

**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 304

Held at :

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

Friday, November 14, 2008

Tenue à:

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

Vendredi, le 14 novembre 2008

ERRATA

October 31st, 2008
Volume 299

Transcript

Page 60, line 7

MR. LEE: Do you have 1st any knowledge of whether the information you were passing up to Officer Hamelink was being shared with Officer Sebalj?

Should have read:

MR. LEE: Do you have 1st any knowledge of whether the information you were passing up to Officer Hamelink was being shared with Officer Smith?

Appearances/Comparutions

Ms. Brigitte Beaulne	Registrar
Ms. Karen Jones	Commission Counsel
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
Ms. Gina Saccoccio Brannan, Q.C.	
Ms. Leslie McIntosh	Attorney General for Ontario
Ms. Michele R.J. Allinotte	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
M ^e Gisèle Levesque	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDougald
Mr. William Carroll	Ontario Provincial Police Association
Mr. Ian Paul	Coalition for Action
Mr. Fred Havelink	

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1 --- Upon commencing at 9:38 a.m./

2 L'audience débute à 09h38

3 **THE REGISTRAR:** Order. All rise. À
4 l'ordre. Veuillez vous lever.

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning, all.
10 So if the witness could come forward,
11 please?

12 Ms. Daley?

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

14 **THE COMMISSIONER:** Good morning, sir. How
15 you doing?

16 **MR. HAMELINK:** Well, thank you.

17 **THE COMMISSIONER:** Good. You understand
18 you're still under oath?

19 **MR. HAMELINK:** I do.

20 **THE COMMISSIONER:** Thank you.

21 If at any time you need a break let me know.

22 Ms. Daley?

23 **FRED HAMELINK: Resumed/Sous le même serment:**

24 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

25 **DALEY:**

1 **MS. DALEY:** Mr. Hamelink, good morning. My
2 name is Helen Daley. My clients are the Citizens for
3 Community Renewal and that is the local citizens group with
4 an interest in reforming institutions.

5 Just to begin, I gathered that when you were
6 assigned to the Seguin extortion investigation you had only
7 very recently been promoted to the rank of detective
8 inspector. Is that correct, sir?

9 **MR. HAMELINK:** That would be correct, yes.

10 **MS. DALEY:** Within the last few months?

11 **MR. HAMELINK:** Approximately four months,
12 ma'am.

13 **MS. DALEY:** And I understood from your
14 career profile that it wasn't until some time in 1996 that
15 you received training in case management matters. Is that
16 correct?

17 **MR. HAMELINK:** That would be correct. I was
18 on the pilot Case Management Course at the Canadian Police
19 College in Ottawa.

20 **MS. DALEY:** But that occurred several years
21 after your involvement in the extortion investigation?

22 **MR. HAMELINK:** That's correct. That was a
23 relatively new program.

24 **MS. DALEY:** Okay, thank you.

25 Now, let me just ask a few questions about

1 your own knowledge of Cornwall and the United Counties.

2 I take it that you had not previously worked
3 in policing in this area to a large extent. Would that be
4 correct?

5 **MR. HAMELINK:** No, that wouldn't be correct.

6 **MS. DALEY:** Had you had occasion to work in
7 this area before?

8 **MR. HAMELINK:** I did.

9 **MS. DALEY:** And with respect to Chris
10 McDonnell, the officer that worked with you on the extortion
11 investigation, I take it he was a local man was he not,
12 he'd been in Lancaster for all his career at that point?

13 **MR. HAMELINK:** That would be correct.

14 **MS. DALEY:** As between yourself and Mr. --
15 or Officer McDonnell, I take it Officer McDonnell knew this
16 community fairly well?

17 **MR. HAMELINK:** I would say he did, yes.

18 **MS. DALEY:** And I presume that was useful to
19 you, to some extent, on the extortion investigation?

20 **MR. HAMELINK:** It's always useful in an
21 investigation, yes.

22 **MS. DALEY:** And, in fact, Officer McDonnell
23 knew Mr. Seguin when Mr. Seguin was alive? He knew of him?

24 **MR. HAMELINK:** I believe that's correct.

25 **MS. DALEY:** All right. Now, Officer

1 McDonnell here testified and I just want to know if you
2 would agree with what he said.

3 He said that this investigation that he was
4 involved in, being yours and Officer Smith's, was pretty
5 serious in the area at the time and that it was a serious
6 investigation. Would you agree with that, sir?

7 **MR. HAMELINK:** Absolutely.

8 **MS. DALEY:** All right. And, indeed, it was
9 classified as a major crime and that was the rationale for
10 your involvement as a detective inspector; correct?

11 **MR. HAMELINK:** Well, organizationally we
12 changed to major cases. It was a name change from CIB to
13 major cases. So if you're making the nexus between that
14 and a major crime I guess you would be correct, but we had
15 an organizational name change.

16 **MS. DALEY:** Whereby major crimes became --
17 called major cases. Is that correct?

18 **MR. HAMELINK:** No. Whereby the acronym CIB
19 (Criminal Investigations Branch) ---

20 **MS. DALEY:** Yes.

21 **MR. HAMELINK:** --- changed to Major Cases --
22 Major Case Bureau.

23 **MS. DALEY:** All I'm interested in is this,
24 sir, and if I get the words wrong I'm sure you'll correct
25 me, but this case that you were assigned on was viewed as

1 serious enough to require a detective inspector to head it
2 up?

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

4 **MS. DALEY:** Is that correct?

5 **MR. HAMELINK:** Yes.

6 **MS. DALEY:** Now, and similarly, Inspector
7 Smith's case was viewed the same way; it was serious enough
8 to require the involvement of a detective inspector to
9 coordinate it?

10 **MR. HAMELINK:** Correct.

11 **MS. DALEY:** Now, sir, can you tell me in
12 your words, your understanding of Inspector Smith's
13 investigation? Just in your own words, what was it that
14 you understood he was investigating?

15 **MR. HAMELINK:** I understood that Inspector
16 Smith was investigating a series of allegations concerning
17 young people -- and by young people I mean people between -
18 - not yet classified as adults -- having been involved with
19 sexual improprieties by adult male persons that included
20 members of the Diocese, the Roman Catholic Diocese. That
21 was my understanding.

22 **MS. DALEY:** All right. So you understood he
23 was looking more broadly than simply at Father Charles
24 MacDonald as a possible sexual offender?

25 **MR. HAMELINK:** That was my understanding,

1 ma'am, yes.

2 **THE COMMISSIONER:** Back in 1994?

3 **MR. HAMELINK:** That's correct, sir.

4 **THE COMMISSIONER:** Okay, thank you.

5 **MS. DALEY:** And, so you've given us as best
6 you can your complete understanding of what you thought
7 Officer Smith was doing?

8 **MR. HAMELINK:** I believe I have, yes.

9 **MS. DALEY:** Thank you.

10 Now, sir, were you aware when you were
11 assigned to the extortion investigation that there had been
12 substantial local media coverage starting in January of '94
13 pertaining to the events that -- some of the events that
14 you later became involved with?

15 **MR. HAMELINK:** I had an understanding that
16 there was media coverage. To what extent, I had no
17 knowledge.

18 **MS. DALEY:** Did McDonnell ever -- do you
19 recall any occasion where McDonnell would have talked to you
20 about that?

21 **MR. HAMELINK:** Not that I recall, ma'am.

22 **MS. DALEY:** All right. In any event, you
23 understood that you were assuming an investigation that to
24 some extent was in the public eye?

25 **MR. HAMELINK:** Absolutely.

1 **MS. DALEY:** And I take it, sir, that that
2 fact would make it even more important, not that it wasn't
3 important to you otherwise, but that fact would make it
4 even more important to do a very thorough investigation and
5 to be seen to be doing a thorough investigation. Would you
6 agree with that?

7 **MR. HAMELINK:** No.

8 **MS. DALEY:** All right. Did you -- sorry,
9 let me ask you this question, sir.

10 Did you understand that part of what was in
11 the public eye at that time was an allegation that Mr.
12 Seguin had abused Mr. Silmsler and then killed himself? Do
13 you appreciate that that was in the public eye?

14 **MR. HAMELINK:** That would have been the
15 basis of my extortion investigation, whether that was in
16 the public eye -- whether that particular information was
17 in the public eye, I don't know.

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

19 Now, sir, I take it that you knew once you
20 did take on the extortion investigation that Officer
21 McDonnell had worked with Millar on the death investigation
22 of Mr. Seguin?

23 **MR. HAMELINK:** Yes, I was aware of that,
24 ma'am.

25 **MS. DALEY:** And did you have an opportunity

1 at all, sir, to either watch or to review the testimony
2 that Officer McDonell has given us here?

3 **MR. HAMELINK:** I have read Officer
4 McDonell's transcript. Yes, I have.

5 **MS. DALEY:** All right, thank you.

6 There's some aspects of what he said I'd
7 like to get your comment on if I could. So I'm going to
8 direct you to passages of the transcript and I'm going to
9 ask for your thoughts.

10 Volume 299 is the testimony of McDonell,
11 October 31, and I'd like to review with the witness some
12 evidence starting at page 56.

13 **THE COMMISSIONER:** Thank you. Fifty-six
14 (56)?

15 **MS. DALEY:** Yes, sir.

16 **THE COMMISSIONER:** Thank you.

17 **MS. DALEY:** I'd like you to look, sir, at --
18 this should be Mr. Lee's questions to Officer McDonell and
19 I'd like you just to look at the evidence starting at lines
20 15 on page 56, and then just read down that testimony and
21 go over to the top of 57, if you could, please?

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **MR. HAMELINK:** Yes, ma'am.

24 **MS. DALEY:** Have you had a chance to do
25 that?

1 **MR. HAMELINK:** I have.

2 **MS. DALEY:** So just stopping there for a
3 moment, it appears that Officer McDonell, when he was
4 working on the death investigation, not yours but the death
5 investigation, had an awareness very early on that Seguin
6 was feeling pressure, and that's the testimony he gave
7 here. I assume you have no reason to doubt that?

8 **MR. HAMELINK:** I have no reason to doubt
9 that.

10 **MS. DALEY:** All right.

11 Now, if you'd continue looking at page 57,
12 lines 17 through 22, this is just to pool the point
13 together. It's fairly clear that -- and, again, I'm
14 looking around lines 21 and 22 -- that within a day or so
15 of the suicide itself after McDonell had been involved in
16 the death investigation, it was a fairly well known fact to
17 him that some form of pressure existed. And, again, I take
18 it you have no reason to doubt what he said there?

19 **MR. HAMELINK:** That's correct.

20 **MS. DALEY:** And that would have been his
21 finding at the time when he was involved in the death
22 investigation, as best ---

23 **MR. HAMELINK:** As best as I know.

24 **MS. DALEY:** As best as you can comment on
25 it.

1 **MR. HAMELINK:** Yes.

2 **MS. DALEY:** Thank you.

3 Now, I would like you now please to look at
4 page 50 of this transcript starting at line 18, and I want
5 you to, if you would please, read over to page 51 about
6 line 16. So do we have page 50 at line 18?

7 **THE COMMISSIONER:** Yeah, we're there.

8 **MS. DALEY:** I'm starting here because I just
9 want you to understand the context for the question.

10 The question is referring to a document that
11 we've seen here yesterday written February 17th, '94 that
12 outlines the extortion investigation.

13 Then if you go over to page 51, please, the
14 examiner is asking McDonell, "Was that an accurate
15 reflection of the OPP thinking?" McDonell says "No". And
16 then he goes on to say at lines 10 and 12:

17 "It was concluded by myself and Millar
18 prior to this that there was no
19 extortion."

20 And the questioner says:

21 "So by February 17th, '94 you had
22 concluded there was no extortion?"

23 And McDonell says -- you'll need to scroll a
24 bit further down, Madam Clerk, to see his answer. Thank
25 you.

1 He says:

2 "That's correct, the first week of the
3 investigation."

4 Sir, you familiarized yourself with that
5 evidence. That's what he's told us here, that he came to
6 that conclusion early on. My question is did he tell you
7 that at the time you were working on the extortion?

8 **MR. HAMELINK:** I was already aware of that
9 conclusion. When you read the occurrence report, which I
10 did read, that was completed by Detective Sergeant Randy
11 Millar. So I was already aware of that.

12 **MS. DALEY:** So you were aware then that both
13 Millar and McDonell had concluded no extortion?

14 **MR. HAMELINK:** That was their opinion, yes.

15 **MS. DALEY:** Yes. All right.

16 Now, as I read the evidence there, it would
17 appear that in February of '94 when the extortion
18 investigation is up and running, McDonell still has that
19 conclusion in his mind?

20 **MR. HAMELINK:** You'd have to ask Mr.
21 McDonell what was in his mind, ma'am.

22 **MS. DALEY:** That's exactly right, but we've
23 got some evidence as to what that was.

24 My question was, after you got up and
25 running in the extortion investigation, in the early days

1 of that investigation before February 21 and the Crown
2 meeting, did McDonell communicate to you, "Listen, I don't
3 think there's any extortion here"?

4 **MR. HAMELINK:** I don't recall any
5 conversation with McDonell in that regard whatsoever.

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

7 **MR. HAMELINK:** Remember, ma'am, it's a fresh
8 start for me.

9 **MS. DALEY:** I understand that. It mayn't
10 have been so for him though because he, to some extent,
11 looked at this issue previously; correct?

12 **MR. HAMELINK:** Under a different direction.
13 He's now under my direction.

14 **MS. DALEY:** All right.

15 Now, I want to -- I think -- I hope this is
16 going to be helpful for us all. I want us to get some
17 clarity about the charge of extortion and your
18 understanding, from a policing perspective, as to what that
19 meant.

20 And let me ask, firstly, had you had
21 experience investigating extortion prior to 1994?

22 **MR. HAMELINK:** I may have had previous
23 experience with that. I can't think of any examples that I
24 could give you at this point.

25 **MS. DALEY:** I'm going to take you to a

1 document that contains the definition of the offence.

2 Madam Clerk, if you could have available to
3 the witness, please, Exhibit 2546?

4 Give me one second.

5 (SHORT PAUSE/COURTE PAUSE)

6 MS. DALEY: It should be 116253.

7 And if you look at Bates page 014 ---

8 THE COMMISSIONER: It's the last page, sir.

9 MR. HAMELINK: Yes, ma'am.

10 MS. DALEY: I hope we're in the same realm
11 here because I don't have a hardcopy. Is that the
12 definition of extortion?

13 THE COMMISSIONER: Yes, it is.

14 MS. DALEY: Thank you, sir.

15 So that comes from the *Criminal Code*.

16 That's section -- is it 346?

17 MR. HAMELINK: It is.

18 MS. DALEY: Madam Clerk, could you show me
19 this on the screen, please? Thank you.

20 THE REGISTRAR: Do you know what the Bates
21 page is?

22 MS. DALEY: It should be Bates 014.

23 THE COMMISSIONER: It's 1095014. There, you
24 have it.

25 MS. DALEY: Thank you. Thank you, we've got

1 it. That's what I'm looking for.

2 Now, sir, in response to some questions from
3 the Commissioner yesterday, you'll recall we had some
4 discussion about what potentially would or would not be
5 extortion, and that's why I thought it would be worthwhile
6 for us just to look at the language of the section.

7 Now, would you do me a favour, I hope this
8 isn't too awkward, would you have one other exhibit handy
9 so that we can cross-reference.

10 And I'd like that to be Exhibit 972 if you
11 could, please, Madam Clerk? That should be the death
12 investigation occurrence report.

13 (SHORT PAUSE/COURTE PAUSE)

14 MS. DALEY: So if you have 972 handy, sir,
15 if you just look to the last page of that document, it
16 should be Bates 763, and here you see the conclusion that
17 extortion does not exist against Silmsen as per section
18 246(2) of the Criminal Code. Right? That's what I wanted
19 to direct you to.

20 Now, can we see the definition again,
21 please, because I'm going to show you what sub (2) talks
22 about.

23 Sub (2) says that:

24 "A threat to institute civil
25 proceedings is not a threat for the

1 purpose of the offence."

2 And I take it you understood that?

3 **MR. HAMELINK:** I did.

4 **MS. DALEY:** Now, looking at the balance of
5 the language, I just want to see if you can help us put
6 these words to the facts that we were investigating and
7 tell me if I'm right about this, all right?

8 If Mr. Silmsler had tried to get money from
9 Mr. Seguin by threatening something other than suing him,
10 would that -- that would be potentially extortion in that
11 language. Would that be your working understanding?

12 **MR. HAMELINK:** Could you give me an idea
13 what you mean by "something other than"?

14 **MS. DALEY:** Well, for starters, you'll agree
15 with me that if the only threat is to institute civil
16 proceedings, we don't have extortion, right?

17 **MR. HAMELINK:** I would agree with you.

18 **MS. DALEY:** And that was the basis of
19 McDonnell and Mr. Millar's prior conclusion, right?

20 **MR. HAMELINK:** That's what it appears, yes.

21 **MS. DALEY:** Okay. So to start with, the
22 threat has to be something other than a threat to institute
23 civil proceedings or we're not within the realm of this
24 charge; correct?

25 **MR. HAMELINK:** Correct.

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

2 If a threat had been made, for example, to
3 go to the press unless you pay me money, could that
4 potentially be extortion?

5 **MR. HAMELINK:** I'm not a lawyer, ma'am, so I
6 don't know whether that would fall into that category.

7 **MS. DALEY:** I'm asking you as a police
8 officer. I appreciate that you would seek advice from the
9 Crown.

10 **MR. HAMELINK:** And that's what I did.

11 **MS. DALEY:** Right, but I assume that if you
12 had evidence of a threat to "go to the press unless you pay
13 me money", you would think potentially that's extortion,
14 you would want the Crown to know about that?

15 **MR. HAMELINK:** I would want the Crown to
16 know about that, absolutely.

17 **MS. DALEY:** Right. And that's because that
18 would be evidence that is potentially relevant to an
19 extortion charge. It may or may not be extortion, you'd
20 want a Crown view, but that would be evidence that would be
21 probative of extortion?

22 **MR. HAMELINK:** It would be one of the facts
23 that the Crown would consider prior to giving me his legal
24 opinion, yes.

25 **MS. DALEY:** And you as an investigator or as

1 a person who's operating an investigation, would appreciate
2 that that was probative information?

3 **MR. HAMELINK:** It's probative information,
4 ma'am.

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

6 **MR. HAMELINK:** But I want to clarify. I
7 would not lay a charge of extortion with that probative
8 information without advice from the Crown.

9 **MS. DALEY:** I appreciate that. I appreciate
10 it. I'm just talking about policing right now. I realize
11 that the Crown opinion is another function.

12 Would I be right as well, sir, that if
13 Mr. Silmsler had tried to get money from Ken Seguin by
14 threatening Malcolm, for example, with something other than
15 a law suit, that's also probative information to you as a
16 police officer?

17 **MR. HAMELINK:** Threatening Malcolm MacDonald
18 ---

19 **MS. DALEY:** Yes.

20 **MR. HAMELINK:** --- with something other than
21 a ---

22 **MS. DALEY:** Civil law suit with a view to
23 getting money from Ken.

24 **MR. HAMELINK:** Well, that would be a
25 separate investigation for me if that information came to

1 my attention.

2 MS. DALEY: If Mr. Silmsler -- well, I think
3 you will ultimately agree because you did interview Malcolm
4 and you had some evidence from him about conversations that
5 Silmsler had had with him pertaining to what Silmsler might
6 do unless Seguin paid. Recall that?

7 MR. HAMELINK: Yes, I do.

8 MS. DALEY: So in your mind, that was
9 probative of extortion? That could be relevant to
10 extortion?

11 MR. HAMELINK: It would be relevant, yes.

12 MS. DALEY: In neither of those cases, sir,
13 would it matter whether or not, in truth and in fact, Ken
14 was a homosexual, would it?

15 MR. HAMELINK: Absolutely not.

16 MS. DALEY: And in neither of those cases,
17 would it matter whether or not, in fact, there had been a
18 sexual encounter between Silmsler and Ken?

19 MR. HAMELINK: And then again that would
20 depend at the age that Silmsler had the sexual encounter
21 with Ken.

22 MS. DALEY: I'm speaking about extortion and
23 not whether or not Ken has done something wrong vis-à-vis
24 Silmsler.

25 If Mr. Silmsler has threatened Ken with

1 something other than a civil suit to get money out of him,
2 in your mind is it relevant or otherwise that the sexual
3 encounter happened? Is that relevant to extortion?

4 **MR. HAMELINK:** No.

5 **MS. DALEY:** Thank you.

6 There's one piece of information that the
7 death investigators had and they refer to it in Exhibit 942
8 on page ---

9 **THE COMMISSIONER:** Nine-forty-two?

10 **MS. DALEY:** Sorry, 972.

11 **THE COMMISSIONER:** That's the same exhibit,
12 sir.

13 **MR. HAMELINK:** Yes, sir.

14 **THE COMMISSIONER:** Where, please?

15 **MS. DALEY:** At Bates page 762 of that
16 document, sir, so that should be the fourth page in.

17 **THE COMMISSIONER:** Four last pages.

18 **MS. DALEY:** And if you look eight lines down
19 from the top, we see this information:

20 "On November 24th, 1993, evening prior
21 to death of Seguin, Staff Sergeant
22 Dupuis of Cornwall Police received a
23 call from Silmsler who stated that if
24 anything happened to him, Charlie
25 MacDonald and Ken could be considered

1 suspects. Silmsers stated if they don't
2 pay in the next 48 hours he will be
3 going to the press with his story.
4 There is a lot of money at stake."

5 I take it, sir, that that would be
6 potentially probative of extortion, would it not, given
7 what we've agreed upon?

8 **MR. HAMELINK:** I would agree with you, yes.

9 **MS. DALEY:** All right. Because if Silmsers
10 had made such a threat to Mr. Seguin, as he's telling the
11 police officer, that is something other than a law suit,
12 right?

13 **MR. HAMELINK:** That's correct, but if you're
14 tying that in to my extortion investigation, this is in the
15 jurisdiction of Cornwall Police Service that this
16 allegation came, if you can call it that. Brunet is a
17 Cornwall Police Service officer.

18 **MS. DALEY:** Sir, you mean Dupuis, I think.

19 **MR. HAMELINK:** I'm sorry, Dupuis.

20 **MS. DALEY:** Right. Well, sir, I don't know
21 if you have Exhibit 372 handy.

22 **THE COMMISSIONER:** Yes.

23 **MR. HAMELINK:** Yes.

24 **MS. DALEY:** It's in that book. Have a quick
25 look there if you would, please?

1 THE COMMISSIONER: He has.

2 MS. DALEY: Three-seven-two (372)?

3 THE COMMISSIONER: Oh, 372?

4 MS. DALEY: Yes, sorry, 372 is actually an
5 exhibit that was -- he spoke about in-chief yesterday.
6 It's a document that Dupuis authored about this telephone
7 call. I think you'll remember it when you see it.

8 THE COMMISSIONER: M'hm.

9 (SHORT PAUSE/COURTE PAUSE)

10 MS. DALEY: Do you have that handy?

11 MR. HAMELINK: I do, ma'am.

12 MS. DALEY: Do you remember that you spoke
13 about that with Ms. Jones a little bit yesterday?

14 MR. HAMELINK: Yes, I do.

15 MS. DALEY: I'm waiting for -- do you have
16 it, sir?

17 THE COMMISSIONER: Yes, go ahead.

18 At the very bottom of the first page, you
19 see Staff Sergeant Dupuis has recorded this statement from
20 Silmsler that he's going to go to the press and there's a
21 lot of money at stake. Do you see that, sir?

22 MR. HAMELINK: Are we talking about ---

23 MS. DALEY: I'm just taking you to the
24 actual statement of Dupuis ---

25 MR. HAMELINK: Okay.

1 **MS. DALEY:** --- that the prior officers had
2 commented on in the other exhibit.

3 **MR. HAMELINK:** Yes, I have that, ma'am.

4 **MS. DALEY:** Okay. So at the very bottom of
5 the first page, you see that fact that Dupuis says that
6 Silmser has stated, "If they don't pay I'm going to the
7 press and there's a lot of money involved"?

8 **MR. HAMELINK:** Yes.

9 **MS. DALEY:** Okay. Now, I didn't quite
10 understand what you told me a few moments ago because you
11 were telling me this is in Cornwall policing territory,
12 it's not an OPP issue. Is that your evidence? Is that
13 correct?

14 **MR. HAMELINK:** That's what I told you within
15 the last several moments, yes.

16 **MS. DALEY:** Right. I guess what I'm trying
17 to understand, sir, is is this fact that a statement of
18 this sort has been made by Silmser relevant to your
19 extortion investigation?

20 **MR. HAMELINK:** Of course it would be
21 relevant.

22 **MS. DALEY:** Okay.

23 **MR. HAMELINK:** Yes.

24 **MS. DALEY:** And it would be potentially
25 probative of the offence; correct?

1 **MR. HAMELINK:** Yes, I agree.

2 **MS. DALEY:** Now, did anyone interview Staff
3 Sergeant Dupuis about this interaction with Mr. Silmsers?

4 **MR. HAMELINK:** Well, from my understanding
5 of that interaction with Mr. Silmsers, Dupuis completed his
6 own Will Say.

7 **MS. DALEY:** Right. And you had that?

8 **MR. HAMELINK:** Yes, I was familiar with this
9 document.

10 **MS. DALEY:** Right.

11 Now, sir, do you know if any further follow-
12 up was done to get more detail or more depth about this
13 statement by Mr. Silmsers by your investigators? Is it
14 something you remember directing them to do?

15 **MR. HAMELINK:** I don't recall.

16 **MS. DALEY:** As I understood your evidence,
17 perhaps the most probative evidence of extortion would be
18 something that Mr. Silmsers would tell you, since what we
19 need to investigate in order to lay a charge of extortion
20 would be a threat other than a civil suit? One person who
21 could tell you about whether such threats had occurred
22 would be Mr. Silmsers, right?

23 **MR. HAMELINK:** That would be one person,
24 yes.

25 **MS. DALEY:** And he had, in fact, been

1 interviewed during the death investigation by Officer
2 McDonnell and by Officer Genier. You were aware of that?

3 **MR. HAMELINK:** I believe I was, yes.

4 **MS. DALEY:** But that was really -- that was
5 the only interview that ever was conducted of Mr. Silmsner
6 that touched upon that subject, that you know of?

7 **MR. HAMELINK:** Well, wasn't he -- he was
8 also interviewed by Tim Smith at the Kanata Detachment,
9 which was a videotaped statement.

10 **MS. DALEY:** Right.

11 **MR. HAMELINK:** And I believe there was
12 mention in that particular statement about the extortion.
13 There was a touching on that.

14 **MS. DALEY:** I remember we spoke yesterday.
15 You viewed that interview and there were perhaps one or two
16 questions and answers in the interview that touched on
17 that?

18 **MR. HAMELINK:** I believe that's correct,
19 yes.

20 **MS. DALEY:** But I think you would agree, it
21 wasn't a very substantive or probing interview on extortion
22 for the reason that you gave us, which is that there would
23 have been a need to caution Mr. Silmsner and he was really
24 being interviewed as a victim at that time.

25 **MR. HAMELINK:** Primarily he was being

1 interviewed as a victim of a sexual assault. The extortion
2 portion was not proceeded with, and by that I mean that we
3 stayed away from Silmsler until Smith's sexual assault
4 investigation was completed.

5 **MS. DALEY:** I understand that. And so the
6 handicap that you had was that you couldn't make any
7 approach to Silmsler to see what he might say if asked,
8 until the sexual assault part of the other investigation
9 had finished. That was a circumstance that you had to work
10 under?

11 **MR. HAMELINK:** That was a circumstance I had
12 to work under, yes.

13 **MS. DALEY:** All right. So, sir, did Smith
14 ever tell you that he indeed had finished the sexual
15 assault part of his investigation and therefore you could
16 go ahead and approach Silmsler to see what he would say
17 about his interactions with Ken?

18 **MR. HAMELINK:** Not that I recall, ma'am.

19 **MS. DALEY:** Do you recall if you ever asked
20 Mr. Smith; "Are you finished, can we now go talk to our
21 suspect or try to"?

22 **MR. HAMELINK:** No, I don't.

23 **MS. DALEY:** Sir, what I don't quite
24 understand is this, and maybe you can help me. Since that
25 aspect of your extortion investigation, in other words, the

1 approach to the suspect, since that aspect you never -- you
2 never got there, it didn't occur; why is it that you
3 finished your work before that had happened?

4 **THE COMMISSIONER:** Before?

5 **MS. DALEY:** Before hearing from Smith that
6 he's finished, therefore you can proceed with Silmsers if
7 you wish.

8 **MR. HAMELINK:** You're asking me why that
9 occurred?

10 **MS. DALEY:** Yes.

11 **MR. HAMELINK:** I can't answer that now.

12 **THE COMMISSIONER:** Can you answer, is there
13 a reason why Silmsers was not interviewed with respect to
14 the extortion?

15 **MR. HAMELINK:** No, I don't, sir. I can't
16 answer that question.

17 **THE COMMISSIONER:** Well, would it have been
18 -- is it something that should have been done? I don't
19 know exactly how to put that.

20 **MR. HAMELINK:** There's a lot of things that
21 in hindsight should have been done ---

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

23 **MR. HAMELINK:** --- that weren't done at the
24 time.

25 I had information at the time that Silmsers

1 had cancelled prescheduled meetings with other officers.
2 That's about the best I can do, Mr. Commissioner. I didn't
3 -- we didn't interview him.

4 **THE COMMISSIONER:** No. What I'm trying to
5 say is, let's assume that somebody out of here, in another
6 city, would have done that same investigation, would the
7 protocols or your police procedures -- or would it be
8 normal to have spoken to Silmsler about this issue?

9 **MR. HAMELINK:** Bearing in mind that if I'm
10 going to speak to him about this issue the caution would
11 have had to have been given.

12 **THE COMMISSIONER:** Yes.

13 **MR. HAMELINK:** Could we have done that;
14 absolutely.

15 **THE COMMISSIONER:** Okay but I'm not trying
16 to get -- I'm just trying to see whether regular
17 investigative procedures were followed and if you say,
18 "Listen we'd done the investigation and I decided that it
19 wasn't -- I made the decision not to interview"; that's one
20 thing.

21 Did you ever make a decision not to
22 interview him?

23 **MR. HAMELINK:** When we had taken the
24 statements from potential witnesses ---

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

1 **MR. HAMELINK:** --- and put it into form of a
2 Crown brief ---

3 **THE COMMISSIONER:** Right.

4 **MR. HAMELINK:** --- and gave it to the
5 regional Crown attorney for his legal opinion as to whether
6 or not reasonable grounds existed to charge Silmsers with
7 the criminal offence of extortion and having received that
8 information, that's the basis that I formed the opinion on
9 that we would not go near him.

10 **THE COMMISSIONER:** That you would not go
11 near him?

12 **MR. HAMELINK:** That we would not interview
13 him and that was my decision.

14 **THE COMMISSIONER:** No, I understand.

15 **MS. DALEY:** Could I just ---

16 **THE COMMISSIONER:** Go ahead.

17 **MS. DALEY:** --- ask one question to clarify
18 what you just said, sir? That's something that occurred
19 after you'd received the letter from Peter Griffiths?

20 **MR. HAMELINK:** That is correct.

21 **MS. DALEY:** Okay. Prior to putting your
22 information to the Crown and hearing back, had you made a
23 conscious decision not to interview Silmsers? And let me
24 just help you, to refresh your mind about your memory; I
25 thought what you said was any approach to Silmsers was on

1 hold pending Smith's completion; correct?

2 MR. HAMELINK: Any approach to Silmsers, yes.

3 MS. DALEY: Yes.

4 MR. HAMELINK: We stayed away from Silmsers,
5 correct.

6 MS. DALEY: So that was the trigger, I
7 guess, and if -- you never heard that Smith had completed
8 his investigation; correct?

9 MR. HAMELINK: That's correct.

10 MS. DALEY: So in your mind the potential
11 interview of Silmsers remained on hold?

12 MR. HAMELINK: Until I received information
13 from Smith, is that what you're asking, ma'am?

14 MS. DALEY: Yes.

15 MR. HAMELINK: Yes.

16 MS. DALEY: Smith had to give you the green
17 light and then you could attempt to interview Silmsers?

18 MR. HAMELINK: See, I don't think that's a
19 real accurate reflection as to what really happened during
20 that time span.

21 MS. DALEY: Give me the accurate reflection
22 then.

23 MR. HAMELINK: My investigation was
24 completed prior to Smith's investigation.

25 MS. DALEY: I understand that.

1 **MR. HAMELINK:** That's where the alleged
2 blow-up, if you will, came forward. I took my Crown brief
3 to Mr. Griffiths ahead of Smith's. I had my reply from Mr.
4 Griffiths before Smith took his briefs to Crown Attorney
5 Griffiths. Based on that reply I decided not to interview
6 Silmser.

7 **MS. DALEY:** It follows from what you said
8 that you felt your interview was complete and could go up
9 to the Crown without interviewing Silmser?

10 **MR. HAMELINK:** That's why I went to the
11 Crown initially, to get the legal advice, do I have a
12 charge here, based on the information that we had about
13 civil proceedings being instituted against Mr. Seguin by
14 Silmser.

15 I wanted a legal opinion.

16 **MS. DALEY:** And that's the opinion that you
17 received in or about ---

18 **MR. HAMELINK:** Towards the end of October
19 1994.

20 **MS. DALEY:** --- '94; right?

21 **MR. HAMELINK:** I can't give you the specific
22 date.

23 **MS. DALEY:** Precisely. But that -- just to
24 paraphrase, that's Mr. Griffiths writing back to you and
25 saying all you got right now are some statements from

1 Malcolm; they're a little bit fuzzy ---

2 **THE COMMISSIONER:** Well, they're hearsay.

3 **MR. HAMELINK:** There was much more in that
4 memo than what you're saying here, ma'am. Much more in
5 that memo.

6 **THE COMMISSIONER:** Yes, there was.

7 **MS. DALEY:** I'm really interested in one
8 thing and that's the idea of approaching Silmsler to see if
9 he would talk to you and you would get evidence from him
10 that would perhaps support a charge; right?

11 And I take it you felt comfortable putting
12 together your brief of everything you had, giving it to Mr.
13 Griffiths before having interviewed Silmsler?

14 **MR. HAMELINK:** Absolutely, I felt
15 comfortable with that.

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

17 **MR. HAMELINK:** Because of the burning fact
18 that subsection 2 of 346 refer to civil proceedings.

19 **MS. DALEY:** Only thing -- the only thing I'm
20 questioning here is this; is it possible that had Silmsler
21 been interviewed he might have said the same thing he said
22 to Officer -- Staff Sergeant Dupuis which is, "I told Ken I
23 was going to go to the press unless I got money"? It's
24 possible he would have said that to a police investigator
25 also; correct?

1 **MR. HAMELINK:** It's possible, ma'am.

2 **MS. DALEY:** Because he said that to Staff
3 Sergeant Dupuis; right?

4 **MR. HAMELINK:** That's what Staff Sergeant
5 Dupuis has recorded in his Will-Say; correct.

6 **MS. DALEY:** All right. So had he been asked
7 the question there's at least some realm of possibility he
8 would have given you that answer as well. Is that fair?

9 **MR. HAMELINK:** That's a possibility; yes.

10 **MS. DALEY:** And that would be factual
11 information that the Crown should consider in determining
12 whether or not a charge of extortion could be laid.

13 **MR. HAMELINK:** That information is the
14 regional Crown attorney. Had he had had a concern with
15 that I'm sure he would have expressed that to me, which
16 never happened.

17 **MS. DALEY:** We're just at cross-purposes
18 with my last question; had there been a Silmsler interview
19 in which he said the same thing he'd done to Dupuis, "Yeah,
20 I threatened to go to the press," you would have made the
21 Crown attorney aware of that; he could have given you an
22 opinion accordingly as to whether that was evidence of
23 extortion; right?

24 **MR. HAMELINK:** He could have done that, yes.

25 **MS. DALEY:** Okay. Those are my questions,

1 thank you.

2 **MR. HAMELINK:** Thank you, ma'am.

3 **THE COMMISSIONER:** Thank you.

4 Mr. Paul?

5 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

6 **MR. PAUL:**

7 **MR. PAUL:** Good morning, Inspector Hamelink.
8 My name is Ian Paul. I appear for an organization called
9 the Coalition for Action, which is a citizens' group that
10 was involved in seeking this Inquiry.

11 I had a number of questions to ask you, but
12 perhaps first of all while they're fresh in your memory, I
13 had a few points that were brought up by Ms. Daley in her
14 cross-examination.

15 Perhaps we could go back to the exhibit. I
16 believe it's 372, the supplementary report by Staff
17 Sergeant Dupuis, which is the phone call from Silmser.

18 Now, if you look at the document, I believe
19 the second paragraph on the first page indicates:

20 "He indicated he was close to settling
21 a civil suit within the next 48 hours
22 involving a sexual abuse case. He
23 requested that a report be submitted,
24 indicating should anything happen to
25 him that Ken Seguin and Charlie

1 MacDonald were to be considered
2 suspects."

3 Then he goes on, I believe, towards the end
4 at the bottom of the page:

5 "He stated that if they don't pay
6 within the next 48 hours he'll be going
7 to the press with his story."

8 Now, just to be clear on this, you would
9 agree in this supplementary report there's nothing here
10 indicating that Mr. Silmsler made those comments about the
11 press to Ken Seguin; correct? He's making those comments
12 to Staff Sergeant Dupuis.

13 **MR. HAMELINK:** Yes, I agree with that.

14 **MR. PAUL:** That doesn't necessarily mean as
15 an officer you can make the automatic link that that was
16 said to Ken Seguin; correct? It's certainly possible ---

17 **MR. HAMELINK:** I certainly at the time
18 didn't turn my mind as to who necessarily that applied to,
19 whether it be Father MacDonald or Ken Seguin. The issue
20 with this particular supplementary report was, "Should
21 anything happen to me, these are two people you should
22 consider as suspects".

23 **MR. PAUL:** Right.

24 **MR. HAMELINK:** That was my -- as a police
25 officer.

1 **MR. PAUL:** Right. It seems that Mr. Silmsen
2 is expressing some concern for his safety if this civil
3 settlement doesn't go through; correct? And he's trying to
4 put that on record with the police. He suggests ---

5 **MR. HAMELINK:** I guess you could read that
6 into it, sir, yes.

7 **MR. PAUL:** He's indicating, "If anything
8 happens to me, this is what the situation is", basically,
9 right?

10 **MR. HAMELINK:** He's giving direction as to
11 who could be possible suspects, yes.

12 **MR. PAUL:** So certainly one -- as an
13 investigator, one can see with one interpretation of that
14 document he's saying that he has concerns possibly for his
15 safety if this civil settlement doesn't go through and,
16 therefore, he's telling the police now and he'll also tell
17 the press to protect himself. And one interpretation of
18 that is the contact with the press is a protection issue.
19 He's making it -- may make it known to protect himself
20 because of the safety issues he's talking about.

21 That would be one theory you could follow as
22 an investigator; correct?

23 **MR. HAMELINK:** Could be a theory, yes.

24 **MR. PAUL:** So in terms of that as a piece of
25 evidence -- piece of evidence towards extortion, I would

1 suggest it's really not necessarily conclusive that that
2 comment about the press was a comment that's only made with
3 Staff Sergeant Dupuis or whether it's a comment that's also
4 made directly Ken Seguin; correct?

5 **MR. HAMELINK:** Mr. Lee, I totally lost the
6 context of your question, sir.

7 **THE COMMISSIONER:** That's not Mr. Lee,
8 that's Mr. Paul.

9 **MR. HAMELINK:** See, I'm somewhat confused as
10 to -- I don't understand the question.

11 **THE COMMISSIONER:** There were no charges
12 laid, and we're not here to prove Mr. Silmsler innocent or
13 guilty, and so this gentleman is saying, "I had this
14 statement. I was aware of the information in the
15 statement." Had you read this?

16 **MR. HAMELINK:** Yes.

17 **THE COMMISSIONER:** All right. And there you
18 go.

19 **MR. PAUL:** Just suggesting you can't
20 automatically conclude that the comment about the press was
21 a statement that would have been made directly to
22 Mr. Seguin because it's not clear from that document.

23 **THE COMMISSIONER:** Point's made. Let's go
24 on.

25 **MR. PAUL:** Right.

1 I want to ask you a couple of questions in
2 relation to Constable McDonell. You were asked about the
3 fact that Constable McDonell was one of the investigators
4 in the death of Ken Seguin?

5 MR. HAMELINK: Yes, sir, he was.

6 MR. PAUL: And that he had, at some point,
7 run a death investigation and perhaps concluded that there
8 was an extortion?

9 MR. HAMELINK: Yes, that's ---

10 MR. PAUL: In terms of his involvement later
11 in the investigation, I would understand that the --
12 obviously, the person making the final decision on whether
13 to lay charges of extortion would be yourself in
14 consultation with the Crown. Would that be correct?

15 MR. HAMELINK: I would be making the
16 decision whether the charges would be laid. That's
17 correct.

18 MR. PAUL: So in terms of -- just to
19 clarify, Constable McDonell's role, at that point in your
20 investigation, would be primarily as an investigator, as a
21 gatherer of information, but not as a decision-maker
22 necessarily?

23 MR. HAMELINK: As far as charges are
24 concerned, that's correct.

25 MR. PAUL: He might be an experienced person

1 you would rely upon for advice but the final decision is
2 yours, basically?

3 **MR. HAMELINK:** Final decision was mine, sir,
4 yes.

5 **MR. PAUL:** Now, there's some reference to
6 statements from Malcolm MacDonald.

7 I just want to ask you, in terms of any
8 comments Malcolm MacDonald may have made in relation to
9 discussions with Mr. Silmser, did you have to conduct an
10 assessment of Malcolm MacDonald's credibility at some
11 point, looking at perhaps the fact that his involvement in
12 this settlement is under investigation?

13 **MR. HAMELINK:** Sir, Mr. Malcolm MacDonald's
14 credibility never came into play with me.

15 **MR. PAUL:** All right, just going to another
16 area.

17 I want to ask you generally about the set-up
18 of the investigations being dual in nature, yourself and
19 Inspector Smith handling the other half of it. I generally
20 want to ask you -- be asking you about whether the set-up
21 of the investigation had potential flaws, given the nature
22 of the set-up.

23 But, first of all, as far as the dual
24 investigation, obviously you're responsible for the
25 extortion aspect of it?

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

2 **MR. PAUL:** And as far as the goals in terms
3 of the extortion aspect of it, I would understand that
4 potentially on the extortion side of it, you may be in a
5 situation where you have to look at the credibility of
6 Mr. Silmsler and potentially look at means of whether his
7 credibility can be undermined in terms of his assertions?

8 **MR. HAMELINK:** That's always part of any
9 criminal investigation, sir. You always look at your
10 victim. You look at your alleged victim and you look at
11 the credibility issues of potential witnesses that you're
12 going to draw into it also.

13 **MR. PAUL:** But in terms of -- Mr. Silmsler
14 tended to suggest in his statements, originally to Officer
15 McDonnell and later when he's investigated -- when he gives
16 a statement later on, I believe, to -- with Inspector
17 Smith. Is your understanding the tendency of Mr. Silmsler
18 is to suggest that his contact with Mr. Seguin involved a
19 suggestion of pursuing a civil claim, a legal civil claim?
20 He never admitted to the police that he was pursuing the
21 matter -- threatening charges or threatening something of
22 that nature to get the money?

23 **MR. HAMELINK:** Well, with the police?

24 **MR. PAUL:** Right.

25 **MR. HAMELINK:** I think that's in one of the

1 previous documents I've read, either the police or his
2 boss, which would be Probation and Parole. That was in
3 there some place, I believe.

4 **MR. PAUL:** So were you in a situation where
5 it was unlikely that you would have any progress on the
6 extortion proceedings, given Mr. Silmser's position, unless
7 you were able to undermine that somehow by speaking to
8 people who could contradict him, such as a cellmate or
9 somebody that had spoken to him, in which he said something
10 contradictory?

11 **MR. HAMELINK:** Again, sir, I've lost the
12 context of that question.

13 **MR. PAUL:** I mean, there was a direction at
14 some point to look at possible witnesses as cellmates of
15 Mr. Silmser?

16 **MR. HAMELINK:** Yes, there was.

17 **MR. PAUL:** And I would assume that the
18 purpose of that is to look to see if there are
19 contradictory statements. That would be the only purpose?

20 **MR. HAMELINK:** To see if there was not
21 necessarily contradictory statements, sir, but
22 supplementary statements that would bolster his
23 credibility.

24 **MR. PAUL:** All right. But potentially
25 contradictory statements as well?

1 **MR. HAMELINK:** You looked at all aspects,
2 sir. You just don't -- you've got to present both sides.

3 **MR. PAUL:** Is it likely that the two
4 investigations, your investigation and Inspector Smith's
5 investigation, would have goals that would diverge because
6 his investigation would tend to be looking for information
7 that would support the credibility of Mr. Silmsen, but
8 yours would be tending to look for information that would
9 undermine his credibility?

10 **MR. HAMELINK:** No, I wouldn't agree with
11 that at all.

12 **MR. PAUL:** Would you agree that there'd be -
13 - in terms of your investigation, the tendency would be
14 that you would have more contact with the Seguin family and
15 perhaps tend to develop a sympathy for the Seguin family,
16 whereas on the other side, Tim Smith's investigators would
17 tend to have more interaction with Mr. Silmsen and,
18 therefore, have more likelihood to develop some sympathy
19 for his situation hearing his version?

20 **MR. HAMELINK:** Let me be clear at this
21 hearing or this Inquiry about my contacts with the Seguin
22 family.

23 I did that as a humanitarian person for
24 compassion that I expressed, that the Seguin family was
25 grieving with some issues that they had difficulty in

1 dealing with, i.e. the death of their brother and the fact
2 of the community rumours about his alternative lifestyles
3 in connection with younger people. That was my interaction
4 with the Seguin family.

5 MR. PAUL: Right.

6 MR. HAMELINK: Did I have sympathy for them,
7 absolutely.

8 MR. PAUL: And we understand that as far as
9 the two teams there would be a sharing of investigators,
10 they would go back and forth at times?

11 MR. HAMELINK: Yes, sir, there was.

12 MR. PAUL: And what I'm wondering is there
13 any risk in that situation that if an investigator on one
14 side is pursuing one goal and they're going over to the
15 other side at some point, there can be difficulty switching
16 over and maintaining the same motivation when the goals
17 seem to be different in the other investigation? Is that a
18 practical problem that you would see?

19 MR. HAMELINK: That's why, sir, the case
20 manager is there to make sure that those risks are
21 minimized.

22 MR. PAUL: Now, you had said yesterday I
23 believe that the approach with witnesses in the
24 investigation was basically to allow them to tell the
25 story?

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

2 **MR. PAUL:** That would be the approach with
3 the general witness, not an accused?

4 **MR. HAMELINK:** Well, here's from a
5 policeman's point-of-view. There are witness interviews
6 and there are accused interviews. One is information
7 gathering the other one is to try to get a confession, a
8 confession under caution. Is there a difference between
9 the two? I would say yes.

10 **MR. PAUL:** I take it that an individual
11 interviewed as an accused would be approached a little bit
12 more vigorously than just tell the story?

13 **MR. HAMELINK:** No, I wouldn't agree with
14 that either, sir. I wouldn't approach an accused person
15 vigorously because then I've got to make my explanation
16 during the *voir dire*, during the criminal prosecution. So
17 I'm going to be very cautious as to what I say to an
18 accused person and how I say it.

19 **MR. PAUL:** All right. But certainly would
20 go beyond just tell the story; you wouldn't necessarily
21 take that approach with an accused?

22 **MR. HAMELINK:** I'm going to give the accused
23 person the same opportunity as a witness to tell his or her
24 side of the story.

25 **MR. PAUL:** Yes.

1 In terms of investigative approaches, was
2 there any particular officers in your team or the other
3 team -- Inspector Smith -- that had a lot of experience and
4 specialty in terms of interrogating an accused?

5 **MR. HAMELINK:** Those officers that had been
6 mentioned, sir, McDonell, Genier and Fagan, to my knowledge
7 of those officers, they are more than qualified to
8 interrogate an accused.

9 **MR. PAUL:** And I just want to ask you your
10 recollection of the investigation. Do you believe at any
11 point that officers investigating either in terms of
12 questioning -- I take it, first of all, that Mr. Silmsen
13 was only really questioned as a witness and not as an
14 accused. Is that correct?

15 **MR. HAMELINK:** Mr. Silmsen was questioned as
16 a -- was allowed to tell his story as a witness on the
17 sexual assaults; correct.

18 **MR. PAUL:** And Charles MacDonald, on the
19 other hand, was interviewed more as an accused or do you
20 have -- you don't ---

21 **MR. HAMELINK:** I have no knowledge of that,
22 sir. You'd have to ask that of Inspector Smith.

23 **MR. PAUL:** And you had no involvement in the
24 preparation or activities surrounding the interview of
25 Father Charles MacDonald?

1 **MR. HAMELINK:** No, I did not.

2 **MR. PAUL:** In terms of the actual interview
3 of Mr. Silmsers, I understand that he would not have been
4 advised -- you would have been present, but only as an
5 observer basically to the interview of Mr. Silmsers?

6 **MR. HAMELINK:** That is my recollection, yes,
7 sir.

8 **MR. PAUL:** But I assume that you have --
9 your purpose would be to observe, to see what, if anything,
10 would be relevant for the extortion side of it?

11 **MR. HAMELINK:** That would be correct.

12 **MR. PAUL:** And is he present also with his
13 lawyer?

14 **MR. HAMELINK:** To the best of my
15 recollection, I believe the lawyer's name was Geoffrey
16 Bryce and I believe he was present.

17 **MR. PAUL:** And neither one of them are aware
18 that there's an extortion aspect of the case. Is that --
19 they're not advised that there's an extortion issue being
20 looked at as well?

21 **MR. HAMELINK:** I certainly didn't make them
22 aware of it.

23 **MR. PAUL:** And do you agree that in essence
24 there's a bit of a deception or trick being played on Mr.
25 Silmsers, in that he's being interviewed without knowledge

1 that the interview is also going to be potentially
2 considered in the extortion investigation?

3 **MR. HAMELINK:** No, I wouldn't agree with
4 that at all.

5 **MR. PAUL:** Was there any hesitancy or any
6 discussion between you and Inspector Smith about whether
7 you would tell Mr. Silmsler about the extortion aspect of
8 it? Was there a hesitancy to proceed without telling him?

9 **MR. HAMELINK:** Proceed with the
10 investigation?

11 **MR. PAUL:** Proceed with the interview
12 without telling him that there's an extortion issue being
13 considered.

14 **MR. HAMELINK:** He was being considered -- he
15 was being interviewed as a victim of alleged sexual
16 assaults. That was the focus of that interview.

17 **THE COMMISSIONER:** Well, Officer Smith said
18 that -- at the risk of being wrong, I'm sure all the
19 lawyers here will correct me -- that there was an agreement
20 with you that he would gently probe a few questions with
21 respect to the extortion?

22 **MR. HAMELINK:** Yes, I do recall that, Mr.
23 Commissioner, yes. Thank you.

24 **THE COMMISSIONER:** Okay. So, yes, he was --
25 could we say he was primarily being examined as a victim

1 but that there were going to be a couple of soft questions
2 about the extortion issues?

3 MR. HAMELINK: And that would be fair. It
4 bears out in the statement, sir, yes.

5 THE COMMISSIONER: Thank you.

6 MR. PAUL: And did you have any concern that
7 that might potentially harm the trust situation at some
8 point between Mr. Silmsler and the Smith investigation?

9 MR. HAMELINK: The trust situation, sir,
10 didn't enter my mind.

11 MR. PAUL: I wanted to ask you about going
12 back to the beginning about the source of the extortion and
13 complaint. You never became aware of who actually made the
14 complaint, who first initiated the extortion complaint?

15 MR. HAMELINK: I can't say that at this
16 time. In preparation for this interview -- sorry -- for my
17 presence here at the Inquiry, I subsequently became aware
18 of that information as to who initiated the complaint and
19 who initiated the investigation dispatching me.

20 MR. PAUL: All right. So you're aware at
21 this point?

22 MR. HAMELINK: I'm aware now, yes.

23 MR. PAUL: All right.

24 Would that have been relevant back at the
25 time -- I'll just give you an example in terms of, would it

1 be relevant if the source or the person that made the
2 complaint is also a material witness against Mr. Silmsers.
3 Would that make it relevant?

4 **MR. HAMELINK:** My information, sir, received
5 on the 1st of February '94, was to go to Long Sault to start
6 conducting an extortion investigation. The following day,
7 February the 2nd, I met with Staff Sergeant Duhamel who made
8 me aware of the basis for the investigation. That's my
9 only contact as to how I got involved with it.

10 **MR. PAUL:** Just for an example then, you
11 were referred by other counsel, I believe, to interaction
12 of Malcolm MacDonald receiving information or some
13 conversation between Malcolm MacDonald and Silmsers about
14 what was said. If Malcolm MacDonald was a potential
15 witness would it be relevant, for example, if he was the
16 one that made the initial contact? Would that be a
17 situation where it would become relevant to credibility?

18 **MR. HAMELINK:** Credibility of whom?

19 **MR. PAUL:** Of a potential witness. For
20 example, Mr. MacDonald, if, for example, just as an
21 example, if he was the one that initiated the contact and
22 is also a primary or material witness.

23 **MR. HAMELINK:** As I said before, Mr. Malcolm
24 MacDonald's credibility was never an issue for me.

25 **MR. PAUL:** I want to go to another area in

1 terms of Ms. Sebalj. I had just a few questions in
2 relation to your contact with her. I just want to
3 understand, in terms of if you have any recollection of her
4 general demeanour in a sense of -- you did indicate there
5 was no limitations on the questions you could ask, I think?

6 **MR. HAMELINK:** Subsequent to my contact with
7 the Acting Chief of the day and subsequent to his contact
8 with counsel, there was no limitations put on me as to what
9 questions I could or could not ask.

10 **MR. PAUL:** I just wanted to ask, was she
11 very forthcoming in giving information without being asked
12 or was she hesitant in only answering questions? Do you
13 have any memory of that?

14 **MR. HAMELINK:** Constable Sebalj was most
15 cooperative; there was no hesitancy on her part at all.

16 **MR. PAUL:** Do you recall if there was any
17 specific discussion about her views on whether she'd had
18 reasonable probable grounds to lay charges in the case?
19 Was that specifically discussed?

20 **MR. HAMELINK:** Reasonable probable grounds
21 to lay charges of what and against whom?

22 **MR. PAUL:** Against Father Charles MacDonald,
23 whether that was a topic.

24 **MR. HAMELINK:** I wasn't there for Father
25 Charles MacDonald; I was there for David Silmser.

1 **MR. PAUL:** I'm just asking, that topic
2 didn't -- wouldn't come up?

3 **MR. HAMELINK:** It may have, sir, I certainly
4 don't have any recall for that right now -- of that right
5 now.

6 **MR. PAUL:** In terms of any issues between
7 her or her superiors of that investigation, is that a topic
8 that would have come or would not have come up?

9 **MR. HAMELINK:** It wouldn't have been any of
10 my concern. So if it was discussed it was something that
11 wasn't going to affect me in any way, so I had no
12 information to that that I could help this Inquiry with.

13 **MR. PAUL:** So in terms of the whole side of
14 the case it was being investigated by Inspector Smith,
15 including conspiracy allegations, that topic -- are you
16 saying that that topic would not have been discussed at the
17 meeting with Constable Sebalj?

18 **MR. HAMELINK:** It may have been, sir. I
19 don't know; I can't tell you that today.

20 **MR. PAUL:** But today you don't have any
21 recollection of that?

22 **MR. HAMELINK:** I don't have any recollection
23 of that.

24 **MR. PAUL:** I just want to ask you -- I
25 generally ask most witnesses about whether they had any

1 contact or association with some of the parties and I
2 understand you're not from this area. So am I to
3 understand that you would not have had previous
4 associations before you came on to the case with any
5 Cornwall Police management?

6 **MR. HAMELINK:** Oh no, I had association with
7 police management, sir, because before I became a CIB
8 inspector I was a polygraph examiner and I did several
9 tests for the Cornwall Police Service. So I did have
10 contact with their management.

11 **MR. PAUL:** So that's more on a professional
12 basis as opposed to a personal friendship?

13 **MR. HAMELINK:** Absolutely.

14 **MR. PAUL:** All right. And I would assume
15 that you had no previous association with the local
16 Catholic Church in this area?

17 **MR. HAMELINK:** No, I did not.

18 **MR. PAUL:** And individuals, I would assume,
19 Charles MacDonald, Ken Seguin, and Malcolm MacDonald, these
20 persons of interest you had no previous association with
21 them?

22 **MR. HAMELINK:** I did not.

23 **MR. PAUL:** Those are my questions.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Lee?

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

2 MR. LEE: Good morning, sir.

3 MR. HAMELINK: Good morning.

4 MR. LEE: Officer Hamelink, my name is
5 Dallas Lee; I'm on for the Victim's Group.

6 I have just a few areas that I'd like to ask
7 you about and I want to start with the -- during the course
8 of the extortion investigation did you at any point
9 consider that charging Mr. Silmser with extortion could
10 mean, if his allegations of sexual abuse were true, that
11 you would be charging a victim of sexual assault for making
12 demands of his abuser?

13 MR. HAMELINK: Did I consider that?

14 MR. LEE: Yes.

15 MR. HAMELINK: No, I did not.

16 MR. LEE: Did you look at this situation at
17 any point and think to yourself that these charges simply
18 could not be laid given the allegations of sexual abuse
19 made by David Silmser?

20 MR. HAMELINK: Never.

21 MR. LEE: Can we take a look, please, at
22 Exhibit 1031?

23 Should he have that before him, Madam Clerk?

24 MR. HAMELINK: I believe those are my notes.

25 MR. LEE: No, these are his notes.

1 **THE COMMISSIONER:** Yes, yes, those are your
2 notes.

3 **MR. LEE:** And if we can start on page 225,
4 please.

5 **MR. HAMELINK:** I'm not there yet, Mr. Lee.

6 **MR. LEE:** Sure.

7 **MR. HAMELINK:** What page, sir, I'm sorry?

8 **MR. LEE:** Bates page ending in 225, please.
9 You're there, sir?

10 **MR. HAMELINK:** I am.

11 **MR. LEE:** And this relates to a meeting you
12 would have had with Nancy Seguin at Headquarters on April
13 13th, 1994.

14 **MR. HAMELINK:** It does.

15 **MR. LEE:** And if you turn over to page 226
16 you note at the top of the page:

17 "I asked her if she found any strange
18 items, such as letters, photos, videos,
19 in Seguin's possession, would she turn
20 them over to me and she said she
21 would."

22 Do you see that?

23 **MR. HAMELINK:** I do.

24 **MR. LEE:** Do you have any knowledge of
25 whether or not Mr. Seguin's home was searched for items

1 such as these following his sudden death?

2 **MR. HAMELINK:** I may have had at the time,
3 sir, I don't have any independent recollection of that
4 right now.

5 **MR. LEE:** We're going to hear from Randy
6 Millar next week and I'll ask him that question as well,
7 given that he was on the scene. But just to be clear, you
8 have no independent recollection, sitting here, of whether
9 or not you heard at any point that a thorough search of the
10 residence had been done, looking for any evidence of
11 anything relating possibly to sexual abuses by Mr. Seguin?

12 **MR. HAMELINK:** I can't recall that I had
13 that information, sir, no.

14 **MR. LEE:** Can you look, please -- you've
15 been brought here a couple times today, to Exhibit 972.

16 You there, sir?

17 **MR. HAMELINK:** Yes, sir.

18 **MR. LEE:** So this is the occurrence report
19 relating to the death investigation and Ms. Daley took you
20 here and specifically took you to the last page with the
21 comment that extortion does not exist as per section
22 346(2). And my understanding of your evidence in-chief and
23 today to Ms. Daley was that you had read this document at
24 the time of your investigation.

25 **MR. HAMELINK:** I read it during that period,

1 yes.

2 **MR. LEE:** And you can't tell us exactly when
3 you would have read that but your recollection is was
4 sometime during that period?

5 **MR. HAMELINK:** Oh, absolutely, yes.

6 **MR. LEE:** Are you certain of that, sir?

7 **MR. HAMELINK:** Yes, I am.

8 **MR. LEE:** I understood, generally, I
9 suppose, in the early parts of your evidence that your --
10 when you look back on this you were very clearly focused on
11 the extortion investigation and not concerned with the
12 death investigation; is that a fair way of putting it?

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

14 **MR. LEE:** And I took your evidence to go a
15 little bit further than that, in the sense that my
16 impression at least was that you were almost intentionally
17 not looking at the death investigation because that wasn't
18 your concern. You were attempting as much as possible to
19 focus on extortion, not to focus on sexual abuse and not to
20 focus on sudden death but to focus solely on extortion. Is
21 that fair?

22 **MR. HAMELINK:** Well I have trouble with your
23 word "intentionally."

24 My focus was the extortion investigation.
25 That's what I was there for.

1 **MR. LEE:** But your recollection is that
2 nonetheless this is a document you would have viewed at the
3 time?

4 **MR. HAMELINK:** Absolutely.

5 **MR. LEE:** You told us yesterday during your
6 examination in-chief that your expectation was that
7 Officers Fagan and McDonell would have been sharing
8 information.

9 **MR. HAMELINK:** That's correct.

10 **MR. LEE:** And as I took it -- as I took your
11 evidence, you would have expected, as an example, if Fagan
12 and -- let me backtrack. You understood that some
13 interviews were conducted by both Fagan and McDonell.

14 **MR. HAMELINK:** Correct.

15 **MR. LEE:** And in that situation obviously
16 there's no need to share information because they're both
17 present.

18 **MR. HAMELINK:** Correct.

19 **MR. LEE:** And an arrangement like that
20 assures that Fagan will go back to Smith with knowledge,
21 and McDonell will return to you with knowledge, and both
22 sides of the parallel investigation will be -- will have
23 that information?

24 **MR. HAMELINK:** Correct.

25 **MR. LEE:** And you understood there were

1 other situations where Fagan would conduct an interview in
2 the absence of McDonell and vice versa?

3 **MR. HAMELINK:** Correct.

4 **MR. LEE:** And did I understand your evidence
5 to be that you would have expected in those situations that
6 they would communicate with each other at some point after
7 the fact about what each had learned?

8 **MR. HAMELINK:** When they would marry up
9 again, so to speak, to conduct another future statement
10 from a possible witness, yes.

11 **MR. LEE:** So if Fagan and McDonell did a
12 joint interview on a Monday and then didn't see each other
13 again until the following Monday, on that following Monday
14 they would talk about what they had done in the meantime
15 that might involve the other. Is that correct?

16 **MR. HAMELINK:** That's fair, sir, yes.

17 **MR. LEE:** Do you recall ever giving
18 Constable McDonell explicit instructions in that regard?

19 **MR. HAMELINK:** I didn't have to. McDonell
20 was seasoned enough that he would do that on his own.

21 **MR. LEE:** When Officer McDonell was here he
22 was -- he told us that he viewed his role essentially as
23 somebody gathering puzzle pieces as opposed to putting the
24 puzzle together, and I put that to him in cross-examination
25 and he agreed with that essentially; that he would gather

1 the puzzle pieces but it would be up to you to put the
2 puzzle pieces together. And I took from his evidence that
3 he didn't have a true appreciation, globally, of everything
4 that was going on.

5 I'm wondering, sir, whether or not you
6 consider that Constable or Officer McDonell wouldn't be in
7 the best position to share information, given that you were
8 the one who was in charge of putting the puzzle together,
9 along with Officer Smith?

10 **MR. HAMELINK:** McDonell would have been part
11 of that team, sir, and he would know where the pieces of
12 the puzzle fit. Would I orchestrate the actual
13 architecture of that puzzle? Probably. But McDonell would
14 be there when that's being done.

15 **MR. LEE:** From your point of view you were
16 satisfied that the information sharing between the two
17 teams could occur at the level of McDonell and Fagan, as
18 opposed to the level of Hamelink and Smith. Is that fair?

19 **MR. HAMELINK:** Yes.

20 **MR. LEE:** Okay. And just so I'm clear, do
21 you recall a specific conversation with either McDonell or
22 with Officer Smith, setting forth your views on that?

23 **MR. HAMELINK:** No, I don't.

24 **MR. LEE:** Okay. Thank you, sir. Those are
25 my questions.

1 **MR. HAMELINK:** Thank you.

2 **THE COMMISSIONER:** Thank you. Let's take
3 the morning break.

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

6 This hearing will resume at 11:05 a.m.

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

8 L'audience est suspendue à 10h52

9 --- Upon resuming at 11:09 a.m./

10 L'audience est reprise à 11h09

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

13 This hearing is now resumed. Please be
14 seated. Veuillez vous asseoir.

15 **THE COMMISSIONER:** Mr. Neville. Good
16 morning, sir.

17 **MR. NEVILLE:** Good morning, sir.

18 **FRED HAMELINK, Resumed/Sous le même serment:**

19 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

20 **MR. NEVILLE:**

21 **MR. NEVILLE:** Good morning, Inspector.

22 **MR. HAMELINK:** Morning.

23 **MR. NEVILLE:** My name is Michael Neville.

24 **MR. HAMELINK:** Mr. Neville.

25 **MR. NEVILLE:** I represent Father Charles

1 MacDonalld and the Estate of Ken Seguin and members of the
2 Seguin family. I just have a very few minutes of questions
3 for you.

4 Could we have the inspector, Commissioner,
5 see Exhibit 973, which is the Malcolm MacDonalld December
6 21st interview.

7 **THE COMMISSIONER:** Yes, you should have
8 that. You have that volume someplace, sir.

9 **MR. HAMELINK:** Nine seventy-three (973).
10 Yes, I do, sir.

11 **MR. NEVILLE:** And it would be also helpful -
12 - because connected, Commissioner -- if Inspector Hamelink
13 could have Exhibit 960.

14 **THE COMMISSIONER:** Same book.

15 **MR. NEVILLE:** Do you have both now,
16 Inspector?

17 **MR. HAMELINK:** I do, sir.

18 **MR. NEVILLE:** All right. Can we start with
19 Mr. MacDonalld's interview conducted by Detectives Millar
20 and McDonell? And if you'd look for me at the second page
21 of the statement. They're numbered in the top right-hand
22 corner. The Bates page would be 741.

23 **MR. HAMELINK:** Yes, sir. I'm there.

24 **MR. NEVILLE:** You have it, sir?

25 **MR. HAMELINK:** Yes.

1 **MR. NEVILLE:** All right. The last five
2 lines from the bottom, I'll just read them out for you:

3 "I requested at this time..."

4 That's Mr. MacDonald speaking.

5 "...that Ken provide me with some
6 documentation as to his story and to
7 document the times he received calls
8 from Silmsler. Ken did this and I
9 received his writings in respect to
10 this. I have kept it on file in my
11 office. I have read this and fully
12 agree with Ken's accounts of the
13 conversations I had with him."

14 Then he goes on to talk about suggesting to
15 Ken that he consider extortion charges or reporting the
16 allegation to his employer.

17 Now, the reference to writings provided to
18 Mr. MacDonald by Mr. Seguin; would you look next for me,
19 Inspector, at Exhibit 960?

20 **MR. HAMELINK:** Yes, sir, I have it.

21 **MR. NEVILLE:** You have it?

22 **MR. HAMELINK:** Yes.

23 **MR. NEVILLE:** You will see, sir, that it's a
24 six-page handwritten narrative signed by Mr. Seguin and
25 bearing the date November 15th on the last page.

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

2 **MR. NEVILLE:** Do you recall, Inspector, that
3 it came to your attention that this document and actually
4 two others written by Mr. Seguin were actually provided to
5 the police and submitted to statement analysis?

6 **MR. HAMELINK:** That's correct, sir.

7 **MR. NEVILLE:** Could we look at the exhibit -
8 - sorry, Commissioner, the Document Number is 725176.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **THE COMMISSIONER:** Thank you. Exhibit 2577
11 is a document dated January 11th, 1994 to Detective
12 Constable Legault from -- Avinoam Sapir?

13 **--- EXHIBIT NO./PIÈCE NO. P-2577:**

14 (725176) Report of Laboratory for Scientific
15 Interrogation from Avinoam Sapir to Paul
16 Legault dated 11 Jan 94

17 **MR. NEVILLE:** That's how I took it,
18 Commissioner. I'm just going to perhaps have the inspector
19 help us if he could.

20 If you look down just four lines below the
21 date, that appears to be the person. It's a to and from,
22 so it's not only at the top but that appears to be the
23 person. For the reporter, A-v-i-n-o-a-m, Avinoam Sapir.

24 Can you just help me briefly, Inspector, as
25 to who Detective Paul Legault was at that time?

1 **MR. HAMELINK:** I could do that for you, Mr.
2 Neville. Detective Paul Legault was one of the Crime Unit
3 people. Now, he was either at Lancaster or at Long Sault
4 District Headquarters in those days. I just ---

5 **MR. NEVILLE:** If we look at his business
6 card that appears to be attached, he seems to be operating,
7 on the face of it, out of Nepean, which -- I'm not sure
8 what that means.

9 **MR. HAMELINK:** You've got me there too, sir.
10 I don't know.

11 **MR. NEVILLE:** I'm familiar with Bell's
12 Corners of course.

13 **MR. HAMELINK:** Yes.

14 **MR. NEVILLE:** Now, I don't want to go into
15 detail because the Commissioner has the document for his
16 own to read.

17 This is analysis of Exhibit 960.

18 **MR. HAMELINK:** Yes.

19 **MR. NEVILLE:** Because if we compare the
20 various sentences that the analyst looks at, they're lifted
21 out of the text.

22 **MR. HAMELINK:** Correct.

23 **MR. NEVILLE:** Okay.

24 Now, just so it's clear, Inspector, when you
25 were brought into this matter in February of 1994 it was

1 only to look at the conduct, potentially alleged conduct,
2 of David Silmser towards Ken Seguin on the question of
3 extortion?

4 **MR. HAMELINK:** That's correct, Mr. Neville.

5 **MR. NEVILLE:** And that was the opinion that
6 you sought and received in writing -- our Exhibit 2574 --
7 from Mr. Griffiths?

8 **MR. HAMELINK:** That is also correct.

9 **MR. NEVILLE:** Now, you became aware, I take
10 it, through briefings and the like, that David Silmser had
11 received a sum of money from the Diocese?

12 **MR. HAMELINK:** I was aware of that, sir.

13 **MR. NEVILLE:** All right. What's been
14 described as the settlement, right?

15 **MR. HAMELINK:** Right.

16 **MR. NEVILLE:** And that was part of the what
17 I guess we'd call the parallel investigation case managed
18 by Inspector Smith?

19 **MR. HAMELINK:** Correct.

20 **MR. NEVILLE:** All right. So we'll have him
21 back with us in a couple of weeks.

22 So in looking at the matter from your
23 standpoint and submitting it on to get an opinion from the
24 Crown, the only conduct of Mr. Silmser's looked at was
25 potentially extortion, right?

1 **MR. HAMELINK:** From my point, yes.

2 **MR. NEVILLE:** So, for example, you did not
3 seek an opinion or look at his conduct from the standpoint
4 of obstruct justice for accepting the money?

5 **MR. HAMELINK:** Absolutely not.

6 **MR. NEVILLE:** All right.

7 Now, there's been -- if we could next look
8 just briefly before I conclude at -- it's two documents,
9 Commissioner, 111033 and 725162.

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

11 **MR. NEVILLE:** It just occurred to me,
12 Commissioner, this was one on which we probably gave late
13 notice and I have copies. I just realized it now. I
14 better go and grab them.

15 **THE COMMISSIONER:** Sure.

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

17 **MS. SACCOCCIO BRANNAN:** I don't know if this
18 is helpful. He did give notice of it. I've got his --
19 I've got Mr. Neville's email here dated November 10th, and
20 Document 110033 -- is that the one we're looking for --
21 it's there because I've got it in my Rule 38.

22 **MR. NEVILLE:** It's in my friend's as well,
23 Commissioner, so I assume we should have it. I can't seem
24 to put my hands on my own copies at the moment.

25 What it is, sir, is -- you might not want to

1 use the name until you see the document, and Inspector
2 Hamelink. It's a witness whose name -- the importance of
3 interviewing came up as part of the Inspector's
4 investigation.

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

6 **MR. NEVILLE:** A former cellmate of Mr.
7 Silmsler. And I don't know whether it's a situation of a
8 moniker or not but ---

9 **THE COMMISSIONER:** So what are we looking
10 at?

11 **MR. NEVILLE:** There we are. It's not -- and
12 I can tell you, Commissioner, that in hardcopy printed out
13 it's not a whole lot better.

14 **THE COMMISSIONER:** All right. Can you
15 scroll towards the top of the document, please?

16 So ---

17 **MR. NEVILLE:** It's an OPP witness interview.

18 **THE COMMISSIONER:** Witness report -- witness
19 interview or witness report of William Eadie.

20 **MR. NEVILLE:** Yes, sir.

21 **THE COMMISSIONER:** And it was taken by
22 McDonnell on the 7th of July 1994.

23 **MR. NEVILLE:** Yes, sir.

24 **THE COMMISSIONER:** And that will be Exhibit
25 Number 2578.

1 **--- EXHIBIT NO./PIÈCE NO. P-2578:**

2 (111033) - OPP Witness Report of Wm. Eadie
3 dated 07 Jul 94

4 **MR. NEVILLE:** My friend has helped perhaps
5 all of us, Commissioner, with another document number of
6 the same document and it's quite readable.

7 **MS. SACCOCCIO BRANNAN:** It's quite clear.

8 **MR. NEVILLE:** Whether our clerk can draw
9 that up out of the database but it is quite clear. I
10 didn't know about that number.

11 **THE REGISTRAR:** The number?

12 **MR. NEVILLE:** It's 715491.

13 **THE COMMISSIONER:** Okay. So just to keep
14 the record clear ---

15 **MR. NEVILLE:** There we are.

16 **THE COMMISSIONER:** No.

17 **(LAUGHTER/RIRES)**

18 **THE COMMISSIONER:** Nice try.

19 **MR. NEVILLE:** Nice try.

20 **THE COMMISSIONER:** That was 715 ---

21 **MR. NEVILLE:** Four nine -- 715491.

22 No, that's not it. Oh, it is the number.

23 Are you sure?

24 **THE COMMISSIONER:** Why don't we just go back
25 to the old one?

1 **MR. NEVILLE:** Yes. Sorry about all this.

2 Perhaps I've worked with it enough to read
3 it out, Commissioner, with everybody's assistance perhaps.

4 If we look at the first page, Inspector, you
5 would have become aware of this document through your
6 colleague, I'm sure?

7 **MR. HAMELINK:** I was.

8 **MR. NEVILLE:** All right. And this was one
9 of the potential former cellmates that you thought out to
10 be -- of Mr. Silmsler that you thought ought to be
11 interviewed and this is the interview?

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

13 **MR. NEVILLE:** And if we look in the middle
14 of the page, Commissioner, the first paragraph details
15 there various stays in jail together and names a couple of
16 institutions including Guelph and Burrits Rapids. And then
17 in the middle of the page we read:

18 "David Silmsler never talked to me about
19 being sexually assaulted while in jail
20 or out of jail until one night at 4 [I
21 think it's Seas'] Hotel."

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

23 **MR. NEVILLE:** "That was after I heard
24 about it in the papers and on the
25 radio. Someone was talking about

1 Silmser getting money from the Church
2 and I didn't realize that the person
3 was my friend Dave [or David] but when
4 the other guy left he leaned over and
5 said that it was him that got the
6 money. He told me that he got over
7 \$30,000. I said 'Oh, yeah, that's
8 nice' and we didn't talk much. That
9 was the first time I saw him in years.
10 I possibly talked to him two times
11 since and on one occasion we met, we
12 went out for a drink at the Northway.
13 At that time he asked me if Ken Seguin
14 came onto me as he knew I had him for a
15 probation officer. I told him that Ken
16 Seguin came onto me once at the
17 Northway but I just told Ken to
18 [expletive] and he never bothered me
19 again. Silmser never told me about
20 being sexually assaulted by Ken Seguin
21 at any time while in jail or even the
22 night that he told me about getting the
23 money from the Church. Even the night
24 that David asked me if I was ever
25 assaulted by Ken Seguin he never

1 mentioned that he had been assaulted by
2 him. I never realized or thought that
3 Ken Seguin was gay until he came onto
4 me and he was a very good probation
5 officer, I was over 18 years or above
6 18 years plus when he came on to me."

7 That's the statement.

8 The other document just -- I wanted for
9 clarification purposes was Document Number 725162.

10 **THE COMMISSIONER:** Thank you.

11 **MR. NEVILLE:** And the one that we just
12 looked at, Commissioner, as you can see, bears the date, I
13 think it's either the 4th of July or 7th of July. This
14 particular document, Inspector, the content in bullet forms
15 appears ---

16 **THE COMMISSIONER:** Which one are we talking
17 about?

18 **MR. NEVILLE:** Sorry, Commissioner, 725162.

19 **THE COMMISSIONER:** Okay, let me make it an
20 exhibit ---

21 **MR. NEVILLE:** Yes.

22 **THE COMMISSIONER:** --- which is Exhibit
23 2579, a document dated Wednesday, July 13th, 1994, Long
24 Sault Detachment.

25 --- **EXHIBIT NO./PIÈCE NO. P-2579:**

1 (725162) - Notes of Fred Hamelink re: Interview dated
2 July 13, 1994

3 MR. NEVILLE: Thank you, sir.

4 THE COMMISSIONER: Okay, go ahead.

5 MR. NEVILLE: Now, this one, Inspector, can
6 you help us with what this would be because you can see it
7 bears a different date?

8 If we look at the bullet points they appear
9 to be virtually identical to the statement and it bears
10 another name at the top and I don't want to read it out
11 unnecessarily. Who is that person, second line, under the
12 date?

13 MR. HAMELINK: That is a female person, sir,
14 that was ---

15 MR. NEVILLE: Is that a girlfriend of the
16 other witness, Eadie?

17 MR. HAMELINK: It may have been.

18 MR. NEVILLE: Okay.

19 MR. HAMELINK: I can't tell you that right
20 now.

21 MR. NEVILLE: The other thing I wanted to
22 ask you is, if we look at the bottom we see what I think is
23 the Cornwall Police phone number?

24 MR. HAMELINK: That's correct.

25 MR. NEVILLE: And Constable Sebalj's name?

1 **MR. HAMELINK:** Right.

2 **MR. NEVILLE:** Can you help us as to what's
3 the history or background of this document is?

4 **MR. HAMELINK:** I believe I can, sir.

5 **MR. NEVILLE:** Thank you.

6 **MR. HAMELINK:** My directions to -- as a
7 result of information received during a gathering of
8 evidence process by McDonell, William Eadie's name came up.

9 **MR. NEVILLE:** Right.

10 **MR. HAMELINK:** And he had done time with Mr.
11 Silmser. I wanted that clarified. Was there any
12 communication ---

13 **MR. NEVILLE:** Right.

14 **MR. HAMELINK:** --- while cell mates or
15 otherwise between those two individuals that would benefit
16 my particular investigation of extortion.

17 Heidi Sebalj, when we spoke with her or I
18 spoke with her, I can't recall now, also mentioned the name
19 William Eadie. That's why that interview was conducted.

20 **MR. NEVILLE:** Okay. I guess I was curious -
21 - if you could assist me or the Commissioner with why we
22 have a date of July 13th for this document when Eadie seems
23 to have been questioned by McDonell on or about the 7th of
24 4th, depending on the writing. Do you know why that is?

25 **MR. HAMELINK:** That would have been probably

1 the date, sir, that I reviewed this statement and made my
2 bullet points.

3 **MR. NEVILLE:** Oh, okay. Is this your
4 writing?

5 **MR. HAMELINK:** That is my writing.

6 **MR. NEVILLE:** Well that makes it a lot
7 easier. We should have started there.

8 **(LAUGHTER/RIRES)**

9 **MR. NEVILLE:** It's Friday, Commissioner,
10 it's Friday.

11 One final point, just to be of some
12 assistance, Inspector. You mentioned in your evidence
13 yesterday that you felt that it was a document in which
14 Constable Sebalj had set out step-by-step what she'd done
15 for your assistance. And can we look at Exhibit 371,
16 please? The Document Number, Commissioner, is 725203.

17 **THE COMMISSIONER:** Thank you. And the page
18 number, sir?

19 **MR. NEVILLE:** It's a freestanding document,
20 Commissioner. We've made it already Exhibit 371.

21 **THE COMMISSIONER:** I'm there. What page?

22 **MR. NEVILLE:** Oh, sorry. Well, I'm going to
23 ask the witness, Inspector Hamelink, if he'd just look
24 through it. It's a nine-page document and ask if he can
25 confirm it when he spoke yesterday about an outlined step-

1 by-step of what she had done, if this is what he was -- he
2 said he knew -- you said you knew there was a document
3 somewhere. Can you confirm that this is the one you were
4 thinking of?

5 **MR. HAMELINK:** That's the one, Mr. Neville.

6 **MR. NEVILLE:** Yeah, which she ---

7 **MR. HAMELINK:** That's in my handwriting by
8 the way.

9 **THE COMMISSIONER:** Okay, and what was the
10 point? You said that ---

11 **MR. NEVILLE:** Yesterday, sir, during the
12 Inspector's questioning, he talked about being aware of a
13 document where Officer Sebalj's dealings with Silmsers
14 throughout, step-by-step, had been outlined and nobody
15 produced it.

16 **THE COMMISSIONER:** No, no. Yeah, but what
17 it was was we were talking about Malcolm MacDonald telling
18 you that Silmsers had told him that he was going to -- "Give
19 me the money and I'll cancel the appointment with the
20 police". I think that's where we were.

21 **MR. NEVILLE:** Right.

22 **THE COMMISSIONER:** And so I was asking you
23 where was that and you're saying it's in this note here
24 some place?

25 **MR. NEVILLE:** No, he didn't suggest that, I

1 don't think, Commissioner. He just thought -- I think the
2 officer just suggested that there was something from her in
3 a police interview under his direction where she set out
4 all her dealings.

5 But this be, of course, sir, would be up to
6 the point of the settlement; it doesn't go beyond that.

7 **THE COMMISSIONER:** Okay, but -- okay.

8 **MR. NEVILLE:** So the document you were
9 thinking of yesterday is this one, sir, you just said?

10 **MR. HAMELINK:** That's correct, sir.

11 **MR. NEVILLE:** And if we look at the front of
12 it the interview, indeed, is conducted by you?

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

14 **MR. NEVILLE:** All right. Those are my
15 questions. Thank you.

16 **THE COMMISSIONER:** Thank you.

17 Ms. Allinotte?

18 No questions.

19 Ms. McIntosh?

20 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

21 **McINTOSH:**

22 **MS. McINTOSH:** Good morning, Inspector
23 Hamelink. My name is Leslie McIntosh and I'm from the
24 Ministry of the Attorney General.

25 **MR. HAMELINK:** Good morning, ma'am.

1 **MS. McINTOSH:** And I just have one question.
2 Before you went into the meeting with Peter
3 Griffiths in September of 1994, did you have in your own
4 mind -- had you formed your own opinion, at least
5 tentatively, about whether there were reasonable and
6 probable grounds to lay a charge of extortion?

7 **MR. HAMELINK:** I don't mean to correct, you,
8 ma'am, but the meeting was on February the 21st, 1994.

9 **MS. McINTOSH:** No, I'm talking about the ---

10 **MR. HAMELINK:** The handing in of the brief?

11 **MS. McINTOSH:** Yes.

12 **MR. HAMELINK:** No, ma'am, I did not.

13 **MS. McINTOSH:** Okay, thank you.

14 **THE COMMISSIONER:** That was one question.

15 Mr. Crane?

16 **MR. CRANE:** Nothing, thank you.

17 **THE COMMISSIONER:** Thank you.

18 Oh, Ms. Levesque, yes, yes, I'm sorry.

19 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

20 **LEVESQUE:**

21 **MS. LEVESQUE:** Good morning, Mr. Hamelink.

22 My name is Gisèle Levesque; I represent the Diocese of
23 Alexandria-Cornwall.

24 **MR. HAMELINK:** Good morning, ma'am.

25 **MS. LEVESQUE:** I just have very few

1 questions for you this morning.

2 Just to put you into context, they relate to
3 your meeting with Malcolm MacDonald on May 12, 1994.

4 Constable McDonell and yourself met with
5 Malcolm MacDonald on that day?

6 **MR. HAMELINK:** Yes, we did, ma'am.

7 **MS. LEVESQUE:** Okay. You advised him at
8 that time that you were aware of other investigations with
9 which you were not concerned. Do you recall that?

10 **MR. HAMELINK:** I would agree with that to a
11 point. All investigations are of a concern but ---

12 **MS. LEVESQUE:** Pardon me?

13 **MR. HAMELINK:** All investigations are of a
14 concern but I advised him why I was there.

15 **MS. LEVESQUE:** Yes, you were concerned with
16 the extortion investigation?

17 **MR. HAMELINK:** Yes.

18 **MS. LEVESQUE:** Did he during that interview
19 -- and this is not in your notes -- mention anything about
20 a pending lawsuit, to your recollection?

21 **THE COMMISSIONER:** I'm sorry, we're talking
22 Malcolm MacDonald?

23 **MS. LEVESQUE:** Yes.

24 **THE COMMISSIONER:** Did Malcolm MacDonald
25 speak to you about a pending lawsuit?

1 **MR. HAMELINK:** He may have, ma'am, I don't
2 have a recollection of that right now.

3 **MS. LEVESQUE:** Okay. And he declined to
4 provide you with a conventional statement. Is that
5 correct?

6 **MR. HAMELINK:** By "conventional statement"
7 are -- what do you mean by that?

8 **MS. LEVESQUE:** Well, like the statements
9 that the OPP would take, where you would write out the
10 statement, the time and have the individual sign the
11 statement at the end and the officer often also signs the
12 statement.

13 **MR. HAMELINK:** Yes, Mr. MacDonald wanted to
14 put in his own statement.

15 **MS. LEVESQUE:** So he declined, is that
16 correct, to provide a conventional statement?

17 **MR. HAMELINK:** Yes.

18 **MS. LEVESQUE:** Thank you. Those are all my
19 questions.

20 **THE COMMISSIONER:** Thank you.

21 Mr. Carroll?

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

23 **CARROLL:**

24 **MR. CARROLL:** Good morning, sir.

25 **MR. HAMELINK:** Good morning, Mr. Carroll.

1 **MR. CARROLL:** My name is Bill Carroll and I
2 am the counsel for the Ontario Provincial Police
3 Association.

4 And just to clarify matters, sir, you are
5 not a member of that association, are you?

6 **MR. HAMELINK:** I am not.

7 **MR. CARROLL:** All right.

8 In dealing with the investigators that you
9 had at your disposal for the extortion investigation, that
10 was McDonell and Genier primarily?

11 **MR. HAMELINK:** Primarily, yes.

12 **MR. CARROLL:** And from time-to-time Fagan
13 was assisting?

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

15 **MR. CARROLL:** Did you communicate to your
16 investigators, sir, the focus of your investigation, that
17 is specifically that you were here to do the extortion
18 investigation?

19 **MR. HAMELINK:** Yes, that was communicated to
20 them.

21 **MR. CARROLL:** Did you have prior knowledge
22 of -- or working relationship with Chris McDonell?

23 **MR. HAMELINK:** I did.

24 **MR. CARROLL:** Did you have prior knowledge
25 or working relationship with Don Genier?

1 **MR. HAMELINK:** I don't recall Constable --
2 prior working relationships with Constable Genier.

3 **MR. CARROLL:** Very good.

4 In terms of McDonnell then, you had the
5 belief that he was a thorough and seasoned investigator
6 prior to giving him the assignments you did?

7 **MR. HAMELINK:** Absolutely.

8 **MR. CARROLL:** And did he prove, sir,
9 throughout the course of your investigation, from your
10 perspective, to carry out his duties in a timely and
11 thorough manner?

12 **MR. HAMELINK:** He most certainly did.

13 **MR. CARROLL:** Did you review the work
14 product that he produced on a regular basis?

15 **MR. HAMELINK:** I did.

16 **MR. CARROLL:** And did you find therein any
17 deficiencies which caused you any concern?

18 **MR. HAMELINK:** No, sir.

19 **MR. CARROLL:** Did he appear to have any
20 predisposition towards a result or try to influence you in
21 deciding the results of the investigation one way or the
22 other?

23 **MR. HAMELINK:** He did not.

24 **MR. CARROLL:** With respect to Genier, you
25 had no prior knowledge of him. I take it, sir, then you

1 would have paid particular attention to his work product to
2 ensure that it was up to your standards.

3 MR. HAMELINK: That's correct, sir.

4 MR. CARROLL: And did his work product meet
5 those standards, sir?

6 MR. HAMELINK: It did.

7 MR. CARROLL: Did he at any time, or
8 McDonell at any time, balk at any of the assignments or
9 tasks that were given to them?

10 MR. HAMELINK: No, sir.

11 MR. CARROLL: Prior to your dealings with
12 Peter Griffiths on this matter, as he then was, did you
13 know him?

14 MR. HAMELINK: I had had dealings with
15 Mr. Griffiths before.

16 MR. CARROLL: Professional dealings with
17 him?

18 MR. HAMELINK: Professional dealings.

19 MR. CARROLL: You knew him to be an
20 experienced and seasoned prosecutor and Crown attorney?

21 MR. HAMELINK: Most certainly.

22 MR. CARROLL: Once you had assembled the
23 work product of your investigators and reviewed it
24 yourself, you put it together in the form of a brief for
25 Mr. Griffiths to review?

1 **MR. HAMELINK:** Correct.

2 **MR. CARROLL:** Did you include in that brief
3 all relevant documentation that had been gathered by your
4 investigators?

5 **MR. HAMELINK:** I did.

6 **MR. CARROLL:** And you provided it to
7 Mr. Griffiths and he subsequently provided you with a
8 written opinion, which is in evidence already?

9 **MR. HAMELINK:** Yes, sir.

10 **MR. CARROLL:** There doesn't appear to be any
11 direction or instruction in that opinion to you. Were
12 there any phone calls, messages, memos or other direction
13 from Peter Griffiths indicating that he thought there was a
14 lack of investigation work on your part or your
15 investigators?

16 **MR. HAMELINK:** No, there wasn't.

17 **MR. CARROLL:** Did he at any point, once he
18 had submitted the brief to you, instruct you or, to your
19 knowledge, your investigators to follow other leads or
20 pursue other aspects of the investigation or attempt to
21 gather other evidence?

22 **MR. HAMELINK:** He did not.

23 **MR. CARROLL:** Thank you.

24 **THE COMMISSIONER:** Thank you.

25 Ms. Brannan, are you asking questions for

1 the OPP?

2 **MS. SACCOCCIO BRANNAN:** I will be asking
3 questions. Just one point before I start asking my
4 questions. When Ms. Daley was on her feet -- and I wasn't
5 certain about this and the transcript will show it, as to
6 what she actually said when she referred to the sudden
7 death investigation, she referred to Officers Millar and --
8 pardon me, McDonell and I think Genier. I think I heard
9 that. If Genier was referred, Officer Genier was not
10 involved in the sudden death.

11 **THE COMMISSIONER:** Thank you.

12 **MS. SACCOCCIO BRANNAN:** For the purposes of
13 the webcast, because obviously Officer Hamelink knows who I
14 am, my name is Gina Brannan and I represent the Ontario
15 Provincial Police and its commissioned officers.

16 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

17 **MS. SACCOCCIO BRANNAN:**

18 **MS. SACCOCCIO BRANNAN:** Right, the first
19 area I want to address is your career profile, Officer
20 Hamelink. That's Document Number 200216 and marked as
21 Exhibit 2568. In particular I just want to address your
22 training, and in particular on page 3.

23 **MR. HAMELINK:** Yes, ma'am, I'm there.

24 **MS. SACCOCCIO BRANNAN:** And if you look at
25 October the 11th of 1988 you'll see that there's an Advanced

1 Criminal Investigation Course, and it says "interviewing
2 model."

3 **MR. HAMELINK:** Yes, ma'am.

4 **MS. SACCOCCIO BRANNAN:** So can you give us
5 just very briefly what would have happened in that course;
6 what the subject matter was?

7 **MR. HAMELINK:** The subject matter would have
8 been the conduct of investigators when interviewing both
9 witnesses and also suspects in criminal investigations.

10 **MS. SACCOCCIO BRANNAN:** Thank you.

11 And then further on down you'll see April
12 the 18th of 1995, a Major Case Management Course, and I
13 recognize that this is after this investigation. Was that
14 a pilot course? Do you remember a pilot course?

15 **MR. HAMELINK:** Yes, it was a pilot course.

16 **MS. SACCOCCIO BRANNAN:** And then again in
17 August 19th of 1996 -- pardon me, December 15th of 1999
18 there's a Major Case Management Equivalency Course.

19 **MR. HAMELINK:** That's correct.

20 **MS. SACCOCCIO BRANNAN:** I'm not certain if
21 you'd be aware of this, but this would be almost three
22 years after Justice Campbell's report where one of his
23 recommendations was the Major Case Management model.

24 **MR. HAMELINK:** That's correct, ma'am.

25 **MS. SACCOCCIO BRANNAN:** The next document,

1 the next little area I want to address, is the creation of
2 the Criminal Investigation Bureau memorandums. There are
3 two documents here, Mr. Commissioner. The first one is
4 Document 725250 and that is Exhibit 2570. That was the
5 initial reported dated February the 17th of '94. And the
6 second document is 103587 and that's Exhibit 2548 and
7 that's the final one, dated January 21st, '93. I only have
8 some general questions with respect to those two documents.

9 Those memorandums, as I understand it, are
10 directed to whom; the Director of CIB?

11 **MR. HAMELINK:** The Director of CIB, yes.

12 **MS. SACCOCCIO BRANNAN:** And who authors
13 these types of memorandums?

14 **MR. HAMELINK:** The individual detective
15 inspectors that are on the ground at the location of the
16 occurrence.

17 **MS. SACCOCCIO BRANNAN:** The case manager?

18 **MR. HAMELINK:** Case manager.

19 **MS. SACCOCCIO BRANNAN:** And what is the
20 purpose of the CIB memorandum?

21 **MR. HAMELINK:** The purpose is to keep
22 everyone advised as to what your actions are and whether
23 there's going to be any criminal charges.

24 **MS. SACCOCCIO BRANNAN:** Is this document an
25 internal document or is it a document for public

1 consumption?

2 MR. HAMELINK: It is an internal document,
3 ma'am.

4 MS. SACCOCCIO BRANNAN: Is this document
5 included in the Crown brief? The CIB memorandums, are they
6 normally ---

7 MR. HAMELINK: No.

8 MS. SACCOCCIO BRANNAN: --- included in the
9 Crown brief?

10 MR. HAMELINK: No.

11 MS. SACCOCCIO BRANNAN: The next area I wish
12 to move to, regarding the evidence that was elicited from -
13 - I'm trying to remember his rank -- Chief Superintendent
14 Fougere regarding complaints he had received from the
15 Seguin family regarding Constable McDonnell's conduct and
16 Constable Millar's conduct on the death investigation.

17 Yesterday you were referred by Ms. Jones to
18 various places in your notes regarding your meetings with
19 the Seguin family and I have the following questions.

20 Did any of the members of the Seguin family
21 ever tell you that they had complained to Superintendent
22 Fougere regarding Constable McDonnell's behaviour during the
23 sudden death investigation?

24 MR. HAMELINK: No, ma'am.

25 MS. SACCOCCIO BRANNAN: During any of the

1 meetings with the Seguin family did they complain directly
2 to you about Officer McDonnell's handling of the sudden
3 death investigation of Ken Seguin?

4 **MR. HAMELINK:** No, ma'am.

5 **MS. SACCOCCIO BRANNAN:** And at any time
6 during any of the meetings with the Seguin family did they
7 ever ask you or make a request that another officer be
8 assigned to take Officer McDonnell's place on the extortion
9 investigation?

10 **MR. HAMELINK:** No.

11 **MS. SACCOCCIO BRANNAN:** The next area I
12 would like to canvass with you, Officer Hamelink and
13 Mr. Commissioner, is the compilation of the Crown brief.

14 Mr. Commissioner, I gave late notice of a
15 document, and that is Document Number 715137. I provided
16 copies to my colleagues and I have the copies for Madam
17 Clerk.

18 **THE COMMISSIONER:** Thank you.

19 Exhibit Number 2580 is a document entitled
20 "Index" and is Doc Number 715137.

21 **--- EXHIBIT NO./PIÈCE NO. P-2580:**

22 (715137) - Index of Crown Brief re: David
23 Silmser

24 **MS. SACCOCCIO BRANNAN:** Now, in order to
25 assist you, Mr. Commissioner, in preparation in pulling

1 this document and because of the way the hard drive is set
2 up, I was able to determine that this is indeed the index
3 from the Crown brief in *R v Silmser* and the CIB Number for
4 that was 955-10-17-94.

5 Now, Officer Hamelink, I just want you to
6 have a quick look at this particular document. And as I
7 understand it, this is standard in Crown briefs that at the
8 commencement of that brief there's an index listing all of
9 the documents in the Crown brief.

10 **THE COMMISSIONER:** I'm sorry, there should
11 be a publication ban stamp on this document?

12 **MS. SACCOCCIO BRANNAN:** Yes. Yes.

13 **THE COMMISSIONER:** Okay. Go ahead. Sorry.

14 **MS. SACCOCCIO BRANNAN:** And I recognize
15 there are some monikered names in there.

16 **THE COMMISSIONER:** I'm sorry, the question
17 again was?

18 **MS. SACCOCCIO BRANNAN:** The question is, is
19 this a standard format for a Crown brief that you would
20 prepare an index of all the documents that are in the Crown
21 brief?

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

23 **MS. SACCOCCIO BRANNAN:** And is this the
24 index of the Crown brief, to the best of your recollection,
25 that you delivered to Peter Griffiths, the Regional Crown

1 Attorney?

2 MR. HAMELINK: That's correct.

3 MS. SACCOCCIO BRANNAN: And when we look at
4 this particular document, what we see at the top is the
5 word "synopsis" and I'd like to take you to Document Number
6 725416, which is a document that the Commission had in
7 their LOD.

8 THE COMMISSIONER: Thank you.

9 Exhibit 2581 is a document entitled
10 "Executive Summary".

11 --- EXHIBIT NO./PIÈCE NO. P-2581:

12 (725416) - Typed Executive Summary of Ken
13 Seguin

14 MS. SACCOCCIO BRANNAN: Is that document
15 familiar to you, Officer Hamelink?

16 MR. HAMELINK: Yes, ma'am, it is.

17 MS. SACCOCCIO BRANNAN: And would that
18 document be a document that was included in your Crown
19 brief?

20 MR. HAMELINK: Yes, it would have been.

21 MS. SACCOCCIO BRANNAN: And would that be
22 the document that's actually called "synopsis" in the
23 index?

24 MR. HAMELINK: It is.

25 MS. SACCOCCIO BRANNAN: And who authored

1 that document?

2 **MR. HAMELINK:** I did.

3 **MS. SACCOCCIO BRANNAN:** And when you prepare
4 this executive summary for the Crown brief, what's the
5 process that you go through? How do you come up with this
6 executive summary? What are you doing?

7 **MR. HAMELINK:** Well, by the time that I have
8 read all the statements and a brief is about to go to the
9 Crown, I would prepare this to give the Crown an outline of
10 the investigation, and that's what my executive summary
11 addresses.

12 **MS. SACCOCCIO BRANNAN:** Back to Document
13 716137, the next one is entitled a "Witness List", and my
14 assumption is that that witness list is just the names of
15 the witnesses whose statements are going to be in the Crown
16 brief in alphabetical order?

17 **MR. HAMELINK:** Alphabetical order and there
18 would be pages to the right of the witnesses as to what
19 page the witness statement could be found.

20 **MS. SACCOCCIO BRANNAN:** Just to digress for
21 a moment.

22 The putting together of the Crown brief -- I
23 understand you prepared the executive summary, but the
24 actual compilation of all of these documents, who does
25 that?

1 **MR. HAMELINK:** The investigators, ma'am.

2 **MS. SACCOCCIO BRANNAN:** And in this
3 particular case, that would have been Officers McDonell and
4 Genier?

5 **MR. HAMELINK:** That would have been,
6 correct.

7 **MS. SACCOCCIO BRANNAN:** The next one down,
8 "C", we see the accused, David Silmser.

9 And I would like to direct you, Mr.
10 Commissioner, to Document Number 715145.

11 It's also important in looking at this
12 particular document to look at a document that's marked as
13 Exhibit 271.

14 **THE COMMISSIONER:** Thank you.

15 So Exhibit 2582 is a typed -- is it a typed
16 ---

17 **MS. SACCOCCIO BRANNAN:** It's a typed copy of
18 the statement of David John Silmser.

19 --- **EXHIBIT NO./PIÈCE NO. P-2582:**

20 (715145) - Typed Summary of David Silmser

21 **THE COMMISSIONER:** Which is Exhibit 271.

22 **MS. SACCOCCIO BRANNAN:** Right. And to
23 assist you, Mr. Commissioner, and that's why I'm directing
24 -- or asking, pardon me, for Exhibit 271, it is in fact the
25 typewritten copy of the handwritten interview report dated

1 November 26th of 1993 taken by Officers McDonell and Millar.

2 **THE COMMISSIONER:** Okay.

3 **MS. SACCOCCIO BRANNAN:** I can help you with
4 the Document Number for Exhibit 271.

5 **THE COMMISSIONER:** It's 715498.

6 **MS. SACCOCCIO BRANNAN:** Correct.

7 I can also assist you, Mr. Commissioner, in
8 letting you know that the sourcing of Document Number
9 715145 on the Commission's hard drive is indeed the Crown
10 brief for *R v Silmsers*.

11 So this statement obviously you recognize,
12 Officer Hamelink?

13 **MR. HAMELINK:** Yes, I do.

14 **THE COMMISSIONER:** On which Silmsers ---

15 **MS. SACCOCCIO BRANNAN:** Could I -- sorry?

16 **THE COMMISSIONER:** I'm sorry. This is the
17 Silmsers extortion ---

18 **MS. SACCOCCIO BRANNAN:** Extortion brief,
19 correct. That's the source of this document.

20 And if I could take you to Bates page 118,
21 this is where Mr. Silmsers is talking about how he had
22 called Mr. Seguin and Mr. Seguin, Ken Seguin, had told him
23 to talk to Malcolm MacDonald, his lawyer.

24 And from the top of the page if you look
25 down about six lines, you'll see the words:

1 "I didn't tell him till the next day I
2 wanted \$100,000. Malcolm said that
3 that was a lot of money. I said that
4 if he didn't have the money I was going
5 to sue the Ministry of Probation and
6 Parole and that was it for that
7 conversation."

8 So that's one of the things that Crown
9 Griffiths was able to review regarding the issue of whether
10 or not charges could be laid for extortion?

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

12 **MS. SACCOCCIO BRANNAN:** And if we look a
13 little bit further down to just before it says question, or
14 the "Q" is there, you'll see that Mr. Silmser says:

15 "I said you have until Friday to get a
16 settlement or I will be getting a
17 lawyer and suing."

18 **MR. HAMELINK:** Correct.

19 **MS. SACCOCCIO BRANNAN:** Now, you can take
20 the time to look through this. I can tell you I have and I
21 can't find anything with respect to going to the press but
22 I do see the two suing. And you would have reviewed this
23 statement?

24 **MR. HAMELINK:** I did, ma'am.

25 **MS. SACCOCCIO BRANNAN:** The next document

1 says, "Victim Ken Seguin" on the Crown brief index?

2 MR. HAMELINK: Yes.

3 MS. SACCOCCIO BRANNAN: And I'd like to draw
4 your attention, Mr. Commissioner, to Document Number
5 725424.

6 And, once again, Mr. Commissioner, I can
7 tell you that in searching the hard drive that this
8 particular typed document is shown as being sourced in the
9 *R v. Silmser* brief.

10 THE COMMISSIONER: Exhibit 2583.

11 ---EXHIBIT NO./PIÈCE NO P-2853:

12 (725424) - Typed Summary of Ken Seguin re:
13 David Silmser

14 MS. SACCOCCIO BRANNAN: This document is a
15 typed document with the name Ken Seguin at the top. And to
16 assist you, Mr. Commissioner, the first six pages of that
17 document are, in fact, the typed version of Exhibit 960.

18 THE COMMISSIONER: Nine six zero (960),
19 thank you.

20 MS. SACCOCCIO BRANNAN: And once again,
21 Commissioner, if you look at the seventh page of the
22 document you've just marked as an exhibit, 725424, -- just
23 a moment.

24 (SHORT PAUSE/COURTE PAUSE)

25 MS. SACCOCCIO BRANNAN: Just bear with me

1 Mr. Commissioner. There is the -- yes, here it is. It's
2 at Tab 2. My point is ---

3 THE COMMISSIONER: Tab 2?

4 MS. SACCOCCIO BRANNAN: Tab -- pardon me,
5 it's Exhibit 960, my Tab 2. My point that I'm making ---

6 THE COMMISSIONER: Nine six zero (960).

7 MS. SACCOCCIO BRANNAN: Yeah.

8 THE COMMISSIONER: Okay.

9 MS. SACCOCCIO BRANNAN: Sorry, it's Exhibit
10 961.

11 THE COMMISSIONER: M'hm.

12 MS. SACCOCCIO BRANNAN: My point is, Mr.
13 Commissioner, that Exhibit 960 and 961 are the handwritten
14 statements of the document that you have just made an
15 exhibit, which is Document 725424, and a document that was
16 in *R. v. Silmser's* Crown brief.

17 Mr. Hamelink, that document, 725424, is that
18 a document that you would have reviewed in the course of
19 your investigation?

20 MR. HAMELINK: Yes, ma'am, it was.

21 MS. SACCOCCIO BRANNAN: And that too would
22 be a document that would be in the Crown brief for Crown
23 Griffiths to review ---

24 MR. HAMELINK: Correct.

25 MS. SACCOCCIO BRANNAN: --- in coming to his

1 conclusion in his October '94 letter to you that no charges
2 could be laid?

3 MR. HAMELINK: Correct.

4 MS. SACCOCCIO BRANNAN: The next document is
5 the witness synopsis and I'll skip over that to search
6 warrants. Do you recall directing your officers to execute
7 search warrants in this particular case?

8 MR. HAMELINK: Yes, I do.

9 MS. SACCOCCIO BRANNAN: And do you recall
10 what search warrants you asked them to execute?

11 MR. HAMELINK: Two search warrants. One on
12 the bank account of Ken Seguin; and one on Bell Canada for
13 compilation of telephone calls that may have been made long
14 distance that would draw a nexus between Seguin and
15 Silmsner.

16 MS. SACCOCCIO BRANNAN: And the
17 documentation that was gathered as a result of the
18 execution of those search warrants, would those be G and H,
19 bank statements and Bell Canada records?

20 MR. HAMELINK: Yes, ma'am.

21 MS. SACCOCCIO BRANNAN: And then finally
22 with respect to this document, Mr. Hamelink, we then have a
23 title of witness statements.

24 MR. HAMELINK: Yes.

25 MS. SACCOCCIO BRANNAN: And you'll see there

1 is a list of 41 witness statements. I think there is 41
2 altogether.

3 **MR. HAMELINK:** Yes, ma'am, that's correct.

4 **MS. SACCOCCIO BRANNAN:** Now Mr.

5 Commissioner, this -- and I don't intend to do this because
6 I can do this in our submissions, but each one of these
7 documents obviously has a document number and in some
8 cases, they have been marked as exhibits. I don't intend
9 to take Officer Hamelink through each of them. But I will
10 ask the following questions.

11 With respect to these witness statements,
12 were these witness statements obtained by your
13 investigators, Officers McDonell and Genier?

14 **MR. HAMELINK:** Yes.

15 **MS. SACCOCCIO BRANNAN:** And would those --
16 these individuals who were interviewed, would it have been
17 you that would have directed Officers Genier and McDonell
18 to carry out those interviews?

19 **MR. HAMELINK:** Yes.

20 **MS. SACCOCCIO BRANNAN:** And when they would
21 bring back to you the -- I'm assuming the handwritten
22 interview report, is that the document that you would
23 review?

24 **MR. HAMELINK:** Yes, it is.

25 **MS. SACCOCCIO BRANNAN:** And then is it my

1 understanding correct that what happened to these interview
2 reports, the handwritten ones, is that they are typed up?

3 **MR. HAMELINK:** Correct.

4 **MS. SACCOCCIO BRANNAN:** And it's the typed
5 version that finds its way into the Crown brief?

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

7 **MS. SACCOCCIO BRANNAN:** So Crown Griffiths
8 then would have had an opportunity to review each and every
9 one of these 41 statements before he came to the conclusion
10 that he did in his October '94 letter?

11 **MR. HAMELINK:** Yes.

12 **MS. SACCOCCIO BRANNAN:** The next document
13 that I would like to refer you to, Mr. Commissioner, has
14 already been an exhibit. It's Exhibit 2562. It's Document
15 Number 714977.

16 This document was made an exhibit by
17 Commission counsel during the examination in-chief of
18 Inspector Smith. And it is the Crown brief index from *R.*
19 *v. MacDonald*. Once again, there are names on this list
20 that are monikered.

21 Mr. Commissioner, I'd like to direct your
22 attention, while this document is in place, to Document
23 Number 111131, I do not believe it's been made an exhibit.
24 It was a notification from Commission counsel.

25 **THE COMMISSIONER:** It has been, I believe.

1 **MS. SACCOCCIO BRANNAN:** It has been made an
2 exhibit?

3 **THE REGISTRAR:** Exhibit 2528.

4 **MS. SACCOCCIO BRANNAN:** Two five two eight
5 (2528), thank you. And this is the Will-Say, so what I
6 need your assistance here, Officer Hamelink, is to have
7 both documents available.

8 **THE COMMISSIONER:** Which "both"?

9 **MS. SACCOCCIO BRANNAN:** Oh sorry. Exhibit
10 2562, Document 714977; and Exhibit 2528, Document Number
11 11131.

12 **MR. HAMELINK:** I'm sorry, the first one
13 ma'am, I didn't get that?

14 **MS. SACCOCCIO BRANNAN:** The first one if
15 714977 ---

16 **THE COMMISSIONER:** No, no. We don't go --
17 for our purposes, we go by exhibit numbers.

18 **MS. SACCOCCIO BRANNAN:** Sorry. Exhibit 2562
19 ---

20 **MR. HAMELINK:** Two five six two (2562).

21 **MS. SACCOCCIO BRANNAN:** --- and Exhibit
22 2528.

23 **MR. HAMELINK:** Okay. Yes, ma'am.

24 **MS. SACCOCCIO BRANNAN:** Now, on page 3 of
25 Exhibit 2528, Bates page number 598.

1 **MR. HAMELINK:** Yes, ma'am.

2 **MS. SACCOCCIO BRANNAN:** Staring down at the
3 bottom of the page, there's a list of names that -- in this
4 document you can see that are names that Constable McDonell
5 says individuals that he interviewed.

6 **MR. HAMELINK:** Correct.

7 **MS. SACCOCCIO BRANNAN:** Now the purpose of
8 this exercise is to assist the Commissioner in
9 understanding the interaction between McDonell and Fagan.
10 I'm only going to give a couple of examples, otherwise
11 we'll be here all day.

12 At Exhibit 2562, I would ask you to go to
13 the second name which is moniker C-88.

14 **MR. HAMELINK:** The second name?

15 **MS. SACCOCCIO BRANNAN:** The second name --

16 **MR. HAMELINK:** Under number 2?

17 **THE COMMISSIONER:** Second.

18 **MS. SACCOCCIO BRANNAN:** There's number 1 and
19 number 2 on 2562, the Crown Brief Index.

20 **MR. HAMELINK:** Yes.

21 **MS. SACCOCCIO BRANNAN:** You'll see that name
22 there. Please don't say the name. That's monikered C-88.

23 **MR. HAMELINK:** Yes.

24 **MS. SACCOCCIO BRANNAN:** And if we look at
25 Bates page 4 -- 599 of Exhibit Number 2528, halfway down

1 the page ---

2 MR. HAMELINK: Yes.

3 MS. SACCOCCIO BRANNAN: --- you'll see that
4 name.

5 MR. HAMELINK: I do.

6 MS. SACCOCCIO BRANNAN: Okay; C-88.

7 That exercise, Mr. Commissioner, can be done
8 with a number of names.

9 My question to you, Officer Hamelink, is
10 that with Officer McDonell and Officer Fagan interviewing a
11 number of witnesses together in the *R. v. MacDonald* brief,
12 this would have given them a lot of opportunity to discuss
13 the two briefs that they're working on. Would that be
14 correct? The opportunity is there.

15 MR. HAMELINK: That would be correct.

16 THE COMMISSIONER: Ms. Jones?

17 MS. JONES: I can anticipate where counsel
18 is going, but I don't know how this witness can comment on
19 the opportunities other people may have had to have a
20 conversation.

21 MS. SACCOCCIO BRANNAN: That's why I used
22 the word "opportunity", Mr. Commissioner. Certainly he
23 can't say whether they discussed it because he wasn't
24 there.

25 THE COMMISSIONER: Fair enough.

1 **MS. SACCOCCIO BRANNAN:** That's the only
2 point I wanted to make there.

3 And then I move to a new document,
4 Mr. Commissioner, Document 714876 -- 7148786.

5 **THE COMMISSIONER:** Thank you.

6 Exhibit 2584 is Document Number 714876 and
7 it's entitled "Index".

8 **--- EXHIBIT NO./PIÈCE NO. P-2584:**

9 (714876) OPP Index of Investigation

10 **MS. SACCOCCIO BRANNAN:** And I can tell you,
11 Mr. Commissioner, that in searching for this particular
12 document that this is the index to the OPP investigation
13 into the alleged agreement not to lay charges.

14 Mr. Hamelink, can you look at that
15 particular document and look at F and H?

16 **MR. HAMELINK:** Yes, ma'am.

17 **MS. SACCOCCIO BRANNAN:** And F, what do you
18 see there?

19 **MR. HAMELINK:** "F: "Statements of lawyer,
20 Malcolm MacDonald - (3)."

21 **MS. SACCOCCIO BRANNAN:** Yes, and H?

22 **MR. HAMELINK:** "Statement of Staff Sergeant
23 Luc Brunet."

24 **MS. SACCOCCIO BRANNAN:** Exhibit 2571 is
25 Document 715455 and that's up. Do you recognize that

1 particular memo dated May 12th of '94?

2 **MR. HAMELINK:** I do, ma'am.

3 **MS. SACCOCCIO BRANNAN:** And where did that
4 memo come from?

5 **MR. HAMELINK:** That came from Malcolm
6 MacDonald.

7 **MS. SACCOCCIO BRANNAN:** And that memo was in
8 your brief, your Crown brief?

9 **MR. HAMELINK:** It was.

10 **MS. SACCOCCIO BRANNAN:** Now,
11 Mr. Commissioner, I would like to take you to Document
12 Number 714898.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit 2585 is a document dated May 12th,
15 1994 entitled "Memo" and it's signed -- no, this has been
16 an exhibit before.

17 **MS. SACCOCCIO BRANNAN:** No. In fact,
18 Mr. Commissioner, this is another document number of the
19 same document.

20 And what I can tell you about this document
21 is that in searching the hard drive -- and actually, before
22 I go there, I'd like to ask Officer Hamelink a question.

23 That document, do you recognize that
24 document?

25 **MR. HAMELINK:** It's identical to the

1 document that we previously discussed prior to this one.

2 MS. SACCOCCIO BRANNAN: That was in your
3 Crown brief?

4 MR. HAMELINK: Yes.

5 MS. SACCOCCIO BRANNAN: But 714898,
6 Mr. Commissioner, if you search the hard drive, the source
7 of that document is the OPP investigation into alleged
8 agreement not to lay charges.

9 THE COMMISSIONER: Yes.

10 MS. SACCOCCIO BRANNAN: The purpose of
11 pointing this out is that the -- there is a sharing of
12 information between the two groups.

13 THE COMMISSIONER: Just a minute. Where is
14 the source of this?

15 MS. SACCOCCIO BRANNAN: OPP investigation
16 into alleged agreement not to lay charges -- the
17 settlement.

18 THE COMMISSIONER: M'hm.

19 MS. SACCOCCIO BRANNAN: And it makes sense,
20 because we've read through this documents, that ---

21 THE COMMISSIONER: Submissions can wait.

22 MS. SACCOCCIO BRANNAN: I'll save that for
23 submissions.

24 THE COMMISSIONER: Thank you.

25 MS. SACCOCCIO BRANNAN: The next -- I'm only

1 going to do one other example of this. There are a number
2 and we would be here all day.

3 I'm only going to do one other example, and
4 that is Document Number 714908.

5 **THE COMMISSIONER:** Thank you.

6 Exhibit Number 2585 is a statement of Staff
7 Sergeant Luc Brunet taken on the 10th of August, '94.

8 **--- EXHIBIT NO./PIÈCE NO. P-2585:**

9 (714908) Will Say of Luc Brunet dated August
10 10, 1994

11 **MS. SACCOCCIO BRANNAN:** Do you have that
12 document, Officer Hamelink?

13 **MR. HAMELINK:** I do, ma'am.

14 **MS. SACCOCCIO BRANNAN:** Do you recognize
15 that document?

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

17 **MS. SACCOCCIO BRANNAN:** And why do you
18 recognize that document?

19 **MR. HAMELINK:** That was a document that was
20 completed by Brunet and picked up by McDonell.

21 **MS. SACCOCCIO BRANNAN:** Yes, and if we look
22 at Exhibit 2580, which is the index from the *R. v. Silmser*
23 Crown brief, we'll find Luc Brunet on that list.

24 **THE COMMISSIONER:** Ms. Jones?

25 **MS. JONES:** I just want to clarify things

1 for the record. I'm not disputing counsel's position here.
2 However, just to be clear, Exhibit 2584, which is the index
3 that's been referred to here and labelled as the index for
4 a certain investigation -- this witness had nothing to do
5 with that. There's actually no title on the index.
6 There's no dates given for the statements and I just -- at
7 this particular stage, I don't think this is the witness to
8 confirm that the statement, for instance, that he's looking
9 at -- Staff Sergeant Brunet -- is in fact the same
10 statement referred to in this index.

11 I just don't think this is the witness that
12 can confirm that. I understand it comes from a database
13 but I'm not sure if that's his evidence that is being
14 sought to go in sort of through the back door here. But
15 surely the person who compiled the index and read the
16 statements for that particular brief is the person that
17 should be asked the question if, in fact, that was the
18 statement of Staff Sergeant Brunet, for example, that made
19 up that brief.

20 I just don't think this is the witness that
21 should be assessing whether it made its way into another
22 Crown brief, unless this witness can say that he saw that
23 other Crown brief, and I don't think that's what this
24 witness has ever said.

25 **MS. SACCOCCIO BRANNAN:** And that is a

1 difficulty, Mr. Commissioner, that I recognize. The
2 exercise to get this particular document, 714908, made as
3 an exhibit will assist me in making submissions.

4 A very wise decision was made by yourself
5 very early on in this particular ---

6 **THE COMMISSIONER:** All right, all right.

7 **MS. SACCOCCIO BRANNAN:** --- in this
8 particular Inquiry, and that was -- I can remember the
9 issue with respect to documents, and it was your decision
10 that it didn't matter if there were six copies of the same
11 document, but they would scanned and put into the hard
12 drive and be part of the disclosure because, as you said,
13 some documents would come from one place and that same
14 document might come from another place.

15 And the purpose of this exercise is to
16 merely show you that indeed you were correct and that in
17 this particular case Document 714908, which is now Exhibit
18 2585, if searched in the hard drive it's source is the OPP
19 investigation into the alleged agreement not to lay
20 charges.

21 The purpose of this is to show basically
22 that these two officers ---

23 **THE COMMISSIONER:** I know what the purpose
24 is.

25 **MS. SACCOCCIO BRANNAN:** So I'll move on. I

1 think I've made my point. And I have enough here that I
2 can expand on that in submissions.

3 **THE COMMISSIONER:** Well, can I speak now?

4 **MS. SACCOCCIO BRANNAN:** Sure.

5 **THE COMMISSIONER:** Thank you.

6 In an inquiry such as this I would think
7 that it would be incumbent on other counsel that if you
8 misspeak that they would correct you. And so while
9 technically it's difficult to see how to be able to put
10 somebody in the witness box and say this is the Crown brief
11 that this person had, I agree with your -- the way in which
12 you're trying to put them in, in the sense that you're
13 giving them to me, this gentleman can't -- but I'm sure
14 that if they're not in the Crown brief, if there's
15 something there, someone from the Attorney General's Office
16 is going to be on their feet and say, "That is not
17 correct."

18 **MS. SACCOCCIO BRANNAN:** Correct.

19 **THE COMMISSIONER:** All right.

20 So can we move on now?

21 **MS. SACCOCCIO BRANNAN:** We can move on.

22 **THE COMMISSIONER:** Thank you.

23 **MS. SACCOCCIO BRANNAN:** The next area I
24 would like to address, and very briefly, during Inspector
25 Smith's examination in-chief did you have an opportunity to

1 either read the transcripts or watch portions of that?

2 MR. HAMELINK: I did, ma'am. I did watch
3 portions of it.

4 MS. SACCOCCIO BRANNAN: And do you recall
5 that Mr. Engelmann took Mr. Smith to various parts of his
6 notes to show times when you and Mr. Smith met and
7 discussed your respective briefs? Do you recall that?

8 MR. HAMELINK: I do.

9 MS. SACCOCCIO BRANNAN: Mr. Commissioner,
10 I'd like to go to Exhibit 1803.

11 THE COMMISSIONER: Are you okay, sir?

12 MR. HAMELINK: Yeah, I'm fine, sir.

13 THE COMMISSIONER: So we'll be breaking for
14 lunch around 12:30 so if you can pick a spot where you are
15 going to want to finish.

16 MS. SACCOCCIO BRANNAN: I think I'll be
17 finished by 12:30, Mr. Commissioner.

18 THE COMMISSIONER: Good.

19 MS. SACCOCCIO BRANNAN: If not, 12:35.
20 At Bates page 4216 -- and you'll see the
21 entry March 2nd of '94 and you'll see at 0945 ---

22 MR. HAMELINK: Yes, ma'am.

23 MS. SACCOCCIO BRANNAN: Sorry?

24 MR. HAMELINK: Yes.

25 MS. SACCOCCIO BRANNAN: It looks like March

1 2, '94 at -- I'm at Bates page 4216. Yes, that's right,
2 0945 is the entry.

3 When Mr. Engelmann put this to Mr. Smith he
4 didn't -- he addressed the meeting that Mr. Smith had with
5 the Seguin's but didn't address how that meeting came about
6 and I just thought we could read that into the record and
7 see if you have any recollection of this occurring. Mr.
8 Smith is saying:

9 "Call received from Nancy Seguin, a
10 telephone number and address. She was
11 speaking to Fred Hamelink and he stated
12 she may wish to speak to me with some
13 information she had regarding the
14 settlement. Arranged to see her at
15 1300 hours on March the 8th."

16 And do you have any recollection of having
17 given that -- of suggesting that to Mrs. Seguin?

18 **MR. HAMELINK:** Yes, I do, ma'am.

19 **MS. SACCOCCIO BRANNAN:** And then, of course,
20 Mr. Engelmann went through the evidence with Mr. Smith
21 regarding the meeting the next day, the three-hour
22 interview. Mr. Smith was asked if you were in attendance.
23 It was his recollection that you were. What is your
24 recollection, Mr. Hamelink?

25 **MR. HAMELINK:** I have no recollection of

1 ever having attended at the Seguin family residence ---

2 MS. SACCOCCIO BRANNAN: Your meeting ---

3 MR. HAMELINK: --- with Inspector Smith or
4 at any other time independently.

5 MS. SACCOCCIO BRANNAN: The next area I want
6 to address are the statements of Jos van Diepen. And I
7 would like to take you, Mr. Commissioner, to Exhibit 1063.
8 This ---

9 THE COMMISSIONER: What page?

10 MS. SACCOCCIO BRANNAN: Sorry?

11 THE COMMISSIONER: This is a one-page
12 document?

13 MS. SACCOCCIO BRANNAN: No, this document is
14 actually ---

15 THE COMMISSIONER: So what page do you want
16 to refer him to?

17 MS. SACCOCCIO BRANNAN: One, two, three,
18 four pages.

19 THE COMMISSIONER: No, no.

20 MS. SACCOCCIO BRANNAN: Oh, sorry.

21 THE COMMISSIONER: What I'm trying to get at
22 is if you tell us what page, the clerk will be able to put
23 it on the screen.

24 MS. SACCOCCIO BRANNAN: Oh, I'm sorry. The
25 document number or the Bates page -- 7044627.

1 Now, Officer Hamelink, I believe in your
2 evidence you indicated that you had reviewed the evidence
3 of Officer McDonell.

4 **THE COMMISSIONER:** Can you scroll up again,
5 Madam Clerk, so I can see who this is all about?

6 Okay. Right. Sorry, van Diepen; okay.

7 **MR. HAMELINK:** The transcripts.

8 **MS. SACCOCCIO BRANNAN:** You reviewed the
9 transcripts?

10 **MR. HAMELINK:** Yes, ma'am.

11 **MS. SACCOCCIO BRANNAN:** And in reviewing
12 those transcripts do you recall that this particular
13 document was put to Officer McDonell?

14 **MR. HAMELINK:** Yes.

15 **MS. SACCOCCIO BRANNAN:** And during that
16 exchange with Commission counsel there was a discussion
17 regarding the changes made on the document that's in front
18 of you, Exhibit 1063.

19 **MR. HAMELINK:** Yes.

20 **MS. SACCOCCIO BRANNAN:** If you look at those
21 changes or even on the first page, Bates page 4627 at the
22 bottom, is any of that handwriting your handwriting?

23 **MR. HAMELINK:** No, ma'am.

24 **MS. SACCOCCIO BRANNAN:** And if I take you to
25 the last page, 4630, you'll that there's a date there. Can

1 you read that date?

2 **MR. HAMELINK:** 04 Aug '98.

3 **MS. SACCOCCIO BRANNAN:** So August the 4th of
4 1998. And there's a signature. Do you recognize that
5 signature?

6 **MR. HAMELINK:** I do not.

7 **MS. SACCOCCIO BRANNAN:** Now, it was Officer
8 McDonell's evidence that these changes were actually made
9 by Mr. van Diepen but the date on here is August the 4th of
10 1998. Your extortion investigation was completed with the
11 return of the letter from Crown Griffiths in October of
12 1994.

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

14 **MS. SACCOCCIO BRANNAN:** Do you have ---

15 **THE COMMISSIONER:** Can you flip to the top
16 of the -- sorry -- Madam Clerk, can you screen right up?
17 No, no, back to the first page. Go ahead. Yeah, okay.

18 **MS. SACCOCCIO BRANNAN:** This is indeed the
19 statement taken by Genier and McDonell. The point is that
20 something happened on August the 4th of 1998.

21 Do you have a recollection, Officer
22 Hamelink, as to whether or not the interview report of Jos
23 van Diepen that was in the *R v Silmser* Crown brief had any
24 handwritten changes on it? And this has to be your
25 recollection; do you have a recollection?

1 **MR. HAMELINK:** No, I don't.

2 **MS. SACCOCCIO BRANNAN:** Mr. Commissioner,
3 I'd like to draw your attention to Document 725557 which is
4 Exhibit 1085.

5 **THE COMMISSIONER:** Ten-eighty-five (1085), I
6 don't know that we have that one.

7 **MS. SACCOCCIO BRANNAN:** That -- yeah, I'm
8 sorry, is that it up there now?

9 Now, Madam Clerk, can you scroll down on
10 this -- sorry.

11 **THE COMMISSIONER:** Hold on.

12 **MS. SACCOCCIO BRANNAN:** Sorry.

13 **THE COMMISSIONER:** Are we still on van
14 Diepen's statement?

15 **MS. SACCOCCIO BRANNAN:** Yes, we're still on
16 van Diepen but this is another document number. This
17 document, Mr. Commissioner, is a document that has already
18 been made an exhibit, Exhibit 1085.

19 **THE COMMISSIONER:** Yes, I know that. With
20 the changes?

21 **MS. SACCOCCIO BRANNAN:** Without -- without
22 there being any changes.

23 **THE COMMISSIONER:** The new one now? The one
24 you're referring to now, right?

25 **MS. SACCOCCIO BRANNAN:** Yes, correct.

1 THE COMMISSIONER: Yes, 1075?

2 MS. SACCOCCIO BRANNAN: Yes.

3 THE COMMISSIONER: Yes.

4 MS. SACCOCCIO BRANNAN: M'hm.

5 And, Officer Hamelink, if you look at that
6 document, you'll see that there are no changes on that
7 particular document?

8 MR. HAMELINK: I'm getting it, Ms. Brannan.

9 MS. SACCOCCIO BRANNAN: Oh, I'm sorry.

10 MR. HAMELINK: That's correct, ma'am, there
11 are no changes on that one.

12 MS. SACCOCCIO BRANNAN: And, Mr.
13 Commissioner, the source for this particular document ---

14 THE COMMISSIONER: Which one?

15 MS. SACCOCCIO BRANNAN: --- on the CPI hard
16 drive.

17 THE COMMISSIONER: The 1085 one?

18 MS. SACCOCCIO BRANNAN: The 1085 one is the
19 *R vs Silmser* brief.

20 THE COMMISSIONER: From the CPI, Cornwall
21 Police?

22 MS. SACCOCCIO BRANNAN: I beg your pardon?
23 The Crown brief, yes.

24 THE COMMISSIONER: Yes. Well you, said CPI.

25 MS. SACCOCCIO BRANNAN: It's from the CPI

1 hard drive.

2 THE COMMISSIONER: Yes.

3 MS. SACCOCCIO BRANNAN: And the source on
4 the CPI hard drive for this document, without any changes,
5 is *R vs Silmser*.

6 And the last document in this area that I
7 wish to cover, Mr. Commissioner, is Exhibit 1175.

8 (SHORT PAUSE/COURTE PAUSE)

9 MR. HAMELINK: Yes, ma'am, I'm there.

10 MS. SACCOCCIO BRANNAN: Do you recognize
11 this document, Officer Hamelink?

12 MR. HAMELINK: I do.

13 MS. SACCOCCIO BRANNAN: What document is
14 this?

15 MR. HAMELINK: That is the handwritten
16 statement from Jos van Diepen, taken on the 14th of
17 February, 1994 by Officers Genier and Chris McDonell.

18 MS. SACCOCCIO BRANNAN: Now, when Officer
19 McDonell was in the stand, Commission counsel brought to
20 Officer McDonell's attention the fact that Mr. van Diepen
21 had suggested in his -- or had said in his evidence that
22 this statement was taken while they were standing at the
23 door.

24 If you look at the box beside the date, the
25 statement begins at 9 -- looks like 45 hours?

1 MR. HAMELINK: Correct.

2 MS. SACCOCCIO BRANNAN: And goes to 11:35
3 hours.

4 MR. HAMELINK: Correct.

5 MS. SACCOCCIO BRANNAN: Almost a two-hour
6 statement about -- what about 110, 120 minutes?

7 MR. HAMELINK: Yes, ma'am.

8 MS. SACCOCCIO BRANNAN: Now you weren't
9 there but you've taken statements -- many statements over
10 your years as an officer?

11 MR. HAMELINK: Numerous statements, ma'am.

12 MS. SACCOCCIO BRANNAN: And have those been
13 handwritten statements?

14 MR. HAMELINK: Yes.

15 MS. SACCOCCIO BRANNAN: And when you take
16 these handwritten statements of an interview that would be
17 some 100 -- maybe 120 minutes, do you think it's possible
18 to do that standing at a door; from your own opinion?

19 MR. HAMELINK: From my opinion, ma'am?

20 MS. SACCOCCIO BRANNAN: Yes.

21 MR. HAMELINK: No.

22 MS. JONES: I don't see how this witness
23 could comment on something like that. We've addressed that
24 issue.

25 THE COMMISSIONER: It's okay. It has been

1 addressed, it's his opinion. Carry on.

2 **MS. SACCOCCIO BRANNAN:** Correct.

3 I have one last area to cover with Officer
4 Hamelink and it arises out of Commission counsel and then
5 Mr. Neville addressing -- the questioning yesterday, Mr.
6 Hamelink, when you were asked when reviewing the Malcolm
7 MacDonald statement, you said that there were -- you went
8 to check out whether or not David Silmsler had gone to the
9 police and you had recalled some notes and today Mr.
10 Neville took you to Heidi Sebalj's statement.

11 I'd like to take you to Exhibit Number 1031
12 which is your notes and in particular to Bates page 8282.

13 **MR. HAMELINK:** Eight-two-eight-two (8282),
14 ma'am?

15 **MS. SACCOCCIO BRANNAN:** Yes.

16 And I draw your attention to the top of the
17 page, that's Wednesday, July the 20th. Do you have those?

18 **MR. HAMELINK:** Yes, I do.

19 **MS. SACCOCCIO BRANNAN:** What were you doing
20 on Wednesday, July the 20th of 1994, according to your
21 notes?

22 **MR. HAMELINK:** At 08:15 hours, I attended at
23 the Cornwall Police Department to interview Heidi Sebalj,
24 Constable Heidi Sebalj.

25 **MS. SACCOCCIO BRANNAN:** And then am I given

1 to understand that the handwriting that follows is -- are
2 notes that you're taking during the interview with Officer
3 Sebalj?

4 **MR. HAMELINK:** That would be correct.

5 **MS. SACCOCCIO BRANNAN:** So I'd like to draw
6 your attention to -- underneath the wording "photocopy of
7 the statement to PC Sebalj" and it says:

8 "Contact with David Silmser, initial
9 interview June 13th, '93".

10 **THE COMMISSIONER:** January.

11 **MR. HAMELINK:** That's January.

12 **MS. SACCOCCIO BRANNAN:** Sorry, "January 13th,
13 1993". Then you see:

14 "January 28, '93, follow-up interview
15 received complaint re: sexually
16 assaulted by Ken Seguin".

17 **MR. HAMELINK:** Yes.

18 **MS. SACCOCCIO BRANNAN:** And the third
19 reference, February 16th of 1993:

20 "Silmser delivered his written
21 statement to PC Sebalj. In it he
22 related he had been repeatedly sexually
23 assaulted by Seguin."

24 Are these the notes that you were -- that
25 you thought you had read with -- sorry, you were thinking

1 of when you said that you had gone to check out whether or
2 not Malcolm was correct and that David Silmsler -- pardon
3 me, that David Silmsler had gone to the police?

4 **MR. HAMELINK:** Yes, ma'am.

5 **MS. SACCOCCIO BRANNAN:** Those are my
6 questions, Mr. Commissioner.

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

8 Ms. Jones, do you have any questions?

9 --- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MS. JONES:

10 **MS. JONES:** I actually just want to clarify
11 on that very last point.

12 The actual comment you made yesterday was in
13 response to a question that I had concerning follow-up by
14 the police, and I'll just refer you to the specific area I
15 was looking at.

16 It's Exhibit 2571, Document 715455. And
17 that is the statement of Malcolm MacDonald on May 12th and
18 if we go down ---

19 **MR. HAMELINK:** I'm not there, ma'am.

20 **MS. JONES:** I'm sorry.

21 **MR. HAMELINK:** Two-five-seven-one (2571),
22 yes.

23 **MS. JONES:** If we go to the second paragraph
24 that starts on November 15th, 1993, just to get the
25 timeframe correct here. That's the first, starting -- if

1 Madam Clerk would just scroll down a bit on that so I can
2 have the complete full paragraph? Thank you. So:

3 "On November 15th, 1993, Ken was waiting
4 for me at his office when I came back
5 from court at 11:45 a.m. He starts to
6 describe what had happened."

7 Then a little -- halfway down the paragraph,
8 it says:

9 "I spoke to Silmser again later that
10 week."

11 So presuming it's still the week of November
12 15th.

13 "And he indicated at that time that he
14 had an appointment with City police on
15 Friday and he was prepared to cancel it
16 and wait for my reply next week."

17 **MR. HAMELINK:** Yes, I see that.

18 **MS. JONES:** So we're looking at a timeframe,
19 sometimes after November 15th, maybe between the 15th and
20 25th, something like that, in 1993.

21 **MR. HAMELINK:** Yes.

22 **MS. JONES:** And your response to my question
23 is did you do any follow-up to that? And yesterday, you
24 said it would be in the statement of Heidi Sebalj.

25 **MR. HAMELINK:** Yes.

1 **MS. JONES:** And I'm just wondering if you've
2 had a chance to review now Exhibit 0371, which is Document
3 725203, which you confirmed to Mr. Neville was the
4 statement that you were referring to yesterday?

5 **MR. HAMELINK:** Yes, it is.

6 **MS. JONES:** And I'm just wondering if you
7 could please direct us to where in the statement you had
8 made inquiries about that specific cancelled appointment in
9 November 1993?

10 **MR. HAMELINK:** And the ---

11 **MS. JONES:** It's Exhibit 371, Document
12 725203.

13 **MR. HAMELINK:** There is a lot of numbers
14 floating here and a lot of binders on this desk here. I'm
15 kind of running out of space, Ms. Jones. What was the ---

16 **THE COMMISSIONER:** Madam Clerk, could you
17 give him a hand?

18 Three seven one (371).

19 **MS. JONES:** Three seven one (371) is the
20 exhibit.

21 **MR. HAMELINK:** That's here. Thank you.
22 And your question, ma'am, please?

23 **MS. JONES:** My question to you was where in
24 this interview have you raised the issue of the
25 appointment? I don't see it anywhere.

1 It seems to follow chronologically, to make
2 this easier for you, and the last entry I see of Officer
3 Sebalj's that she refers to is actually on Bates page 8504
4 which is on page 7.

5 And about halfway down, it says:

6 "On September 29th, 1993, D.S. did meet
7 with me and confirmed that, and I
8 quote, 'I wish that this matter against
9 Charles MacDonald be closed.'"

10 **MR. HAMELINK:** Yes.

11 **MS. JONES:** Do you see that paragraph?

12 **MR. HAMELINK:** Yes, I do.

13 **MS. JONES:** In my reading of this statement,
14 that is the latest date that Officer Sebalj makes any
15 reference to September 29th, 1993. There is no reference to
16 any appointment that was made with her in November 1993.

17 **MR. HAMELINK:** Sorry, I don't understand.

18 **THE COMMISSIONER:** Well, here's the
19 situation. I think what she's getting at is that Malcolm
20 MacDonald is saying, "Look at, this probably was extortion
21 and what he did was he told me that he was going to cancel
22 his appointment with the police that he has on November
23 25th."

24 So the question was, "Okay, if I go back and
25 check with Sebalj and see whether he had an appointment on

1 November 25th, it may or may not give some credibility to
2 the -- or weight to the fact that he was using the police
3 to extort the money."

4 And so the question was, "Did you go back
5 and check to see if during the week of November 20th, around
6 that time, did Silmser really have an appointment with
7 Sebalj that he cancelled?"

8 Your answer there was:

9 "It's in Sebalj's statement someplace."

10 Mr. Neville comes up, shows you the
11 statement and now Ms. Jones is saying, "Well, it's not in
12 there."

13 **MR. HAMELINK:** Right.

14 **THE COMMISSIONER:** Okay?

15 **MR. HAMELINK:** I get it, Mr. Commissioner.

16 **THE COMMISSIONER:** Okay.

17 **MR. HAMELINK:** Yeah.

18 **THE COMMISSIONER:** So I guess the question
19 again is did you ever go back -- now that we're on the same
20 wavelength, I guess, did you ever go back and check and see
21 if he had an appointment around that time when Malcolm said
22 he had?

23 **MR. HAMELINK:** No.

24 **THE COMMISSIONER:** There you go.

25 **MS. JONES:** Thank you.

1 **THE COMMISSIONER:** Thank you.

2 **MS. JONES:** Those are my questions.

3 **THE COMMISSIONER:** Mr. Hamelink, thank you
4 very much for attending and agreeing to stay here for
5 today.

6 I certainly enjoyed your participation here
7 and I certainly will take your recommendations on.

8 **MR. HAMELINK:** Thank you, Mr. Commissioner.

9 **THE COMMISSIONER:** Thank you.

10 Let's close up. We're coming back Monday
11 morning at 9:30.

12 Thank you.

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

15 This hearing is adjourned until Monday
16 morning at 9:30 a.m.

17 --- Upon adjourning at 12:40 p.m. /

18 --- L'audience est ajournée à 12h40

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C E R T I F I C A T I O N

I, Dale Waterman a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Dale Waterman, CVR-CM