

**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 226

Held at :

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

Monday, May 12 2008

Tenue à:

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

Lundi, le 12 mai 2008

ERRATA
Volume 177
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Transcript

Page 135, line 19

MR. GENDRON: So would I take it from that
that Ken was more lenient in terms of enforcing ---

Should have read

MS. DALEY: So would I take it from that
that Ken was more lenient in terms of enforcing ---

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Karen Jones	Commission Counsel
Ms. Mary Simms	
Mr. John E. Callaghan	Cornwall Community Police
Mr. Peter Manderville	Service and Cornwall Police
Ms. Reena Lalji	Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Fatima Dada	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police Association
Mr. Ian Paul	Coalition for Action
S/Sgt. Garry Derochie	S/Sgt. Garry Derochie
Sgt. Robert Burnie	Sgt. Robert Burnie
S/Sgt. Brian Snyder	S/Sgt. Brian Snyder

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1 --- Upon commencing at 1:12 p.m./

2 L'audience débute à 13h12

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. Good afternoon, all, rather.

11 Mr. Engelmann, how are you today?

12 **MR. ENGELMANN:** Good afternoon. Very well.
13 Thank you, sir.

14 --- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR.

15 **ENGELMANN:**

16 **MR. ENGELMANN:** I just wanted, in keeping
17 with past practice, to introduce a new face.

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

19 **MR. ENGELMANN:** Fatima Dada is here from the
20 Ministry of the Attorney General.

21 **THE COMMISSIONER:** Good afternoon. Welcome
22 aboard.

23 **MR. ENGELMANN:** I believe she's an articling
24 student with the Office, and I think the other faces are
25 all well known to you, sir.

1 **THE COMMISSIONER:** All right.

2 **MR. ENGELMANN:** So I just wanted to outline
3 briefly what we're doing today and for the rest of the
4 week, if I may.

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

6 **MR. ENGELMANN:** Sir, I understand you have a
7 brief speech that you'll be giving?

8 **THE COMMISSIONER:** Yes.

9 **MR. ENGELMANN:** After that, I have scheduled
10 the application for supplementary funding that has been
11 brought by the Citizens for Community Renewal.

12 **THE COMMISSIONER:** Yes.

13 **MR. ENGELMANN:** Ms. Daley is here to make
14 that application.

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

16 **MR. ENGELMANN:** We have two brief witnesses
17 from the Cornwall Police Service scheduled thereafter,
18 Garry Derochie, the staff sergeant who certainly you're
19 familiar with, sir, ---

20 **THE COMMISSIONER:** Yes.

21 **MR. ENGELMANN:** --- is coming back to deal
22 with one matter dealing with police discipline files.

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

24 **MR. ENGELMANN:** A colleague of his by the
25 name of Robert Burnie, who is a sergeant with the Force, is

1 also going to be speaking to his work on the police
2 discipline files.

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

4 **MR. ENGELMANN:** And after that, sir, we have
5 Staff Sergeant Brian Snyder.

6 **THE COMMISSIONER:** Great.

7 **MR. ENGELMANN:** And obviously his evidence
8 will carry on through Tuesday, possibly Wednesday as well
9 or part of Wednesday.

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

11 **MR. ENGELMANN:** He will be followed by Jeff
12 Carroll, another officer with the Cornwall Police Service,
13 and they will be followed by Rene Desrosiers, another
14 officer from the Cornwall Police Service.

15 **THE COMMISSIONER:** All right.

16 **MR. ENGELMANN:** So that's what our lineup
17 looks like over the next few days, sir.

18 **THE COMMISSIONER:** Terrific. Thank you very
19 much.

20 **MR. ENGELMANN:** All right.

21 --- STATEMENT BY THE COMMISSIONER/DÉCLARATION PAR LE
22 COMMISSAIRE:

23 **THE COMMISSIONER:** Thank you.

24 Yes, I have a number of procedural and
25 planning matters to go over with all of you today, and I

1 will be covering both Phase 1 and Phase 2 matters.

2 We are moving through planned institutional
3 response evidence. As we attempt to complete each witness
4 and each institution as scheduled, it is perhaps only human
5 nature to lose sight of the big picture.

6 So before I get back to some of the details
7 necessary to the management of a public inquiry, let's look
8 at that big picture.

9 For more than 20 years, people in Cornwall
10 and outside Cornwall raised concerns about historical sex
11 abuse of children and youth. Thousands signed petitions
12 for an inquiry. City Council supported an independent
13 inquiry.

14 The elected Government of Ontario responded
15 by establishing this Inquiry, and after doing so, the
16 question becomes what is this Inquiry to accomplish?

17 As Commissioner of a Public Inquiry, I am
18 beholdingly to no interest. I think it is important for you
19 to have my thoughts directly on the kind of inquiry I'm
20 working to ensure we have here in Cornwall.

21 This is an Inquiry that will be thorough and
22 look at matters methodically and carefully. This means we
23 will take the time needed to do it right. I will not be
24 deflected from doing my work with diligence and I will not
25 be distracted from ensuring my work is complete.

1 We are here to get to the bottom of a
2 divisive and heart-wrenching issue that has troubled this
3 community. Doing this right does take time and money. Not
4 doing it right is a disservice for those who have lived
5 these issues for decades.

6 We are here to make progressive
7 recommendations that I hope may change public policy. We
8 are here to find the good ideas that can make a difference.
9 We are here to find out how to reduce abuse, how to respond
10 when it happens and how to ensure we have the right
11 services in place for those needing help. We are here to
12 fully equip professionals to handle reports of historical
13 or current child sexual abuse, and we are here because the
14 Cornwall experience can help other communities, other
15 professionals, other survivors and especially other
16 children.

17 And we are here because at the end of this
18 Inquiry, I hope those following our work fully will be able
19 to say, "I understand what happened. I understand the
20 changes that are needed to reduce abuse and respond well
21 when it happens. I feel prepared to move forward as an
22 individual and as a part of a community. I know the
23 lessons learned and how they can help others."

24 But when we reach this point, when my report
25 is released, it is you who will assess this Inquiry's

1 worth. I want you to do that with the intense scrutiny the
2 subject matter and the public investment deserves, but I
3 hope and expect wise people of independent mind will wait
4 for the Inquiry to complete its work before passing
5 judgment, will wait for all of the evidence to be heard,
6 the submissions to be made and the report released.

7 So these are my views on the big picture.
8 The work of this Inquiry, the Public Inquiry, will stay on
9 track. In doing this, we will continue to be mindful of
10 those expenditures within our areas of accountability. We
11 hope that those expending public funds that are not under
12 this Inquiry's direct oversight will exercise similar care.

13 Je vais maintenant parler de certains
14 détails de la gestion de l'enquête qui nous aiderons à
15 rester focalisés.

16 Nous sommes en voie de finaliser notre
17 calendrier d'auditions. Les avocats de la Commission
18 étudient les demandes des avocats des parties qui
19 réclamaient des pauses pour des raisons personnelles ou
20 pour mieux se préparer.

21 Nous avons ajouté des heures et des jours
22 pour être aussi efficaces que possible. Nous tiendrons
23 des audiences pendant la majeure partie du mois de mai,
24 juin et juillet et avons réservé des jours d'audience
25 pendant la dernière semaine d'août et jusqu'au 12

1 septembre. D'autres dates seront réservées au besoin.

2 Nous prendrons aussi le temps de donner des
3 instructions au sujet des observations pour la Phase 1 et
4 la Phase 2.

5 J'espère terminer les audiences cette année,
6 mais n'oubliez pas que ce ne sera pas au détriment de la
7 qualité. Si quelque chose d'imprévue surgit qui exige
8 toute notre attention, nous y répondrons.

9 Nous n'avons pas l'intention de passer à
10 côté des choses. Nous devons être méthodiques et
11 minutieux.

12 To be efficient without short-changing the
13 need to have a full evidentiary picture in place, I urge
14 counsel for institutions to work with Commission counsel in
15 planning for institutional response testimony. This should
16 include ensuring the availability of witnesses to ensure
17 the flow of information in an orderly fashion. Counsel
18 should monitor progress and anticipate changing dates. The
19 list of witnesses is a running list. Testimony at an
20 inquiry is not like television with defined times to start
21 and finish programs. We will do our best on scheduling,
22 but flexibility is required to serve the public interest
23 and as a continued efficiency.

24 Le mois prochain, nous terminerons les
25 témoignages sur l'intervention institutionnelle du Service

1 de police communautaire de Cornwall et passerons aux autres
2 institutions dans l'ordre établi il y a plusieurs mois.

3 Je sais que les témoignages de plusieurs
4 institutions sont déjà bien planifiés et je remercie les
5 avocats de leur coopération.

6 Je tiens à préciser que dans certains cas,
7 les avocats de certaines parties constateront que leur
8 présence n'est pas nécessaire à toutes les séances de
9 témoignages. En réalité, je remercie les avocats qui
10 tiennent compte des coûts que leur présence entraîne pour
11 le public.

12 Passons maintenant à la Phase 2. Il y a à
13 peu près un mois, j'ai pris une décision au sujet des
14 séances du témoignage informel. J'ai indiqué que j'avais
15 demandé aux membres de mon comité consultatif de se mettre
16 à la disposition des personnes qui souhaiteraient raconter
17 leur histoire dans un contexte à caractère non probant. Je
18 leur ai recommandé de veiller à ce que ces séances se
19 déroulent dans une ambiance réconfortante et encourageante
20 pour qu'elles favorisent la guérison personnelle. Ces
21 séances de témoignages informels sont ouvertes à quiconque
22 se sent touché par l'enquête.

23 I'm pleased to tell you that we are making
24 progress on implementing the decision I announced and
25 intend to be up and operational as early as mid-June. We

1 are planning training in May, obtaining our facilities, and
2 will be posting online information to support those
3 considering participation. Our contact for this work will
4 be Colleen Parrish, who is also the Chair of my Advisory
5 Panel.

6 She would be pleased to sit down and provide
7 more detailed information to any interested counsel, as
8 well as providing information to those who may be
9 interested in participating in a process of telling one's
10 story in an informal context.

11 Since we are moving into an operational
12 phase, I want to formally cover a few matters. Part of my
13 mandate is to provide for opportunities apart from formal
14 evidentiary hearings. I have chosen to do this and have
15 announced my decision.

16 In considering the appropriate process for
17 these opportunities which are not evidentiary in nature, I
18 have balanced many considerations. Commissioners have
19 authority over the procedures within inquiries.

20 I believe the healing function of giving
21 informal testimony is best served by ensuring a private
22 meeting place and a private process. I want no fear of
23 intrusion to occur for those coming forward.

24 I have directed my advisory panel and staff
25 of this Inquiry to ensure that this is the case by

1 protecting privacy. I want all counsel and the public to
2 understand this and to understand that being a non-
3 evidentiary process means that what is talked about in
4 these sessions cannot be used in civil litigation or to
5 make any finding of wrongdoing at this Inquiry.

6 For those who choose, anonymous summaries of
7 their account given in the informal testimony process will
8 be prepared and published as part of the report on Phase 2
9 of this Inquiry.

10 I will not see these accounts until the
11 Phase 1 report is complete and sent for publication, but I
12 do assure you that I will read these accounts when I am
13 able to do so and in the months ahead, I hope that this
14 process of informal testimony will be an opportunity for
15 healing, a meaningful step along a life journey.

16 Thank you very much.

17 Now, Mr. Engelmann?

18 **MR. ENGELMANN:** Thank you, sir.

19 First matter then for this afternoon is the
20 application by the Citizens for Community Renewal. Madam
21 Clerk should have a motion record and if that could be
22 marked as Exhibit 6.6. You'll note that that is -- Exhibit
23 6 was their original standing documents and we have added
24 on to that when they have requested supplementary motions.

25 **THE COMMISSIONER:** Thank you.

1 **MR. ENGELMANN:** I'll turn it over to Ms.
2 Daley.

3 **THE COMMISSIONER:** Ms. Daley?

4 **MS. DALEY:** Thank you, counsel, and good
5 afternoon, Mr. Commissioner.

6 **THE COMMISSIONER:** Thank you.

7 **--- APPLICATION FOR SUPPLEMENTARY FUNDING FOR THE CITIZENS**
8 **FOR COMMUNITY RENEWAL AND ADDITIONAL ALLOCATION OF DAYS**
9 **BY/APPLICATION POUR FONDS SUPPLEMENTAIRE POUR LE**
10 **CITIZEN FOR COMMUNITY RENEWAL ET ALLOCATION DE JOURNEE**
11 **SUPPLEMENTAIRE PAR MS. HELEN DALEY :**

12 **MS. DALEY:** I don't know if you have had an
13 opportunity to look at our materials. We are here with two
14 requests today; one is for additional law clerk or
15 paralegal funding, and I'll speak to that first, and the
16 second is for some additional -- an additional allocation
17 of days for second counsel funding.

18 So let me turn firstly to the request for
19 law clerk funding. The Affidavit of my associate, Juda
20 Strawczynski, speaks to this at Tab 2 of Exhibit 6.6 ---

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

22 **MS. DALEY:** --- in some detail.

23 Firstly, if I could direct you to the
24 particular skills and tasks that our law clerk ---

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

1 **MS. DALEY:** --- is responsible for; that's
2 described at paragraph 4 and 5 of the materials.

3 At the risk of sounding like a personal
4 testimonial, I can say that I have worked personally with
5 Ms. Nash for quite some time on this and other very complex
6 matters and I find her assistance absolutely superb. I
7 doubt that we could be as on the ball here as we are
8 without her quite frankly.

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

10 **MS. DALEY:** As to the tasks that she's doing
11 for us and the anticipated need for further work, that is
12 outlined at paragraph 7 ---

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

14 **MS. DALEY:** --- of the Affidavit and we have
15 there itemized the tasks that she is performing routinely.

16 I should pause just to, perhaps, describe or
17 explain that our prior associate, Steven Canto, was with us
18 simply on a contractual basis and given the duration of the
19 hearing, he had to move on for career reasons, and Ms. Nash
20 has very much stepped into the breach that was created by
21 our loss of him. So we have been using her services for
22 more functions and in a more intensive way since February
23 of this year, but certainly that is what we -- those are
24 the services that we have required of her and as I've said,
25 they have been absolutely instrumental in us keeping track

1 of the documents. As you know, we're now moving fairly
2 rapidly through a lot of different witnesses and a good
3 clerk is key.

4 In terms of the amount of additional funding
5 that I have requested, I have based it on an assumption and
6 the assumption that I have utilized is that we, including
7 the rest of the evidence and the submissions, are likely to
8 be here approximately another 20 weeks and at present, we
9 have been using up to about 40 hours of Ms. Nash's time a
10 week. So that is the foundation of my request that we be
11 allocated an additional 750 hours.

12 I can turn now to speak to our second
13 funding request and that is for some additional time with
14 second counsel or the ability to use second counsel a
15 little bit more than we have and if you look at paragraphs
16 11 and following of Mr. Strawczynski's Affidavit, he
17 outlines how we have used second counsel to date in
18 paragraph 12.

19 And I could just say that our intent has
20 been always that we use it sparingly and we try to be
21 judicious as to when we do use second counsel. Up to this
22 point, we have confined it to witnesses whose evidence we
23 consider to be critical and who testified over multiple
24 days.

25 In the future though, again, with a view to

1 being more financially efficient, we are hoping that we can
2 use our new associate, Mr. Strawczynski, himself, at some
3 of the Phase 1 hearings where some of the institutional
4 respondents and in order to get him up to speed to do that,
5 we would like to have the ability to bring him in to the
6 hearing a bit more often just so that he can learn the
7 ropes and, you know, understand what his role will be when
8 he is here on his own. So that's the reason underlying the
9 request for additional second counsel funding.

10 Subject to any questions you might have.

11 Thank you.

12 **THE COMMISSIONER:** Thank you.

13 Anybody wish to comment on this application?

14 No, I did not think so.

15 All right.

16 And so Ms. Daley, I will provide you with
17 the written reasons very shortly and giving you details. I
18 am inclined to grant you some relief ---

19 **MS. DALEY:** Yes.

20 **THE COMMISSIONER:** --- and so you can -- I
21 do not want you to stop your work because the hours have
22 elapsed ---

23 **MS. DALEY:** Yes.

24 **THE COMMISSIONER:** --- but the exact number
25 of hours, I'll come to some decision and advise you in

1 writing.

2 All right?

3 **MS. DALEY:** Thank you very much.

4 **THE COMMISSIONER:** Thank you.

5 **MR. ENGELMANN:** If I can just have one
6 moment, sir.

7 **THE COMMISSIONER:** Yes, sir.

8 **MR. ENGELMANN:** Sir, the next witness for
9 the Commission then will be Staff Sergeant Garry Derochie.

10 **THE COMMISSIONER:** Thank you.

11 **MR. MANDERVILLE:** Good afternoon, Mr.
12 Commissioner.

13 **THE COMMISSIONER:** Mr. Manderville?

14 **MR. DEROCHIE:** Shall I be re-sworn or ---

15 **THE COMMISSIONER:** Oh, yes, yes, yes.

16 **S/SGT. GARRY DEROCHIE, Resumed/Sous le même Serment**

17 **THE COMMISSIONER:** So can you put me in
18 context here ---

19 **MR. ENGELMANN:** Yes ---

20 **THE COMMISSIONER:** --- a little?

21 **MR. ENGELMANN:** --- sir, you recall Staff
22 Sergeant Derochie was on the witness stand for several days
23 ---

24 **THE COMMISSIONER:** Yes.

25 **MR. ENGELMANN:** --- and one of the matters

1 that came up, it came up on April 2nd ---

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

3 **MR. ENGELMANN:** --- in the cross-examination
4 by Mr. Lee. There were issues involving a statutory
5 declaration that Staff Sergeant Derochie was involved with.
6 So I think we should all have that document; that is
7 Exhibit 1394 and so if the witness could have that and if
8 the witness could also have Volume 209 of the transcript
9 and, sir, you may wish to have both of those documents as
10 well ---

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

12 **MR. ENGELMANN:** --- and Volume 209 was, I
13 believe, either the last day of Staff Sergeant Derochie's
14 evidence or the day before, but this was Wednesday, April
15 2nd and in particular, the discussion around the statutory
16 declaration, sir, this was in the morning on Wednesday,
17 April 2nd starting on about page 21. But, sir, there were
18 issues that came up and just again to give you the context,
19 there were concerns about whether or not -- do you have
20 1394 in front of you sir? It is the original statutory
21 declaration of Staff Sergeant Derochie.

22 **THE COMMISSIONER:** Yes, I do. M'hm.

23 **MR. ENGELMANN:** And there were concerns
24 about the definition of relevant discipline that are set
25 out in paragraphs 3 (a), (b) and (c).

1 There was some discussion, and perhaps I
2 should use the term, confusion, about whether the three
3 subparagraphs were conjunctive or disjunctive. In other
4 words, in this particular case where -- whether one had to
5 have all three of those before it became relevant
6 discipline or whether it was just one of the three. And
7 there were some issues about what relevant discipline meant
8 and there were also some issues about who it was that was
9 being inquired into.

10 So you will recall there was some discussion
11 on the record that day and one of the requests I know that
12 I would have made as Commission counsel was that we get a
13 further Statutory Declaration that included a list of the
14 actual officers whose records were checked, and that if in
15 fact paragraph 3 should have been disjunctive that we have
16 the word, "or" instead of the word "and." And there were
17 counsel for the CCR and for the victims' group that asked
18 not only that we call Staff Sergeant Derochie but that we
19 also call a colleague of his, Sergeant Burnie.

20 Is it Sergeant or Staff Sergeant? Sergeant
21 Burnie. So that's what we've done, sir. We've made them
22 available today. I don't think either or these witnesses
23 will be long but I think it's important to bring this out.

24 And the other reason I've called Staff
25 Sergeant Derochie is within a day of his leaving the

1 witness stand, I was contacted by counsel for the Cornwall
2 Police Service. They advised me that Staff Sergeant
3 Derochie had discovered something upon his return to the
4 office and he wanted an opportunity to come back and
5 explain something that he said on the witness stand. Those
6 documents were in fact given to Commission counsel on the
7 Friday of that week, April 4th, and Staff Sergeant Derochie
8 was told that he would have an opportunity to explain
9 something he said on the 2nd. He had wanted that
10 opportunity immediately, and we've been trying to fit him
11 back in, and Officer Burnie, since then.

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

13 **MR. ENGELMANN:** So that's the background, if
14 I can, sir.

15 **THE COMMISSIONER:** Certainly.

16 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
17 **ENGELMANN(cont'd/Suite):**

18 **MR. ENGELMANN:** So Staff Sergeant Derochie,
19 you have a copy of Exhibit 1394?

20 **MR. DEROCHIE:** I do.

21 **MR. ENGELMANN:** And I understand, sir, that
22 after your testimony on April 2nd, you would have prepared a
23 subsequent Statutory Declaration?

24 **MR. DEROCHIE:** That is correct.

25 **MR. ENGELMANN:** And Madam Clerk, this is a

1 Statutory Declaration signed by Staff Sergeant Derochie on
2 the 7th of April 2008 and you should have a copy of that.

3 I'd like that to be our next exhibit, sir.
4 It has a Schedule "A" attached that lists Cornwall Police
5 Service witnesses.

6 **THE COMMISSIONER:** Thank you. Exhibit 1575
7 will be an Affidavit of Garry Derochie -- wait a minute,
8 It's a Declaration; it's not an Affidavit.

9 **--- EXHIBIT NO./PIÈCE No. P-1575:**

10 Garry Derochie - Statutory Declaration of
11 Garry Derochie dated 08 Apr 08

12 **THE COMMISSIONER:** So just out of curiosity,
13 it says "I make oath and say as follows" but it really
14 isn't sworn. I don't know if it matters much, but ---

15 **MR. ENGELMANN:** There's not the usual jurat.

16 **THE COMMISSIONER:** No.

17 Sir, are you prepared to swear that the
18 contents of Exhibit 1575 to be the truth, so help you God?

19 **MR. DEROCHIE:** I certainly would swear to
20 that, yes.

21 **THE COMMISSIONER:** Thank you.

22 **MR. DEROCHIE:** I do so swear.

23 **THE COMMISSIONER:** Okay, so that's covered.

24 **MR. ENGELMANN:** All right, so Staff Sergeant
25 Derochie, I want to ask you about two reasons that you're

1 back here today, and let's start with this Statutory
2 Declaration if we can.

3 MR. DEROCHIE: Okay.

4 MR. ENGELMANN: When you gave your evidence
5 earlier, and I'm thinking in particular of your cross-
6 examination by Mr. Lee ---

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: --- you had initially
9 indicated to him that all three of paragraphs 3 (a), 3(b)
10 and 3(c) were necessary for you to have found relevant
11 discipline, but then a bit later on in your evidence, you
12 indicated that if you found one or more, that you would
13 have brought it to the attention of counsel?

14 MR. DEROCHIE: That's correct. I believe I
15 contributed it significantly to the confusion on that
16 matter, but yes that's true.

17 MR. ENGELMANN: All right. So as a result
18 of that, did you amend in any way the wording of paragraph
19 3 of your Statutory Declaration?

20 MR. DEROCHIE: No. Oh, the "and" was
21 removed and "or" was inserted, yes.

22 MR. ENGELMANN: All right, so instead of the
23 word "and" in 1394 we see the word "or" in 1575?

24 MR. DEROCHIE: "Or" yes.

25 MR. ENGELMANN: And sir, I'm going to just

1 ask you a couple of questions about that in a minute, but
2 the other change that would have been made is, sir, that
3 you now attach a list of witness names?

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

5 **MR. ENGELMANN:** And that was as a result of
6 a request that was made on April 2nd?

7 **MR. DEROCHIE:** That's correct. This is the
8 list of proposed or potential police witnesses to this
9 Inquiry.

10 **MR. ENGELMANN:** All right, and if I
11 understand then correctly, you were tasked by counsel for
12 the Cornwall Police Service to examine the records for all
13 of the individuals set out in Schedule "A" to determine
14 whether or not there was any evidence of relevant
15 discipline on any of their files?

16 **MR. DEROCHIE:** Yes, and just -- and beyond
17 that to call each of the individual people where possible
18 and verbally confirm with them that they had no such -- in
19 case we couldn't find documents that may have been existed
20 or may have been purged, that we would contact those people
21 and ask them specifically did they have any such
22 discipline.

23 **MR. ENGELMANN:** All right, and when you
24 asked them about any such discipline, would you have given
25 them the wording from paragraph ---

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

2 **MR. ENGELMANN:** --- 3(a), (b) and (c)?

3 **MR. DEROCHIE:** Yes, correct.

4 **MR. ENGELMANN:** All right. And sir, as I
5 understand it -- and I don't know if we have it handy,
6 Madam Clerk -- there was a similar document that had been
7 prepared by Mr. Manderville?

8 If that could be entered as the next
9 exhibit, sir?

10 **THE COMMISSIONER:** Exhibit 1576 is ---

11 **MR. ENGELMANN:** It's a Declaration.

12 **THE COMMISSIONER:** It's a Declaration, is
13 that what -- "make oath and say as follows"?

14 **MR. ENGELMANN:** It's not formally sworn.
15 I want to refer to the document simply to refresh the
16 witness's memory about what may have happened.

17 **THE COMMISSIONER:** All right, so it's a
18 Declaration signed by Peter Manderville on the 24th of
19 January 2008.

20 **--- EXHIBIT NO./PIÈCE No. P-1576:**

21 Garry Derochie - Statutory Declaration of
22 Peter Manderville dated 24 Jan 08

23 **MR. ENGELMANN:** Sir, at some time the latter
24 part of last year, 2007, were you instructed to do this
25 work by counsel for the Cornwall Police Service, Mr.

1 Manderville?

2 MR. DEROCHIE: That's correct.

3 MR. ENGELMANN: All right. And I'm looking
4 at paragraph 2 of Exhibit 1576 and in it Mr. Manderville
5 tells us that he advised you about an agreement that had
6 been reached between some of the parties to this hearing?

7 MR. DEROCHIE: That's correct.

8 MR. ENGELMANN: And in it there was some
9 discussion about what is meant by the term, "relevant
10 discipline"?

11 MR. DEROCHIE: That's correct.

12 MR. ENGELMANN: And some of -- well,
13 relevant discipline was then set out in paragraphs 3 (a),
14 (b) and (c)?

15 MR. DEROCHIE: That's correct.

16 MR. ENGELMANN: And if we turn then to
17 Exhibit 1575, do you recall -- and I'm just looking at 3(a)
18 for example -- what was explained to you about what 3(a)
19 means? The reason I'm asking, sir, is it's got that term
20 "suitability" in it which can be a rather subjective term.

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: So I want to know what was
23 explained to you with respect to the meaning of 3(a).

24 MR. DEROCHIE: Well, that there had been a -
25 - someone would have been found unsuitable, for whatever

1 reason, either lack of experience or lack of training or
2 lack of -- if the word is suitability, I guess, to conduct
3 such an investigation, they just were not the person for
4 the job at hand.

5 MR. ENGELMANN: All right.

6 MR. DEROCHIE: For any number of reasons.

7 MR. ENGELMANN: Okay, but sir, I'm looking
8 at 3(a) and you've got to read it together with the
9 preamble, right?

10 MR. DEROCHIE: Yes.

11 MR. ENGELMANN: Findings of guilt and
12 imposition or formal or informal discipline?

13 MR. DEROCHIE: That's correct.

14 MR. ENGELMANN: So with that in mind, what
15 sir, was meant by 3(a)?

16 MR. DEROCHIE: Well, that at the conclusion
17 of an investigation or during the investigation there, then
18 the finding of -- that a person was not suitable to have
19 conducted the investigation, and as a result of that there
20 had been some sort of a finding, either under the *Police*
21 *Act* or under informal discipline, to that degree or to that
22 effect.

23 MR. ENGELMANN: All right. So the type of
24 discipline that you would be looking for would either be
25 discipline that would have been as result of a charge --

1 not a charge, a finding of guilt under the *Police Services*
2 *Act*?

3 **MR. DEROCHIE:** Yeah, there wouldn't
4 necessarily have had to have been a charge, not only under
5 the *Police Services Act* but also of our informal discipline
6 process.

7 **MR. ENGELMANN:** I was going to come to that.

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** So it could either be as a
10 result of a finding of guilt ---

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** --- in the course of a *Police*
13 *Services Act* charge?

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

15 **MR. ENGELMANN:** Or some form of informal
16 discipline?

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

18 **MR. ENGELMANN:** And can you give us an
19 example of what that informal discipline might have been?

20 **MR. DEROCHIE:** Well, it may well be that the
21 officer -- according to our Collective Agreement there's a
22 process in there that -- that resolves matters informally
23 without going to the *Police Services Act*. The union would
24 often -- or the Association would often argue that the --
25 that the offence or the misconduct being alleged is

1 something that could be dealt with informally by this
2 process.

3 So, had there been an acceptance of a
4 finding by the officers -- at this time it was the
5 inspector level -- of misconduct then there could -- there
6 would be a finding by the inspector and there would be an
7 imposition of a penalty as a result of that process.

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

9 So we've talked about a couple of examples
10 in the evidence to date. One was the possibility of some
11 form of informal discipline, in the form of counselling,
12 for Officer Dunlop.

13 **MR. DEROCHIE:** That would have been less than
14 this. Less than what we're talking about here. When we
15 are talking about informal discipline as opposed to
16 counselling, counselling is a lesser ---

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

18 **MR. DEROCHIE:** --- degree of ---

19 **MR. ENGELMANN:** All right.

20 **MR. DEROCHIE:** --- discipline.

21 **MR. ENGELMANN:** So, what you had come up
22 with in the fall of 1993 as a resolution of the concerns
23 about the release of documentation to the CAS ---

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** --- for example, with

1 Officer Dunlop ---

2 MR. DEROCHIE: Right.

3 MR. ENGELMANN: --- that form of informal
4 discipline would not have been sufficient to be captured by
5 3A?

6 MR. DEROCHIE: That's correct. It wouldn't
7 be -- it wouldn't be considered or thought of as informal
8 discipline.

9 MR. ENGELMANN: All right.

10 And what about -- another example that we
11 have that came up in your administrative review of the
12 Antoine investigation where there were concerns about
13 Office Malloy, case management, record keeping, note
14 taking, et cetera?

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: And he was to be counselled.

17 MR. DEROCHIE: Same as we are talking about
18 with Mr. Dunlop. It's the same level of counselling.

19 MR. ENGELMANN: All right.

20 So that wouldn't be of sufficient severity
21 to even come within informal discipline for the purposes of
22 this analysis here?

23 MR. DEROCHIE: Not those particular -- not
24 with regards to the details involving those particular
25 incidents, no.

1 **MR. ENGELMANN:** Because the first one, (a)
2 appears to be suitability within the context of a sexual
3 assault investigation?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Whereas (c) appears to be
6 more general in nature.

7 **MR. DEROCHIE:** Yes.

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

9 But I'm just -- again, for my purposes I'm
10 trying to understand what type of discipline, whether
11 formal or informal, would have met this requirement to
12 disclose? I mean if it's more than simply a conviction
13 under the *Police Services Act* what kind of informal
14 discipline ---

15 **MR. DEROCHIE:** Well, the Inspector's
16 discipline under the -- under our Collective Agreement. I
17 would have disclosed that.

18 **MR. ENGELMANN:** All right.

19 **MR. DEROCHIE:** If it's -- if it still
20 existed.

21 **MR. ENGELMANN:** All right. And so, clearly
22 if there is some kind of finding of deceit whether it's
23 part of a *Police Services Act* charge or an Inspector's
24 discipline we capture that here.

25 **MR. DEROCHIE:** It's -- yes, deceit would be

1 captured under the *Police Services Act*. I can't think of a
2 circumstance where we deal with deceit under Inspector's
3 discipline.

4 **MR. ENGELMANN:** Okay. But what I'm
5 concerned about, Staff Sergeant Derochie, is if -- if an
6 officer has difficulty with an investigation and we have
7 the example of, say Officer Malloy with the Antoine
8 investigation first time around and in your admin review
9 you talk about issues of note keeping, record keeping ---

10 **MR. DEROCHIE:** M'hm.

11 **MR. ENGELMANN:** --- case management, et
12 cetera. Would you agree that might bear on that officer's
13 suitability to be assigned to something as complex as a
14 historical sexual assault investigation?

15 **MR. DEROCHIE:** That would not be my
16 understanding. The -- it's rather difficult. You'd have
17 to almost be -- you'd almost have to question when you're
18 talking about suitability, the decision would -- the
19 decision to give them that assignment -- it goes without
20 saying that whoever is giving him that assignment would
21 believe him to be suitable to do the investigation before
22 he -- before he could be given the investigation if --
23 using a hypothetical, if I -- if I was in that position and
24 I evaluated -- I evaluated Constable Malloy as to whether
25 or not he was suitable to the investigation and found him

1 to be unsuitable, I wouldn't charge him with being
2 unsuitable to do an investigation.

3 MR. ENGELMANN: Okay, in fairness to the
4 Officer, maybe -- let's just not use a name.

5 MR. DEROCHIE: Okay.

6 MR. ENGELMANN: But if an officer's had
7 difficulty in investigating a sexual abuse allegation with
8 historical reporting and notes weren't kept or there wasn't
9 follow-up or there was problems with case management,
10 whatever, might that not affect that officer's suitability
11 to take on another one?

12 MR. DEROCHIE: Get -- well, if we're going
13 to assume that he didn't learn anything from the first one.

14 MR. ENGELMANN: Okay.

15 MR. DEROCHIE: Possibly.

16 MR. ENGELMANN: All right.

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: So, I'm ---

19 MR. DEROCHIE: But, we're talking about
20 systemic -- when I was reviewing that particular
21 investigation I was concerned with not only what Malloy had
22 or hadn't done ---

23 MR. ENGELMANN: No.

24 MR. DEROCHIE: I'm sorry, we keep going back
25 to ---

1 **MR. ENGELMANN:** I know ---

2 **MR. DEROCHIE:** --- naming that officer.

3 **MR. ENGELMANN:** The concern there was not
4 just with the officer investigating ---

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** --- but the chain of command
7 and ---

8 **MR. DEROCHIE:** If he's only a part of the
9 problem, I don't see it -- I don't see as him being held
10 accountable any more so than the rest of the command
11 structure or the organization, the institution in itself
12 being responsible for the circumstance.

13 **MR. ENGELMANN:** So, the whole reason for the
14 last few questions was I'm struggling with that subjective
15 term, suitability, sir. And I'm wondering you know, what's
16 above the line and what's below the line when it comes to
17 formal or informal discipline? From your perspective.

18 **MR. DEROCHIE:** Well, I would -- I guess I
19 would be hard pressed to criticize somebody for being
20 unsuitable to do an investigation and then giving him the
21 investigation. So, I don't -- in that context, and now
22 you're bringing it up, I don't understand what the offence
23 would have been.

24 **MR. ENGELMANN:** All right. And if the
25 assigning officer doesn't know about the officer's

1 backgrounds, it would be difficult if not impossible for
2 them to find someone to be unsuitable?

3 **MR. DEROCHIE:** Yes. It's just like being
4 charged with not knowing.

5 **MR. ENGELMANN:** Right. Okay. And sir, I
6 understand it that if it's counselling, that would not
7 appear on the officer's personnel file?

8 **MR. DEROCHIE:** That's correct. It's put in
9 his appraisal file and that appraisal file is purged at the
10 anniversary date when the evaluation or the -- performance
11 evaluation is done at the -- on an annual basis.

12 **MR. ENGELMANN:** And sir, I understand even
13 if it's a higher form of informal discipline or even some
14 formal discipline that the record is in fact removed or
15 purged at a certain point in time?

16 **MR. DEROCHIE:** Exactly. The confusion may
17 well be that we have a -- prior to -- prior to the *Police*
18 *Act* being amended to include the whole concept of informal
19 discipline -- we were talking about the inspector's
20 discipline. When the *Police Act* was amended to include a
21 provision for informal -- discipline rather, the
22 inspector's discipline portion that was in our contract
23 became redundant. It was no longer required. As a matter
24 of fact the penalties that the Association were willing to
25 accept under the inspector's discipline were less than what

1 was stipulated in Statute. So obviously, that went by the
2 wayside.

3 **MR. ENGELMANN:** All right.

4 But, sir, with respect to -- just to get
5 back to the question then, the officer's file ---

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Assuming that there is no
8 further finding of guilt, the file is purged of that
9 discipline within a certain period of time?

10 **MR. DEROCHIE:** The Act specifies two years.

11 **MR. ENGELMANN:** Two years. Okay. So, it's
12 a sunset type provision. It disappears after that two year
13 period?

14 **MR. DEROCHIE:** It does. It ---

15 **MR. ENGELMANN:** All right.

16 **MR. DEROCHIE:** It's rather like a juvenile
17 record. It's more sealed than it is disappeared.

18 **MR. ENGELMANN:** If you and your colleague,
19 Sergeant Burnie, are reviewing files and if an officer had
20 some kind of finding of guilt but then had nothing for the
21 two-years subsequent, you would not find anything in that
22 file review.

23 **MR. DEROCHIE:** You would think not, but we
24 did.

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

1 Well, as a matter of fact we have on two
2 occasions found something; right?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: We found some -- we still
5 have something in Officer Dunlop's file.

6 MR. DEROCHIE: Correct.

7 MR. ENGELMANN: Dating back to the mid-80s I
8 believe.

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: And you found something else
11 in a file of an Officer Trottier?

12 MR. DEROCHIE: Yes, those were both major
13 charges, major *Police Act* charges, which have a different
14 retention period. They're not resolved informally.

15 MR. ENGELMANN: All right.

16 And do you know what that retention period
17 is?

18 MR. DEROCHIE: I believe it's indefinite.
19 I'm not sure and if -- certainly, if you want to task me
20 with that, I'll get a definitive answer on it, if it'll be
21 helpful.

22 MR. ENGELMANN: Okay. Maybe if it is a
23 legal determination, we can get that from counsel, sir.
24 You say it is based on the Statute itself?

25 MR. DEROCHIE: I believe so. It's my

1 understanding that if there's a major *Police Act*
2 conviction, that becomes a permanent record.

3 **MR. ENGELMANN:** All right.

4 So just with respect to the list, would you
5 agree with me that in many cases, sir, given the fact that
6 counselling is not on a file at all and informal discipline
7 and many forms of formal discipline would be purged after a
8 two-year period, that if you are reviewing these files it
9 becomes important to follow up with the officer and ask
10 them the question?

11 **MR. DEROCHIE:** That's correct but in many
12 cases I found evidence of discipline that should've been
13 purged but wasn't purged.

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

15 So there were some examples where discipline
16 should have been purged?

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

18 **MR. ENGELMANN:** But with respect to your
19 work here and dealing with relevant discipline, you would
20 be quite reliant upon the responses you would have received
21 from the individual officers?

22 **MR. DEROCHIE:** With the exception of Mr.
23 Trottier, yes.

24 **MR. ENGELMANN:** All right.

25 And did you, in fact, call all of these

1 officers, sir, you and your colleague or were there ---

2 MR. DEROCHIE: I personally ---

3 MR. ENGELMANN: --- some that were not
4 called?

5 MR. DEROCHIE: I personally called them all
6 except for those names that are contained in paragraph 7 of
7 my Declaration.

8 MR. ENGELMANN: All right.

9 And I think you have already explained to us
10 why you did not call Constable Sebalj.

11 MR. DEROCHIE: Correct.

12 MR. ENGELMANN: Mr. Lee asked you some
13 questions about that.

14 MR. DEROCHIE: Yes.

15 MR. ENGELMANN: Can you tell us why you did
16 not call the others, sir?

17 MR. DEROCHIE: Mr. Trottier was in Texas
18 vacationing and I had no contact information for him down
19 there. The chiefs of police, we wouldn't have a record;
20 that's Chief Claude Shaver, Carl Johnston and Anthony Repa.
21 We don't have discipline files on them. If they were
22 subject to discipline, it would be probably at the Board
23 level.

24 MR. ENGELMANN: All right.

25 And you did not call them in any event as

1 well?

2 **MR. DEROCHIE:** I've never -- I did not call
3 those individuals.

4 **MR. ENGELMANN:** All right.

5 And, sir, I understand that the day after
6 you finished your testimony here, you discovered that
7 something you told us on the 2nd of April was incorrect?

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And can you tell us what
10 that was ---

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** --- and how you discovered
13 that you were incorrect?

14 **MR. DEROCHIE:** Well, we found the -- as I
15 was doing this process, when we first started talking about
16 this whole issue of discipline sometime prior to December
17 of last year, as I came across discipline matters in the
18 personnel files, I pulled them and put them in a box
19 labelled "Potential Discipline Issues" and in December when
20 we were tasked -- when I was tasked with this
21 responsibility, unfortunately, after the first week of
22 December I took ill and I was away from the office until
23 the beginning of the new year.

24 In my absence, Sergeant Burnie was detailed
25 to go through the files and check for -- he was in

1 Professional Standards at the time, had access to archives
2 or -- I'm sorry, he wasn't in at the time, but he had just
3 left Professional Standards, had access to the archives and
4 he went down to archives and found them.

5 Unfortunately, the box containing the
6 Trottier material was a significant size file; it was an
7 entire banker box. And that had been retrieved from
8 archives early during the testimony of Mr. Alain Seguin.
9 Mr. Seguin had been a witness at the *Police Act* hearing of
10 Bob Trottier.

11 And so when he began, and we got his
12 anticipated evidence, and he mentioned Sergeant Trottier,
13 then at that time we retrieved that file so it was removed
14 from archives. It's in my office with a whole number of
15 other boxes and it was missed by Sergeant Burnie, he,
16 thinking that all of the relevant discipline files were
17 contained in the one banker box that I had identified.

18 Therefore, when I came back in the new
19 year and then became involved, and myself going through the
20 second phase of this, which was contacting each individual
21 officer, again Trottier not being available to me to ask,
22 we just overlooked it.

23 And subsequent to that, Sergeant Burnie came
24 into my office. For some reason we noticed -- he noticed
25 that box, started going through it and came across the fact

1 that there had been a conviction of deceit with regards to
2 a 1996 complaint.

3 MR. ENGELMANN: All right.

4 And as I understand it with Officer
5 Trottier, just very briefly, a complaint had come in to the
6 Cornwall Police Service ---

7 MR. DEROCHIE: A complaint, yes.

8 MR. ENGELMANN: --- against him.

9 MR. DEROCHIE: That's correct. A complaint
10 came in in 1996 and the nature of the complaint required
11 that the Chief ask the OPP to conduct an investigation.
12 They conducted an investigation, laid a criminal charge.

13 At the same time, we had opened a *Police*
14 *Services Act*, a public complaint file on it; however, held
15 that in abeyance until the criminal matter was done. The
16 criminal matter was completed almost a year to the day, in
17 1997, November of '97, I believe and -- with the Crown
18 requesting a stay, and we proceeded from that point on with
19 the *Police Service Act* charge.

20 He was charged with 11 different offences
21 under the *Police Services Act*, was found guilty on two
22 charges of neglect or discreditable conduct and one charge
23 of deceit. A penalty was imposed of reduction in rank from
24 sergeant to fourth class constable. This would've happened
25 in the latter part of 1997; the conviction, November 1997,

1 I believe it was and ---

2 MR. ENGELMANN: He retired from the Force
3 shortly after.

4 MR. DEROCHIE: --- he retired from the Force
5 in early '98 ---

6 MR. ENGELMANN: All right.

7 MR. DEROCHIE: --- as a fourth class
8 constable.

9 MR. ENGELMANN: So those findings of
10 discreditable conduct and deceit would normally have been
11 captured under your definition of relevant discipline?

12 MR. DEROCHIE: They should've been captured.
13 I should've revealed that.

14 MR. ENGELMANN: And just so we are clear,
15 they were not because Mr. Burnie -- or sorry, Sergeant
16 Burnie, who was doing the file review, did not have access
17 to that box at the time?

18 MR. DEROCHIE: That's correct. No, it was
19 clearly my responsibility to have identified that
20 particular file and it's just I missed it.

21 MR. ENGELMANN: All right.

22 Those are my questions. Thank you very
23 much, Staff Sergeant Derochie. There two or three counsel
24 who may have some questions for you.

25 MR. DEROCHIE: Thank you, sir.

1 **THE COMMISSIONER:** All right.

2 Ms. Daley?

3 **MS. DALEY:** Thank you.

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

5 **DALEY:**

6 **MS. DALEY:** Staff Sergeant Derochie, I do
7 have just a few questions on the exercises you undertook to
8 look for these records. And I am wondering if you could
9 help us understand in what manner the records are kept.
10 How does the CPS retain records of discipline such as you
11 were looking for?

12 **MR. DEROCHIE:** They are first captured
13 electronically in the officer's profile. It's one of the
14 categories, is discipline issues. That is normally a very
15 brief description of what occurred, what the charges were,
16 what the disposition, and what the date was. They're
17 backed up, and those are the files we're normally talking
18 about, whether or not they get purged from the personnel
19 file.

20 **MS. DALEY:** Yes.

21 **MR. DEROCHIE:** If something is going to be
22 purged, it will be purged from that particular file.

23 **MS. DALEY:** So the officer profile is part
24 of his or her personnel file then?

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

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

2 **MR. DEROCHIE:** Yes, and this is just one
3 segment of the profile ---

4 **MS. DALEY:** Got it.

5 **MR. DEROCHIE:** --- discipline.

6 And the second area is a Professional
7 Standards Archive where you have the hard copy of all of
8 the documents relating to public complaints; just anything
9 involving discipline issue are kept in our archives,
10 Professional Standards Archive. Probably keep two years
11 active in the office and all the rest are downstairs in the
12 archive.

13 **MS. DALEY:** So the Professional Standards
14 Archive, that would encompass matters that arose from a
15 citizen's complaint, but would it also include a chief's
16 complaint?

17 **MR. DEROCHIE:** Oh yes. Oh yes.

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

19 And if I've understood you then, you have
20 physical records for all those matters on your site, either
21 in the archive or on an upper floor of the building? Is
22 that the situation?

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

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

25 And do you know how far back those records

1 go, sir, the Professional Standards Bureau records?

2 **MR. DEROCHIE:** I would -- I can recall
3 seeing some from 1983. So I don't recall anything earlier
4 than that.

5 **MS. DALEY:** All right.

6 In the course of your inquiry that led to
7 your Statutory Declaration, did you make any inquiries of
8 the Police Association concerning discipline records?

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

10 **MS. DALEY:** Would that have been a potential
11 place to go to learn about relevant discipline?

12 **MR. DEROCHIE:** No, certainly -- no, I would
13 say not.

14 **MS. DALEY:** Can you explain why not?

15 **MR. DEROCHIE:** Well, they wouldn't have
16 individual files on discipline and certainly they wouldn't
17 retain them if they ever had a piece of paper with
18 somebody's -- you know, an allegation against somebody.
19 They want to see those records destroyed more than ---

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

21 **MR. DEROCHIE:** --- more than anyone.

22 **MS. DALEY:** So it struck you there was no
23 likelihood they would have relevant information for you?

24 **MR. DEROCHIE:** No, I couldn't imagine a
25 situation where they might have that.

1 **MS. DALEY:** I wonder -- we heard -- we've
2 heard something here about your Board, your Police Service
3 Board.

4 **MR. DEROCHIE:** Yes.

5 **MS. DALEY:** And sometimes they become
6 involved in discipline. Did you review Board minutes with
7 a view to determining if there was any relevant discipline
8 noted?

9 **MR. DEROCHIE:** I didn't. I know that Dan --
10 Deputy Chief Dan Aikman did, and in my discussions with him
11 -- and that would have been at the Chief level -- at the
12 Chief's level.

13 **MS. DALEY:** Yes.

14 **MR. DEROCHIE:** That's the only thing -- the
15 only discipline the Board would deal with would be
16 discipline of a Chief of Police or a Deputy Chief of
17 Police.

18 **MS. DALEY:** Right.

19 **MR. DEROCHIE:** He indicated to me that he
20 had found no such notations of discipline.

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

22 And in terms then of the officer profile, if
23 I've understood your testimony correctly -- let me just
24 back up for a second and perhaps do it in reverse. The
25 search that you undertook would not have disclosed anything

1 that led to a counselling session. That's correct, is it,
2 sir?

3 **MR. DEROCHIE:** That's correct. That's fair.

4 **MS. DALEY:** And you gave evidence here
5 previously about a number of matters where you were
6 involved and your recommendation was counselling, but that
7 wouldn't have been captured for the purpose of finding
8 relevant discipline here?

9 **MR. DEROCHIE:** No.

10 **MS. DALEY:** Are there any other forms of
11 discipline similar to counselling that are also of a lesser
12 nature such that you wouldn't have included them?

13 **MR. DEROCHIE:** Besides a dirty look? I
14 can't think of -- you know, anything that we would do would
15 be documented. You know, I might have an officer come in
16 with his leather not shined or his boots not shined and
17 give him a bit of a tongue lashing and not necessarily
18 document that anywhere, but anything -- certainly anything
19 involved a complaint against a police officer from the
20 public or a complaint from the Chief who becomes aware
21 through supervisors that there has been misconduct or
22 potential misconduct, certainly that would be recorded.

23 **MS. DALEY:** All right.

24 **MR. DEROCHIE:** If, as a supervisor, and I
25 have an officer under my command, I am free, if it's -- you

1 know, I have certain discretions as a supervisor just to
2 counsel him about minor breaches of misconduct. Maybe he
3 spoke sharply to a citizen; the citizen came in. I'm able
4 to negotiate an informal resolution so it doesn't have to
5 go to a complaint. That type of thing, I would document.

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

7 But of the matters that concern us; that is,
8 deceit, someone's suitability for a sexual assault or a
9 complex investigation ---

10 **MR. DEROCHIE:** Yes.

11 **MS. DALEY:** --- I take it that any matter
12 that resulted in nothing more than counselling is not
13 something that you captured for the purpose of this
14 exercise?

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

16 **MS. DALEY:** And do you have any sense, sir -
17 - you were a supervising officer. Do you know whether your
18 fellow supervising officers have an inclination to go the
19 counselling route?

20 **MR. DEROCHIE:** Some ---

21 **MS. DALEY:** Or can you comment on that?

22 **MR. DEROCHIE:** Some more than others, yes.
23 Some people are -- you know, some supervisors are rather --
24 can be somewhat lax in supervision. Some are the opposite,
25 the exact opposite.

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

2 So I take it from that that there are at
3 least some supervisors on the Force that would have an
4 attitude favourable towards counselling as an outcome?

5 **MR. DEROCHIE:** Yes, but the whole issue of
6 self-preservation would be in their mind when they're doing
7 that because they're judged by how they perform. So, you
8 know, they would be ruled by that. They wouldn't be --
9 they wouldn't be trying to deal with a matter such as
10 deceit through counselling.

11 **MS. DALEY:** Understood.

12 I take it in terms of what physical records
13 would be available to you then, after two years, as you
14 indicated, an informal disciplinary outcome is purged from
15 a file or should be? That's the protocol?

16 **MR. DEROCHIE:** It's purged from the
17 discipline portion of the profile, the electronic profile,
18 but there would still be hardcopy in archives.

19 **MS. DALEY:** Would that be in the employee's
20 file in archives or would that then be in the Professional
21 Standards archives?

22 **MR. DEROCHIE:** In the Professional Standards
23 archives.

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

25 So that's how you would gain knowledge of a

1 matter that had been purged electronically from the
2 employee file. It should be in archives, and you should be
3 able to locate it there?

4 **MR. DEROCHIE:** Yes.

5 **MS. DALEY:** All right.

6 I just had one question about the language
7 that's used in your Statutory Declaration. That's Exhibit
8 1575, if you have it handy. And we've spoken at length,
9 but I just want to make sure I clearly understand. Inside
10 paragraph 3 you're outlining your understanding of relevant
11 discipline and you introduce it by using the words
12 "findings of guilt." Do you see that?

13 **MR. DEROCHIE:** Yes.

14 **MS. DALEY:** And "imposition of formal or
15 informal discipline."

16 **MR. DEROCHIE:** Yes.

17 **MS. DALEY:** And it's the words "findings of
18 guilt" I just want to take you to. Maybe I'm wrong, but to
19 me that implied that there had been some sort of formal
20 fact-finding process involved here.

21 **MR. DEROCHIE:** Well, certainly there would
22 have been a fact-finding process, but not necessarily a
23 hearing.

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

25 **MR. DEROCHIE:** The Chief can make a

1 determination based on a report that's presented to him
2 from his Professional Standards officers that there was
3 misconduct, and he unilaterally decides that, and if the
4 officer agrees with it, then that's -- I guess that's a
5 finding.

6 **MS. DALEY:** That would be a finding of
7 guilt. That would count for your purposes?

8 **MR. DEROCHIE:** Yes, yes, it would.

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

10 And if the officer disagreed with it, it
11 would have to go to a formal hearing, and then there would
12 be a formal finding of an adjudicator?

13 **MR. DEROCHIE:** That's right. The Chief has
14 the option of either going to a hearing or taking no
15 further action.

16 **MS. DALEY:** All right.

17 Thank you, sir.

18 **MR. DEROCHIE:** You're quite welcome.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Paul, do you have any questions?

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

22 **PAUL:**

23 **MR. PAUL:** Good afternoon, Staff Sergeant
24 Derochie. I appear for the Coalition for Action. My name
25 is Ian Paul.

1 **MR. DEROCHIE:** Good afternoon, Mr. Paul.

2 **MR. PAUL:** I just have a few questions for
3 you. First of all, I would assume that your searches only
4 pick up misconduct while members of the Cornwall Police,
5 for example, individuals who came on from other police
6 forces, your search wouldn't necessarily tell whether they
7 had records from prior forces?

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

9 **MR. PAUL:** So speaking of individuals who
10 perhaps were in the RCMP or the OPP, if their application
11 showed that there was misconduct, would that show up in
12 your search if their employment application ---

13 **MR. DEROCHIE:** I don't believe it would, Mr.
14 Paul. It would certainly be -- it would certainly be
15 discovered during the application process.

16 **MR. PAUL:** Yes. Now, I think you mentioned
17 that you made efforts to speak to most of the officers in
18 question personally to see if they had recollection of
19 records?

20 **MR. DEROCHIE:** All but those that I excluded
21 in paragraph 7.

22 **MR. PAUL:** Yes. And I just wanted to ask
23 you, were there efforts to contact past supervisors or
24 standards officers to verify that as well?

25 **MR. DEROCHIE:** No, not formally. I did have

1 discussions with all of those that are still employed with
2 us. They knew what I was doing. So no, I didn't make any
3 kind of formal effort to check with every past Professional
4 Standards officer.

5 MR. PAUL: Just a few questions in relation
6 to -- you're obviously familiar with the report of
7 Superintendent Skinner of the Ottawa Police?

8 MR. DEROCHIE: Yes.

9 MR. PAUL: And it would be my understanding
10 that that report didn't result in any relevant findings of
11 misconduct.

12 MR. DEROCHIE: Not that I'm aware of, no.

13 MR. PAUL: And similarly, obviously the
14 public complaint of Mr. Silmser didn't result in any
15 findings or misconduct in relation to either Mr. Dunlop or
16 Ms. Sebalj?

17 MR. DEROCHIE: Quite right.

18 MR. PAUL: I just wanted to ask you one
19 point to clarify that process. My understand of the
20 process is in terms of the public complaint process,
21 initially, for example, in the Silmser case, the public
22 complaint focused on Ms. Sebalj?

23 MR. DEROCHIE: I didn't have anything to do
24 with that, but by reviewing documents I saw that the --
25 Constable Sebalj was the original subject officer of that

1 complaint, yes.

2 **MR. PAUL:** The only question I have on that
3 is in the circumstances where perhaps the person making the
4 complaint doesn't realize all the officers that are
5 involved, and it becomes apparent that another officer, for
6 example, Mr. Dunlop is involved somehow. As a public
7 complaint, did the police add on the other officer
8 automatically or did they go back to the person who made
9 the public complaint and ask them for permission if they
10 want to complain against that person?

11 **MR. DEROCHIE:** I can't comment on the PCC
12 process -- that was the Public Complaints Commission.
13 There was a whole different system than that, that I worked
14 under in Part 6 of the Act, which was a revision, which is
15 what we went from the old Part 5, which was the PCC
16 legislation, and I'm not sure if there is a requirement one
17 way or the other.

18 **MR. PAUL:** All right. So you are not sure
19 whether a permission is sought to add a new officer on from
20 the original complaint to the public complaint?

21 **MR. DEROCHIE:** I'm not sure if it would have
22 applied then. I certainly would have done it under the
23 Part 6.

24 **MR. PAUL:** The Trottier matter is the only
25 other matter I would like to ask you questions about.

1 You indicated that was what you called a
2 major case?

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

4 **MR. PAUL:** On somewhat similar scale as I
5 believe the 1985 Dunlop proceeding in terms of severity?
6 Is that what you -- I thought that's what you indicated.

7 **MR. DEROCHIE:** I guess Mr. Trottier's matter
8 would be considered more -- more serious because it
9 involved a member of the public making a complaint as
10 opposed to Mr. Dunlop being a chief -- more or less a
11 chief's complaint. I would judge -- I would scale it that
12 way.

13 **MR. PAUL:** In terms of Mr. Trottier's case,
14 was it one that was well known in the Cornwall Police?

15 **MR. DEROCHIE:** Oh, yes. Well, not well -- I
16 don't think all of the details were well known. It was
17 subject to quite a bit of gossip, I would suggest, some of
18 it right, some of it's wrong.

19 **MR. PAUL:** But the fact that some form of
20 major complaint was well known within the Force?

21 **MR. DEROCHIE:** Oh, yes. It was in the media
22 as well, so it was well known to the community.

23 **MR. PAUL:** Yes, I was going to ask that. I
24 was going to ask that; it was well known within the media
25 in Cornwall as well?

1 **MR. DEROCHIE:** Sure. Sure.

2 **MR. PAUL:** And in the circumstances while
3 you were checking files or Sergeant Burnie was checking
4 files and reporting to you, did you not have an expectation
5 that something would be found in relation to Mr. Trottier?

6 **MR. DEROCHIE:** Yes, and -- but the whole --
7 it never, it didn't occur to me simply because I didn't
8 believe there was anything to do with deceit; that there
9 had been a conviction of deceit, and I think that's -- yes,
10 certainly, we would have. I don't know if Sergeant Burnie
11 knew about the Trottier investigation. I assume he did.
12 As you point out, it was a high-profile investigation.

13 **MR. PAUL:** And you reviewed Sergeant
14 Burnie's results; correct? The results of his search would
15 have been reviewed by you?

16 **MR. DEROCHIE:** Well, there -- there was no
17 results of -- there nothing to review. He ---

18 **MR. PAUL:** Yes?

19 **MR. DEROCHIE:** He reported to me that he had
20 conducted a search and had found none of the relevant
21 discipline.

22 **MR. PAUL:** And you were aware that the
23 discipline records for Mr. Dunlop's '85 proceedings were,
24 in fact, found? You were aware of that?

25 **MR. DEROCHIE:** Oh, yes. Yes.

1 **MR. PAUL:** And given that those were found,
2 were you not expecting something to be found in relation to
3 Mr. Trottier's case, given that's even more recent?

4 **MR. DEROCHIE:** I would imagine that because
5 of my absence from the office, certainly I didn't give it
6 any consideration at that time, while I was off on sick
7 leave and by the time I came back, it was no longer a
8 subject of discussion. You know, he reported to me that he
9 had found nothing, and I was content with that.

10 **MR. PAUL:** All right. And when he reported
11 that nothing was found, Mr. Trottier, despite your
12 knowledge that there had been some form of incident, you
13 did not direct him to make more inquiries or look for
14 materials further?

15 **MR. DEROCHIE:** Well, no, I can't recall now
16 that if he even mentioned that he had not found anything
17 with regards to Trottier.

18 **MR. PAUL:** All right.

19 **MR. DEROCHIE:** He may have, but I don't
20 recall saying that, "You know what, I didn't find anything
21 about Trottier. Any idea where that is?"

22 No, I don't recall that.

23 **MR. PAUL:** All right. Did you not know that
24 Sergeant Trottier was one of the list of people, list of
25 potential witnesses that you were looking -- you and

1 Sergeant Burnie were looking for at the time?

2 MR. DEROCHIE: Oh, yes, oh, yes.

3 And I was aware that he had been subject to
4 major discipline. I just didn't believe at that -- it
5 didn't occur to me that deceit was involved.

6 MR. PAUL: And when the results were made
7 and known to you from Sergeant Burnie, you did not direct
8 him to make any further inquiries to look further in
9 relation to Sergeant Trottier?

10 MR. DEROCHIE: You're correct; I did not.

11 MR. PAUL: Thank you.

12 THE COMMISSIONER: Thank you. Anyone else? Oh, Mr.
13 Lee, yes. Sorry.

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

15 MR. LEE: Good afternoon, Mr. Commissioner,
16 Staff Sergeant Derochie.

17 MR. DEROCHIE: Mr. Lee.

18 MR. LEE: If you can have Exhibit 1394 and
19 Exhibit 1575 handy; those are the original Statutory
20 Declaration and the new Statutory Declaration. If I can
21 start you off with paragraph 2, would you agree with me
22 that it is identical in both declarations?

23 MR. DEROCHIE: I'll take your word for it,
24 sir.

25 MR. LEE: And what it states is that you

1 were advised by Sergeant Burnie that he has reviewed all
2 relevant discipline records in the possession of the
3 Cornwall Police Service.

4 Do you see that?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** And would you agree with me that
7 in relation to Exhibit 1394, that paragraph isn't worded
8 particularly well, given that, as I understand your
9 evidence, there were no relevant discipline records as far
10 as you understood it at the time the original Declaration
11 was sworn?

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

13 **MR. LEE:** And so when it states that he has
14 reviewed all relevant discipline records, would you agree
15 with me that that gives the reader the impression that
16 there was something to review?

17 **MR. DEROCHIE:** Yes.

18 **MR. LEE:** And that is not -- that, at that
19 time, was not the case?

20 **MR. DEROCHIE:** That's not the case; you are
21 correct.

22 **MR. LEE:** And when we look at Exhibit 1575,
23 it now applies because you are telling us that now we have
24 the Trottier discipline files and there was something to
25 review. Is that right?

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

2 **MR. LEE:** And I want to be absolutely clear.
3 Is it your evidence that the CPS has now produced the only
4 records of relevant discipline that exist in relation to
5 the persons mentioned at Appendix A? We have Trottier and
6 that's it?

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

8 **MR. LEE:** And your understanding is that
9 those are all of the records of relevant discipline that
10 the CPS has?

11 **MR. DEROCHIE:** It's my belief, yes.

12 **MR. LEE:** If we move on to paragraph 3, we
13 have -- am I right that the only change is that the "and"
14 at the end of line B has been replaced with an "or"?

15 **MR. DEROCHIE:** I'm sure it is, yes.

16 **MR. LEE:** Can you tell me whether or not a
17 new search was conducted as a result of that clarification,
18 either by yourself or by Sergeant Burnie?

19 **MR. DEROCHIE:** Other than the finding of the
20 Trottier file, no.

21 **MR. LEE:** So everything ---

22 **MR. DEROCHIE:** We understood, and I think I
23 said that on my last day of testimony, I understood that I
24 was to report any discipline of either -- that fell into
25 either of those categories, and I certainly contributed to

1 the confusion by answering the opposite to you originally,
2 but I think if you review my testimony somewhere along the
3 lines, I do say no, if I would have found anything on
4 either A, B or C, I would have disclosed it.

5 MR. LEE: As I understood your evidence, to
6 me it was originally you said that you understood that ---

7 MR. DEROCHIE: Yes.

8 MR. LEE: --- for something to be produced
9 it would have had to be A, B and C.

10 MR. DEROCHIE: Yes, you are quite right.

11 MR. LEE: But notwithstanding the test for
12 production, had you come across any of these, you would
13 have made your counsel aware?

14 MR. DEROCHIE: Exactly.

15 MR. LEE: So as I understood it, you took a
16 better safe than sorry approach to your search.

17 MR. DEROCHIE: Exactly.

18 MR. LEE: And whether you thought it
19 ultimately would have to be produced, you would have
20 flagged it for your counsel anyways?

21 MR. DEROCHIE: Sure.

22 MR. LEE: But your understanding nonetheless
23 at the time of the first Statutory or the initial search
24 and the Statutory Declaration was that all three needed to
25 apply in order for it to be produced?

1 **MR. DEROCHIE:** No, I don't believe so. I
2 believe I misspoke when I answered the question originally
3 to you, but it was my understanding that it was either/or
4 any of this -- any of the three categories. That was my
5 understanding and, as I say, I misspoke to you when I said
6 they had to be taken in together.

7 **MR. LEE:** Did you misspeak or were you
8 confused at the time?

9 **MR. DEROCHIE:** I misspoke. I was confused
10 with regards to where you were going with that question, I
11 guess, but I think I clarified it later on.

12 **MR. LEE:** When you telephoned various
13 current and former members that you spoke to, set out on
14 Schedule A ---

15 **MR. DEROCHIE:** Yes?

16 **MR. LEE:** --- what definition of relevant
17 discipline would you have given to them?

18 **MR. DEROCHIE:** Exactly as it is defined
19 there.

20 **MR. LEE:** Would you have had the Statutory
21 Declaration -- well, I supposed you wouldn't have had the
22 Stat Dec because it wouldn't have been ---

23 **MR. DEROCHIE:** No, I had the -- I had it
24 actually recorded in my notebook specifically because there
25 had been an agreement, they had come to an agreement, is my

1 understanding, between Commission counsel and our counsel
2 as to what would be relevant discipline.

3 **MR. LEE:** And so you had the definition that
4 is set out here?

5 **MR. DEROCHIE:** Yes.

6 **MR. LEE:** It's set out in the Statutory
7 Declaration.

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

9 **MR. LEE:** And can I presume that the
10 definition that you would have had would have been the
11 definition including the word "and" rather than the word
12 "or" at that time?

13 **MR. DEROCHIE:** I believe you are right.

14 **MR. LEE:** And so when you would have called,
15 you know, whoever we pick off your list, anyone of the
16 people, if we take Rick Carter, when you would have spoken
17 to Rick Carter you would have said, "Rick ---

18 **MR. DEROCHIE:** Have you ---

19 **MR. LEE:** --- I have a definition and here's
20 the definition"?

21 **MR. DEROCHIE:** Yeah, I would have asked him
22 specifically have you ever been -- has there ever been a
23 finding -- have you ever been found guilty of being
24 unsuitable to conduct an investigation, a sexual assault
25 investigation? Have you ever been found guilty of deceit?

1 Have you ever been found to be unsuitable as an
2 investigating officer to participate in a lengthy, complex
3 investigation? That's the forum I would have put it to him
4 in.

5 **MR. LEE:** Is it possible that any or all of
6 the persons that you contacted may have understood that in
7 order for discipline to be relevant, it would have had to
8 relate to all three categories?

9 **MR. DEROCHIE:** No, no.

10 **MR. LEE:** It's not possible?

11 **MR. DEROCHIE:** Well, it's possible. It's
12 possible they believe that they all had to be taken
13 together, but I don't believe that that's the case, just
14 because I asked them in that very same -- that very format.

15 **MR. LEE:** Have you gone back since you last
16 testified here and since the order has been substituted and
17 recalled any of these persons?

18 **MR. DEROCHIE:** I have not.

19 **MR. LEE:** Okay. I'm still -- if you can
20 look at paragraph 3 -- and we can look at Exhibit 1575,
21 this part is the same -- I'm still a little bit confused
22 about findings of guilt, because as I read the definition
23 of relevant discipline under paragraph 3, you need to have
24 two things in order to flag a -- you need to have a finding
25 of guilt and you need to have discipline being imposed. Is

1 that how you read that?

2 **MR. DEROCHIE:** Yes.

3 **MR. LEE:** And if we take a *Police Services*
4 Act proceeding, it's easy to tell where there's been a
5 finding of guilt.

6 **MR. DEROCHIE:** Exactly.

7 **MR. LEE:** What I'm not so clear on is when
8 we're dealing with informal discipline and what you would
9 have understood to be meant by findings of guilt.

10 **MR. DEROCHIE:** Well, there would have been a
11 -- there would have been a penalty imposed. There would
12 have been some form of penalty, either a formal
13 commendation -- or a conduct report which specifies what
14 the misconduct was and what the subsequent penalty would be
15 even if it was a suspension of the penalty. You know, you
16 could have had -- I'm going to employ -- I'm going to
17 impose a penalty of a forfeiture of four hours leave or I'm
18 going to suspend that. There would have been a finding.
19 It's that kind of formality that we use even in the
20 informal discipline, that there is documentation to go with
21 it.

22 **MR. LEE:** In order for discipline to be
23 imposed, in your mind, must there have been a finding of
24 guilt?

25 **MR. DEROCHIE:** There had to have been an

1 acknowledgement by the officer that he committed some
2 misconduct and it was accepted by his supervisor. It's not
3 a formal finding, but there's a resolution to the complaint
4 made on that level.

5 **MR. LEE:** But that would have qualified, in
6 your mind, under this ---

7 **MR. DEROCHIE:** As a finding, yes.

8 **MR. LEE:** So I want to make sure we're on
9 the same page here. In your mind, if discipline is
10 imposed, that means that there must have, at some point,
11 been a finding of guilt?

12 **MR. DEROCHIE:** Yes.

13 **MR. LEE:** And that's how you understood it
14 when you were undertaking the search?

15 **MR. DEROCHIE:** Yes.

16 **MR. LEE:** Okay. And if we look at your
17 second Statutory Declaration, Exhibit 1575 includes a new
18 paragraph about the Trottier discipline files, being
19 paragraph 5, and so the numbering that was used in the
20 first is adjusted a little bit. So paragraph 6 in your
21 first Statutory Declaration becomes paragraph 7 in the
22 second Statutory Declaration. Do you see that?

23 **MR. DEROCHIE:** I'm sorry, would you go over
24 that again, please?

25 **MR. LEE:** In Exhibit 1394, which is your

1 first Stat Dec ---

2 MR. DEROCHIE: Yes.

3 MR. LEE: --- paragraph 6 deals with you
4 contacting the people in Appendix A.

5 MR. DEROCHIE: That's correct, yes. Okay.
6 I see what you ---

7 MR. LEE: And in the second one, in Exhibit
8 1575, that's now paragraph 7?

9 MR. DEROCHIE: That's correct.

10 MR. LEE: And you'll agree with me that
11 there are some significant changes to that paragraph?

12 MR. DEROCHIE: Yes, there is.

13 MR. LEE: In the first paragraph, you note
14 that you have personally contacted by telephone each and
15 every present and former member of the Cornwall Police
16 Service which the Commission has identified as a likely
17 witness ---

18 MR. DEROCHIE: Yes.

19 MR. LEE: --- with the exception of Heidi
20 Sebalj?

21 MR. DEROCHIE: That's correct.

22 MR. LEE: And in the revised Stat Dec, it
23 becomes "with the exception of former Constable Heidi
24 Sebalj and former Constable Robert Trottier and Chief
25 Shaver, Johnston or Repa." Is that right?

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

2 **MR. LEE:** Can you -- you were asked this
3 question by Mr. Engelmann, but I'm not -- I think it was by
4 Mr. Engelmann, but I'm not sure I understood your answer.
5 Why did you not contact Constable -- or former Constable
6 Trottier?

7 **MR. DEROCHIE:** Because he was in Texas. I
8 have no contact information for him. He winters in Texas.

9 **MR. LEE:** What efforts did you make, if any,
10 to obtain contact information for him?

11 **MR. DEROCHIE:** None. I had tried last year
12 to find him, the previous winter, and could not locate him.

13 **MR. LEE:** In relation to this matter?

14 **MR. DEROCHIE:** No, in relation to another
15 matter.

16 **MR. LEE:** In relation to this matter, did
17 you renew your efforts to track him?

18 **MR. DEROCHIE:** No, I did not.

19 **MR. LEE:** Did you make any inquiries
20 whatsoever?

21 **MR. DEROCHIE:** None.

22 **MR. LEE:** Do you recall when you were last
23 here on April 2nd being asked by me about paragraph 6 in the
24 original Stat Dec about who you had contacted? Do you have
25 a recollection of that?

1 **MR. DEROCHIE:** No, but if you want to take
2 me to the transcript, I'll ---

3 **MR. LEE:** I will. It is -- Mr.
4 Commissioner, it is Volume 209 of the transcript.

5 **THE COMMISSIONER:** Yes. What page?

6 **MR. LEE:** Twenty-six (26), please.

7 **THE COMMISSIONER:** I have it. Okay.

8 **MR. DEROCHIE:** I'm sorry, did you give a
9 page number, sir?

10 **THE COMMISSIONER:** Twenty-six (26).

11 **MR. LEE:** Twenty-six (26).

12 **MR. DEROCHIE:** Twenty-six (26)?

13 **MR. LEE:** Yes.

14 **MR. DEROCHIE:** Two-twenty-six (226)?

15 **MR. LEE:** No, just 26.

16 **THE COMMISSIONER:** Right at the beginning --
17 is that Volume 209, sir?

18 **MR. DEROCHIE:** Yes.

19 **THE COMMISSIONER:** So yeah, go right at the
20 beginning.

21 **MR. DEROCHIE:** Yes, I'm there.

22 **MR. LEE:** If you look at line number 11, I -
23 - well, I suppose line number 13, I read aloud to you from
24 paragraph 6. Do you see that?

25 **MR. DEROCHIE:** Yes, you do.

1 **MR. LEE:** And I preface that by saying:

2 "You go further in paragraph 6 where
3 you state..."

4 And I read it aloud and you say:

5 "That's correct."

6 Do you see that?

7 **MR. DEROCHIE:** Yes.

8 **MR. LEE:** And you don't clarify at that time
9 that you had not called anybody other than Constable
10 Sebalj. Would you agree with that?

11 **MR. DEROCHIE:** I agree with that.

12 **MR. LEE:** And I follow up on page 27 with a
13 question where I ask you:

14 "So you're not only telling us that
15 there are no documents; you're telling
16 us that there never were any documents
17 because there never was any discipline.
18 Is that right?"

19 And you respond at line 8:

20 "That's what they told me, yes."

21 **MR. DEROCHIE:** Yes.

22 **MR. LEE:** And "they" there would refer to
23 the people you had called. Is that right?

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

25 **MR. LEE:** And again, at that point you don't

1 mention to us that there were these other people that had
2 not been telephoned by you. Is that correct?

3 **MR. DEROCHIE:** Well, yeah. Yes.

4 **MR. LEE:** And if you turn over to page 36,
5 please, there had been some discussion about getting
6 counsel a list of those witnesses or the potential
7 witnesses that's now Schedule A of the new Statutory
8 Declaration, but we didn't have it at that time. And what
9 I ask you at line 9 is whether or not you could tell me
10 whether Robert Trottier was on the list provided to you,
11 and you answer that you believe he was. And I specifically
12 ask you at lines 12 through 14 whether it was your evidence
13 that there was no record of informal or formal discipline,
14 and you say "That's correct." Do you see that?

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

16 **MR. LEE:** And you don't at that point tell
17 me that you had not spoken to Constable Trottier. Is that
18 right?

19 **MR. DEROCHIE:** That's right.

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

21 **MR. DEROCHIE:** It was in my mind that Mr.
22 Trottier was not going to be a witness. He had -- the
23 Commission were not going to call him at that point. He
24 was on the -- he was certainly on the list originally and I
25 just didn't -- you know, I just didn't relate the -- first

1 of all, we're talking about the relevant discipline. I
2 didn't believe there was any relevant discipline, and
3 certainly there was, but you're quite right; I didn't tell
4 you that I hadn't called him.

5 MR. LEE: So do I understand your evidence
6 to be that you knew there was discipline relating to
7 Trottier; you just didn't believe it to be relevant
8 discipline?

9 MR. DEROCHIE: That's correct, yeah. Yes,
10 that's it. I was actually involved in that proceeding as
11 an assistant to the prosecutor on that, and it floored me
12 when I saw that there had been a conviction for deceit. I
13 had not recalled that at all.

14 MR. LEE: Do you recall the basis of the
15 charge and eventually the conviction for deceit?

16 MR. DEROCHIE: Oh yes.

17 MR. LEE: And what was that?

18 MR. DEROCHIE: Falsifying the notebook
19 entry. I reviewed the file, actually, before testifying
20 today, the whole file.

21 MR. LEE: You would have known of that
22 charge at the time you were assisting with the prosecution?

23 MR. DEROCHIE: Most likely I would have,
24 yes.

25 MR. LEE: Well, not most likely. Surely you

1 would have known what the 11 charges were at the time?

2 **MR. DEROCHIE:** Not necessarily. I didn't do
3 any of the investigation on the file. That was done by
4 Professional Standards. I was brought in long after the
5 fact. The case stayed dormant for over a year until the
6 criminal matter was dealt with and I was assigned to be a
7 facilitator for Mr. Ray. I can't recall ever reviewing the
8 charge sheets, but I certainly recall the whole -- the
9 issue involving the notes.

10 **MR. LEE:** My understanding is during that
11 prosecution you would have sat in on teleconferences and
12 things of that nature?

13 **MR. DEROCHIE:** Yes, and I did sit in on some
14 of the hearings as well, some of the testimony.

15 **MR. LEE:** Would you agree with me that
16 making a false statement in his official police notebook is
17 a very serious matter for a police officer?

18 **MR. DEROCHIE:** Yes.

19 **MR. LEE:** And you would have known that
20 Constable Trottier was found -- Sergeant Trottier at the
21 time was found guilty on six of the eleven charges against
22 him.

23 **MR. DEROCHIE:** Six?

24 **MR. LEE:** Six of the eleven, yes.

25 **MR. DEROCHIE:** I wouldn't -- I would --

1 would I have known at the time? I would have known what he
2 was found guilty of. I don't know if he was found guilty
3 of six charges.

4 **MR. LEE:** You don't have a recollection one
5 way or the other?

6 **MR. DEROCHIE:** No, it was my understanding
7 that there was three convictions -- on three ---

8 **MR. LEE:** You ---

9 **MR. DEROCHIE:** I might be wrong on that. I
10 just had quick look at it today and I thought it was three.

11 **MR. LEE:** I can tell you, you are wrong; it
12 was six of eleven but I don't think I need to put in the --
13 Mr. Commissioner, I don't think I need to get into the gist
14 of these allegations.

15 You did know that Sergeant Trottier was
16 demoted as a result of the convictions?

17 **MR. DEROCHIE:** Yes.

18 **MR. LEE:** From -- back down to constable?

19 **MR. DEROCHIE:** Fourth class constable.

20 **MR. ENGELMANN:** Is that better than a first
21 class constable or lower?

22 **MR. DEROCHIE:** No, that's way at the bottom
23 of the scale. You're starting day one as a police officer
24 as a fourth class constable.

25 **MR. LEE:** Significant demotion then?

1 **MR. DEROCHIE:** Yes, significant demotion.
2 We had served notice on him that we're seeking his job --
3 seeking to terminate him.

4 **MR. LEE:** Sorry, I didn't hear.

5 **MR. ENGELMANN:** I said we had served notice
6 on him that we were seeking to terminate him. So it was a
7 very serious -- and we were taking it very serious.

8 **MR. LEE:** Can you tell me whether or not the
9 Special Investigations Unit was brought in to investigate
10 the allegations?

11 **MR. DEROCHIE:** I don't know that it was. As
12 I say, we turned -- we turned the criminal investigation
13 over to the OPP. Would they have consulted SIU? I'm not
14 sure. I can't answer that question.

15 **MR. LEE:** Did you play a role in those early
16 days when the matter was still with the CPS before being
17 turned over to the OPP?

18 **MR. DEROCHIE:** No, no, I had no dealings
19 with it until after the criminal prosecution was over with.
20 Which was in 1997; November, I think, '97.

21 **MR. LEE:** When were you the Professional
22 Standards officer with the Cornwall Police?

23 **MR. DEROCHIE:** I believe I started in 1999
24 or '98, the latter -- maybe the latter part of '98. I was
25 working on a -- at this particular time I got detailed to

1 do this I was working on a special administration project
2 for the Chief and he just asked me to facilitate, to get
3 whatever Mr. Ray required and help him up.

4 **MR. LEE:** Do you know when you would have
5 been -- when you would have become familiar with the
6 mandate of the Special Investigations Unit? I understand
7 it was created in 1990, would you have been aware of it
8 shortly after that time?

9 **MR. DEROCHIE:** I would have, yes.

10 **MR. LEE:** And you would have understood I
11 take it that it's tasked with investigating circumstances
12 involving the police which have resulted in serious injury
13 or death?

14 **MR. DEROCHIE:** Yes, or sexual misconduct;
15 allegations of sexual misconduct.

16 **MR. LEE:** You would have understood sexual
17 misconduct to fit within the definition ---

18 **MR. DEROCHIE:** When I was working -- when I
19 was working in Professional Standards certainly I knew
20 that. Did I know it at this particular time, I don't
21 recall if I -- when I came to know that, what their exact
22 mandate was but ---

23 **MR. LEE:** Can you recall an incident -- a
24 circumstance where the SIU would have been brought in by
25 the Cornwall Police in relation to this one or potential --

1 or relation allegations that could lead to discipline?

2 MR. DEROCHIE: Oh yes, I've called them in.

3 MR. LEE: Have they ever been called in on
4 any case that you were discussing here at this Inquiry?

5 MR. MANDERVILLE: Mr. Commissioner, I
6 question the relevance of where Mr. Lee is trying to take
7 you.

8 THE COMMISSIONER: Well, he's not trying to
9 take me anywhere.

10 (LAUGHTER/RIRES)

11 MR. MANDERVILLE: Yes, he is.

12 MR. LEE: Mr. Commissioner, we had, again
13 this line of questioning by asking whether or not the
14 Trottier matter was ever referred to the SIU because I'm
15 curious as to whether there may be another source of
16 documents, relating to discipline, out there. I'm now
17 curious as to whether or not the SIU has ever been brought
18 in on any of the cases that are important to us here. And
19 in particular, during his examination in-chief Mr. Derochie
20 mentioned that he believes the SIU was brought in, in
21 relation to the Price allegations.

22 MR. DEROCHIE: That's correct.

23 MR. LEE: And what I was hoping to ask him,
24 subject to your ruling on the objection is, how sure he is
25 of that because I haven't seen any records of the SIU being

1 brought in. I haven't seen any records of the SIU being
2 brought into any investigation that we are dealing with
3 here and I don't intend to canvass it any further with this
4 witness but it may become an issue later in the Inquiry of
5 whether or not there was a reluctance at the Cornwall
6 Police or whether or not that that was something that they
7 were considering.

8 **MR. MANDERVILLE:** Mr. Commissioner, I don't
9 have any objection to Mr. Lee canvassing SIU involvement in
10 sort of investigations this Inquiry has been looking into.
11 My concern is whether it's taken any further afield than
12 that.

13 **MR. LEE:** I don't intend to take it further
14 afield. The only -- the last area I just want to ask him
15 is about the Shelley Price issue and whether or not he has
16 a clear recollection of the SIU being brought in or whether
17 that was a vague recollection.

18 **MR. DEROCHIE:** Yes, and I was interviewed by
19 SIU. I spoke to them and assisted them. But they were
20 called in after an allegation came forward against the OPP
21 of sexual misconduct by their officers. And SIU was called
22 in by the OPP to do an investigation on -- to look at the
23 circumstances involving Mrs. -- Miss Price's -- yeah, Mrs.
24 Price's allegations against OPP officers.

25 **MR. LEE:** Yeah, and I don't want to get back

1 into details with you. My understanding, there were also
2 allegations against Cornwall Police officers made by Miss
3 Price.

4 **MR. DEROCHIE:** There were, yes. That's when
5 we went to the -- when we originally -- we got the
6 investigation originally, there was no allegations against
7 Cornwall Police Service. When we got allegations from Mrs.
8 Price that involved the Cornwall Police service we tried to
9 give it back to the OPP and they -- they still felt it was
10 not within their mandate. Therefore, did we -- when we
11 heard of the allegations with regards to -- to Shelley
12 Price about our officers, I don't believe we did call SIU.
13 I will -- if I did I would have a note of it somewhere but
14 I don't recall -- I don't recall that occurring to us at
15 that time, given the nature of the allegations.

16 **MR. LEE:** Okay. Thank you. Those are my
17 questions.

18 **THE COMMISSIONER:** Thank you.

19 Any one else have any questions. Mr.
20 Neville?

21 Mr. -- yes, thank you. Mr. Chisholm. Mr. -
22 - Corrections; nobody there? Okay, so, no one else. All
23 right. So, Mr. -- anyone in re-examination or ---

24 **MR. ENGELMANN:** I don't think Mr.
25 Manderville has any questions.

1 **THE COMMISSIONER:** No, no, I ---

2 **MR. ENGELMANN:** I just have two quick points
3 to cover, if I may?

4 **---RE-EXAMINATION BY/RE-INTERROGATOIRE PAR MR. ENGELMANN:**

5 **MR. ENGELMANN:** Staff Sergeant Derochie,
6 there -- I've now had a chance to review the document, no
7 one's put in -- there were six counts ---

8 **MR. DEROCHIE:** Okay.

9 **MR. ENGELMANN:** --- out of eleven. Having
10 said that, some of them were serious counts there were no
11 findings on. But I just had a question for you, you said
12 sort of but for the deceit, you didn't know there had been
13 a finding for deceit and therefore it didn't come to mind
14 that there might be relevant discipline with respect to
15 Officer Trottier.

16 **MR. DEROCHIE:** That's correct. I guess it
17 was a combination of my thoughts that I had heard by this
18 time that Trottier most likely would not be a witness,
19 simply because of his availability.

20 **MR. ENGELMANN:** All right.

21 **MR. DEROCHIE:** I don't know where I got that
22 impression from but -- and I -- my recollection of the
23 Trottier matter was that there was no finding on deceit and
24 certainly I was corrected.

25 **MR. ENGELMANN:** Okay. But, sir, there was a

1 finding on harassment. There was an allegation, said
2 "because he followed the complainant while he was on and
3 off duty to the point of harassment."

4 MR. DEROCHIE: That would have been under
5 discreditable conduct, I take it?

6 MR. ENGELMANN: Yes.

7 MR. DEROCHIE: Okay. Yes.

8 MR. ENGELMANN: Yes, and in fact that is --
9 that is the offence they seem to be most concerned about --
10 -

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: --- because that's the one
13 where they strip him from sergeant down to a fourth class
14 constable.

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: And I guess my question for
17 you is would the finding of discreditable conduct, this
18 finding of following a complainant to the point of
19 harassment, met your threshold under paragraph 3?

20 THE COMMISSIONER: (a) or (c)?

21 MR. ENGELMANN: Yes.

22 MR. DEROCHIE: He wasn't -- he wasn't doing
23 -- he wasn't doing sexual assault investigations at that
24 time. He was in uniform patrol.

25 MR. ENGELMANN: That's right.

1 **MR. DEROCHIE:** And -- I'm sorry I'm not
2 following you then.

3 **MR. ENGELMANN:** I'm just wondering if that
4 finding would have met either the threshold for either 3(a)
5 or 3(c) for relevant discipline?

6 **MR. DEROCHIE:** Well, certainly he would have
7 been, in my mind, deemed to be unsuitable to conduct
8 investigations as defined in (a) and (c).

9 **MR. ENGELMANN:** All right.

10 **MR. DEROCHIE:** Certainly, but there's --you
11 -- you -- I don't know what appropriate charge you would
12 lay under a Code of Conduct to get a finding of guilt on
13 those issues.

14 **MR. ENGELMANN:** The only other -- sorry?

15 **MR. MANDERVILLE:** Just one point of
16 clarification, Mr. Commissioner. The individual bringing
17 about the charges against Officer Trottier was not a
18 complainant for whom he was conducting an investigation of
19 any kind. It was someone with whom he had had an affair.

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

21 Okay.

22 **MR. ENGELMANN:** I -- I just wanted to know
23 whether it would have attracted -- it would have met that
24 threshold or not because I ---

25 **MR. DEROCHIE:** Under (a) and (c)?

1 **MR. ENGELMANN:** Yes.

2 **MR. DEROCHIE:** I wouldn't have recognized it
3 as meeting the threshold.

4 **MR. ENGELMANN:** Well, that's what I thought
5 from your evidence when you said it was really when you
6 found out there was deceit involved that then that should
7 have come to mind.

8 **MR. DEROCHIE:** Well, the deceit, as I
9 recall, was in relation to notebook entries.

10 **MR. ENGELMANN:** Yes.

11 **MR. DEROCHIE:** And I didn't -- I didn't
12 recall until -- as I say, I reviewed the file quickly just
13 before testifying here this morning, and I didn't get a --
14 I didn't go into each of the allegations. I went directly
15 to the deceit and found out what that was all about.

16 **MR. ENGELMANN:** Fair enough.

17 And secondly, sir, the *Police Services Act*,
18 whether it's a public complaint or a Chief's complaint,
19 there are provisions in the *Police Services Act* to convert
20 a charge into informal discipline.

21 **MR. DEROCHIE:** Oh yes, when the *Police*
22 *Services Act* was amended from the OPCC Regulations, it was
23 designed specifically to encourage informal resolutions
24 between the public and the police officer. That was the
25 whole idea behind it.

1 **MR. ENGELMANN:** So whether it's a public
2 complaint or a Chief's complaint, it can be resolved that
3 way?

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

5 **MR. ENGELMANN:** And often they are, sir?

6 **MR. DEROCHIE:** Oh yes, they are.

7 **MR. ENGELMANN:** And the officer and the
8 Association have to agree, and if it is a public complaint,
9 the complainant has to agree?

10 **MR. DEROCHIE:** That's correct. There has to
11 be an agreement by the principals. The Association is not
12 -- we don't -- they are certainly involved, but they're
13 involved at the discretion of the subject officer. You
14 know, if he wants them to be a part of it, then ---

15 **MR. ENGELMANN:** In those cases, sir, would
16 any record of that agreement for informal discipline be
17 retained in the Professional Standards archive at the CPS?

18 **MR. DEROCHIE:** Oh yes, there would be a file
19 number for it and there would be documentation to it.

20 **MR. ENGELMANN:** And it was your evidence
21 that that would be retained indefinitely?

22 **MR. DEROCHIE:** If it's a major -- if we go -
23 - you don't normally -- the *Police Act* provides right now
24 that if you -- that a Chief makes a determination whether
25 misconduct is serious in nature or not serious in nature.

1 If it's not serious in nature, that's probably retained for
2 two years, and I don't specifically ---

3 **MR. ENGELMANN:** All right.

4 **MR. DEROCHIE:** I know that the Act provides
5 for two years. Our experience is we keep it longer than
6 that.

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

8 But the informal discipline agreement,
9 you're saying then there would still be a record in the
10 Professional Standards archive but that it may be purged
11 after two years?

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

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

14 Those are my questions. Thanks very much,
15 sir, for coming back.

16 **MR. DEROCHIE:** Thank you, sir.

17 **THE COMMISSIONER:** Thank you, sir.

18 Can we proceed with the next witness or do
19 you want to take a break?

20 **MR. ENGELMANN:** Yes, sure.

21 Mr. Commissioner, the next witness would be
22 Sergeant Robert Burnie.

23 **THE COMMISSIONER:** Yes.

24 Good afternoon, sir.

25 Madam Clerk.

1 **SGT. ROBERT BURNIE, Sworn/Assermenté:**

2 **THE COMMISSIONER:** Thank you, sir. You'll
3 see -- I don't know how long -- I'm told you're going to be
4 brief, but there's water and a glass -- a clean glass over
5 there and there are documents you may be referred to. You
6 might be able to see them on the screen or on the -- in the
7 hardcopy, and if at any time you feel that you're
8 uncomfortable with something, let me know and I'll try to
9 help you out.

10 All right?

11 **MR. BURNIE:** Thank you.

12 **THE COMMISSIONER:** Thank you.

13 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
14 **ENGELMANN:**

15 **MR. ENGELMANN:** Good afternoon, Sergeant
16 Burnie.

17 **MR. BURNIE:** Good afternoon.

18 **MR. ENGELMANN:** Just by way of background, I
19 understand that you are currently a sergeant with the
20 Cornwall Police Service?

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

22 **MR. ENGELMANN:** And that you've been
23 employed by the Service for the last 27 years?

24 **MR. BURNIE:** That's correct.

25 **MR. ENGELMANN:** That you are currently in

1 the Criminal Investigations Bureau?

2 MR. BURNIE: Yes.

3 MR. ENGELMANN: And have been during the
4 year 2008?

5 MR. BURNIE: That's correct.

6 MR. ENGELMANN: That you've also been with
7 the CIB from approximately 2003 through 2006?

8 MR. BURNIE: That's correct, yes.

9 MR. ENGELMANN: And that during the year
10 2007, you were employed in the Professional Standards
11 Division?

12 MR. BURNIE: Yes.

13 MR. ENGELMANN: Would you then have been the
14 Professional Standards Officer or ---

15 MR. BURNIE: Yes, I would have.

16 MR. ENGELMANN: --- would there have been
17 more than one?

18 MR. BURNIE: No, there's only one and that
19 was me.

20 MR. ENGELMANN: Okay. And is my
21 understanding correct that you would have become involved
22 in this as a result of the fact that you were the
23 Professional Standards Officer?

24 MR. BURNIE: That and the issue that Staff
25 Sergeant Derochie had been off ill.

1 **MR. ENGELMANN:** Right.

2 **MR. BURNIE:** So I would be the next logical
3 person to come to to search those records.

4 **MR. ENGELMANN:** And that is why you became
5 involved, because he was off on sick leave at some point in
6 December of 2007?

7 **MR. BURNIE:** Yes.

8 **MR. ENGELMANN:** And can you tell us, sir,
9 who would have asked you to become involved?

10 **MR. BURNIE:** That was the request of the
11 Deputy Chief.

12 **MR. ENGELMANN:** All right.

13 And who would have asked you what to search
14 for and who to search?

15 **MR. BURNIE:** He was the one that laid out
16 the criteria for me. He called me in his office and
17 advised me what I'd be looking for and what the
18 expectations were.

19 **MR. ENGELMANN:** And that would have been
20 Deputy Chief Aikman?

21 **MR. BURNIE:** Yes.

22 **MR. ENGELMANN:** And, sir, as a result of
23 this, I understand that you would have filled out, if I can
24 use the term, or made a Declaration, and the first one I
25 want to refer you to, sir, is one dated February 25th of

1 2008.

2 **THE COMMISSIONER:** Great. And that will be
3 Exhibit Number 1577, a Statutory Declaration of Robert
4 Burnie, dated, again, September -- 25th of February, sorry,
5 2008.

6 --- **EXHIBIT NO./PIÈCE NO. P-1577:**

7 Robert Burnie - Statutory Declaration dated
8 25 Feb 2008

9 **MR. ENGELMANN:** And there's just two others,
10 if I can refer them to you quickly, sir.

11 **THE COMMISSIONER:** Yes.

12 **MR. ENGELMANN:** Very similar. The next one
13 also has that date but it's struck out, and it's the 22nd of
14 February that's been written in. As far as I can tell,
15 sir, and I'll have you take a look at it in a minute, the
16 only difference is the date change.

17 **THE COMMISSIONER:** Exhibit 1578 is a
18 Statutory Declaration of Robert Burnie and it is dated the
19 22nd of February 2008.

20 --- **EXHIBIT NO./PIÈCE NO. P-1578:**

21 Robert Burnie - Statutory Declaration dated
22 22 Feb 2008

23 **MR. BURNIE:** Yes.

24 **MR. ENGELMANN:** Am I correct, sir, that was
25 the only change?

1 **MR. BURNIE:** Yes, it is.

2 **MR. ENGELMANN:** Do you know why that change
3 was made?

4 **MR. BURNIE:** The wrong date, I guess. Other
5 than that, I -- you have me. I don't know for sure.

6 **MR. ENGELMANN:** Fair enough.

7 And lastly, there appears to be yet another
8 Declaration, and this one dated the 7th of April 2008.

9 **THE COMMISSIONER:** Thank you.

10 **MR. ENGELMANN:** If that could be 1579?

11 **THE COMMISSIONER:** It is. And this is again
12 a Statutory Declaration of Robert Burnie dated April 7th,
13 2008.

14 **--- EXHIBIT NO./PIÈCE NO. P-1579:**

15 Robert Burnie - Statutory Declaration dated
16 7 Apr 2008

17 **MR. ENGELMANN:** And, sir, if we look at
18 1579, which is your most recent Statutory Declaration ---

19 **MR. BURNIE:** Yes.

20 **MR. ENGELMANN:** --- first of all, these
21 aren't sworn in the normal course. Perhaps we could do
22 that officially. Sir, the Statutory Declaration dated
23 April 7th, 2008, do you swear that to be true?

24 **MR. BURNIE:** I do so swear.

25 **MR. ENGELMANN:** So help you God?

1 And, sir, that one has a Schedule A
2 attached?

3 **MR. BURNIE:** Yes.

4 **MR. ENGELMANN:** And were these the names
5 provided to you by Deputy Chief Aikman?

6 **MR. BURNIE:** Yes, sir, they are.

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

8 And the definition of relevant discipline as
9 set out in paragraph 4 ---

10 **MR. BURNIE:** Yes.

11 **MR. ENGELMANN:** --- sir, would it be fair to
12 say -- and perhaps this is inaccurate -- it says "I'm
13 advised by Peter Manderville." Would it perhaps have been
14 Mr. Manderville advised Deputy Chief Aikman, who then
15 advised you of these terms?

16 **MR. BURNIE:** Well, at one point, I mean, I
17 was ---

18 **MR. ENGELMANN:** Or did you actually meet
19 with Mr. Manderville about it?

20 **MR. BURNIE:** At one point we had a
21 conversation, a teleconference ---

22 **MR. ENGELMANN:** Yes.

23 **MR. BURNIE:** --- and I spoke to the
24 individuals involved in this. We also had a meeting a
25 short time after this was designated for me to do.

1 **MR. ENGELMANN:** All right.

2 **MR. BURNIE:** And I met with these
3 individuals. So I had a clear understanding of what the
4 definition of what relevant discipline was.

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

6 So Deputy Chief Aikman would have given you
7 your marching orders, but then you would have confirmed
8 them with counsel?

9 **MR. BURNIE:** That's correct. I'm sorry; I
10 misunderstood what ---

11 **THE COMMISSIONER:** No, no, that's fine.

12 **MR. ENGELMANN:** That's fine. I just wanted
13 to have the full story.

14 And, sir, 1579 uses the word "or" in
15 paragraph 4(b) in place of the word "and" in paragraph --
16 the same paragraph in 1578. Do you see that?

17 **MR. BURNIE:** Yes.

18 **MR. ENGELMANN:** And can you explain why that
19 was changed, sir?

20 **MR. BURNIE:** I'm not sure why it was
21 changed. My understanding when I did (a), (b) and (c), I
22 was combining all three and looking for any, and/or any one
23 of those.

24 **MR. ENGELMANN:** All right.

25 So any one of them would have, in your view,

1 been sufficient for relevant discipline?

2 **MR. BURNIE:** If I would have found something
3 on any one of those criteria, yes, I would have deemed it
4 relevant.

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

6 And can you tell us, sir, you did the
7 document search. Is that fair?

8 **MR. BURNIE:** That's correct, yes.

9 **MR. ENGELMANN:** And can you tell us where
10 you searched and what you searched?

11 **MR. BURNIE:** Yeah, I initially went into the
12 personnel files, whether they be active or inactive,
13 because some of the persons on the list were retired.

14 Once I finished with those files, I went
15 downstairs and researched the archives, which would have
16 been in the basement for the Professional Standards room.

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

18 So let's just run through this again. Were
19 there any documents that had already been selected for you
20 that might have been in Staff Sergeant Derochie's office?

21 **MR. BURNIE:** Yes, there was. There was a
22 box of discipline issues.

23 **MR. ENGELMANN:** All right.

24 **MR. BURNIE:** And Staff Sergeant Derochie
25 comprised that anticipating officers that were going to be

1 for witnesses.

2 MR. ENGELMANN: All right.

3 MR. BURNIE: I went through that. Not all
4 the persons on the list were in that box, but a number of
5 them were.

6 MR. ENGELMANN: Right.

7 MR. BURNIE: And once I completed that, I
8 went to personnel files, both active and inactive.

9 MR. ENGELMANN: All right.

10 And what is the distinction between an
11 active file and an inactive file?

12 MR. BURNIE: An inactive file would be
13 somebody that's retired or has left the Service for any
14 number of reasons, and they would be in a filing cabinet,
15 but there's still a personnel record there, but it's not
16 active anymore.

17 MR. ENGELMANN: And active would mean the
18 person was still on strength?

19 MR. BURNIE: Still on strength, yes.

20 MR. ENGELMANN: All right.

21 And there was a fourth area you looked at as
22 well, sir?

23 MR. BURNIE: Yes, I went down and there is a
24 Professional Standards room downstairs, and the archives
25 are kept there, and I actually went through box per box

1 looking for these individuals.

2 MR. ENGELMANN: All right.

3 And when you went through, you did not find
4 anything for Robert Trottier?

5 MR. BURNIE: No, I did not.

6 MR. ENGELMANN: All right.

7 Did you later become aware of a box that
8 contained materials for Robert Trottier?

9 MR. BURNIE: Yes, I did.

10 MR. ENGELMANN: And when did you become
11 aware of that approximately and where were these documents?

12 MR. BURNIE: It's recently. It's not that
13 long ago that I was having a discussion with Staff Sergeant
14 Derochie and mentioned the fact of Robert Trottier, and he
15 said he had a file there. I went and found the box in his
16 office and went through it and found -- actually found the
17 file there.

18 MR. ENGELMANN: All right.

19 And, sir, can you just help us out, from
20 your own perspective, what was meant by the definitions of
21 relevant discipline as set out in 4(a) and 4(c) of your
22 statutory declaration?

23 I think we all know what the (c) is, so I
24 believe (b); but 4(a) and 4(c).

25 MR. BURNIE: As far as 4(a) was concerned, I

1 was looking at suitability as an investigating officer that
2 might have been charged with sexual assault or might have
3 had an inappropriate behaviour during a sexual assault
4 investigation.

5 And so my scope on that aspect of it was
6 whether or not involved in a case or being charged
7 themselves, had done anything inappropriately in respect to
8 a sexual assault.

9 **MR. ENGELMANN:** And 4(c)?

10 **MR. BURNIE:** It was a little more -- 4(c)
11 was a little more -- 4(c) was if an investigating officer
12 had shown or had been brought in and wasn't capable of
13 doing the work because of training or whatever reason, they
14 would not be able to do the investigation or they had some
15 personal involvement with somebody other than -- like
16 somebody that they were working with and they wouldn't be
17 suitable to be doing an investigation into a situation.

18 **MR. ENGELMANN:** All right.

19 Any other examples you could think of under
20 4(c), sir?

21 **MR. BURNIE:** Just that they don't have the
22 ability -- the inability to work in a specific case if it's
23 very complex or ---

24 **MR. ENGELMANN:** All right.

25 And so there would have to be some kind of

1 finding ---

2 MR. BURNIE: There would have to be a
3 finding of -- they would have been documented. There would
4 have been some kind of internal discipline stating that
5 they were chastised or taken some time away from them for
6 an inappropriate investigation.

7 MR. ENGELMANN: All right.

8 And, sir, you would have searched all of
9 these individuals, as I understand it, with the exception
10 of the three former chiefs?

11 MR. BURNIE: That's correct.

12 MR. ENGELMANN: And what did you do with
13 respect to them?

14 MR. BURNIE: I wasn't -- there was no way
15 for me to get records on the chiefs. That's a Board issue,
16 and they wouldn't have been available to me. So I didn't
17 research the chiefs at all.

18 MR. ENGELMANN: Did you have any discussions
19 with another officer who might have done that?

20 MR. BURNIE: Not to my knowledge, I did not.

21 MR. ENGELMANN: All right. Fair enough.

22 And, sir, are you familiar with what Staff
23 Sergeant Derochie just talked about with respect to the
24 purging of records?

25 MR. BURNIE: Yes.

1 **MR. ENGELMANN:** And do you have some
2 knowledge about the two-year rule, sir, over and above what
3 he has told us?

4 **MR. BURNIE:** Other than the fact that the
5 officer comes forward and requests that his file be purged,
6 it's purged. It should be done automatically, but it often
7 isn't. So they can fall through the cracks at times, but
8 on average, the officer wants it off his file, so they will
9 come in and ask it be purged.

10 **MR. ENGELMANN:** So if the Service doesn't do
11 it on their own initiative, then the officer can come
12 forward and ask for it to happen?

13 **MR. BURNIE:** Yes, and that's normally the
14 case. They want it off their file.

15 **MR. ENGELMANN:** Right.

16 **MR. BURNIE:** So they'll come in and purge
17 it.

18 **MR. ENGELMANN:** And do officers have the
19 right to review their file from time to time to see whether
20 something has been purged?

21 **MR. BURNIE:** Yes, they do.

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

23 Thank you very much, sir. Could you please
24 answer any questions my friends may have for you?

25 **THE COMMISSIONER:** Thank you.

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

2 DALEY:

3 MS. DALEY: Just a few quick questions,
4 Sergeant Burnie. My name is Helen Daley, and I am here for
5 Citizens for Community Renewal.

6 There was one thing you told my friend a
7 moment ago that I hope you can clarify for us because I
8 didn't quite understand what you said. I thought you said
9 that when you were tasked to do the document search, one of
10 the first things you did was attend on Staff Sergeant
11 Derochie and that there was a box of discipline records
12 that seemed to have been pre-selected in his office?

13 MR. BURNIE: No, I didn't discuss with Mr.
14 Derochie about that. I had access to his office.

15 MS. DALEY: Was there a box of materials
16 that had been pre-selected for you to review as potentially
17 relevant?

18 MR. BURNIE: No, but he had a box of
19 material there called "Discipline Issues" ---

20 MS. DALEY: Yes?

21 MR. BURNIE: --- which he had already
22 started to comprise relating to suspect officers that were
23 going to be testifying.

24 MS. DALEY: All right.

25 MR. BURNIE: And I found that box.

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

2 So you reviewed that box but found, by your
3 definition, no relevant form of discipline in that box?

4 **MR. BURNIE:** In that box, no, I did not.

5 **MS. DALEY:** All right.

6 But the box did contain files on officers
7 who are potential witnesses here?

8 **MR. BURNIE:** That's correct.

9 **MS. DALEY:** Some questions then for you
10 about your understanding, not of deceit because that's the
11 easy one, but of items (a) and (b) from Exhibit ---

12 **THE COMMISSIONER:** (a) and (c)?

13 **MS. DALEY:** Sorry, (a) and (c) from Exhibit
14 1579. First of all, you did mention that you had an
15 opportunity to have conversation with Staff Sergeant
16 Derochie and with counsel. Were you given clarification in
17 those conversations as to Item (a), for example, 4(a),
18 discipline bearing on suitability of someone for a sexual
19 assault investigation? Did people give you clarification
20 about those words?

21 **MR. BURNIE:** I had no discussion with Staff
22 Sergeant Derochie.

23 **MS. DALEY:** All right.

24 **MR. BURNIE:** On this particular issue, I
25 dealt with the Deputy Chief and the lawyers.

1 **MS. DALEY:** Thank you. I made a mistake.
2 So did either the Deputy Chief or Police
3 counsel provide clarification of what that meant?

4 **MR. BURNIE:** Yes, we had a discussion about
5 (a) and (c) -- (a), (b) and (c) actually.

6 **MS. DALEY:** All right.
7 And with respect to (a), can you recall
8 anything they told you that was intended to be helpful or
9 to clarify for you exactly what you were looking for?

10 **MR. BURNIE:** Absolutely, and my
11 interpretation of that was, as I expressed before, was to
12 look to anybody that was charged with sexual assault as a
13 police officer ---

14 **MS. DALEY:** Yes.

15 **MR. BURNIE:** --- or who was doing an
16 investigation during the sexual assault and conveyed any
17 inappropriate behaviour.

18 **MS. DALEY:** And I take it by "inappropriate
19 behaviour" that would involve behaviour of a sexual nature
20 him or herself?

21 **MR. BURNIE:** Or it could have been a number
22 of things, but if he would have been disciplined for it --
23 for his inappropriate behaviour, it would specify exactly
24 what it was, but it could be a number of things: not being
25 attentive; not being considerate.

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

2 **MR. BURNIE:** It could be a number of things
3 if a person complained about it.

4 **MS. DALEY:** But just so that we are clear,
5 when you did your search, you were looking for instances of
6 that that had occurred within a sexual assault
7 investigation itself. So in other words, if the officer
8 had been involved in a fraud investigation or some other
9 crime, you wouldn't have considered inappropriate behaviour
10 a relevant finding?

11 **MR. BURNIE:** If I would have found instances
12 of that, then I certainly would have taken them into
13 consideration. I was focusing more on sexual assault, but
14 I had to go through their whole file.

15 **MS. DALEY:** Understood.

16 **MR. BURNIE:** Anything that was inappropriate
17 dealing with whatever, I would have looked at it and made a
18 determination of whether or not -- I didn't find anything.

19 **MS. DALEY:** All right.

20 So for all of these officers on Exhibit
21 1579, you found no inappropriate conduct in connection with
22 a sexual assault investigation.

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

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

25 And item (c) which, I suppose, is also

1 something subject to interpretation. The word
2 "suitability" is, I suppose, somewhat subjective. Do you
3 remember any information or help you were given by the
4 Deputy Chief or counsel concerning what those words meant
5 and how you were to conduct that search?

6 **MR. BURNIE:** Well, yeah, we had a
7 conversation about it and my intention or my impression of
8 that was, again, if somebody had been doing an
9 investigation and for whatever reason didn't complete it,
10 didn't do it properly or it fell off the face of the earth
11 and it wasn't followed up until they were disciplined for
12 it, that's what I was looking for.

13 **MS. DALEY:** All right.

14 So under (c), you were concerned to locate
15 discipline that resulted from an incomplete investigation?

16 **MR. BURNIE:** Or -- or -- in being in an
17 investigation, not doing it properly ---

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

19 **MR. BURNIE:** --- and they would have been --
20 there would have been maybe an informal discipline for that
21 situation ---

22 **MS. DALEY:** All right.

23 **MR. BURNIE:** --- and as a result of that, it
24 might have been the suitability for them to carry on
25 another lengthy investigation or complex investigation

1 might have been up for question, but I didn't find any of
2 that either.

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

4 So in that instance, you looked at any form
5 of investigation but found no discipline suggesting that
6 any of the officers mentioned in Exhibit 1579 had failed to
7 do it in a timely way or otherwise erred?

8 **MR. BURNIE:** That's correct.

9 **MS. DALEY:** Okay. Thank you, sir.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Paul?

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

13 **PAUL:**

14 **MR. PAUL:** Good afternoon, Sergeant Burnie.
15 I have a few questions for you. I represent the Coalition
16 for Action.

17 **MR. BURNIE:** Yes, sir.

18 **MR. PAUL:** I'd like to ask you a few
19 questions about the decision-making process as between you
20 and Staff Sergeant Derochie. I just want to understand,
21 when you were looking at the documents -- personnel
22 documents -- was it left in your complete discretion to
23 decide what was a relevant record?

24 **MR. BURNIE:** Yes.

25 **MR. PAUL:** So in terms of documents that

1 you've -- any documents you've found -- personnel records,
2 you weren't required to take those to Staff Sergeant
3 Derochie to review them or get his views on them?

4 **MR. BURNIE:** No, sir. He wasn't available
5 at the time and that's why I was doing it.

6 **MR. PAUL:** And ---

7 **MR. BURNIE:** So I ---

8 **MR. PAUL:** --- subsequently ---

9 **MR. BURNIE:** Oh, I'm sorry. Go ahead.

10 **MR. PAUL:** Oh, I'm sorry. Go ahead.

11 **MR. BURNIE:** I was just going to say that it
12 was my responsibility ---

13 **MR. PAUL:** All right.

14 **MR. BURNIE:** --- to make the determination.

15 **MR. PAUL:** So there wasn't any input from
16 him in terms of looking at documents as well. It was left
17 to you?

18 **MR. BURNIE:** That's right.

19 **MR. PAUL:** I did just have a few questions
20 on the Bob Trottier matters and I just wanted to ask you
21 when you're doing the original search, would it have been,
22 in your mind, that you would have been aware that, first of
23 all, Mr. Trottier was a potential witness?

24 **MR. BURNIE:** Well, he was on the list, so --

25 -

1 MR. PAUL: Yes.

2 MR. BURNIE: --- I knew he was a potential
3 witness, yes.

4 MR. PAUL: All right.

5 Were you aware that at some point in the
6 past, prior to this search, that he had been subject to a
7 discipline hearing?

8 MR. BURNIE: I knew that he was charged
9 criminally. As far as the *Police Act*, I have to honestly
10 say I'm not sure where that was at the time. I ---

11 MR. PAUL: All right.

12 MR. BURNIE: --- wasn't aware of it.

13 MR. PAUL: Were you aware when you were
14 doing the search that there had been a *Police Act*
15 proceeding?

16 MR. BURNIE: I was aware that after the
17 criminal charges there was a *Police Act* proceeding, but I
18 certainly didn't follow it.

19 MR. PAUL: All right.

20 Were you aware that he had a demotion or had
21 a reduction in rank?

22 MR. BURNIE: Yes, I did.

23 MR. PAUL: So when you were doing the
24 search, you would have assumed that there was some kind of
25 finding against him?

1 **MR. BURNIE:** Yes, sir.

2 **MR. PAUL:** And had you been, in any form, a
3 witness at his proceeding?

4 **MR. BURNIE:** I'm sorry; I missed that.

5 **MR. PAUL:** At his discipline proceedings,
6 had you been a witness in any way?

7 **MR. BURNIE:** No, I was not.

8 **MR. PAUL:** Given his reduction in rank, were
9 you surprised that you found no documents in relation to
10 Mr. Trottier?

11 **MR. BURNIE:** Yes.

12 **MR. PAUL:** And did you discuss that or
13 report that to Staff Sergeant Derochie that you didn't find
14 any documents on Mr. Trottier despite expecting to?

15 **MR. BURNIE:** I would have conveyed that to
16 the Deputy Chief. Mr. Derochie -- or, sorry, Staff
17 Sergeant Derochie wasn't there at the time.

18 **MR. PAUL:** That you were surprised that you
19 didn't find any?

20 **MR. BURNIE:** I just said I had found no
21 files on Sergeant Trottier.

22 **MR. PAUL:** All right.

23 But did you also indicate that you were
24 surprised, that you were expecting to find some?

25 **MR. BURNIE:** Well, I'm sure I was expecting

1 to find some and I didn't.

2 MR. PAUL: Was there any other steps taken
3 to look for documents or results such as contacting people
4 who were involved in those proceedings -- discipline
5 proceedings?

6 MR. BURNIE: No, there was not.

7 MR. PAUL: And was there any effort to
8 contact Mr. Trottier himself?

9 MR. BURNIE: No.

10 MR. PAUL: Or any other police personnel
11 that were involved in discipline proceedings?

12 MR. BURNIE: Pertaining to him?

13 MR. PAUL: Yes.

14 MR. BURNIE: No.

15 MR. PAUL: All right.

16 Those are my questions. Thank you.

17 THE COMMISSIONER: Thank you.

18 Mr. Lee, do you have any questions?

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

20 MR. LEE: Just very briefly. My name is
21 Dallas Lee. I'm on for the Victims Group.

22 You mentioned to Mr. Paul a moment ago that
23 you recognized during the course of your search that -- or
24 you were at least a little bit surprised during the course
25 of your search that you hadn't found any materials relating

1 to Constable Trottier; is that right?

2 MR. BURNIE: I would have assumed there
3 would have been some there, yes.

4 MR. LEE: And you raised that issue with
5 Deputy Chief Aikman.

6 MR. BURNIE: I brought it to his attention
7 when I completed my file, yes.

8 MR. LEE: And what was his response?

9 MR. BURNIE: He didn't give me a response.
10 I'm sure he was going to notify the lawyers and see what
11 course of action, but I didn't -- he said, "You couldn't
12 find anything?" I said, "No, I could not."

13 MR. LEE: There was no further discussion
14 other than that?

15 MR. BURNIE: Not at that point, no.

16 MR. LEE: And no discussion with Staff
17 Sergeant Derochie and yourself about that?

18 MR. BURNIE: Not when he came back, no. I
19 was gone from that office when he came back. I was
20 involved in something else, so I didn't go back to see
21 Staff Sergeant Derochie at that time.

22 MR. LEE: Okay. Thank you. Those are my
23 questions.

24 MR. BURNIE: You're welcome, sir.

25 THE COMMISSIONER: Thank you.

1 All right. Anybody else? Any questions?

2 No. Very well.

3 Mr. Manderville, no -- all right. Mr.

4 Engelmann?

5 **MR. ENGELMANN:** Nothing arising.

6 Thank you very much ---

7 **THE COMMISSIONER:** All right.

8 **MR. ENGELMANN:** --- Sergeant Burnie.

9 Unless, Mr. Commissioner, if you have any
10 questions?

11 **THE COMMISSIONER:** No. Thank you very much,
12 sir.

13 **MR. BURNIE:** Thank you. Do I just leave
14 these documents?

15 **THE COMMISSIONER:** Yes.

16 **MR. ENGELMANN:** Sir, perhaps it's time for
17 the afternoon break ---

18 **THE COMMISSIONER:** Yes.

19 **MR. ENGELMANN:** --- and we'll start with
20 Officer Snyder after the break.

21 **THE COMMISSIONER:** Thank you. We'll have
22 the afternoon break.

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

25 This hearing will resume at 3:25.

1 --- Upon recessing at 3:08 p.m./

2 L'audience est suspendue à 15h08

3 --- Upon resuming at 3:34 p.m./

4 L'audience est reprise à 15h34

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

7 This hearing is now resumed. Please be
8 seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good
10 afternoon.

11 Sergeant Snyder, come forward please. The
12 clerk will find your testimony.

13 **BRIAN SNYDER, Sworn/Assermenté:**

14 **THE COMMISSIONER:** Thank you. Welcome
15 aboard, ---

16 **MR. SNYDER:** Thank you.

17 **THE COMMISSIONER:** --- Sergeant Snyder.

18 Again, I'll run through things. You've got
19 some fresh water, glasses. You have a small box which is a
20 speaker with a volume control so you can either increase or
21 decrease the volume. You will be seeing some documents and
22 you'll either see them on the screen or in hardcopy. We're
23 going to be here awhile, I guess, so if at any time you
24 need a break, let me know. In the meantime, what I want
25 you to do is listen to the questions, answer the best you

1 can. If you don't understand a question, let me know. If,
2 at any time, you don't feel comfortable about things and
3 Mr. Callaghan has not already objected, you can turn over
4 and look at me and I will help you out.

5 MR. SNYDER: Thank you.

6 THE COMMISSIONER: All right. Thank you.

7 MS. JONES: Thank you very much, Mr.
8 Commissioner.

9 THE COMMISSIONER: Thank you, Ms. Jones.

10 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.
11 JONES:

12 MS. JONES: Sergeant Snyder, I'm Karen Jones
13 and I'm going to be going through some of your involvement
14 over the past few years with a variety of cases, and I
15 thought I would just tell you the order of which I'd be
16 doing that just to give you some idea of where we're going.

17 The first thing I'm going to do is go
18 through your credentials and then we're going to look at
19 the Marcel Lalonde investigation and issues that may have
20 arisen because of that. And if I just go through my notes
21 here, we are also then going to go through other smaller
22 issues such as that involving -- one offender, very, very
23 briefly is Carl Allen and there's a couple of other
24 complainants that were made, but at this point, I don't
25 really want to say what their names are because charges

1 were never actually effected. So at this particular point,
2 we're just going to leave that reference, shall we say,
3 nameless, for the moment.

4 And there was also an internal complaint
5 that you looked at again that had to do with a complainant
6 that made a complaint against the Cornwall Police and you
7 did an internal investigation on that person. Again, we'll
8 leave that name out for the moment as well.

9 And then the final matter that I'm going to
10 be canvassing with you has to do with the
11 Earl Landry, Jr. investigation. So that's the order that
12 I'm basically going in for you.

13 **MR. SNYDER:** Okay.

14 **MS. JONES:** Okay?

15 Now, the very first, of course, are your
16 credentials and sort of your biological and biographical
17 information, and I'm just going to lead you through some of
18 that. Please correct me if I'm wrong.

19 **MR. SNYDER:** Okay.

20 **MS. JONES:** I understand you were born and
21 raised in Cornwall?

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

23 **MS. JONES:** And you joined the Cornwall
24 Police Service in June 1979?

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

1 **MS. JONES:** And at the time you were hired,
2 it was Chief Earl Landry, Sr. that was the Chief of Police?

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

4 **MS. JONES:** You had numerous training
5 courses over the course of your career. You attended, for
6 example, polygraph examiner's course at the Canadian Police
7 College in 1986, and became a polygraph examiner in March,
8 1987?

9 **MR. SNYDER:** That's correct.

10 **MS. JONES:** You were assigned to the Youth
11 Bureau in May 1984 until being transferred to CIB, or the
12 Criminal Investigation Bureau in January 1985, and you
13 continued working there until 1991?

14 **MR. SNYDER:** Correct.

15 **MS. JONES:** And you returned to CIB as a
16 Detective Sergeant Supervisor from 1996 until the year
17 2000?

18 **MR. SNYDER:** Correct.

19 **MS. JONES:** You currently hold the rank of
20 Staff Sergeant?

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

22 **MS. JONES:** And you are presently assigned
23 to the community patrol division in charge of four
24 platoons; is that correct?

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

1 **MS. JONES:** Okay. I've got the career
2 profile here to be entered please and, I believe, it's
3 Document 200199.

4 **THE COMMISSIONER:** Thank you. Exhibit 1580
5 ---

6 **MR. SNYDER:** Thank you.

7 **THE COMMISSIONER:** --- is Staff Sergeant
8 Brian Snyder's rank and position within the Cornwall Police
9 Service and his educational training courses.

10 **--- EXHIBIT NO./PIÈCE No. P-1580:**

11 (200199): Brian Snyder - Career profile

12 **MS. JONES:** Now just looking at your training
13 that you received when you were becoming a police officer
14 and rising up through the ranks, you attended a youth
15 officer course in 1984?

16 **MR. SNYDER:** That's correct.

17 **MS. JONES:** A polygraph examiner's course in
18 '86?

19 **MR. SNYDER:** Correct.

20 **MS. JONES:** A homicide investigator's course
21 in '97, major case management in 1999, major crime
22 investigations techniques in 2001 and domestic violence
23 investigation in 2002?

24 **MR. SNYDER:** That's good.

25 **MS. JONES:** I understand the youth officer

1 course dealt with issues such as working with young persons
2 both as victims of crime and perpetrators ---

3 MR. SNYDER: That's correct.

4 MS. JONES: --- of crime. And you covered
5 issues under the *Young Offenders Act* as well as
6 interviewing techniques?

7 MR. SNYDER: That's correct.

8 MS. JONES: And major crime courses also had
9 a sexual assault investigation component to it as well?

10 MR. SNYDER: That's correct.

11 MS. JONES: Now when you are showing in the
12 organizational chart Youth Branch on September 20th, 1984,
13 it would seem that, at that point, it was Chief Shaver in
14 charge at the time?

15 MR. SNYDER: That's correct.

16 MS. JONES: And Staff Sergeant Kirkey was in
17 administration and your inspectors were Inspector Burke and
18 Scott; is that...?

19 MR. SNYDER: Sounds -- sounds ---

20 MS. JONES: Okay.

21 MR. SNYDER: --- reasonable.

22 MS. JONES: Staff sergeants at the time were
23 Staff Sergeant Derochie on "P"?

24 MR. SNYDER: I wouldn't know where ---

25 MS. JONES: Wouldn't know where they were.

1 **MR. SNYDER:** --- they were, no. No.

2 **MS. JONES:** According to our documents
3 anyway ---

4 **MR. SNYDER:** Yes.

5 **MS. JONES:** --- Staff Sergeant Derochie is
6 on the "P" Unit, Willis is on "R", Runions is on "I", Trew
7 is on "D" and Allaire on "E" in CIB?

8 **MR. SNYDER:** I wouldn't know where they are.

9 **MS. JONES:** Okay.

10 In the January 10th, 1985 chart, it shows you
11 on the "E" team under Staff Sergeants Allaire, Phillips and
12 Willis?

13 **MR. SNYDER:** That would be correct. That's
14 criminal investigation.

15 **MS. JONES:** Other members at that time were
16 Sergeant Lefebvre and Constables Payment and Aikman. Does
17 that gel with your memory?

18 **MR. SNYDER:** I'd have to look -- I ---

19 **MS. JONES:** Look at the chart? Okay.

20 **MR. SNYDER:** --- would make sense.

21 **MS. JONES:** January 5th, 1986 shows you on
22 the "E" Team under Staff Sergeant Derochie and Inspector --
23 Acting Inspector Trew.

24 **MR. SNYDER:** Okay.

25 **MS. JONES:** On the 1987 chart, March 1st, it

1 shows you as a polygraph operator.

2 MR. SNYDER: Correct.

3 MS. JONES: How many other polygraph
4 operators were there at CPS at that time?

5 MR. SNYDER: I was the only one.

6 MS. JONES: You were?

7 MR. SNYDER: The first and only.

8 MS. JONES: First and only?

9 MR. SNYDER: Yes.

10 MS. JONES: Okay.

11 May 17th, 1990 charts show you under
12 Intelligence Drug Unit with Sergeant Carter and Constable
13 Racine.

14 MR. SNYDER: What year, I'm sorry.

15 MS. JONES: Nineteen ninety (1990).

16 MR. SNYDER: Correct, okay.

17 MS. JONES: January 1st, 1991 show that you
18 are under Internal Investigations; not that you are under
19 an internal investigation, but shows you're at that
20 department.

21 MR. SNYDER: That's correct.

22 MS. JONES: FOI, WHMIS and Polygraph.

23 MR. SNYDER: Yes, For Your Information,
24 WHMIS and Polygraph.

25 MS. JONES: February 6th, 1991 shows you

1 under FOI and Internal Complaints.

2 MR. SNYDER: Correct.

3 MS. JONES: Janaury 20th, 1992, you
4 transferred to "D" Team and appeared on the January 22nd,
5 1992 chart; this time under Staff Sergeant Derochie and
6 Sergeant Leroux.

7 MR. SNYDER: Correct.

8 MS. JONES: January 16th, 1993, you are under
9 the "D" team under Staff Sergeant Derochie and Sergeant
10 Masson and this is a time that Constable Perry Dunlop is
11 also on the "D" team?

12 MR. SNYDER: And what year was that, I'm
13 sorry?

14 MS. JONES: This was January 16th, 1993.

15 MR. SNYDER: Okay. I -- I wouldn't remember
16 everybody on my platoon, but if you're saying Perry was
17 there and it's there, then he would be there.

18 MS. JONES: Okay, but you don't have a
19 recollection of that necessarily?

20 MR. SNYDER: No.

21 MS. JONES: Okay.

22 January 17th, 1994 chart shows you in the "I"
23 Team under Staff Sergeant Dupuis and Sergeant Leroux.

24 MR. SNYDER: Correct.

25 MS. JONES: And September 18th, 1997 now

1 shows Sergeant Snyder with a coach and CPIC designations as
2 investigator in CIB under Staff Sergeant Brunet.

3 MR. SNYDER: Correct.

4 MS. JONES: Now, I've got here too that
5 Constable Sebalj is also listed on the team.

6 MR. SNYDER: That's correct.

7 MS. JONES: Do you recall that?

8 MR. SNYDER: Yes.

9 MS. JONES: Okay.

10 Now the -- when I summarized everything I
11 was going to say to you, I actually forgot one important
12 thing. It's actually the first topic and that has to do
13 with the David Silmsers complaint.

14 MR. SNYDER: Okay.

15 MS. JONES: And again, if I can just lead
16 you through a little bit of this.

17 We have in our information at approximately
18 March 4th, 1993 Constable Sebalj asked your assistance in
19 analyzing a statement by David Silmsers; do you ---

20 MR. SNYDER: That's correct ---

21 MS. JONES: ---recall that?

22 MR. SNYDER: Yes.

23 MS. JONES: And do you also recall that you
24 found, in your opinion anyway, that the Silmsers statement
25 was truthful?

1 **MR. SNYDER:** Some aspects of it were
2 truthful, yes.

3 **MS. JONES:** Okay and I'll just refer you
4 please to Document 721947.

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

6 **THE COMMISSIONER:** Thank you. Exhibit
7 number 1581 is internal correspondence from Constable B.
8 Snyder to Staff Sergeant B.F. Wells dated February 21st,
9 1994.

10 **--- EXHIBIT NO./PIÈCE No. P-1581:**

11 (721947): Brian Snyder - Internal
12 Correspondence from Brian Snyder to B.F.
13 Wells dated 21 Feb 94

14 **MS. JONES:** Have you got that in front of
15 you, sir?

16 **MR. SNYDER:** That's correct, yes.

17 **MS. JONES:** One thing you'll learn very
18 quickly, when you enter in a document, it takes a little
19 bit of time, but it'll either be a hard copy in front of
20 you or on this computer screen in front of you.

21 **MR. SNYDER:** That's fine.

22 **MS. JONES:** But in this particular document
23 here, February 21st, 1994, refers to the Silmsler statement.
24 I'll just quote the very last statement in the first
25 paragraph. And you stated:

1 "I analyzed the statement and gave
2 her my opinion as to its
3 truthfulness."

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

5 **MS. JONES:** And you did find the statement
6 was truthful? It doesn't actually say that.

7 **MR. SNYDER:** Well, truthfulness means
8 there's -- I look at the whole aspect ---

9 **MS. JONES:** M'hm.

10 **MR. SNYDER:** --- of the whole thing and then
11 I'll explain to her where there may be difficulties with
12 the statement. So there may be some deceptive things
13 within the statement, but I give her my opinion as to the
14 truthfulness of the statement. That's just lingo we use.

15 **MS. JONES:** Okay.

16 **THE COMMISSIONER:** Excuse me. Just in that
17 last -- you gave her your opinion as to its truthfulness;
18 doesn't say what opinion you did give though.

19 **MR. SNYDER:** No, it's just a general
20 statement and then I -- no, that's correct.

21 **THE COMMISSIONER:** Okay.

22 **MS. JONES:** But it was your opinion you
23 found the statement to be truthful; is that ---

24 **MR. SNYDER:** Some aspects ---

25 **MS. JONES:** --- correct?

1 **MR. SNYDER:** --- of it, yes.

2 **MS. JONES:** Okay.

3 Now ---

4 **THE COMMISSIONER:** Are you going to be
5 covering that more or should I ask questions?

6 **MS. JONES:** Yes. No, I'm going to cover it
7 more. I'm just going to put one other document to him.

8 **THE COMMISSIONER:** Okay.

9 **MS. JONES:** I just want to refer you before
10 I ask you more questions on this, to Document 729366.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **THE COMMISSIONER:** Thank you. Exhibit
13 number 1582 is a statement by Constable Brian Snyder re
14 David Silmser. Okay, no, just a minute. Just a minute.
15 It's a statement given in Staff Sergeant Wells' office
16 February 21st, 1994.

17 **--- EXHIBIT NO./PIÈCE No. P-1582:**

18 (729366) Brian Snyder - Statement by Brian
19 Snyder undated

20 **THE COMMISSIONER:** Okay.

21 **MS. JONES:** Now, this describes how you
22 actually got a hold of the statement.

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

24 **MS. JONES:** Which is clearly an issue in
25 this inquiry, and it states here that you got the copy or

1 an original from Constable Sebalj and she specifically gave
2 it to you for an analysis; correct?

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

4 **MS. JONES:** And you know from past
5 experience that the analysis means you're determining if
6 this statement is truthful or not, if you should be
7 proceeding with it. Is that the purpose of that?

8 **MR. SNYDER:** No. It's to determine whether
9 it's truthful or not, if there's areas in which the officer
10 can interview the witness further and maybe some areas that
11 I would advise her on in this case. There's areas here
12 that I think that you want to speak to Mr. Silmsler about
13 further. Those are the things, not just it's truthful or
14 it's not truthful. It's a little bit more than that.

15 **MS. JONES:** And in this particular document,
16 it says that you had the statement approximately one week.

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

18 **MS. JONES:** That seems like a long time but
19 how long does it take you to determine that?

20 **MR. SNYDER:** Well, again, I think it's
21 important to know that I wasn't doing -- I did it for
22 myself mostly. I didn't do it for a lot of officers. I
23 didn't -- I haven't -- the time here, I hadn't done a
24 statement analysis for some time. So I had to go back to
25 my books and I had to look at it and I really had to

1 understand the statement and what I was doing with the
2 statement.

3 So it took a little bit longer. I did it on
4 my own time as well. I didn't do it at work. So a week
5 wouldn't be, in my mind, too long if you really want to try
6 and get something done reasonably.

7 **MS. JONES:** Okay. That leads me to my next
8 question. How often were you asked to do this by other
9 police officers?

10 **MR. SNYDER:** Never. I just did it myself.
11 I did it during a polygraph; use it as another tool.

12 **MS. JONES:** M'hm.

13 **MR. SNYDER:** When I did polygraph
14 examinations, prior to doing a test, I would sometimes take
15 a statement, analyze it and then I would be able to use
16 maybe some things within that statement to interview the
17 person I'm polygraphing. So it was basically only used for
18 myself.

19 **MS. JONES:** Now, did you write a formal
20 report or did you just talk to ---

21 **MR. SNYDER:** No, I went in and spoke to her.

22 **MS. JONES:** You just went and spoke to her
23 about it?

24 **MR. SNYDER:** Yes.

25 **MS. JONES:** And unfortunately, we don't have

1 any notes about that conversation.

2 MR. SNYDER: No.

3 MS. JONES: And you're saying here today you
4 found parts of it truthful. Was there not a request by
5 Officer Sebalj or even a desire on your part to come to a
6 conclusion if you think this document is truthful or not?

7 MR. SNYDER: It's not that simple. It
8 really isn't that simple for a statement analysis. There
9 may be parts of the statement that are truthful and there
10 may be parts that are deceptive or there may be parts that
11 require further investigation, and that's what the
12 statement analysis does. It kind of helps the investigator
13 as a tool to allow that person, the investigator, to delve
14 deeper into the statement.

15 MS. JONES: Well, with respect to the
16 aspects that you said you found there was truthfulness
17 about it, did that have to do with the historical sexual
18 assault component of the statement?

19 MR. SNYDER: Some of it.

20 MS. JONES: Okay. And I haven't seen
21 anything to say that there was any part of it that was
22 deceptive necessarily, and you haven't said today either.

23 MR. SNYDER: No, but there's problems. I
24 would suggest that there were problems with part of that
25 statement that I would have -- I asked or I advised

1 Constable Sebalj that she should delve into a little deeper
2 with.

3 **MS. JONES:** Okay. And before you had done
4 this analysis, approximately how many such analyses had you
5 done before that? Are you able to approximate?

6 **MR. SNYDER:** I think my course was in -- I
7 don't know when I did the course? It's in here somewhere.

8 **MS. JONES:** Just a moment, please.
9 I've got you as an operator in March 1987.

10 **MR. SNYDER:** That's the polygraph, but then
11 there's another course, a statement analysis course that I
12 -- 1988 I'm thinking but I'm just thinking out loud.

13 **THE COMMISSIONER:** Yes, statement analysis,
14 January 18th ---

15 **MR. SNYDER:** Yeah, '88.

16 **THE COMMISSIONER:** Yeah.

17 **MR. SNYDER:** So I would have probably done
18 maybe 10 or 15 a year for myself between '88 and '91 we'll
19 say, or '90. So I've probably done a total of 30, maybe 40
20 for myself, which is not a lot.

21 **MS. JONES:** But I understand that you did
22 approximately 100 polygraph examinations?

23 **MR. SNYDER:** Yes.

24 **MS. JONES:** Per year as an operator?

25 **MR. SNYDER:** Between 60 and 100; that's

1 correct.

2 **MS. JONES:** And when you come to a
3 conclusion of a polygraph, is it about the same thing?
4 There's elements of truthfulness and perhaps elements of
5 not being truthful.

6 **MR. SNYDER:** No. With a polygraph, it's a
7 little bit more straightforward because you're using a
8 little different way of analyzing. So you've got truthful,
9 deceptive or inconclusive. Those are the three areas that
10 I would find with a polygraph. So I would find the person
11 obviously truthful, deceptive. Inconclusive means that at
12 this point in time I can't tell and I would likely do
13 another test after that. There may have been problems that
14 day that didn't allow me get the proper diagnostic results.

15 **MS. JONES:** And I understand that because
16 this was an unusual situation, therefore, you would have
17 had a conversation with Constable Sebalj when she was
18 giving you the statement to analyze?

19 **MR. SNYDER:** Actually, it was very short.
20 She -- I think she came to my home actually and asked me if
21 I would look at it and I told her I have no problem looking
22 at it. It's for your opinion only, for you to go further
23 with the investigation, that I would not feel comfortable
24 or I would not give any testimony in court, as I find
25 myself here, in reference to a statement analysis.

1 **MS. JONES:** But because this was the first
2 time you had ever been approached, you didn't ask her, for
3 instance, why are you asking me to do this, or did you have
4 any preconceived notions of what she thinks?

5 **MR. SNYDER:** Well, I knew the investigation.
6 She told me of the investigation and obviously reading the
7 statement, I knew what the investigation was about, but it
8 was just can you help me and I said I would.

9 **MS. JONES:** Okay. Were you aware of
10 Constable Sebalj's opinion about David Silmser's
11 credibility as a witness?

12 **MR. SNYDER:** No.

13 **MS. JONES:** Were you aware of another
14 officer involved at that stage and that being Constable
15 Kevin Malloy; were you aware of his opinion ---

16 **MR. SNYDER:** No.

17 **MS. JONES:** --- on the credibility of Mr.
18 Silmser?

19 **MR. SNYDER:** No.

20 **MS. JONES:** Again, I don't know if you can
21 come to this conclusion doing that job that you were doing
22 but did you have any opinion with respect to, for instance,
23 an ulterior motive behind the statement or is that not
24 something you would be analyzing?

25 **MR. SNYDER:** I don't -- basically the

1 statement is alive and everything else is dead and that's
2 what they teach you. So all I'm looking at is what the
3 words are saying. I don't care about anything else. I
4 don't care about anybody's opinion. I'm not asking. I
5 don't want to see other statements. I'm just looking at
6 that statement.

7 **THE COMMISSIONER:** Can we -- do we know
8 approximately what time, in all of this, this happened?
9 When did Sebalj go over to your home, date wise?

10 **MR. SNYDER:** Again, best of my recollection
11 and according to my statement to -- it's in or about March
12 4th.

13 **THE COMMISSIONER:** Ninety-four ('94).

14 **MR. SNYDER:** Yes, '93.

15 **THE COMMISSIONER:** No, '93.

16 **MS. JONES:** Nineteen ninety-three (1993),
17 yeah.

18 **MR. SNYDER:** Ninety-three ('93).

19 **MS. JONES:** It's on or about March 3rd or
20 March 4th, 1993?

21 **MR. SNYDER:** That's what it says here.

22 **MS. JONES:** I think there was one that said
23 March 4th, 1993.

24 **MR. SNYDER:** This one says March 4th. That's
25 what I'm looking at. I've got two copies in front of me,

1 March 4th.

2 **THE COMMISSIONER:** Okay. Well, I don't
3 think ---

4 **MS. JONES:** I'm sorry, yes.

5 **THE COMMISSIONER:** Unless it matters
6 greatly, let's just -- early March, okay.

7 **MS. JONES:** Okay. So after you finished the
8 analysis, you said in both of those documents you provided
9 Constable Sebalj with ---

10 **THE COMMISSIONER:** I'm sorry; both of those
11 documents?

12 **MS. JONES:** Yes, Exhibits 1581 and 1582.

13 **THE COMMISSIONER:** Oh, okay, I see. I see.

14 **MS. JONES:** On both of those, you used the
15 phrase "I analysed the statement and gave an opinion as to
16 its truthfulness".

17 **MR. SNYDER:** M'hm.

18 **MS. JONES:** So after you had the document a
19 week, I assume then you met with Constable Sebalj and gave
20 that opinion.

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

22 **MS. JONES:** And could you just be really
23 clear on what the opinion was?

24 **MR. SNYDER:** It's not that simple,
25 unfortunately, and that's why I don't like giving evidence

1 on statement analysis.

2 **THE COMMISSIONER:** No, no. What did you
3 tell her?

4 **MR. SNYDER:** Well, that's to say that
5 basically I went through the statement. I explained
6 certain areas. I understood this, in my mind, is truthful.
7 You've got problem areas here. I would suggest that you
8 would speak with Mr. Silmser, try and find out what
9 happened, those types of things.

10 **THE COMMISSIONER:** So if we gave you the
11 statement?

12 **MR. SNYDER:** I don't think I could redo it.
13 It's quite a lengthy -- and I don't have the original with
14 all my colourings and notes on it. I could not do a
15 statement analysis right now if you asked me to do one.

16 **THE COMMISSIONER:** No, no, I'm not asking
17 you to do a statement analysis.

18 **MR. SNYDER:** Yeah.

19 **THE COMMISSIONER:** I'm trying to get you to
20 tell me what you told her.

21 **MR. SNYDER:** I could look at it and kind of
22 bring it into different areas, if you will, and kind of
23 explain.

24 **THE COMMISSIONER:** Just briefly. I mean ---

25 **MR. SNYDER:** Yeah. Again, it's very

1 difficult. It's not as simple as saying it's truthful or
2 not truthful and ---

3 **THE COMMISSIONER:** I'm not -- no, no, just
4 give me straight ---

5 **MR. SNYDER:** Yeah.

6 **THE COMMISSIONER:** I want to know what
7 generally you would have told her ---

8 **MR. SNYDER:** I can do that.

9 **THE COMMISSIONER:** --- so that I can get a
10 flavour as to what she -- how she characterized her next
11 steps.

12 **MR. SNYDER:** Basically, in a nutshell,
13 without even looking at it, it was advising her that you've
14 got situations here where I believe he's telling the truth.
15 There's ways of corroborating that by speaking to
16 individuals who are within the statement.

17 There's areas of the statement here where I
18 feel that he may not -- he may know more than he's telling
19 you. I suggest you speak to him and get that out or try
20 and find out why he's not telling you more. There's
21 different -- because of the words he's used.

22 I think that's in a nutshell what I would
23 have done and kind of directed her as to where to go with
24 the statement.

25 **MS. JONES:** You were aware too that

1 Constable Sebalj was a person that was new to the Bureau as
2 well?

3 MR. SNYDER: I guess somewhat.

4 MS. JONES: Not new to CPS, but just new to
5 that division?

6 MR. SNYDER: I don't know if I knew that or
7 not. You know, we all do our thing and go around. I'm not
8 sure if I knew that she was new in that capacity.

9 MS. JONES: Okay. Did you do any other
10 further follow up on it ---

11 MR. SNYDER: No, I did not.

12 MS. JONES: --- in any respect?

13 MR. SNYDER: No.

14 MS. JONES: That was your only involvement?

15 MR. SNYDER: That was my only involvement.

16 MS. JONES: Now, I'm going to move on to the
17 Marcel Lalonde investigation. And again, I'll try to lead
18 through some of the evidence because it's quite a large
19 situation.

20 Would it be fair to say that you first
21 became involved with the Lalonde situation through
22 receiving information from the Probation Office about
23 October 1996? Do you recall that?

24 MR. SNYDER: Which investigation are we
25 doing, because I did a few with Marcel Lalonde. So we're

1 going to have to ---

2 MS. JONES: If I could refer you, please, to
3 Document 117437.

4 THE COMMISSIONER: Exhibit 1583.

5 MR. SNYDER: Thank you.

6 THE COMMISSIONER: So I take it it's a
7 General Occurrence Report, and the date of this ---

8 MS. JONES: The date I have down is 30th of
9 October 1996. It's a document actually generated by
10 Sergeant Desrosiers.

11 THE COMMISSIONER: Okay.

12 --- EXHIBIT NO./PIÈCE No. P-1583:

13 (117437) Brian Snyder - General Occurrence
14 Report dated October 30, 1996

15 MS. JONES: Do you have that in front of
16 you, sir?

17 MR. SNYDER: Yeah, sorry. Go ahead.

18 MS. JONES: The date of this document is the
19 30th of October 1996. The very first line that Mr.
20 Desrosiers -- I'm not sure if he's sergeant at that point,
21 actually -- but Officer Desrosiers ---

22 MR. SNYDER: Constable.

23 MS. JONES: --- is the very first line that
24 I'm interested in:

25 "Writer..."

1 Who is Desrosiers.

2 "...was advised by Sgt. Snyder to contact
3 Sue Larivière at the Probation Office
4 in reference to disclosure involving a
5 possible historical sexual assault."

6 Do you see that?

7 **MR. SNYDER:** Yes.

8 **MS. JONES:** And one thing that we have to be
9 very careful about, by the way, is making sure we don't
10 reveal certain names of incidences. Most of the people
11 that we are dealing with here today will already have
12 monikers, and I'm sure you're aware of how to use monikers.

13 I can tell you, Mr. Commissioner, that
14 people who have not had monikers assigned that we would be
15 dealing with in the next couple of days have existing
16 publication bans. So that makes it quite simple, I think,
17 to attach monikers to it, but there would be some persons
18 that we may need monikers in the future, and I'll just
19 alert you to that now.

20 **THE COMMISSIONER:** What are we going to do
21 now?

22 **MS. JONES:** Pardon me?

23 **THE COMMISSIONER:** Well, those who have --
24 first of all, we need to -- and what we've done is just
25 said "Okay, we'll do it later" and we've come back and

1 taken care of some, but I'd like to keep current on this.
2 Those who have publication -- existing publication bans
3 still have to be addressed and then we have to give them a
4 moniker in camera.

5 MS. JONES: M'hm.

6 THE COMMISSIONER: So ---

7 MS. JONES: We do have ---

8 THE COMMISSIONER: So some of those are
9 clearly there, but we have to identify them off the record.

10 MS. JONES: Yes.

11 THE COMMISSIONER: And you're saying there
12 are other people that fall in -- not in that category?

13 MS. JONES: There's several people that have
14 publication bans associated with them. I thought tomorrow
15 morning before we start the proceedings would be a good
16 time to list those.

17 THE COMMISSIONER: Fine.

18 MS. JONES: So for now we'll just make sure
19 the names are kept confidential and not mentioned, and I
20 think we can do that.

21 MR. SNYDER: I don't have any moniker. I
22 don't have any ---

23 THE COMMISSIONER: No, no, you're not
24 supposed to have any moniker -- the list. You're supposed
25 to have portions of it. Just don't mention any victims'

1 names for the time being.

2 MR. SNYDER: Okay.

3 THE COMMISSIONER: How's that?

4 MS. JONES: Okay. So this particular person
5 though had come to Sue Larivière's attention at the
6 Probation Office?

7 MR. SNYDER: Yes.

8 MS. JONES: And this particular person, who
9 does not have a moniker right now -- so we'll deal with
10 that tomorrow -- was the person that made the initial
11 complaint.

12 MR. SNYDER: Correct.

13 MS. JONES: Do you see that written in the
14 summary here?

15 MR. SNYDER: Yes.

16 MS. JONES: Now, I can deduce from that that
17 you were clearly the first point of contact ---

18 MR. SNYDER: Yes.

19 MS. JONES: --- from the Probation Office?

20 MR. SNYDER: Correct.

21 MS. JONES: And this person, it goes on to
22 say in the same document, that when he was 12 years old, he
23 was assaulted by his teacher, Marcel Lalonde, and that goes
24 on to describe then what the assault was?

25 MR. SNYDER: Yes.

1 **MS. JONES:** So in asking you when you first
2 became aware of a Lalonde allegation, it would have to be
3 sometime before October 30th, '96, one would assume from
4 this document. Is that correct?

5 **MR. SNYDER:** Yes. I'm sorry; when you first
6 asked the question, I've had other Lalonde investigations.
7 I wasn't sure which one you were talking about.

8 **MS. JONES:** Yeah.

9 **MR. SNYDER:** That's why I asked you to
10 produce it.

11 **MS. JONES:** Okay.

12 **MR. SNYDER:** Yes, it would actually probably
13 have been on the date that Constable Desrosiers spoke to
14 Sue Larivière. It would have been almost immediately.

15 **MS. JONES:** Okay. So I'm just trying to get
16 a timeframe here of when you first became aware of
17 allegations against Mr. Lalonde.

18 **MR. SNYDER:** Probably October 30th, '96, I
19 would suggest.

20 **MS. JONES:** Okay. At that particular point,
21 when you read this document, it would appear at that time
22 Officer Desrosiers concluded there wasn't enough evidence
23 to lay charges. That was the ---

24 **MR. SNYDER:** No, I don't think so. I think
25 ---

1 **MS. JONES:** I will refer you to page 11 --
2 the second page. Another thing I should explain to you,
3 when you're referring to documents here in the Inquiry,
4 there's a document number here, but there's what's called a
5 Bates page, which is up in the upper left-hand corner.

6 **MR. SNYDER:** I need glasses for that one.

7 **MS. JONES:** Each page is individually
8 numbered. So instead of saying page 2, we refer to the
9 Bates page.

10 **MR. SNYDER:** Okay.

11 **MS. JONES:** So I can refer to Bates page
12 1111129. I think there's five ones there.

13 **MR. SNYDER:** Okay.

14 **MS. JONES:** The second paragraph ---

15 **MR. SNYDER:** M'hm.

16 **MS. JONES:** --- it's written:

17 "As a result of this disclosure which
18 occurred during 1972-1973, there is no
19 evidence to lay any charges under the
20 *Criminal Code* by this Service."

21 Correct?

22 **MR. SNYDER:** By our Service, correct. There
23 was nothing that occurred in our area.

24 **MS. JONES:** Okay. And then it was referred
25 off to the OPP?

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

2 **MS. JONES:** Okay. Now, when you were first
3 contacted by Ms. Larivière -- we don't have any notes,
4 unfortunately, of that -- do you recall how much she told
5 you about the allegation?

6 **MR. SNYDER:** She would have told me a brief
7 allegation. She would have called me, and I would have
8 jotted stuff down. I would have walked over to Constable
9 Desrosiers and spoke to him and had him contact Ms.
10 Larivière and get it firsthand.

11 **THE COMMISSIONER:** I don't get it. I'm
12 sorry. Why would this be transferred to ---

13 **MR. SNYDER:** He worked for me. Constable
14 Desrosiers worked for me.

15 **THE COMMISSIONER:** Right, but -- okay, carry
16 on.

17 **MR. SNYDER:** To the OPP?

18 **THE COMMISSIONER:** Yeah.

19 **MR. SNYDER:** Because it was in their area.
20 The sexual assault had occurred and this individual was in
21 the OPP area.

22 **THE COMMISSIONER:** It says here in a school
23 in Cornwall.

24 **MR. SNYDER:** But the allegation was on a
25 school trip.

1 **THE COMMISSIONER:** Okay. Okay. Sorry.

2 **MS. JONES:** And I'm also curious, again, on
3 the second page of the document, Officer Desrosiers writes
4 that he had contacted a Mr. Kevin Liden or Liden at the
5 Catholic School Board, here at the Cornwall Catholic School
6 Board, SD&G.

7 **MR. SNYDER:** Yes.

8 **MS. JONES:** And Mr. Liden advised Desrosiers
9 that no action would be taken at this time by the school
10 board until they have reasons to do so from the OPP.

11 **MR. SNYDER:** Correct.

12 **MS. JONES:** Do you see where that's written
13 there?

14 **MR. SNYDER:** Yeah.

15 **MS. JONES:** I'm just wondering what your
16 view is regarding the position of the school board and your
17 experience as an officer, what is your view as to what the
18 relationship should be like with regards to the school
19 board vis-à-vis waiting for the police to tell them what to
20 do?

21 **MR. SNYDER:** Well, in this case, it was
22 Constable Desrosiers advising them that it wasn't going to
23 be Cornwall Police doing the investigation; it was going to
24 be the OPP. Sue Lariviere had already contacted the school
25 board and let them aware of it and advised Constable

1 Desrosiers of that. So he was just updating them so they
2 wouldn't be waiting for us to contact them.

3 **MS. JONES:** I understand that but I'm just
4 wondering what is your opinion or your view on the fact
5 that the school board wasn't going to do anything until the
6 OPP contacted them? Is that something that happens ---

7 **MR. SNYDER:** Well, I'd have to ask the
8 school board. I wouldn't -- I wouldn't be apt -- I
9 couldn't give an opinion on that.

10 **MS. JONES:** Okay. Do you know if Mr.
11 Lalonde was teaching at the time, of the time that the
12 complaint came through, 30th of October?

13 **MR. SNYDER:** This one, I do not know.

14 **MS. JONES:** That was not something you
15 directed Officer Desrosiers to find out with the school
16 board?

17 **MR. SNYDER:** Well, he would have done his
18 his investigation, it turned out that it was OPP area; so
19 he would just pass it off to the OPP to do the
20 investigation.

21 **MS. JONES:** And what about duty to report to
22 the CAS; did you put your mind to that at the time?

23 **MR. SNYDER:** Again, it was OPP. So they
24 would put it in their ballpark. We wouldn't get involved
25 in their investigation. So they take the investigation.

1 It would be their responsibility to contact CAS.

2 MS. JONES: Okay. Now, I'm going to be
3 referring to Document 734239. They are notes of Staff
4 Sergeant Brunet.

5 THE COMMISSIONER: Thank you. Exhibit 1584
6 are Staff Sergeant Brunet's notes dated 20th of January '97.

7 --- EXHIBIT NO./PIÈCE No. P-1584:

8 (734239) - Brian Snyder - Notes of S/Sgt.
9 Luc Brunet dated 28 Jan 97 to 12 Feb 97

10 (SHORT PAUSE/COURTE PAUSE)

11 MS. JONES: Okay.

12 MR. SNYDER: Okay.

13 MS. JONES: Just to briefly go through them
14 to summarize, it seems that Brunet's notes begin on the 28th
15 of January 1997 and they refer to a visit from Constable
16 Don Genier from OPP, and Officer Genier came to Brunet to
17 advise Brunet about some victims that came forward after
18 they found out Marcel Lalonde had been charged with sexual
19 assault.

20 MR. SNYDER: Correct.

21 MS. JONES: Do you see that? And again,
22 there are several names listed there. I'm not going to
23 mention them.

24 MR. SNYDER: Yes.

25 MS. JONES: And on February 4th in the notes,

1 Brunet -- sorry, Brunet then writes to you that you were
2 briefed on a complaint and I'm looking at Bates page
3 7134676.

4 MR. SNYDER: Actually, I was briefed in the
5 next page.

6 MS. JONES: I'm sorry.

7 MR. SNYDER: On 7134677, I think.

8 MS. JONES: That was the February 4th date
9 that I mentioned a moment ago?

10 MR. SNYDER: That's right.

11 MS. JONES: Yes, okay. I'm just jumping
12 ahead of myself here though.

13 MR. SNYDER: Okay.

14 MS. JONES: On the previous page, there is a
15 mention of a person there, about two-thirds of the way
16 down. It starts "On December 18th, 1997." Do you see the
17 sentence I have?

18 MR. SNYDER: Yes.

19 MS. JONES: That person actually does have a
20 moniker and he's known to us here at the Inquiry as C-8.

21 MR. SNYDER: Okay.

22 MS. JONES: But at that particular time,
23 he's listed. This particular person is one of the victims
24 of Marcel Lalonde. I just want to draw your attention to
25 that.

1 So then on the next page, Bates page 677, on
2 February 4th, 1997 at 8:30, it has here:

3 "Sergeant Snyder was briefed on the
4 complaint and provided a copy of my
5 notes to this point."

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

7 **MS. JONES:** So you would have had a copy of
8 all of these names ---

9 **MR. SNYDER:** That's correct.

10 **MS. JONES:** --- they had there? Okay.

11 So I think we can probably be safe anyway,
12 safe as we can, it seems on February 4th, 1997, you were
13 formally assigned the task of ---

14 **MR. SNYDER:** I think I've got notes of that
15 somewhere.

16 **MS. JONES:** --- investigating. Yeah, I
17 believe you do actually. We can cross-reference that, but
18 that kind of confirms how it actually came about.

19 **MR. SNYDER:** That's the second part of it;
20 correct? There is -- the first one was what we just spoke
21 about and this is another referral from the OPP, so to
22 speak.

23 **MS. JONES:** Yeah, but this is -- but this is
24 Staff Sergeant Brunet assigning you this case.

25 **MR. SNYDER:** Yes, which was brought in by

1 the OPP by Genier.

2 MS. JONES: Right. It's the same person.

3 MR. SNYDER: Yes, same ---

4 MS. JONES: Mr. Lalonde.

5 MR. SNYDER: The same suspect.

6 MS. JONES: Yeah.

7 MR. SNYDER: Yes.

8 MS. JONES: That's right. Now, your notes -

9 --

10 THE COMMISSIONER: So just plain and simple,
11 you got a complaint at some point. You said, "Oh, this is
12 OPP territory," handed it over. Then OPP did their
13 investigation and said, "Oh, here's some matters that the
14 Cornwall Police Service should be investigating."

15 MR. SNYDER: That's correct. They kept the
16 initial one and gave us others.

17 THE COMMISSIONER: Yes, okay.

18 MS. JONES: And confirming your notes --
19 just a moment, please.

20 (SHORT PAUSE/COURTE PAUSE)

21 MS. JONES: Just to confirm your notes to
22 complete this, Document 734321.

23 THE COMMISSIONER: Thank you. Exhibit 1585
24 are notes of Sergeant Brian Snyder starting Tuesday,
25 February 4th, 1997.

1 --- EXHIBIT NO./PIÈCE No. P-1585:

2 (734321) - Brian Snyder - Notes of Brian
3 Snyder dated 04 Feb 97 to 29 Apr 97

4 **THE COMMISSIONER:** Okay. So?

5 **MS. JONES:** Do you see that, Officer Snyder?

6 **MR. SNYDER:** Yes.

7 **MS. JONES:** Yes, okay.

8 **MR. SNYDER:** I'm sorry.

9 **MS. JONES:** I was just waiting for you to
10 review the notes.

11 **MR. SNYDER:** Oh, sorry, no, they are my
12 notes. I think I ---

13 **MS. JONES:** Okay. Yeah, the very first
14 entry, Tuesday, February 4th, '97:

15 "Staff Sergeant Brunet provided me with
16 a copy of his notes that he made with
17 reference to Marcel Lalonde."

18 Do you see that?

19 **MR. SNYDER:** Yes.

20 **MS. JONES:** Okay. Now, I've just got a
21 question for you about your own practice with regards to
22 note taking. At this particular point of time, was it your
23 practice to make notes in a loose-leaf binder or was it a -
24 --

25 **MR. SNYDER:** It was a loose-leaf binder. It

1 was each investigation had a separate -- a separate binder,
2 so to speak, or pages.

3 MS. JONES: So you did not keep consecutive
4 notes on the same day when you just did what your whole day
5 was?

6 MR. SNYDER: That's correct.

7 MS. JONES: You kept it separately.

8 MR. SNYDER: That's correct.

9 MS. JONES: And is that a practice that was
10 taught to you from the beginning?

11 MR. SNYDER: It was acceptable back then.

12 MS. JONES: That wasn't my question. Was it
13 taught to you to do that?

14 MR. SNYDER: It was taught to me. It was
15 taught to me. It was acceptable. It was acceptable to the
16 Canadian Police -- the Ontario Police College. It is what
17 everybody was doing. It was easier for disclosure
18 purposes. We weren't missing things. If we did it the
19 other way, it was difficult sometimes to get all your
20 disclosure because you had to go through all your notes to
21 try and find everything. It was just a more convenient way
22 of doing your investigation.

23 MS. JONES: You made the comment that
24 everybody was doing it that way. I don't know if you can
25 actually say that with any degree of certainty.

1 **MR. SNYDER:** Well, I can say that we, in our
2 organization, the majority were, if not everybody, and
3 other organizations which I dealt with were doing it as
4 well. We weren't the only police service with this method.

5 **MS. JONES:** And you were, at that point, a
6 Sergeant. Would you direct your staff to do it that way as
7 well?

8 **MR. SNYDER:** I wouldn't direct them, but
9 they were allowed to do it because it was acceptable
10 practice.

11 **MS. JONES:** And the other query that I have
12 about notes here is that there seem to be a lot of blank
13 lines in between the notations. You have the date and then
14 you have a blank line and then you have what you have
15 written and then you leave a blank line and then you put
16 the next date, and there's a blank line.

17 Is that acceptable practice as well, sir?

18 **MR. SNYDER:** I write the policy and, no, it
19 is not acceptable. I should be writing every one, why do
20 it that way; it was just -- it was just something I did.
21 It wasn't conscious. It was just I did it, and we are now
22 advising officers not to do what I just did here, so ---

23 **MS. JONES:** M'hm.

24 And sometimes you actually left quite a
25 space.

1 **MR. SNYDER:** M'hm.

2 **MS. JONES:** I would just refer four notes in
3 from this for just an example, 7134990, you have left
4 several lines blank actually at the bottom.

5 **MR. SNYDER:** I can't answer that. It wasn't
6 anything other than I think I went over and spoke to my one
7 witness and I wanted it all on one page, all his
8 information and stuff. That's the only thing I can think
9 of. It wasn't anything more than that.

10 **MS. JONES:** But you'll agree with me that
11 the reason why that's really not best practice is because
12 obviously people can fill in blanks and insert things.

13 **MR. SNYDER:** I agree, I agree with you.

14 **MS. JONES:** And I am not saying that you
15 have done that.

16 **MR. SNYDER:** I haven't.

17 **MS. JONES:** At least, you don't have a
18 defence lawyer challenging you on that very point in the
19 courtroom.

20 **MR. SNYDER:** No, and that's why I'm
21 basically speaking to my officers now about this point in
22 particular.

23 **MS. JONES:** So I just want to go through the
24 notes as they appear here.

25 With respect to the next page, Bates page

1 988, there is a reference there as well:

2 "February 12th, 1997: Officer Don
3 Genier attended headquarters...

4 And you got a video from C-8, and that was
5 as written there anyway:

6 "...sexual assault by Father Charles
7 MacDonald."

8 It didn't have to do with Lalonde, it would
9 appear from your notes; correct?

10 **MR. SNYDER:** Correct.

11 **MS. JONES:** Now based on what you've just
12 told me there, I thought you had just said a moment ago
13 that you tend to separate different investigations in
14 different notebooks?

15 **MR. SNYDER:** I didn't do -- this is just his
16 information, so I'm still dealing with this investigation.
17 He came over, provided me this. And I think you have got
18 to take in context what the rest of this states. Beyond
19 that, it says:

20 "Detective Inspector Tim Smith then
21 said, 'don't worry about Father
22 Charlie. We'll take care of that. You
23 are going to take care of the Lalonde
24 investigation.'"

25 **MS. JONES:** I understand that, but ---

1 **MR. SNYDER:** So I don't ---

2 **MS. JONES:** Yes, that's right, but that's
3 just a small example, but it is an example where sometimes
4 you did have other investigations overlap into your
5 notebook.

6 **MR. SNYDER:** I didn't investigate. There
7 was no investigation. I never investigated Father Charlie.

8 **THE COMMISSIONER:** No, no.

9 **MS. JONES:** No, no. I understand you didn't
10 investigate it, but mentioning another investigation in
11 your notes.

12 **THE COMMISSIONER:** Well, no, no. No, no.

13 I don't know, but I am reading this for the
14 first time, and it seems that C-8 either had two videos or
15 that there was something on the other video. If you look
16 at 544, it says:

17 "I spoke with Tim Smith who advised he
18 would be taking care of the case and
19 lay the proper Information. The video
20 was returned to Constable Genier.
21 Genier stated he had another video with
22 Marcel Lalonde as suspect with C-8 as
23 victim and will return in afternoon
24 with that video."

25 **MR. SNYDER:** He brought the wrong video.

1 **THE COMMISSIONER:** He brought the wrong
2 video. So he thought it was part of the video?

3 **MR. SNYDER:** Absolutely.

4 **THE COMMISSIONER:** Okay.

5 **MS. JONES:** Okay.

6 **MR. SNYDER:** Thank you.

7 **MS. JONES:** Now, on February 18th, 1997, is
8 the next page of your notes, Bates page 4989, there are
9 several people there that you are calling and there is one
10 person in particular that, as I say, unfortunately does not
11 have a moniker, and hopefully we'll have one tomorrow.

12 **MR. SNYDER:** Is there a time to go with that
13 name?

14 **MS. JONES:** Yes, 9:20.

15 **MR. SNYDER:** Yes?

16 **MS. JONES:** And perhaps, Mr. Commissioner, I
17 am going to be spending a lot of time talking about this
18 person. Could I call him just "Person A" for the time
19 being?

20 **THE COMMISSIONER:** Well, we will give him an
21 interim moniker for now.

22 **MS. JONES:** All right.

23 **THE COMMISSIONER:** So that would be Number
24 66. We will confirm that in camera tomorrow but it is a
25 person that is mentioned on the last three numbers 989, and

1 at 920. So do you know who that is?

2 MR. SNYDER: Yes, I do.

3 THE COMMISSIONER: Okay.

4 Okay, go ahead, it's 66.

5 MS. JONES: Thank you very much.

6 So there were a number of other people as
7 well that you were directed to call as well. I don't need
8 to go into details by their names.

9 MR. SNYDER: I had a list of names, yes.

10 MS. JONES: And in 1505 on that same page,
11 you list C-8 -- and perhaps I could just ask Mr. Callaghan
12 a question, actually.

13 (SHORT PAUSE/COURTE PAUSE)

14 Mr. Commissioner, just one small point.
15 You, yourself may see there is a name under C-8?

16 THE COMMISSIONER: Yes.

17 MS. JONES: And I don't know if it's a
18 relationship to another person that's already been
19 mentioned in the Inquiry but for the purposes of these
20 questions, could I have a temporary moniker attached to it
21 as well?

22 MR. SNYDER: I can answer that question. It
23 is.

24 THE COMMISSIONER: It is what?

25 MR. SNYDER: It is related to that one

1 person.

2 MS. JONES: Could I have a temporary moniker
3 attached to that, if possible, please Mr. Commissioner?

4 THE COMMISSIONER: All right. C-67 will be
5 the person mentioned at 991, fifth line from the bottom.

6 MS. JONES: Now, I understand that you
7 called then C-67 as well?

8 MR. SNYDER: I don't ---

9 THE COMMISSIONER: C-67.

10 MS. JONES: Is it not the next?

11 THE COMMISSIONER: Oh, that's the person we
12 are giving ---

13 MR. SNYDER: Oh, that's the new. Okay, yes.

14 THE COMMISSIONER: It's C-67.

15 MS. JONES: Yes?

16 MR. SNYDER: Sorry, yes.

17 Can you see that you called her as well?

18 MR. SNYDER: Well, I called -- I think I was
19 trying to find that individual, and it took me some time.

20 THE COMMISSIONER: No, no. Just a minute.
21 You are trying to find David Silmsner. Is that right?

22 MR. SNYDER: Well, I'm not sure what -- is
23 that the person? Okay, I am confused now. Sorry.

24 THE COMMISSIONER: No.

25 "I contacted C-67" because we don't know

1 what that person has to do with everything.

2 MR. SNYDER: Is it this person here, the
3 female?

4 THE COMMISSIONER: Yes.

5 MR. SNYDER: Okay, sorry. Yes.

6 THE COMMISSIONER: She is C-67.

7 MR. SNYDER: Yes, okay, sorry. Now I
8 understand.

9 THE COMMISSIONER: Okay. But we can talk
10 about David, David Silmsler. All right?

11 MR. SNYDER: Okay. Sorry, I understand now.
12 I apologize.

13 MS. JONES: Okay. So you were trying to
14 contact David Silmsler, though, by calling C-67?

15 MR. SNYDER: That's correct.

16 MS. JONES: Okay. And according to the next
17 page, in any event, it seemed that according to C-67, that
18 David Silmsler was also wanting to make a complaint about
19 Mr. Lalonde. Is that your understanding from this?

20 MR. SNYDER: No, that was a name I got --
21 just let me read my -- I left the message with her to call
22 me and asking if he wished to make a complaint against ---

23 THE COMMISSIONER: David Silmsler?

24 MR. SNYDER: David Silmsler, yes, David
25 Silmsler wanted to make a complaint against Marcel Lalonde.

1 He wasn't contacting me. I was contacting him. He was one
2 of the names on my list.

3 **MS. JONES:** Okay. So -- but I am just
4 trying to get -- because we are affiliating that name with
5 someone else new, shall we say here in the Inquiry.

6 **MR. SNYDER:** Yes.

7 **MS. JONES:** So at this point, it was your
8 understanding that there was some allegation between Mr.
9 Silmsler and Mr. Lalonde?

10 **MR. SNYDER:** Yes.

11 **MS. JONES:** A connection, let's say?

12 **MR. SNYDER:** Yes.

13 **MS. JONES:** Okay. And according to C-67,
14 Mr. Silmsler was having a hard time about that?

15 **MR. SNYDER:** That's correct.

16 **MS. JONES:** And is it your typical practice
17 to talk to someone else about someone else's allegation
18 rather than talk to the person directly?

19 **MR. SNYDER:** No, but I knew this individual.
20 I knew the relationship with this individual. The other --
21 David Silmsler did not wish to speak to me, so I was doing
22 things through her.

23 **MS. JONES:** Okay. Where does it say in your
24 notes that he didn't want to speak with you? That's what
25 I'm looking for.

1 **MR. SNYDER:** Well, because I'm speaking --
2 I'm doing everything through her. If he wanted to speak to
3 me, I left it pretty clear to call me, and he wasn't
4 calling me and I was dealing with her.

5 **MS. JONES:** Well, in your previous entry
6 here on the previous page at 1510 you've got C-67's name
7 listed with a phone number ---

8 **MR. SNYDER:** That's right.

9 **MS. JONES:** --- and then you have at 15:10:
10 "Called C-67 - left a message."

11 **MR. SNYDER:** That's right.

12 **MS. JONES:** It seems that you were trying to
13 contact her, not David Silmser.

14 **MR. SNYDER:** Well, I got David Silmser's
15 name and ---

16 **MS. JONES:** Where does it have it that you
17 got David Silmser's name?

18 **MR. SNYDER:** Well, I don't know.

19 **THE COMMISSIONER:** "Dave's name came up."
20 Just at the bottom of page 991.

21 **MS. JONES:** I'm just trying to get as to why
22 it is that you are calling C-67 rather than David Silmser
23 himself. That's really all I'm looking for here because
24 it's really not answered here.

25 **MR. SNYDER:** Basically, and the Commissioner

1 is rightfully so, and on the following page, 991, his name
2 came up and I was trying to contact him to see if he was
3 willing to come forward.

4 **MS. JONES:** Okay.

5 **MR. SNYDER:** She answered the phone. I
6 can't force him to come to the phone and obviously he
7 didn't want to speak to me. I think that became pretty
8 clear. I keep calling, and the next page:

9 "She gave him the message and he does
10 not believe that he can deal with it
11 right now, that he has too much on his
12 plate. I advised that I will be
13 sending a registered letter just to let
14 him know "When you're ready, come and
15 see me."

16 **MS. JONES:** Okay. All I'm saying is that in
17 these notes it doesn't actually state he doesn't want to
18 talk to you. That's what I'm trying to get -- you're
19 getting this message perhaps through C-67.

20 **MR. SNYDER:** Correct.

21 **MS. JONES:** But even that I don't see
22 written in your notes. That's what I'm saying. You're
23 interpreting the notes.

24 **MR. SNYDER:** It's written at 992, at 8:45.
25 "He doesn't want to deal with it right now."

1 **MS. JONES:** I understand that, but at this
2 particular time -- I'm going to deal with that in a second,
3 but at this particular time nowhere here does it say that
4 he doesn't want to speak to you.

5 **MR. SNYDER:** No, you're right.

6 **MS. JONES:** Okay. And I also want to draw
7 your attention -- I'm at Bates page 4990 which is the
8 fourth page in. Again, you're still speaking with C-67 and
9 I just want to go to the second hash mark -- I guess it
10 would be like the second paragraph, shall we say -- and it
11 starts with the words, "I said that's fine". Do you see
12 that paragraph?

13 **MR. SNYDER:** Yes.

14 **MS. JONES:** "I said that's fine."

15 And I just want to read that
16 paragraph because it's one of the sentences that I'm
17 concerned with.

18 I'll start earlier so you'll get the context
19 of it.

20 "She said that he is having a hard time
21 right now and wants to get through the
22 MacDonald case first and she stated
23 she..."

24 **MR. SNYDER:** "...got a call from the OPP..."

25 **MS. JONES:** "...got a call from the OPP

1 requesting.."

2 **MR. SNYDER:** "...requesting the same as me
3 and he said he could not right now."

4 **MS. JONES:** "...could not right now."
5 Actually, maybe you could read the second
6 paragraph.

7 **MR. SNYDER:** "I said that's fine, but it
8 would not appear to be fair to the
9 justice system if Marcel Lalonde is
10 convicted of sexual assault on other
11 people and then Dave came forward.
12 After, I said tell him I would take as
13 much time as he needs to make him
14 comfortable."

15 **MS. JONES:** So there's two, I would say,
16 very important phrases there. One is as a person as you
17 are trained in dealing with sexual assault victims, one of
18 the fundamental concepts is that especially with historical
19 sexual assaults, you know, come forward when you feel
20 comfortable to.

21 **MR. SNYDER:** Correct.

22 **MS. JONES:** Right? And I think that that is
23 a concept and philosophy adopted by all investigators that
24 are doing the job correctly anyway, but you've also said,
25 you know, "Take as much time as you want to feel

1 comfortable, but remember it will be unfair to Marcel
2 Lalonde if it comes over later."

3 **MR. SNYDER:** Well, unfair to the justice
4 system, the whole system, but again, I was just trying to
5 move things along and that's why the second line came in.
6 "Listen, whatever he feels comfortable with it, I'm okay
7 with. So if he can't do it right away, that's fine." And
8 that's when that was said.

9 **MS. JONES:** But the first line really had to
10 do with the unfairness to Mr. Lalonde rather than "Take
11 your time; be comfortable with it."

12 **MR. SNYDER:** I think it's all together.
13 Basically, I'm saying, "Listen, we'd like to get this thing
14 all done at one time. We'd like to have all the victims
15 come together, but it's not possible, and if it's not
16 possible, then take your time and we'll deal with it when
17 you're ready."

18 **MS. JONES:** Is that a common thing for you
19 to say, that it's not fair to the alleged perpetrator if
20 you don't come forward soon?

21 **MR. SNYDER:** I don't think it's a common
22 thing. I just think it's -- obviously, I wasn't trying to
23 hide anything, so I put it in my notes as what I said. I
24 was just trying to put it in context as to the
25 investigation and what we were doing. It wasn't anything

1 more than that.

2 **MS. JONES:** Because you are aware that if
3 there were further charges and even perhaps a second trial
4 with the same perpetrators, different victims, that is
5 something that can happen; correct?

6 **MR. SNYDER:** Absolutely.

7 **MS. JONES:** Okay. And that's something that
8 does happen?

9 **MR. SNYDER:** Absolutely.

10 **MS. JONES:** Now, on the next page, 991, up
11 at the top, it has here:

12 "Contact Dave Silmser as he was..."

13 Something:

14 "...assaulted by Marcel Lalonde."

15 Was that ---

16 **MR. SNYDER:** I'm sorry; where are you?

17 **MS. JONES:** I'm at the top, the third --
18 fourth line down of page 4991.

19 **MR. SNYDER:** Okay.

20 **MS. JONES:** "Contact Dave Silmser."

21 **MR. SNYDER:** Yes. The witness -- and I
22 don't know if I can say his name or not -- but that witness
23 gave me information as to how I can contact David Silmser
24 and then he provided me with a phone number -- the number
25 below.

1 **MS. JONES:** And was this a different phone
2 number that you'd used before?

3 **MR. SNYDER:** I'm not sure. It looks like it
4 is -- 5 -- no, the same number.

5 **MS. JONES:** So if you're asking or looking
6 for another contact number, it just, again, leads me to
7 think that you're not actually getting the right contact
8 with David Silmsler through C-67.

9 **MR. SNYDER:** Well, I would have liked to
10 have spoken with David Silmsler personally, but I couldn't.
11 The -- that -- C-67 was very close to David Silmsler, so I
12 had to rely on what she was saying.

13 **MS. JONES:** Now, at 15:00 hours it seems
14 that you contacted the Board of Education to determine
15 Marcel Lalonde's years of work at the school?

16 **MR. SNYDER:** Correct.

17 **MS. JONES:** And at the bottom paragraph you
18 contacted C-67 again?

19 **MR. SNYDER:** Yes.

20 **MS. JONES:** And said that you're
21 investigating Lalonde and there were other sexual assaults
22 on people and again his name came up.

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

24 **MS. JONES:** Do you see that?

25 Now, there's a couple of things that are

1 curious. Is that not something that you would have
2 discussed when you first had contact with C-67? Because
3 again, when you have the list of names of people -- and I'm
4 looking at Bates page 989, Tuesday, February 18th, '97 ---

5 **MR. CALLAGHAN:** I think you'd best ask the
6 witness whether the pages have been taken in the wrong
7 order.

8 **MR. SNYDER:** Yes, it doesn't make sense,
9 some of it. It could be numbered wrong. I'm thinking this
10 goes to here, "I spoke with him." This 15:00 goes to --
11 991 is ahead of 990.

12 **MS. JONES:** So you think the pages were out
13 of order then?

14 **MR. SNYDER:** Yes.

15 **MS. JONES:** Okay. So that's how you got the
16 information?

17 **MR. SNYDER:** That makes more sense.

18 **MS. JONES:** Okay.

19 **MR. SNYDER:** Pardon me?

20 **MS. JONES:** So that's how you got the
21 information?

22 **MR. SNYDER:** Yes.

23 **MS. JONES:** All right.

24 Now, when you got that information and got
25 David Silmser's name and you made contact initially with C-

1 67, you said to this person, "I've been given David
2 Silmsers name, allegations around Marcel Lalonde". Was
3 there not issues of confidentiality that you were concerned
4 with?

5 **MR. SNYDER:** No.

6 **MS. JONES:** So if someone mentions someone
7 else's name with regards to historical sexual assault, you
8 just tell whoever would answer the phone?

9 **MR. SNYDER:** No. I knew the family. Like,
10 there's a little bit of history, so I knew who she was. I
11 knew who he was. I felt comfortable speaking to her.

12 **MS. JONES:** Even knowing the person, in
13 fact, especially knowing the person though, are there not
14 issues of confidentiality?

15 **MR. SNYDER:** I didn't take that into
16 consideration when I spoke to her. Would I do that every
17 time? Likely not. But this time I felt comfortable and
18 she obviously was aware because she told me that the OPP
19 had also contacted him. So I don't think there was
20 anything there that I was letting her know that didn't
21 already happen, that she already didn't know.

22 **MS. JONES:** Wouldn't the more typical way of
23 dealing with it though would be phone C-67, leave a message
24 to just have David Silmsers call you back?

25 **MR. SNYDER:** I did that. I tried that.

1 **MS. JONES:** Okay. It doesn't say that in
2 the notes.

3 **MR. SNYDER:** No, but when I called her, I
4 asked to speak to him, and then she's going on to say that
5 he's not -- "doesn't want to speak to you. You know, he
6 spoke to the OPP already." You know, and then I -- and I
7 said, "Okay, fine. Well, if you don't want Cornwall to do
8 the investigation, we'll contact Prescott or somebody else
9 to do it." So I was just giving her the opportunity to
10 tell him that I'm willing to look into the allegation.

11 **MS. JONES:** On the next page, 4992, February
12 19th, '97, we've dealt with the first paragraph involving C-
13 67 and David Silmsen doesn't want to do it, but did you
14 ever do any follow up directly with Mr. Silmsen at any
15 point with regards to this?

16 **MR. SNYDER:** Never, no.

17 **MS. JONES:** You never called back at any
18 time after charges had been laid against Mr. Lalonde, for
19 example?

20 **MR. SNYDER:** No.

21 **MS. JONES:** Did you say earlier you sent a
22 registered letter to him?

23 **MR. SNYDER:** That's what I said here,
24 advised that I would be sending a registered letter and
25 that -- advised the same thing, when he was ready to come

1 forward, to come forward.

2 MS. JONES: And again, just to get things in
3 context then, February 21st, '97, you get a KGB statement
4 from C-8?

5 MR. SNYDER: Correct.

6 MS. JONES: That's the moniker attached to
7 that individual.

8 THE COMMISSIONER: So did you ever send him
9 a registered letter?

10 MR. SNYDER: Yes.

11 THE COMMISSIONER: Okay.

12 MS. JONES: Now, on page 4995, again, you've
13 got a few names that are listed there of contacts or people
14 you want to talk to, interested parties, shall we say, to
15 the offence and you also took pictures of the house, Mr.
16 Lalonde's house where the assaults had taken place?

17 MR. SNYDER: I think I said this is one of
18 the things to do. I'm not sure if I took them. I don't
19 think I took them, but it was one of my notes to self that
20 I wanted to get pictures of the home.

21 MS. JONES: And you also have there the last
22 entry for that date, it's just above "Tuesday, March 4th",
23 you also have a line:

24 "Also must speak with Perry Dunlop re:
25 taking of statement from [C-8]."

1 **MR. SNYDER:** Correct.

2 **MS. JONES:** So you were aware that there was
3 a statement already taken from C-8?

4 **MR. SNYDER:** Well, C-8 told me while we were
5 doing the interview that he had given a statement to Perry
6 Dunlop.

7 **MS. JONES:** Okay.

8 **THE COMMISSIONER:** And so it says here:

9 "He provided me with a copy of this
10 statement dated January 23rd, 1997."

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

12 **THE COMMISSIONER:** Is that Constable Dunlop
13 who did that?

14 **MR. SNYDER:** No, C-8 gave me that statement.
15 Oops, sorry.

16 **THE COMMISSIONER:** C-8 would have given you
17 ---

18 **MR. SNYDER:** Sorry, yes.

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

20 **MS. JONES:** That actually is not the
21 statement, Mr. Commissioner. I'm going to deal with C-8's
22 statements later ---

23 **THE COMMISSIONER:** Sorry.

24 **MS. JONES:** --- but that's fine.

25 Now, moving on then to March 6th, 1996 ---

1 **THE COMMISSIONER:** Just a second. What does
2 that mean then?

3 **MS. JONES:** I'll deal -- C-8 gave a few
4 statements.

5 **THE COMMISSIONER:** Right.

6 **MS. JONES:** That is actually a statement
7 given to the OPP.

8 **THE COMMISSIONER:** All right.

9 **MS. JONES:** That's the date I have.

10 **MR. CALLAGHAN:** I think that they're --
11 you've heard the story. I'm not sure if counsel has heard
12 the story about doing a statement, walking in to the OPP.

13 **THE COMMISSIONER:** Right.

14 **MR. CALLAGHAN:** I think -- when we get to
15 that point I think the witness will clarify it.

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

17 **MS. JONES:** On page 4997, at the top is
18 "Thursday, March 6th, 1997". This is a -- one of the
19 numerous attempts you were making to contact C-66. I
20 haven't mentioned each and every time, but certainly in the
21 months or so preceding, there have been several attempts,
22 three or four attempts.

23 **MR. SNYDER:** Yes.

24 **MS. JONES:** Phoning his sister and phoning -
25 - you're still searching for C-66?

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

2 **MS. JONES:** Okay. And just to keep you up
3 to date, you're still looking for C-66 on March 6, '97?

4 **MR. SNYDER:** Correct.

5 **MS. JONES:** Okay. Turning the page, 4998,
6 again, you've got more contact details of C-66, about
7 halfway through the page?

8 **MR. SNYDER:** Correct.

9 **MS. JONES:** And then on 4999, the next page,
10 the very last entry on the page, you've got there:

11 "Called [C-66] at a particular phone
12 number."

13 **MR. SNYDER:** Correct.

14 **MS. JONES:** Do you see that?

15 **MR. SNYDER:** Yes.

16 **MS. JONES:** Then on the next page, Bates
17 page 5000, 10:28, you went to an address looking for C-66.

18 **MR. SNYDER:** Can I just back -- the call to
19 that individual, the number was no longer in service.

20 **MS. JONES:** Okay.

21 **MR. SNYDER:** That's the next page ---

22 **MS. JONES:** That's what it says on the next
23 page, right.

24 **MR. SNYDER:** Yeah. Okay.

25 **MS. JONES:** Yeah, I'm just saying you made a

1 lot of attempts ---

2 MR. SNYDER: Yes.

3 MS. JONES: --- to try to get in touch with
4 this person.

5 MR. SNYDER: Okay.

6 MS. JONES: Then Thursday, March 13th, '97 at
7 8:30:

8 "Got information that [C-66] was
9 residing at another place."

10 MR. SNYDER: Correct.

11 MS. JONES: And on the next page, at Bates
12 page 5001 at 13:25, it says you called C-66 and then
13 "...explained my investigation and he
14 stated he would be in at 14:10."

15 MR. SNYDER: Correct.

16 MS. JONES: So that's pretty quick. You
17 phone him at 13:25 and at 14:10 he's actually at
18 Headquarters, which is the next entry?

19 MR. SNYDER: Correct.

20 MS. JONES: And essentially he gave you a
21 lowdown of what his version of the events of what happened
22 with Mr. Lalonde?

23 MR. SNYDER: Correct.

24 MS. JONES: Would you agree with me that by
25 the fact that he showed up at the police station so quickly

1 after the initial phone call after you finally did get a
2 hold of him showed someone who was very keen to get his
3 statement to the police, that he was extremely cooperative?

4 **MR. SNYDER:** He was cooperative, very
5 cooperative. I also knew this individual as well, so I
6 think he trusted me to come down pretty quickly, but he
7 came down without hesitation.

8 **MS. JONES:** And at the very bottom of the
9 page it says:

10 "He stated that he would give evidence
11 but wanted me to know that he did not
12 want any money, that he will come
13 forward because..."

14 And unfortunately I think the notes kind of end there quite
15 abruptly.

16 **MR. SNYDER:** The pages are mixed up again.
17 I'm not sure where that next page is.

18 **MS. JONES:** I wasn't sure, actually, if it
19 was ---

20 **MR. SNYDER:** But he "came forward because"
21 and there's something and then:

22 "Subject had to go to work, so an
23 appointment was made for him to come on
24 March 14th."

25 I think there's a line missing somewhere.

1 **MS. JONES:** Yeah. It's still -- I think
2 that Bates page 5003 may be the next one.

3 **MR. SNYDER:** I think so.

4 **MS. JONES:** But I'm not 100 percent sure.

5 **MR. SNYDER:** You're correct.

6 **MS. JONES:** On the Bates page 5002 -- and I
7 don't think these are in sequence, unfortunately, but if I
8 just look at the summary, at 12:51 it says:

9 "Constable Genier gave me a copy of [C-
10 8]..."

11 **THE COMMISSIONER:** Copy of tape?

12 **MS. JONES:** Tape.

13 **MR. SNYDER:** Tape, yeah.

14 **MS. JONES:** "...tape of [C-8]..."

15 **MR. SNYDER:** Correct. That should have
16 appeared earlier on.

17 **MS. JONES:** That's my question for you; do
18 you know when this sequence of events would have been
19 because there's no date on there?

20 **MR. SNYDER:** Well, it would have been
21 shortly after -- I think the date is there. It's just I
22 think we're -- the pages are mixed up.

23 **MS. JONES:** Another reason why loose-leaf
24 notes are not a good idea for police officers perhaps
25 rather than paginated notebooks?

1 Now, on page 5003, we start with Friday,
2 March 14th, 1997, and in that particular place now you have
3 -- we have a moniker for this person that's mentioned
4 halfway through. At 8:35 you have:

5 "Left message with..."

6 Do you see that?

7 **MR. SNYDER:** M'hm. Yes.

8 **MS. JONES:** The moniker for that person is
9 C-58.

10 **MR. SNYDER:** I'm probably going to need a
11 piece of paper to write down names and numbers because I'm
12 not going to remember them.

13 **THE COMMISSIONER:** Yes.

14 **MS. JONES:** Perhaps Madam Clerk can do that
15 for you.

16 Now, when you learned of C-58, and it seems
17 at 8:55 he returned your call, which I would say is pretty
18 quick to return a phone call, again he was talking about
19 Marcel Lalonde and things that had happened to him.

20 When you get a name of somebody, just as
21 general practice, that makes these certain allegations, do
22 you do a search on that name through your card catalogue or
23 -- I mean, that would be OMPPAC, but ---

24 **MR. SNYDER:** I'm sorry, as in who are you
25 talking about, the victim?

1 **MS. JONES:** Yeah, like C-58.

2 **MR. SNYDER:** I look for -- I think you might
3 see some notes where I was actually looking for him
4 previously too. Like, all the victims I would try and find
5 out where they are. I called Social Services. I used the
6 Cornwall Electric sometimes, whatever I could do to find
7 out where these people are, I attempted.

8 **MS. JONES:** Okay, that's not my question
9 though. Do you look through your CPS files, your card
10 catalogue or OMPPAC system ---

11 **MR. SNYDER:** Absolutely.

12 **MS. JONES:** --- as it would have been then?

13 **MR. SNYDER:** Yes.

14 **MS. JONES:** To do any sort of a name search
15 ---

16 **MR. SNYDER:** Yes.

17 **MS. JONES:** --- to see if they have had
18 contact with the police?

19 **MR. SNYDER:** Yes.

20 **MS. JONES:** And do you recall doing a search
21 specifically on C-58 or is that something you do with every
22 ---

23 **MR. SNYDER:** I would do it naturally. I
24 would do it naturally for everybody. If I'm looking for
25 somebody, that's the first place I would look to see what

1 kind of contacts we've had and see if we have updated phone
2 numbers and addresses.

3 **MS. JONES:** Okay. Now the next Bates page,
4 5004 I think is also out of order because we have C-66
5 coming to Headquarters and giving a witness statement and
6 it would appear that you had tried to make it for March
7 14th, but there was a snowstorm so he actually came on March
8 17th, and we have that from another source. So I believe
9 these notes are going to be dated March 17th.

10 **MR. SNYDER:** I just think these come over.
11 I think that ---

12 **MS. JONES:** Oh, it does say March 17th, yes
13 that's right. So March 17th at 11:55 ---

14 **MR. SNYDER:** Correct.

15 **MS. JONES:** --- C-66 attended and provided a
16 witness statement?

17 **MR. SNYDER:** Correct.

18 **MS. JONES:** Do you see that there?

19 **MR. SNYDER:** Yes.

20 **MS. JONES:** Now during that witness
21 statement -- we actually have the witness statement as
22 well. And I'll refer you to Document 734184.

23 **THE COMMISSIONER:** Thank you. Exhibit 1586
24 is a statement of -- what's his ---

25 **MS. JONES:** C-66.

1 **THE COMMISSIONER:** C-66 dated 17th March
2 1997.

3 **--- EXHIBIT NO./PIÈCE No. P-1586:**

4 (734184) - Brian Snyder - Statement of C-66
5 dated 17 Mar 97

6 **MS. JONES:** I can say that the original
7 handwritten version is Document 102426.

8 **THE COMMISSIONER:** All right, thank you.
9 Exhibit number 1586 will be -- the handwritten portion will
10 be 1586(a).

11 **--- EXHIBIT NO./PIÈCE No. P-1586(a):**

12 (102426) - Brian Snyder - Handwritten
13 Statement of C-66 dated 17 Mar 97

14 **MR. SNYDER:** Let's use the typewritten one.

15 **THE COMMISSIONER:** Pardon me?

16 **MR. SNYDER:** Let's use the typewritten one.

17 **MS. JONES:** That's why I entered ---

18 **MR. SNYDER:** This is my handwriting.

19 **MS. JONES:** Yes, I wanted to -- I'm sorry,
20 1586(a) is the handwritten.

21 I just wanted to show that the handwritten
22 version is there. It's your signature on it, but the typed
23 version is easier to read, if that's okay.

24 **MR. SNYDER:** Absolutely.

25 **MS. JONES:** So we're referring to the

1 typewritten version, which is identical to the handwritten,
2 just easier to read. The way that the statement of C-66
3 comes out, it's pretty well how you've summarized it here
4 in your notes as well, and in the statement this deals only
5 with what happened with regards to Marcel Lalonde, correct?

6 **MR. SNYDER:** Correct.

7 **MS. JONES:** Now I take it happened after the
8 statement was finished but you can correct me if I'm wrong,
9 but sometime during that conversation C-66 also mentioned
10 that he had been sexually assaulted when he was 14 years
11 old by another person; correct?

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

13 **MS. JONES:** And his name is Bernard Sauv e?

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

15 **MS. JONES:** And he gave you a few details as
16 to what the assault was that happened that he was ---

17 **MR. SNYDER:** Well, he told he was assaulted
18 and where it took place and that he was working there.
19 That's the extent of what he told me.

20 **MS. JONES:** All right, and if you could just
21 read your handwriting, if you would. It starts with "I
22 will."

23 **MR. SNYDER:** "I will be checking further
24 after the Lalonde statement. The
25 subject was tired and he had to attend

1 work for 3:00 p.m. so another
2 appointment was made for him to attend
3 H.Q. re Sauv .

4 **MS. JONES:** Now the way that I read that is
5 just what it says there. The only reason the interview
6 stopped at that point was because he had to go to work at
7 3:00. He's tired and he knows he has to go to work. I
8 don't even know what his hours are but presumably he's
9 working to the evening.

10 **MR. SNYDER:** Probably 3:00 to 11:00.

11 **MS. JONES:** Yeah, and it's obviously quite
12 exhausting giving a statement to police about a traumatic
13 sort of event. And the statement was taken approximately
14 11:55 or at noon'ish, if he has to start work at 3:00,
15 however long the statement took to complete.

16 **MR. SNYDER:** He left at 1:35.

17 **MS. JONES:** Okay, so 1:35 he has to work an
18 hour-and-a-half. But certainly it's my impression reading
19 the notes, and I think you'd agree with me perhaps, when he
20 left that day -- when C-66 left that day he did fully
21 intend to talk to you further about what happened to him --
22 -

23 **MR. SYNDER:** Yes.

24 **MS. JONES :** --- vis-à-vis Mr. Sauv ?

25 **MR. SNYDER:** Yes.

1 **MS. JONES:** Of that there was no doubt?

2 **MR. SNYDER:** There was no doubt.

3 **MS. JONES:** And this is a person that to go
4 back, as soon as you had contacted him, he was at
5 headquarters almost within half an hour. He had made an
6 appointment, he cancelled it because of the snowstorm. He
7 called you about that.

8 **MR. SNYDER:** M'hm.

9 **MS. JONES:** And then he came for the
10 designated appointment time, so this is a very reliable
11 sort of a person?

12 **MR. SNYDER:** He was, yes.

13 **MS. JONES:** Now to the best of your
14 knowledge, did you have any other contact with C-66
15 concerning the Bernard Sauv  matter?

16 **MR. SNYDER:** Yes.

17 **MS. JONES:** And when was that?

18 **MR. SNYDER:** I don't have notes of it
19 unfortunately, but we did meet and he expressed that he
20 wasn't ready to proceed with Bernard Sauv , and I said well
21 when you're ready come and see me and we'll proceed with
22 it.

23 **MS. JONES:** Now you strike me as a pretty
24 good note taker with the notes that we've read here.

25 **MR. SNYDER:** Yes.

1 **MS. JONES:** And you take quite detailed
2 notes?

3 **MR. SNYDER:** Yes.

4 **MS. JONES:** You would agree with me that if
5 you have a sexual assault victim now that is changing his
6 mind -- because when you left him last time he was fine --
7 that that would be something that normally would go into
8 notes?

9 **MR. SNYDER:** Yes. And I've been toying with
10 this and the only thing I wasn't near a notebook. It was
11 on the street. It was out and we met and he provided me
12 that information and I didn't make a notation of it.

13 **MS. JONES:** And when are you saying that
14 this may have happened?

15 **MR. SNYDER:** Sometime within -- the time
16 within Marcel Lalonde investigation and the court case.
17 That's all that I can -- best recollection of it.

18 **MS. JONES:** Well, the Lalonde matter went on
19 for a long time.

20 **MR. SNYDER:** No, it was within the first
21 month or two because we did have a date. We were going to
22 set a date so it happened in between that time and the
23 date, and the date would have been within two or three
24 weeks. So within that two or three week period, I'm
25 assuming. I wasn't at my desk. I wasn't at a phone. It

1 was out -- out in general and we spoke and he gave me that
2 information.

3 **MS. JONES:** Well, you're saying you're
4 assuming; you don't know that?

5 **MR. SNYDER:** No, I know we had the
6 conversation.

7 **MS. JONES:** No, but you're assuming you were
8 out and about with no access to a notebook?

9 **MR. SNYDER:** Well, no if I had the notebook,
10 I would have written it down. I wasn't near a notebook. I
11 was out. It wasn't -- I was in the office. I know that
12 for sure. I just don't know where it was we spoke.

13 **MS. JONES:** M'hm. In any event, you did no
14 follow-up phone call with C-66; this is your last sort of
15 notebook entry?

16 **MR. SNYDER:** I had a conversation with him
17 about the trial. I know there's a notation somewhere
18 because I remember seeing it about Lalonde being charged
19 and I called him in reference to that. And that would have
20 been the extent OF it in reference to this here, and then
21 later on I think we spoke about having a conversation with
22 him when he went to the OPP.

23 **MS. JONES:** But with regards to Bernard
24 Sauv ?

25 **MR. SNYDER:** I had no further conversation

1 with him about that, correct, except for that one time when
2 he said ---

3 MS. JONES: Okay.

4 MR. SNYDER: --- that he wasn't prepared to
5 proceed.

6 MS. JONES: But you have no further notes
7 with regards to C-66 and Bernard Sauvé up until -- you
8 mentioned the OPP?

9 MR. SNYDER: That's correct.

10 MS. JONES: But certainly for the next few
11 months anyways?

12 MR. SNYDER: That's correct.

13 MS. JONES: Just a moment please.

14 (SHORT PAUSE/COURTE PAUSE)

15 MS. JONES: If I could just look at document
16 102427, please?

17 THE COMMISSIONER: We'll go for another 20
18 minutes, half an hour and then we will call it a day. How
19 is that?

20 Thank you. Exhibit number 1587 is a will-
21 say statement dated the 30th of April '97.

22 --- EXHIBIT NO./PIÈCE No. P-1587:

23 (102427) - Brian Snyder - Statement of Brian
24 Snyder dated 19 Oct 99

25 MS. JONES: Do you have that in front of

1 you? Oh, you don't ---

2 **MR. SNYDER:** I've got it.

3 **MS. JONES:** You have it; okay.

4 Just to say for sake of clarity, this is a
5 statement. I'm actually confused as to when the statement
6 was made, if it was the 30th of April '97 or 19th of October
7 '99.

8 **MR. SNYDER:** Okay. Well, I think there's
9 two statements here in one. The first statement was the
10 30th of April '97 and then there is an add-on I guess to
11 that one, I think, if you go a little lower here. I'm not
12 sure how to do that. You'll see that on October 18th, '99,
13 the second -- that's right, second statement given by
14 myself on October 18th, '99.

15 **MS. JONES:** So this is many years later, two
16 years later that you're making ---

17 **MR. SNYDER:** Two years.

18 **MS. JONES:** Yeah, two years later that
19 you're making the statement.

20 **MR. SNYDER:** It's correct.

21 **MS. JONES:** It isn't contemporaneous to the
22 event.

23 **MR. SNYDER:** The first part is and then
24 although I do not have any notes to reflect this
25 conversation, that's -- that's not in my notes but that's

1 two years later; correct.

2 MS. JONES: Okay. So in 1999 you're
3 reflecting back a couple of years ---

4 MR. SNYDER: Correct.

5 MS. JONES: --- as to what your memory is.
6 Now, you'll agree with me that you write
7 there,

8 "Although I did not have any notes to
9 reflect this conversation, I remember
10 speaking with C-66 and him advising me
11 that he did not wish to proceed with
12 the Sauvé complaint at this time and
13 that he would get back to me when he
14 was ready to do so."

15 MR. SNYDER: Correct.

16 MS. JONES: You'll agree with me you don't
17 have any details about where you met him, when you met him.

18 MR. SNYDER: That's correct.

19 MS. JONES: You don't mention what you're
20 saying now; you met him outside where you had no notebook.

21 MR. SNYDER: No, I wish I would have put in
22 more because probably in '99 I would have remembered more
23 of what had occurred, but unfortunately I don't have it.

24 MS. JONES: You probably would have
25 remembered it after it happened actually rather than 1999,

1 I would suggest.

2 MR. SNYDER: You're right.

3 (SHORT PAUSE/COURTE PAUSE)

4 MS. JONES: Now, if I could please move you
5 to document 727731, Bates page 318. You know what; I think
6 I've got -- excuse me, Madam Clerk, I think I've got a
7 better -- I think I've got a better document number for
8 that because I think that's a lengthy document, that first
9 number I gave you.

10 No, I'm sorry. It is Bates page 318.

11 THE COMMISSIONER: Thank you. Exhibit
12 number 1588 is an excerpt of document 727731.

13 --- EXHIBIT NO./PIÈCE No. P-1588:

14 (727731)(7107318) - Brian Snyder - Notes of
15 Don Genier dated 01 May 98

16 THE COMMISSIONER: Are these your notes,
17 sir?

18 MR. SNYDER: No, they're not.

19 MS. JONES: No, they're not. These I can
20 actually identify them for you, Mr. Commissioner. These
21 are notes prepared by OPP Officer Genier and the date of
22 the notes were May 1st, 1998.

23 THE COMMISSIONER: Okay.

24 MS. JONES: I'm just drawing your attention
25 to -- I'm sorry. Do you have that in front of you?

1 **MR. SNYDER:** I have the -- sorry. I have
2 the sheet in front of me, yes.

3 **MS. JONES:** You have it there; okay.
4 About halfway down this sheet in point
5 number 7

6 **MR. SNYDER:** Yes.

7 **MS. JONES:** You can see C-66's name.

8 **MR. SNYDER:** Correct.

9 **MS. JONES:** I just wanted to point that out
10 to you. The way that it works here as well is that a
11 document may be very, very large and I only want to have
12 one small reference to a particular page. So that sometime
13 is how that works.

14 **MR. SNYDER:** Sure.

15 **MS. JONES:** So just for the context of it,
16 so the date of that document is May 1st, 1998 and we see C-
17 66's name at point 7, together with contact details. Okay.

18 Now, I want to go to the same document but
19 Bates page 326, please.

20 **THE COMMISSIONER:** Thank you. Exhibit 1589
21 is another extract of -- who did you say Dupuis'? Whose
22 notes are these?

23 **MS. JONES:** I'm sorry; Officer Genier's
24 excerpt.

25 **THE COMMISSIONER:** Officer Genier.

1 **MS. JONES:** So the same exhibit, Mr.
2 Commissioner, just a different Bates page.

3 **THE COMMISSIONER:** No, they're not different
4 exhibits. They are the same document number but different
5 excerpts.

6 **MS. JONES:** Yes, that's right, but it's
7 still Exhibit 1588.

8 **THE COMMISSIONER:** No, no.

9 **MS. JONES:** No, it's not? I'm sorry.

10 **THE COMMISSIONER:** No, no, it's Exhibit
11 1589.

12 **--- EXHIBIT NO./PIÈCE No. P-1589:**

13 (727731)(7107326-37) - Brian Snyder - Notes
14 of Don Genier dated 12 May 98 to 25 May 98

15 **MS. JONES:** Oh, okay. I'm sorry.

16 **THE COMMISSIONER:** Okay. So where are we
17 going with this document?

18 **MS. JONES:** Yeah. Document -- page number
19 326, the date is Tuesday, May 12th, 1998, 9:09, "Called C-
20 66". Do you see that entry?

21 **MR. SNYDER:** Yes.

22 **MS. JONES:** And then it says:

23 "Will meet him at 1:30 hours
24 tomorrow";

25 13:30.

1 **MR. SNYDER:** Yes.

2 **MS. JONES:** You see that. And again, these
3 are Officer Genier's notes.

4 Now, I'd like to refer you to Bates page
5 328, which is page 82, and the little notation in the notes
6 makes it easier for you. And at 13:45, which is
7 approximately halfway down the page ---

8 **MR. SNYDER:** Yes.

9 **MS. JONES:** It says: "Received call from
10 Constable Desrosiers".

11 **MR. SNYDER:** Yes.

12 **MS. JONES:** And he states that
13 "C-66 has left a message for him
14 stating he's nervous because I called
15 him."

16 "I" being Officer Genier.

17 **MR. SNYDER:** Yes.

18 **MS. JONES:** "Officer Desrosiers is
19 concerned because he states C-66 is
20 very fragile at this time and he will
21 call C-66 and advise."

22 And then at 14:22 it seems that,
23 "Officer Genier received a call from
24 Sergeant Hall and advised that
25 Inspector Trew from CPS had called him

1 and raised concern about Genier
2 interviewing C-66. Sergeant Hall is in
3 for tomorrow. We'll hold off for now."

4 I guess my question is that do you have any
5 idea why all these people are all of a sudden contacting
6 Officer Genier with regards to C-66 basically telling
7 Officer Genier don't do anything about that? Your name is
8 not mentioned at that point but you were involved in that
9 investigation.

10 **MR. SNYDER:** Yeah, actually over the weekend
11 I had an opportunity to look at different notes and there
12 are some OPP notes that I saw and my name was mentioned and
13 I'm able to -- but I don't have any idea who the officer
14 was. What happened Gilbert ---

15 **THE COMMISSIONER:** C-66.

16 **MR. SNYDER:** Sorry, I don't have the number.

17 **MS. JONES:** C-66.

18 **MR. SNYDER:** Yeah, C-66 called Rene
19 Desrosiers wanting to know what was going on, why did
20 Genier want to speak to him, left a voice message on his
21 answering message. He then contacted me and I said I'll
22 look into it, contacted -- sorry, then -- Desrosiers then
23 came in to see me, according to the notes I have read, and
24 said that he just got finished doing a preliminary inquiry
25 and is pretty fragile and we should find out why they want

1 to speak to him because he's not doing so well.

2 So I then contacted the OPP Project Truth,
3 spoke to an officer, I'm not sure who it was, and mentioned
4 about Genier going to speak to him and I said "Could you
5 have Constable Genier speak to me first before he speaks to
6 him because he is in fact fragile".

7 I then contacted C-66 to let him know the
8 list, I'm going to find out for you what's going on; bear
9 with me a bit.

10 I then got another call the next day by the
11 OPP saying they're not sure yet if he's a victim or a
12 witness. They'll get back to me. They called the next day
13 again saying that they hadn't been able to get a hold of
14 Genier, they'll get back to me within a week and then that
15 was the last I had any dealings with it.

16 I never did follow back with C-66 because I
17 was still waiting for a phone call from the OPP letting me
18 know why they wanted to speak to him.

19 Does that make any -- hopefully clear things
20 up?

21 **MS. JONES:** Well, I still have some
22 questions about that, but why -- I mean, if you are the
23 person that's overseeing the Lalonde investigation and
24 that's your baby.

25 **MR. SNYDER:** Correct, but Constable

1 Desrosiers has -- I am his supervisor. He has the
2 investigation. He is doing the Crown briefs. He is
3 dealing with the Crowns. He is dealing with all that
4 stuff. I have since passed it on to him.

5 So he has the knowledge. He went to the
6 Preliminary Inquiries. He did all those things with the
7 victims. I didn't do that.

8 **MS. JONES:** I understand that, but it would
9 seem that it is Inspector Trew that is calling back Genier
10 saying ---

11 **MR. SNYDER:** That's correct. Well, he would
12 have been made ---

13 **MS. JONES:** --- don't talk to him. Don't
14 talk to C-66, I mean.

15 **MR. SNYDER:** Well, Inspector Trew would have
16 been my supervisor. He had been made aware of what was
17 going on, so obviously was in that context he contacted his
18 -- his direct ---

19 **THE COMMISSIONER:** His equivalent?

20 **MR. SNYDER:** Equivalent.

21 **MS. JONES:** So the only way, though, that
22 Inspector Trew would have learned of this would have been
23 through you though?

24 **MR. SNYDER:** Me or Constable Desrosiers.

25 **MS. JONES:** Well the chain of command would

1 probably mean you, would it not?

2 **MR. SNYDER:** Well it can be.

3 **MS. JONES:** I mean I can't ask Desrosiers to
4 skip you and go straight to Inspector Trew.

5 **MR. SNYDER:** Well, no, we have -- again, I
6 have no recollection of speaking to the Inspector. It
7 could have been me, it could have been Constable
8 Desrosiers. We are not that hard fast that he can't go to
9 Inspector and let him know, hey, listen, by the way, this
10 is what is going on.

11 That wouldn't hurt my feelings if you did
12 that, but obviously Inspector Trew was made aware of it and
13 contacted Inspector Hall.

14 **MS. JONES:** It just appears just on the face
15 of it here that we have got Officer Desrosiers, yourself
16 and Officer Trew trying to stop Officer Genier from talking
17 to C-66 ---

18 **MR. SNYDER:** I don't believe we're trying to
19 stop. I don't believe that. I don't believe that at all.

20 I think we want to make them aware that if
21 you are going to interview him, be careful, he's very
22 fragile. And that -- I don't -- there was no indication
23 that we were trying to prevent them from speaking to C-66.

24 **MS. JONES:** I guess I just find it curious
25 that an inspector would go to that trouble to do that. Are

1 you?

2 **MR. CALLAGHAN:** Well again, my friend wasn't
3 here for the evidence of Inspector Trew, Mr. Commissioner,
4 you were here, about his liaison role with Project Truth.
5 To suggest it is unusual, given he had that specific role,
6 I don't think it's fair.

7 **THE COMMISSIONER:** Okay, Officer Trew or
8 Inspector Trew was the liaison. So maybe there's that.

9 **MS. JONES:** So anytime then that you had a
10 concern about a victim being fragile and talking with
11 Project Truth, Inspector Trew was the person that would
12 have made the contact?

13 **MR. SNYDER:** I made the contact or I
14 attempted to make the contact myself with the officer.
15 Inspector Trew was liaison. Obviously, he did his thing
16 with his direct equal, and I didn't have any other, in my
17 mind, I can't think of any, any other experience other than
18 this one time.

19 **MS. JONES:** Okay. I would like you, please,
20 to go to Document 102429.

21 **THE COMMISSIONER:** Thank you. Exhibit 1590
22 is the Will State -- Will Say of Constable Rene Desrosiers,
23 April 14th, 2000.

24 **--- EXHIBIT NO./PIÈCE No P-1590:**

25 (102429) - Brian Snyder - Statement of Rene

1 Desrosiers dated 14 Apr 00

2 **MS. JONES:** Have you read this document,
3 Sergeant Snyder?

4 **MR. SNYDER:** Well, last -- this morning,
5 actually.

6 **MS. JONES:** Okay. You will see the second
7 paragraph, it says:

8 "On or about the month of May of 1998,
9 I received a voice mail message from C-
10 66. C-66 is a victim of a non-related
11 matter investigated by myself and
12 Sergeant Brian Snyder. His message
13 indicated that the Ontario Provincial
14 Police had called him and wanted to
15 meet with him. My understanding at
16 that time was that C-66 may be a victim
17 in the Project Truth investigation. I
18 knew C-66 had previously been involved
19 in a preliminary hearing months before
20 and he was emotionally upset with the
21 ordeal. I then attended Sergeant Brian
22 Snyder's office and advised him of C-
23 66's message to me and the possibility
24 that Project Truth investigators were
25 interested in meeting with him. I then

1 discussed the issue of C-66 being
2 interviewed at this time by the Ontario
3 Provincial Police with Sergeant Snyder,
4 the reason being that C-66 was already
5 involved in a court proceeding and that
6 he was in a fragile emotional state. I
7 was advised by Sergeant Snyder that he
8 would call C-66 and Detective Constable
9 Don Genier to discuss this issue. I
10 did not make any officer's notes in
11 reference to the above matter, and my
12 Will State is recorded from memory."

13 And we have to say that the date of this
14 Will Say is April 14th, 2000. So it is nearly two years
15 after the event.

16 **MR. SNYDER:** Yes.

17 **MS. JONES:** And so, again, I take it from
18 that context, he also has no notes to refer to as well.

19 But based on what you are saying and indeed,
20 in this particular Will Say, it seemed that you were the
21 person that was going to be speaking to Officer Genier
22 about C-66.

23 **MR. SNYDER:** And I attempted to do that,
24 yes.

25 **MS. JONES:** And you did do that?

1 **MR. SNYDER:** I never spoke to him directly.
2 I spoke to an officer, three different times from Project
3 Truth who was trying to relay the information to Officer
4 Genier. In the interim, C-66 contacted them directly
5 because it took so long -- or because he just wanted to
6 speak to them and find out what's going on because I never
7 got back to him.

8 **MS. JONES:** Okay. And I would like you
9 please to go to Document 721121.

10 I'm sorry, Mr. Commissioner, what time were
11 you going to finish, in five minutes or 15?

12 **THE COMMISSIONER:** After this. After you
13 finish this point here.

14 **MS. JONES:** Okay. This just takes a bit of
15 time, that's all.

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

17 **THE COMMISSIONER:** Thank you. Exhibit
18 Number 1591 is the video-taped interview report of C-66
19 dated May 22nd, 1998.

20 **--- EXHIBIT NO./PIÈCE No P-1591:**

21 (721121) - Brian Snyder - Video Taped
22 Interview Report by C-66 w/ OPP Don Genier
23 dated 14 Oct 65

24 **MS. JONES:** Have you read this over,
25 Sergeant Snyder, before?

1 **MR. SNYDER:** Just today.

2 **MS. JONES:** All right. Do you need a moment
3 just to refresh your memory?

4 **MR. SNYDER:** Well, ask me the questions I
5 guess, and we can go through. It's quite lengthy, so ---

6 **MS. JONES:** Okay.

7 This essentially is a transcript of an
8 interview with C-66 and Officer Genier, 22nd of May 1998,
9 and they are discussing the allegations surrounding Bernard
10 Sauv .

11 **MR. SNYDER:** Correct.

12 **MS. JONES:** And that is made clear in the
13 very first introductory paragraphs.

14 I just want to refer you, please, to Bates
15 page 603, which is stamped page 9 in your document. It's
16 actually three pages ahead.

17 And in this particular -- rather than
18 reading out every entry because it is quite labour
19 intensive, C-66 is essentially saying that he disclosed
20 abuse of Bernard Sauv  to yourself, Brian Snyder.

21 **MR. SNYDER:** Correct.

22 **MS. JONES:** And at the very bottom, Officer
23 Genier said:

24 "When would you have disclosed that
25 approximately?"

1 And on the next Bates page 604, C-66 says on
2 the second line:

3 "It's probably a year ago."

4 **MR. SNYDER:** Correct.

5 **MS. JONES:** Which is about the right
6 timeframe, isn't it, when he first made mention of it to
7 you? It's actually ---

8 **MR. SNYDER:** Well, it would have been ---

9 **MS. JONES:** Fourteen months?

10 **MR. SNYDER:** Can't remember. Approximately.

11 **MS. JONES:** Okay. And then C-66 goes on to
12 say in response to Genier asking:

13 "At that time, did you disclose any
14 abuse on any other persons besides the
15 schoolteacher?"

16 And C-66 said:

17 "Not a written statement."

18 Genier:

19 "What do you mean not a written
20 statement?"

21 And C-66 said:

22 "Like I never made a statement for
23 Bernard Sauvé. I never made a
24 statement for him. Do you understand?
25 Like I told -- I told Brian about it

1 but never -- we never made a
2 statement."

3 Then down at the bottom, the last entry for
4 Officer Genier:

5 "Did you say a verbal statement?"

6 And then C-66 said:

7 "Well I was making a statement for
8 Marcel."

9 And then on Bates page 605, C-66 said:

10 "It was just in conversation that I
11 told him about Burnie. You know, we
12 never -- we never made no statements of
13 like..."

14 Then a little bit further down, C-66 says:

15 "I told Brian that he assaulted me when
16 I was -- like, sexual assault when I
17 was a child, like 14."

18 I'm assuming "to Brian" is you?

19 **MR. SNYDER:** Yes.

20 **MS. JONES:** Because he knows you on a first-
21 name basis?

22 **MR. SNYDER:** Yes.

23 **MS. JONES:** "OFFICER GENIER: And what was
24 the outcome there?

25 C-66: There was no outcome. He

1 never (inaudible).

2 OFFICER GENIER: Was there a reason why
3 the -- the statement wasn't taken?

4 C-66: I -- I believe -- I think now --
5 if -- if I remember right, I think
6 Brian was supposed to look into it, if
7 he was still alive or whatever.

8 BURNIE: But, ah, I..."

9 And that basically -- it just goes off on
10 another topic. It never really is ---

11 MR. SNYDER: No.

12 MS. JONES: --- explored any further.

13 But from reading this from C-66, would you
14 agree with me that he seems to, just on the face of it, be
15 telling Officer Genier that he was expecting a phone call
16 back from you to follow up on the Bernard Sauvé matter?

17 MR. SNYDER: Yes.

18 MS. JONES: And it would also seem,
19 according to C-66, that he didn't tell you, "I don't want
20 to go through with this. Forget Bernard Sauvé."

21 MR. SNYDER: According to this, yes.

22 MS. JONES: According to this.

23 MR. SNYDER: Yes.

24 MS. JONES: And according to this, the last
25 time that C-66 is saying that you discussed it is

1 consistent with your -- the last note you have of it, which
2 says that:

3 "He told me about Bernard Sauvé. Then
4 he was tired. He had to go to work and
5 make it another day to talk about
6 that."

7 That particular date of that entry?

8 **MR. SNYDER:** According to him here?

9 **MS. JONES:** According to him, your last
10 written entry about Bernard Sauvé and C-66 is consistent
11 with what he's saying here on the face of it?

12 **MR. SNYDER:** Yes. Yes.

13 **THE COMMISSIONER:** Good place to stop?

14 **MS. JONES:** I beg your pardon?

15 **THE COMMISSIONER:** A good place to stop?

16 **MS. JONES:** A good place to stop. Thank
17 you.

18 **THE COMMISSIONER:** We'll see you tomorrow
19 morning at 9:30, sir.

20 **THE REGISTRAR:** Order; all rise.

21 À l'ordre; veuillez vous lever.

22 This hearing is adjourned until tomorrow
23 morning at 9:30 a.m.

24 --- Upon adjourning at 5:19 p.m./

25 L'audience est ajournée à 17h19

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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