

**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 208

Held at :

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

Tuesday, April 1 2008

Tenue à:

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

Mardi, le 1 avril 2008

ERRATA

February 29th, 2008
Volume 202

Transcript

Page 21, line 10:

MR. DEROCHIE: She suspected that. She suspected at that point that when he took away, it was for more than reading material.

Should have read:

MR. DEROCHIE: She suspected that. She suspected at that point that when he took away, it was for more than reading material?

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Janie Larocque	Commission Counsel
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	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. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action

Table of Contents / Table des matières

	Page
List of Exhibits :	iv
GARRY DEROGHIE, Resumed/Sous le même serment	1
Cross-Examination by/Contre-interrogatoire par Mr. Allan Manson(Cont'd/Suite)	1
Cross-Examination by/Contre-interrogatoire par Mr. Frank Horn	51
Cross-Examination by/Contre-interrogatoire par Mr. Dallas Lee	110

LIST OF EXHIBITS/LISTE D' EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-1388	(729852) Inspection Report on Cornwall City Police Force dated 4-6 Apr and 18-20 Apr 89	114
P-1389	(739890) Morale Report	121
P-1390	(739891) Strategic planning session summary report volume 1 dated Jun 90	147
P-1391	(740506) 7180521-43, Level III Inspection Report	159
P-1392	(740524) Report from Chief Shaver to John Kopinak and Hyacinthe Josiah dated 22 Jul 93	168
P-1393	(729854) Human resources management inspection report dated Jul Aug 93	180

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

2 L'audience débute à 9h36

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning,
10 all.

11 **GARRY DEROCHIE, Resumed/Sous le même serment:**

12 **THE COMMISSIONER:** Good morning, sir.

13 **MR. DEROCHIE:** Good morning, sir.

14 **THE COMMISSIONER:** Ms. Daley.

15 **MR. MANSON:** Ms. Daley, yes.

16 **THE COMMISSIONER:** Mr. Manson, how are you
17 doing today?

18 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
19 **MANSON:**

20 **MR. MANSON:** Staff Sergeant Derochie, I
21 apologize, but you're stuck with me for a while this
22 morning.

23 I'm going to put a couple of -- I have some
24 questions for you, but I want to put a couple of
25 propositions to you and you just tell me if you agree.

1 What I want to start with is I want to focus
2 on the state of affairs of the Cornwall Police Service, end
3 of September, 1993.

4 So we've got to go back a little bit in time
5 before that to understand what's going on with the CPS end
6 of September, 1993.

7 I understand from reading the transcript
8 yesterday that you agreed with my friend, Mr. Engelmann,
9 that with respect to investigations, we can draw some
10 conclusions from the Earl Landry, Jr. investigation, the
11 investigation into the Silmsler complaint and the
12 investigation into the Jeannette Antoine complaint in the
13 sense that all three were open to criticism; correct?

14 **MR. DEROCHIE:** Correct.

15 **MR. MANSON:** And Mr. Engelmann suggested to
16 you that the criticisms were similar in that they related
17 to case management problems, record keeping problems and
18 delay; correct?

19 **MR. DEROCHIE:** Yes, some or all of those
20 were present in the, yes.

21 **MR. MANSON:** Yes. And he suggested to you
22 that at least with respect to sexual assault
23 investigations, this seems to suggest a systemic problem at
24 that time; correct?

25 **MR. DEROCHIE:** Yes.

1 **MR. MANSON:** Now, so that's a snapshot of
2 CPS with respect to investigations, at least in one
3 category?

4 **MR. DEROCHIE:** Well, I wouldn't go that far,
5 Mr. Manson. These were -- we investigate any number of
6 sexual assaults ---

7 **MR. MANSON:** M'hm.

8 **MR. DEROCHIE:** --- over the course of a
9 year. I think the average is around 75. These were
10 exceptional cases. They all had -- they were complex cases
11 in one sense or another.

12 With regards to those three, the same issues
13 were there, or some of the same issues were there.
14 Therefore, that part -- those types of cases, not sexual
15 assaults in general but those historical, complex sexual
16 assaults, I'll concede that, yes.

17 **MR. MANSON:** CPS, if we're looking at
18 September 1993, an outside observer would say CPS was
19 having problems with investigating historical sexual
20 assaults?

21 **MR. DEROCHIE:** Possibly, if they came and
22 did an in-depth review as we're doing here, they would come
23 to that ---

24 **MR. MANSON:** That would be a fair
25 assessment, looking at those three examples that have

1 similarities both in problems and similarities in the
2 nature of the complaints; correct?

3 MR. DEROCHIE: Correct.

4 MR. MANSON: Okay. So that tells us
5 something about investigations. I want to also look at
6 institutional integrity as of September, 1993.

7 If we look at concerns about leadership,
8 it's clear that senior officers had concerns; correct?

9 MR. DEROCHIE: Correct.

10 MR. MANSON: And it's clear that the
11 Association had concerns; correct?

12 MR. DEROCHIE: Correct.

13 MR. MANSON: And, in fact, by October of
14 1993 -- I don't know if you are privy to these, but I've
15 seen correspondence where Chief Shaver is already saying
16 he's about to retire?

17 MR. DEROCHIE: Yes. I wasn't aware of that
18 at the time, but I've seen those correspondences as well.

19 MR. MANSON: We also know, at least from the
20 evidence of Inspector Skinner, that there seemed to be
21 communication problems at the highest level, highest
22 executive level as between chief and deputy chief; correct?

23 MR. DEROCHIE: Correct.

24 MR. MANSON: Another institutional issue
25 that I've sensed, that I'm not sure you've talked about, is

1 that there seems to be a lot of social camaraderie between
2 the ranks at the CPS. Is that fair?

3 Let me explain what I mean.

4 **MR. DEROCHIE:** Yes.

5 **MR. MANSON:** A lot of your officers work
6 their way up through the ranks; correct?

7 **MR. DEROCHIE:** Yes.

8 **MR. MANSON:** Particularly if we're looking
9 at September, '93?

10 **MR. DEROCHIE:** Yes.

11 **MR. MANSON:** And so some of them started as
12 constables and now they're sergeants and staff sergeants;
13 correct?

14 **MR. DEROCHIE:** Yes.

15 **MR. MANSON:** And others are still
16 constables; correct?

17 **MR. DEROCHIE:** Correct.

18 **MR. MANSON:** But friendships that were
19 formed when people were of the same rank continued
20 regardless of the fact that one had been promoted and the
21 other hadn't; correct?

22 **MR. DEROCHIE:** Correct.

23 **MR. MANSON:** And we can talk about examples
24 of that, but this was a feature of the Cornwall Police
25 Service?

1 **MR. DEROCHIE:** Of any police service, but
2 the Cornwall Police Service ---

3 **MR. MANSON:** Of any police service?

4 **MR. DEROCHIE:** --- as well. Sure.

5 **MR. MANSON:** So in other words, supervisors
6 and supervisees would be social friends?

7 **MR. DEROCHIE:** Outside of work, are we
8 referring?

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

10 **MR. DEROCHIE:** In some cases, yes.

11 **MR. MANSON:** In some cases.

12 **MR. DEROCHIE:** Yes.

13 **MR. MANSON:** And there was no, you know,
14 policy or no ethic that once you became a supervisor you
15 should stop fraternizing with your old buddies?

16 **MR. DEROCHIE:** No. No, we were still part
17 of the same union. You know, we just had higher ranks.

18 **MR. MANSON:** That's right. It's only the
19 very senior ranks that aren't part of the Association. So
20 sergeants, staff sergeants, they're in the Association;
21 correct?

22 **MR. DEROCHIE:** And inspectors.

23 **MR. MANSON:** And inspectors, yes.

24 **MR. DEROCHIE:** In 1993.

25 **MR. MANSON:** Yeah. Now, thinking about

1 these institutional problems, there were also morale
2 problems; correct?

3 **MR. DEROCHIE:** Yes. Well, prior to '93
4 there was, certainly.

5 **MR. MANSON:** Yes. This is inevitable given
6 those institutional problems; correct?

7 **MR. DEROCHIE:** Are we speaking specifically
8 now of the Cornwall Police Service?

9 **MR. MANSON:** Yes.

10 **MR. DEROCHIE:** Or are you saying police
11 services in general?

12 **MR. MANSON:** No, I'm just talking about the
13 Cornwall Police Service. When you've got -- it's fair to
14 say there was a lack of confidence in leadership; correct?

15 **MR. DEROCHIE:** Yes, there was. To some
16 degree there was, yes.

17 **MR. MANSON:** And that has to generate some
18 morale problems; correct?

19 **MR. DEROCHIE:** Possibly, yes, you're
20 correct.

21 **MR. MANSON:** And something else that it
22 would generate would be divisions in the sense that some
23 people would want to respond more aggressively and other
24 people would be more passive about how to respond to these
25 leadership issues; correct?

1 **MR. DEROCHIE:** Correct.

2 **MR. MANSON:** I mean, I don't want to mention
3 any names and I'm not looking to identifying, but there are
4 groups forming ---

5 **MR. DEROCHIE:** Yes.

6 **MR. MANSON:** --- around the issue of how do
7 we deal with this problem?

8 **MR. DEROCHIE:** Yes.

9 **MR. MANSON:** Correct.

10 **MR. DEROCHIE:** Some would believe in the
11 philosophy of evolution. Let's work within the
12 organization and try to fix this. Some would be ---

13 **MR. MANSON:** More aggressive.

14 **MR. DEROCHIE:** --- more aggressive and maybe
15 talk in terms of revolution.

16 **MR. MANSON:** Yeah. And whoever was right or
17 wrong -- but we know these divisions would exist within the
18 organization?

19 **MR. DEROCHIE:** Yes.

20 **MR. MANSON:** So this is where we are
21 September, 1993.

22 As an outside observer, it seems to me it's
23 fair to say that the Cornwall Police Service had problems;
24 right?

25 **MR. DEROCHIE:** Yes. An outside observer,

1 looking over the history as you have done, as you have laid
2 out, would come -- would possibly come to that conclusion.

3 MR. MANSON: And people inside the Service
4 would know about these problems?

5 MR. DEROCHIE: Oh yes, and Policing Services
6 knew about these problems as well.

7 MR. MANSON: And the Board knew about them?

8 MR. DEROCHIE: And the Board knew about
9 them.

10 MR. MANSON: If I suggested to you the
11 problems were severe enough that we could call the Cornwall
12 Police Service dysfunctional at this point, would you
13 accept that?

14 MR. DEROCHIE: I wouldn't accept that. With
15 regards to its overall mandate; with regards to its
16 interpersonal relationships, maybe, but with regard to its
17 mandate to serve and protect, no.

18 MR. MANSON: Now, you agreed with me that
19 the Board knew about these difficulties ---

20 MR. DEROCHIE: Yes.

21 MR. MANSON: --- and problems?

22 MR. DEROCHIE: Yes.

23 MR. MANSON: Were people outside the
24 Cornwall Police Service, other justice agencies, aware of
25 your problems?

1 **MR. DEROCHIE:** I would assume that some of
2 them were.

3 **MR. MANSON:** Like the local Crown Attorney?

4 **MR. DEROCHIE:** I assume, yes.

5 **MR. MANSON:** The CAS?

6 **MR. DEROCHIE:** Possibly.

7 **MR. MANSON:** Possibly?

8 When you commenced your review on October
9 7th, 1993, a few days later you met with Richard Abell;
10 correct?

11 **MR. DEROCHIE:** I did, yes.

12 **MR. MANSON:** And in your notes you indicated
13 that you asked him why didn't he go through channels to get
14 the Silmsler complaint?

15 **MR. DEROCHIE:** Yes, it was on my mind.

16 **MR. MANSON:** Because it would seem that the
17 right thing to do would be for the head of one agency to go
18 to the comparable executive officer in the other agency;
19 correct?

20 **MR. DEROCHIE:** Correct.

21 **MR. MANSON:** And he didn't do that; correct?

22 **MR. DEROCHIE:** Initially he didn't do that,
23 you're right.

24 **MR. MANSON:** Did he give you a satisfactory
25 answer?

1 **MR. DEROCHIE:** He gave me no answer really
2 that was -- he gave me no explanation for why he had done
3 that.

4 **MR. MANSON:** And you just left it at that?

5 **MR. DEROCHIE:** Yes, I did. Well, ultimately
6 I returned to that issue some months later but I eventually
7 never got an answer and I left it at that.

8 **MR. MANSON:** But we know a few days
9 afterwards he was calling Chief Shaver; correct?

10 **MR. DEROCHIE:** A few days after?

11 **MR. MANSON:** After you met with him. He was
12 trying to get in touch with Chief Shaver to discuss this
13 situation.

14 **MR. DEROCHIE:** I thought that was prior to
15 my being assigned to that, Mr. Manson. I think it would
16 have been after he got the statement from Mr. Dunlop, then
17 he tried to advise the Chief that he had the statement.

18 **MR. MANSON:** Oh, so he was at that point
19 prepared to call Chief Shaver? It wasn't as if they
20 weren't on speaking terms?

21 **MR. DEROCHIE:** Oh, no, no.

22 **MR. MANSON:** Now, end of September, 1993 is
23 significant because for all effective purposes the DS
24 investigation was closed down at that point; correct?

25 **MR. DEROCHIE:** IR service, yes.

1 **MR. MANSON:** Yes, and nobody in the CPS
2 could be happy about that; correct?

3 **MR. DEROCHIE:** Nobody was happy with that.

4 **MR. MANSON:** Nobody could be happy. This is
5 not a "close the file, job well done"?

6 **MR. DEROCHIE:** No.

7 **MR. MANSON:** It's clear to everyone that
8 this was a job essentially not done? I'm not pointing
9 fingers and I'm not going to ask you but nobody is happy
10 about this?

11 **MR. DEROCHIE:** We weren't satisfied that we
12 couldn't lay a charge and pursue this in the courts.

13 **MR. MANSON:** So nobody is happy about this
14 that it wasn't brought to fruition?

15 **MR. DEROCHIE:** Correct, that's not an
16 uncommon feeling as well. There are several investigations
17 you do and, you know, our main goal is to get a charge laid
18 and get a conviction.

19 **MR. MANSON:** But other times you can do an
20 investigation and be satisfied this is over, close the
21 file, there's nothing here; correct?

22 **MR. DEROCHIE:** Exactly.

23 **MR. MANSON:** That wasn't the sense here?

24 **MR. DEROCHIE:** No, we thought that there was
25 -- there was something to pursue in these allegations.

1 **MR. MANSON:** So these are all the things
2 that are going on end of September, 1993 and then September
3 25th, 1993 we have the involvement of Percy -- Perry Dunlop;
4 correct?

5 **MR. DEROCHIE:** Yes.

6 **MR. MANSON:** Now, he tells you and others
7 that he goes to the CAS because he has a duty to report
8 under the *Child and Family Services Act*; correct?

9 **MR. DEROCHIE:** He never told me why he went
10 to CAS.

11 **MR. MANSON:** Oh.

12 **MR. DEROCHIE:** I subsequently learned that
13 through the -- you know, through his defence the *Police Act*
14 charges. I had no -- other than that conversation I had on
15 the 7th of October with regards to this matter, I had no
16 other contacts with -- it was a taboo subject between he
17 and I for that short period of time he did return to work.

18 **MR. MANSON:** But you did testify that you
19 thought he was acting in good -- at the time that he was
20 acting in good conscience, that he was doing this because
21 he thought it was the right thing to do?

22 **MR. DEROCHIE:** That's correct.

23 **MR. MANSON:** And it was the right thing to
24 do, you subsequently learned, because of his view of the
25 *Child and Family Services Act*; correct?

1 **MR. DEROCHIE:** Correct.

2 **MR. MANSON:** Now, I've noticed in looking at
3 the career profiles of some of your colleagues that some of
4 them have taken courses specifically dealing with the *Child*
5 *and Family Services Act*?

6 **MR. DEROCHIE:** Yes.

7 **MR. MANSON:** Have you taken any of those
8 courses?

9 **MR. DEROCHIE:** Well, the Act has been
10 discussed at various training courses that I was on.

11 Maybe I should clarify that that was not our
12 understanding of the *Child* -- the duty to report under the
13 *Child and Family Services Act* at the time.

14 **MR. MANSON:** No, no, we are going to get --
15 I am going to get to that.

16 **MR. DEROCHIE:** Okay.

17 **MR. MANSON:** Can you recall what courses you
18 would have taken in which the *Child and Family Services Act*
19 was discussed?

20 **MR. DEROCHIE:** The advanced training courses
21 where you went for the refresher every year. Now, I don't
22 know what version of the Act I would have been subject to,
23 but certainly during recruit training way back then there
24 would have been some -- the equivalent legislation at the
25 time would have covered it. But specifically, of course,

1 dealing with the details of the *Child and Family Services*
2 *Act*, no, that would be something that our youth officers
3 would get specific training in.

4 **MR. MANSON:** Okay. Now, I understand from
5 reading your evidence, that going back to now October 7th,
6 1993 when you start your review ---

7 **MR. DEROCHIE:** Yes.

8 **MR. MANSON:** --- at that point your
9 understanding of the duty to report was it did not apply to
10 historical sexual abuse cases?

11 **MR. DEROCHIE:** That's correct.

12 **MR. MANSON:** I don't want to, you know,
13 assume what Perry Dunlop might or might not say, but we
14 know that Richard Abell's view was if today there may be
15 children at risk, that triggers the duty to report;
16 correct?

17 **MR. DEROCHIE:** Correct.

18 **MR. MANSON:** So Richard Abell would say,
19 yes, these events are in the past but if you have an
20 individual subject to these complaints who is in a position
21 of trust or authority with respect to young people, that
22 may be sufficient to trigger the duty because it's those
23 young people today who are at risk?

24 **MR. DEROCHIE:** That's his view and we have
25 adjusted our reporting to accommodate that, yeah.

1 **MR. MANSON:** Now, if we forget about a
2 priest and a probation officer, if DS had come to you and
3 said, "This is what my grade 6 teacher did to me 20 years
4 ago", would you still have thought that's historical, we
5 don't report to the CAS?

6 **MR. DEROCHIE:** I think that would have been
7 -- I think that would have been different. That would have
8 been because this is, you know, and I ---

9 **THE COMMISSIONER:** Hold it. Hold it, just
10 one at a time. Go ahead.

11 **MR. DEROCHIE:** With what I know today and
12 with the history of this and what I have gained over the
13 years, certainly that would jump out at me, the idea that
14 this person has -- if it was involving children and
15 specifically this job was related to being exposed to
16 children on a daily basis then my answer today would be,
17 certainly, I would have a different response to it and it's
18 hard to think back to what I might have thought in
19 September of '93.

20 **MR. MANSON:** Sure. It's hard to isolate
21 your knowledge from today and look back then?

22 **MR. DEROCHIE:** Yeah.

23 **MR. MANSON:** But if this hypothetical
24 complainant said to you, "And he's still teaching grade
25 six", that might -- a little light might flash in your

1 head, wouldn't it, that ---

2 MR. DEROCHIE: It certainly would flash
3 loudly and brightly right now in my head.

4 MR. MANSON: And certainly Richard Abell
5 would say that's exactly the kind of situation where you
6 should be on the blower to us; correct?

7 MR. DEROCHIE: Certainly, as I say, we
8 defaulted to -- or we acquiesced or went along with Mr.
9 Abell's -- a definition of our duty to report as we report
10 everything now.

11 MR. MANSON: So it seems to me that if
12 Richard Abell is giving the accurate interpretation of
13 section 72 of the *Child and Family Services Act* that Perry
14 Dunlop was probably right that CPS should have reported
15 this to CAS; correct? If Abell is right then Dunlop's
16 right to say CPS should have reported it; correct?

17 MR. DEROCHIE: Correct.

18 MR. MANSON: And we know Constable Sebalj
19 didn't report it; correct?

20 MR. DEROCHIE: Correct.

21 MR. MANSON: We know Sergeant Brunet didn't
22 report it; correct?

23 MR. DEROCHIE: Correct.

24 MR. MANSON: No one else did either;
25 correct?

1 **MR. DEROCHIE:** Correct.

2 **MR. MANSON:** Is that because they all shared
3 your view of the duty to report?

4 **MR. DEROCHIE:** Yes.

5 **MR. MANSON:** So only Dunlop agreed with
6 Abell? He was standing alone in the CPS in his
7 understanding of the duty to report?

8 **MR. DEROCHIE:** He had conversations with Mr.
9 Abell before he actually made the report so possibly he
10 gained that knowledge from Mr. Abell.

11 **MR. MANSON:** Well, wait a minute. When you
12 say he had conversations with Mr. Abell, he went to Mr.
13 Abell first to tell them about the complaint and then a few
14 days later we've got the delivery of the statement.

15 **MR. DEROCHIE:** He discussed it with Mr.
16 Abell on one day. Mr. Abell saw the statement or went over
17 to Mr. Dunlop's house and saw the statement on a different
18 date.

19 **MR. MANSON:** Yes.

20 **MR. DEROCHIE:** And subsequently requested
21 the statement on a different date. And I would assume that
22 Mr. Dunlop went to Abell and was running this by him, "What
23 can I do?" and Mr. Abell said, "Well, obviously report it
24 to CAS". So that would have -- I would have thought that,
25 you know, had he and Mr. Dunlop -- and again, he got that

1 information from Mr. Murray MacDonald as I recall. So I
2 don't know when he got that particular information before
3 or after.

4 **MR. MANSON:** You're talking about when he
5 goes to see MacDonald with Lortie?

6 **MR. DEROCHIE:** Yes.

7 **MR. MANSON:** And we'll hear from Officer
8 Lortie shortly about that.

9 But I guess my point is that if we're
10 looking again at the end of September, 1993 with all these
11 problems and this difficult situation, in terms of the
12 first -- I'm not talking about delivering the statement --
13 but in terms of reporting to the CPS, Dunlop was probably
14 right; correct?

15 **MR. DEROCHIE:** Reporting to the CAS?

16 **MR. MANSON:** CAS, yes, sorry. He's probably
17 right?

18 **MR. DEROCHIE:** In light of today, yes,
19 absolutely.

20 **MR. MANSON:** And when you first met with him
21 after October 7th to tell him that he was being
22 investigated, your description of his response was that he
23 was devastated.

24 **MR. DEROCHIE:** That I was doing it.

25 **MR. MANSON:** Yeah.

1 **MR. DEROCHIE:** He thought somebody would be
2 doing something but he didn't think it would be me, yes.

3 **MR. MANSON:** But you also made a note that
4 he seemed to be acting like he was the white knight who
5 should be getting a medal. I added the medal. You used
6 the white night. And instead of a medal he was being
7 investigated?

8 **MR. DEROCHIE:** Well, that was subsequent to
9 that and it was an overall comment on his strong belief
10 that he was doing the right thing.

11 **MR. MANSON:** Now, we heard from Helen Dunlop
12 that during this period officers started to ostracize him.
13 That was her evidence?

14 **MR. DEROCHIE:** That was her evidence.

15 **MR. MANSON:** Can we just shift gears very
16 slightly and look at Constable Sebalj. You met with her
17 shortly after you commenced your review on October 7th;
18 correct?

19 **MR. DEROCHIE:** Yes.

20 **MR. MANSON:** And in your notes you indicated
21 that she felt betrayed; correct?

22 **MR. DEROCHIE:** Yes.

23 **MR. MANSON:** And I take it what you meant
24 was she thought Dunlop was going to take the statement and
25 go read it in the washroom and that was going to be the end

1 of it; correct?

2 MR. DEROCHIE: He was going to read it ---

3 MR. MANSON: Yeah.

4 MR. DEROCHIE: --- and that would be -- it
5 was just for his own information, yes.

6 MR. MANSON: She did not know that he was
7 going to make a copy of it, did she?

8 MR. DEROCHIE: No, she did not know that.

9 MR. MANSON: And she didn't know that he was
10 going to make use of that copy either, did she?

11 MR. DEROCHIE: No, she did not know that.

12 MR. MANSON: And that's what she meant when
13 she said she felt betrayed; correct?

14 MR. DEROCHIE: Yes.

15 MR. MANSON: Now, I want to go back to a
16 question about the features of police structures and police
17 culture. I want to suggest to you that a very important
18 part of the integrity of a police service is discipline;
19 correct?

20 MR. DEROCHIE: Yes.

21 MR. MANSON: The senior people need to know
22 that the junior people will respond to orders; correct?

23 MR. DEROCHIE: Correct.

24 MR. MANSON: And junior people need to know
25 that their colleagues will respond to orders; correct?

1 **MR. DEROCHIE:** Correct.

2 **MR. MANSON:** Another important feature,
3 certainly between the rank and file, is officers need to
4 know that they can trust each other; correct?

5 **MR. DEROCHIE:** Yes.

6 **MR. MANSON:** You may be in a very difficult
7 situation at some time and officer "X" needs to know that
8 they can rely on officer "Y"; correct?

9 **MR. DEROCHIE:** Correct.

10 **MR. MANSON:** While these -- when you started
11 your review, it seems to me you quickly figured out that a
12 lot of people knew more about this than you did, didn't
13 you?

14 **MR. DEROCHIE:** Yes.

15 **MR. MANSON:** It was obviously being talked -
16 - I'm talking about the DS complaint. It was obviously
17 being talked about around the shop?

18 **MR. DEROCHIE:** Oh, yes.

19 **MR. MANSON:** And so people would know that
20 Perry Dunlop got the statement from Heidi Sebalj; correct?

21 **MR. DEROCHIE:** That would -- yes. That
22 would be the likely original source anyways, yes.

23 **MR. MANSON:** And she felt betrayed; correct?

24 **MR. DEROCHIE:** Yes.

25 **MR. MANSON:** In fact, you might you say she

1 felt that she'd been blindsided by his subsequent actions?

2 MR. DEROCHIE: She may have felt that, yes,
3 it's quite possible.

4 MR. MANSON: So I want to suggest to you
5 that when word gets around that you've got to be careful
6 about officer "X" because he might blindside you, other
7 officers might tend to become more aloof with respect to
8 officer "X"; correct?

9 MR. DEROCHIE: Human nature being what it
10 is, yes.

11 MR. MANSON: So, in fact, when Helen Dunlop
12 testified that Perry Dunlop felt he was being ostracized,
13 she may have had a different view about the source of the
14 ostracism but there may have been officers who were
15 starting to be more aloof; correct?

16 MR. DEROCHIE: Correct. She would certainly
17 be more sensitive to that.

18 MR. MANSON: And ---

19 MR. DEROCHIE: She'd be getting his take on
20 it, yes.

21 MR. MANSON: My take is if people felt that
22 he had blindsided Constable Sebalj another officer might
23 say, "Well, I've got to be a little cautious around him and
24 I'm going to keep my distance"; correct?

25 MR. DEROCHIE: That is possible.

1 **MR. MANSON:** I mean, certainly later on when
2 he suggested that he was worried that officers weren't
3 going to back him up, that was a pretty serious concern;
4 correct?

5 **MR. DEROCHIE:** Oh, yes.

6 **MR. MANSON:** And so now we've got a
7 comparable situation where other officers might think I'd
8 better be careful of this guy; correct?

9 **MR. DEROCHIE:** Might be guarded in what he
10 says -- what they say to him, yes.

11 **MR. MANSON:** And keep their distance?

12 **MR. DEROCHIE:** Well, if we're talking about
13 police culture, it is not acceptable in any way, shape or
14 form in police culture not to back up a fellow officer
15 who's requiring backup.

16 **MR. MANSON:** Yes.

17 **MR. DEROCHIE:** That is -- you can't do
18 anything worse as a police officer, regardless of what you
19 might think of that individual.

20 **MR. MANSON:** And ---

21 **MR. DEROCHIE:** So if we're talking about
22 having a beer with him after work as opposed to doing what
23 their duty is on the job, they might not choose to have a
24 beer with him after work.

25 **MR. MANSON:** Yeah.

1 **MR. DEROCHIE:** Some might not.

2 **MR. MANSON:** So he might have had good
3 reason to think that officers were not as friendly as they
4 used to be?

5 **MR. DEROCHIE:** I can't put myself inside of
6 his head, as it were, but he would -- you know, he would
7 have his view of what was going on certainly and he may
8 have had that view. Well, he did have that view. He
9 expressed that to his wife.

10 **MR. MANSON:** But my point is simply we could
11 understand if other officers started to keep a distance
12 from him; correct? Given what had happened with Constable
13 Sebalj.

14 **MR. DEROCHIE:** I can tell you myself I was
15 guarded around him ---

16 **MR. MANSON:** Okay.

17 **MR. DEROCHIE:** --- about what I said. He
18 was tape recording conversations, things of that nature.

19 **MR. MANSON:** And if ---

20 **THE COMMISSIONER:** Well, how do you know
21 that?

22 **MR. DEROCHIE:** Well, I know it for a couple
23 of reasons. One, I was quoted verbatim almost when -- in
24 some of his notes that he took. At an Association meeting
25 he was discovered taping the meeting. So he was ---

1 **THE COMMISSIONER:** So were you there when --

2 -

3 **MR. DEROCHIE:** Yes.

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

5 **MR. MANSON:** Now, in your testimony back on
6 February 29th when you were talking about conversations with
7 Sergeant Dupuis -- who I take it was a friend of former
8 Constable Dunlop's at this point; correct?

9 **MR. DEROCHIE:** Yes.

10 **MR. MANSON:** At one point Dupuis had said to
11 you that he was very distraught and that he was in tears?

12 **MR. DEROCHIE:** Yes.

13 **MR. MANSON:** So ---

14 **THE COMMISSIONER:** Dupuis told this witness

15 ---

16 **MR. MANSON:** That Perry Dunlop ---

17 **THE COMMISSIONER:** Perry Dunlop was

18 distraught ---

19 **MR. MANSON:** --- was very distraught and was
20 in tears.

21 **MR. DEROCHIE:** That's correct.

22 **MR. MANSON:** Very quickly, in your review at
23 the instructions of the Chief but with your concurrence,
24 the two of you decided that he should be counselled because
25 of the way he handled the confidential Silmsler complaint;

1 correct?

2 MR. DEROCHIE: That's correct.

3 MR. MANSON: That was going to be the end of
4 the discipline as far as you were concerned; correct?

5 MR. DEROCHIE: Yes.

6 MR. MANSON: And just to make a long story
7 short, you were prepared to do it on October 15th, 1993 but
8 he booked off sick?

9 MR. DEROCHIE: Yes.

10 MR. MANSON: And when he came back on the
11 20th, there just wasn't the right time or the appropriate
12 time and it didn't happen; correct?

13 MR. DEROCHIE: And we had decided by that
14 time to deal with the other issues surrounding my review as
15 opposed to it.

16 MR. MANSON: Now, my reading of your notes
17 and the transcripts indicates that -- to me, that you
18 didn't directly tell Constable Dunlop that this was the
19 resolution?

20 MR. DEROCHIE: I'm sorry?

21 MR. MANSON: You didn't directly tell him --

22 -

23 MR. DEROCHIE: Yes.

24 MR. MANSON: --- in the fall of 1993 -- your
25 report comes out January '94, right?

1 **MR. DEROCHIE:** Yes.

2 **MR. MANSON:** So before your report you
3 didn't directly say to him, "We have decided to counsel
4 you"?

5 **MR. DEROCHIE:** I didn't tell him directly
6 that. No, I did not.

7 **MR. MANSON:** No. And, in fact, by the time
8 your report comes out on January 8th, 1994, number one, he
9 had not been counselled; correct?

10 **MR. DEROCHIE:** That's correct.

11 **MR. MANSON:** Number two, he had not been
12 told by you that that was your decision, that he should be
13 counselled; correct?

14 **MR. DEROCHIE:** Correct.

15 **MR. MANSON:** And those two very interesting
16 documents that were Appendix A and Appendix B, the formal -
17 - he would have never seen those?

18 **MR. DEROCHIE:** Not until the time of his
19 *Police Act* hearing. You're quite right. Discovery for
20 that or ---

21 **MR. MANSON:** Now when you ---

22 **MR. DEROCHIE:** And I don't even know if he
23 would have seen it then; I -- I shouldn't have added that.

24 **MR. MANSON:** But we're -- I'm still at
25 January ---

1 **MR. DEROCHIE:** Oh no, January he certainly
2 wouldn't have seen that.

3 **MR. MANSON:** Who got a copy of your report
4 to Acting Chief Johnston?

5 **MR. DEROCHIE:** Acting Chief Johnston.

6 **MR. MANSON:** And would it go anywhere else?

7 **MR. DEROCHIE:** I don't know if he would have
8 shared that with someone else but I wouldn't think so.

9 **MR. MANSON:** And then it seems to me that
10 the next event is on March 20th, you ask Constable Quinn to
11 talk to Perry Dunlop -- he's now on sick leave; ---

12 **MR. DEROCHIE:** Yes.

13 **MR. MANSON:** --- he's been off since January
14 -- to get him to come in to be counselled, correct?

15 **MR. DEROCHIE:** Or I would go to him to be
16 counselled. I wanted to get this done.

17 **MR. MANSON:** You wanted to get this done.
18 And a couple of days later you hear from
19 Quinn that he's not coming in under any circumstances?

20 **MR. DEROCHIE:** Yes, yes.

21 **MR. MANSON:** Now, correct me if I'm wrong,
22 but had he come in to be counselled, that would have been
23 the end of the matter, right?

24 **MR. DEROCHIE:** As far as I'm concerned it
25 would have been, yes.

1 **MR. MANSON:** But I mean also as far as the
2 *Police Services Act* ---

3 **MR. DEROCHIE:** Oh yeah.

4 **MR. MANSON:** --- it couldn't have been
5 cranked up again?

6 **MR. DEROCHIE:** There would have been double
7 jeopardy, I guess, would have played ---

8 **MR. MANSON:** Yes.

9 **MR. DEROCHIE:** --- a role in that, yes.

10 **MR. MANSON:** So in retrospect it may be
11 unfortunate that he didn't come in to be counselled,
12 correct?

13 **MR. DEROCHIE:** Correct. Well, from -- yes,
14 correct, it would have saved a lot of bother but ---

15 **MR. MANSON:** Yes.

16 **MR. DEROCHIE:** --- he felt strongly that he
17 wasn't subject to being counselled and didn't want to --
18 you know, as I say, he didn't want to accept any criticism
19 for the -- for what he had done.

20 **MR. MANSON:** Now, back in late September,
21 Sergeant Brunet ordered him to turn over any documents he
22 had relating to the Silmsler investigation, correct?

23 **MR. DEROCHIE:** Yes.

24 **MR. MANSON:** And it certainly looks like he
25 did not do that, correct?

1 **MR. DEROCHIE:** He did not do that.

2 **MR. MANSON:** Was there ever any discipline
3 with respect to failing to comply with that order?

4 **MR. DEROCHIE:** No.

5 **MR. MANSON:** No.

6 Did it ever enter your mind, either in the
7 fall of '93 or early '94, to order him to come in to be
8 counselled?

9 **MR. DEROCHIE:** I'm sorry, up -- what was the
10 date by?

11 **MR. MANSON:** Either in the fall of '93 ---

12 **MR. DEROCHIE:** Yes.

13 **MR. MANSON:** --- or in early '94, prior to
14 March 20th, to issue an order, "Constable Dunlop, be in my
15 office 10 o'clock tomorrow morning for counselling."

16 **MR. DEROCHIE:** I never -- I never considered
17 that.

18 I considered, as I -- as I testified to, not
19 dealing with his role in this before we dealt with the rest
20 of the -- the issues involved in this case so, no.

21 **MR. MANSON:** I guess what's been causing me
22 concern is: You've already heard from his friend Dupuy
23 that the guy's at home, distraught, crying. You and the
24 Chief, on the other hand, have concluded that the right
25 response to this should be counselling, ---

1 **MR. DEROCHIE:** Yes.

2 **MR. MANSON:** --- correct?

3 Those two are not on the same plane; there's
4 something wrong here, correct? There's something -- his
5 response is out of proportion to what is going on with
6 management at Cornwall Police?

7 **MR. DEROCHIE:** That's fair; I -- I thought
8 that.

9 **MR. MANSON:** And that's been communicated to
10 you by his friend, Dupuy?

11 **MR. DEROCHIE:** Yes.

12 **MR. MANSON:** And again in retrospect, it
13 might have been better to issue an order to get him in
14 there, get him counselled and close the file?

15 **MR. DEROCHIE:** In retrospect, yes, that may
16 have been a wiser course of action.

17 **MR. MANSON:** Because we know shortly after
18 this communication from Quinn, the formal complaint goes to
19 the Board of Inquiry, it's stayed, it ultimately goes to
20 the Divisional Court and the issue is alive until December
21 of 1995, right?

22 **MR. DEROCHIE:** Quite right.

23 **MR. MANSON:** So a matter that could have
24 been closed at a much less injurious level has now
25 escalated, correct?

1 **MR. DEROCHIE:** Quite -- quite right.

2 **MR. MANSON:** And let's talk about 1995, for
3 a second.

4 **THE COMMISSIONER:** Nineteen ninety-five
5 (1995)?

6 **MR. MANSON:** Nineteen ninety-five (1995).
7 I'm not going to go right up to the present, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** No, no, it just you were
10 talking about 1985 ---

11 **MR. MANSON:** Oh.

12 **THE COMMISSIONER:** And then you -- you know,
13 because it went to the Inquiry?

14 **MR. MANSON:** Oh, I meant to say '95. I
15 meant -- I'm talking about the formal discipline as a
16 result of the Silmsler complaint.

17 **THE COMMISSIONER:** Okay, it was '95, yeah,
18 yeah.

19 **MR. MANSON:** It starts in '94 and then
20 December of '95, it's all resolved, correct?

21 **MR. DEROCHIE:** Correct.

22 **MR. MANSON:** So let's look at that period.
23 September 1995, you have a run-in with
24 Carson Chisholm, correct?

25 **MR. DEROCHIE:** Yes.

1 **MR. MANSON:** He comes to the Cornwall Police
2 Service Office with John MacDonald, correct?

3 **MR. DEROCHIE:** That's correct, yes.

4 **MR. MANSON:** And as far as you're concerned,
5 in your notes you said you thought he was looking for a
6 confrontation?

7 **MR. DEROCHIE:** That was my under -- or my
8 opinion, yes.

9 **MR. MANSON:** You knew that he was Perry
10 Dunlop's brother-in-law, correct?

11 **MR. DEROCHIE:** Oh yes.

12 **MR. MANSON:** And you knew that he was Helen
13 Dunlop's brother?

14 **MR. DEROCHIE:** I did, yes.

15 **MR. MANSON:** And so at this point, you know
16 that he's got some involvement with other alleged victims
17 of historical child sex abuse, correct? Carson Chisholm
18 does?

19 **MR. DEROCHIE:** Carson Chisholm does, at
20 least, yes.

21 **MR. MANSON:** Yeah.

22 Did you know that Perry Dunlop had any
23 involvement with other victims of child sexual abuse in
24 September of '95?

25 **MR. DEROCHIE:** No, I wouldn't have been

1 aware of that.

2 MR. MANSON: But you were aware that there
3 was a public petition supporting Perry Dunlop in his
4 challenge to the police charges, correct?

5 MR. DEROCHIE: Yes.

6 MR. MANSON: And you were aware that there
7 were signs around Cornwall indicating that he was, for lack
8 of a better word, a hero, correct?

9 MR. DEROCHIE: Some people thought that,
10 yes.

11 MR. MANSON: There were signs around town?

12 MR. DEROCHIE: Signs -- indications around
13 town. Statements around town.

14 THE COMMISSIONER: Posters, you mean?

15 MR. MANSON: Well, I'm referring to -- I
16 don't want to get into the detail, but there's an
17 October 21st, 1995 newspaper clipping that refers to a sign
18 at a particular intersection in town.

19 MR. DEROCHIE: I'm -- I'm -- I may have seen
20 that news -- I -- I didn't see the sign.

21 MR. MANSON: But it's fair to say in the
22 public mind, people were portraying Perry Dunlop as a hero
23 who was being harassed by Cornwall Police Services?

24 MR. DEROCHIE: Oh yes.

25 MR. MANSON: And you were aware of that?

1 **MR. DEROCHIE:** Yes, I was.

2 **MR. MANSON:** Now, did you ever see the Fifth
3 Estate videotape that was, I think, broadcast for the first
4 time, December of 1995, "The Man Who Made Waves"?

5 **MR. DEROCHIE:** Yes.

6 **MR. MANSON:** You've seen that?

7 **MR. DEROCHIE:** I've seen it.

8 **MR. MANSON:** And shortly after that, you
9 must have become aware that the Dunlops and Carson Chisholm
10 were conducting some kind of private investigation of
11 sexual abuse complaints?

12 **MR. DEROCHIE:** I don't believe I -- I would
13 be ever -- I became aware of that at that time.

14 **MR. MANSON:** No, I said sometime after that?

15 **MR. DEROCHIE:** Oh, sometime after that,
16 definitely, yes.

17 **MR. MANSON:** Now, can you recall when you
18 first became aware of that? Did someone report it to you
19 or did you read something in the media?

20 **MR. DEROCHIE:** I -- I really -- I really
21 can't tell you when I became aware of that.

22 I had, by that time, 1995, I -- I had
23 returned to regular -- my regular duties as an officer ---

24 **MR. MANSON:** Oh yes.

25 **MR. DEROCHIE:** --- in charge of a shift, so

1 what I knew about this would have been what I saw in the
2 newspaper.

3 What little I would have -- that whole --
4 after '94, after I finished off with the -- with that
5 report to the Chief, I had virtually no involvement with
6 Mr. Dunlop or issues surrounding him for some time until --
7 until such time as I became involved in the Professional
8 Standards end of it, so ---

9 **MR. MANSON:** And when was that?

10 **MR. DEROCHIE:** Well, that would have been in
11 September of -- well, it would have been in 1999, the start
12 of 19 -- the start of 1999 I would have had an inkling that
13 there was -- there was stuff going on.

14 **MR. MANSON:** Oh, but you knew about it
15 before that? I mean you read the media?

16 **MR. DEROCHIE:** I read what -- exactly.

17 Other than what was in the media, you know,
18 and I heard these -- whatever was in the media, I was
19 certainly alive to; I knew that, yes.

20 **MR. MANSON:** Well, let's just slow down.

21 You knew from the media that in July of 1996
22 he issues a Statement of Claim suing the Service and
23 various other people, correct?

24 **MR. DEROCHIE:** Oh yes, oh yes.

25 **MR. CALLAGHAN:** I'm sorry, I wonder if

1 there's any evidence that it was in the paper in July of
2 '96?

3 **MR. MANSON:** Yes, there was a newspaper
4 clipping that I put to Charles Bourgeois -- I believe it
5 was July 17th, 1996, where he was interviewed about the
6 complaint.

7 **MR. CALLAGHAN:** I can't recall it but if my
8 friend says so.

9 **MR. MANSON:** I'm not concerned about the
10 specific date, just simply this was becoming common
11 knowledge in Cornwall and you're privy to what's common
12 knowledge.

13 **MR. DEROCHIE:** I'm privy to what's common
14 knowledge and I would suspect that if there's any talk of
15 it around the station, I would have heard that.

16 **MR. MANSON:** And by the fall, the date is
17 November 15th, 1996. There's an Amended Statement of Claim
18 that makes allegations of candle rituals with young boys,
19 that makes allegations of a secret VIP conspiracy meeting
20 and makes allegations of a conspiracy to organize a hit on
21 the Dunlop family?

22 **MR. DEROCHIE:** Yes, I've heard all those
23 things.

24 **MR. MANSON:** You've heard all those things.
25 And this got a lot of press in the fall of

1 1996. It would have been a -- you would have known about
2 it then?

3 **MR. DEROCHIE:** Whatever was in the media, I
4 would have known about.

5 **MR. MANSON:** Okay. Let me give you a date
6 that you can focus on, August 7th, 1997, the Trew order?

7 **MR. DEROCHIE:** Yes.

8 **MR. MANSON:** You know what that is?

9 **MR. DEROCHIE:** I know what that is, yes.

10 **MR. MANSON:** Yeah. Were you involved in the
11 meeting that resulted in issuing the Trew order?

12 **MR. DEROCHIE:** No.

13 **MR. MANSON:** No. Did you know about it at
14 that time? Did anyone consult with you?

15 **MR. DEROCHIE:** No, they wouldn't have
16 consulted with me. I was not involved at all at that time.

17 **MR. MANSON:** Yesterday you told my colleague
18 Ms. Dun -- Ms. Daley -- sorry -- that the CPS media
19 strategy was just to let everything sit.

20 **MR. DEROCHIE:** We would not respond to
21 anything in the media.

22 **MR. MANSON:** Now, I got the sense from that,
23 when you said "Some of our people wanted us to, but that
24 was our decision," that you had knowledge of that decision?

25 **MR. DEROCHIE:** Yes.

1 **MR. MANSON:** And this would certainly apply,
2 this strategy, when these huge allegations hit the media
3 after the Amended Statement of Claim, November 15th, 1996?

4 **MR. DEROCHIE:** Yes.

5 **MR. MANSON:** You decided, "We'll have our
6 day eventually. We're not going to do..." So you were
7 privy -- were you privy to that decision about media
8 strategy?

9 **MR. DEROCHIE:** I don't think I was privy to
10 it. I was subject to it and at that time I agreed with it,
11 but I don't -- they never asked me for my opinion, what I
12 thought of this. I don't recall that in any event.

13 **MR. MANSON:** Okay. So if we think about
14 that time, is it fair to say that senior management of the
15 Cornwall Police would have been aware that Perry Dunlop was
16 conducting a private parallel investigation?

17 **MR. DEROCHIE:** By August of 1997?

18 **MR. MANSON:** No, November '96.

19 **MR. DEROCHIE:** November '96?

20 **MR. MANSON:** If you don't know, just ---

21 **MR. DEROCHIE:** I don't know. Honestly, I
22 don't know.

23 **MR. MANSON:** We do know from looking at the
24 material that you looked at later that there doesn't seem
25 to be any orders issued to Perry Dunlop to stop the private

1 investigation in 1996.

2 MR. DEROCHIE: When he's off on sick leave?

3 MR. MANSON: Yeah.

4 MR. DEROCHIE: Quite right; there's no
5 orders that I've ever found, no -- I've never heard of any.

6 MR. MANSON: In fact, the first order
7 directed to him in relation to this whole matter is the
8 Trew order of August 7th, 1997; correct?

9 MR. DEROCHIE: Correct. That I'm aware of.
10 There may have been some verbal or oral orders given prior
11 -- just prior to that or -- I'm not ---

12 MR. MANSON: And we know that Project Truth
13 started in July of 1997, just shortly before the Trew
14 order; correct?

15 MR. DEROCHIE: Yes.

16 MR. MANSON: You weren't in performance --
17 Professional Standards in '96?

18 MR. DEROCHIE: No.

19 MR. MANSON: What were you doing in '96,
20 please?

21 MR. DEROCHIE: As far as I can recall, I was
22 a staff sergeant on a uniform patrol team in 1996, or I was
23 -- yes, I would have been doing that kind of work. I had
24 been seconded to do a couple of administrative functions,
25 and I would have -- I don't know what the timings were, but

1 I didn't leave uniform patrol until after we did -- after
2 we had conducted the org review or the organizational
3 structure review of our service, and that would have been -
4 - I want to say 1998.

5 MR. MANSON: Now, back in '99, from your
6 notes, you're -- I've got a note January 19th, 1999, you're
7 meeting in Inspector Trew's office and you're talking about
8 whether Dunlop has breached the August 7th, '97 order.

9 MR. DEROCHIE: At that time I'm definitely
10 in Professional Standards.

11 MR. MANSON: You're in Professional
12 Standards?

13 MR. DEROCHIE: Yes.

14 MR. MANSON: So you're now looking back at
15 all of this stuff; correct?

16 MR. DEROCHIE: Looking back at?

17 MR. MANSON: At Dunlop's involvement, his
18 media contacts, his private investigation, you're looking
19 back at that now?

20 MR. DEROCHIE: I am. I am, yes.

21 MR. MANSON: Okay. And at this point we
22 know Project Truth has a number of investigations ongoing;
23 correct?

24 MR. DEROCHIE: That's correct.

25 MR. MANSON: And without getting into the

1 details, one of the issues that relates to those
2 investigations is, let's just call it Dunlop disclosure;
3 correct?

4 **MR. DEROCHIE:** Yes.

5 **MR. MANSON:** We don't -- I'm not going to
6 get into any of the details.

7 It seems to me that the CPS, prior to August
8 7th, 1997, doesn't quite understand the implications of
9 Dunlop's private investigation, do they?

10 **MR. DEROCHIE:** I don't know if we're fully
11 aware of them by that time, but certainly we weren't -- we
12 understood the implications of what could possibly occur,
13 and Inspector Trew, prior to my having carriage of these
14 matters, had tried to explain to Constable Dunlop the
15 dangers that he was involved in. It's my understanding
16 that Inspector Pat Hall and previous Inspector Tim Smith
17 had urged him in the same way, in the same ---

18 **MR. MANSON:** Yeah, but that's already -- I'm
19 sorry to interrupt, but that's already July of '97 when
20 they're on the scene?

21 **MR. DEROCHIE:** Yes.

22 **MR. MANSON:** Yeah. I'm talking about back
23 in '95-'96, the full implications of Dunlop's private
24 investigation, to your knowledge, hadn't occurred to the
25 CPS?

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

2 **MR. CALLAGHAN:** The characterization that
3 there are private investigations in '95 and '96 is somewhat
4 misleading. The only indication of any investigations per
5 se, if that's even what we're getting at, is in the
6 Statement of Claim in October '96 and, in fact, the record
7 would show that, I think, Dunlop wasn't involved in
8 anything until June of '96, when he met with C -- well, an
9 individual, C-8, and that's it.

10 So I don't think it's fair to characterize
11 that this goes back to '95 or even early '96 or that it was
12 even at the attention of the CPS.

13 **THE COMMISSIONER:** All right. Thank you.
14 Good point, maybe.

15 Mr. Engelmann?

16 **MR. ENGELMANN:** I was just going to say I
17 think it would be more accurate to say 1996.

18 **THE COMMISSIONER:** Thank you.

19 **MR. ENGELMANN:** I think things really
20 started in June. There was some involvement in '95 with
21 the Fifth Estate, but the actual investigation ---

22 **THE COMMISSIONER:** Right.

23 **MR. ENGELMANN:** --- is pretty well June of
24 '96.

25 **THE COMMISSIONER:** Mr. Manson, do you have

1 any ---

2 **MR. MANSON:** I don't think there's any point
3 in going back through some documents to see if anybody
4 contacted Mr. Dunlop in '95. I'm content with '96 and we
5 definitely know that there was conversations with C-8.

6 But if we look at -- and I'm not talking
7 about the will state -- if we look at his notes, he did
8 have conversations with other people prior to his meeting
9 with C-8, but that's fine.

10 Let's start in June '96.

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

12 **MR. DEROCHIE:** Yes.

13 **MR. MANSON:** My point is this; I don't see
14 any indication that CPS recognized that ---

15 **MR. CALLAGHAN:** Well, again, there's no
16 indication that in June '96 the CPS knew anything. At the
17 most, what we have is an Amended Statement of Claim in
18 November '96. It hasn't even been established when it was
19 served, as to whom it was served on and what was going on.
20 So I'm not sure exactly why it's June '96. That may have
21 been when Dunlop was doing things, but whether that came to
22 our attention, I don't know of anything in that realm.

23 **MR. MANSON:** Well, I'm assuming that the
24 Notice of Action would have been served. I'm assuming that
25 the Statement of Claim would have been served. I know

1 there was the July '96 Standard Freeholder, but it may be
2 that Inspector Trew is the better person to put these
3 questions to.

4 Was he in ---

5 **MR. CALLAGHAN:** Well, again, if I may, the
6 July '96 -- the June '96 Notice of Action disclosed no
7 investigations. The July Statement of Claim disclosed no
8 investigations. It was only in the November Statement of
9 Claim.

10 **MR. MANSON:** Let me put the question to you
11 this way.

12 You'd agree with me looking back that if the
13 CPS knew that there were private investigations going on
14 involving Constable Dunlop, which he was at that time, and
15 potential victims, alleged victims, if they knew that that
16 could cause problems for future prosecutions, couldn't it?

17 **MR. DEROCHIE:** Yes.

18 **MR. MANSON:** And one problem would be the
19 issue of tainting witnesses because of multiple
20 disclosures; correct?

21 **MR. DEROCHIE:** Correct.

22 **MR. MANSON:** Can you think of any other
23 problems?

24 **MR. DEROCHIE:** It would certainly
25 contaminate the evidence of those individuals, the

1 statements, the identity, identifying suspects. All of
2 that would be subject to some severe contamination.

3 **MR. MANSON:** And let's assume that I'm
4 right, that there was -- and I think it was July 17th, 1996
5 -- but an article in the Standard Freeholder quoting his
6 lawyer about the statement of claim. Mr. Callaghan's point
7 is that doesn't tell you that there is a private
8 investigation going on?

9 **MR. DEROCHIE:** I don't recall the news
10 article in question and I can tell you that I didn't know.

11 **MR. MANSON:** But the person doing your job--
12 performance -- is that with Professional Standards?

13 **MR. DEROCHIE:** Yes.

14 **MR. MANSON:** At that time would have been
15 Inspector Trew?

16 **MR. DEROCHIE:** No, I believe it was Staff
17 Sergeant Wells at the time.

18 **MR. MANSON:** Wells.

19 **MR. DEROCHIE:** Now Inspector Wells.

20 **MR. MANSON:** In '96?

21 **MR. DEROCHIE:** I believe so.

22 **MR. MANSON:** And I think in answer to a
23 question from the Commissioner, you indicated that part of
24 that job is to monitor what's going on in the media?

25 **MR. DEROCHIE:** Well, that was part of my job

1 was in Professional Standards, yes.

2 **MR. MANSON:** That's how you viewed it?

3 **MR. DEROCHIE:** Yes.

4 **MR. MANSON:** So other people may have viewed
5 it differently?

6 **MR. DEROCHIE:** I would assume that if it
7 came to our attention, it doesn't matter how, we would have
8 paid attention to allegations of misconduct or
9 inappropriate behaviour, yes.

10 **MR. MANSON:** He wanted to know how the
11 community viewed the Cornwall Police Service?

12 **MR. DEROCHIE:** Absolutely.

13 **MR. MANSON:** And so if there was stuff in
14 the media that suggested any kind of incompetence or
15 misconduct, you wanted to know about it?

16 **MR. DEROCHIE:** Under normal circumstances,
17 absolutely.

18 **MR. MANSON:** Okay. Well, maybe I'll take
19 those matters up with Wells and Trew.

20 But I was off by a day. It's Exhibit 727
21 and July 18th, 1996. Can we have a look at it?

22 **THE COMMISSIONER:** Seven-twenty-seven (727).

23 **MR. MANSON:** You know, I am not suggesting
24 this is the only media attention but it's the only one I
25 recall.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. MANSON: There it is:

3 "City Police Officer Perry Dunlop is
4 launching an \$87 million lawsuit
5 against seven men including two former
6 Cornwall police chiefs. The suit stems
7 from sexual abuse complaints against a
8 local priest which first surfaced..."

9 Can we scroll down, please?

10 (SHORT PAUSE/COURTE PAUSE)

11 MR. MANSON: I wonder if there's a second
12 page.

13 THE COMMISSIONER: Should be.

14 (SHORT PAUSE/COURTE PAUSE)

15 MR. MANSON: Is there another page? Ah.

16 THE COMMISSIONER: Keep scrolling. No, keep
17 going, Madam Clerk.

18 (SHORT PAUSE/COURTE PAUSE)

19 MR. MANSON: So certainly as of July, 1996
20 CPS was aware that there was a lawsuit, aware that there
21 was media attention but from this I agree with Mr.
22 Callaghan, this by itself doesn't indicate that there was a
23 private investigation going on.

24 MR. DEROCHIE: Yes, we were certainly aware
25 of all of that.

1 **MR. MANSON:** Yeah, but at some point, you
2 know from your work in 1999, you realized that there was a
3 private investigation going on?

4 **MR. DEROCHIE:** Yes.

5 **MR. MANSON:** Yes, and looking back what we
6 know about the private investigation is two things, three
7 things. And I'm going to end with this.

8 Number one, there was potential issues of
9 taint because of Dunlop's involvement with witnesses?

10 **MR. DEROCHIE:** Yes.

11 **MR. MANSON:** Correct?

12 **MR. DEROCHIE:** Correct.

13 **MR. MANSON:** We know there were disclosure
14 issues because he was a police constable at the time;
15 correct?

16 **MR. DEROCHIE:** Correct.

17 **MR. MANSON:** And the other thing we know is
18 that prior to August 7, 1997 the Cornwall Police Service
19 issued no orders to him to stop doing anything that he was
20 doing; correct?

21 **MR. DEROCHIE:** No written orders, correct.

22 **MR. MANSON:** Thank you. Those are my
23 questions.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Horn.

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

3 **MR. HORN:** Good morning.

4 **MR. DEROCHIE:** Good morning, Mr. Horn.

5 **MR. HORN:** Frank Horn for Coalition for
6 Action.

7 First of all, my friend, Mr. Manson, was
8 discussing some of the problems that exist because of the
9 nature of policing and police culture, but let's go a
10 little bit further than that.

11 In a small town, small city like Cornwall,
12 one of the difficulties would seem to come from the fact
13 that when you have an agency like the Children's Aid
14 Society a lot of the board members on the Board would come
15 from different sections such as police officers and people
16 coming from the Crown Attorney's office and it would seem
17 that the Board of Directors of the Children's Aid Society
18 would be closely tied in with the police. Like Mr. Malloy
19 was -- or Constable Malloy was on the Board?

20 **MR. DEROCHIE:** Yes, we had representation on
21 the Board.

22 **MR. HORN:** Yes, and there was also Mr. -- I
23 understand Mr. Landry was also on?

24 **MR. DEROCHIE:** I'm not aware of that but
25 it's certainly possible.

1 **MR. HORN:** How about Mr. Brunet, Constable
2 Brunet?

3 **MR. DEROCHIE:** Staff Sergeant Brunet was.

4 **MR. HORN:** He would have been on and from
5 the Crown's office ---

6 **MR. DEROCHIE:** Not all at the same time on,
7 mind you.

8 **MR. HORN:** I understand but they were on ---

9 **MR. DEROCHIE:** Yes.

10 **MR. HORN:** --- the Boards. How about from
11 the Crown's office? I understand Mr. DeMarco was on the
12 Board at one time. Were you aware of that?

13 **MR. DEROCHIE:** I'm not aware of that.

14 **MR. HORN:** So we're dealing with a situation
15 in which there is an agency like the Children's Aid
16 Society, which has on its Board people who are in another
17 organization like the policing and you might have to
18 investigate things that might be wrong in the CAS or things
19 that are going on there and you have Board members there?

20 **MR. DEROCHIE:** If there was criminal
21 activity alleged, yes.

22 **MR. HORN:** So there would be a problem
23 there?

24 **MR. DEROCHIE:** No.

25 **MR. HORN:** Why not? You've got a Board

1 member who is a police officer. Would you be investigating
2 -- would there be a problem of maybe embarrassing somebody
3 who was of your agency and he is on the Board?

4 **MR. DEROCHIE:** That wouldn't be a
5 consideration of mine personally of embarrassing a member
6 on the Board. If there was criminal activity I wouldn't
7 really care who was involved.

8 **MR. HORN:** But isn't that a problem though?

9 **MR. DEROCHIE:** It's a perception. It could
10 be a perception. Again, as we spoke earlier this week,
11 there may be perception that there was a conflict.

12 **MR. HORN:** It would be a conflict in the
13 sense that when somebody is in that kind of a dual role,
14 they are in the policing and at the same time they are
15 involved with the Children's Aid Society, then there's a
16 situation in which you would be investigating an agency
17 which if you go against that agency too hard, you would be
18 going against the police officer and your own police force?

19 **MR. DEROCHIE:** I don't agree with that, Mr.
20 Horn. That presupposes that the other institution would be
21 involved in, you know, in the criminal activity, that they
22 wouldn't want us to come in and do what we have to do on
23 these things. I don't see the conflict there at all. As
24 you point out, in a small community, if we were to consider
25 every possible conflict that we could come into, we would

1 never get anything done really.

2 MR. HORN: I understand that, but then
3 doesn't that make it difficult ---

4 THE COMMISSIONER: Just a minute, Mr. Horn.
5 Mr. Horn?

6 MR. HORN: Yes.

7 THE COMMISSIONER: Just a second, please. I
8 just want to clear up one point. Do you know these people,
9 Malloy, Landry, Brunet, whoever was there, were they
10 volunteers or were they designated by the police force to
11 sit on that Board as a designated person? In other words,
12 does the CAS Board, to your knowledge, have a seat there
13 for someone from the Cornwall Police?

14 MR. DEROCHIE: I don't know if they have a
15 position that has to be occupied by the Cornwall Police
16 Service. I know that for a period of time we didn't have
17 representation. Certainly, by 1989, I know for sure we had
18 representation on that board, and it sort of went with the
19 turf. At that particular time, if you were in the Youth
20 Branch, you were expected to sit on that Board.

21 THE COMMISSIONER: Oh?

22 MR. DEROCHIE: The officer in charge of CID,
23 Staff Sergeant Brunet, it was a direct result of his
24 involvement. All of us within the organization have those
25 types of responsibilities, especially once you get up into

1 the senior management. I sit on several boards or did sit
2 on several boards.

3 **THE COMMISSIONER:** Okay. Go ahead, Mr.
4 Horn.

5 **MR. HORN:** Yes. Now, in the Act that
6 governs the police services -- I believe it's the *Police*
7 *Services Board Act* or ---

8 **MR. DEROCHIE:** The *Ontario Police Services*
9 *Act*.

10 **MR. HORN:** Yes, section 49. Do you know
11 that section?

12 **MR. DEROCHIE:** Just -- which ---

13 **MR. HORN:** Okay. I'll read it to you, okay?
14 "A member of a police force shall not
15 engage in any activity..."

16 Subsection (b) would be:

17 "...that places him or her in a
18 position of conflict of interest or is
19 likely to do so."

20 **MR. DEROCHIE:** Yes, I'm aware of that
21 section.

22 **MR. HORN:** So you're aware of that?

23 **MR. DEROCHIE:** Yes.

24 **MR. HORN:** So that whenever you've done your
25 investigations in the different situations that you're

1 involved in ---

2 MR. DEROCHIE: M'hm.

3 MR. HORN: --- this would be a governing
4 statute involved -- governing your -- the way in which you
5 conduct yourself; right?

6 MR. DEROCHIE: Absolutely, yes.

7 MR. HORN: So that if you put yourself or
8 the police force into a position of conflict of interest,
9 you could be in violation of a -- the governing statute?

10 MR. DEROCHIE: Quite right.

11 MR. HORN: Okay. So that in the situations
12 that you've -- that the Cornwall Police Force became
13 involved in, they were -- they had you doing a lot of the
14 investigations for internal matters. Does that put you
15 into any situation where you could be in violation of that
16 statute?

17 MR. DEROCHIE: No.

18 MR. HORN: Why not?

19 MR. DEROCHIE: Well, what I do are my
20 duties. My duties are derived from the *Police Services*
21 *Act*. That section is with regards to activities outside my
22 duties as a citizen. I can't be involved in certain things
23 that there might be a perception of conflict. For example,
24 I can't be involved with people who are known to have a
25 criminal record or who are active criminals. I can't be

1 involved in a line of work -- I might be in a point of
2 conflict if I were a bouncer at a strip club, for example,
3 in my time off. Those are the types of conflicts that the
4 Act speaks of, at what ---

5 MR. HORN: That's how you understand it?

6 MR. DEROCHIE: That's how I understand it.

7 MR. HORN: And is that what you were told,
8 that that's as far as it goes?

9 MR. DEROCHIE: Well, that's been my
10 experience over 38 years that that's what that section
11 refers to.

12 MR. HORN: So it doesn't involve situations
13 in which a police officer might be in breach of some
14 directives or so forth in the police department and then
15 you're investigating him and you and him were friends and
16 you went drinking together? You went down and you ---

17 MR. DEROCHIE: Well ---

18 MR. HORN: There was a lot of camaraderie
19 within the police department, as you indicated, in which it
20 seems like when you're in the police force, that's a common
21 situation?

22 MR. DEROCHIE: I really don't know how to
23 answer that question.

24 MR. HORN: No, but I'm just saying ---

25 MR. DEROCHIE: I may have -- you may have

1 lost me there, Mr. Horn.

2 MR. HORN: No, okay.

3 MR. DEROCHIE: Please ---

4 MR. HORN: You indicated to my friend, Mr.
5 Manson, that ---

6 MR. DEROCHIE: Yes.

7 MR. HORN: --- within a police force, that's
8 one of the things in the culture is that there's
9 friendships develop.

10 MR. DEROCHIE: In the workplace?

11 MR. HORN: In the workplace. And there's a
12 lot of camaraderie that goes on within the police force and
13 it's very difficult to separate friendship from job. It's
14 all together?

15 MR. DEROCHIE: Some people have established
16 very close bonds with their fellow officers in the
17 organization, as Mr. Manson suggested, and those
18 friendships have existed over a long period of years by
19 which one of them may have been promoted to a senior rank,
20 and those -- you know, you don't cut friends off, I guess,
21 after you've reached a certain rank.

22 However, we're talking about my duty as a
23 police officer, and it's something that I'm sworn -- that
24 I'm sworn to do. I swear to do my duty, and it's -- I can
25 overcome my personal relationships with people, and if it

1 was to the point -- if it was to the point that it was -- I
2 didn't think I could, then -- I'm talking about myself
3 personally -- I wouldn't undertake it.

4 But I'm telling you that what you're
5 speaking of does not exist in my mind.

6 **MR. HORN:** But there are ---

7 **MR. DEROCHIE:** I've never seen it.

8 **MR. HORN:** --- situations where you had to
9 go outside in order to get an investigation, like when
10 Skinner was brought in?

11 **MR. DEROCHIE:** Yes.

12 **MR. HORN:** Okay. So what is the dividing
13 line between what you keep in-house and what you send out
14 to outside agencies?

15 **MR. DEROCHIE:** It's a good question, and I
16 answered it yesterday that we don't have guiding -- we
17 don't have guidelines that say that if these circumstances
18 exist, then we'll go outside the agency. It's certainly
19 something that might well be a recommendation of this
20 Commission, that that would be of value to us, certainly if
21 we had some guidance to it, but as it stands right now,
22 it's a call the Chief makes. It's an undertaking -- the
23 Chief will examine the situation and make a determination
24 as to whether or not he's comfortable with us doing it
25 inside or whether he wants to go and look for another

1 police service to do it.

2 MR. HORN: In this situation would it be
3 because you had the wolves at the door? The newspapers
4 were talking about the situation and there was stories in
5 the paper and suddenly, for public relations purposes, you
6 send it out to Ottawa?

7 MR. DEROCHIE: Well, you're -- if we're
8 talking about the Ottawa Police Service's review of our
9 investigation of Mr. Silmser's complaint -- that's what
10 you're speaking of?

11 MR. HORN: Yes.

12 MR. DEROCHIE: Then yes, we were accused as
13 an organization, or certainly senior members in the
14 organizations were accused of covering it up, and to, as
15 much as we can, to dispel that thought by some people in
16 the community, the Chief thought it wise to bring the
17 Ottawa Police Service in. They recommended that the whole
18 thing be reinvestigated by the OPP, and subsequently Carl
19 Johnston made that request of the OPP, and here we are.

20 MR. HORN: Okay. So what you're saying then
21 is that in order to get an outside agency or a police
22 agency to do an investigation, you've got to embarrass the
23 police force?

24 MR. DEROCHIE: Well, this investigation,
25 this particular -- the facts in this particular

1 investigation are rather unique and this was a unique
2 situation that required a unique solution.

3 Your point that you're making is that does
4 the police service -- we are concerned and care about what
5 the perception of the community is of us. We can't
6 function without the support of the community. Therefore,
7 if we have a circumstance that we're dealing with in this
8 particular investigation, then yes, if you want to say you
9 have to embarrass us into it, the -- I don't like that
10 word, but yes, we had to. At this point we thought -- the
11 Chief of the day thought that this was best for somebody
12 else to do it.

13 **MR. HORN:** And also, when you look at the
14 situation in retrospect this is a small police force.
15 Basically, they've got you who does this sort of thing on
16 the inside and you have this particular job.

17 **MR. DEROCHIE:** I have oversight, though, Mr.
18 Horn.

19 **MR. HORN:** Pardon?

20 **MR. DEROCHIE:** I have oversight.

21 **MR. HORN:** Okay, but at the -- but then
22 there's larger police agencies like the Ontario Provincial
23 Police who are ---

24 **MR. DEROCHIE:** Yes.

25 **MR. HORN:** --- a province-wide police force.

1 **MR. DEROCHIE:** Oh, yes.

2 **MR. HORN:** They could call in people from
3 other parts of the policing, come to an area, do the
4 investigation, then go back to work and they are not tied
5 to the local community?

6 **MR. DEROCHIE:** You're quite right and
7 there's always been those inherent issues with regards to
8 the police investigating the police or any agency
9 investigating itself. There's always those issues there;
10 no question.

11 **MR. HORN:** So would you say there may be a
12 fear that small police agencies like Cornwall are afraid
13 that they might have to go outside or they might have to
14 become part of a larger police agency in order to survive
15 in the way things are going these days?

16 **MR. DEROCHIE:** I don't have that fear. I
17 think there's sufficient -- there's sufficient safeguards
18 in place. For example, the Ontario Provincial Police are
19 required by statute to provide support to small and medium-
20 sized police forces or, indeed, large police forces for
21 that matter.

22 You know, there's civilian oversight for
23 everything that we do. I don't think we fear our survival.
24 Is that what you were saying, our survival? No.

25 **THE COMMISSIONER:** Well, I thought -- I

1 gathered the question was, do you think that the CPS would
2 be afraid to ask for outside help for fear that eventually
3 the OPP would come in and there would be an application to
4 have the Cornwall -- serviced by the OPP?

5 **MR. DEROCHIE:** I don't have that fear. I
6 don't believe our police service has that fear.

7 **MR. HORN:** I lived in a community where that
8 happened and there was a small police force and the next
9 thing you know the OPP came in, took them over, promised
10 jobs to all the police officers and the next thing you know
11 there was no more local police. That happens in a lot of
12 communities, doesn't it?

13 **MR. DEROCHIE:** It happened during a specific
14 period of time, yes.

15 **MR. HORN:** Pardon?

16 **MR. DEROCHIE:** And we actually competed for
17 policing in that whole area.

18 **THE COMMISSIONER:** To expand your
19 jurisdiction?

20 **MR. DEROCHIE:** To expand our jurisdiction.

21 **MR. HORN:** M'hm. Now, in the -- okay, we
22 have a situation in which there's allegations of serious
23 improprieties on the part of prominent people within the
24 community and it's involving young people. That becomes a
25 pretty serious situation, doesn't it?

1 MR. DEROCHIE: Yes.

2 MR. HORN: And it becomes a situation in
3 which anybody who is a parent becomes very concerned?

4 MR. DEROCHIE: Certainly.

5 MR. HORN: For the protection of their
6 children?

7 MR. DEROCHIE: Certainly.

8 MR. HORN: And you actually went through the
9 same thing yourself, didn't you?

10 MR. DEROCHIE: Well, everybody goes through
11 that, everybody who's a parent in the community goes
12 through that. I had personal experience with it as well.

13 MR. HORN: Yes.

14 MR. DEROCHIE: Not unlike everybody else.

15 MR. HORN: In this situation you had -- your
16 son was an altar boy at St. Andrew's?

17 MR. DEROCHIE: Had been, yes.

18 MR. HORN: Wasn't he?

19 MR. DEROCHIE: Yes.

20 MR. HORN: And the allegations were against
21 the local priest there?

22 MR. DEROCHIE: Yes.

23 MR. HORN: And your son was there and you
24 took him ---

25 MR. CALLAGHAN: I appreciate that my friend

1 is trying his best, but this is about the institutional
2 response. I'm not sure it's fair to bring in his personal
3 life, but I'd ask him to tread carefully when you are
4 talking about someone's personal relationships. This is
5 about the institutional response.

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

7 **MR. HORN:** Okay, I'll be careful.

8 I mean, I'm just saying that you then went
9 and took your son to the Children's Aid Society, didn't
10 you?

11 **MR. DEROCHIE:** I offered -- I offered his
12 participation in their review of what they were doing.

13 **MR. HORN:** That's right. And so you thought
14 that that was the best thing that you could do?

15 **MR. DEROCHIE:** Well, I wanted, as a parent,
16 as a police officer which I am 24/7, I wanted to be helpful
17 to the CAS in any way I could.

18 **MR. HORN:** No, but you were concerned about
19 your son and him and his friends and other young people at
20 that particular church, weren't you?

21 **MR. DEROCHIE:** Yes.

22 **MR. HORN:** Okay. So you immediately went
23 and took your son to the Children's Aid Society for them to
24 look into these matters, didn't you?

25 **MR. DEROCHIE:** I agreed and my son agreed to

1 participate in their project, yes.

2 MR. HORN: Okay. And so you went outside of
3 your own police agency and went to the Children's Aid
4 Society, didn't you?

5 MR. DEROCHIE: Yes.

6 MR. HORN: Okay. Isn't that what Perry
7 Dunlop did?

8 MR. DEROCHIE: No.

9 MR. HORN: He went to the Children's Aid
10 Society, the same place you went to?

11 MR. DEROCHIE: Yes, I don't understand the
12 connection.

13 MR. HORN: Well, there was a problem.

14 MR. DEROCHIE: I'm sorry?

15 MR. HORN: There was a problem with the same
16 priest.

17 MR. DEROCHIE: There was an allegation made
18 against that priest. Mr. Dunlop, I've heard, was concerned
19 about his extended family. There were children in the
20 community that the church served and that was part of the
21 motivation that led him to go to the CAS. In that sense, I
22 cooperated with what CAS was doing.

23 I didn't take confidential information that
24 I had received and delivered documents to CAS, and that was
25 the difference that I -- I think I have articulated that.

1 I didn't have a problem with Mr. Dunlop and
2 going to CAS and making the report. I had concerns even if
3 he didn't want to go through chain of command. I had
4 concerns with him delivering the statement of the victim,
5 Mr. Silmser, to CAS.

6 **MR. HORN:** So you don't agree with the idea
7 that whatever Mr. Dunlop did was necessary in the situation
8 because of the police culture in a small police department
9 where it's going to be very hard for one individual to go
10 against the rank and file and his comrades and do something
11 to ---

12 **MR. DEROCHIE:** No, I ---

13 **MR. HORN:** --- something like this?

14 **MR. DEROCHIE:** No, it wasn't -- there wasn't
15 a conscious decision made not to tell CAS about the
16 allegations made by Mr. Silmser. We didn't -- there was no
17 one that sat around and said, "You know, we're not going to
18 tell CAS this because of whatever reason". It didn't occur
19 to anybody in the -- who were dealing with the
20 investigation that this was within the CAS mandate.

21 Our position is different today, but back
22 then we didn't think that the CAS were interested in those
23 types of investigations that we may be doing.

24 **MR. HORN:** So you think that if it had never
25 gone to the CAS this would have been dealt with internally?

1 **MR. DEROCHIE:** The ---

2 **MR. HORN:** Are you saying ---

3 **MR. DEROCHIE:** --- we would have dealt with
4 Mr. Dunlop internally?

5 **MR. HORN:** No, I'm not talking about that.
6 I'm talking about the allegations involving Silmsler and the
7 fact that there was a wrong. There was a crime that was
8 committed there.

9 **THE COMMISSIONER:** Well, hold on.

10 **MR. DEROCHIE:** There was an allegation.

11 **THE COMMISSIONER:** Hold on, hold on. There
12 were allegations.

13 **MR. HORN:** Okay. Well, the allegations.

14 There was an allegation of a wrong that was
15 done in which there was a payoff in order to stop a
16 prosecution. That was a wrong. That was a wrong. Would
17 that have been dealt with internally?

18 **THE COMMISSIONER:** Well, just a second now.

19 You see, now we are getting to if you're
20 talking about whether there was a payoff and we know that
21 Mr. MacDonald -- Malcolm -- pleaded guilty or was found
22 guilty of obstructing justice. That has nothing to do
23 really with the Children's Aid Society. That's a criminal
24 act.

25 So if you're asking this gentleman would

1 that have come to light or if it would have been handled
2 internally, that's another question.

3 MR. HORN: Okay. There was a situation in
4 which there were allegations that there was money paid in
5 order to stop a prosecution, right?

6 MR. DEROCHIE: Those allegations ---

7 MR. HORN: Those are the allegations.

8 MR. DEROCHIE: Those allegations weren't
9 before us at that time.

10 MR. CALLAGHAN: Yeah, what point of time are
11 we talking? If we're talking -- that allegation doesn't
12 get put forward. It gets brought to the OPP after the
13 Ottawa report in February.

14 THE COMMISSIONER: Well, now I'm going to
15 shift and I don't know where we are going with all of this
16 but here's the situation.

17 I mean, some might say that the minute that
18 this document hit the desk at the Cornwall Police Service
19 that the light bulb should have gone on and said this is a
20 payoff.

21 MR. CALLAGHAN: And that might be, but there
22 wasn't an allegation per se, like no one is coming forward.
23 That's what I am saying.

24 THE COMMISSIONER: Yes.

25 MR. CALLAGHAN: I mean, he may say that

1 situation occurred, why didn't this happen, as opposed to
2 someone proactively bringing an allegation which is the way
3 it's being portrayed in the question.

4 **THE COMMISSIONER:** Okay.

5 So, Mr. Horn, we are going to have to fine
6 tune this a little bit.

7 **MR. HORN:** All right. Constable Dunlop sees
8 a document. He looks at it and instantly he says something
9 has to be done.

10 **MR. DEROCHIE:** The document being the
11 statement is what you're talking about?

12 **MR. HORN:** Yeah, the statement. When he
13 finds out that there was an investigation that was being
14 stopped -- as far as he understood, it was being stopped.
15 He gets that information and he immediately sees that
16 there's something not right there.

17 **MR. CALLAGHAN:** Mr. Dunlop has chosen not to
18 testify. Perhaps we could ask the question with the facts
19 that have been adduced as opposed to what he thinks Mr.
20 Dunlop would have done or didn't do or how he did it.

21 Simply, I think the point is that Mr. Dunlop
22 took this to the Children's Aid. I mean, why can't we just
23 ask the question straightforward?

24 **THE COMMISSIONER:** All right. And that's
25 the difficulty with having the institutional response and

1 not having the Dunlop testimony or overview here. And
2 that's a logistical problem that we've had to deal with, so
3 at this point, Mr. Horn, I don't know that we can speak
4 that much about what Mr. Dunlop thought or felt unless
5 there's some documentary evidence there.

6 So what we know is that Mr. Dunlop took the
7 statement, read it, and was concerned about it, not so much
8 about whether the investigation was going on or off, I
9 guess, but the duty to report.

10 **MR. HORN:** The -- when Mr. Dunlop took the
11 documents from -- and looked at it from Heidi Sebalj -- he
12 took that; made a copy of it, according to what we
13 understand happened.

14 **MR. DEROCHIE:** As we understand it.

15 **MR. HORN:** Yeah, as we understand what
16 happened.

17 **MR. DEROCHIE:** Somebody made a copy of it.

18 **MR. HORN:** He then took that document over
19 to the Children's Aid Society.

20 **THE COMMISSIONER:** Eventually.

21 **MR. DEROCHIE:** Eventually, yes.

22 **MR. HORN:** Yes.

23 **MR. DEROCHIE:** Ultimately, that's what
24 happened.

25 **MR. HORN:** That's right. That's what did

1 happen.

2 Now, as I understand, you thought that he
3 did this in good conscience, right?

4 **MR. DEROCHIE:** I've testified and I have no
5 reason to believe that he did it for anything other than a
6 desire -- he felt compelled that he had to do something.

7 **MR. HORN:** Okay. So he thought that he --
8 you understood that he did something because he thought
9 that it was in his -- he thought it was the right thing to
10 do?

11 **MR. DEROCHIE:** Yes.

12 **MR. HORN:** And that's how you took it?

13 **MR. DEROCHIE:** Yes.

14 **MR. HORN:** Okay. And so when he did that
15 and he made those determinations to do those sorts of
16 things is because -- I mean, if we look at it, the reason
17 is because he knew there was something not right?

18 **MR. DEROCHIE:** He felt compelled to take
19 some action from -- as a result of what he learned about
20 the investigation.

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

22 And wouldn't you say that the reason -- I
23 mean, in your investigation, the reason why he did that is
24 because he thought the Cornwall Police weren't going to do
25 anything? I mean, you know more than anybody else about

1 this investigation, don't you?

2 **MR. DEROCHIE:** Well, I wouldn't -- I
3 wouldn't say that. I know certain aspects of this
4 investigation, but I don't know -- I don't know what the --
5 what was going on in people's minds at the time and why
6 they were doing certain things. I've admitted to that and
7 I've testified to that, that I was having difficulty
8 understanding why this went so awry. So I can only -- I
9 can only give -- as I said before, I can only give Perry
10 Dunlop the benefit of the doubt that that's what he was
11 trying to do, what you're suggesting.

12 **MR. HORN:** Okay. And later on, when he has
13 to appear before the disciplinary boards, did you testify
14 on his behalf in regards to your views?

15 **MR. DEROCHIE:** No.

16 **MR. HORN:** You didn't support ---

17 **MR. DEROCHIE:** It never went to a -- it
18 never went to a hearing.

19 **MR. HORN:** It never went to a hearing?

20 **MR. DEROCHIE:** Well, there was an objection
21 filed by his -- from what I understand in reviewing it,
22 there was an objection filed by his -- or there was a
23 motion filed by his defence and subsequently the Board of
24 Inquiry ruled in his favour. So it never went to a
25 hearing.

1 **MR. HORN:** Oh, it never got that far?

2 **MR. DEROCHIE:** No.

3 **MR. HORN:** It just ---

4 **MR. DEROCHIE:** It went to just ---

5 **MR. HORN:** Okay. If it had gone to a
6 hearing, would you have gone and testified on his behalf?

7 **MR. DEROCHIE:** Had I ---

8 **MR. CALLAGHAN:** Well, I think that's a
9 little speculative. It didn't go to a hearing.

10 **THE COMMISSIONER:** Had he been subpoenaed,
11 I'm sure he would have gone.

12 **MR. HORN:** Okay.

13 **THE COMMISSIONER:** Mr. Horn, can you pick a
14 suitable time for a break?

15 **MR. HORN:** Right now.

16 **THE COMMISSIONER:** Right now? Fine. Thank
17 you.

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

20 This hearing will resume at 11:15.

21 --- Upon recessing at 11:01 a.m./

22 L'audience est suspendue à 11h01

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

24 L'audience est reprise à 11h24

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

1 veuillez vous lever.

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

4 **GARRY DEROCHIE, Resumed/Sous le même serment:**

5 **THE COMMISSIONER:** All right. So where were
6 we?

7 **MR. CALLAGHAN:** Mr. Commissioner, I just
8 asked Mr. Horn to take a look at section 49(1), which he --
9 of the *Police Services Act* which he put to Mr. Derochie. I
10 should have asked that it be put on the screen. Just so
11 it's clear, that section references restrictions on
12 secondary activities.

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

14 **MR. CALLAGHAN:** It's not -- which makes
15 sense to what Mr. -- Staff Sergeant Derochie was talking
16 about, bouncers and such. That's what that section deals
17 with.

18 **THE COMMISSIONER:** Okay.

19 **MR. CALLAGHAN:** And I should have asked for
20 it to be put on the screen. I apologize.

21 **THE COMMISSIONER:** No problem. Thank you.
22 Mr. Horn.

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

25 **MR. HORN:** Yes, I acknowledge that, but this

1 is a situation in which just the appearance of conflict of
2 interest, I think, would -- the spirit of the section is
3 that there would be no appearance of conflict of any kind
4 because it brings discredit to the police force. I mean,
5 the Regulations under section -- Code of Offences is
6 discreditable conduct; that is to say, if he or she acts in
7 a disorderly manner, in a manner prejudicial to discipline
8 or likely to bring discredit upon the reputation of the
9 police force.

10 **MR. DEROCHIE:** The purpose of our
11 participation on boards, whether it be CAS or, in my case I
12 was involved in -- on boards with regard to mental health
13 issues, is to sort of solidify the whole participation of
14 the police service in the whole community. We have issues
15 that transcend jurisdictions. What we do is of interest to
16 the CAS. What they do is of interest to us, likewise with
17 the Board of Directors of Friendship House, the Laurencrest
18 Group Home. All of these organizations seek participation
19 from the community and certain of the institutions within
20 the community.

21 So I don't see it as a point of conflict. I
22 see it as a way of us better serving the community by, you
23 know, having that type of a partnership. And very much,
24 policing is a partnership.

25 **MR. HORN:** Okay. But obviously we wouldn't

1 be inviting a police officer to sit on the local Criminal
2 Lawyers Association, would we?

3 MR. DEROCHIE: You might benefit from that,
4 I guess.

5 (LAUGHTER/RIRES)

6 MR. DEROCHIE: Quite right. Quite right.
7 If there's definitely an adversarial type situation, then
8 possibly ---

9 MR. HORN: I don't think it would be right.
10 It would look -- it would be -- it would look really bad,
11 wouldn't it, in the community?

12 THE COMMISSIONER: It might bring some ---

13 MR. DEROCHIE: Although we certainly had
14 lawyers sitting on our board.

15 MR. HORN: Pardon?

16 MR. DEROCHIE: We've had lawyers sitting on
17 our board, so ---

18 MR. HORN: On the board, you mean on the ---

19 MR. DEROCHIE: The Police Services Board,
20 yeah.

21 MR. HORN: Well, that's a good place for
22 them to be.

23 MR. DEROCHIE: Yes, exactly.

24 MR. HORN: To keep an eye on you fellows.

25 MR. DEROCHIE: If it makes you sleep better

1 at night, Mr. Horn.

2 MR. HORN: Okay. Now, one of the things I
3 was interested in is the -- in the early Landry, Jr.
4 Investigation, you know, there's different types of
5 techniques used in order to interrogate a suspect. Were
6 they -- do you know if they were used, like the Reid
7 Technique or any of the other interrogation techniques in
8 order to get a person to give a truthful statement?

9 MR. DEROCHIE: You're talking about Sergeant
10 Lefebvre's interrogation of Mr. Earl Landry, Jr. ---

11 MR. HORN: Yes.

12 MR. DEROCHIE: --- in 1985?

13 MR. HORN: Yes. Was it done ---

14 MR. DEROCHIE: I'm not aware of what
15 techniques he used.

16 MR. HORN: You don't know anything about
17 what technique was used?

18 MR. DEROCHIE: No.

19 MR. HORN: Okay. And the fact that there
20 may have been lost notes and other things that didn't --
21 that went wrong, did you do anything to discipline ---

22 MR. CALLAGHAN: Sorry, the evidence isn't
23 that there are lost notes. The evidence is that the notes
24 were disposed of in accordance with the destruction policy,
25 I thought.

1 **THE COMMISSIONER:** Well, Mr. Engelmann?

2 **MR. ENGELMANN:** I think the evidence is
3 there are no notes.

4 **THE COMMISSIONER:** Well, no, there are some
5 notes.

6 **MR. ENGELMANN:** There are the notes we have.

7 **THE COMMISSIONER:** Yes.

8 **MR. ENGELMANN:** There are no other notes in
9 existence.

10 **MR. HORN:** From what I understand, there was
11 notes and then they showed up later.

12 **THE COMMISSIONER:** Okay, let's ask the
13 witness.

14 **MR. ENGELMANN:** There were some notes that
15 were found, that's true, but we have a very limited number
16 of notes.

17 **THE COMMISSIONER:** No, no, well my
18 understanding is that we have police officers' notes but
19 the supplementary reports were attached to some other
20 document and they were destroyed according to ---

21 **MR. CALLAGHAN:** The document destruction, I
22 think is the word you were ---

23 **THE COMMISSIONER:** Exactly, thank you.

24 **MR. HORN:** But then there were notes that
25 eventually they were found, weren't they?

1 **MR. DEROCHIE:** Yes.

2 **MR. HORN:** Okay. Now did you do anything to
3 find out why they weren't there initially and then only
4 later, in your investigation?

5 **MR. DEROCHIE:** I'm not -- initially?

6 **MR. HORN:** Yeah.

7 **MR. DEROCHIE:** At what point, I'm sorry ---

8 **MR. HORN:** Well ---

9 **MR. DEROCHIE:** --- because the notes were
10 always ---

11 **MR. HORN:** Pardon?

12 **MR. DEROCHIE:** The original notebooks I went
13 and retrieved from the property officer and the reason I
14 went to look for them was I -- they were in the case file
15 that was presented by Constable Scott Hanton to me when he
16 went and retrieved this file. So those -- those notes were
17 there.

18 And maybe it's the terminology I used,
19 "notes were found", as if that would sort of maybe make you
20 think that they were missing but the notes were always --
21 always there, the ones that we were able to locate.

22 **MR. HORN:** Okay. Now, I understand nowadays
23 that they have the little notes that are bound. Initially,
24 were they the loose-leaf notebooks?

25 **MR. DEROCHIE:** Yes, unfortunately the

1 investigators of the day used both versions, used both the
2 bound notebooks and the loose-leaf notebooks.

3 MR. HORN: So there's more danger when
4 you're using loose-leaf, aren't there -- isn't there?

5 MR. DEROCHIE: Absolutely.

6 MR. HORN: I mean you can change -- pull it
7 out and put another one in?

8 MR. DEROCHIE: There's that, yes.

9 MR. HORN: And other problems also?

10 MR. DEROCHIE: Yes, they could accidentally
11 be misplaced. They're not in a bound notebook, so they're
12 subject to be -- the binder holes tearing and losing them,
13 yes.

14 MR. HORN: Okay. And the ---

15 MR. DEROCHIE: My biggest concern with those
16 notebooks is exactly that, they would be challenged in
17 court. However, I lost that argument.

18 MR. HORN: You lost the argument?

19 MR. DEROCHIE: Originally.

20 MR. HORN: But there were pleas, weren't
21 there?

22 MR. DEROCHIE: I'm sorry?

23 MR. HORN: At least in the end they were
24 pleas, guilty pleas, weren't they? Did it ever go to
25 trial?

1 **MR. DEROCHIE:** Well, I'm talking about notes
2 in general, Mr. ---

3 **MR. HORN:** Oh, in notes in general, but I'm
4 talking about the Landry situation.

5 **THE COMMISSIONER:** In the end, he pleaded
6 guilty.

7 **MR. HORN:** Yes, he pleaded guilty, so that
8 never went to court? That whole issue was never brought
9 before the courts?

10 **MR. DEROCHIE:** No, and -- that is to -- no,
11 you're quite right, yes, okay.

12 **MR. HORN:** So that would never have been
13 brought out under cross-examination by the defence counsel?

14 **MR. DEROCHIE:** The fact that there may be
15 notes missing?

16 **MR. HORN:** Well, not only notes missing but
17 they were in loose-leaf binders and may be ---

18 **MR. DEROCHIE:** Well, that fact was
19 well-known to the courts, that we were using loose-leaf
20 binder -- or loose-leaf notes.

21 **MR. HORN:** It was not known?

22 **MR. DEROCHIE:** Oh, it was well-known to the
23 courts.

24 **MR. HORN:** And I guess the lawyers would be
25 very conscious of that and complain a lot about it,

1 wouldn't they?

2 **MR. DEROCHIE:** I don't know that the lawyers
3 ever complained about it, but certainly our -- the -- the
4 officers were subject to, I would suggest, an enhanced form
5 of cross-examination because of those very possibilities.
6 If you wanted to make those points, they were certainly
7 susceptible to being challenged on those issues, yes.

8 **MR. HORN:** Now, there was another
9 interesting thing in regards to the Landry investigation
10 and the circumstances surrounding in that the phone call
11 from Shaver to Landry, that was not just a short
12 conversation was it, it went on for hours?

13 **MR. DEROCHIE:** According to what the Chief
14 wrote in -- what Chief Shaver wrote in his statement, he
15 said he spent some time with Mr. Landry.

16 **MR. HORN:** I understand it was hours.

17 **MR. DEROCHIE:** It may well have been.

18 **MR. HORN:** Now, if he's consoling him, just
19 a short conversation would be enough, wouldn't you think?

20 **MR. DEROCHIE:** I don't know. I don't know.
21 I mean ---

22 **THE COMMISSIONER:** Just a second, just we're
23 going far afield here.

24 **MR. HORN:** I mean, I'm just saying it looks
25 like a strategy session, really, more than anything ---

1 **THE COMMISSIONER:** Okay, just a second, let
2 me make myself very clear.

3 I'm not saying that the issue itself as to
4 the quality of the call and what went on is not important,
5 what I'm saying is this gentleman is taking his knowledge
6 from what he read in the notes, so how can he know what's
7 going on in Chief Shaver's mind?

8 **MR. HORN:** I understand.

9 **THE COMMISSIONER:** Right.

10 **MR. HORN:** But he's the investigator; he has
11 to read between the lines.

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

13 **MR. HORN:** He's the investigator and he's
14 got to try to figure out what's really going on in this
15 situation.

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

17 **MR. HORN:** I mean, if he's a good
18 investigator, right?

19 **MR. DEROCHIE:** I'm sorry?

20 **MR. HORN:** If you're a good investigator,
21 you're going to read between the lines what was really
22 going on and you'd look behind it, wouldn't you?

23 **MR. DEROCHIE:** Possibly. I wasn't
24 investigating -- I'm sorry?

25 **THE COMMISSIONER:** No, go ahead, go ahead.

1 **MR. DEROCHIE:** I wasn't -- I wasn't
2 analyzing what -- you used the term "strategy" that was
3 being discussed between Shaver and Landry. I never got a
4 sense of that and I didn't read anything between the lines
5 that would have suggested that.

6 You know, reading between the lines is
7 pretty abstract.

8 **MR. HORN:** I mean that's your business,
9 isn't it?

10 **MR. DEROCHIE:** My -- my business is to
11 uncover evidence and facts and to evaluate those facts as
12 -- because that's what I have to present to the court is
13 facts not reading between the lines. I think you might
14 object to that if I tried to insert what I believe was
15 written in between the lines.

16 **MR. HORN:** You were in the Cornwall Police
17 Service since the 70s, right?

18 **MR. DEROCHIE:** Nineteen seventy-six (1976) I
19 joined the Cornwall Police Service.

20 **MR. HORN:** Nineteen seventy-six (1976).

21 Now one of the probation officers,
22 Mr. van Diepen, mentioned something in his testimony where
23 he said that there was a practice of dropping off
24 probationers at Ken Seguin's house.

25 **MR. DEROCHIE:** Yes, I remember that.

1 **MR. HORN:** Do you remember that?

2 **MR. DEROCHIE:** Yes.

3 **MR. HORN:** Okay. You were around back then?

4 **MR. DEROCHIE:** Oh, yes.

5 **MR. HORN:** Okay. So what do you know about
6 that practice. Did it exist?

7 **MR. DEROCHIE:** Not that I'm aware of. I
8 never -- I didn't do it and I -- I don't know of it being
9 done.

10 **MR. HORN:** Okay. Did you hear about it?

11 **MR. DEROCHIE:** Until Mr. van Diepen brought
12 it forward, I hadn't heard about that.

13 **MR. HORN:** Okay. So as far as you're
14 concerned, you didn't hear anything like that back then?
15 Or since?

16 **MR. DEROCHIE:** Since?

17 **MR. HORN:** Since.

18 **MR. DEROCHIE:** Oh, yes, I heard it in
19 testimony here by Mr. van Diepen.

20 **MR. HORN:** Oh, that was the first time you
21 heard it?

22 **MR. DEROCHIE:** Yes.

23 **MR. HORN:** Now, at that time, in the early
24 90s, you would have had, what, about -- over 22, 23 years
25 of experience as a police officer?

1 a few people of my era in 1993 and collectively we had --
2 we had that number -- that amount of experience.

3 **MR. HORN:** So these are police officers with
4 quite a bit of experience, maybe -- let's say in total
5 among yourselves 100 years of experience?

6 **MR. CALLAGHAN:** Who exactly are we talking
7 about?

8 We have -- I think it was explained that we
9 have Chief, Deputy Chief, Inspectors, Staff Sergeants and
10 Staff Sergeants aren't senior officers, the others are, and
11 I have no idea who we're talking about.

12 **MR. HORN:** Okay. Let's say from the Chief,
13 Deputy Chief and the ones that are not considered part of
14 the, let's say, management.

15 **MR. DEROCHIE:** Well, if we're talking about
16 those that are referred to as "senior officers" as defined
17 in the *Police Services Act*, then we're talking about the
18 Chief, the Deputy Chief.

19 At the time there would have been -- in
20 1993, there would have been at least two inspectors,
21 possibly three, but at least two.

22 So between them the Chief had more
23 experience than I did at that time. The Deputy had more
24 experience than I did and the inspectors would have
25 probably an equivalent amount of experience.

1 So 100 years plus of experience, yes, if
2 that's what you're looking for.

3 **MR. HORN:** Okay. So you've got a situation
4 that suddenly pops up, a possible Alfred situation.

5 **MR. DEROCHIE:** Yes.

6 **THE COMMISSIONER:** You're talking about the
7 DS?

8 **MR. HORN:** Yes.

9 **THE COMMISSIONER:** Okay.

10 **MR. HORN:** A possible Alfred situation.

11 **MR. DEROCHIE:** That pops up, yes, that ---

12 **MR. HORN:** Yes.

13 **MR. DEROCHIE:** That's reported. That comes
14 to our attention.

15 **MR. HORN:** And it looks really serious,
16 doesn't it? Possibly ---

17 **MR. DEROCHIE:** Yes.

18 **MR. HORN:** --- it could explode in your
19 face, in the police ---

20 **MR. DEROCHIE:** It's not as if this was the
21 first such incident that popped up. We had done previous
22 investigations of that nature. But did we recognize it --
23 if the point is did we recognize it as being a serious
24 complaint, absolutely.

25 **MR. HORN:** So then you make sure that you're

1 going to pick the right person to handle it, right, like a
2 Sebalj who's got maybe two or three years of experience?

3 **MR. DEROCHIE:** You would want somebody
4 competent to investigate it.

5 **MR. HORN:** To handle something that is going
6 to be as explosive as this situation?

7 **MR. CALLAGHAN:** If I could just ask my
8 friend to be a little more accurate about years of
9 experience. It's not for our -- it's just for everybody
10 watching, if they're tuning in this is -- he's not stating
11 the evidence even remotely accurately half the time.

12 **THE COMMISSIONER:** Well, never mind remotely
13 half the time, that's an inaccurate statement in yourself.

14 **MR. CALLAGHAN:** I think I'm conveying I'm
15 having -- I'm trying to be -- not get up, but ---

16 **THE COMMISSIONER:** No, no, but ---

17 **MR. CALLAGHAN:** And I recognize that, Mr.
18 Commissioner, you know what the facts are. I'm just ---

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

20 **MR. CALLAGHAN:** Okay.

21 **THE COMMISSIONER:** --- in the same vein, you
22 be accurate with your objections.

23 And so in 1993 Constable Sebalj would have
24 had what, five, seven years?

25 **MR. DEROCHIE:** Well, she was ---

1 **THE COMMISSIONER:** Pardon me?

2 **MR. HORN:** Field operations in 1987. She
3 was a cadet back in January the 1st, 1987.

4 **THE COMMISSIONER:** So six or seven years?

5 **MR. HORN:** Yeah, six or seven years.

6 **THE COMMISSIONER:** Well, you have to be
7 careful, sir.

8 **MR. HORN:** Okay. And -- well, not only
9 here, but I mean, I'm talking in total. This is a fairly
10 inexperienced individual compared to the -- like yourself
11 and other police -- top level police officers in the
12 Cornwall Police Services?

13 **MR. DEROCHIE:** She didn't have as much
14 experience as other police officers at that time who were
15 working, yes.

16 **THE COMMISSIONER:** In sexual assault
17 matters.

18 **MR. HORN:** Okay. I understand that, but an
19 explosive -- a potential explosive situation comparable to
20 Alfred. That's what it looked like, didn't it?

21 **MR. DEROCHIE:** Correct.

22 **MR. HORN:** All right.

23 So you put her and throw her into this
24 situation. And Skinner, in his assessment, thought that
25 she was way over her head, right?

1 **MR. DEROCHIE:** That was his evaluation, yes.

2 **MR. HORN:** His evaluation. He thought that
3 she had been put into -- basically sent into the deep end
4 of the pool like basically to -- and she was -- eventually
5 had to be taken out of that situation, didn't she?

6 **MR. DEROCHIE:** No. No, she was never -- she
7 wasn't thrown into the deep end of the pool. I think
8 that's a poor analogy. She was assigned this
9 investigation; certainly it would have been a challenging
10 investigation but I don't think you'll find anybody that
11 would indicate or would suggest that Constable Sebalj
12 wasn't a very competent investigator.

13 Secondly, she was working in an office with
14 experienced investigators. Unfortunately they were
15 occupied in another very serious investigation and -- but
16 they were there. They were there for her. You know, there
17 was a collective experience of anybody that she had went to
18 or she could have gone to. Sergeant Lefebvre had an
19 involvement in this and Constable Malloy had an involvement
20 in this. So she had resources at her disposal to -- it
21 would have been ideal certainly had she have had three or
22 four of these under her belt but circumstances were that
23 that didn't exist, and there's always got to be a first one
24 for somebody to gain experience. She had done other sexual
25 assaults so she had proven her competency there.

1 You know, in hindsight it would have been
2 better, given everything that's happened, but I don't
3 second guess that.

4 **MR. HORN:** According to Skinner, Constable -
5 - this is his report on page ---

6 **THE COMMISSIONER:** What exhibit?

7 **MR. ENGELMANN:** It's 1208, sir.

8 **THE COMMISSIONER:** Twelve oh eight (1208)
9 thank you.

10 What page, Mr. Horn? Twelve oh eight
11 (1208)?

12 **MR. HORN:** Probably. I've got ---

13 **THE COMMISSIONER:** No, it's not 1208.

14 **MR. HORN:** --- 711 ---

15 **THE COMMISSIONER:** Just a second. Can we
16 help out here?

17 **MR. HORN:** The second from the bottom ---

18 **THE COMMISSIONER:** No, no, we're not at the
19 right exhibit.

20 **MR. HORN:** Oh, sorry.

21 **MR. ENGELMANN:** I'm sorry; it's 1207.

22 **THE COMMISSIONER:** It's 1207?

23 **MR. ENGELMANN:** Yes.

24 **THE COMMISSIONER:** Great. Thank you.
25 What page, Mr. Horn?

1 **MR. HORN:** I've got here -- I don't have it
2 marked down. I've got ---

3 **THE COMMISSIONER:** What's ---

4 **MR. HORN:** At the top it would be 711596.

5 **THE COMMISSIONER:** It's not the one we're
6 using. Okay. What page then in the report itself?

7 **MR. HORN:** Page 711 ---

8 **THE COMMISSIONER:** No, we're not using the
9 same front or -- I've got 1025446. So can you just -- on
10 the report, sir ---

11 **MR. HORN:** Yes.

12 **THE COMMISSIONER:** --- the first page is the
13 first page.

14 **MR. HORN:** Yeah.

15 **THE COMMISSIONER:** And then if you flip
16 through -- just give me an idea.

17 **MR. HORN:** Okay.

18 **THE COMMISSIONER:** Right. It's only a ---

19 **MR. HORN:** It might not have come out quite
20 -- it's in the conclusions.

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

22 **MR. HORN:** And it would be one, two, three,
23 four -- sixth paragraph.

24 **THE COMMISSIONER:** "The poor quality of the
25 investigation" is that where you're at?

1 **MR. HORN:** It says -- the first words are
2 "Constable Sebalj" ---

3 **MR. MANSON:** "Was not qualified..." Okay.
4 So it's --- just a second.

5 **MR. HORN:** Yes, it's:
6 "Constable Sebalj, in my opinion, not
7 sufficiently qualified to undertake
8 such a complex and potentially
9 contentious investigation; was left to
10 her own devices and failed to see the
11 urgency of the situation. She was not
12 adequately supported, and given the
13 early objections to her assignment to
14 the investigations by the complainant
15 and his constantly difficult and
16 obstructive behaviour should never have
17 been left in charge."

18 Now, that's the opinion of somebody who was
19 called in from Ottawa to do the investigation. You're
20 saying that -- and he's a -- was called in just to deal
21 with this situation. So did you get your money's worth?
22 Are you saying that he didn't do a good job in coming up
23 with that ---

24 **MR. DEROCHIE:** No, I'm not saying -- I'm not
25 saying that the staff inspector -- or the superintendent

1 did a bad job. He did the best job, you know, that he
2 could.

3 **MR. HORN:** So you're saying he's wrong
4 there?

5 **MR. DEROCHIE:** Well, I don't share his
6 opinion on the -- if it was a situation whereby she was
7 left to her own devices then he may -- there may be a point
8 that I would agree on with regards to that, but the fact of
9 the matter was that there was resources available, there
10 was expertise available to her to consult with.

11 **MR. HORN:** But according to them there
12 wasn't -- she didn't get it. Nobody adequately supervised
13 her.

14 **THE COMMISSIONER:** Supported her.

15 **MR. HORN:** Or supported her.

16 **MR. DEROCHIE:** That's the conclusion he
17 reached.

18 I don't want to give the impression that I'm
19 disagreeing with what Mr. Skinner said but I reviewed this
20 a lot longer and in a lot more detail and I didn't come to
21 that conclusion. I held that opinion at the very early
22 parts of my involvement and I think that's obvious from my
23 testimony. But subsequently, as I gain more knowledge
24 about this, I didn't have those concerns.

25 **MR. HORN:** So you're saying that a lot of

1 your early opinions, not only on this, maybe on other
2 things, would have changed as it went along?

3 **MR. DEROCHIE:** Yes, of course.

4 **MR. HORN:** So as things unfolded you would -
5 --

6 **MR. DEROCHIE:** As I became more familiar and
7 as I -- there was a rush to judge this at the very
8 beginning and I certainly was involved in that whole
9 problem of not -- or of maybe forming opinions before I had
10 all the facts.

11 Certainly, as I've indicated, that I thought
12 that there was some serious problems with the investigation
13 that overshadowed Mr. Dunlop's involvement in this and, you
14 know, that was my concern for some considerable time, but
15 after that, you know, in hindsight, I don't have that same
16 opinion.

17 **MR. HORN:** So when should we rely on your
18 opinion along this process, at the beginning, the end or --
19 -

20 **MR. DEROCHIE:** I think that's ---

21 **MR. HORN:** --- in your old age? I mean,
22 when are we going to say that you finally figured it out?

23 **MR. DEROCHIE:** Well, I think that I -- when
24 did I finally figure it out? I have no idea exactly the
25 date that I -- this revelation came to me that this was

1 okay, everything was okay about this. And I don't -- never
2 reached that conclusion that everything was okay. It just
3 wasn't as I first thought it.

4 **MR. HORN:** Okay. So your opinions continue
5 to evolve as you go along? Is that what you're saying?

6 **MR. DEROCHIE:** Well, yeah, that's what
7 happens with experience. You experience something and
8 then, you know, as you experience things, your opinion on
9 something evolves.

10 **MR. HORN:** That's a pretty dangerous way. I
11 mean, you're making -- you have to make decisions along the
12 way and they could affect a lot of people, like Mr. Dunlop,
13 for example.

14 **MR. DEROCHIE:** I -- I'm not -- I don't --
15 yes. If you -- if you acted -- if you don't carefully
16 consider things, if you don't carefully pay attention to
17 everything and try to put your prejudice aside, then yes,
18 there is that rush to judgment that's always -- is always a
19 danger, but I think the quality of your decision improves
20 as you experience, as you look into it deeper, and then
21 ultimately the decision you make is improved if you take
22 time to consider everything.

23 **MR. HORN:** All right.

24 And I guess that's the way with everyone?

25 **MR. DEROCHIE:** Well, of course, yes.

1 **MR. HORN:** And so in hindsight, what you
2 look at is Mr. Dunlop got something going and now we've got
3 an Inquiry; right?

4 **MR. DEROCHIE:** Yes, yes.

5 **MR. HORN:** And so he made a decision way
6 back then and he got the ball rolling. Do you think that
7 he made that right decision at that time to get the whole
8 thing started and now we have an Inquiry and we're finally
9 dealing with a serious problem?

10 **MR. DEROCHIE:** Well, I think the -- I think
11 the ultimate result of this thing is a good thing. I think
12 the Inquiry -- personally, I think the Inquiry is a good
13 thing because there's an awful lot of misperceptions, both
14 in the community with regards to exactly what went on, and
15 we're looking at the whole issue of historical sexual
16 assaults and beyond that to some degree with regards to how
17 we respond, how all of the institutions that make up the
18 criminal justice system respond to these allegations.

19 I think it's fair to say we may not have had
20 the appreciation back in 1970, '80 or 1990 of all of the
21 impact that these -- this kind of trauma places on a
22 victim. So ultimately this is a good thing because it's
23 going to improve with -- when we get recommendations, it's
24 going to improve the way we provide service to the
25 community and, you know, to that degree, kudos to Mr.

1 Dunlop. You know, if this is a direct result of that, then
2 there is some good -- there's good that comes out of this.

3 **MR. HORN:** So you're going to be there when
4 he comes into town one of these days and you're going to
5 give him a medal?

6 **THE COMMISSIONER:** Oh come on now.

7 **MR. HORN:** Sorry.

8 But somebody's got to do it. He got this
9 thing going. Something is being done about it, right, and
10 he's the guy that got it started? Do you agree?

11 **MR. DEROCHIE:** Perhaps you can give him that
12 medal, Mr. Horn.

13 **MR. HORN:** Pardon?

14 **MR. DEROCHIE:** I said perhaps you can give
15 him that medal.

16 **MR. HORN:** Yeah.

17 Now, you started off saying that he did this
18 in good conscience?

19 **THE COMMISSIONER:** He felt ---

20 **MR. HORN:** Yes.

21 **THE COMMISSIONER:** --- that Mr. Dunlop had
22 done that in good faith.

23 **MR. HORN:** That's right, in good faith.

24 **MR. DEROCHIE:** And that being, advising the
25 CAS of the allegation.

1 **MR. HORN:** So how did you feel later when
2 you were called upon to be the one to try to get charges
3 laid against Mr. Dunlop?

4 **MR. DEROCHIE:** That was well beyond the
5 actions that he had taken in the start. We're now talking
6 about -- we're talking about issues that go outside of that
7 whole original action that he had taken. We're talking
8 about active cases that are before the court or being
9 investigated by a police agency where he's interfering with
10 those types of investigations. As a police officer, he
11 should have realized what the consequences of that action
12 was. So I have no qualms about that. That's different.

13 He started off with good intentions. I have
14 no doubt about that.

15 **MR. HORN:** Okay. But the investigations
16 that eventually led to the charges wouldn't have ever even
17 started unless he had started it initially, right?

18 **MR. DEROCHIE:** I -- you know, that's -- yes,
19 that's true, there wouldn't have been a Project Truth
20 investigation.

21 **MR. HORN:** That's right. There wouldn't
22 have been the investigations if Mr. Dunlop hadn't done what
23 he did?

24 **MR. DEROCHIE:** That's possibly true, yes.

25 **MR. HORN:** Okay.

1 **MR. DEROCHIE:** It could have occurred some
2 other way, but it could have occurred that way as well,
3 yes.

4 **MR. HORN:** Well, the Coalition's position is
5 that it would have never seen the light of day. It would
6 have died a long time ago and it would have been ancient
7 history. That's our position.

8 **THE COMMISSIONER:** Well, hold on a second
9 now. That's speculation in the sense that we know that
10 things percolate to the surface in other ways. So it could
11 have been that someone else, a complainant, came forward
12 and said, "Look at, this is what happened" and that would
13 have started the ball rolling.

14 **MR. HORN:** I understand that.

15 **THE COMMISSIONER:** Who knows?

16 **MR. HORN:** Unless there's systemic problems
17 that prevent something like that to happen. That's what
18 we're trying to -- we're saying that there are systemic
19 problems that exist which prevent exactly what you're
20 saying to happen because there's always this ability for
21 the police department and other agencies to protect
22 themselves.

23 **THE COMMISSIONER:** Okay.

24 **MR. HORN:** And that's what we believe. We
25 believe that they just protect themselves and nothing like

1 this would ever come to the surface unless there was a
2 Perry Dunlop or a Carson Chisholm to do what they did.

3 **MR. CALLAGHAN:** Can I interject? I'm more
4 accustomed to gathering facts with witnesses. If they've
5 got a submission to make, I'm sure we'll hear it at the end
6 of the day.

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

8 **MR. CALLAGHAN:** I'm not sure it's fair to
9 use -- to do that with the witness. That's not what this
10 part of the exercise is about.

11 **MR. HORN:** All right.

12 There's another area that was -- that's of
13 concern for us. That's the whole question of the project
14 file. Now, the project file is started by an investigator
15 or does it have to be okayed by a superior officer?

16 **MR. DEROCHIE:** The number of people in the
17 organization that can create a project file is limited.
18 Therefore, there would have to be some formal request and
19 it would have to go through a chain of command that that
20 would occur.

21 **MR. HORN:** Okay. And then it has to go to
22 Toronto?

23 **MR. DEROCHIE:** No.

24 **MR. HORN:** It doesn't have to go to Toronto
25 first ---

1 **MR. DEROCHIE:** No.

2 **MR. HORN:** --- and get okayed there?

3 **MR. DEROCHIE:** No. We were talking --
4 you're going back to Mr. Skinner's ---

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

6 **MR. DEROCHIE:** --- testimony. He was
7 talking about a project other than what we're talking about
8 now. The projects he's talking about are the CISO, the
9 Criminal Intelligence Service of Ontario projects, a
10 completely different thing than our projects in our records
11 management system; different animals altogether.

12 **MR. HORN:** Okay. So in order to get the
13 kind of file that you were talking about, it has to be done
14 by somebody who has that authority within the police
15 services?

16 **MR. DEROCHIE:** That's correct.

17 **MR. HORN:** And it wouldn't be Heidi Sebalj?

18 **MR. DEROCHIE:** No.

19 **MR. HORN:** Okay. And you could make it so
20 that in order to access it, you could have -- you know,
21 you'd have to put your badge number in or whatever, and
22 that would show up, wouldn't it?

23 **MR. DEROCHIE:** Yes, the person creating the
24 project would give each individual who was going to have
25 access to the project authority to do that.

1 **MR. HORN:** Okay. So in this situation then,
2 when you had a project file that was established, you could
3 have prevented Mr. Dunlop from accessing it by just not
4 giving him access?

5 **MR. DEROCHIE:** Oh yes.

6 **MR. HORN:** Right?

7 **MR. DEROCHIE:** Yes. Oh yeah.

8 **MR. HORN:** That's how you could have
9 prevented him from ever divulging information that would be
10 on a project file?

11 **MR. DEROCHIE:** Or, in this case, myself,
12 yes.

13 **MR. HORN:** Pardon? Or anybody?

14 **MR. DEROCHIE:** Anybody, sure.

15 **MR. HORN:** And isn't that the whole purpose
16 of why the project file was created in the first place?

17 **MR. DEROCHIE:** To protect it from Mr. Dunlop
18 or ---

19 **MR. HORN:** Yes.

20 **MR. DEROCHIE:** --- to -- no, no.

21 **MR. HORN:** Pardon?

22 **MR. DEROCHIE:** No, not specifically Mr.
23 Dunlop.

24 **THE COMMISSIONER:** So first of all, did you
25 have anything to do in the naming of putting this into a

1 project file?

2 **MR. DEROCHIE:** No, I believe -- I believe
3 actually it was Staff Sergeant Lortie that opened up the
4 file on that, Mr. Commissioner, at the request of the
5 Chief.

6 **THE COMMISSIONER:** So, sir, I'm certainly
7 not trying to curb your cross-examination of this gentleman
8 on that issue.

9 **MR. HORN:** Okay.

10 **THE COMMISSIONER:** What I want you to do
11 though is make sure that we have it chronologically set up
12 because my understanding is that -- from what I have read
13 is that it could be taken that setting up a project file
14 was to keep it secret.

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

16 **THE COMMISSIONER:** All right. So if that's
17 what you want to cross-examine them on, that's fine, but
18 limit it to what he knows and to the facts on how it went,
19 because the project file wasn't opened on day one. In
20 fact, I think it was opened late in the game in the fall of
21 1993.

22 Mr. Engelmann?

23 **MR. ENGELMANN:** I just wanted to advise Mr.
24 Horn, of course we will be calling witnesses who were
25 directly involved in that.

1 **THE COMMISSIONER:** Exactly.

2 **MR. ENGELMANN:** You might want to save those
3 questions for those witnesses.

4 **MR. HORN:** Okay.

5 **THE COMMISSIONER:** Exactly.

6 **MR. HORN:** Okay. Now, the other interesting
7 thing that you were involved in was the March 1990 request
8 of Chief Shaver to resign? Remember?

9 **MR. DEROCHIE:** Oh, yes, yes.

10 **MR. HORN:** Okay. Now, at that time ---

11 **THE COMMISSIONER:** I'm sorry, what date was
12 that?

13 **MR. HORN:** 1990.

14 **THE COMMISSIONER:** Yes.

15 **MR. HORN:** March, 1990.

16 Now, at that time there was quite a lot of
17 problems within the police services wasn't there?

18 **MR. DEROCHIE:** There was with regards to
19 morale.

20 **MR. HORN:** Morale, yes. And you had to
21 basically push this situation to get something done?

22 **MR. DEROCHIE:** Yes.

23 **MR. HORN:** There was a group of you; Wells,
24 Dupuis, Stan Willis was involved, Kirkey. There was quite
25 a number of people that were involved in initiating this?

1 **MR. DEROCHIE:** Yes.

2 **MR. HORN:** And when it occurred, is it only
3 morale that you were talking about or was it something
4 systemic -- mismanagement that was going on within the
5 police because of the Police Chief?

6 **MR. DEROCHIE:** Well, the morale issue
7 centered on decisions being made by the Chief of Police in
8 that regard. There was issues with his leadership of the
9 organization, yes; his decision-making processes.

10 **MR. HORN:** So now is that the only reason or
11 was there other reasons that -- you were using that reason
12 in order to really get rid of him because you had heard
13 other things about him?

14 **MR. DEROCHIE:** I'm not sure.

15 **MR. HORN:** I am talking about the
16 allegations that he was somehow connected with these ---

17 **MR. DEROCHIE:** No.

18 **THE COMMISSIONER:** Oh, let him finish the
19 question, that he is somehow connected to?

20 **MR. HORN:** To Malcolm MacDonald and Father
21 Charlie and the rest of them and that the problems that
22 were there as a result of what they were doing?

23 **MR. DEROCHIE:** No.

24 **MR. HORN:** Pardon?

25 **MR. DEROCHIE:** No.

1 **MR. HORN:** That was never the underlying
2 reason?

3 **MR. DEROCHIE:** In 1990, no.

4 **MR. HORN:** Pardon?

5 **MR. DEROCHIE:** No, not in 1990. No.

6 **MR. HORN:** Well, I'm just saying there was
7 no talk or there was no -- there was nothing around saying
8 that we've -- there is a problem here?

9 **MR. DEROCHIE:** No, not that I am aware of.

10 **THE COMMISSIONER:** So maybe I ---

11 **MR. HORN:** Pardon?

12 **THE COMMISSIONER:** Was there any iota of
13 suspicion in 1990 when you signed this petition or whatever
14 it was that Chief Shaver was committing or participating in
15 any illegal act whatsoever?

16 **MR. DEROCHIE:** No, not that I'm aware of.
17 That had nothing to do with certainly my signing of that
18 and nothing to do with the morale. There was none of those
19 allegations in the morale report.

20 **THE COMMISSIONER:** Well, whether or not they
21 were in the report or not, I think what Mr. Horn is saying,
22 was there anything in the back of people's minds -- well,
23 in your mind?

24 **MR. DEROCHIE:** Okay.

25 **THE COMMISSIONER:** In the back of your mind

1 or in the back of other people's minds that they would have
2 told you about of any illegal act or any conspiracy or
3 anything like that?

4 MR. DEROCHIE: No.

5 (SHORT PAUSE/COURTE PAUSE)

6 MR. HORN: That's it. Thank you.

7 THE COMMISSIONER: Thank you.

8 MR. DEROCHIE: Thank you, Mr. Horn.

9 (SHORT PAUSE/COURTE PAUSE)

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

11 MR. LEE: Staff Sergeant Derochie, my name
12 is Dallas Lee. I'm from the Victims Group.

13 MR. DEROCHIE: Good day, Mr. Lee.

14 MR. LEE: I have a number of areas I would
15 like to take you to, some of them flow naturally into each
16 other and others are sort of isolated. I will do my best
17 to let you know when I'm leaving one area and moving into
18 another.

19 MR. DEROCHIE: Fine.

20 MR. LEE: I'd like to start -- you mentioned
21 yesterday with Mr. Engelmann that the Cornwall Police has
22 been subject to a number of audits and external reviews and
23 things along those lines?

24 MR. DEROCHIE: Yes, we have been.

25 MR. LEE: And I take it that all police

1 forces are subject to these things?

2 MR. DEROCHIE: Yes, they are.

3 MR. LEE: This is nothing specific to
4 Cornwall. It's not an indication on its own that there are
5 some grand problem in Cornwall? It's just a matter of
6 doing business as a police force?

7 MR. DEROCHIE: There is, but that was the
8 case. There may be on occasion when an issue comes up that
9 the Board of Commissioners of Police might invite a special
10 investigation, but there are those provisions.

11 MR. LEE: Or the force itself, for example,
12 in the case of the Ottawa Police report, you may commission
13 another force on your own to come in and take a look?

14 MR. DEROCHIE: On something we've done, oh,
15 yes.

16 MR. LEE: Right. But aside from that there
17 are just in the regular course of business audits and
18 reviews that come in and take a look?

19 MR. DEROCHIE: Yes.

20 MR. LEE: And I take it that the police
21 forces take these seriously and they are important?

22 MR. DEROCHIE: Oh, yes, yes.

23 MR. LEE: And some of these are mandated.

24 MR. DEROCHIE: Yes, they are over -- it's
25 oversight. It's police oversight and whatever

1 recommendations they make we would certainly be alive to,
2 yes.

3 MR. LEE: And these go back a number of
4 years?

5 MR. DEROCHIE: For as long as I can
6 remember, yes.

7 MR. LEE: I don't want to go back, way, way
8 back. We have some from 1982 as an example. I'm not going
9 to take you that far. We had to start somewhere and I've
10 chosen April, 1989 as one I would like to take you to and
11 we are going to follow a little bit of the sequence from
12 there, okay?

13 MR. DEROCHIE: Okay.

14 MR. LEE: So if we can look at Document
15 Number 729852?

16 (SHORT PAUSE/COURTE PAUSE)

17 MR. LEE: And I should say while the Clerk
18 is gathering these documents, Staff Sergeant Derochie, part
19 of my interest in this area was piqued a little bit today
20 when you had your discussion with Professor Manson about
21 October of 1993 or late 1993 and he put the proposition to
22 you that the Cornwall Police at that time was dysfunctional
23 -- was the word that he used.

24 MR. DEROCHIE: Yes.

25 MR. LEE: And you disagreed with that. Is

1 that right?

2 **MR. DEROCHIE:** Yes, generally speaking, yes.

3 **MR. LEE:** You've pointed to some morale
4 issues and other concerns. And as I said, I want to take
5 you through a number of documents here.

6 The overreaching purpose for doing this is
7 to see whether you will agree with me that maybe the
8 problems at the CPS, as have been described in your
9 testimony, have been a little bit understated today.

10 And as we go through this, culminating in
11 1993 with the real heart of the Silmsler investigation, the
12 grand point to all of this and what I am going to ask you
13 to comment on in the end is if you might agree with me
14 there were some pretty serious problems that contributed
15 very directly to what happened with the Silmsler
16 investigation and what happened with Dunlop; okay?

17 **MR. DEROCHIE:** Okay.

18 **MR. LEE:** So I am going to give you an idea
19 right off the bat, a little bit unusually, but that's where
20 I'm going with this.

21 **MR. DEROCHIE:** Okay.

22 **MR. LEE:** So turn your mind to that as we go
23 through these.

24 **MR. DEROCHIE:** I will.

25 **THE COMMISSIONER:** Exhibit 1388 is the

1 Ontario Police Commission report, Inspection Report of the
2 City of Cornwall dated April 4-6 and April 18-20 in 1989.

3 --- EXHIBIT NO./PIÈCE NO. P-1388:

4 (729852) Inspection Report on Cornwall
5 City Police Force dated April 4-6 and
6 18-20 April 18-20, 1989

7 MR. LEE: Do you have that in front of you?

8 MR. DEROCHIE: I do have it, yes.

9 MR. LEE: So as the Commissioner said, this
10 is an inspection conducted in April of 1989.

11 MR. DEROCHIE: That's correct.

12 MR. LEE: And if you turn over, I'm going to
13 use the Bates pages at the top left-hand corner of the page
14 and I will just refer to the last three digits.

15 MR. DEROCHIE: Fine.

16 MR. LEE: And if you can turnover to page
17 number 026?

18 MR. DEROCHIE: Yes.

19 MR. LEE: So this is the report itself, and
20 in the top paragraph it's noted that a general inspection
21 was carried out over six days. Do you see that?

22 MR. DEROCHIE: Yes, I do.

23 MR. LEE: April 4th, 5th and 6th and the 18th,
24 19th and 20th.

25 MR. DEROCHIE: Yes.

1 **MR. LEE:** Is that fairly typical of these
2 inspections or is that more or less significant than would
3 be normal?

4 **MR. DEROCHIE:** I'm sorry; I don't know what
5 the norm would be.

6 **MR. LEE:** Six days, you would agree with me,
7 is enough time to get some general idea of what's going in
8 the police force?

9 **MR. DEROCHIE:** Yeah.

10 **MR. LEE:** And if you flip through one of
11 these reports they comment on a number of issues. Is that
12 right?

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** They have headings here about
15 accommodation and activity reports and accounting and
16 career development, and it goes on and on and on, and it
17 really deals with all areas of a police force. Is that
18 correct?

19 **MR. DEROCHIE:** Yes.

20 **MR. LEE:** And there are a number obviously
21 that aren't particularly relevant for our purposes here, so
22 I'm going to flip you through this a little bit.

23 The first thing I'd like to take you to is
24 on page 028.

25 **MR. DEROCHIE:** Okay.

1 **MR. LEE:** And just a quick point under the
2 heading "Communication".

3 **MR. DEROCHIE:** Yes.

4 **MR. LEE:** And it reads that the OMPPAC
5 system is scheduled to begin operation in July 1989.

6 **MR. DEROCHIE:** Yes.

7 **MR. LEE:** Was that the date that OMPPAC came
8 online, July '89?

9 **MR. DEROCHIE:** It's true.

10 **MR. LEE:** Okay. So that was when it --
11 okay. Thank you.

12 And on the next page, page 029, there's a
13 very brief entry under "Discipline", and it notes that an
14 informal discipline procedure is being used effectively and
15 has been favourably received by all ranks.

16 Do you see that there?

17 **MR. DEROCHIE:** Yes.

18 **MR. LEE:** And would you agree with that at
19 the time, that an informal discipline system is generally
20 preferred by police officers?

21 **MR. DEROCHIE:** Certainly, yes.

22 **MR. LEE:** Informal as opposed to formal,
23 more rigid discipline obviously is going to be preferred by
24 those who may be disciplined. Is that right?

25 **MR. DEROCHIE:** Yes.

1 **MR. LEE:** And that's true at the Cornwall
2 Police Force?

3 **MR. DEROCHIE:** Yes, it's true of every
4 police force.

5 **MR. LEE:** If you can turn over to page 031,
6 we get into an issue that you touched on and that's
7 "Morale" at the top of the page. Do you see that?

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** And it reads:

10 "After numerous interviews at all
11 levels of the force, morale was found
12 to be low. A major cause of this
13 problem is due to the lack of
14 communication throughout the entire
15 organization."

16 **MR. DEROCHIE:** Yes.

17 **MR. LEE:** Further comments are below.

18 Would you agree with that, as of 1989?

19 **MR. DEROCHIE:** You know, it's always easier
20 for somebody from outside to see what's going on. I can't
21 bring my mind to specifics of 1989, what was going on at
22 that particular time.

23 I've never thought that there was a problem
24 with communications, if you're talking about internal
25 communications. The only reference I can make that would

1 be an exception to that is the whole idea of having a plan,
2 a strategic plan. But as far as communications I think
3 that's a pretty broad subject. I really ---

4 MR. LEE: What about the general proposition
5 set out that morale was low? I mean, a year after this
6 point the staff sergeants are writing the report calling
7 for the resignation of the Chief.

8 MR. DEROCHIE: Yes.

9 MR. LEE: Can you back yourself up a year
10 prior to that and say that there were already problems?

11 MR. DEROCHIE: Well, you know, there's
12 always problems with morale. Morale is a beast that can
13 never be satisfied.

14 MR. LEE: April 1990, the staff sergeants
15 signed a document ---

16 MR. DEROCHIE: Yes.

17 MR. LEE: --- and submitted it, calling for
18 the resignation of the Chief.

19 MR. DEROCHIE: Yes.

20 MR. LEE: That's not typical. Would you
21 agree with that?

22 MR. DEROCHIE: That's very unusual.

23 MR. LEE: So by that point in time there was
24 some unusual problems at the Cornwall Police. You'd agree
25 with me?

1 **MR. DEROCHIE:** Yes, we didn't have a
2 direction. We didn't have a strategic plan.

3 **MR. LEE:** That's the second time in the last
4 couple of minutes you've mentioned "strategic plan" and
5 that's something that becomes important a little bit later
6 on.

7 **MR. DEROCHIE:** And it -- well, I think it's
8 important when you're talking in forms of communication
9 because it's incumbent upon management to tell the
10 organization or to direct the entities within the
11 organization what we're trying to achieve, what we stand
12 for and what we try to achieve.

13 So that can have an awful adverse morale.
14 That was certainly a concern of mine, as you've picked up
15 on, that we didn't have guidance and we didn't have a
16 roadmap. You know, everybody was working at what they
17 thought the objective was. I would think that morale would
18 be well served by a well laid out strategy to achieve a
19 common goal, as it were, aside from, you know, the typical
20 mandate of a police service to serve and protect its
21 people. You know, that's ultimately what we're there
22 about. How are we going to do that?

23 **MR. LEE:** And others came to share your
24 opinion that a strategic plan would be useful ---

25 **MR. DEROCHIE:** Yes.

1 **MR. LEE:** --- and the wheels were put in
2 motion?

3 **MR. DEROCHIE:** Yes.

4 **MR. LEE:** And we'll look at that in a
5 moment.

6 Under "Organizational Structure" it reads:

7 "As a result of the interviews
8 conducted, it was found that a serious
9 communication problem exists between
10 the Chief, senior command officers and
11 those of lower ranks."

12 Do you see that there?

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** Is that probably a fair statement
15 at that time?

16 **MR. DEROCHIE:** I think that's a fair
17 statement.

18 **MR. LEE:** You mentioned when you were being
19 questioned by Mr. Horn a moment ago, in the context of the
20 staff sergeants' report, the morale report ---

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** Can you tell me which of those
23 came first?

24 **MR. DEROCHIE:** The morale report. The
25 morale report came first.

1 **MR. LEE:** Can we presume from that that the
2 morale report was issued shortly before that time?

3 **MR. DEROCHIE:** I would suspect, yes.

4 **MR. LEE:** And do you know who the author of
5 the morale report was?

6 **MR. DEROCHIE:** I believe it was Detective
7 Sergeant Shawn White.

8 **MR. LEE:** Shawn White. I think you're right
9 on that.

10 **THE COMMISSIONER:** And who is he?

11 **MR. LEE:** A staff sergeant within the
12 Cornwall Police Service?

13 **MR. DEROCHIE:** Yes, he was doing this on
14 behalf of the Police Association, from what I understand.

15 **MR. LEE:** Okay. So if we can go back to the
16 beginning of this document, I'd like to take you to page
17 244. That's the second page of the document. And I'm
18 going to try my best not to read to you at length here
19 today, sir, but the first couple of paragraphs I think are
20 important and they really set the tone for this thing. It
21 reads:

22 "There currently exists a tremendous
23 morale problem within the Cornwall
24 Police Department. The situation has
25 become so critical that it is being

1 experienced by all personnel in all
2 departments. The performance of the
3 worker has suffered greatly as he has
4 become frustrated in his work
5 environment. The following outlines
6 the sentiment that currently exists
7 among members of the Cornwall Police
8 Force. Many have become disenchanted
9 with the leaders of the police
10 administration. They feel betrayed and
11 abandoned. They feel that their
12 concerns have been ignored or
13 forgotten. Where there was once
14 respect and loyalty, we now have
15 animosity and despair. The result is
16 resentment, distrust and
17 dissatisfaction with those empowered to
18 lead, namely the Chief and the Deputy
19 Chief."

20 And it goes on:

21 "The frustration that now exists has
22 also eroded the harmony between
23 coworkers. The adhesion that held this
24 force together and made it strong is
25 being dissolved. There lacks common

1 ---

2 **THE COMMISSIONER:** Okay. Is this after
3 everybody had petitioned?

4 **MR. DEROCHIE:** Prior to.

5 **THE COMMISSIONER:** Before that?

6 **MR. LEE:** That's a question I asked ---

7 **THE COMMISSIONER:** Okay.

8 **MR. LEE:** --- Staff Sergeant Derochie
9 leading into this, that this comes first. And I'm going to
10 ask him whether or not the staff sergeants call for Chief
11 Shaver's resignation stems directly out of this.

12 **THE COMMISSIONER:** No, I just was disjointed
13 there. Okay. Fine. Thank you.

14 **MR. LEE:** I take it you would agree these
15 are very, very strong words from Mr. White?

16 **MR. DEROCHIE:** They are.

17 **MR. LEE:** Did you read this at the time that
18 it was issued or around the time that it was issued?

19 **MR. DEROCHIE:** I would suspect that I did.

20 **MR. LEE:** Do you recall your reaction to
21 this document?

22 **MR. DEROCHIE:** I was confused by the
23 document. If you read further into the document, there
24 seems to be, as I say, the lack of direction. The officers
25 are -- they each have their own concern. And if you look

1 at the individual issues that are brought up, they're all
2 coming at this from a different angle. Some of them are
3 saying there's not enough training. Some are saying
4 there's too much training; not enough lateral movement, too
5 much lateral movement.

6 It was confusing to me at the time and it
7 screamed that we needed direction, that we needed strong
8 leadership and somebody to set goals and objectives for the
9 organization.

10 **MR. LEE:** And as you said, this document
11 does try to be a bit of a catch-all in terms of trying to
12 represent the thoughts and feelings and sentiments of
13 everybody. Is that right?

14 **MR. DEROCHIE:** It sounds as if it's
15 individuals coming up with what their biggest beef is in
16 the organization and they're at cross-purposes often on
17 those issues.

18 **MR. LEE:** And if we turn to the second page,
19 page 245, we have a heading "Uniform Branch."

20 **MR. DEROCHIE:** Yes.

21 **MR. LEE:** Do you see that? And we have
22 headings like that throughout where it goes into -- the
23 Ident gets their say as well?

24 **MR. DEROCHIE:** Yes, yes.

25 **MR. LEE:** And it goes on like that.

1 If you can turn to page 250, please? This
2 is still under "Uniform Branch" and it's their eighth
3 problem that they're listing under "Manpower and Resources"
4 and it reads:

5 "There are not enough men within each
6 department to do what is expected of
7 them, or so it is perceived by the
8 worker."

9 And then he offers a solution. And if you read the third
10 paragraph, again, these are the kinds of passages that lead
11 me to question whether or not there were some serious
12 problems at CPS in terms of the effect that these morale
13 issues and the effect that the poor management was having
14 on the quality of the work, and it reads:

15 "When the personnel in uniform
16 constantly find themselves running from
17 call to call, often without lunch, it
18 is very demanding mentally and
19 physically. After a while, the worker
20 finds himself looking for shortcuts in
21 order to simply keep up with the
22 workload. This results in sloppy
23 investigation, poor law enforcement,
24 and little or no time for a strong
25 presence for crime deterrence."

1 Would you agree with me that it's very
2 concerning to have a document generated by a CPS officer
3 that speaks of shortcuts that result in sloppy
4 investigation and poor law enforcement?

5 **MR. DEROCHIE:** Certainly that's a strong
6 argument to put the pen on a document that you expect it
7 would be -- that would be dealt -- or reacted to.

8 **MR. LEE:** I mean, that's a major issue?

9 **MR. DEROCHIE:** That's a major issue for
10 somebody.

11 **MR. LEE:** Well, it's a major issue for the
12 Cornwall Police certainly if their office ---

13 **MR. DEROCHIE:** Well ---

14 **MR. LEE:** I mean, you have a document
15 drafted by an officer here who's telling you that he sees
16 evidence of sloppy investigation and poor law enforcement.

17 **MR. DEROCHIE:** Yes, I understand what you're
18 saying, yes.

19 **MR. LEE:** And over on the next page ---

20 **MR. DEROCHIE:** If that in fact is true.

21 **MR. LEE:** Sorry?

22 **MR. DEROCHIE:** If that in fact is true.

23 **MR. LEE:** Well ---

24 **MR. DEROCHIE:** From somebody's perspective,
25 that exists within the organization, from maybe one

1 person's perspective.

2 MR. LEE: At this point the flag is going up
3 and there are going to be efforts to address the concerns
4 in this report later. Is that right?

5 MR. DEROCHIE: I don't know -- I don't know
6 what the -- I can't recall what the intent of this report
7 was, who it was presented to. I don't recall who it was
8 presented to, if it was presented to anybody at the time.
9 I assume it was circulated.

10 MR. LEE: We have the Chief's response at
11 the end of it.

12 MR. DEROCHIE: Yes.

13 MR. LEE: At the end of the document, and
14 what I'm going to try to go through with you, as I've read
15 these documents and I'm going to want your thoughts on it
16 as we go. It looks like the Chief gets the morale report;
17 he responds to it and he starts talking strategic plan.
18 And in fairly short order there are some efforts put in
19 place to develop a strategic plan?

20 MR. DEROCHIE: Yes.

21 MR. LEE: And there's time and there's
22 energy and there's money spent on that?

23 MR. DEROCHIE: Yes.

24 MR. LEE: And it's heralded at various times
25 as a real key to success in the future?

1 **MR. DEROCHIE:** I thought it was, certainly.

2 **MR. LEE:** And that's part of what I want to
3 get into. But like I said, we'll get to it, but as I see
4 it, the morale report goes to the Chief; the Chief takes
5 action and that action is the strategic plan and what flows
6 from that?

7 **MR. DEROCHIE:** Yeah.

8 **MR. LEE:** So on page 251 we have the problem
9 that's repeated a few times in other documents, that there
10 are too many sergeants. And it's put in fairly simple
11 terms:

12 "The last thing we need are more
13 Chiefs, but we could sure use some more
14 Indians."

15 And it points out there are 54 constables
16 within the department, and this is compared to 19 sergeants
17 and staff sergeants, which works out to 2.84 laymen for
18 every supervisor, and it suggests placing a freeze on
19 promotions.

20 Did you consider it -- what do you think of
21 that ratio, 2.84 workers to every supervisor?

22 **MR. DEROCHIE:** That, in part, is a leftover
23 from the days when the CID Unit was totally manned by
24 sergeants. Anybody that worked in CID or the Criminal
25 Investigations Division were sergeants.

1 When you look at the deployment of other
2 people within the organizations, there were people with
3 rank that held positions where the rank maybe necessarily
4 wasn't required. I can think of the Court Bureau had a
5 staff sergeant, but that was a bit of an accommodation.
6 Yes, it sounds high, but I don't know. I've never done a
7 study to compare it to other police services.

8 **MR. LEE:** You don't have a number in your
9 mind as ---

10 **MR. DEROCHIE:** I don't have a number in my
11 mind, no.

12 **MR. LEE:** --- the ideal ratio?

13 **MR. DEROCHIE:** That's ---

14 **MR. LEE:** Can you turn to page 258, please?
15 And here we have, again, a list of problems continuing, and
16 I'm interested in the second and the third problem on this
17 page that deals with the CIB. Problem number 19 reads:

18 "Transfers are made by liability rather
19 than warranted. Better to screw up one
20 life in CIB rather than screw up 12 in
21 Uniform."

22 And the solution is:

23 "This attitude has to change. The men
24 know the motives behind these senseless
25 changes and it hurts morale."

1 And problem 20 is tied to that:

2 "In a day and age when everyone wishes
3 to be in CIB and other forces, most
4 want out and the ones who want in won't
5 get it because they're too valuable in
6 Uniform."

7 The solution:

8 "This too makes no sense. It would
9 appear as though if you are not
10 competent in uniform, you get
11 transferred to CIB."

12 Again, we're in 1990 here. Do you have any
13 comments on those issues?

14 **MR. DEROCHIE:** I don't agree with that at
15 all.

16 **MR. LEE:** Not at all?

17 **MR. DEROCHIE:** Not at all.

18 **MR. LEE:** Was there -- I mean, the issue
19 here seems to be that rather than CIB sort of being the
20 carrot that got dangled for good work, it was the exact
21 opposite?

22 Was there a policy in place at the time or
23 an understanding at the very least that CIB would be
24 staffed with the best of the best or that the best of the
25 best would be spread throughout the organization, or how

1 did that work?

2 **MR. DEROCHIE:** I don't know -- I don't know
3 specifically if there was a game plan to that effect.
4 There was -- we had gone to -- through a situation prior
5 where if you were in CID -- once you got in CID, you
6 retired in CID and there was no lateral movement in CID.
7 And at that time, that was a contentious issue. There was
8 no opportunity for young officers to gain any experience by
9 working in CID. There was a period of time when that
10 philosophy changed, whereby people -- everybody was
11 expected to rotate through the Criminal Investigation
12 Bureau to gain experience, the theory being that if you
13 broaden the experience base, they will be a better police
14 officer all around. So they would spend two years in CID
15 and go back to uniform patrol. And of course some people
16 didn't want to do that, didn't like that idea as well.
17 They wanted to -- you know, the only -- as I said, there
18 was discontent on both sides of the issue; people who were
19 in CID that wanted to stay there were disappointed when
20 they were removed and people who didn't want to go in CID,
21 who wanted to stay in uniform patrol and not broaden their
22 experience base, were upset when they were put in there.
23 And neither issue -- neither situation is a good one, but
24 it -- you know, it was dependent on the individual.

25 **MR. LEE:** And I think that's touched upon at

1 page 259, the last problem on the page. Problem 28 talks
2 about the rotation in and out of CIB. Is that right?

3 MR. DEROCHIE: I'm sorry, which number is
4 it?

5 MR. LEE: Problem 28.

6 MR. DEROCHIE: Oh, number 28. Yes, that's
7 exactly what I'm ---

8 MR. LEE: If you go forward to page 270,
9 that's the conclusion of the morale report. In the first
10 paragraph towards the bottom, it talks about the Chief and
11 Deputy Chief accepting responsibility in order to regain
12 the respect of the men and women of this force, suggesting
13 that some respect had been lost.

14 Do you think that's a fair comment in 1990?

15 MR. DEROCHIE: That's the comment that's
16 being made here. The Chief wasn't enjoying his honeymoon
17 period anymore, that's for sure.

18 MR. LEE: And the final paragraph on that
19 page goes back to the concern that I pointed out earlier.
20 It reads:

21 "Finally, all of us who make up the
22 Cornwall Police Force must focus deep
23 within ourselves and evaluate how our
24 thoughts, our words, our actions have
25 affected morale. Some of us have

1 abandoned our commitment to serve and
2 protect the members of this community.
3 We all too easily blame others for the
4 problems we experience and have given
5 up trying to be the best that we can
6 be. We must always remember that the
7 moment that we stop trying is the
8 moment that we become part of the
9 problem. Now is the time to put pride
10 back into pride."

11 Again, you would agree with me, a very
12 serious comment that some members of the force have given
13 up trying to be the best they can be?

14 **MR. DEROCHIE:** Some members of the force
15 have given up being -- trying to be the best they can be.
16 That's a very serious situation.

17 **MR. LEE:** I mean, we're talking about the
18 police here, right?

19 **MR. DEROCHIE:** Yeah, I guess you should be
20 the best that you can be whatever you're doing, you know.
21 Certainly police officers have a duty, and if you can't
22 perform your duty through -- in spite of some distractions,
23 then maybe you should reconsider your profession. It's a
24 very complicated business.

25 But you take on the office of a police

1 officer, that's an office that you -- that you are -- that
2 you take on and my relationship with my sergeant shouldn't
3 have any -- because my commitment is to the community. My
4 commitment is not to the sergeant or the Chief of Police,
5 as it were. My commitment is to the community.

6 And if you can't work through that, then
7 that's a serious problem that you have as an individual. I
8 never had this problem even though I became frustrated as
9 everyone else. And I'm not alone when I say -- I'm not
10 being just -- I'm not talking about myself here; I'm
11 talking about the vast majority of people. And I don't
12 know who this comment applies to, one individual or two
13 individuals or three individuals.

14 So I don't accept this. I don't accept this
15 because I worked on the road. I went -- I had those same
16 frustrations and you complained when you met for coffee or
17 you complained at the start of the shift about these
18 things, but you went out and did your job. And I would
19 truly like to see somebody come forward and say, "No, it
20 affected me to the point where I stopped caring about my
21 duties." I would like to see somebody come forward and say
22 that. Possibly somebody will. I don't know.

23 **MR. LEE:** And ---

24 **MR. DEROCHIE:** But I don't subscribe to
25 this. This document, in my mind, when I read it then and

1 as I read it today, I don't -- you know, it's a hodgepodge
2 of concerns.

3 **MR. LEE:** Is this just grandstanding by the
4 Association, in your opinion? I mean, what's -- what's the
5 point of this document if not to raise legitimate concerns?

6 **MR. DEROCHIE:** I think we'd have to ask the
7 author that. I really don't know. I had some of those
8 same concerns, as I told you, and we certainly did take as
9 drastic an action to get the attention of people. Here you
10 have this -- you have this document that comes from the
11 rank and file, and now here's what we're saying has to be
12 done here. There's at least a perception out there. Like
13 you say, if people are committing this to writing, this is
14 a serious situation, and I want it brought to a head.

15 Is there too much lateral transfer or is
16 there not enough lateral? Is there too many people in
17 uniform or too many people in CID? That has perpetually
18 been a point of discussion within our organization, within
19 all of police organizations. Somebody is always a better
20 chief of police than the actual Chief of Police that's
21 sitting there today.

22 **(LAUGHTER/RIRES)**

23 **MR. DEROCHIE:** And that's true of -- that's
24 life. You know, that's life. I can always do it better
25 than the Chief.

1 **THE COMMISSIONER:** And on that note ---

2 **MR. LEE:** Yes.

3 **THE COMMISSIONER:** --- we're going to take
4 lunch.

5 Thank you.

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

8 This hearing will resume at 2:00 p.m.

9 --- Upon recessing at 12:32 p.m./

10 L'audience est suspendue à 12h32

11 --- Upon resuming at 2:06 p.m./

12 L'audience est reprise à 14h06

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

15 This hearing is now resumed. Please be
16 seated. Veuillez vous asseoir.

17 **THE COMMISSIONER:** Thank you.

18 Mr. Lee, if you might give me a moment?

19 **MR. LEE:** Sure.

20 **THE COMMISSIONER:** During the lunch break I
21 had occasion to see a couple of news reports, and one of
22 which on the internet seemed to think that in my discourse
23 yesterday that I was blaming parties for some of the
24 delays, and I think those of you who were here yesterday,
25 and those of you who know me, that if I was intent on

1 blaming anyone, I think it would come up fairly
2 straightforwardly.

3 In any event, I think all of us who were
4 here understand that all I did was explain the reasons why
5 things didn't go as quickly. And so the word "blame"
6 certainly should not be imputed on any of you or any of
7 your principals. All right?

8 Thank you. I just thought in case you were
9 concerned about that.

10 Mr. Lee.

11 **GARRY DEROCHIE, Resumed/Sous le même serment:**

12 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE**
13 **(cont'd/suite):**

14 **MR. LEE:** When we left off we were on
15 Exhibit 1389, the Morale Report.

16 **MR. DEROCHIE:** Yes.

17 **MR. LEE:** And we had finished looking at the
18 report itself, and I wanted to look at Chief Shaver's
19 response which begins at Bates page 271 of that same
20 document.

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** Do you have that, Staff Sergeant
23 Derochie?

24 **MR. DEROCHIE:** I do.

25 **MR. LEE:** So you can see that it's addressed

1 to members of the Association, and the first paragraph
2 reads:

3 "This will serve as an initial update
4 on the Morale Report which was
5 presented to the Board of Commissioners
6 of Police."

7 **MR. DEROCHIE:** Yes.

8 **MR. LEE:** Do you know whether or not the
9 morale report itself would have been distributed to the
10 members of the Association?

11 **MR. DEROCHIE:** I assume it would have been
12 available to them.

13 **MR. LEE:** Okay.

14 **MR. DEROCHIE:** I don't have a particular
15 recollection, but I would think that ---

16 **MR. LEE:** It makes sense, if he's responding
17 to it, that they must have ---

18 **MR. DEROCHIE:** Exactly.

19 **MR. LEE:** --- at least had a ---

20 **MR. DEROCHIE:** I'm sure that the Association
21 would want to know what was ---

22 **MR. LEE:** So Chief Shaver goes through a
23 number of -- a number of issues, transfers, faulty
24 firearms, et cetera.

25 Can you turn to page 273, please? He deals

1 with communications, and he sets out that it's a major
2 problem in the force and he essentially sets out his action
3 plan in the second paragraph, and that reads:

4 "The senior officers and staff
5 sergeants of the force will meet with
6 an expert in order to establish a
7 strategic long-range plan for the
8 force. This plan, once adopted by the
9 Board, will be our blueprint for the
10 future. The plan should be ready and
11 implemented in 1990."

12 Do you see that there?

13 **MR. DEROCHIE:** I do.

14 **MR. LEE:** And following this, as we
15 discussed, there are steps taken to adopt a strategic plan
16 and there are meetings and there are seminars and things
17 along those lines; is that right?

18 **MR. DEROCHIE:** Yes.

19 **MR. LEE:** And this is the first articulation
20 by Chief Shaver that that's the direction the force is
21 going to go in. Is that fair?

22 **MR. DEROCHIE:** Yes, a general announcement
23 to the force.

24 **MR. LEE:** Right.

25 And if you can turn to page 280, it's the

1 last page of this document. At the top, we have "Chain of
2 command" where he announced that the chain of command will
3 remain in force. And then there's a conclusion, and he
4 speaks about both himself, Chief Shaver, and the Deputy
5 Chief accepting responsibility for the morale situation and
6 he again stresses the fact that he sees this strategic plan
7 as being important. He says:

8 "I believe with the strategic plan in
9 place a possibility of nearing or
10 reaching our authorized strength and
11 with a complete management audit of all
12 supervisory positions we can overcome
13 a, I presume, great many issues in this
14 report."

15 Do you see that there?

16 **MR. DEROCHIE:** Yes, I do.

17 **MR. LEE:** Do you know whether or not there
18 was a complete management audit of all supervisory
19 positions?

20 **MR. DEROCHIE:** I don't recall if there was.

21 **MR. LEE:** Okay. But the strategic plan idea
22 does move forward?

23 **MR. DEROCHIE:** Yes, there's movement forward
24 on the strategic plan, quite right.

25 **MR. LEE:** If we could -- so the next

1 document that I want to take you to, this is titled "April
2 26th, 1990". The next document that I want you to look at
3 is Exhibit 1347 please, and that's the staff sergeants'
4 report that we've looked at before. So it looks to me --
5 I'll let you get that up.

6 **THE COMMISSIONER:** One-three-four-seven
7 (1347)?

8 **MR. LEE:** One-three-four-seven (1347).

9 **THE COMMISSIONER:** Might need a -- oh no, I
10 have it here in any event.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **MR. LEE:** Do you have that, Mr.
13 Commissioner?

14 **THE COMMISSIONER:** I'm sorry; yes, I do.

15 **MR. LEE:** Staff sergeant?

16 **MR. DEROCHIE:** I do.

17 **MR. LEE:** So if we go to the -- we have a
18 page 586, the follow-up memo from the senior officers
19 essentially supporting the recommendation of the staff
20 sergeants.

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** And then on the next page we have
23 the staff sergeants' report itself.

24 **MR. DEROCHIE:** Yes.

25 **MR. LEE:** And it's not dated, but it does

1 speak at the top that on Monday, March 12th, 1990, there was
2 a meeting; is that right?

3 MR. DEROCHIE: Correct.

4 MR. LEE: And so can we piece together then
5 the fact that it looks like the morale report would have
6 been written. It would have been followed at some point by
7 this staff sergeants' report ---

8 MR. DEROCHIE: Yes.

9 MR. LEE: --- and following that would have
10 been the Chief's response to the morale report. Does that
11 make sense to you?

12 MR. DEROCHIE: Yes.

13 MR. LEE: And that would make sense given
14 the Chief's comments about the chain of command will remain
15 in force at the Cornwall Police Force?

16 MR. DEROCHIE: Yes.

17 MR. LEE: Right. And we've already looked
18 at the Staff Sergeants' report and you would agree with me
19 that this is unprecedented?

20 MR. DEROCHIE: It is to me certainly.

21 MR. LEE: This isn't a run of the mill
22 document being put together by staff sergeants, this is a
23 last hope. Is that fair?

24 MR. DEROCHIE: It's a shout. It's a shout
25 at the Chief to pay attention to what we're saying, yes.

1 **MR. LEE:** And was it -- on the second page,
2 page 588, the Staff Sergeants, including you, make
3 recommendations. Number one being that the Chief tender
4 his resignation or failing this that the Commission invite
5 the Ontario Police Services Branch to conduct an inquiry
6 into the management of the force?

7 **MR. DEROCHIE:** Yes.

8 **MR. LEE:** Was the first part of that about
9 the Chief tendering his resignation intended to be a
10 legitimate recommendation by the Staff Sergeants or was
11 that a bit of a shot across the back?

12 **MR. DEROCHIE:** That was a bit -- that was
13 put in there for shock value. There's no question. I
14 don't think any of us actually believed that the Chief
15 would tender his resignation.

16 **MR. LEE:** You might of thought it was a good
17 idea but you recognized it probably wouldn't happen?

18 **MR. DEROCHIE:** Yes.

19 **MR. LEE:** And then the rest of this document
20 is taken up with other things that I'll leave.

21 **THE COMMISSIONER:** The senior officers
22 lounge, what is that?

23 **MR. DEROCHIE:** It's a lunchroom for senior
24 officers.

25 **THE COMMISSIONER:** All right. So you don't

1 do interrogation in there or anything like that?

2 **MR. DEROCHIE:** At times, because of its
3 proximity, because of the geographic or the physical
4 location of it within the service, it was used as an
5 interview room at times.

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

7 **MR. LEE:** Do I remember that Earl Landry in
8 1985 may have been brought into some kind of lounge to be
9 spoken to?

10 **THE COMMISSIONER:** That was -- the reason
11 why I asked that question was exactly that.

12 **MR. LEE:** Right.

13 **THE COMMISSIONER:** And I thought it was a
14 senior officers' lounge.

15 **MR. DEROCHIE:** It was, and it was in a
16 rather awkward position within the organization. It was
17 within the secure area where we normally deal with
18 prisoners and it had a whole bunch of issues surrounding
19 it. It was right from the sally port where we bring
20 prisoners in. It was right in that vicinity.

21 So although it was used as a senior
22 officers' lunchroom it was a very impractical place for it
23 to have been. It was much more conducive to being an
24 interrogation room than it was a lunchroom.

25 **MR. LEE:** So we have the Chief's response to

1 the morale report on April 26th, 1990. And I want to take
2 you now to the strategic planning documents, if I can call
3 them that, and the first one is at 739891.

4 (SHORT PAUSE/COURTE PAUSE)

5 THE COMMISSIONER: All right.

6 Exhibit Number 1390 is a strategic planning
7 session for the Cornwall Police Force dated June, 1990.

8 --- EXHIBIT NO./PIÈCE NO. P-1390:

9 (739891) Strategic Planning Session
10 Summary Report, Volume 1 dated June,
11 1990

12 MR. LEE: Do you have that?

13 MR. DEROCHIE: I have it.

14 MR. LEE: So as I said, the report -- or the
15 response to the morale report from Chief Shaver was at the
16 end of April, 1990 and by June, 1990 you've got a summary
17 report of a strategic planning session.

18 MR. DEROCHIE: Yes.

19 MR. LEE: So that moves seriously -- swiftly
20 rather.

21 MR. DEROCHIE: I'm sorry, that was?

22 MR. LEE: That moved quickly.

23 MR. DEROCHIE: It did move very quickly,
24 yes.

25 MR. LEE: On the heels of the morale report,

1 Chief Shaver said, "We're going to get a strategic plan"
2 and there wasn't a lot of delay on that?

3 MR. DEROCHIE: No, there wasn't.

4 MR. LEE: And it says that it's prepared by
5 Suzanne McGlashan, a consultant in strategic management.
6 Was this somebody inside or outside the Cornwall Police?

7 MR. DEROCHIE: It was outside. She was from
8 Ottawa. She ran a business.

9 MR. LEE: She was retained?

10 MR. DEROCHIE: She was retained by Chief
11 Shaver to facilitate the strategic planning sessions.

12 MR. LEE: And if you can turn over a couple
13 of pages to Bates 283, it notes that the summary is a
14 culmination of a one-and-one-half day strategic planning
15 session undertaken by senior management in May of 1990.

16 So within a couple of weeks ---

17 MR. DEROCHIE: Yes.

18 MR. LEE: --- of the response to the morale
19 report.

20 Then we have a list of participants and
21 you're on that list. Is that right?

22 MR. DEROCHIE: I am, yes.

23 MR. LEE: And the facilitator speaks of the
24 fact that surveys were distributed to senior management
25 seeking input, seeking feedback, and I think at one point

1 there's a comment that 8 out of the 10 were received back
2 with feedback, which was a very high response rate. And
3 that sort of lays the groundwork from where you proceed on
4 things. Is that fair?

5 **MR. DEROCHIE:** It was to identify the
6 issues, yes.

7 **MR. LEE:** And she notes midway through the
8 last paragraph on that page that:

9 "There are very strong signs of
10 discontent with the current operations
11 and management of the Cornwall Police
12 Force. It is critical that the issues
13 underlying and causes for this
14 discontent be raised to the surface and
15 dealt with."

16 And I take it you would have agreed with
17 that sentiment?

18 **MR. DEROCHIE:** Wholeheartedly, yes.

19 **MR. LEE:** She continues:

20 "Otherwise the future of the Cornwall
21 Police Force, as it currently stands,
22 is extremely doubtful and there will be
23 more animosity, ill feelings and
24 declining morale amongst the force than
25 even which currently exists."

1 And, again, it's tough to argue with that?

2 **MR. DEROCHIE:** No argument with that at all.

3 **MR. LEE:** And then at the top of the next
4 page, she speaks of the second day of the strategic
5 planning session and she writes that:

6 "A consensus was reached by the
7 senior management team that this was
8 indeed an accurate reflection of the
9 views of the team."

10 Being what had come out the earlier day when I got the
11 feeling that it was a bit of an "air your grievances" sort
12 of session. Is that fair?

13 **MR. DEROCHIE:** Yeah, there was -- there was
14 real danger at the end of that first day that we were just
15 going to be spinning our wheels again; that we weren't
16 going to accomplish anything.

17 **MR. LEE:** And so once there was consensus on
18 what the problems were, she says:

19 "The strategic objectives and putting
20 them into practice by the Chief, Deputy
21 Chief, Inspectors and Staff Sergeants
22 is absolutely critical to the future
23 effective functioning of the Cornwall
24 Police Force."

25 Would that have been your feeling at the

1 time?

2 I mean, take yourself back to that one-and-
3 one-half day session. Did you have a feeling as you were
4 going through that, or shortly thereafter, that this was a
5 good thing and that it was an important thing for the Force
6 to undertake?

7 **MR. DEROCHIE:** Certainly.

8 **MR. LEE:** And she notes at the end of the
9 page that this could take up to two years to make
10 operational and it will be the first of a five-year plan,
11 et cetera, et cetera. Was that your understanding that
12 this was something to really get the ball rolling and ---

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** --- this was going to be the new
15 way of doing business at the Cornwall Police?

16 **MR. DEROCHIE:** Yes.

17 **MR. LEE:** And over on the next page, page
18 285, she -- I mean, she's really stressing the fact here
19 that this is important work. In the last paragraph she
20 says:

21 "The findings of the session and the
22 implementation thereof is what will
23 make or break the Cornwall Police
24 Force."

25 **MR. DEROCHIE:** Yes.

1 **MR. LEE:** So obviously this is being taken
2 seriously at the time?

3 **MR. DEROCHIE:** Yes, I believe we took it
4 seriously.

5 **MR. LEE:** And she goes through and there's
6 an assessment of strengths and weaknesses. The strengths
7 are found at page 287:

8 "Talented people. Force running well
9 in spite of morale problems. It's
10 young and resilient and can bounce
11 back."

12 All those kinds of things. Do you see those?

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** And you recall having the
15 discussion of certain strengths at the Cornwall Police
16 Service?

17 **MR. DEROCHIE:** Yes, I do recall that.

18 **MR. LEE:** And then on page 6 we have the
19 weaknesses.

20 **MR. DEROCHIE:** Yes. These are issues that
21 we would have identified as a group.

22 **MR. LEE:** As a group?

23 **MR. DEROCHIE:** As a group.

24 **MR. LEE:** This is sort of the consensus
25 statement ---

1 **MR. DEROCHIE:** This is the consensus, yes,
2 of what our strengths and weaknesses are.

3 **MR. LEE:** And so we have senior officers who
4 are divided on philosophies and strategies?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** That was certainly true at the
7 time?

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** "Fragmented and impotent senior
10 management team with insatiable
11 animosity."

12 **MR. DEROCHIE:** Yes.

13 **MR. LEE:** She has a way with words.

14 **MR. DEROCHIE:** She does.

15 **MR. LEE:** "An aggressive association with
16 questionable motives."

17 **MR. DEROCHIE:** Yes.

18 **MR. LEE:** And I found that one curious
19 because as I understood it the only two people here who
20 would not have been part of the Association would have been
21 the Chief and the Deputy Chief. Was that true at that
22 time?

23 **MR. DEROCHIE:** That's true at that time, but
24 because of your -- because of my -- I'll speak of my own
25 experience. Because of my function or my role in the

1 organization, I was clearly identified as being management
2 and I was a member of the Association, but that's required
3 by legislation that I be a member of the Association.

4 **MR. LEE:** You don't get invited to the
5 rallies?

6 **MR. DEROCHIE:** Well, I -- I have rights to
7 go to every meeting, for sure, and I did go and I did
8 participate at that time in my -- my career but it's --
9 it's a unique situation where you have management people in
10 the same union, as it were, and as I think I articulated
11 before in my testimony, it caused -- that's what caused the
12 problems, the end runs around the managers to the -- to
13 the Chief of Police where the Association claimed authority
14 over those issues and would not or at least some of them
15 would not consider that the staff sergeants had a right to
16 make decisions based on what was perceived as being
17 contractual issues.

18 **MR. LEE:** Right. There's a note of a lack
19 of trust between the Chief and the senior officers.
20 "Senior officers", I take it, would include staff
21 sergeants?

22 **MR. DEROCHIE:** Not -- no, senior officers
23 would include the rank of inspectors.

24 Now for the purpose ---

25 **MR. LEE:** Okay.

1 **MR. DEROCHIE:** --- of this -- for the
2 purpose of the management team, we were eventually referred
3 to as "senior officers" were defined as part of the
4 management team, but I believe the -- the term being used
5 here is that which is found in the *Police Act*, which is the
6 rank of inspector and above.

7 **MR. LEE:** Okay. This is quite a package,
8 this report. We have the blank questionnaires and agendas
9 and titled pages and PowerPoint presentations and
10 everything else. I'm not going to take you through
11 everything. Can we go to page 323, please?

12 **MR. DEROCHIE:** I'm there.

13 **MR. LEE:** And I take it this is one of the
14 more important outcomes of the work of those few days was
15 an articulation of strategic objectives and this one deals
16 with management and administration of the Force; is that
17 right?

18 **MR. DEROCHIE:** Yes.

19 **MR. LEE:** This helps people get on the same
20 page. This ---

21 **MR. DEROCHIE:** Exactly.

22 **MR. LEE:** --- puts it down on paper and ---

23 **MR. DEROCHIE:** This we committed to.

24 **MR. LEE:** And as she notes in the first
25 paragraph:

1 "The senior management team unanimously
2 supported these strategic objectives as
3 being the means by which the serious
4 management-related problems of the
5 Force can be addressed and agreed to
6 move forward with these objectives
7 under the leadership of the Chief, but
8 at the same time fully expecting that
9 the Chief will also adhere to and use
10 these objectives in the day-to-day
11 management of the Force."

12 And that was the understanding at the time?

13 **MR. DEROCHIE:** It was.

14 **MR. LEE:** And this was unanimous?

15 **MR. DEROCHIE:** It was.

16 **MR. LEE:** And if we go down to 1.8, we have:

17 "The senior management team shall work
18 collaboratively towards the development
19 of a five-year strategic plan for the
20 Cornwall Police Force with a target
21 date for completion being year end
22 1990."

23 **MR. DEROCHIE:** Yes.

24 **MR. LEE:** And that tied back to the
25 beginning of the report where the facilitator is really

1 stressing the fact that there's people buying into this.

2 **MR. DEROCHIE:** Yes.

3 **MR. LEE:** Is that fair?

4 **MR. DEROCHIE:** That's fair.

5 **MR. LEE:** And you bought into this?

6 **MR. DEROCHIE:** I bought into it.

7 **MR. LEE:** And if we go over to page 333,
8 down at the bottom there's a bit of a sort of practical
9 advice being given here where it reads:

10 "Finally, once having built the
11 five-year strategic plan for the Force,
12 it will be important to continually
13 monitor the implementation of the plan.
14 A plan which sits on a shelf and is
15 dusted off once a year at budget time
16 is not worth the paper it is written
17 on; it must be a living plan. It
18 should provide the framework within
19 which all key decisions are made and
20 provide the important starting point
21 each year when the Force reviews its
22 annual planning and budgeting
23 requirements."

24 And so I take it that's all to say that this
25 entire process is a waste of time if it doesn't get

1 followed through with?

2 MR. DEROCHIE: Yes.

3 MR. LEE: And if it's not refined and it's
4 not changed and it's not amended and it's not looked at and
5 it's not considered?

6 MR. DEROCHIE: That's correct.

7 MR. LEE: What was the general -- what did
8 you think the general attitude amongst the participants in
9 this process were at the end of that? When you left and
10 you had the strategic -- the framework, at least, for a
11 strategic plan in place, what was the mood?

12 MR. DEROCHIE: The mood was optimistic.
13 Everybody was anxious to get going with it.

14 MR. LEE: Do you recall what, if any,
15 information was communicated to the rest of the Force in
16 relation to the strategic planning session?

17 MR. DEROCHIE: I know that Ms. McGlashan was
18 meeting with the -- with the various members of the -- of
19 the organization. The Association was a stakeholder,
20 obviously, and I was never involved in those meetings, but
21 there was participation.

22 MR. LEE: Mr. Commissioner, we have a -- the
23 Coalition for Action flagged the next document that I want
24 to look at using a document number. I realized last night
25 that the document had -- it looks like the original had

1 been highlighted and then through the scanning process it
2 got difficult to read in places, so the one that we have
3 may not be quite as good a copy as another document number
4 that I found. So I'll give you both and maybe the clean
5 copy can go on the screen.

6 The document that was flagged was 101543 and
7 the document that I think is a little bit easier to read is
8 740506.

9 --- EXHIBIT NO./PIÈCE NO. P-1391:

10 (740506)7180521-43, Level III

11 Inspection Report

12 (SHORT PAUSE/COURTE PAUSE)

13 MR. LEE: You don't have 101543?

14 No, you wouldn't have the second one, but
15 I'm wondering whether you ---

16 (SHORT PAUSE/COURT PAUSE)

17 THE COMMISSIONER: So, Madam Clerk, do we
18 have either?

19 We have neither.

20 MR. LEE: If I can have one moment just to
21 make sure that this is absolutely critical? It fills in a
22 little bit of a gap, but I don't know if I ---

23 THE COMMISSIONER: Oh well, can we pull it
24 up on the screen, Madam Clerk, at all?

25 MR. LEE: If you can pull it up on the

1 screen, the second document number would be better.

2 What this is, sir, is it's what's known as a
3 "Level 3" inspection report of the -- if you look -- if
4 that's the document, Madam Clerk, if you look at Bates page
5 7180521.

6 (SHORT PAUSE/COURT PAUSE)

7 MR. LEE: That is the document.

8 THE COMMISSIONER: Okay.

9 MR. LEE: So as I noted, Mr. Derochie, this
10 is a Level 3 inspection report, dated November 19th to
11 30th, 1990.

12 MR. DEROCHIE: Yes.

13 MR. LEE: And if we -- if we go over two
14 pages ---

15 THE COMMISSIONER: So can -- what's a
16 Level 3?

17 MR. LEE: That's what I'm getting at.

18 THE COMMISSIONER: Okay.

19 MR. LEE: We have the introduction and
20 purpose and the very first paragraph outlines that:

21 "The Ontario Police Force's Inspection
22 Program is a responsibility of the
23 Policing Services Division of the
24 Ministry of the Solicitor General."

25 And if we go down, we have the general

1 purposes of the -- of the program in the sub-bullets number
2 1 and 2.

3 Just up a little bit, Madam Clerk.

4 So we have:

5 "The Inspection Program is designed to
6 measure the adequacy and effectiveness
7 of the police services in the Province
8 of Ontario."

9 So this isn't a Cornwall-specific matter.

10 This is a provincial matter; is that right?

11 **MR. DEROCHIE:** Yes.

12 **MR. LEE:** And this is one of -- one of many
13 mandated inspections throughout the life of a police force
14 and people from outside the Force come in ---

15 **MR. DEROCHIE:** Yes.

16 **MR. LEE:** --- and they do an inspection; is
17 that right?

18 **MR. DEROCHIE:** That's correct.

19 **MR. LEE:** And if we go down -- if you look
20 under "Inspection Program", it says that there are three
21 different levels of inspection, Level III which is an
22 extensive examination of the police force. That's the most
23 extensive of these three?

24 **MR. DEROCHIE:** That's correct.

25 **MR. LEE:** Is that right?

1 **MR. DEROCHIE:** Yeah.

2 **MR. LEE:** If we turn over one more page we
3 have an executive summary and it notes that the inspectors
4 were Robert McEwen and Sheila Dunlop?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** And that the inspection was
7 conducted over a 10-day period commencing November 19,
8 1990?

9 **MR. DEROCHIE:** Yes.

10 **MR. LEE:** And interviews were conducted with
11 18 uniform and 6 civilian staff, is that right, so a fairly
12 significant inspection?

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** And they begin by -- it says in
15 the third paragraph:

16 "This report will first address the
17 positive aspects..."

18 And it looks through -- and this again is an
19 executive summary and it talks about training and equipment
20 and it talks about inservice training; it talks about the
21 strength of the Force, things along those lines. But the
22 gist of the report is set out -- two pages in, Madam Clerk,
23 two pages further. That's right.

24 If you look at the second full paragraph, it
25 reads:

1 "The final portion of this report will
2 address the greater problem relative to
3 the Cornwall Police Service and it is a
4 matter of considerable gravity. It
5 involves the dissension that exists at
6 virtually every level of the Cornwall
7 Police Service from the rank of
8 constable to the Cornwall Police
9 Services Board. There is friction
10 between the Police Association and the
11 Board, some Board members and the
12 Chief, the Association and the Chief,
13 the Association and the senior
14 officers, the senior officers and the
15 Chief. The relationship between Mayor
16 P. Poirier and Chief Shaver is
17 particularly turbulent. Mayor Poirier,
18 when interviewed, expressed a complete
19 lack of confidence in Chief Shaver, but
20 at the same time he stated he is
21 prepared to work with him subject to
22 'improved performance and assessment of
23 results achieved'."

24 If you go down to the last paragraph on that
25 page, the inspector set out, right at the top, the fact

1 that it would take -- it would serve no purpose for them to
2 take sides in this. And what they did was they set out
3 what they found to be some of the perceptions relating to
4 Chief Shaver and, again, they underline the word
5 perceptions. So what they say is that:

6 "The majority of the members of the
7 Service who were interviewed feel that
8 Chief Shaver's absent from the job too
9 frequently. They refer to him as the
10 golfer during the summer months and are
11 very critical of his impulsive
12 management style. Chief Shaver came to
13 the Cornwall Police about seven-and-a-
14 half years ago from the RCMP and its
15 members are not confident in his
16 knowledge of municipal policing. Some
17 members of the Cornwall Board agree
18 that Chief Shaver is absent from his
19 job in the City too frequently, but
20 have no documentary evidence of this.
21 The Board is also critical of Chief
22 Shaver's impulsive and spontaneous
23 management style and his reluctance to
24 communicate fully with its members.
25 Chief Shaver adamantly refutes the

1 allegations that he is an absentee
2 Chief."

3 Do you recall around this time there being
4 issues with -- those kinds of issues concerning Chief
5 Shaver? Because we've heard about generally his decision-
6 making process, I guess, was -- you called that into
7 question a little bit and said there was some issues with
8 that. But were these grand -- I mean, these are serious --
9 serious criticisms here. I mean, he's being referred to as
10 the golfer during the summer months. There is a suggestion
11 that he has no knowledge of municipal policing.

12 I mean do you remember issues, the concerns
13 getting to that level?

14 **MR. DEROCHIE:** Those issues were, I think,
15 identified in our original Staff Sergeants' report.

16 **MR. LEE:** This at that time is a fairly good
17 representation of what their perception may have been about
18 Chief Shaver at the time?

19 **MR. DEROCHIE:** Their perception, yes. I
20 didn't know personally of his conflict with the Board. For
21 example, I didn't know that.

22 **MR. LEE:** That's not something you were
23 privy to?

24 **MR. DEROCHIE:** No, but generally speaking
25 that's my recollection of the issues of that time, of the

1 day.

2 MR. LEE: And as they go on, they talk about
3 the morale report and the inspectors talk about Ms.
4 McGlashan coming in and they talk about the three-day
5 strategic planning meeting. And they go through all of
6 that and if we look at page 528, two pages further, the
7 first full paragraph reads:

8 "There is an inherent danger in the
9 early success of a plan, being the
10 strategic plan, and the almost euphoric
11 mood presently prevailing within the
12 Cornwall Police Service. It would be
13 foolhardy to presume that the problems
14 identified in the morale report and the
15 strategic plan will be quickly
16 resolved. This is best illustrated by
17 the fact that the consultant's report
18 calls for a five-year strategic plan
19 with explicit and detailed requirements
20 with respect to meetings, structure of
21 committees and other implementation
22 strategies. In order for the plan to
23 have any reasonable chance of success,
24 the current enthusiasm and dedication
25 will have to be sustained by all

1 parties."

2 So now we have these Level III inspectors
3 coming in and also talking about the strategic plan and its
4 importance and the fact that it needs to be followed
5 through. Is that right?

6 **MR. DEROCHIE:** That's correct.

7 **MR. LEE:** And still at this time you would
8 have agreed with those sentences?

9 **MR. DEROCHIE:** Oh, yes.

10 **MR. LEE:** And so their first recommendation
11 at Bates 534 -- that's a few pages in -- relates to the
12 management consultant and it speaks of the fact that Ms.
13 McGlashan had been retained, that she had done the initial
14 session, that she had developed the initial strategic plan
15 framework. However, there was no plan for her to continue
16 working with the Cornwall Police throughout implementation
17 of the plan and so their recommendation is that she be
18 retained on an ongoing basis to monitor implementation of
19 the plan.

20 Do you see that?

21 **MR. DEROCHIE:** I do.

22 **MR. LEE:** And we'll come to whether or not
23 that happened in a later document.

24 And, finally, just a brief point if we can
25 go to 542? This page is the ninth recommendation and it

1 relates to a workload study. And it talks about:

2 "The perception persists from the Chief
3 down to the ranks that the service is
4 understaffed. Statistical data left
5 with the Board and the Chief indicates
6 that the Cornwall Police Service
7 compares most favourably in this regard
8 with police forces of similar size."

9 Do you know whether or not this workload
10 study was ever commissioned?

11 **MR. DEROCHIE:** I don't know.

12 **MR. LEE:** Okay, fair enough.

13 Just a couple of more documents in this
14 sequence. If we can go to -- I'm a little worried given
15 that we didn't have the last one we may not have this one
16 either. It's Document 740524.

17 --- **EXHIBIT NO./PIÈCE NO. P-1392:**

18 (740524)Report from Chief Shaver to
19 John Kopinak and Hyacinthe Josiah dated
20 22 Jul 93

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

22 **MR. LEE:** Mr. Engelmann just brought up the
23 fact that we'll need an exhibit number for that level III
24 inspection report. I don't know if we can mark it now or
25 we need to reserve one.

1 **THE COMMISSIONER:** Do we have it there?

2 **MR. LEE:** We don't have a hard copy.

3 **THE COMMISSIONER:** So when we get it we'll -
4 - so we are going to reserve 1391 for the Phase III report
5 or stage III -- sorry?

6 **MR. LEE:** Level III.

7 **THE COMMISSIONER:** Level III.

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. LEE:** I think what's happened, sir, is
10 that there was a late Rule 38 notice. I didn't appreciate
11 the fact that it -- by another party -- that I'm now trying
12 to rely on their documents. I didn't appreciate that it
13 was late. So that's where we are running into problems
14 here.

15 This should be the last document that it's
16 an issue from. What it is is a -- the document which is
17 the Level III report we just looked at that was from 1990
18 and there's a little bit of a gap and we come to 1993,
19 which is obviously an important year, and in 1993 there's a
20 human resources management inspection it's called, again
21 from the Policing Services Division.

22 And the document I want to take you to now
23 is Chief Shaver writing to these two inspectors prior to
24 their investigation or inspection.

25 **THE COMMISSIONER:** Inspection.

1 **MR. LEE:** So, Staff Sergeant Derochie, as I
2 explained to the Commissioner, there's -- in July and
3 August of 1993 there was a human resources management
4 inspection conducted by Mr. Kopinak and Ms. Josiah. I'll
5 take you to that document in a moment, and I'm not sure you
6 would have any knowledge of this document we're looking at
7 right now.

8 What happened was that Chief Shaver wrote to
9 these -- he calls them "advisors" here -- prior to them
10 coming to inspect the station or inspect the Force,
11 essentially to give them some kind of -- a little bit of a
12 heads-up and give them some background, okay?

13 And the reason I want to ask you about it is
14 that he uses some -- I mean some very strong language in
15 here and he -- he makes some observations and I want to get
16 your thoughts on whether or not he's out in left field on
17 what he's saying here or whether or not this was an
18 accurate reflection by 1993 of what was going on at the
19 Force; okay?

20 **MR. DEROCHIE:** Whether I agree with his
21 observations?

22 **MR. LEE:** I just want to essentially know
23 whether or not he is accurately stating some of the issues.
24 You'll see what's in the report and you can let me know
25 whether or not you can comment on it.

1 So as I said, Mr. Commissioner, the date of
2 this is July 22nd, 1993 and this is Chief Shaver writing to
3 inspectors who will be coming in later in the month.

4 **THE COMMISSIONER:** All right. So that will
5 be Exhibit 1392 when we catch up to it.

6 **MR. LEE:** And he begins this by saying that
7 he has:

8 "Pondered the situation of the Cornwall Police Service
9 since day one -- which for me was in April of 1983."

10 And he cuts to the chase pretty quickly. He says:

11 "The Police Service has many fine
12 employees. Our equipment is plentiful and top-of-the-line.
13 Our salaries and benefits are the envy of the Province but
14 there was, and it continues today, a cancerous rot in which
15 the Service eats itself from the inside."

16 He continues:

17 "The history of the Service shows repeated internal
18 attempts of coups which were specifically designed to oust
19 or discredit various members of the Service. Prior to my
20 assuming control of the Service, various attacks were made
21 on Superintendent H. Levere, Inspector James Burke, Chief
22 Earl Landry and then Deputy Chief Dennis O'Neill and
23 myself. The attacks were personal, brutal and most times
24 without solid foundation but their effects have had a
25 devastating effect on the Service. The general rules of

1 the game were to create and spread malicious rumours until
2 they are repeated as fact. Discredit those in authority
3 and bring them down to the lowest level possible and
4 destroy their health and spirit. These are not words
5 invented by me but part of the lexicon of the Cornwall
6 Police Service."

7 **THE COMMISSIONER:** Page 2, Madam Clerk.

8 **MR. LEE:** He lists a number of people there,
9 beginning with Superintendent H. Levere. Are you familiar
10 with that name?

11 **MR. DEROCHIE:** Yes, I am.

12 **MR. LEE:** Can you give us some idea of when
13 Superintendent H. Levere may have been with the Force?

14 **MR. DEROCHIE:** He's of the same era as Earl
15 Landry. He would have come on probably in 19 -- late --
16 probably early -- early '50s. Late '40s, early '50s.

17 **MR. LEE:** And you are obviously familiar
18 with Inspector Burke and Chief Landry and Deputy Chief
19 O'Neill?

20 **MR. DEROCHIE:** Yes, all of those people.

21 **MR. LEE:** All of these were during your
22 time?

23 **MR. DEROCHIE:** Yes, including the Staff
24 Inspector Levere.

25 **MR. LEE:** Staff Inspector or ---

1 **MR. DEROCHIE:** Superintendent Levere, I'm
2 sorry.

3 **MR. LEE:** Do you have any idea what Chief
4 Shaver is talking about here?

5 **MR. DEROCHIE:** I don't know specifically
6 what he is referring to -- as -- of -- what he's
7 specifically -- I know that each of these individuals
8 certainly had issues at various times during their careers.

9 **MR. LEE:** Chief Shaver writes:
10 "Repeated internal attempts of coups specifically designed
11 to oust or discredit various members of the Service."

12 That's not a little bit of dissention in the
13 ranks. That's a serious statement?

14 **MR. DEROCHIE:** Quite right.

15 **MR. LEE:** I mean, I think you can -- I can
16 see where Chief Shaver would take the Staff Sergeants'
17 report relating to him as a "coup attempt". I mean, it
18 called for his resignation.

19 **MR. DEROCHIE:** Yes.

20 **MR. LEE:** But is there a history of that at
21 the Cornwall Police?

22 **MR. DEROCHIE:** I think that's a little bit
23 overstated with regards to it involving Superintendent
24 Levere, James Burke and ---

25 **MR. LEE:** Okay, and he can -- he can ---

1 **MR. DEROCHIE:** I don't -- there was nothing
2 of that -- there was nothing -- they wouldn't have been
3 involved -- the issue -- the only issue that I can recall
4 involving Superintendent Levere would have -- would be not
5 comparable to ---

6 **MR. LEE:** I don't want to get into all the
7 details of those kinds of things, just -- I mean, "repeated
8 attempts of coups", I mean, is that over stating things?

9 **MR. DEROCHIE:** Yes, I would -- I would
10 suggest it is.

11 **MR. LEE:** And he comes on page 2 to explain
12 under the heading "How Did This Come About" and he talks
13 about the community having a tremendously poor self image
14 and feelings of doom and gloom and then he pins a lot of
15 the -- a lot of the problems on the Mayor, specifically,
16 and issues with the Board and you're not -- you're not part
17 of those dealings are you? You didn't have direct dealings
18 with the Board in your roles at this time?

19 **MR. DEROCHIE:** No, No. No.

20 **MR. LEE:** Chief Shaver really would have
21 really been the one dealing the most with the Board. Is
22 that right?

23 **MR. DEROCHIE:** Yes. Any issues that I had
24 with the Chief, I dealt with him within the structure of
25 the organization.

1 **MR. LEE:** And if we continue on, there's a
2 heading on page 3, "What Would Make it Better?"

3 And over on page 4, my point for going to
4 this document, the original strategic planning session is
5 in mid-1990?

6 **MR. DEROCHIE:** Yes.

7 **MR. LEE:** We now have this in July, 1993 and
8 under the heading "What Would Make it Better?", at number
9 two Chief Shaver writes:

10 "We must implement the strategic plan,
11 no matter who objects, and stick to it
12 in order to test our theories. Judge
13 persons responsible for implementing
14 the plans once it is in place, not
15 before."

16 So by 1993, can I take it the strategic plan
17 had not been implemented?

18 **MR. DEROCHIE:** I don't recall -- I do recall
19 that we took steps to implement it because I recall a
20 meeting with the Board of Commissioners of Police whereby
21 we presented our initial draft of the strategic plan and it
22 was accepted and the funding was provided in the budget, so
23 to some degree it had -- it had -- the -- it had been
24 implemented. I don't know if there was -- I don't recall
25 if there was an ongoing process.

1 Obviously, by the Chief's statement in 1993,
2 it obviously hadn't been fully implemented or I can't say
3 with any great degree of certainty that once the Board, at
4 that meeting that I recall making the presentation at,
5 whether or not they actually followed through. Whether or
6 not we actually followed through.

7 **MR. LEE:** Okay.

8 **MR. DEROCHIE:** I just don't recall it.

9 **MR. LEE:** In the "what would make it better"
10 category, he goes on to talk about the need for senior
11 officers association and, again, fairly strong language:

12 "If the Senior Officers resist, there
13 is, in my opinion, very little reason
14 to maintain the ranks"

15 And he talks in the next paragraph about
16 Loyalists at the Cornwall Police Service and how the
17 government social contract may allow a cleansing of ranks.
18 You know -- strong language here. It never got to that did
19 it? There never was a cleansing of ranks at the Cornwall
20 Police?

21 **MR. DEROCHIE:** No.

22 **MR. LEE:** And he talks on the next page
23 about the Police Services Board, but at paragraph six, he
24 talks about the Association executive and let me read it ad
25 I'll ask for comment on it.

1 "The Cornwall Police Association
2 executive attempts to control or
3 dictate by threats, rumour or overt
4 actions, must be challenged and
5 exposed. I recognize the increasing
6 presence of the Association in all
7 areas of administration and I believe
8 we can prove they have been given a
9 major role, some say too major, in the
10 governance of this Service. Their aim
11 has been to control whoever sits in the
12 Chief's chair and this must be
13 resisted. The Chief must be allowed to
14 act independently. He can accept ideas
15 generated from all quarters, but as the
16 buck stops in his or her chair, the
17 Chief cannot be ruled by management by
18 committee or worse, by the dictates of
19 the Association. The Cornwall Police
20 Association talks a good game, but they
21 have never sat in the chair and been
22 forced to make decisions which are
23 unpopular or not approved of but had to
24 be made for the betterment of the
25 Service or the community."

1 Can you comment on the tension that existed
2 generally between the most senior management of the
3 Cornwall Police and the Association during the 1993 era?

4 **MR. DEROCHIE:** There certainly was tension.
5 There certainly was dissention between those groups. Not
6 unique to Cornwall again if you think back to those days
7 when police officers were coming to work in blue jeans and
8 wearing base ball caps and refusing to write parking
9 tickets. That was going on in other jurisdictions, so
10 there was a flexing of muscle being done by the union. It
11 was evolving from an association, a professional
12 association, to a union.

13 Some people would disagree with me that it's
14 always been a union, but I joined an Association, but there
15 was that whole unionization of the Police Associations in
16 Ontario. They became more unions and I find myself in
17 disagreement and with the approaches, with the strategies,
18 and there certainly would have been tension between me and
19 the Association executive with regards to management
20 issues.

21 Personally, I had those -- I know that they
22 had from time-to-time as, you know, you might, I might,
23 overstate it by saying that every time someone with rank
24 made a decision, again, there was always a lot of other
25 people that could do a better job than that.

1 And so anybody that made decisions were
2 criticized. Again, I guess maybe part of the human
3 experience.

4 **MR. LEE:** One last document in this area.
5 It's document 729854 and this is the management inspection
6 conducted by the recipients of Chief Shaver's "cancerous
7 rot" memo.

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. LEE:** I gave notice of this one, Madam
10 Clerk.

11 **THE REGISTRAR:** You did?

12 **MR. LEE:** Yes, I did.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **THE COMMISSIONER:** Can we put it on the
15 screen and take it off later?

16 **MR. LEE:** We did.

17 If I can have one moment.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. LEE:** It looks like a couple of numbers
20 on the document number may have been lost in the shuffle so
21 we have a not relevant document that was prepared for the
22 hearings room and we have this one that doesn't appear to
23 have been.

24 **THE COMMISSIONER:** Okay.

25 **MR. ENGELMANN:** I think we have 584 instead

1 of 854. I'm not sure but it doesn't appear we have the
2 document.

3 **THE COMMISSIONER:** Well, let's put it on the
4 screen and we'll get it later.

5 It will be Exhibit Number 1393.

6 **MR. LEE:** Sorry, one-three ---

7 **THE COMMISSIONER:** Nine-three (93).

8 If you can describe it for us, the date and
9 -- so that ---

10 **MR. LEE:** I can. It is a human resources
11 management inspection report from the Ontario Policing
12 Services Division conducted at the Cornwall Police Service
13 between July and August of 1993.

14 --- **EXHIBIT NO./PIÈCE NO. P-1393:**

15 (729854) Human resources management
16 inspection report dated Jul Aug 93

17 **THE COMMISSIONER:** Okay.

18 **MR. LEE:** I'm on quite a role here with the
19 documents.

20 Staff Sergeant Derochie, if we look at the
21 second page -- or the first page. Let's stay there for a
22 minute. You see at the bottom of the page we have the
23 Cornwall Police Service July-August 1993.

24 **MR. DEROCHIE:** Yes.

25 **MR. LEE:** So I think we'll see that that's

1 when the auditors were onsite.

2 And if we turn the page over you'll see the
3 report is completed in November of 1993.

4 **MR. DEROCHIE:** Yes.

5 **MR. LEE:** And again, it's conducted by
6 Kopinak and Josiah, who are the recipients of the last memo
7 that we looked at from Chief Shaver.

8 If we can go over to Bates 071. Notes at
9 the second paragraph that the Police Services Board Chair
10 in his letter to the Ministry requesting the inspection
11 mentions serious concerns about management, the
12 relationship among stakeholders and morale. Based on these
13 concerns it was determined that the primary focus would be
14 selective, i.e. on human resource issues. Matters relating
15 to morale were reviewed in the context of the definition
16 outlined below and it gives a definition of morale.

17 If we turn the page over it explains at the
18 top paragraph that follow-up visits were undertaken on a
19 number of days for a total of 18 days onsite. So this is
20 the most significant report we've seen thus far in terms of
21 the number of days onsite. Would you agree with that?

22 **MR. DEROCHIE:** Yes.

23 **MR. LEE:** And 18 days is certainly
24 significant. Is that right?

25 **MR. DEROCHIE:** That's correct.

1 **MR. LEE:** And it notes in the second
2 paragraph that interviews were held with half the staff,
3 Police Board members, representatives from the local bar,
4 school boards, community groups, service users, local
5 merchants, police -- I mean, comprehensive.

6 **MR. DEROCHIE:** Yes.

7 **MR. LEE:** Is that right?

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** And the key statement on this page
10 is in the next paragraph:

11 "It was clear on the advisor's first
12 visit to the police service premises
13 that there existed a serious
14 organizational malaise. The internal
15 problems had persisted for a long time
16 and were contributing to a debilitating
17 work environment, the damaging effects
18 of which are evidenced in a widespread
19 lack of enthusiasm for work, a lack of
20 trust among peers and managers and a
21 pervasive sense of hopelessness and
22 disempowerment among most ranks."

23 The bottom of the next paragraph:

24 "They are however significant because
25 little has been done to counteract

1 their longstanding nature and
2 increasing seriousness which have
3 obviously been detrimental to the
4 health of individuals and the
5 organization."

6 And in the final paragraph:

7 "Levels of discontent have reached a
8 critical point. Positive changes in
9 leadership and within the internal
10 management environment must be
11 implemented quickly otherwise the
12 community perception of the Cornwall
13 Police Service as a viable delivery
14 mechanism for crime prevention and law
15 enforcement services is, in the
16 advisor's view, in jeopardy."

17 **MR. DEROCHIE:** Strong words.

18 **MR. LEE:** Serious introduction. Would you
19 agree?

20 **MR. DEROCHIE:** Absolutely.

21 **MR. LEE:** If we go over to a couple of pages
22 to Bates 074; it speaks of a previous inspection being
23 conducted in '90 and a follow-up in July-August of '91.
24 And if we go over -- do you see that there under the
25 heading "Previous Inspections"?

1 **MR. DEROCHIE:** Yes, "Previous Inspections",
2 yes.

3 **MR. LEE:** And if you go over one page it
4 lists a number of recommendations from the previous
5 inspection and gives an update on what had happened.

6 So recommendation number one; it notes has
7 not been complied with, and that was the issue of retaining
8 the consulting Ms. McGlashan on an ongoing basis to monitor
9 implementation of the strategic plan, and it noted that her
10 services had not been retained on an ongoing basis at the
11 time of the follow-up visit.

12 Recommendation number four; it again notes
13 non-compliance through the management team concept
14 contained in the strategic plan a thorough and broad based
15 program was to have been developed to address and satisfy
16 all training requirements.

17 And it goes on with some were complied with,
18 some weren't. You'll note in recommendation number nine
19 that the workload study needs further review. So again I'm
20 still not sure whether or not that means it happened, it
21 needs review or they're reviewing whether or not the
22 Commission to study. But you don't have any information on
23 that?

24 **MR. DEROCHIE:** I don't recall any, no.

25 **MR. LEE:** And so if we go to Bates 076; we

1 get to the findings and recommendations of the 1993 report.
2 And under the heading "Findings" it talks about the mission
3 statement that was developed during the '90-'91 strategic
4 planning process that we've looked at and it notes:

5 "While there have been several
6 subsequent revisions to the document,
7 the joint committee which was formed to
8 coordinate strategic planning has not
9 been actively involved. The committee
10 does not endorse the most recent
11 version of the strategic plan. The
12 board has not had ongoing involvement
13 and has not improved the plan for
14 implementation."

15 Do you see that there?

16 **MR. DEROCHIE:** I do see that.

17 **MR. LEE:** Can you help us out with what
18 happened?

19 **MR. DEROCHIE:** At this point in time we had
20 a strategic planner. It seems to me there was an officer
21 assigned after the 1990 -- or 1991 -- whether it was at the
22 very end of 1990 or the beginning of '91 that we had a
23 strategic planner, and it seems to me that that position
24 was still active at the time.

25 Was I -- I don't recall being involved in

1 ongoing strategic planning meetings.

2 MR. LEE: Do you remember ever holding in
3 your hands a strategic plan? I mean, a single document
4 that set out the plan for this force.

5 MR. DEROCHIE: I can't say that I ever did.

6 MR. LEE: Can you turn to page Bates 096?
7 This is about 20 pages later.

8 And if we look at the first full paragraph
9 on the page, they talk about the strategic planning process
10 and it reads:

11 "The breakdown of the strategic
12 planning process has had a profoundly
13 negative impact throughout the police
14 service. It would not be unreasonable
15 to attribute many of the current morale
16 problems to this failure to involve
17 staff in a planning process. Staff who
18 were initially sceptical and reluctant
19 to participate grew to believe in the
20 consultant and the objectives of the
21 process. The collapse of strategic
22 planning is perceived by staff to have
23 dealt a fatal blow to their hopes for
24 improving the work environment. The
25 prevailing negative attitudes and

1 behaviours within the organizational
2 environment have become firmly rooted.
3 Simple fixes or superficial internal
4 changes will not remedy the situation.
5 Strong and swift intervention is
6 required."

7 **MR. DEROCHIE:** I see that.

8 **MR. LEE:** As I noted when we first looked at
9 this document, it's the report submitted in November of '93
10 and it relates to an inspection carried out in July and
11 August of '93.

12 And, sir, I would suggest to you that the
13 reports we've looked at and the memos we've looked at
14 provide us with pretty clear pictures of some of the issues
15 that were facing the Cornwall Police in the years leading
16 up to the Silmsler complaint throughout the period that
17 Sebalj was conducting her investigation. Would you agree
18 with that?

19 **MR. DEROCHIE:** Yes.

20 **MR. LEE:** And earlier today and the way I
21 started this line of questioning was that what triggered a
22 lot of this was the fact that Mr. Manson put to you the
23 proposition that by late 1993 the Cornwall Police was
24 dysfunctional.

25 Given everything we've looked at, wouldn't

1 you agree with me that's a pretty good way of describing
2 the state of affairs of the CPS at that time?

3 **MR. DEROCHIE:** Well, it presupposes that the
4 individual officers weren't conducting; they were so
5 dysfunctional that they weren't performing their duties.
6 And I would have to see -- I don't believe that that was --
7 I can only tell you what I was doing at the time.

8 I thought I was doing my job and as best I
9 could. The people that worked for me were answering their
10 calls, were doing their investigations as best they could.
11 I never saw any sign that it was affecting the day-to-day
12 operations. I don't know if this -- I know they spoke to a
13 lot of people I don't know at this time.

14 I'd also said yesterday I believe that
15 virtually all of these reports indicated that the Police
16 Service -- the men and women of the Police Service were
17 performing their duties -- were providing a good level of
18 police service in the community. I don't know if this
19 particular review comments on that.

20 Are you aware?

21 But I'm convinced and it's my opinion that
22 it did not affect the way the individual officers did their
23 job.

24 **MR. LEE:** How can that be possible?

25 I can agree with you that it certainly

1 couldn't have affected them to the point that they were
2 entirely ineffective and that the city was not being
3 policed. Clearly, it didn't get to that level.

4 But how can what we've looked at not have
5 affected the enjoyment of officers going into work; their
6 willingness to go the extra mile; their happiness with what
7 they were doing? Isn't that what the morale report speaks
8 to?

9 **MR. DEROCHIE:** Yes, but ---

10 **MR. LEE:** That things are such a mess that
11 it gets -- after awhile, it gets hard?

12 **MR. DEROCHIE:** And some people may well have
13 had that response to it. I can tell you what my response
14 to it was. I went to work and did my job as best I could
15 and no one's ever challenged me on that.

16 So I -- if there are people that who will
17 stand up and say that their state of morale -- and you
18 know, morale exists or doesn't exist in any organization
19 but if you're a professional and you're having a bad day
20 you go in and do your job the best you can anyways
21 regardless of how you feel.

22 And I don't know how else to explain it.
23 That's my honest opinion on that. If other people couldn't
24 rise above their discomfort level, then -- I don't know how
25 to answer it beyond that Mr. Lee, honestly.

1 **MR. LEE:** Would you agree with me that a lot
2 of these documents we've looked at speak to trust between -
3 - managers' trust between the rank and file and management?

4 **MR. DEROCHIE:** Yes. The problem with that
5 is when you try to confront a person honestly about that
6 and they will inevitably respond "Oh, we weren't referring
7 to you. We were referring to someone else." And it's hard
8 to get your thumb on that thing and to separate rhetoric
9 from fact.

10 Some people will buy into a theory simply
11 because somebody they perceive, someone they respect and
12 want to follow, have said that and they'll take on that
13 experience as their own experience.

14 Quite frankly, I've had my disappointments
15 with the Cornwall Police Service. I've been frustrated.
16 I've had on days bad morale but you have to rise above
17 that. That's what life is all about.

18 **MR. LEE:** The trust issue rears its head a
19 couple of times in what we're looking at. You spoke to use
20 earlier in your examination-in-chief about I think it was
21 Quinn and Lortie expressing the idea that they had some
22 concern that Dunlop maybe was being scapegoated a little
23 bit; do you remember that?

24 **MR. DEROCHIE:** Yes.

25 **MR. LEE:** And my recollection of your

1 evidence was that you were a little bit offended at the ---

2 MR. DEROCHIE: I was.

3 MR. LEE: --- suggestion that that might
4 happen.

5 MR. DEROCHIE: Yes, I was.

6 MR. LEE: Because they should have known
7 better. They should have trusted you essentially; is that
8 fair?

9 MR. DEROCHIE: Perry should have trusted me.
10 You know, Perry -- I heard Helen say that I was someone
11 Perry respected and trusted, in her testimony.

12 MR. LEE: His lack of trust certainly -- of
13 the Cornwall Police generally certainly played a role in
14 this thing; didn't it?

15 MR. DEROCHIE: Again, I -- okay, I can
16 assume maybe it did.

17 MR. LEE: Well I mean, I ---

18 MR. DEROCHIE: There was nobody in the
19 Cornwall Police Service he can go to to resolve this is
20 what you're saying?

21 MR. LEE: Can you think of a reason why he
22 wouldn't have if there was?

23 MR. DEROCHIE: Well, he did go to some
24 people. He did go to Lortie. He did go to Dupuis. People
25 he respected and trusted but wasn't satisfied to leave it

1 with them.

2 MR. LEE: Because he didn't trust something
3 would be -- I mean, it just seems obvious to me that the
4 only reason he goes to the CAS in the end is because he
5 just doesn't trust it will be dealt properly at the
6 Cornwall Police.

7 MR. DEROCHIE: I guess we'll never know, you
8 know.

9 MR. LEE: Don't you think that given what's
10 going on at the Cornwall Police and given the picture
11 that's painted by all these documents I've taken you to
12 that it's hardly surprising that a member or members would
13 not have a whole lot of faith in the Cornwall Police?

14 MR. DEROCHIE: Well, there are many people
15 that had the same knowledge that Perry Dunlop had and
16 didn't do that; didn't take on, you know, didn't carry out
17 that kind of an action. He wasn't the only person who
18 knew.

19 THE COMMISSIONER: Who knew what now?

20 MR. DEROCHIE: That the investigation had
21 been stopped.

22 THE COMMISSIONER: Uh'huh.

23 MR. DEROCHIE: We're talking about the
24 Silmser ---

25 THE COMMISSIONER: Yeah.

1 **MR. DEROCHIE:** And allegations?

2 So he wasn't the only one who knew that.

3 **THE COMMISSIONER:** Right. I don't

4 understand -- but, I mean ---

5 **MR. DEROCHIE:** Well, if there was -- oh,
6 okay, I'm sorry, I may have got off track of my thought
7 there that other people didn't have those same concerns;
8 that this was a matter of trust. It was something
9 suspicious going on here; something improper going on here.

10 **THE COMMISSIONER:** Well, some people could
11 say that if there was a duty to report to the Children's
12 Aid Society, he was the only one who did it.

13 **MR. DEROCHIE:** Who recognized that duty
14 possibly, yes.

15 **THE COMMISSIONER:** Who recognized that duty.

16 **MR. LEE:** I want to look at ---

17 **THE COMMISSIONER:** But shouldn't have -- you
18 know ---

19 **MR. DEROCHIE:** We're talking about trust.

20 **THE COMMISSIONER:** No, no. Oh, okay, trust.
21 But shouldn't everybody have realized that that should have
22 been going to the Children's Aid Society?

23 **MR. DEROCHIE:** It wasn't our understanding
24 at the time ---

25 **THE COMMISSIONER:** Okay.

1 **MR. DEROCHIE:** --- that that was a
2 requirement, that the CAS would be interested in that
3 particular investigation.

4 **THE COMMISSIONER:** Well, I guess what I'm
5 concerned about is was it that somebody stopped and thought
6 and said "Okay, here's the situation. No, the Children's
7 Aid Society shouldn't be involved because it's historical
8 sexual assault"?

9 **MR. DEROCHIE:** Yes.

10 **THE COMMISSIONER:** Did anybody else stop and
11 think about that and address that situation?

12 **MR. DEROCHIE:** No, no one did.

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

14 **MR. DEROCHIE:** No one did until the Board of
15 Inquiry pointed it out to us.

16 **THE COMMISSIONER:** The Board of Inquiry?

17 **MR. DEROCHIE:** The Board of Inquiry under
18 the *Police Services Act* when Perry was -- everybody was
19 sort of taken back by that including the Police Complaints
20 Commissioners Council and I would assume, the Ontario
21 Police Complaints Commissioner. They were not of the
22 opinion that there was a statutory requirement. As you
23 know, they objected or they appealed the decision of the
24 Board.

25 So until that -- until that came back and

1 that was made clear to us. You're quite right we didn't
2 perceive that situation as one to be reported to CAS, and
3 obviously we were not alone in our thoughts on that.

4 **THE COMMISSIONER:** Well, there is a
5 difference, in my view, of someone looking at and
6 addressing issue or someone being completely oblivious to
7 the issue.

8 **MR. DEROCHIE:** We weren't oblivious to the
9 issue as far as we were sure that we didn't -- there was
10 not a requirement to report.

11 **THE COMMISSIONER:** Before Perry Dunlop took
12 up this issue, to your knowledge, did Heidi Sebalj ever
13 comment "Oh, I wonder if I should do that"? Did she ask
14 for advice from somebody else? Did you think of that at
15 any time?

16 **MR. DEROCHIE:** No, it was my understanding
17 that this did not fall within the CAS mandate.

18 **THE COMMISSIONER:** So that thought process
19 went through your mind?

20 **MR. DEROCHIE:** I don't know that I can say
21 that I ever stopped and considered it. But certainly it
22 was a -- it was something that -- it didn't occur to me
23 when I was reviewing what Perry Dunlop did at that time
24 that he had a duty to report. And the first time I thought
25 about that was when Mr. Abell pointed out to me that he

1 thought there was.

2 **THE COMMISSIONER:** M'hm. I guess where I'm
3 going with that is that then we have the issue of when the
4 settlement comes to the police force, right -- Mr. Silmsers
5 walks in with the -- or you receive a letter saying that
6 this has been done and we don't want -- I don't want the
7 criminal proceedings to proceed; did anybody at that time
8 stop and consider whether or not that was an illegal act?

9 **MR. DEROCHIE:** No, not that I'm aware of.

10 **THE COMMISSIONER:** Thank you.

11 Go ahead.

12 **MR. LEE:** I want to move on from the morale
13 reports and the inspections and everything else and I want
14 to try to clear up a few things in your evidence about the
15 Silmsers investigation itself, okay?

16 Can I take you to Volume 201 of your
17 evidence, please?

18 **THE COMMISSIONER:** Just a second, we'll get
19 that for you.

20 Well, why don't we take a short break?

21 **MR. LEE:** Sure.

22 **THE COMMISSIONER:** All right? And come
23 back.

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

1 This hearing will resume at 3:25.

2 --- Upon recessing at 3:13 p.m./

3 L'audience est suspendue à 15h13

4 --- Upon resuming at 3:29 p.m./

5 L'audience est reprise à 15h29

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

8 This hearing is now resumed. Please be
9 seated. Veuillez vous asseoir.

10 **GARRY DEROCHIE, Resumed/Sous le même serment:**

11 **MR. DEROCHIE:** Mr. Commissioner?

12 **THE COMMISSIONER:** Yes.

13 **MR. DEROCHIE:** If I may respond or expand my
14 answer to that -- your last question with regards to did it
15 occur to anyone?

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

17 **MR. DEROCHIE:** I should have said it didn't
18 occur to me. I don't know that it didn't occur to someone
19 else.

20 **THE COMMISSIONER:** Okay. All right. Fair
21 enough.

22 Mr. Lee.

23 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE**
24 **(cont'd/suite):**

25 **MR. LEE:** Sir, we were going to go to Volume

1 201 of the Inquiry transcripts, page 138, and I just want
2 to clarify something here.

3 At this point, you're talking about the
4 original call coming in from David Silmser?

5 **THE COMMISSIONER:** I'm sorry, what page?

6 **MR. LEE:** One-three-eight (138).

7 **THE COMMISSIONER:** Okay.

8 **MR. LEE:** And if we go down, Madam Clerk,
9 there further, you say in the middle of -- of the long
10 paragraph attributed to you, "this was a telephone call";
11 do you see that?

12 **MR. DEROCHIE:** Yes, I do.

13 **MR. LEE:** "This was a telephone call that
14 probably went to the COMM centre and
15 I'm speculating now because I don't
16 recall the chain of events and because
17 the complainant was from out of town
18 and didn't want an officer to respond."

19 Do you see that?

20 **MR. DEROCHIE:** Yes.

21 **MR. LEE:** Do you have any information that
22 Silmser said during that initial call that he did not want
23 an officer sent out?

24 **MR. DEROCHIE:** No, it would have been more
25 accurate to say that there wasn't an expectation that an

1 officer would respond.

2 MR. LEE: And is that because he was out of
3 town?

4 MR. DEROCHIE: Yeah, yes.

5 MR. LEE: That wouldn't be the normal
6 practice to send an officer out of town immediately?

7 MR. DEROCHIE: Immediately, certainly not,
8 no.

9 MR. LEE: I just -- it wasn't Silmser saying
10 at the outset, "I don't want somebody coming out to me."
11 It was an operational detail; is that right?

12 MR. DEROCHIE: That's correct.

13 MR. LEE: Can you think of a situation where
14 the CPS would receive a complaint from somebody out of town
15 and send somebody out immediately? Would that ever happen
16 or ---

17 MR. DEROCHIE: The units that respond
18 immediately to calls for service are Uniform Patrol
19 officers and Uniform cruisers and they are the first-line
20 responders, and you wouldn't send someone in -- operating
21 in that capacity outside of the jurisdiction. It's just --
22 it removes the availability for them to service the
23 community.

24 There would be occasions where there would
25 -- there could be occasions when something came in and it

1 was forwarded to the Criminal Investigation Unit and the
2 officer in charge of that unit might -- might send one of
3 his units or one of his cars out immediately to take an
4 initial report.

5 It's -- it would not -- I couldn't say it
6 would never happen. It would be an unusual.

7 **MR. LEE:** Okay. Were you present when Mr.
8 Silmsner testified here?

9 **MR. DEROCHIE:** yes.

10 **MR. LEE:** You were in the room?

11 **MR. DEROCHIE:** Yes, I was, or either I was
12 in the room or I was watching. I watched most of his
13 testimony.

14 **MR. LEE:** Okay.

15 **MR. DEROCHIE:** Or was present and heard it
16 personally.

17 **MR. LEE:** And you're aware that he made an
18 initial report of abuse to the OPP many months before?

19 **MR. DEROCHIE:** I wasn't aware of that until
20 he testified to that.

21 **MR. LEE:** But you heard him testify ---

22 **MR. DEROCHIE:** Yes, I did.

23 **MR. LEE:** And do you recall him testifying
24 that it was his belief that the Cornwall Police had learned
25 of his allegations from the OPP?

1 Yes, I'll accept that, yes.

2 Do you have any knowledge of that?

3 **MR. DEROCHIE:** No, I don't.

4 **MR. LEE:** After hearing him testify to that
5 did you look into that in any way?

6 **MR. DEROCHIE:** No, I did not, not that I can
7 recall, no.

8 **MR. LEE:** You personally had never heard of
9 David Silmsers until you were asked to review the
10 investigation late '93, is that right?

11 **MR. DEROCHIE:** That's correct.

12 **MR. LEE:** So certainly you had no knowledge
13 from the OPP or anybody else that this complaint was there
14 before he made the call to ---

15 **MR. DEROCHIE:** No.

16 **MR. LEE:** Is that right?

17 **MR. DEROCHIE:** That's correct. I'm sorry.

18 **MR. LEE:** I want to look at your notes,
19 please, Exhibit 1293.

20 (SHORT PAUSE/COURTE PAUSE)

21 **MR. DEROCHIE:** Yes, I have it.

22 **MR. LEE:** This is your notebook dedicated to
23 the Silmsers -- your review of the Silmsers matter. Is that
24 right?

25 **MR. DEROCHIE:** That's right.

1 **MR. LEE:** And if you look at the first page
2 of notes, it begins October 7th, and you know that the notes
3 were made on -- is that February 11th or November 2nd?

4 **MR. DEROCHIE:** November 2nd.

5 **MR. LEE:** On November 2nd. And this is where
6 you start your investigation upon finding the manila
7 envelope in your mailbox. Is that right?

8 **MR. DEROCHIE:** That's right.

9 **MR. LEE:** And if you can flip to -- it's
10 Bates 379 or 380 -- sorry. It's the eighth page of the
11 notes.

12 **MR. DEROCHIE:** Yes.

13 **MR. LEE:** You have -- at the top of the page
14 we have October 12th. Is that right?

15 **MR. DEROCHIE:** That's correct.

16 **MR. LEE:** And four lines up from the bottom
17 you have:

18 "Later I spoke briefly with Constable
19 Sebalj."

20 Do you see that?

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** And am I right that this is your
23 first conversation with Constable Sebalj after receiving
24 the envelope and reviewing the documents?

25 **MR. DEROCHIE:** Yes.

1 **MR. LEE:** And the conversation you were
2 having with her relates to the circumstances of Dunlop
3 getting a copy of the statement from her. Is that right?

4 **MR. DEROCHIE:** Yes.

5 **MR. LEE:** And if you look on page 10 of the
6 notes, in the middle of the page, and you looked at this
7 in-chief, you ask her to provide you with a statement?

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** And this is where you sense she
10 was reluctant and in order to make it easier you ordered
11 her to provide the statement?

12 **MR. DEROCHIE:** Yes.

13 **MR. LEE:** Is that right?

14 **MR. DEROCHIE:** Yes.

15 **MR. LEE:** You spoke about that in-chief.
16 At this point-in-time, you don't interview
17 her about her investigation or anything like that?

18 **MR. DEROCHIE:** No.

19 **MR. LEE:** Is that right?

20 So the next contact that I saw in these
21 notes with Ms. Sebalj was on November 4th, at Bates page
22 419. Let me know when you're at the page, please.

23 **THE COMMISSIONER:** Sorry, what page again?

24 **MR. LEE:** Bates page 419, page 47 in the
25 notes.

1 **THE COMMISSIONER:** Okay.

2 **MR. LEE:** Down at the bottom.

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

4 **THE COMMISSIONER:** Okay.

5 **MR. LEE:** Are you there, Staff Sergeant?

6 **MR. DEROCHIE:** I am, yes.

7 **MR. LEE:** So at the bottom -- it's November
8 4th and at the bottom of the page you say:

9 "On returning to the office, Staff
10 Sergeant Brunet and Constable Sebalj
11 came in to see me. Sebalj told me that
12 she had just received a call from a
13 very hostile Silmser."

14 **MR. DEROCHIE:** Yes.

15 **MR. LEE:** Do you see that?

16 **MR. DEROCHIE:** Yes.

17 **MR. LEE:** And these refer to Silmser's call
18 asking about how the CAS got his name and how the crazy
19 woman was trying to contact him, things along those lines?

20 **MR. DEROCHIE:** Yes.

21 **MR. LEE:** Do you recall that?

22 **MR. DEROCHIE:** Yes.

23 **MR. LEE:** And if you turn over a couple
24 pages to page 50 of your notebook, the first full
25 paragraph, at this point you write:

1 "I brought up the idea of
2 reinvestigating the complaint."

3 Do you see that?

4 **MR. DEROCHIE:** I do.

5 **MR. LEE:** And she tells you that Silmsner was
6 very clear that he did not want to proceed. Is that right?

7 **MR. DEROCHIE:** Yes.

8 **MR. LEE:** And she's essentially saying that
9 as far as she's concerned the Cornwall Police's hands are
10 now tied vis-à-vis Silmsner. Is that right?

11 **MR. DEROCHIE:** Yes.

12 **MR. LEE:** And she gets in -- or she talks to
13 you about the other possible complainants against Charles
14 MacDonald and the fact that they are not willing to come
15 forward as complainants?

16 **MR. DEROCHIE:** As complainants, yes.

17 **MR. LEE:** As complainants. One of them
18 doesn't want anything to do with anything?

19 **MR. DEROCHIE:** Exactly.

20 **MR. LEE:** And one of them would come forward
21 as a witness to somebody else's complaint?

22 **MR. DEROCHIE:** Yes.

23 **MR. LEE:** Right. And so that's the extent
24 of your contact with Sebalj on that day. Is that right, is
25 that how you read those notes?

1 **MR. DEROCHIE:** Yes.

2 **MR. LEE:** And so by November 4th you still
3 hadn't interviewed her in detail about the investigation
4 itself. Is that fair?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** You haven't asked her to take you
7 through it step-by-step or anything like that? That would
8 come later; it just hasn't happened yet?

9 **MR. DEROCHIE:** No, you're right.

10 **MR. LEE:** So if we go to Bates ---

11 **THE COMMISSIONER:** I'm sorry. Before we go
12 there:

13 "Sebalj told me that despite all the
14 in-house gossip, she was comfortable
15 with her investigation."

16 So what's the in-house gossip about?

17 **MR. DEROCHIE:** Well, the whole idea that the
18 investigation was mishandled by her, took her too long to
19 do it.

20 **THE COMMISSIONER:** Okay. So this is being
21 talked about as early as November 4th in the police ---

22 **MR. DEROCHIE:** Oh, yes. I think when it
23 first came -- when it -- first I got involved with it by
24 October the 7th. Obviously, Quinn O'Reilly knew about it,
25 Lortie knew about it, D'Arcy Dupuis knew about it. There

1 was a number of people that had some degree of knowledge
2 about it. And the fact when it became known that there was
3 an investigation of Mr. Dunlop going on, then certainly
4 that would have caused discussions within the organization.

5 **THE COMMISSIONER:** Okay, go ahead.

6 **MR. DEROCHIE:** I don't know what the extent
7 of the gossip was, what -- how much detail was being ---

8 **THE COMMISSIONER:** No, it's just that:
9 "Sebalj told me that despite all the
10 in-house gossip she was comfortable
11 with her investigation..."

12 And the sentence goes on.

13 So you obviously understood -- well, you
14 understood what she meant by the in-house -- all the in-
15 house gossip ---

16 **MR. DEROCHIE:** Yeah.

17 **THE COMMISSIONER:** --- at the time when you
18 wrote that?

19 **MR. DEROCHIE:** Yes, because she was being
20 criticized or some people were criticizing the way she had
21 dealt -- done the investigation.

22 **THE COMMISSIONER:** Okay.

23 Go ahead.

24 **MR. LEE:** Can I take you to Bates 434,
25 please? It's page 62 of your notes at the very bottom,

1 please. Are you there?

2 MR. DEROCHIE: Yes.

3 MR. LEE: So the second-last line has a
4 date, November 10th, Wednesday, and it reads:

5 "I interviewed Constable Sebalj this
6 morning. I wanted to get specific
7 information on how she had managed this
8 case."

9 So this is the nuts and bolts discussion
10 with Ms. Sebalj. Is that right?

11 MR. DEROCHIE: Yes.

12 MR. LEE: This is where you sit down and you
13 want to get into the details of what she did and what she
14 didn't do, et cetera. Is that right?

15 MR. DEROCHIE: That's correct.

16 MR. LEE: And so over the next few pages,
17 and you can take a moment if you'd like to review them, but
18 you essentially set out what Sebalj told you she had done
19 in the investigation?

20 MR. DEROCHIE: Yes.

21 MR. LEE: Is that fair? And then at the
22 bottom of Bates 439 you write:

23 "I asked Sebalj how she felt about the
24 way she handled this investigation.
25 She replied that in hindsight she

1 should have been laid earlier in the
2 investigation."

3 **MR. DEROCHIE:** Yes.

4 **MR. LEE:** So the very first time that you
5 sit down with Constable Sebalj to go through her
6 investigation, she tells you essentially that she had been
7 having problems with reasonable and probable grounds, that
8 she should have gone to the Crown, but that looking back on
9 it she should have laid a charge?

10 **MR. DEROCHIE:** Yes, and I explained
11 previously that I probably miswrote "charge", meaning she
12 should have gone to the Crown with what she had because I
13 was very clear and I thought my testimony was very clear --
14 -

15 **THE COMMISSIONER:** But you say that this is
16 a mistake in your notes?

17 **MR. DEROCHIE:** Yes.

18 **THE COMMISSIONER:** He said that before.

19 **MR. LEE:** Can you point me to anywhere in
20 Sebalj's notes where she talks about all these issues she
21 was having with reasonable and probable grounds?

22 **MR. DEROCHIE:** No.

23 **MR. LEE:** Is it possible that the idea of
24 not having reasonable and probable grounds as an excuse, if
25 you will, for what happened in this investigation became

1 the battle cry after this point? In other words, is it
2 possible that she recognized at some point that it was a
3 lot better to say she didn't have reasonable and probable
4 grounds and that was the problem with the investigation
5 rather than saying, "I can't explain what happened. It
6 just got abandoned for no reason"?

7 **MR. DEROCHIE:** Is it possible? Again,
8 anything is possible, but that would have meant Brunet
9 would have bought into that theory and the Crown Attorney
10 would have bought into that theory with regards to she was
11 -- that in fact she wasn't having reasonable and probable
12 grounds.

13 I think it's pretty clear, at least in my
14 mind, that Brunet understood that she was having trouble
15 with probable grounds and that Murray MacDonald knew she
16 was having trouble forming reasonable and probable grounds.

17 **MR. LEE:** There doesn't seem to be much
18 doubt that at some point she was having trouble with
19 reasonable and probable grounds. She tells you that,
20 according to your notes.

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** It says:

23 "I was having trouble with reasonable
24 and probable grounds."

25 **MR. DEROCHIE:** Yes.

1 **MR. LEE:** But in the next breath, according
2 to your notes, she says:

3 "But I now recognize I should have laid
4 the charge."

5 **THE COMMISSIONER:** Just a second.

6 **MR. LEE:** Does she not?

7 **THE COMMISSIONER:** Just a second.

8 **MR. CALLAGHAN:** As you pointed out, Mr.
9 Commissioner, he's already said that that was not accurate.
10 So I mean, ---

11 **THE COMMISSIONER:** Well, ---

12 **MR. CALLAGHAN:** Well, he testified that that
13 note wasn't accurate.

14 **THE COMMISSIONER:** Right, but that doesn't
15 prevent him from taking issue and testing his credibility
16 as to whether or not that what he says that it was
17 incorrect is in fact incorrect.

18 But the fact of the matter remains, Mr. Lee,
19 that this witness has said previously that the comment when
20 he writes:

21 "Even so she recognises that a charge
22 should have been laid earlier in the
23 investigation, she obviously didn't
24 feel any sense of urgency to do so.
25 The victim and her supervisor was not

1 putting any pressure on her."

2 Right? Well, that beginning part should
3 have read something like she made a mistake she should have
4 seen the Crown earlier. That's what he's saying that means
5 now.

6 **MR. LEE:** Staff Sergeant Derochie, isn't it
7 redundant, that interpretation of things?

8 At the top of -- the bottom of page 67 going
9 onto page 68, she says she should have went to the Crown in
10 April and then according to your revised interpretation of
11 what the note should say, she reiterates that again at the
12 bottom of page 68.

13 **MR. DEROCHIE:** I'm guilty of redundancy
14 then. It's just that, it's redundant, because I knew very
15 well that she had not reached that stage where she could
16 form reasonable and probable grounds.

17 **MR. LEE:** When did you first recognize that
18 your notes at the bottom of page 68 must be in error?

19 **MR. DEROCHIE:** I can't recall specifically
20 when I -- I've reviewed these notes so many times.
21 Certainly when I was preparing to be cross-examined I
22 certainly noticed that.

23 **MR. LEE:** Cross-examined here?

24 **MR. DEROCHIE:** Yes. Well, obviously before
25 that when it was raised by Mr. Engelmann.

1 **MR. LEE:** No, but ---

2 **MR. DEROCHIE:** Mr. Engelmann first talked to
3 me on that.

4 **MR. LEE:** --- in the context of this
5 proceeding.

6 **MR. DEROCHIE:** Yes.

7 **MR. LEE:** We're not talking 1994 or anything
8 like that.

9 **MR. DEROCHIE:** Oh, no. No, no. No, no.

10 **MR. LEE:** Can we look at -- I'm moving away
11 from that -- Volume 202 of your Inquiry evidence, please?

12 **THE COMMISSIONER:** What page?

13 **MR. LEE:** Page 21, please.

14 Are you there Staff Sergeant?

15 **MR. DEROCHIE:** I am.

16 **MR. LEE:** Mr. Engelmann -- at this point
17 you're discussing Constable Sebalj turning over the Silmser
18 statement to Mr. Dunlop and Mr. Engelmann asked you:

19 "Did she give you some indication ..."

20 "She" being Constable Sebalj:

21 "... as to whether or not she thought
22 Constable Dunlop was making a copy of
23 that statement at the time when she
24 would have turned it over to him?"

25 And you replied:

1 "She suspected that. She suspected at
2 that point that when he took it away it
3 was for more than reading material."

4 Did you misspeak there?

5 **MR. DEROCHIE:** I'd have to get it back into
6 context. Maybe I should ---

7 **MR. LEE:** Please.

8 **MR. DEROCHIE:** Is that saying -- you're
9 saying, if it's out of context ---

10 **MR. LEE:** Let me tell you how I read it. My
11 reading of it is that you're saying that at the time Dunlop
12 first asked to see the Silmsler statement Sebalj thought to
13 herself "He goes away for some purpose other than just to
14 read this."

15 **MR. DEROCHIE:** No.

16 **MR. LEE:** You have no evidence of that?

17 **MR. DEROCHIE:** No.

18 **MR. LEE:** That's not the story Sebalj gave
19 you?

20 **MR. DEROCHIE:** No.

21 **MR. LEE:** She thought it was for an innocent
22 purpose. She thought he just wanted to read it out of
23 curiosity or whatever the case.

24 **MR. DEROCHIE:** Yes.

25 **MR. LEE:** Is that right?

1 **MR. DEROCHIE:** Yes. Again, I think I
2 explained that she was -- Dunlop was familiar with -- well,
3 that was speculation on my part. I shouldn't repeat it.
4 I've already said it once. If you want me to repeat it I
5 will but ---

6 **MR. LEE:** No. No, I'm not a -- I just want
7 to be clear on what ---

8 **MR. DEROCHIE:** No, you're quite right, I
9 never understood her to believe -- to suspect that at the
10 time she turned it over to Dunlop that she suspected he was
11 going to go off and make a copy.

12 **THE COMMISSIONER:** Hang on.

13 Mr. Kozloff.

14 **MR. KOZLOFF:** This doesn't touch on my
15 client, but ---

16 **THE COMMISSIONER:** Right. As an officer of
17 the court?

18 **MR. KOZLOFF:** Yes.

19 **THE COMMISSIONER:** Yes.

20 **MR. KOZLOFF:** I recall that answer by this
21 witness and it was in the form of a question.

22 **THE COMMISSIONER:** You mean his question.

23 **MR. KOZLOFF:** Mr. Derochie -- it should say,
24 "She suspected that. She suspected at that point that when
25 he took it away it was for more than reading material?" He

1 was clarifying what Mr. Engelmann was asking. That's my
2 recollection.

3 **MR. ENGELMANN:** Well, if you scroll down the
4 page that makes sense actually. If you scroll down the
5 page.

6 **MR. LEE:** The answer as written in the
7 transcript makes no sense, given the rest of his testimony,
8 and that's why I'm raising it.

9 **THE COMMISSIONER:** So we're all content that
10 --- I'm sorry?

11 **MR. ENGELMANN:** The reporter can check the
12 tape. But that does seem to make sense if you read the
13 rest of the page.

14 **MR. LEE:** Sure.

15 **THE COMMISSIONER:** Okay. And it's
16 consistent with the rest of the evidence that we've heard
17 or read in so far, that when she gave over the statement to
18 Dunlop, she didn't think he was doing anything wrong, he
19 was just going -- it was for an innocent purpose, for his
20 own instruction.

21 **MR. LEE:** Yeah.

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

23 **MR. LEE:** Line 21 on that same page, hadn't
24 occurred to her that he would do anything else but read it
25 and return it to her.

1 Like I said, the only purpose of that
2 question was just to clarify that because it made no sense
3 to me when reading that.

4 **THE COMMISSIONER:** Okay.

5 **MR. LEE:** The transcript.

6 Staff Sergeant, do you have a moniker list?

7 **MR. DEROCHIE:** Not before me.

8 **MR. LEE:** Oh, that's right; we can't give
9 him the entire list.

10 **THE COMMISSIONER:** Just -- which number?

11 **MR. LEE:** C-9.

12 **THE COMMISSIONER:** So, Madam Clerk, could
13 write that name down and show it to the officer?

14 **MR. LEE:** Do you have the name, sir?

15 **MR. DEROCHIE:** I do.

16 **MR. LEE:** Mr. Commissioner, do you have that
17 name?

18 **THE COMMISSIONER:** Oh, yeah.

19 **MR. LEE:** Sir, do you know C-9 personally?

20 **MR. DEROCHIE:** I do.

21 **MR. LEE:** I want to be absolutely sure that
22 I'm okay here, Mr. Commissioner. I need to identify C-9's
23 profession for this line of questioning. No more than that
24 but his profession is relevant to my line of questioning.
25 I don't think that identifies him in any way. He has a

1 moniker that protects his identity.

2 I say I should be permitted to put this
3 man's profession to Staff Sergeant Derochie but I don't
4 want to do it until you tell me it's okay.

5 **THE COMMISSIONER:** Well, I ---

6 **MR. CALLAGHAN:** I think we've all been
7 careful. I'm not sure that it's not so much -- as the
8 cases say, not so much for what we might know or be able to
9 discover, it's what third parties might be able to
10 discover. And I'm sure Mr. Lee can creatively ask
11 questions without having to disclose the profession.

12 **THE COMMISSIONER:** Hold on. So you get it
13 from the right side and now we'll see what the left side
14 says.

15 **MR. ENGELMANN:** I recall -- I can't recall
16 the exact date here, but I was concerned about this actual
17 -- this person actually having a moniker. I recall there
18 was some reason why Mr. Callaghan made that motion much
19 earlier on and I don't really know if it was ever argued
20 that this person's not a victim or an alleged victim. So I
21 can't remember why the moniker was actually granted.

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

23 **MR. ENGELMANN:** I mean, we have to revisit
24 various things and we're looking at taking some monikers
25 off and adding some on, as you know, because of Earl Landry

1 Jr. and there were some that probably should come off now
2 because they were put on I think perhaps too quickly. And
3 we have some publication ban issues to deal with at some
4 point. But this is one that I was going to actually -- I
5 haven't had a chance to talk to him -- but suggest that it
6 should not be a moniker. I just wanted to add that.

7 **THE COMMISSIONER:** Okay. Well, I'm in a
8 vacuum here.

9 **MR. CALLAGHAN:** Well, I think it is a
10 moniker at the moment and I don't see why we should change.
11 I'm sure my friend can ask his questions in a way that if
12 you learn of the profession later, if that's what the order
13 is, then you can apply it, but the difficulty is right now
14 it's a third-party person and they're trying -- what's
15 being proposed is something that might identify the person,
16 and I don't think we should be doing it on the fly per se
17 without an individual.

18 And I'm hoping that Mr. Lee -- I don't know
19 his questions. They're right here. I won't look. But I
20 hope Mr. Lee can ask his questions in a fashion that we can
21 forestall this to another day.

22 **THE COMMISSIONER:** Mr. Manson?

23 **MR. MANSON:** I have one comment, Mr.
24 Commissioner. I recall earlier we heard from a victim who
25 was a priest.

1 THE COMMISSIONER: Yeah.

2 MR. MANSON: And initially he was seeking
3 some confidentiality measures ---

4 THE COMMISSIONER: Yes.

5 MR. MANSON: --- and then changed his mind.

6 THE COMMISSIONER: Right.

7 MR. MANSON: And was identified.

8 THE COMMISSIONER: M'hm.

9 MR. MANSON: I can appreciate in that
10 context, had that person been granted a moniker ---

11 THE COMMISSIONER: M'hm.

12 MR. MANSON: --- it may have been relevant
13 to understand that the testimony was coming from someone
14 who was now a priest.

15 THE COMMISSIONER: M'hm.

16 MR. MANSON: So my point is simply without
17 knowing exactly what it is Mr. Lee -- disappearing -- wants
18 to ask, it's impossible to know whether the profession is
19 relevant in any way. I don't ---

20 THE COMMISSIONER: All right.

21 Mr. Lee, can you -- would you prefer
22 discussing this in the absence of the witness?

23 MR. LEE: No, I don't think so.

24 THE COMMISSIONER: No?

25 MR. LEE: It is relevant to my line of

1 questioning. This man's profession is relevant to my line
2 of questioning. The really important thing is that the
3 witness know what the profession is and you know what the
4 profession is, you know, but I don't know exactly how we
5 get around that in terms of -- I mean, if you tell me
6 everybody in this room knows what's going on and I just
7 proceed without mentioning it, that's fine, but that
8 doesn't give us much of a record.

9 **THE COMMISSIONER:** Well, if my memory serves
10 me right, I know who C-9 is.

11 **MR. LEE:** Yeah, that ---

12 **THE COMMISSIONER:** And his profession.

13 **MR. LEE:** And as I said ---

14 **THE COMMISSIONER:** Do you know his
15 profession?

16 **MR. DEROCHIE:** I know his profession, sir.

17 **THE COMMISSIONER:** Oh, and whose phone is
18 ringing?

19 **MR. MANSON:** It's C-9's.

20 **(LAUGHTER/RIRES)**

21 **THE COMMISSIONER:** So you're admitting it's
22 your phone?

23 **MR. CALLAGHAN:** It's the first time -- I
24 must confess, it's the first time in two and a half years,
25 sir.

1 **THE COMMISSIONER:** I know. I know.

2 **MR. LEE:** I can -- if you know the
3 profession and the witness knows the profession, I can
4 proceed that way. That's fine.

5 **THE COMMISSIONER:** Well, let's give that a
6 try.

7 **MR. LEE:** Okay. Sure.

8 You know this man's profession? You're
9 familiar with him?

10 **MR. DEROCHIE:** Yes, I am.

11 **MR. LEE:** Okay. And he's someone identified
12 early on by Silmsler as a possible witness to improprieties
13 by Father MacDonald; is that right?

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

15 **MR. LEE:** You understand that?

16 **MR. DEROCHIE:** Yes.

17 **MR. LEE:** And Silmsler at some point advises
18 that Silmer's own sister had told him that C-9 said at some
19 point that Charlie MacDonald had been running around in the
20 nude, telling jokes at a retreat. Is that right?

21 **MR. DEROCHIE:** Something to that effect.

22 **MR. LEE:** Something to that effect.

23 And Silmsler's sister, at some point, was
24 interviewed and confirmed that story. Are you aware of
25 that?

1 **THE COMMISSIONER:** Confirmed that ---

2 **MR. LEE:** Confirmed that ---

3 **THE COMMISSIONER:** --- C-9 had ---

4 **MR. LEE:** Confirmed that C-9 had told her
5 that.

6 **THE COMMISSIONER:** So ---

7 **MR. LEE:** That was her story. C-9 had told
8 her.

9 **THE COMMISSIONER:** So we're moving one level
10 of hearsay down to that one?

11 **MR. LEE:** Absolutely. No, it's not --
12 right.

13 **THE COMMISSIONER:** Okay.

14 **MR. LEE:** Are you aware of that? The sister
15 confirmed that Silmsen had it right. That was the story
16 she had told him?

17 **MR. DEROCHIE:** I don't recall, but I won't -
18 - I'm sure it's in a statement somewhere.

19 **MR. LEE:** Are you aware that at some point
20 Constable Sebalj interviewed C-9?

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** And what I'd like to take you to
23 is Exhibit 1295, please. Do you have that, sir?

24 **MR. DEROCHIE:** I have it.

25 **MR. LEE:** So this is entitled "Confidential

1 Instructions for Crown Counsel".

2 Madam Clerk, if we scroll through this
3 document, at some point we come to a list of witnesses with
4 -- keep going. If you can go to -- you see the list of
5 witnesses there. If you can go to witness number 12.

6 **THE COMMISSIONER:** Just don't put it on the
7 public screens, Madam.

8 **MR. LEE:** He just has a moniker, so I think
9 it can go on the public screens.

10 **THE COMMISSIONER:** Okay. Fine.

11 **MR. ENGELMANN:** The way it works, sir, it's
12 like a preliminary inquiry.

13 **THE COMMISSIONER:** Okay.

14 **MR. ENGELMANN:** This isn't webcast ---

15 **THE COMMISSIONER:** Okay. So it matters
16 little.

17 **MR. LEE:** So number 12 lists C-9; is that
18 correct, sir?

19 **MR. DEROCHIE:** It does, yes.

20 **MR. LEE:** And it reads:

21 "Upon speaking with C-9 and advising
22 him of the allegations, C-9 became
23 outraged, suggesting that the
24 allegations were completely false and
25 refused to become involved or to

1 discuss the matter. His wishes were
2 respected."

3 Do you see that?

4 **MR. DEROCHIE:** Yes, I do.

5 **MR. LEE:** So he became outraged?

6 **MR. DEROCHIE:** Yes.

7 **MR. LEE:** That's the report that Constable
8 Sebalj files; is that right?

9 **MR. DEROCHIE:** That's right.

10 **MR. LEE:** He refused to become involved or
11 to even discuss the matter.

12 **MR. DEROCHIE:** Yes.

13 **MR. LEE:** Would you agree with me that given
14 C-9's profession, that is a very odd reaction to Constable
15 Sebalj's questions?

16 **THE COMMISSIONER:** Just a minute.

17 **MR. NEVILLE:** Mr. Commissioner, the summary
18 of the interview says the allegations are completely false
19 and was outraged. He left out "completely false".

20 **THE COMMISSIONER:** Fine.

21 **MR. LEE:** I thought I had read the entire
22 thing verbatim, sir.

23 The question was whether you would agree
24 with me that C-9's reaction to the questioning by Heidi
25 Sebalj was very odd given his profession?

1 **MR. DEROCHIE:** Yes.

2 **MR. LEE:** Would you agree with me that the
3 description of his reaction here leaves one with the
4 impression that C-9 might know more than he is saying?

5 **MR. DEROCHIE:** It might. It might. If you
6 view it in one way, it might.

7 **MR. LEE:** It at least raises the question?

8 **MR. DEROCHIE:** Possibly, yes. Yes.

9 **MR. LEE:** And what she says at the end of
10 this report is:

11 "His wishes were respected."

12 Referring back to his desire to not become involved in this
13 matter in any way. Is that right?

14 **MR. DEROCHIE:** Yes, yes.

15 **MR. LEE:** Is it your understanding that
16 there was no further follow-up with C-9 by Constable
17 Sebalj?

18 **MR. DEROCHIE:** I have no knowledge whether
19 there was or there wasn't.

20 **MR. LEE:** You have no knowledge that she
21 tried again later at some later date or anything like that?

22 **MR. DEROCHIE:** No.

23 **THE COMMISSIONER:** Or if she tried?

24 **MR. LEE:** Sorry?

25 **THE COMMISSIONER:** If she tried.

1 **MR. LEE:** If she tried.

2 **THE COMMISSIONER:** You have no knowledge if
3 she tried, not or that she tried. It's getting late.

4 **MR. LEE:** Did I butcher the English language
5 there?

6 **THE COMMISSIONER:** Pardon me?

7 **MR. LEE:** Did I butcher the English language
8 there?

9 **THE COMMISSIONER:** No, no, no, no, it's my
10 understanding of it, I guess.

11 **MR. LEE:** If we can scroll up, Madam Clerk,
12 to the tenth witness listed in this document, over to the
13 previous page, I guess.

14 Were you here for Brian Skinner's testimony,
15 sir?

16 **MR. DEROCHIE:** No, I wasn't present.

17 **MR. LEE:** Have you reviewed it?

18 **MR. DEROCHIE:** I watched it on the internet.

19 **MR. LEE:** You watched it?

20 Does the tenth witness there -- does his
21 name mean something to you? Do you recognize who that is?

22 **MR. DEROCHIE:** Yes, I recognize who that is.

23 **MR. LEE:** That person doesn't have a
24 moniker, so we just ---

25 **MR. DEROCHIE:** Okay.

1 **MR. LEE:** At the bottom of that page, number
2 10, there's a name and you recognize that as somebody that
3 was discussed during the testimony of Brian Skinner?

4 **MR. DEROCHIE:** Yes.

5 **MR. LEE:** And you would have heard Mr.
6 Skinner speak of his concern about Ms. Sebalj's failure to
7 follow up with this witness; is that right?

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** He was the one who was living in
10 Ottawa?

11 **MR. DEROCHIE:** Yes.

12 **MR. LEE:** Do you recall that?

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** And what Superintendent Skinner
15 took issue with was with the fact that number 10 here told
16 Constable Sebalj that the issues she raised hit close to
17 home and were scary stuff. Do you recall that?

18 **MR. DEROCHIE:** That's right.

19 **MR. LEE:** And Mr. Skinner's opinion was that
20 Sebalj should have met with that person?

21 **MR. DEROCHIE:** Yes, that was his opinion.

22 **MR. LEE:** Do you agree with that opinion?

23 **MR. DEROCHIE:** No, not necessarily, no.

24 **MR. LEE:** And why is that?

25 **MR. DEROCHIE:** Well, she did inquire of him

1 and rightfully so. She said that, you know, if you've got
2 something -- my understanding of it is, "If you have
3 something to tell me, I'm willing to go up there but I, you
4 know, if you don't have anything to tell me, then it's at
5 least a half-a-day that I lose going up to Ottawa to
6 interview you so there's got to be a reason for me to come
7 up here".

8 I would assume that's the rationale she
9 used; that's a half-a-day that's committed. You're
10 committing a half-a-day to going up there and being told
11 that ---

12 **MR. LEE:** Shouldn't that half day have been
13 committed the second she heard that the issues hit close to
14 home and were scary stuff?

15 **MR. CALLAGHAN:** As we went through with Mr.
16 Skinner, I think my friend's putting his own interpretation
17 on "close to home" and "scary stuff".

18 **THE COMMISSIONER:** Well, okay, in the same
19 way -- this is the first I hear about a half-a-day to
20 Ottawa and things like that. I think that's -- you're just
21 -- that's not in any of the evidence ---

22 **MR. LEE:** Oh, no, no.

23 **THE COMMISSIONER:** So, okay, well let's ---

24 **MR. CALLAGHAN:** I think he's just giving his
25 views -- you have to get to Ottawa, you have to interview

1 and then come back.

2 **THE COMMISSIONER:** Let's all stay close to
3 home now and get things straight.

4 First of all, yes, you've got to be careful
5 on how you interpret those words, but the fact is those
6 words are someplace and they're not in this document.

7 **MR. LEE:** Right, well ---

8 **THE COMMISSIONER:** So ---

9 **MR. LEE:** Well, I can take you to the
10 document.

11 **THE COMMISSIONER:** No, no, no, that's not
12 what I'm saying. I thought that what you might want to
13 question him on, the fact that why isn't that in -- like
14 this is a proposed witness or, you know ---

15 **MR. LEE:** Right.

16 **THE COMMISSIONER:** And so someone going
17 through this in the Crown brief, I would have thought you
18 might want to see that in a Crown brief so that it would be
19 up to the Crown to decide whether or not he was going to
20 talk to this fellow. Do you see what I mean?

21 **MR. LEE:** And that's why you're up there,
22 Mr. Commissioner. I hadn't considered that part of the
23 line of questioning but I ---

24 **THE COMMISSIONER:** Whoops.

25 **MR. LEE:** --- I like it.

1 (LAUGHTER/RIRES)

2 MR. LEE: No, I mean, I'm not trying to push
3 my spin of what "close to home" and "scary stuff" means.

4 THE COMMISSIONER: Right.

5 MR. LEE: We had Superintendent Skinner
6 here.

7 THE COMMISSIONER: M'hm.

8 MR. LEE: His evidence was that had he heard
9 -- well, not had he heard -- when Constable Sebalj heard
10 that phrase, she should have taken it as meaning that
11 further investigation was necessary and she should have
12 followed up with it.

13 THE COMMISSIONER: M'hm. Okay.

14 MR. LEE: And so that's what I'm asking ---

15 THE COMMISSIONER: M'hm.

16 MR. LEE: --- Staff Sergeant Derochie, is
17 whether or not he agrees that that phrase, when it was
18 uttered, whether Constable Sebalj should have recognized or
19 should have thought, "I'd better follow up on it".

20 THE COMMISSIONER: Fair enough.

21 MR. DEROCHIE: Yes. And -- and it wouldn't
22 necessarily trigger that same response from me and
23 obviously it would have to be explored more. What do you
24 mean by "close to home" and "scary stuff"? You know ---

25 MR. LEE: Right.

1 **MR. DEROCHIE:** --- what do you have to tell
2 me that would advance my investigation? If you said --
3 tell me, "I've got something" -- you've got something that
4 I would be interested in that will advance my -- and I'm --
5 and I'm using her thought process.

6 **THE COMMISSIONER:** No, no, I don't want her
7 thought process.

8 **MR. DEROCHIE:** Okay.

9 **THE COMMISSIONER:** I'm saying what we have
10 so far is she says, "I'm not going there. I'm not going to
11 Ottawa to see you".

12 **MR. DEROCHIE:** "Unless you tell me why."

13 **THE COMMISSIONER:** Was that in the
14 documentation?

15 **MR. DEROCHIE:** There ---

16 **MR. CALLAGHAN:** I think the note indicates
17 that she gets from him, he asked to go, and then she asked
18 the -- then her notes indicate that he says he has nothing
19 to offer. I'm paraphrasing, but there are two lines in
20 there, one of which is "Nothing happened to him and he
21 doesn't know if anything happened to him" and then there's
22 this tag line, as we say, at the end ---

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

24 **MR. LEE:** --- we've been talking about.

25 **THE COMMISSIONER:** M'hm. Okay.

1 **MR. LEE:** Given the nature of the
2 allegations that were being investigated, you would agree
3 the allegations pertain to a serious sexual assault; that
4 was the Silmsner allegation?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** And that was the investigation of
7 whether or not she could find corroboration?

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** Isn't it worth half a day to take
10 a shot when you get some kind of lead? I mean, is it a
11 valid consideration to say that ---

12 **MR. DEROCHIE:** It's -- it's a valid
13 consideration and I believe she did give it consideration
14 in her notes that, you know, "Tell me what it is you have
15 and if you have nothing to offer" ---

16 **THE COMMISSIONER:** Right, but I think what
17 Mr. Lee is trying to get at, I guess, is this is, you're
18 dealing with folks on an alleged sexual abuse, historical
19 abuse.

20 Now, I know we're talking 2008. When
21 someone said -- if someone were to have answered the phone
22 and said, "Listen, I knew Father Charles MacDonald. I have
23 nothing to say" -- in a calm voice -- "and nothing ever
24 happened to me and I know nothing about it." Click.
25 Right?

1 But we know now that when people -- you
2 know, when you phone up someone and he says, "Oh, oh, oh,
3 that's ..." and now I'm even giving my expression, right?
4 Right?

5 **MR. DEROCHIE:** M'hm.

6 **THE COMMISSIONER:** But you see but to an
7 investigator, a person who's trying to look at potential
8 victims and looking at this, that would -- whatever which
9 way it was put, it was unusual and it might have stood out
10 a little bit and might have been in that area -- that grey
11 area of, "M'hm, maybe that's a gut feeling. Maybe I should
12 go see this guy." Do you see?

13 And I think that's where Skinner was coming
14 from that ---

15 **MR. DEROCHIE:** Yes, another investigator
16 might well have ---

17 **THE COMMISSIONER:** Right.

18 **MR. DEROCHIE:** --- might well have come to
19 that ---

20 **THE COMMISSIONER:** Okay.

21 **MR. DEROCHIE:** --- decision.

22 **THE COMMISSIONER:** Sorry, Mr. Lee, I just
23 ---

24 **MR. LEE:** No, that's fine, thank you.

25 **THE COMMISSIONER:** Now, about my point?

1 **MR. LEE:** Switching focus, sir, do you
2 remember during your examination in-chief, there was some
3 debate, I suppose, between Mr. Engelmann and Mr. Callaghan
4 about ---

5 **THE COMMISSIONER:** Oh.

6 **MR. LEE:** --- when Mr. Silmser advised
7 Constable Sebalj that he no longer wished to proceed with
8 respect to Mr. Seguin, and Mr. Engelmann put it to you that
9 that was March 10th and Mr. Callaghan put it to you that
10 that was February -- well, not put it to you -- suggested
11 it was February 10th, do you recall any of that conversation
12 at all? I can take you to the transcript if it might help
13 refresh your memory.

14 **THE COMMISSIONER:** It would help me.

15 **MR. LEE:** Volume 204.

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

17 **THE COMMISSIONER:** Thank you. What page,
18 Mr. Lee?

19 **MR. LEE:** Beginning at 224.

20 **THE COMMISSIONER:** Two-two-four (224).

21 **MR. LEE:** And if you look at the bottom of
22 that page, Staff Sergeant Derochie, there's a discussion of
23 -- Mr. Engelmann is asking you whether there was any reason
24 between December 9th, '92 and March 10th, '93 that Ken Seguin
25 cannot have been investigated?

1 **MR. DEROCHIE:** Yes.

2 **MR. LEE:** And if you look over on page 225,
3 near the bottom, Mr. Callaghan rises and says:

4 "To correct the record, on February 10th
5 he says he only wants to proceed
6 against Father Charlie according to
7 Heidi Sebalj's notes."

8 **MR. DEROCHIE:** Yes, I see that.

9 **MR. LEE:** Do you see that?

10 And then Mr. Engelmann says, on page 226:

11 "That comment was made by him for the
12 first time on March 10th..." --

13 and there's a little bit of a discussion on that. Do you
14 see that?

15 **MR. DEROCHIE:** Yes.

16 **MR. LEE:** I want to try to clear that
17 timeline up if we can.

18 You'll recall that Sergeant Nakic takes
19 Silmsers's call on December 9th, '92?

20 **MR. DEROCHIE:** Yes.

21 **MR. LEE:** And during that very first call,
22 he advises that he's been abused by Charlie MacDonald and
23 Ken Seguin?

24 **MR. DEROCHIE:** Yes.

25 **MR. LEE:** Is that right? And there's not

1 much more during that call?

2 MR. DEROCHIE: No.

3 MR. LEE: And he's then interviewed for the
4 first time on January 28th, '93. Do you recall that?

5 MR. DEROCHIE: Yes.

6 MR. LEE: And at that time, he alleges abuse
7 again by MacDonald and Seguin. Is that your recollection?

8 MR. DEROCHIE: Yes.

9 MR. LEE: And at that early stage, there's
10 no mention that he may not want to proceed against Seguin.
11 At that point he's just making the allegation and there's
12 no -- there's no discussion of who he wants to proceed
13 against and who he doesn't want to proceed against; right?

14 MR. DEROCHIE: I don't believe that's right.

15 MR. LEE: I'm sorry?

16 MR. DEROCHIE: I don't -- I don't know if
17 that's right.

18 MR. LEE: What is your recollection?

19 MR. DEROCHIE: Well, I know there are notes
20 that exist of the interview and I don't know that they're
21 not included in those notes.

22 MR. CALLAGHAN: Perhaps an examination such
23 as this, I mean, we're referring to someone else's notes,
24 the notes should be there, whatever it is you're looking
25 at. I mean ---

1 **THE COMMISSIONER:** Okay.

2 **MR. CALLAGHAN:** I don't know where Mr. Lee
3 is going to take it at the end but, I mean, these are all
4 notes for example which we were referring to last time with
5 Ms. Sebalj for example.

6 **MR. LEE:** I'll have to find -- I didn't
7 think that was controversial. I'm going to have to find
8 the reference to the notes, sir.

9 **MR. DEROCHIE:** This is the date -- the 28th
10 as I recall was the date that he was interviewed in the
11 presence of Sebalj, Lefebvre and Malloy.

12 **MR. LEE:** Right.

13 **MR. DEROCHIE:** There are notes on that day
14 that exist, taken by one of those officers that explains
15 the relationship he has with Mr. Seguin. And I don't
16 recall that they do include it, but I don't recall that
17 they don't include.

18 **MR. LEE:** Do or don't include what, sir?

19 **MR. DEROCHIE:** That reference of "I don't
20 want to proceed against Mr. Seguin".

21 **THE COMMISSIONER:** "Right now".

22 **MR. DEROCHIE:** Pardon me? "Right now", yes,
23 yes, I'm sorry.

24 **THE COMMISSIONER:** Well "right now", words
25 to that effect?

1 **MR. DEROCHIE:** Words to that effect.

2 **THE COMMISSIONER:** We know that on March 10th
3 at the very end of the interview notes, there's a reference
4 to a -- this is Mr. Englemann -- that there's a reference
5 to conversation with him about wanting to deal with them
6 one at a time. All right.

7 **MR. DEROCHIE:** And there's something in
8 between where he reports to Sebalj that he's spoken to Mr.
9 Sequin over the phone and ---

10 **MR. LEE:** February ---

11 **MR. DEROCHIE:** --- assured him ---

12 **MR. LEE:** --- that's the February 10th
13 reference that I'll take you to, but I'm talking January
14 28th at this point.

15 **MR. DEROCHIE:** Yes, that's -- there are
16 notes, I've seen them, I just -- I don't know if they have
17 been presented.

18 **MR. LEE:** Can we ---

19 **MR. ENGELMANN:** I think -- I hope I'm not
20 mistaken but I'm pretty sure -- there are three sets of
21 notes from that day.

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

23 **MR. ENGELMANN:** I reviewed them some time
24 ago. There's also a synopsis of it that was prepared by
25 someone at the Cornwall Police Service that suggests that

1 on that day he said he didn't want to proceed against
2 Seguin. I think that was mistaken in the synopsis. I
3 don't think there's any reference in those three sets of
4 notes.

5 Then you have something on February 10th that
6 Mr. Lee will go to and then, of course, you have the
7 statement on February 16th.

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

9 **MR. LEE:** We can look at Sebalj's notes.
10 They were -- well again they were flagged by -- they were
11 given late notice by another party that I relied on -- it's
12 Exhibit 295 are the notes, Sebalj's large set of notes.

13 **THE COMMISSIONER:** Two-ninety-five (295),
14 yes, okay. So what date did you want to go to?

15 **MR. LEE:** The heading that we are referring
16 to is January 28th, '93. In my copy it's about five pages
17 into the notes.

18 **THE COMMISSIONER:** January 28th? All right.
19 So that's the -- the Bates page is 731?

20 **MR. LEE:** Yes.

21 **THE COMMISSIONER:** So there's two pages 31
22 there, Officer Derochie, and I think he wants to take you
23 to the bottom right -- there you go -- see it says,
24 "January 28th, 1993"?

25 **MR. DEROCHIE:** Yes.

1 **THE COMMISSIONER:** "Nine-twenty-two (9:22)
2 Youth Office with Constable Malloy, Sergeant Lefebvre and
3 Silmser."

4 **MR. LEE:** That's the one.

5 **THE COMMISSIONER:** All right.

6 **MR. LEE:** So these are Constable Sebalj's
7 notes of that meeting, sir, and if you'd like to review they
8 only last for a couple of pages if you'd like to take some
9 time to review that?

10 **MR. DEROCHIE:** Yes.

11 **MR. CALLAGHAN:** I'm just at the point -- I'm
12 sorry to do this, but there are dedicated notes of that
13 date as well I think. I just point out these are not the
14 only notes.

15 **THE COMMISSIONER:** Okay.

16 **MR. LEE:** No, they're not. The other
17 officers made notes.

18 **MR. CALLAGHAN:** Right.

19 **MR. ENGELMANN:** Mr. Callaghan's right.
20 There are actually notes from that day.

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

22 **MR. ENGELMANN:** By Ms. Sebalj. They're not
23 this notebook. They are notes from the day. And they are
24 notes from two other officers. And there are these notes.

25 **MR. DEROCHIE:** These are not the notes that

1 I'm referring to that I saw.

2 **THE COMMISSIONER:** So the only point we're
3 trying to establish is whether or not Mr. Silmsler gave any
4 indication or whether there's a recording by any officers
5 that Mr. Silmsler was not interested in proceeding against
6 Mr. Seguin prior to March 10th.

7 **MR. LEE:** Right. Okay.

8 **THE COMMISSIONER:** So we now know that on
9 the 28th, Officer Sebalj made notes in her note book, I
10 guess, her officer's notebook, about just generally what
11 happened, that they gave him a statement form and -- talked
12 to him and gave him a statement form and sent him on his
13 way.

14 Okay. So there's no mention in these notes
15 ---

16 **MR. LEE:** In these notes at least ---

17 **THE COMMISSIONER:** --- that Mr. Silmsler
18 wanted to go one at a time with respect to the complaint.

19 **MR. LEE:** Right.

20 **THE COMMISSIONER:** Okay.

21 **MR. LEE:** If we can go to Bates 735.

22 **THE COMMISSIONER:** Seven-three-five (735).

23 **MR. LEE:** That will be the reference to the
24 February 10th note.

25 **THE COMMISSIONER:** February 10th, right.

1 **MR. LEE:** Up one, Madam Clerk, I think
2 that's 16. We have:

3 "Telephone call from V. Advises he
4 called Seguin who was 'running scared'.
5 Advised him he's only laying charges on
6 MacDonald. Stated he's getting..." ---

7 **THE COMMISSIONER:** "Very mad."

8 **MR. LEE:** "...very mad."
9 Do you see that, sir?

10 **MR. DEROCHIE:** I do.

11 **MR. LEE:** And that's the end of Constable
12 Sebalj's note on that. Is that right?

13 **MR. DEROCHIE:** Yes.

14 **MR. LEE:** And as far as we can tell from
15 this note there's no follow up on what that comment means
16 from DS. Is that right? According to these notes.

17 **MR. DEROCHIE:** No. I can't ---

18 **MR. LEE:** She doesn't note, as an example,
19 that Silmsen is abandoning the investigation against
20 Seguin?

21 **MR. DEROCHIE:** No. No.

22 **MR. LEE:** And we know that by this time
23 there is no investigation of Seguin. It just hasn't gotten
24 off the ground?

25 **MR. DEROCHIE:** That's correct.

1 **MR. LEE:** Is that right? There has been no
2 CPIC check; there's been nothing done; there's been no
3 interview of him. There hasn't been anything done in
4 relation to Seguin by this time. Is that right?

5 **MR. DEROCHIE:** Not that I'm aware of. Not
6 that I can recall, no.

7 **MR. LEE:** Because there never is, right?

8 **MR. DEROCHIE:** I'm sorry.

9 **MR. LEE:** Seguin isn't investigated by the
10 Cornwall Police, so ---

11 **MR. DEROCHIE:** No, he's not. I don't know
12 if it -- no. It wasn't included in the other -- the
13 original package, no.

14 **MR. LEE:** And we have no evidence -- would
15 you agree with me that we have no evidence that Constable
16 Sebalj took this February 10th comment by Silmsers as meaning
17 -- as an instruction to halt any investigation against
18 Seguin?

19 **MR. DEROCHIE:** No, there's no indication to
20 that at all.

21 **MR. LEE:** And what we do have is six days
22 later, on February 16th, we have the Silmsers eight-page
23 statement that concludes with the part about being abused
24 by Ken Seguin?

25 **MR. DEROCHIE:** Yes.

1 **MR. LEE:** Right. One line.

2 **MR. DEROCHIE:** Just -- yes.

3 **MR. LEE:** The vast majority of that
4 statement is about Father MacDonald?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** And at the end it says:

7 "And I was abused by Ken Seguin."

8 Is that right?

9 **MR. DEROCHIE:** That's correct.

10 **MR. LEE:** So again at that point we have
11 Silmsen making an allegation against Seguin?

12 **MR. DEROCHIE:** Yes.

13 **MR. LEE:** And there's nothing in that
14 statement that states -- even though I was abused by Seguin
15 I don't want to proceed with that?

16 **MR. DEROCHIE:** No, you're quite right, yes.

17 **MR. LEE:** And then on March 10th, we have the
18 note where he very clearly says he only wants to deal with
19 Father MacDonald?

20 **THE COMMISSIONER:** That's not in these notes
21 is it?

22 **MR. LEE:** I'm not sure ---

23 **THE COMMISSIONER:** I've got March 19th. Did
24 we skip from February to March 19th or 17th?

25 **MR. LEE:** If we ---

1 **THE COMMISSIONER:** Oh, just a second. **MR.**
2 **LEE:** I think 802, sir. Bates 802.
3 **THE COMMISSIONER:** Page 802. Okay, right.
4 **MR. LEE:** At 1400h we have:
5 "I don't think I can deal with that too
6 right now re Seguin."
7 **MR. DEROCHIE:** Did you say Bates 802?
8 **MR. LEE:** Bates 802. Middle of the page.
9 The time entry is 1400h.
10 **MR. DEROCHIE:** Oh, yes.
11 **MR. LEE:** "I don't think I can deal with
12 that too right now re Seguin."
13 **MR. DEROCHIE:** Yes.
14 **MR. LEE:** And that's taken as the
15 instruction that Silmsers no longer wishes to proceed
16 against Seguin. Is that right?
17 **MR. DEROCHIE:** That's correct.
18 **MR. LEE:** And so would you agree with me
19 then, based on what we've seen here, that Silmsers doesn't
20 advise Sebalj that he doesn't want to proceed against
21 Seguin until this point, March 10th?
22 **MR. DEROCHIE:** Based on what we have before
23 us right here, yes.
24 **MR. LEE:** And I think you've already been
25 asked this, but you can't give us any good reason prior to

1 March 10th why Seguin wouldn't have been investigated?

2 MR. DEROCHIE: Again, I would just want to
3 refer to those notes that I was -- that I know exist from
4 the 28th when they were interviewing him. There was some --
5 he went into some detail with regards to his relationship
6 with Mr. Seguin.

7 THE COMMISSIONER: Well ---

8 MR. DEROCHIE: And I don't know that ---

9 THE COMMISSIONER: Okay, well we'll have to
10 dig that out for tomorrow.

11 MR. LEE: I will have it ready for tomorrow.

12 THE COMMISSIONER: I don't know if Mr. Lee -
13 - but I think we need to leave at 4:30 today.

14 MR. LEE: Okay.

15 THE COMMISSIONER: Mr. Engelmann has an
16 engagement in Ottawa.

17 MR. LEE: I've heard rumours of that.

18 THE COMMISSIONER: Yeah, but you know what
19 we say about rumours?

20 MR. LEE: I won't be done by 4:30 so I'll
21 start off tomorrow with -- putting the January 28th notes to
22 you.

23 So moving on to a different area. During
24 your cross-examination by Mr. Horn, did I understand your
25 evidence to be that -- you initially agreed with what

1 Superintendent Skinner had concluded in relation to the
2 Silmsler investigation, but you've since that time changed
3 your mind?

4 MR. DEROCHIE: No. I think I testified that
5 I was of the same opinion at one point, when I was when I
6 was doing my review of the investigation. I was of the
7 same view.

8 MR. LEE: You were of the same view ---

9 MR. DEROCHIE: Yes.

10 MR. LEE: --- as what Skinner ultimately
11 determined?

12 MR. DEROCHIE: Yes.

13 MR. LEE: Is that right?

14 MR. DEROCHIE: Yes.

15 MR. LEE: So initially you felt that the
16 Silmsler investigation had been poorly handled. Is that a
17 fair way of putting it?

18 MR. DEROCHIE: That's -- I guess that was my
19 starting premise, you know, when I first started off, yes.

20 MR. LEE: What about by the end of your
21 review -- so we're still in '93 -- what were your thoughts
22 on the Silmsler investigation at that point?

23 MR. DEROCHIE: I didn't have those solid
24 concerns that I had had before. I thought that after
25 talking to Brunet and the Crown Attorney and Sebalj that it

1 was -- her explanation as to the delay was reasonable, in
2 my mind.

3 **MR. LEE:** You certainly had concerns by the
4 end of that review about systemic problems at the Cornwall
5 Police. Isn't that fair?

6 **MR. DEROCHIE:** At the end of that review?
7 Well, with regards to the OMPPAC issue, with regards to
8 reports not being filed, yes.

9 **MR. LEE:** Delay?

10 **MR. DEROCHIE:** What I perceived to be an
11 unreasonable delay.

12 **MR. LEE:** And you go on in later reviews
13 that you do, Antoine as an example, which is '94-'95, so --
14 -

15 **MR. DEROCHIE:** Yes, right after Mr. Silmser.

16 **MR. LEE:** After Silmser. You go on and you
17 point at the end of your review of Antoine to say that, you
18 know, there are some problems with this investigation, but
19 it's nothing we haven't already identified in the Silmser
20 matter.

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** Again, some systemic problems; is
23 that right?

24 **MR. DEROCHIE:** Yes.

25 **MR. LEE:** And then in the Landry review, you

1 essentially -- you say at one point that there's the same
2 shortcomings as in other historic sex abuse investigations?

3 **MR. DEROCHIE:** Yes.

4 **MR. LEE:** And that's December '99 that
5 you're saying that. Is that right?

6 **MR. DEROCHIE:** Yes.

7 **MR. LEE:** So up through December '99 you're
8 still pointing back to Silmsler ---

9 **MR. DEROCHIE:** Pointing backwards, yes.

10 **MR. LEE:** --- and saying, "I've identified
11 some problems. We made some mistakes here and they need to
12 be fixed." Is that right?

13 **MR. DEROCHIE:** Yes, my opinion was we had
14 made some mistakes; let's fix them.

15 **MR. LEE:** And your review of Silmsler was
16 completed in '93; is that right?

17 **MR. DEROCHIE:** No. I lost carriage of
18 Silmsler. I never got to review Silmsler.

19 **MR. LEE:** Your role in that was ---

20 **MR. DEROCHIE:** Was completed.

21 **MR. LEE:** The investigation was complete in
22 '93?

23 **MR. DEROCHIE:** Yes.

24 **MR. LEE:** You, after that point, didn't have
25 any official mandate to go back and review that?

1 **MR. DEROCHIE:** No.

2 **MR. LEE:** You didn't re-interview Sebalj or
3 re-interview Brunet or anybody else ---

4 **MR. DEROCHIE:** No. No, I went on to other
5 things.

6 **MR. LEE:** Your review of the documents, your
7 dealings with witnesses, that all happened in the fall of
8 '93?

9 **MR. DEROCHIE:** That's correct.

10 **MR. LEE:** So should I have not taken your
11 evidence today with Mr. Horn to be tempering those opinions
12 somewhat? I thought what you were saying to Mr. Horn was
13 that upon further reflection, perhaps recently, you've
14 changed your opinion on what the problems with the Silmser
15 investigation were?

16 **MR. DEROCHIE:** Well, in that -- the length
17 of time it took to do it, I certainly changed my opinion on
18 that and I had -- was well on my way of forming that
19 opinion at the end of 1993 that her explanation with
20 regards to the delay were reasonable and that subsequent to
21 that, certainly every other one that I reviewed had the
22 same issues.

23 And subsequent to that, historical sexual
24 assaults, the norm is they take a long time to do. That's
25 my opinion.

1 **MR. LEE:** So is your opinion that the length
2 of time that the Silmsler investigation took was reasonable?
3 I mean, in the end analysis, you look at that and you think
4 that timing is okay?

5 **MR. DEROCHIE:** It's not unusual.

6 **MR. LEE:** Well, there's a difference between
7 saying it's not unusual and that they all take too long ---

8 **MR. DEROCHIE:** Yes.

9 **MR. LEE:** --- or it's an appropriate amount
10 of time.

11 **MR. DEROCHIE:** Well, as I say, I would like
12 to see these -- I would like to see all of these sexual
13 assaults resolved in a timely fashion. I just don't --
14 there's so many things inherently difficult with historical
15 sexual assaults that they do take a lot of time, and the
16 officer, as Constable Sebalj pointed out herself and I
17 agree, and it's not always possible, she had other things
18 to do during this investigation.

19 And so when you take the totality of that,
20 the fact that she's off on training, training that she
21 badly needs by everybody's and myself -- I agreed that she
22 needed that training -- you just don't lose those
23 opportunities. So there was a lot of -- there was a lot of
24 issues that came into play that delayed this.

25 There was, of course, that whole area of the

1 two months in the summer that -- you know, that it was just
2 sitting and there was no activity on the case.

3 **THE COMMISSIONER:** Time to go home.

4 **MR. LEE:** Yes. I only have a few areas
5 left, but I don't have any that I can finish in the next
6 five minutes.

7 **THE COMMISSIONER:** That's fine. Thank you.
8 See you tomorrow morning at 9:30 sir.

9 **MR. DEROCHIE:** Thank you sir.

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

12 This hearing is adjourned until tomorrow
13 morning at 9:30 a.m.

14 --- Upon adjourning at 4:28 p.m./

15 L'audience est ajournée à 16h28

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

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

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



Dale Waterman, CVR-CM