

**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 174

Held at :

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

Monday, December 10 2007

Tenue à:

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

Lundi, le 10 décembre 2007

Appearances/Comparutions

Ms. Julie Gauthier	Registrar
M ^e Simon Ruel	Commission Counsel
Ms. Dierdre Harrington	
Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Ian Paul	Mr. Carson Chisholm

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1 --- Upon commencing at 2:11 p.m./

2 L'audience débute à 2h11

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 **MR. RUEL:** Good afternoon.

11 **THE COMMISSIONER:** Good afternoon, Maître
12 Ruel.

13 **MR. RUEL:** Mr. Commissioner, today we have
14 Mr. Gary Commeford, formerly with the Ministry of Community
15 Safety and Correctional Services.

16 **THE COMMISSIONER:** Right, thank you.
17 Good afternoon, sir.

18 **MR. COMMEFORD:** Good afternoon, sir.

19 **THE COMMISSIONER:** Could you swear in the
20 witness, please.

21 **GARY COMMEFORD, Sworn/Assermenté:**

22 **THE COMMISSIONER:** Good afternoon, sir.
23 Thank you very much for coming to the
24 Inquiry.

25 **MR. COMMEFORD:** Good afternoon.

1 **THE COMMISSIONER:** A few ground rules, I
2 guess. You can move the microphone up to your voice.
3 There's water, glasses. There's a speaker in front of you
4 if you want to turn the volume up or down, depending on how
5 the voices are, and the screen will be used to show you
6 some documents. As well, we will be giving you hard
7 copies.

8 At any time there's something you don't
9 understand or you feel that things are going a little
10 astray, just mention it to me and we can deal with it.

11 All right?

12 **MR. COMMEFORD:** Thank you very much.

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

14 Mâitre Ruel.

15 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
16 RUEL:

17 **MR. RUEL:** Good afternoon, Mr. Commeford.

18 Today we're going to cover some -- your
19 involvement in some events which had to do with the
20 Cornwall Probation Parole Office.

21 So I understand you had some involvement in
22 2000 and 2001 when Mr. Downing was appointed to review some
23 facts or allegations that were posted on the website. Is
24 that correct?

25 **MR. COMMEFORD:** That's correct.

1 **MR. RUEL:** So before doing that, I would
2 like to go through your professional background.

3 And, Madam Clerk, the first document I would
4 enter as an exhibit is the CV of Mr. Commeford.

5 **THE COMMISSIONER:** Thank you.

6 Exhibit 1102 is the CV of Gary Commeford.

7 **---EXHIBIT NO./PIÈCE NO P-1102:**

8 CV of Gary Commeford

9 **MR. RUEL:** Mr. Commeford, why don't we start
10 with page 4 and with your education? So I guess you have a
11 Bachelor of Arts from the University of Western Ontario and
12 at Masters in criminology from the University of Ottawa?

13 **MR. COMMEFORD:** That's correct.

14 **MR. RUEL:** And in 1989, it appears that you
15 -- or you can explain. When were you hired by the Ministry
16 of Community Safety and Correctional Services or its
17 predecessor, the Ministry of the Solicitor General and
18 Correctional Services?

19 **MR. COMMEFORD:** June 6th, 1977.

20 **MR. RUEL:** And in which position?

21 **MR. COMMEFORD:** I was basically a
22 Classification Counsellor at the Millbrook Correctional
23 Centre.

24 **MR. RUEL:** Okay. And then you moved to --
25 after your studies where did you go after finishing your

1 Masters degree?

2 MR. COMMEFORD: Millbrook was my first job
3 after my ---

4 MR. RUEL: I'm sorry.

5 MR. COMMEFORD: Subsequent to that I was a
6 deputy superintendent of a number of institutions around
7 Ontario. Following that, I was promoted to Superintendent
8 of the Maplehurst Complex. Then I took on the role of
9 Superintendent of the Ontario Correctional Institute.

10 MR. RUEL: What is the Ontario Correctional
11 Institute?

12 MR. COMMEFORD: It is a 220-bed correctional
13 and treatment facility for male offenders in Brampton.

14 Subsequent to that I was a District
15 Administrator for the Greater Toronto area and following
16 that I became ---

17 MR. RUEL: Just before that ---

18 MR. COMMEFORD: Sorry.

19 MR. RUEL: --- was this for only for
20 correctional institutions or you also dealt with the
21 community aspect and probation services?

22 MR. COMMEFORD: We dealt with both,
23 community and institutional services as well.

24 MR. RUEL: Thank you.

25 MR. COMMEFORD: Now on page 2, then I became

1 Regional Director of the Central Region. At that
2 particular time that was only for adult institutional
3 services.

4 Following that I became Director of
5 Management and Operational Support, which was basically a
6 main office position.

7 Following that I was ---

8 **MR. RUEL:** Sorry, Mr. Commeford. I will ask
9 you -- because the events that we're going to review, I
10 guess, you occupied that position of Director of Management
11 and Operational Support, so I would ask you to give a bit
12 more detail on what you were doing there and the type of
13 work that your unit was performing.

14 **MR. COMMEFORD:** The unit did a number of --
15 had a number of responsibilities, including putting
16 together operational policies both for -- initially for the
17 institutions, community and for young offender services.

18 Also a number of other programs that were
19 found within the institutions including the inmate
20 industries, a number of issues related to healthcare, a
21 number of issues related to staffing, security issues. So
22 it was a whole gambit of the types of programs, whether
23 they be treatment or whether they be operational
24 programming.

25 **MR. RUEL:** So would you provide this unit,

1 if I can call it a unit, would it provide services to both
2 the institutional side and the community side of the
3 Ministry?

4 **MR. COMMEFORD:** Yes, it did.

5 **MR. RUEL:** So who were you reporting to when
6 you held the position of Director of Management and
7 Operational Support?

8 **MR. COMMEFORD:** I would be reporting to the
9 Assistant Deputy Ministers, either -- there were two, one
10 for community and young offenders and one for adult
11 institutions.

12 **MR. RUEL:** So you were providing services to
13 those ADMs?

14 **MR. COMMEFORD:** That's correct.

15 **MR. RUEL:** You also had some role in
16 correctional investigations while you were Director of
17 Management and Operational Support?

18 **MR. COMMEFORD:** The Investigation Unit
19 reported to my position. That's correct.

20 **MR. RUEL:** In your CV in the second bullet
21 under this heading it reads:

22 "...led the development and
23 establishment of the Correctional
24 Investigation and Security Unit."

25 Is that what you are referring to?

1 **MR. COMMEFORD:** That was part of it. It was
2 the establishment and then the supervision of the operation
3 after it was established.

4 **MR. RUEL:** So this unit, the Management and
5 Operational Support, was it the unit providing for the
6 Ministry overall policy direction? In other terms, was
7 this the policy shop or division for the Ministry of
8 Corrections?

9 **MR. COMMEFORD:** It was the operational
10 policy.

11 **MR. RUEL:** What do you mean by "operational
12 policy"?

13 **MR. COMMEFORD:** Well, what I mean is
14 basically it was for what would be required to be in
15 operation within the institutions, for example, the types
16 of treatment programs, the types of volunteer programs that
17 would be there; also the inmate employment programs and
18 again volunteer programs. So, basically, the operation as
19 opposed to pure policy.

20 **MR. RUEL:** And then you move to -- in August
21 of 2002 as Assistant Deputy Minister, Adult Institutional
22 Services. That's correct?

23 **MR. COMMEFORD:** That's correct.

24 **MR. RUEL:** Sorry, just coming back on your
25 previous position of Director, Management and Operational

1 Support. Where was that based? Where were you based?

2 MR. COMMEFORD: In Toronto.

3 MR. RUEL: Were you travelling through the
4 province for your duties?

5 MR. COMMEFORD: Not -- no, I don't think as
6 a component of the position. I would travel but it wasn't
7 a huge part of it. But I would go to North Bay because
8 there was a number of analysts that in fact were located in
9 North Bay.

10 MR. RUEL: How many people did you have
11 under your direction when you were Director of Management
12 and Operational Support?

13 MR. COMMEFORD: Maybe about 50.

14 MR. RUEL: And were they organized by
15 portfolio or by subject?

16 MR. COMMEFORD: They were. They were
17 organized by streams basically, an adult stream, a young
18 offender stream and a community stream. There was also
19 people responsible for programming. There was also people
20 responsible for industries, volunteers, Aboriginal affairs.
21 So there was a number of different branches.

22 MR. RUEL: So after your position of ADM,
23 Adult Institutional Services, you moved to a different
24 ministry; that's correct?

25 MR. COMMEFORD: That's correct.

1 **MR. RUEL:** So the Ministry of Tourism?

2 **MR. COMMEFORD:** That's correct.

3 **MR. RUEL:** So you've held two positions with
4 the Ministry of Tourism. Is that correct?

5 **MR. COMMEFORD:** It is. I held the Tourism
6 Division when there was a vacancy and I was there, so I was
7 responsible for both the operations and the division -- the
8 tourism division, at that time.

9 **MR. RUEL:** And now?

10 **MR. COMMEFORD:** Just the Tourism Operations
11 Division.

12 **MR. RUEL:** And that's a position you occupy
13 today?

14 **MR. COMMEFORD:** That's correct.

15 **MR. RUEL:** So, Mr. Commeford, now what I'd
16 like to talk about is the issue of Ministry investigations.

17 So I gather that you had under your
18 jurisdiction the Ministry investigations unit, the
19 Correctional Investigations -- Correctional Investigations
20 Security Unit, but when you came in, in 2000, on July 24th,
21 2000, did you have investigative capacity under your -- was
22 there an investigative capacity under your -- under the
23 direction of the Director of Management and Operational
24 Support?

25 **MR. COMMEFORD:** No, there wasn't. The

1 investigative capacity for the Ministry was done by -- with
2 the -- it was done through the OPP.

3 **MR. RUEL:** The Professional Standards
4 Bureau?

5 **MR. COMMEFORD:** That's correct.

6 **MR. RUEL:** And was that an issue?

7 **MR. COMMEFORD:** It was an issue to a point
8 that Corrections, especially the types of programs and
9 investigation we knew were very unique, and I felt it would
10 -- it was important to have our investigative capacity to
11 look at issues related to the operation of the Ministry.

12 **MR. RUEL:** Was there a backlog issue with
13 respect to the Professional Standards Bureau? Was there a
14 difficulty for Corrections to get services from the
15 Professional Standards Bureau?

16 **MR. COMMEFORD:** I wouldn't describe it as a
17 difficulty. I -- certainly in my discussions with the
18 people I reported to as the -- it's the uniqueness of
19 Corrections and the way that you need to look at
20 Correctional issues and they wouldn't necessarily be the
21 way you would look at a criminal activity. So that's why
22 it seemed important that we -- to service -- to provide the
23 service that the field needed, that we needed to have our
24 own unique types of an investigative service.

25 **MR. RUEL:** When you came in, that's in 2000,

1 was there not Mr. Paul Downing already there as an
2 investigator?

3 **MR. COMMEFORD:** He was there. He was the
4 single person reporting directly to the Director.

5 **MR. RUEL:** And did you have any issue with
6 this position of investigator?

7 **MR. COMMEFORD:** I'm not sure I -- I know if
8 I mean by issue.

9 No, it -- I mean he was -- he was there and
10 I had no issues with him or what he did.

11 **MR. RUEL:** Well, he was by himself
12 essentially when you came in. He had no staff?

13 **THE COMMISSIONER:** No, I don't think we're
14 looking at issues with him directly as a person but issues
15 as a system of having only one investigator.

16 **MR. COMMEFORD:** Okay. Well, I -- I don't
17 know if I would describe it as only one investigator. We
18 still could get service from the Professional Standards
19 Branch and I would suggest that Mr. Downing was -- happened
20 to be an addition to that. So it would seem to me in the
21 case I made is if we take his resource and other resources
22 that we could, in fact, get to where we wanted to be.

23 **MR. RUEL:** So essentially at some point you
24 expanded his office to become -- this became the
25 Correctional Investigations Security Unit. You expanded

1 his position to include ---

2 MR. COMMEFORD: Yeah, I -- I don't really
3 want to split hairs on it. I think we developed it. I
4 don't think it was expanding ---

5 MR. RUEL: Okay.

6 MR. COMMEFORD: --- Mr. Downing's office,
7 but we did establish the investigation unit.

8 MR. RUEL: And, Mr. Downing, when he was
9 there before this unit -- well, first of all, the
10 Correctional Investigations Security Unit, when was it
11 established?

12 MR. COMMEFORD: I believe it 2001; I don't
13 know the exact date.

14 MR. RUEL: So before that, before -- well,
15 before the establishment of that position, what was the
16 mandate of Mr. Downing exactly?

17 MR. COMMEFORD: He really worked for the
18 Director when it's provided -- was asked to do certain, I
19 guess for use of a better word, described as a bit unique,
20 maybe more complex investigations or reviews.

21 MR. RUEL: For example? Can you give some
22 example? Apart from the one we're going to examine today?

23 MR. COMMEFORD: A serious disturbance at an
24 institution. Potentially -- you know, that's -- that's the
25 kind of thing. Escapes, that kind of thing.

1 **MR. RUEL:** And the fact that he had --
2 before the CISU was created he had no staff, he was by
3 himself; correct?

4 **MR. COMMEFORD:** That's correct.

5 **MR. RUEL:** So did you have a problem with
6 that in terms of him being able to fulfill the requests you
7 were making to him?

8 **MR. COMMEFORD:** No. I just go back to my --
9 what I stated before is that -- needed to look at it more
10 of a whole system wide that we do really need the -- it is
11 a unique circumstances and we needed the Correctional view
12 on things as opposed to potentially a police view on it.

13 And prior to the investigative
14 responsibilities going over to the Standards Bureau, we, in
15 fact, had our own investigation unit at that point.

16 **MR. RUEL:** When the CIUS was created, that's
17 2001, was there an addition of staff under Mr. Downing's
18 responsibility?

19 **MR. COMMEFORD:** Oh, yeah, because he didn't
20 have any staff before that, so yes.

21 **MR. RUEL:** So investigators, support staff?

22 **MR. COMMEFORD:** Had some support staff and
23 investigators as well.

24 **MR. RUEL:** At that time, were you familiar
25 with the mandate of the Independent Investigations Unit?

1 **MR. COMMEFORD:** I was.

2 **MR. RUEL:** And can you explain or tell us
3 what you understood the Independent Investigation Unit was
4 tasked to do within the Ministry?

5 **MR. COMMEFORD:** They would look into any
6 allegations of harassment, discrimination, inappropriate
7 sexual activity between staff and clients or inmates of the
8 Ministry.

9 **MR. RUEL:** Mr. Downing, when he worked for
10 you as special investigator, he had -- he was designed
11 formally as an investigator for -- under the Ministry of
12 Correctional Services. Is that correct?

13 **MR. COMMEFORD:** That's correct.

14 **MR. RUEL:** So now we'd like to cover the
15 issues surrounding the Cornwall Probation and Parole
16 Office.

17 When did you become aware of an issue or
18 issues concerning this office?

19 **MR. COMMEFORD:** In 2000, I believe it was
20 August or September.

21 Deborah Newman, who was at that point the
22 Regional Director of the Eastern Region, informed me that
23 there was a -- an anonymous website that had been viewed
24 and making allegations in respect to inappropriate
25 activities by previous and present probation and parole

1 officers in Cornwall.

2 MR. RUEL: What type of activities?

3 MR. RUEL: As I understood it to be after
4 the fact, as I recall, sexual abuse, and the other issue
5 was failure to disclose that individuals were aware of what
6 was going on and, if I recall correctly, also a failure to
7 provide adequate supervision in the office.

8 MR. RUEL: Did you review the website
9 yourself or the printout of the website?

10 MR. COMMEFORD: No, I didn't.

11 MR. RUEL: So this information was provided
12 to you by Ms. Newman; correct?

13 MR. COMMEFORD: That's correct.

14 MR. RUEL: So at the time she was Regional
15 Director and you did not report to her directly at that
16 point?

17 MR. COMMEFORD: No, I did not.

18 MR. RUEL: But just to establish the
19 framework, shortly thereafter she became the Assistant
20 Deputy Minister, Community and Young Offender Services?

21 MR. COMMEFORD: That's correct.

22 MR. RUEL: And you reported -- you were
23 reporting directly to her starting in September of 2000.
24 Is that correct?

25 MR. COMMEFORD: Yes, that's correct.

1 **MR. RUEL:** Okay. And on the other side, you
2 were reporting to John Rabeau, who was the Assistant Deputy
3 Minister, Adult Institutional Services?

4 **MR. COMMEFORD:** That's correct.

5 **MR. RUEL:** So those were your two clients?

6 **MR. COMMEFORD:** That's correct.

7 **MR. RUEL:** Did you have a direct reporting
8 relationship to the Deputy Minister?

9 **MR. COMMEFORD:** No, I did not.

10 **MR. RUEL:** Were you reporting to anyone else
11 or those were the two positions you were reporting to?

12 **MR. COMMEFORD:** Those were the two
13 positions.

14 **MR. RUEL:** So you learned about those --
15 this website, and then what happened next?

16 **MR. COMMEFORD:** On Ms. Newman's request, I
17 contacted Paul Downing and asked him to do an
18 administrative review of the information related to the
19 site and to be, basically, the case manager for the
20 purposes of providing to us information that was relevant
21 to the situation that was described in the website.

22 **MR. RUEL:** The website, do you remember the
23 names of the persons against whom allegations were made?

24 **MR. COMMEFORD:** I believe one was Emile
25 Robert, who was the Area Manager.

1 **MR. RUEL:** What type of allegations were
2 made against Mr. Robert?

3 **MR. COMMEFORD:** I think the issue was the
4 supervision.

5 **MR. RUEL:** Okay.

6 **MR. COMMEFORD:** Lack of. Jos van Diepen,
7 and I believe it was he had knowledge of what was going on
8 and didn't do anything about it. That's what I recall.

9 **MR. RUEL:** Nelson Barque, Ken Seguin?

10 **MR. COMMEFORD:** Yes, those were -- those two
11 individuals as well for inappropriate sexual activities
12 with probationers.

13 **MR. RUEL:** Do you remember the name of also
14 Father Kevin Maloney?

15 **MR. COMMEFORD:** Yes, I do now.

16 **MR. RUEL:** Okay. So why assign this task to
17 Mr. Downing?

18 **MR. COMMEFORD:** Well, one of the reasons was
19 Mr. Downing had experience in both investigations,
20 institutions and probation service, from his previous
21 history. I felt that he was in a position to provide us
22 fairly quickly information back to us in respect to the
23 issues raised.

24 **MR. RUEL:** Did you ever consider sending
25 this or assigning this task to either the Professional

1 Standards Bureau or the Independent Investigations Unit at
2 the time?

3 **MR. COMMEFORD:** No. I think what was
4 important -- certainly, I felt and I know supported by Ms.
5 Newman is that it was important for us to find out exactly
6 what was going on to ensure that the present clients
7 weren't at risk in respect to what was being described.

8 **MR. RUEL:** So that was the main focus of
9 your actions?

10 **MR. COMMEFORD:** As I said before, the idea
11 was to get as much information as possible in a short
12 period of time.

13 **MR. RUEL:** So I'd like to refer you, Mr.
14 Commeford, to Exhibit 1072. This is an email that was --
15 seemed to have been sent by you to Mr. Downing on August
16 11th, 2000. Do you recognize this document?

17 **MR. COMMEFORD:** I do.

18 **MR. RUEL:** You indicate, the second
19 sentence:

20 "Please take the appropriate steps to
21 contact the authorities involved in
22 this investigation. As discussed, your
23 role at this particular time is to
24 establish a liaison for the purpose of
25 protecting the interests of the

1 organization. Following your
2 inquiries, please provide the writer
3 with a status report."

4 So can you -- this is what you said to Mr.
5 Downing.

6 Can you explain -- well, you've covered it a
7 little bit, but can you explain what you meant by, "Your
8 role is to establish a liaison for the purpose of
9 protecting the interests of the organization"?

10 **MR. COMMEFORD:** Well, what I meant by that
11 is to try to find out the information related to it so that
12 the organization could take appropriate steps.

13 **MR. RUEL:** So was this -- gathering
14 information, was this, in your view -- was Mr. Downing to
15 do an investigation at this point?

16 **MR. COMMEFORD:** No, not at this point. It
17 was to, in fact, case manage and find out what the
18 situation was.

19 **MR. RUEL:** Then following that, Mr. Downing
20 went and accepted this assignment, correct? And he took
21 some steps.

22 Were you -- how close were you of
23 supervising Mr. Downing in this project?

24 **MR. COMMEFORD:** I don't understand what you
25 mean.

1 **MR. RUEL:** Well, you were Mr. Downing's
2 supervisor?

3 **MR. COMMEFORD:** Right.

4 **MR. RUEL:** So were you meeting with him
5 frequently to discuss this?

6 **MR. COMMEFORD:** I wouldn't say frequently.
7 I mean, as in this, I've asked him to give me a status
8 report. So I can't recall the number of times we spoke or
9 whatever. I wouldn't say that I was close supervision of
10 him. I thought I had made it clear what the expectation
11 was and he seemed to understand, as I recollect.

12 **MR. RUEL:** So were you the only person in
13 authority speaking to Mr. Downing? Was anyone else
14 speaking to him in relation to those issues?

15 **MR. COMMEFORD:** My understanding is Ms.
16 Newman was also speaking to him.

17 **THE COMMISSIONER:** Right. But you --
18 "Following your inquiries, provide the
19 writer with a status report."
20 So he was reporting to you?

21 **MR. COMMEFORD:** He was reporting to me.
22 That's correct.

23 **THE COMMISSIONER:** Yes. Okay.

24 **MR. RUEL:** Mr. Downing issued a report in
25 October of 2000, on October 10, 2000. Do you remember

1 that?

2 MR. COMMEFORD: I do.

3 MR. RUEL: Do you remember the steps he took
4 between August and the moment he released his report?

5 MR. COMMEFORD: He spoke to a number of
6 people involved.

7 MR. RUEL: Would he brief you along the way?

8 MR. COMMEFORD: I don't recall if he did or
9 not.

10 MR. RUEL: I would like to refer you to --
11 sorry, Mr. Commissioner, I'm just going to find the
12 document -- to Exhibit 1082.

13 MR. COMMEFORD: Yes, Case Management
14 Administrative Summary?

15 MR. RUEL: Yes.

16 MR. COMMEFORD: M'hm.

17 MR. RUEL: Do you remember receiving this
18 document from Mr. Downing?

19 MR. COMMEFORD: I do.

20 MR. RUEL: So this was addressed to you,
21 September 9, 2000; correct?

22 MR. COMMEFORD: That's correct.

23 MR. RUEL: And then there's -- the first few
24 pages, there's a summary of the information which Mr.
25 Downing could find respecting -- concerning the Ministry

1 employees or former employees, on the website. That's
2 accurate?

3 MR. COMMEFORD: Yes.

4 MR. RUEL: And then at page 7, Mr. Downing
5 was recommending, under the heading "Recommendation", to
6 proceed in two stages, Stage 1 and Stage 2. Do you recall
7 that?

8 MR. COMMEFORD: I do.

9 MR. RUEL: Did you discuss this document
10 with Mr. Downing?

11 MR. COMMEFORD: Yes, I did.

12 MR. RUEL: And what did you discuss?

13 MR. COMMEFORD: Well, I think, as I recall,
14 we just talked about what we -- initially what he had found
15 out. I do recall going through the administrative summary
16 which was based on a lot of the documents that he looked
17 at, and I think we just discussed how Stage 1 related to
18 those particular documents.

19 I did not discuss Stage 2 with him at that
20 point, as I recall, because as you'll see from the
21 investigation, he had not done the interviews with these
22 particular individuals mentioned under Stage 1.

23 MR. RUEL: So what -- as was explained to
24 you and by Mr. Downing and from this -- what you got from
25 this document, what was your understanding of what would be

1 Stage 1 and what would be Stage 2?

2 MR. COMMEFORD: Well, as it's listed there.
3 Interviews with Joe(sic) van Diepen, Father Kevin
4 Malone(sic), the Area Manager, and then he talks about the
5 District Administrator who was responsible for the Cornwall
6 Probation Parole Office.

7 MR. RUEL: And Stage 2? Do you remember the
8 purpose of that?

9 MR. COMMEFORD: The purpose, I don't recall
10 the purpose. No. To answer your question truthfully, the
11 purpose, not, I do not remember the purpose.

12 MR. RUEL: Would it be fair to say that Mr.
13 Downing, according to this document at least, wanted to
14 establish, to review the information on the website, or
15 coming from the web site closely with a view to establish
16 the -- whether or not the allegations made were accurate or
17 not?

18 MR. COMMEFORD: I'm not sure I understand
19 the question.

20 MR. RUEL: Well, for example, at Point 4,
21 last page of the document, he mentioned identifying
22 obtained statements from unnamed sources?

23 MR. COMMEFORD: M'hm.

24 MR. RUEL: So he wanted to obtain statements
25 from individuals who may -- who were making allegations on

1 the website. Is that your understanding?

2 MR. COMMEFORD: Well, certainly it appears
3 that's what he's suggesting but I'm not sure how you would
4 get statements from unidentified sources.

5 MR. RUEL: Well, at the previous page under
6 the first point under Stage 2, it was locating Perry
7 Dunlop, request statement and then request names of unnamed
8 sources on the website. So he wanted to obtain the names
9 and then obtain statements from those individuals.

10 MR. COMMEFORD: Well, I guess -- my only
11 problem with answering that question is that I don't know
12 what was in Mr. Downing's head for making that suggestion.

13 MR. RUEL: Okay. In any event, do you
14 remember if this -- if Mr. Downing was -- I mean he was
15 recommending proceeding in two stages; correct?

16 MR. COMMEFORD: Yes.

17 MR. RUEL: So do you remember if Mr. Downing
18 was authorized to proceed with Stage 1 and Stage 2?

19 MR. COMMEFORD: At that time with Stage 1.

20 MR. RUEL: Okay, and can you tell us the
21 reason why he was not authorized to go and proceed with
22 Stage 2?

23 MR. COMMEFORD: Well, it seems to me that
24 you would want to go and complete and determine -- you'll
25 notice in the determine column, you'd want a complete Stage

1 1 and find out what the further information was related to
2 that before you determine how to go on to Stage 2.

3 **MR. RUEL:** Okay. So do you remember getting
4 the report of Mr. Downing?

5 **MR. COMMEFORD:** I do.

6 **MR. RUEL:** So this is document, Exhibit
7 Number 958.

8 **THE COMMISSIONER:** Sorry, 958?

9 **MR. RUEL:** Yes. Exhibit 958.

10 **THE COMMISSIONER:** Thank you.

11 **MR. RUEL:** And, Mr. Commissioner, I think we
12 should file -- there's a document which is -- I don't know
13 if Madame Clerk has it, it's 100628. It's the same
14 document with a covering letter from the witness to Mr.
15 Downing attaching the report.

16 So if Madam Clerk has it I would file that
17 maybe under the same exhibit or may be under 958B or
18 something like that, if possible. It's the same document,
19 it's just that it has the covering letter. So the --
20 sorry, letter from Paul Downing to Mr. Commeford.

21 **THE COMMISSIONER:** All right.

22 This will be Exhibit 958B which has a
23 covering letter from Paul Downing to Gary Commeford, dated
24 October 10th, 2000.

25 **--- EXHIBIT NO./PIECE NO. 958B**

1 (100628 publication ban) Memo from Paul
2 Downing to Gary Commeford dated October
3 10, 2000

4 **MR. RUEL:** So, Mr. Commeford, if you can
5 take 958B. So this is the report from Mr. Downing you
6 received on October 10, 2000; correct?

7 **MR. COMMEFORD:** That's correct.

8 **MR. RUEL:** I would ask you to go to -- well,
9 first of all, what did you learn from that report?

10 **MR. COMMEFORD:** What did I learn? I learned
11 that Nelson Barque was sexually involved with probationers
12 he supervised.

13 **MR. RUEL:** Well, this is at page 1 of the
14 report, so there were some allegations made in 1982 against
15 Mr. Barque and that -- those were uncovered and Mr. Barque
16 resigned. Is that correct?

17 **MR. COMMEFORD:** That's correct. I learned
18 that Peter Sirrs, who at one time was the Area Manager
19 there, had in fact provided a letter of reference for
20 Nelson Barque to Pierre Landry, the Executive Director
21 Équipe Psycho-Sociale?

22 **MR. RUEL:** M'hm. How did you react to this
23 -- this finding from Mr. Downing?

24 **MR. COMMEFORD:** That we would give a letter
25 of reference to somebody who in fact left under those

1 circumstances, very concerned. As well, I would mention
2 that Mr. Barque's sexual involvement with clients was more
3 than concerning to me.

4 **MR. RUEL:** Then there was a discussion about
5 Mr. Jos van Diepen and ---

6 **MR. COMMEFORD:** That -- I wasn't sure on
7 that, frankly. It seemed to me there were some conflicting
8 stories. One historical and information provided the OPP
9 in 1994, and then in respect to later on information that
10 Mr. Downing was able to find out in his interviews with
11 him.

12 **MR. RUEL:** Did Mr. Downing -- well, first of
13 all did -- you got the report but did you also have some
14 discussions with Mr. Downing concerning his report?

15 **MR. COMMEFORD:** I'm sure I did but I can't
16 remember the context of them.

17 **MR. RUEL:** Have you taken notes of your
18 discussions with whoever was involved at the time?

19 **MR. COMMEFORD:** No, I didn't.

20 **MR. RUEL:** Did Mr. Downing tell you or
21 mention that in his view Mr. van Diepen had knowledge that
22 Ken Seguin had out-of-office contacts with Ministry clients
23 and that this was in contravention to Ministry policy?

24 **MR. COMMEFORD:** That has been mentioned
25 through this particular review. I don't know exactly the

1 time but I know that he had mentioned that to me.

2 MR. RUEL: Okay. There is also some
3 discussion about Mr. Emile Robert?

4 MR. COMMEFORD: Yes.

5 MR. RUEL: There's a discussion about a
6 number of individuals, that's at the bottom of page 3, four
7 individuals visiting his residence, one of which being a
8 client of Mr. Seguin. You recall that?

9 MR. COMMEFORD: Oh, I do.

10 MR. RUEL: And Mr. Downing is indicating
11 that Mr. Robert had got knowledge of this visit in January
12 but took only action in November of 1992. Is that your
13 recollection?

14 MR. COMMEFORD: That's correct.

15 MR. RUEL: So how is it -- what was your
16 reaction to those findings?

17 MR. COMMEFORD: They were disturbing and
18 unacceptable.

19 MR. RUEL: In what way?

20 MR. COMMEFORD: Well, first of all, there's
21 no excuse for the abuse, either physical or sexual, of any
22 client or inmate under the authority of the Ministry.

23 Around Mr. van Diepen, I'm -- it's difficult
24 for me to make an assessment on that because of the
25 conflicting situation and the time passed.

1 In respect to Mr. Robert and his failure to
2 act until some 10 months later, very poor management.

3 **MR. RUEL:** Did Mr. Downing discuss with you
4 any concern that Mr. Robert would have known about Mr.
5 Seguin's out-of-office contacts with Ministry clients?

6 **MR. COMMEFORD:** Well, there is a note in
7 here, in the report, that:

8 "Emile Robert said around '89 he
9 observed a number of rough looking
10 youths in the company of PPO Seguin."

11 So he didn't mention it, but -- I don't know
12 if he mentioned it, but certainly it was here ---

13 **MR. RUEL:** It's in the report.

14 **MR. COMMEFORD:** --- in the report.

15 **MR. RUEL:** Then there's the issue of David
16 Silmsler and a complaint that was made in December of 1993
17 to Bill Roy. Do you remember that?

18 **MR. COMMEFORD:** I'm sorry, just ---

19 **MR. RUEL:** That's at page 4.

20 **MR. COMMEFORD:** I have two page 4s.

21 **MR. RUEL:** Yes, sorry. For whatever reason,
22 this was copied twice. It's the document that was given to
23 us. But you can just go at the first page 4, I guess, and
24 that's going to be ---

25 **MR. COMMEFORD:** It starts:

1 "David [Slimmer] was a..."

2 MR. RUEL: It's under "David Silmser".

3 MR. COMMEFORD: I'm sorry, "...Silmser was
4 an offender/ex-offender"?

5 MR. RUEL: Yes.

6 MR. COMMEFORD: Yes, I became aware of this
7 when in fact the report came to me, yes. I do not believe
8 I was aware of that before I received the report.

9 MR. RUEL: I see.

10 And you were made aware in this report that
11 the matter or the Independent Investigation Unit was
12 contacted?

13 MR. COMMEFORD: Yes, it says so in there.

14 MR. RUEL: But that no investigation took
15 place into the complaint?

16 MR. COMMEFORD: That's correct.

17 MR. RUEL: The matter was referred to Legal?

18 MR. COMMEFORD: That's correct.

19 MR. RUEL: Did you have an issue with that
20 when you read this?

21 MR. COMMEFORD: The only issue I had was
22 that -- which was one of the reasons that we did some
23 follow-up after this with other interviews, and one of the
24 reasons was I didn't feel that there was enough information
25 in here for me to really draw that conclusion.

1 So as you'll probably get to in your next
2 set of questions is we did in fact have other interviews
3 done with some of the parties named in this in respect to
4 the Silmser situation.

5 **MR. RUEL:** Prior to you becoming involved in
6 this file, did you have any knowledge about problems with
7 the Cornwall Probation and Parole Office?

8 **MR. COMMEFORD:** No, I did not.

9 **MR. RUEL:** So this was new to you when you
10 got the information from Ms. Newman and the report from Mr.
11 Downing?

12 **MR. COMMEFORD:** It certainly was new to me
13 from Ms. Newman, but I had obviously had more information
14 during Mr. Downing's reviews.

15 **MR. RUEL:** Of course.

16 So may I ask what was your general reaction
17 to this report?

18 **MR. COMMEFORD:** Frankly, appalled, from the
19 point of -- and I'll go, actually, to the issue of the
20 abuse. That's intolerable. Individuals, either inmates or
21 on probation, are, I would suggest, for use of a better
22 term, vulnerable individuals and it's unacceptable to
23 expose them or have them exposed to this type of behaviour
24 by Ministry staff.

25 **MR. RUEL:** So once you got that report on

1 October 10, 2000, what was the follow-up -- what was the
2 follow-up to this report, to the extent that you were
3 involved?

4 **MR. COMMEFORD:** The follow-up was to ask Mr.
5 Downing to interview Mr. Roy, to interview Ms. Eley.

6 **MR. RUEL:** Mr. Roy was the -- Bill Roy was
7 the ---

8 **MR. COMMEFORD:** Bill Roy ---

9 **MR. RUEL:** --- Area Manager?

10 **MR. COMMEFORD:** No, he was, I believe, the
11 Assistant District Administrator.

12 **MR. RUEL:** Yes, District Administrator,
13 sorry.

14 **MR. COMMEFORD:** Ms. Eley, who in fact had
15 been the Executive Assistant to the Deputy Minister. That
16 was referred to in the report Mr. Downing provided.

17 Mr. Sirrs, in relation to the letter sent to
18 the other employer after Mr. Barque had resigned.

19 David Silmsler -- I'm sorry, I have a hard
20 time saying that name.

21 **MR. RUEL:** Silmsler.

22 **MR. COMMEFORD:** Silmsler.

23 And I think that's what I recall. So those
24 were the individuals that were done with follow-up
25 interviews, and I do -- I don't know if it was exactly the

1 same timing, but sometime after that, there was also a
2 couple more individuals or additional individuals that came
3 forward with allegations, and I believe Mr. Downing
4 interviewed them as well.

5 **MR. RUEL:** Okay. So as an example of some
6 of the follow-up, I have here Document Number 100583.

7 **THE COMMISSIONER:** It's a new document. It
8 won't be there yet. It's coming.

9 Thank you. Exhibit Number 1103 is a
10 Memorandum to Mr. Commeford from Paul Downing dated October
11 27th, 2000.

12 **--- EXHIBIT NO./PIÈCE NO. P-1103:**

13 (100583) Memorandum to Gary Commeford
14 from Paul Downing dated October 27,
15 2000.

16 **MR. RUEL:** Do you recall receiving this --
17 do you recall this document, Mr. Commeford?

18 **MR. COMMEFORD:** I do.

19 **MR. RUEL:** Yes? So is it accurate to say
20 that Mr. Downing was following up on a request for
21 clarification and that he provided to you some additional
22 materials on October 27th, 2000, including a written
23 correspondence provided by Area Manager Emile Robert
24 concerning an allegation by Jos van Diepen that van Diepen
25 -- that Mr. van Diepen informed Mr. Robert of his concerns

1 surrounding Ken Seguin's association with Ministry clients?
2 Do you recall that?

3 **MR. COMMEFORD:** I do.

4 **MR. RUEL:** And Mr. Robert was denying the
5 matter -- was denying that Mr. van Diepen had informed him
6 of the matter. Is that your recollection?

7 **MR. COMMEFORD:** Is it possible for me to see
8 that correspondence?

9 **MR. RUEL:** Sure.

10 **MR. COMMEFORD:** Because it's just -- there's
11 a couple of things that I'm having a bit of a time with and
12 mixing up. There was another allegation at one time, but I
13 would like to see that original document referred to in
14 Point 2.

15 **MR. RUEL:** Yes. This is Exhibit 1087.

16 **MR. COMMEFORD:** Do I have that?

17 **THE COMMISSIONER:** Yes, you do.

18 **MR. COMMEFORD:** Yes, I was correct. This is
19 basically just Mr. Emile Robert saying that -- well:

20 "Further to your memorandum of October
21 18th, this is to confirm that Mr. van
22 Diepen never raised any concerns with
23 me regarding Mr. Seguin's personal
24 relationships."

25 So Emile Robert is writing to Mr. Downing

1 that he never raised it with him. I misunderstood the
2 question, I thought you were saying that there was a report
3 from van Diepen saying that he had raised it, but it's Mr.
4 Robert saying he didn't raise it.

5 **MR. RUEL:** He's saying that Mr. van Diepen
6 never raised any concern with him ---

7 **MR. COMMEFORD:** Yes.

8 **MR. RUEL:** --- is that -- that's it, okay.

9 So you received that. You also -- under
10 Exhibit 1103, the employment reference that was mentioned
11 in Mr. Downing's report?

12 **THE COMMISSIONER:** Eleven-zero-three (1103).

13 **MR. COMMEFORD:** I don't have anything in
14 1103.

15 **THE COMMISSIONER:** Neither do I, but it's in
16 one we just got today.

17 **MR. COMMEFORD:** Oh, I'm sorry. I thought it
18 was the employment reference itself.

19 **THE COMMISSIONER:** No. The employment
20 reference letter is -- do you want to see that, sir?

21 **MR. COMMEFORD:** Yes, please.

22 **THE COMMISSIONER:** Madam Clerk, we wanted to
23 see -- what is the exhibit number for the letter of
24 reference that Mr. Sirrs sent to Mr. Landry in August?

25 **THE REGISTRAR:** Eight-six-nine (869).

1 **THE COMMISSIONER:** Eight-six-nine (869). So
2 hold on you'll get that in a minute, sir.

3 **MR. COMMEFORD:** I have it here.

4 **THE COMMISSIONER:** Oh, you do? Oh, okay,
5 sorry. Okay.

6 **MR. COMMEFORD:** Yes, I've seen this before.

7 **MR. RUEL:** So this is an example of the
8 follow-up of the information that was provided to you by
9 Mr. Downing following questions you -- clarifications you
10 sought from him; correct?

11 **MR. COMMEFORD:** Also not only the -- the
12 letter itself but also a conversation with Mr. Sirrs.

13 **MR. RUEL:** Okay. So he told you about this?

14 **MR. COMMEFORD:** I can't recall if he told
15 me, but I certainly saw a reference in a report to his
16 conversation.

17 **MR. RUEL:** So apart from those follow-ups,
18 do you recall anything else?

19 **MR. COMMEFORD:** As I mentioned, a follow-up
20 with Loretta Eley.

21 **MR. RUEL:** Yes. And she was interviewed by
22 Mr. Downing?

23 **MR. COMMEFORD:** Yes, she was.

24 **MR. RUEL:** Did you get -- did you get
25 briefed? Did Mr. Downing brief you on this?

1 **MR. COMMEFORD:** I don't know if it was
2 briefing or a written report, but he certainly got back to
3 me on it.

4 **MR. RUEL:** Okay.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. RUEL:** And you were -- there's a
7 reference as well to new complainants coming in?

8 **MR. COMMEFORD:** Yes.

9 **MR. RUEL:** And those were referred to Mr.
10 Downing to be interviewed. That's correct?

11 **MR. COMMEFORD:** Yes, that's correct.

12 **MR. RUEL:** So once you got this additional
13 information, the information concerning Mr. Sirrs, the
14 information concerning Ms. Eley, information concerning the
15 complainants -- new complainants, what did you make of
16 that? What was the follow-up?

17 **MR. COMMEFORD:** Well, it wasn't -- I mean we
18 -- obviously Ms. Newman was brought -- was spoken to along
19 the way as well because she was in fact -- we were
20 providing -- she was the client, for use of a better term.
21 We were providing the service to her.

22 So at that point it was -- there was a
23 decision made and, I mean, I don't want to minimize the
24 time frame, it took a little bit, but there was a decision
25 made to, in fact, have Legal Branch deal with the

1 situation.

2 MR. RUEL: So what happened in terms of
3 involving them?

4 MR. COMMEFORD: There was conversations with
5 Legal Branch on the information that was provided.

6 MR. RUEL: Is it accurate to say that the
7 report of Mr. Downing was forwarded to Legal?

8 MR. COMMEFORD: That's accurate.

9 MR. RUEL: And Mr. Downing was asked to
10 liaise with Legal subsequently on a number of issues?

11 MR. COMMEFORD: That's correct.

12 THE COMMISSIONER: Was there ever any
13 follow-up made with employees? Any discipline taken with
14 them?

15 MR. RUEL: No, there was not.

16 THE COMMISSIONER: Any counselling or letter
17 of counsel as they ---

18 MR. COMMEFORD: Not as far as I'm aware.

19 MR. RUEL: Was there any discussion as to
20 disciplining any employees mentioned in Mr. Downing's
21 report?

22 MR. COMMEFORD: No, there wasn't.

23 MR. RUEL: No advice sought on disciplinary
24 matters?

25 MR. COMMEFORD: I can only say I did not

1 seek any advice.

2 MR. RUEL: Okay. Are you aware if advice
3 was sought with respect to discipline?

4 MR. COMMEFORD: I believe advice was sought.

5 MR. RUEL: Do you remember concerning which
6 employees?

7 MR. COMMEFORD: I believe in -- I don't know
8 the names, but the number that were obviously still in our
9 employ at the time.

10 MR. RUEL: So would it be fair to say that
11 it would be Mr. van Diepen and Mr. Robert?

12 MR. COMMEFORD: I would imagine that would
13 be fair to say.

14 MR. RUEL: So you had no direct involvement
15 in this matter?

16 MR. COMMEFORD: None whatsoever.

17 MR. RUEL: And to your knowledge -- I guess
18 you've answered the Commissioner no -- you're not aware of
19 any discipline being imposed on those individuals?

20 MR. COMMEFORD: As a result of Mr. Downing's
21 investigation?

22 MR. RUEL: Yes.

23 MR. COMMEFORD: No.

24 MR. RUEL: I'd like to refer you to Mr.
25 Downing's notes and those are Exhibit 1064.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. RUEL: At page -- the last page of the
3 document. It reads:

4 "September 6, 2001: Consultation with
5 Gary Commeford. File closed. Crown
6 Law office dealing with matters
7 relevant to Project Truth. Will
8 maintain information on file."

9 So that's Mr. Downing writing that.

10 So do you recall discussing with or talking
11 to Mr. Downing with respect to the closing of this file on
12 September 6, 2001?

13 MR. COMMEFORD: I have no doubt we had the
14 conversation. I couldn't -- no, I couldn't definitively
15 tell you everything that was said, but clearly I would have
16 told him, since I commissioned him to do it, that it was
17 closed.

18 MR. RUEL: Do you remember why that decision
19 was made?

20 MR. COMMEFORD: Oh, I think there's a number
21 of reasons.

22 First of all, clearly the two perpetrators
23 in this case were no longer alive.

24 There was a new area manager in the Cornwall
25 office that certainly, from my understanding, was doing a

1 very good job.

2 They had, in fact, established a number of
3 protocols.

4 **MR. RUEL:** What type of protocols?

5 **MR. COMMEFORD:** Issues about how to deal
6 with -- I know they had been trained on how to deal with
7 victims of this type of abuse and also, as I recall, the
8 issues of if people came forward on reporting them to the
9 police and dealing with the issues as a result of this --
10 if somebody had been subjected to the sexual abuse.

11 And also there was quite a number of civil
12 litigation that was going on at this particular point in
13 time.

14 And certainly, as I mentioned before, it did
15 not appear from what had been discovered through Mr.
16 Downing's inquiries, that present clients were at risk.

17 **MR. RUEL:** Were not?

18 **MR. COMMEFORD:** Were -- they weren't at
19 risk.

20 **MR. RUEL:** Were not, yeah.

21 So following that, did you have any other
22 involvement in this file?

23 **MR. COMMEFORD:** No, not that I recall.

24 **MR. RUEL:** So through the review done by Mr.
25 Downing, do you believe that the matters that were made

1 public through the website were totally investigated by the
2 Ministry?

3 **MR. COMMEFORD:** I think what I asked Mr.
4 Downing to do was, in fact, achieved. As I mentioned
5 before on a couple of occasions, the idea was to look at
6 who's at risk at this particular point-in-time. So I
7 believe that that was, in fact, addressed appropriately.

8 **MR. RUEL:** So that's one stage. But going
9 into the historical allegations, for example, interviewing
10 the individuals who were making the allegations on the
11 website, do you know if that happened?

12 **MR. COMMEFORD:** I don't know if that
13 happened but certainly I didn't direct it to happen.

14 **MR. RUEL:** And is there a reason why?

15 **MR. COMMEFORD:** I don't know if I could come
16 up with a reason, frankly. There was a lot of things
17 happening at the time. Something that I think, in all
18 honesty, none of us were prepared to deal with either when
19 it first happened or at that particular point-in-time.

20 **THE COMMISSIONER:** What do you mean by
21 "prepared to deal with"?

22 **MR. COMMEFORD:** I just don't think we had
23 the expertise to deal with something of this magnitude. I
24 mean, this is a -- as I'm sure you can -- I certainly, from
25 what I understand and I am no expert in it, this is a very

1 difficult area to get into and it requires specific
2 expertise to ensure that things are done appropriately.

3 And, you know, if you're -- hindsight is
4 always 20/20, but I mean, there were a number of bodies
5 that were in fact looking at this and I guess we were all
6 hoping that the best outcome would be achieved if they all
7 came together.

8 **MR. RUEL:** When you say "a number of
9 bodies", what are you referring to?

10 **MR. COMMEFORD:** Police forces, Project
11 Truth.

12 **MR. RUEL:** To your knowledge -- well, while
13 you dealt with Mr. Downing and his review, was there a
14 review of the caseload of Mr. Seguin, Mr. Barque, with a
15 view of identifying potential victims or any damage that
16 those individuals may have created to other -- or caused to
17 other people?

18 **MR. COMMEFORD:** Not that I'm aware of. But
19 I do think it's worth mentioning again about the different
20 expectations of the office that the present area manager
21 put in place. But as per your -- to answer your question
22 specifically, I'm not aware that there was a specific
23 review.

24 **MR. RUEL:** What about reviewing the
25 personnel files of Mr. Seguin and Mr. Barque, their office

1 files and whether or not they had received any discipline
2 or whether or not they had good appraisals and things of
3 that nature; was that done by -- was that reviewed under
4 your watch?

5 **MR. COMMEFORD:** I had no direct supervisory
6 responsibilities around either of them so I'm not sure why
7 I would review them. If we were talking about allegations
8 -- I'm not sure what I'd be reviewing for on their
9 personnel file.

10 **MR. RUEL:** Well, I'm suggesting to you maybe
11 those personnel files, I mean, they might indicate any
12 problem in discipline issues that those people may have had
13 in the past, supervision issues.

14 **MR. COMMEFORD:** They may have.

15 **MR. RUEL:** And was there, to your knowledge,
16 under your watch, any assessment as to some systemic issues
17 relating to the functioning of the Cornwall Probation and
18 Parole Office such as supervision, office morale, adequacy
19 of legal supervision practices or things of that nature;
20 was that done?

21 **MR. COMMEFORD:** Again, I wouldn't -- in
22 respect to a particular office and the processes and
23 procedures at that office, I would not, in my role, get
24 into that. That would be the role of the region.

25 **THE COMMISSIONER:** Okay. But help me out.

1 You just read a report, you said you're appalled.

2 **MR. COMMEFORD:** M'hm.

3 **THE COMMISSIONER:** And so I know that you
4 transferred over to the Legal Branch. That's fine.

5 But for the employees that are left there,
6 you know, maybe talk to Mr. Sirrs on the one hand, you
7 know, about letters of recommendations going out, when he
8 knows of certain things. Maybe how does Mr. Sirrs feel
9 that he may have unwittingly put a sexual predator into the
10 hands of mentally challenged children, you know?

11 So not only on the side of keeping your
12 house clean, but also helping your employees if they were
13 in difficult times?

14 **MR. COMMEFORD:** I don't believe Mr. Sirrs
15 was employed in the Ministry at that time when we did our
16 review. I believe he had retired by that point.

17 **THE COMMISSIONER:** Okay.

18 **MR. COMMEFORD:** I take your point.

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

20 **MR. COMMEFORD:** And, again, I mean, you
21 know, was my personnel reaction in respect to Mr. Sirrs?
22 Clearly his letter of reference, it was more -- my concern
23 was more of what it didn't say as opposed to what it said.

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

25 **MR. COMMEFORD:** He talked about his term of

1 employment. He didn't say why he resigned. And that was
2 my reaction.

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

4 **MR. COMMEFORD:** Because in any other
5 circumstance that's not either a positive or negative
6 letter.

7 **THE COMMISSIONER:** It's not.

8 **MR. COMMEFORD:** But that's why I say it's
9 more what it doesn't say.

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

11 **MR. RUEL:** Well, is it fair to say, Mr.
12 Commeford, that the report from Mr. Downing and the other
13 information you received from him raised significant
14 concerns?

15 **MR. COMMEFORD:** Well, I think we -- I maybe
16 disagree is a bit harsh, but I would disagree with that
17 statement and I would repeat what I've said before. If, in
18 fact, we had found the probation office in Cornwall to be
19 as it was when it led to these particular circumstances
20 that we're here to inquire about, I would agree. I don't
21 think we can minimize what steps have been taken. They're
22 not perfect. However, they are a positive in the right
23 direction in what I think you would agree are a very
24 difficult circumstance.

25 **MR. RUEL:** But would you agree with me that

1 there didn't seem to be a thorough or a complete
2 investigation of all issues surrounding the operation of
3 that office through the years, under your watch?

4 **MR. COMMEFORD:** I don't agree. I would have
5 agreed until you said under my watch because I don't --
6 absolutely there wasn't -- there was not, as I said before,
7 management issues in past years. And up until I think once
8 the present area manager got in there I believe things
9 started to change.

10 But, again, I mean, in all fairness, I'm
11 significantly removed from the day-to-day operation of the
12 office. I can only comment on the things that were
13 provided to me through Mr. Downing's investigation.

14 **MR. RUEL:** So all of this was -- should I
15 understand from your testimony that this was historical and
16 there was no current problems with the office; is that
17 essentially your take on this file at the time?

18 **MR. COMMEFORD:** I guess I'd ask what your
19 definition of problems was. It certainly did not appear
20 that there was any sexual abuse or inappropriate behaviour
21 by staff towards clients as a result -- certainly at the
22 time we looked at. It seemed to me that the management of
23 the office was appropriate and also moving positively in
24 the right direction.

25 I'm not sure I can add to that.

1 **MR. RUEL:** Can you tell us if those events
2 in Cornwall, or the events revealed in Mr. Downing's
3 report, triggered any review of Ministry policies or
4 practices in relation to supervision or any other subject?

5 **MR. COMMEFORD:** Not as far as I'm aware.

6 **MR. RUEL:** Any reason why?

7 **MR. COMMEFORD:** Well, frankly, I think the
8 policies and procedures that were in fact in effect are
9 appropriate, however, there was a breakdown here.

10 You can have all the best policies and
11 procedures in the world but, number one, if people don't
12 adhere to them, it's obviously an issue. And, number two,
13 if the people who are supposed to supervise the individuals
14 don't adhere, don't do their job.

15 I don't know what other types of policies or
16 procedures you could possibly create and manufacture that
17 could overcome those two particular factors if they're not
18 in -- if they're not in place at the time.

19 **THE COMMISSIONER:** Whenever you want to take
20 the break there ---

21 **MR. RUEL:** Sure.

22 **THE COMMISSIONER:** --- it would be time.

23 Now?

24 **MR. RUEL:** Yes.

25 **THE COMMISSIONER:** All right, we'll take the

1 afternoon break, sir.

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

4 This hearing will resume at 3:40.

5 --- Upon recessing at 3:22 p.m./

6 L'audience est suspendue à 15h22

7 --- Upon resuming at 3:41 p.m./

8 L'audience est reprise à 15h41

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

11 This hearing is now resumed. Please be
12 seated. Veuillez vous asseoir.

13 **GARY COMMEFORD, Resumed/Sous le même serment:**

14 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
15 **RUEL (Continued/Suite):**

16 **MR. RUEL:** Mr. Commeford, if you can go to
17 Exhibit 1082, and this is Mr. Downing's Case Management
18 Administrative Summary Review; it's September 9, 2000. So
19 the last page -- or the second-to-last page, I'm sorry.

20 **MR. COMMEFORD:** Ten-eighty-two (1082)?

21 **MR. RUEL:** Page 7.

22 **MR. COMMEFORD:** I'm sorry.

23 **MR. RUEL:** Ten-eighty-two (1082).

24 **MR. COMMEFORD:** M'hm. I'm think I'm getting
25 to it. Yes.

1 **MR. RUEL:** Page 7.

2 **MR. COMMEFORD:** Yes.

3 So, Mr. Commeford, we talked about Stage 1
4 and Stage 2 and I gather that Mr. Downing was authorized to
5 proceed with Stage 1 and that depending on the result of
6 his review, then a decision would be made on Stage 2. Was
7 that what we should understand?

8 **MR. COMMEFORD:** I think Stage 2 would
9 potentially be an option after Stage 1 was completed.

10 **MR. RUEL:** Okay. Was it ever approved ---

11 **MR. COMMEFORD:** No.

12 **MR. RUEL:** --- Stage 2?

13 **MR. COMMEFORD:** No.

14 **MR. RUEL:** Can you explain why, after
15 receiving Mr. Downing's report?

16 **MR. COMMEFORD:** Well, as I mentioned, we --
17 we then asked Mr. Downing to do some other interviews,
18 which I spoke about before.

19 And then as a result of, again, some of the
20 things that had transpired locally at the office as well as
21 other investigations going on around from Project Truth
22 that we, in fact, determined that we would -- that it --
23 that we would forward it to Legal Branch for their action.

24 **MR. RUEL:** What type of action were you
25 expecting from the Legal Branch?

1 **MR. COMMEFORD:** Dealing with the civil
2 matters that were coming forward.

3 **MR. RUEL:** And in terms of Stage 2, you
4 mention the Project Truth investigation. Was there a
5 concern that a more in-depth investigation by Mr. Downing
6 could interfere with the police investigation, with the
7 Project Truth investigation?

8 **MR. COMMEFORD:** That was certainly a
9 consideration, especially, as I said, there were new
10 allegations coming along through the probation office that
11 were being -- they were being forwarded and reported to the
12 police, so potentially there could be some criminal
13 investigation and criminal charges out. So there could be
14 an issue where if Mr. Downing or any other non-police
15 investigative body pursued anything that it could have
16 implications on their case.

17 **MR. RUEL:** Do you know if Mr. Downing spoke
18 to Project Truth or the investigators of the Project Truth
19 investigation?

20 **MR. COMMEFORD:** As you -- I believe you
21 referred to it earlier when you were asking me questions
22 that he had spoken to somebody? I said at the time nobody
23 was under investigation at that time.

24 **MR. RUEL:** Yes. That was your
25 understanding?

1 **MR. COMMEFORD:** That was.

2 **MR. RUEL:** So who told you that?

3 **MR. COMMEFORD:** It was in -- Mr. Downing
4 told me that, I believe.

5 **MR. RUEL:** So the fact that the OPP would
6 confirm that nobody was under investigation, was that taken
7 into account in the -- I'm going to rephrase.

8 If the OPP was conducting no investigation
9 on Ministry employees, how could can Mr. Downing or
10 Ministry investigation interfere with an OPP investigation?

11 **MR. COMMEFORD:** Well, as I just mentioned,
12 there were a number of -- as you'll recall, we asked Mr.
13 Downing to speak to at least two or three victims --
14 alleged victims that came along and so those, in fact, were
15 referred to the police, so that was subsequent to him --
16 his first interview.

17 In addition, that we're not always aware of
18 police investigations that are going on and, again, when I
19 said when Ms. Newman asked me to do this and we talked
20 about -- we talked about this investigation, we were
21 looking at, was there anybody at risk at this particular
22 point-in-time.

23 **THE COMMISSIONER:** Do you agree that while
24 that was a very worthwhile endeavour to make sure that
25 nobody's at risk, that there were other considerations that

1 may have -- that could have been looked into as well?

2 **MR. COMMEFORD:** The historical issues of
3 this whole situation?

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

5 **MR. COMMEFORD:** I -- I wouldn't disagree
6 with that.

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

8 **MR. COMMEFORD:** I mean hindsight's always
9 20/20 and -- well, in most cases, maybe not always, but in
10 a lot of cases and, yeah, I think that could have certainly
11 been something that could have been considered.

12 **THE COMMISSIONER:** Thank you.

13 **MR. RUEL:** You talked about discipline and
14 the fact that you were aware that advice was sought on
15 discipline. Did you know who sought this advice?

16 **MR. COMMEFORD:** Ms. Newman.

17 **MR. RUEL:** Ms. Newman?

18 Once the matter was referred -- or Mr.
19 Downing's report was referred to the Legal Branch and that
20 the Legal Branch became involved, what was -- did your
21 involvement in the case change in any way?

22 **MR. COMMEFORD:** After that point, I really
23 didn't have any involvement after that.

24 My basic involvement ended in that note you
25 showed me before where I asked Mr. Downing to close the

1 file.

2 **MR. RUEL:** At the time or during the period
3 you were involved in this project, do you know if there was
4 publicity around the allegations of abuse or allegations of
5 abuse in Cornwall and, in particular, publicity concerning
6 allegations of abuse made against probation and parole
7 officers in Cornwall?

8 **MR. COMMEFORD:** I can't recall. There may
9 have been, but I don't recall.

10 **MR. RUEL:** There was the website at least?

11 **MR. COMMEFORD:** Well -- well, that's what
12 initiated the whole review, absolutely.

13 **MR. RUEL:** I'd like to refer you to Document
14 Number -- this is a new document, Madam Clerk and Mr.
15 Commissioner, 118487.

16 **THE COMMISSIONER:** It's a new document, sir,
17 you don't have to ---

18 **MR. COMMEFORD:** Oh.

19 **THE COMMISSIONER:** Thank you.

20 Exhibit 1104 is MSGCS House Note -- that's a
21 new one -- dated February 4th, 1994 at 3:00 p.m.

22 --- **EXHIBIT NO./PIÈCE NO 1104:**

23 (118487) MSGCS House Note dated
24 February 4, 1984

25 **MR. RUEL:** Mr. Commissioner, just for your

1 information, this is a package of house notes, so the first
2 one seem -- oh well, is dated February 4, 1994, but there's
3 a number of ones -- other ones included in this package.

4 **THE COMMISSIONER:** Yes. Yes, you're right.

5 **MR. RUEL:** Mr. Commeford, I'd like to refer
6 you to a note dated August 8, 2002. And if you look ---

7 **MR. COMMEFORD:** Where is this?

8 **MR. RUEL:** --- sorry -- on the top corner of
9 the left top corner of the page, there are some -- a number
10 there. And I'd like to go -- this is called a Bates page
11 we use in our system. So the number I'd like you to go to
12 is 1115019.

13 And this document is dated August 8, 2002.
14 This is -- it's title is "Cornwall Probation and Parole
15 Former Ministry Clients - Alleged Sexual Assault by Former
16 Probation and Parole Officers" and at the last page it says
17 "Approved August 28th, 2002, Gary Commeford, ADM".

18 So do you remember approving this note and,
19 if not ---

20 **MR. COMMEFORD:** Why not?

21 **MR. RUEL:** Not why not. I mean, well, do
22 you recall approving this or do you recall this document?

23 **MR. COMMEFORD:** No, I do not recall this
24 document at all.

25 **MR. RUEL:** Is it possible you approved this?

1 **MR. COMMEFORD:** Certainly, if my name's on
2 it, it was approved by my office, which -- where the
3 approval is my responsibility.

4 **MR. RUEL:** So at the time when it says ADM,
5 at the time, which position did you occupy?

6 **MR. COMMEFORD:** I'm not quite sure. There
7 was a period of time that I acted as the Assistant Deputy
8 Minister of Adult Institutions. It could be around this
9 period of time, but what I'm a bit confused about is this
10 is about a Probation and Parole matter, and I can't quite
11 figure out why I would approve a Probation and Parole
12 matter in a capacity as the Assistant Deputy Minister of
13 Adult Institutions. So it's a bit of a mystery to me.

14 The other only possibility is I may have
15 been acting for Ms. Newman at the time, but I really don't
16 know.

17 **MR. RUEL:** In any event, I'd like just to
18 bring your attention to page -- well, the Bates page is
19 5021. There's the -- the fourth bullet, there's references
20 or a reference to a repeat broadcast on the Fifth Estate in
21 1997.

22 So prior to -- this note was, it seems,
23 drafted in 2002, but do you recall any program from the
24 Fifth Estate concerning Cornwall and some sexual assaults
25 involving probation and parole officers from 1997?

1 **MR. COMMEFORD:** From 1995?

2 **MR. RUEL:** From 1997.

3 **MR. COMMEFORD:** No.

4 **MR. RUEL:** No? And further down there's
5 references to a CBC broadcast. There's reference to
6 publication in the Chatelaine Magazine in 1999 and the
7 probation and parole officers were named in the article.
8 You don't remember that?

9 **MR. COMMEFORD:** No, I don't.

10 **MR. RUEL:** But you won't deny that there was
11 publicity around -- surrounding those events?

12 **MR. COMMEFORD:** I was aware of Project
13 Truth. I read about that in the newspapers, but as to the
14 particulars about probation officers, no.

15 **MR. RUEL:** When you were involved in this
16 situation, was any step taken by you or others, to your
17 knowledge, to inform or reassure the public, especially in
18 Cornwall, concerning the functioning of the Probation and
19 Parole Office?

20 **MR. COMMEFORD:** No.

21 **MR. RUEL:** Do you know why?

22 **MR. COMMEFORD:** Frankly, we never thought
23 about it. Again, I go back to -- I mean, a lot of times we
24 become very insular. We start to look at our first
25 responsibility to the client or the inmate, and that's what

1 we concentrated on.

2 **THE COMMISSIONER:** Some people might say
3 that you were trying to cover your tracks.

4 **MR. COMMEFORD:** I have no doubt some people
5 might say that.

6 **THE COMMISSIONER:** So what do you say in
7 response to that though?

8 **MR. COMMEFORD:** I guess -- I don't know. I
9 mean, it's not an answer I'd like to jump to a conclusion
10 on. I guess the only thing I could say is that -- what do
11 you say? Just let me just collect my thoughts for a
12 moment.

13 How do you tell the public that we are
14 really doing our jobs? I frankly would like to look at the
15 reverse of it and say in most cases, if not all cases,
16 we've done our jobs and done it very well. There's no
17 excuse for this, clearly, and I think we have to ensure, as
18 each individual and as an organization, to make sure it
19 doesn't happen again.

20 But I'm not sure how you say we're doing our
21 jobs.

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

23 Maître Ruel, what I would like to do is
24 backtrack a little bit ---

25 **MR. RUEL:** Absolutely.

1 **THE COMMISSIONER:** --- at some point.

2 Tell me what MSGCS House Notes are. What is
3 their importance, that kind of thing, please?

4 **MR. COMMEFORD:** Do you want me to?

5 **THE COMMISSIONER:** Yes.

6 **MR. COMMEFORD:** These House Notes are for
7 use by the Minister ---

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

9 **MR. COMMEFORD:** --- in case the Minister was
10 asked the question in the House.

11 **THE COMMISSIONER:** Right.

12 **MR. COMMEFORD:** And it's Ministry of
13 Solicitor General, Correctional Services.

14 **THE COMMISSIONER:** All right.

15 And so by you signing off on it, you're
16 approving its contents?

17 **MR. COMMEFORD:** That's correct.

18 As I said, clearly not all the time I would
19 see every note. However, again, any note that goes out of
20 there is my responsibility. It would be done by an EA, but
21 ---

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

23 **MR. COMMEFORD:** It seems to me, on looking
24 at this note and having just viewed it, is this seems to be
25 just a compilation of many, many notes over a number of

1 years and they add on as things change.

2 **THE COMMISSIONER:** Okay.

3 **MR. RUEL:** So at the first page, there is
4 here "Issue" -- under "Issue" ---

5 **MR. COMMEFORD:** I'm sorry, the first page of
6 which ---

7 **MR. RUEL:** Of the note, which is at page
8 5019 of the Bates page, the last four numbers.

9 **THE COMMISSIONER:** So he's referring you to
10 the beginning of that note ---

11 **MR. RUEL:** The beginning of the note.

12 **THE COMMISSIONER:** --- dated August 8th,
13 2002.

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

15 **MR. RUEL:** So there's a reference under
16 "Issue Project Truth", it reads:

17 "In July 1997, Project Truth was
18 established to investigate allegations
19 of sexual abuse dating as far back as
20 the 1950s and to encourage witnesses
21 and victims to come forward.

22 Allegations by former Ministry clients
23 that they were sexually abused by
24 former Probation and Parole officers
25 are an integral part of the Project

1 Truth investigation currently being
2 conducted by the Ontario Provincial
3 Police. The Ministry of the Attorney
4 General is the lead ministry in this
5 matter."

6 That's what appears there, right? And the
7 suggested ---

8 **MR. COMMEFORD:** I'm sorry, I must be on the
9 wrong page.

10 **THE COMMISSIONER:** No, he was reading the
11 top little black paragraph on top of -- just below "Issue".

12 **MR. COMMEFORD:** Yeah. I was looking at 5009
13 and it's not the same thing.

14 **MR. RUEL:** Oh, sorry. It's ---

15 **THE COMMISSIONER:** Five-zero-one-nine
16 (5019).

17 **MR. COMMEFORD:** Five-zero-one-nine (5019).

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

19 **MR. COMMEFORD:** Maybe I'll just read it off
20 the screen.

21 **MR. RUEL:** Yes. It's under "Issue".

22 So maybe you want, Mr. Commissioner, to
23 allow the witness to read this for a second.

24 **MR. COMMEFORD:** M'hm.

25 **MR. RUEL:** So it states:

1 "The Ministry of the Attorney General
2 is the lead ministry in this matter."

3 Why was that?

4 **MR. COMMEFORD:** What is the date of this
5 note?

6 **MR. RUEL:** It's August 8th, 2002, and you
7 seem to have approved it on August 28th ---

8 **MR. COMMEFORD:** Well, that has to do with
9 what I referred to before in respect to the civil matters
10 that were occurring.

11 **MR. RUEL:** Okay. And the messaging for the
12 Minister, the suggested response was:

13 "All questions regarding this matter
14 are to be referred to the Ministry of
15 the Attorney General."

16 **MR. COMMEFORD:** Correct. That's what it
17 says.

18 **MR. RUEL:** So that was the advice to the
19 public service, to the Minister, in terms of what he should
20 respond if a question was raised in the Legislature?

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

22 **MR. RUEL:** So then in this document there's
23 a chronology -- have you had a chance to review it before
24 testifying, Mr. Commeford?

25 **MR. COMMEFORD:** Yes.

1 **MR. RUEL:** There's a chronology of the
2 events relevant to the Ministry.

3 **MR. COMMEFORD:** That's correct. Starting in
4 December of 1993 under "Background".

5 **MR. RUEL:** Yes.

6 **MR. COMMEFORD:** M'hm.

7 **MR. RUEL:** And I covered some of the --
8 well, there's a reference on the first page:

9 "On December 15, 1993 a former male
10 probationer contacted the Ministry of
11 Correctional Services alleging that his
12 former probation and parole officer had
13 sexually molested him when he was 15-16
14 years old."

15 So that's Mr. Silmsers's complaint; correct?

16 **MR. COMMEFORD:** No. Just -- I'm sorry; can
17 we -- can you refer me to what page?

18 **MR. RUEL:** That's the third bullet on the
19 first page of the note.

20 **MR. COMMEFORD:** Yes.

21 **MR. RUEL:** There's reference at the
22 following page to another probation and parole officer that
23 was charged for indecent assault.

24 **MR. COMMEFORD:** Which bullet point is that?

25 **MR. RUEL:** That's the fourth bullet.

1 **MR. COMMEFORD:** On December 14th?

2 **MR. RUEL:** Yes.

3 **MR. COMMEFORD:** That's what it says.

4 **MR. RUEL:** So the following page there's --
5 we've covered that. There's reference to publicity ---

6 **THE COMMISSIONER:** Just a minute. Can we go
7 back ---

8 **MR. RUEL:** Sorry.

9 **THE COMMISSIONER:** --- to bullet number 6,
10 the one:

11 "On January 30th, 1995 a former
12 probationer appeared in court, pleaded
13 guilty to charges of wilfully failing
14 to comply with the conditions of a
15 probation order and his defence on the
16 plea of guilt..."

17 Which is a an oxymoron:

18 "His client's failure to comply defence
19 counsel argued in open court that the
20 former probationer had been a victim of
21 sexual abuse by a probation officer."

22 Did that in reality happen? You don't know?

23 **MR. NEUBERGER:** Just to assist, we've never
24 received any information on that, which doesn't assist you,
25 but ---

1 **THE COMMISSIONER:** Well, it doesn't assist
2 me in that I'm wondering what kind of information we're
3 giving to the Minister if ---

4 **MR. NEUBERGER:** Oh, you don't want me
5 commenting on that.

6 **THE COMMISSIONER:** No, no, no, but I think a
7 look ---

8 **MR. NEUBERGER:** And I'm not sure what the
9 origins of that was. I mean, we've reviewed many of these,
10 but ---

11 **THE COMMISSIONER:** And I don't mean anything
12 by that, sir.

13 All I'm saying is that if we're looking at
14 an institutional response and we see these kinds of
15 statements in what are supposed to be fairly important
16 notes, I'm wondering ---

17 **MR. COMMEFORD:** Well, if I could help ---

18 **THE COMMISSIONER:** Yes.

19 **MR. COMMEFORD:** --- I don't know the
20 specifics of this, but certainly it's been my experience
21 that the information provided from the bureaucracy is
22 accurate and timely. I mean, there's a system the Ministry
23 has about the reporting of incidents, and they're very
24 accurate, and the IMU, which would put together these
25 notes, would in fact utilize all that information from the

1 field to put into these notes.

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

3 **MR. COMMEFORD:** So I don't know for certain
4 in this case but that I'm sure it has some validity and
5 would be found in the files.

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

7 **MR. RUEL:** So this -- you didn't see the
8 information that substantiated this note. You only got the
9 note from your officials and approved it?

10 **MR. COMMEFORD:** Absolutely. Incident
11 reports in that Ministry, there's thousands, frankly.

12 **MR. RUEL:** There's reference -- just going
13 through the notes, through the chronology.

14 **MR. COMMEFORD:** I'm sorry, what page are we
15 on now?

16 **MR. RUEL:** Sorry. At page -- I won't read
17 everything. This is a lengthy note. But page 5022, the
18 fourth bullet:

19 "In July 1999 two current probationers
20 alleged that they had been sexually
21 assaulted by probation and parole
22 Officer "B". They were referred to the
23 appropriate police and advised of the
24 availability of the counselling
25 services."

1 Do you remember that? Do you see that note?

2 **MR. COMMEFORD:** Oh, I see it.

3 **MR. RUEL:** Do you know if this has been
4 reviewed by Mr. Downing in the course of his review?

5 **MR. COMMEFORD:** I don't know if it was or
6 not.

7 **MR. RUEL:** The seventh bullet -- and the
8 paragraph reads:

9 "On October 13, 1999 the Ministry
10 received four freedom of information
11 and protection of privacy requests from
12 a CBC radio journalist who accessed
13 records concerning complaints or
14 allegations with respect to name and
15 unnamed individuals associated with the
16 Cornwall Probation and Parole Office.
17 Requests were also submitted to the
18 Ministry of the Solicitor General."

19 Do you recall that?

20 **MR. COMMEFORD:** No, I do not.

21 **MR. RUEL:** There is also reference -- it's
22 the fourth bullet from the bottom -- of another disclosure:

23 "On January 5, 2000..." --

24 Oh, sorry, before that it's the seventh or
25 the bullet following the freedom of information request:

1 "On November 2, 1999 an offender
2 attending for a pre-sentence interview
3 advised that his former probation and
4 parole officer B had displayed
5 inappropriate behaviour towards him."

6 Do you recall that?

7 **MR. COMMEFORD:** No.

8 **MR. RUEL:** Do you know if this was reviewed
9 by Mr. Downing?

10 **MR. COMMEFORD:** I have no idea. It
11 certainly wasn't in his final report.

12 **MR. RUEL:** The fourth bullet from the
13 bottom, there is also reference to another disclosure:

14 "The client disclosed that he had been
15 sexually victimized on two separate occasions by his former
16 probation and parole officer."

17 **MR. COMMEFORD:** And is that the one that
18 says "The client was advised to contact..." ---

19 **MR. RUEL:** Yes.

20 **MR. COMMEFORD:** --- "...police service but
21 was unwilling to do so."

22 **MR. RUEL:** "He was advised of the
23 availability of psychological support
24 services."

25 Do you recall this one?

1 **MR. COMMEFORD:** No.

2 **MR. RUEL:** No. The following paragraph
3 deals also with freedom of information. It reads:

4 "Based on the amendment to the *Labour*
5 *Relations Act*, 1995 the Ministry
6 adopted the position that records which
7 relate to allegations of inappropriate
8 or unlawful conduct on the part of
9 Ministry staff are not subject to
10 provisions of the *Freedom of*
11 *Information and Protection of Privacy*
12 *Act*. The requestor, CBC, was advised
13 of the Ministry's position on January
14 17, 2000."

15 Do you recall that?

16 **MR. COMMEFORD:** No.

17 **MR. RUEL:** So you're not -- you don't recall
18 the issue of the freedom to information requests from the
19 CBC which were objected to by the Ministry on the basis
20 that they were employment records?

21 **MR. COMMEFORD:** No, I do not.

22 **MR. RUEL:** And there's reference in this
23 note as well to Statements of Claim, civil litigation that
24 were filed by various complainants against probation
25 officers. There's reference to that in the note?

1 **MR. COMMEFORD:** That's correct.

2 **MR. RUEL:** Coming back to the issue of
3 publicity, if I can call it like that, Mr. Downing's
4 report, do you know if it was -- was it made public?

5 **MR. COMMEFORD:** No, it was not.

6 **MR. RUEL:** I would like to bring your
7 attention to a document which is at -- this is Exhibit --
8 this is Document Number 126442.

9 Madam Clerk, this was filed as a -- yes,
10 this is 1094.

11 Mr. Commeford, this document was filed in
12 the course of Mr. Downing's evidence. Those are notes
13 taken by Ms. Downing -- by Ms. Newman, sorry.

14 **MR. COMMEFORD:** I'm sorry; can you repeat
15 that?

16 **MR. RUEL:** Those are notes taken by Ms.
17 Newman ---

18 **MR. COMMEFORD:** Uh'huh.

19 **MR. RUEL:** --- in the course of Mr.
20 Downing's review.

21 And if you go at page -- and it's the Bates
22 page, which is at the top, left corner of the page,
23 1160625.

24 **MR. COMMEFORD:** Yes.

25 **MR. RUEL:** I'll read it to you, of course,

1 you didn't write this. It says:

2 "Project Truth. November 14."

3 And there's a reference:

4 "M. Zbar, J. Rabeau, G. Commeford, D.
5 Dwyer"

6 So it seems that there was a meeting or a
7 discussion on November 14; I believe it's 2000, because the
8 previous page is November -- that the entry is November 9,
9 2000.

10 So do you remember the discussion with those
11 people concerning Project Truth on November 14, 2000?

12 **MR. COMMEFORD:** I don't remember it
13 particularly but I have no reason to think it didn't
14 happen.

15 **MR. RUEL:** So there seem to have been a
16 discussion concerning Denise Dwyer, preliminary opinion; do
17 you recall that?

18 **MR. COMMEFORD:** I do know that she gave an
19 opinion on this, yes.

20 **MR. RUEL:** Okay. At the following page,
21 there's a reference in the -- on the left side of the page.
22 It seems to read:

23 "Gary and I..."

24 and then next to that:

25 "...need Project Truth chronology"

1 Do you read that?

2 **MR. COMMEFORD:** Yes.

3 **MR. RUEL:** And at the bottom it reads:

4 "Issue: If E and J grieve this, could
5 all be made public through grievance
6 through griev process."

7 I think she meant through grievance process.

8 Do you read that?

9 **MR. COMMEFORD:** I do.

10 **MR. RUEL:** "E and J", I believe, were Emile
11 and Jos; so do you remember discussing this matter with
12 Deborah Newman?

13 **MR. COMMEFORD:** No, I do not.

14 **MR. RUEL:** So you don't recall any concern
15 that if any sanction or disciplinary action was taken
16 against Emile and Jos, they could grieve this and this
17 could be made public and this would be a concern; do you
18 recall anything of that nature?

19 **MR. COMMEFORD:** Not at all.

20 **MR. RUEL:** It's never been a concern for
21 you?

22 **MR. COMMEFORD:** It's not a concern for me,
23 at all.

24 **THE COMMISSIONER:** Would it have been a
25 concern for you back then?

1 **MR. COMMEFORD:** No, it wouldn't.

2 **(SHORT PAUSE/COURTE PAUSE)**

3 **MR. RUEL:** Mr. Commeford, we ask all our
4 witnesses if they have any recommendations to make to the
5 Commissioner with respect to the issues he's dealing with
6 under his mandate.

7 Do you have any recommendation for the
8 Commissioner?

9 **MR. COMMEFORD:** No, I don't.

10 Thank you for asking.

11 **THE COMMISSIONER:** Thank you.

12 **MR. RUEL:** Thank you.

13 Those would be my questions, Mr.
14 Commissioner.

15 **THE COMMISSIONER:** All right.

16 So how much -- I don't know how much time
17 we're going to need to cross-examine this gentleman; can we
18 do that today?

19 Well, we'll see, I guess.

20 Ms. Daley.

21 **MS. DALEY:** Yes, I'd be happy to start.

22 **---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

23 **DALEY:**

24 **MS. DALEY:** Mr. Commeford, my name is Helen
25 Daley and I'm here on behalf of a citizen's group that has

1 standing; they're called Citizens for Community Renewal,
2 and they're local people who are principally interested in
3 the reform of institutions so as to protect children.

4 And I have a few questions for you about the
5 evidence that you gave us.

6 I wonder -- it might be most efficient if I
7 start with some of the latter topics that you were
8 addressing, so I'll start with one of the last things we
9 spoke about.

10 You were taken to Ms. Newman's note and she
11 had noted that if discipline were taken against the two
12 present probation officers there might be a grievance which
13 would become public.

14 First of all, as far as you are aware --
15 thank you, the note is on the screen -- was it, in fact,
16 correct that a grievance was a public process at the
17 Ministry?

18 **MR. COMMEFORD:** I'm not sure if you're
19 asking me does the Ministry think it's a public process or
20 are the hearings public?

21 **MS. DALEY:** Well, first of all, are the
22 hearings public; is that a fact that you had knowledge of?

23 **MR. COMMEFORD:** Yes.

24 **MS. DALEY:** And obviously, then, your
25 Ministry would consider this to be a public forum?

1 **MR. COMMEFORD:** It could be a public forum,
2 yes.

3 **MS. DALEY:** All right.

4 And you made a point of saying that it
5 wasn't a particular concern for yourself but did you
6 perceive this possibility, that is to say a public
7 grievance process, to be of concern to Ms. Newman?

8 **MR. COMMEFORD:** No, since as I said we
9 really didn't discuss it so I'm not sure what was in her
10 mind.

11 **MS. DALEY:** Fair enough.

12 During the time you dealt with it, did
13 anyone that you were dealing with it -- sorry, I'll start
14 again.

15 Did anyone with whom you were working
16 jointly express this concern to you?

17 **MR. COMMEFORD:** Not that I can recall.

18 **MS. DALEY:** I had a question for you about
19 your house note.

20 **MR. COMMEFORD:** Yes.

21 **MS. DALEY:** And that, as you recall, that
22 was Exhibit 1104 and my friend, Mr. Ruel, took you to some
23 information on Bates page 1115022.

24 **MR. COMMEFORD:** M'hm

25 **MS. DALEY:** And I just -- can you explain it

1 for us, how is it that information is included in this
2 document that Mr. Downing was not aware of? For example,
3 we saw -- the third bullet makes reference to some
4 allegations by probationers in July of '99, a bullet
5 further down the page speaks about information in Privacy
6 Act requests, then on November 2nd, '99, we have an offender
7 who is also alleging inappropriate conduct and to the same
8 effect is the information on January 5, 2000.

9 So stopping there, all those events had
10 occurred prior to Mr. Downing being tasked with his report;
11 correct?

12 **MR. COMMEFORD:** Yes.

13 **MS. DALEY:** And this document did come out
14 under your auspices, so presumably someone in your office
15 was aware of this information at the time, correct?

16 **MR. COMMEFORD:** Yes, that's correct.

17 **MS. DALEY:** Can you help us understand at
18 all how it is that Mr. Downing would not have knowledge of
19 that information?

20 **MR. COMMEFORD:** Well, the only thing I could
21 surmise that we asked Mr. Downing to pursue an
22 investigation with specific parameters, which were around
23 the information found on the website.

24 **MS. DALEY:** Yes.

25 **MR. COMMEFORD:** As I recall, the items you

1 refer to here were not, in fact, referred to on that
2 website, so that is where I think there's the disconnect
3 between the two things.

4 **MS. DALEY:** How did you obtain knowledge of
5 these matters if they're not on the website?

6 **MR. COMMEFORD:** I wouldn't have. It would
7 have come through our Information Management Unit out of
8 those -- I would imagine and this is just -- this is just
9 summarizing on my part, is it would have come out of the
10 various pieces of information that are collected by that
11 unit on an issue as it evolves.

12 **MS. DALEY:** Did that unit not interact with
13 Mr. Downing during the Downing review process?

14 **MR. COMMEFORD:** No, it wouldn't have.

15 **MS. DALEY:** Should we take it from what
16 you've just said that Mr. Downing's mandate was really
17 quite limited to project-specific allegations on the
18 website?

19 **MR. COMMEFORD:** Exactly.

20 **MS. DALEY:** I want to pursue a comment that
21 you also made to Mr. Ruel. This had to do with your
22 Ministry having knowledge of police investigations. And
23 you had said that it wasn't always the case that you were
24 aware of police investigations.

25 Would you expect to be made aware of a

1 police investigation if it involved a Ministry employee?

2 MR. COMMEFORD: I would expect that.

3 MS. DALEY: And how would you expect that
4 information to be communicated and to whom?

5 MR. COMMEFORD: Well, I would imagine to the
6 manager who was responsible for the particular area where
7 the employee was under investigation.

8 However, I would qualify by that saying is I
9 think there's an issue of timing.

10 MS. DALEY: Yes.

11 MR. COMMEFORD: Again, it would not change
12 my opinion that we should be told about it, but I think it
13 has to be a certain time when the police would in fact
14 inform.

15 MS. DALEY: What do you mean by that
16 exactly?

17 MR. COMMEFORD: Well, I mean, I guess it
18 depends how far down the investigation it is and, I mean,
19 there's obviously -- they have to make a judgment of who's
20 at risk, depending upon who they tell.

21 I guess what I really struggle with a
22 question like that is it's so black and white where there's
23 so much grey that comes into it, is when is the best time
24 to tell that it doesn't, in fact, affect the investigation
25 itself but it does protect, in particular in this case to

1 use for an example, vulnerable people.

2 MS. DALEY: I take it you learned that, in
3 fact, a probationer had made a criminal complaint in late
4 1992 concerning Ken Seguin?

5 MR. COMMEFORD: I was made aware of that
6 through Mr. Downing's investigation.

7 MS. DALEY: Correct.

8 MR. COMMEFORD: Yeah.

9 MS. DALEY: And is that an example of what
10 we've just discussed; namely, is that a police matter that
11 you would, at some point, expected the police to share with
12 Mr. Seguin's area manager in the Cornwall Probation Office?

13 MR. COMMEFORD: I would expect that, yes.

14 MS. DALEY: As to whether or not there was
15 ongoing investigation work in the year 2000, I take it you
16 understood at that point that the two probation officers
17 who had been the focus of these allegations were both dead?

18 MR. COMMEFORD: I knew they were dead.

19 MS. DALEY: You knew that as of the year
20 2000?

21 MR. COMMEFORD: Oh, yeah.

22 MS. DALEY: Did you ever learn, sir, that
23 Mr. Barque had been charged criminally a second time as a
24 result of alleged abuse of probationers?

25 MR. COMMEFORD: I don't think so.

1 **MS. DALEY:** I don't think so either because
2 your briefing note doesn't mention that at all. But, in
3 fact, he was charged on June 18th, 1998 with two charges of,
4 I believe, gross indecency vis-à-vis probationers, and
5 indeed he committed suicide within about a week of that
6 occurrence.

7 Did you know about those other charges?

8 **MR. COMMEFORD:** No, I didn't.

9 **MS. DALEY:** Do you believe Mr. Downing knew
10 of them?

11 **MR. COMMEFORD:** If he did he didn't put it
12 in his report.

13 **MS. DALEY:** Is that a circumstance that
14 would have even elevated your concern beyond the level it
15 was at?

16 **MR. COMMEFORD:** But Mr. Barque was no longer
17 an employee.

18 **MS. DALEY:** Understood. However, his
19 activity was broader than it had first appeared to be;
20 correct?

21 **MR. COMMEFORD:** I don't know if I would
22 describe it as broader. There was obviously more victims
23 but it was still the same perpetrator.

24 **MS. DALEY:** All right. Was it of concern to
25 you as to how many victims either Mr. Barque or Seguin may

1 have had over the years?

2 **MR. COMMEFORD:** One victim is too many.

3 **THE COMMISSIONER:** Nicely said.

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **MS. DALEY:** I may have misinformation
6 because I was relying upon Mr. Barque's ODE. Perhaps the
7 more accurate information is that he was on the eve of
8 being charged with additional offences when he killed
9 himself.

10 In either of event, that's not a
11 circumstance you knew about?

12 **MR. COMMEFORD:** That's correct.

13 **MS. DALEY:** Did you come to learn that the
14 individual at whose instance Mr. Barque was charged in
15 1995, that's a probationer named Albert Roy, did you come
16 to learn that he also alleged abuse by Mr. Seguin?

17 **MR. COMMEFORD:** No, I didn't.

18 **MS. DALEY:** Was that a circumstance that
19 would be relevant to the website allegations?

20 **MR. COMMEFORD:** Was it contained in the
21 website?

22 **MS. DALEY:** Would it have been part of what
23 Mr. Downing was expected to look at as a result of the
24 website?

25 **MR. COMMEFORD:** No, I think the issues with

1 -- I think the issues we were looking at, again, were in
2 respect to certainly our concern about present clients and
3 present probation officers.

4 **MS. DALEY:** All right. You had indicated
5 that there was a new area manager in Cornwall and that your
6 perception is that things were improved in the Cornwall
7 office, and I guess that was in part your explanation for
8 why the matter rested where it did in 2000. Do you recall
9 that?

10 **MR. COMMEFORD:** I recall saying that the new
11 area manager had brought in a number of processes and
12 procedures to ensure that any clients that had suffered
13 historic abuse would be -- there was some place to deal
14 with it.

15 **MS. DALEY:** I'm just wondering if you can be
16 specific as to what changes had been implemented that you
17 considered positive.

18 **MR. COMMEFORD:** Well, I said in my original
19 testimony there was training from the Men's Project and
20 there were protocols in place if anybody came forward to --
21 and it's -- and you'll see in the particular house note,
22 the issue about reporting to police and then having them
23 seek psychological counselling.

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

25 Did you ever form any view as to why over

1 the prior 20 years these occurrences had not come to light
2 at the Cornwall Probation Office, apart from the odd
3 instances when they did?

4 **MR. COMMEFORD:** I mean -- I think it would
5 be presumptuous of me to really answer that. I mean, there
6 could be a varied reason. I mean, clearly it could be
7 issues of, you know, poor management, poor recruitment, a
8 number of issues.

9 I mean, I don't think I have enough
10 information to really provide an accurate assessment of
11 what happened other than clearly it happened.

12 **MS. DALEY:** I guess you would agree with the
13 thought that at least one probation officer, and that was
14 Mr. Seguin, managed to fly under the radar for quite a
15 period of time in that office?

16 **MR. COMMEFORD:** Absolutely.

17 **MS. DALEY:** But you didn't feel well enough
18 acquainted with the facts to try to determine why that had
19 happened?

20 **MR. COMMEFORD:** Well, it was how many years
21 ago? I mean, how would I have -- I don't know how the
22 expectation would be that you could find out. I mean, the
23 issue is it happened, regrettably, but I think the
24 responsible thing to do is to ensure that you do everything
25 you can so it doesn't happen again.

1 **THE COMMISSIONER:** And what about the
2 seeking out other victims?

3 **MR. COMMEFORD:** As I said before, there were
4 some protocols in place to that and in hindsight probably
5 more should have been done about that.

6 **THE COMMISSIONER:** Okay.

7 **MS. DALEY:** Do you recall what the protocols
8 consisted of?

9 **MR. COMMEFORD:** In the probation office?

10 **MS. DALEY:** Yes.

11 **MR. COMMEFORD:** Reporting to the police.
12 And I do know the staff were trained in how to deal with
13 these types of ---

14 **MS. DALEY:** I'm just trying to -- sorry, I'm
15 just trying to follow-up on Mr. Commissioner's point about
16 seeking out other probationers to determine if they had
17 ever been victimized.

18 Is that something that the local office did?

19 **MR. COMMEFORD:** No, I said we didn't do it
20 and we should have.

21 **MS. DALEY:** Ah, all right.

22 I gather by the latter months of the year
23 2000, the Ministry had been subject to numerous lawsuits?

24 **MR. COMMEFORD:** Yes.

25 **MS. DALEY:** Alleging misconduct by either

1 Mr. Barque or Mr. Seguin or in some cases both?

2 MR. COMMEFORD: That's what I believe.

3 MS. DALEY: Would you think that that in
4 itself was a reason why the probationers were not sought
5 out to determine if there were indeed other victims?

6 MR. COMMEFORD: No, I don't believe that.

7 MS. DALEY: If you can bear with me for a
8 minute or two I just have a few further questions.

9 If I've understood this correctly, and we
10 have had evidence prior to today, sir, about internal
11 investigation at the Ministry at different points in time,
12 but if I have it right, between roughly 1995 or 1996 and
13 the year 2001 when you establish the CISU, there is only
14 one person who is investigating and who reports directly
15 within the Correctional Service Division of the Ministry
16 and that's Mr. Downing. Is that correct?

17 MR. COMMEFORD: Well, it's correct to a
18 point. I mean, the capacity is there but it's through the
19 Professional Standards Branch.

20 MS. DALEY: Right. So just so that I have
21 this in my mind, in that window of time, the Professional
22 Standards Branch had the capacity to investigate serious
23 allegations such as the ones that concerned us from
24 Cornwall, correct?

25 MR. COMMEFORD: Yes, they would have been

1 able to do that.

2 MS. DALEY: And they were on the OPP side of
3 the line; is that correct?

4 MR. COMMEFORD: Well, we were all Ministry
5 of the Solicitor General, Correctional Services, but if you
6 want to break it -- we're all under one ministry, but they
7 were in fact under an OPP supervision, yes.

8 MS. DALEY: All right.

9 And you also had a unit called the IIU,
10 Independent Investigation Unit?

11 MR. COMMEFORD: That's correct.

12 MS. DALEY: And that also had the ability to
13 investigate allegations of sexual improprieties by Ministry
14 employees?

15 MR. COMMEFORD: Yes, it did.

16 MS. DALEY: And both of those units, sir,
17 had staff and had resources and had investigators, trained
18 investigators, working with them. Is that correct, sir?

19 MR. COMMEFORD: That's correct.

20 MS. DALEY: And you made it clear in your
21 testimony that there was no capacity issue with PSB. For
22 instance, if you needed their help, you could obtain their
23 help in a matter; correct?

24 MR. COMMEFORD: They were available to
25 provide service.

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

2 And if I've understood the Ministry
3 directives correctly, indeed a serious matter would have
4 entailed a Level 1 investigation done through the
5 Professional Standards Bureau, would it not?

6 **MR. COMMEFORD:** We're getting into a
7 different time period. Level 1 and Level 2 came after the
8 establishment of the CISU. It wasn't in existence during
9 the Professional Standards Branch.

10 **MS. DALEY:** Madam Clerk, I'm looking for a
11 document that's within Exhibit 34, and I have a Bates page
12 for it. It's a directive of the Ministry, August 14th,
13 1998, Bates page 6006718. It's part of Exhibit 34.

14 **THE REGISTRAR:** Volume number?

15 **MS. DALEY:** I'm afraid I don't have a volume
16 reference. If you can show me an index, I can perhaps find
17 it for you.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MS. DALEY:** Madam Clerk, it's Volume 8, Tab
20 53.

21 **MR. COMMEFORD:** Thank you.

22 **MS. DALEY:** You might want to take a minute
23 and look over that, sir, but I took this to be the
24 applicable directive as of August of 1998 applying to
25 administrative investigations, and I see there is a Level 1

1 and a Level 2 type of investigation contemplated.

2 And then on page 2 it outlines what would
3 fall within Level 1.

4 **MR. COMMEFORD:** M'hm.

5 **MS. DALEY:** And then on page 3 it outlines
6 what steps are to follow after a review has been done.

7 **MR. COMMEFORD:** Yeah, that's correct.

8 **MS. DALEY:** Do you have that, sir?

9 **MR. COMMEFORD:** I do.

10 **MS. DALEY:** So based on -- sorry, if I could
11 take you to the definition of a Level 1 investigation on
12 page 2, I'm sure you'll agree with me that a significant or
13 high-profile contravention of Ministry policy was alleged
14 in this case, correct?

15 **MR. COMMEFORD:** Which case? What time
16 period are we talking about?

17 **MS. DALEY:** Well, I'm referring to the
18 allegations that you're seeing on the Project Truth
19 website. That's an allegation of a serious and a high
20 profile matter; is it not, sir?

21 **MR. COMMEFORD:** It certainly could be, yes.

22 **MS. DALEY:** And if you looked at the second
23 last bullet point, it gives as an example:

24 "Employee association with
25 offenders/ex-offenders, suspicion of

1 significant involvement that could
2 threaten the security and operations of
3 an institution as well as public
4 confidence in the correctional system."

5 So I take it, again, the items that were on
6 the Project Truth website certainly did allege employee
7 associations with offenders and ex-offenders that were of
8 a, as you would say, a very horrendous nature?

9 **MR. COMMEFORD:** Yes, and the issue was it
10 was anonymous claims at that time.

11 **MS. DALEY:** Right.

12 **MR. COMMEFORD:** And some of them were
13 historical.

14 **MS. DALEY:** And ---

15 **MR. COMMEFORD:** I -- sorry -- I'm not sure
16 that the individuals who were still in the employ of the
17 Ministry were being accused of the sexual assaults that the
18 people who had already passed away ---

19 **MS. DALEY:** I appreciate that, but one of
20 them was suspected of knowing and covering it up; correct?

21 **MR. COMMEFORD:** Correct. Yeah.

22 **MS. DALEY:** And if you look at page 3 of
23 this document from Exhibit 34, sir, it just sets out the
24 process that after the investigation is complete, there is
25 an action plan that's prepared. People sign off on the

1 action plan and there's a documented process for the
2 follow-up; correct?

3 **MR. COMMEFORD:** A documented process, I'm
4 not sure what you mean by that.

5 **MS. DALEY:** Well, there's an action plan.
6 There's a signoff form. People ---

7 **MR. COMMEFORD:** Oh yeah.

8 **MS. DALEY:** People record what they've done
9 by way of follow-up action, right?

10 **MR. COMMEFORD:** When investigations are
11 done, yes.

12 **MS. DALEY:** Correct. All right.

13 And am I right that this is the
14 investigative policy that was in place in August of 2000
15 when the Project Truth matter came to your attention?

16 **MR. COMMEFORD:** For investigations, yes.

17 **MS. DALEY:** Okay.

18 **THE COMMISSIONER:** Well, be careful now
19 because -- and you're saying that what Mr. Downing did
20 wasn't an investigation?

21 **MR. COMMEFORD:** Exactly.

22 **MS. DALEY:** All right.

23 So if what Mr. Downing was doing could be
24 classified as an investigation, it would have fallen under
25 this policy, correct?

1 **MR. COMMEFORD:** But it wasn't. It was an
2 administrative review, which the other counsel brought me
3 to at the beginning of my testimony.

4 **MS. DALEY:** All right.

5 And, in fact, I think what you said to us is
6 that he was to case manage and find out what the situation
7 was?

8 **MR. COMMEFORD:** He was to act as the case
9 manager and do the administrative review, yes.

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

11 And what does case manager mean? In this
12 context, was he not trying to determine factually what had
13 occurred?

14 **MR. COMMEFORD:** He was trying to find out
15 the details behind the -- what was alleged on the site,
16 yes.

17 **MS. DALEY:** Right.

18 And you expected him to do a certain amount
19 of investigation to arrive at correct details?

20 **MR. COMMEFORD:** Not what I would consider to
21 be in the terms of what I understand investigations to be,
22 no.

23 **MS. DALEY:** No? All right.

24 So this was quite different than an
25 investigation?

1 **MR. COMMEFORD:** That's what it says in the
2 emails. It was a review to provide us with the information
3 to make decisions.

4 **MS. DALEY:** Just to conclude on that point,
5 if you look at the initial email that you sent to Mr.
6 Downing -- that's Exhibit 1072 -- that's the one. And you
7 were taken to this language earlier this afternoon, sir.

8 Would it be correct to think that protecting
9 the interest of the Organization, which is the phrase you
10 used, that would include matters of protecting it from
11 adverse publicity?

12 **MR. COMMEFORD:** No, not necessarily.

13 **MS. DALEY:** Does it include protecting the
14 Ministry's reputation in a community?

15 **MR. COMMEFORD:** No.

16 **MS. DALEY:** All right.

17 It doesn't, in your mind, deal with anything
18 of a reputational nature?

19 **MR. COMMEFORD:** It certainly was not
20 intended as that.

21 **MS. DALEY:** Okay. Thank you, sir.

22 **THE COMMISSIONER:** Thank you.

23 Mr. Paul.

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

25 **PAUL:**

1 **MR. PAUL:** Mr. Commeford, my name is Ian
2 Paul. I represent a citizens group by the name of the
3 Coalition for Action.

4 I'd like to ask you a few questions, perhaps
5 starting off with just the idea that your involvement was
6 year 2000, some seven years, I believe, after the death of
7 Mr. Seguin.

8 In terms of that significant delay, I'm just
9 wondering in terms of the reasons for that delay. I was
10 wondering, generally, was there some wish in the Ministry
11 at some point that this was an issue or problem that
12 hopefully would just go away if enough time passed?

13 **MR. COMMEFORD:** I can't answer that. I was
14 not in a position that I would be held responsible or
15 accountable, or an expectation that I would undertake any
16 kind of work around this issue.

17 **MR. PAUL:** All right. Your involvement --
18 are you suggesting that your involvement in initiating the
19 investigation was at the orders of a superior or were you
20 involved in making a decision as well?

21 **MR. COMMEFORD:** I was asked by the Regional
22 Director to undertake the review.

23 **MR. PAUL:** All right.

24 **MR. COMMEFORD:** I was responsible for the
25 service that could do that review.

1 **MR. PAUL:** So in terms of the decision, it
2 wasn't your decision?

3 **MR. COMMEFORD:** No, it was not my decision.
4 It was a request from the Regional Director.

5 **MR. PAUL:** Okay. And as far as where the
6 request came, were you under the understanding that it came
7 from above the Regional Director, from someone higher up?

8 **MR. COMMEFORD:** It was the Regional Director
9 approached me, so I didn't question where it came from. I
10 just took it for a fact that it was coming from her just
11 like I had got requests from many other regional directors.

12 **MR. PAUL:** It would be your understanding
13 that at least in part the interest was prompted by
14 information being on an anonymous website?

15 **MR. COMMEFORD:** That's exactly the reason
16 given to me.

17 **MR. PAUL:** And is that the only reason, to
18 your understanding, why it was prompted?

19 **MR. COMMEFORD:** That's the only reason that
20 was given to me.

21 **MR. PAUL:** Okay. To your knowledge, at the
22 time was it your understanding that the matters were being
23 debated in the Legislature at that time?

24 **MR. COMMEFORD:** Not that I recall.

25 **MR. PAUL:** Okay, you're not aware of whether

1 there was a bill before the House at the Legislature
2 shortly before the investigation was directed?

3 **MR. COMMEFORD:** Not aware.

4 **MR. PAUL:** You're not involved -- aware of
5 Mr. Guzzo being involved in some form of bill being
6 presented to the House?

7 **MR. COMMEFORD:** Not aware.

8 **MR. PAUL:** Now, as far as it coming forward
9 by a website, did it cause you concern just by the fact
10 that the investigation is being prompted by some anonymous
11 website as opposed to your own staff and your own
12 organization?

13 **MR. COMMEFORD:** It was a review and you
14 pursue whatever matters -- if you're -- no -- you would
15 pursue the matter no matter where the -- no matter where
16 the information comes from.

17 **MR. PAUL:** All right. But it's your
18 understanding it wasn't prompted internally by people in
19 your own organization in the sense that there's information
20 coming internally; it's coming from a website?

21 **MR. COMMEFORD:** I can only tell you the
22 information provided me that requested the review was
23 information from an anonymous website.

24 **MR. PAUL:** Okay. And the concern is about
25 whether the information's true or not. Is that the

1 concern?

2 **MR. COMMEFORD:** The concern was to ensure
3 that none of the present clients would have been at any
4 risk as a result of the information that was there.

5 **MR. PAUL:** All right. So, sir, that would
6 be the concern that would have existed back in 1993;
7 correct?

8 **MR. COMMEFORD:** I wasn't around in 1993 so
9 it's very difficult for me to comment on that.

10 **MR. PAUL:** Now, as part of the investigation
11 was it the intention to determine, in terms of this
12 information that was on the website, what aspects of this
13 information was already known to the department?

14 **MR. COMMEFORD:** Well, it was an
15 administrative review and I think I've explained why we --
16 we, in fact, embarked upon the review of the information
17 contained in the anonymous website.

18 **MR. PAUL:** Right. As far as the anonymous
19 website, you would agree that some of the information was
20 already known to your department; would you agree with
21 that?

22 **MR. COMMEFORD:** Certainly.

23 **MR. PAUL:** Certainly the death of Mr. Seguin
24 was already known; correct?

25 **MR. COMMEFORD:** Correct.

1 **MR. PAUL:** Certainly, at least at some
2 level, it was already known that there were complaints
3 surrounding his death; correct?

4 **MR. COMMEFORD:** I don't know what you mean
5 by "complaints".

6 **MR. PAUL:** In terms of the complaint to Mr.
7 Silmsler that was forwarded by Bill Roy that didn't go
8 anywhere?

9 **MR. COMMEFORD:** I didn't know that until
10 after we got into the administrative review.

11 **MR. PAUL:** Okay. As far as the
12 administrative review, was it part of the administrative
13 review to determine what happened to that complaint put
14 forward by Bill Roy?

15 **MR. COMMEFORD:** We looked into it as part of
16 the review, yes.

17 **MR. PAUL:** Okay. And was there any finding
18 of any fault by anybody above Mr. Roy as to what happened
19 and why nothing happened with that?

20 **MR. COMMEFORD:** Not as far as I'm aware.

21 **MR. PAUL:** As far -- but was there actually
22 a review of that and a determination of where it ended and
23 why it did not result in any further investigation?

24 **MR. COMMEFORD:** Well, it is in Mr. Downey's
25 report saying that it was sent on for Legal -- to Legal.

1 **MR. PAUL:** In terms of that, would your view
2 be that in some respects the approach taken by the
3 department was to legalistic in the sense of forwarding
4 matters to the Legal Department where they were perhaps
5 more restrained in what actions they could take?

6 **MR. COMMEFORD:** That wasn't my decision to
7 make; you'll have to ask somebody else about that.

8 **MR. PAUL:** Okay. But you would agree that
9 as far as the Legal Department, it would not normally be
10 the Legal Department's mandate to change policies within
11 your department?

12 **MR. COMMEFORD:** I'm not sure what policies
13 you're referring to or what changes you're referring to.

14 **MR. PAUL:** Well, in terms of, for example,
15 reporting policies, how abuse is reported within an
16 organization; that would normally not be handled by Legal
17 Department, it would be handled by policy people?

18 **MR. COMMEFORD:** I haven't seen anything in
19 the report that would lead me that Legal's changed any
20 policies. I'm not really sure on what you're referring to.

21 **MR. PAUL:** All right. Would discipline of
22 management, would that be the mandate of the Legal
23 Department?

24 **MR. COMMEFORD:** No, but their advice might
25 be sought.

1 **MR. PAUL:** Okay. But in determining whether
2 discipline is effected, would a matter be forwarded to
3 Legal Department as opposed to being dealt with management?

4 **MR. COMMEFORD:** Could be.

5 **MR. PAUL:** Okay. And in that sense is that
6 the reason why in this case matters were referred to the
7 Legal Department in terms of discipline to management?

8 **MR. COMMEFORD:** I think I already testified,
9 I didn't seek that legal opinion. You're going to have to
10 ask the individual who sought that.

11 **MR. PAUL:** All right. But to your
12 knowledge, there wouldn't have been anybody within
13 management who would have been disciplined?

14 **MR. COMMEFORD:** For what?

15 **MR. PAUL:** In terms of any conduct in terms
16 of the sexual abuse incidents, to your knowledge nobody was
17 disciplined?

18 **MR. COMMEFORD:** Well, to my knowledge nobody
19 was disciplined, exactly.

20 **MR. PAUL:** Including Emile Robert; it's your
21 understanding that there was no discipline in relation to
22 him?

23 **MR. COMMEFORD:** That's my understanding.

24 **MR. PAUL:** Okay. I take then there was a
25 new management put in place; he was transferred?

1 MR. COMMEFORD: Who?

2 MR. PAUL: Mr. Emile Robert.

3 MR. COMMEFORD: I don't know what happened
4 to him afterwards.

5 MR. PAUL: All right. I understand that in
6 terms of the stage of Mr. Downing's investigation there was
7 what was called a phase 1 investigation?

8 MR. COMMEFORD: Stage 1, I believe.

9 MR. PAUL: Stage 1. And Stage 2 never
10 proceeded?

11 MR. COMMEFORD: That's correct.

12 MR. PAUL: Okay. And as far as the decision
13 not to proceed with Stage 2, whose decision -- who in the
14 organization makes that decision?

15 MR. COMMEFORD: Ms. Newman and I discussed
16 what he had found and that's when, as I've testified
17 previously today, that we asked him to do other
18 investigations -- or other interviews in respect to the
19 review.

20 MR. PAUL: Would you call it a joint
21 decision between you and Ms. Newman?

22 MR. COMMEFORD: I don't know if I could
23 characterize it like that. I mean, we were providing a
24 service but, I mean -- yeah, I guess you could characterize
25 it as that.

1 **MR. PAUL:** And would anybody above Ms.
2 Newman be involved in that decision?

3 **MR. COMMEFORD:** Not as far as I know.

4 **MR. PAUL:** Okay. And that decision not to
5 proceed with -- to pursue Stage 2, would you characterize
6 that as being in the interests of the organization?

7 **MR. COMMEFORD:** Yes. Because you have to
8 qualify, as there were other steps we took based on the
9 information that he -- he discovered in Stage 1.

10 **MR. PAUL:** Okay. And part of that decision,
11 your understanding, was based on the fact that it might
12 interfere with an ongoing police investigation?

13 **MR. COMMEFORD:** It was part of the concern.

14 **MR. PAUL:** Okay. And a police investigation
15 in the sense of investigating new people who were coming
16 forward and making allegations against probation officers?

17 **MR. COMMEFORD:** That's part of it.

18 **MR. PAUL:** Okay. And as far as you
19 understand, those new allegations all related to either Mr.
20 Barque or Mr. Seguin?

21 **MR. COMMEFORD:** I had no idea who they
22 related to.

23 **MR. PAUL:** Okay. But your only knowledge is
24 in terms of allegations against probation officers of
25 criminal conduct would be the two individuals who were

1 deceased; correct?

2 **MR. COMMEFORD:** Those are the only two I'm
3 aware of, yes.

4 **MR. PAUL:** Okay. And as of -- in fact, as
5 of 2000, when you're involved, both of these individuals
6 were deceased at that time; correct?

7 **MR. COMMEFORD:** That's correct.

8 **MR. PAUL:** At that time there's really no
9 prospect, in your mind, of a criminal charge or a criminal
10 trial ever occurring with those two probation officers;
11 correct?

12 **MR. COMMEFORD:** Well, since they're dead, I
13 doubt it.

14 **MR. PAUL:** Right, right. So you're looking
15 at a situation where your expectation is is that in terms
16 of probation officers in that office, there's only really
17 issues surrounding the management ability and the way they
18 conducted their work as opposed to criminal conduct at that
19 point, isn't there?

20 **MR. COMMEFORD:** Not necessarily. I mean
21 there was -- during Mr. Downing's review three other people
22 came forward. I don't know who -- who they were alleging
23 or what they were alleging.

24 **MR. PAUL:** All right. But, again, I'd
25 suggest that they came forward against two individuals that

1 were deceased and there was, in fact, no prospect of a
2 criminal charge at that point?

3 **MR. COMMEFORD:** I didn't know that.

4 **MR. PAUL:** And I would suggest, in fact,
5 that there wasn't really any significant chance or prospect
6 in your mind that there would be interference with a
7 criminal investigation at that point?

8 **MR. COMMEFORD:** I don't agree.

9 **MR. PAUL:** Would you not agree that in terms
10 of criminal investigations against staff, that at the same
11 time there's an obligation to conduct a review in terms of
12 how those individuals conduct their jobs and whether there
13 is any risk to people they're responsible for?

14 **MR. COMMEFORD:** Depending upon the
15 circumstances, that could be the case.

16 **MR. PAUL:** All right.

17 So just for an example, if a jail guard were
18 to be charged with some offence in relation to an inmate,
19 certainly you'd have to look at whether that person is
20 suitable to remain in their position. There would be an
21 ongoing requirement to look at that, no matter whether
22 there's a criminal charge or not?

23 **MR. COMMEFORD:** You're going to have to
24 clarify what you -- I'm not -- I understand about when the
25 correctional officer has been charged with something.

1 **MR. PAUL:** Apart from the criminal issues,
2 you have a different issue, in terms of the Ministry, to
3 look at whether that person is safe to be left in charge of
4 inmates; correct?

5 **MR. COMMEFORD:** That's something you'd look
6 at.

7 **MR. PAUL:** Okay.

8 **MR. COMMEFORD:** It doesn't mean that you
9 would take them off the job. You may just remove them from
10 inmate contact.

11 **MR. PAUL:** Now, in the case of probation
12 officers in Cornwall, despite whether or not there was any
13 prospect of criminal charges, is there still not an issue
14 of getting to the bottom of discipline issues that might
15 have warranted further Stage 2 investigation?

16 **MR. COMMEFORD:** I don't understand that
17 question.

18 **MR. PAUL:** I'm suggesting that in terms of
19 the -- Stage 2 would have opened up a further opportunity
20 for Mr. Downing to take further steps; correct?

21 The more extensive investigation, I presume,
22 is Stage 2?

23 **MR. COMMEFORD:** It was a recommendation. I
24 mean, he did take extra steps on direction from Ms. Newman
25 and myself to go in to pursue other information that was

1 raised at Stage 1.

2 MR. PAUL: I mean, did you not specifically
3 make his decision not to proceed with Stage 2?

4 MR. COMMEFORD: Did he not?

5 MR. PAUL: Did you not?
6 You made a decision not to proceed with
7 Stage 2.

8 MR. COMMEFORD: Yeah, but we -- well, yeah,
9 okay, yeah.

10 MR. PAUL: All right.

11 And Stage 2, I presume, it's a second stage
12 that involves more steps than what Mr. Downing had already
13 taken?

14 MR. COMMEFORD: I guess that's logical,
15 yeah.

16 MR. PAUL: Right. So it would have included
17 ---

18 MR. COMMEFORD: It's not necessarily the --
19 I mean, it's a recommendation. I mean, I guess what I'm
20 reacting here to is you think that Stage 2 is because it's
21 recommended, it should be done. I don't necessarily agree.

22 MR. PAUL: Okay. It was, I assume,
23 recommended by him; correct?

24 MR. COMMEFORD: He wrote the report.

25 MR. PAUL: Okay. And he recommended to you

1 that you proceed with Stage 2?

2 **MR. COMMEFORD:** No, I think he outlined the
3 Stage 1 and the Stage 2 and I took it as that being part of
4 the process, but it wasn't necessarily that we would go
5 down that road.

6 **MR. PAUL:** And you made a decision then not
7 to proceed with a more wide -- a wider investigation,
8 giving him powers to go beyond the probation office to
9 people outside the probation office?

10 **MR. COMMEFORD:** No, it's not -- that's not
11 correct. He didn't do Stage 2, but I guess what I'm
12 reacting to is that -- it's because Mr. Downing said it
13 should be done. Well, frankly that's not correct.

14 **THE COMMISSIONER:** No, no. No, no. First
15 of all, we heard from Mr. Downing, and I -- unless I'm -- I
16 don't have my notes here, but I think he suggested that
17 going down Part two would have been a good idea.

18 So now I think all we're trying to find out
19 is -- he obviously recommended in one way, shape or form
20 recommended that. What we want to know is who made the
21 decision not to do that ---

22 **MR. COMMEFORD:** And I ---

23 **THE COMMISSIONER:** --- and why?

24 **MR. COMMEFORD:** And I said a number of times
25 today ---

1 **THE COMMISSIONER:** I know. I know.

2 **MR. COMMEFORD:** --- both myself and Deborah
3 Newman, and as of -- other than to go to Mr. Downing's
4 Stage 2, he recommended other people be interviewed in more
5 depth based on information we received; the issues around
6 Sirrs and the other report, the two people that had come
7 along, Loretta Eley, so a number of people in that area,
8 which in fact was designed to deal with the information on
9 the website, not this other issue.

10 **MR. PAUL:** All right.

11 But I would presume that if it proceeded to
12 a Stage 2 investigation it would have been a more extensive
13 investigation?

14 **MR. COMMEFORD:** I have no idea. You'll have
15 to ask Mr. Downing.

16 **MR. PAUL:** Okay. And your understanding was
17 that at some point it was referred to the Legal Department?

18 **MR. COMMEFORD:** It's not my understanding.
19 That's what happened.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. PAUL:** Those are my questions, Mr.
22 Commissioner.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Lee. How much time do you think you're
25 going to be, Mr. Lee?

1 **MR. LEE:** I'll be brief.

2 **THE COMMISSIONER:** Okay.

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

4 **MR. LEE:** Mr. Commeford, my name is Dallas
5 Lee. I represent the Victims Group at this Inquiry.

6 You've told us about the decision making
7 process that resulted in Mr. Downing being appointed. I
8 don't want to take you back through that.

9 Can you tell me, though, was there any
10 reason that the PSB could not have been assigned to
11 investigate the allegations on the website at that time?
12 Were there any barriers to that investigation had you
13 decided to proceed in that way?

14 **MR. COMMEFORD:** I'm not sure there were any
15 barriers, but certainly we wanted something done fairly
16 quickly and not to interfere with any other operations, and
17 Mr. Downing also had a background in probation and parole
18 and institutions as well. So he seemed to be a person that
19 who would be good to assign.

20 **MR. LEE:** Were there any barriers to the IIU
21 investigating had you decided to go that route?

22 **MR. COMMEFORD:** None that I can think of,
23 except you need a complainant in a particular case with the
24 IIU, and I'm not sure with an anonymous website you'd have
25 a complainant. I mean, who would you go to to find out the

1 facts behind it? Like when the IIU do their investigation
2 they usually have a complainant that they can get a
3 statement from.

4 **MR. LEE:** Do you understand that to be an
5 absolute prerequisite to the IIU ---

6 **MR. COMMEFORD:** No, I just know how it works
7 in operation. I think it would be more difficult with an
8 anonymous website.

9 **MR. LEE:** Did you look into that with the
10 IIU at any point or you didn't consider it?

11 **MR. COMMEFORD:** No, I didn't, because,
12 again, it was an administrative review.

13 **MR. LEE:** As I understand it, the PSB is a
14 part of the OPP; is that correct, or was at that time part
15 of the OPP?

16 **MR. COMMEFORD:** Yes. We also had some
17 people who had correctional experience assigned to that
18 group, but yes.

19 **MR. LEE:** So would the investigators in the
20 PSB answer to somebody at the OPP?

21 **MR. COMMEFORD:** Yes.

22 **MR. LEE:** And what about the IIU, who would
23 they answer to?

24 **MR. COMMEFORD:** The Deputy Minister.

25 **MR. LEE:** The Deputy Minister.

1 And as I understand it, Paul Downing
2 reported directly to you. Is that right?

3 **MR. COMMEFORD:** That's correct.

4 **MR. LEE:** So is it fair to say that you
5 exercise more control over an investigation conducted by
6 Paul Downing than you would have over an investigation
7 conducted by either of those other branches?

8 **MR. COMMEFORD:** I'd have more direct
9 supervision control. I really do react to that word. But
10 certainly I would have more direct supervision of Mr.
11 Downing than I would have of the other groups, yes.

12 **MR. LEE:** Why do you not like the word
13 "control" as it related to Mr. Downing?

14 **MR. COMMEFORD:** Because if you're going to
15 have a good review and investigation you don't control it;
16 you set up the parameters and you find out what's going on.

17 **MR. LEE:** Well, you would have had the
18 authority at any point to instruct Mr. Downing to pursue an
19 avenue or not to pursue an avenue. Isn't that fair?

20 **MR. COMMEFORD:** Yeah, but I wouldn't
21 consider that control.

22 **MR. LEE:** Was one of the primary advantages,
23 as you saw it, to creating the CISU that you could keep
24 matters in-house and have an investigative branch reporting
25 directly to you rather than someone else?

1 **MR. COMMEFORD:** No.

2 **MR. LEE:** It had nothing to do with it?

3 **MR. COMMEFORD:** No.

4 **MR. LEE:** Can you tell us when the Legal
5 Branch was first consulted in relation to the allegations
6 on the website?

7 **MR. COMMEFORD:** I have no idea.

8 **MR. LEE:** Do you have any recollection of
9 when you first discussed any of the matters relating to the
10 website with anybody at the Legal Branch?

11 **MR. COMMEFORD:** No, I can't recall.

12 **MR. LEE:** Do you recall whether that would
13 have been before Mr. Downing was assigned his task?

14 **MR. COMMEFORD:** Oh, no, it would have been
15 after. Actually, it would have been after the report was
16 received.

17 **MR. LEE:** After his October 10th report?

18 **MR. COMMEFORD:** That's correct.

19 **MR. LEE:** Do you have any information about
20 whether Ms. Newman may have contacted the Legal Branch
21 before that?

22 **MR. COMMEFORD:** You'll have to ask her.

23 **MR. LEE:** Did you at any point during your
24 involvement with the Cornwall situation consult with the
25 Legal Branch?

1 **MR. COMMEFORD:** No, I didn't.

2 **MR. LEE:** Did you receive or review legal
3 advice from the Legal Branch at any point, regardless of
4 whether or not you initiated the contact?

5 **MR. COMMEFORD:** I did.

6 **MR. LEE:** Did you discuss that legal advice
7 with Ms. Newman at any point?

8 **MR. COMMEFORD:** Probably.

9 **MR. LEE:** Are you aware that the Ministry is
10 claiming privilege over various matters at this Inquiry ---

11 **MR. COMMEFORD:** I don't know.

12 **MR. LEE:** --- in relation to legal advice it
13 received?

14 **MR. COMMEFORD:** I don't know.

15 **MR. LEE:** Did you at any point prior to
16 coming here today consult with the Ministry about the
17 possibility of waiving that privilege?

18 **MR. COMMEFORD:** No, I've been out of the
19 Ministry for two years and I've had no contact with them.

20 **MR. LEE:** Not even in preparation for this
21 hearing?

22 **MR. COMMEFORD:** Just with our lawyer.

23 **MR. LEE:** Would you agree with me that but
24 for the privilege claims being asserted by the Ministry,
25 you would have some additional information to provide this

1 Commission?

2 **MR. COMMEFORD:** No.

3 **MR. LEE:** Decisions were made during the
4 course of your involvement in Cornwall on the basis of
5 opinions received from Legal, weren't they?

6 **MR. COMMEFORD:** Not my decisions.

7 **MR. LEE:** The advice of the Legal
8 Department, as you understood it, did not in any way inform
9 any of your actions in your time in Cornwall?

10 **MR. COMMEFORD:** Not in my actions.

11 **MR. LEE:** Just a moment, please.

12 **THE COMMISSIONER:** Sure.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. LEE:** Thank you. Those are my
15 questions.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Chisholm.

18 **MR. CHISHOLM:** Good afternoon, sir.

19 Mr. Commeford, my name is Peter Chisholm,
20 counsel for the local CAS. I have no questions for you.
21 Thank you.

22 **THE COMMISSIONER:** Thank you.

23 Mr. Sharbach.

24 **MR. SHARBACH:** Good afternoon, Mr.
25 Commissioner.

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

2 **MR. SHARBACH:** Mr. Commeford, I'm counsel
3 for the Ministry of the Attorney General. We have no
4 questions for you. Thank you.

5 **THE COMMISSIONER:** Mr. Crane.

6 **MR. CRANE:** Mr. Commeford, my name is Mark
7 Crane. I'm a lawyer representing the Cornwall Police
8 Service. I don't have any questions for you.

9 Thank you.

10 **THE COMMISSIONER:** Ms. Lahaie.

11 **MS. LAHAIE:** Mr. Commeford, my name is Diane
12 Lahaie and I'm one of the lawyers representing the Ontario
13 Provincial Police at this Inquiry and I have no questions
14 for you, sir.

15 Thank you.

16 **THE COMMISSIONER:** All right.

17 Mr. Neuberger. Oh, I'm sorry, Mr. Wallace.
18 Yes.

19 **MR. WALLACE:** Good afternoon, sir. My name
20 is Mark Wallace and I'm counsel for the Ontario Provincial
21 Police Association. I have no questions for you.

22 Thank you.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Neuberger.

25 **MR. NEUBERGER:** Six minutes.

1 **THE COMMISSIONER:** Six minutes.

2 **MR. NEUBERGER:** Well, Mr. Ruel can attest to
3 my ability on my timing. I'm actually pretty good.

4 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
5 **NEUBERGER:**

6 **MR. NEUBERGER:** Mr. Commeford, you know who
7 I am.

8 **MR. COMMEFORD:** I do.

9 **MR. NEUBERGER:** Just briefly, I just want to
10 review.

11 Your particular role was rather defined, is
12 that correct, when you were assigned to have Mr. Downing
13 case manage and to do the administrative review?

14 **MR. COMMEFORD:** That's correct.

15 **MR. NEUBERGER:** Okay. And as far as the
16 ultimate decision-making process for discipline and other
17 matters beyond the review itself, that was not your
18 decision and really was not something you were consulted
19 on?

20 **MR. COMMEFORD:** That's correct.

21 **MR. NEUBERGER:** Okay. As far as your role,
22 however, and when you look at the first email that was sent
23 out to Paul Downing, when we talk about the interests of
24 the organization, when you look at the interests of the
25 organization, you see that in a broad context as including

1 the Ministry employees and their clients?

2 MR. COMMEFORD: That's correct.

3 MR. NEUBERGER: All right. And what I get
4 from your evidence is that you had more of an immediate
5 view -- are there probation officers or other probation
6 staff that are under suspicion of committing inappropriate
7 acts with clients?

8 MR. COMMEFORD: That's correct.

9 MR. NEUBERGER: All right. And what you, I
10 think, understood from the task at hand was to try and
11 obtain as much information from the website at first to
12 determine what the information is, what the allegations are
13 and who's being pointed out as having committed certain
14 acts or known certain things?

15 MR. COMMEFORD: That's correct.

16 MR. NEUBERGER: All right. And then when he
17 produced -- when Mr. Downing produced the report of October
18 10th, 2000, you looked at it and the Stage 1, Stage 2 were
19 recommendations, but you certainly saw areas of concern;
20 correct?

21 MR. COMMEFORD: That's correct.

22 MR. NEUBERGER: All right.

23 And you've reviewed them at length, and I'm
24 just doing this for my own sort of benefit, if I can
25 cluster them in three areas, it looked like you identified

1 at least three areas of concern regarding complaints.

2 One of them would have been back in 1993,
3 where we've heard of Mr. Silmsler making the complaint, and
4 that was an area of concern both for you and the senior
5 management who were looking at this?

6 **MR. COMMEFORD:** That's correct.

7 **MR. NEUBERGER:** All right. And what we're
8 talking about is what happened in December of 1993 when Mr.
9 Silmsler made a complaint; correct?

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

11 **MR. NEUBERGER:** So you saw it as something
12 from the Ministry's interest and from its clients' interest
13 to speak with Bill Roy and interview him?

14 **MR. COMMEFORD:** That's correct, because he
15 was the one that got the call initially.

16 **MR. NEUBERGER:** And what steps he then did
17 with that information, speak with Loretta Eley from the
18 former Deputy Minister's Office ---

19 **MR. COMMEFORD:** Yes.

20 **MR. NEUBERGER:** --- at that time, and then
21 speak with Lenna Bradburn who was, in 1993, the head of the
22 IIU?

23 **MR. COMMEFORD:** That's correct.

24 **MR. NEUBERGER:** There was other issues about
25 the mandate, for example, of the IIU at that time. So the

1 head of IIU, Renate Zokarov(sic) was spoken to as well?

2 MR. COMMEFORD: Kozarov.

3 MR. NEUBERGER: Kosarov, sorry.

4 And, for example, there are other issues
5 about knowledge. Mr. Jos van Diepen's name came up; what
6 knowledge did he have? And so he was interviewed?

7 MR. COMMEFORD: That's correct.

8 MR. NEUBERGER: Emile Robert was
9 interviewed?

10 MR. COMMEFORD: That's correct.

11 MR. NEUBERGER: Gilbert Tayles was
12 interviewed?

13 MR. COMMEFORD: That's correct.

14 MR. NEUBERGER: All right. And when we --
15 there's another area identified, for example, which was in
16 1982 which you've spoken about, about Nelson Barque and
17 some troubling information you received in regard to that
18 letter which, for your concern, what it didn't say about
19 Mr. Barque's departure from Probation Services. And so
20 that was looked at at some closer level. Is that correct?

21 MR. COMMEFORD: It was.

22 MR. NEUBERGER: All right. And I take it
23 once that report was done -- and we know there was -- at
24 least you were made aware that the report itself went to
25 Legal Services Branch, and just to assist, that's the Legal

1 Services Branch for the Ministry of Community Safety and
2 Correctional Services?

3 MR. COMMEFORD: That's correct.

4 MR. NEUBERGER: Okay. After that though,
5 you continued to be involved right up until September of
6 2001?

7 MR. COMMEFORD: That's right.

8 MR. NEUBERGER: All right. And we see
9 through the notes of Paul Downing that there was
10 intermittent briefings maybe once a month or something --
11 not on a regular basis, but as frequent as probably once a
12 month or a little bit more than that, where you were
13 involved in conference calls about the progress of the
14 investigation?

15 MR. COMMEFORD: Yes, I'd be there.

16 MR. NEUBERGER: All right. And the way you
17 look at it is this was a -- this is not a police
18 investigation. This is an administrative review, but it's
19 a -- in your mind there's a clear difference between what
20 police do to investigate and take statements and what Mr.
21 Downing was doing in his capacity?

22 MR. COMMEFORD: Totally different.

23 MR. NEUBERGER: All right. Because one area
24 I lead to and I just want to ask about is, one of the
25 criticisms that's been levelled is if the two main

1 perpetrators -- we knew at the end of this review that the
2 only two names coming out from Probation Services as who
3 were involved in these acts, these assaults, sexual
4 assaults, were Nelson Barque and Ken Seguin. Those were
5 the names that came out?

6 **MR. COMMEFORD:** That's right.

7 **MR. NEUBERGER:** Jos van Diepen was an
8 individual who might have known more and didn't act upon
9 it, but not had committed any of these acts; correct?

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

11 **MR. NEUBERGER:** So they were dead and one of
12 the criticisms is if they're dead, they can't be tried --
13 charged and tried.

14 But you weren't aware of what other
15 information was out there about other perpetrators or other
16 investigations? That was not something you were privy to?

17 **MR. COMMEFORD:** Not at all.

18 **MR. NEUBERGER:** Were you aware of the
19 Project Truth investigation?

20 **MR. COMMEFORD:** I was aware of Project
21 Truth, yes.

22 **MR. NEUBERGER:** Okay. And Paul Downing was
23 asked to liaise with, or at least speak with Pat Hall of
24 the OPP?

25 **MR. COMMEFORD:** He was.

1 **MR. NEUBERGER:** And he was asked also to
2 speak with Shelley Hallett of the Crown Attorney's Office?

3 **MR. COMMEFORD:** Yes, he was.

4 **MR. NEUBERGER:** All right. And the purpose
5 of that, I understood, was at least to develop some lines
6 of communication?

7 **MR. COMMEFORD:** It was to find out if they
8 could share anything -- any information with us, yes.

9 **MR. NEUBERGER:** And what knowledge you had
10 locally in Cornwall was that current clients were being
11 asked questions as to whether they had Nelson Barque or Ken
12 Seguin as a previous probation officer?

13 **MR. COMMEFORD:** That was part of the
14 protocols that were being used at the office, as I
15 understood it.

16 **MR. NEUBERGER:** And that they were being
17 asked if anything happened?

18 **MR. COMMEFORD:** That's what I understood.

19 **MR. NEUBERGER:** And if there was some
20 disclosure, the line was very clear that this was to be
21 reported to the police?

22 **MR. COMMEFORD:** The police and then try to
23 provide some follow-up and support.

24 **MR. NEUBERGER:** Right. Okay.

25 So in that respect, I take it the Ministry

1 wasn't trying to hide information. They were hoping to
2 forward this on to the police for them to conduct whatever
3 investigation they'd conduct, which is not in your power, I
4 take it?

5 **MR. COMMEFORD:** No, it's not in our power to
6 lay criminal charges, clearly, and there's no -- I mean,
7 certainly I never saw any idea of any kind of cover-up.

8 **MR. NEUBERGER:** Okay. What I'm asking about
9 is you don't -- would you have had -- if you were learning
10 that two or three or four current clients are coming out
11 with allegations, you don't know where their statements may
12 take the police?

13 **MR. COMMEFORD:** No, absolutely not.

14 **MR. NEUBERGER:** And do any of the
15 investigations at the time, in 2002 and 2001, and even
16 2002, when you were instrumental in implementing the CISU,
17 are these people who are specialized in taking statements
18 from complainants on historical sexual assaults?

19 **MR. COMMEFORD:** Absolutely not.

20 **MR. NEUBERGER:** Would you ever want to see a
21 recommendation one day that, God forbid, if something like
22 this were to repeat itself in Corrections or, for example,
23 a similar public institution, that internally in
24 Corrections they are to be taking those types of
25 statements?

1 **MR. COMMEFORD:** No, I would not like to see
2 it unless there was some significant training in what's
3 required to take to pursue those types of investigations,
4 which are very complex and complicated.

5 **MR. NEUBERGER:** Okay. Because I take it
6 what may come of this later on is a better liaising or a
7 better protocol maybe with the police, but from your
8 perspective, those who are trained and -- or experts in
9 those types of investigations, taking those types of
10 statements, are the police?

11 **MR. COMMEFORD:** Certainly are.

12 **MR. NEUBERGER:** Just your indulgence for a
13 moment, Mr. Commissioner.

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

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **MR. NEUBERGER:** As Mr. Downing was assigned
17 to do this administrative review, did you at any time wish
18 to control his investigation to the point of not allowing
19 the public to know what was going on or not have the full
20 facts come out? Was that ever your intent?

21 **MR. COMMEFORD:** Absolutely not.

22 **MR. NEUBERGER:** Okay. And to your
23 knowledge, in your communications with Deborah Newman, was
24 that ever communicated to you by Deborah Newman?

25 **MR. COMMEFORD:** Absolutely not.

1 **MR. NEUBERGER:** Thank you very much, Mr.
2 Commeford.

3 Thank you, Mr. Commissioner.

4 **THE COMMISSIONER:** Thank you.

5 Maître Ruel, do you have any further
6 questions.

7 **MR. RUEL:** I have no further questions.

8 **THE COMMISSIONER:** Thank you.

9 **MR. RUEL:** Thank you, Mr. Commeford.

10 **THE COMMISSIONER:** Thank you very much for
11 coming, sir.

12 We'll adjourn for the day and come back at
13 9:30.

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

16 This hearing is adjourned until tomorrow
17 morning at 9:30 a.m.

18 --- Upon adjourning at 5:12 p.m./

19 L'audience est ajournée à 17h12

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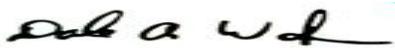
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C E R T I F I C A T I O N

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

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



Dale Waterman, CVR-CM