

**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 70

Held at :

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

Friday, November 17, 2006

Tenue à:

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

Vendredi, le 17 novembre 2006

Appearances/Comparutions

Mr. Pierre R. Dumais M ^e Simon Ruel	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff Actg.Det.Supt.Colleen McQuade Ms. Suzanne Costom Ms. Diane Lahaie Dect.Staff Sgt.Colin Groskopf	Ontario Provincial Police
Mr. Joe Neuberger Mr. Mike Lawless	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Peter Wardle	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Scott Seguin and Bishop Eugene LaRocque
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. John Morris	Mr. Albert Roy

Table of Contents / Table des matières

	Page
List of Exhibits :	iv
Opening statement by/Déclaration d'ouverture par Mr. Pierre Dumais	1
ALBERT ROY, Resumed/Sous le même serment	3
Cross-Examination by/Contre-interrogatoire par Mr. Joe Neuberger	3
Cross-Examination by/Contre-interrogatoire par Ms. Suzanne Costom	12
Cross-Examination by/Contre-interrogatoire par Mr. Mark Wallace	71
Submission by/Représentation par Mr. Peter Chisholm	86
Reply in support by/Réplique en support par Mr. Darrell Kloeze	91
Reply by/Réplique par Mr. John Callaghan	92
Ruling on application for confidentiality relating the Identity of Father Charles MacDonald/Décision sur requête Pour confidentialité en reference à l'identité du Père Charles MacDonald	99
ALBERT ROY, Resumed/Sous le même serment	113
Cross-Examination by/Contre-interrogatoire par Mr. Mark Wallace(cont'd/suite)	113
Submission by/Représentation par Mr. John Morris	142

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-136	EX 136 (document # 715436) Albert Roy - Interview Report - December 6, 1994 - Handwritten Copy	126

1 --- Upon commencing at 9:34 a.m./

2 L'audience débute à 9h34

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Good morning, all.

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

12 **THE COMMISSIONER:** Good morning, Mr. Roy.

13 **MR. DUMAIS:** So we've got Mr. Albert Roy
14 back on the stand. We left off last Friday, Commissioner,
15 Mr. Neuberger for Probations and Corrections was in the
16 middle of his cross-examination. I believe a document had
17 been put to Albert which he had not read yet. I understand
18 now that he's had the opportunity to review that.

19 Just as to what I'm proposing as to how we
20 should proceed this morning, Commissioner, I've asked
21 Probations and Corrections to finish up their cross-
22 examination of Mr. Roy. I then ask the OPP to go ahead
23 with their cross-examination, reserving the right to
24 perhaps cross-examine on issues that Mr. Callaghan has
25 raised last week as well. I believe the OPPA wishes to

1 cross-examine Mr. Roy as well and they may actually come
2 out of order. I don't know if a decision has been made.

3 Then we've made contact with Mr. John
4 Morris, provided him with some documents. I believe Mr.
5 Roy has spoken to him on a few occasions this week. He
6 took the 6:35 a.m. train from Toronto this morning. He's
7 expected to be here in Cornwall at around 11:00-11:15.

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

9 **MR. DUMAIS:** What I told Mr. Morris is that
10 he would be given the opportunity to meet with Albert
11 before we go ahead and continue on with the cross-
12 examination of Mr. Callaghan.

13 **THE COMMISSIONER:** All right.

14 **MR. DUMAIS:** So if we can start with Mr.
15 Neuberger?

16 **THE COMMISSIONER:** Thank you.

17 Good morning, sir. How are you doing today?

18 **MR. ROY:** All right.

19 **THE COMMISSIONER:** Good. So you understand
20 you're still under oath?

21 **MR. ROY:** All right.

22 **THE COMMISSIONER:** And so again, sir, if at
23 any time you want to take a break just don't hesitate to
24 tell me, and if there is something you don't understand or
25 don't feel comfortable with, just tell me that as well.

1 All right?

2 MR. ROY: Okay.

3 THE COMMISSIONER: Thank you.

4 MR. NEUBERGER: Good morning, Mr.
5 Commissioner.

6 THE COMMISSIONER: Good morning, sir.

7 ALBERT ROY, Resumed/Sous le même serment:

8 ---CROSS-EXAMINATION BY/CONTRE INTERROGATOIRE PAR MR.
9 NEUBERGER (cont'd/suite):

10 MR. NEUBERGER: Good morning, Mr. Roy.

11 MR. ROY: Good morning.

12 MR. NEUBERGER: Just by way of review for a
13 moment, when you were giving your evidence on November 9th,
14 and in case you want a page reference, we're talking about
15 Volume 67 of the transcript, which I've alerted Madam Clerk
16 about and, in particular, evidence which is transcribed at
17 page 57. You had indicated, Mr. Roy ---

18 MR. ROY: Can I find the page first?

19 THE COMMISSIONER: That's a pretty good
20 idea.

21 MR. ROY: Fifty-seven (57)?

22 THE COMMISSIONER: Fifty-seven (57).

23 MR. ROY: All right.

24 MR. NEUBERGER: It might be best if you
25 listen to me rather than read when I'm asking a question

1 because that way you can actually hear what I'm asking you.
2 Okay?

3 On November 9th you had indicated that after
4 disclosing to Ken Seguin about the abuse you were suffering
5 from Nelson Barque, that we know that he began to abuse
6 you, but that you felt after telling Mr. Ken Seguin what
7 happened that you had nowhere else to go, correct?

8 **MR. ROY:** Correct.

9 **MR. NEUBERGER:** And this was based on where
10 the Probation office was in relation to where the police
11 officers were and the court and the lawyers, because you
12 saw the probation officers, as you indicated, talking and
13 joking with police, slapping each other on the back and
14 police and lawyers shaking hands. This was something you
15 had seen ongoing, correct?

16 **MR. ROY:** Correct.

17 **MR. NEUBERGER:** All right.

18 And I guess in your mind you were thinking
19 that Probation was so involved with the police and with
20 lawyers that there was just nowhere else to turn after you
21 spoke with the person who you thought you should have
22 spoken to, that being Ken Seguin.

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

24 **MR. NEUBERGER:** Okay.

25 **MR. ROY:** The thing is too, Ken had also

1 told me that if I told the police he'd be the first one to
2 know.

3 **MR. NEUBERGER:** Okay. And that was after
4 you had disclosed this to Ken. So at the time that you
5 disclosed it to Ken Seguin and you're thinking he's kind of
6 in a supervisory role, this is the person I should disclose
7 it to, then he becomes an abuser, and during the course of
8 that abuse he's telling you, "If you tell the police I'm
9 going to know about it."

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

11 **MR. NEUBERGER:** And that was similar to the
12 threat he held over you about, you know, you'll go back to
13 jail, correct?

14 **MR. ROY:** Well, go to jail. I'd never been
15 to jail.

16 **MR. NEUBERGER:** Okay. And ---

17 **THE COMMISSIONER:** Good point.

18 **MR. NEUBERGER:** I take it when you were
19 arrested originally you were put into custody?

20 **MR. ROY:** No.

21 **MR. NEUBERGER:** You were just released on a
22 promise to appear?

23 **MR. ROY:** Yes.

24 **MR. NEUBERGER:** Okay. So any experience of
25 jail would have been a terrifying thought for you then ---

1 **MR. ROY:** Yes.

2 **MR. NEUBERGER:** --- when you were in the
3 clutches of Mr. Seguin. Is that correct?

4 **MR. ROY:** Yes.

5 **MR. NEUBERGER:** All right.

6 And that's something which remained in your
7 mind for years. This type of threatening behaviour from
8 Mr. Ken Seguin was something that remained in your mind and
9 impacted on you for a number of years. Is that fair?

10 **MR. ROY:** Yes. I had a hard time being
11 alone with a male figure. I had two different reactions.
12 If I felt threatened, I would either close down and be very
13 intimidated or I would act out aggressively. So it made it
14 difficult for me to hold down jobs and, you know, have a --
15 do sports, that sort of thing.

16 **MR. NEUBERGER:** And also it made you very
17 fearful of people in authority?

18 **MR. ROY:** Yes.

19 **MR. NEUBERGER:** And you became, quite
20 understandably, mistrustful of people in authority and
21 most, in particular, male persons in authority. Is that
22 fair?

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

24 **MR. NEUBERGER:** All right.

25 And as I was indicating on the last day,

1 it's a period of about, I guess, 14 years from when the
2 abuse ends in 1977 to when you start disclosing and
3 obtaining therapy in 1991. Is that fair?

4 **MR. ROY:** Yes.

5 **MR. NEUBERGER:** All right.

6 And during that time period you struggle
7 with this alone?

8 **MR. ROY:** Yes.

9 **MR. NEUBERGER:** You don't really have a
10 support network that's sufficient to help you deal with all
11 of this ---

12 **MR. ROY:** No.

13 **MR. NEUBERGER:** --- difficulty and trauma
14 that you have?

15 **MR. ROY:** Well, I didn't trust going to see
16 anybody because -- I don't mean to sound rude but, like, I
17 thought of all social workers and people like that as all
18 molesters, gays.

19 **MR. NEUBERGER:** And this extended to all
20 persons in authority. Is that fair?

21 **MR. ROY:** Yes.

22 **MR. NEUBERGER:** All right.

23 And what also I was indicating is that even
24 in your own social network you just didn't have the
25 supports that maybe other people would have to speak with

1 people who are close to you about how you were feeling
2 emotionally. Is that fair?

3 MR. ROY: If you're talking about my mom and
4 dad, no.

5 MR. NEUBERGER: Or even close friends or
6 other relations?

7 MR. ROY: Not really.

8 MR. NEUBERGER: So you were alone?

9 MR. ROY: Not about something like that.

10 MR. NEUBERGER: You were alone?

11 MR. ROY: Yes.

12 MR. NEUBERGER: All right.

13 Now, I want to just ask you, the point of me
14 asking you some questions about the investigation in 1982
15 was that I quite understand that one of the things that
16 strikes you is that in 1982 or some period afterward nobody
17 contacted you. And what you're referring to is that when
18 you found out that Mr. Don Johnson was a Crown Attorney who
19 Probation Services had went to for advices to prosecution
20 and he did nothing, well, "The Crown Attorney didn't
21 contact me. Probation Services didn't check the clients of
22 Mr. Barque. Police didn't contact me. Nobody contacted
23 me." Right?

24 MR. ROY: That's correct.

25 MR. NEUBERGER: And to be fair, we know that

1 from 1977 to 1991 you yourself did not disclose the abuse
2 that you suffered to anybody?

3 MR. ROY: No.

4 MR. NEUBERGER: Okay. Now ---

5 MR. ROY: There's a -- when I was in
6 disclosures (sic), there's a document that I ---

7 MR. NEUBERGER: You mean discoveries. Is
8 that what you mean?

9 MR. ROY: Well, whenever their lawyer got to
10 ask me questions and they ---

11 MR. NEUBERGER: Okay.

12 MR. ROY: Oh, no, the other way around.
13 Sorry. When my lawyer got to ask them questions.

14 MR. NEUBERGER: Okay. And are you talking
15 about your civil proceedings with the Ministry of Community
16 Safety and Correctional Services?

17 MR. ROY: Yes, I am.

18 MR. NEUBERGER: Okay. And I'm just going to
19 let you know I'm not aware of those documents or the
20 discovery process ---

21 MR. ROY: I think I have ---

22 MR. NEUBERGER: --- because I don't have any
23 of those documents.

24 MR. ROY: I filed them. You guys have them.

25 MR. NEUBERGER: I don't.

1 But in any event, what did you want to say?

2 MR. ROY: Well, in that document it states
3 that they asked Nelson if he abused anybody else and in the
4 document it states that they were unclear whether his
5 answer was yes or no.

6 MR. NEUBERGER: And I guess from your
7 perspective it's sort of silly to rely on what Mr. Barque
8 says, correct?

9 MR. ROY: That's correct.

10 MR. NEUBERGER: And I understand that.

11 But what I want to ask is, is that as far as
12 the timing is concerned, you understood from at least the
13 documents that you reviewed and the document that I
14 provided you that Nelson Barque, in May, May 4th of 1982,
15 tendered his resignation because of that investigation,
16 correct?

17 MR. ROY: And the investigation was stopped
18 because he tendered his resignation. I mean, in your
19 document it says that ---

20 MR. NEUBERGER: Right.

21 MR. ROY: --- five, six times.

22 MR. NEUBERGER: But you do know as well that
23 the investigation went from Probation Services all the way
24 up to a senior government official and then to the Crown's
25 office for review if there was any basis for a prosecution.

1 Is that correct?

2 MR. ROY: Yes.

3 MR. NEUBERGER: Okay. Now, if somebody from
4 Probation Services had contacted you between 1977 and 1991,
5 a person that you would have looked at like a probation
6 officer or an investigator from Probations, a person in
7 authority, is it reasonable to assume that given your
8 mistrust and experiences that you had, you probably
9 wouldn't have opened up and spoken to that person in any
10 event?

11 MR. ROY: I think mainly it would have
12 depended on the person, how they came across. If they came
13 across that they really wanted to know, and I think it
14 depends on who it would have been. I think my answer would
15 have to be I don't know. It would all depend on the person
16 and how they approached me.

17 MR. NEUBERGER: And to be fair, it took an
18 awful lot of assistance in 1991, with very caring people,
19 to get you to the point that you were comfortable to
20 actually speak, maybe not even in great detail, but just
21 speak about what happened. Is that fair?

22 MR. ROY: That's fair.

23 MR. NEUBERGER: Mr. Roy, thank you and I
24 wish you the best for the future.

25 Thank you, Mr. Commissioner.

1 **THE COMMISSIONER:** Thank you.

2 **MS. COSTOM:** Good morning, Commissioner.

3 **THE COMMISSIONER:** Good morning.

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

5 **COSTOM:**

6 **MS. COSTOM:** Good morning, Mr. Roy.

7 I am Suzanne Costom and I am one of the
8 lawyers representing the OPP at the Inquiry.

9 I can't even imagine how difficult this must
10 be for you because you've gone through clearly horrible
11 things and we're asking you to relive them in the hopes
12 that it will be helpful to you, but also of course in the
13 hopes that it will be beneficial in some way to the greater
14 community.

15 I take from your testimony that one of the
16 things that has been so difficult for you throughout the
17 whole process -- and when I talk about the process I mean
18 the process back in 1994 and 1995 when you disclosed this
19 finally to the police -- is that there was a frustration on
20 your part for not understanding the process. Is that
21 correct?

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

23 **MS. COSTOM:** That those people who were
24 involved in the process never took the time to look at
25 things from the victim's point of view. Is that correct?

1 **MR. ROY:** Correct.

2 **MS. COSTOM:** From your point of view?

3 **MR. ROY:** Yes.

4 **MS. COSTOM:** So what I thought that we could
5 do today is go through the process by referring to some of
6 the documents that we've looked at together, and in doing
7 so I'm going to ask you a couple of questions about things
8 that I would like to hear clarifications on that maybe will
9 also help you understand a little bit more how things
10 worked. Is that okay?

11 **MR. ROY:** Okay.

12 **MS. COSTOM:** Okay. I want to start, first
13 of all, with a little bit of context, and we talked about
14 this last week but it's been a week. The abuse by Ken
15 Seguin and Nelson Barque happened in 1977.

16 **MR. ROY:** Yes.

17 **MS. COSTOM:** And you told no one about it, I
18 mean, other than, of course, Ken. You told no one about it
19 except for possibly a social worker in the early 80s ---

20 **MR. ROY:** Yes.

21 **MS. COSTOM:** --- the very early 80's. But
22 then in the lat '80s, early '90s a male nurse tried to
23 restrain you ---

24 **MR. ROY:** Yes.

25 **MS. COSTOM:** --- when you were hospitalized.

1 MR. ROY: Yes.

2 MS. COSTOM: And that was one trigger which
3 ultimately led you to disclose to your social worker and to
4 your psychiatrist. Is that correct?

5 MR. ROY: Yes.

6 MS. COSTOM: And you also were having
7 recurring nightmares during that period about someone
8 trying to harm your son. Is that correct?

9 MR. ROY: Yes.

10 MS. COSTOM: And those were two significant
11 triggers which led you to ultimately disclose the fact of
12 having been abused to Bob Payette, who was your social
13 worker?

14 MR. ROY: Yes.

15 MS. COSTOM: And you also disclosed it to
16 Dr. Almudevar, who was your psychiatrist?

17 MR. ROY: Yes.

18 MS. COSTOM: And you didn't give them any
19 specific details, other than you had been abused by two
20 probation officers. Is that correct?

21 MR. ROY: In the beginning, yes.

22 MS. COSTOM: Okay. Now, my friend, Mr.
23 Callaghan, who is the lawyer for the Cornwall Police
24 Service, explored with you a little bit last week the
25 different reactions that Bob Payette had and Dr. Almudevar

1 had in terms of what your responsibility was or what you
2 should do, I should say, about going to the authorities.
3 Do you remember that?

4 **MR. ROY:** Yes.

5 **MS. COSTOM:** And he had pointed out, and I
6 think you agreed, that Mr. Payette felt that you had a
7 responsibility to go forward so as to make sure that no
8 other children would be abused by Mr. Barque. Is that an
9 accurate description of his recommendation to you?

10 **MR. ROY:** Yes.

11 **MS. COSTOM:** And Dr. Almudevar tried to look
12 at it more from the point of view of your best interests
13 and he felt, in late 1994, that you weren't stable enough,
14 that you needed to get more stable because going to the
15 authorities was going to be really, really stressful. Is
16 that correct?

17 **MR. ROY:** Yes.

18 **MS. COSTOM:** Okay.

19 **MR. ROY:** He was having trouble -- he was
20 having trouble finding a medication to help me because I --
21 most manic depressives get Lithium, but I had a bad
22 reaction to the Lithium, so he had to find other, and he
23 was having a hard time finding the right medication.

24 **MS. COSTOM:** And that was happening right
25 about the time that you actually went and started the

1 process with Constable Sebalj; that's correct?

2 MR. ROY: Yes.

3 MS. COSTOM: Okay. So Bob Payette
4 ultimately prevailed upon you and he arranges for you to go
5 see Constable Sebalj at the CPS, the Cornwall Police
6 Service?

7 MR. ROY: In some way. Like, I don't
8 remember how exactly it happened. I'm pretty sure he
9 called either to set up something with Heidi or to find out
10 if they had a female police officer I could talk to.

11 MS. COSTOM: Okay. Because as you said, he
12 knew that it was really, really important that you speak to
13 a female because of your fears of being with men in
14 authority?

15 MR. ROY: Yes. I told him there would have
16 to at least be a female present.

17 MS. COSTOM: Okay. And he knew that you had
18 issues with sort of physical space and proximity to men and
19 of feeling threatened by men?

20 MR. ROY: Yes.

21 MS. COSTOM: Okay. And that's why it was so
22 important for you to be at least with one female police
23 officer?

24 MR. ROY: Yes.

25 MS. COSTOM: Okay. And in fact, he was

1 right because it worked out well; you ended up trusting
2 Constable Sebalj. Is that correct?

3 MR. ROY: Yes.

4 MS. COSTOM: Okay.

5 MR. ROY: I trusted her partner too. He was
6 really good to me.

7 MS. COSTOM: Okay. Although she was the
8 one, you would agree, that was leading the interrogation --
9 -

10 MR. ROY: Yes.

11 MS. COSTOM: --- and sort of leading the
12 show, if you will?

13 MR. ROY: Yes.

14 MS. COSTOM: Okay. I want to ask you, Mr.
15 Roy, are you familiar with the practice that officers have
16 of taking notes or keeping notebooks of their activities?

17 MR. ROY: Like, are you asking me what I saw
18 them do?

19 MS. COSTOM: Well, I'm asking you in
20 general, from the point of view of the knowledge that you
21 have today, sitting here as a witness, whether you're aware
22 that officers keep what we call notebooks, which are sort
23 of daily logs of their activities?

24 MR. ROY: Well, from the papers I've seen,
25 yes.

1 **MS. COSTOM:** Okay. So, example, the notes
2 that you looked at with Maître Dumais, or with Mr. Dumais,
3 you had a look at Constable Sebalj's notebook, for example,
4 in which she keeps records of sort of when things happened
5 and who she did them with and sort of the details of the
6 day-to-day investigation?

7 **MR. ROY:** Yes.

8 **MS. COSTOM:** You've seen that?

9 **MR. ROY:** Yes.

10 **MS. COSTOM:** Okay. And if I tell you that
11 that's a practice that is recommended to all police
12 officers in their investigations, does that sound right t
13 you? If you have no knowledge of it, you can just tell me
14 you have no knowledge.

15 **MR. ROY:** I have no knowledge.

16 **MS. COSTOM:** Okay. All right.

17 So after having looked at Constable Sebalj's
18 notebook, you see that she keeps details of the dates that
19 things happened and the time that things happened and who
20 she was with when things happened? And I'm talking now
21 about the notebook as it relates to you.

22 **MR. ROY:** I can't remember Heidi's notebook.

23 **MS. COSTOM:** Okay. Well, we're going to
24 look at that. We're going to look at that in a second. I
25 just was going to bring you there.

1 Would you agree -- would you agree, Mr. Roy,
2 that people like you and I don't generally keep sort of
3 daily logs of what we do on a day-to-day basis?

4 **MR. ROY:** No.

5 **MS. COSTOM:** Okay. And actually, if we did,
6 it would be really helpful to us to look back on them if we
7 were trying to remember something that we had done 12 years
8 ago. Is that correct?

9 **MR. ROY:** Yes.

10 **MS. COSTOM:** Okay. So you would agree that
11 Constable Sebalj's notes that were taken 12 years ago are a
12 pretty accurate depiction of what she was doing in those
13 days?

14 **THE COMMISSIONER:** Just a minute. If you're
15 -- now you're ---

16 **MS. COSTOM:** I'm going to rephrase the
17 question.

18 **THE COMMISSIONER:** Please.

19 **MS. COSTOM:** Yes.

20 **THE COMMISSIONER:** Please.

21 **MS. COSTOM:** Would you agree, Mr. Roy -- you
22 know, it's okay. I don't have to go any further.

23 You agree that if you had notes of what
24 happened 12 years ago it would help you refresh your
25 memory?

1 **MR. ROY:** Yes.

2 **MS. COSTOM:** Okay. And, in fact, you said a
3 number of times during your testimony -- and this isn't a
4 reproach because I would be in the same shoes as you --
5 that your memory was fuzzy in terms of chronology and times
6 and dates and things like that?

7 **MR. ROY:** Yes.

8 **MS. COSTOM:** Okay. And sometimes, actually,
9 documents and notes do refresh your memory, and I'll give
10 you the example of information from the Pre-Sentence Report
11 of Nelson Barque that was shown to you last week by my
12 friend in which it says that you were actually consulted in
13 the writing of that Pre-Sentence Report. And when that was
14 shown to you, it actually refreshed your memory, you told
15 us last week, that in fact you may have been consulted, in
16 fact were consulted in making the Pre-Sentence Report. Is
17 that correct? Do you remember that last week?

18 **MR. ROY:** Well, I don't remember the lady's
19 name, but it brought back memories of Heidi bringing me in
20 a room to talk to a lady. Whether that's the lady we're
21 talking about, I can't be 100 per cent sure, but I feel it
22 was.

23 **MS. COSTOM:** Okay. But certainly having a
24 look at that document triggered something for you?

25 **MR. ROY:** Yes.

1 **MS. COSTOM:** Okay. All right.

2 So I would like to look now at Exhibit 120
3 or Document 737612, which are the notes of Constable Sebalj
4 that we were just talking about.

5 **THE COMMISSIONER:** It is still a "C" exhibit
6 until five o'clock today.

7 **MS. COSTOM:** And we'll start at the very
8 beginning, which is Bates page 7158392. So it's the very
9 first page of her notes.

10 **THE COMMISSIONER:** Ma'am, could you assist?

11 **MR. ROY:** Am I looking for 120 here?

12 **THE REGISTRAR:** This is it. It's this page
13 right here, but I've got it up on the screen too.

14 **MR. ROY:** Okay.

15 **MS. COSTOM:** Okay. So, Mr. Roy, you've seen
16 this document before?

17 **MR. ROY:** Yes.

18 **MS. COSTOM:** This is the notebook entry of
19 Constable Heidi Sebalj on the 23rd of November 1994 when you
20 first enter her office?

21 **MR. ROY:** Yes.

22 **MS. COSTOM:** Okay. And it says quite close
23 to the top, after the sort of indented section, that a male
24 who was very distraught enters the office, and she's
25 talking about you. Would you agree you were very

1 distraught when you entered the office?

2 **MR. ROY:** Yes.

3 **MS. COSTOM:** Okay. And she says now on the
4 next page, so Bates page 7158393 -- or you can just turn
5 the page -- about five lines down:

6 "Roy emotional. Wanted to discuss the
7 procedure."

8 So you would agree that you were emotional
9 when you spoke with Constable Sebalj at that time?

10 **MR. ROY:** Yes.

11 **MS. COSTOM:** You told us that.

12 **MR. ROY:** Yes.

13 **MS. COSTOM:** Okay. And so what happens then
14 is a meeting is scheduled for November the 24th, the next
15 day. Is that correct?

16 **MR. ROY:** Well, I guess so.

17 **MS. COSTOM:** Well, do you remember that you
18 sort of just wanted some particulars on the 23rd and then
19 you kind of made the decision that you would go ahead and
20 that you understood the procedure and you arranged to meet
21 with Constable Sebalj the next day?

22 **MR. ROY:** So what you're saying is that she
23 explained everything that would happen and I said I'd come
24 back the next day?

25 **MS. COSTOM:** Right. Well, I'm asking you if

1 ---

2 MR. ROY: I don't remember her explaining
3 what would happen. I thought I told her everything that
4 day, but I guess I didn't.

5 THE COMMISSIONER: Well, just a second.
6 First of all, we have to be careful with the notes. The
7 notes are not here for the truth of the contents unless
8 adopted by this gentleman, and what he says is he wanted to
9 discuss procedure. It doesn't say that they did in fact
10 discuss procedure.

11 MS. COSTOM: Which is why I'm asking him the
12 question as to what he remembers, Mr. Commissioner.

13 THE COMMISSIONER: Okay. All right.

14 So, sir, you have to be careful with these
15 notes in the sense that what we're asking is what you
16 remember. So just because it's written there, you don't
17 have to adopt it. You have to go back to what you can
18 remember. And it's okay to adopt part of it. I mean, if
19 you were distraught, you were distraught, but the nuances
20 are important.

21 So it says there that you were emotional and
22 you wanted to discuss procedure. All right? So now the
23 question is did you in fact -- do you remember if you in
24 fact talked about the procedure?

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

1 **THE COMMISSIONER:** You don't remember that?

2 **MR. ROY:** No.

3 **THE COMMISSIONER:** Okay.

4 **MS. COSTOM:** Do you remember -- and this is
5 actually the more important question in my mind for me --
6 do you remember that you arranged to go back the next day?

7 **MR. ROY:** No.

8 **MS. COSTOM:** And I guess why I'm asking you
9 these questions -- and really, I'm not trying to trap you
10 here, but what I'm -- is that you said in-chief that you
11 had this recollection of the first two meetings with
12 Constable Sebalj; namely, November 23rd and November 24th
13 being audio taped, and I was hoping that by looking at her
14 notes more closely you might remember.

15 **MR. ROY:** No, I don't think that's what I
16 said. I said -- what words did you use? They were written
17 and audio taped?

18 **MS. COSTOM:** No, audio taped, that the
19 meetings with Constable Sebalj, the first two meetings you
20 had thought were audio taped. You acknowledge that you
21 might have been mistaken about it, but that in your mind
22 you sort of remembered they had both been audio taped.

23 **MR. ROY:** I don't remember if I said both.
24 I'm saying that I believe she took notes and audio taped me
25 whenever she talked to me.

1 **MS. COSTOM:** Okay.

2 **MR. ROY:** And she spoke to you on the 23rd
3 and on the 24th?

4 **MR. ROY:** It seems to me that she -- even
5 the first time I seen her, she took out a tape recorder.

6 **MS. COSTOM:** Okay. So that's still how you
7 remember it?

8 **MR. ROY:** Yes.

9 **MS. COSTOM:** Okay. And by looking at these
10 notes, it doesn't sort of trigger for you that perhaps it
11 was a more general discussion on the 24th and a more
12 specific conversation that would have been taped on the 24th
13 -- excuse me, a general conversation on the 23rd and a more
14 specific conversation on the 24th? And if you don't
15 remember, sir, that's okay.

16 **MR. ROY:** All I can restate is that I think
17 in the beginning, anytime I talked to her it was on tape.

18 **MS. COSTOM:** Okay. All right.

19 So let's have a look now at the next page,
20 which is the 24th of November 1994, and it says at 9:34 that
21 she picks you up at your residence. Do you remember that
22 she used to come pick you up in her car from time to time?

23 **MR. ROY:** Yeah, because I didn't have a
24 vehicle at the time and I lived quite far. I lived in
25 Glenview.

1 **MS. COSTOM:** And then it says -- just so you
2 should understand, it says, "In YB with Roy", which I
3 understand is the Youth Bureau which is just a certain part
4 of the Cornwall Police Station. In fact, you went to the
5 Cornwall Police Station. Is that correct?

6 **MR. ROY:** Yes.

7 **MS. COSTOM:** Okay. And it says here that
8 you discussed the fact -- and these are her notes -- that
9 you had a troubled night and you were concerned about
10 ruining Nelson's life. Do you remember that discussion?

11 **MR. ROY:** No.

12 **THE COMMISSIONER:** Let's finish the
13 sentence; it might help. It says that you're concerned
14 about ruining Nelson's life, "but keeping himself on track
15 by thinking about the children."

16 **MR. ROY:** I don't remember the specific
17 words that I said. I mean, that sounds like something I
18 would have said.

19 **MS. COSTOM:** Okay. So without referring to
20 her notes per se, if I can ask you about your state of mind
21 at that time. Despite everything that this person has done
22 to you, you are feeling guilty and concerned that you were
23 going to ruin Mr. Barque's life. Is that where you're at
24 at the time? And again, this isn't a reproach. If
25 anything, it's a compliment.

1 **MR. ROY:** No, it's just that this is a hard
2 thing because -- I have a hard time because I still haven't
3 dealt with the fact that I took too long to -- I feel
4 responsible about some of the other people that -- I mean,
5 that was -- when my social worker finally talked to me
6 about what could be happening to other kids, it did
7 something inside me. I just felt -- you know, I had a son
8 of my own, so that was probably one of the things that was
9 foremost in my mind that I've got to do something now.

10 **MS. COSTOM:** That's why it says here you
11 were keeping yourself on track, thinking about the other
12 children.

13 So you would agree then it was complicated
14 because you had a lot of conflicting emotions. You're
15 worried and feel responsible about these other children and
16 yet at the same time you were feeling what might be
17 considered some irrational guilt about ruining Nelson's
18 life. Is that fair?

19 **MR. ROY:** I understand what that statement
20 is. It's because as a victim, you always feel that somehow
21 it was your fault. Especially because Ken and Nelson
22 abused me, it was like there was something about me that
23 made these men react this way.

24 **MS. COSTOM:** M'hm.

25 **MR. ROY:** I mean, it's something I still

1 kind of deal with, like, what did -- it's hard to
2 rationalize something that happened because you can't
3 really remember what you were like as a 16-year old. Your
4 emotional state or -- and then as an adult, you think why
5 didn't I do something? Why didn't I stop it? Why -- but
6 that's the adult thinking, you see?

7 **MS. COSTOM:** But you said they understand,
8 looking at this notebook entry, which says, "concerned
9 about ruining Nelson's life but keeping himself on track by
10 thinking about kids"; that notebook entry makes sense to
11 you, why she would have included that in her notes?

12 **MR. ROY:** Yes.

13 **MS. COSTOM:** It sounds like you?

14 **MR. ROY:** Yes.

15 **MS. COSTOM:** Okay.

16 **THE COMMISSIONER:** You understand, though,
17 Mr. Roy, that as an adult -- and I certainly don't want to
18 get into the counselling route or anything like that --
19 that as an adult, there is certainly no one here who ever
20 thinks that you're to blame for taking your time to come
21 here. You understand that, I think?

22 And I guess what I want to reinforce with
23 you is that now, as an adult, it's time to realize that you
24 were a child then or a youngster and that you are not to
25 blame for any of this. Do you understand that, sir?

1 **MR. ROY:** Yes.

2 **THE COMMISSIONER:** All right.

3 **MR. ROY:** I have to go.

4 **THE COMMISSIONER:** Sure. Let's take a
5 break.

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

8 The hearing will resume at 10:30.

9 --- Upon recessing at 10:07 a.m./

10 L'audience est suspendue à 10h07

11 --- Upon resuming at 10:28 a.m./

12 L'audience est reprise à 10h28

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

15 This hearing of the Cornwall Public Inquiry
16 is now in session.

17 Please be seated. Veuillez vous asseoir.

18 **THE COMMISSIONER:** Thank you.

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

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

21 **COSTOM (cont'd/suite):**

22 **THE COMMISSIONER:** Go ahead, Ms. Costom.

23 **MS. COSTOM:** Mr. Roy, please understand that
24 it is not my wish to upset you today, but there are a
25 number of questions that I feel need to be explored.

1 I am going to leave the subject that we were
2 talking about before the break in a minute, but I do have a
3 couple more questions that I have to ask you despite the
4 fact that I know how difficult it is for you.

5 MR. ROY: That's fine.

6 MS. COSTOM: We were talking about or I was
7 asking you about whether you would agree that you had these
8 sort of complicated, conflicting emotions.

9 MR. ROY: Yes.

10 MS. COSTOM: On one hand, feeling
11 responsible for the children and on the other hand, in some
12 irrational way, concerned about the impact that all of this
13 is going to have on Nelson.

14 MR. ROY: Actually, more his family than
15 Nelson.

16 MS. COSTOM: His family. Okay.

17 I am going to ask you a difficult question.
18 You knew by November of '94 what had come of Ken Séguin.
19 Is that correct?

20 MR. ROY: Yes.

21 MS. COSTOM: Okay. And you were concerned
22 in part of this big confusion in your mind that perhaps the
23 same thing would happen to Nelson when he was denounced.
24 Is that correct?

25 MR. ROY: Are you asking about like right

1 then when I was talking to her or like ---

2 **MS. COSTOM:** I'm asking you in general in
3 1994, during this period when you went to the police,
4 whether you were worried in some way that perhaps Nelson
5 was going to take his life or whether the thought crossed
6 your mind is perhaps ---

7 **MR. ROY:** I believe it did cross my mind,
8 yes.

9 **MS. COSTOM:** Okay. Now, I am going to turn
10 a few pages later ---

11 **THE COMMISSIONER:** In fairness though, okay,
12 the thought crossed your mind that Nelson might take his
13 life. Was that a concern for you or was it just something
14 that crossed your mind and you said, well, if that happens,
15 it happens?

16 **MR. ROY:** During this time, it was confusing
17 because you go through emotions of being angry and then
18 guilty and everything. I remember a part where they asked
19 about when Ken died, and I said I snickered and said he got
20 off easy. I mean, that was just the anger talking at the
21 time. I mean, I'm not happy that anybody died over this.
22 You just go through those emotions. It's confusing.

23 **MS. COSTOM:** Okay. Now, I am going to go
24 one, two, three pages later to 7158397, Bates number
25 7158397. You have that, Mr. Roy?

1 **MR. ROY:** Yes.

2 **MS. COSTOM:** Okay. And just to situate you,
3 these are the notes, which Constable Sebalj was taking
4 during your lengthy interview on that date in which you
5 discussed the abuse that you had suffered. About two-
6 thirds of the way down the page, she has a note here, and
7 it starts with the word "Spontaneous".

8 **THE COMMISSIONER:** I don't see it.

9 **MS. COSTOM:** Bates 7158397, is that where we
10 are? Yes. A little further down, there we go,
11 "Spontaneous".

12 **THE COMMISSIONER:** "Spontaneous".

13 **MR. ROY:** "Glad you're not a guy"?

14 **MS. COSTOM:** Yes. "Glad you're not a guy.
15 I'm 34 and I'm still afraid to be alone with a man in a
16 room."

17 Again, without concentrating on the specific
18 words, would you have expressed to Constable Sebalj your
19 happiness in the fact that she was a woman and that this
20 exercise of disclosure was being done to a woman?

21 **MR. ROY:** Yes.

22 **MS. COSTOM:** Okay. And the fact that you
23 were glad she wasn't a man?

24 **MR. ROY:** Yes.

25 **MS. COSTOM:** Now, in this statement that you

1 made on November the 24th, if I can sort of paraphrase it,
2 you discussed the grooming, if you will, that Nelson Barque
3 did with all of the inappropriate touching that happened
4 over a period of time. Is that correct?

5 MR. ROY: Yes.

6 MS. COSTOM: And then you discussed a
7 particular 24-hour period or I don't know if it was 24
8 hours, but a particular incident, if you will, that would
9 have started at a drive-in movie theatre in Glenwalter. Is
10 that correct?

11 MR. ROY: Yes.

12 MS. COSTOM: And then went on and continued
13 at Nelson Barque's -- what you thought was Nelson Barque's
14 home in St. Andrews?

15 MR. ROY: Yes.

16 MS. COSTOM: Are you aware that Glenwalter
17 falls within the OPP Lancaster Detachment jurisdiction?

18 MR. ROY: No.

19 MS. COSTOM: Are you aware that St. Andrews
20 falls within the OPP Long Sault detachment jurisdiction?

21 MR. ROY: At the time, no.

22 MS. COSTOM: At the time, you were aware?

23 MR. ROY: At the time of this, no ---

24 MS. COSTOM: Oh, this was ---

25 MR. ROY: --- I wasn't aware.

1 **MS. COSTOM:** Okay. And now you are aware?

2 **MR. ROY:** Yes.

3 **MS. COSTOM:** This is the first time you're
4 hearing that Glenwalter or the drive-in was part of the
5 Lancaster jurisdiction?

6 **MR. ROY:** Yes. I don't think anybody talked
7 to me about that.

8 **MS. COSTOM:** All right.

9 If we continue on in the process, the next
10 step after you've made this detailed statement to Constable
11 Sebalj outlining all of the various incidents is to try to
12 identify the location of Nelson Barque's house. Is that
13 correct?

14 **MR. ROY:** Yes.

15 **MS. COSTOM:** And Mr. Dumais asked you if you
16 remembered going with Constable Sebalj to look for the
17 house, and you said ---

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

19 **MS. COSTOM:** And he also asked you if you
20 remember going more than one time. And you said that you
21 thought it had been only once. Is that correct?

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

23 **MS. COSTOM:** Now, I am going to turn now to
24 Constable Sebalj's notes of the 25th of November, which
25 start at Bates page 7158400.

1 **MR. ROY:** Thank you.

2 **MS. COSTOM:** And they start at 09:06, which
3 is 9:06 in the morning, and it says that -- she writes:

4 "Roy home..."

5 On the second line:

6 "Roy home waiting in car; dressing..."

7 And then the next line:

8 "E/R to Island Road."

9 Which I understand to mean en route to
10 Island Road. On that day, do you remember she picked you
11 up and you headed together to Island Road?

12 **MR. ROY:** Yes.

13 **MS. COSTOM:** Okay.

14 **MR. ROY:** I didn't know the name of the
15 road, but yes.

16 **MS. COSTOM:** Your idea was to go look for
17 Nelson's house.

18 **MR. ROY:** Nelson's house, yes.

19 **MS. COSTOM:** Then the notes go on -- and
20 I'll ask the question, then I will give you time to read it
21 if it's going to help you -- to say that there was a white
22 bungalow on the road and you -- her notes say that "The
23 layout is right. My heart is pounding 50 miles a minute".

24 Do you remember seeing on that day with her
25 a house which caused you to have a physical reaction in the

1 sense that your heart was pounding?

2 MR. ROY: Yes.

3 MS. COSTOM: Okay. And the layout was
4 right?

5 MR. ROY: Yes.

6 MS. COSTOM: Then, later on that day -- and
7 I'm just moving down almost at the bottom of the page to
8 the entry at 10:30 -- Constable Sebalj drops you off at the
9 St. Lawrence Medical Clinic. Do you remember?

10 MR. ROY: I don't remember where she dropped
11 me off.

12 MS. COSTOM: You were still, of course,
13 undergoing treatment from Dr. Almudevar and of course
14 seeing Dr. Payette at that time?

15 MR. ROY: Yes.

16 MS. COSTOM: If you went to the St. Lawrence
17 Medical Clinic on that time, would it have been to see one
18 of those two people?

19 MR. ROY: It would be Dr. Almudevar.

20 MS. COSTOM: Dr. Almudevar, okay.

21 Then, the next entry, 11:25, she picks you
22 up at the clinic. And it doesn't really matter, I'm just
23 sort of trying to -- my point is that you saw her again
24 later that afternoon or later that morning, I should say.

25 If you turn to the next page, at 11:37,

1 there's a reference to the fact that Constable Sebalj would
2 have given you a paper and a pencil and asked you to try
3 and draw the layout of the house. Do you remember doing
4 that exercise of trying to draw the layout of the house?

5 **MR. ROY:** I don't remember doing it, no.

6 **MS. COSTOM:** You don't remember ever getting
7 a paper and a pencil from Constable Sebalj?

8 **MR. ROY:** No.

9 **MS. COSTOM:** Do you remember at any point in
10 these discussions with Constable Sebalj about the house or
11 about the incidents and the abuse, saying to her "It's
12 almost like I don't want to remember. I get to a certain
13 point and then it just stops. It's almost like I can't
14 remember"?

15 **MR. ROY:** I don't remember saying those
16 words to her, no.

17 **MS. COSTOM:** Do you remember experiencing
18 that sensation of trying really hard to remember details
19 but somehow something is stopping you, almost in a
20 defensive manner, from remembering?

21 **MR. ROY:** See, the problem is, is that I
22 don't know if I would have been talking just about Nelson
23 or about Ken and Nelson because there are still things that
24 are hazy when it comes to Ken, things that happened that my
25 doctor seems to feel I'm not ready to discuss or go through

1 yet or ---

2 **MS. COSTOM:** So your doctor thinks that
3 something -- there's some defence mechanism kicking in and
4 preventing you from getting to certain details?

5 **MR. ROY:** Yes.

6 **MS. COSTOM:** Okay. And that's because
7 traumatic situations and anxiety-provoking situations
8 trigger that kind of reaction in you, that kind of defence
9 mechanism in you?

10 **MR. ROY:** I guess so, yes.

11 **MS. COSTOM:** Okay. I want to ask you
12 something else.

13 Are you aware that on the 25th of November of
14 1994, so that same day that you had gone looking with
15 Constable Sebalj for the house, are you aware that she
16 actually met with Constable Chris McDonnell of the OPP to
17 discuss your case?

18 **MR. ROY:** No.

19 **MS. COSTOM:** And that they discussed the
20 difficulty you had in locating the house?

21 **MR. ROY:** See, I have a problem with that
22 because the way I remember it, she brought me to where she
23 thought he lived. Because there was a car there that was
24 underneath a tarp, and she actually got out of the car to
25 lift the tarp to see what kind of car it is, and I think

1 she took the license plate number down.

2 I remember telling her that the layout of
3 the house was right, but it looked too old, like, the
4 siding, I didn't remember it having siding. I remembered
5 it being grey I think.

6 And in my memory, later we went by this
7 house, a brick house, and I told her, "I think that's the
8 house". In fact, I'm sure I said, you know, I remember
9 telling her that that house, the layout is perfect because
10 the window is there where the bedrooms are and that. I
11 told her that the windows had been changed, they weren't
12 the same windows that were in there before. They looked
13 different. And there was a back part added onto the house.
14 Now, that's the way I remember it happening.

15 **MS. COSTOM:** Okay. I want to just come back
16 to something that you just said. In what you just said, it
17 sounds like you saw a first house, which had that car with
18 the tarp?

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

20 **MS. COSTOM:** And there were things that were
21 good, like the layout, but it just wasn't perfect because
22 of the siding amongst other reasons.

23 **MR. ROY:** Yes.

24 **MS. COSTOM:** And then you saw another house

25 ---

1 **MR. ROY:** Yes.

2 **MS. COSTOM:** --- which was more -- which
3 seemed to be the right one?

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

5 **MS. COSTOM:** And would that have been, in
6 you memory, all on the same drive?

7 **MR. ROY:** Yes, because I don't remember --
8 from these notes, it seems like I had an appointment with
9 Dr. Almudevar, and she didn't want me to miss it. So she
10 must have drove me there for my appointment and picked me
11 up when my appointment was done, from these notes. I don't
12 remember it happening that way. I remember it happening
13 all in one flow like you know, without interruption.

14 **MS. COSTOM:** If I tell you that in Constable
15 Sebalj's notes, it actually indicates that you would have
16 gone for a second drive on November 28th, which is a few
17 days later. We can go to the notes if you like. But if I
18 tell you that that's what she writes and, like the
19 Commissioner said, that's what she writes. I am now asking
20 you whether you remember ---

21 **MR. ROY:** That's not the way I remember it.

22 **MS. COSTOM:** --- that she said on November
23 28th that there was a second drive on a totally different
24 day.

25 **MR. ROY:** That's not the way I remember.

1 **MS. COSTOM:** Okay. And so if I tell you
2 that on that second drive, she brought you to a very
3 particular location because she had received information
4 from Constable McDonell, and so she had a little bit more
5 of a focus to the drive. That doesn't mean anything to
6 you, it doesn't refresh your memory?

7 **MR. ROY:** No, she didn't tell me any of
8 that.

9 **MS. COSTOM:** Okay. So like you said, you
10 weren't aware that Constable McDonell was involved in the
11 case as early as the 25th of November?

12 **MR. ROY:** No.

13 **MS. COSTOM:** Okay. And similarly, you're
14 not aware that Constable McDonell would have called
15 Constable Sebalj with information about Nelson Barque?

16 **MR. ROY:** No, she never told me that.

17 **MS. COSTOM:** Okay. Now let's turn to
18 November 28th, which is the same page, Bates number 7158402.

19 **MR. ROY:** Okay.

20 **MS. COSTOM:** And again, and you've already
21 told us you don't remember this, but she writes in her
22 notes that she would have taken you to a house. And it
23 doesn't really matter whether this was on the same or
24 whether on a different day, what I want to ask you about is
25 your reaction on seeing that second house, which ---

1 **MR. ROY:** I knew it was the house.

2 **MS. COSTOM:** Okay. And she writes as a
3 description of your physicals, and this is on the next page
4 about a third to a half of the way down. She writes, I
5 don't know if it says, "Obsvs physicals" -- there's a word
6 that I can't quite make out -- but she describes your
7 physicals. She says, "Heavy sigh, complained of being hot,
8 stomach twisted".

9 Do you remember having a reaction like that?

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

11 **MS. COSTOM:** Okay. And the other thing is
12 do you remember her telling you that the car in the
13 driveway of the second house was registered to Nelson
14 Barque's wife, Anita Barque?

15 **MR. ROY:** I don't remember that, no.

16 **MS. COSTOM:** Okay. She might have told you,
17 but you don't remember?

18 **MR. ROY:** I don't remember. I don't even
19 remember there being a car in the driveway. I can picture
20 the house in my head, but I don't remember a car being in
21 the driveway at the time.

22 **MS. COSTOM:** Okay. And you're telling us
23 now that you're pretty sure that that was the house?

24 **MR. ROY:** Yes.

25 **MS. COSTOM:** Okay. And you would have

1 communicated that to Constable Sebalj?

2 **MR. ROY:** I remember specifically telling
3 her that the windows had been changed, that the front bay
4 window was a newer or fancier window and that the addition
5 that was on the back of the house wasn't there whenever I
6 went.

7 **MS. COSTOM:** Okay. So my friend, Mr.
8 Dumais, brought you to a passage of her notes, which is at
9 7158415, sort of just below the picture, in which it says,
10 "En route to Cornwall, questioned V", which is you, "if you
11 could tell me truly if that house was the location of the
12 incident". And you saying, "No, I can't, I'm sorry".

13 I'll wait for you.

14 **THE COMMISSIONER:** Yes. Madam Clerk?

15 **MR. ROY:** Did she say 415?

16 **THE REGISTRAR:** You said 8415.

17 **MS. COSTOM:** I'm sorry, 8405. I said it
18 wrong.

19 **MR. ROY:** What am I looking for again?

20 **MS. COSTOM:** Under the little picture on
21 that page, and I'm sorry, I gave you the wrong page number
22 before. And now we're on the right page. It says, if you
23 want to just go a little bit lower, Madam Clerk.

24 It says, there you go, "En route to
25 Cornwall, questioned victim if he can tell me truly if that

1 house was the location of the incident"; answer: "No, I
2 can't".

3 What you were saying there is you couldn't
4 be 100 per cent certain that that was the house but, in
5 fact, you just told us that you were pretty sure that was
6 the house.

7 **MR. ROY:** I think when we were talking about
8 this, I had told her that if I went inside the house, I
9 could be 100 per cent certain.

10 **MS. COSTOM:** So you were pretty certain, but
11 you weren't 100 per cent certain?

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

13 **MS. COSTOM:** Would you agree that that
14 combined with the fact -- you didn't know this at the time
15 -- but combined with the fact that the car in the driveway
16 is registered to Anita Barque creates a pretty convincing
17 set of circumstances to the effect that this was the house?

18 **MR. ROY:** For her, it would have, but I --
19 like I said, I don't remember her telling me that -- I
20 don't think she would have told me that ---

21 **MS. COSTOM:** Yes, exactly.

22 **MR. ROY:** --- if she is trying to find out
23 whether I remember the house. She's not going to tell me
24 that that's his wife's car, because that would ---

25 **MS. COSTOM:** Exactly. Exactly, and that's

1 what ---

2 **MR. ROY:** In her mind, it probably was a 100
3 per cent sure that -- I don't know when -- like when would
4 she have read -- found out that that was her car like? I
5 know she didn't ask or do something in the car to ask for
6 plate numbers in the car or something. So she would have
7 probably found out that that was her car later after she
8 dropped me off.

9 **MS. COSTOM:** Okay well, we can read her
10 notes as to when she did that. But you agree that it's a
11 convincing set of circumstances that would have arisen in
12 her head once all of that information was known to her?

13 **MR. ROY:** Yes.

14 **MS. COSTOM:** Okay. And I already asked you
15 this question about the 25th of November, you said that you
16 didn't know that Constable Sebalj and Constable McDonell
17 had been in touch about your case. I am going to ask you
18 the same question about the 28th of November. Do you know
19 that Constable Sebalj and Constable McDonell were in touch
20 about your case on the 28th of November?

21 **MR. ROY:** No.

22 **MS. COSTOM:** No. Okay.

23 **MR. ROY:** The first time I heard about Chris
24 McDonell was the day he came in to interview me.

25 **MS. COSTOM:** Okay and, in fact, that was one

1 of the problems, right? Because you didn't understand why
2 he was there.

3 **MR. ROY:** No. And even when I was told why
4 he was there, it still didn't make any sense to me.

5 **MS. COSTOM:** And there is no question, would
6 you agree, that if you had known -- it would have been nice
7 to have known that he had been involved in your case in the
8 days leading up to that. It would have made things a
9 little bit more logical to you. Is that correct?

10 **MR. ROY:** Yes.

11 **MS. COSTOM:** Okay. Now Constable McDonell
12 is the first man that you ever discussed directly with the
13 details of the abuse; that's correct?

14 **MR. ROY:** Well, I had talked to Heidi's
15 partner a bit. He asked questions too, but if you're
16 asking like a full interview, yes.

17 **MS. COSTOM:** Okay. And you told us that
18 Constable Sebalj was present during that interview but that
19 your back was to her.

20 **MR. ROY:** Yes. I remember that because I
21 kept looking over to her for some kind of support and she'd
22 just look away.

23 **MS. COSTOM:** And you told us that you were
24 uncomfortable with Constable McDonell's demeanour that day.

25 **MR. ROY:** Yes.

1 **MS. COSTOM:** Okay. You never told him?

2 **MR. ROY:** No.

3 **MS. COSTOM:** And again, it's not a reproach,
4 I need to get the facts out, Mr. Roy.

5 **MR. ROY:** Yes.

6 **MS. COSTOM:** And you never told Constable
7 Sebalj, despite the fact that she was very close to you.

8 **THE COMMISSIONER:** Close to you in the room
9 or?

10 **MS. COSTOM:** I'm sorry, she was within a
11 physical -- she was in the same physical space as you at
12 that time. She was in the same room as you.

13 **MR. ROY:** Like I said, I kept looking to her
14 for some kind of help, some kind of -- and she would turn
15 away, and it kind of gave me the impression that either she
16 couldn't get involved in this questioning or -- I just got
17 the impression that there was nothing she could do about
18 this.

19 **MS. COSTOM:** Okay. Or perhaps she wasn't
20 reading your signals properly about your discomfort. Is
21 that correct?

22 **MR. ROY:** I don't know. I think Heidi knew
23 me pretty well by then.

24 **MS. COSTOM:** But you never said anything
25 specific?

1 **MR. ROY:** I never said any words, no.

2 **MS. COSTOM:** You never stood up to say, "I
3 don't want to do this anymore"?

4 **MR. ROY:** No.

5 **MS. COSTOM:** Again, Mr. Roy, really, I'm not
6 trying to criticize you. I'm just trying to find out what
7 happened. Okay.

8 All right, so you have this interview with
9 Constable McDonell, and one of the things that you spoke
10 about last week in the questions put to you and the answers
11 that you gave to Mr. Dumais was that there was some
12 confusion about this Mark, and whether Mark was at Nelson's
13 house or whether Mark was at Ken's house. Do you remember
14 saying that?

15 **MR. ROY:** Well, it's from the notes, they
16 were confusing the way they were written. His notes,
17 Officer McDonell's notes.

18 **MS. COSTOM:** Okay, so just to be clear, you
19 would have said that you might have met this Mark at Ken
20 Seguin's house?

21 **MR. ROY:** Yes, I told him that I might have
22 met this guy, Mark, because I remember meeting this guy. I
23 think he was in his twenties, and I believe his name was
24 Mark, at Ken's house.

25 **MS. COSTOM:** Okay. And to be clear, you

1 never would have said that you saw Mark at Nelson's house
2 because you never did.

3 **MR. ROY:** No.

4 **MS. COSTOM:** Okay. So to the extent that
5 there is any confusion in his notes about that, that's what
6 you wanted to make sure was clarified.

7 **MR. ROY:** When -- Project Truth Seguin?

8 **MS. COSTOM:** No, no, no. Last week, I am
9 sorry, you're right. There is Ken Seguin and Steve Séguin.
10 Last week, what you were trying to make clear for everybody
11 that's listening to you testify is that you were never at
12 Nelson's house when you would have seen this Mark?

13 **MR. ROY:** Yes.

14 **MS. COSTOM:** And that if any of us read the
15 statement, which you gave to Constable McDonnell as
16 indicating that you would have seen Mark at Nelson Barque's
17 house, we shouldn't read them that way.

18 **MR. ROY:** Yes. And also that I am sure if
19 that's the Mark they were all talking about, because when
20 Officer Séguin from Project Truth came, I told him that. I
21 told him that -- it shouldn't say that I did meet Mark. I
22 said that I might have met Mark. I didn't know if that was
23 the same Mark they were talking about.

24 **MS. COSTOM:** Okay. And that was at Ken
25 Seguin's house and not at Nelson Barque's house?

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

2 **MS. COSTOM:** Okay. All right. So you have
3 this meeting with Constable McDonell and the next step --
4 and I'm jumping ahead a little bit -- is that Constable
5 Sebalj says -- and I am sort of paraphrasing what you said
6 last week -- that she can still work for you -- excuse me -
7 - that she can still work with you, but that someone else
8 is going to have to do the arrest, because of this
9 jurisdiction issue.

10 **MR. ROY:** Well, no, at first, she was
11 telling me that she wouldn't be able to. That the OPP was
12 going to have to take over the case because the abuse
13 happened outside of the city limits. Then I told her, "I
14 can't do that, I can't", you know. And she said, "Well,
15 I'm going to talk" -- I don't know what exact words she
16 used. Maybe she said her superiors or the OPP or -- but
17 she did say she was going to talk to somebody and I believe
18 it was later, either that day or the next day, that she
19 told me that she could still be involved in my case but I
20 was going to have to talk to Officer Zebruck.

21 **MS. COSTOM:** Okay. And in fact, other than
22 that brief interaction that you had with Constable Zebruck
23 in that time, Constable Sebalj is the one that took you
24 through the court proceedings and attended court at the
25 time of the guilty plea and -- excuse me, at the sentencing

1 and things like that?

2 MR. ROY: Nobody ---

3 MS. COSTOM: Constable Sebalj -- I'll ask it
4 another way. Constable Sebalj remained your contact
5 person?

6 MR. ROY: Oh yes, yes, yes.

7 MS. COSTOM: Okay. Okay.

8 So I am going to turn now to Bates page
9 7158424 which are Constable Sebalj's notebook entries from
10 the 14th of December 1994.

11 MR. DUMAIS: Sorry, Commissioner, I think
12 that page -- there's an issue with one of those names.

13 MS. COSTOM: Yes. Thank you.

14 So on that day there is a note to the effect
15 that Constable Sebalj learns from Bill Zebruck that Nelson
16 Barque has been charged and that she is going to call you
17 to advise you of this and to set up an appointment.

18 Do you remember that phone call?

19 MR. ROY: No.

20 MS. COSTOM: Do you remember her calling
21 you? It doesn't matter if it was the 14th or the 12th, but
22 do you remember her calling you and telling you that Nelson
23 Barque had been arrested?

24 MR. ROY: No.

25 MS. COSTOM: She writes in her notes that

1 when she advised you that Mr. Barque had been arrested,
2 that you were silent and that you hadn't thought that it
3 would happen so quickly. Would that be accurate?

4 I am now on the very bottom of the page and
5 the top of the next page, but I'm not asking you to adopt
6 her notes. I am asking whether, in fact, when you learned
7 that Nelson had been arrested, you would have ---

8 **MR. ROY:** I would have felt probably
9 shocked.

10 **MS. COSTOM:** Okay. And you would agree that
11 it happened pretty quickly because the first time you go to
12 see Constable Sebalj is November 23rd and there is an arrest
13 done on December 14th.

14 **MR. ROY:** I think I was referring to Officer
15 Zebruck having been told that it happened so quickly.
16 Like, he just became involved and then, boom, he arrested
17 Nelson.

18 **MS. COSTOM:** Okay.

19 So you agree that the whole thing happened
20 pretty quickly?

21 **MR. ROY:** I don't -- again, I believe that
22 him being arrested right after Officer Zebruck became
23 involved was, in my mind, probably quickly.

24 **MS. COSTOM:** Okay.

25 So -- and by the -- and when Nelson Barque,

1 or at the time that Nelson Barque was arrested, you had not
2 yet met Officer Zebruck?

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

4 **MS. COSTOM:** Because the first time that you
5 met Officer Zebruck was in Constable Sebalj's office and
6 the date I will put to you is the 16th of December; two days
7 after his arrest.

8 **THE COMMISSIONER:** Well, I don't know about
9 that. If you look at December 16, it says, "Picked up V at
10 residence in Zebruck's motor vehicle."

11 **MS. COSTOM:** You are right. They met in the
12 car. We're going to talk about that.

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

14 **MS. COSTOM:** The first time that you met him
15 was on the 16th of December with a view to this meeting, the
16 day of the meeting in Heidi's office. Is that correct?
17 Constable Sebalj's office, on that day, was the first day
18 that you met?

19 **MR. ROY:** I believe so, yes.

20 **MS. COSTOM:** Okay.

21 Now, the Commissioner just pointed to a
22 passage and I was going to point you to it also, on the 16th
23 of December, and I think we are on the right Bates page,
24 yes, 7158425, where it says at 13:38, "10-7 headquarters.
25 Picked up V at residence in Zebruck's MV." Zebruck's motor

1 vehicle.

2 **THE COMMISSIONER:** So I guess the question
3 is do you remember that day, Mr. Roy? Do you remember that
4 ---

5 **MR. ROY:** Well, I'm -- no, I don't remember
6 the day. I know they always picked me up because I didn't
7 have a ride to go back and forth.

8 **THE COMMISSIONER:** So can you picture in
9 your mind that day that ---

10 **MR. ROY:** That I first met him? No.

11 **THE COMMISSIONER:** That the officer, Heidi,
12 would have come to your door, with another officer in an
13 OPP patrol car, I guess, or Zebruck's OPP?

14 **MR. ROY:** Nobody ever came to my house in a
15 marked car.

16 **THE COMMISSIONER:** Oh.

17 **MR. ROY:** It was always an unmarked car.

18 **THE COMMISSIONER:** All right. Well, there
19 you go. Fair enough. So do you have any recollection? Do
20 you remember anything about her coming in Zebruck's car and
21 you driving back to the police station with Zebruck and
22 Heidi?

23 **MR. ROY:** No.

24 **MS. COSTOM:** Okay.

25 So you had no recollection of being in his

1 car in that time -- at that time?

2 MR. ROY: No.

3 MS. COSTOM: Okay.

4 And you had told us in your testimony last
5 week that you remember only being in Constable Zebruck's
6 car one time. So maybe you are confusing the times with
7 the time that they picked you up to go to the station.

8 Is that possible?

9 MR. ROY: Well ---

10 THE COMMISSIONER: I think, in fairness, you
11 should outline what the other scenario was about being in
12 the vehicle with Zebruck.

13 MS. COSTOM: Well, Mr. Commissioner, I am
14 sure that the witness remembers what he testified about,
15 and so I am asking him ---

16 THE COMMISSIONER: I'm sorry?

17 MS. COSTOM: I'm sure that the witness
18 remembers that he testified being in Mr. Zebruck's car and
19 what had happened, and so I am asking him whether he is now
20 realizing that the one time that he was in Mr. Zebruck's
21 car was, in fact, on this date when they picked him up to
22 go to the station.

23 MR. ROY: The thing is it doesn't mention my
24 wife here being in the car with me and the time the
25 incident happened with me and Officer Zebruck, my wife was

1 present and Heidi wasn't. It was just Mr. Zebruck, or
2 Officer Zebruck and me and my wife sitting in the back
3 seat. So I don't think this is the same time.

4 **MS. COSTOM:** So do you remember being in
5 Officer Zebruck's car twice then?

6 **THE COMMISSIONER:** Wait a minute. Let's be
7 fair. Let's be fair.

8 You're putting to him that if you were in --
9 if you say you were in Officer Zebruck's car once and if
10 it's noted here, then it must be then and not the other
11 time, and that's not fair. That's not fair at all. He
12 said, "I don't remember being in the vehicle with Heidi and
13 him going to the station."

14 **MS. COSTOM:** And, Mr. Commissioner, we
15 cross-examine based on information that we have at our
16 disposal and the information that we have is that the one
17 time that he was in Officer Zebruck's car was on that date.
18 And so I'm putting it to him, and if he'd like to disagree
19 with me, he can.

20 **THE COMMISSIONER:** All right.

21 **MR. ROY:** I disagree.

22 **MS. COSTOM:** Okay.

23 When you met Constable Zebruck, you agree
24 that Nelson Barque had already been charged?

25 **MR. ROY:** I don't remember it that way, no.

1 **MS. COSTOM:** You don't remember the timing
2 that we just talked about before; that you get this call
3 that he's been charged and that you have to meet Officer
4 Zebruck -- that Nelson Barque has been charged and that you
5 now have to meet Officer Zebruck?

6 **MR. ROY:** All I know is that at one time
7 Heidi told me I'd have to have an interview with Officer
8 Zebruck and I know that happened. I think ---

9 **MS. COSTOM:** And you ---

10 **MR. ROY:** I think we had two interviews.

11 **MS. COSTOM:** You think that you had two
12 interviews with Heidi in her office?

13 **MR. ROY:** Yes.

14 **MS. COSTOM:** And Constable Zebruck?

15 **MR. ROY:** Yes.

16 **MS. COSTOM:** Okay.

17 And, again, in your memory, those interviews
18 would have happened before or after Nelson Barque had been
19 charged already?

20 **MR. ROY:** I don't know.

21 **MS. COSTOM:** Okay.

22 Would you agree if when you met with
23 Constable Zebruck, Nelson Barque had already been charged,
24 that he would have no reason to try and convince you to
25 back off the charges because the charges would have already

1 been laid?

2 **MR. ROY:** The best way I can answer that is
3 that I don't remember being told about Nelson being charged
4 and even if I did, I think my understanding of the scenario
5 was that this is the time when they're asking him what
6 happened. That he had been arrested for an interview, or -
7 - see, I don't think I had an understanding of what that
8 meant, that he had been charged, you know, like how it
9 worked, like, they went to his house and gave him a piece
10 of paper saying, "You know, you're charged. You'd better
11 go get a lawyer." Did they interview him, or ---

12 **MS. COSTOM:** M'hm.

13 **MR. ROY:** So even they told me he had been
14 charged, I don't think I would have had a good
15 understanding of how -- what that meant.

16 **MS. COSTOM:** Okay.

17 **MR. ROY:** So that's why I think I'm having a
18 hard time remembering, like, what exactly it was that I was
19 told about him being arrested.

20 **MS. COSTOM:** Okay.

21 So are you saying though that you remember
22 that they -- that you remember that he had been interviewed
23 in relation to this, that they had had some interaction?

24 **MR. ROY:** I remember Office Zebruck telling
25 me that he had talked to Nelson and that Nelson had no

1 problem admitting that he was a homosexual. He also told
2 me that they used to meet -- he -- I forget the wording of
3 it, but he told me about Nelson being in back of the AFC
4 building there, in a parking lot there, and he told me that
5 that's where these people meet.

6 **MS. COSTOM:** Okay.

7 **MR. ROY:** So ---

8 **MS. COSTOM:** So it was clear to you when you
9 were speaking with Officer Zebruck that he had already had
10 some interaction with Nelson Barque about this matter?

11 **MR. ROY:** Yes.

12 **MS. COSTOM:** Okay. And you would agree that
13 if in fact what had happened -- and you didn't know that
14 then, but if in fact what had happened when he had this
15 interaction with Mr. Barque was that he had arrested and
16 charged him, that there would be no point in him trying to
17 convince you to back off the charges?

18 **MR. ROY:** So you're asking me -- you're
19 asking me whether I knew at the time there would be no
20 point, or I know now?

21 **MS. COSTOM:** I'm asking you if know now that
22 there would be no point?

23 **MR. ROY:** I still don't know now. What
24 would have happened if I had recanted?

25 **MS. COSTOM:** M'hm.

1 **MR. ROY:** What would have happened to the
2 charges against Nelson?

3 **MS. COSTOM:** But you didn't, did you?

4 **MR. ROY:** No, I didn't, but ---

5 **MS. COSTOM:** Okay.

6 You say -- you spoke last week about a drive
7 that you took with Officer Zebruck which was unsettling for
8 you, to say the least.

9 **MR. ROY:** Yes.

10 **MS. COSTOM:** I've suggested to you that that
11 didn't happen that way but, in any event, you said that you
12 took this drive and that afterwards you were so unsettled
13 that you made a complaint to someone at the Long Sault
14 Detachment?

15 **MR. ROY:** Yes.

16 **MS. COSTOM:** But you don't remember who you
17 made that complaint to?

18 **MR. ROY:** No.

19 **MS. COSTOM:** And you don't recall what
20 specifics you gave? You said that last week.

21 **MR. ROY:** Like, what details I gave whoever
22 I talked to on the phone?

23 **MS. COSTOM:** That's correct.

24 **MR. ROY:** No, I don't remember the exact
25 details that I gave, no.

1 MS. COSTOM: Okay.

2 And you never told Constable Sebalj?

3 MR. ROY: Yes, I did.

4 MS. COSTOM: You told Constable Sebalj about

5 ---

6 MR. ROY: Yes.

7 MS. COSTOM: --- what had happened with
8 Officer Zebruck?

9 MR. ROY: Yes.

10 MS. COSTOM: Okay. And what did she do?

11 MR. ROY: I believe she just told me I
12 wouldn't have to -- I wouldn't have to deal with him
13 anymore.

14 MS. COSTOM: Okay. And you would have told
15 her male partner also then?

16 MR. ROY: I don't remember him being in the
17 room, no.

18 MS. COSTOM: Okay.

19 So can you visualize for us when you would
20 have told Constable Sebalj? Can you tell us where you were
21 and when it was and ---

22 MR. ROY: It would have been in her office.

23 MS. COSTOM: Okay. And do you remember why
24 you were in her office on that day?

25 MR. ROY: No.

1 **MS. COSTOM:** No.

2 Do you remember if it was a long meeting or
3 a short meeting?

4 **MR. ROY:** No.

5 **MS. COSTOM:** No.

6 You don't remember anything about that day
7 other than that you would have told her what had happened
8 with Constable Zebruck?

9 **MR. ROY:** Yes.

10 **MS. COSTOM:** That's the only thing you
11 remember?

12 **MR. ROY:** Yes.

13 **MS. COSTOM:** Okay. And would it have been
14 sort of when the court proceedings were already underway?

15 **MR. ROY:** Something seems to recollect in my
16 mind that we had to go somewhere. That's why I was there.

17 **MS. COSTOM:** It's fuzzy?

18 **MR. ROY:** It's fuzzy, yes.

19 **MS. COSTOM:** You never included -- and I'm
20 not saying that you should have, but I just want to make it
21 clear -- you never included this situation or this incident
22 that happened with Constable Zebruck in any of your civil
23 pleadings, in any of the information that you filed in
24 relation to your civil suit?

25 **MR. ROY:** I might have told my lawyer about

1 it.

2 **MS. COSTOM:** Okay. Well, I'm not going to
3 ask you about what you told your lawyer, but it wasn't in
4 any -- to your knowledge ---

5 **MR. ROY:** No. Well, we weren't suing the
6 OPP for that incident.

7 **MS. COSTOM:** Exactly.

8 **MR. ROY:** It was a separate matter.

9 **MS. COSTOM:** And you also never told Steve
10 Séguin, who was the Project Truth officer who came to see
11 you in 1997, about the distasteful situation that you had
12 experienced with Officer Zebruck. Is that correct?

13 **MR. ROY:** Yes, I don't believe I did, no.

14 **MS. COSTOM:** Okay. And, in fact, if we can
15 talk about your meeting on the 12th of September 1997 with
16 Steve Séguin, you had said that it was a very short five-
17 minute meeting. Is that correct?

18 **MR. ROY:** Yes.

19 **MS. COSTOM:** Okay. And I would like to turn
20 to Exhibit 116, which is Document 703186.

21 **THE COMMISSIONER:** Document 703186?

22 **MR. ROY:** Okay. I have it.

23 **MS. COSTOM:** Did I say it wrong? It's
24 703186.

25 **THE COMMISSIONER:** It's on top, Madam Clerk,

1 if you go back up. Right there.

2 **MS. COSTOM:** And we'll look at the document
3 in a second, but just in terms of the context, was it your
4 understanding at that time that Project Truth was
5 investigating other allegations that were being made about
6 Mr. Barque and it was in that context that they came to see
7 you? In other words, the Project Truth guys were doing
8 another investigation of Nelson Barque and they decided to
9 come see you in that context.

10 **MR. ROY:** No, I -- from what I understood,
11 the reason they were there is just to confirm my statement.

12 **MS. COSTOM:** Okay. But did you understand
13 why they needed to confirm your statement?

14 **MR. ROY:** No.

15 **MS. COSTOM:** Okay. So you're not aware that
16 they were there doing an additional investigation about
17 other victims and other allegations?

18 **MR. ROY:** I was aware that Project Truth was
19 investigating what happened, but from my understanding, the
20 reason for them being at my house was to confirm the
21 statement that they had.

22 **MS. COSTOM:** Okay. So let me ask you this,
23 and we can look at the document now. The question that is
24 put to you by Officer Séguin is:

25 "You were interviewed approximately..."

1 I'm sorry, are you there?

2 **MR. ROY:** Okay.

3 **MS. COSTOM:** Okay.

4 "You were interviewed approximately
5 three years..."

6 It should say "ago".

7 "...by Chris McDonell of the OPP and
8 Heidi Sebalj of the Cornwall Police
9 Service..."

10 And I know you add Officer Zebruck later, but that's not
11 the point of my question.

12 Is there anything at this point that you
13 could add that you feel may assist us in our investigation?
14 So what investigation did you think that they were
15 referring to when they say "assist us in our
16 investigation"?

17 **MR. ROY:** I think probably that I would have
18 thought they meant do I know other names and stuff like
19 that.

20 **MS. COSTOM:** Okay. And I think that you're
21 quite right. And what you told them in your answer:

22 "I was also interviewed by Bill
23 Zebruck..."

24 You reminded them.

25 "He was working with Heidi. I don't

1 think there's anything more that I
2 could add -- that I said before that I
3 could add differently from the
4 statement I gave already."

5 You had no further leads to give them, so to
6 speak?

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

8 **MS. COSTOM:** And that was what they were
9 interested in?

10 **MR. ROY:** Well, and confirming my statement
11 or whatever, because we had an argument about it after.

12 **MS. COSTOM:** Okay. And the argument -- I
13 was just going to get to that -- the argument is again
14 about this Mark thing?

15 **MR. ROY:** Right.

16 **MS. COSTOM:** And about whether you really
17 did see Mark and if it was the same Mark. That was the
18 gist of the argument?

19 **MR. ROY:** Right.

20 **MS. COSTOM:** Okay. But you agree that what
21 they were interested in -- maybe for them, that wasn't that
22 important because what they were interested in was whether
23 you had any other names that you could give them or any
24 other leads?

25 **MR. ROY:** Well, I don't know. You're kind

1 of asking me was it more important to see if my statement
2 was okay or was it more important to give them leads. I
3 mean, I don't know.

4 **MS. COSTOM:** Okay. And that's fair.

5 But you seem to remember having some
6 difficulty about this Mark issue.

7 **MR. ROY:** Yes.

8 **MS. COSTOM:** And what I'm going to ask you
9 is -- what they might have said to you is, "That's not that
10 important. Don't worry about it in the scheme of things.
11 That's not what we're after here."

12 **MR. ROY:** No, they told me that to change my
13 statement would cause a lot trouble because they would have
14 to get a judge and everything else. They said it was
15 better if you just left it alone.

16 **MS. COSTOM:** Okay. It doesn't really make
17 sense, Mr. Roy, that they would have said that because
18 there's no going to a judge to make a statement.

19 And so what I'm trying to do in terms of
20 finding some common ground here is to suggest to you that
21 what they would have said to you was, "Look, it's not that
22 important and if ever you go before a judge, you'll testify
23 as to what you remember."

24 **MR. ROY:** I'm telling you right now I
25 remember specifically they said that to change my

1 statement, they would have to go before a judge.

2 MS. COSTOM: Might they have said that if
3 you wanted to change your statement, that when you
4 testified, if ever you testified, you could do so before a
5 judge?

6 MR. ROY: No, that wasn't the way it was
7 said, no.

8 MS. COSTOM: Okay. And at the end of it
9 all, in any event, you signed your statement?

10 MR. ROY: Yes.

11 MS. COSTOM: Okay.

12 MR. ROY: I didn't feel good about it, but I
13 did.

14 MS. COSTOM: Okay. I have just a couple
15 more questions. Your wife Vicki Roy is here with you
16 today?

17 MR. ROY: Yes.

18 MS. COSTOM: She's been a good support for
19 you today.

20 And I just wanted to ask you, when did you
21 and Mrs. Roy meet?

22 MR. ROY: When I was eight years old.

23 MS. COSTOM: Okay. And when did you get
24 together? Well, you got married in 1995; is that correct?

25 MR. ROY: Yes.

1 **MS. COSTOM:** Okay. And when did you sort of
2 reconnect, if you will, because it sounds like you've known
3 each other for a long time.

4 **MR. ROY:** Well, we went out when we were
5 about 11 and then 13, then around the time -- I don't
6 remember if it was before or after what happened to me and
7 Probation. Then we didn't see each other until I came back
8 to Cornwall in 19 -- excuse me, I was already back in
9 Cornwall. So we would have met up again, I believe, in
10 1992.

11 **MS. COSTOM:** And would that ---

12 **MR. ROY:** And then ---

13 **MS. COSTOM:** Sorry, go ahead. I'm sorry.

14 **MR. ROY:** And then we broke up a few times.
15 That's why I was alone at the beginning of this, because we
16 had broke up, and then we got married in 1995.

17 **MS. COSTOM:** Okay. And that's what I wanted
18 to just clarify with you, that when you first went to see
19 Constable Sebalj, you said that you were alone?

20 **MR. ROY:** Yes.

21 **MS. COSTOM:** Okay. And you can't sort of
22 specify for us as to when you stopped being alone, but it
23 was sometime -- I mean, certainly before 1995 when you got
24 married, certainly before your marriage date. When did you
25 get married in 1995? What date?

1 MR. ROY: October 6th.

2 MS. COSTOM: I'm sorry.

3 MR. ROY: October 6th.

4 MS. COSTOM: I wouldn't want that done to my
5 husband on the stand.

6 (LAUGHTER/RIRES)

7 MS. COSTOM: And can you tell us, sir, how
8 long you were sort of back together and solid prior to
9 that?

10 MR. ROY: About a year.

11 MS. COSTOM: Okay. But that doesn't
12 actually -- well, explain to me how that would make sense,
13 because you went to see Constable Sebalj November 23rd and
14 you said you were alone. So if you work back a year,
15 you're not alone.

16 MR. ROY: Well, then I guess it was shorter
17 than a year then.

18 MS. COSTOM: Okay. So it's fuzzy?

19 MR. ROY: Well, I'm trying to remember when
20 we moved on Captain MacDonald from Martha Street.

21 MS. COSTOM: Is that when you would have
22 moved in together?

23 MR. ROY: Yes.

24 MS. COSTOM: So when you're on ---

25 MR. ROY: It would have been close to a

1 year.

2 **MS. COSTOM:** So when you were on -- what was
3 the street you said, Martha? I'm not from here. I'm
4 sorry, the first street that you were living on before you
5 moved in together was where?

6 **MR. ROY:** Well, she was living on Martha and
7 I was living in Glenview, but we were together on Martha
8 and then we -- when we decided to live together, we moved
9 in to Captain MacDonald.

10 **MS. COSTOM:** Okay.

11 **MR. ROY:** It would have been close to a
12 year. I mean, I know I said a year, but if you want the
13 exact days ---

14 **MS. COSTOM:** No.

15 **MR. ROY:** But it was close to a year.

16 **MS. COSTOM:** Okay. That's all. Thank you.

17 **THE COMMISSIONER:** Thank you.

18 Mr. Wallace.

19 **MR. WALLACE:** Good morning.

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

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

22 **WALLACE:**

23 **MR. WALLACE:** Mr. Roy, my name is Mark
24 Wallace. This is the first day I've been here while you've
25 been testifying, so you haven't seen me here before. It's

1 not as if you don't recognize me. We've never met before.

2 To introduce myself, I am the lawyer for the
3 Ontario Provincial Police Association, like the police
4 union as opposed to the police service itself, okay?

5 And I want to start off by thanking you for
6 your participation in this Commission, thanking you for
7 sharing your experiences and feelings with us. And I also
8 want to commend you, after hearing what you were saying
9 this morning, for your personal bravery back in 1994 for
10 coming forward for the reasons that you did. You are
11 deserving of our praise, respect and gratitude.

12 Thank you.

13 Now, I will want to ask you questions
14 concerning three different areas; that is, your dealings
15 with Constable McDonell, Constable Zebruck and Constable
16 Séguin, the most recent contact you had.

17 Prior to getting to the officers, I want to
18 deal with a little bit of your background here. As I've
19 understood your evidence that was repeated as well today,
20 this morning, you have, on account of the abuse that you
21 suffered, as well as the fact that you've been dealing with
22 a form of mental illness, have felt intimidation and
23 fearfulness of people who are really there to help you. Is
24 that a fair statement?

25 And I will give you one example. For

1 example, Mr. Payette, he -- okay, I'll stop. You're
2 thinking.

3 MR. ROY: So what you're saying is that even
4 though somebody was there to help me, if they were a male
5 figure, I'd still feel fearful of them?

6 MR. WALLACE: Yes, that's a pretty good
7 summary.

8 MR. ROY: All right. Yes.

9 MR. WALLACE: You agree with that?

10 MR. ROY: Yes.

11 MR. WALLACE: Yes. Okay.

12 Because I think -- and if I got this right,
13 at one point this morning you said that you felt that --
14 you viewed all persons in authority as molesters. You said
15 that earlier this morning. Do you recall that?

16 MR. ROY: It was always all in the back of
17 my mind, yes.

18 MR. WALLACE: Okay. So anybody in authority
19 ---

20 MR. ROY: I don't think it mattered that
21 they were in authority. Any male ---

22 MR. WALLACE: Just any male period?

23 MR. ROY: Yes.

24 MR. WALLACE: Okay. Had the potential to be
25 a molester in your mind?

1 **MR. ROY:** That's right. That's the way I
2 felt, yes.

3 **MR. WALLACE:** And that's the way you saw
4 males?

5 **MR. ROY:** Yes.

6 **MR. WALLACE:** Obviously after Mr. Barque?

7 **MR. ROY:** Yes.

8 **MR. WALLACE:** Okay. Thank you.

9 Now, with respect to Mr. Payette, first of
10 all, he's a person that you admire and respect?

11 **MR. ROY:** Yes.

12 **MR. WALLACE:** And you said at one point last
13 week in talking of Mr. Payette, as well as your doctor, you
14 said that not all people who were abused were lucky enough
15 to have people like Bob Payette and Dr. Almudevar.

16 **MR. ROY:** Yes.

17 **MR. WALLACE:** Do you remember that?

18 **MR. ROY:** Yes.

19 **MR. WALLACE:** You stand by that statement?

20 **MR. ROY:** Oh, yes.

21 **MR. WALLACE:** In your mind, both of these
22 individuals are real champions in their field as far as you
23 are concerned?

24 **MR. ROY:** They kept me alive.

25 **MR. WALLACE:** Okay. Well, you can't do

1 better than that, can you?

2 As far as Mr. Payette is concerned, he has
3 devoted a great deal of time and energy to try and make
4 your life better?

5 MR. ROY: Yes.

6 MR. WALLACE: And make it easier for you to
7 cope?

8 MR. ROY: Yes.

9 MR. WALLACE: He is someone that you would
10 clearly say only wants the best for Albert Roy?

11 MR. ROY: Yes.

12 MR. WALLACE: I am leading up to the
13 incident that you described for the Commission last week
14 where there was a joke being told and he touched your foot.
15 Do you know what I'm referring to?

16 MR. ROY: Yes.

17 MR. WALLACE: Now, can you put that in
18 context for us? What I mean here is when did that happen?
19 Did it happen before you were hospitalized, during your
20 hospitalization, after your hospitalization? Are you able
21 to help us at all there?

22 MR. ROY: I was hospitalized many times, so
23 I mean I would have been hospitalized at one point before
24 this because I remember the incident happening in his new
25 office.

1 **MR. WALLACE:** Would that have been before or
2 after you became involved with the police?

3 **MR. ROY:** Before.

4 **MR. WALLACE:** Before. Okay.

5 So the situation that we are talking about
6 is the one where a joke was told, he touched your foot.
7 You would agree with me that it was a very, very innocent
8 move on his part?

9 **MR. ROY:** Yes, he didn't mean ---

10 **MR. WALLACE:** No.

11 **MR. ROY:** But we had been talking about
12 something else before the joke was made. The joke was made
13 to kind of make me feel -- well, I don't know if I made the
14 joke or he made the joke, but we were just trying to, I
15 don't know how to word it, but un-stress what we had been
16 talking about in that session.

17 **MR. WALLACE:** Sure. Sure.

18 **MR. ROY:** So when he touched me, I
19 overreacted. He didn't mean anything. It just ---

20 **MR. WALLACE:** That's my point. He certainly
21 had no intention of upsetting you, correct?

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

23 **MR. WALLACE:** And probably but for your past
24 history, it wouldn't have upset you, correct, the abuse?

25 **THE COMMISSIONER:** If you had never been

1 abused, if someone would have touched you like that, you
2 would not have reacted that way.

3 **MR. ROY:** No, I believe not.

4 **MR. WALLACE:** Because, as I understood what
5 you told the Commission last week, is that it created such
6 a sense of fear in you that you got up from your chair and
7 you sought refuge in the corner of the room. Is that
8 correct?

9 **MR. ROY:** Yes.

10 **MR. WALLACE:** You were genuinely fearful.

11 **MR. ROY:** I don't think "fear" was the right
12 word. I just -- it's hard to explain what that feeling is.
13 It's more of a feeling of -- see, at that time, I still
14 believed that I did something to draw these people to me.
15 So backing up from Robert wasn't exactly fear. It was kind
16 of like removing myself. It's hard to explain. I didn't
17 want to do anything to make him do anything further or
18 something.

19 **MR. WALLACE:** But you don't think for a
20 second that he intentionally wanted to scare you ---

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

22 **MR. WALLACE:** --- or do anything to harm
23 you, correct?

24 **MR. ROY:** No.

25 **MR. WALLACE:** But it did have that reaction?

1 **MR. ROY:** Yes.

2 **MR. WALLACE:** Okay. Now, I would imagine
3 that once that happened, the two of you would have
4 discussed that, what had just taken place, and he would
5 have been very apologetic. Like, "Sorry, I didn't mean
6 to." Something along those lines?

7 **MR. ROY:** I don't remember how we talked
8 about what happened.

9 **MR. WALLACE:** I'm not -- I'm certainly not -
10 --

11 **MR. ROY:** See, I moved around a lot, so I
12 don't know if Bob would have known that that's why I got up
13 off the chair. I don't remember if we talked about it. If
14 Bob would have noticed I had that reaction, I'm sure he
15 would have said something, but I don't remember what
16 conversation happened afterwards.

17 **MR. WALLACE:** You reacted in fear and it's
18 your belief that if he had noticed the fear, he would have
19 addressed the issue.

20 **MR. ROY:** He would have addressed it, yes.

21 **MR. WALLACE:** Okay. And he would have
22 certainly said to you, "Listen, Albert, I didn't mean
23 anything. Sorry. It won't happen again." Something along
24 those lines?

25 **MR. ROY:** Yes.

1 **MR. WALLACE:** And it never did happen again?

2 **MR. ROY:** No.

3 **MR. WALLACE:** No.

4 He became completely sensitized to your
5 situation?

6 **MR. ROY:** I think he always was. He just
7 forgot himself for a moment.

8 **MR. WALLACE:** Okay. And this is someone who
9 you'd had a professional relationship with for quite some
10 time by this point?

11 **MR. ROY:** Yes.

12 **MR. WALLACE:** Okay.

13 **MR. ROY:** I know where you're going with
14 this.

15 **MR. WALLACE:** And you continued to have that
16 professional relationship long since then?

17 **MR. ROY:** Yes.

18 **MR. WALLACE:** Okay. Now ---

19 **MR. ROY:** You're just going to say that
20 Chris McDonell intimidated me by accident.

21 **MR. WALLACE:** I was going to point out to
22 you and wanted you to consider, Mr. Roy, that possibility.
23 And I just wanted you to be fair to the officer, and in
24 order to do that I was going to point out two other
25 incidents where things happened that you felt intimidated

1 and, from what I can see, certainly the people that did it,
2 did not intend to. And I just wanted you to think about
3 Officer McDonnell against that backdrop and give him the
4 benefit of the doubt, if you can.

5 So if you'll let me, I'll ---

6 **MR. ROY:** Oh, okay, I'll let you continue.

7 **MR. WALLACE:** Okay. Because I want you to
8 consider the scenario with Constable McDonnell against the
9 background here of what's happened to yourself. Okay?

10 **MR. ROY:** All right.

11 **MR. WALLACE:** Thank you.

12 Now, the next incident I wanted to draw to
13 your attention is the one that you spoke of last week where
14 you went to the bridge. I'm not interested in the details
15 of why you were there but, simply, the fact was that there
16 were a number of persons who came to your rescue, correct?

17 **MR. ROY:** Of all the times I went on the
18 bridge?

19 **MR. WALLACE:** You only specifically spoke of
20 one last week. You mentioned you'd been there a number of
21 times ---

22 **MR. ROY:** Okay. So you're talking about the
23 incident where Heidi came?

24 **MR. WALLACE:** Exactly.

25 **MR. ROY:** All right.

1 **MR. WALLACE:** Okay. So you got that?

2 **MR. ROY:** Yes.

3 **MR. WALLACE:** So as I understood it, your
4 presence on the bridge, somebody alerted the authorities
5 that you were there and, as a result, some persons -- were
6 they police, fire, who were they? Do you know?

7 **MR. ROY:** I believe that time only the
8 police came. I don't remember seeing any fire department.

9 **MR. WALLACE:** Okay. There were a number of
10 police officers who came to assist you, correct?

11 **MR. ROY:** Yes.

12 **MR. WALLACE:** Now, if we look back at that
13 situation, just look at it objectively, I think you would
14 have to agree with me that all of the persons who responded
15 wanted to see you get out of that situation safely,
16 correct?

17 **MR. ROY:** Yes, but I had already been
18 wrestled and strapped down to a bed by two police officers
19 and some nurses at the General Hospital. I mean, the fear
20 was real that they would grab me and throw me to the
21 ground.

22 **MR. WALLACE:** Listen, I'm not disputing that
23 for one second, that you felt these feelings of fear. They
24 were genuine. But the fact of the matter was that you were
25 very fearful of people who were really only there to help

1 you, correct?

2 **MR. ROY:** Correct.

3 **MR. WALLACE:** And, in fact, the assembled
4 group, they did respect your wishes. They got a hold of
5 Heidi. Heidi came to the scene and Heidi really saved the
6 day.

7 **MR. ROY:** Yes.

8 **MR. WALLACE:** Correct?

9 **MR. ROY:** Yes.

10 **MR. WALLACE:** Okay. And absolutely nothing
11 bad in a physical sense happened to you in that scenario,
12 correct?

13 **MR. ROY:** Correct.

14 **MR. WALLACE:** You didn't ---

15 **MR. ROY:** I would like to say something
16 about that. I believe that in retrospect, the Cornwall
17 Police handled that well because I told them that the more
18 I get aggravated, the more things don't make sense to me,
19 like, the more I go off the edge, let's say. With them
20 bringing Heidi there and nobody grabbing me and everything,
21 it did make the difference of me coming down off the bridge
22 and not doing something stupid because I felt I was backed
23 in a corner. So to me, they did the right thing in that
24 instance. So I'll say it.

25 **MR. WALLACE:** I don't doubt for a second

1 that the Cornwall Police are glad to hear that because they
2 discharged themselves terrifically it sounds.

3 **MR. ROY:** Yes.

4 **MR. WALLACE:** Now, the next incident I want
5 to bring to your attention is one that you mentioned last
6 week where you were talking about an incident that happened
7 with an investigator for the Commission.

8 Do you recall that?

9 **MR. ROY:** Oh, yes, yes.

10 **MR. WALLACE:** Yes. And as I understand it,
11 what you told us is words to the effect that "He was
12 standing right beside me. He wanted to show me something.
13 He was there while I was reading." It was the physical
14 closeness that really you found intimidating, correct? Is
15 that right?

16 **MR. ROY:** Well, it made me nervous. It made
17 me feel odd, squeamish.

18 **MR. WALLACE:** Yes.

19 **MR. ROY:** I wasn't afraid.

20 **MR. WALLACE:** You felt intimidated.

21 **MR. ROY:** It just made me feel
22 uncomfortable. You're using the word "intimidated". I'm
23 sorry I can't remember his name, but he never made me feel
24 intimidated. It just felt uncomfortable, him being --
25 standing over me like that.

1 **MR. WALLACE:** M'hm.

2 **MR. ROY:** I mean, it wasn't in a
3 confrontational kind of atmosphere like it was with Chris
4 McDonell, because that's what I felt. I felt I was in some
5 kind of peril or something.

6 **MR. WALLACE:** Let's deal with that straight
7 away then. I am sure ---

8 **THE COMMISSIONER:** I'm sorry, excuse me.

9 **MR. WALLACE:** Sorry.

10 **THE COMMISSIONER:** Would you like a break?

11 **MR. ROY:** I'm sorry again.

12 **THE COMMISSIONER:** Sure. That's fine.

13 **MR. ROY:** I'm sorry.

14 **THE COMMISSIONER:** No, that's fine.

15 All right. Let's take a break. Thank you.

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

18 --- Upon recessing at 11:39 a.m./

19 L'audience est suspendue à 11h39

20 --- Upon resuming at 12:14 p.m./

21 L'audience est reprise à 12h14

22 **THE REGISTRAR:** This hearing of the Cornwall
23 Public Inquiry is now in session.

24 Please be seated. Veuillez vous asseoir.

25 **THE COMMISSIONER:** Thank you.

1 **MR. DUMAIS:** Sorry, Commissioner. I have
2 asked Mr. Roy just to step down for now given the time. I
3 believe Mr. Chisholm has a short matter which requires just
4 a short period of time to address with you. I will just
5 ask him to address that matter.

6 My suggestion afterwards is that we take the
7 lunch break.

8 **THE COMMISSIONER:** All right.

9 **MR. DUMAIS:** And that will give Mr. Morris,
10 who has just stepped into the hearing room a chance to
11 speak further to Mr. Roy.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Chisholm.

14 **MR. CHISHOLM:** Good afternoon, Mr.
15 Commissioner.

16 This morning I corresponded ---

17 **THE COMMISSIONER:** Sorry, before we -- Mr.
18 Roy, you can be excused and you can leave for lunch. We'll
19 come back at, let's say, 1:45.

20 **MR. ROY:** All right. Do I just leave this
21 stuff here?

22 **THE COMMISSIONER:** Yes. It's relatively
23 safe.

24 **(WITNESS WITHDRAWS/TÉMOIN SE RETIRE)**

25 **THE COMMISSIONER:** All right.

1 Mr. Chisholm.

2 --- SUBMISSION BY/REPRÉSENTATION PAR MR. CHISHOLM:

3 MR. CHISHOLM: Thank you, Mr. Commissioner.

4 This morning I corresponded with Mr.
5 Engelmann by fax. I'm not sure if you have received a copy
6 of that.

7 THE COMMISSIONER: No.

8 MR. CHISHOLM: Could I pass a copy of my
9 letter up to you now?

10 THE COMMISSIONER: Sure.

11 MR. CHISHOLM: And I have served my friends
12 by email and hard copy. I have also served the media
13 outlets, the three media outlets who are in the media room
14 already with a copy of this letter.

15 THE COMMISSIONER: M'hm.

16 MR. CHISHOLM: This relates to your ruling
17 delivered yesterday afternoon with respect to the "C"
18 exhibits, Mr. Commissioner.

19 THE COMMISSIONER: M'hm.

20 MR. CHISHOLM: And you'll recall that the
21 ruling with respect to the two exhibits that I'm concerned
22 about comes into full force and effect at 5:00 p.m. today.

23 THE COMMISSIONER: Yes.

24 MR. CHISHOLM: I believe that the extra day
25 was given to allow situations such as this to be addressed.

1 **THE COMMISSIONER:** Yes.

2 **MR. CHISHOLM:** What I'm asking for at this
3 point, Mr. Commissioner, is a stay of your order as it
4 relates to the Exhibit P-99, Bates pages 7152076, 27152090,
5 as well as Exhibit P-105, Bates pages 7152828 to 7152840.
6 You will recall my argument before you earlier this month,
7 Mr. Commissioner. These documents relate with respect to
8 the Child Abuse Register.

9 **THE COMMISSIONER:** Yes.

10 **MR. CHISHOLM:** What I'm seeking is a stay
11 until, I'm proposing Monday, November the 27th at 5:00 p.m.
12 Due to the fact that we're not sitting next week, I'm
13 proposing a stay to allow my client to give instructions
14 with respect to the possibility of an application for
15 judicial review limited to those documents.

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

17 **MR. CHISHOLM:** If we were to receive
18 instructions with respect to -- if you were to grant the
19 stay, Mr. Commissioner, and we were to receive those
20 instructions on November the 27th I would anticipate that we
21 would be attending before you again on that day asking for
22 an extension of the stay until such time as an application
23 for judicial review could be heard.

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

25 **MR. CHISHOLM:** And if I may, Mr.

1 Commissioner, I would like to just put on the record the --
2 address the American Cyanamid test, which I believe would
3 be the three-part test that you may have to put your mind
4 to in terms of satisfying yourself that a stay is
5 appropriate. I don't have any case law. It's somewhat
6 well known, the three-part test. If I'm wrong, fine, but
7 if that is the test, then you have at least my submissions
8 with respect to the test. It's a three-part test, Mr.
9 Commissioner.

10 The first issue to be considered is that of
11 a serious issue. The second part of the test is balance of
12 convenience and the third issue to be addressed is
13 irreparable harm.

14 With respect to the first issue of serious
15 issue, Mr. Commissioner, I would submit that the issue of
16 whether or not these exhibits fall within subsection (6) of
17 section 75 of the *Child and Family Services Act* is a
18 serious issue which is not frivolous, nor is it vexatious.

19 With respect to the balance of convenience
20 portion of the test, Mr. Commissioner, I would submit that
21 Exhibits P-99 and P-105, until five o'clock tonight, are
22 still "C" exhibits. Therefore, I would submit that the
23 balance of convenience favours maintaining the status quo,
24 which is maintaining those exhibits as "C" exhibits.

25 And finally, on the issue of irreparable

1 harm, Mr. Commissioner, I would submit that if a stay
2 should not be granted and at the end of the day a court
3 determines that the exhibits fall within subsection (6) of
4 section 75 of the *Child and Family Services Act*,
5 irreparable harm will be suffered which will affect the
6 integrity of the Child Abuse Register.

7 **THE COMMISSIONER:** What is the irreparable
8 harm?

9 **MR. CHISHOLM:** Well, the fact that these
10 documents would be -- they would become public documents.
11 If the interpretation that my client put on subsection (6)
12 of section 75 is correct, they would become public
13 documents in the face of the prohibition contained in that
14 subsection.

15 **THE COMMISSIONER:** Okay.

16 **MR. CHISHOLM:** And the irreparable harm
17 would be that it would then become a moot point to -- it
18 may become a moot point to proceed with the application for
19 judicial review once the documents are ---

20 **THE COMMISSIONER:** But these are the
21 documents where you sent to the Registrar saying that Mr.
22 Leblanc should be entered into the record. We heard that
23 *viva voce*. So it's out there.

24 **MR. CHISHOLM:** It's out there, but the
25 documents themselves, Mr. Commissioner, are still entered

1 as "C" protection until five o'clock tonight.

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

3 **MR. CHISHOLM:** And the last aspect of the
4 irreparable harm test, if the documents become public, the
5 application for judicial review may become moot with
6 respect to protecting those documents. It may be a point
7 of law that would be of interest, but the ---

8 **THE COMMISSIONER:** My point is, I suppose,
9 is your client is here.

10 **MR. CHISHOLM:** Yes.

11 **THE COMMISSIONER:** All right.

12 Has been following this Inquiry very
13 closely.

14 **MR. CHISHOLM:** Yes.

15 **THE COMMISSIONER:** And so 24 hours -- why
16 not make a decision now?

17 **MR. CHISHOLM:** My client would have to
18 consult with the constructing ministry and the request
19 would be that it needs that time to fully consider its
20 position with respect to bringing the application for
21 judicial review. It's not a decision that my client would
22 decide in haste.

23 **THE COMMISSIONER:** Okay.

24 **MR. CHISHOLM:** This morning, Mr. Kevin
25 Morris was in contact with Mr. Carriere, but further

1 discussions on that point have to be taken.

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

3 **MR. CHISHOLM:** Subject to your questions,
4 Mr. Commissioner, those are my submissions.

5 Thank you.

6 **THE COMMISSIONER:** Thank you.

7 Any comments from different parties?

8 Mr. Kloeze?

9 --- REPLY IN SUPPORT BY/RÉPLIQUE EN SUPPORT PAR MR. KLOEZE:

10 **MR. KLOEZE:** Mr. Commissioner, I just wanted
11 to advise the Commission that the Attorney General supports
12 this request for a brief stay for the Children's Aid
13 Society to consider its position.

14 I can say that yesterday afternoon, when we
15 received the decision, that we made the Ministry of
16 Children and Youth Services aware of the decision. They
17 are the keeper of the Register, the Child Abuse Register,
18 and they themselves want some time to review the situation,
19 review the documents, see what was disclosed and what is at
20 issue here. They are very concerned with maintaining the
21 integrity of the Register itself.

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

23 **MR. KLOEZE:** The Attorney General is also
24 concerned -- well, is interested or may be interested in
25 this case and certainly would intervene in any application

1 for judicial review because it involves a matter of
2 statutory interpretation and a matter of provisions of the
3 *Child and Family Services Act* that protect certain
4 documents from disclosure. And I would agree with the
5 submissions of Mr. Chisholm that there is a serious issue
6 here or an arguable case to be tried because it's a matter
7 of basically the interpretation of the statute, whether or
8 not certain documents are protected from disclosure under
9 that statute.

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

11 Anyone else?

12 --- **REPLY BY/RÉPLIQUE PAR MR. CALLAGHAN:**

13 **MR. CALLAGHAN:** I would just like to say a
14 word with respect to the test rather than taking a
15 position, since it's the first time this issue has come up,
16 sir.

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

18 **MR. CALLAGHAN:** Mr. Chisholm is quite right
19 with respect to the issue of irreparable harm. The real
20 focus is, if I understand it -- I'm not sure I'm that
21 versed on it, but if the order is not granted and the
22 documents are released, it will make the appeal moot.

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

24 **MR. CALLAGHAN:** And courts, appellate courts
25 traditionally give stays in those circumstances because it

1 causes an irreparable harm to the administration of justice
2 insofar as it takes away from the Court of Appeal or the
3 Divisional Court an opportunity to opine on the issue
4 because it has already happened.

5 **THE COMMISSIONER:** It's not my intention to
6 do anything of the sort.

7 **MR. CALLAGHAN:** No, I know. I just want to
8 make sure the test is clear. I just support that. I'm not
9 taking a position, but since it's the first time and this
10 might come up again, and I recognize that we're in, shall
11 we call, real-time process here, but unfortunately the
12 courts -- the higher courts have seen stays in
13 circumstances like this.

14 Thank you.

15 **THE COMMISSIONER:** I understand completely.
16 Anybody else?

17 **MR. DUMAIS:** Just briefly, Commissioner,
18 it's, I guess, a procedural comment I have. Mr. Chisholm
19 is requesting 24 hours. I take it that ---

20 **THE COMMISSIONER:** No, no, Mr. Chisholm is
21 requesting a week, until November 27th.

22 **MR. DUMAIS:** I misunderstood, Commissioner.
23 Sorry, I just assumed that was Monday at 5:00.

24 I guess the only consideration -- the only
25 difficulty is that we're not sitting next week. I think

1 I'm a bit concerned with the 10-day request that Mr.
2 Chisholm is requesting.

3 I think, personally, these are matters that
4 have to move forward. I'm concerned with the delays. I'm
5 concerned about possible other requests for stays because
6 all these decisions prevent us or do not assist us in
7 filing further documents. It may, as well, prevent us in
8 the calling of the evidence.

9 If, Commissioner, you're prepared to grant
10 the stay, perhaps some consideration should be given to
11 having a sitting day next week rather than waiting until
12 the 27th.

13 The other difficulty with waiting until the
14 27th is we have a witness scheduled to proceed on that day,
15 and I've indicated previously that this witness has
16 traveled from outside the country and is scheduled to leave
17 the country once his evidence is in. So I just ask that
18 you keep that in mind as well.

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

20 Any other comments?

21 Well, first of all, let me make it very
22 clear that I am not in any way going to stand in the way of
23 a judicial review and the full consideration of an
24 appellate court. I don't think that that is an issue at
25 all.

1 What the real issue is is that this Inquiry
2 has been going on for some time. I have indicated in the
3 past to the lawyers for CBC and Radio-Canada that while we
4 will make every attempt to give them advance notice of any
5 issues, they know that this Inquiry is working in real time
6 and that we must carry on.

7 And so while we do not have, I suppose, the
8 luxury of time and Mr. Chisholm is quite correct that when
9 I asked him, "Well, your client is here. He is aware of
10 all of these things," but it's not necessarily only his
11 client; it's also the Ministry. And so other folks have to
12 be involved.

13 And so I am quite prepared to give him some
14 extra time, but let's not forget that it's extra time to
15 decide whether or not they want to appeal. So I am going
16 to do this. I am going to give -- I am going to provide an
17 interim stay, and what that means is that Exhibits P-105
18 and P-99 will remain "C" exhibits until Tuesday, November
19 22nd -- is Tuesday November 22nd?

20 **MR. CHISHOLM:** The 21st.

21 **THE COMMISSIONER:** The 21st, very well, at
22 5:00 p.m. for him to -- and otherwise, if we have not heard
23 from the CAS by that time, the exhibit will be released.

24 Now, it's not the week that Mr. Chisholm
25 wanted, and I think that there's a sense of -- there is

1 becoming, in my view at least, a sense of urgency that we
2 continue to move this Inquiry forward. I have pushed on
3 the issue of Father MacDonald's application. I asked
4 people to burn the midnight oil, and they have, and they
5 have come up with the material quickly. I've asked my
6 staff to burn the midnight oil so that we can deliver
7 reasons for that ruling this afternoon, and so it's that
8 sense of urgency that if we do not continue with that sense
9 of urgency, of getting matters dealt with, that the Inquiry
10 may well lapse into, I don't know, irrelevance, I suppose.

11 And so I am going to insist on short time
12 periods, all the while understanding, Mr. Chisholm, your
13 client's position. It is a Ministry. It is the Attorney
14 General's as well, so they too can maybe burn the midnight
15 oil. All of the documents are there. It is a reasonably,
16 in my view, simple decision to make, whether they wish to
17 seek a judicial review. And I'm happy to know that
18 superior courts are there to correct me if I'm in error so
19 that no irreparable harm can be done, but they should do so
20 promptly.

21 All right?

22 **MR. CHISHOLM:** If I may? If I receive
23 instructions to proceed with a judicial review, my concern
24 is what will happen at 5:00 p.m. on the 21st when I can't
25 get back in front of you to argue for the extension of the

1 stay.

2 **THE COMMISSIONER:** If you give -- you can
3 speak to counsel about this because, let's put it this way,
4 thinking out loud, if you file a letter as an officer of
5 the court saying you are seeking judicial review, would
6 there be a problem with me extending that document *in*
7 *absentia* from the folks in this room?

8 You can think about that on the lunch hour.
9 We will come back at a quarter to 2:00 and we'll see where
10 we go with that.

11 **MR. CHISHOLM:** Thank you, sir.

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

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

15 The hearing will resume at 1:45.

16 --- Upon recessing at 12:32 p.m./

17 L'audience est suspendue à 12h32

18 --- Upon resuming at 1:46 p.m./

19 L'audience est reprise à 13h46

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

22 This hearing of the Cornwall Public Inquiry
23 is now in session.

24 Please be seated. Veuillez vous asseoir.

25 **THE COMMISSIONER:** Thank you. Good

1 afternoon.

2 **MR. DUMAIS:** Commissioner, I don't see
3 either Mr. Morris or Mr. Roy.

4 **THE COMMISSIONER:** We have some other
5 matters we can deal with.

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

7 **THE COMMISSIONER:** Mr. Chisholm's matter.
8 Have we had any discussions or any resolutions of this
9 situation? If not, I will make a decision.

10 **MR. CHISHOLM:** After we broke, Mr. Wardle
11 suggested, if need be, we could perhaps -- although the
12 Commission is not sitting next week -- we could perhaps
13 speak by telephone if a letter was not acceptable in terms
14 of setting out our position, come next Tuesday.

15 I put that on the table, Mr. Commissioner.

16 **THE COMMISSIONER:** Good. Well, this is the
17 way it is going to go then. You have until three o'clock
18 on Tuesday, November 21st, to give us a letter saying
19 whether or not you wish judicial review. If you don't,
20 five o'clock, it's freed up. If you do, then you will have
21 until Friday of that week, which is November 24th ---

22 **MR. CHISHOLM:** Yes.

23 **THE COMMISSIONER:** --- to go to the
24 Divisional Court and get a stay.

25 **MR. CHISHOLM:** A stay from the Divisional

1 Court?

2 THE COMMISSIONER: Yes.

3 MR. CHISHOLM: Thank you, sir.

4 THE COMMISSIONER: Thank you.

5 Now, can I read my decision?

6 MR. DUMAIS: Certainly, Commissioner, if
7 it's ready.

8 --- RULING ON APPLICATION FOR CONFIDENTIALITY RELATING THE
9 IDENTITY OF FATHER CHARLES MACDONALD/DÉCISION SUR REQUÊTE
10 POUR CONFIDENTIALITÉ EN RÉFÉRENCE À L'IDENTITÉ DU PÈRE
11 CHARLES MACDONALD:

12 THE COMMISSIONER: This is the ruling on an
13 application for confidentiality relating to the identity of
14 Father Charles MacDonald.

15 By way of background, Father Charles
16 MacDonald presented a Motion for the issuance of
17 confidentiality measures in anticipation of the upcoming
18 testimony of Mr. John MacDonald, who was allegedly a victim
19 of Father MacDonald.

20 I heard submissions from counsel for the
21 Diocese of Alexandria-Cornwall and from Mr. Jacques Leduc
22 in support of Father MacDonald's motion.

23 Counsel for the following parties oppose the
24 Motion and made submissions: Citizens for Community
25 Renewal; the Victims Group; the Children's Aid Society; the

1 Ministry of Community Safety and Correctional Services; the
2 Ontario Provincial Police; and the Cornwall Community
3 Police Services and Board.

4 I also heard submissions from counsel for
5 the CBC.

6 In oral submissions, counsel requested the
7 issuance of a publication ban on the identity of Father
8 Charles MacDonald in relation to the upcoming testimony of
9 Mr. John MacDonald and the issuance of a publication ban on
10 the details of the alleged abuse.

11 Before beginning the analysis, I wish to say
12 that I believe the request for the issuance of a
13 publication ban on the details of the abuse is premature.
14 As I have indicated in my ruling on the jurisdictional
15 motion, I am not allowed to, nor do I intend to, re-try or
16 try criminal allegations and make findings of civil or
17 criminal responsibility. Any evidence on the allegations
18 should be limited to what is relevant to the mandate of the
19 Commission, which is the institutional response of public
20 institutions.

21 The issue of public prejudice of any
22 allegation of abuse should be addressed if and when such
23 evidence is adduced.

24 On the request for confidentiality of his
25 identity, I would summarize Father MacDonald's arguments as

1 follows.

2 All proceedings against Father MacDonald
3 were stayed and he has the benefit of an irrefutable
4 presumption of innocence.

5 He should not have his innocence attacked in
6 subsequent legal proceedings, particularly when he may not
7 be able to cross-examine witnesses on the allegations made
8 against him.

9 Father MacDonald's criminal proceedings were
10 the subject of considerable publicity, which caused him
11 irreparable harm. Further publicity related to this
12 Inquiry's proceedings would worsen the prejudice he has
13 already suffered.

14 Father MacDonald's section 7 rights under
15 the Charter will be violated if his identity is not
16 protected.

17 Finally, the relevance of Father MacDonald's
18 identity to the mandate of the Inquiry is absent or
19 speculative as compared to the prejudice that he would
20 suffer if his identity were published or broadcast. The
21 benefits of a limited publication ban on his identity would
22 outweigh any prejudice to the interests of the parties and
23 the public.

24 Father MacDonald's request must be dealt
25 with within the *Dagenais/Mentuck* framework. He has to

1 demonstrate that the ban is necessary to prevent the
2 serious risk to the administration of justice or to an
3 important interest because reasonable alternative measures
4 will not prevent that risk.

5 He pleads that the irrefutable presumption
6 of innocence is part of the administration of justice and,
7 as such, an important interest to be protected. He further
8 argues that a judicial stay is tantamount to an acquittal
9 and a declaration of innocence.

10 Other parties took the position that while a
11 stay is tantamount to an acquittal in law, it does not
12 amount to a declaration of innocence. In that regard, it
13 is not necessary for me to determine this last issue. The
14 charges against Father MacDonald were judicially stayed and
15 cannot be revived. There is no doubt that Father MacDonald
16 is and will remain presumed innocent of the charges that
17 were stayed. The presumption of innocence is a cornerstone
18 of the criminal justice system and an important social
19 value. As stated by Dickson J. in *Nova Scotia v.*
20 *MacIntyre*, paragraph 63:

21 "In my view, curtailment of public
22 accessibility can only be justified
23 where there is present the need to
24 protect social values of superordinate
25 importance. One of these is the

1 protection of the innocent.

2 The presumption of innocence and the
3 protection of the innocent are thus
4 important interests that should be
5 taken into consideration in the first
6 branch of the *Dagenais/Mentuck* test.

7 It does not follow that either will
8 supersede the principle of an open
9 hearing in all cases. This will depend
10 on the circumstances and each case
11 should be assessed on a case-by-case
12 basis."

13 Counsel quoted a number of cases where
14 courts have found that the protection of the innocent trump
15 the principle of open hearing. In *MacIntyre*, the majority
16 of the Supreme Court found that where a search warrant was
17 executed and nothing was found, the protection of the
18 innocent and the privacy rights overrode the public access
19 interest. This is assuming that the person subject to the
20 search was not publicly identified beforehand. The
21 majority explicitly stated that when the warrant is
22 executed and something is seized, the considerations were
23 different. In such cases, the general rule of public
24 access should prevail.

25 As will be discussed below, Father

1 MacDonal'd's criminal proceedings have already been the
2 subject of considerable publicity and are comprised in the
3 subject matters that the Government of Ontario has asked me
4 to review. This makes the situation of Father MacDonal'd
5 much different than that of the person concerned in
6 *MacIntyre*.

7 Counsel also referred to *Vickery v. Nova*
8 *Scotia Supreme Court*. This was a case where audio and
9 videotapes admitted in evidence at a criminal trial were
10 found to be inadmissible on Charter grounds by the Court of
11 Appeal. As a result, the individual's conviction was
12 overturned. A journalist subsequently sought access to the
13 tapes. Stevenson J., for the majority, found that an
14 accused person whose conviction was overturned on the basis
15 of exclusion of self-incriminating evidence obtained in
16 violation of Charter Rights was innocent and should not be
17 made to bear the stigma resulting from the dissemination of
18 the illegally obtained evidence.

19 In those circumstances, the Court found that
20 the privacy interests of the person involved outweighed the
21 public access rule.

22 I believe it is important to quote the
23 following excerpt of Justice Stevenson's reasons at
24 paragraph 30, and I quote:

25 "Those subjected to judicial

1 proceedings must undergo public
2 scrutiny of what is said at trial or on
3 appeal and contemporaneous discussion
4 is protected, but different
5 considerations may govern when the
6 process is at an end and the discussion
7 removed from the hearing context."

8 In the presence case, the criminal process
9 involving Father MacDonald came to an end on May 13th, 2002.
10 However, the Province subsequently ordered the creation of
11 this Inquiry, which is mandated to review various criminal
12 investigations and prosecutions, including those involving
13 Father MacDonald. This is a new process and a very public
14 one. This makes the current situation much different than
15 the one dealt with in *Vickery*.

16 I previously outlined the importance of
17 openness of public inquiries and for this one in particular
18 and quoted Justice Cory in the *Phillips v. Nova Scotia*, the
19 *Westray Mine* tragedy. In that case, Justice Cory stated
20 that even in cases where a person is accused in concurrent
21 criminal proceedings based on the same related facts, the
22 rule is that the person should be compellable and the
23 evidence public.

24 Those seeking a publication ban in this
25 context must show the following. And I quote:

1 "What must be found in order for relief
2 to be granted is that there is a high
3 probability that the effect of
4 publicizing inquiry hearings will be to
5 leave potential jurors so irreparably
6 prejudiced or to so impair the
7 presumption of innocence that a fair
8 trial is impossible."

9 In my view, this is a very heavy burden,
10 even in cases where an individual faces unproven charges in
11 concurrent criminal proceedings. This is even though Cory
12 J. recognized that the right to be presumed innocent was
13 the most single important principle of our system of
14 criminal justice.

15 Public inquiries may adversely affect
16 individuals and have a serious impact on reputations.
17 However, such considerations must seed the way to the
18 public good. The key is to ensure fairness.

19 As Cory J wrote in *Canada v. Blood Inquiry*,
20 page 440, paragraph 55:

21 "The findings of fact and conclusions
22 of the commissioner may well have an
23 adverse effect upon the witness or a
24 party to the inquiry. Yet, they must
25 be made in order to define the nature

1 of and responsibility for the tragedy
2 under investigation and to make the
3 helpful suggestions needed to rectify
4 the problem." [...] "...procedural fairness
5 is essential for the findings of
6 commissions may damage the reputation
7 of a witness."

8 As to the application of section 7 of the
9 Canadian Charter of Rights and Freedoms, I do not believe
10 that this protection is engaged on the facts before me in
11 this case.

12 Another point raised by Father MacDonald is
13 the effect of the publicity, which is linked to the
14 presumption of innocence. There is no doubt that Father
15 MacDonald's criminal proceedings were the subject of
16 considerable publicity.

17 Father MacDonald filed an affidavit in
18 support of this motion. He describes the impact that the
19 criminal process has had on his life: loss of vocation;
20 loss of dignity; expenses; depression and anxiety,
21 limitation of movement.

22 As I indicated in my directions on process,
23 a judge must have a convincing evidentiary basis before
24 issuing confidentiality orders. I must say that while
25 parties adduced no contradictory evidence, a portion of

1 Father MacDonald's affidavit nonetheless raised some
2 questions. He indicates at paragraph 7 that he spent
3 thousands of dollars on legal fees. However, as stated in
4 the affidavit of Bishop André Durocher in support of the
5 Diocese's standing and funding application, which is
6 Exhibit 10.5, at paragraph 25:

7 "Legal fees were also incurred in
8 respect of individual priests facing
9 allegations of criminal wrongdoing. A
10 decision was made to fund the defences
11 of these people because individual
12 priests receive only a very small
13 income from the Diocese."

14 In paragraph 12, he speaks about the
15 deterioration of his health. I do not doubt that criminal
16 processes may have been very stressful and difficult for
17 him. On the other hand, no medical evidence was adduced
18 about any further medical impact that the current
19 proceedings may have on him.

20 The bulk of Father MacDonald's affidavit
21 speaks about the impact he suffered as a result of the
22 criminal processes. He states at paragraph 18 that the
23 commencement of the Public Inquiry has aggravated the harm
24 due to the intense media frenzy. In that regard, I note
25 that no request was made by Father MacDonald until now to

1 protect his identity. Father MacDonald applied for
2 standing and funding, which was granted. His counsel has
3 been present and intervened on his behalf frequently before
4 me. He presented a jurisdictional motion. He then sought
5 funding to challenge my ruling on the motion before the
6 Divisional Court, which I granted. He then challenged my
7 ruling before the Divisional Court. The Divisional Court
8 dismissed his application, and an endorsement was released
9 on September 5th, 2006. He then presented this motion.

10 Father MacDonald was the subject of
11 additional publicity due to the proceedings of this
12 Inquiry; however, as with all other parties, he has until
13 now adhered to the principle of openness.

14 I agree with counsel for the CBC that, on
15 the whole, Father MacDonald has not met his evidentiary
16 burden on the first branch of the *Dagenais-Mentuck* test.
17 As stated by the CBC journalist, Mark Blackburn, in his
18 affidavit, the CBC and Radio Canada have devoted extensive
19 coverage about the events in Cornwall and the charges
20 against Father MacDonald. There was also extensive print
21 media coverage.

22 As was put by counsel, I cannot unscramble
23 an egg that was scrambled many years ago. The prejudice to
24 Father MacDonald as a result of publicity is largely
25 already done.

1 Finally, there is the issue of relevance of
2 Father MacDonald's identity to my mandate. Even if Father
3 MacDonald had convinced me of the necessity to protect his
4 identity, I would find that the deleterious effects of such
5 an order outweigh the salutary effects.

6 Father MacDonald argues that his client's
7 identity is not relevant to the mandate of this Inquiry.
8 As I indicated in my public ruling on confidentiality
9 measures for Exhibit marked as "C" on an interim basis,
10 relevance is a factor to take into account in the analysis
11 on the second branch of the *Dagenais-Mentuck* test.

12 On the issue of relevance to my mandate, the
13 Diocese pointed out to me in its Factum, the case of *R. v.*
14 *Morin*, an Ontario Court of Appeal decision. That case
15 dealt with an application to set aside a publication ban on
16 the identity of a jailhouse informant who had testified in
17 the murder trials of Mr. Guy Paul Morin.

18 The ban had been issued at Mr. Morin's
19 second trial. Mr. Morin's conviction on the second trial
20 was overturned on the basis of fresh evidence of DNA
21 testing. An Ontario Public Inquiry was called to enquire
22 into the conduct of the police investigation, the conduct
23 of the Centre of Forensic Sciences, and to examine the
24 criminal proceedings involving the murder charge against
25 Mr. Morin. In *Regina v. Morin*, the Court of Appeal

1 dismissed the application to set aside the ban because, in
2 its view, there was no material change in circumstances.

3 The publication ban had been issued in the
4 first place based on harassment and threats, which
5 jeopardized the safety of the jailhouse informant and based
6 on expected cross-examination of him concerning his
7 psychiatric records. The Court of Appeal also indicated
8 that the focus of the *Guy Paul Morin* Inquiry was not on the
9 identity of the jailhouse informant.

10 These facts are quite different than those
11 involving Father MacDonald. The *Morin* case dealt with a
12 request to set aside a ban, which was issued on the basis
13 of considerations that do not apply here. The court found
14 that there was no material changes in circumstances when
15 the application to set aside the ban was made.

16 In addition, while Father MacDonald is not
17 the focus of this Inquiry, he is a central figure in the
18 events, which led to its creation, and he has been publicly
19 associated to the issues surrounding the Inquiry for many
20 years.

21 Counsel for the Citizens for Community
22 Renewal submitted that it would be an affront to the people
23 of Cornwall if the identity of Father MacDonald, in
24 connection with the proceedings of this Inquiry, was kept
25 confidential. I agree with that submission.

1 In conclusion, therefore, and contrary to
2 the criminal proceedings involving Father MacDonald, this
3 Inquiry is not about him, nor is it about his guilt or
4 innocence. Father MacDonald is presumed innocent and I am
5 not going to revisit that.

6 The focus of this Inquiry is the
7 institutional response to allegations of historical abuse
8 made against a number of individuals. Father MacDonald
9 happens to be one of those individuals. I will not make
10 findings of misconduct against him in relation to the
11 allegations that were the subject matter of his criminal
12 charges. Father MacDonald is represented before this
13 Commission by competent counsel who are protecting his
14 rights and asserting his innocence. As a party
15 withstanding, he has access to an array of tools to protect
16 his rights and to ensure the fairness of the proceedings.

17 Father MacDonald should rest assured that he
18 has been and will continue to be treated fairly by this
19 Commission consistent with his presumption of innocence.

20 Accordingly, I would dismiss the motion.
21 Thank you.

22 All right, so that's one matter down.

23 So, have we found our folks?

24 **MR. DUMAIS:** He's here, Commissioner.

25 If we can recall then, Mr. Albert Roy and

1 Mr. Wallace as well.

2 **THE COMMISSIONER:** All right.

3 Good afternoon, sir.

4 **MR. WALLACE:** Good afternoon.

5 **THE COMMISSIONER:** So time is always an
6 enemy, and we have until three o'clock this afternoon ---

7 **MR. WALLACE:** Okay.

8 **THE COMMISSIONER:** --- and if you're not
9 finished, that's not a problem, we will just adjourn and
10 put it off to another day.

11 **MR. WALLACE:** I understand and I appreciate
12 no push, thanks.

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

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

15 **WALLACE (cont'd/suite):**

16 **THE COMMISSIONER:** So how are you doing?

17 **MR. ROY:** Fine.

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

19 **MR. ROY:** It went okay.

20 **THE COMMISSIONER:** Terrific.

21 **MR. ROY:** I just have a question. Me and
22 Mr. Morris talked about what's going to happen later.

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

24 **MR. ROY:** So before that lawyer asks me
25 questions, are Pierre and that lawyer, and Mr. Morris going

1 to have a chance to talk before?

2 **THE COMMISSIONER:** Yes.

3 **MR. ROY:** Okay, that's all I wanted to know.

4 **THE COMMISSIONER:** No, that's fine, and
5 that's good that you asked that question. Very good.
6 Thank you.

7 **MR. WALLACE:** Good afternoon, sir.

8 I just want to return to the interaction you
9 had with the Commission investigator for just a couple of
10 moments before we move on to your interview with ---

11 **MR. ROY:** All right.

12 **MR. WALLACE:** --- Constable McDonell.

13 You've told us that what caused you to be
14 uncomfortable was the closeness, the physical closeness of
15 the investigator and yourself. Correct?

16 **MR. ROY:** Yes.

17 **MR. WALLACE:** And did you bring that to the
18 investigator's attention or did you just simply withdraw a
19 bit or neither?

20 **MR. ROY:** I know I told Pierre about it. I
21 don't remember if the investigator was in the room to ---

22 **MR. WALLACE:** Okay.

23 **MR. ROY:** --- but there's -- I think there's
24 a difference between somebody doing something and not
25 knowing about it and somebody being reckless in the way

1 they behave.

2 **MR. WALLACE:** Okay.

3 Now, as far as the investigator is
4 concerned, it would appear from what you are saying is that
5 he may not have been aware of the reaction he caused in
6 you. Is that fair?

7 **MR. ROY:** That's fair, yes.

8 **MR. WALLACE:** Okay, and you brought that to
9 Pierre's attention and perhaps not the investigator's?

10 **MR. ROY:** Well, like I said, I don't
11 remember if the investigator was in the room when I talked
12 about it.

13 **MR. WALLACE:** That's all I'm saying.

14 **MR. ROY:** You're saying I didn't bring it to
15 him. I'm just saying I don't remember.

16 **MR. WALLACE:** Did not.

17 **MR. ROY:** Sorry, sorry, I didn't hear that.

18 **MR. WALLACE:** Okay.

19 Now, in the case of the interview with --
20 that you had with Constable McDonell, firstly, as we heard
21 this morning, it would appear that he had had some
22 involvement in this investigation before you and he ever
23 met. Fair? From what we heard this morning.

24 **MR. ROY:** From what I was told, yes.

25 **MR. WALLACE:** Yes.

1 **MR. ROY:** This morning.

2 **MR. WALLACE:** Yes, okay.

3 **MR. ROY:** Okay.

4 **MR. WALLACE:** No, and I'm not suggesting
5 that you knew that back then. I'm just saying that from
6 what you know today, it appears that he had some
7 involvement in this investigation before the interview with
8 you on the 6th of December.

9 **MR. ROY:** Yes.

10 **MR. WALLACE:** Okay.

11 Now, you also made the point this morning
12 that you were unaware of that at the time.

13 **MR. ROY:** Yes.

14 **MR. WALLACE:** Yes, and you said it would
15 have been nice if you had been told that fact and I'm not
16 disagreeing with you.

17 **MR. ROY:** Yes, because I didn't understand
18 why I had to talk to him.

19 **MR. WALLACE:** Okay.

20 **MR. ROY:** I found it odd.

21 **MR. WALLACE:** This was, number one, a point
22 that you felt -- made you feel uncomfortable to start with?

23 **MR. ROY:** Yes.

24 **MR. WALLACE:** The fact that he was a man was
25 another strike against him; correct?

1 **MR. ROY:** I don't like the way you word it,
2 but, yes.

3 **MR. WALLACE:** Yes. That was an additional
4 feature that would have made you feel uncomfortable?

5 **MR. ROY:** Yes.

6 **MR. WALLACE:** Now, as well as that, as I
7 understood what you told the Commission last week, at the
8 time shortly before this interview, you had just got out of
9 the hospital; correct?

10 **MR. ROY:** Yes.

11 **MR. WALLACE:** And you indicated as well that
12 you were in this interview unaccompanied. You didn't have
13 a lawyer. You didn't have any family members. You felt
14 quite alone.

15 **MR. ROY:** Well, I had Heidi.

16 **MR. WALLACE:** Okay ---

17 **MR. ROY:** Because I had talked to other men,
18 but Heidi was always there.

19 **MR. WALLACE:** What I'm saying is or
20 suggesting to you is that because of your recent discharge
21 from the hospital, you were quite emotionally vulnerable,
22 fragile. Would you agree with that?

23 **MR. ROY:** You see, the problem is that even
24 if I was fragile as you say, it -- I was fragile all
25 through this, all through these proceedings and that, and -

1 - but this incident that happened with Chris McDonnell was
2 from -- was more over the top. So, I mean, if you're
3 saying because I was fragile, I perceived the incident
4 different than what it really was, my answer is "no".

5 **MR. WALLACE:** I'm not suggesting by any of
6 my questions that you did not find this interview -- this
7 is getting too complicated -- let me just put it this way.

8 I accept your word that you felt quite
9 intimidated in the interview, so I'm not challenging that.
10 Do you understand?

11 **MR. ROY:** But you're challenging the reasons
12 why.

13 **MR. WALLACE:** No, what I'm saying to you,
14 sir, is this. Constable McDonnell was there and asked you
15 to provide a statement concerning the Nelson Barque.
16 Correct?

17 **MR. ROY:** No. Ken Seguin.

18 **MR. WALLACE:** Okay, and in the course of it,
19 you disclosed facts concerning Nelson Barque as well?

20 **MR. ROY:** Yes.

21 **MR. WALLACE:** And he was there to obtain
22 information from a person who potentially could be a Crown
23 witness. Correct?

24 **MR. ROY:** For ---

25 **MR. WALLACE:** If charges got ---

1 **MR. ROY:** It's confusing. From what I
2 understood, the interview with me was because he had -- he
3 was investigating some other incident, not my incident.
4 And I know for a fact I am not remembering wrong, because
5 that started the whole thing about me being upset that it
6 wasn't about me. So, I didn't understand why I should have
7 to talk to him or why it wasn't explained to me. I felt
8 like I was being ambushed because I was never told he was
9 part of my case. I was told he was there because of a
10 different allegation.

11 **MR. WALLACE:** In the course of the time that
12 you spent with Constable McDonnell, a statement was written
13 out, correct?

14 **MR. ROY:** Yes.

15 **MR. WALLACE:** And as I understand it, you
16 were talking, he was writing. Correct?

17 **MR. ROY:** Yes.

18 **MR. WALLACE:** And you were shown that that
19 statement has been made reference to last time, correct?

20 **MR. ROY:** Yes.

21 **MR. WALLACE:** And it concerns your
22 involvement with both Mr. Seguin and Mr. Barque, correct?

23 **MR. ROY:** Yes.

24 **MR. WALLACE:** And at the end of it, he asked
25 two questions. One, whether or not you knew anyone by the

1 name of David Silmser and he also asked you if you'd ever
2 met anybody from the church around Ken's house.

3 MR. ROY: That's true but I've always
4 maintained that those notes aren't the whole interview.
5 Because he interviewed me for almost an hour, if not
6 longer.

7 MR. WALLACE: When the interview was set up
8 and when you first came in to it, in the room, as I
9 understand it, were yourself, Constable McDonell ---

10 MR. ROY: Yes.

11 MR. WALLACE: --- Heidi Sebalj and her
12 partner.

13 MR. ROY: Yes.

14 MR. WALLACE: And as I understood it as
15 well, you were positioned in a fashion such that Heidi was
16 behind you, correct?

17 MR. ROY: Yes.

18 MR. WALLACE: So you couldn't see her, she
19 was behind your back.

20 MR. ROY: Yes, I had to turn to look at her.

21 MR. WALLACE: Okay, and during the course of
22 the -- first though, one of the reasons that you felt that
23 you would talk to this fellow was because Heidi was there.

24 MR. ROY: Yes, because she asked me to.

25 MR. WALLACE: She asked you and she was

1 somebody you trusted?

2 MR. ROY: Yes.

3 MR. WALLACE: And she had shown herself in
4 all of the dealings that you'd had with her ---

5 MR. ROY: Can we stop here for a second.

6 See, we are running into a problem where the
7 interview wasn't just the position -- in those notes it's
8 not everything that was there. He asked me sexual
9 questions. He, he, like he pushed the envelope and I was
10 getting more and more and more upset and I kept looking to
11 Heidi to help me out here. We're not just talking about
12 just the fact that he interviewed me. It's what he said,
13 how I was positioned in the room. I mean ---

14 MR. WALLACE: Okay.

15 MR. ROY: The notes aren't the whole
16 interview.

17 MR. WALLACE: You told us this morning that
18 -- and I accept it even though you were feeling quite
19 intimidated that you never said anything to either -- to
20 anybody in the room about how you were feeling. Is that
21 fair?

22 MR. ROY: Yes.

23 MR. WALLACE: Okay, and the most that
24 happened in that regard is, from time to time, you'd turn
25 around I gather and look at Heidi.

1 MR. ROY: Yes.

2 MR. WALLACE: And nothing happened, correct?

3 MR. ROY: No.

4 MR. WALLACE: You did not ask Constable
5 McDonell to change his position or just move back?

6 MR. ROY: No.

7 MR. WALLACE: Nor did you -- you were in a
8 chair I assume?

9 MR. ROY: Yes.

10 MR. WALLACE: You did not move back either?

11 MR. ROY: I couldn't, the desk was behind
12 me, the other officer's desk.

13 MR. WALLACE: Okay. In any event, I gather
14 what was bothering you, if I understand your last remark,
15 was really the questions that you were being asked. Is
16 that fair?

17 MR. ROY: No, it was the whole situation of
18 the way he sat in front of me, the way he barked at me, the
19 questions he asked in a sense that -- I was afraid.

20 MR. WALLACE: Are you suggesting though, Mr.
21 Roy, that he was -- in the company of Heidi Sebalj he was
22 raising his voice at you?

23 MR. ROY: At the end, yes. When he started
24 to ask the other questions that aren't on this report.

25 MR. WALLACE: So, if I got it right then,

1 that the statement was done first and then he moved on to
2 other issues?

3 **MR. ROY:** I don't know when the statement --
4 like I don't know -- I know he was writing in his book
5 while he was talking to me. He never stopped and said
6 "Okay, that's the end of the statement". I mean, I can see
7 by him writing he generalized things. He's got things in
8 there that are saying "I" as if it's me talking and I look
9 at those words and I know damn well that's not me that said
10 that. That's him generalizing the conversation.

11 **MR. WALLACE:** Perhaps we could show the
12 witness, I don't know, the document number is 715436.

13 **THE COMMISSIONER:** Just a minute there, Mr.
14 Roy, you can't find it, it will come up on the screen first
15 I think. What is the document, sir?

16 **MR. WALLACE:** It's his handwritten
17 statement. If you have that up there just to have a look
18 at it.

19 **THE COMMISSIONER:** Well, there is a lot of
20 documents, hold on.

21 **MR. WALLACE:** Okay.

22 **THE COMMISSIONER:** Hang on, Mr. Roy.

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

24 **THE COMMISSIONER:** Has it been made an
25 exhibit yet?

1 **MR. DUMAIS:** It is the handwritten version
2 of the statement. I think the typewritten version was put
3 to Mr. Roy but not the handwritten statement.

4 **THE COMMISSIONER:** All right. So you want
5 the handwritten ---

6 **MR. WALLACE:** Sure, that would be very
7 helpful, please.

8 **THE REGISTRAR:** It's a different document
9 number but ---

10 **THE COMMISSIONER:** It's okay, we'll make it
11 a different exhibit then?

12 **THE REGISTRAR:** It's attached to it.

13 **THE COMMISSIONER:** It's attached to it,
14 okay. So maybe once you identify it? Can anyone help us
15 in finding the exhibit number for the statement that was
16 taken by Officer McDonell?

17 **MS. COSTOM:** The typed statement given to
18 Mr. McDonell on the 6th of December is Document 713277 and
19 it's exhibit 117.

20 **THE COMMISSIONER:** Thank you.

21 **MS. COSTOM:** This document was part of the
22 OPP notice. The handwritten document is 715436 and it was
23 part of a notice given by the OPP.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MS. COSTOM:** I have a copy of the e-mail

1 transmission slip if that's going to help.

2 **THE REGISTRAR:** No, that's fine.

3 **THE COMMISSIONER:** All right, so we'll have
4 to take a break then to get that photocopied.

5 **MR. DUMAIS:** Mr. Commissioner, just before
6 we break, is the typewritten version not acceptable just
7 for the -- I am not sure where Mr. Wallace is going but we
8 have typewritten version.

9 **MR. WALLACE:** No, the reason I wanted to see
10 the written one is because it's referring to the officer
11 writing.

12 **THE COMMISSIONER:** Okay. All right, so
13 we'll stick to break.

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

16 The hearing will resume in 5 minutes.

17 --- Upon recessing at 2:25 p.m. /

18 L'audience est suspendue à 14h25

19 --- Upon resuming at 2:31 p.m. /

20 L'audience est reprise à 14h31

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

23 This hearing of the Cornwall Public Inquiry
24 is now in session. Please be seated. Veuillez vous
25 asseoir.

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

2 **THE COMMISSIONER:** All right, do we have the
3 documents?

4 **THE REGISTRAR:** Exhibit 136.

5 **THE COMMISSIONER:** Exhibit 136. Thank you.

6 **---EXHIBIT NO./PIÈCE NO P-136:**

7 (Document # 715436) Albert Roy - Interview
8 Report - December 6, 1994 - Handwritten
9 Copy.

10 **MR. ROY:** Thanks.

11 **MR. WALLACE:** The document you have is what
12 I have been referring to as your statement that you gave to
13 Constable McDonell.

14 **MR. ROY:** Yes.

15 **MR. WALLACE:** And the writing on the
16 document is not yours.

17 **MR. ROY:** No.

18 **MR. WALLACE:** Constable McDonell, he did all
19 the writing?

20 **MR. ROY:** Yes.

21 **MR. WALLACE:** Except for the signatures
22 where you signed it, at the very end of the statement and
23 at the bottom of every page.

24 **MR. ROY:** It's not Officer McDonell that got
25 me to sign this. I believe this was brought to me by

1 Officer Séguin from Project Truth.

2 MR. WALLACE: Okay. But my point is that
3 you were telling Constable McDonell what had happened
4 between you and Seguin and you and Nelson Barque and he was
5 writing that down, correct?

6 MR. ROY: Correct.

7 MR. WALLACE: Now, just before I made
8 reference to this document, I thought you were saying that
9 Constable McDonell was writing in a notebook? Are you
10 saying he did both or it's just a mistake?

11 MR. ROY: You mean was he writing in this
12 format, on a big page like this?

13 MR. WALLACE: Yes.

14 MR. ROY: I don't think so, I think he was
15 writing in a notebook. To my recollection, he was writing
16 in a notebook.

17 MR. WALLACE: You don't recall ---

18 MR. ROY: I don't recall seeing big sheets.

19 MR. WALLACE: To the best of your
20 recollection and the first time you saw Exhibit 136 was
21 when it was shown to you by Constable Séguin?

22 MR. ROY: To my recollection, yes.

23 MR. WALLACE: Now, I'll just tell you how
24 things usually go in police investigations and that is the
25 police officer will take a statement, much in the fashion

1 that this is done. Then will either read it over to the
2 person who gave him the statement or have them read it over
3 and sign it. That's how things usually work. Now, having
4 heard that, is it possible that's what happened here?

5 **MR. ROY:** I think by the end of the
6 interview I was in such a state that the scenario you say
7 could have happened but I don't remember it happening that
8 way.

9 **MR. WALLACE:** Now, you had an opportunity to
10 read this statement over before today, correct?

11 **MR. ROY:** Well, I must have read it when
12 Officer Séguin gave it to me.

13 **MR. WALLACE:** Sure. I wouldn't ask you to
14 rely back in the Project Truth days, but when you were
15 being prepared to testify for this Commission, did they --
16 -

17 **MR. ROY:** I think I read the printed -- the
18 typed out one.

19 **MR. WALLACE:** Okay. And with the exception
20 of the interpretation you put on whether Mark is at Nelson
21 Barque's house or not, it appears that everything else in
22 the statement is accurate.

23 **MR. ROY:** There was a problem that I had
24 with it. I believe everything is accurate in here. I have
25 some problems with the way it was worded.

1 **MR. WALLACE:** Fair enough.

2 And you've pointed out that one incident --

3 -

4 **MR. ROY:** I just wanted to show that he
5 wasn't taking my statement verbatim, that some of it he
6 generalized in his own words, using the second person.
7 Like, he would say, "I was going down the road and I
8 tripped and fell on the road", as if it was me talking, but
9 it wasn't. It was his generalization of the conversation
10 he was having with me.

11 **MR. WALLACE:** Well ---

12 **MR. ROY:** He didn't use the same words that
13 I used.

14 **MR. WALLACE:** When you were saying to him,
15 for example, when you were describing in the first sentence
16 of the statement, when you were talking about stealing the
17 car, you would have said, "In October of 1976, I was
18 involved in stealing a car." You didn't say that a young
19 fellow or Albert Roy was involved in stealing a car. You
20 would have referred to yourself as "I", correct?

21 **MR. ROY:** Correct.

22 **MR. WALLACE:** So this -- the way this
23 statement reads is you are describing for him in the first
24 person, using the word "I", "I did this. I saw that." And
25 he's simply writing that down.

1 **MR. ROY:** But he's using his own words.
2 Here -- like, I have a part in my notes that I had
3 underlined that really shows that it's not me talking. I
4 had talked it over with Pierre.

5 **THE COMMISSIONER:** Would it help if you
6 looked at the typed version?

7 **MR. ROY:** If I could go into my notes ---

8 **THE COMMISSIONER:** Sure.

9 **MR. ROY:** --- I might have it underlined.

10 **THE COMMISSIONER:** This is a public
11 document, sir?

12 **MR. WALLACE:** This, I think, is 117 --
13 Exhibit 117.

14 **THE COMMISSIONER:** Is it a public document
15 as opposed to confidential?

16 **MR. WALLACE:** I don't see a reason why it
17 wouldn't be. I don't have a "P" or a "C" in front of it.

18 **THE COMMISSIONER:** You're the one who
19 entered it as an exhibit.

20 **MR. WALLACE:** No, it had already been
21 entered.

22 **THE COMMISSIONER:** The handwritten one?

23 **MR. WALLACE:** Oh. I thought -- my
24 understanding is that one had been attached to the other.

25 **THE COMMISSIONER:** No.

1 **MR. WALLACE:** Okay.

2 **THE COMMISSIONER:** "P" exhibit.

3 **MR. ROY:** I don't seem to have that document
4 with me, the one I had when I read it.

5 **MR. WALLACE:** Okay.

6 **MR. ROY:** But I'm not saying that anything
7 is untrue inside of the statement. I'm just saying that
8 everything that we talked about isn't there.

9 **MR. WALLACE:** Okay. And I think that's
10 quite understandable. You can obviously talk faster than a
11 person can write. So not every single word that you would
12 say would end up down on the piece of paper, but the ideas
13 are correct. You're content with that?

14 **MR. ROY:** All right. But the stuff at the
15 end was more intense than that, even more intense than a
16 couple of those pages.

17 **MR. WALLACE:** So what I'm trying to get at
18 is the topics that were discussed that don't appear in the
19 statement, did that happen after the statement was finished
20 or was that something that happened before the statement
21 started?

22 **MR. ROY:** No ---

23 **MR. WALLACE:** Or do you know?

24 **MR. ROY:** It happened at the end. That's
25 all I know. I don't know if he was still writing.

1 **MR. WALLACE:** Okay.

2 **MR. ROY:** All I know is that he started in
3 on it, and he wouldn't let me go. He got louder, and I
4 kept looking to Wendy for help. Even during the middle
5 part when he started to talk about certain things that had
6 happened, I just -- I didn't want to talk to him about it,
7 and he pushed it.

8 **MR. WALLACE:** Now, when you say in the
9 middle, are you referring to the middle of the statement
10 that we have here? Are you talking about the middle of the
11 interview?

12 **MR. ROY:** There's stuff in there that ---

13 **THE COMMISSIONER:** No, no, easy.

14 **MR. ROY:** There's stuff in there, like what
15 Ken did to me and what Ken made me do, I'm saying there was
16 more of that.

17 **THE COMMISSIONER:** Right.

18 **MR. ROY:** And especially at the end. He was
19 pushing a particular thing.

20 **MR. WALLACE:** Concerning Mr. Séguin?

21 **MR. ROY:** Yes.

22 **MR. WALLACE:** Okay. And this was after the
23 statement was finished; is that right?

24 **MR. ROY:** Like, are you asking me, "Did he
25 say, okay, we're off the record now" or something like

1 that? I mean, there was no pause or anything. He just
2 kept asking me questions.

3 **MR. WALLACE:** Okay. And it was at this
4 point in time that you were looking to Heidi for some help?

5 **MR. ROY:** At that time and also the middle
6 part there.

7 **MR. WALLACE:** Well, that's what I'm just
8 trying to find out, the middle part of what? The middle
9 part of the statement?

10 **MR. ROY:** Yes.

11 **MR. WALLACE:** Okay. So there were
12 additional questions and answers that you gave to him that
13 are not reflected here; is that right?

14 **MR. ROY:** Yes.

15 **MR. WALLACE:** And when you were shown the
16 statement by Steve Séguin in the Project Truth, you didn't
17 bring that to his attention, the fact that "the statement
18 is missing stuff that I told him"?

19 **MR. ROY:** No.

20 **MR. WALLACE:** And ---

21 **MR. ROY:** Well, there's no way I would have.
22 I would have had to tell him what it was, wouldn't I?

23 **MR. WALLACE:** Okay.

24 **MR. ROY:** In my home.

25 **MR. WALLACE:** But the fact was you didn't

1 tell him?

2 MR. ROY: No.

3 MR. WALLACE: Okay. Now, looking back on
4 the interview itself -- and as I said on more than one
5 occasion, I don't dispute the fact that you were, in fact,
6 intimidated. You never told the officer that you were.

7 Is it possible that he was not aware of the
8 fact that you were intimidated?

9 MR. ROY: It's my opinion that he knew
10 exactly what he was doing. He wanted information and he
11 knew exactly what he was doing. He didn't sit me in that
12 chair directly in front of him with my back turned to Heidi
13 and her partner and talk to me in that fashion if he didn't
14 have a reason to do it.

15 MR. WALLACE: Well ---

16 MR. ROY: He wanted to make sure that I
17 answered his questions, and that's exactly what he did.

18 MR. WALLACE: It ---

19 MR. ROY: That's my opinion.

20 MR. WALLACE: The interview that you gave to
21 Heidi Sebalj back in November, on the 24th, that was quite a
22 bit longer, correct?

23 MR. ROY: I think so, yes.

24 MR. WALLACE: Yes.

25 And there was really no new information that

1 you were giving in this statement that you hadn't already
2 told Heidi, correct?

3 **MR. ROY:** Yes, there was.

4 **MR. WALLACE:** I'm sorry?

5 **MR. ROY:** Yes, there was.

6 **MR. WALLACE:** And this is the things about
7 Ken?

8 **MR. ROY:** Yes.

9 **MR. WALLACE:** That he didn't write down?

10 **MR. ROY:** Yes.

11 **MR. WALLACE:** Okay.

12 **THE COMMISSIONER:** I'm sorry, in fairness,
13 this is -- the first statement given to Heidi didn't
14 mention Ken, did it?

15 **MR. ROY:** Yes, it did.

16 **THE COMMISSIONER:** It did. Okay. Sorry.

17 **MR. WALLACE:** Thank you.

18 And so other than the new stuff about Ken,
19 everything else in the statement was stuff you had already
20 told to Heidi?

21 **MR. ROY:** I believe so, for the most part,
22 yes.

23 **MR. WALLACE:** So then the only things -- the
24 only new information that he received, he never wrote down?

25 **MR. ROY:** I can't remember every question

1 that he asked me, but some things, yes.

2 **MR. WALLACE:** Okay.

3 **MR. ROY:** There was a point where it seemed
4 the interview kind of changed and it was different.

5 **MR. WALLACE:** Okay.

6 **MR. ROY:** It's almost as if he was trying --
7 I felt really uncomfortable, but I think I have to tell the
8 Court. It was almost as if he was trying to say I gave
9 permission for what happened. That's why he kept pushing
10 me on those certain things, and I don't want to have to
11 tell the Court what those certain things are, but that's
12 the impression I got. He wanted to know if I ---

13 **THE COMMISSIONER:** About different sexual
14 acts?

15 **MR. ROY:** If I perpetrated these acts.

16 **THE COMMISSIONER:** Okay.

17 **MR. ROY:** Almost as if did I give consent.

18 **MR. WALLACE:** Okay. And I'm not asking you
19 for the answer, sir, but you answered his questions?

20 **MR. ROY:** Yes.

21 **MR. WALLACE:** And those answers, both those
22 questions and answers, the new material doesn't appear in
23 the statement?

24 **MR. ROY:** No.

25 **MR. WALLACE:** And this was the information

1 that he was pushing so hard for, if we can use that term?

2 **MR. ROY:** Pushed the hardest for, yes.

3 **MR. WALLACE:** Okay. The stuff that he
4 pushed the hardest for, he never wrote down in the
5 statement?

6 **MR. ROY:** From what I see, no.

7 **MR. WALLACE:** Okay. And this material or,
8 rather, his demeanour, this is where your complaint with
9 him lies in his demeanour when he was asking about these
10 questions?

11 **MR. ROY:** No, it's the whole interview, the
12 whole way it was done.

13 **MR. WALLACE:** Just the physical set-up?

14 **MR. ROY:** Yes.

15 **MR. WALLACE:** The fact that he was a male?

16 **MR. ROY:** I -- you're -- as soon as he sat
17 me down, I felt like I had done something wrong, like I was
18 the criminal and I was going to have to answer to
19 something. You would have had to be in the room and see
20 the way it was set up. I don't give a care who it was, if
21 it was somebody manic depressive or abused, anybody that
22 would have been sat like that in front of this man -- and
23 Chris McDonnell was a big man -- would have felt
24 intimidated. And the fact that Heidi and her partner were
25 behind me already gave me some indication that this isn't

1 going to go like my other interviews. My other interviews
2 were with Heidi and her partner. He was behind his desk.
3 Heidi was behind her desk. I was sitting on the couch.

4 There was no intimidation at all, but with
5 him it was right in front of me, having me in my chair,
6 making sure my back was to the person that I trusted the
7 most, and there must have been something said between them
8 or I don't know if there's some rule between police
9 officers, because every time I turned to Heidi to get some
10 kind of help, and she -- I mean, she knew. I mean, she
11 just didn't do anything. She just turned away as if
12 "You're on your own. You've got to answer the questions."

13 **MR. WALLACE:** Did you at any point in time
14 after this interview -- did you say to Heidi -- because the
15 way you're describing it, she really dropped the ball for
16 you there. Is that not correct?

17 **MR. ROY:** Well, you're trying to make blame.
18 I don't know what the rules are of them asking questions,
19 but she would have been allowed to -- just like you guys
20 have rules when you're in cross-examination, you can't talk
21 to this one, you can't talk to that one. So don't ask me
22 if she dropped the ball. I just know she didn't help me
23 out.

24 **MR. WALLACE:** Okay. But looking back at the
25 set-up, the interview is taking place in her office,

1 correct, at the Cornwall Police station by an officer that
2 is not a member of the Cornwall Police. Heidi is someone
3 you have come to trust and rely on, correct?

4 MR. ROY: Correct.

5 MR. WALLACE: And to rely on for some
6 protection when she was interviewing you, to make you feel
7 comfortable?

8 MR. ROY: Well, I don't know what you're
9 asking me there.

10 MR. WALLACE: You were expecting her to
11 protect you in this interview?

12 MR. ROY: Yes, I thought she might intervene
13 when he started to get on certain topics.

14 MR. WALLACE: And my question is did you say
15 to Heidi, that day or any other day, "Listen, Heidi, you
16 know, you really let me down there. What was that all
17 about?"

18 MR. ROY: No.

19 MR. WALLACE: Okay.

20 MR. ROY: I told her -- I think I did tell
21 her I was really uncomfortable with Chris McDonell and I
22 was uncomfortable with the fact that I didn't understand
23 why he was interviewing me. And I said that over again
24 after the interview, that I really didn't understand why he
25 was here, especially with the questions he was asking. I

1 mean, he told me he was there because of somebody else, but
2 it didn't -- I don't know.

3 **MR. WALLACE:** What you told her, if I
4 understand you, is you told her that you felt uncomfortable
5 and you didn't understand why he was there?

6 **MR. ROY:** Yes.

7 **MR. WALLACE:** Okay. You didn't say to her,
8 like, "Why didn't you intervene here when I was looking
9 around?"

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

11 **MR. WALLACE:** Okay.

12 Now, Mr. Commissioner, that's the end of
13 this part, and I don't think it makes much sense to start
14 into the next part at this stage.

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

16 So we're coming back on the 20th at two
17 o'clock. Is that right, Mr. Dumais? Monday -- oh no.

18 **MR. ROY:** Mr. Morris has go to -- he
19 probably won't be here when that other stuff ---

20 **THE COMMISSIONER:** Well, let's see.

21 **MR. DUMAIS:** If I can just have a few
22 minutes, Commissioner?

23 I guess first thing is first, I just want to
24 give a general idea to the parties as to what we're doing
25 and who we're calling in the next little while. So we are

1 not sitting next week.

2 **THE COMMISSIONER:** Right. We're not.

3 **MR. DUMAIS:** But we are sitting the
4 following week on the 27th and we are expected to start at
5 2:00 p.m. that afternoon.

6 **THE COMMISSIONER:** Yes.

7 **MR. DUMAIS:** We have been advised by Mr.
8 David Sherriff-Scott that he wishes to bring a motion for a
9 publication ban.

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

11 **MR. DUMAIS:** We had advised him that this
12 should occur on that date. That's subject to discussions
13 that we're supposed to have on Monday.

14 Following that motion, we will be calling
15 Claude Marleau.

16 **THE COMMISSIONER:** Yes.

17 **MR. DUMAIS:** His evidence is expected to
18 take two or three days.

19 I did have a discussion with both Mr.
20 Callaghan and Mr. Morris as to when we could come back and
21 deal with the cross-examination of Mr. Callaghan. Both
22 parties told me that they would be available on the 30th.
23 So that's the Thursday in two weeks.

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

25 **MR. DUMAIS:** And that's on the premise that

1 we have completed Claude Marleau, but everyone is available
2 on that day.

3 As well, we would complete Mr. Wallace's
4 cross-examination on that day, and if we are done, I would
5 be calling Vicki Roy, and that would complete that chapter.

6 I've had a discussion as well with Mr.
7 Morris, who spent some hour or so with Albert, to discuss
8 the areas that he was prepared to provide answers to. Mr.
9 Callaghan did provide our office last Friday, as requested,
10 some areas that he wanted to cross-examine Albert on and
11 Albert has agreed to answer a number of questions. And if
12 I can just ask Mr. Morris to state those -- Albert's
13 position for the record, it may assist us in expediting the
14 matter on that Thursday.

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

16 Mr. Morris.

17 **--- SUBMISSION BY/REPRÉSENTATION PAR MR. MORRIS:**

18 **MR. MORRIS:** Good afternoon.

19 I know you're wanting to adjourn, so I'll be
20 brief. What I've tried to do in part is speak to Mr. Roy
21 in the constraints of him being in cross-examination, but
22 to try to carve out areas that might be areas of cross-
23 examination that he would be comfortable answering
24 questions in and then perhaps also to identify areas which
25 continue to be troublesome.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

So let me just identify those, and I think it may be instructive for the next day when we appear.

THE COMMISSIONER: Thank you.

MR. MORRIS: So number one, Mr. Callaghan asked me to produce statements for Mr. Roy's affidavit of documents from his civil proceeding. I have instructions from Mr. Roy to do that and I'm prepared to share those.

Number two, if counsel wish to cross-examine Mr. Roy in relation to discussions that Mr. Roy had with Perry Dunlop about his case, he's prepared to answer questions in that area.

Number three, if counsel wish to ask Mr. Roy questions in relation to the circumstances leading up to the meeting with his lawyer; namely, me, at the Holiday Inn, I think it's been described in the documents, he's prepared to answer questions of that nature.

Number four, if counsel wish to ask questions about what Mr. Roy may or may not have heard Mr. Dunlop tell Mr. Roy he was saying to other victims -- it's a bit confusing but that's the way I've worded it -- he doesn't object to answering questions in that area.

THE COMMISSIONER: Can you repeat that again?

MR. MORRIS: Let me try that again. If Mr.

1 Roy is asked questions about what Perry Dunlop told Mr. Roy
2 about what Mr. Roy was saying to other victims -- or sorry,
3 what Mr. Dunlop was saying to other victims -- I apologize
4 ---

5 **THE COMMISSIONER:** Right.

6 **MR. MORRIS:** And that's not identifying the
7 victims, just what Mr. Dunlop was telling these people and
8 Mr. Roy was told by Dunlop that's what he was saying, he
9 doesn't object to that.

10 Number five, if there has been a victim or
11 alleged victim who has already been identified and who has
12 told his story to this Commission, Mr. Roy would then be
13 comfortable confirming that he had spoken to this
14 individual.

15 **THE COMMISSIONER:** And is he willing to tell
16 us what conversations he would have had with that person
17 concerning Mr. Dunlop?

18 **MR. MORRIS:** I think what we -- I think we
19 may need to parch this out a bit, but if, for example,
20 somebody has come to testify, told his story to the
21 Commission and the Commission knows that, then Mr. Roy's
22 concern about divulging the identity of someone is no
23 longer significant. He's not worried about that.

24 If someone then says, "Well, tell us what
25 the victim told you," Mr. Roy has told me that he doesn't

1 want to be the one telling the victim's story, especially
2 if the victim has already told his story here.

3 **THE COMMISSIONER:** I know, but it's not a
4 question of him telling us what happened to that victim --
5 -

6 **MR. MORRIS:** Right. I appreciate that.

7 **THE COMMISSIONER:** --- about the sexual
8 allegations or anything like that. I think it has to be
9 relevant to the issue of Mr. Dunlop.

10 **MR. MORRIS:** I agree with you. And perhaps
11 -- I can't say I've been able to canvas it quite that way,
12 but I can tell you we may be able to do that between now
13 and the 30th. I can tell you I have a sense that's less
14 troubling to him than telling this Commission what victims
15 told him about their particular abuse and what happened to
16 them and identifying them when they haven't been identified
17 before.

18 **THE COMMISSIONER:** Okay.

19 **MR. MORRIS:** Number six, I think, on my list
20 is that he's not -- he doesn't object to telling this
21 Commission what he, Mr. Roy, told other victims that they
22 should do when they spoke to him and asked him for advice.

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

24 **MR. MORRIS:** And the last sort of carved out
25 area, if you will, where he thinks he's prepared and wants

1 to be helpful is that there was a recent discussion between
2 a gentleman named Carson Chisholm and his wife Vicki Roy,
3 and that's been communicated to him by Vicki, and Mr. Roy,
4 if asked questions about that, is prepared to testify on
5 what he was told by Vicki Roy that Carson Chisholm said to
6 her.

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

8 **MR. MORRIS:** Then there's two other areas.
9 These are the sort of areas where he's still troubled.

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

11 **MR. MORRIS:** And I think we need to think
12 about these.

13 The first is the meeting that's been
14 described. Mr. Roy has instructed me to submit to this
15 Commission that the meeting at -- whether it was the
16 Holiday Inn or the Ramada Inn, I can't remember -- he
17 considers to be privileged and does not believe he should
18 answer questions about that meeting or anything that was
19 said at that meeting.

20 **THE COMMISSIONER:** All right.

21 **MR. MORRIS:** And then the last area which I
22 may have covered indirectly is that he's not comfortable
23 testifying as to an unidentified victim and what that
24 unidentified victim may have told him about the abuse or
25 what happened to him.

1 **THE COMMISSIONER:** Okay. Well -- all right.

2 **MR. MORRIS:** And you may have already said
3 that's not an area anyway he's going to be asked about,
4 which is fine.

5 **THE COMMISSIONER:** Well, I don't know about
6 -- well, Mr. Callaghan is giving me the okay there.

7 I don't think it's anywhere close to being
8 relevant and never -- and if it wasn't Mr. Callaghan's
9 intention, I don't think I would ever permit that to occur
10 at this point.

11 So, Mr. Roy, we're not going to ask you
12 questions about what people told you about their abuse.
13 That's not the point.

14 The point is in relation to Mr. Dunlop and
15 his involvement with other people, subject to being more
16 precise with Mr. Callaghan. And, you know, Mr. Callaghan
17 is going to have to satisfy me as we go as to the relevance
18 of all of that. So we're getting closer.

19 **MR. MORRIS:** I think we've canvassed those,
20 one, because of what Mr. Roy has expressed concern to me
21 about but also the letter that Mr. Callaghan sent that was
22 fairly broad in areas of examination.

23 **THE COMMISSIONER:** Sure.

24 So I suppose, to put the cards on the table,
25 I don't know that Mr. Callaghan has abandoned his desire to

1 ask for the names, and so that may be an outstanding issue,
2 and you may wish to advise your client with respect to
3 whether or not that is privileged or not and whether he has
4 any legal right to refuse to answer those questions.

5 All right?

6 **MR. MORRIS:** Yes, sir.

7 **THE COMMISSIONER:** Thank you.

8 All right. So does that take care of it,
9 Maître Dumais? Is that everything?

10 **MR. DUMAIS:** I believe it does. I don't
11 know if Mr. Callaghan wants to say ---

12 **THE COMMISSIONER:** No.

13 **MR. DUMAIS:** It's been a full week for him.

14 **THE COMMISSIONER:** All right. So let's
15 close it up.

16 Sir, thank you very much for coming again.
17 You have to understand one thing, that your contribution to
18 this Inquiry is not going unnoticed and I personally
19 appreciate you coming back again.

20 Thank you.

21 **MR. DUMAIS:** Thank you.

22 **THE COMMISSIONER:** Monday at 2:00, the 27th.

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

25 The hearing is now adjourned. L'audience

1 est ajournée.

2 --- Upon adjourning at 3:04 p.m./

3 L'audience est ajournée à 15h04

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Sean Prouse, CVR-CM