

**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 66

Held at :

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

Wednesday November 8, 2006

Tenue à:

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

Mercredi, le 8 novembre 2006

ERRATA

November 7, 2006
Volume 65

References made by Mr. Wong to the Criminal Code 46

Should have read

Criminal Code 486

Appearances/Comparutions

Mr. Pierre R. Dumais	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Suzanne Costom	
Dect.Staff Sgt. Colin Groskopf	
Mr. Joe Neuberger	Ontario Ministry of Community
M ^e Claude Rouleau	and Correctional Services and
Mr. Mike Lawless	Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association

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1 --- Upon commencing at 9:35 a.m./

2 L'audience débute à 9h35

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 presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning, Maître
10 Dumais.

11 **MR. DUMAIS:** Good morning, Commissioner.

12 We had indicated last week, Commissioner,
13 that we would try to address and file some of the exhibits
14 that I intended to put to the witness prior to calling him
15 in an attempt to resolve all the issues so that we don't
16 have to break in the middle of the evidence and go in
17 camera. I just want to go through the list of documents I
18 intend to file.

19 There are some confidentiality issues, which
20 I must address. I am going to try to do so without going
21 in camera, Commissioner. I did have a discussion with Mr.
22 Dallas Lee who has some representations to make and
23 hopefully we can do it that way.

24 **THE COMMISSIONER:** All right.

25 **MR. DUMAIS:** The first document I will be

1 filing, Commissioner, is document number 114249, which is
2 some correspondence from Murray MacDonald, and that exhibit
3 should be a "P" exhibit number. There are no issues. I
4 was told this morning what number we are at, but I forgot.
5 If Madam Clerk ---

6 **THE REGISTRAR:** P-112.

7 **THE COMMISSIONER:** I'm sorry?

8 **THE REGISTRAR:** P-112.

9 **THE COMMISSIONER:** P-112.

10 --- **EXHIBIT NO./PIÈCE NO P-112:**

11 Letter from Murray MacDonald to D.W. Johnson -
12 January 16, 1995

13 **MR. DUMAIS:** The second exhibit I am going
14 to ask to file, Commissioner, is 115918, which is the Pre-
15 Sentence Report of Nelson Barque, and there are no issues
16 with that document either.

17 --- **EXHIBIT NO./PIÈCE NO P-113:**

18 Nelson Barque - Pre-Sentence Report
19 August 18, 1995

20 **MR. DUMAIS:** The third is document number
21 116129, and that should be P-114 as there are no issues.
22 That is the transcript of the proceeding, so the sentence
23 hearing.

24 **THE COMMISSIONER:** Yes.

25 --- **EXHIBIT NO./PIÈCE NO P-114:**

1 Transcript - Her Majesty the Queen against Nelson
2 Barque - Sentencing Hearing - August 18, 1995

3 **MR. DUMAIS:** The fourth document is document
4 number 703130, and that should be an interim "C" Exhibit
5 115 waiting your decision, Commissioner. I will just point
6 what the issue is with that document.

7 I am going to ask Madam Clerk to shut down
8 the public screen. Perhaps then if you can turn it to page
9 7008831?

10 **--- EXHIBIT NO./PIÈCE NO C-115:**

11 Albert Roy - Incident Report November 25, 1994

12 **MR. MANSON:** Mr. Commissioner, with your
13 permission, following our discussion yesterday about in
14 camera, Mr. Scott is gone to the monitor.

15 **THE COMMISSIONER:** Yes, that's fine. Thank
16 you.

17 So we are at 7008831? Is that right?

18 **MR. DUMAIS:** Yes, Commissioner. I am just
19 trying to locate the names.

20 **THE COMMISSIONER:** There is a name in the
21 last big paragraph, "I had with...".

22 **MR. DUMAIS:** That is correct, Commissioner,
23 and that's one of the names. So on December 1st, 1994.

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

25 **MR. DUMAIS:** And there is one name there.

1 **THE COMMISSIONER:** The name is repeated four
2 lines down, well, a number of times.

3 **MR. DUMAIS:** And there is a further name,
4 and it's the second-last line and there's a name there
5 towards the end of that line. These are the two names. I
6 think there is a mistake in the last name or at the very
7 least, it would be an identifier.

8 So I am going to ask Mr. Dallas Lee, who
9 represents both of these victims or alleged victims to
10 address you on those matters.

11 **MR. CALLAGHAN:** Sir, before Mr. Lee comes
12 up, I don't believe that that last name is a mistake. That
13 is the correct name.

14 **MR. DUMAIS:** As I indicated, it is either
15 the name or the identifier, Commissioner, so it comes to
16 the same thing.

17 **THE COMMISSIONER:** Right.

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

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

20 **MR. LEE:** The first name on that piece of
21 paper that was identified being the name after "I met with"
22 and then the name, I represent that gentleman.

23 I have been in touch with him and he has
24 instructed me that he does wish to seek confidentiality
25 measures. It is not expected that he will be called to

1 this Inquiry for a number of reasons, and it hasn't been
2 indicated otherwise to me. He is currently living out of
3 the province. He specifically has advised me that he is
4 not seeking -- essentially, our conversation went that I
5 told him that there has been a suggestion here that a
6 publication ban is appropriate as well as editing of the
7 public documents. This particular individual has advised
8 me he does not want the extra protection of editing of
9 public documents. He is only interested in a publication
10 ban. I can tell you that.

11 As for the name in the second last line of
12 that page, I agree that that is not a typo, that is the
13 proper name. That is the name of the brother of my client.
14 That client, I have received instructions from him, and I
15 believe I can say his name, given those instructions. His
16 name is Robert Sheets. He has indicated to me that he does
17 not wish any confidentiality measures with respect to his
18 name whatsoever either here in the hearing room, in the
19 documents or anything. He has no issues with
20 confidentiality. He does not wish to be protected and he,
21 in fact, has advised me -- he lives in London, Ontario --
22 he has advised me that he is following the Inquiry very
23 closely by the web cast and that he believes that it is
24 important his name be out there and he does not wish to be
25 protected at all at this Inquiry.

1 **THE COMMISSIONER:** Okay. That's fine.

2 Does anybody here have any further
3 submissions to make with respect to this matter?

4 **MR. LEE:** If I can, just before we get to
5 anybody else, sir ---

6 **THE COMMISSIONER:** Oh, I'm sorry.

7 **MR. LEE:** As you know, we are still waiting
8 on your ruling of kind of what you are going to do. You
9 have heard from us on what we propose for victims that we
10 haven't heard from and don't know their wishes or ones we
11 have heard from. Again, I would put the first name on this
12 page in a similar category to the gentleman that contacted
13 Mr. Rose and the gentleman that contacted Mr. Sherriff-
14 Scott. I mean, the submissions are really the same,
15 essentially. You have heard from us on what we think
16 should be done with that and we are waiting for your ruling
17 on that.

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

19 **MR. LEE:** Do you need anything else from me
20 at this point, sir?

21 **THE COMMISSIONER:** Well, no.

22 Any other comments from any other counsel on
23 what we should be proposing or have you canvassed everyone?

24 **MR. DUMAIS:** I have not, Commissioner, but
25 as Mr. Lee has indicated, but it's essentially the same

1 arguments that everyone has made submissions on and pending
2 your decision on the matter as to how we protect those
3 names, we should simply file it as an interim "C" document
4 and perhaps, Commissioner, you can deal with that document
5 in your decision. We will just treat it as a new document.

6 **THE COMMISSIONER:** I guess what I think,
7 harking back and thinking out loud is the CBC, Mr. Wong, he
8 might -- are we suppose to give him notice of this?

9 **MR. DUMAIS:** As you've indicated yesterday,
10 Commissioner, these issues are going to come up on a daily
11 basis as we deal with different documents and if they want
12 to address every issue on every name, there are going to
13 have to be here on a regular basis, but I think he has made
14 his submissions on the matter yesterday, and I don't think
15 his submissions this morning would be any different. I
16 think his submissions would stand for those names; the same
17 submission he made yesterday.

18 **THE COMMISSIONER:** All right.

19 But I guess in the process I spoke yesterday
20 of 48-hours notice. I think this is -- will be for the new
21 regime in the sense that you will have identified
22 confidentiality issues in the documents that you think you
23 are going to use and you are going to tell the parties a
24 week before. So I suppose you could tell Mr. Wong a week
25 before, but then the parties have 48 hours before the

1 witness is called up and, at that point, they have to tell
2 us what documents they want to use and what confidentiality
3 issues may arise out of that. Is that correct?

4 **MR. DUMAIS:** Correct, Commissioner.

5 **THE COMMISSIONER:** Okay.

6 **MR. DUMAIS:** I mean, obviously, I didn't
7 give notice -- 48-hours notice to the media and perhaps
8 this new protocol on advising all parties, perhaps even
9 including the media, if that is your direction,
10 Commissioner, be done 48 hours in advance. We can address
11 that with the new witnesses perhaps, the ones starting next
12 week.

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

14 The other issue is -- I have given
15 directions that this what the tests are and how I'm going
16 to apply those to specific cases. I'm wondering if what
17 Mr. Lee has told me, just because someone has asked that
18 his name be in publication ban, do I not have to go through
19 the *Mentuck* test and do that? And has Mr. Lee given me
20 sufficient facts to warrant a determination on that basis?

21 **MR. DUMAIS:** Well, I guess, to a certain
22 extent, Commissioner, a whole lot will depend on whether or
23 not we are categorizing these different types of victims
24 and what measures we are applying to the different
25 categories or whether they are -- I made submissions ---

1 **THE COMMISSIONER:** I know. You are on the
2 other side of the fence.

3 **MR. DUMAIS:** If I were to make submissions,
4 I would simply be asking to protect those names with a
5 simple non publication order, but ---

6 **THE COMMISSIONER:** And that is what he is
7 looking for. That's all he's looking for.

8 **MR. DUMAIS:** And he is somewhat in the same
9 situation or actually he would be in the same situation, as
10 I understand it -- I don't know if the second name requires
11 editing or if ---

12 **THE COMMISSIONER:** One second.

13 **MR. DUMAIS:** So simply the name can be
14 protected by a simple publication order and that's the same
15 position that Mr. David Sherriff-Scott took with respect to
16 his client.

17 **THE COMMISSIONER:** Right.

18 **MR. DUMAIS:** So I suggest that we simply
19 file it for now as an interim "C", and I'm going to ask,
20 Commissioner, that you, as you are rendering your decision,
21 that you make your decision on this document as well.

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

23 Any other folks have any comments? Oh, I've
24 got some takers here.

25 **MR. CALLAGHAN:** I just have one comment.

1 It's just a comment that we should put on the record.
2 We've got to be careful about mentioning relationships. A
3 person's name was identified and then it was identified as
4 the brother of another person. It's a pretty clear
5 identifier.

6 **THE COMMISSIONER:** But that identifier, if
7 I've got that correct, is to the person who doesn't want
8 any confidentiality measures.

9 **MR. CALLAGHAN:** No, the identifier was his
10 client didn't want any identifying measures. The
11 Commission has identified this name as the brother of that
12 person. The Commission has identified this person, it's
13 now -- this person has never spoken to anybody. And I
14 don't know whether the Commission wishes to continue with
15 the confidentiality with respect to that person. I don't
16 see how a brother can waive on behalf of a sibling. And
17 all you just heard was the brother doesn't want to go ahead
18 and was identified, therefore, identifying presumably the
19 name. I'm just trying to point out a procedural issue we
20 have to be careful of.

21 **THE COMMISSIONER:** Okay. Maybe I slept very
22 well last night. I don't understand. I thought we
23 mentioned the name of Robert Sheets.

24 **MR. CALLAGHAN:** Right.

25 **THE COMMISSIONER:** He doesn't want -- he is

1 the one who does not want any confidentiality.

2 **MR. CALLAGHAN:** That's -- yes, but that
3 person's name who's in this document is not Robert Sheets.
4 It's his -- it's a relation, and that person has never said
5 anything. The Commission has identified that as a concern.
6 All I'm trying to articulate is one person -- we've got to
7 be careful not to use identifiers which would identify a
8 person and the fact that Mr. Robert Sheets doesn't have a
9 problem is of no consequence to the fact that the name
10 identified, which is the correct name, may or may not have
11 a problem. No one's spoken to that person.

12 And I'm not sure it's an issue I'm raising.
13 I just think that we ought to be very careful as we
14 proceed. That's one of the concerns we have in this
15 Inquiry.

16 Thank you.

17 **THE COMMISSIONER:** Yes.

18 Mr. Rose.

19 **THE REGISTRAR:** Neuberger.

20 **THE COMMISSIONER:** Neuberger, sorry.

21 **MR. NEUBERGER:** I'm the shorter one.

22 (LAUGHTER/RIRES)

23 **THE COMMISSIONER:** Sorry.

24 **MR. NEUBERGER:** We switch a lot, Mr.

25 Commissioner. Thank you.

1 If I can just address your point, because I
2 understand the procedure that we're operating with now is
3 that if a party comes forward and is seeking a
4 confidentiality measure on behalf of a victim or alleged
5 victim, they are to provide you with some form of evidence
6 in support, either by way of traditional evidence or
7 submissions through counsel.

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

9 **MR. NEUBERGER:** And what I understand would
10 be that, for example, if Mr. Lee comes forward and says
11 today, "I have instructions from a specific person. That
12 specific person wants just a publication ban. Here's why."

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

14 **MR. NEUBERGER:** And gives you some basis in
15 which to make that ruling. Then you determine whether
16 that's an appropriate ruling. That's, I understand, the
17 measure that we're operating under now.

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

19 **MR. NEUBERGER:** So when you're asking about
20 the evidence issue, instructions is one aspect of it, but I
21 understood from your directions essentially that there has
22 to be some basis in which that instruction is given.

23 **THE COMMISSIONER:** That's the *Mentuck* test.

24 **MR. NEUBERGER:** Right. That's what I
25 understand.

1 **THE COMMISSIONER:** Yes.

2 **MR. NEUBERGER:** So there's has to be
3 evidence given to you either through submissions or
4 something through traditional form.

5 **THE COMMISSIONER:** Yes.

6 **MR. NEUBERGER:** Okay. And then with respect
7 to CBC, I take it, from what I have seen in their written
8 submissions yesterday, we're dealing right now with two
9 particular instances where we have instructions of a person
10 who has gone to counsel. And so I don't think that there
11 is much that would change. I guess I'm just supporting
12 what Commission counsel has said, but I don't think there
13 is much, which would change from the submissions, which
14 they filed or made yesterday. I think you understand their
15 position. I'm just trying to provide some clarity on that.

16 **THE COMMISSIONER:** Good.

17 **MR. NEUBERGER:** Thank you.

18 **THE COMMISSIONER:** Thank you.

19 **MR. MANSON:** Mr. Commissioner, I'm a bit out
20 of order, but you asked one question of Mr. Dumais that
21 caused me some concern. You were talking about the 48-hour
22 notice.

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

24 **MR. MANSON:** I take it that very soon we'll
25 get your ruling on public versus confidential and you're

1 going to also address the question of notice.

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

3 **MR. MANSON:** We will certainly live by the
4 48-hour notice, but from our client's perspective, we may
5 not know about confidentiality problems because we don't
6 know who the Commission intends to call and we don't know -
7 - a lot of names are just names to us.

8 **THE COMMISSIONER:** Right.

9 **MR. MANSON:** And so we may refer -- we
10 circulate our list of documents that we may be referring to
11 in cross-examination ---

12 **THE COMMISSIONER:** Yes.

13 **MR. MANSON:** But if a document of a witness
14 says, "And I went there with Smith", I don't know often
15 whether Smith is a police officer or -- so I'm just
16 advising that we may run into some difficulties down the
17 road, but we will make our best efforts.

18 **THE COMMISSIONER:** Well, it's the 80/20 rule
19 I always take as ---

20 **MR. MANSON:** I saw that note in the
21 transcript last week, and I didn't understand it.

22 **THE COMMISSIONER:** It's in a business book.
23 It's called "A passion for excellence", and I try to apply
24 it whenever I can. It's that if a rule works 80 per cent
25 of the time, the 20 per cent are the exceptions.

1 **MR. MANSON:** We can live with.

2 **THE COMMISSIONER:** We can live with.

3 But what I wanted to say was that not only -
4 - what you're supposed to do, and we talked about a
5 communal interest in this Inquiry of doing the right thing.
6 And so the 48-hour notice is because you have to give 48-
7 hours notice as to what documents you want to use in cross-
8 examination, so I thought of piggybacking the officer of
9 the court duty that if you see something in a document that
10 might be an issue, simply bring it up to Commission counsel
11 and then we'll work it out. We're not here to destroy
12 anyone. We're here to help out and to be sensitive to the
13 needs of the community.

14 So that's where I thought it would be an
15 opportune time. That way, within that 48 hours, we can
16 send off to CBC, so that they can be here and argue it in
17 an opportune time. That's all I was trying to do. All
18 right?

19 **MR. MANSON:** Thank you, Mr. Commissioner.

20 **THE COMMISSIONER:** Thank you.

21 Anyone else? All right. So what I'm -- Mr.
22 Lee.

23 **MR. LEE:** There are a few things I would
24 like to address.

25 Starting with the 48-hour rule, it seems to

1 me that this would work best if when parties provide notice
2 of a document for cross-examination, they provide a list of
3 every name in that document. It seems to me that if I want
4 to introduce police notes -- I mean, it makes for extra
5 work, but if I want to introduce police notes, I should
6 also tell the parties, "And by the way, in these police
7 notes there are the following 15 names, so you can now all
8 know -- you can let us know whether there's going to be any
9 confidentiality issues."

10 Because I can tell you that with the witness
11 that's on the stand now, Mr. Roy, we received notice of a
12 couple of dozen documents, I would imagine, from the
13 parties. I then had to go through every single one of
14 those documents to make sure that there were no names of my
15 clients in there. Had I received notice of just a list, I
16 could have briefly checked, and I could have dismissed
17 three-quarters of those documents as ones that I didn't
18 need to concern myself with necessarily for confidentiality
19 purposes. So that's something I would like to suggest.

20 I would like to also mention what Mr.
21 Callaghan said. I'm sensitive to what he had to say and to
22 the fact that we do need to be careful; just because my
23 client has said that he doesn't wish to seek the protection
24 of a publication ban, that doesn't mean that other people
25 who could be identified may not want to.

1 In this particular context, the name on the
2 last line, as I said, it is not my client's name and is his
3 relation. My understanding is that that person is not a
4 victim of abuse, that that person was spoken to by the
5 police in relation to my client.

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

7 **MR. LEE:** So in this particular instance, my
8 understanding is we don't -- I have no intention of saying
9 his name now and we can verify that, but my understanding
10 and the reason that I brought it up and the reason I wasn't
11 concerned in this instance is that he isn't being
12 identified as anything other than someone who spoke to the
13 police about a victim of abuse who is not him.

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

15 **MR. LEE:** And the other thing I wanted to --
16 I suppose I wanted to ask you, really, sir, I'm a little
17 bit confused on what we do for -- you have our general
18 submissions on, for example, the category of the victim or
19 alleged victim of abuse who has not made his desires known
20 to us, who is out there somewhere and we don't know what
21 he's thinking and we don't know what he would want.

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

23 **MR. LEE:** Every time one of those names is
24 raised in a document, do we need to come before you,
25 whoever it is that raises the issue, and make an argument

1 under the *Dagenais/Mentuck* test or do we take those as a
2 category of persons and your ruling will address what we do
3 with all of those persons?

4 **THE COMMISSIONER:** Oh no. Well, we can hear
5 submissions from that, but I thought at the beginning I
6 indicated quite clearly that it's a case-by-case analysis,
7 that a blanket -- I think a blanket ruling would be
8 contrary to the test. I suspect that after a while it will
9 become easier once we have determined -- you know, once you
10 fit into a category, but I think every time you have to
11 come up and satisfy me. There might be different
12 circumstances in every case.

13 **MR. LEE:** I think that may be true where we
14 have -- in this particular case, with the first client
15 listed on this page, I have heard from that person and I
16 have something to say about him.

17 But in the case of somebody we don't know
18 about, it seems to me the submissions are going to be
19 identical every time.

20 **THE COMMISSIONER:** That may well be.

21 **MR. LEE:** So your instruction to us is that
22 despite that fact, for now at least we need to, every
23 single time, we need to come up and address that
24 individual?

25 **THE COMMISSIONER:** The same individual?

1 **MR. LEE:** No, no, no.

2 **THE COMMISSIONER:** A different individual.

3 **MR. LEE:** If let's -- today, we have the
4 victim who we don't know what they want.

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

6 **MR. LEE:** And I come up and I make
7 submissions and you issue an order of publication ban or
8 whatever it is. Tomorrow, we have another victim who is in
9 the exact same position. We have no clue what he wants.
10 You want to hear it again. You don't want to just hear
11 ditto, kind of. You want to hear it? Okay.

12 **THE COMMISSIONER:** You know, I'll take that
13 under advisement. I've been working on a judgment or a
14 ruling on these matters, but as you know, yesterday the CBC
15 came in and gave me more things to ponder.

16 So for the time being, I would say yes.

17 **MR. LEE:** Okay. I can tell you that I have
18 some concern then that you need to hear more from me on the
19 publication ban I'm seeking on behalf of the client listed
20 in this document.

21 **THE COMMISSIONER:** Well, I suspect if the
22 CBC was here, they would say yes.

23 **MR. LEE:** Can I make those submissions then,
24 sir? I mean, it's obviously going to delay things for this
25 morning, but if you need to hear from me on this specific

1 individual, then I would like to do that before his name
2 becomes -- is made available to the public.

3 **THE COMMISSIONER:** All right.

4 Any comments? Mr. Dumais?

5 **MR. DUMAIS:** Well, I guess sort of the point
6 to try to file the exhibits before we call the witness to
7 face these issues head on rather than later, I think it may
8 not be a bad idea that Mr. Lee makes specific submissions
9 on his client's name.

10 **THE COMMISSIONER:** Okay. Mr. Lee.

11 **MR. LEE:** As I advised you, sir, I have
12 received instructions from this client and his instructions
13 to me were that he wishes his identity be protected via a
14 publication ban. This specific client is not interested in
15 having public documents edited or anything along those
16 lines. I can tell you that he specifically said to me,
17 "I'm worried my name is going to be in the newspaper. I'm
18 worried it's going to be on the radio. I'm not worried
19 that someone with a genuine interest in the Inquiry comes
20 down to the office to view the documents. That's fine to
21 me." It's kind of the casual observer, his name being out
22 there for all to see.

23 As you know, sir, we want to most minimally
24 impair public access to all information and documents that
25 are relevant to this Inquiry, and I'm conscious of that and

1 my clients are conscious of that.

2 We are not asking that any information be
3 removed here. As Mr. Rose put it the other day, we're not
4 looking to affect the narrative here. We're looking for
5 just the name not to be broadcast.

6 Any member of the public who has a genuine
7 interest in my client's identity can view the documents in
8 which his names appear. As I have said to you, I don't
9 necessarily expect any witness at this Inquiry, at this
10 point anyways, to mention this client's name. The reason
11 that this issue is being raised is that there are a number
12 of documents that have either been -- that Commission
13 counsel proposes to make exhibits or that parties have
14 given 48-hours notice so that they may put it to him in
15 cross-examination where this man's name appears.

16 To give you some context, the reason that
17 this man's name appears is that there was an investigation
18 conducted by, I believe it was the Ministry of the
19 Solicitor General, Probation and Parole anyways, an in-
20 house kind of investigation in 1982, and my client's name
21 came up in that and was one of the major players in that.
22 So some of these documents, when they later on, for
23 example, with Mr. Roy, when the police investigate his
24 involvement with Mr. Barque, as part of their investigation
25 they come across this 1982 information and my client's

1 names are repeatedly mentioned in the documents.

2 By way of background, this client has been
3 dealing with these issues, as I've just said, since at
4 least 1982 and obviously before that. He advises me that
5 he has "moved on", and I use that in quotes, as much as one
6 can move on, and he no longer wishes to have to answer
7 questions about these matters from his friends or his
8 family or his coworkers. He frankly told me that he wishes
9 everybody would just forget that he was involved at all in
10 this.

11 And as I've said, it's important to note
12 that this particular individual is not expected to testify
13 at this Inquiry. There are some issues, in fact, that he
14 may not fall within the mandate of this Inquiry as having
15 been a young person at the time of his abuse. He would
16 argue that there was a breach of trust and things along
17 those ideas, but he would argue that maybe within the
18 mandate, he doesn't meet the test of a young person.

19 The abuse this man suffered is not of
20 particular interest to this Inquiry. It's the response to
21 that abuse that we're particularly concerned about. At
22 some point, Probation and Parole learned of it and they
23 took actions, and they took steps, and we're going to
24 assess whether those steps were appropriate.

25 The identity of my client isn't particularly

1 relevant, and that being said, he's not seeking to shield
2 his identity from this Inquiry. He's not suggesting, for
3 example, that his name be redacted and that he be kept out
4 of it entirely. He's simply asking that he not be re-
5 victimized by having his name published broadly in the
6 media.

7 Frankly, our submission is that his name
8 does not need to be reported by the media for them to
9 fairly and fully report on the institutional response or
10 the goings on at this Inquiry.

11 So the first question we need to ask
12 ourselves, Mr. Commissioner, is whether or not the
13 confidentiality order that we're seeking is necessary to
14 prevent a serious risk to the proper administration of
15 justice or to an important interest.

16 And as you know, our position throughout has
17 been that in assessing the institutional response, it is
18 necessary to hear from victims and it is necessary to view
19 documents naming victims because those documents are
20 obviously the foundation of this Inquiry and what we're
21 looking at.

22 The question we need to answer at this point
23 is whether having the names of these victims published
24 against their will is a serious risk to an important
25 interest or the administration of justice. The interests

1 of victims are not being "outed", so to speak, of this
2 Inquiry and not having the media report on the status of
3 victims is an important interest worth protecting.

4 We are seeking to protect the privacy
5 interests of victims of sexual abuse, and I would submit
6 that the names of victims are not required to accomplish
7 the goals of this Inquiry. In most cases, in fact, we do
8 not even need to know who the victim is to accomplish the
9 goals of this Inquiry. The identity of this person in
10 particular is simply not relevant.

11 So we need to think about minimal
12 impairment. What can we do to make sure that we're doing
13 the least we can to satisfy the objective and we need to be
14 satisfied that there are no reasonably alternative measures
15 that would prevent the risk.

16 My submission to you is that a publication
17 ban is the least restrictive remedy available in this
18 situation to accomplish the goal. The public would still
19 have full access to all of the information. They just
20 wouldn't be able to read his particular name in the
21 newspaper or hear it on the radio. Anyone with a genuine
22 interest in the name can learn it, and my submission is
23 that when that is weighed against the interests of my
24 client and his general fear of re-victimization and of the
25 effects of publication on him, that this is not a lot to

1 ask.

2 I cannot think of any alternative measure
3 that would be less restrictive than what I'm proposing.

4 And finally, when we weigh the goals of this
5 Inquiry against the potential harm to the victims, that is
6 not a close race, Mr. Commissioner. I recognize that the
7 principle of openness is incredibly important generally and
8 specifically at this Inquiry and perhaps more so at this
9 Inquiry than others given the context that this Inquiry is
10 operating under and the facts and the allegations that have
11 given rise to this Inquiry.

12 That being said, openness must not prevail
13 where there's a real identifiable risk to the wellbeing of
14 a person or persons. We've heard from experts about the
15 very real risk of re-victimization and common sense also
16 tells us that we need to be concerned about outing a victim
17 of abuse to his family, friends and community. The concern
18 here is not one about embarrassment, sir. We're talking
19 about potentially ruining lives and re-victimizing people
20 who've already been through much too much.

21 Finally, we have an express request here.
22 This is not a situation where we're wondering what the
23 alleged victim might want. I represent this man. I've
24 been contacted by him and he's made his desires very clear
25 to me.

1 So in closing, he's seeking a non-
2 publication order with respect to his name and any obvious
3 identifiers. He is not asking that the exhibits be edited
4 in any way for our purposes or for the purposes of public
5 consumption. His concern is simply the publication of his
6 name.

7 **THE COMMISSIONER:** Thank you.

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

9 **THE COMMISSIONER:** Any other submissions on
10 this issue as to whether or not this ban should be imposed
11 or not?

12 Mr. Manson, any comments?

13 **MR. MANSON:** No, Mr. Commissioner.

14 **THE COMMISSIONER:** Mr. Chisholm?

15 **MR. CHISHOLM:** No, sir, thank you.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Neuberger?

18 **MR. NEUBERGER:** No, thank you very much.

19 **THE COMMISSIONER:** Mr. Kloeze?

20 **MR. KLOEZE:** No, sir, thank you.

21 **THE COMMISSIONER:** Thank you.

22 Mr. Callaghan?

23 **MR. CALLAGHAN:** No, sir.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Kozloff?

1 **MR. KOZLOFF:** No, thank you, sir.

2 **THE COMMISSIONER:** That's everyone. And Mr.
3 Carroll?

4 **MR. CARROLL:** No, sir.

5 **THE COMMISSIONER:** Thank you. Sorry.

6 **MR. CARROLL:** It's all right.

7 **MR. LEE:** The last thing is I have a list of
8 the documents in which his name appears.

9 **THE COMMISSIONER:** Oh.

10 **MR. LEE:** Only two of them are going to be
11 entered as exhibits by Commission counsel but there are
12 seven or eight of them that may be entered by other
13 parties.

14 **THE COMMISSIONER:** Right.

15 **MR. LEE:** Do you need a listing of those now
16 or if they go -- propose to enter it as an exhibit, shall I
17 just rise at that time and tell you that this is one of the
18 ones we're concerned about?

19 **THE COMMISSIONER:** Certainly you should give
20 it to Commission counsel in the case so we'll know that ---

21 **MR. LEE:** I've circulated a list to all
22 parties and Commission counsel.

23 **THE COMMISSIONER:** Perfect.

24 **MR. LEE:** Is that fine? I don't need to put
25 that on the record, sir.

1 **THE COMMISSIONER:** Thank you.

2 **MR. LEE:** Thank you.

3 **THE COMMISSIONER:** I'm sorry. I'm sorry,
4 Ms. Makepeace?

5 **MS. MAKEPEACE:** Nothing. Thank you, sir.

6 **THE COMMISSIONER:** Thank you. Thank you
7 very much.

8 Maître Dumais?

9 **MR. DUMAIS:** So I can move on then ---

10 **THE COMMISSIONER:** What's your position on
11 this? Do you have one?

12 **MR. DUMAIS:** Nothing to add, Commissioner,
13 other than the fact that this individual is either a victim
14 or an alleged victim. I simply repeat the submissions I
15 made last week with respect to this matter. Essentially,
16 I'm taking the same position as Mr. Dallas Lee.

17 **THE COMMISSIONER:** All right.

18 Can I deal with it this way? I'm in full
19 agreement with the excellent presentation that Mr. Lee
20 made, setting out the test, setting out the pros and cons,
21 and I agree that a publication ban should be issued for
22 that name.

23 **MR. DUMAIS:** All right.

24 **THE COMMISSIONER:** Now, how -- and I'm doing
25 that because a) the presentation was excellent, and

1 secondly, it reflects my view with respect to this witness.

2 Now, for the record, we haven't identified
3 who that person is and so there's that little ---

4 **MR. DUMAIS:** That's correct, Commissioner.
5 If I can make a suggestion?

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

7 **MR. DUMAIS:** Right before we break for the
8 morning, can we simply indicate for the record that after
9 the break we'll start the second half of the morning
10 session in an in-camera hearing, identify the name; minimal
11 loss of time.

12 **THE COMMISSIONER:** Exactly. Thank you.

13 And for -- I do intend that once the ruling
14 is out that I will be issuing accepting next -- on the
15 80/20 rule, Mr. Manson, that I hope to be able to issue a
16 decision off the bench and that we can continue and that
17 there are no reasons for delay, all right?

18 Thank you.

19 **MR. DUMAIS:** Then, Commissioner, the next
20 document is an interview report doc number 703186 and there
21 are no issues and that exhibit will be P-116.

22 --- **EXHIBIT NO./PIÈCE NO P-116:**

23 Albert Roy - Interview Report - September
24 12, 1997

25 **MR. DUMAIS:** The next document is 713277 and

1 that's an interview report as well and there are no issues
2 with that document. That should be exhibit P-117.

3 --- EXHIBIT NO./PIÈCE NO P-117:

4 Albert Roy - Interview Report - December 6,
5 1994

6 MR. DUMAIS: The next document is a media
7 clipping, document number 721005 and it's an excerpt from a
8 larger media file, Bates page number 7074959, and I guess
9 for obvious reasons, it's a media clipping, there are no
10 issues with that document.

11 --- EXHIBIT NO./PIÈCE NO P-118:

12 Newspaper Article - A Community in Shock -
13 July 11, 1998

14 MR. DUMAIS: The next one is a media
15 clipping as well, Document Number 732245, no issues with
16 that document. That should be exhibit P-119.

17 --- EXHIBIT NO./PIÈCE NO P-119:

18 Newspaper Article - Open Letter to Mike
19 Harris - April 22, 1999

20 MR. DUMAIS: Finally, Commissioner, there is
21 one -- there's an issue with the last document. It's
22 Document Number 737612 and that's Constable Heidi Sebalj's
23 notes and the issues with the notes is the names of the two
24 individuals that were mentioned this morning. They do come
25 up on a number of occasions throughout the notes and I've

1 identified the Bates page numbers where these names come
2 up.

3 Just for the record, they are Bates page
4 number 7158406, 7158411 through to 7158414, as well
5 7158424, and the last two or the last one is 7158395.
6 They're essentially the same names that are coming up all
7 the time, Commissioner, and obviously there's no need to
8 protect one of these two names. However, they are mostly
9 mentioned together.

10 On that note, Commissioner, and if -- so
11 then if that document can be simply an interim "C" document
12 so we can apply Mr. Dallas Lee's comments to that document
13 as well, since they are the same names, and then I would be
14 in a position to recall Mr. Albert Roy.

15 --- EXHIBIT NO./PIÈCE NO C-120:

16 Officer's Notes re: Albert Roy - November
17 23, 1994

18 **THE COMMISSIONER:** Thank you.

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **MR. CALLAGHAN:** Commissioner, while we wait,
21 two of the exhibits are newspaper articles and I'm pausing
22 to wonder how we're going to deal with things like
23 newspaper articles which obviously wouldn't ordinarily be
24 admissible in a trial other than perhaps for identifying
25 dates, et cetera, and I don't know of the truth of the

1 content.

2 I know they're going in and I know the rules
3 of evidence here are somewhat more relaxed and I don't
4 think -- this is not -- there's no impact on the witness,
5 but I'm a little concerned of whether we're going --
6 because there are lots of newspaper articles, whether we're
7 going to be dumping in newspaper articles and asserting the
8 truth of the facts of the contents through the newspaper
9 articles. I assume that's not the intent, but it does -- I
10 know we have tons of newspaper articles and I just -- it's
11 the first time I think it's come up but I may be mistaken.

12 **THE COMMISSIONER:** We'll see how it goes. I
13 mean, once we get to that point, we'll see if there's an
14 argument. Obviously it's not for the truth of its contents
15 unless ---

16 **MR. CALLAGHAN:** Unless the guy is quoted and
17 so they said that. I suppose that'd be truth of the
18 content. Okay. Thank you.

19 **THE COMMISSIONER:** All right.

20 **ALBERT ROY, Resumed/Sous le même serment:**

21 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
22 **DUMAIS (cont'd/suite):**

23 **MR. DUMAIS:** Good morning, Albert.

24 **MR. ROY:** Good morning.

25 **MR. DUMAIS:** Sorry for the delay.

1 Albert, we left off yesterday, you were
2 going through the -- you indicated to us what you had told
3 to Mr. Bob Payette and we went through your conversations
4 and discussions with Dr. Almudevar as well and I was just
5 about to ask you some questions about --and we were heading
6 towards you reporting to Cornwall Police. Before we go
7 there, can we simply -- there's just one last point I'd
8 like to touch.

9 You did indicate yesterday that following
10 your abuse at the hands of Mr. Barque that you did suffer
11 some abuse at the hand of Mr. Seguin as well. Could you
12 perhaps firstly indicate how long that abuse lasted?

13 **MR. ROY:** Three (3) to four months.

14 **MR. DUMAIS:** All right.

15 And during those three to four months, did
16 you remain under the supervision of Mr. Seguin as a
17 probation officer?

18 **MR. ROY:** Oh yes.

19 **MR. DUMAIS:** How did the abuse finally end?
20 Did that end with the end of your probation order?

21 **MR. ROY:** Well, can I lead up to the ---

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

23 **MR. DUMAIS:** Certainly.

24 **MR. ROY:** As the abuse progressed, Ken
25 became more demanding as far as time and he started to

1 monitor where I went during the weekend or at night and he
2 had -- I had told him that I was going to a friend's for a
3 weekend and he called there and told me to meet him at
4 Zellers, up at the corner because my friend, Mike Gilligan
5 lived near there. And I mean this is just one instance. I
6 started to, like, really start to try and pull back.

7 Then I believe it was a few weeks later, he
8 -- I hadn't gone when he had called me a few times and I
9 was walking home and his car was parked on Seymour Street
10 in front of First Street where I -- First Street is a one-
11 way I used to walk down to go home. We lived on First
12 Street. And he told me to get in the car and I refused and
13 he slapped me.

14 And after that, there were other instances
15 where I tried to, you know, kind of -- like, he'd actually
16 come to my house, like, talk to my parents. I had a public
17 speaking contest and he came to that and sat there with my
18 mother. You know what I mean? Like, it was getting -- at
19 the end I just couldn't take it anymore and I walked into
20 his office and he had made some threats to me that if I
21 told anybody else he'd be the first one to know, like if I
22 told the police, and I believed that because, you know, I
23 used to see him in the hallways with the police with his
24 arm around them or slapping on the back or joking or you
25 know. And like I told you before, when Nelson abused me, I

1 told Ken and then he abused me. So like, where was that
2 going to go from there, you know, in my mind at the time.

3 So at the end I walked into his office and I
4 told him, "I don't care what you do to me. I don't care if
5 you report me." I said, "You just do whatever you have to
6 do. I'm not coming back here again", and I didn't. I
7 walked out and I never went back.

8 **MR. DUMAIS:** And if I understood your
9 evidence from yesterday, Albert, you would've still been on
10 probation at that time?

11 **MR. ROY:** Yes.

12 **MR DUMAIS:** All right.

13 There still would have been a number of
14 months left to the probation order?

15 **MR. ROY:** I think about five to six months.

16 **MR. DUMAIS:** All right.

17 I take it you were never charged with breach
18 of probation?

19 **MR. ROY:** I never heard anything after that.

20 **MR. DUMAIS:** All right. Thank you. That
21 was my question.

22 Now, Albert, I'm just going to take you to a
23 document that we've filed in evidence, and that is Document
24 Number 703130. That's a document that was prepared
25 presumably, until it's identified, by Constable Heidi

1 Sebalj.

2 So then, Albert, we are jumping forward to
3 around the fall of 1994. And you indicated yesterday that
4 at one point in time you would have left the counsellor's
5 office and walked into Cornwall Police Services Office and
6 then that you reported the abuse to Constable Heidi Sebalj.

7 **MR. ROY:** Yes, I did.

8 **MR. DUMAIS:** And Constable Sebalj, at pages
9 -- Mr. Commissioner, I'm simply going to ask that the
10 public screen be turned off for now because that is one of
11 the pages that does contain the name of a client that
12 requested confidentiality, and that's page 7008831.

13 It's going to come up on your screen,
14 Albert, if you prefer, or if you prefer the paper copy,
15 certainly you can look at that.

16 **MR. ROY:** Okay. I can read this.

17 **MR. DUMAIS:** All right.

18 So this indicates that on November 23rd, 1994
19 that you would have walked into the Cornwall Police
20 Services Office and reported the matter to Constable
21 Sebalj. Do you remember that day?

22 **MR. ROY:** Yes, I do.

23 **MR. DUMAIS:** Okay. Can you just tell us a
24 bit about that, what you told her on that day or who was
25 there, if she was alone or whether there was another person

1 there?

2 **MR. ROY:** She had a partner with her, a male
3 partner, and he was a constable. I should remember his
4 name. He was pretty good to me, but I am afraid I can't
5 remember his name. I've seen his name in documents, but I
6 don't remember his name.

7 **MR. DUMAIS:** Okay. Fair enough.

8 And do you think that this constable was
9 present with Constable Sebalj for all of your interviews
10 with her?

11 **MR. ROY:** Yes.

12 **MR. DUMAIS:** Okay.

13 **MR. ROY:** Pretty much, except when we went
14 in the car together to look for Nelson's house.

15 **MR. DUMAIS:** All right.

16 We'll get to that shortly. So then you walk
17 in on this first day and you're speaking to Constable
18 Sebalj and her partner. What happens on that day?

19 **MR. ROY:** I told them about the abuse and
20 they took a statement. I believe she tape recorded my
21 interview and -- like, do you want to know what I said to
22 her or ---

23 **MR. DUMAIS:** I mean, simply, is your
24 recollection that you would have disclosed the
25 circumstances of the abuse and the names of the abusers to

1 her on that date?

2 MR. ROY: Yes.

3 MR. DUMAIS: All right.

4 Her notes or the chronology that she
5 prepared seems to indicate that you went back on the
6 following day, on November 24th and it would have been on
7 that day that the audio tape statement was prepared. Do
8 you remember that, that it was two different days?

9 MR. ROY: I know it was two different days,
10 but I thought both were audio, but maybe not. Maybe I'm
11 mistaken.

12 MR. DUMAIS: Okay. So you think maybe there
13 may have been an audio statement on the first day as well?

14 MR. ROY: I thought there was.

15 MR. DUMAIS: Okay.

16 MR. ROY: I ---

17 MR. DUMAIS: And ---

18 MR. ROY: Sorry.

19 MR. DUMAIS: No, go ahead.

20 MR. ROY: She noticed that I was getting
21 like tired and kind of agitated and she asked me if I
22 wanted to come back the next day.

23 MR. DUMAIS: You agreed to do that?

24 MR. ROY: Yes.

25 MR. DUMAIS: All right.

1 During that period of time, Albert, were
2 you, in 1994, living with anyone? Were you married or what
3 was your status?

4 **MR. ROY:** At the time, I went into the
5 meeting with Heidi Sebalj I was single.

6 **MR. DUMAIS:** All right.
7 And you were living alone at that time?

8 **MR. ROY:** Yes, I was.

9 **MR. DUMAIS:** All right.

10 So that night of November 23, 1994, did you
11 talk to this -- about this to anyone else? Did you go back
12 to Mr. Payette or Dr. Almudevar or someone else?

13 **MR. ROY:** I don't think so.

14 **MR. DUMAIS:** So on both days, when you went
15 in on the 23rd and the 24th, you did that on your own ---

16 **MR. ROY:** Yes.

17 **MR. DUMAIS:** --- and you were alone and the
18 only people present were the two constables you mentioned?

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

20 **MR. DUMAIS:** Okay.

21 **MR. ROY:** I was never offered any support
22 during that time doing the interview and ---

23 **MR. DUMAIS:** What do you mean by that,
24 Albert?

25 **MR. ROY:** Well, I remember that I was

1 starting to get afraid and I don't really know if afraid is
2 the word for it, but just agitated, confused and I remember
3 thinking that it seemed odd that they don't have anybody
4 there to kind of talk you through it or -- like I
5 understand they want to get all the facts out without it
6 being tainted or anything, but I just thought, just for
7 emotional support or something -- like they knew I was
8 alone at the time.

9 **MR. DUMAIS:** Is it a fair comment, Albert,
10 that both Constable Sebalj and her partner treated you
11 decently?

12 **MR. ROY:** Except for one incident with Heidi
13 Sebalj, Officer Sebalj, they both treated me well. Her
14 partner seemed to have a good sense of how I was feeling.
15 At least that's the impression I got. Because whenever she
16 left the room, he never stood in front of me or approached
17 me or anything, he'd always sit in back of his desk. He
18 never made me feel intimidated. He is the only police
19 officer that I find treated me, in retrospect, the way I
20 think a victim should be treated.

21 **MR. DUMAIS:** All right.

22 So he was very good about that?

23 **MR. ROY:** Yes.

24 **MR. DUMAIS:** And do you recall during -- and
25 I mean, I know that other issues will come up a little

1 later on, but if I can just direct your attention to those
2 first two days, November 23rd and 24th, do you recall
3 mentioning to the constables that you're under the care or
4 seeing Mr. Payette and Dr. Almudevar?

5 **MR. ROY:** Yes, because Heidi had asked me
6 why I decided to come forward and I told her about my
7 conversations with Robert Payette, my psychotherapist, and
8 I might -- I told her other reasons I had come forward too.

9 **MR. DUMAIS:** All right.

10 Now, I understand that as you were giving
11 your story and explaining the occurrence, that you made
12 reference to the abuse by Mr. Barque taking place outside
13 of his office. Is that correct?

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

15 **MR. DUMAIS:** At another location?

16 **MR. ROY:** Yes.

17 **MR. DUMAIS:** And do you recall why the
18 location of the incident was important?

19 **MR. ROY:** Because they told me that his home
20 was outside the city limits.

21 **MR. DUMAIS:** Okay. So that became an issue
22 at one point in time, the location -- that location. Is
23 that correct?

24 **MR. ROY:** That's right.

25 **MR. DUMAIS:** And you had mentioned as well

1 that there were incidents that led up to that abuse to
2 Constable Sebalj; is that correct?

3 **MR. ROY:** I am sorry, can you repeat that?

4 **MR. DUMAIS:** I'll try to be a little more
5 clearer. Charges were laid against Mr. Nelson Barque about
6 the abuse that occurred outside of the city limits of
7 Cornwall, correct?

8 **MR. ROY:** Correct.

9 **MR. DUMAIS:** And as you were telling your
10 story, you did mention the fact that some other occurrences
11 -- other incidents would have preceded that at the hands of
12 Mr. Barque?

13 **MR. ROY:** Yes.

14 **MR. DUMAIS:** And do you recall the comments
15 that constable Sebalj made with respect to that?

16 **MR. ROY:** We had quite a bit of discussion
17 about that because I felt that him touching me in the
18 parking lot and him giving me alcohol, his conduct in his
19 office when I went in for my reporting, my probation time
20 was not the conduct of a probation officer, and she told me
21 that that's stuff for internal -- I don't know what the
22 word is -- but for the probation officer to handle
23 internally and that the only thing that she can charge him
24 for at that time is the one incident at the house.

25 **MR. DUMAIS:** All right.

1 **MR. ROY:** It also became an issue in the
2 courtroom because they kept on saying one incident, but it
3 wasn't one incident, it was ---

4 **MR. DUMAIS:** Is it fair to say, Albert,
5 that the charge that was laid was with respect with this
6 one incident that occurred on the one day?

7 **MR. ROY:** Yes.

8 **MR. DUMAIS:** All right.

9 And you recall any type of discussion with
10 respect to Criminal Code offences that existed at that
11 time?

12 **MR. ROY:** Yes, she told me that she could
13 only charge him with the offence -- with the laws that
14 existed in 1977. She cannot charge him with any amendments
15 or new laws that have been made. She said that she could
16 only charge him with the laws of 1977.

17 **MR. DUMAIS:** Okay. So you did have a
18 discussion that despite the fact that this was 1994, that
19 it was the law as it existed in 1977 that applied.

20 **MR. ROY:** I remember me and her partner, we
21 had talked and I had said that it doesn't seem fair that he
22 can hide this for so long and then be able to reap the
23 rewards of only being charged for when the offence
24 happened, but he told me that's the way the system works.

25 **MR. DUMAIS:** Now, I understand that the next

1 step of the investigation, Albert, would have been trying
2 to locate the house of Nelson Barque. Is that correct?

3 MR. ROY: Yes.

4 MR. DUMAIS: And the chronology makes
5 reference to different attempts of trying to locate that
6 house, and I am looking at Document Number 737612. And if
7 we can just be careful for a second, these are Constable
8 Sebalj's notes. And the first page I'm going to ask you to
9 look at is -- if we can just hold off for now, Madam Clerk,
10 7158400.

11 And I'm looking at -- that's fine, there's
12 no issues with the identifications of names of other
13 victims, Commissioner.

14 THE COMMISSIONER: Okay.

15 MR. DUMAIS: And this is the ---

16 MR. ROY: Oh, this is ---

17 MR. DUMAIS: --- notebook of Constable
18 Sebalj, Albert.

19 MR. ROY: So what number?

20 MR. DUMAIS: It would be right on your
21 screen, if you can read that.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. ROY: Sorry.

24 MR. DUMAIS: That's fine.

25 MR. ROY: I'm just not used to this.

1 **MR. DUMAIS:** I take it you have difficulty
2 reading from the screen, Albert?

3 **MR. ROY:** I'm supposed to have bifocals, but
4 I don't have those with me.

5 **MR. DUMAIS:** All right.

6 I'm just looking at the top of the notes,
7 Albert, and there's a date there, November 25th, 1994.
8 Apparently the entry at 9:06 is that she's going to
9 Glenview Heights. I take it that is where you were
10 residing at that time?

11 **MR. ROY:** Yes, it was.

12 **MR. DUMAIS:** It appears that she picked you
13 up and then you went to Island Road, and it's indicated
14 there that you guys had difficulty locating the residence.
15 Do you recall that?

16 **MR. ROY:** The way I recall it is that she
17 had been there -- like on that road already because she
18 brought me to a place because I had told her he had an
19 older model car. It was a red and white Mustang or Camaro.
20 I couldn't remember which. And when she had been on that
21 road, she had noticed a car in front of a house covered in
22 a tarp. So she brought me there and she asked me if this
23 is the house, and I told her I didn't think so. And she
24 went and looked to see what car was underneath the tarp.
25 Then we started driving up the road and I saw a house, and

1 I said, "I think this is the one," but I told her, "The
2 windows are different and there's an addition that was
3 built on the back that wasn't there." That's the way I
4 remember it.

5 **MR. DUMAIS:** Do you recall going back at the
6 location at different times with Constable Sebalj?

7 **MR. ROY:** To my memory, it was only the
8 once.

9 **MR. DUMAIS:** Okay. I'm just going to point
10 you out to -- if you can look at page 7158405, that appears
11 to be an entry on November 28th, 1994 and there's a drawing
12 there.

13 **THE REGISTRAR:** Can it be public?

14 **MR. DUMAIS:** That can be put on the screen.
15 That's fine.

16 **MR. ROY:** All right.

17 **MR. DUMAIS:** There appears to be a drawing
18 of a white bungalow. There's a description of the house
19 there and it appears that you went back to Cornwall and
20 that she would ask you the question if you can truly tell
21 her that that house was the location of the -- the house.
22 I guess she was trying to confirm whether or not you could
23 confirm the location for sure, and it appears that your
24 answer would have been that, no, you couldn't at that time.

25 **MR. ROY:** I remember this house, the one

1 with the white and the black shutters that she brought me
2 to. I told her that the layout was similar, but I didn't
3 think it was the house.

4 **MR. DUMAIS:** Okay.

5 **MR. ROY:** I knew for sure that wasn't the
6 house.

7 **MR. DUMAIS:** Okay. We're now up to the end
8 of November. I understand that at one point in time,
9 Albert, that a constable -- and when you spoke to us at one
10 point in time, you were making reference of the name
11 MacDonald, but I believe it's Constable Chris McDonell -- I
12 think I'm pronouncing it right -- who wanted to speak to
13 you at one point in time. Do you recall that?

14 **MR. ROY:** Yes, I do.

15 **MR. DUMAIS:** And do you recall making a
16 statement to that constable?

17 **MR. ROY:** Yes.

18 **MR. DUMAIS:** I'm just going to ask you to
19 have a look at Document Number 713277.

20 **MR. ROY:** I don't have that one. That's one
21 you didn't give me yet.

22 **MR. DUMAIS:** Madam Clerk has all your
23 documents.

24 So that appears to be a statement. We see
25 your name up there, Albert Hector Roy, and there's no

1 issues with that document, Commissioner.

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

3 **MR. DUMAIS:** And it is dated December 6th,
4 1994.

5 Do you recall in general how that -- how you
6 came about to give a statement? And I take it that
7 Constable McDonell is an OPP officer; is that correct?

8 **MR. ROY:** He told me he was an OPP officer
9 from the Lancaster Detachment.

10 **MR. DUMAIS:** All right.

11 And do you recall where you were when you
12 made that statement?

13 **MR. ROY:** In Heidi Sebalj's office.

14 **MR. DUMAIS:** Do you recall who else would
15 have been present?

16 **MR. ROY:** Heidi's partner and the officer.

17 **MR. DUMAIS:** Okay.

18 **MR. ROY:** Well, Heidi, her partner and the
19 officer.

20 **MR. DUMAIS:** Do you recall what the issue
21 was or why this constable wanted to speak with you?

22 **MR. ROY:** He told me that he was
23 investigating another allegation for the family of a boy
24 that had made accusations about Ken abusing him.

25 Now, I don't know if he meant he was doing

1 this for Ken's family or the boy's family. That wasn't
2 clear to me. I honestly didn't understand why he was
3 talking to me at that time. I even told Heidi, "It doesn't
4 feel right that he's interviewing me about a different
5 case." I just felt uncomfortable because I didn't know
6 what was going on. I didn't know what his -- like, I
7 didn't know what he was about, you know. Heidi said that I
8 should talk to him.

9 **MR. DUMAIS:** But you did, Albert, in giving
10 that statement, touch on some of the abuse; is that
11 correct?

12 **MR. KOZLOFF:** Excuse me; you have the wrong
13 document.

14 **THE COMMISSIONER:** I'm sorry?

15 **MR. DUMAIS:** Document Number 713277.

16 **THE COMMISSIONER:** Thank you, Mr. Kozloff.
17 So where were we? All right.

18 I think it's time to take a break. Why
19 don't we come back at 11:00. All right? Thank you.

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

22 --- Upon recessing in public at 10:45 a.m. to resume in
23 camera/

24 L'audience est suspendue en public à 10h45 pour
25 reprendre à huis clos

1 --- Upon resuming in public at 11:20 a.m./

2 L'audience est reprise en public à 11h20

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. Please be seated. Veuillez vous
7 asseoir.

8 **ALBERT ROY, Resumed/Sous le même serment:**

9 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
10 **DUMAIS (cont'd/suite):**

11 **MR. DUMAIS:** Albert, I was asking you a
12 question about Document Number 713277.

13 **MR. ROY:** Before we talk about this
14 interview with the OPP officer, I would just like to tell
15 you what it was like, like where I was at at the time. At
16 the time, I had just gotten out of the hospital. I was in
17 for a month on the psychiatric ward. I was alone. I
18 didn't have my wife at the time. My family wasn't with me.
19 I had no counsel with me and each time I talked to a police
20 officer, a different police officer, I was getting more
21 afraid, more nervous, more anxious, and even though I had
22 Bob Payette and Dr. Almudevar, my psychiatrist, I only told
23 them of the event. I never discussed the details with them
24 because I just couldn't. I mean, they were males and I
25 just couldn't.

1 When I talked to Heidi Sebalj about the
2 details, it was hard, but it was easier with her because
3 she was a female.

4 So when Chris McDonell came, the OPP
5 officer, out of all the interviews I had with police, this
6 one -- this interview was the scariest. I can't think of a
7 better word.

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

9 **MR. ROY:** And I felt intimidated by him. I
10 felt belittled by him. I felt that he didn't care. He
11 placed me in a position that was - physically he placed me
12 in a position in front of him that was intimidating and
13 made me feel very uneasy, and he was very bold to me, very
14 brisk, and he had no patience for whenever I had a hard
15 time answering one of his questions. This thing that we
16 have in front of us is like a 10-minute statement and he
17 talked to me -- I believe it was an hour, hour and a half
18 and he went into some details. He wanted to know details
19 and he pushed it.

20 After I talked to this police officer, I was
21 sick. I was -- I felt like I was in a vacuum. It was just
22 me and all of a sudden it's me against all of them, even
23 the people that say they're there to help.

24 **MR. DUMAIS:** All right.

25 And I forget, Albert, whether or not I had

1 asked you this before the break, but this interview, where
2 did it occur?

3 MR. ROY: In the office of Heidi Sebalj.

4 MR. DUMAIS: I believe you said earlier that
5 both Heidi and her partner were there as well?

6 MR. ROY: Yes.

7 MR. DUMAIS: And fair to say that it was
8 Constable McDonell that was conducting the interview or
9 asking the questions?

10 MR. ROY: Yes. Heidi and -- her partner was
11 behind the desk, and Heidi was standing beside her desk,
12 but he faced me towards the door, so they were behind me,
13 and he sat in front of me with his legs open and had me,
14 like, four or five inches away from him, and he was a big
15 man. I mean, at the time, my perception, because of how I
16 was feeling, you know, he felt bigger than life.

17 MR. DUMAIS: Fair to say that you felt
18 intimidated?

19 MR. ROY: Oh yes.

20 MR. DUMAIS: How was the interview set up,
21 Albert, do you remember? Who called you and what was ---

22 MR. ROY: Heidi Sebalj set up an interview.

23 MR. DUMAIS: And do you recall whether or
24 not she had explained what would be going on or what was
25 the purpose of the statement to a police officer?

1 **MR. ROY:** No, she said he'd explain it to me
2 when he got there.

3 **MR. DUMAIS:** All right.

4 And I think you've indicated previously that
5 he appears to have been investigating some other matter; is
6 that correct?

7 **MR. ROY:** Yes.

8 **MR. DUMAIS:** All right.

9 **MR. ROY:** I believe he said the boy was
10 eight years old, but on that part -- I'm not sure, but I
11 believe he said the boy was eight years old.

12 **MR. DUMAIS:** All right.

13 **MR. ROY:** But I could be wrong.

14 **MR. DUMAIS:** Is that the only involvement
15 that you had had with Constable McDonell?

16 **MR. ROY:** Yes. I never saw him after that.

17 **MR. DUMAIS:** Now, you did go through your
18 allegation somewhat, Albert. So he did ask you about what
19 statement you had made to Constable Sebalj; correct?

20 **MR. ROY:** Correct.

21 **MR. DUMAIS:** And you did indicate to him at
22 one point in time that Ken Seguin was the one that had
23 prepared the Pre-Sentence Report for your matter when you
24 had been charged?

25 **MR. ROY:** Yes.

1 **MR. DUMAIS:** I'm looking at Bates page
2 number 7051072. The lines I'm looking at are towards the
3 end of the page. The paragraph starts with:

4 "There would be some guy visit when I
5 was there by the name of Mark. He was
6 older than I was, maybe in his 20s."

7 **MR. ROY:** The guy I was speaking of had
8 nothing to do with Nelson. The guy I was speaking of was -
9 - he asked me if I had ever met Mark, and I told him that I
10 think I did. There was this guy once at Ken's, and I
11 believe his name was Mark and then the rest is correct. He
12 was in his 20s. Like, this isn't my words. These are his
13 words, like his notes. There's some places where he uses
14 the words, "I was talking" as if I was talking, but that's
15 him talking. That's his version of his notes.

16 **MR. DUMAIS:** All right.

17 Now, Albert, you did have a look and it's
18 one of the documents that has been identified by one of the
19 parties as a document they will use in cross-examination,
20 and it's the written version of this statement, and you
21 have had a look at that; is that correct?

22 **MR. ROY:** Yes.

23 **MR. DUMAIS:** And that's -- without putting
24 the document to you, the statement was not done in your
25 handwriting; is that correct?

1 **MR. ROY:** No.

2 **MR. DUMAIS:** Right. But the statement is
3 signed by you; is that correct?

4 **MR. ROY:** Yes.

5 **MR. DUMAIS:** All right. Now, this whole
6 issue about this Mark at Ken Seguin's house, do you think
7 that that was the issue for Constable McDonell? Is that
8 what he was trying to get information on?

9 **MR. ROY:** Yes. Like even in this page, 1072
10 there, where you were talking about Mark, he has here:

11 "While at Nelson Barque's house, he
12 would also supply me with liquor".

13 Like, I don't understand how he has that
14 together with the Mark thing because it sounds like he's
15 saying while Mark was at Nelson's house, he would also give
16 me liquor, and that's not the way it was. I mean, I'd
17 never seen Mark at Nelson's house.

18 **MR. DUMAIS:** All right.

19 **MR. ROY:** And as far as signing those
20 documents, I mean, at the time, if the police officer said
21 to me, "This is your statement", I didn't read the whole
22 thing. I didn't understand that I should. I just
23 automatically assumed that I wouldn't have to worry. It's,
24 you know, it's a police officer giving me my statement to
25 sign that what I said would be on the paper.

1 **MR. DUMAIS:** All right.

2 Fair to say, Albert, that the statement
3 we're looking at now appears to have been, to a certain
4 extent, a summary of the whole interview?

5 **MR. ROY:** Well, it's a summary of part of my
6 interview.

7 **MR. DUMAIS:** Okay. So other matters were
8 discussed?

9 **MR. ROY:** Yes.

10 **MR. DUMAIS:** Now I'm looking at the
11 following page, Albert, and that's Bates page number
12 7051073, and you were asked by this constable whether or
13 not you knew a person by the name of David Silmsner and you
14 indicated no, that you didn't. It's the two last questions
15 on that page, Albert.

16 **MR. ROY:** That's right. I don't know
17 anybody by the name of David Silmsner, at least I don't
18 believe I do. I don't remember that name.

19 **MR. DUMAIS:** And as well there is some
20 question -- the last question:

21 "Did you ever meet anyone from the
22 Church around Ken's house?"

23 **MR. ROY:** And I told them "no".

24 **MR. DUMAIS:** All right. So you never -- you
25 couldn't provide them with any information with respect to

1 that?

2 MR. ROY: I don't know what to say.

3 THE COMMISSIONER: Well, did you ever see --
4 when you were at Ken Seguin's home, was there ever anybody
5 else there other than Mark?

6 MR. ROY: Not that I can recall.

7 THE COMMISSIONER: Did Mark ever hurt you?

8 MR. ROY: No. It's just there's something
9 about the church.

10 THE COMMISSIONER: Yes. What would you like
11 to say?

12 MR. ROY: But I don't know if he wants me to
13 ---

14 THE COMMISSIONER: Well, never mind what he
15 wants. I want. Go ahead.

16 MR. ROY: I don't know if I'm supposed to go
17 in that area, though.

18 THE COMMISSIONER: Well, we'll find out.
19 It's okay.

20 (SHORT PAUSE/COURTE PAUSE)

21 MR. ROY: I don't think I can do it.

22 THE COMMISSIONER: All right. So is it
23 about somebody in the church?

24 MR. ROY: No -- well, no. It's about the
25 church itself.

1 **THE COMMISSIONER:** M'hm. Okay. Did you
2 tell someone in the church?

3 **MR. ROY:** No. Ken gave me the indication
4 that he would have access to the church.

5 **THE COMMISSIONER:** What do you mean by
6 access to the church?

7 **MR. DUMAIS:** Perhaps I can help, Albert. So
8 at one point in time, Ken had made the offer that both you
9 and he could go into a church, suggesting that he could --
10 the abuse could -- could happen there? Is that what you're
11 trying to say?

12 **MR. ROY:** Yes.

13 **MR. DUMAIS:** All right.

14 **THE COMMISSIONER:** Did he mention what
15 church?

16 **MR. ROY:** I don't think so, no.

17 **THE COMMISSIONER:** Okay.

18 **MR. DUMAIS:** All right. So your last answer
19 then that's been transcribed in that interview was, "No, I
20 can't say as I did".

21 Did he explain that to you at all, why he
22 was asking you these questions?

23 **MR. ROY:** Only the original thing he said to
24 me when he first was doing the interview, that he was
25 investigating another case of a boy that had made a

1 complaint about Ken Seguin. Again, I'm unsure but
2 something in my head -- I think he said that the boy was
3 eight years old, and he was investigating the allegation
4 for the family. Now, I don't know if he meant for Ken
5 Seguin's family or the boy that made the allegation. He
6 told me he was friends with or knew the family. Again, I
7 don't know which family he was implying, the boy's family
8 or Ken's family.

9 MR. DUMAIS: All right.

10 MR. ROY: And that's one of the reasons I
11 felt uncomfortable, because I didn't understand, like, what
12 he was doing asking me questions like this without me
13 understanding the full ---

14 MR. DUMAIS: Fair to say, Albert, that his
15 concern was not the investigation of your allegation but
16 rather it was some other investigation; is that correct?

17 MR. ROY: Yes.

18 MR. DUMAIS: All right.

19 Now, this interview occurred on December 6,
20 1994, at least that's what the statement says. That makes
21 sense?

22 MR. ROY: Yes.

23 MR. DUMAIS: And you would have first spoken
24 to Heidi Sebalj on November 23rd, 1994?

25 MR. ROY: Yes, sounds right, yes.

1 **MR. DUMAIS:** So this interview would have
2 occurred some two weeks after your initial disclosure.
3 Correct?

4 **MR. ROY:** Yes.

5 **MR. DUMAIS:** Now, I understand that at one
6 point in time, Albert, Constable Sebalj indicated that she
7 would have some difficulty continuing with the
8 investigation. By that, I mean ---

9 **MR. ROY:** Oh, because of the jurisdiction.

10 **MR. DUMAIS:** I mean I'm not sure what the
11 reason is. Did she at one point in time indicate that she
12 or Cornwall Police Services could no longer continue with
13 the investigation or would have to enlist the assistance of
14 the OPP?

15 **MR. ROY:** Well, yes. She told me that they
16 couldn't arrest him because he was outside their
17 jurisdiction, so they'd have to have someone from the OPP
18 arrest him. She said she could still work with me and she
19 would be handing all her information over to the arresting
20 officer and that I also would have to be interviewed by
21 him.

22 **MR. DUMAIS:** Pardon me, what was your last
23 statement?

24 **MR. ROY:** I would also have to be
25 interviewed by him.

1 **MR. DUMAIS:** I see. Were you interviewed by
2 -- and by him, we are not talking about Constable McDonell;
3 is that correct?

4 **MR. ROY:** No. Well, at the time, the "him"
5 was -- I didn't know.

6 **MR. DUMAIS:** All right.

7 **MR. ROY:** It later became Officer Zebruck.

8 **MR. DUMAIS:** So you did speak to Constable
9 Zebruck from the OPP. Do you recall from which detachment?

10 **MR. ROY:** As far as I know, he was from Long
11 Sault.

12 **MR. DUMAIS:** You mentioned earlier that
13 Constable Sebalj could not place Mr. Barque under arrest.
14 Do you know whether or not it was Constable Zebruck that
15 did that?

16 **MR. ROY:** Yes.

17 **MR. DUMAIS:** Do you recall being asked to
18 sit down and make a statement with Constable Zebruck?

19 **MR. ROY:** Yes, I did.

20 **MR. DUMAIS:** Who again made those
21 arrangements?

22 **MR. ROY:** Heidi did.

23 **MR. DUMAIS:** Where would this interview have
24 occurred?

25 **MR. ROY:** In Heidi's office, but I think

1 this time -- I believe this time I only talked to him
2 alone. She wasn't present. I'm not sure on it though.

3 **MR. DUMAIS:** All right. What about her
4 partner, would he have been present?

5 **MR. ROY:** I don't think so, no.

6 **MR. DUMAIS:** You believe that he interviewed
7 you alone?

8 **MR. ROY:** I think initially it was with
9 Heidi and her partner and then for some reason it was
10 alone. I mean I could be mistaken. I mean there's so many
11 officers that I talked to, but I think that's the way it
12 happened.

13 **MR. DUMAIS:** All right. If we can turn to
14 document 114321? I just have to be careful here,
15 Commissioner, about this document.

16 Actually, I apologize, Commissioner. If we
17 can turn to document number 116165 and if we can just ---

18 **THE COMMISSIONER:** We have a Police
19 Officer's Notebook.

20 **MR. DUMAIS:** It's Police Officer's Notebook,
21 Commissioner, and I'm not sure if I had filed this as an
22 exhibit this morning. Perhaps we can do that now.

23 **THE COMMISSIONER:** We don't have -- I'm
24 sorry?

25 **MS. COSTOM:** Mr. Commissioner, there may be

1 some confidentiality issues.

2 **MR. DUMAIS:** Yes, thank you, Madam Costom.

3 There are and ---

4 **THE COMMISSIONER:** And we don't have a paper
5 copy of that exhibit?

6 **THE REGISTRAR:** I just need one second.

7 **MR. DUMAIS:** It's actually one of the
8 documents that has been identified as a document used in
9 cross-examination.

10 **THE COMMISSIONER:** Okay. So keep looking.

11 **MR. DUMAIS:** Should I wait for Madam Clerk?

12 **THE COMMISSIONER:** No, we can -- well, let's
13 keep -- we have a question on confidentiality here.

14 **MR. DUMAIS:** Yes, perhaps I can address that
15 and, Commissioner, I think we've addressed those names.

16 **THE COMMISSIONER:** I don't ---

17 **MR. DUMAIS:** Commissioner, at page 1078031,
18 actually the name of Robert Sheets appears. However --
19 yes, that's correct -- however, given Mr. Dallas Lee's
20 submissions this morning, I can advise that this is no
21 longer an issue.

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

23 So there are a number of black marks on
24 this. That was the redaction that was contemplated?

25 **MR. DUMAIS:** Those are redactions that were

1 applied by the OPP, Commissioner.

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

3 **MR. DUMAIS:** Therefore, they were redacted
4 for the purposes of the Inquiry, so they were irrelevant
5 information.

6 **THE COMMISSIONER:** Right. I just wanted the
7 explanation put on the record so that one would know that
8 it wasn't clandestine or anything.

9 Okay. So here we are. We have the
10 document. Where do you want to go?

11 **MR. DUMAIS:** Perhaps, Commissioner, it can
12 be filed as ---

13 **MS. COSTOM:** If you permit me to just say a
14 word to Mr. Dumais to ---

15 **THE COMMISSIONER:** Sure.

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **THE COMMISSIONER:** Yes?

18 **MS. COSTOM:** Mr. Commissioner, I was just
19 bringing to the attention of my friend that on Bates page
20 number 1078050 and on Bates page number 1078051 there are a
21 number of names, which, if I need to, I can identify in
22 camera, of people who are referred to as potential victims,
23 who never came forward or were involved in prosecutions, to
24 my knowledge, and who, to my knowledge, are not people who
25 are going to be involved in this Inquiry and, in fact, we

1 don't even know if they are actually victims. They are
2 people who Officer Zebruck was referred to during the
3 course of his investigation by other people as people who
4 may have been victimized, who were suspected by third
5 parties to having been victimized.

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

7 **MS. COSTOM:** And I would submit that those
8 names should be given confidentiality measures. They are
9 sort of in the same category, if you will, as all of those
10 victims who don't know that these proceedings are going on
11 and who, therefore, don't have the opportunity to assert
12 the desire for confidentiality.

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

14 **MS. COSTOM:** I bring to the attention of the
15 ---

16 **MR. DUMAIS:** Then, Commissioner, if we could
17 just file this exhibit as a "C" Exhibit 121, interim "C"
18 Exhibit 121, and I take it, Commissioner, that this issue
19 will be addressed by your ruling as well since these names
20 fall in that category.

21 --- **EXHIBIT NO./PIÈCE NO C-121:**

22 Detective Zebruck's Officer's Notes -
23 November 15, 1994

24 **MR. DUMAIS:** Now, the question I want to ask
25 you, Albert, and I'm looking at Bates page number 1078026

1 and we can put that page on the screen, Commissioner.

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

3 **THE REGISTRAR:** Can I have the page number
4 again, please?

5 **MR. DUMAIS:** It's 1078026.

6 So, Albert, the question is as follows and I
7 never asked you this question. This is from Officer
8 Zebruck's notes and this is part of his notes from July
9 18th, 1994 to November 29th, 1994, and there is an entry here
10 on November 16th, 1994, which is a Wednesday.

11 **MR. ROY:** The 16th of November? That middle
12 part?

13 **MR. DUMAIS:** It's completely at the end of
14 that page.

15 **MR. ROY:** Okay.

16 **MR. DUMAIS:** There's an entry between 15h00
17 and 16h00:

18 "Followed up on an occurring sexual
19 assault Roy request for information at
20 the probation office."

21 Do you recall speaking to Constable Zebruck
22 prior to Constable Sebalj? Or did you ---

23 **MR. ROY:** I don't understand. Are you
24 saying that I talked to him before I reported the incident?

25 **MR. DUMAIS:** Correct.

1 **MR. ROY:** Like before it all began, you're
2 saying, like, did I talk to him before the first time I
3 went in to talk ---

4 **MR. DUMAIS:** Correct. Correct.

5 **MR. ROY:** Okay. No, I don't -- I never
6 talked to him then.

7 **MR. DUMAIS:** All right. Now ---

8 **MR. ROY:** Unless Bob's office, there's the
9 phone interview, maybe -- but that's the only way I could
10 see him ---

11 **MR. DUMAIS:** Might not even be you, Albert.

12 **MR. ROY:** Yes.

13 **MR. DUMAIS:** I'm just -- it came out, so I
14 just wanted to make sure ---

15 **MR. ROY:** Okay.

16 **MR. DUMAIS:** --- the first report to a
17 police officer was to Constable Sebalj from the Cornwall
18 Police.

19 **MR. ROY:** Yes.

20 **MR. DUMAIS:** As far as you can remember.
21 All right.

22 **MR. ROY:** I know it was. I know it was.
23 I'm just saying when Bob called to find out who I'd have to
24 talk to, he might have called the OPP office and they
25 referred him to the Cornwall Police, you know.

1 **MR. DUMAIS:** All right, but that's not
2 something that you know for a fact; correct?

3 **MR. ROY:** No, no.

4 **MR. DUMAIS:** There is no need to explain,
5 Albert. If you don't know, you don't know, and that's
6 fine.

7 **MR. CARROLL:** Mr. Dumais?

8 **MR. DUMAIS:** Yes.

9 **MR. CARROLL:** May I have a moment?

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

11 **MR. DUMAIS:** I have been advised,
12 Commissioner, that that's an occurrence that appears to be
13 completely unrelated. It was produced to us, but that
14 information is, in all likelihood, irrelevant information
15 and should have been redacted.

16 So then if I can move on, those notes,
17 Albert -- and I'm going to turn now to December 16th, 1994,
18 and that is Bates Number 1078043 of the same document.

19 **THE COMMISSIONER:** I'm sorry, what page?

20 **MR. DUMAIS:** Page 1078043.

21 **THE COMMISSIONER:** Okay. I just -- there is
22 a notation on 1078029 dated the 29th of November.

23 **MR. DUMAIS:** I'm sorry, Commissioner?

24 **THE COMMISSIONER:** At 1078029?

25 **MR. DUMAIS:** Sorry, 1078043.

1 **THE COMMISSIONER:** No, I understand that.
2 What I'm saying though is that there's a notation in the
3 police officer's notebook dated November 29th, 1994, and
4 there it seems we're referring to -- and it says 29th of
5 November '94, "CONT" which maybe means continuation. I
6 don't know. So I don't know if that ---

7 **MR. DUMAIS:** I'm sorry, Commissioner; I
8 really don't see -- that's the wrong page, actually.

9 **THE COMMISSIONER:** It's okay.

10 **MR. DUMAIS:** I see.

11 So you're asking me a question about another
12 page, Commissioner?

13 **THE COMMISSIONER:** Yes.

14 **MR. DUMAIS:** Oh, I see.

15 **THE COMMISSIONER:** They were asking the
16 person, the witness, whether or not he had spoken to
17 anybody because there was a notation in the notebook on
18 November 16th, and then the next notation is November 29th,
19 which would place that after Mr. Roy's two visits with the
20 Cornwall Police officer Heidi Sebalj and before he met with
21 Constable McDonell on December 6th.

22 **MR. DUMAIS:** That's correct, Commissioner,
23 and you do appear to be correct on that and it does appear
24 to be a communication between Constable Luc Brunet from
25 Cornwall Police Services and does identify the name of

1 Nelson Barque and the name of Constable Heidi Sebalj.

2 So I'm not sure what the question is.

3 **THE COMMISSIONER:** No, I'm just pointing
4 that out. I thought it might relate to the question you
5 asked him about, the first note which is dated November
6 16th, which if it referred to this incident, would have been
7 before he had spoken to Heidi Sebalj, but I guess it's in
8 the middle, so it's explainable.

9 **MR. DUMAIS:** Yes, and that could be so and
10 perhaps a question that should be put to another witness.

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

12 So now we're going to 45, you say?

13 **MR. DUMAIS:** To 43, Commissioner.

14 **THE COMMISSIONER:** All right.

15 **THE REGISTRAR:** Is this on the public
16 screen?

17 **MR. DUMAIS:** It is, Commissioner.

18 **THE COMMISSIONER:** So it's a public
19 document. Okay.

20 **MR. DUMAIS:** So this appears to indicate --
21 and I'm looking at the middle of the page, Albert, December
22 16th, 1994, the entry at 08:30 to 12:00, follow-up on 3723,
23 "Nelson Barque at detachment for fingerprints. Meeting at
24 Cornwall with Probation and Parole, Cornwall office." So
25 this appears to indicate that Mr. Barque attended the OPP

1 office for fingerprinting or, presumably, he had been
2 placed under arrest.

3 Were you ever advised that Mr. Barque had
4 been arrested?

5 **MR. ROY:** I believe Heidi told me that he
6 was.

7 **MR. DUMAIS:** All right.

8 **MR. ROY:** And then later Officer Zebruck
9 talked to me about it, about when he had arrested Nelson,
10 like what he had said.

11 **MR. DUMAIS:** Sorry, what -- well, perhaps we
12 can get to that in just a second, Albert. If I can just
13 then -- if you can look at just further down that page,
14 12:45 to 16:00 hours, it appears to confirm that you had a
15 -- you gave a statement to Constable Zebruck, and that
16 would have followed the apparent arrest of Nelson Barque.
17 Does that make sense to you? Is that how it happened?
18 Does the date make any sense to you, December 16th, 1994?

19 **MR. ROY:** I'm not sure of the dates.

20 **MR. DUMAIS:** Okay.

21 **MR. ROY:** And I'm not sure exactly how
22 things happened.

23 **MR. DUMAIS:** The chronology is a little
24 fuzzy?

25 **MR. ROY:** Yes.

1 **MR. DUMAIS:** All right. Fair enough.

2 Do you remember speaking to Constable
3 Zebruck or giving a statement to him?

4 **MR. ROY:** Yes, I do.

5 **MR. DUMAIS:** And again, Albert, would that
6 have occurred at Cornwall Police Services offices?

7 **MR. ROY:** Yes.

8 **MR. DUMAIS:** In Heidi's office; is that
9 correct?

10 **MR. ROY:** Yes.

11 **MR. DUMAIS:** All right.

12 And again, was it set up by Constable
13 Sebalj?

14 **MR. ROY:** Yes, it was.

15 **MR. DUMAIS:** All right.

16 And did the issue of the location of the
17 incident or the occurrence, the house of Nelson Barque,
18 come up during that interview?

19 **MR. ROY:** Well, it came up before that.
20 Heidi had told me why Officer Zebruck was going to be --
21 she used the words "lead investigator", that she would
22 still be on the case but he would be the lead investigator
23 and the arresting officer because Nelson's home and where
24 the incident took place was outside the Cornwall city
25 limits. And then me and her discussed or argued the fact

1 that -- I told her, "It's not just one incident, you know,
2 in his office and the other stuff." That's when she
3 explained to me that that's internal stuff. They can't
4 charge him for that.

5 **MR. DUMAIS:** All right.

6 Now, at one point in time did Officer
7 Zebruck ask you to identify the house of Nelson Barque?

8 **MR. ROY:** Yes.

9 **MR. DUMAIS:** All right.

10 And tell me what you remember about that,
11 how that was done.

12 **MR. ROY:** He picked me and his wife up --
13 his wife -- sorry. He picked me and my wife up in his car.
14 It wasn't a marked car. It was just like an ordinary car.
15 And we sat in the back seat and he sat in the front, and he
16 brought me to identify the house. He asked me questions
17 about the layout of the house, like where was the bedrooms
18 and stuff like that, you know, how many steps go down to
19 the basement, how many steps go up to the kitchen, and I
20 answered those questions and he told me that I was correct,
21 that it was the exact layout of the house.

22 Then he started to tell me about how he had
23 arrested Nelson and he started to tell me that, "You know,
24 this is going to be a hard impact on his family and that."
25 He said Nelson was the type that -- he says, "I believe

1 he'll commit suicide. He will."

2 And at the time, me and my wife, we were
3 kind of getting upset because I didn't understand why he
4 was telling me this stuff, like was he trying to tell me to
5 back off, drop it? That last comment -- here we go again.

6 **THE COMMISSIONER:** Would you like to take a
7 break?

8 **MR. ROY:** Pardon?

9 **THE COMMISSIONER:** Did you want to take a
10 break or do you want to talk about that a little more?

11 **MR. ROY:** I think I'll take a break.

12 **THE COMMISSIONER:** All right. About 10
13 minutes?

14 **MR. ROY:** Okay.

15 **THE COMMISSIONER:** All right. We'll take 10
16 minutes then.

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

19 --- Upon recessing at 12:04 p.m./

20 L'audience est suspendue à 12h04

21 --- Upon resuming at 12:17 p.m./

22 L'audience est reprise à 12h17

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

25 This hearing of the Cornwall Public Inquiry

1 is now in session. Please be seated. Veuillez vous
2 asseoir.

3 **ALBERT ROY, Resumed/Sous le même serment:**

4 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.
5 DUMAIS (cont'd/suite):

6 **MR. DUMAIS:** Albert, you were just telling
7 us about the conversation that you were having in Officer
8 Zebruck's vehicle as you were driving to identify Nelson
9 Barque's residence.

10 **MR. ROY:** Like I was saying, I didn't
11 understand what he -- like, I didn't understand his
12 reasoning for telling me this stuff and one of his last
13 comments was -- I think he said ---

14 **THE COMMISSIONER:** Take your time.

15 **MR. ROY:** He used, I guess, the official
16 term for oral sex and he said, "What's a little," the word,
17 and then he said -- I believe his exact wording was,
18 "What's the harm in a little," again the technical word he
19 used for oral sex "going to do?"

20 **MR. DUMAIS:** All right.

21 And this conversation, Albert, occurred
22 while you were in the vehicle; is that correct?

23 **MR. ROY:** While me and my wife were in the
24 vehicle.

25 **MR. DUMAIS:** All right.

1 Any other discussion with respect to these
2 matters in the vehicle? Anything else that was said?

3 **MR. ROY:** No.

4 **MR. DUMAIS:** All right.

5 And then were you able to locate the
6 residence of Nelson Barque?

7 **MR. ROY:** Yes.

8 **MR. DUMAIS:** All right. And after the
9 residence was located, were you taken back to your house,
10 is that correct?

11 **MR. ROY:** Yes, we were.

12 **MR. DUMAIS:** All right. And the only
13 officer that was involved during that ride was Officer
14 Zebruck, correct?

15 **MR. ROY:** Correct.

16 **MR. DUMAIS:** All right. When you got back
17 to your home, I understand that you did contact the OPP
18 Long Sioux Detachment, is that correct?

19 **MR. ROY:** Yes.

20 **MR. DUMAIS:** All right, and you asked to
21 speak to Officer Zebruck's supervisor, is that correct?

22 **MR. ROY:** That's right.

23 **MR. DUMAIS:** And do you recall who you spoke
24 to?

25 **MR. ROY:** No, I don't.

1 **MR. DUMAIS:** Okay. As far as you know,
2 would that have been on the same day or ---

3 **MR. ROY:** Yes, it was the same day, like
4 half an hour after.

5 **MR. DUMAIS:** All right. So can you explain
6 to me what was told to this person and what was his reply?

7 **MR. ROY:** He told me that not to worry about
8 it that he'd take care of it. I think, basically, that's
9 what he said, he'd take care of it.

10 **MR. DUMAIS:** All right. Was that -- where
11 you asked to come in and fill a report?

12 **MR. ROY:** No.

13 **MR. DUMAIS:** So that was the extent of that
14 conversation?

15 **MR. ROY:** Yeah.

16 **THE COMMISSIONER:** I'm sorry. Could you
17 cover what he said to the officer? When you phoned, what
18 did you tell the officer?

19 **MR. ROY:** I told the officer that I was
20 really upset about some of the comments that Nelson made --
21 Nelson, sorry -- that Officer Zebruck made.

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

23 **MR. ROY:** I can't remember P.S. what the
24 specific comments were.

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

1 **MR. ROY:** But I told him he upset both me
2 and my wife, and I told him that I didn't feel like -- I
3 don't know what the word is -- but, like, deal with this
4 officer.

5 **THE COMMISSIONER:** M'hm. Okay, that's fair.

6 **MR. ROY:** And he told me not to worry about
7 it, that he'd take care of it.

8 **THE COMMISSIONER:** Okay.

9 **MR. DUMAIS:** And Albert, was there ever any
10 follow up? Did anyone ever get back to you?

11 **MR. ROY:** No.

12 **MR. DUMAIS:** And did you, as a matter of
13 fact, continue to have dealings with Officer Zebruck
14 afterwards?

15 **MR. ROY:** To my memory, I don't think I ever
16 talked to him or saw him after that.

17 **MR. DUMAIS:** All right. And when the matter
18 proceeded to court, would he have been present then?

19 **MR. ROY:** I don't remember ever seeing him
20 in a courtroom, no.

21 **MR. DUMAIS:** Okay. So is it fair to say
22 then that most of your dealings afterwards would have been
23 with Constable Sebalj?

24 **MR. ROY:** Yes.

25 **MR. DUMAIS:** And perhaps her partner ---

1 **MR. ROY:** And her partner. I feel bad that
2 I can't remember his name because he ---

3 **THE COMMISSIONER:** Do you have his name? Do
4 you know what ---

5 **MR. ROY:** I see it in some of these
6 documents, his name, it mentions it there. I have it
7 underlined.

8 **THE COMMISSIONER:** Mr. Callaghan, can you
9 help the witness out at all? Can you offer a name?

10 **MR. CALLAGHAN:** There wasn't another officer
11 involved in the investigation; I suspect it might have been
12 another officer. At the time, the Youth Bureau had a large
13 office. I'm not sure if Constable Bow was her partner or
14 not, but that may be one name.

15 **THE COMMISSIONER:** Sir, did you hear?

16 **MR. ROY:** No, that wasn't it.

17 **THE COMMISSIONER:** All right.

18 **MR. CALLAGHAN:** I would assume that would be
19 the person, but I don't know.

20 **THE COMMISSIONER:** He is saying no. All
21 right.

22 **MR. ROY:** I should have marked this
23 separate.

24 **MR. DUMAIS:** We were provided -- sorry,
25 Commissioner.

1 **THE COMMISSIONER:** In any event, whoever
2 that person is and if that person is listening in, he'll
3 know that you are complimentary of him.

4 **MR. ROY:** Yes.

5 **THE COMMISSIONER:** All right.

6 **MR. DUMAIS:** Actually, Commissioner, we were
7 provided with notes, unfortunately, the notes don't
8 identify the constable.

9 Now, Albert, I understand then that by that
10 time that charges had been laid against Nelson Barque, and
11 I know that we've alluded perhaps to the fact that Ken
12 Seguin had committed suicide by that time, but is that your
13 recollection, Albert, that Mr. Ken Seguin had committed
14 suicide by the time you made your first complaint to
15 Constable Sebalj?

16 **MR. ROY:** Yes.

17 **MR. DUMAIS:** All right. So that was not an
18 issue?

19 **MR. ROY:** No.

20 **MR. DUMAIS:** If we can talk a bit now,
21 Albert, about your first contact with the Crown's Office.

22 **MR. ROY:** That would be Guy Savard I think
23 his name was -- Simard, Simard.

24 **MR. DUMAIS:** All right. Do you remember
25 meeting with him prior to your court attendance?

1 **MR. ROY:** Yes.

2 **MR. DUMAIS:** And again, Albert, who made
3 those arrangements and how did that come about?

4 **MR. ROY:** Heidi made the arrangements.

5 **MR. DUMAIS:** All right. Where did you meet
6 Guy Simard?

7 **MR. ROY:** I think I was introduced to him
8 once in the hallway of the police station and then I met
9 him in his office.

10 **MR. DUMAIS:** And what did you meet about or
11 what was the conversation about when you met?

12 **MR. ROY:** He talked about the case and he
13 told me that Nelson was going to plead guilty. He told me
14 what he believed they'd be asking for or what the sentence
15 would be. Like what he'd get for the conviction.

16 **MR. DUMAIS:** Yes.

17 **MR. ROY:** And we also talked about -- me and
18 my wife, we asked him if it's possible or legal to make it
19 that he wasn't allowed to be around children under a
20 certain age. And he told me that he could do that. That
21 would be part of the sentencing.

22 **MR. DUMAIS:** All right.

23 **MR. ROY:** And ---

24 **MR. DUMAIS:** Any that he -- go ahead,
25 Albert.

1 **MR. ROY:** He told me also that -- he said,
2 "You know, even though Nelson will probably only get the
3 four months", he said that, you know, "people that do that
4 kind of conduct usually get beat up in the prison". And I
5 remember I got upset, and I told him, "You know that's not
6 what I want". I said, I mean, "I don't know why you're
7 telling me that, why you think that's what I want out of
8 this. I mean, I just want for him to acknowledge what he
9 did" and to -- I think the words I used was, "to have some
10 time to think about it"; like, I've thought about it for
11 the past 17 or 18 years.

12 **MR. DUMAIS:** Did you discuss at all, Albert,
13 whether or not there had been a pre-trial? Do you remember
14 those words or that discussion with respect to that?

15 **MR. ROY:** I know that him, the lawyer or the
16 prosecutor and the other lawyer and the judge met before
17 the trial. Like I don't understand what that procedure
18 was.

19 **MR. DUMAIS:** Okay. And how do you know that
20 they met? Because you were there or you were told that?

21 **MR. ROY:** Because when I was at the trial,
22 they talked about it.

23 **MR. DUMAIS:** Okay. So you knew then that
24 there had been some type of a meeting involving these
25 people previously?

1 **MR. ROY:** Yes.

2 **MR. DUMAIS:** All right. Did you discuss, at
3 any point in time, what type of sentence the Crown would be
4 requesting?

5 **MR. ROY:** Like beyond? Like, that I didn't
6 want -- I wanted something stipulating that he couldn't be
7 around, like supervising, beyond that?

8 **MR. DUMAIS:** You mentioned that the Crown
9 thought he would be getting four months; is that right?

10 **MR. ROY:** He'd be asking for a year, he told
11 me he'd be asking for a year and most likelihood he would
12 get four months.

13 **MR. DUMAIS:** All right.

14 **MR. ROY:** See I don't know if my meeting was
15 before that other meeting or after.

16 **MR. DUMAIS:** Okay. What about the facts
17 that Mr. Barque would be pleading to? Did you discuss that
18 at all, what your statement said and what facts would be
19 read in when he pled guilty?

20 **MR. ROY:** Like why he pleaded guilty?

21 **MR. DUMAIS:** No, I guess my question is to
22 what the facts were to the allegations, the details to the
23 allegations and how that would be presented to the judge
24 that presided.

25 **MR. ROY:** He didn't tell me how he'd present

1 them. He just told me that my statement was rock solid.
2 He said it was -- he said he pleaded guilty because there's
3 nothing they can turn on me.

4 **MR. DUMAIS:** All right.

5 **MR. ROY:** Something to that effect.

6 **MR. DUMAIS:** All right. Now my
7 understanding of the court proceeding is that Mr. Barque
8 plead guilty on one day, and the sentencing was adjourned
9 to another day. I guess my question to you is ---

10 **MR. ROY:** All I know is that I went to the
11 court only once. And when I went, he was -- he had pleaded
12 guilty so somewhere before that, the judge must have found
13 out that he had pleaded guilty. So there must have been
14 something, some other court thing that I wasn't privileged
15 to.

16 **MR. DUMAIS:** Okay. You don't think you were
17 present in the courtroom when Mr. Barque entered a plea of
18 guilty?

19 **MR. ROY:** I don't remember, like, the judge
20 saying "How do you plead?" And "Do you plead", that sort of
21 thing; I never saw that, no.

22 **MR. DUMAIS:** All right.

23 **MR. ROY:** That I can remember.

24 **MR. DUMAIS:** Now, Commissioner, my intent
25 was to go through different parts of the transcript of the

1 sentence hearing.

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

3 **MR. DUMAIS:** It's approximately 12:35,
4 perhaps a good time to break.

5 **THE COMMISSIONER:** Time for lunch. Thank
6 you.

7 We will come back at 2 o'clock.

8 **MR. DUMAIS:** Thank you.

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

11 --- Upon recessing at 12:34 p.m./

12 L'audience est suspendue à 12h34

13 --- Upon resuming at 2:03 p.m./

14 L'audience est reprise à 14h03

15 **THE REGISTRAR:** This hearing of the Cornwall
16 Public Inquiry is now in session. Please be seated.
17 Veuillez vous asseoir.

18 **THE COMMISSIONER:** How was lunch?

19 **MR. ROY:** It was good. Thank you.

20 **ALBERT ROY, Resumed/Sous le même serment:**

21 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
22 **DUMAIS (cont'd/suite):**

23 **MR. DUMAIS:** Good afternoon, Albert.

24 We had just left off with discussions that
25 you had with the Crown Attorney, Mr. Guy Simard, and I'm

1 just going to take you now to document number 116129, which
2 is a transcript of the Sentencing Hearing and that occurred
3 on August 18th, 1995. I know that you want to talk about
4 different issues that occurred throughout this sentencing
5 and if I can just take you then firstly to page 1075677.

6 So at about line 18, and this is Mr. Don
7 Johnson, the Crown Attorney, he says about mid-paragraph --
8 -

9 MR. KOZLOFF: He was a defence attorney.

10 THE COMMISSIONER: I'm sorry?

11 MR. DUMAIS: Pardon me?

12 MR. KOZLOFF: He was a defence attorney.

13 MR. DUMAIS: I apologize.

14 THE COMMISSIONER: I'm sorry, I can't hear
15 him.

16 MR. KOZLOFF: Excuse me. I beg your pardon,
17 sir. I was just -- Mr. Dumais had incorrectly identified
18 Mr. Johnson's role.

19 THE COMMISSIONER: All right.

20 MR. DUMAIS: Mr. Johnson was a defence
21 attorney at that time.

22 THE COMMISSIONER: At that time, yes.

23 MR. DUMAIS: Acting for Mr. Nelson Barque.
24 Mid-paragraph:

25 "When I came to court..."

1 And he's addressing the judge that morning.

2 "When I came to court this morning my
3 client advised me that he had been
4 interviewed by a probation officer for
5 the purpose of a pre-sentence report.
6 I was unaware that the Court had
7 ordered a pre-sentence report in these
8 circumstances."

9 Now, Albert, I had asked you this morning
10 whether or not you had been present when a plea had been
11 entered or that a pre-sentence report and presumably the
12 pre-sentence report would have been ordered on the same
13 day. Were you aware that a pre-sentence ---

14 **MR. ROY:** No. The first I heard of it is
15 when they were having the arguments in the courtroom,
16 before I was called.

17 **MR. DUMAIS:** Now, do you have any comments
18 with respect to that? What were your views on that issue?

19 **MR. ROY:** Well, the problem I had with that
20 is that the judge and -- Mr. Johnson, Nelson's lawyer, had
21 a problem with the information that was on page 4 of the
22 Pre-Sentence Report and he also said to the judge that he
23 was unaware that one was going to be ordered and, in so
24 being ordered, he was surprised at the information that was
25 given on page 4 about alleged incidences that happened when

1 Nelson was asked to resign from the Probation Department.

2 MR. DUMAIS: All right.

3 MR. ROY: My -- sorry.

4 THE COMMISSIONER: Go ahead.

5 MR. DUMAIS: Keep going. Sorry.

6 MR. ROY: My problem with that is that I
7 found out that Mr. Johnson was the prosecuting attorney,
8 the Crown Attorney during these incidences of 1982. So I
9 don't understand how he could tell the court he was
10 surprised of these allegations when he's the one that
11 decided there wasn't enough evidence to prosecute Nelson
12 and he also knew the circumstances of Nelson leaving the
13 Probation Department because of these incidents.

14 Like, I'm a layman, so I don't know if
15 there's something wrong in that, but to me there seems
16 something wrong that the prosecuting attorney at that time,
17 when there were sexual allegations against Nelson Barque,
18 is now his legal attorney for other sexual allegations. It
19 just seemed -- it seemed to me he should have told the
20 judge that.

21 MR. DUMAIS: All right.

22 So you said a few things. If we can just
23 take them one at a time.

24 MR. ROY: Okay.

25 MR. DUMAIS: So you've indicated that you

1 thought that Mr. Johnson may have been in a conflict in
2 acting for Mr. Barque; is that fair?

3 MR. ROY: In my eyes it would have been a
4 conflict.

5 MR. DUMAIS: Is this information that you
6 were aware of at that time or did you subsequently found
7 that out?

8 MR. ROY: No, I was told at that time but I
9 didn't -- I never had -- nobody ever handed me a piece of
10 paper stating unequivocally that Mr. Johnson was the
11 prosecuting attorney at that time, but other people had
12 told me that he was.

13 MR. DUMAIS: All right.

14 Would one of those people be someone from
15 the Crown's office?

16 MR. ROY: No. One of them was a police
17 officer that watched me while -- because Heidi and her
18 partner had to leave the room once and I guess they didn't
19 want to leave me alone inside her office. I mean, it's not
20 because I'd do anything but maybe it's policy or whatever.
21 And this police officer came in to watch me during that
22 period, to stay with me, and he told me about the reasons
23 why Nelson had to leave the Probation Department. He told
24 me all about it, and he told me that Mr. Johnson was the
25 prosecuting attorney at the time. Also, a reporter for I

1 believe it was CBC news told me the same thing, and I'm
2 pretty sure there was one other person that told me that.

3 **MR. DUMAIS:** So that was one of the problems
4 you had with the court proceeding; the fact that Mr. Barque
5 was represented by Mr. Johnson.

6 **MR. ROY:** Yes.

7 **MR. DUMAIS:** Now, you've alluded to, and the
8 judge, the Crown and defence counsel did as well discuss
9 this in the sentencing proceeding, to the facts that were
10 found in page 4 of the Pre-Sentence Report and that is doc
11 number 115918, page number 1075162.

12 Incidentally, Albert, you were present in
13 the courtroom during all those discussions?

14 **MR. ROY:** Yes.

15 **MR. DUMAIS:** All right.

16 **MR. ROY:** Part of them, I was on the stand
17 and part of it, I was present in the courtroom.

18 **MR. DUMAIS:** Okay. Now, I think the
19 paragraph they were referring to is the first paragraph,
20 about four lines down and I'll just read it:

21 "The couple experienced strange
22 relations following similar incidents
23 to the one before the court while the
24 subject was employed with the Ministry
25 of Correctional Services as well as

1 strain following the present court
2 proceedings."

3 So is that what you were referring to?

4 **MR. ROY:** Yes.

5 **MR. DUMAIS:** All right.

6 **MR. ROY:** And also at the bottom of that
7 document, it talks about he was in another job after the
8 Probation Department and his employer had problems with
9 parents having complaints about them not wanting him to
10 counsel their children because of the allegations in 1982.

11 **MR. DUMAIS:** Can you point out ---

12 **MR. ROY:** Wait, I might -- that might be on
13 a different page. I looked at it fast.

14 **(SHORT PAUSE/COURTE PAUSE)**

15 **MR. DUMAIS:** Perhaps you can look at page
16 1075164, the middle paragraph.

17 **MR. ROY:** Can you just say that page again?

18 **MR. DUMAIS:** It's 1075164.

19 **MR. ROY:** Okay. Oh yes, it's -- the thing I
20 was talking about is on that page. It's in the third
21 paragraph.

22 **MR. DUMAIS:** So if I can just read it,
23 Albert, and you tell me if that's what you're referring to:

24 "Between 1982 and 1986, Mr. Barque was
25 employed as a social worker with the

1 Équipe psycho-sociale. His employment
2 consisted of working with parents of
3 children and youth who were exhibiting
4 behavioural problems with the school
5 system. According to the subject's
6 employer, Mr. Pierre Landry, Mr. Barque
7 presented as a punctual employee who
8 maintained positive relations with his
9 colleagues. There have been no
10 reported incidents of inappropriate or
11 harmful behaviour to young persons with
12 whom he had been in contact during his
13 employment. Mr. Landry had, however,
14 received repetitive contact from
15 parents in the community expressing
16 their concern and their desire to not
17 have Mr. Barque assigned to their file
18 due to information they had heard
19 regarding inappropriate and harmful
20 conduct with young persons while
21 employed with the Ministry of
22 Correctional Services. Mr. Barque
23 resigned from his position."

24 **MR. ROY:** Yes, that's what I was referring
25 to.

1 **MR. DUMAIS:** All right.

2 So Mr. Pierre Landry, his new employer,
3 alluding to the fact that some parents had heard about an
4 incident in 1982.

5 **MR. ROY:** But -- oh gees. There's a report
6 from a police officer stating that this Pierre Landry had
7 followed him too on lunchtime breaks, so I don't think his
8 employment there was so rosy.

9 **MR. DUMAIS:** Well, I can point you to that.

10 **MR. ROY:** I know it's in -- I think it's in
11 Zebruck's.

12 **MR. DUMAIS:** All right. Well, we can do
13 that now. If we look then at document number 737612 and at
14 pages 7158420, and I'll just double check whether or not
15 there are any issues with that page.

16 It's fine. I think we can show it. So this
17 is taken from Constable Sebalj's notes and at the entry at
18 10h41 it says:

19 "Pierre Landry advises no specific
20 allegations received complaints from
21 parents being apprehensive about their
22 children being counselled by Barque
23 [donc] accommodated.
24 1st complaint, did not act on
25 then when received more, became

1 suspicious
2 staff sign out in case they are needed
3 - Barque wouldn't sign himself out & go
4 to the..." --

5 I'm just reading "Savard Landry" -- I'm
6 sorry.

7 "...Square
8 Landry followed him there,
9 hanging out in washrooms
10 - approached Barque & confronted him
11 w/parents' apprehensions & his
12 suspicions - advised Barque, if I'm
13 wrong, fight me. If I'm right,
14 resign."

15 It's indicated that "Barque resigned".
16 Is that what you were referring to?

17 **MR. ROY:** Yes.

18 **MR. DUMAIS:** All right. So I guess we've
19 strayed away just a bit, Albert. So you have some
20 difficulty with the comments that were either made by
21 Pierre Landry or reported in the Pre-Sentence Report by the
22 Probation Officer then, Nicole Barbeau. Is that a fair
23 statement?

24 **MR. ROY:** That's right.

25 There is also the -- like, I don't want to

1 jump ahead, but this Pre-Sentence Report was also not or
2 alluded to being not taken into consideration for his
3 sentencing, yet they used it to -- in consideration to
4 glorify him. Like, they didn't use any of the minuses;
5 they only used the positives. It just seemed to be a total
6 contradiction.

7 **MR. DUMAIS:** You didn't agree with the way
8 the judge characterized the report, whether or not it was
9 positive or negative. Is that fair?

10 **MR. ROY:** I didn't agree with what he said?

11 **MR. DUMAIS:** You didn't agree with ---

12 **MR. ROY:** That he said it was a good Pre-
13 Sentence Report? Yes, I don't agree with that.

14 **MR. DUMAIS:** Just in fairness, Albert, the
15 findings of Constable Sebalj were never made known to the
16 judge. Correct? I mean, just on that point.

17 **THE COMMISSIONER:** On the Landry situation,
18 you mean?

19 **MR. DUMAIS:** Yes.

20 **MR. ROY:** Well, it was Officer Zebruck,
21 wasn't it?

22 **THE COMMISSIONER:** Zebruck.

23 **MR. DUMAIS:** No, these were taken from ---

24 **MR. ROY:** Oh, okay. I'm looking at the wrong

25 ---

1 **MR. DUMAIS:** These were excerpts from
2 Constable Sebalj's notes.

3 **MR. ROY:** Yes. I don't think the judge was
4 ever made aware of it, no.

5 **MR. DUMAIS:** Now, just to get back a bit,
6 there was some issue as well, Albert, with respect to that
7 whole paragraph on page 4 and the fact that there may have
8 been a prior related incident at the Probations Office.

9 And sorry, by page 4, I'm referring to page
10 4 of the Pre-Sentence Report, which is Bates page number
11 1075162 of document number 115918.

12 **MR. ROY:** Okay.

13 **MR. DUMAIS:** So the Crown Attorney and the
14 defence counsel on that day argued as to whether or not the
15 judge on that day could consider that; whether or not in
16 making a decision on sentencing whether or not he could
17 consider that information. Do you remember that?

18 **MR. ROY:** Yes.

19 **MR. DUMAIS:** In the end, he decided that he
20 would not consider that information in rendering his
21 decision.

22 **MR. ROY:** Yes.

23 **MR. DUMAIS:** Is that a fair statement?

24 **MR. ROY:** My understanding is that he said
25 he wouldn't give it any mitigating circumstances.

1 To me, my understanding is that I guess he
2 wouldn't hold it against him, but he was still going to use
3 the Pre-Sentence Report because they had decided that he
4 didn't have to take himself off the case to -- well,
5 there's three of them together.

6 **MR. DUMAIS:** So that was the first
7 discussion that everyone had on that day?

8 **MR. ROY:** Right.

9 **MR. DUMAIS:** It became quite evident that
10 neither the Crown attorney nor the defence counsel had
11 requested the preparation of a Pre-Sentence Report.
12 Correct?

13 **MR. ROY:** Yes, the judge believed that he
14 ordered it as an administrative thing after the -- whatever
15 that thing is that Nelson went to, the pre-trial or
16 whatever.

17 **MR. DUMAIS:** So he does ---

18 **MR. ROY:** He also said that -- he says, "I
19 would have found it very odd for me to order a Pre-Sentence
20 Report on a man that was a Probation Officer".

21 **MR. DUMAIS:** All right.

22 **MR. ROY:** For the obvious reasons.

23 And again, that made me feel, then how can
24 you use it as a positive thing for him when you feel that
25 way? If it's not going to be considered, it should be not

1 considered at all because the lawyer, Mr. Johnson, at the
2 end, when they were doing the sentencing, he brought up the
3 report and used it as a positive thing in Nelson's favour.

4 So it is very confusing to me how they
5 cannot look at the bad things; he shouldn't have ordered
6 it; he wouldn't have ordered it because obviously with
7 Nelson being a Probation Officer, he'd know what the
8 probation report person was looking for. So with all those
9 figures, they still used the report to give credit to
10 Nelson in the proceedings, and even his own lawyer used it.
11 So I don't -- it's very confusing to me. It's just very
12 confusing. It's very ---

13 **MR. DUMAIS:** All right. So if we can just
14 -- I'll try to go ---

15 **MR. ROY:** Sorry.

16 **MR. DUMAIS:** I know you have a lot of things
17 to say, Albert. I'm just trying to ---

18 **MR. ROY:** I know.

19 **MR. DUMAIS:** I am going to try to go
20 chronologically just to make sure that we address all the
21 issues that you have because I know that you had a number
22 of them.

23 The first one is just with respect to who
24 had ordered the Pre-Sentence Report. If you can just have
25 a look at Bates page number 1075678. It's the top

1 paragraph and it's the Clerk of the court responding to ---

2 MR. ROY: In the Pre-Sentence Report?

3 MR. DUMAIS: I'm sorry. We're still on the
4 same document.

5 MR. ROY: All right. I'm sorry. I have it
6 here. What page now?

7 MR. DUMAIS: Page 1075678.

8 MR. ROY: Okay.

9 MR. DUMAIS: So the top paragraph, the Clerk
10 of the court speaks:

11 "Your Honour, I wasn't in court;
12 however, there's a judge's Pre-Sentence
13 Request Form made on July 10th, 1995 and
14 that is signed by yourself."

15 MR. ROY: Yes, I remember that.

16 MR. DUMAIS: What do you remember, Albert?
17 Do you remember being in court on that day?

18 MR. ROY: Yes. Excuse me. Yes, I was
19 there. Sorry.

20 MR. DUMAIS: I just want to be sure. You
21 were there in court on August 18th at the sentence hearing?

22 MR. ROY: Oh, no, not when he says he wrote
23 it. I thought you meant when they were arguing about it.
24 Sorry.

25 MR. DUMAIS: Okay.

1 **MR. ROY:** No, I wasn't there.

2 **MR. DUMAIS:** Then it does appear that it was
3 the judge that ordered the report. Correct?

4 **MR. ROY:** Yes, the Clerk said that he signed
5 the report.

6 **MR. DUMAIS:** All right.
7 And then mid-page, the judge does admit as
8 well:

9 "Given your client's own background, I
10 would not have thought that an
11 appropriate step because of the nature
12 of his own past employment and the
13 nature of the allegations."

14 **MR. ROY:** Right, that's what I was trying to
15 explain.

16 **MR. DUMAIS:** Okay. So making reference to
17 the fact that Nelson Barque had been a Probation Officer,
18 and it appears that it's someone from the same office that
19 prepared the report. Correct?

20 **MR. ROY:** Right.

21 **MR. DUMAIS:** The judge then goes on to
22 indicate that he had reviewed the report and offered to
23 both the defence and the Crown attorney to make submissions
24 as to whether or not they still wanted him to hear the
25 case.

1 **MR. ROY:** That's right.

2 **MR. DUMAIS:** Right.

3 **MR. ROY:** From my understanding, between the
4 two of them, they agreed that if I was called to the stand,
5 then he would stay and that's the question he posed to --
6 that's the question Mr. Simard posed to the judge and the
7 judge then asked Mr. Johnson, Nelson's lawyer, if that was
8 the case.

9 **MR. DUMAIS:** Right. So then they both
10 agreed that the judge could continue on hearing the case
11 and hearing how the offences affected you and then to
12 proceed with the sentencing. Correct?

13 **MR. ROY:** That's right.

14 **MR. DUMAIS:** Just looking at the following
15 page, Albert, and that's 1075680.

16 **MR. ROY:** I need a break.

17 **THE COMMISSIONER:** Fine. Let's take 10
18 minutes.

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

21 --- Upon recessing at 2:30 p.m./

22 L'audience est suspendue à 14h30

23 --- Upon resuming at 2:49 p.m./

24 L'audience est reprise à 14h49

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

1 veuillez vous lever.

2 This hearing of the Cornwall Public Inquiry
3 is now in session.

4 Please be seated. Veuillez vous asseoir.

5 **ALBERT ROY, Resumed/Sous le même serment:**

6 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
7 **DUMAIS (cont'd/suite):**

8 **MR. DUMAIS:** I just want to take you back
9 just a bit, Albert, on something that we touched. The fact
10 that Constable Sebalj had spoken to the Director of
11 l'Équipe sociale and what was found in the Pre-Sentence
12 Report. You had no knowledge of what Constable Sebalj's
13 findings were back in 1995. Correct?

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

15 **MR. DUMAIS:** So the conclusions or the
16 findings that Constable Sebalj made in her investigation,
17 you read about those in the past couple of weeks?

18 **MR. ROY:** Yes.

19 **MR. DUMAIS:** All right.

20 **MR. ROY:** But I mean, even though at the
21 time I didn't know about those things when I was in the
22 court, it's like an addition to something I already felt
23 bad about. That's why I brought it up. I already didn't
24 like what went on in the courtroom about this Pre-Sentence
25 Report then when I found out about the other stuff, it just

1 gave me more of a bad feeling.

2 **MR. DUMAIS:** Okay. I am just looking now at
3 page 175680, same document. Actually, we were on the
4 correct page. About a little less than mid-page Mr.
5 Johnson is speaking. He says:

6 "Your Honour, we have received from the
7 Crown in the circumstances the Victim
8 Impact Statement."

9 It appears that, at one point in time, a
10 Victim Impact Statement had been filed. Do you recall --
11 -

12 **MR. ROY:** I haven't found the page yet.
13 What page did you say?

14 **MR. DUMAIS:** I am sorry.

15 **THE COMMISSIONER:** Page 4 of the document, I
16 believe. Right, Madam Clerk?

17 **MR. ROY:** Of the Pre-Sentence Report you're
18 talking about?

19 **THE COMMISSIONER:** No, of the transcript.

20 **THE REGISTRAR:** What's the Bates page?

21 **MR. DUMAIS:** Page 1075680.

22 **THE COMMISSIONER:** Page 4 of the transcript.

23 **MR. DUMAIS:** A little higher than mid-page.

24 **THE COMMISSIONER:** So Mr. Johnson is saying
25 "We have received from the Crown..." Is that where you're

1 looking at?

2 **MR. DUMAIS:** That's correct, Commissioner.

3 **THE COMMISSIONER:** So they talk about a
4 Victim Impact Statement.

5 **MR. ROY:** Oh, you're going to ask me if I
6 remember writing one.

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

8 **MR. ROY:** No, I don't remember writing one,
9 but they also talk about it in that little meeting they had
10 between the three of them, and I don't remember writing
11 one.

12 **MR. DUMAIS:** Okay.

13 **MR. ROY:** I always told the Crown that I was
14 going to go to the trial and testify, but -- I know, too
15 long of an answer. I don't remember writing it.

16 **THE COMMISSIONER:** First of all, it's not
17 too long of an answer. Take your time and tell me whatever
18 you want to tell me. All right?

19 **MR. ROY:** Yes.

20 **MR. DUMAIS:** And as a matter of fact,
21 Albert, you did testify at the sentence hearing about the
22 effects that the offenses had on you.

23 **MR. ROY:** Testified, yes.

24 **MR. DUMAIS:** Yes. If we can then just turn
25 to the next page which is Bates page number 1075692?

1 So, Albert, after you testified as to the
2 effects of the offenses on you, then you are subject to
3 cross-examination by Mr. Johnson. And I'll just go through
4 the first questions and answers. You see where ---

5 **MR. ROY:** I lost the page number, I'm sorry.

6 **THE COMMISSIONER:** Just deal with the page
7 number of the transcript. Do you have that?

8 **MR. ROY:** It would be page 16?

9 **THE COMMISSIONER:** Page 16. Okay.

10 **MR. ROY:** Sorry.

11 **MR. DUMAIS:** That's okay.

12 So about mid-page it's Mr. Johnson's cross-
13 examination. So the first question is:

14 "Mr. Roy, first of all, with respect to
15 this matter, what we're talking about
16 is one incident in 1977. Is that
17 correct?

18 **MR. ROY:** That's correct.

19 **MR. JOHNSON:** There's no other
20 allegations of anything else. It was
21 one incident, one evening in 1977. Is
22 that correct?

23 **MR. ROY:** It was one evening of -- it
24 wasn't just one evening. It was within
25 -- it was only ---

1 MR. JOHNSON: No, But your allegations
2 against Mr. Barque is one incident on
3 one evening in 1977. Is that correct?"

4 MR. ROY: Yes, he cut me off. He would not
5 let me answer.

6 MR. DUMAIS: All right.
7 So what was the answer then?

8 THE COMMISSIONER: You'd started off saying:
9 "It wasn't just one evening that I was
10 with him. It was only ---"

11 MR. ROY: I was trying to tell him that it
12 wasn't just one evening that he touched me.

13 THE COMMISSIONER: Right.

14 MR. ROY: You know what I mean? There was
15 many incidences. I mean, I guess they had it homed in my
16 head that they were only going to charge him for that one
17 incident that happened at his house.

18 And I guess I was a little frustrated
19 because, I mean, he used to feed me alcohol and I was his
20 probation client. One of the stipulations of me being on
21 probation is that I stay away from alcohol and he was my
22 probation officer giving me alcohol. He touched me
23 inappropriately many times.

24 I don't know how far you want to go into
25 this because there's all the stuff about -- I came home and

1 he was sitting down having supper with my mom.

2 **THE COMMISSIONER:** This is Mr. Barque? Mr.
3 Roy? I know it's a difficult situation, Mr. Roy.

4 So this is Mr. Barque that went to your
5 mom's home?

6 **MR. ROY:** Yes. Ken and him both. My mom
7 even made me go with him.

8 **THE COMMISSIONER:** Yes. And she didn't have
9 any idea, did she?

10 **MR. ROY:** No.

11 **THE COMMISSIONER:** So are you trying to tell
12 me that you would have liked to have been able to tell the
13 judge all of the steps that led up to that evening? Is
14 that ---

15 **MR. ROY:** Yes. That there were all -- I
16 don't know how you can't see it as a criminal act because
17 he didn't -- he wasn't doing this without something in
18 mind. I mean, he would tell me that -- both him and Ken
19 would tell me that problems I was having at school and with
20 family relationships was because I was a homosexual.

21 **THE COMMISSIONER:** M'hm. Could we keep it
22 just to Mr. Barque though for now?

23 **MR. ROY:** Oh, sorry.

24 **THE COMMISSIONER:** No, no, that's okay.

25 **MR. ROY:** So it's like a -- I think my

1 problem here is to try and say that the justice system has
2 to take account of what these -- has to take into account
3 of how they get their victims and what steps they take to
4 victimize them.

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

6 **MR. ROY:** It's important, I believe -- I
7 think I asked Pierre this. Like if you had psychiatrists
8 here to state what a person like that is and ---

9 **THE COMMISSIONER:** I think we use the
10 expression "grooming". That a person doesn't come on and
11 sexually assault right away, but the person kind of leads
12 down that road and so builds confidence with the parents;
13 builds confidence with you and perhaps acts on your
14 weaknesses for alcohol and that kind of thing. Is that
15 what you're trying to say?

16 **MR. ROY:** Yes. It was doubly -- I wish I
17 could find the right word, but -- protest that they -- I'm
18 just going to say this ---

19 **THE COMMISSIONER:** Go ahead.

20 **MR. ROY:** They didn't want to use anything
21 negative in his Pre-Sentence Report for his sentencing, but
22 both these men used my Pre-Sentence Report as a vehicle to
23 abuse me because they were my probation officers. They
24 knew about my family situation. They knew about my problem
25 with my father. They knew that I became nervous and

1 agitated when yelled at and they used all these points, my
2 problem I was having with alcohol, my problem I was having
3 at school. They used all of that which was in my Pre-
4 Sentence Report to abuse me.

5 **THE COMMISSIONER:** M'hm. So that's what you
6 would have answered before you ---

7 **MR. ROY:** I'm sorry, I know I cut off. But
8 that's what I would have wanted to tell the judge, that it
9 wasn't just one night.

10 **THE COMMISSIONER:** Exactly.

11 **MR. ROY:** And I still don't understand how a
12 probation officer that gives his probationary alcohol, that
13 is not, in his probation thing, is not allowed to have
14 alcohol, that's not a charge for something. I don't
15 understand it.

16 **MR. DUMAIS:** So, Albert, if we can then have
17 a look at page 1075696?

18 **THE COMMISSIONER:** So that would be page 20,
19 Mr. Roy.

20 **MR. ROY:** Thank you.

21 **MR. DUMAIS:** I'm looking at about mid-page,
22 Albert, and I'll start with a comment that Mr. Johnson is
23 making:

24 "That's the exact theory I was asking
25 him."

1 Then the judge:

2 "Your point is made. I am not sure
3 that you need to pursue it. It is what
4 I am saying."

5 Mr. Johnson then says:

6 "Thank you."

7 And then you say right after that:

8 "Ken would never have been able to get
9 a hold of me if he wouldn't have
10 started it."

11 And then the judge says:

12 "Yes, but that ---"

13 And then you indicate:

14 "Ken got a hold of me because he got me
15 first and once Ken found out that he
16 had me, then Ken decided I can have him
17 too."

18 I think the debate short prior to then was
19 whether or not there was a causal connection between the
20 fact that you had told Ken that Nelson had abused you and
21 that you then were subsequently abused. Is that what you
22 wanted the Court to know?

23 **MR. ROY:** I wasn't trying to say that Nelson
24 made Ken abuse me. I was trying to say that if Nelson
25 wouldn't have abused me, I don't think there's any way I

1 would have been abused by Ken. It's such a -- it's hard to
2 describe that situation you're in because they were my
3 probation officers and when they said they could put me in
4 jail, I believed them.

5 I mean, that's the first time I was ever in
6 trouble with the law. The lawyer I had didn't tell me
7 anything. My parents didn't come to court and never came
8 to any of my proceedings.

9 In my mind, they could do what they want
10 with me.

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

12 **MR. ROY:** And especially after Nelson abused
13 me and I went to Ken and he became my abuser, it's like I
14 didn't have any control.

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

16 **MR. ROY:** The judge says that you can't
17 blame somebody for kicking open a door and breaking and
18 entering. You can't blame him for any of the other people
19 that go in after and steal from the house.

20 And I wish I would have had enough nerve to
21 tell the judge I'm not jewelry that they went in -- this is
22 a human being that passed -- I think because he was my
23 probation officer, part of his responsibility is to make
24 sure of my wellbeing.

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

1 **MR. ROY:** I don't know how to phrase it that
2 it sounds right. I guess it doesn't.

3 **THE COMMISSIONER:** I think it sounds very
4 right so far.

5 **MR. DUMAIS:** All right.

6 Now ---

7 **MR. ROY:** Like he never went to see Ken to
8 see if I was okay.

9 **THE COMMISSIONER:** I'm sorry, who never
10 went?

11 **MR. ROY:** Well, Nelson, after he abused me,
12 he had to have some inclination that something was wrong
13 because why would Ken take me off ---

14 **MR. DUMAIS:** I just want to take you back,
15 Albert, on this last issue and what the judge's ruling was
16 on it, and I'm looking at page 33 of the Pre-Sentence
17 Report.

18 **THE COMMISSIONER:** No, 33 of the transcript.

19 **MR. DUMAIS:** Of the transcript.

20 **THE COMMISSIONER:** Right?

21 **MR. DUMAIS:** That's correct, Bates page
22 number 1075709.

23 **THE COMMISSIONER:** So page 33.

24 **MR. DUMAIS:** I'm just looking at the second
25 sentence.

1 **THE COMMISSIONER:** Are you okay?

2 **MR. ROY:** I have to go ---

3 **THE COMMISSIONER:** Okay. Let's take a short
4 break. Thank you.

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

7 The hearing will reconvene at 3:15.

8 --- Upon recessing at 3:09 p.m./

9 L'audience est suspendue à 15h09

10 --- Upon resuming at 3:39 p.m./

11 L'audience est reprise à 15h39

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

14 This hearing of the Cornwall Public Inquiry
15 is now in session. Please be seated. Veuillez vous
16 asseoir.

17 **MR. DUMAIS:** Commissioner, before I start
18 again with Albert, if I can just address some issues
19 regarding scheduling?

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

21 **MR. DUMAIS:** So we expect to keep going
22 today until approximately 4:30. Hopefully we will get most
23 of my examination in-chief completed.

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

25 **MR. DUMAIS:** If not, it was suggested to

1 parties that we start with Albert tomorrow morning, finish
2 the examination in-chief and the cross. We could start
3 earlier tomorrow at 9:00 a.m., which means that we would
4 push back the submissions on comments that were made by the
5 counsel for CBC/Radio-Canada yesterday to the afternoon.

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

7 **MR. DUMAIS:** So I'm expecting, Commissioner,
8 that we should be done with the cross by tomorrow by the
9 noon break.

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

11 **MR. DUMAIS:** We can then start again at 2:00
12 p.m. with submissions by the parties, do that tomorrow
13 afternoon.

14 My next witness was Ms. Vicki Roy. I intend
15 to call her next week since tomorrow is Thursday. Monday
16 is a holiday, but what we can do is just send an email to
17 the parties as to when we intend to call that particular
18 witness. That would be the same with the witness that was
19 initially scheduled to proceed tomorrow, Ms. Roberta
20 Archambault.

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

22 **MR. DUMAIS:** We will advise all parties when
23 we intend to call them.

24 The reason why I can't give you a time,
25 Commissioner, is we're expecting Mr. Cipriano to file his

1 Notice of Motion next week and it's expected that we will
2 hear that on Tuesday afternoon ---

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

4 **MR. DUMAIS:** --- at 2:00 p.m. and as of now
5 we have not received that motion material yet.

6 **THE COMMISSIONER:** Okay. Well, a couple of
7 things. First of all, I think it would -- I don't want to
8 say that the motion will be heard at 2:00. If we finish
9 earlier, it follows whenever it follows, and so those who -
10 - well, they were planning to attend at 9:00 in any event,
11 and so we can tell them not to be here until maybe 11:00,
12 if that helps out, but after that they are on standby.
13 We're trying to get things done here.

14 **MR. DUMAIS:** All right. So we're rolling
15 after we're done with Mr. Roy.

16 **THE COMMISSIONER:** Exactly.

17 **MR. DUMAIS:** Fair enough.

18 **THE COMMISSIONER:** Thank you.

19 **MR. DUMAIS:** Mr. Manson is asking about the
20 motion next week and I just indicated that we have not
21 received the motion material yet and it's expected that we
22 will receive it. As of now, we're expecting that motion to
23 proceed at 2:00 p.m. on Tuesday.

24 **THE COMMISSIONER:** Oh yes.

25 **MR. DUMAIS:** All right.

1 **MR. MANSON:** I don't mean to prolong this,
2 Mr. Commissioner, and I'm happy to address this at 4:30
3 after Mr. Roy, but ---

4 **THE COMMISSIONER:** Well, let's do it at
5 4:30. Thank you.

6 **ALBERT ROY, Resumed/Sous le même serment:**

7 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
8 **DUMAIS (cont'd/suite):**

9 **MR. DUMAIS:** All right, Albert, back to you.

10 **THE COMMISSIONER:** And I'm sorry, Mr. Roy.

11 **MR. ROY:** That's okay.

12 **THE COMMISSIONER:** There's a lot of
13 important matters that we have to deal with, but what I'm
14 trying to do is centre on the evidence that you're giving
15 and that witnesses are giving. That's why we're putting
16 off things to 4:30 so we can get you on your way as much as
17 we can. All right?

18 **MR. ROY:** Thank you.

19 **THE COMMISSIONER:** Thank you.

20 **MR. DUMAIS:** So then there was an issue when
21 they were reading in the facts, Albert, as to -- and we
22 were discussing this before we took a break -- whether or
23 not the Crown would be able to read into the record the
24 fact that, to a certain extent, there was a causal link
25 between the abuse at the hands of Ken Seguin and the abuse

1 at the hands of Nelson Barque.

2 So the ruling on this issue was at page 33
3 of the transcript, Bates page number 1075709, and that's
4 about the fifth line down:

5 "I find it to be admissible. It may be
6 that in the final analysis I will not
7 be able to assign any weight to it."

8 So as a result of the judge's ruling, it was
9 read into the record, and that's shortly after Justice
10 Renaud's signature about four lines down.

11 "Thank you, Your Honour."

12 And that's Mr. Guy Simard speaking.

13 "I was reading on the record that the
14 victim reported the assault to Nelson
15 Barque's supervisor, Mr. Ken Seguin,
16 who then began to sexually assault
17 Roy."

18 A little further down, the judge does
19 address the weight that he is assigning to that statement,
20 but I will deal with that towards the end.

21 The next issue, I believe, is found on the
22 next page; that is page 34. That's following the ruling
23 and the reading into the record of the fact that Mr. Seguin
24 began abusing you after you told him of Nelson Barque's
25 abuse. And I'm reading from the top of the page, that:

1 "Judicial notice can be taken that Mr.
2 Seguin has committed suicide. In the
3 circumstances, he's not here to defend
4 himself and it's just an allegation
5 made by the Plaintiff in these
6 circumstances and I'm going to leave it
7 at that."

8 And then the Court says:

9 "All right."

10 And then Mr. Johnson indicates:

11 "I will have to advise Mr. Seguin's
12 family of what has been said here today
13 in relation to that and they will have
14 to take that into consideration."

15 So you had some issue with that comment,
16 Albert; is that correct?

17 **MR. ROY:** Well, first of all, Mr. Johnson,
18 when he said this comment, he was looking right at me in
19 the courtroom. It felt almost like a threat. I think I
20 was angry at the judge for just letting that go.

21 And as far as him -- what weight -- or
22 allowing it to be read into the record and not contested,
23 it's like if they were taking it as "fervious" (sic), you
24 know, like ---

25 **THE COMMISSIONER:** Frivolous?

1 **MR. ROY:** Yes, like, "Oh, okay, you said it,
2 but that's all we're going to allow it to be."

3 I'm going to say something that I feel has
4 to be said. I lost my younger brother two years ago to
5 suicide, so I know what it is to lose a family member to
6 suicide. I know it's hard on the other families, and I
7 don't want to say this as if I'm trying to defend myself,
8 but I'm not responsible for that. The people that
9 perpetrated the acts are responsible for that. I feel bad
10 about the families, but I can't help the fact that Ken
11 didn't face to own up to what happened. I believe if I
12 wouldn't have gone forward, Nelson would have never owned
13 up to what happened.

14 He states in his Pre-Sentence Report and
15 also in the police report that he didn't even remember me
16 and that it was only after the police talked to him about
17 me that he started to remember the events, and he didn't
18 know the amount of damage he did.

19 Again, the thing I keep wanting to say that
20 because he was a probation officer, because of the training
21 he had, how could he have not known that something like
22 that would damage somebody?

23 And if the Court is going to -- I know I am
24 getting ahead again, but if the court is going to use this
25 pre-sentence report as the judge says, a positive pre-

1 sentence report, then they are ignoring something there. I
2 can't explain it. I can't explain the way -- it seems to
3 me that the Court ignored the fact that he was my probation
4 officer.

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

6 **MR. ROY:** It's almost as if it would have
7 had to be said every second sentence and that as a
8 probation officer he has certain training and he used that
9 against me. I forget what the question was.

10 **MR. DUMAIS:** That's fine.

11 I want to take you now, Albert, to page 45
12 of the transcript. It's Bates page 1075721.

13 **MR. ROY:** It's 45?

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

15 **MR. DUMAIS:** Correct.

16 In the second paragraph, two-thirds down --
17 sorry, do you have page 45?

18 **MR. ROY:** It's just that other part on page
19 34, the bottom part ---

20 **MR. DUMAIS:** Pardon me?

21 **MR. ROY:** The bottom part on page 44 ---

22 **MR. DUMAIS:** Yes.

23 **THE COMMISSIONER:** Of 44? I think it's 34
24 you're looking at, is it?

25 **MR. ROY:** Sorry, 34.

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

2 **MR. DUMAIS:** All right.

3 So you want to look at the comments that Mr.
4 Johnson made at the bottom of the page; is that correct?

5 **MR. ROY:** Yes.

6 **MR. DUMAIS:** All right.

7 So just for the purpose of the record, I'll
8 read that in:

9 "And the understanding again being,
10 Your Honour, there were no threats, no
11 physical violence used at any time
12 during this one incident in 1977.
13 That's to my understanding, Your
14 Honour. That's involving Mr. Barque.
15 And that's involving Mr. Barque, Mr.
16 Simard.

17 **MR. SIMARD:** No comment."

18 **THE COMMISSIONER:** So you wanted to make
19 some comments about that, sir?

20 **MR. ROY:** I don't know. Pierre was telling
21 me a bit about it, like how it works, like that's defense.
22 But I don't know what weight the Court gave that comment
23 because he never asked me if that was true or not because
24 Nelson never hit me. But I mean, he threatened if I didn't
25 conform to his ways, I could be put in jail.

1 My mother was ill at the time and he made
2 threats, "If you mother ever finds out, it would kill her."

3 I mean, to me, that's violence. I was 16
4 years old.

5 **THE COMMISSIONER:** Can I ask you, were you
6 in court when all of this was being said?

7 **MR. ROY:** Yes.

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

9 **MR. ROY:** I lost myself.

10 **THE COMMISSIONER:** No, no, what you wanted
11 to do was look at page 34 and say that Mr. Johnson said
12 these things but you disagree with those statements and
13 you've given me some explanation as to why you think that
14 they were threats. No, you think they were threats because
15 of what was said to you by Mr. Barque.

16 **MR. ROY:** Right.

17 **THE COMMISSIONER:** Fair enough.

18 **MR. ROY:** And also, I don't know what -- I
19 am sure ---

20 **MR. DUMAIS:** You are not sure what weight
21 the judge put on that?

22 **MR. ROY:** Well, we're going to go back to
23 his comments then, because what does he know about the
24 situation? Because you know how I feel because of certain
25 comments he made. It sounded to me that he didn't

1 understand the crime.

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

3 **MR. ROY:** So that's why I have a problem
4 with Mr. Johnson saying this. I don't know -- no, I want
5 to rephrase that. From the comments that the judge made in
6 the sentencing hearing, it sounded that he didn't
7 understand what was going on. He -- I know, we're going
8 ahead because we'd have -- but the judge basically said he
9 was only trying to be my friend; that he was a father
10 figure to me. And the judge says "I do not believe" and I
11 think he used stronger words than that, he says "And I will
12 not believe that Mr. Barque engaged in this relationship in
13 the intention of ultimately sexually assaulting Mr. Roy."

14 **THE COMMISSIONER:** M'hm. We will probably
15 cover that later on.

16 **MR. ROY:** That's why I was concerned about
17 that comment, because I don't -- it sounds to me like he
18 believed what Mr. Johnson said.

19 **MR. DUMAIS:** Now, as we're going through the
20 sentence hearing, Albert, we're looking at the different
21 arguments and representations made and decisions made, and
22 then at the end we're going to look at as to how much
23 weight the judge gave to different parts of the evidence.

24 **MR. ROY:** All right.

25 **MR. DUMAIS:** All right.

1 I am just looking now at page 1075721, page
2 45. Albert, you're looking at one of the rulings that the
3 judge made. And as to the comments that defense counsel
4 was objecting to, and I'm looking at the sixth line from
5 the end of the second paragraph that starts with "In this
6 case".

7 **MR. ROY:** Okay.

8 **MR. DUMAIS:** So it says:

9 "In this case, it appears that there
10 were some proceedings, internal
11 proceedings, with respect to Mr. Barque
12 after he left the employ of his
13 employer at the relevant time and it
14 does not appear that Mr. Barque took
15 any part in those proceedings. For
16 those reasons, it would be dangerous
17 for the Court to lay any weight or to
18 assess any significance with respect to
19 those findings as he did not have an
20 opportunity to make any submissions or
21 to represent himself in those
22 proceedings."

23 **MR. ROY:** That's not true.

24 **MR. DUMAIS:** You're saying ---

25 **MR. ROY:** Okay ---

1 **MR. DUMAIS:** So you're saying that he was
2 represented in the proceedings? Is that what you wanted to
3 say?

4 **MR. ROY:** Like, are we talking about the
5 incidences in 1982?

6 **THE COMMISSIONER:** Yes.

7 **MR. DUMAIS:** Yes.

8 **MR. ROY:** Well, in ---

9 **MR. DUMAIS:** But the Court didn't know that,
10 Albert, at that time, correct?

11 **MR. ROY:** Where did he get the understanding
12 from? Who told him that Barque didn't represent himself?
13 How did the judge come to that conclusion?

14 **MR. DUMAIS:** Well, I mean, can't answer that
15 question, Albert.

16 All I am saying is we're going through the
17 different submissions that are being made and then I'm just
18 pointing out what conclusion that the judge drew.

19 **MR. ROY:** Like, Mr. Johnson said that his
20 client and him were surprised at the allegations. Mr.
21 Johnson was the prosecuting attorney. How surprised could
22 he be?

23 **MR. DUMAIS:** I think they were surprised by
24 the fact that it had been included in the Pre-Sentence
25 Report. Is that fair say?

1 **MR. ROY:** I don't remember the exact wording
2 in it. I have to find it. There's twice where he says he
3 was surprised. Another time is in the Pre-Sentence Report
4 he says he was surprised.

5 **MR. DUMAIS:** Well, we'll have to look at the
6 Pre-Sentence Report right after the transcript, Albert.

7 So now the final conclusion, just on this
8 issue, is found at the top of page 47, Bates page 1075723,
9 top of the page.

10 So all information with respect to the
11 offence contained in the report and information respecting
12 other allegations are going to be disregarded by the Court.

13 So then the Court concludes at that point
14 that they're going to disregard what the two lawyers were
15 arguing about as to whether or not the 1982 incident would
16 be considered.

17 Now, the next issue, Albert, is found at
18 page 49. That's Bates page number 1075725.

19 Sorry, Albert, was there something you
20 wanted to say on the -- something else on the judge's
21 conclusion?

22 **MR. ROY:** If they couldn't use that, they
23 shouldn't have used the Pre-Sentence Report at all.

24 **MR. DUMAIS:** All right.

25 **MR. ROY:** I mean, I don't understand how you

1 can pick and choose -- but to me the judge is saying to
2 himself "I know what the information is, but I am going to
3 ignore it and we're not going to use that stuff in the Pre-
4 Sentence Report, but anything that's good in the Pre-
5 Sentence Report, we'll use."

6 **THE COMMISSIONER:** All right.

7 **MR. ROY:** I don't understand how -- like if
8 they were going to do that, they should have just taken the
9 Pre-Sentence Report out. Like Mr. Johnson shouldn't have
10 been able to use it as an argument for sentencing and the
11 judge shouldn't have been able to consider it and Mr.
12 Simard shouldn't have been able to use it. Like it should
13 have been just gone.

14 **MR. DUMAIS:** All right.

15 **MR. ROY:** Or the judge should have taken
16 himself off and somebody else -- I'm frustrated because I
17 don't understand how any of that could have been allowed to
18 happen at all.

19 It leaves questions in my head and I'm sure
20 it leaves questions in other people's head. What if new
21 evidence would've come to light in the 1982 matters? Now,
22 the prosecuting attorney is his defence attorney. I know
23 you're probably telling me there's nothing wrong with what
24 happened, but it seems to me that this Judge Renaud
25 should've known the circumstances involved and Mr. Johnson

1 being his lawyer and the prosecuting attorney during ---

2 **MR. DUMAIS:** So you're saying he should've
3 been advised of that?

4 **MR. ROY:** Yes. I don't -- I know it's a
5 what-if scenario, but I don't think the courts should allow
6 themselves to get in a position like that where -- it just
7 doesn't seem right. And I'm going on about that.

8 **MR. DUMAIS:** That's okay.

9 I'm looking now at page 49 which is Bates
10 page number 1075725 and I'm looking at the third paragraph
11 and I'll just read it. It's Mr. Johnson speaking. It
12 says:

13 "Your Honour, I had occasion when I was
14 Crown prosecutor in this area to deal
15 with Mr. Barque on a level as he was
16 then a probation officer and the only
17 submission I would have, Your Honour, I
18 found that each time that Mr. Barque
19 was involved with the reporting to the
20 court of a Pre-Sentence Report, that
21 each report that was submitted to the
22 court contained precisely and
23 accurately and objectively all factors
24 which a court asked him to do and to
25 consider with regards to the type of

1 sentence the court was to impose upon
2 an individual."

3 I understand you have some difficulty with
4 that statement by Mr. Johnson, Albert?

5 **MR. ROY:** I mean a game. With all this
6 stuff leading up to Mr. Barque's, Nelson Barque's release
7 from Probation or resignation from Probation and him being
8 the prosecutor that stated there wasn't enough evidence to
9 press charges, it is -- it's wrong because why didn't he
10 investigate further? Why didn't he come looking for other
11 people that may have been abused? Why didn't they go
12 through his case records and called other probationaries to
13 see if they had problems with him? I mean, nobody came to
14 talk to me. Certainly Mr. Johnson didn't come to talk to
15 me to see if there was a problem while I was on probation.

16 Isn't there a term that's -- the sense of
17 impropriety, like -- I know if I was a computer and I was
18 stating what the law is there is probably nothing that Mr.
19 Johnson did that's inappropriate, but for the confidence of
20 the public, of the people, our prosecutors and our court
21 system, it doesn't -- to the laymen it seems that there's
22 impropriety there all over.

23 **MR. DUMAIS:** All right.

24 **MR. ROY:** I don't know how to say it.

25 **MR. DUMAIS:** So just on this issue, your

1 concern was that Mr. Johnson had made comments to the court
2 as to his experience when he was a Crown attorney with Mr.
3 Barque; is that correct?

4 **MR. ROY:** Yes.

5 **MR. DUMAIS:** If you can just turn to page
6 66, Bates page number 1075744 and I think, Albert, that
7 that's something that you've mentioned already. I'll just
8 point it out for the purpose of the record and that's the -
9 --

10 **THE COMMISSIONER:** Page 66, 1075744 and
11 that's in the reasons for judgment. So this is Judge
12 Renaud speaking at this point.

13 **MR. DUMAIS:** Correct.

14 So he's saying, top of the second paragraph,
15 dealing with the mitigating or the factors that would
16 justify a lenient sentence, and the first thing that he or
17 the first finding that he makes is the pre-sentence is
18 positive.

19 And then he goes on to say:

20 "I say that, appreciating the fact that
21 Pre-Sentence Reports are only ordered
22 in the case, of course, of criminal
23 wrongdoing..."

24 And then discusses that.

25 And I think you said this earlier, you

1 concluded this earlier, Albert, that in your view the Pre-
2 Sentence Report was not a positive one.

3 **MR. ROY:** If you go to the Pre-Sentence --
4 no, I don't believe it was.

5 **MR. DUMAIS:** All right.

6 **MR. ROY:** But I mean, if you go to the Pre-
7 Sentence Report, the woman that did the Pre-Sentence Report
8 -- can I refer to it?

9 **THE COMMISSIONER:** Sure.

10 **MR. ROY:** Because I don't remember the exact
11 words, but -- it would be page 75165 of the Pre-Sentence
12 Report and it would be the last paragraph on assessments:

13 "He admits to the manipulation and
14 abuse of power that occurred and states
15 he now, in retrospect, sees the
16 victimization that took place. He is
17 unclear of how he felt at the time and
18 suspects that he probably had not
19 questioned his actions. He states he
20 feels badly for having perturbed an
21 individual. Discussions surrounding
22 explanation for the offence revealed
23 certain attitudes and orientation that
24 may suggest a necessity to determine
25 whether need for treatment or

1 counselling is required."

2 I don't call that a positive Pre-Sentence
3 Report.

4 **MR. DUMAIS:** Did you want to read in the
5 last line?

6 "Mr. Barque, however, feels
7 professional intervention is not
8 required."

9 Is that part of the problem?

10 **MR. ROY:** Yes. It just seems to me that --
11 I'd like in -- except for Officer Chris McDonell, other
12 people that have done things or during the course of the
13 trial and reporting and that, I always tried to give them
14 the benefit of the doubt that, you know, they don't have
15 the proper training, they didn't realize what they were
16 doing.

17 I mean, a good example is when one of your
18 interrogators was interrogating me, he was standing right
19 beside me because he wanted to show me a document and he
20 was there while I was reading and, I mean, it wasn't good
21 for me, but he didn't realize that would be something that
22 would intimidate somebody that has been victimized the way
23 I have.

24 So by this Pre-Sentence Report and by
25 comments that the judge made, this is how I'm trying to tie

1 it together. He -- with the intelligence that I have, what
2 I read into it is that this judge did not have the insight
3 into what this crime was or he would've never have said
4 those comments. He either didn't have the training, he --
5 I don't know how laws are made and mainly that's, I guess
6 that's one of the reasons you guys are here is to find out
7 if things can be done differently or better.

8 And it seems to me that the professionals, I
9 think they have to understand the crime better because
10 comments like that just seem to say to me that they don't
11 understand what went on.

12 I don't understand law. I really don't. I
13 mean, I know it's there to protect everyone, criminals, the
14 people that are victimized, but it doesn't mean we have to
15 put a blind eye to what a crime is or how serious a crime
16 is. And I think probably you would say it's the
17 responsibility of the prosecutor to get that across to the
18 judge. Well, if it is, then Mr. Simard didn't get this
19 across to the judge.

20 And I guess when we go to his comments, I
21 find them so inappropriate, so -- Heidi told me one of the
22 reasons that I should be there when they take Nelson away
23 is that it'll give me some sense of accomplishment and
24 whether it would've or not, I don't know, but I didn't stay
25 in the courtroom after the judge said those words. I left.

1 I couldn't. I felt they don't get this.

2 **MR. DUMAIS:** Now, if you can just -- I'm
3 going to read you, Albert, a few comments and I know that
4 this is an issue for you as well. So the first comment I'm
5 going to read in is found at page 77 and that's Bates page
6 number 1075755.

7 And again, it's the judge speaking here.
8 It's the second paragraph. He says:

9 "In essence, I'm going to follow the
10 case of Mr. Barque as a precedent where
11 such dated or stale-type sexual
12 offences come to light and the person
13 enters a guilty plea, the Court will
14 accord substantial mitigating weight
15 and should individuals, whether through
16 counselling or otherwise, bring to the
17 attention of the authorities the fact
18 that they have been victimized by
19 people in the past and their case has
20 come before the Court, the Court will
21 assign significant mitigating weight to
22 that."

23 So the judge appears to conclude that it was
24 a mitigating factor that Mr. Barque had entered a guilty
25 plea to these offences, therefore preventing you from

1 having to testify.

2 Do you agree with that? I guess not the
3 fact that he considered that as a mitigating factor or
4 whether he considered that as a mitigating factor but
5 whether or not that's appropriate?

6 **MR. ROY:** For this I can only say the way I
7 feel. My statements were true. There were no holes in my
8 story. There was no questions by the police. There was no
9 -- the prosecutor, the police, all of the police that
10 talked to me, they had no doubt that this happened, and
11 just because you get caught and said "I'm guilty", I would
12 have rather gone to court.

13 And also, there's a thing about time. If
14 Nelson were to abuse me -- when Nelson abused me in 1977,
15 if he would have came forward a month later and said,
16 "Listen, I abused this young boy," I think maybe you could
17 give it some merit, but this is 18 years later. And so now
18 he says, "I'm guilty" and, you know, "Because I say I'm
19 guilty, you're going to give me a light sentence."

20 **THE COMMISSIONER:** Is there a part that you
21 would like to close off now because it's close to 4:30?

22 **MR. DUMAIS:** I'm done with the court
23 proceeding now, Commissioner.

24 **THE COMMISSIONER:** All right.

25 **MR. DUMAIS:** I would move on to something

1 else.

2 **MR. ROY:** I have one thing I want to say.
3 Nelson spent less time in jail than I spent locked up in a
4 psychiatric ward. He spent less time in jail than I spent
5 struggling to keep my life together, and from what he
6 testified, that he didn't remember anything happened, he
7 spent less time thinking about it. In fact, he spent no
8 time thinking about it and I was thinking about it for 18
9 years.

10 **MR. DUMAIS:** All right.

11 So, Albert, we'll call you back tomorrow
12 morning at 9:00 a.m. and we'll just conclude with your
13 evidence.

14 **THE COMMISSIONER:** Is that okay, Mr. Roy?
15 Can you come back tomorrow morning for nine o'clock?

16 **MR. ROY:** Yes.

17 **THE COMMISSIONER:** Or a little earlier, I
18 suppose.

19 **MR. ROY:** That's fine.

20 **THE COMMISSIONER:** All right. And we will
21 start promptly at nine o'clock.

22 So you may step down. I understand Mr.
23 Manson, after you are off and away, has some administrative
24 matters to discuss.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **THE COMMISSIONER:** So you take it easy
2 tonight, okay?

3 **MR. ROY:** Yes, okay.

4 **MR. MANSON:** Mr. Commissioner, I'm concerned
5 about the scheduling for next week in this respect. Now
6 that at least one of this week's witnesses is going to be
7 pushed forward into next week, there is business to do
8 starting Tuesday at two o'clock, if Commission counsel
9 wanted to go that way.

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

11 **MR. MANSON:** That's point number one.

12 Point number two, while I haven't had any
13 communications today by email or telephone, I understand
14 that last night there was some communications and Mr.
15 Cipriano was looking for some extra time to prepare his
16 factum and there was no agreements or any arrangements
17 made. I know he talked to Mr. Engelmann, but there was
18 certainly no arrangements made.

19 At that point, we became concerned for this
20 reason. While we oppose the motion that we think he's
21 going to bring and intend to oppose it vigorously, we think
22 it's, number one, an important issue and, number two, our
23 practice is to try to present you and other counsel with
24 something in writing so that our thoughts are clear, other
25 people can respond to them and you can take it away with

1 you.

2 We can turn that around in 24 hours, and I
3 would make that commitment to you, depending on when we get
4 our material from Mr. Cipriano.

5 **THE COMMISSIONER:** Well, what is the
6 arrangement now? He's supposed to have his material in
7 for?

8 **MR. DUMAIS:** I believe his deadline was --
9 -

10 **THE COMMISSIONER:** Friday?

11 **MR. MANSON:** Thursday for the Notice of
12 Motion and Friday for the factum, and then we had until
13 Monday for our written material.

14 **THE COMMISSIONER:** Well, until Tuesday
15 because we are closed Monday.

16 **MR. MANSON:** Yes, but we wanted to circulate
17 it, so we would do that electronically.

18 **THE COMMISSIONER:** Sure.

19 **MR. MANSON:** I understood yesterday it was
20 Monday. We don't need the weekend, but we certainly do
21 need 24 hours.

22 Now, if Mr. Cipriano wants to delay the
23 matter until Monday, as I said, we can turn our material
24 around in 24 hours. I'm just wondering whether we can have
25 this evening to make some phone calls and come back to this

1 tomorrow so that we can at least keep on the table the
2 possibility of doing the motion either Wednesday afternoon
3 or Thursday morning.

4 **THE COMMISSIONER:** Right.

5 **MR. MANSON:** If I could say one more thing,
6 I understand that part of the urgency is that the motion
7 needs to be argued and, in fact, resolved before the next
8 witness that Commission counsel choose to call.

9 **THE COMMISSIONER:** Right.

10 **MR. MANSON:** But that now has been slowed
11 down slightly.

12 **THE COMMISSIONER:** Well, I don't know. Not
13 necessarily. It may be, for example, that when we're
14 looking at witnesses, that it may be that the witness that
15 was to be called later this week is more amenable to be put
16 back and maybe the witness that is dependent on the motion,
17 there's a smaller window of opportunity for calling that
18 witness. I don't know.

19 All I'm saying is this. People are
20 important. Issues are important. We have set Tuesday
21 afternoon aside. I haven't heard any motions before me to
22 change that. I would think that if there is something to
23 be brought forward, people would do so as soon as possible.
24 I think it's no secret that the people who are testifying
25 here are doing so at substantial emotional cost to

1 themselves.

2 **MR. MANSON:** Yes.

3 **THE COMMISSIONER:** And that if we're going
4 to set aside time for important administrative times, then
5 I think people can hurry up the process and fulfill those
6 timelines.

7 So in the absence of any stirring
8 application to the contrary, we're going to follow those
9 guidelines.

10 Now, I'm always open to a motion, always. I
11 mean, things change every day. I may fall ill tomorrow.
12 Then that's going to throw everything off. Something might
13 happen. We never know. So we'll take things one step at a
14 time, Mr. Manson.

15 So if there's anything that stirs up during
16 the night, I'll be happy to hear from you after we've heard
17 from the witness. All right?

18 **MR. MANSON:** Thank you, Mr. Commissioner.

19 **THE COMMISSIONER:** Thank you.

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

22 This hearing is now adjourned. L'audience
23 est ajournée.

24 --- Upon adjourning at 4:32 p.m./

25 L'audience est ajournée à 16h32

C E R T I F I C A T I O N

I, Sean Prouse 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, Sean Prouse, 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.



Sean Prouse, CVR-CM