have a very quick question for you,
5 and if I could turn your attention to page 17 of the
6 outline? And I'm going to read a passage. It's in -- it's
7 near the bottom of the page, but it's above "Training for
8 Students on Issues of Abuse" and it outlines an opinion.
9 First I want to read it and then I'll ask a couple of
10 questions:

11 "The Board would also recommend that
12 training include a panel consisting of
13 community partners..."

14 Then it says "police, child welfare, CAS, crisis workers".

15 "Coincident with such a recommendation
16 would be the requirement of the Board
17 and their community partners receive
18 adequate provincial funding for this
19 exercise."

20 Is this still your opinion? Is this the
21 opinion you hold personally or is this a board opinion?

22 **DR. HAWES:** In getting feedback from the
23 staff involved, and I referenced the individuals before,
24 they felt that optimally they would like to have the
25 involvement of CAS and police for all the in-services and

1 rather than it happening at the school, but recognize that
2 that was a funding issue and that there wasn't -- so this
3 was an opportunity to voice that it would -- certainly we
4 would welcome the opportunity to have the assistance if
5 funding prevailed.

6 **MS. TYMOCHENKO:** And is this an opinion you
7 personally share as well, in your experience?

8 **DR. HAWES:** Yes, absolutely. I think the
9 involvement of the police directly and CAS is a wonderful
10 support.

11 **MS. TYMOCHENKO:** And are you aware of
12 whether there is a funding envelope currently that exists
13 for the purposes of training teachers and other staff on
14 their protocol and duties under the Act?

15 **DR. HAWES:** Can I clarify? Is that within
16 the school board whether there is an envelope?

17 **MS. TYMOCHENKO:** M'hm.

18 **DR. HAWES:** No, there isn't funding that I
19 know of specific for that training.

20 **MS. TYMOCHENKO:** So would it be correct that
21 you would have to find funding from other envelopes to
22 provide that level of training?

23 **DR. HAWES:** Yes. It would come out of my
24 funding for special education, for example. Unless there's
25 specialized money. For example, this year was Safe

1 Schools. Sometimes there is targeted money for new
2 initiatives ---

3 **MS. TYMOCHENKO:** M'hm.

4 **DR. HAWES:** --- but there isn't money
5 directed for this type of training and we're recommending
6 that that would be really advantageous, if not necessary,
7 for children.

8 **MS. TYMOCHENKO:** And in your recollection,
9 has there historically ever been that kind of special
10 incidents funding for training for sexual abuse protocols
11 or training for teachers, just generally, about sexual
12 abuse issues?

13 **DR. HAWES:** Not to my knowledge.

14 **MS. TYMOCHENKO:** Thank you.

15 I have no further questions.

16 **THE COMMISSIONER:** Thank you. Well, I've
17 got a question. You may sit down.

18 What do you need the funding for? I mean,
19 if you're going to train -- and I'll -- back in when I was
20 a lawyer, the school board would phone me up and say,
21 "We're having a professional development day, would you
22 come down for a couple of hours?" And they would phone up
23 the Children's Aid Society and so we had a panel, and a
24 police officer. So we would phone each other up, have a
25 little conference call to see who's going to do what, go

1 in, do it. Is that what you're talking about?

2 DR. HAWES: Sir, we do do that ---

3 THE COMMISSIONER: Yes.

4 DR. HAWES: --- but I think it was being
5 recommended that to have all of our 800 teachers for
6 example on a yearly basis ---

7 THE COMMISSIONER: Yes.

8 DR. HAWES: --- and to have the police
9 officers, the volume of officers and CAS to come, it would
10 be difficult without those organizations and our
11 organization having support.

12 Now, certainly we could do it in one of our
13 PD days potentially but we were really looking at
14 additional time, I guess, for staff.

15 THE COMMISSIONER: Okay. Well, what I need
16 to do is get a picture of what you're recommending to me.
17 So you're saying more training. I'm saying, "Okay, that's
18 fine, I'll consider that". So help me visualize this. You
19 want 800 teachers in one room?

20 DR. HAWES: Oh no, sir. It would be more
21 desirable to have in different locations or ---

22 THE COMMISSIONER: Okay. But assuming that
23 the Children's Aid Society would come for free, right?

24 DR. HAWES: M'hm.

25 THE COMMISSIONER: Because they do community

1 development. The OPP and Cornwall Police have a community
2 service development, so they would show up for free. So
3 where's the cost?

4 **DR. HAWES:** It's in supply teachers.

5 **THE COMMISSIONER:** Supply teachers?

6 **DR. HAWES:** Like, when we do an in- service
7 -- today, for example, we have teachers in Cornwall having
8 an in-service. To pull them out of their school or to
9 provide assistance, then it requires supply teachers.

10 So we could provide it on one of our PD days

11 ---

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

13 **DR. HAWES:** --- but the difficulty is there
14 is always so many ministry initiatives that are identified
15 to cover during that time. On a yearly basis it hasn't
16 been possible, but that certainly is possible.

17 **THE COMMISSIONER:** Thank you.

18 **DR. HAWES:** Okay.

19 **THE COMMISSIONER:** Who goes next? Mr.
20 Engelmann or Ms. Birrell?

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

22 **BIRRELL:**

23 **MS. BIRRELL:** Hi, Dr. Hawes. You and I need
24 no introduction. I am counsel for the Catholic District
25 School Board of Eastern Ontario and I only have a couple of

1 questions for you.

2 DR. HAWES: All right.

3 MS. BIRRELL: During your evidence in- chief
4 with Mr. Engelmann, he took you to Tab C and you reviewed
5 the various schools within your board ---

6 DR. HAWES: Yes.

7 MS. BIRRELL: And he had you identify which
8 ones were in Cornwall. We've heard reference to a "St.
9 Lawrence School Board". Is that one of the Catholic
10 District School Board of Eastern Ontario schools?

11 DR. HAWES: No, it is not.

12 MS. BIRRELL: Has it ever been in one of its
13 predecessors board schools?

14 DR. HAWES: No, it has not.

15 MS. BIRRELL: Do you know which board that
16 school belongs to?

17 DR. HAWES: It is my understanding that it
18 was in the public Cornwall, Stormont Dundas and Glengarry
19 School Board prior to amalgamation.

20 MS. BIRRELL: And with the coterminous board
21 post-amalgamation?

22 DR. HAWES: That's my understanding.

23 MS. BIRRELL: Okay. Mr. Engelmann also had
24 you look at Tab L which is the '86 protocol for SD&G Board,
25 and I believe he took you to page 5 of that protocol and

1 directed you to item one which spoke to "Reporting
2 forthwith to his or her principal or designate". And I
3 think the suggestion he made to you was that this reporting
4 requirement was required despite the responsibilities under
5 the Act in terms of the teacher reporting?

6 **DR. HAWES:** In 1986 there was a requirement
7 for a duty to report by the employee. As it says here:

8 "... to report forthwith ..."

9 The only difference at this time is the
10 board could designate, or an organization could designate,
11 someone else such as the principal to actually make the
12 report. But the duty to -- is still the employee's.

13 **MS. BIRRELL:** Yes. And if I could direct
14 you to item number five. I don't think Mr. Engelmann had
15 you refer to this point. And maybe you could tell me when
16 that would come into play?

17 **DR. HAWES:** Number five:

18 "The employee retains primary
19 responsibility and must report directly
20 to the society if the principal has not
21 reported."

22 So it's their duty to ensure that it is
23 reported. At that time, the Act allowed the principal or
24 designate to actually make the report, but the primary
25 responsibility of "must report" was still the employee's.

1 And if they did not -- principal did not report, the
2 employee was required to.

3 **MS. BIRRELL:** Thank you.

4 Now, my last set of questions concerns Tab N
5 and that is the handbook. And you were asked a couple of
6 questions by my friend, Mr. Manson, about the protocols,
7 how it addressed the responsibilities of teachers versus
8 principals, and I think you were taken at some point,
9 whether it was with Mr. Manson or otherwise, to page 15.

10 **THE COMMISSIONER:** Actually, I don't know
11 that he went to 15. You mean the diagram?

12 **MS. BIRRELL:** Whether Mr. Manson or
13 otherwise, I know at some point ---

14 **THE COMMISSIONER:** Is that this document
15 right here?

16 **MS. BIRRELL:** Yes. There is a reference to
17 a "reporting stage" and it speaks of the professional's
18 obligation to report. Who would that apply to in a school
19 board setting?

20 **DR. HAWES:** I'm sorry, could you clarify at
21 the "reporting stage"?

22 **MS. BIRRELL:** Item number one, it gives ---

23 **DR. HAWES:** Right. Professionals have
24 reasonable grounds -- who has a duty?

25 **MS. BIRRELL:** That's correct.

1 **DR. HAWES:** Okay. The principals, any
2 administrator as well as teachers, non-teachers,
3 custodians, all employees have a requirement to report, but
4 the "professionals" specify teachers as well as teaching
5 assistants as professionals.

6 **MS. BIRRELL:** Okay. And it talks about
7 referrals from school. That's at page 16 of that document,
8 the next page. And it gets into some details in terms of
9 the obligation to report. And you'd agree that would apply
10 to both teachers and principals?

11 **DR. HAWES:** Yes. Teacher or other staff
12 member must.

13 **MS. BIRRELL:** And if we go to page 17, there
14 is a reference to investigation on school premises and
15 there's a protocol for that. Who is this part of the
16 document directed to?

17 **DR. HAWES:** Well, certainly the principal is
18 the one responsible for who is on school premises but also
19 it's information that is important for all the
20 participants.

21 **MS. BIRRELL:** And it gives some direction to
22 principals on how to deal with the CAS when they're
23 investigating a complaint, whether it arises from the
24 teacher or the principal?

25 **DR. HAWES:** Yes, it does.

1 **MS. BIRRELL:** Okay. Thank you, Dr. Hawes,
2 those are my questions.

3 **DR. HAWES:** Thank you.

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

5 **MR. ENGELMANN:** I have nothing arising, sir.

6 **THE COMMISSIONER:** Thank you.

7 Dr. Hawes, I want to thank you for taking
8 the time and of preparing and attending today. I certainly
9 will take your recommendations and your last comments in
10 the book about not treading on the rights and obligations
11 of denominational funding.

12 **DR. HAWES:** Thank you very much.

13 **MR. ENGELMANN:** Thank you, Doctor.

14 Mr. Commissioner, one other matter for this
15 afternoon. That is a decision on the application by the
16 Coalition and Mr. Chisholm.

17 **THE COMMISSIONER:** Yes.

18 **MR. ENGELMANN:** Mr. Horn is present. Did
19 you wish to do that now or ---

20 **THE COMMISSIONER:** Yes.

21 **MR. ENGELMANN:** Fine.

22 **THE COMMISSIONER:** Thank you.

23 All right. Mr. Horn, where are you? There
24 you go. Good afternoon.

25 --- **RULING ON APPLICATION FOR STANDING AND FUNDING FOR MR.**

1 CARSON CHISHOLM BY THE COMMISSIONERBY/DÉCISION SUR LA
2 DEMANDE DE PARTICIPATION ET DE FINANCEMENT POUR MR. CARSON
3 CHISHOLM PAR LE COMMISSAIRE:

4 This is a ruling on the application for
5 standing and funding of Carson Chisholm and the Coalition
6 for Action.

7 The Coalition for Action previously applied
8 for standing and funding in this Inquiry on October 25th,
9 2005. I adjourned that initial application on November
10 17th, 2005 as it was not made clear to me who this group
11 represented and what they stood for. At that time I
12 indicated that there is an historical presence in Cornwall
13 that has advocated for change and that I very much would
14 like to see that presence represented at the Inquiry.

15 However, I also indicated that the
16 application for this group was not as comprehensive as I
17 would have liked. Although I did not feel that I was in a
18 position to grant some form of standing at the time, I
19 indicated that should the Coalition for Action wish to
20 submit further details as to its membership, history and
21 mandate, how their participation would be different than
22 the perspective offered by the Victims Group and the
23 Citizens for Community Renewal, as well as the role they
24 intend to play in the Inquiry, I would further consider
25 whether to and to what degree standing should be granted

1 and that the issue of funding would also be addressed at
2 that time.

3 After the hearings, I instructed Commission
4 counsel to reconfirm with counsel for the Coalition for
5 Action that I would appreciate receiving their further
6 written submissions by December 1st, 2005 and that they
7 would be welcome to make oral submissions on December 6th,
8 2005.

9 Accordingly, and continuing on my
10 instructions, on November 30th, 2005, Commission counsel
11 received a letter from counsel for the Coalition indicating
12 that the group would not be making further written
13 submissions. Commission counsel was also informed that no
14 one from this group would be appearing to make oral
15 submissions on December 6th, 2005.

16 On December 6th, 2005, no one representing
17 the Coalition for Action appeared before me. It appeared,
18 therefore, that the Coalition for Action had decided not to
19 seek standing in this Inquiry, and I indicated that this
20 was, in my view, unfortunate; unfortunate because this
21 group had shown a genuine concern in this matter.

22 I indicated as well that I would leave the
23 door open to hear further submissions in respect of an
24 application for standing and funding for this group and
25 requested that if the group wished that I consider its

1 application further, it provide me with information that I
2 had requested.

3 Carson Chisholm and the Coalition for
4 Action, through their counsel, Mr. Frank Horn, recently
5 filed a subsequent application for standing and funding.
6 Mr. Horn submitted written submissions in support of the
7 application and appeared before me on September 10th, 2007
8 to present oral submissions.

9 After hearing the submissions on September
10 10th, 2007, I advised that my decision would be rendered on
11 September 12th, 2007 so that if standing were granted, it
12 would be done in time to allow for participation in the
13 upcoming testimony of Perry and Helen Dunlop.

14 After considering the submissions, I have
15 decided not to grant Carson Chisholm standing on an
16 individual basis as his actions in respect of particular
17 investigations, while relevant, are facts that would be
18 elicited through his testimony as a witness before the
19 Commission.

20 I have, however, decided to grant the
21 Coalition for Action full standing for Parts I and II of
22 the Inquiry, limited to those issues which directly affect
23 its interests, and here are my reasons for granting
24 standing to the Coalition for Action.

25 The Coalition for Action has now provided a

1 more detailed list of its members and a more detailed
2 summary of the group's history and mandate. The group now
3 called the Coalition for Action was at different times
4 called other names. Under Carson Chisholm's leadership,
5 the group became active approximately 15 years ago by going
6 out into the community to garner support for Perry and
7 Helen Dunlop and the establishment of this Public Inquiry.
8 Mr. Chisholm remains the central focus for this
9 organization.

10 Although Mr. Horn indicated that he has not
11 been asked to represent Helen and Perry Dunlop, it remains
12 that the Coalition for Action's interest in the Inquiry
13 lies in large part in examining the issues of collusion,
14 conspiracy and cover-up, issues that must be examined,
15 issues of concern to Carson Chisholm, Perry Dunlop and
16 Helen Dunlop, who had significant involvement in the
17 unfolding of events.

18 The Coalition for Action can also provide
19 insight into the dealings of public institutions with
20 concerned members of the public during relevant periods and
21 how public pressure may have affected institutional
22 responses.

23 The Coalition for Action has an established
24 record of concern for and a demonstrated commitment to the
25 interests it seeks to represent.

1 Although this additional application for
2 standing comes relatively late, I am satisfied that the
3 Coalition for Action's participation in the Inquiry as a
4 party at this time would contribute to the value of the
5 evidence to be heard.

6 Given the foregoing, I'm satisfied that the
7 Coalition for Action is likely to be directly and
8 substantially affected by Part I of this Inquiry and
9 granted full standing, limited to those issues that
10 directly affect its interests.

11 While certain aspects of the Coalition for
12 Action's interests are similar to those of the Victims
13 Group and the Citizens for Community Renewal, the Coalition
14 for Action's participation would be different from that of
15 those groups and, as a result, I find that it is
16 appropriate to grant it separate standing.

17 I'm also granting full standing to the
18 Coalition for Action for Part II of this Inquiry, limited
19 to those issues that directly affect its interests on the
20 basis that the Coalition for Action can contribute to the
21 enhancement of the level of participation in the community,
22 healing and reconciliation aspects of Part II of the
23 Commission's mandate.

24 Additionally, the Coalition for Action
25 represents distinct, ascertainable interests and

1 perspectives that are essential to my mandate in Part II
2 and it may be well placed to assist me in addressing the
3 issue of further improvement of the response of public
4 institutions to allegations of abuse.

5 Having said that, I must say that I found
6 some of the submissions made in the application unfortunate
7 and unhelpful. That type of rhetoric has no place here.

8 As well, while I permitted counsel to take
9 instructions from his client on an as-we-go basis, that
10 will not be permitted.

11 As well, counsel will instruct his client
12 that the use of profanities will not be tolerated and that
13 courtroom decorum must be followed in the hearings room.

14 In respect of funding, Coalition for Action
15 is not in a position to fund its own participation in the
16 Inquiry. I am prepared to recommend funding for the
17 Coalition for Action for one senior counsel and one junior
18 counsel, limited to one counsel attendance fee.

19 I note that aside from its request for
20 funding for counsel, funding for Mr. Chisholm's attendance
21 at the Inquiry has been requested. That request is denied.

22 Parties are not compensated for their
23 attendance before the Inquiry. I also note that because I
24 have denied Mr. Chisholm standing as an individual, there
25 is no longer a need for further information and

1 clarification in respect of his personal financial
2 situation.

3 I will also recommend that funding be
4 retroactive to August 24th, 2007 for only those expenses
5 directly related to the preparation and presentation of
6 this application for standing and funding.

7 And so, Mr. Horn, I have made my decision on
8 standing and recommendations on funding, but that is not
9 the complete job that I have to do today. I also need to
10 bring you up to speed, to give you the background about
11 this Inquiry and about this Commissioner that other parties
12 have got over the past two years or so.

13 You will come to know me as a straight
14 talker. That's partly because that's how I am. I like to
15 get on with things, and that will probably never change.
16 But also, I like straight talk because I see giving
17 everyone the same information is fair. We all need to know
18 where we stand and where we're going.

19 I want to make sure you understand what to
20 expect your rights and obligations, your client's rights
21 and obligations and how you are to meet them.

22 Let's start with me. As the Commissioner of
23 a Public Inquiry, I have some of the functions of a judge.
24 But there are also different functions that are unique to a
25 public inquiry. You, Mr. Horn, I understand to be a

1 criminal lawyer so you will be familiar with the functions
2 of judges. But a Public Inquiry is not a criminal trial.
3 It's not the narrow proof beyond reasonable doubts
4 standard. It's not win or lose. It's a broader purpose; a
5 public interest purpose.

6 Let's talk about what the law of Ontario
7 says about what is expected of a Commissioner like myself.
8 The job of a Commissioner is to look at the mandate given
9 by the people of Ontario through their government and to
10 interpret it. Decisions to have Inquiry's are never made
11 lightly; it's a big job. And once the demand to establish
12 an Inquiry is met, as it was in Cornwall, it is important
13 that everything that caused the Inquiry to be created is
14 looked at.

15 It's like the old story about blindfolded
16 men looking at the elephant. We do not want to look only
17 at the ears or the trunk or the tail, but the whole. So,
18 yes, we need to take time to see everything. And, yes, we
19 may need to follow up on matters because at the end of the
20 day we want a thorough job to be done. If there are better
21 ways for the future, we do not want to miss out on a single
22 improvement. After all, we are talking about the best way
23 that institutions in our society can respond to children,
24 to trauma, and to lifelong pain.

25 I want to talk about a few key areas where I

1 have made decisions already so you will see the thinking
2 behind some hard decisions.

3 I decided to hear from witnesses who were
4 abused or who were alleged to have been abused as children.
5 This was the right decision for the Inquiry. And the
6 courts, the Superior Courts, have agreed. Why was that?
7 Because we have to hear as much as we can whether it's hard
8 to hear; whether it is complex or confusing; whether people
9 say hurtful things. If we pre-screen or censor, we may
10 have the appearance of an Inquiry and not the reality of an
11 Inquiry.

12 In most cases, these individuals wanted to
13 speak out. They had been waiting to testify. In one case,
14 after looking at many options, I did issue a subpoena to
15 someone who did not want to come. I did this because of my
16 duty to see the whole picture. The person came and
17 testified. I regret the pain for him but in my view it
18 just had to happen.

19 Another of my jobs is to decide when we
20 should be in camera and that's another tough call. We need
21 to be open but we need to balance the real risk of harm to
22 those testifying and to their families. We weigh each case
23 as it comes up, asking the public to accept the call we
24 have to make.

25 As a counsel, you will see testimony that is

1 subject to in camera proceedings; subject to giving
2 undertakings about respecting the rules the other parties
3 are keeping. And I am proud of the record to date by both
4 the media and the parties. And I expect you and your
5 client will follow this example.

6 With respect to cross-examination, we've
7 heard that when witnesses testified about their personal
8 lives, it was clear that although the process was one most
9 witnesses chose, it was not easy or without potential harm.
10 And I knew that. At the same time, cross-examination is
11 another way to get the full picture. And that's what we
12 really care about.

13 I want to make it clear that we need cross-
14 examination but we need a more effective style. Not the TV
15 style of "knock-'em and sock-'em down", which is not only
16 hurtful but frankly confusing. We really aren't helped by
17 that, but we are helped when questions are asked without
18 emotional attack but respectful and thorough.

19 I think we all benefit from that style and
20 saw it during the cross-examination that was held in camera
21 of C8 where two counsel did exactly that. And the cross-
22 examination was completed without further turmoil or
23 suffering by the witness. So I look forward to this
24 assisting the Inquiry in the future.

25 Another matter, Mr. Horn, is the full and

1 mutual disclosure. That is part of the Inquiry process as
2 well. I have ordered this and as a party you will get
3 disclosure and as a party, your client will have to fully
4 disclose all of the documents, tapes, or any other evidence
5 that they may have in their possession.

6 As well, you'll have to familiarize yourself
7 with the undertaking that, in some cases, your client will
8 only see some of the material on a need-to-know basis.

9 I'm going to finish up by summarizing for
10 you some of the advice I've given over my time here in
11 Cornwall. By the way, this may be a useful reminder for
12 everyone.

13 Evidence at an Inquiry unfolds over a long
14 time. Do not be too quick to decide on something; be
15 patient because only the whole picture can be the true
16 picture. Understand that the media, opinion, news coverage
17 or what someone says outside this room may be hurtful,
18 disrespectful and indeed misleading and just plain in
19 error. And that has a short-term effect but what will
20 matter in the long-term is what happens here in this room.
21 So I ask you to keep your focus here.

22 Follow the example of the best; counsel who
23 come prepared and on time; counsel who cross-examine with
24 an orientation to facts and take no cheap shots. Counsel
25 who know the rules; point out ways to do things better; who

1 are cooperative and understand both their role as an
2 advocate for a party and their public accountability as
3 counsel at the Public Inquiry.

4 Understand that if these examples of the
5 best are not followed, I will step in. Step in to keep
6 things moving; step in to balance competing interests; and
7 step in to say, "Enough" or to say, "There must be more".
8 And I will make those hard decisions as you will soon come
9 to see. Some of them are unpopular but that's the job I
10 have and it's a privilege for me to continue doing that.

11 So, all-in-all, Mr. Horn, welcome to the
12 Cornwall Public Inquiry. We will return now.

13 Mr. Horn, did you have any comments? No.

14 **MR. HORN:** No, I just wanted to thank you.

15 **THE COMMISSIONER:** Thank you.

16 So we're ready to go Monday morning at 9:30
17 -- no, not this Monday.

18 **MR. ENGELMANN:** I was hoping, sir, that we
19 could start at one o'clock on Monday.

20 **THE COMMISSIONER:** Yes. It is next Monday,
21 right?

22 **MR. ENGELMANN:** Yes. We expect to proceed
23 at that time with the evidence of former Constable Perry
24 Dunlop.

25 **THE COMMISSIONER:** Thank you.

1 **MR. ENGELMANN:** Thank you.

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

4 This hearing is adjourned until September
5 17th at 1:00 p.m.

6 --- Upon adjourning at 3:09 a.m. /

7 --- L'audience est ajournée à 15h09

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

I, Marc Demers a certified court reporter inthe 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-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CVR-CM