

**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 188

Held at :

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

Wednesday, January 23 2008

Tenue à:

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

Mercredi, le 23 janvier 2008

Appearances/Comparutions

Ms. Julie Gauthier	Registrar
M ^e Simon Ruel	Commission Counsel
Mr. Ian Stauffer	
Ms. Deirdre Harrington	
Mr. Mark Crane	Cornwall Police Service Board
Mr. Peter Manderville	
Ms. Reena Lalji	
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Suzanne Costom	
Ms. Diane Lahaie	
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Leslie McIntosh	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Ian Paul	

ERRATA

June 25, 2007

Volume 119

Transcript, page 31, line 18

MR. BENNETT: -- that precludes taking C-8's material and putting it to other witnesses. Particularly the next witness that we're going to hear.

Should have read:

MR. MANSON: -- that precludes taking C-8's material and putting it to other witnesses. Particularly the next witness that we're going to hear.

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1 --- Upon commencing at 9:48 a.m./

2 L'audience débute à 9h48

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

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

8 Please be seated. Veuillez vous asseoir.

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

11 I apologize for the delay, we have had
12 certain matters to relay to Corrections in a sense that I
13 did review the overview, factual overview, that is I-1179
14 and in my review, I found certain matters that should not
15 be in the document or should be changed.

16 So for the time being, I think what we
17 should do is make this any interim confidential document
18 until those matters are cleared up.

19 With respect to the objection to the filing
20 of the document, I will leave out a short period of time to
21 review that again. Given the fact that the Court of Appeal
22 decision is hot off the press, so to speak, and that I have
23 not been -- haven't had enough time to consult with the
24 lawyers to decide what, if anything, we would do with
25 respect to that matter.

1 In any event, I am cognizant of the fact
2 that we should move on. So what I'm going to do, and given
3 the fact that this witness is fairly local ---

4 **MS. LARIVIÈRE:** Yes, I am.

5 **THE COMMISSIONER:** All right, that we will
6 continue with her examination in-chief up to the point
7 where we would deal with this factual overview. And then
8 we'll stop and we'll go to another witness and I'm hopeful
9 that in the next day or two that this matter can be ruled
10 upon.

11 **SUZANNE LARIVIÈRE:** Resumed/Sous le même serment

12 --- EXAMINATION IN CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.

13 **STAUFFER (Continued/suite):**

14 **MR. STAUFFER:** Thank you very much, Mr.
15 Commissioner.

16 So good morning again, Madame, let us ---

17 **MS. LARIVIÈRE:** Good morning.

18 **MR. STAUFFER:** --- let us continue with
19 respect to your evidence.

20 I just wanted to review clearly now as to
21 the steps taken by the Ministry. So I understand is you
22 had your first complaint, if you will, from a probationer
23 in 1999?

24 **MS. LARIVIÈRE:** That's correct.

25 **MR. STAUFFER:** Is that correct?

1 And before that date, from 1993 to 1999
2 let's say, was there anyone in the office who was receiving
3 complaints, formally or informally, from a re-offender, if
4 I can put it that way, concerning any inappropriate
5 behaviour on the part of a probation officer?

6 **MS. LARIVIÈRE:** There were two complaints
7 about Nelson Barque in earlier dates and after that there
8 was one complaint to another probation officer prior to
9 mine in 1999.

10 **MR. STAUFFER:** Right. Now, you know about
11 the Nelson Barque matter through hearsay, if I can put it
12 that way ---

13 **MS. LARIVIÈRE:** That's correct.

14 **MR. STAUFFER:** --- this is well before your
15 time.

16 **MS. LARIVIÈRE:** Yes.

17 **MR. STAUFFER:** But the -- in terms of more
18 recent -- a timeframe between '93 and '99, you weren't
19 aware of any of your fellow probation officers receiving
20 complaints from re-offenders about inappropriate behaviour
21 on the part of probation officers? Do you follow my
22 question?

23 **MS. LARIVIÈRE:** I believe there was one.

24 **MR. STAUFFER:** All right. And who was that
25 then -- which probation officer in your office?

1 **MS. LARIVIÈRE:** Just give me a moment.

2 **MR. STAUFFER:** Yes, take your time.

3 **MS. LARIVIÈRE:** I don't have the overview
4 here, but I believe it was in 1997.

5 **MR. STAUFFER:** You should have the overview.
6 Madam Clerk, if you could take that over to the witness?

7 **MS. LARIVIÈRE:** Thank you. It was on
8 February 28th, 1997 and it was Probation Officer Don
9 Billard.

10 **MR. STAUFFER:** Yes. And this would have
11 been an allegation against which probation officer?

12 **MR. NEVILLE:** Mr. Commissioner, I understand
13 you had a chance to look at it and before the witness
14 answers the question, if you have the document there ---

15 **THE COMMISSIONER:** Yes.

16 **MR. NEVILLE:** --- I believe what the witness
17 is being asked about would be -- I believe it's number 3,
18 sorry it's in front of me, thank you. It's number -- using
19 Corrections numbering sir, it's number 3 and it's our
20 witness C-8.

21 **THE COMMISSIONER:** Yes.

22 **MR. NEVILLE:** And if I could ask you just to
23 take a moment. Actually, all you need to look at for
24 purposes of my intervention is the first paragraph.

25 **THE COMMISSIONER:** Yes, that's exactly ---

1 **MR. NEVILLE:** Right.

2 **THE COMMISSIONER:** --- what one of the --
3 just a second now.

4 **MR. NEVILLE:** And if you read that, sir,
5 you'll see, and I understand it to be the case, that there
6 was no probationer/probation officer relationship at all in
7 the instance of C-8 and my client. This is a personal
8 matter. As you know, there was evidence of living in the
9 same neighbourhood and the like and it's ---

10 **THE COMMISSIONER:** Right.

11 **MR. NEVILLE:** --- what might be called, in
12 his mind, unpleasant comments and the like, but has nothing
13 to do with that relationship with trust or authority.

14 **THE COMMISSIONER:** All right. Well that's
15 one. I had another ---

16 **MR. NEVILLE:** Yes.

17 **THE COMMISSIONER:** --- problem ---

18 **MR. NEVILLE:** Yes.

19 **THE COMMISSIONER:** --- or concern. Okay.

20 **MR. NEVILLE:** So I prefer if you rejected
21 this body of evidence. Thank you.

22 **THE COMMISSIONER:** Well, just a second Mr.
23 Neville.

24 Would your concern not be addressed if it's
25 made very clear on the record that it's a -- what are we

1 calling this? A declaration or a disclosure to a probation
2 officer ---

3 **MR. NEVILLE:** Right.

4 **THE COMMISSIONER:** Right? About an alleged
5 impropriety that is attributed to a probation officer but
6 not while he was under supervision by that probation
7 officer. Wouldn't that take care of it?

8 **MR. NEVILLE:** Well, in my respectful
9 submission, sir, it would again be outside the mandate.
10 Again, they consider this issue about about a person in
11 trust person in trust or in authority ---

12 **THE COMMISSIONER:** All right.

13 **MR. NEVILLE:** --- at the time of the events.

14 **THE COMMISSIONER:** All right. Well ---

15 **MR. NEVILLE:** And we're looking into the
16 historical -- allegations of historical child abuse.

17 **THE COMMISSIONER:** Well, all right.

18 **MR. NEVILLE:** And C-8, at the time, was none
19 of that. It may be unpleasant but it's irrelevant.

20 **THE COMMISSIONER:** Well ---

21 **MR. NEVILLE:** There's no question that a
22 disclosure of something was made to a probation officer
23 about someone else who was a probation officer, but that's
24 just a happenstance; it's not relevant to what you're
25 inquiring into.

1 **THE COMMISSIONER:** Well, then, I think we
2 should stop. I'm going to ---

3 **MR. NEVILLE:** Right. Okay.

4 **MR. STAUFFER:** Mr. Commissioner, when you
5 say stop ---

6 **THE COMMISSIONER:** Let's just stop the whole
7 thing and we'll deal with it when I do my ruling ---

8 **MR. STAUFFER:** All right.

9 **THE COMMISSIONER:** -- give my ruling because
10 it goes to the heart of the Court of Appeal decision which
11 ---

12 **MR. STAUFFER:** No, I -- I appreciate that --
13 -

14 **THE COMMISSIONER:** --- I'm not in a position
15 to nor do I want to deal with it at this time.

16 **MR. STAUFFER:** All right.

17 So, Mr. Commissioner, I'm in your hands. I
18 have a few more questions with respect to other matters
19 than the factual overview. Should I put those to Mrs. ---

20 **THE COMMISSIONER:** Yes.

21 **MR. STAUFFER:** --- Larivière now or should -
22 - would it be your wish to simply adjourn?

23 **THE COMMISSIONER:** No, no, we can deal with
24 those matters.

25 Madame Larivière, I hope you understand that

1 this is not a reflection on you or the work that you have
2 done. There are some legal questions about what I should
3 or should not hear and so it's certainly isn't a reflection
4 on you. I hope you don't take this personally.

5 **MS. LARIVIÈRE:** I understand.

6 **THE COMMISSIONER:** All right. Thank you.

7 **MR. STAUFFER:** All right.

8 So, Madame, I'm going to turn to a
9 completely different topic for a moment and that would be
10 any involvement you had with Perry Dunlop. Did you know
11 Mr. Dunlop?

12 **MS. LARIVIÈRE:** Yes, I did.

13 **MR. STAUFFER:** All right. And can you
14 describe to the Commissioner what involvement you had with
15 him?

16 **MS. LARIVIÈRE:** He was a Cornwall Police
17 Officer so I would have dealt with him with my clients ---

18 **MR. STAUFFER:** All right.

19 **MS. LARIVIÈRE:** --- if he was the
20 investigating officer, for example, as a collateral
21 contact, those kinds of things. And I also dealt with him
22 at a trial for one of the alleged perpetrators.

23 **MR. STAUFFER:** I don't think there's any
24 problem in mentioning that name, which trial was this at,
25 or ---

1 **MS. LARIVIÈRE:** It was at the Marcel Lalonde
2 trial, who was a teacher at the time.

3 **MR. STAUFFER:** Now, with respect to Mr.
4 Dunlop, did he involve you in any discussions at all as to
5 what he was doing personally to investigate allegations of
6 sexual abuse?

7 **MS. LARIVIÈRE:** He was there for the victim.
8 There were more than -- there was a victim that I -- that
9 disclosed to me, at the Cornwall jail and there was also --
10 there were also other victims of the same perpetrator. And
11 so, he would have been there for the victims at the time.

12 **MR. STAUFFER:** But in terms of any other
13 cases, did you talk to him about those, either during the
14 Lalonde matter or at other times?

15 **MS. LARIVIÈRE:** We never talked about it at
16 other times, only at that trial.

17 **MR. STAUFFER:** Were you aware -- well, let
18 me put it this way; when did you become aware that Mr.
19 Dunlop might be doing investigations other than the Lalonde
20 matter?

21 **MS. LARIVIÈRE:** I think with the media,
22 pretty much.

23 **MR. STAUFFER:** Okay. Did you talk to him
24 about that as time went by before he left in 2000?

25 **MS. LARIVIÈRE:** Only that day.

1 **MR. STAUFFER:** All right. With respect to
2 this website that Mr. van Diepen has talked about -- again,
3 I appreciate you weren't at his -- or you did not hear his
4 testimony before the Inquiry. Could you tell us any
5 involvement if any you had with respect to the website that
6 Mr. van Diepen complained about?

7 **MS. LARIVIÈRE:** I was in the office when the
8 website situation was going on. One of my co-workers,
9 Viviane Quenneville, was upset because the website appeared
10 on her computer when she-- you have to go in with a
11 password -- I'm not very savvy with computers but I can
12 explain this much anyway.

13 Anyway, when she went into the computer,
14 there's a place where you can find out where the last place
15 you had gone to in your computer, whether it was for case
16 notes or whatever, and the website came up. And she had
17 not personally done it herself. And so it was an upsetting
18 kind of thing, you know, she didn't know who had gone into
19 her computer and that kind of thing.

20 **MR. STAUFFER:** Okay. Was your name
21 mentioned at all in this website?

22 **MS. LARIVIÈRE:** No, it was not.

23 **MR. STAUFFER:** Did Mr. van Diepen talk to
24 you at any time about his concerns as to his name being on
25 the website?

1 **MS. LARIVIÈRE:** Yes, he did. He was pretty
2 distraught over it.

3 **MR. STAUFFER:** Okay. What steps if any were
4 taken in the office to follow up on the website?

5 **MS. LARIVIÈRE:** I think it didn't stay up
6 very long and so I don't know that there were any steps
7 taken. It was down before, you know, anybody really did
8 anything about it.

9 **MR. STAUFFER:** Okay. Now this is a
10 difficult question but if you could answer it, it would be
11 helpful. I assume it became knowledge within the office,
12 the Cornwall office that Mr. van Diepen's name was on this
13 website ---

14 **MS. LARIVIÈRE:** Yes.

15 **MR. STAUFFER:** -- as a potential abuser.

16 **MS. LARIVIÈRE:** Yes.

17 **MR. STAUFFER:** And what if anything was the
18 fallout in the office after that was -- Madam, tell me what
19 you understand as to where Mr. van Diepen's name appeared.

20 **MS. LARIVIÈRE:** I personally didn't see the
21 website, but it is my understanding that it was about him
22 being present at parties and things like that and so he
23 should have known or ought to have known that Ken Séguin
24 was involved in this kind of behaviour.

25 **MR. STAUFFER:** Right. What fallout if any

1 came about once that type of information was being
2 circulated around the office? What effect was there, if
3 any?

4 **MS. LARIVIÈRE:** Well, Mr. van Diepen was
5 definitely affected by it, and he felt that he was probably
6 in a vulnerable position because of it and I think the
7 whole office was anyway, but certainly he felt singled out
8 because of that website and so he was given another
9 position where he did not have to supervise probationers
10 and he worked on the Integrated Justice I believe at that
11 time, so ---

12 **MR. STAUFFER:** So, he was on ---

13 **MS. LARIVIÈRE:** On another project, so he
14 didn't actually supervise offenders, in light of what was
15 going on with the website, from what I understood.

16 **MR. STAUFFER:** All right. I just have a
17 couple of more questions, Mr. Commissioner, at this point.
18 In terms of detecting inappropriate behavior on the part of
19 a probation officer, how can a manager, from your
20 experience now because I guess you've been in the
21 profession for about 17 years or so ---

22 **MS. LARIVIÈRE:** That's right.

23 **MR. STAUFFER:** How can a manager or a co-
24 worker determine if someone is doing something
25 inappropriate? I know that's a very general question but

1 what, if anything, does the manager have as a tool or a co-
2 worker have to detect inappropriate behaviour?

3 **MS. LARIVIÈRE:** On the part of a probation
4 officer?

5 **MR. STAUFFER:** Yes.

6 **MS. LARIVIÈRE:** I think that generally
7 speaking probationers were always given the chance to, if
8 they had a complaint to make, you know, people would go to
9 the area manager if they didn't get along with the
10 probation officer for example or they had some conflict
11 with the probation officer, or they wanted a female
12 probation officer for example, there was some kind of issue
13 for them. Then, you know, provided that the needs of the
14 office were met, then they could change probation officers,
15 or they could have a female probation officer for example.

16 **MR. STAUFFER:** So, there is this
17 opportunity, if a probation officer said "I just don't want
18 that person," at least that request would be reviewed by
19 the office manager.

20 **MS. LARIVIÈRE:** Yes.

21 **MR. STAUFFER:** Not necessarily there'd be a
22 change but---

23 **MS. LARIVIÈRE:** They would review it.

24 **MR. STAUFFER:** There'd be a review.

25 **MS. LARIVIÈRE:** Yes.

1 **MR. STAUFFER:** What obligation if any is
2 there on a probation officer to report observed or
3 suspected inappropriate behavior on the part of a fellow
4 probation officer?

5 **MS. LARIVIÈRE:** I think there's a duty to
6 report it.

7 **MR. STAUFFER:** And to whom would that report
8 be made?

9 **MS. LARIVIÈRE:** To the area manager.

10 **MR. STAUFFER:** To the?

11 **MS. LARIVIÈRE:** Area manager.

12 **MR. STAUFFER:** Area manager. So are you
13 saying the office manager or someone -- just so ---

14 **MS. LARIVIÈRE:** It's one and the same.

15 **MR. STAUFFER:** --- we're talking terms?

16 **MS. LARIVIÈRE:** It's one and the same;
17 manager ---

18 **MR. STAUFFER:** The person who's in charge of
19 the Cornwall office for example.

20 **MS. LARIVIÈRE:** Yes.

21 **MR. STAUFFER:** I'm just using that as a
22 hypothetical situation, so the Cornwall office, that -- the
23 area manager would be the person.

24 **MS. LARIVIÈRE:** Yes.

25 **MR. STAUFFER:** All right. Does that area

1 manager have a responsibility to relay that complaint to a
2 higher authority?

3 **MS. LARIVIÈRE:** Yes ---

4 **MR. STAUFFER:** Or does it stay with the area
5 manager?

6 **MS. LARIVIÈRE:** It should go up the ranks,
7 for sure.

8 **MR. STAUFFER:** Okay. In terms of your own
9 experience, have you had -- and I don't want any names
10 right now, or any details, but have you had any occasion to
11 report a fellow probation officer for inappropriate
12 behaviour?

13 **MS. LARIVIÈRE:** No, I don't.

14 **MR. STAUFFER:** Okay.

15 Mr. Commissioner, those are my questions for
16 the moment, subject to your ruling.

17 **THE COMMISSIONER:** Right. Thank you.

18 **MR. STAUFFER:** Thank you, Sir.

19 **THE COMMISSIONER:** Now, before we go any
20 further, though, I think we have to revisit the objection
21 because yesterday, the objection was from Mr. Sherriff-
22 Scott for items from page 75, I think, to 175. And so this
23 in essence is a new objection and I like to hear from Mr.
24 Neville to formalize his objection here from the parties as
25 to what they think, and it will create the necessity for a

1 ruling on this specific matter.

2 Mr. Neville?

3 So, I'm sorry, Madam, you can leave now.

4 **MS. LARIVIÈRE:** Thank you.

5 **THE COMMISSIONER:** Thank you.

6 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEVILLE

7 **MR. NEVILLE:** In relation specifically, Mr.
8 Commissioner to Moniker No. 3 or the witness C-8, my
9 objection is essentially one of relevance.

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

11 **MR. NEVILLE:** The factual summary that we
12 have been provided -- I'm assuming for the moment that's
13 even an appropriate type of evidence for you to hear but
14 let me come back to that in a moment -- takes it outside
15 the mandate, at least as recently defined by the Court of
16 Appeal.

17 As I understand it, this individual at the
18 time of the alleged events was being interviewed for a
19 presentence report, you heard evidence, sir, that he
20 pleaded guilty to a sexual offence in relation to a
21 relative. In fact, his counsel is a witness here as well.
22 And my understanding is that in the course of his
23 presentence report interview with a Mr. Billard, he makes
24 these comments about my client.

25 My understanding of the evidence, and you've

1 heard much of it, is that this individual was a housemate
2 of Mr. Leroux living in the Summerstown area a door or two
3 away, I gather, as a close neighbour of my client; was
4 frequently there; described by many other witnesses as
5 friends and clearly was an adult.

6 The allegation against him was a -- was a --
7 against him was a current one involving a teenage niece.
8 He was well into his -- his adult years and the conduct
9 alleged is comments directed towards him about his
10 appearance by my client. They were never in a professional
11 relationship of probationer/probation officer so there is
12 no position of trust or authority in play.

13 So for all those grounds, in my submission,
14 it is irrelevant.

15 I do have concerns, sir, about the use of
16 these summaries simply because ---

17 **THE COMMISSIONER:** Wait -- wait a minute,
18 you didn't object to that ---

19 **MR. NEVILLE:** --- but I'm not ---

20 **THE COMMISSIONER:** --- yesterday.

21 **MR. NEVILLE:** Well, no, I didn't because the
22 objection was much more fundamental. My -- my main
23 objection is this ---

24 **THE COMMISSIONER:** Just -- just a second ---

25 **MR. NEVILLE:** No, I understand. I'm not

1 going to pursue that at the moment, sir, just leave --
2 leave you with my comments on this one. The others will
3 necessitate cross-examination, but we can get there when we
4 get there.

5 **THE COMMISSIONER:** So let me get this
6 straight, Mr. Neville.

7 **MR. NEVILLE:** Yes.

8 **THE COMMISSIONER:** The objection yesterday
9 was from page 75 ---

10 **MR. NEVILLE:** Right.

11 **THE COMMISSIONER:** --- to 175 plus the
12 diagrams.

13 **MR. NEVILLE:** Right.

14 **THE COMMISSIONER:** All right.

15 **MR. NEVILLE:** Right.

16 **THE COMMISSIONER:** Do you have any other
17 objections on any other thing of this document? Might as
18 well get it all out now.

19 **MR. NEVILLE:** I would, sure.

20 **THE COMMISSIONER:** All right.

21 **MR. NEVILLE:** I ask you to consider, Mr.
22 Commissioner, whether there is a necessity of having the
23 kind of summaries that are there for each of the numbered
24 persons as opposed to the overview of the policy approach.
25 You heard about that from Mr. Gendron.

1 Now the problem here I suppose, sir, is
2 this. We've already had a little bit of that evidence on
3 an individual basis from Mr. Gendron and you will recall I
4 did some cross-examination about a probationer who made a
5 disclosure in the context of a breach interview. I don't
6 know if you recall that testimony, but that person and that
7 event appears in the document, so we've already in a sense
8 done it, but at the time of some of those questionings,
9 this document wasn't available.

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

11 **MR. NEVILLE:** It's now available and I
12 simply query or ask you to consider whether that portion of
13 it is necessary to accomplish what is wanted to be put
14 forward by this institution.

15 Now, that's not really an argument of a pure
16 relevance nature vis-à-vis Mr. Sherriff's motion based on
17 the OIC judgment, that's a different matter, asking you to
18 consider whether -- or what it's intended to accomplish, we
19 need that.

20 And I can tell you, sir, that within many of
21 these ---

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

23 **MR. NEVILLE:** --- as there was in the case
24 of the individual with Mr. Gendron who on the document you
25 have is number 11, I believe, there are many problematic

1 areas some of which, in fairness, are in the -- the
2 narrative. Not all, some are, and as a result, and you
3 wouldn't know this of course, but I served a notice of --
4 of potential documents for cross-examination which is quite
5 extensive because some of the documents are not necessarily
6 in the summary.

7 So I simply query and ask you to consider
8 whether for what it's intended to accomplish, all of that
9 detail is necessary. I think what they wanted you to hear
10 and the public to hear was, here's the protocol that was
11 established, I think it's relevant on a limited basis what
12 the numbers were and what policies were in place for
13 referrals to agencies and the like, but specific details
14 such as are contained here -- which would become in effect
15 a public document -- may not be necessary for purposes of
16 what you have to examine. But that's more a practical
17 objection as to whether it's necessary to do this.

18 **THE COMMISSIONER:** So and ---

19 **MR. NEVILLE:** Not a classic legal objection
20 based on relevance.

21 **THE COMMISSIONER:** Right, but -- so you're
22 saying there's some prejudice to your client?

23 **MR. NEVILLE:** Well, yes.

24 **THE COMMISSIONER:** Is that the argument?

25 **MR. NEVILLE:** Yes. Yes.

1 **THE COMMISSIONER:** Well, put it on.

2 **MR. NEVILLE:** I'll put it on that basis,
3 sir. That is, perhaps, a more classic basis. It's more
4 prejudicial and probative for what it's being tendered for.

5 **THE COMMISSIONER:** Well, it's not being
6 tendered for the proof of its content.

7 **MR. NEVILLE:** No, it's -- it's not except
8 that it's his -- it's his -- his name some 20 times.

9 **THE COMMISSIONER:** Right.

10 **MR. NEVILLE:** With clearly I can assure you,
11 sir, problematic areas within the evidence which I, of
12 course, can elicit in cross-examination. I don't know
13 whether the cost benefit is worth it ---

14 **THE COMMISSIONER:** Well ---

15 **MR. NEVILLE:** --- given what the purpose is,
16 to show the response generally. And the fact that you'll
17 get the statistics or x number named him, x number named
18 Barque and the like; that's a statistical analysis and I
19 think that's acceptable. I wouldn't go into that ---

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

21 **MR. NEVILLE:** --- but the other, I frankly
22 wonder what purpose it serves as a practical cost benefit
23 basis.

24 **THE COMMISSIONER:** Okay. Is that
25 everything?

1 **MR. NEVILLE:** That's it.

2 **THE COMMISSIONER:** Okay. Now we'll hear
3 from people who were -- who wish to endorse that position.

4 So, Mr. Manson, do you wish to endorse that
5 position at this time? I'll hear from you if you're
6 against it, but later on. I just want to see whose for and
7 again.

8 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:**

9 **MR. MANSON:** I think -- to repeat what I
10 said yesterday, Mr. Commissioner, I think the Court of
11 Appeal, aside from a question of date, is pretty clear
12 about historical persons in authority. In that respect,
13 Mr. Neville has a point about the role of Seguin at this
14 time ---

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

16 **MR. MANSON:** --- whether it has some other
17 relevance -- as you pointed out, Mr. Commissioner, there
18 are -- there are a number of factual problems with a lot of
19 these accounts. They come from probation officers' notes,
20 at the time, taken for that purpose not for the purpose of
21 coming here.

22 With this -- C-8, we heard from in detail,
23 Mr. Commissioner. You'll notice the date of the disclosure
24 is late February, 1997. That's just around the time of the
25 guilty plea, the OPP long interview, so you have plenty of

1 material about C-8 and C-8's allegations of -- of abuse.

2 **THE COMMISSIONER:** I would think he's one of
3 the central figures in ---

4 **MR. MANSON:** Yes. And this -- my -- my
5 point is simply, these -- these few pages add nothing of
6 any great significance to the -- the C-8 story.

7 **THE COMMISSIONER:** M'hm. Yes, but that
8 doesn't -- you don't -- well, so we'll do it in order in
9 the notes, but that doesn't address the issue that -- okay,
10 so what you're saying that -- that the mandate is
11 restricted to persons in authority. That's the issue on
12 what -- that he's brought up?

13 **MR. MANDSON:** As I said yesterday, the Court
14 of Appeal also then goes on to allegations outside the
15 mandate that may have some relevance, so the question ---

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

17 **MR. MANSON:** --- then becomes, what is the
18 relevance -- if that position is correct, that this is
19 outside the mandate, does it still have any relevance?

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

21 **MR. MANSON:** And my only concern there is
22 after the detailed examination of C-8 and of Mr. Bourgeois,
23 this sentence does not add anything to the C-8 account.

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

25 **MR. MANSON:** And so if it has any relevance,

1 it's trifling, trifling, trifling.

2 **THE COMMISSIONER:** Thank you. Mr. Paul?

3 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PAUL:

4 **MR. PAUL:** Mr. Commissioner, we would not be
5 in agreement with the objection.

6 While it may not add a tremendous amount as
7 indicated to the evidence, I would suggest that at the same
8 time it doesn't, in that sense, cause a tremendous amount
9 of prejudice if the evidence has been heard in other
10 respects at other times in the proceedings.

11 I suggest that, perhaps, you give some
12 context to the way the parties interacted at the residence
13 -- at the Seguin residence and give some information with
14 respect to how complaints are processed in the probation
15 department and I would suggest it shows -- we've also and
16 that particular moniker makes reference to both Mr. Seguin
17 and a priest as well. So it shows some connection --
18 interaction between those parties, as well, so it's just
19 for all those reasons there is some relevance to the
20 information.

21 **THE COMMISSIONER:** Thank you. Mr. Lee?

22 **MR. LEE:** Good morning, Mr. Commissioner.

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

24 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:

25 **MR. LEE:** I -- I think we're getting a

1 little bit far afield from the original objection and --
2 and ---

3 **THE COMMISSIONER:** Well, it's a new
4 objection.

5 **MR. LEE:** It is, but -- and the heart of the
6 -- the Court of Appeal matter. The -- you've reviewed this
7 document now?

8 **THE COMMISSIONER:** Yes.

9 **MR. LEE:** The way this document works is
10 that each of the -- we have the statistics in the front and
11 Mr. Neville's quite right that we can -- we can look at
12 those and we can draw conclusions from those and make
13 submissions on those.

14 **THE COMMISSIONER:** No, no, Mr. -- Mr.
15 Sherriff-Scott's objecting to them.

16 **MR. LEE:** He's objecting to some of them.

17 **THE COMMISSIONER:** Right.

18 **MR. LEE:** We're going to have statistics on
19 some of this or we're going to have statistics on all of
20 this and you'll make that decision at some point.

21 What we're talking about now, and what Mr.
22 Neville is talking about, is a summary of the involvement
23 that probation officers had with these complainants.

24 **MR. LEE:** The -- as I understand the purpose
25 of these summaries it is not to assess the credibility of

1 the complainant, it is not to serve as evidence of whether
2 or not there is truth to the complaint or necessarily to go
3 to whether or not Seguin abused C-8 or whether Seguin was
4 inappropriate towards
5 C-8.

6 The point of this is to help us assess the
7 Minister and Corrections institutional response. If we
8 take a fine-tooth comb to this document, inevitably in all
9 of these summaries there is going to be information that is
10 extraneous and is not absolutely necessary for the purposes
11 of this Inquiry.

12 There are throughout comments about whether
13 or not the client was upset about the length of the
14 interview, about you know, the client having a hard time in
15 some other area of his life. It's just a summary of the
16 notes that the probation officer made. I don't see
17 anything objectionable to what's in here. The purpose of
18 it is to simply document and give us, as Mr. Paul
19 suggested, some context to what the complaint was. And the
20 Ministry leaves it at that.

21 **THE COMMISSIONER:** I know but he -- what Mr.
22 Neville -- if I understand correctly -- is saying, "Look
23 at, this is a complaint about inappropriate talk or actions
24 that are not made by a person in authority and, therefore,
25 it's out of the mandate." That's what he's saying.

1 **MR. LEE:** Page 55 of this document, which is
2 what we're looking at ---

3 **THE COMMISSIONER:** Yes.

4 **MR. LEE:** --- is a summary of the probation
5 officer's notes and the probation officer's contacts.

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

7 **MR. LEE:** This is not being received in a
8 form of an allegation of historical abuse that you are
9 being asked to assess.

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

11 **MR. LEE:** It's simply being received as a
12 summary of the information that the probation officer was
13 given so that we can assess whether or not the response was
14 appropriate.

15 **THE COMMISSIONER:** All right. But I think
16 what he's saying though is that Probations doesn't have to
17 respond to this, because it's not a complaint that is such
18 matter of this Inquiry.

19 **MR. LEE:** That may well be. I don't
20 necessarily disagree with Mr. Neville on that.

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

22 **MR. LEE:** The issue is whether or not we
23 need, as I said, go through this document with a fine-tooth
24 comb and remove every reference that doesn't fall directly
25 towards -- this document is not entitled to simply provide

1 information of exactly what the allegation was. There is
2 some extraneous information in here.

3 If it said in here, as example, that C-8's
4 sister was in town. That has absolutely nothing to do with
5 anything.

6 It is simply a summary of what the probation
7 officer was told -- you'll look at some of it, you won't
8 look at the rest of it. I'm not sure that the Minister of
9 Corrections needs to respond to this allegation; as Mr.
10 Neville said we had C-8 here, we've heard his evidence, Mr.
11 Manson agreed with that. But I don't see why the
12 information, as it's presented in this document, needs to
13 go out.

14 **THE COMMISSIONER:** Let's assume for a
15 minute, somebody walked in and said that they were abused
16 by a stranger.

17 **MR. LEE:** Yes.

18 **THE COMMISSIONER:** Right? And it has
19 nothing to do with the Inquiry whatsoever, and the
20 response, and they want to bring it in to show how they
21 have changed the response in these situations. Right? Mr.
22 Neville would get up and say it is not an allegation
23 against a person in authority, therefore it's irrelevant
24 and it is -- and you're -- you are estopped because of the
25 Court of Appeal decision from doing so.

1 **MR. LEE:** I think the question becomes
2 whether or not there is some relevance to the information
3 that the Minister of Corrections is trying to get into to
4 assist you in assessing the response.

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

6 **MR. LEE:** The Ministry of Corrections is
7 getting up here and their position is that we've received -
8 - I don't remember, 33 or 37 or whatever it is --
9 complaints of sexual abuse against a variety of people.

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

11 **MR. LEE:** Some of them clearly in a position
12 of power, some of them unknown, some of them not, and what
13 we want to do, Mr. Commissioner, is we want to take you
14 through the policies that were in place and how we respond
15 and the purpose we are doing that is to demonstrate to you
16 that we've had a consistent approach, that we've done this
17 well, and that we're doing a good job now. I think you are
18 entitled to get into that, if it assists you in determining
19 whether or not the policies and practices in place are
20 appropriate and whether they are being responded to
21 appropriately.

22 It is not a situation of assessing. It is
23 not the same. The purpose would be for assessing the
24 institutional response and the policies in place. It is
25 not the same as the Silmsler matter ---

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

2 **MR. LEE:** --- where you are assessing the
3 response to that specific allegation. I don't think it's
4 the same thing. I think you need to look at it as a --
5 from a policy perspective as opposed to a -- the guts of
6 this thing.

7 **THE COMMISSIONER:** Okay.

8 **MR. LEE:** Thank you.

9 **THE COMMISSIONER:** Thank you.

10 Mr. Chisholm?

11 **MR. CHISHOLM:** Morning, sir. No
12 submissions.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Neuberger?

15 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEUBERGER:**

16 **MR. NEUBERGER:** Good morning.

17 **THE COMMISSIONER:** Morning.

18 **MR. NEUBERGER:** If I can start again. The
19 evolution of this document started back in about the late
20 spring of 2007 and the dialogue with Commission counsel was
21 to assist the Commission with understanding the scope of
22 what the alleged abuse was and the nature and quantity of
23 the complaints.

24 In addition there is a desire to determine
25 with some precision when complaints and how complaints had

1 come to the knowledge of the Ministry of Community Safety
2 and Correctional Services, either through actual
3 disclosures, whether there was a foul review and people
4 were contacted or through some other means such as
5 litigation.

6 Thirdly, the idea was to provide a overview
7 that was as precise as possible with respect to the
8 responses to these disclosures in order to gauge how the
9 Ministry, and more locally, Probation Services was
10 responding. The particulars of the complaints in many
11 cases were relevant to the response. In other words
12 depending upon what the complaint entailed and the
13 particular psychological needs of that individual sometimes
14 dictated what the response was.

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

16 **MR. NEUBERGER:** Above and beyond that the
17 factual overview seeks to provide the listing of the
18 protocols that were in place, the documentation that was
19 taken when complaints were received and the service
20 provided the clients and that can be achieved *viva voce* if
21 necessary without the document.

22 The other aspect to this was to try and be
23 as transparent as possible about complaints that come
24 forward to the Ministry about its own former clients and
25 about other issues in the Community and not to shield that

1 from public scrutiny. We've included in the factual
2 overview a number of policies and practices which are in
3 place which are not subject matter of this and, again, if
4 necessary such as the local protocols, the service delivery
5 model. We've tried to create a comprehensive document so
6 that the Commission and whoever reads it would have a clear
7 understanding of how service is delivered to clients. So
8 that we're focusing on 2000 and forward.

9 That's the best that I can say in the
10 circumstances. I don't see many of the details of
11 disclosure as much different than *viva voce* evidence we
12 heard about from a selection of alleged victims. Again,
13 it's not tendered for truth, the merits aren't an issue.
14 It really dictates to a certain extent what the response
15 is.

16 So we're open to working again with
17 Commission counsel. There has been many, many hours put
18 into this by the local people who felt very strongly about
19 wanting to emphasize to the Commission that they are trying
20 to create a safe environment for people who have been
21 abused to come forward and make disclosures in a genuine
22 effort to help them.

23 But we'll work with whatever the ruling is
24 and whatever you deem best in the circumstances.

25 **THE COMMISSIONER:** Thank you.

1 Ms. McIntosh?

2 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. McINTOSH:

3 MS. McINTOSH: Thank you, Mr. Commissioner.

4 It seems to me that there are two tasks that
5 have to be applied to any piece of evidence that's going to
6 be tendered and that is whether it's about the
7 institutional response to the historical abuse of young
8 people in Cornwall.

9 And secondly, whether that abuse was by a
10 person in authority. I think that's the effect of the
11 Court of Appeal decision.

12 I can certainly see why this particular
13 complaint made it on the list because it's very different
14 than if there had been a complaint about Mr. Seguin, you
15 know, smoking in the hallway or something. Clearly, that
16 shouldn't be the sort of complaint by a probationer that
17 would be on this list, so I can see how it seemed like it
18 was on the cusp between what I would call on the one end of
19 the spectrum an actual, sexual act and the smoking -- on
20 the end of the spectrum, smoking in the hallway. You can
21 see where -- why this may be something that the Ministry
22 felt it ought to include for the sake of completeness.

23 But it doesn't seem to me to rise to the
24 level of those two criteria set out by the Court of Appeal
25 and, if you look at the charts on pages 5 and 6, you'll see

1 that the heading on the charts is something like,
2 "Allegations of Sexual Impropriety". And it's difficult to
3 sort of fit this into an -- it could be actually
4 misleading, it seems to me, to put this in the chart as to
5 a complaint of historical abuse against a young person and
6 also Mr. Neville's point, a person in authority.

7 So this particular one, it seems to me,
8 while it's understandable how it got there, perhaps should
9 have fallen on the other end of the spectrum.

10 Thank you.

11 **THE COMMISSIONER:** Thank you.

12 Mr. Sherriff-Scott? I'm sorry. No, yeah.

13 Mr. Sherriff-Scott.

14 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SHERRIFF-SCOTT:**

15 **MR. SHERRIFF-SCOTT:** I would adopt Ms.
16 McIntosh's position.

17 The document, if you look at it, or the
18 page, doesn't deal with an historical allegation of sexual
19 abuse of young people in connection with the point raised
20 by Mr. Neville for objection.

21 In fact, if you look at the document, there
22 are -- and if you have it before you, Commissioner, there
23 are only two points where that issue arises. The first is
24 at the end of the third paragraph where he disclosed that a
25 teacher, Marcel Lalonde, sexually abused him.

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

2 **MR. SHERRIFF-SCOTT:** And then at the end of
3 the fourth paragraph, it also indicates number 3 was a
4 victim of Charles MacDonald.

5 So those are the only two disclosures that
6 are germane and what follows after the end of the fourth
7 paragraph, not surprisingly, is CPPOs response to those two
8 things. So then they confirm that he was a victim or
9 alleged victim in the next entry; they talk about his
10 treatment and so forth.

11 But from the end of the third paragraph, the
12 sentence I read you up to the top of the page, that's
13 nothing to with the mandate, I would respectfully submit,
14 on the basis of Ms. McIntosh's points and those raised by
15 Mr. Neville.

16 **THE COMMISSIONER:** So you forgot about this
17 one or -- yesterday you didn't object to this ---

18 **MR. SHERRIFF-SCOTT:** Well, you asked for my
19 position in response to this issue ---

20 **THE COMMISSIONER:** Okay.

21 **MR. SHERRIFF-SCOTT:** --- raised by Mr.
22 Neville. I'm giving you ---

23 **THE COMMISSIONER:** Okay.

24 **MR. SHERRIFF-SCOTT:** --- my views on it,
25 thank you.

1 **THE COMMISSIONER:** All right, thank you.

2 Mr. Crane?

3 **MR. CRANE:** Good morning, sir.

4 **THE COMMISSIONER:** Good morning.

5 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CRANE:

6 **MR. CRANE:** We would also adopt, I think,
7 the position set out by Ms. McIntosh this morning.

8 The allegations as they pertain to Mr.
9 Seguin do not involve a young person, nor do they involve
10 Mr. Seguin's capacity as a person in authority, and I would
11 agree with Mr. Manson's position in terms of the -- whether
12 there is any remaining relevance to the document.

13 We had an opportunity to hear from Mr. C-8
14 for some time at this Inquiry ---

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

16 **MR. CRANE:** --- and that -- the information
17 that's captured within the better part of the first three
18 paragraphs, I don't think is going to add any value to this
19 Inquiry.

20 Thank you, sir.

21 **THE COMMISSIONER:** Thank you.

22 Mr. Kozloff?

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

24 **THE COMMISSIONER:** Good morning.

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

1 **MR. KOZLOFF:** Mr. Commissioner, in my
2 respectful submission, what is relevant in the overview is
3 the institutional response of Cornwall Probation and Parole
4 Office as part of the Ministry of Community Safety and
5 Correctional Services, which is a party and a public
6 institution at these proceedings to allegations of historic
7 abuse of young people

8 If the allegation is not an allegation of
9 historic abuse of a young person, then the institutional
10 response to it is not relevant. If it is irrelevant, it
11 shouldn't be included.

12 It can in my submission and should be edited
13 from an otherwise relevant document. With respect, we
14 don't need the Court of Appeal decision to determine the
15 merits of Mr. Neville's submission. It's simply a matter
16 of, "It's not relevant to your mandate".

17 Those are my respectful submissions.

18 **THE COMMISSIONER:** Thank you.

19 Mr. Carroll?

20 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. WILLIAM CARROLL

21 **MR. CARROLL:** Good morning.

22 **THE COMMISSIONER:** Good morning.

23 **MR. CARROLL:** We support the position taken
24 by Mr. Neville and articulated by Ms. McIntosh. We have no
25 further submissions to make, sir. Thank you.

1 **THE COMMISSIONER:** Thank you. Good, thank
2 you. I'll add that to the list of decisions.

3 Thank you. So ---

4 **MR. STAUFFER:** Sir, just one thing and you
5 may have said this in haste, but the ---

6 **THE COMMISSIONER:** Haste?

7 **MR. STAUFFER:** --- pages that Mr. Sherriff-
8 Scott were objecting to ---

9 **THE COMMISSIONER:** Yes.

10 **MR. STAUFFER:** --- the way I have confirmed
11 it with Mr. Sherriff-Scott is 127 to 175. Those are ---

12 **THE COMMISSIONER:** One-two ---

13 **MR. STAUFFER:** Two-seven -- 127 to 175.

14 **THE COMMISSIONER:** Right. One ---

15 **MR. STAUFFER:** Those are the ---

16 **THE COMMISSIONER:** Yeah, sorry.

17 **MR. SHERRIFF-SCOTT:** Excuse me, sir. There
18 were other pages ---

19 **THE COMMISSIONER:** Yes.

20 **MR. SHERRIFF-SCOTT:** --- but I think my
21 friend was concerned about ---

22 **THE COMMISSIONER:** Yes, the ones with the
23 graphs. I've noted that and so -- all right. Yeah.

24 Anything else before we take the break then?

25 We'll take a short break.

1 **MR. STAUFFER:** Thank you, sir.

2 **THE COMMISSIONER:** Thank you.

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

5 This hearing will resume at 10:50 a.m.

6 --- Upon recessing at 10:34 a.m. /

7 L'audience est suspendue à 10h34

8 --- Upon resuming at 10:52 a.m. /

9 L'audience est reprise à 10h52

10 **THE REGISTRAR:** This hearing is now resumed;
11 please be seated; veuillez vous assoir.

12 **THE COMMISSIONER:** Thank you.

13 For the benefit of the members of the public
14 and those who may be listening on the webcast, the next
15 witness is delayed by about an hour and so what I propose
16 to do is begin at Noon and run 'til one o'clock and then
17 take a shortened lunch break from one to two and,
18 therefore, hopefully catch up on the time lost.

19 And there has been a change in the witness,
20 in the sense that it is Mr. Hawkins, I believe, that's
21 coming.

22 So if there's any inconvenience to counsel
23 about cross-examination because of the fact that there's a
24 change, I'll entertain comments or suggestions to
25 accommodate anybody who's caught short.

1 All right? So we'll come back at Noon.

2 Thank you.

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

5 This hearing will resume at Noon.

6 --- Upon recessing at 10:52 a.m. /

7 L'audience est suspendue à 10h52

8 --- Upon resuming at 12:05 p.m. /

9 L'audience est reprise à 12h05

10 **THE REGISTRAR:** This hearing is now resumed;
11 please be seated. Veuillez vous assoir.

12 **MR. RUEL:** Mr. Commissioner, we have a Mr.
13 Roy Hawkins ---

14 **THE COMMISSIONER:** Thank you. Mr. Hawkins?

15 **MR. RUEL:** --- as our next witness.

16 **THE COMMISSIONER:** Yeah, okay. There he is,
17 okay.

18 Good afternoon, sir.

19 **MR. HAWKINS:** Good afternoon.

20 **ROY HAWKINS:** Sworn/Assermenté

21 **THE COMMISSIONER:** Thank you.

22 Mr. Hawkins, how are you doing today?

23 **MR. HAWKINS:** Very well, thank you.

24 **THE COMMISSIONER:** Great.

25 We'll try to get this done as quickly as

1 possible.

2 You have water -- Madam Clerk, we need some
3 cups. Oh, you have cups? I'm sorry. Okay.

4 There's a microphone. If you could answer
5 your questions by vocalizing them because the records needs
6 to hear from you.

7 If there are documents that we're going to
8 use, we'll give you hard copies and also put it on the
9 screen.

10 I'd like you to answer the questions as best
11 as you can and if there is something you don't understand
12 or you don't feel comfortable with, just turn to me and
13 I'll help you out with them.

14 All right?

15 **MR. HAWKINS:** Thank you.

16 **THE COMMISSIONER:** Thank you.

17 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
18 **RUEL:**

19 **MR. RUEL:** Mr. Hawkins, good morning.

20 **MR. HAWKINS:** Good morning.

21 **MR. RUEL:** And thank you for coming here
22 today.

23 We -- I gather that you have been employed
24 by the Minister of Corrections for a number of years.
25 That's correct?

1 **MR. HAWKINS:** Yes; I commenced employment
2 with the Ontario Ministry of Correctional Services in 1965
3 and retired in 1999.

4 **MR. RUEL:** So I would ask you to go through
5 your professional history with the Ministry of Corrections,
6 if you may?

7 **MR. HAWKINS:** Originally, I was employed in
8 Hamilton as a probation and parole officer responsible for
9 adult offenders for a period of about five years.

10 I then moved to the Juvenile Division for
11 about one year before moving to Toronto as what was
12 referred to, at that time, as a senior probation officer
13 and subsequently became an area manager and then moved into
14 the position of Regional Administrator for Toronto East and
15 York Region. I was there until, I believe, 1983 and then
16 moved to Eastern Ontario and was located in Kingston. I
17 was in Kingston for about 19 -- I think, 1982 to 1993.

18 **MR. RUEL:** So that position in Kingston was
19 for the Eastern Region; is that correct?

20 **MR. HAWKINS:** Yes, it was.

21 **MR. RUEL:** So it's Regional Administrator,
22 Youth and Community Services; is that correct?

23 **MR. HAWKINS:** Yes, that's correct.

24 **MR. RUEL:** So you were responsible for
25 probation services in the Eastern Region?

1 **MR. HAWKINS:** Initially, I was responsible
2 for probation and parole. Subsequently, when the young
3 offender legislation came in, I assumed responsibility for
4 16 and 17-year old young offenders as well which involved
5 community supervision, young offender open custody
6 residences.

7 And then there was a subsequent
8 reorganization in the Ministry and I assumed responsibility
9 for correctional institutions such as the Cornwall Jail,
10 then young offender residences that might be located in
11 Cornwall, as well as probation and parole.

12 **MR. RUEL:** When was that? When did you
13 become responsible for the correctional institutions?

14 **MR. HAWKINS:** It would have been about 1985
15 or '86, I think.

16 **MR. RUEL:** So that's still within the same
17 region?

18 **MR. HAWKINS:** Yes, within Eastern Ontario.

19 **MR. RUEL:** So you kept those
20 responsibilities until you moved to a new -- or another
21 position in 1993; is that correct?

22 **MR. HAWKINS:** Yes, that's correct.

23 **MR. RUEL:** And what did you do in 1993?

24 **MR. HAWKINS:** In 1993, I moved to London,
25 Ontario and was Regional Administrator for Correctional

1 Services in that area.

2 MR. RUEL: And after that?

3 MR. HAWKINS: I retired in 1999.

4 MR. RUEL: And do you still have a job now
5 since then, a consulting job or did you ---

6 MR. HAWKINS: Yes. Since I retired, I've
7 established a consulting business, Leading Vision
8 Consultants Incorporated, and I've done consulting around
9 governance, mediation and conflict management.

10 MR. RUEL: Just coming back to your position
11 of Regional Administrator for the Eastern Region, your
12 jurisdiction essentially -- what was your jurisdiction in
13 terms of the areas or the cities that were part of that
14 region?

15 MR. HAWKINS: Well, it changed over time,
16 but it went from Pembroke, Cobourg, Peterborough, Ottawa,
17 Cornwall, Kingston, Brockville, Belleville and all points
18 in between at one time or another.

19 Now, when I became responsible for the
20 institutions as well as probation and parole, the area
21 narrowed so that it would have been the eastern half of the
22 Eastern Region.

23 MR. RUEL: Through that period, did you
24 always remain responsible for the Cornwall Probation and
25 Parole Office?

1 **MR. HAWKINS:** Yes, I did.

2 **MR. RUEL:** Okay. So let's talk about that
3 office now. As Regional Administrator, I guess you had
4 area managers for -- just talking about the probation and
5 parole services, you had area managers reporting directly
6 to you in each of the sub-regions, if I can -- or
7 components of the region, if I can say?

8 **MR. HAWKINS:** Yes, the major cities,
9 Cornwall, Ottawa, Brockville, Kingston would have each had
10 an area manager on site, on location.

11 **MR. RUEL:** Okay. Those were reporting
12 directly to you?

13 **MR. HAWKINS:** Yes, they were.

14 **MR. RUEL:** And who were you reporting to?

15 **MR. HAWKINS:** I reported to the Regional
16 Director who was also located in Kingston, and he in turn
17 reported to the Assistant Deputy Minister.

18 **MR. RUEL:** So just talking about the area
19 managers for probation and parole, would you have frequent
20 contacts with your area managers?

21 **MR. HAWKINS:** Yes, I had different types of
22 contacts with the area managers. There were occasions when
23 I came to the office in Cornwall, for example, probably
24 three or four times a year and met with the area manager to
25 discuss various issues in relationship with that office.

1 There were other occasions when I met with
2 the area managers collectively as a group, and those
3 meetings sometimes were held in Kingston but sometimes they
4 rotated throughout the Eastern Region. And then there were
5 other occasions when I would meet with the area manager
6 individually, usually in Kingston.

7 **MR. RUEL:** So the Cornwall Probation and
8 Parole Area Manager, how frequently would you have met the
9 area manager over the years -- well, each year, I mean?

10 **MR. HAWKINS:** Different types of contact. I
11 would say probably eight to twelve times in the course of a
12 year. There were different types of contact. And I'm
13 talking face-to-face contact here, not telephone contact.

14 **MR. RUEL:** So the area managers in Cornwall
15 you have dealt with were Peter Sirrs?

16 **MR. HAWKINS:** Yes, Peter Sirrs was initially
17 the area manager when I moved to Eastern Ontario. He was
18 replaced by a gentleman by the name of White ---

19 **MR. RUEL:** Leo White?

20 **MR. HAWKINS:** Leo White and then Emile
21 Robert became the area manager in Cornwall.

22 **MR. RUEL:** So Mr. Sirrs was already there
23 when you came in ---

24 **MR. HAWKINS:** Yes, he was.

25 **MR. RUEL:** --- as Regional administrator?

1 Then Mr. Robert or Mr. White came in 1984; is that your
2 recollection?

3 **MR. HAWKINS:** It would be about that.

4 **MR. RUEL:** And Mr. Robert in 1985?

5 **MR. HAWKINS:** Yes, that would be correct.

6 **MR. RUEL:** What were the responsibilities of
7 the area managers of Probation and Parole?

8 **MR. HAWKINS:** The area manager was
9 responsible to ensure that adequate and sufficient
10 correctional services were provided to a client. And what
11 I mean by that is that he addressed with his staff their
12 ability to adequately assess the needs of the clients and
13 the levels of risk that they were involved in to make sure
14 that they were adequately trained, supervised and monitored
15 in terms of their ongoing performance.

16 **MR. RUEL:** Were they responsible to -- they
17 would do case audits and performance appraisals? That
18 would be their job, right?

19 **MR. HAWKINS:** They would do that as a part
20 of other activities that they would have in direct
21 relationship to the probation officers, yes.

22 **MR. RUEL:** What was a case audit process?
23 How did it work back in -- when you came in, in 1990 or in
24 the '80s?

25 **MR. HAWKINS:** Well, there were probably

1 changes that took place throughout the years and I'm not
2 sure that I can identify specifically the dates and nature
3 of the changes but, in essence, case audits were designed
4 to look at whether or not the probationer was being
5 adequately assessed in terms of his needs and level of risk
6 and whether or not a plan was being developed for the
7 client and whether or not adequate supervision was being
8 provided throughout that time.

9 Now, the format and process for determining
10 whether or not those things were happening with clients
11 certainly have evolved over time.

12 **MR. RUEL:** Would it be accurate to say that
13 the area managers reviewed the paper files of the probation
14 officers or a sample of the paper files of the probation
15 officers with a view of verifying what you've just
16 indicated?

17 **MR. HAWKINS:** That was a mandatory
18 requirement by the Ministry that it take place very year,
19 but it would not necessarily include all of the
20 probationers under supervision. For example, a caseload
21 might be in the neighbourhood of 100 persons and the
22 expectation wasn't that you necessarily examined all 100
23 files. That would be logistically a pretty difficult, if
24 not impossible, task.

25 **MR. RUEL:** So there was a sample of the

1 files? Is that what you're saying?

2 MR. HAWKINS: Yes, that's correct.

3 MR. RUEL: So for each probation officer,
4 there would be a case audit done by the area manager; is
5 that correct?

6 MR. HAWKINS: Yes.

7 MR. RUEL: And would you get all of those
8 reports from the -- a report would be prepared, I guess, by
9 the area manager for each probation officer?

10 MR. HAWKINS: The area manager prepared a
11 comprehensive overview of what his audits had found and he
12 would send to me two or three samples of specific audits on
13 particular probation officers that he'd done during the
14 course of the year so I would not see every audit that was
15 done on every probation officer but I would see a sampling
16 and I would have a statement from the area manager giving
17 me a comprehensive overview of what he had found.

18 MR. RUEL: Okay. What about performance
19 appraisals? I understand and we got evidence on this that
20 area managers would do performance appraisals of their
21 employees each year, so you're aware of that?

22 MR. HAWKINS: Yes, and again the process of
23 evaluation and performance appraisals over the years have
24 changed form but essentially the area manager was expected
25 to give a comprehensive summary of strengths and weaknesses

1 of a specific probation officer and some indication of the
2 quality and nature of the work that was being performed by
3 him, and also to identify any shortfalls that there might
4 be or needs that the probationer might have for further
5 training or supervision or whatever.

6 **MR. RUEL:** So what would the -- what would
7 be sent to the Regional Administrator for the -- with
8 respect to the performance appraisals.

9 **MR. HAWKINS:** There would be a summary
10 report with two or three samples attached of actual audits
11 done -- or the findings of actual audits done on specific
12 probation officers.

13 **MR. RUEL:** Okay, I'm talking now -- there's
14 the audits and I'm talking about the performance
15 appraisals; was the process similar? You would get a
16 sample only?

17 **MR. HAWKINS:** No, no, those are entirely
18 separate processes. The performance appraisal dealt with
19 the performance of the specific employee and -- in broad
20 strokes and its purpose was somewhat different than the
21 caseload audit which had to do with ensuring the quality
22 and nature of services provided to clients. In the one
23 case, you're evaluating services provided to a client and
24 in the other case you're evaluating the performance of the
25 probation officer.

1 **MR. RUEL:** So the performance appraisal
2 reports, would you get them?

3 **MR. HAWKINS:** Yes, I would.

4 **MR. RUEL:** All of them?

5 **MR. HAWKINS:** Yes, I believe so.

6 **MR. RUEL:** Okay. Who would have been
7 responsible for discipline within -- with respect to the
8 work of probation and parole officers?

9 **MR. HAWKINS:** It would be the area manager.

10 **MR. RUEL:** So whether a probation officer
11 complied with Ministry policies or expectations, that would
12 be the area manager?

13 **MR. HAWKINS:** Yes, it would.

14 **MR. RUEL:** So you've -- you were responsible
15 for the Cornwall Probation and Parole Office for a number
16 of years. Can you give us your assessment or what you
17 recall were the issues, if any, with this -- that office.

18 **MR. HAWKINS:** When I moved to Eastern
19 Ontario from Toronto, one of the things that I had observed
20 was that there's quite a cultural difference between a
21 large metropolitan city such as Toronto where there are
22 literally hundreds of probation officers interacting with
23 each other on an ongoing basis and an office like Cornwall
24 where you might have eight or ten or twelve probation
25 officers and in a sense it's a -- it's a remote, removed

1 location from -- relative to a place like Toronto. The
2 probation officers, in terms of their responsivity (sic) to
3 supervision from an area manager and from contact from
4 regional office was certainly much more distant, and I
5 don't know if the word less trustful would be a correct
6 word to use but -- but they seemed to -- seemed to operate
7 much more autonomously than would have been my observation
8 in other locations.

9 MR. RUEL: Was that a problem in your view,
10 or it's just an observation you made?

11 MR. HAWKINS: Well, it's an observation that
12 I make but I think it's also a very limiting type of
13 culture to develop. I think that most of us benefit from
14 interaction with other professionals in the field and in
15 other locations. To some extent geography limits what can
16 happen in a place like Cornwall but by the same token when
17 persons come in -- whether it's from the regional office or
18 from other locations, I think that there is an opportunity
19 to benefit from whatever strengths or gifts they might have
20 to enrich the experience of probation and parole officers
21 here.

22 MR. RUEL: So are you saying that the staff
23 there, and the probation officer in particular, had
24 difficulty accepting the authority of the Region and of the
25 managers.

1 **MR. HAWKINS:** Well, the first meeting that I
2 had in Cornwall with the probation and parole officers, one
3 of the ladies there said to me, "you know, we don't need
4 interference or involvement by anyone from regional office
5 and certainly from Toronto." And there weren't any other
6 probation officers who responded to that at the time and I
7 regarded it as a very inappropriate and unprofessional
8 statement for a person to meet, particularly on a first
9 occasion, but I think it does reflect something of the
10 attitude that was left unchallenged by other staff members
11 at the time.

12 **MR. RUEL:** Did you know that Mr. Peter Sirrs
13 -- sorry, I'll rephrase. Prior to Mr. Peter Sirrs coming
14 in, in the early '80s, did you know that there was no on-
15 site manager for this office?

16 **MR. HAWKINS:** Yes, I think I did.

17 **MR. RUEL:** Talking about Mr. Sirrs, now. To
18 your knowledge or your recollection did Mr. Sirrs have any
19 issue, in terms of management, with his staff?

20 **MR. HAWKINS:** He wasn't an area manager
21 under my supervision in Cornwall for a very long period of
22 time but my impression, both from him and from the staff
23 was that it was less than a fully satisfactory
24 relationship. But that's an impression, it's not a -- I
25 can't give much in the way of empirical data to back that

1 up but the comments were not -- didn't suggest a good
2 chemistry.

3 MR. RUEL: Would you speak to staff
4 independent of the area manager?

5 MR. HAWKINS: I didn't really get to know
6 the staff well in Cornwall. I only saw them on an
7 occasional basis and it was a very informal relationship
8 that I would have had so there's not a great deal that I
9 can say. They certainly were not reaching out to the
10 regional office to provide additional support or
11 information or help, or at least they didn't reach out to
12 me in that respect.

13 MR. RUEL: Are you aware of any tensions
14 within that office when Mr. Sirrs was the area manager?

15 MR. HAWKINS: I would say that I had a
16 suspicion that there may have been tensions, but I really
17 didn't have any specific information on which to go and to
18 base a good judgment.

19 MR. RUEL: So Mr. Sirrs and the area
20 managers for that matter -- you were their -- they were
21 reporting to you. Correct?

22 MR. HAWKINS: Yes, they were.

23 MR. RUEL: So you were, I guess, doing their
24 performance reviews each year?

25 MR. HAWKINS: On the area managers?

1 **MR. RUEL:** On the area managers?

2 **MR. HAWKINS:** Yes.

3 **MR. RUEL:** So, in terms of the performance
4 of Mr. Sirrs, is there any problem you had defined at the
5 time?

6 **MR. HAWKINS:** As far as I'm aware he did the
7 job satisfactorily. There is a more intangible element
8 that is harder to quantify in terms of a manager's
9 relationship with his staff. Whether you describe it as
10 the chemistry between a manager and his staff or whatever
11 other language you might want to use; it's a much more
12 difficult thing to get at but I certainly think that from a
13 technical standpoint and a professional standpoint Mr.
14 Sirrs probably did his job quite adequately. But again the
15 chemistry side of it, I can't speak as well to that.

16 **MR. RUEL:** Okay. So Mr. Sirrs was replaced
17 by Leo White for a short period.

18 **MR. HAWKINS:** Yes, that's correct.

19 **MR. RUEL:** And then, Mr. Robert came in, in
20 1985.

21 **MR. HAWKINS:** Yes, that's correct.

22 **MR. RUEL:** So did you hire Mr. Robert?

23 **MR. HAWKINS:** I believe I would have been
24 involved in the selection of Mr. Robert. I'm not
25 absolutely certain on that. I'd need to go back to the

1 records but that usually was the process.

2 **MR. RUEL:** What can you tell us about Mr.
3 Robert's management style?

4 **MR. HAWKINS:** Well, Mr. Robert was a
5 bilingual person and in that respect he was well received
6 in the office by the staff. I think they appreciated a
7 person being able to communicate effectively in both
8 languages which had not been true of either Leo White or of
9 Peter Sirrs.

10 Beyond that, there wasn't a lot of
11 information communicated to me by the staff with regard to
12 the manager. And, again, a comment that I would make about
13 that, and it's simply an opinion, when there's a strong,
14 positive relationship between a staff and a manager, it's
15 usually spoken of fairly openly and where there is silence,
16 you always have a question as to why people are being
17 quiet, but then again it could their reaction to myself. I
18 just don't want to push that point too far.

19 **MR. RUEL:** And, again, the same question as
20 I asked with respect to maybe Mr. Peter Sirrs, were you
21 aware of any tensions between the staff and -- or some of
22 the staff and Mr. Robert during the years he was Area
23 Manager?

24 **MR. HAWKINS:** There was a tension between
25 Mr. Robert and one of the other staff members in

1 particular.

2 MR. RUEL: Who was that?

3 MR. HAWKINS: That was Jos van Diepen.

4 MR. RUEL: Do you know the source or the
5 reason for this tension?

6 MR. HAWKINS: I would imagine that it's
7 fairly complex, but the information that was given to me is
8 that it arose from disappointment on Mr. van Diepen's part
9 that he hadn't been promoted to the position of an Area
10 Manager and that he found it difficult to accept Emile
11 Robert's position as an Area Manager.

12 MR. RUEL: So did that last through the time
13 -- through the entire period that Mr. Robert was Area
14 Manager?

15 MR. HAWKINS: I believe so.

16 MR. RUEL: Any other tensions or problems
17 that you were made aware of with respect to the -- Mr.
18 Robert and his staff?

19 MR. HAWKINS: Nothing that was reported to
20 me.

21 MR. RUEL: In terms of the performance of
22 Mr. Robert, the performance reviews, was there anything
23 problematic that you've raised through the years?

24 MR. HAWKINS: I think that he fulfilled most
25 of the responsibilities of the area manager in a reasonably

1 satisfactory fashion. I think there is some correspondence
2 on file to indicate that he may have relied too much on the
3 regional office to give him direction in handling specific
4 situations where the responsibility really rested with him
5 to take up the task and carry it forward.

6 What I'm really getting at here is that the
7 responsibility of the regional office is not to micromanage
8 the office or the area manager, but to facilitate the
9 delivery of services in that area and to provide support,
10 training and so on to the area manager, but management
11 styles can vary and I think the micromanaging from regional
12 office would not be a healthy thing and certainly not
13 consistent with the philosophy of the Ministry.

14 **MR. RUEL:** Okay. Now, I'd like to move to
15 another subject, and it's the issue surrounding the
16 employment of a Probation and Parole Officer in Cornwall,
17 Mr. Nelson Barque.

18 Do you -- you know the name Nelson Barque?

19 **MR. HAWKINS:** I've heard the name Nelson
20 Barque.

21 **MR. RUEL:** Do you know that in May of 1992,
22 Mr. Barque resigned as a probation and ---

23 **THE COMMISSIONER:** What year?

24 **MR. RUEL:** In 1982.

25 **THE COMMISSIONER:** You said '92, I think.

1 **MR. RUEL:** Oh, sorry.

2 In 1982, Mr. Barque resigned. Well, did you
3 know Mr. Barque was a Probation and Parole Officer in
4 Cornwall here?

5 **MR. HAWKINS:** No, I didn't.

6 **MR. RUEL:** Okay. I would like to show you a
7 document, which is Exhibit 125.

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. RUEL:** So, Mr. Hawkins, this is a 1982
10 Ministry investigation report that was prepared -- it's
11 dated May 31st, 1982 and it was sent to the then Deputy
12 Minister, and it's -- the occurrence was an allegation of
13 unprofessional conduct of Nelson Barque, Probation Officer,
14 Cornwall, Ontario. And the second paragraph, I'll read it
15 to you:

16 "The investigation has clearly
17 established that Mr. Barque did, in
18 fact, supply alcoholic beverages and
19 was homosexually involved with [C-
20 44]..."

21 **THE COMMISSIONER:** Sir ---

22 **MR. RUEL:** I'm sorry. I think the second --
23 the other name is Robert Sheets.

24 "...both probationers under Mr.
25 Barque's supervision."

1 Have you ever seen this document, Mr.
2 Hawkins?

3 **MR. HAWKINS:** No, I haven't.

4 **MR. RUEL:** Did Mr. Sirrs at any time give
5 you a briefing on this situation involving Mr. Barque?

6 **MR. HAWKINS:** No, he didn't.

7 **MR. RUEL:** Did you learn about this at any
8 time during the time you were the Regional Administrator
9 for the Eastern Region?

10 **MR. HAWKINS:** No, I didn't.

11 **MR. RUEL:** Is this something you would have
12 wanted to know as Regional Administrator for the Eastern
13 Region?

14 **MR. HAWKINS:** Well, it happened prior to my
15 being there, but the answer to your question is definitely
16 yes.

17 **MR. RUEL:** Why is that?

18 **MR. HAWKINS:** Well, if there is behaviour of
19 this sort taking place within the office, I would want to
20 have some background information as to the duration of the
21 problem and what had been happening in relationship to it
22 over a period of time.

23 It seems to me that these problems don't
24 just suddenly appear. There's a story and there is a
25 history behind them, and I would want to know from the

1 persons responsible for that office what had been taking
2 place over time leading up to this incident and whether or
3 not there had been appropriate interventions by management
4 in relationship to it.

5 MR. RUEL: Who was your predecessor?

6 MR. HAWKINS: Elmer Toffelmire.

7 MR. RUEL: Did he brief you on this?

8 MR. HAWKINS: No. I overlapped in Kingston
9 with Mr. Toffelmire by a period of approximately three
10 months but, in reality, he was a very, very sick man at
11 that point-in-time and was not in a position to give me any
12 briefing with regard to any happenings within the Eastern
13 Regional Office, including this one.

14 MR. RUEL: In your view, if -- when such a
15 situation happens in the regional office, do you think it
16 calls for changes in management practices, supervision?

17 MR. HAWKINS: Well, it depends on what had
18 been leading up to this particular incident. Sometimes a
19 situation can be going on for a prolonged period of time
20 and there is no overt evidence or information on which to
21 base a course of action, and I just simply don't know the
22 details of this case. I've not read the investigation
23 report in its entirety that's before me. I've just looked
24 at the first page here this morning, but I was not aware of
25 the situation.

1 But I would be deeply concerned about this
2 kind of behaviour taking place by a staff member in
3 relationship to a client.

4 **MR. RUEL:** So now I'd like to talk about Mr.
5 Ken Seguin. Do you know Mr. -- or did you know Mr. Seguin?

6 **MR. HAWKINS:** Yes, I did. He was ---

7 **MR. RUEL:** Did you have a -- sorry, you were
8 about to say?

9 **MR. HAWKINS:** Yeah, he was a probation and
10 parole officer in the Cornwall Office during the period of
11 time that I was Regional Administrator.

12 **MR. RUEL:** Did you ---

13 **MR. HAWKINS:** My contact with him was
14 somewhat limited. I spoke with him on a casual basis,
15 found him to be reasonably professional and friendly in his
16 contact with me in the office, but really didn't know
17 anything about him at all personally.

18 **MR. RUEL:** Did you get any report from the
19 area managers you've dealt with with respect to Mr. Seguin,
20 positive or negative?

21 **MR. HAWKINS:** There was not any information
22 given to me of a negative nature at all in relation to when
23 Mr. Seguin while I was Regional Administrator until
24 subsequently, there were some incidents that developed that
25 ---

1 **MR. RUEL:** Do you recall ever reviewing Mr.
2 Seguin's performance appraisals?

3 **MR. HAWKINS:** Yes.

4 **MR. RUEL:** And do you recall if there was --
5 any problems were raised in the appraisals prepared by the
6 area managers?

7 **MR. HAWKINS:** There were no problems raised.

8 **MR. RUEL:** I would like to refer you to a
9 few documents, and the first -- well, the two documents I'd
10 like to refer you are Exhibit 556 and Exhibit 559.

11 You have it in front of you?

12 --- **EXHIBIT NO./PIÈCE NO. P-559**

13 (100341)Memo from Emile Robert to Roy
14 Hawkins re: Gerald Renshaw - 20 Mar, 89

15 --- **EXHIBIT NO./PIÈCE NO. P-560:**

16 (100339) Letter from Roy Hawkins to
17 Emile Robert re: Gerald Renshaw - 29
18 Mar, 89

19 **MR. HAWKINS:** Yes, I have it in front of me
20 a document dated March the 10th, 1989.

21 **MR. RUEL:** Yes.

22 So the first document is, as you said, a
23 letter from Mr. Seguin dated March 10, 1989 to Mr. Robert?

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

25 **MR. RUEL:** And the title or the subject is

1 "Employee Contact with Ex-Offender," and in that letter Mr.
2 Seguin was advising that as of March 11th, 1989, he was to
3 be renting a room in his home to Gerald Renshaw, who was
4 under Mr. Seguin's supervision from October of 1984 to
5 April 1986. You read that?

6 **MR. HAWKINS:** Yes, I do see that.

7 **MR. RUEL:** And the next document, which is
8 Exhibit 559, is a letter to you or a note to you by Mr.
9 Robert dated March 20, 1989, where Mr. Robert was
10 forwarding or attaching the March 10 letter from Mr.
11 Seguin, and he wrote:

12 "I would appreciate receiving some
13 direction from you regarding this
14 matter."

15 So do you recall receiving those documents?

16 **MR. HAWKINS:** Yes, I do.

17 **MR. RUEL:** So what was your reaction when
18 you got those documents?

19 **MR. HAWKINS:** Well, the situation with this
20 particular person -- well, there are two things. First of
21 all, the person who was renting the room had been on
22 probation three years prior to Mr. Seguin advising us of
23 that. So there had been three years elapse from the
24 termination of supervision until the renting of the room to
25 Mr. Seguin.

1 This is the only request that I've ever seen
2 of this nature, and I think that Mr. Seguin was in fact
3 advising of something that was already -- had already taken
4 place or was about to take place. He was certainly not
5 asking permission for it.

6 And Mr. Robert, in seeking ---

7 **MR. RUEL:** Sorry, just pausing there, why do
8 you say that?

9 **MR. HAWKINS:** Well, the letter is -- it says
10 "In accordance" -- it's dated March 10th and it states that
11 on the following day:

12 "...I'll be renting a room in my home."

13 So he's certainly not asking permission or
14 advice or counsel from the area manager. He's simply
15 telling him something that he had already decided to do,
16 but he was in fact making him aware of that.

17 **MR. RUEL:** Just again, pausing, my second
18 pause, renting a room to a -- a probation officer renting a
19 room to a former client of his, is that a problem or was
20 that a problem per se in 1989?

21 **MR. HAWKINS:** The Ministry has a policy of
22 terminating contact between a staff member and a former
23 client at the time that supervision was finished where the
24 person is released from an institution, and there's an
25 expectation that there not be a continuing or an ongoing

1 relationship between the two.

2 Now, in this particular case ---

3 **MR. RUEL:** Why is that? Do you know?

4 **MR. HAWKINS:** Well, I think that there's a
5 fear of the possibility of something inappropriate taking
6 place and, you know, imagination can be let wild on that
7 kind of a question as to what it might be, but it just --
8 the professional nature of the relationship would terminate
9 the contact with the person. It seemed to be the
10 appropriate thing to do.

11 **MR. RUEL:** You were saying this was Ministry
12 expectation at the time?

13 **MR. HAWKINS:** Yes.

14 **MR. RUEL:** Is it fair to say that this was
15 codified in Ministry policy subsequently? Do you recall?

16 **MR. HAWKINS:** I'm not sure at exactly what
17 point it was codified, but certainly it was an expectation
18 that there not be ongoing contact. I would think it was
19 codified before that.

20 **MR. RUEL:** So what were you expecting Mr. --
21 well, he was seeking your direction regarding this matter.

22 **MR. HAWKINS:** Well, I mean, I'm not sure why
23 he was exactly seeking my direction. I mean, he was
24 certainly not asking permission at this stage for the
25 probationer to reside. The fact that there had been

1 disclosure by the probation officer of the fact that there
2 would be a rental of a room to a former client some three
3 years earlier would, on the face of it, seem to be a
4 positive thing. It wasn't information being withheld from
5 the area manager.

6 But my concern about it would be that the
7 person had not been subsequently involved in criminal
8 activity of any sort and that the security of the office be
9 maintained.

10 If you're living in a home with a probation
11 officer, presumably on occasion you could have access to
12 their keys, which could give access to the office and so
13 on, that type of thing.

14 **MR. RUEL:** Were you expecting Mr. Robert to
15 do further verification with respect to this matter?

16 **MR. HAWKINS:** Yes, I think that Mr. Robert
17 just simply said, "You know, would you give me a direction,
18 please?" But he gave me no information of substance on
19 which to base a judgment.

20 **MR. RUEL:** Do you recall discussing this
21 matter with Mr. Robert?

22 **MR. HAWKINS:** Yes, I sent a letter back to
23 him, and there would have been discussion around that
24 letter.

25 **MR. RUEL:** Okay. So let's go now to Exhibit

1 560.

2 MR. HAWKINS: This is a letter dated March
3 the 29th to Mr. Robert from ---

4 MR. RUEL: Yes.

5 MR. HAWKINS: --- myself.

6 MR. RUEL: So this is a letter that was --
7 it's dated March 29th from you to Mr. Robert. And is this
8 your signature at the bottom of the page?

9 MR. HAWKINS: Yes, it is.

10 MR. RUEL: So do you recall sending that
11 correspondence ---

12 MR. HAWKINS: Yes, I do.

13 MR. RUEL: --- to Mr. Robert?

14 MR. HAWKINS: Yes, I do.

15 MR. RUEL: So you gave direction to Mr.
16 Robert as to how this situation could be or should be
17 handled, correct?

18 MR. HAWKINS: Yes, I did.

19 MR. RUEL: And paragraph 1:

20 "Have a CPIC check done on the ex-
21 offender."

22 That's the first point.

23 MR. HAWKINS: Yes.

24 MR. RUEL: And a CPIC check is, just to
25 remind the audience what it is, it's a verification of

1 police records, electronic police records essentially, to
2 verify if the person has a criminal record or if the person
3 was involved with the justice system. Is that correct?

4 **MR. HAWKINS:** Yes, it is.

5 **MR. RUEL:** So paragraph 2:

6 "If Mr. Renshaw was to have further
7 encounters with the courts, the
8 Probation Office should be advised."

9 That's the second portion of your advice?

10 **MR. HAWKINS:** Yes, that was the direction
11 given, that Mr. Seguin should advise us immediately if
12 there was further involvement with the criminal justice
13 system.

14 **MR. RUEL:** And the third piece of advice was
15 that:

16 "Mr. Seguin should not be involved as a
17 probation officer with the client."

18 **MR. HAWKINS:** Yes, either with regard to a
19 pre-sentence report or supervision or other services, in
20 the event that the case were to become active at a later
21 date.

22 **MR. RUEL:** And the fourth point is what you
23 alluded to earlier is the safety issue; correct?

24 **MR. HAWKINS:** Yes, I was concerned that a
25 former probationer living with a probation officer might

1 have access to the keys, gain access to the office and
2 confidential information on either his own files or other
3 files.

4 Now, Mr. Robert put a notation on the bottom
5 of this letter to say that he had completed all of the
6 above directions.

7 MR. RUEL: So you mentioned discussing this
8 matter with Mr. Robert?

9 MR. HAWKINS: That's correct, yes.

10 MR. RUEL: Do you recall the nature of the
11 discussion?

12 MR. HAWKINS: I think that the discussion
13 was pretty well focussing on the items raised in this
14 letter. I don't think that there were any other items
15 raised at all at that point with regard to this client and
16 this probation officer.

17 MR. RUEL: You mention that this is the only
18 request of that nature that you've got. Is that correct?

19 MR. HAWKINS: Yes, I've never seen that sort
20 of a request before.

21 MR. RUEL: That -- through your entire
22 career?

23 MR. HAWKINS: Yes, that's correct.

24 MR. RUEL: There is another situation
25 involving Mr. Seguin that you've dealt with.

1 **THE COMMISSIONER:** Excuse me, before we go
2 on, can you show me the policies and procedures that were
3 involved -- that were in place at that time?

4 **MR. RUEL:** What we have, Mr. Commissioner,
5 is the -- it's in the -- Volume 8 of the corporate
6 presentation document.

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

8 **MR. RUEL:** At Tab 45.

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

10 **MR. RUEL:** So -- or maybe, Mr. Commissioner,
11 we can put it to the witness to ---

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

13 **MR. RUEL:** Mr. Hawkins, this is a Ministry
14 policy dated May 9, 1986 and it deals with conflict of
15 interest. Do you recall this policy?

16 **MR. HAWKINS:** I'd have to look at it to --
17 and read it to see if I do recall specifically this one.

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

19 **MR. HAWKINS:** I'm familiar with its content.

20 **MR. RUEL:** So would it be fair to say that
21 this is a policy that was applicable from 1986 on to all
22 public servants in Ontario, not only to probation officers?

23 **MR. HAWKINS:** Yes, that's correct.

24 **MR. RUEL:** And paragraph -- there's a
25 definition of "conflict of interest" and I'll read the

1 first paragraph:

2 "A conflict of interest..."

3 It's the first paragraph of the second page:

4 "A conflict of interest is defined as a
5 conflict between the public servant's
6 personal interest and his/her
7 responsibility as a public servant."

8 And the second paragraph:

9 "This includes actual or perceived
10 conflict and those which have the
11 potential of ... to be actual or
12 perceived. A conflict of interest may
13 exist whether or not the pecuniary
14 advantage has been or may have been
15 conferred on the public servant."

16 You read that?

17 **MR. HAWKINS:** Yes.

18 **MR. RUEL:** So do you think this situation
19 that we've just discussed involving Mr. Seguin was
20 potentially included in the definition of a conflict of
21 interest?

22 **MR. HAWKINS:** Potentially, yes.

23 **MR. RUEL:** The other document I'd like to --

24 -

25 **THE COMMISSIONER:** Whoa, just a second.

1 All I want to do is cover the public
2 servant's responsibility regarding conflicts.

3 And the point, I thought, was that at the
4 beginning the letters seemed to indicate that, "I'm just
5 advising you of this" and the witness has indicated, well,
6 it wasn't a question of deciding yes or not.

7 And I'm looking at the bottom of page 2 and
8 it says:

9 "Public servant's responsibility
10 regarding conflicts. Each public
11 servant shall identify and disclose to
12 their head as the case may be any
13 possible conflict."

14 So it would explain why Mr. Seguin's letter
15 is just, "I'm advising you of this", and his only
16 responsibility after that would be to abide by the advice
17 given to him or her. Is that how you see it?

18 **MR. HAWKINS:** Yes.

19 **THE COMMISSIONER:** Thank you.

20 **MR. RUEL:** There is also another policy, Mr.
21 Commissioner and Mr. Hawkins, which is at Tab 46 which is
22 dated June 21st 1959. It's "Employee Contact with
23 Offenders, ex-offenders or their Family or Friends."

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

25 Sorry?

1 **MR. MANSON:** Mr. Commissioner, I'm just
2 wondering whether it wouldn't be helpful to have some of
3 these specific documents marked as exhibits? They're now a
4 tiny part of an eight-volume exhibit. It's very cumbersome
5 to work with.

6 **THE COMMISSIONER:** Okay.

7 **MR. MANSON:** Just a suggestion; Mr. Ruel may
8 disagree.

9 **MR. RUEL:** Well, they're already in evidence
10 so I don't see the point, but ---

11 **THE COMMISSIONER:** Neither do I, they're
12 here. We wander through binders and binders, so -- all
13 right.

14 **MR. RUEL:** So ---

15 **THE COMMISSIONER:** But ---

16 **MR. RUEL:** Sorry, Mr. Cmmissioner.

17 **THE COMMISSIONER:** What you're referring to
18 us now is issued June 21st 1989?

19 **MR. RUEL:** Yes.

20 **THE COMMISSIONER:** Okay. And the letter is
21 March 10th, 1989, so ---

22 **MR. RUEL:** Yes ---

23 **THE COMMISSIONER:** Okay.

24 **MR. RUEL:** --- that's what I want to
25 establish.

1 **THE COMMISSIONER:** All right. Thank you.

2 **MR. RUEL:** Mr. Hawkins, so it seems -- are
3 you familiar with this policy?

4 **MR. HAWKINS:** Yes.

5 **MR. RUEL:** So it appears -- is that because
6 you indicated that -- I question or ask you about this --
7 the existence of a policy dealing with contacts with
8 offenders and ex offenders and it was, I gather from your
9 response, that you thought that the policy was in existence
10 when the letter concerning Mr. Renshaw was sent to you.

11 Was that the case, or --- it doesn't appear
12 to be a case from this review of the documents?

13 **MR. HAWKINS:** Well, I'm not certain that
14 there may not have been other documents in existence prior
15 to this that deal with that particular issue because it
16 certainly has been a concern we've had at the Ministry
17 during most, if not all, of my own career, either in staff
18 training and development or in explanation of appropriate
19 behaviour or in dealing with clients; that certainly was
20 understood as common practice.

21 **MR. RUEL:** So despite the fact that there
22 may not have been a policy, you're saying that it was
23 either common practice or business practice or Ministry
24 expectation that the relationship between a probation
25 officer and a client be severed ---

1 **MR. HAWKINS:** Yes.

2 **MR. RUEL:** --- essentially?

3 **MR. HAWKINS:** That's correct.

4 And I think they've stated very well the
5 purpose of that; to ensure that the employee will be not --
6 will not be subjected to pressure or be compromised in such
7 a way as to jeopardize the security of Ministry facilities,
8 et cetera.

9 **MR. RUEL:** Okay.

10 **THE COMMISSIONER:** Well, the impression I
11 get from this one then, the first policy that we reviewed
12 was, all he has to do is advise you and follow whatever
13 advice you give.

14 Whereas here, it seems to be a little more
15 in your court or proactive in the sense that the chief
16 administrator, or whoever, will determine whether this
17 relationship constitutes a possible threat to the
18 effectiveness and security of the Ministry and will advise
19 in writing the employee.

20 Do you see it that way or ---

21 **MR. HAWKINS:** What page are you referring
22 to?

23 **THE COMMISSIONER:** Page 3, the procedure.
24 This is on Tab 46.

25 **MR. HAWKINS:** Okay, 46, yeah.

1 And the third page you say?

2 **THE COMMISSIONER:** Yes, page 3.

3 **MR. HAWKINS:** Okay. "The interest of this
4 policy..." ---

5 **THE COMMISSIONER:** No, No. The other one.
6 The page before that. There you go, under "Procedure"?

7 **MR. HAWKINS:** Oh, yes, I see it.

8 **THE COMMISSIONER:** Okay. Sixth line:
9 "The chief administrator..."

10 So it seems to impose on the chief
11 administrator or the head:

12 "... to determine whether this
13 relationship constitutes a possible
14 threat to the effectiveness and
15 security of a Ministry program."

16 **MR. HAWKINS:** Yes.

17 **THE COMMISSIONER:** So, in my view, and
18 correct me if I'm wrong, it seems to impose a greater duty
19 and more control on -- of the relationship and whether it
20 continues on management as opposed to the previous policy?

21 **MR. HAWKINS:** I think there is some
22 discretion given to evaluate the situation ---

23 **THE COMMISSIONER:** Right.

24 **MR. HAWKINS:** --- and make a judgment,
25 although I'm not sure how far one could go in enforcing a

1 severance of a relationship such, for example, as the one
2 that we had talked about earlier where the person had been
3 on probation three years earlier.

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

5 **MR. HAWKINS:** Whether you can control a
6 probation officer's behaviour after that period of time
7 would be an open question in my mind.

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

9 "This procedure will also apply to
10 professional relationships with ex-
11 offenders and their families and
12 friends."

13 And it goes on:

14 "Disciplinary action may be taken when
15 the relationship is not reported or an
16 order to terminate is not obeyed."

17 So you're saying you don't think you had the
18 authority to say no to Mr. Seguin and say get that guy out
19 of there?

20 **MR. HAWKINS:** No, I'm not saying that. What
21 I am saying is that after you have said no, if he chooses
22 to continue the relationship with the probationer in spite
23 of your recommendation, I'm not sure what authority you
24 would have to deal with that in a disciplinary sense,
25 unless there was some other information indicating that

1 there was serious impropriety in behaviour.

2 **MR. RUEL:** And just to close the loop on
3 this and it's going to be applicable to, Mr. Commissioner,
4 to the other situation we're going to be dealing with, it's
5 the following tab which is Tab 47.

6 **THE COMMISSIONER:** And this is a directive
7 issued December 14th, 1990.

8 **MR. RUEL:** So, Mr. Hawkins, I don't know if
9 you recall this. This seems to be an update of the
10 previous policy. Still the same policy with a different
11 number, so ---

12 **MR. HAWKINS:** Right, right.

13 **MR. RUEL:** --- do you recall that? I mean,
14 was this policy modified or did it evolve through the
15 years, to your recollection?

16 **MR. HAWKINS:** I don't recall it being
17 terribly modified. It might have been. I would have to
18 look at it -- we're dealing with 10 years ago.

19 **MR. RUEL:** Okay.

20 **MR. HAWKINS:** Twenty (20) years ago or 10
21 years -- 1990.

22 **MR. RUEL:** Mr. Commissioner, I think that --
23 I don't know if you want to ---

24 **THE COMMISSIONER:** Yes.

25 **MR. RUEL:** --- break here?

1 **THE COMMISSIONER:** Yes, it's time for lunch.
2 Come back at two, sir?

3 **MR. HAWKINS:** Thank you.

4 **THE COMMISSIONER:** Thank you.

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

7 This hearing will resume at 2:00 p.m.

8 --- Upon recessing at 1:00 p.m. /

9 L'audience est suspendue à 13h00

10 --- Upon resuming at 2:16 p.m. /

11 L'audience est reprise à 14h06

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

14 **MR. RUEL:** Mr. Commissioner, just -- good
15 afternoon ---

16 **THE COMMISSIONER:** Good afternoon.

17 **MR. RUEL:** We referred to Exhibit 559 and
18 560 ---

19 **THE COMMISSIONER:** Yes, we did.

20 **MR. RUEL:** --- they were previously
21 identified as "I" Exhibits so to be, I guess, identified by
22 the -- or a witness ---

23 **THE COMMISSIONER:** Okay.

24 **MR. RUEL:** --- so I guess this has been done
25 now; should be referred to now as "P" exhibits?

1 **THE COMMISSIONER:** Sure.

2 **MR. RUEL:** So, Mr. Hawkins, just to finish
3 on this matter -- the request that was made by Mr. Seguin
4 to be allowed to rent a room to a former probationer.

5 After you have sent more correspondence of
6 March 29th, 1989, did you have to deal with this matter
7 again?

8 **MR. HAWKINS:** Not that I recall.

9 **MR. RUEL:** Okay. Now, I'd like to refer you
10 to a document which is Exhibit 929 -- sorry, 927, and I
11 don't know if you have it already in front of you?

12 **MR. HAWKINS:** No.

13 **MR. RUEL:** So, Mr. Hawkins, this is a
14 document dated -- which was apparently sent by Mr. Ken
15 Seguin on January 16th, 1992; that's at the second page of
16 the document. And it's an incident report concerning an
17 out-of-office contact of Mr. Seguin with one of his
18 clients, Mr. Mark Woods.

19 I don't know if you, Mr. Commissioner -- if
20 we could leave the witness a few seconds to go through the
21 document?

22 **THE COMMISSIONER:** Well, sure.

23 **(SHORT PAUSE/COURTE PAUSE)**

24 **MR. RUEL:** Mr. Hawkins, have you ---

25 **MR. HAWKINS:** Yes.

1 **MR. RUEL:** --- gone through it?

2 So this is essentially for the record. An
3 incident report prepared by Mr. Seguin. He's reporting
4 that four -- on January 8th, 1992, four people visiting his
5 -- visited his residence, including a client for which he
6 was to write a pre-sentence report the next day. And so
7 he's reporting the incident and he's also reporting that
8 the following morning, so on January 9th, 1992, after the
9 individuals departed Mr. Seguin's residence, one of them
10 was fatally shot by another in the group.

11 Can you recall receiving a copy of this
12 report?

13 **MR. HAWKINS:** I don't have any recollection
14 of seeing that report until some time later when the report
15 was sent to me including a police report, I believe. But I
16 don't think I saw that report at that particular point-in-
17 time. I don't have any recollection of it at that point.

18 **MR. RUEL:** So let me ask you this. The
19 incident reports -- this is -- how does this work? An
20 incident report is prepared by, in this case, a probation
21 officer. How far does it go up the -- the hierarchy within
22 the Ministry?

23 **MR. HAWKINS:** If it's a minor incident then
24 it would remain with the area manager. If it was a major
25 incident, then a copy of it should go to the regional

1 office so that I would at least be aware of what is taking
2 place and depending on the seriousness of it, there could
3 be discussion and subsequent correspondence.

4 MR. RUEL: So based on your review of this
5 document would you consider this a major or a minor
6 incident?

7 MR. HAWKINS: Very major incident.

8 MR. RUEL: And if you received, personally
9 received, the incident report, would it be your practice to
10 write your initials on it or write something on it?

11 MR. HAWKINS: Yes, I normally did initial
12 all documents that came into my office.

13 MR. RUEL: So do you see your initials on
14 this document?

15 MR. HAWKINS: No, I don't.

16 MR. RUEL: There's some scribbling, I guess,
17 on the top right corner of the document; is this your ---

18 MR. HAWKINS: No, that's not mine.

19 MR. RUEL: --- your signature or your ---

20 MR. HAWKINS: No, it isn't.

21 MR. RUEL: No, it's not?

22 MR. HAWKINS: No, it isn't.

23 MR. RUEL: Sir, do you recall if Mr. Robert
24 has discussed this matter with you prior to you -- well I'm
25 going to rephrase. Do you recall if Mr. Robert discussed

1 this matter with you shortly after the incident happened,
2 so shortly after January 8th, 1992?

3 **MR. HAWKINS:** No, I don't recall any
4 discussion around that incident at that time.

5 **MR. RUEL:** So if you had received this
6 document early on, in January, what would have been your
7 reaction if you place yourself back at that time?

8 **MR. HAWKINS:** Well, because of the
9 seriousness of the incident, I am reasonably confident that
10 there would be correspondence going from my office to Mr.
11 Robert dealing specifically with the subject. It was not -
12 - it is not the type of incident that I would leave simply
13 discussed.

14 **MR. RUEL:** Okay. And what type of action
15 would you have expected Mr. Robert to take after receiving
16 such a report?

17 **MR. HAWKINS:** Well, I would think that there
18 would be a need for a Ministry investigation and probably a
19 suspension of the employee during the period that the
20 investigation was underway.

21 **MR. RUEL:** But the -- in this case, the
22 employee seems to be reporting that he got an unexpected
23 visit from those people. So I'm just trying to understand
24 or can you explain in any more detail ---

25 **MR. HAWKINS:** I don't think ---

1 **MR. RUEL:** --- what you perceive -- just let
2 me finish for a second -- perceived seriousness of this
3 incident?

4 **MR. HAWKINS:** I don't think that
5 probationers routinely drop in to the residence of their
6 probation officer for social calls and visits. That's not
7 common practice. This is very out of the ordinary.

8 **MR. RUEL:** So if Mr. Robert was to say that
9 he briefed you shortly after the incident about this; would
10 that be inaccurate?

11 **MR. HAWKINS:** I don't recall any discussion
12 with Mr. Robert shortly after this incident about what has
13 taken place here.

14 **MR. RUEL:** Is it possible that such a
15 discussion took place?

16 **MR. HAWKINS:** I'm very doubtful. In order
17 for there to have been discussion, looking at the details
18 contained within this incident report, I think you will
19 find that there would be correspondence on file. And if
20 there's no correspondence on file, then I think it would
21 tend to confirm what I'm basically saying that there wasn't
22 discussion at that particular point in time.

23 **MR. RUEL:** In other words, and we're going
24 to go through that, one you became aware of it, you
25 responded ---

1 MR. HAWKINS: Yes.

2 MR. RUEL: --- to the matter?

3 MR. HAWKINS: Yes.

4 MR. RUEL: So if you did not respond, it's
5 your assumption that you didn't become aware of it ---

6 MR. HAWKINS: That's correct.

7 MR. RUEL: Okay. So I'd like to refer you
8 now to Exhibit 931. And this is a letter or a note from
9 Mr. Robert to you dated September 8th, 1992; and do you
10 recall receiving this note?

11 MR. HAWKINS: Yes.

12 MR. RUEL: So attached to this document Mr.
13 Robert was enclosing the report or a letter from Detective
14 Constable R. Millar?

15 MR. HAWKINS: Yes.

16 MR. RUEL: And so we're going to go through
17 the report and Mr. Robert mentioned:

18 "Due to the fact that Mr. Seguin's
19 involvement was very brief and that he
20 was embarrassed and made it clear that
21 he had not the habit of having clients
22 at his residence, Constable Millar and
23 I recommended that no further action be
24 taken."

25 Do you recall that?

1 **MR. HAWKINS:** Yes, I do.

2 **MR. RUEL:** Well, let's go to the report,
3 which is Exhibit 929.

4 And again, Mr. Commissioner, I would ask
5 your permission to have the witness to ---

6 **THE COMMISSIONER:** Certainly.

7 **MR. RUEL:** --- have a few seconds to read
8 the document.

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

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. RUEL:** So Mr. Hawkins, just for the
12 record, this is a letter dated September 3, 1992 from a
13 Detective Constable Millar from the Ontario Provincial
14 Police to Emile Robert and it was attached to the note that
15 was sent to you by Mr. Robert; that's correct?

16 **MR. HAWKINS:** Yes.

17 **MR. RUEL:** So you had reviewed this document
18 at the time; is that correct?

19 **MR. HAWKINS:** Yes.

20 **MR. RUEL:** So would it be fair to -- I won't
21 -- I guess everybody has had a chance to read it, but is it
22 fair to say that in reviewing this document, the OPP was
23 providing additional information as compared to the initial
24 report that we have just reviewed?

25 **MR. HAWKINS:** Yes, that's correct.

1 **MR. RUEL:** For example, at the fifth
2 paragraph, the -- Constable Millar or Detective Constable
3 Millar mentioned that:

4 "The investigation revealed that the --
5 Mr. Varley and the deceased and certain
6 friends drank liquor and beer quite
7 heavily for approximately 17 hours
8 prior to the shooting."

9 At the following page that Mr. Seguin --
10 well the third paragraph from the top:

11 "Mr. Seguin was surprised and did not
12 expect the other two individuals to
13 come in."

14 And the last paragraph:

15 "He didn't notice any signs of
16 impairment."

17 Do you see that?

18 **MR. HAWKINS:** Yes.

19 **MR. RUEL:** And there is also reference to
20 Mr. Seguin providing alcohol to those individuals.

21 **MR. HAWKINS:** Yes.

22 **MR. RUEL:** Is that correct?

23 **MR. HAWKINS:** Yes, that's correct.

24 **MR. RUEL:** So how did you react when you
25 received those documents?

1 **MR. HAWKINS:** I was surprised and shocked
2 that this very, very serious incident seemed to be dealt
3 with in such a superficial and trivial way. In fact, I
4 would put my language a little stronger than that, I was
5 outraged by the way this was being handled and the
6 recommendations that were being made. I don't find the
7 evidence that was accumulated and recorded here as being
8 very credible.

9 **MR. RUEL:** Based on -- in what way? Can you
10 explain?

11 **MR. HAWKINS:** Well, I just don't think that
12 probationers are having social contact with a probation
13 officer under these circumstances without much more going
14 on than is being disclosed to me. And I think what we're
15 looking at is the tip of the iceberg. And I suspect that
16 there is a big iceberg not being revealed, and I just don't
17 see anybody digging more deeply to see whether or not this
18 might be in back of the case.

19 **MR. RUEL:** So would it be fair to say that
20 you -- based on what you just indicated, that you did not
21 agree with Mr. Robert's recommendation ---

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

23 **THE COMMISSIONER:** How about his ---

24 **MR. RUEL:** --- that no further action be
25 taken?

1 **MR. HAWKINS:** I think it did need more
2 action.

3 **MR. RUEL:** Okay. Sorry, Mr. Commissioner.

4 **THE COMMISSIONER:** How about his handling of
5 the affair in the sense of not -- I take it that your
6 position is that he -- the first you heard of this was in
7 November -- was in October, when you received the letter
8 and the enclosed report?

9 **MR. HAWKINS:** Enclosing the police report,
10 yes.

11 **THE COMMISSIONER:** And so what about the
12 time lapse there?

13 **MR. HAWKINS:** I have no explanation for
14 that.

15 **THE COMMISSIONER:** Well, the incident
16 occurred on January 8th, 1992 and it seems that Monsieur
17 Robert contacts you on October 16th, 1992, right?

18 **MR. HAWKINS:** M'hm.

19 **MR. MANSON:** September 8th, I believe.

20 **THE COMMISSIONER:** September 8th, yeah. I'm
21 looking at ---

22 **MR. MANSON:** Mr. Robert writes to -- we
23 don't know when it was received, but the letter is dated
24 September 8th.

25 **MR. RUEL:** It's Exhibit 931, Mr.

1 Commissioner.

2 **THE COMMISSIONER:** Right. Okay. So ---

3 **MR. HAWKINS:** Several months, I think, had
4 elapsed from the time of the original ---

5 **THE COMMISSIONER:** So did that give rise to
6 some concern?

7 **MR. HAWKINS:** Absolutely.

8 **THE COMMISSIONER:** Did you take it up with
9 Mr. Robert?

10 **MR. HAWKINS:** I don't recall specifically
11 whether I took up the issue of delay, but I know there were
12 a number of issues that I did raise with him at that time.

13 **THE COMMISSIONER:** Okay. Go ahead, Mr.
14 Ruel.

15 **MR. RUEL:** Just coming back on the report of
16 Mr. -- Detective Constable Millar, it's Exhibit 929. So
17 the first paragraph reads or mentions that Mr. Seguin was
18 interviewed on January 9, 1992. Is that correct?

19 **MR. HAWKINS:** Yes.

20 **MR. RUEL:** And did you have any, at the time
21 -- any issue with the OPP's handling of this matter?

22 **MR. HAWKINS:** Well, I think that there was a
23 responsibility to go much more deeply into the
24 circumstances and background of what had taken place. On
25 the face of it, it would appear to me that Mr. Seguin's

1 statements were being accepted at face value in terms of
2 what he said, and I, quite frankly, have an issue of
3 credibility with it.

4 MR. RUEL: Is your comment based -- this
5 comment that you make, is it based on Mr. Robert's letter
6 when he said that:

7 "Constable Millar and I recommend that
8 no further action be taken."

9 Is that ---

10 MR. HAWKINS: That's correct.

11 MR. RUEL: --- based on this comment?

12 MR. HAWKINS: Yes, it is.

13 MR. RUEL: So I'd like to show you now
14 Exhibit 930.

15 And again, Mr. Commissioner, if Mr. Hawkins
16 can be given a few seconds to read that?

17 THE COMMISSIONER: M'hm.

18 (SHORT PAUSE/COURTE PAUSE)

19 MR. HAWKINS: Yes.

20 MR. RUEL: So, Mr. Hawkins, do you -- this
21 is a letter dated October 16th, '92 or a memorandum from you
22 to Mr. Robert concerning this incident. Do you recall ---

23 MR. HAWKINS: Yes.

24 MR. RUEL: --- sending this document?

25 MR. HAWKINS: Yes, I do.

1 **MR. RUEL:** So the first paragraph, you
2 wrote:

3 "After careful review of the materials
4 forwarded to me on the above-noted
5 employee [which is Ken Seguin] it would
6 appear that there is a need for a
7 meeting and possibly taking
8 disciplinary action."

9 That's correct?

10 **MR. HAWKINS:** Yes, that's correct.

11 **MR. RUEL:** So I guess you had some issues
12 with the information that was provided to you by Mr. Robert
13 concerning Mr. Seguin?

14 **MR. HAWKINS:** Very much so.

15 **MR. RUEL:** And the second paragraph you
16 mention having questions or obvious questions about the
17 apparent ease of access to Mr. Seguin's residence ---

18 **MR. HAWKINS:** Yes.

19 **MR. RUEL:** --- which included the serving of
20 alcohol?

21 **MR. HAWKINS:** M'hm.

22 **MR. RUEL:** So you had an issue with that?

23 **MR. HAWKINS:** Yes, very much so.

24 **MR. RUEL:** So the third paragraph:

25 "In any case, my purpose in writing is

1 not to review the discrepancies but to
2 ensure the evidence is reviewed
3 carefully with Mr. Seguin and that he
4 be given an opportunity to provide
5 credible comment. If discipline is
6 warranted, so be it."

7 That's correct?

8 **MR. HAWKINS:** Yes, that's right.

9 **MR. RUEL:** So you wanted Mr. Robert, if I
10 understand this correctly, to review the matter carefully
11 with Mr. Seguin?

12 **MR. HAWKINS:** Yes, that's correct.

13 **MR. RUEL:** To obtain all the facts?

14 **MR. HAWKINS:** Yes. I think in retrospect
15 and, of course, retrospect, hindsight is 20/20, in
16 reviewing this material at this date, I would think that I
17 -- another course of action that I might have taken would
18 be to ask the Ministry to do an investigation in this
19 situation because clearly the probation officer involved,
20 the police officer involved and the area manager involved
21 were not taking as seriously, as I believe needs to take
22 place, the concerns of Ministry clients who were involved
23 here.

24 **MR. RUEL:** Are you in a position to comment
25 on what type of discipline might have been imposed to Mr.

1 Seguin or you don't have enough facts to ---

2 MR. HAWKINS: I don't have enough ---

3 MR. RUEL: --- take a position?

4 MR. HAWKINS: I don't have enough facts, but
5 it's alarming to me, and if there certainly is a pattern of
6 this, I would question whether an employee embarking on
7 that kind of contact with probationers ought to be an
8 employee of the Ministry.

9 MR. RUEL: So the remaining paragraph, you
10 mention:

11 "Mr. Seguin should receive a copy of
12 the police report and it should go in
13 his personnel file."

14 And you conclude, saying:

15 "This is a very serious matter and it
16 must be dealt with fairly quickly and
17 with a view of ensuring no recurrence."

18 Correct?

19 MR. HAWKINS: Yes, that's correct.

20 MR. RUEL: So do you know what -- well,
21 first of all, did you discuss -- have a discussion with Mr.
22 Robert about this at any point? Do you recall?

23 MR. HAWKINS: I'm sure there would have been
24 discussion about the content of my letter, but I don't
25 recall specifically the detail of that discussion.

1 **MR. RUEL:** Okay. So this letter here to Mr.
2 Robert, was that an order? Were those directions? How do
3 you qualify this letter to Mr. Robert?

4 **MR. HAWKINS:** I was telling him that I
5 regarded this matter much more seriously than either he or
6 the police officer who had completed the report seemed to
7 be taking the matter and I wanted it to be looked at more
8 seriously and thoroughly.

9 **MR. RUEL:** So do you know -- you mentioned a
10 Ministry investigation. It wasn't called at the time; do
11 you recall?

12 **MR. HAWKINS:** There was no investigation
13 done by the Ministry that I recall at that time on this
14 incident.

15 **MR. RUEL:** And following the receipt of your
16 letter of October 16, 1992, do you know what Mr. Robert --
17 what actions or what steps Mr. Robert took in relation to
18 this matter?

19 **MR. HAWKINS:** If my memory serves me
20 correctly, it was basically counselling.

21 **MR. RUEL:** Do you know if he met with Mr.
22 Robert and had a discussion with him?

23 **MR. HAWKINS:** I believe he did.

24 **MR. RUEL:** Do you know if he gathered some
25 facts and information -- additional facts or information

1 from Mr. Seguin?

2 **MR. HAWKINS:** I would assume that he did,
3 but I'm just not recalling the exact detail on that.

4 **MR. RUEL:** So, Mr. Hawkins, I would ask you
5 to go to Exhibit 926, and this goes with Exhibit 928. So
6 926 is a letter or a memorandum from Mr. Robert to you
7 dated February 5, 1993 which reads:

8 "As per today's conversation, please
9 find enclosed my letter of counsel to
10 the abovementioned employee."

11 Do you recall receiving this letter?

12 **MR. HAWKINS:** I can't say that I
13 specifically recall it, but I believe I did -- would have
14 received it.

15 **MR. RUEL:** And it attaches -- do you recall
16 -- I mean, Mr. Robert mentions a conversation which
17 apparently took place on February 5, 1993.

18 Do you remember the -- having a conversation
19 with Mr. Robert and, if so, the content of it?

20 **MR. HAWKINS:** No, I'm not recalling it.

21 **MR. RUEL:** And the letter -- attached letter
22 is Exhibit 928, which is dated November 10, 1992 from Mr.
23 Robert to Mr. Seguin. And do you recall seeing this
24 letter?

25 **MR. HAWKINS:** Yes, I think I did see it.

1 **MR. RUEL:** So he seemed to -- Mr. Robert
2 seemed to have followed your instructions, if I may call
3 them like that, to discuss the matter with Mr. Seguin.
4 Correct?

5 **MR. HAWKINS:** He took the minimal amount of
6 action, flowing out of my instructions, that could be
7 taken.

8 **MR. RUEL:** Okay. And he brought to the
9 attention of Mr. Robert that it was improper to allow
10 Ministry clients at his residence and to offer alcohol,
11 correct?

12 **MR. HAWKINS:** Yes, that's correct.

13 **MR. RUEL:** So what is the -- we've talked
14 about that, but what's your view as to what the letter of
15 counsel is? What's the consequence of that, for an
16 employee?

17 **MR. HAWKINS:** Well, a letter of counsel is
18 really a first warning and documentation to an employee
19 that there is some behaviour unacceptable to the Ministry
20 which must, in the future, be changed and must not be
21 repeated.

22 The employee, in essence, is being put on
23 notice that his behaviour is not acceptable.

24 **MR. RUEL:** So do you think this was an
25 appropriate response from Mr. Robert?

1 **MR. HAWKINS:** Well, I'm not satisfied that I
2 know a thorough enough investigation took place and I think
3 I have to accept responsibility for that because I could
4 have asked for an investigation by the Ministry
5 independently in this situation.

6 **MR. RUEL:** On the other hand, you mentioned
7 -- I just want you to confirm, that you expected the
8 manager to deal with the conduct of his employees.

9 **MR. HAWKINS:** Well, you get into the whole
10 question of when regional office is micromanaging the
11 affairs of the local office, and when you're in fact
12 delegating back to the manager the responsibility to do
13 with his employees what seems to be self-evident and must
14 be done. And I think, in this particular case, maybe a
15 little micromanaging would have been appropriate.

16 **THE COMMISSIONER:** Just ---

17 **MR. RUEL:** Sorry.

18 **THE COMMISSIONER:** In the end, then, what
19 you're saying is you recall reading this letter, but took
20 no further action.

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

22 **THE COMMISSIONER:** When Mr. Robert sent you
23 the letter on February 5 1993, did you recall raising any
24 objection as to -- with Mr. Robert as to how the matter had
25 been dealt with, by him?

1 **MR. RUEL:** I don't recall a specific
2 discussion with him, but knowing my usual behaviour in
3 these kinds of situations, I would find it difficult to
4 believe that I didn't have a conversation with him about
5 it.

6 But possibly you could ask him about that;
7 he might be able to confirm it. I just don't recall the
8 specifics of it; it's quite a while ago.

9 **MR. RUEL:** So was that the -- did you hear
10 about this matter again, after the -- receiving the
11 February 5, 1993 letter?

12 **MR. HAWKINS:** I don't believe so.

13 **MR. RUEL:** Do you know if this matter was
14 reported in Mr. Seguin's performance reviews of that year,
15 or the following year?

16 **MR. HAWKINS:** I don't recall. If my memory
17 is serving me correctly, I think that's about the time that
18 I may have left the Eastern Region, and I'm just not sure
19 the timing and that; I'd have to ---

20 **MR. RUEL:** Do you think this is a matter
21 that should have appeared in Mr. Seguin performance reviews?

22 **MR. HAWKINS:** Definitely.

23 **MR. RUEL:** Just a few questions, and I'm
24 almost done, Mr. Hawkins.

25 Did you know if Mr. Robert -- at some point,

1 whether Mr. Robert was appointed as the region
2 representative on a Ministry project called the Ministry
3 Employment Systems Review?

4 **MR. HAWKINS:** I don't recall that, but it
5 could have happened.

6 **MR. RUEL:** And that Mr. Robert, from 1991 to
7 1993 had to devote considerable time to deal with this
8 project and less time with his duties as area manager.

9 Does it ring a bell?

10 **MR. HAWKINS:** I'm drawing a complete blank
11 on that one. I wish I could be more helpful.

12 **MR. RUEL:** When you were Regional
13 Administrator for the Eastern Region, did you ever hear
14 about any allegations of -- or reports of sexual abuse
15 against Ministry clients by probation officers? Mr. Seguin
16 in particular; Mr. Barque also.

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

18 **MR. RUEL:** When did you leave, exactly, the
19 position of Regional Administrator for the East Region?

20 **MR. HAWKINS:** Would have been, I believe,
21 the end of August, early September 1993.

22 **MR. RUEL:** Did you hear at any time that Mr.
23 Seguin may have been under either police investigation or
24 the subject -- or was the subject of a criminal complaint
25 for having abused sexually one of his clients?

1 **MR. HAWKINS:** I was not aware of that, prior
2 to leaving the Eastern Region.

3 **MR. RUEL:** we are asking witnesses that come
4 up here if they have any recommendations for the
5 Commission, for the Commissioner.

6 So we'd invite you to provide any
7 recommendation you might think of. You don't have to, but
8 if you have ---

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

10 **MR. RUEL:** --- some recommendation, we'd be
11 interested to hear it.

12 **MR. HAWKINS:** Well, I think that the focus
13 of many of the policies that have been alluded to in my own
14 evidence have had variations on the theme of protecting the
15 Ministry, and protecting the Ministry documents and things
16 of that nature.

17 It seems to me that one of the equally
18 important concerns of the Ministry has to be the well being
19 and welfare of the Ministry's clients and policy that is
20 put in place to protect the Ministry also ought to be
21 highlighting in large and bold letters the necessity of
22 safeguarding the Ministry clients from potential abuse.

23 There is a power relationship between a
24 probation officer and a probationer and the Ministry needs
25 to be cognisant of that.

1 Management needs to be cognisant of that and
2 while people who are behaving inappropriately are hardly
3 likely to engage in confessing their faults to one another,
4 it is extremely important that due diligence be maintained
5 by management and peers and others.

6 But policy alone will not protect people;
7 you also need people who are committed to protecting other
8 individuals and if the importance of that can be raised a
9 few notches in the minds of all Ministry or other
10 institutional staff, I think that's well worth while.

11 **MR. RUEL:** Okay.

12 Thank you, Mr. Hawkins. Those are my
13 questions.

14 **THE COMMISSIONER:** Mr. Manson, are you
15 prepared to ask -- cross-examine at this point?

16 **MR. MANSON:** I would certainly prefer to let
17 someone else go ahead; I confess I've read half of Mr.
18 Hawkins' documents.

19 If necessary, if there's no one else ready,
20 I could start. I've got my notes from his Chief and could
21 ask some questions, but at some point I would be asking
22 your indulgence, Mr. Commissioner.

23 **THE COMMISSIONER:** Okay; so anybody ready to
24 go? Mr. Paul? Good.

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

1 **PAUL:**

2 **MR. PAUL:** Mr. Hawkins, my name is Ian Paul.
3 I'm one of the counsel for an organization called the
4 Coalition for Action, a citizen's group.

5 I'd like to, first of all, just try to
6 clarify one part of your evidence where I want to get a bit
7 more information about the selection process where Mr.
8 Robert became the local manager.

9 I understand that there was a competition
10 and Mr. van Diepen at some point may have been in the
11 competition? Do you recall that.

12 **MR. HAWKINS:** I am not recalling in my mind
13 the specific details of that competition but I believe that
14 it would be fair to say that that is true.

15 Usually persons interested in becoming an
16 area manager make an application in response to a posted
17 competition and then they -- in addition to the documents
18 that are reviewed, there is a meeting that takes place with
19 the selection panel, usually made up of a regional director
20 or a regional manager, regional administrator, whatever the
21 title would be at that time, regional personnel
22 administrator and usually another outside manager.

23 **MR. PAUL:** You did indicate that you had
24 heard from somewhere that Mr. van Diepen may have been
25 upset about the results.

1 **MR. HAWKINS:** Yes, I was told that on more
2 than one occasion.

3 **MR. PAUL:** I just want to clarify. I assume
4 that that may have been from Mr. Robert that you heard
5 that, not Mr. van Diepen himself?

6 **MR. HAWKINS:** Primarily yes.

7 **MR. PAUL:** Okay. And probably not from Mr.
8 van Diepen?

9 **MR. HAWKINS:** I can't recall specifically
10 but I don't think that Mr. van Diepen would have had any
11 difficulty in expressing to me that concern if he chose to
12 do so.

13 **MR. PAUL:** Just on that competition as well,
14 are you aware whether at some point, perhaps in the midst
15 of the competition, whether the job position was
16 reclassified from unilingual to bilingual?

17 **MR. HAWKINS:** I don't recall.

18 **MR. PAUL:** Now, looking at another area, I
19 understand with respect to the approval for Mr. Seguin to
20 reside with a former probation client, Mr. Renshaw, that
21 you would have dealt primarily with Mr. Robert by
22 correspondence, by mail. Is that correct?

23 **MR. HAWKINS:** Yes.

24 **MR. PAUL:** But am I to understand that you
25 had -- at least at some point you had some kind of

1 conversation by phone perhaps?

2 MR. HAWKINS: Yes.

3 MR. PAUL: But I think you indicated that
4 the phone conversation basically duplicated what was in the
5 correspondence, in the letters?

6 MR. HAWKINS: Yes, it would have, because
7 the issues that I considered important are generally
8 documented in correspondence.

9 MR. PAUL: So from your recollection there
10 was nothing in the phone conversation that we wouldn't see
11 in the letters we've seen today?

12 MR. HAWKINS: I think that's generally true,
13 yes.

14 And, again, if I might, the omission in that
15 letter, there is no reference to what I raised a few
16 moments ago, and that is the concerns that I legitimately
17 might have had with regard to the wellbeing of that
18 particular client residing with Mr. Seguin.

19 Now, I have no information given to me to
20 say that there was anything inappropriate about the
21 relationship during the period that he lived together or
22 how long it lasted or what went on. I just don't have any
23 information. But I think it would be a legitimate concern
24 that a client living with a former supervisor, you'd need
25 to be concerned as well about the wellbeing of that client.

1 **MR. PAUL:** And this approval came during a
2 phase when Mr. Robert was manager, I take it?

3 **MR. HAWKINS:** Yes, it did.

4 **MR. PAUL:** Now, as regional -- or as a
5 manager above Mr. Robert, I would understand it would be
6 part of your function to try to become familiar with your
7 local managers and their abilities?

8 **MR. HAWKINS:** Yes.

9 **MR. PAUL:** And given -- I take it that you
10 would have taken that seriously and that fairly soon after
11 Mr. Robert takes over you would notice, perhaps, some
12 difficulties?

13 **MR. HAWKINS:** Well, I'm not sure that there
14 were a lot of difficulties readily apparent. I think that
15 based upon reflecting back on that situation there were
16 more things being referred to me for direction than I
17 normally am accustomed to or that I normally accept, in and
18 of themselves. I would generally ---

19 **MR. PAUL:** Is that something that you
20 attributed to, perhaps, to him being a fairly junior
21 manager?

22 **MR. HAWKINS:** Possibly.

23 **MR. PAUL:** Possibly someone who needs a bit
24 more direction and assistance than other managers?

25 **MR. HAWKINS:** Possibly.

1 **MR. PAUL:** And when confronted with the
2 request for this issue surrounding residing with Renshaw --
3 Mr. Seguin residing with Mr. Renshaw, were you under the
4 impression that that was a situation where the local
5 manager needed active assistance from you?

6 **MR. HAWKINS:** Well, I think he could have
7 made the decision on his own but I think he was asking for
8 direction, and without asking him to flesh out and expand
9 upon the background information or any concerns or
10 suspicions that he had, I simply responded to his request
11 and I outlined three or four things I was concerned about.

12 **MR. PAUL:** All right.

13 As far as what information he's presented to
14 you -- he would have presented to you, an individual who
15 had been not in difficulty with the law for a period of
16 years?

17 **MR. HAWKINS:** Three years I believe.

18 **MR. PAUL:** Three years since he was on
19 probation, would that be?

20 **MR. HAWKINS:** That's correct, yes.

21 **MR. PAUL:** And then during that three years
22 it was your understanding or belief that there had been no
23 new matters, new criminal matters?

24 **MR. HAWKINS:** That's correct.

25 **MR. PAUL:** And that's essentially the main

1 points or the extent of what information is related to you,
2 other than it's a situation of wanting to reside with the
3 person?

4 MR. HAWKINS: Yes.

5 MR. PAUL: So in terms of what he was on
6 probation for, what the conviction was for, that was
7 related to you?

8 MR. HAWKINS: It wasn't -- I don't believe
9 it was conveyed to me.

10 MR. PAUL: All right.

11 And perhaps if it was for an offence of a
12 very serious nature it's something that might be given a
13 bit more consideration?

14 MR. HAWKINS: Yes, possibly.

15 MR. PAUL: And the extent of this
16 individual's record -- Renshaw -- whether he had one
17 conviction or had a whole series of convictions, that's
18 something that wasn't related either?

19 MR. HAWKINS: That's correct.

20 MR. PAUL: And, again, that would be
21 something that might be significant for this type of
22 decision?

23 MR. HAWKINS: Well, I think that before an
24 area manager puts forward a request to a regional manager,
25 a regional administrator for direction that one would

1 expect a fair amount of the biographical and criminal
2 record be communicated.

3 **MR. PAUL:** Would you agree that perhaps one
4 of the difficulties in this situation is that you're making
5 an assumption that Mr. Robert has looked into all the
6 appropriate areas, such as criminal record, what the
7 conviction is for, you're assuming he's looked at those
8 factors but you don't know for certain?

9 **MR. HAWKINS:** Yeah.

10 **MR. PAUL:** So if there is a difficulty with
11 competence your assumption might lead to perhaps an
12 erroneous result?

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

14 **MR. PAUL:** Do you think another factor that
15 may perhaps have been looked at back at that point would be
16 some kind of an assessment of whether this Renshaw
17 individual was an individual who was perceived by the
18 probation office as someone who had a low, high or medium
19 risk to re-offend? Because those are criterias that
20 probation officers use, are they not?

21 **MR. HAWKINS:** Well, I think that there could
22 be a fair amount of investigation done and information put
23 forward with regard to the specifics of the client criminal
24 record, nature of offence committed, employment
25 circumstances; a whole host of things could be looked at

1 and included in there.

2 But really there was no information given to
3 me and my response was basically to say "Look, if this
4 person is going to be living with Mr. Seguin let us know,
5 at the very least, that there's been no previous criminal
6 behaviour and if there is any subsequent involvement with
7 the courts that we be advised immediately; Mr. Seguin not
8 be involved in doing pre-sentence reports or supervision or
9 anything of that nature." I mean, that was the primary
10 response on my part.

11 Now, another factor that I didn't mention
12 that could enter into my response to him might have been
13 pressure of work at the time. It's easier sometimes to
14 just simply respond directly to a person's questions than
15 to sit down and say, "Hey, look, there is some more
16 investigation, some more information that should be put on
17 the table."

18 **MR. PAUL:** Right. One option would have
19 been to have gone back to Mr. Robert and inquired about a
20 series of things such as criminal record of the individual,
21 what the last conviction was for and if there was any
22 assessment of likelihood of re-offending. You could have
23 asked those points of information?

24 **MR. HAWKINS:** That's correct.

25 And also one has to wonder about probation

1 officers and clients, is there anything that ought to be of
2 concern about that specifically in relationship to this
3 case.

4 **MR. PAUL:** And if the situation was found,
5 based on whatever facts arose, to be serious enough could
6 there have been a direction that Mr. Seguin should make a
7 choice between that residence situation and career
8 implications or punishment?

9 **MR. HAWKINS:** Well, I don't know how much
10 authority the Ministry would have to enforce non-residency,
11 if I could put it that way. You could ask the probation
12 officer to cease and desist from renting the room to Mr.
13 whatever the gentleman's name is, but if he refused to do
14 so I'm not recalling what follow-up enforcement measures
15 might be available to you. I mean, you can't just simply
16 say, "I'm sorry but either you do what we're telling you or
17 you are fired", you know. It doesn't happen quite that
18 easily.

19 **MR. PAUL:** Now, the idea of the renting the
20 room, it's the appearance based on the document you saw
21 that it was just a rental situation as opposed to some kind
22 of ---

23 **MR. HAWKINS:** Absolutely. I viewed it as he
24 had a spare space, they were aware of each other, a matter
25 of convenience or something of that nature. I didn't read

1 anything more into it than that.

2 MR. PAUL: And if it had come to your
3 attention at some point that anybody in the probation
4 office in Cornwall had been aware or suspected that Mr.
5 Renshaw and Mr. Seguin were in some kind of sexual
6 relationship, would that have changed the whole situation?

7 MR. HAWKINS: Absolutely.

8 MR. PAUL: Change in a sense that you may
9 have directed ---

10 MR. HAWKINS: Changed in the sense that I
11 think that a sexual relationship is a fairly intimate and
12 personal relationship and we're talking about a person who
13 had been supervising this individual. Again, I'm not sure
14 what you might be able to do about it, but it certainly
15 would raise some alarm bells in my mind.

16 MR. PAUL: Okay. Another topic.

17 THE COMMISSIONER: Before you go off on that
18 one.

19 Wre you ever made aware, sir, that this
20 decision to permit this gentleman to rent a room from Mr.
21 Seguin was not met with great pleasure by the staff in the
22 Cornwall office?

23 MR. HAWKINS: Never.

24 THE COMMISSIONER: Are you aware now that
25 they were very displeased and shocked about that decision?

1 **MR. HAWKINS:** Until you've mentioned it now,
2 I've had no knowledge of that.

3 **THE COMMISSIONER:** Okay. Thank you.
4 Go ahead, Mr. Paul.

5 **MR. PAUL:** Thank you.

6 Another area is evaluation reports. I
7 understand that personnel evaluation reports are usually
8 done on a yearly basis?

9 **MR. HAWKINS:** Yes.

10 **MR. PAUL:** And those reports would come to
11 your attention; each individual member in the Cornwall
12 office, the reports would come to your attention?

13 **MR. HAWKINS:** Yes, they would.

14 **MR. PAUL:** And you never saw a negative
15 report on Mr. Seguin?

16 **MR. HAWKINS:** Not that I recall.

17 **MR. PAUL:** Are you called upon to actually
18 sign the reports when they come to you?

19 **MR. HAWKINS:** I usually initial the reports
20 when they're received.

21 **MR. PAUL:** Okay. And are you only
22 initialling them as acknowledging receipt of them or when
23 you sign them are you agreeing with the content?

24 **MR. HAWKINS:** When I'm signing them, it
25 indicated that I've read and understand the nature of the

1 content. The question of agreeing or disagreeing wouldn't
2 enter into my signature on the document.

3 If I did have a concern about something that
4 had taken place that I was aware of that should be included
5 within the document, I would communicate that back to the
6 area manager in writing.

7 **MR. PAUL:** All right. Was this incident ---
8 the Varley incident in 1992, was that something that would
9 be appropriate to put in the report?

10 **MR. HAWKINS:** Yes, I would think so.

11 **MR. PAUL:** Okay. And to your knowledge, did
12 you ever direct in '92 or '93 that that be put in the
13 report of Mr. Seguin?

14 **MR. HAWKINS:** Could you say that again,
15 please?

16 **MR. PAUL:** Would you have ever directed Mr.
17 Robert to put that incident in any evaluation reports of
18 Mr. Seguin?

19 **MR. HAWKINS:** I don't recall ever
20 specifically directing an area manager to put something in
21 a report, but it is something that I would expect to be in
22 the report, the evaluation report, in the subsequent year
23 that the letter of counsel had been sent with regard to
24 whatever the matter had been. That would normally be
25 procedure.

1 **MR. PAUL:** Just -- I understand that you
2 would have transferred or left management of that area
3 around 19 -- late 1993. Would that be fair?

4 **MR. HAWKINS:** Yes.

5 **MR. PAUL:** So it would have been shortly
6 before the suicide of Ken Seguin?

7 **MR. HAWKINS:** Yes.

8 **MR. PAUL:** And I understood from the
9 evidence of Bill Roy that he took over from you. Is that
10 the situation, Bill Roy took over from you?

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

12 **MR. PAUL:** And I understood from his
13 evidence that there may not have been much in the way in
14 discussion between -- much of any discussion between the
15 two of you about matters or any difficulties with Ken
16 Seguin?

17 **MR. HAWKINS:** There was no overlap between
18 us and he never did make contact with me in London with
19 regard to any matters relating to that office.

20 **MR. PAUL:** So there is no period of a couple
21 days or a week with both of you in the same office?

22 **MR. HAWKINS:** No, there wasn't.

23 **MR. PAUL:** And was it -- are you under the
24 impression that his expectation is he's is to contact you
25 to get a briefing or is there any briefing expected?

1 **MR. HAWKINS:** Well, I think it would be
2 normal practice that when you hand over the responsibility
3 from one area, one manager to another, that there would be
4 time allotted for a briefing.

5 And I don't know what the circumstances were
6 that caused us not to have any overlap because that's
7 certainly -- it is appropriate and should be done in an
8 organization but it did not happen on that case.

9 **MR. PAUL:** Given the issue you had about the
10 type of discipline imposed on Mr. Seguin by Mr. Robert and
11 the issues you had with that, did you see that as an
12 unresolved issue when you left for London?

13 **MR. HAWKINS:** I don't know if I would use
14 the term "unresolved issue" but certainly there were some
15 red flags in my mind with regard to what was going on
16 there. The letter of counsel I thought was a very weak
17 response to a very serious situation and would probably --
18 I expected it would probably be the first step in a process
19 that could well have ended in dismissal ---

20 **MR. PAUL:** In hindsight ---

21 **MR. HAWKINS:** --- of Mr. Seguin.

22 **MR. PAUL:** In hindsight, if you could have
23 done things any different, would you have considered
24 leaving some kind of memorandum or report to your successor
25 in relation to difficulties and concerns with Mr. Seguin?

1 **MR. HAWKINS:** Well, I think there needs to
2 be a briefing of one manager to another when there's a
3 takeover such as that. I mean, I just think it's
4 appropriate for it to happen and I think it's a flaw in the
5 process or the practice when there isn't provision made for
6 takeover in the position, one person replacing another.

7 **MR. PAUL:** Looking at the Varley incident, I
8 would understand that you had made it clear in your
9 correspondence with Mr. Robert that you viewed the conduct
10 of Mr. Seguin as a very serious issue?

11 **MR. HAWKINS:** Highly suspect because the
12 information that he gave -- that Mr. Seguin gave was not in
13 my mind credible information.

14 **MR. PAUL:** Okay, but while you indicated it
15 was a serious issue, you didn't specifically list types of
16 discipline that you thought he should consider?

17 **MR. HAWKINS:** No. I think he was well aware
18 of the types of discipline that were open to him and if he
19 was either unable or unwilling to do the necessary kind of
20 investigation to get to the root of this, then he certainly
21 would have been aware that I had serious concerns about it.
22 He could have suggested or asked for a Ministry
23 investigation.

24 I mean, it doesn't have to be the regional
25 administrator who initiates an investigation being done.

1 The area manager could say, "Look, this thing is maybe
2 bigger that I'm capable of dealing with, could we have the
3 Ministry investigators come in and do it?"

4 **MR. PAUL:** But when he comes back with an
5 indication that he's pursuing counselling or a letter of
6 counselling, at that point ---

7 **THE COMMISSIONER:** I'm sorry. I don't think
8 it's counselling.

9 **MR. PAUL:** A letter of counselling ---

10 **THE COMMISSIONER:** A letter of counsel,
11 which means it's like a -- not a letter of reprimand but
12 almost, one lower than a reprimand. So it's like I'm
13 giving you a counsel, but it's not counselling as in "go
14 and see a counsellor". Okay?

15 **MR. PAUL:** When you do -- it does become
16 clear to you that he's pursuing what's called a letter of
17 counsel, at that point does it seem clear to you that Mr.
18 Robert is treating this matter less seriously than you
19 would view it, and he's not likely to pursue or request an
20 investigation?

21 **MR. HAWKINS:** Well, after my letter was sent
22 back to Mr. Robert, I didn't receive any further
23 information to confirm that there was a diligent
24 investigation and inquiry into all of the circumstances
25 leading up to that.

1 **MR. PAUL:** As to what you say, if you could
2 have done things differently in this particular case, you
3 suggested that one option would have -- you could have
4 considered a Ministry investigation?

5 **MR. HAWKINS:** Yes, absolutely.

6 **MR. PAUL:** And looking at it today, that's
7 probably where you would have gone?

8 **MR. HAWKINS:** Probably would have been the
9 route I went.

10 **MR. PAUL:** And if that type of Ministry
11 investigation came back indicating that the matter was
12 viewed as more serious than perhaps as outlined in the OPP
13 letter, then you could have considered more severe
14 discipline?

15 **MR. HAWKINS:** More severe discipline, up to
16 and including termination of employment.

17 **MR. PAUL:** And once they considered more
18 severe discipline, was it open for you to step in
19 regardless of what Mr. Robert thought and impose the
20 discipline yourself?

21 **MR. HAWKINS:** No, I couldn't do that.

22 **MR. PAUL:** You didn't have authority as an
23 area manager?

24 **MR. HAWKINS:** I'm not sure how that would
25 unfold but it's -- in my mind it's micromanaging and if I

1 wanted to order Mr. Robert to take more severe discipline
2 that, I suppose, would be within the realm of possibility
3 but it's the responsibility of the manager to evaluate the
4 situation and to impose whatever discipline he considers
5 appropriate.

6 **MR. PAUL:** Right. There was evidence from
7 one witness, Carole Cardinal, at this hearing that
8 suggested that an area manager might be able to impose
9 discipline even if the local manager did not wish to do so.
10 You don't agree with that?

11 **MR. HAWKINS:** I've never heard of it being
12 done.

13 **MR. PAUL:** Those are my questions,
14 Mr. Commissioner.

15 **THE COMMISSIONER:** Thank you. Let's take
16 the afternoon break.

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

19 **THE REGISTRAR:** This hearing will resume at
20 3:20 p.m.

21 --- Upon recessing at 3:04 p.m./

22 L'audience est suspendue à 15h04

23 --- Upon resuming at 3:25 p.m./

24 L'audience est reprise à 15h25

25 **THE REGISTRAR:** This hearing is now resumed.

1 Please be seated. Veuillez vous asseoir.

2 **THE COMMISSIONER:** Thank you.

3 I understand that those who are ready to --
4 there are a few of you that wish to cross-examine him at
5 this point so why don't we go through those who wish to
6 cross-examine.

7 Sir, I'm going to ask you -- you're going to
8 have to come back tomorrow morning. But I understand this
9 gentleman has an appointment and so I want to make sure
10 that we get him completed early tomorrow morning.

11 So, let's find out -- who is prepared to
12 cross-examine at this point?

13 Ms. McIntosh?

14 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR:**

15 **MS. McINTOSH:**

16 **MS. McINTOSH:** Thank you, Mr. Commissioner.

17 Mr. Hawkins, my name is Leslie McIntosh and
18 I'm here for the Ministry of the Attorney General. And I
19 had a couple of questions about imposing discipline on
20 employees. Probation officers are in the bargaining unit.
21 Is that correct?

22 **MR. HAWKINS:** Yes, it is.

23 **MS. McINTOSH:** And they have a right to
24 grieve discipline, is that correct?

25 **MR. HAWKINS:** Yes, it is.

1 **MS. McINTOSH:** And -- so if a matter -- if
2 their grievance is not resolved internally in the Ministry,
3 then they have a right to take that to an independent board
4 called the Grievance Settlement Board. Is that correct?

5 **MR. HAWKINS:** Yes, it is.

6 **MS. McINTOSH:** And when I say, independent,
7 I mean independent of the government.

8 **MR. HAWKINS:** Yes.

9 **MS. McINTOSH:** And ---

10 **THE COMMISSIONER:** Excuse me. Is that now
11 or then or both?

12 **MS. McINTOSH:** Then and now.

13 **THE COMMISSIONER:** Then and now.

14 **MS. McINTOSH:** Yes.

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

16 **MS. McINTOSH:** And that Board has a body of
17 case law about the appropriate range of discipline for
18 various types of conduct or misconduct. Is that your
19 understanding?

20 **MR. HAWKINS:** Yes, that's correct.

21 **MS. McINTOSH:** All right. And that Board's
22 jurisprudence, if you like, would inform the Ministry's --
23 would at least be a factor that a Ministry manager would
24 take into account in deciding what kind of discipline to
25 impose on an employee. Is that the way you understand it?

1 **MR. HAWKINS:** Yes, it is. Yes.

2 **MS. McINTOSH:** Do you remember hearing about
3 what was a notorious case in 1985 -- from another Ministry,
4 not your Ministry -- where a counselor, a Ministry employee
5 counselor had sex in a washroom with a Ministry client.
6 Does this ring a bell with you at all?

7 **MR. HAWKINS:** No, it doesn't.

8 **MS. McINTOSH:** All right. And that the
9 Grievance Settlement Board re-instated that fellow.

10 **MR. HAWKINS:** Yeah, I'm not aware that
11 particular case.

12 **MS. McINTOSH:** All right. Thanks very much.
13 Those are my questions. Thanks.

14 **THE COMMISSIONER:** Okay.

15 Mr. Chisholm?

16 **MR. CHISHOLM:** Those are my questions, sir.
17 Mr. Hawkins, my name is Peter Chisholm. I'm counsel for
18 the local CAS. I have no questions for you. Thank you.

19 **THE COMMISSIONER:** Thank you. All right, so
20 I take it the balance would rather do it tomorrow?

21 **MR. MANSON:** I can get started, Mr.
22 Commissioner. There's two areas that I can canvass that I
23 won't need to go back to ---

24 **THE COMMISSIONER:** Okay.

25 **MR. MANSON:** --- but my only concern about

1 the other areas -- I just feel more comfortable ---

2 **THE COMMISSIONER:** No, no. No, no, that's
3 fine; that's fine. I believe we'll do the other person --
4 we have another witness who we could call In-Chief right
5 after we finish today. So -- just I'm concerned to get as
6 much done as possible today with this gentlemen so that we
7 can get him off ---

8 **MR. MANSON:** It's today that you want to
9 leave?

10 **THE COMMISSIONER:** No, no what time do you
11 have to leave tomorrow?

12 **MR. HAWKINS:** I have a train at 12:45.

13 **THE COMMISSIONER:** Twelve forty-five
14 (12:45). Okay. And speaking of trains -- no, no, I'm just
15 -- I understand that there is a clamour that we sit on
16 Friday, and I understand your willingness and wanting me to
17 sit here on Friday. We're just checking now to see if I've
18 got a flight on Friday night. Otherwise, I may have to
19 disappoint you all and ask you to finish up tomorrow and
20 start back on Monday. But I will do my best to stay here
21 on Friday for you all.

22 **MR. MANSON:** Not this Monday, Mr.
23 Commissioner.

24 **THE COMMISSIONER:** Oh.

25 **MR. MANSON:** February 4th.

1 **THE COMMISSIONER:** Well, who knows maybe
2 next Monday, too. Any way, you're right, until the Monday
3 after.

4 **MR. NEUBERGER:** When it comes to scheduling
5 -- sorry. When it comes to scheduling when we get caught
6 with witnesses, if I could just address the housekeeping on
7 that because on the 4th and 5th we've got Deborah Newman
8 coming in.

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

10 **MR. NEUBERGER:** And I've done everything in
11 my power to ensure that we have got two and half clear days
12 beyond that, so if we could just talk about it.

13 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
14 **MANSON:**

15 **MR. MANSON:** Mr. Hawkins, I'm going to ask
16 you a few questions but unfortunately I'm going to have to
17 finish tomorrow because we've got these binders of
18 documents that I haven't quite finished reading. But
19 there's two areas that I think that I can canvass.

20 The first is, we've heard evidence from a
21 number of witnesses that during the Emile Robert era in
22 Cornwall, the environment was not ideal and it was
23 described by one witness as "dysfunctional and poisoned."
24 Would you have any sufficient experience with that
25 background, with that environment to comment on those

1 characterizations?

2 MR. HAWKINS: No, well, it's fairly strong
3 language to describe the environment, and my contact with
4 the staff would really be insufficient to make a judgment
5 on it unless they communicated information to me, and that
6 certainly did not happen. I did not have Jos van Diepen or
7 Carole Cardinal or any of the other employees coming to me
8 and saying, "we are concerned because A, B, or C." It
9 simply did not happen.

10 MR. MANSON: Okay. Thank you. Can we go
11 back to when you first come to the Eastern Ontario Region.

12 MR. HAWKINS: Yes.

13 MR. MANSON: It's shortly after 1983, is
14 that the right ---

15 MR. HAWKINS: I believe so, yes.

16 MR. MANSON: And you know now that the
17 Nelson Barque resignation was 1982. Correct?

18 MR. HAWKINS: Yes.

19 MR. MANSON: And I take it that your
20 evidence was neither your predecessor nor Mr. Sirrs, the
21 Area Manager informed you about the Barque incident.

22 MR. HAWKINS: Yeah, my immediate predecessor
23 was unable to communicate any information to me about
24 anything that was taking place, good, bad or indifferent
25 with respect to the Cornwall or any other office because of

1 his illness, so that was entirely out of the question.

2 In terms of Mr. Sirrs, the same statement
3 applies that is, he did not give me any information with
4 regard to Mr. Barque.

5 **MR. MANSON:** At some point later on though,
6 you learned that this had happened; that there was a
7 resignation because of improper sexual relationships with
8 present or former probationers?

9 **MR. HAWKINS:** I'm not sure that I knew that
10 information at any point when I was working in Eastern
11 Ontario.

12 **MR. MANSON:** My friend just reminded me, I
13 forgot to identify myself.

14 My name is Allan Manson and I represent the
15 Citizen's for Community Renewal which is a local citizen's
16 group concerned with institutional reform, especially
17 protecting young people.

18 I apologize, Mr. Commissioner.

19 **MR. HAWKINS:** Thank you.

20 **THE COMMISSIONER:** That's okay.

21 **MR. MANSON:** So when you leave in 1993 at
22 that point you didn't know about the Barque incident?

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

24 **MR. MANSON:** Let me tell you a little bit
25 about it and ask for your comments given your long-term

1 managerial experience.

2 After a complaint, Mr. Sirrs does a -- call
3 it an inquiry investigation and reports to Mr. Toffelmire,
4 Mr. McMaster from the Head Office does an investigation and
5 you saw the letter that went from Mr. Taggert to then
6 Deputy Minister Campbell enclosing that.

7 While that's going on, Mr. Barque resigns,
8 which from our evidence seems to end the matter, his
9 resignation.

10 The next factor that I want to tell you is
11 that it appears that Mr. Sirrs did neither advise other co-
12 workers about the reason for Mr. Barque's departure, nor
13 did he conduct any kind of educational or counselling
14 program around the issue.

15 Do you have any comments from a managerial
16 perspective about the decision to just go about business as
17 usual?

18 **MR. HAWKINS:** If I were aware of an incident
19 of that nature taking place or having taken place within
20 the office or alleged to have taken place, I would assume
21 that there would be some probably fairly widespread
22 knowledge of the event, and I think that there are a set of
23 values that ought to be guiding any organization that can
24 be safely and openly discussed with employees, and
25 certainly one of those would be the protection of clients.

1 So if there had been behaviour going on for
2 a prolonged period of time that others may or may not have
3 been suspicious of taking place, certainly I would want
4 staff to be aware of the importance of due diligence to
5 ensure that that kind of thing didn't happen.

6 Because I think the protection of the client
7 ought to be a paramount concern to any probation officer,
8 area manager, regional administrator.

9 **MR. MANSON:** I think we're on the same
10 wavelength.

11 **MR. HAWKINS:** M'hm.

12 **MR. MANSON:** I have two concerns about just
13 maintaining the status quo. One is the issue of rumours,
14 and I think you'd agree with me that the existence of
15 rumours in a workplace is never productive?

16 **MR. HAWKINS:** Correct. M'hm.

17 **MR. MANSON:** And that could be dispelled by
18 some public announcement in the workplace. That's what I
19 mean by public.

20 Secondly, there's the question of co-
21 workers' knowledge not necessarily about the two events to
22 which there is an admission, but perhaps there are other
23 victims. And if coworkers were aware of the circumstances,
24 they might be able to put two-and-two together. You'd
25 agree with that as well?

1 **MR. HAWKINS:** Joining the dots. Yes, I
2 understand.

3 **MR. MANSON:** Now, after the Barque incident,
4 looking at the period after the Barque resignation ---

5 **THE COMMISSIONER:** Which is 1982.

6 **MR. MANSON:** Nineteen eighty-two (1982),
7 yes, May of '82, directly after that period, one of my
8 colleagues asked Mr. Sirrs did he consider auditing Mr.
9 Barque's files for indicia of other problems.

10 And, now, of course, it would certainly be
11 unlikely for a probation officer, you would agree, to make
12 a note of an improper sexual relationship; correct?

13 **MR. HAWKINS:** Correct.

14 **MR. MANSON:** So then he was asked, "Did you
15 consider speaking to his clients and former clients?" And
16 Mr. Sirrs' answer was, "First, it never occurred to me".

17 **MR. HAWKINS:** M'hm.

18 **MR. MANSON:** "And, secondly, I wouldn't have
19 done that because they're untrustworthy."

20 Do you think that's an appropriate
21 managerial response?

22 **MR. HAWKINS:** Absolutely not.

23 **MR. MANSON:** Do you think it would have been
24 appropriate to at least make some effort to see if there
25 were other victims?

1 **MR. HAWKINS:** I think due diligence requires
2 that you do more than simply ignore the fact that there had
3 been a body of clients supervised by a person who
4 subsequently was shown to have been involved
5 inappropriately with at least a couple.

6 **MR. MANSON:** So you'd agree that it would
7 have been appropriate to either, person-to-person, or at
8 least make some effort to speak to former clients to find
9 out whether there was anything inappropriate about their
10 situation?

11 **MR. HAWKINS:** I would think that the
12 Ministry would be responsible for ensuring that if clients
13 are given a safe and reasonable opportunity to come forward
14 and indicate any concerns or difficulties that they might
15 have experienced ---

16 **MR. MANSON:** But I can tell you from looking
17 at the various documents about the Barque incident, it
18 doesn't seem to me that anybody suggested that and, also,
19 it doesn't seem to me that it happened.

20 **MR. HAWKINS:** I find that troubling.

21 **MR. MANSON:** And I can tell you, Mr.
22 Hawkins, that we certainly know of at least one other
23 victim of Mr. Barque, and that's Albert Roy. He was never
24 contacted, neither by anyone involved in the Barque
25 investigation or by police officers who were informed of

1 it. He was never contacted.

2 MR. HAWKINS: M'hm.

3 MR. MANSON: Does that -- I mean, consistent
4 with what you just said a minute ago, it would have been
5 worthwhile making some effort. Maybe he wouldn't have been
6 the one they talked to, but maybe he would have.

7 MR. HAWKINS: I think ---

8 MR. MANSON: Who knows what he would have
9 said. Your point is it's a good idea to audit the clients
10 and try to find other potential -- other victims?

11 MR. HAWKINS: I think that all clients need
12 to be given the opportunity to come forward in a safe
13 environment and disclose information and concerns that they
14 have in terms of the treatment that they're receiving at
15 the hands of Ministry employees, at whatever level that
16 treatment is being meted out.

17 And I think that proactive steps to ensure
18 that that opportunity is provided, without any necessary
19 preceding events, would be entirely appropriate.

20 THE COMMISSIONER: Can I -- you've said that
21 now. Now, what I'd like to do is ask you, going back to
22 1982, and that's hard maybe, but you were with the Ministry
23 in 1982?

24 MR. HAWKINS: Exactly.

25 THE COMMISSIONER: All right.

1 So if it's possible for you to do that,
2 would your answer have been the same if you were back in
3 1982? Are you able to give me that -- given the culture
4 and what we didn't know by today's standards?

5 **MR. HAWKINS:** I think that the answer would
6 probably be the same from myself ---

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

8 **MR. HAWKINS:** --- but I'm not at all sure
9 that it necessarily is reflective of the -- of other
10 managers. They may; they may not. I don't know.

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

12 **MR. HAWKINS:** But I certainly would feel
13 entirely comfortable with that.

14 I was actively involved in the development
15 of standards of case supervision and recording and the
16 development of assessment instruments and the
17 implementation of that, an LSIOR, throughout Eastern
18 Ontario and indeed the province, and a whole variety of new
19 initiatives and new directions that had not been a part of
20 Ministry practice previously.

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

22 **MR. HAWKINS:** And whether the -- whether
23 that particular initiative might have been acted on by
24 myself at that time, purely speculative, but I would
25 certainly be very supportive of it because it's consistent

1 with my values in terms of Ministry people serving Ministry
2 people. My passion is for the client.

3 **THE COMMISSIONER:** Sure. Thank you.

4 **MR. MANSON:** I'll be very quick, Mr.
5 Commissioner, but just to follow that up, we've heard
6 evidence from a number of experts that the big eye-opening
7 document in Canada about sexual abuse was the Badgley
8 Report in 1985. So I think that's what the Commissioner
9 was getting at.

10 **MR. HAWKINS:** M'hm.

11 **MR. MANSON:** Is it -- do you think it's fair
12 to just say, well, 1982 was 1982 and we viewed things with
13 different eyes, and the fact that nobody contacted Albert
14 Roy or other previous clients, that was then; this is now?

15 **MR. HAWKINS:** No, I don't accept -- I don't
16 accept that at all. I think that there have been too many
17 Mount Cashels ---

18 **MR. MANSON:** This is before Mount Cashel.

19 **MR. HAWKINS:** Well ---

20 **MR. MANSON:** It's 1982.

21 **MR. HAWKINS:** --- go back to whatever date
22 you want throughout all of human history, we would be naïve
23 to assume that these things have not been taking place, and
24 I think that it behoves those of us who are in responsible
25 positions and can take active steps to protect clients,

1 ought to be doing so on a proactive basis. We ought not to
2 have to be pushed into it.

3 **MR. MANSON:** Mr. Commissioner, with your
4 indulgence, if I could finish tomorrow? And I intend to be
5 quite brief. I just will feel more comfortable if I've
6 read the document.

7 **THE COMMISSIONER:** Sure. It's no problem.
8 Okay. So for those of you who haven't
9 cross-examined yet, how much time do you think we should
10 set aside?

11 So, Mr. Lee, ballpark?

12 **MR. LEE:** I would hope to be no more than
13 half-an-hour and hopefully less than that.

14 **THE COMMISSIONER:** Okay.

15 Mr. Neville?

16 **MR. NEVILLE:** Fifteen (15) minutes.

17 **THE COMMISSIONER:** Okay. Three-quarters of
18 an hour.

19 Mr. Neuberger?

20 **MR. NEUBERGER:** Less than three minutes.

21 **THE COMMISSIONER:** Okay.

22 Mr. Sherriff-Scott is not here. I don't
23 think he'll be cross-examining.

24 Mr. Crane?

25 **MR. CRANE:** Little or none, Mr.

1 Commissioner.

2 **THE COMMISSIONER:** Little or none.

3 Ms. Costom?

4 **MS. COSTOM:** No longer than 10 minutes.

5 **THE COMMISSIONER:** Okay. Great.

6 So you should be on your way fairly early
7 tomorrow.

8 **MR. HAWKINS:** Okay. Good.

9 **THE COMMISSIONER:** Thank you very much, sir.
10 So we'll see you tomorrow.

11 **MR. HAWKINS:** What time do you commence?

12 **THE COMMISSIONER:** At 9:30.

13 **MR. HAWKINS:** Thank you.

14 **THE COMMISSIONER:** Okay. Now, I believe we
15 have another witness that we could go on?

16 **MR. RUEL:** We have Mr. Morris Zbar as the
17 next witness ---

18 **THE COMMISSIONER:** Right.

19 **MR. RUEL:** --- ready to go.

20 **THE COMMISSIONER:** Good afternoon, sir.

21 ty **MR. ZBAR:** Good afternoon. How are you?

22 **THE COMMISSIONER:** Good. Yourself?

23 **MR. ZBAR:** Good. Thank you.

24 **THE COMMISSIONER:** So while there's a lull
25 in the action in getting documents together, I'm going to

1 give you -- there's a microphone here and you -- I'm going
2 to ask you to vocalize your answers. You'll be given
3 glasses for water.

4 If you refer to any documents and we'll
5 refer to them in hardcopy and on the monitors, whatever you
6 feel is comfortable for you.

7 And more importantly, if -- I would ask you
8 to wait 'til you hear the whole question and give me your
9 best answer loud and clear.

10 If there's something you don't know, it's
11 okay to say that you don't know. And if you feel
12 uncomfortable about any of this process, you can just look
13 over and -- and we can talk about it.

14 **MR. ZBAR:** Thank you.

15 **THE COMMISSIONER:** Is that fair?

16 **MR. ZBAR:** Yes.

17 **THE COMMISSIONER:** Thank you.

18 **MORRIS ZBAR, Sworn/Assermenté:**

19 **THE COMMISSIONER:** Good afternoon, sir,
20 again.

21 Mr. Ruel?

22 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**

23 **RUEL:**

24 **MR. RUEL:** Good afternoon, Mr. Zbar.

25 **MR. ZBAR:** Good afternoon.

1 **MR. RUEL:** The first thing I'd like to do is
2 go through your professional background and we have a C.V.,
3 Madam Clerk.

4 **THE COMMISSIONER:** Thank you. The exhibit
5 is 1180 which is a C.V. of Morris Zbar.

6 **--- EXHIBIT NO./PIÈCE NO. P-1180:**

7 C.V. of Mr. Morris Zbar

8 **MR. RUEL:** So starting at the last page, you
9 obtained a degree in Political Sciences at McMaster?

10 **MR. ZBAR:** And my Masters degree at the
11 McMaster and my BA at McGill University.

12 **MR. RUEL:** Oh, I'm sorry.

13 **MR. ZBAR:** That's all right.

14 **MR. RUEL:** And I gather you started a PhD in
15 African Studies after that?

16 **MR. ZBAR:** Yes, I completed -- I completed
17 my course work for a PhD degree at the Hebrew University of
18 Jerusalem and did not complete my PhD. I was doing field
19 work in Sierra Leone and conditions turned such that I had
20 to leave the country before I could complete my -- my
21 fieldwork so I'm a failed the PhD.

22 **MR. RUEL:** I see. So following that you
23 joined the Ministry of Correctional Services and I believe
24 that's in 1975. Is that -- would that be correct?

25 **MR. ZBAR:** That's correct. In the summer of

1 1975 having been out of the country for a number of years,
2 I returned to Canada and was looking for a job and had set
3 my sights on External Affairs and things of that nature
4 because I thought with my background in African politics it
5 would be a good fit, but they didn't seem to agree so I
6 needed a job and I saw an ad in the paper that said
7 correctional officer. I wasn't quite sure what that was,
8 but I went to the local jail, the Ottawa-Carleton Detention
9 Centre and started a long career in Corrections and a very
10 fascinating one.

11 **MR. RUEL:** So let's go through that because
12 there is a number of positions you've occupied through the
13 years all the way up to Deputy Minister of Correctional
14 Services?

15 **MR. ZBAR:** That's correct.

16 **MR. RUEL:** So after that, and maybe briefly
17 for the earlier positions, you move -- you start as
18 corrections officer, then you became a probation and parole
19 officer. That's correct?

20 **MR. ZBAR:** That's correct. I -- I -- if you
21 want, I can do this very quickly.

22 **MR. RUEL:** Oh, sure. Yes, I'll let you ---

23 **MR. ZBAR:** Do you want me to take you
24 through the whole thing?

25 In 1976, I moved from the jail to the Ottawa

1 probation office. I was a probation officer in '76 and
2 '77.

3 In '77, I was seconded to Centennial College
4 where I was responsible for the Correctional Worker Program
5 that was training correctional officers. It was a new
6 program and it involved training correctional officers both
7 in practical and also in theoretical concepts about
8 criminology and corrections. I did that for three years.

9 In 1980, I returned to the Ministry. I
10 became the Area Manager of Probation and Parole for
11 Scarborough. As you know, area managers are responsible
12 for a certain geographic area in probation. I did that
13 from '81 to '84.

14 In '84, I went to the regional office where
15 I was the first *Young Offenders Act* Co-ordinator. We were
16 responsible, a small group of us, for implementing the YOA
17 legislation in 1985.

18 I did that for a while and then I went to
19 head office where for a very brief, brief, period I was the
20 Freedom of Information Co-ordinator.

21 I was then promoted to head-up professional
22 programs for the Ministry, the institutions. All the
23 professional heads, chief psychologists, chief social
24 worker, et cetera, chief chaplain reported to me.

25 From there -- I wasn't there that long

1 either -- from there I became the Director of Operational
2 Review and Audit.

3 That took us to 1988. The Ministry
4 relocated to North Bay. I wasn't able to go for a variety
5 of reasons.

6 I left the Ministry and joined the Ministry
7 of Culture. I became the Director of Libraries because I'd
8 been involved in -- I was the Chair of the North York
9 Library Board as a -- as a sort of a volunteer thing, so it
10 was a good fit. Actually did that for a while and then
11 became the Director of Operations at that Ministry until
12 1994 when I retired, but didn't retire.

13 When I left government I went to the United
14 Jewish Appeal as the Vice-President of Planning and
15 Allocations.

16 Over the next four years, I had several
17 offers to return to government. I chose not to.

18 In 1998, I was offered a job that I had
19 advocated for ---

20 **MR. RUEL:** So let's -- let's pause there.

21 **MR. ZBAR:** Okay.

22 **MR. RUEL:** You advocated for what exactly?

23 **MR. ZBAR:** Well, I felt very strongly that
24 the paradigm in Corrections needed to be changed; that the
25 ministry saw itself as basically a ministry with an

1 institutional focus and I felt very strongly that the focus
2 had to ---

3 MR. RUEL: Sorry, institutional in the sense
4 that prisons ---

5 MR. ZBAR: Prisons, the prison system ---

6 MR. RUEL: Correctional facilities?

7 MR. ZBAR: Correctional facilities, and I
8 felt very strongly -- and probation and parole and
9 Community Corrections were seen as the alternative to
10 incarceration. Well, if you look at the statistics of the
11 Ministry always, including now, and if you take a monthly
12 sort of view when I was around, you had roughly 7,500
13 people in institutions, prisons, et cetera, and I'm talking
14 about adult offenders now. And you have roughly 55,000
15 people on probation and parole on any given month.

16 So that I -- I felt very strongly that, in
17 fact, the Ministry, in terms of ensuring public safety, had
18 to focus on Community Corrections because that's where the
19 bulk of the clients were and that imprisonment was an
20 alternative to community which was a different way of
21 looking at it and -- in -- because I felt that way, I felt
22 very strongly that the Ministry had to restructure itself
23 in order to provide the kind of service that I felt was --
24 was needed for public safety and for the protection of both
25 the clients and the public.

1 And basically we needed to build a strong
2 Community Corrections Division with its own leadership and
3 with a career path for probation officers because probation
4 officers had no career path. If they wanted to get ahead
5 in the Ministry, they -- and again, I'm generalizing of
6 course, but if they wanted to get ahead in the Ministry,
7 they would have to go into the institutions and that way
8 they could move up the ranks. There were very few senior
9 officials in the Ministry that came from a community
10 background.

11 So I had lobbied hard when I was -- when I
12 was outside of the government. I was still involved in
13 Corrections. I was the President of Operation Springboard
14 which is a correctional agency and I was involved in the
15 Canadian Association for the Prevention of Crime and -- and
16 other things, so I was still very interested and -- and
17 made that argument and I guess others made it as well and I
18 was invited back in 1998 by the then Deputy Minister, Tim
19 Millard, to create this new division.

20 So I rejoined government, the Ministry, in
21 1998 and was the Assistant Deputy Minister of Community
22 Corrections and Young Offenders Services for roughly two
23 years and then, to many people's surprise including mine, I
24 was made the Deputy Minister and did that for a couple of
25 years and then in 2002, I retired.

1 I went on and became the Senior Vice-
2 President of the United Jewish Appeal and I held that
3 position until two weeks ago when I retired once more and
4 now I'm looking for my next career.

5 **THE COMMISSIONER:** So the bottom line is,
6 you have difficulty holding onto a job ---

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

8 (LAUGHTER/RIRES)

9 **MR. ZBAR:** That's correct, sir. You must
10 have met my wife. She keeps saying the same thing, but
11 yes, I've -- I've been very -- actually in all seriousness,
12 I've been very fortunate.

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

14 **MR. ZBAR:** I've had a tremendous, you know,
15 career, in my mind anyways. I've had an ability to do a
16 lot of very different things and to implement some of the
17 things I believe in and for some reason people seem to keep
18 hiring me, so it's -- it's been a good -- it's been a good
19 thing.

20 **THE COMMISSIONER:** Good for you.

21 **MR. RUEL:** Just coming back on this, when
22 you were appointed as Assistant Deputy Minister, we'll use
23 the term ADM ---

24 **MR. ZBAR:** Sure.

25 **MR. RUEL:** --- Community and Young Offender

1 Services ---

2 MR. ZBAR: M'hm.

3 MR. RUEL: --- that's in 1998. So prior to
4 that, that structure did not exist within the Ministry of
5 Corrections?

6 MR. ZBAR: No, there had been periods of
7 time where there had been some executives from Community
8 Corrections, but there had not been an Assistant Deputy
9 Minister. There had not been regional directors in -- you
10 know, on the community side.

11 There were -- the leadership on the
12 community side were either regional managers or regional
13 administrators who had reported to an institutional
14 regional director.

15 So there was not a separate community
16 division and I felt it critical that there be a separate
17 community division because -- not because people from
18 institutions aren't interested, but the institutional beast
19 is such that you can devote all of your energy and
20 attention to it. There are crises every day and,
21 unfortunately, the community gets the short end of the
22 stick.

23 So I felt it was critical; absolutely
24 critical.

25 MR. RUEL: What did you define as "Community

1 Corrections"? what does it mean?

2 MR. ZBAR: Well, Community Corrections in a
3 nutshell means probation and parole and young offender
4 services and affiliated relationships with agencies in the
5 community such as John Howard and Operation Springboard and
6 St. Leonard's and a whole variety of organizations that
7 work with offenders, both in institutions in the community,
8 but I consider that as part of a community function.

9 MR. RUEL: So prior to that point there
10 were, of course, probation services within Corrections ---

11 MR. ZBAR: Absolutely.

12 MR. RUEL: But no formal division dealing --
13 or responsible to -- or, accountable to the Deputy Minister
14 and to the Minister for issues relating to Community
15 Corrections and probation ---

16 MR. ZBAR: Well, the accountability went
17 through the then current structure, which was through the
18 institutional manager's side, basically. The regional
19 directors across the province were basically -- came from
20 the institutional stream.

21 MR. RUEL: Okay. And after you were
22 appointed as ADM ---

23 MR. ZBAR: M'hm.

24 MR. RUEL: --- Community and Young Offender
25 Services, I gather that you've implemented, with the

1 approval of your Deputy Minister I suppose, various changes
2 relating to the probation services and other services
3 within Community Corrections. That's correct?

4 **MR. ZBAR:** That's correct and in a short
5 period of time I think we tried to do a lot of things.

6 One, we built a new community structure --
7 the infrastructure I'm talking about brought in regional
8 directors, created that kind of an infrastructure.

9 Two, we ---

10 **MR. RUEL:** So just pausing there.

11 So you were appointed Assistant Deputy
12 Minister and now you had for Community and Young Offenders
13 Services -- so you had directors or regional directors,
14 whatever they're called, reporting to you but dealing
15 specifically ---

16 **MR. ZBAR:** We ---

17 **MR. RUEL:** --- with Community Corrections
18 issues. Is that right?

19 **MR. ZBAR:** Yes, we had competitions and
20 selected regional directors specifically for community and
21 young offender issues, yes.

22 **MR. RUEL:** So one of the issues was to
23 create, as you were indicating, this structure ---

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

25 **MR. RUEL:** --- so that's -- that was part of

1 your task?

2 MR. ZBAR: That was part of my task, and we
3 did that and I believe that structure to a varying degree
4 still exists today. There is a Community Division and
5 hopefully that will continue.

6 I think it's important in terms of this --
7 actually in terms of the mandate of this Inquiry because I
8 think a division focuses in on the issues related to
9 Community Corrections and training and recruitment and
10 retention and succession planning and all of those things
11 that I think are important.

12 MR. RUEL: Then there was some other steps I
13 guess you've taken with respect to Community Corrections.
14 For example, you can go through that but there's staffing;
15 staffing of probation, parole officers?

16 MR. ZBAR: Yeah.

17 MR. RUEL: There's, you know, many of them -
18 - I mean, there was hiring of new ---

19 MR. ZBAR: I was ---

20 MR. RUEL: --- probation officers?

21 MR. ZBAR: One of the -- when I arrived, I
22 looked at the caseloads and I looked at the numbers of
23 probation officers and felt very strongly that probation
24 was -- the whole Ministry was under-resourced, but I was
25 only the ADM then so I could only worry about my side of

1 the Ministry.

2 And probation was very under-resourced and I
3 put together a plan that I presented to my Minister, my
4 Deputy and my Minister at the time, which called for an
5 increase of up to 170 new probation officers which
6 represented 20 percent of the probation service.

7 And on the basis that if we didn't do that,
8 public safety couldn't be guaranteed because we needed more
9 probation officers to supervise the increasing number of
10 probationers.

11 You'll recall a few years before that, 1,000
12 new police officers were promised by the government, the
13 then government of the day. Those police officers were
14 hired, there were more arrests, there were more people put
15 on probation. We needed to make sure there were more
16 probation officers.

17 So we did -- went through the government
18 process, did Management Board submissions, convinced the
19 Minister, convinced the various committees responsible and,
20 lo and behold, we were successful and got the biggest chunk
21 of new probation officers in the history of the service.

22 **THE COMMISSIONER:** I guess it was
23 conditional sentences as well ---

24 **MR. ZBAR:** Conditional sentences came about
25 as well and it had a major impact, yes.

1 **MR. RUEL:** So that was under your -- when
2 you were Assistant Deputy Minister, that's correct?

3 **MR. ZBAR:** Correct.

4 **MR. RUEL:** Increase of resources?

5 **MR. ZBAR:** We got the increase and I think
6 the hiring of those people carried over to while I was the
7 Deputy Minister as well, but it started when I was the
8 Assistant Deputy Minister, yes.

9 **MR. RUEL:** Okay. Briefly, and we're going
10 to talk about that some -- later in your testimony, but
11 there's two initiatives that were -- I'm talking about two,
12 there may be more, but there's two that we want to focus on
13 today. That's the Probation and Parole Service Delivery
14 Model ---

15 **MR. ZBAR:** M'hm.

16 **MR. RUEL:** --- and the Offender Tracking and
17 Information Systems.

18 So those are two initiatives that went
19 forward under your watch, I guess, as ADM and subsequent to
20 that as Deputy Minister. That's correct?

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

22 **MR. RUEL:** In a nutshell, can you just
23 explain now what ---

24 **MR. ZBAR:** Sure.

25 **MR. RUEL:** --- those two -- briefly, because

1 we're going to come back ---

2 MR. ZBAR: I will.

3 MR. RUEL: --- for the details.

4 MR. ZBAR: I know you're asking me to be
5 brief on that and I will be.

6 In terms of the Probation and Parole Service
7 Delivery Model, what this was was a coherent attempt to
8 develop a service delivery model based on research that
9 looked at both risk and needs of clients and provided
10 comprehensive service to those clients, differential
11 service to those clients, based on their risk and their
12 need.

13 MR. RUEL: Okay.

14 MR. ZBAR: What -- but just in terms of this
15 body, what's interesting in that model, aside from all the
16 criminology and the theoretical aspect, is the fact that
17 this model in a sense pushed out the client from just
18 seeing a probation officer.

19 In the past, a client could spend -- you
20 could get a three-year probation order and spend three
21 years seeing a probation officer once a month. The
22 probation officer would see you and that was it. And again
23 I'm generalizing, but you could do that.

24 With this model, you couldn't because what
25 you had to do based on the assessment tools and based on

1 the results of that, was you had to push out that client.
2 He had to see either psychologists or social workers or
3 psychiatrists, depending on what the needs were. He either
4 had to attend courses run by other people; had to, you
5 know, go out in the community.

6 So the contact that every client had -- not
7 every, but most clients had -- was broadened to meet with a
8 large number of professionals.

9 So there -- if there were issues with their
10 probation officer or with any one of the professionals
11 seeing that client, there was a greater ability for others
12 to be made aware of that because the client had -- has that
13 contact with those individuals. So that's one aspect.

14 **MR. RUEL:** In a nutshell, and previous to
15 that I guess, the focus was on for a probation officer to
16 seek whether or not ---

17 **MR. ZBAR:** Well, yes.

18 **MR. RUEL:** --- the offender was respecting
19 the conditions that were imposed on him by the courts.

20 **MR. ZBAR:** Well, let me give you a sort of
21 an anecdotal example.

22 When I became a probation officer in 1976, I
23 was handed the keys to my office and I was instructed with
24 the following message. "Make sure you see your
25 probationer. Make sure you explain the order to your

1 probationer. Make sure you -- make sure he shows up,
2 generally, once a month. Make sure that you document that
3 in your notes and have a good day."

4 And, you know, that was in a nutshell
5 probation in the early '70s.

6 Now obviously, a good probation officer --
7 and I think I was a good one -- did more and we helped
8 people find jobs and that, but there were no standards as
9 such. There were, you know, individual efforts.

10 With this system, it's a systemic approach.
11 It involves other people. Probation officers need to go
12 through training that I didn't need to go through. They
13 have to be more involved; they have to understand issues.

14 There are standards, there are directives,
15 et cetera, much more so than when I started in '76 which
16 was four years after Probation and Parole was moved from
17 the courts, because up until 1972 Probation and Parole was
18 not with the Ministry of Correctional Services, it was
19 attached to the courts.

20 The probation officers were seen very
21 clearly as officers of the court and worked with local
22 judges. There were some advantages to that because they
23 got to know their judges very well, but it was a small
24 number of probationers, you know, a sixth of the size of
25 the current caseload, so it was manageable.

1 But afterwards, that changed dramatically in
2 '72. The Probation and Parole moved over to the Ministry.
3 Until 1977 it was for all adults and young offenders, I
4 mean -- and juvenile offenders. There wasn't young
5 offenders yet.

6 In 1977, there was a split. The young
7 offenders went -- the juvenile delinquents, the juveniles,
8 went to the Ministry of Community and Social Services, the
9 adults stayed, et cetera.

10 **MR. RUEL:** Okay. And briefly -- we're going
11 to come back to some aspects of that -- but the Offender
12 Tracking and Information System was put in place, the OTIS
13 as it's been referred to.

14 **MR. ZBAR:** Yeah.

15 **MR. RUEL:** Briefly, a few words on that.

16 **MR. ZBAR:** Yeah, there was a government
17 initiative called "integrated justice" which was an attempt
18 to link -- you're aware of it I can see, yes -- which was
19 an attempt to link the various justice players, the
20 Ministry of the Solicitor General, Corrections, the courts,
21 et cetera.

22 That project was, in fact, meant to do a
23 number of things. One, it was meant to, as I say, link all
24 of these entities and provide them with proper computerized
25 tracking systems and record systems. But two, it was meant

1 to be a way of reducing costs. It was meant to, you know,
2 to -- you didn't need to court reporters necessarily
3 because you had these machines doing all this, and this was
4 a way to save millions and millions of dollars
5 theoretically to pay for the system.

6 Well, integrated justice did not work, in
7 the sense that the only I think completely successful
8 system that started up was OTIS, the Offender Tracking
9 Information System, and our Ministry was to provide the
10 smallest payback.

11 So the integrated justice project as a whole
12 I don't think was a great success, although we learned a
13 lot, but certainly the OTIS component was a success and is
14 currently the offender management system that we have in
15 Corrections, so yes.

16 And, again, in terms of the interest of this
17 Inquiry, what's important with OTIS, aside from all the
18 technical stuff, is that for the first time now you had an
19 ability -- you had electronic files of probation officers,
20 you had case notes done electronically. The case notes
21 could be seen by supervisors, by regional directors, by
22 assistant -- by whoever had authority so you could better
23 track, you could do better case audits, you could monitor
24 better, you could see what was happening, you could
25 supervise and maintain standards much better.

1 So, again, that coupled with the probation
2 and full-service delivery model I think enhanced the
3 ability for folks to ensure that clients were being treated
4 properly and appropriately.

5 **MR. RUEL:** When was that put in place for
6 Corrections?

7 **MR. ZBAR:** In 2000 and 2001. It started in
8 '99. It was phased in. So it was in that time period.

9 **MR. RUEL:** Okay.

10 **MR. ZBAR:** It was fully operational by the
11 time I left.

12 We had some major challenges with, as you
13 can imagine, with that kind of a large system. We had some
14 major challenges and we had resistance in terms of
15 implementing the system. I don't know if that's of
16 interest to you. But we had resistance because there were
17 folks, especially people from my generation, who had
18 concerns about technology and the use of technology. And
19 in a speech I made there were a number of grievances filed
20 because I referred to myself as an old codger trying to
21 learn the system and there were 300 grievances on ages and
22 discrimination.

23 In any case, we went ahead and we
24 implemented the system.

25 **MR. RUEL:** So -- and I don't know if you

1 mentioned the month or the date, but in August of 2000 you
2 were appointed as Deputy Minister. That's correct?

3 MR. ZBAR: That's correct. Actually towards
4 the end of August.

5 MR. RUEL: The end of August.

6 MR. ZBAR: Yeah.

7 MR. RUEL: And then you stayed there in that
8 position until the end of July 2002?

9 MR. ZBAR: Yeah, roughly two years, yeah.

10 MR. RUEL: And what were your -- what was
11 your focus as Deputy Minister of Corrections?

12 Well, first of all, was it Deputy Minister
13 of Corrections or Correctional Services?

14 MR. ZBAR: Yes.

15 MR. RUEL: So it's not the Deputy Minister
16 of Public Safety or Community Safety and Correctional
17 Services?

18 MR. ZBAR: No, that was another thing that
19 we had -- when I say "we" -- a group had argued very
20 strenuously for; just like I felt you needed leadership on
21 the community side I thought it was very important to have
22 a Deputy Minister solely responsible for Corrections
23 because in the former system you had -- the Deputy Minister
24 was the Deputy Solicitor General and Deputy Minister of
25 Correctional Services, and that's a huge, huge Ministry

1 with responsibility for, you know, roughly 8,500 OPP, that
2 was I think the number then, and roughly 8,000 Correctional
3 folk, and Ministers tended to be captured by the policing
4 side. You know, they preferred taking rides in police cars
5 as opposed to coming to jails because there were no wins
6 for politicians in the prison service.

7 So the -- when we had the joint Ministry,
8 the resources tended to flow elsewhere so we thought it
9 very important to have a dedicated Deputy Minister and I
10 guess others saw that that was important, for awhile
11 anyways, and I was the second, I think, Deputy Minister of
12 Corrections, in this iteration.

13 **MR. RUEL:** Sorry, but that was under -- the
14 Ministry was the Ministry of the Solicitor General ---

15 **MR. ZBAR:** Yes.

16 **MR. RUEL:** --- and Correctional Services?

17 **MR. ZBAR:** There was one Minister and two
18 Deputy Ministers.

19 **MR. RUEL:** I see. So you were Minister for
20 Correctional Services?

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

22 **MR. RUEL:** You remain in -- you've never
23 been in charge or responsible for the police ---

24 **MR. ZBAR:** No, and I think they're quite ---

25 **MR. RUEL:** --- in that capacity?

1 **MR. ZBAR:** I think they're quite pleased.

2 **MR. RUEL:** Then after your work or your time
3 as Deputy Minister you left and you went to the United
4 Jewish Appeal Federation. That's what you indicated.

5 **MR. ZBAR:** I went back to United Jewish
6 Appeal. I was the Senior Vice-President of Operations and
7 Corporate Relations.

8 **MR. RUEL:** Okay.

9 **MR. ZBAR:** And held that position until two
10 weeks ago when I retired again and here I am.

11 **MR. RUEL:** You were also appointed, at some
12 point. on the Board of Director of a corporation called
13 Gemtech. Is that correct?

14 **MR. ZBAR:** That's correct, in 2004.

15 **MR. RUEL:** What is Gemtech? What is this
16 company?

17 **MR. ZBAR:** Gemtech is a company listed on
18 the TSX Venture Exchange that deals with electronic
19 monitoring equipment and has contracts with various
20 governments across the country. The largest material
21 contract is with Ontario.

22 That contract, by the way, currently is
23 being reviewed. The Ontario -- the government has decided
24 to issue a new RFP and -- in the spring, but the -- but
25 Gemtech has ---

1 **MR. RUEL:** RFP is a request for proposals?

2 **MR. ZBAR:** Yes. Sorry.

3 **MR. RUEL:** So you're talking about the
4 contract with the Ontario government, the Correctional
5 Services, Provincial Correctional Services.

6 **MR. ZBAR:** That's one of the contracts that
7 Gemtech ---

8 **MR. RUEL:** Yes.

9 **MR. ZBAR:** Yes.

10 **MR. RUEL:** Okay. Was your role to advocate
11 in any way for the contract?

12 **MR. ZBAR:** I made it clear that -- when I
13 was asked to join the board I made it clear that I was
14 happy to do that to provide strategic advice, to provide
15 advice on trends in corrections, but that I would not
16 negotiate in any way with Ministry officials. Even though
17 legally I could I didn't feel it appropriate.

18 Many of the officials today were colleagues
19 of mine or people that worked for me or with me and I
20 didn't feel it appropriate to negotiate. So I haven't been
21 involved in any discussions with any Ministry official
22 about electronic monitoring.

23 **MR. RUEL:** Thank you.

24 Now, there's a number of issues I'd like to
25 cover with you that deal with the probation and parole

1 office in Cornwall.

2 MR. ZBAR: M'hm.

3 MR. RUEL: And following this discussion I
4 want to come back to some of the policy changes that were
5 made in probation services, the OTIS and the service
6 delivery model.

7 So when you became Assistant Deputy Minister
8 Community and Young Offender Services it's accurate to say
9 that -- is it accurate to say that Ms. Deborah Newman was
10 reporting to you as a Regional Director for the Eastern
11 Region?

12 MR. ZBAR: It is accurate to say that I
13 selected four regional directors. She was one of them.

14 MR. RUEL: She was already there ---

15 MR. ZBAR: Yes.

16 MR. RUEL: --- or she's ---

17 MR. ZBAR: No, she was there but, you know,
18 we have people go through a competitive process to make
19 sure that we have people in the right place, so I selected
20 her.

21 MR. RUEL: Okay.

22 MR. ZBAR: But she was there. She has a
23 long background in Corrections.

24 MR. RUEL: What I mean by she was there, was
25 she responsible for the eastern region prior to you being

1 appointed as Assistant Deputy Minister ---

2 MR. ZBAR: She ---

3 MR. RUEL: -- for Community Corrections?

4 MR. ZBAR: I believe she was.

5 MR. RUEL: Okay.

6 MR. ZBAR: But she wasn't the regional
7 director for Community Corrections because there wasn't
8 one. I don't know what her title was, but she may have
9 been the regional administrator or regional manager or
10 whatever, but there wasn't a regional director.

11 MR. RUEL: And so you were ADM for Young
12 Offender Services between April '98 and August 2000.

13 Was this ---

14 MR. ZBAR: Well -- sorry. I was appointed
15 in April '98. I don't think I started until the summer.

16 MR. RUEL: Okay.

17 MR. ZBAR: As a matter of fact, I know I
18 didn't start until the summer.

19 MR. RUEL: So Ms. Newman, did she work for
20 you during this whole period as Regional Director?

21 MR. ZBAR: Well, when I arrived and we put
22 people in place, Deborah had an opportunity for a
23 secondment with the federal government and sought my
24 support; it was a two-year secondment. I gave her my
25 support with the proviso that if I needed to recall her I

1 would, and she went off and I did recall her. So she was
2 gone for -- I don't recall the length of time but upwards
3 of almost a year I would think and then I brought her back
4 because we had to move all of these initiatives and I
5 needed strong leadership.

6 MR. RUEL: So just coming back, just to be
7 clear, when you were appointed ---

8 MR. ZBAR: Yes.

9 MR. RUEL: --- she was already ---

10 MR. ZBAR: She was ---

11 MR. RUEL: --- dealing with probation
12 services in the eastern region. She was responsible for
13 those services. Correct?

14 MR. ZBAR: I believe so, yeah.

15 MR. RUEL: Okay. Did she -- so she was
16 responsible -- the eastern region comprises the Cornwall
17 region or the Cornwall City?

18 MR. ZBAR: That's correct.

19 MR. RUEL: Did she brief you, when you came
20 in, about any management or other problems respecting this
21 probation office?

22 MR. ZBAR: She certainly briefed me. I
23 don't know if it was when I came in, but she certainly
24 briefed me on what she felt were management issues at the
25 Cornwall office. She felt that the management style of the

1 then current manager was not -- was not helpful in terms of
2 moving the Ministry forward. She felt he wasn't a good
3 communicator and she felt that he -- there was some
4 rigidity in his attitude and positions, and she felt that
5 it would be useful at some point to look for a change.

6 MR. RUEL: Who was the manager?

7 MR. ZBAR: Emile Robert.

8 MR. RUEL: Did she mention anything else in
9 terms of issues, problems, with this office?

10 MR. ZBAR: Well, she made passing reference
11 to the historical issues of the office.

12 MR. RUEL: Which ones?

13 MR. ZBAR: Basically, the ones that this
14 Inquiry is dealing with, the issues around Barque and
15 Seguin.

16 MR. RUEL: What precisely was explained to
17 you by -- with respect to Mr. ---

18 MR. ZBAR: That there had ---

19 MR. RUEL: Just let me finish the question.

20 MR. ZBAR: I'm sorry.

21 MR. RUEL: What was precisely explained to
22 you by Ms. Newman concerning Mr. Barque and Mr. Seguin --

23 -

24 MR. ZBAR: That there ---

25 MR. RUEL: --- from what you can recall?

1 **MR. ZBAR:** Sorry. That there were two
2 probation officers in the Cornwall office over a course of
3 many years, at different periods of time, who were
4 allegedly, in one case because they hadn't been convicted
5 and convicted in another case of child abuse, of abusing
6 young people, and that both of these officers had committed
7 suicide.

8 **MR. RUEL:** So was that conveyed to you as an
9 ongoing pressing problem or that was historical, as you
10 mentioned?

11 **MR. ZBAR:** I took it as a historical issue.
12 To me, the issue at that point was managing the office,
13 ensuring that in fact we could move Probation and Parole
14 forward. We had an ambitious agenda and we wanted strong
15 managers.

16 And by the way, you know, there were other
17 areas in the province where we felt we needed to have
18 strong managers as well, nothing to do with abuse or
19 anything like that, but we were moving in an aggressive way
20 to complete an aggressive agenda. So we looked at all of
21 our managers and looked at the bench strength we had to see
22 if we could make movement -- make changes, and I believe we
23 moved some people around, some secondments, et cetera, so
24 we could get some new blood in place.

25 **MR. RUEL:** So the focus was on management?

1 That's what I understand.

2 MR. ZBAR: Yes. For me, the focus was on
3 management.

4 MR. RUEL: So what happened on that front?

5 MR. ZBAR: Well, over time, you know, Emile
6 was moved -- Emile Robert was moved to the Ottawa office.
7 We put a new manager in place, Father Legault. The feeling
8 was that he was a more effective communicator, that he was
9 more attuned to the direction probation was moving in. So
10 a new manager was put in place. So that's it.

11 MR. RUEL: Okay. So she mentioned to you
12 the Nelson Barque issue and abuse of clients ---

13 MR. ZBAR: Well ---

14 MR. RUEL: --- in the past? Did she mention
15 that?

16 MR. ZBAR: She mentioned both of those names
17 to me, yes.

18 MR. RUEL: Okay. Mr. Seguin as well?

19 MR. ZBAR: Yes. And I ---

20 MR. RUEL: And what ---

21 MR. ZBAR: Sorry.

22 MR. RUEL: What did she mention about Mr.
23 Seguin?

24 MR. ZBAR: She mentioned that he had
25 recently, just prior to my coming, I think, had recently

1 been deceased and that there had been allegations against
2 him in the early '90s.

3 **MR. RUEL:** Did she mention that Nelson
4 Barque had been found guilty in 1995 of assault, indecent
5 assault, against one of his former clients?

6 **MR. ZBAR:** I believe so. I was aware of the
7 Barque case peripherally because, of course, from 1981 to
8 1984, I was an area manager in Toronto. So we had heard
9 about a probation officer -- anecdotally about a probation
10 officer in Cornwall who had resigned and left the Ministry
11 following some activity. We weren't clear on what that
12 was. So I had some awareness of Barque, but not -- you
13 know, not an intimate knowledge.

14 **MR. RUEL:** So there was information provided
15 to you on Mr. Seguin and allegations that were made against
16 him as well?

17 **MR. ZBAR:** Yes, I believe so.

18 **MR. RUEL:** Were you made aware that Mr.
19 Seguin -- a complaint -- a specific complaint was made to
20 the regional office in 1993 by an individual called David
21 Silmsler? Were you specifically made aware of this when you
22 were ADM?

23 **MR. ZBAR:** I became aware of that at the
24 time when we did the -- in 2000 when we did the review, the
25 administrative review.

1 **MR. RUEL:** Okay. Not prior to that?

2 **MR. ZBAR:** No.

3 **MR. RUEL:** So based on -- were you -- sorry,
4 were you aware that there was publicity through the years,
5 starting in 1994, with respect to the issue of abuse of
6 young people in Cornwall by persons in authority and
7 specifically by probation officers?

8 **MR. ZBAR:** Well, I was certainly aware.
9 Remember, I wasn't in the Ministry. I wasn't in government
10 from '94 to '98. I was in the not-for-profit sector, but
11 certainly I read the papers and I think there was mention
12 of the Cornwall situation and the allegations about a group
13 or ring, whatever you'd like to call it, that abused
14 authority and abused young people.

15 **MR. RUEL:** Did Ms. Newman or anyone else
16 prior -- we're going to talk about an issue that came up,
17 the website, that came up in August of 2000 ---

18 **MR. ZBAR:** Right.

19 **MR. RUEL:** --- in a few minutes.

20 **MR. ZBAR:** Right.

21 **MR. RUEL:** But prior to that, did Ms. Newman
22 or anyone else advise you of former probationers disclosing
23 to the local probation office that they had been abused by
24 their probation officer in the past?

25 **MR. ZBAR:** As mentioned earlier, in '98 and

1 '99, I think I was made aware that there were one or two.
2 I remember one in particular because -- I don't remember
3 the name or the circumstances, but what I do remember is
4 that a part of disclosure, the individual stated that they
5 couldn't come to the probation office because of their
6 remembrances of the past.

7 That helped precipitate -- Ms. Newman had
8 been trying to move the office. When I heard that, for a
9 number of reasons, that being one of them -- when I heard
10 that, I intervened because the move was going slowly and
11 I'd called whoever it was at government services and
12 expedited the move and we moved the office.

13 So I remember that one, but I think there
14 were two disclosures in that period of time.

15 **MR. RUEL:** Okay. So you had, prior to the
16 website coming up in August of 2000, you had knowledge of
17 this information; correct?

18 **MR. ZBAR:** I had knowledge of this
19 disclosure, yeah.

20 **MR. RUEL:** Was there any discussion or any
21 consideration into calling a review of the operations of
22 the Cornwall office or some type of investigation to look
23 at the issues that had come up with respect to that office?

24 **MR. ZBAR:** Well, initially, the issue to me
25 was that we didn't need a review; we needed a change in

1 managers because, again, I was looking at the current
2 operation and what the current situation was, and I was
3 looking at implementing new systems and I felt we needed
4 strong managers.

5 And based on the advice I was given and,
6 again, I was far removed from Monsieur Robert in the sense
7 that he didn't report to me directly or even indirectly,
8 but based on advice I received from my officials who I
9 trusted and who I felt were good managers, that we needed a
10 new manager. I didn't feel I needed a review. I felt I
11 needed a new manager.

12 **MR. RUEL:** Okay. The management problems in
13 that office, was this -- were you given the information or
14 impression that this had been a longstanding issue or
15 problem?

16 **MR. ZBAR:** I was given an impression that it
17 had not been an overnight issue, that the communication
18 challenges had existed for a while and that the morale in
19 the office was low and that the office needed some change.

20 **MR. RUEL:** And did anyone explain to you the
21 reason why -- the reason why this situation had become as
22 such in that office?

23 **MR. ZBAR:** No.

24 **MR. RUEL:** The causes?

25 **MR. ZBAR:** No. What was explained to me was

1 the effect, not the cause. The fact is that we needed a
2 management change.

3 MR. RUEL: Okay. So at the end of 2000, you
4 became Deputy Minister?

5 MR. ZBAR: That's correct.

6 MR. RUEL: And I'm not sure if I asked you
7 about the -- I did ask you about your priorities as DM when
8 you came in?

9 MR. ZBAR: Yes, we had a brief discussion.

10 MR. RUEL: Yes.

11 MR. ZBAR: Would you like me to talk about
12 that?

13 MR. RUEL: Well, there was the resources
14 issues with the Ministry?

15 MR. ZBAR: They were very key. The Ministry
16 was, in my opinion, grossly under-funded, and the fact is
17 at the end of 2002, fiscal year 2001-2002, the Ministry had
18 a \$150 million deficit, and that wasn't as a result of bad
19 management. It was a result of the fact that there had
20 been a plan to close old prisons, including the Don Jail,
21 and the money was taken out of the Ministry's budget, but
22 of course we couldn't close the institutions because the
23 remand -- the remands in custody were going up
24 exponentially. There was no room, so we had to keep these
25 institutions open, but management removed the money.

1 So I had some serious fiscal challenges.
2 That was one. I had -- there were major issues with the
3 federal government. The federal government was preparing
4 the introduction of the *Youth Justice Criminal Act* and
5 there were issues of transfer payment to Ontario. There
6 were serious negotiations. The Ontario government had a
7 very different view of the YCJ than the federal government,
8 including the amount of money that needed to flow.
9 Eventually an agreement was hammered out where \$300 million
10 was transferred. I was involved in that to a great extent.

11 We had some serious labour relations
12 challenges. The Ministry had the unenviable record of
13 leading the government in grievances and we were trying to
14 find a way of addressing those things. I worked very
15 closely or tried to work very closely with the office of
16 the Child Advocate, the office of the Ombudsman, the office
17 of the Provincial Auditor, which in the past have had
18 negative relations with the Ministry. I tried to improve
19 those relationships and work with them and have them work
20 with our folks, have them understand what our challenges
21 and problems were.

22 So we had a variety of issues. I could go
23 on but those are some of them.

24 I had the integrated justice process. That
25 took hours and hours of weekly meetings with my colleague

1 Deputy Ministers in the justice sector and meeting with the
2 computer folks and all kinds of problems there.

3 So I had the issues of the super jails. We
4 were instructed to build two super jails. I had the issues
5 related to privatization of one of those super jails. We
6 had issues.

7 MR. RUEL: You were busy for those two
8 years, I guess.

9 MR. ZBAR: Very busy. But I was very
10 fortunate, in that I had two excellent Assistant Deputy
11 Ministers who could handle the operations. Both of them
12 went on to become Deputy Ministers, so they were good and
13 we needed them.

14 MR. RUEL: The role of Deputy Minister is --
15 and correct me if I'm wrong -- is to provide overall policy
16 and financial direction to the Ministry, right?

17 MR. ZBAR: That's an important aspect, yes.

18 MR. RUEL: And I guess you have staff in
19 your office that I guess deal with some of the requests? I
20 mean, you don't see everything that's going on in every
21 institution and every ---

22 MR. ZBAR: No, that would be ---

23 MR. RUEL: --- probation and parole office?

24 MR. ZBAR: That would be impossible because
25 just on a daily basis every morning just to read all of the

1 incident reports, which the Deputy doesn't do, there are,
2 you know, at least 100 incident reports that come in
3 overnight from various institutions around the province.
4 In the morning you have to get the Minister ready for the
5 House. There are all kinds of things that you have to do.

6 So you have a staff that deals with much of
7 this. You focus in on preparing the Minister. Your job is
8 to help translate to the Minister what the issues are in
9 the Ministry and to translate to the Ministry what the
10 government's priorities are because the government in our
11 system, the elected government, has a right to set its
12 policy agenda. It's our obligation to implement that
13 policy agenda and to hopefully advise, sometimes gently,
14 when things, you know, need to be gently advised.

15 **MR. RUEL:** So if there was a significant
16 operational matter within an institution or a probation
17 office the -- whose responsibility would it be to manage
18 that on a day-to-day basis?

19 **MR. ZBAR:** Well, again, it depends on the
20 nature of the incident, but basically it would be -- if it
21 was an institution it would be the superintendent; if it
22 was a more significant situation than that it would be the
23 regional director, and if it was a really significant issue
24 it would be the Assistant Deputy Minister, and the same
25 thing on the community side.

1 **MR. RUEL:** And you would be briefed on those
2 things?

3 **MR. ZBAR:** I would be briefed on -- in broad
4 terms on these issues so that I could let the Minister know
5 that there might be a question in the House or there would
6 be a press -- there would be press coverage of a certain
7 incident or whatever. But I -- you know, I didn't delve
8 into the details of each of those things because my mind
9 isn't that expansive.

10 **MR. RUEL:** In other words, just what I'm
11 getting at, it's not the role of the Deputy Minister to
12 deal with operational problems but he's accountable for the
13 whole Ministry so he needs to be informed.

14 **MR. ZBAR:** Exactly. He or she is
15 accountable, needs to be informed but needs to be informed
16 in a way that explains the issue without getting into all
17 of the details because it would be impossible to do one's
18 job is one had to deal with all of the issues of all of the
19 -- all of the details of all of the issues that come up on
20 a daily basis.

21 **MR. RUEL:** Mr. Commissioner, I don't know if
22 you intended to carry on for ---

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

24 **MR. RUEL:** Yes. Okay, that's fine.

25 In the fall of 2000, after you became Deputy

1 Minister, you were made aware of the existence of a website
2 where allegations were made against employees, past and
3 present, of the Cornwall Probation and Parole Office.
4 That's correct?

5 MR. ZBAR: That's correct.

6 MR. RUEL: How did you learn about that?

7 MR. ZBAR: I was briefed on that by Deborah
8 Newman.

9 MR. RUEL: Okay. And do you recall when
10 that was?

11 MR. ZBAR: I believe, in terms of the
12 website, there was a briefing in early September. We had
13 had a discussion in early August, but I think I was still
14 the ADM, about actually the Project Truth investigation and
15 about appointing a liaison to ascertain from the project
16 whether any of our folks were being investigated.

17 So that was the beginning of August. That
18 didn't specifically address the website because I think
19 that came up later. And in September I was briefed on the
20 website.

21 MR. RUEL: More thoroughly?

22 MR. ZBAR: Well, I was briefed that in fact
23 there was a website, the website was making allegations
24 about, you know, members, past and present, of the Cornwall
25 staff. Most of those postings were made by anonymous folk,

1 was what I was told. And it was at that time recommended
2 by Deborah Newman and others that we launch an
3 administrative review, which we did.

4 MR. RUEL: What did you -- first of all, did
5 review the website yourself?

6 MR. ZBAR: I took a quick look.

7 MR. RUEL: And what did you learn about the
8 content of this website, either through your review or
9 through Ms. Newman?

10 MR. ZBAR: Well, I learned that there were a
11 number of allegations being made against current and former
12 members of the office related to, you know, either past
13 sexual misbehaviour, sexual assault, or people purporting
14 to say that people were aware of issues and didn't report
15 them.

16 MR. RUEL: Was it accurate to say that there
17 was a mention on this website about a paedophile ring of
18 prominent people, including probation officers?

19 MR. ZBAR: Yes.

20 MR. RUEL: That Ken Seguin was a member of
21 this ring -- the allegation as it was made on the website?

22 MR. ZBAR: I believe that the website did
23 say that.

24 MR. RUEL: And there was allegations of
25 sexual improprieties against probationers, including minor

1 probationers, by Mr. Seguin. Do you recall that?

2 MR. ZBAR: The allegations on the website,
3 yes.

4 MR. RUEL: And there was also statements --
5 anonymous statement posted by alleged -- person allegedly -
6 --

7 MR. ZBAR: Yeah, they were anonymous.

8 MR. RUEL: --- having been abused by Mr.
9 Seguin when -- by the probation officer. Do you recall
10 that?

11 MR. ZBAR: That's correct.

12 MR. RUEL: There was also a question about
13 Mr. -- an employee of the Ministry, Mr. van Diepen.

14 MR. ZBAR: M'hm.

15 MR. RUEL: Do you recall that?

16 MR. ZBAR: Yes.

17 MR. RUEL: Not that -- there was no
18 allegation that he had abused anyone but that he was --
19 that he knew about the allegation and did nothing.

20 MR. ZBAR: Well, that he knew or should have
21 known. I'm not quite sure what it said but something like
22 that.

23 MR. RUEL: So you mentioned a review that
24 was -- a recommendation was made, I gather, from what
25 you've said, to launch a review. Is that correct?

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

2 **MR. RUEL:** Can you give us a bit more
3 information about that? What was the nature of the review,
4 the mandate of the review, and who would be appointed to
5 conduct that review?

6 **MR. ZBAR:** Well, the immediate issue, as far
7 as I was concerned, was to ensure that the public safety
8 currently -- and by currently I mean in September of 2000 -
9 - that the Cornwall office was a safe environment currently
10 for our clients. That was my main concern.

11 So the review was to look at that. It was
12 to look at administrative practices. It was to look at
13 anybody in the office that may have been there that may
14 have had some involvement or may have had some information
15 and knowledge.

16 **MR. RUEL:** So the review was not, at that
17 point, to look into the allegations or historical issues
18 and identifying potential victims or other complainants;
19 that was not the focus?

20 **MR. ZBAR:** No, the focus was, as I said, it
21 was an administrative review.

22 I remind you that at the same time there was
23 a major OPP investigation and we were confident that the
24 OPP were looking into any allegations of criminal activity.

25 **MR. RUEL:** Okay. So Mr. Downing was

1 appointed to ---

2 MR. ZBAR: Yes.

3 MR. RUEL: --- conduct that review?

4 MR. ZBAR: That's correct.

5 MR. RUEL: So do you know precisely the
6 mandate that was given to Mr. Downing? I guess you just
7 explained it.

8 MR. ZBAR: That's what I explained.

9 MR. RUEL: Were you informed of what Mr.
10 Downing did through the time he did his -- conducted his
11 review?

12 MR. ZBAR: Yes, there were -- I believe I
13 had two or three briefings subsequent to the September
14 briefing, to get progress on Mr. -- what Mr. Downing did
15 and then to deal with Mr. Downing's report.

16 And the last briefing was in December of
17 2000.

18 MR. RUEL: Did you have anything to do, in
19 terms of defining the mandate of Mr. Downing?

20 MR. ZBAR: No.

21 MR. RUEL: Who did that?

22 MR. ZBAR: I left that to my officials; to
23 Ms. Newman, I assumed, working with Legal Branch -- and Mr.
24 Commeford, who Mr. Downing reported to.

25 MR. RUEL: So the way it happened, I guess,

1 is that she came to you; she briefed you and she said,
2 "This is what we're going to do" and you agreed?

3 MR. ZBAR: Well, I ---

4 MR. RUEL: Or you did not disagree? How did
5 that ---

6 MR. ZBAR: No no, I -- I didn't -- I did
7 agree. I didn't not disagree. I definitely -- I agreed.

8 And also, I think, I was very -- my major
9 concern at the time was -- again and I'm repeating myself,
10 but -- and I think it's important, was the current state
11 and was the office safe? And, once I determined that the
12 office was safe, you know, I withdrew even more from that
13 because the rest, I left up to others.

14 MR. RUEL: So Mr. Downing completed his
15 review ---

16 MR. ZBAR: Yes.

17 MR. RUEL: --- and produced a report.

18 MR. ZBAR: M'hm.

19 MR. RUEL: Is that correct?

20 MR. ZBAR: That's correct.

21 MR. RUEL: So did you get the report?

22 MR. ZBAR: Yeah, yes I did.

23 MR. RUEL: Did you read it?

24 MR. ZBAR: Yes.

25 MR. RUEL: Did you get a briefing as well --

1 -

2 MR. ZBAR: Yes.

3 MR. RUEL: --- on the report?

4 MR. ZBAR: Yes, I did.

5 MR. RUEL: Who gave you this -- that
6 briefing?

7 MR. ZBAR: The briefing was -- my
8 recollection, it was Deborah Newman and members of our
9 Legal Branch.

10 MR. RUEL: Okay.

11 So let's go through.

12 Mr. Commissioner, Madam Clerk, is this
13 Exhibit 1064 -- no, I'm sorry; is Exhibit 958.

14 (SHORT PAUSE/COURTE PAUSE)

15 MR. RUEL: You have it in front of you?

16 MR. ZBAR: No.

17 THE COMMISSIONER: Just a second, it's
18 coming. It's coming.

19 MR. RUEL: I'm sorry.

20 MR. ZBAR: Sorry, what number did you say?

21 THE COMMISSIONER: Nine five eight (958).

22 MR. RUEL: So this is the report that -- I'm
23 sorry.

24 THE COMMISSIONER: No, no; go ahead.

25 MR. RUEL: This is the report that Mr.

1 Downing prepared. Do you recognize this document?

2 MR. ZBAR: Yes, I do.

3 MR. RUEL: Did you -- there's, well, various
4 sections of this report. There's an Executive Summary and
5 there is -- there are some statements attached to that.

6 MR. ZBAR: M'hm.

7 MR. RUEL: Did you read, at the time, only
8 the summary, or have you read the whole thing, including
9 the statements?

10 MR. ZBAR: Well, I read the whole thing but
11 I focused in on the summary.

12 MR. RUEL: Okay. So we -- I'm not going to
13 go through this report in detail ---

14 MR. ZBAR: Thank you.

15 MR. RUEL: --- now that we've heard evidence
16 on that ---

17 MR. ZBAR: Right.

18 MR. RUEL: --- Mr. Downing has testified.
19 But did you have a chance to review the report before
20 testifying today?

21 MR. ZBAR: Yes.

22 MR. RUEL: And what, do you recall, was your
23 -- when did you learn, when you read this report and when
24 you were briefed by your officials concerning the -- Mr.
25 Downing's review?

1 **MR. ZBAR:** Well, the first thing I learned
2 was that there was no present danger in the office; that
3 there had been no subsequent activity, post-Sequin, post-
4 Barque, so that the office, in fact, didn't have a problem.

5 That was my main learning. I also -- I
6 mean, I also read about the various individuals involved in
7 terms of Barque and his leaving the Ministry and the
8 manager, Peter Sirrs, and the letter he wrote and, you know
9 -- and all of those things.

10 **MR. RUEL:** Did that concern you, the letter?
11 The issue is that Mr. Sirrs, according to the report and
12 according to evidence -- well, according to the report,
13 I'll say, wrote a letter that was qualified as a letter of
14 ---

15 **MR. ZBAR:** Of reference?

16 **MR. RUEL:** --- reference or recommendation
17 to be hired by an agency dealing with the mentally
18 disturbed children, after he had left the Ministry. So did
19 that raise any issue with you, when you read that?

20 **MR. ZBAR:** What raised an issue was what was
21 not in the letter to me.

22 **MR. RUEL:** And what was that?

23 **MR. ZBAR:** Well, the fact is all that the
24 letter basically stated that the individual had worked from
25 such and such a date to such and such a date. And that was

1 the letter.

2 MR. RUEL: I'm not sure I understand.

3 MR. ZBAR: I -- that -- so I was concerned
4 with the fact that there -- that was all that was said.

5 MR. RUEL: I see.

6 MR. ZBAR: The letter was correct in what it
7 said, but there was omission of what it didn't say.

8 MR. RUEL: And there was also discussion
9 about Mr. Robert ---

10 MR. ZBAR: M'hm.

11 MR. RUEL: --- in this report?

12 MR. ZBAR: Right.

13 MR. RUEL: About his -- so what impression
14 did you get from your officials and reading the report
15 about the work, the management work of Mr. Robert?

16 MR. ZBAR: Well let me just state that --
17 you know, on the -- I -- when I received this report, I
18 sought opinions from others, including legal opinion; on
19 the basis of the opinion I received, no further action was
20 taken.

21 MR. RUEL: Okay; but there were issues about
22 the management of Mr. Robert raised in that report. That's
23 correct?

24 MR. ZBAR: And we dealt with those issues in
25 the sense that we moved him out of the Cornwall office.

1 **MR. RUEL:** Okay; there was also issues with
2 respect to a Mr. Jos van Diepen?

3 **MR. ZBAR:** M'hm.

4 **MR. RUEL:** So what did you -- what was your
5 ---

6 **MR. ZBAR:** And again, with Mr. ---

7 **MR. RUEL:** --- impression on that?

8 **MR. ZBAR:** --- well again, with Mr. van
9 Diepen, he was given an administrative assignment.

10 **MR. RUEL:** So that was the result of the ---

11 **MR. ZBAR:** I don't know if it was the
12 result, but it happened.

13 **MR. RUEL:** Mr. Downing said or testified
14 here that he believed that Jos van Diepen that significant
15 knowledge with respect to Mr. Seguin's association with
16 offenders which he did not communicate to the Ministry in
17 great detail. Was that conveyed to you in your briefings?

18 **MR. ZBAR:** I read the report.

19 And I read it but, again, as I say, based on
20 the advice I was given, no further action was taken except,
21 as I said, Mr. van Diepen was moved into non-client related
22 duties and Mr. Robert had been moved out of the Cornwall
23 office.

24 **MR. RUEL:** What's -- there was also an
25 issues about the -- we meant -- we talked about that a bit

1 earlier, the complaint by Mr. Silmser.

2 MR. ZBAR: M'hm.

3 MR. RUEL: Well, Mr. Silmser had made a
4 complaint to Mr. Roy and, apparently, the matter was
5 referred to the Independent Investigations Unit, but was
6 not investigated. So that's the conclusion of Mr. Downing.

7 MR. ZBAR: And when that came up, we -- you
8 know, Mr. Downing wanted to do some additional interviews,
9 and he did. He interviewed Loretta Eley and another
10 individual, whose name escapes me at the moment, in
11 relationship to that.

12 MR. RUEL: So he didn't feel he have a full
13 picture of the ---

14 MR. ZBAR: Well he ---

15 MR. RUEL: --- offence?

16 MR. ZBAR: --- he felt, you know, he had
17 made some statements. We said, "Go interview -- you know,
18 go interview Loretta Eley" who I believed to work in the
19 Deputy's office -- the then-Deputy's office, at that time,
20 and he did. And he came back.

21 And you know, there's no question that the
22 documentation was sparse, but we feel it had been handled
23 appropriately.

24 MR. RUEL: In what sense? I mean, a
25 complaint had been made and was not dealt with, so ---

1 **MR. ZBAR:** Well -- sorry.

2 **MR. RUEL:** So I'm wondering -- you're saying
3 it was dealt appropriately; I'm just wondering what -- on
4 what ---

5 **MR. ZBAR:** On the basis ---

6 **MR. RUEL:** --- do you base your comment?

7 **MR. ZBAR:** On the basis of the information
8 he collected from the people he subsequently interviewed.

9 **MR. RUEL:** Okay. Did you recall the
10 information that was given to you, with respect to -- the
11 additional information that was given to you with respect
12 to this matter?

13 **MR. ZBAR:** Well, what I recall is that the
14 information that was provided was that, in fact, procedure
15 was followed but wasn't documented.

16 **MR. RUEL:** So essentially for you, at your
17 level ---

18 **MR. ZBAR:** M'hm.

19 **MR. RUEL:** I gather that the important thing
20 was that there was no current risk as to why ---

21 **MR. ZBAR:** Well ---

22 **MR. RUEL:** Is that correct?

23 **MR. ZBAR:** Well, both on a -- both as, in my
24 role as Deputy Minister and as someone who was a strong
25 proponent of probation, that was my primary concern.

1 I mean, I couldn't necessarily, you know,
2 fix what had happened 40 years earlier, but I wanted to
3 make sure that it -- there was no reoccurrence and that it
4 wasn't -- there was no danger, currently. So I -- when I
5 was assured of that, you know, I felt somewhat relieved.

6 Obviously, there were issues that had
7 happened -- there were events that had occurred and issues
8 that had taken place that had to be addressed, but that was
9 my main concern.

10 MR. RUEL: You made reference to the report
11 or the matter being referred to Legal; is that correct?

12 MR. ZBAR: M'hm.

13 MR. RUEL: So we can't talk about the legal
14 advice because privilege is being claimed. We know about
15 that.

16 MR. ZBAR: That's correct, yeah.

17 MR. RUEL: But following that, I guess that
18 -- well, you indicated that no specific action was taken
19 either against Mr. Robert or Mr. van Diepen?

20 MR. ZBAR: Yeah. Aside from the fact that
21 they were moved to different positions, that's correct.

22 MR. RUEL: So was there ever a discussion
23 with Ms. Newman concerning the fact that if any discipline
24 was imposed on those two individuals and that a grievance
25 was made by them, this could generate negative publicity

1 for the Ministry?

2 **MR. ZBAR:** Yes, there was, but I would point
3 out that our Ministry is used to grievances having more
4 than any other Ministry in government, and the fact that we
5 would get negative publicity is not a -- is not a
6 determinant on whether, you know, we concern ourselves with
7 that. We act in the way we feel we should. If there's a
8 grievance, there's a grievance. We've had numerous
9 grievances that have hit the press over the years on an
10 almost constant basis.

11 So negative publicity in terms of grievances
12 is not something we're particularly -- obviously, you don't
13 want it, but it's not something that would change our view
14 of things.

15 **MR. RUEL:** But it seemed to have been a
16 concern for Ms. Newman, from what you're saying.

17 **MR. ZBAR:** Well, I think Ms. Newman was a
18 good Assistant Deputy Minister and she pointed out all of
19 the ups and downsides. I don't think that would preclude -
20 - I don't think that would, you know, inhibit her from
21 going forward. She just made a point that if this went
22 forward, it could result in negative publicity.

23 But as I say, if you read the various
24 rulings of the Ontario Labour Relations Board on a whole
25 variety of things, this Ministry has had all kinds of

1 rulings, adverse, over the years and we've had plenty of
2 publicity. So that certainly wouldn't -- wouldn't impact
3 on any decision.

4 MR. RUEL: Was that a factor in any way, to
5 your knowledge, in the decision not to impose any
6 discipline on Mr. Robert or ---

7 MR. ZBAR: Absolutely not.

8 MR. RUEL: And did you react in any way to
9 this comment by Ms. Newman?

10 MR. ZBAR: No, because I knew that Ms.
11 Newman was a straight shooter and would present all sides
12 of the argument. She had a track record of, in fact, doing
13 the right thing and had been involved in numerous
14 grievances over the years and took very, very tough
15 positions in some cases.

16 MR. RUEL: The decision to refer the matter
17 to Legal, were you involved in making that decision?

18 MR. ZBAR: Yes. Certainly, I supported that
19 decision and at the end of the day it would be my decision.

20 MR. RUEL: Okay. And was there any
21 expectation that Legal would pursue other investigations
22 with respect to those issues?

23 MR. ZBAR: The expectation I had from Legal
24 was to provide appropriate advice, to check with the Legal
25 folks at Management Board, the people responsible for

1 labour relations, and to come back to me with what they
2 needed to come back with, and they did.

3 MR. RUEL: I gather that -- and I'm going to
4 suggest this to you -- Mr. Downing was asked to follow up
5 on certain points following the issuance of this report;
6 that's correct?

7 MR. ZBAR: Right. That's correct.

8 MR. RUEL: Would it be fair to say that his
9 follow-up was quite limited?

10 MR. ZBAR: It depends on who you ask. If
11 you ask Mr. Downing, I'm sure he would say it was limited,
12 but again, I think what we wanted to ensure was that we
13 would in no way impact or affect the OPP investigation.

14 We had great faith in our OPP colleagues.
15 They had launched a major initiative. They're geared and
16 equipped to deal with allegations of criminal activity.
17 That's not what our folks do. And we were confident that
18 the OPP would look at criminal matters.

19 MR. RUEL: Do you know if the OPP has
20 investigated those allegations against -- made against Mr.
21 Seguin or Barque?

22 MR. ZBAR: Do I know? I haven't spoken to
23 any of the OPP and I haven't seen a report, but I certainly
24 have an -- my assumption is that they did, especially if
25 the allegation was that there was a ring, in fact, that

1 even though those two were deceased, if there was a ring
2 and they were part of that ring, the relationship of those
3 two deceased to current members or past members of that
4 ring who were still alive would, I'm sure, be part of the
5 OPP investigation.

6 **MR. RUEL:** But what would preclude the
7 Ministry from -- I understand that there was a police
8 investigation which could look at some aspects of those
9 relationships with Mr. Seguin or Barque, but what would
10 preclude the Ministry from looking at what happened within
11 its house to determine if policies, procedures, management
12 issues were ---

13 **MR. ZBAR:** Well, I think ---

14 **MR. RUEL:** --- followed?

15 **MR. ZBAR:** --- we did. I think we did an
16 administrative review, and I think the issue was that Mr.
17 Downing wanted to interview people external to the
18 Ministry.

19 And as I say, we didn't want to step on the
20 toes of the OPP. They're much more capable than we are of
21 doing those kinds of investigations.

22 **MR. RUEL:** Are you aware that Mr. Downing
23 recommended to the Ministry to proceed in two stages in his
24 review?

25 **MR. ZBAR:** Yes.

1 **MR. RUEL:** One stage being the one that, you
2 know, he conducted, which is to determine if there's a
3 current risk, and the second stage would be to conduct a
4 broader review and interviewing the persons who made --
5 posted statements on the internet and generally conducting
6 a broad review to determine the level of damage that may
7 have been caused by those individuals.

8 Is that your understanding of what Mr.
9 Downing wanted to do?

10 **MR. ZBAR:** Again, I will repeat; when Mr.
11 Downing wanted to -- initially, the term "Phase 1 and 2" is
12 fine. I mean, Mr. Downing made a report. He then, you
13 know, raised some other issues. We had him interview some
14 other folks. Then he wanted to go beyond that and broaden
15 it out and speak to people that had been involved in the
16 website and other folks, and we felt that that was
17 dangerously close and, in fact, could impede a police
18 investigation.

19 **MR. RUEL:** Did you obtain advice on that?

20 **MR. ZBAR:** At the time, yes.

21 **MR. RUEL:** Was there any -- well, at the
22 time of those events, so 2000 and on, do you know if there
23 were some additional disclosures made by individuals who
24 were alleging abuse by Mr. Seguin or Barque?

25 **MR. ZBAR:** Yes, I'm aware that there were

1 additional disclosures.

2 **MR. RUEL:** So by that time, you knew about
3 Mr. Barque. You knew about the things that happened in the
4 '80s. You knew about the conviction of Mr. Barque in 1995.
5 You knew about Mr. Silmsler. You knew about further
6 disclosures prior to the website coming up. You knew about
7 other disclosures that came subsequently.

8 So there was no -- based on those facts,
9 there was no -- you didn't feel there was a need to go
10 deeper into this issue and review, for example, the
11 caseload of Mr. Seguin or Barque, determine if other
12 clients might have been abused by them or any other steps
13 to try to go to the bottom of this from a Ministry
14 perspective?

15 **MR. ZBAR:** We didn't do that. In
16 retrospect, should have we? Maybe. But again, I would
17 point out to you that the issue of records and records
18 retention is a challenging one because with young
19 offenders, there are records retention schedules and
20 records are sealed and moved, et cetera. It would have
21 been difficult to ascertain and to get all of the records.

22 Is it something that could have been done?
23 Perhaps.

24 **THE COMMISSIONER:** What about adults, young
25 adults, what about the record retention there, sir?

1 **MR. ZBAR:** Sorry. I'm sorry.

2 **THE COMMISSIONER:** It's okay.

3 You talk about young people.

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

5 **THE COMMISSIONER:** But what about young
6 adults? I know the YOA and whatever, they're all sealed.

7 **MR. ZBAR:** Right, right.

8 **THE COMMISSIONER:** What about young adults
9 though?

10 **MR. ZBAR:** You're referring to people over
11 18?

12 **THE COMMISSIONER:** Yes.

13 **MR. ZBAR:** Yeah, they're -- the records,
14 again, there would have been some difficulty because they
15 would have been moved, but that could have been done.

16 But again, I would remind you that my
17 concern was the current situation initially. I was
18 managing a Ministry. I wanted to make sure that there was
19 -- that folks were safe.

20 The fact is that the two individuals were
21 deceased. The fact is we moved the manager. The fact is
22 we moved the other individual who was alleged to have known
23 perhaps more than he stated.

24 We moved the Cornwall Office. We referred
25 complainants. People that made allegations, they were

1 handled sensitively in the office. We referred them to
2 programs that would help them address their issues.

3 **THE COMMISSIONER:** I know, you know ---

4 **MR. ZBAR:** Right.

5 **THE COMMISSIONER:** And that's great, but the
6 fact of the matter is that there are more reports coming
7 out, every one coming out, there might be a question of,
8 well, how many are there out there and how can we go about
9 flushing it all out.

10 I suppose -- and I don't know if I've used
11 this example yet -- the blood thing. The minute that there
12 was a doubt as to whether or not there was contaminated
13 blood out there, they contacted all of the patients and had
14 them come in to be tested.

15 And so if we're looking at the well-being of
16 probationers, wouldn't we not try to flush out as many as
17 we can?

18 **MR. ZBAR:** Well, I won't argue with the
19 analogy. I think there's a difference there.

20 But in any case, I think we made Herculean
21 efforts to deal with those that came forward. We worked
22 hard to make the office a comfortable place so that in fact
23 they could come forward. That's what we did.

24 **MR. RUEL:** Are you aware that in December of
25 2000 there was a large multi-plaintiff legal action

1 launched by a number of individuals who were alleging abuse
2 -- alleging that they were sexually assaulted or abused
3 when they were on probation. So are you aware that the
4 lawsuit was launched against the Ministry ---

5 MR. ZBAR: I was aware ---

6 MR. RUEL: --- in late 2000?

7 MR. ZBAR: Sorry.

8 MR. RUEL: Late in 2000. Are you aware of
9 that?

10 MR. ZBAR: I was aware that there were a
11 number of lawsuits launched against the Ministry, both in
12 terms of what this Inquiry is interested and other matters.
13 At any given time, there are a multitude of lawsuits
14 launched against the Ministry.

15 MR. RUEL: So did that lawsuit and the
16 additional disclosures that were made through lawsuits
17 prompt any further review of the Ministry's dealings with
18 probationers, especially the Cornwall Probation Office?

19 MR. ZBAR: It didn't, to the best of my
20 knowledge.

21 Again, there was an active criminal
22 investigation going on and we felt we had conducted an
23 administrative review and we had addressed the presenting
24 problems which were removing the manager, removing an
25 individual that had been named, changing the office, et

1 cetera.

2 MR. RUEL: So after you got Mr. Downing's
3 report, which was in October ---

4 MR. ZBAR: Yes.

5 MR. RUEL: --- of 2000, what was your
6 involvement with respect to those matters after that?

7 MR. ZBAR: Well, after that it ---

8 MR. RUEL: Particularly your personal
9 involvement.

10 MR. ZBAR: My personal involvement ended in
11 December when I received a legal opinion about -- and a
12 decision was made not to do anything else.

13 After that, I was occupied with other
14 matters. For example, in the early winter after December
15 my Minister had to resign for the disclosure of a young
16 offender's name. I had to deal with another OPP
17 investigation because there was an investigation about that
18 -- how that disclosure was made. So I was occupied with
19 other matters.

20 MR. RUEL: So coming back on some key facts.

21 MR. ZBAR: M'hm.

22 MR. RUEL: You know that there's been
23 publicity in Cornwall and even nationally about persons in
24 trust or authority abusing young persons in Cornwall.
25 You're aware of such publicity?

1 MR. ZBAR: Yes.

2 MR. RUEL: So this has been going on from
3 1994 on. Are you aware of that?

4 MR. ZBAR: I'm aware that it's been going on
5 for longer than that I thought, but yes, I'm aware.

6 MR. RUEL: And that probation officers were
7 named in those ---

8 MR. ZBAR: Two.

9 MR. RUEL: --- reports.

10 MR. ZBAR: Yes, two probation officers were
11 named.

12 MR. RUEL: And there was a conviction, Mr.
13 Barque?

14 MR. ZBAR: Yes.

15 MR. RUEL: So that must have been public.

16 MR. ZBAR: Yes, it was.

17 MR. RUEL: So would it be fair to say that
18 the public, here in Cornwall at least, must have had
19 concerns with respect to the operation of its local
20 probation office and the supervision of criminals in
21 Cornwall based on those reports?

22 MR. ZBAR: I'm not sure it would be fair to
23 -- it could be said but, you know, the way we measure and
24 judge whether there are public complaints is the public
25 usually complains and either complains to Members of

1 Parliament or to the Ministry directly.

2 I'm not aware of, certainly when I was
3 there, of issues involving public complaints to our
4 Ministry.

5 MR. RUEL: No, but the matter was out in the
6 public. That's what I'm saying.

7 MR. ZBAR: No, no, absolutely it was out in
8 the public.

9 MR. RUEL: So the Downing report was not
10 made public. Was it released publicly?

11 MR. ZBAR: No.

12 MR. RUEL: Was there any press release or
13 any statement made by Ministry officials to try to reassure
14 the public here about the operations of the local probation
15 office?

16 MR. ZBAR: No, we don't respond that way.
17 When the website came out and allegations were made, we
18 have different ways of responding. We don't set up counter
19 websites and we don't write newspaper articles, you know.

20 What we do is we do what I think we did, is
21 we moved an office; we made sure that people that came
22 forward were treated with dignity. We made sure that they
23 were referred to appropriate counselling services if
24 needed. We moved the office, as I said. We changed the
25 manager.

1 We do things. We report through the
2 legislature. We have annual reports, et cetera. We don't
3 engage in press releases, you know, answering websites.

4 **MR. RUEL:** Are you aware that on or about
5 1999 the CBC made Access to Information requests for
6 records concerning complaints or allegations with respect
7 to individuals associated with the Cornwall Probation and
8 Parole Office?

9 **MR. ZBAR:** Well, I'm aware of it because you
10 told me about it, but no, I was not aware of it.

11 **MR. RUEL:** And you're not aware that the
12 matter ---

13 **MR. ZBAR:** I was not ---

14 **MR. RUEL:** Legal objections were raised by
15 the Ministry and the matter has been litigated for many
16 years?

17 **MR. ZBAR:** I was not aware of that.

18 **MR. RUEL:** You're not aware of that?

19 **MR. ZBAR:** No, I was not aware.

20 **MR. RUEL:** So do you feel the way the
21 Ministry has handled this matter -- I'm going to ask you
22 the question bluntly. Do you feel it's been handled in a
23 transparent manner?

24 **MR. ZBAR:** Yes, I think we tried to be
25 transparent. I mean, I think when we -- when these things

1 came to the fore I think we dealt with them. I think we
2 made sure that there was no imminent danger. You know,
3 obviously the two individuals who were the main proponents
4 were deceased so it was difficult to do anything there. We
5 worked very hard to ensure the dignity of the victims. We
6 worked very hard to ensure that the office, in terms of
7 public safety, was a safe place.

8 Were we perfect? I don't think anybody's
9 perfect.

10 **MR. RUEL:** In retrospect, looking at that
11 situation, is there anything that you think the Ministry
12 should have done differently?

13 **MR. ZBAR:** Well, what I would I say is that
14 I think some of the actions we've taken subsequent would
15 preclude these kinds of things from happening as readily
16 perhaps in the future. You know, the standards of
17 supervision, the standards of monitoring cases, et cetera,
18 have improved and I think that would have -- that might
19 have assisted us in learning about these things earlier.

20 **MR. RUEL:** Let's talk now -- Mr.
21 Commissioner, if you want me to keep carrying on?

22 **THE COMMISSIONER:** Well, how much longer do
23 you think you're going to be?

24 **MR. RUEL:** Well, depending on how much Mr.
25 Zbar has to say, maybe half-an-hour.

1 **THE COMMISSIONER:** Okay. We'll try to
2 finish the in-chief at least.

3 **MR. RUEL:** We've touched a bit on -- sorry,
4 before going there.

5 So your involvement following December of
6 2000 has been minimal with respect to this matter?

7 **MR. ZBAR:** Yes.

8 **MR. RUEL:** Correct?

9 **MR. ZBAR:** Yes, absolutely.

10 **MR. RUEL:** Then you left in 2002 and
11 obviously you didn't have anything to do with this matter
12 following that?

13 **MR. ZBAR:** No, once you're gone, you're
14 gone.

15 **MR. RUEL:** We went through some of the
16 policy changes that were made under your watch.

17 **MR. ZBAR:** M'hm.

18 **MR. RUEL:** Maybe generally -- and I think
19 you've started to explain those things. Maybe you will
20 want to expand. How is the work of a probation officer
21 different now than it was in the '60s, '70s or '80s?

22 **MR. ZBAR:** Okay. And, again, let me do
23 this, if you will, in an anecdotal way. Let me talk about
24 my experience as a probation officer because I think that's
25 more useful than just talking about theory -- about my

1 experiences as a probation officer in the '70s and what I
2 would have to do today to show the difference in terms of
3 probation and parole.

4 As I say, when I became a probation officer
5 in the '70s I had no training. I had to pass what were
6 called barrier exams, which were some readings I had to do
7 on my own time, but this -- I had up to two or three years
8 following my taking on the job I was -- when you became a
9 probation officer you became a Probation Officer 1. When
10 you passed the barriers you became a Probation Officer 2.
11 But as a Probation Officer 1 in the '70s, I had the same
12 caseload and I had the same responsibilities as a Probation
13 Officer 2.

14 So, basically, I was taken under the wing by
15 some old timers at that point and I was given some brief
16 instruction and away I went. And, basically, my job was to
17 receive the probationers, the client, to explain the order
18 to them, the probation order, to see if they understood the
19 order, to set up a schedule of appointments, generally
20 monthly. Obviously, if they had conditions in the
21 probation order, you know, to find a job or to refrain --
22 or a curfew or refrain from alcohol, my job was to try and
23 talk to them about those things and then write some notes
24 on a monthly basis. That was the job of a probation
25 officer.

1 Now, obviously, there were a lot of
2 probation officers who went far beyond that because people
3 go into the field because they believe in the work; they
4 believe in helping people and they believe in working with
5 people. So probation officers became very active in trying
6 to find people jobs, et cetera.

7 But there was no systematic approach to
8 active supervision. In terms of the way I was supervised
9 by my superiors, I met with my senior -- what was then
10 known as a senior probation officer once every couple of
11 months. We would have a brief conversation and he would
12 ask me how things were going. I would say, "Great." He
13 would say, "Terrific." And there we go.

14 And then annually we would have a case audit
15 where the senior would come in, take my notes, take about
16 10 to 15 percent of my caseload which ran to about 100. So
17 he would take 10 to 15 cases, would review those cases,
18 make a report and send it to the area manager and then
19 would go up to the Region as a composite. That was
20 Probation.

21 Probation has dramatically changed over the
22 years. A lot of research has been done into criminogenic
23 factors and looking at what needs and risks are. A lot of
24 research has gone into the development of assessment tools.
25 A lot of training has gone into probation officers in terms

1 of preparing them to do their work. A lot of work has been
2 done with agencies in the community, developing contracts
3 and getting agencies to provide, whether it's employment
4 support or drug and alcohol support or training around
5 issues around sexual abuse, a whole variety of things that
6 the yardstick kept getting raised.

7 However, even though it was getting raised,
8 it still wasn't, as far as I was concerned, a systematic
9 approach.

10 And what did or what others did, and what I
11 implemented was the Probation and Parole Service Delivery
12 Model which was a model that was based on intake -- on a
13 formal intake process, on a highly developed assessment
14 tool, the level of supervision inventory of Ontario
15 revision was based on looking at what came out of that in
16 terms of risks and need and then streaming offenders into
17 various programs that would address their specific needs
18 and also their risk level.

19 And there were four streams -- there are
20 four streams. One is a basic stream, so that if an
21 offender is working and basically reasonably well adjusted
22 and has an order to provide compensation or restitution,
23 the supervision is minimal, and as long as that is done,
24 the offender moves on.

25 Then there are more intensive streams.

1 There's a stream that deals with -- a program stream that
2 deals with intensive supervision in terms of group work,
3 programs for alcohol abuse, drug abuse, et cetera.

4 Then there's an intensive individual
5 supervision stream that if an offender has really strong
6 needs and risks, that a lot of time is spent with that
7 offender both by the probation and by psychologists,
8 psychiatrists, social workers, et cetera.

9 So there are those streams. Each of those
10 streams has standards and outcomes attached to them in
11 terms of what the expectations are, and in a nutshell,
12 that's the system.

13 And again, just to go back to the point I
14 made earlier, in order to make that effective, you need to
15 have community resources. You need to have the
16 availability of psychologists, psychiatrists and others.
17 The offender is given a wide range of individual contact,
18 et cetera.

19 **MR. RUEL:** The service delivery model
20 includes the -- what we call the core programs. Can you
21 explain what that is? I think it refers to some of the
22 references to outside agencies, you've mentioned, but ---

23 **MR. ZBAR:** Well, programs ---

24 **MR. RUEL:** --- maybe you can expand a little
25 bit about what the programs are.

1 **MR. ZBAR:** Again, what we're looking at is
2 the safety of the individual and the safety of the
3 community, and what we're looking at is core programs,
4 programming related to drug and alcohol abuse, related to
5 anger management, related to a number of criminogenic
6 factors that will hopefully, if they're addressed, will
7 help the probationer, will help the client deal with his or
8 her problems in an effective way and hopefully lead that
9 individual not to recidivate.

10 **MR. RUEL:** And it's based on the initial
11 assessment?

12 **MR. ZBAR:** That's based on the LSIOR, yes.

13 **MR. RUEL:** And there's -- I guess you refer
14 to standards, the case management standards. Is that what
15 you're referring to? Formally, this is the tool that is
16 used by probation officers and supervisors to ---

17 **MR. ZBAR:** That's right.

18 **MR. RUEL:** --- refer the probationers
19 through the various streams?

20 **MR. ZBAR:** Well, that's right and to make
21 sure that outcomes are specifically linked so that when you
22 develop a plan of -- a management plan, a plan of care, you
23 make sure that you not only talk about inputs; in other
24 words, what you want the probationer to do, but you also
25 talk about what outcomes you're expected and you hope to

1 achieve with the probationer, and you do this in
2 collaboration with the probationer.

3 **MR. RUEL:** What about supervision? We're
4 talking mostly here about the -- well, what I understand
5 you're explaining is that this is the work of probation
6 officers now, but what about the level of supervision,
7 supervisors and the work of supervisors with respect to the
8 work of probation and parole officers?

9 **MR. ZBAR:** Well, I mean, when you have a
10 system like this, you have the supervisor, the area manager
11 in this case, has expectations of probation officers in
12 fact going through these various processes, ensuring that
13 there's a proper intake procedure, ensuring that there's a
14 proper, you know, assessment done.

15 And because there are standards, there's a
16 way of measuring what proper is or not, making sure that if
17 there's reference to core programming, that the probationer
18 in fact goes through those programs and that the probation
19 officer records the outcomes and results of those things.

20 **MR. RUEL:** So there's more references, I
21 guess, for the supervisor to look at in terms of how the
22 probationer ---

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

24 **MR. RUEL:** Not the probationer, the
25 probation officer did his job.

1 **MR. ZBAR:** That's correct. And, of course,
2 that's not the major intent of the program. The program,
3 the major intent is to, you know, provide the offender with
4 an opportunity to deal with the problems that have caused
5 that offender to get into trouble with the law in the first
6 place, but certainly an ancillary effect of that is because
7 it's specific in terms of what is expected, it's easier for
8 a supervisor to supervise.

9 In the past, certainly when my assessments
10 were being done with a probation officer, they were very
11 anecdotal. You know, comments would be, "He does a good
12 job. He sees his clients." You know, "He does some home
13 visits." But there weren't specific yardsticks.

14 **MR. RUEL:** What about a tool that could be
15 used to measure the quality of service which would be to
16 speak to the clients as to how their probation officer has
17 conducted his or her work? Is that something that was ---

18 **MR. ZBAR:** It's an interesting ---

19 **MR. RUEL:** --- considered at some point by
20 the Ministry?

21 **MR. ZBAR:** It's an interesting concept,
22 doing exit interviews with offenders leaving. No, I don't
23 think we do that formally, but again, I would remind you
24 that during the intake process, now as opposed to then,
25 probationers are informed of all of the agencies out in the

1 community. And when I talk about agencies, I'm not talking
2 about the agencies that help them with their
3 rehabilitation. I'm talking about if they're young people,
4 the Child Advocate's Office or the Ombudsman's Office.
5 There are -- you know, there are disclosures about that.
6 So folks know that they can -- you know, if they have
7 concerns, they can talk to the area manager. They can talk
8 to the Region if they have concerns that go beyond the
9 Ministry.

10 But the idea of an exit interview is an
11 interesting one. The concern I would have there is you
12 have 50,000 people on probation on a monthly basis. A lot
13 of people come and go. It would be a resource-intensive
14 kind of activity. I suppose you could do it on a sample
15 basis.

16 **MR. RUEL:** Yes.

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

18 **MR. RUEL:** Well, that's a possibility, is it
19 not?

20 **MR. ZBAR:** It's something I would think
21 about. For sure it's a possibility.

22 **MR. RUEL:** Was that ever considered as a
23 policy proposal in the Ministry, doing that in terms of ---

24 **MR. ZBAR:** Exit? Not to my knowledge, no.

25 **MR. RUEL:** So this is the service delivery

1 model. Is there anything else you wanted to add on ---

2 **MR. ZBAR:** No, again, I just want to
3 reinforce the fact that, you know, that in order to
4 implement a model such as this, what was involved was
5 intensive training of probation officers. What is involved
6 is the constant re-evaluation of the assessment tool. What
7 is involved is constantly looking at upgrading training,
8 and that includes management training as well.

9 So, I mean, I think there are a whole bunch
10 of things that a model like this, you know, forces us to
11 do, which I think are all positive, and I'm sure that the
12 model will be revised and hopefully will be improved.

13 And I think it's important to look at
14 outcomes and results and to study recidivism and to see
15 whether in fact there is an impact here, but also it's a
16 good management tool that allows managers and it allows the
17 Ministry to do various analysis of effect, you know, cause
18 and effect in terms of program, interventions, what works,
19 what doesn't work, et cetera.

20 **MR. RUEL:** Just to pick up on a point you
21 mentioned is the training of managers. My understanding is
22 that historically, within the Ministry, for example, area
23 managers were thrown into the job and essentially had to
24 learn without any specific managerial training.

25 Was that the case and has that changed now?

1 **MR. ZBAR:** If I use myself as an example,
2 yeah, I was given the job of an area manager, I think
3 because I was an effective probation officer and other
4 things. I did not go off on a training program. When I
5 was in place there were some management courses but there
6 was very limited training. I think the training has been
7 much improved. We have a staff college now. We have all
8 kinds of training programs, management training programs,
9 et cetera. So I think there is certainly increased
10 training.

11 You know, the issues that I think we've
12 improved on and we need to continuously to work on are
13 recruitment, retention, succession planning, all of those
14 kinds of things that I think are critical. And, you know,
15 I think we've made strides but there's improvement not only
16 in our business but in most businesses.

17 **MR. RUEL:** Okay. I think we've covered
18 OTIS, Offender Tracking Information System, in some
19 details. I don't know if we need to come back on that.

20 Is there anything you wanted to add?

21 **MR. ZBAR:** No, again, just to say aside from
22 the fact that it provides useful information in a
23 systematic way across the province, again, it's a good tool
24 to allow managers and, you know, others to look at what's

1 happening in terms of upholding and maintaining standards
2 and seeing whether standards have to be changed, et cetera.

3 And what it does is it ensures that clients
4 don't get lost in the past. The paper file would follow
5 the client's, sometimes it would take a long time. Now you
6 push a button and you get it.

7 So I think, aside from, you know, factual
8 information, the fact is that there is a good constant and
9 consistent flow of information which is standardized across
10 the province and I think that's very helpful.

11 **MR. RUEL:** So practically means that
12 information about -- entered into OTIS by a probation
13 officer in Cornwall could be accessible in any other
14 probation office in the province?

15 **MR. ZBAR:** Yeah, by those who are authorized
16 to view it, yes.

17 **MR. RUEL:** And is the inscription of notes
18 and case notes in OTIS, is that mandatory ---

19 **MR. ZBAR:** Yes.

20 **MR. RUEL:** --- for probation officers?

21 **MR. ZBAR:** I believe it is, yes.

22 **MR. RUEL:** We're asking, as I'm saying to --
23 well, the witness that testified if they have any
24 recommendations to make to this Commission. So do you have
25 any recommendations based on our terms of reference?

1 **MR. ZBAR:** Well, again, based on my
2 knowledge of the history of the Ministry, I think it's
3 important, especially on the community side, to maintain a
4 strong structural management situation where there is a
5 clear focus on community corrections so that becomes the
6 core business of the people that are viewing it.

7 I think at times when the Ministry didn't
8 have that probation was, in my opinion, somewhat neglected.
9 We didn't -- it wasn't resourced adequately, et cetera.

10 So I think it's important to continue to
11 have a strong structural division, community corrections.
12 I think it's important to look at recruitment practices,
13 retention practices, succession. I think those are key
14 things for -- you know, for the first time over the last 10
15 years there is an ability on the community side to develop
16 succession plans because you move all the way up to Deputy
17 Minister now. You couldn't do that before, at least almost
18 no one did, and now you can.

19 So we need to identify leaders -- future
20 leaders among the probation ranks, nurture those people,
21 train them, move them up the system. We need to do more
22 research. We need to work with schools of criminology. We
23 need to work -- so there are a lot of things that we can do
24 that I think will ensure one, an effective probation
25 service, and two, probation officers that not only have the

1 commitment, which they've always had, but also have the
2 tools and the training and the support that they need to do
3 a very effective job.

4 **MR. RUEL:** Thank you, Mr. Zbar.

5 Those are my questions, Mr. Commissioner, of
6 this witness.

7 **THE COMMISSIONER:** Thank you.

8 We'll come back tomorrow morning at 9:30. I
9 understand we'll -- Mr. Manson.

10 **MR. MANSON:** Just for personal reasons, Mr.
11 Commissioner, do you have any idea when you're going to
12 know about your Friday plans?

13 **THE COMMISSIONER:** I do. We've resolved
14 that, I believe. So on Friday we're going to start at 9:30
15 but we're going to do like we did last time, is we'll have
16 a few breaks but work until 1:30 and then off we go.

17 **MR. MANSON:** Thank you, Mr. Commissioner.

18 **THE COMMISSIONER:** All right.

19 Thank you. So we'll see you tomorrow at
20 9:30.

21 **MR. ZBAR:** Thank you very much.

22 **THE REGISTRAR:** Order. All rise. A L'ordre.
23 Veillez vous lever.

24 ---Upon adjourning at 5:20 p.m./

25 L'audience est ajournée à 5h20

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C E R T I F I C A T I O N

I, Marc Demers a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Marc Demers, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CVR-CM