

**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 305

Held at :

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

Monday, November 17, 2008

Tenue à:

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

Lundi, le 17 novembre 2008

Appearances/Comparutions

| | |
|---------------------------------|---|
| Ms. Brigitte Beaulne | Registrar |
| M ^e Pierre R. Dumais | Commission Counsel |
| Ms. Karen Jones | |
| Ms. Kelly Doctor | |
| Mr. Mark Crane | Cornwall Community Police Service and Cornwall Police Service Board |
| Mr. Neil Kozloff | Ontario Provincial Police |
| Ms. Diane Lahaie | |
| Mr. David Rose | Ontario Ministry of Community and Correctional Services and Adult Community Corrections |
| Mr. Zameer Hakamali | Attorney General for Ontario |
| Mr. Peter Chisholm | The Children's Aid Society of the United Counties |
| Ms. Helen Daley | Citizens for Community Renewal |
| Mr. Dallas Lee | Victims' Group |
| Mr. Michael Neville | The Estate of Ken Seguin and Doug Seguin and Father Charles MacDougald |
| Mr. Mark Wallace | Ontario Provincial Police Association |
| Mr. Ian Paul | Coalition for Action |
| Mr. Larry O'Brien | D/Insp. Randy Millar |
| Mr. William Zebruck | |
| D/Insp. Randy Millar | |
| Mr. Ken MacLennan | |

Table of Contents / Table des matières

| | Page |
|---|-------------|
| List of Exhibits : | iv |
| WILLIAM ZEBRUCK, Affirmed/Sous affirmation solennelle | 1 |
| Examination in-Chief by/Interrogatoire en-chef par Mr. Pierre Dumais | 2 |
| Cross-Examination by/Contre-interrogatoire par Ms. Helen Daley | 84 |
| Cross-Examination by/Contre-interrogatoire par Mr. Ian Paul | 105 |
| Cross-Examination by/Contre-interrogatoire par Mr. Dallas Lee | 115 |
| Cross-Examination by/Contre-interrogatoire par Mr. Mark Crane | 134 |
| Cross-Examination by/Contre-interrogatoire par Mr. Mark Wallace | 147 |
| Re-Examination by/Ré-interrogatoire par Mr. Pierre Dumais | 156 |
| DET. INSP. RANDY MILLAR, Sworn/Assermenté | 160 |
| Examination in-Chief by/Interrogatoire en-chef par Ms. Karen Jones | 161 |
| Notice of appeal of rejection of standing of August 10 th , 2007 presented by/Avis d'appel du rejet De siéger du 10 août, 2007 présenté par Mr. Ken MacLennan | 220 |

LIST OF EXHIBITS/LISTE D' EXHIBITS

| NO. | DESCRIPTION | PAGE NO |
|------------|--|----------------|
| P-2586 | (200221) - Career Profile of William Zebruck | 3 |
| P-2587 | (114321) - Notes of William Zebruck dated 03 Dec 94 to 05 Jan 95 | 68 |
| P-2588 | (114241) - S.D.&G Crown Attorney's Office Provincial Division Court Cover Sheet of R. vs Nelson Barque dated 11 Jan 95 | 76 |
| P-2589 | (123718) - Notes of William Zebruck dated 08 Feb 95 to 13 Jun 95 | 81 |
| P-2590 | (715106) - Statement of Albert Lalonde dated 12 May 95 | 102 |
| P-2591 | (200308) - Career Profile of Randolph Lyle Millar | 162 |
| P-2592 | (733046) - Notes of Randy Millar 09 Jan 92 | 166 |
| P-2593 | (200312) - Notes of Randy Millar 26 Aug 92 to 02 Sep 92 | 173 |
| P-2594 | (733051) - Notes of Randy Millar dated 10 Feb 93 | 182 |
| P-2595 | (733052) - Interview Report of Randy Millar dated 03 Dec 98 | 202 |
| P-2596 | (725177) - Notes of Randy Millar dated 25 Nov 93 | 211 |

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, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **MR. DUMAIS:** Good morning, Mr. Commissioner.

10 **THE COMMISSIONER:** Good morning.

11 **MR. DUMAIS:** We do have new face for the
12 Ministry of the Attorney General. Mr. Zameer Hakamali is
13 here.

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

15 **MR. DUMAIS:** We are prepared to call our
16 next witness for the Ontario Provincial Police, Mr. William
17 Zebruck.

18 **THE COMMISSIONER:** Thank you.

19 Good morning, sir.

20 **WILLIAM ZEBRUCK, Affirmed/Sous affirmation solennelle:**

21 **THE COMMISSIONER:** Thank you. Have a seat,
22 Mr. Zebruck.

23 Good morning.

24 **MR. ZEBRUCK:** Good morning.

25 **THE COMMISSIONER:** I don't know if you watch

1 the proceedings but there are fresh glasses and fresh
2 water. I can guarantee that.

3 The microphone, we would like you to bend it
4 down and speak directly into it. My job here is to make
5 sure that you're comfortable and if you require any
6 assistance at any time to let me know. Otherwise, I would
7 like you to answer the questions as best you can. We will
8 be showing you documents either in hard copy or on the
9 screen. It's your option to look at the screen or -- we
10 don't force anybody to do anything they don't want around
11 here -- much.

12 (LAUGHTER/RIRES)

13 THE COMMISSIONER: And if you need anything
14 let me know, okay?

15 Thank you.

16 MR. ZEBRUCK: Thank you, sir.

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

19 MR. DUMAIS: Good morning, Mr. Zebruck.

20 MR. ZEBRUCK: Good morning, sir.

21 MR. DUMAIS: So let's just start by putting
22 a document to you.

23 And that would be, Madam Clerk, Document
24 Number 200221.

25 And this is a new document, Mr. Zebruck, and

1 Madam Clerk will give it to you in just a few minutes.

2 **THE COMMISSIONER:** Thank you.

3 Exhibit 2586 is a personal profile of
4 William Alexander Zebruck. So again, Exhibit 2586.

5 --- **EXHIBIT NO./PIÈCE NO. P-2586:**

6 (200221) - Career Profile of William Zebruck

7 **MR. DUMAIS:** Mr. Zebruck, your counsel has
8 prepared this career profile and I'd just like to take a
9 few moments just to go through it with you.

10 So my understanding is that you became a
11 probationary constable on November 4th, 1974 at the Long
12 Sault Detachment.

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

14 **MR. DUMAIS:** And you became a provincial
15 constable on September 16th, 1975?

16 **MR. ZEBRUCK:** Yes, sir.

17 **MR. DUMAIS:** And you stayed a short while at
18 the Long Sault Detachment until you transferred to northern
19 Ontario at the Iroquois Falls Detachment?

20 **MR. ZEBRUCK:** That's correct.

21 **MR. DUMAIS:** You worked there for four or
22 five years and then you transferred to the Northeastern
23 Patrol Unit?

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

25 **MR. DUMAIS:** And during that period of time

1 you were will still a provincial constable; correct?

2 **MR. ZEBRUCK:** Yes.

3 **MR. DUMAIS:** And then my understanding is
4 that on October 29th, 1984 you transferred back to the
5 Eastern Region at the Long Sault Detachment.

6 **MR. ZEBRUCK:** That's correct.

7 **MR. DUMAIS:** And shortly -- well, a couple
8 of years after your transfer, you became -- you were
9 seconded to assist with homicide investigations in District
10 11?

11 **MR. ZEBRUCK:** Yes.

12 **MR. DUMAIS:** And then my understanding is
13 that you became a detective constable on January 9th, 1990.
14 Is that correct?

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

16 **MR. DUMAIS:** And if we look at the second
17 page of your career profile, it sets out the different
18 courses that you completed over the years. Is that
19 correct?

20 **MR. ZEBRUCK:** Yes.

21 **MR. DUMAIS:** And I understand that you would
22 have completed the criminal investigation course in May of
23 1989?

24 **MR. ZEBRUCK:** Yes.

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

1 Mr. Zebruck, I'd like to talk to you now --
2 and my understanding is that you retired from the OPP in
3 2000; correct?

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

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

6 So then I'd like to talk to you about one of
7 the investigations that you were involved with and this is
8 an investigation that would have started in late 1994. And
9 I understand that you do have notes that were taken that
10 outline the steps you would have taken and these notes have
11 already been filed as an exhibit. It is Exhibit 121?

12 **MR. ZEBRUCK:** Yes, those are my notes.

13 **MR. DUMAIS:** All right. So my understanding
14 is that you first became involved with this investigation
15 on November 29th, 1994. And I believe your notes start at
16 Bates page 029. Do you see that?

17 **MR. ZEBRUCK:** I found the notes, yes, on the
18 29th of November.

19 **MR. DUMAIS:** Now, do you recall who assigned
20 you this investigation, Mr. Zebruck?

21 **MR. ZEBRUCK:** Well, I was asked to go to
22 Cornwall Police, talk to them about this investigation
23 because of the jurisdiction thing. Who specifically told
24 me to go there, I don't know. I'm not sure. I wouldn't
25 know.

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

2 Do you recall whether or not you had been
3 aware at that time that Constable Sebalj from the Cornwall
4 Police Service was conducting this investigation?

5 **MR. ZEBRUCK:** Yes.

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

7 And you were made aware that the allegations
8 were against a gentleman called Nelson Barque. Is that
9 correct?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** And did you know at that time
12 who Nelson Barque was?

13 **MR. ZEBRUCK:** No.

14 **MR. DUMAIS:** You did not know that he had
15 been previously a probation officer locally?

16 **MR. ZEBRUCK:** No.

17 **MR. DUMAIS:** Okay. You had -- you did not
18 have any previous dealings with him?

19 **MR. ZEBRUCK:** No.

20 **MR. DUMAIS:** And do you recall whether or
21 not you had been briefed on this from anyone at your
22 office?

23 **MR. ZEBRUCK:** No.

24 **MR. DUMAIS:** So you did not have any
25 conversation with an Officer McDonnell?

1 **MR. ZEBRUCK:** No, not that I recall, no.

2 **MR. DUMAIS:** Okay.

3 So your understanding is you're going to be
4 conducting a joint investigation. It has something to do
5 with the jurisdiction where the occurrence would have
6 occurred; correct?

7 **MR. ZEBRUCK:** Yes.

8 **MR. DUMAIS:** So you get to the Cornwall
9 Police Service detachment and your notes indicate -- and
10 I'm still at Bates page 029 -- that you're meeting with
11 Staff Sergeant Luc Brunet. Is that correct?

12 **MR. ZEBRUCK:** Yes.

13 **MR. DUMAIS:** And is there any particular
14 reason why you're meeting with the staff sergeant rather
15 than Constable Sebalj? Is there anything to this?

16 **MR. ZEBRUCK:** I believe we were discussing
17 like whose jurisdiction this offence occurred in and who
18 would look after it. That was the reason for speaking with
19 him.

20 **MR. DUMAIS:** All right. But, certainly, you
21 do recall the discussion with Staff Sergeant Brunet?

22 **MR. ZEBRUCK:** I recall going into his office
23 with Heidi Sebalj, yes.

24 **MR. DUMAIS:** Okay. And Heidi would have
25 been there then?

1 **MR. ZEBRUCK:** Yes.

2 **MR. DUMAIS:** All right.

3 And my understanding, and you've noted this
4 in your notes, that there appears to have been an issue as
5 to the location of the offence?

6 **MR. ZEBRUCK:** Yes.

7 **MR. DUMAIS:** And I'm just reading the fifth
8 line from the bottom:

9 "...not sure of location, may have
10 occurred in St. Andrew's."

11 Correct?

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

13 **MR. DUMAIS:** Now, do you recall whether or
14 not you had been briefed by Constable Sebalj on that day,
15 on the 29th?

16 **MR. ZEBRUCK:** I'm sure I would have been
17 because I would have been talking to her before we talked
18 to Luc.

19 **MR. DUMAIS:** Okay. Do you recall whether or
20 not she had set out for you the investigative steps that
21 she had already completed in this investigation?

22 **MR. ZEBRUCK:** I don't specifically recall,
23 but she would have briefed me on what was going on and that
24 would have been part of the briefing.

25 **MR. DUMAIS:** And I'm just looking at the

1 times on your entries on November 29th, so the first entry
2 appears to be 10:30 to 11:30. Am I reading that right?

3 MR. ZEBRUCK: Yes.

4 MR. DUMAIS: And then the second entry,
5 11:30 to 12:30 you would have been doing something
6 unrelated to the Barque investigation, am I right?

7 MR. ZEBRUCK: That's correct.

8 MR. DUMAIS: So you go over there, you spend
9 about an hour with Staff Sergeant Brunet and Constable
10 Sebalj?

11 MR. ZEBRUCK: Yes.

12 MR. DUMAIS: And the next -- your next
13 involvement in this investigation occurred on the following
14 day, on November 30th?

15 MR. ZEBRUCK: That's correct.

16 MR. DUMAIS: Now, in your initial
17 conversation with Constable Sebalj do you recall at all
18 whether or not she had made you aware that Officer McDonell
19 would have been involved in this investigation with her?

20 MR. ZEBRUCK: No, not at that time.

21 MR. DUMAIS: And perhaps if we can just have
22 a look at Exhibit 115, just for a minute.

23 And I'm looking more specifically at Bates
24 pages -- and I'll just read out the last three digits --
25 831. So if you look at the top left-hand corner of every

1 page there's a number there.

2 **THE COMMISSIONER:** Do you see it, sir?

3 **MR. ZEBRUCK:** I got it.

4 **MR. DUMAIS:** So, this document would be the
5 general Occurrence Report that I believe Constable Sebalj
6 would be preparing and inputting in the OMPACC system and
7 on this particular page, so Bates pages 831, she's setting
8 out the initial investigative steps that she would have
9 taken in this investigation.

10 So, the first one being November 23rd, 1994,
11 she meets with the complainant, Mr. Albert Roy; do you see
12 this?

13 **MR. ZEBRUCK:** Yes, I do.

14 **MR. DUMAIS:** And then on November 24th, 1994,
15 again she would meet with Albert Roy once again and again
16 on November 25th, 1994 you see an entry there and appears
17 that she's trying to locate the house where the occurrence
18 would have occurred.

19 And if you go at about mid-page there's an
20 entry and it starts with "At approximately 1329," do you
21 see that?

22 **MR. ZEBRUCK:** That was on the 20 -- what
23 date was that?

24 **MR. DUMAIS:** It's under November 25th, 1994;
25 about seven or eight lines down from that date.

1 I'll just read it out for you, perhaps that
2 might be helpful.

3 "At approximately 1329 hours I again
4 attended Concession 6, escorted by
5 Constables C. McDonell of Lancaster
6 OPP."

7 **MR. ZEBRUCK:** I've got it.

8 **MR. DUMAIS:** "Two houses east of Highway
9 Number 138 were pointed out on November
10 28, 1994 when I attended Concession 6."

11 So you see that, that ---

12 **MR. ZEBRUCK:** Yes.

13 **MR. DUMAIS:** --- Constable McDonell appears
14 to have been involved immediately prior to your assignment
15 to this case.

16 **MR. ZEBRUCK:** Yes, I've ---

17 **MR. DUMAIS:** But certainly you were not
18 aware of that at this point in time, when you initially
19 became involved in this case?

20 **MR. ZEBRUCK:** No, I met Constable McDonell
21 when they were doing the interview with Roy; he was there
22 and I walked in the office about -- after they had done the
23 interview.

24 **MR. DUMAIS:** Okay. Now, I'm just going back
25 to your notes now, Mr. Zebruck, at Bates pages 030; so

1 that's Exhibit 121.

2 MR. ZEBRUCK: Yeah, you've got it on the
3 screen here.

4 MR. DUMAIS: So do you see the entry at the
5 top of the page? And in the first session, so the first
6 line reads:

7 "Assistant Cornwall PD contact Sebalj,
8 Heidi, advised that the records from
9 Probations and Parole were in
10 Mississauga, should be available 2nd of
11 December 1994."

12 So my first question is, is there any
13 discussion as to who's doing what in this investigation?
14 Whether or not this is an OPP investigation or a Cornwall
15 Police Services investigation? Who will be -- who will
16 have control of this file?

17 MR. ZEBRUCK: Well, I believe it was a joint
18 effort until -- until I laid the Information -- once the
19 Information was laid, Cornwall -- well I kept -- I still
20 kept in contact with Heidi but -- I mean as far as Barque
21 was concerned but there was still a problem with the
22 Probation/Parole -- the records and whatnot. Heidi was
23 looking after that.

24 MR. DUMAIS: Okay. And do you recall what
25 she was saying about those records, what they were about?

1 Had you been made aware what was in those records?

2 MR. ZEBRUCK: Yes, there was allegations of
3 impropriety by Nelson Barque, at Probation/Parole and we
4 were -- wanted the records, see what was done and what
5 investigation they had done.

6 MR. DUMAIS: Okay. So you -- at one point
7 in time you were made aware that there has been this
8 previous incident and this internal investigation at
9 Probations and Corrections?

10 MR. ZEBRUCK: Yes.

11 MR. DUMAIS: And were you -- were you made
12 aware at this time whether or not Mr. Roy was also -- had
13 also made allegations that he had been abused by another
14 probation officer, Mr. Ken Seguin?

15 MR. ZEBRUCK: Yes.

16 MR. DUMAIS: All right. And were you aware
17 of whether or not there was this other investigation being
18 conducted with respect to either an extortion or a re-
19 investigation of the suicide of Mr. Ken Seguin at your
20 office?

21 MR. ZEBRUCK: No.

22 MR. DUMAIS: And certainly you would not
23 have had any involvement in that?

24 MR. ZEBRUCK: No.

25 MR. DUMAIS: So then if you can just go to

1 the next page in your note, Bates pages 031. So just top
2 of the page. And we're going to be referring to a number
3 of victims who made allegations, Mr. Zebruck, and some of
4 them are protected by confidentiality and I'll point them
5 out to you as you go but certainly the first one -- the
6 first name that appears at the top of the page does not
7 require that we refer to him as a moniker.

8 So you're attempting here to locate a
9 gentleman by the name of Robert Sheets; is that correct?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** And do you recall where you got
12 that name from?

13 **MR. ZEBRUCK:** I would believe probably from
14 Heidi.

15 **MR. DUMAIS:** All right. And do you think
16 this had anything to do with the earlier incident, the 1982
17 incident, and the internal investigation of Probations and
18 Corrections had conducted?

19 **MR. ZEBRUCK:** I don't know.

20 **MR. DUMAIS:** Okay, but certainly it appears
21 that you're looking for this guy, and do you recall whether
22 or not Constable Sebalj was involved in that part of the
23 investigation or was she doing something else?

24 **MR. ZEBRUCK:** It would be -- I don't know if
25 I would be interacting with Constable Sebalj all the time.

1 I mean, she'd be supplying me with information. I'd be
2 going to ask her for information, like attempting to locate
3 people would be done probably at Cornwall, at the Cornwall
4 P.D.

5 **MR. DUMAIS:** And we'll look at some of the
6 instances where you would have shared some information with
7 her, but I guess what I'm asking is whether or not, when
8 you're conducting this joint investigation, are you sitting
9 side-by-side at a desk making these phone calls? Are you
10 patrolling together to speak to victims or are you each
11 doing your own thing?

12 **MR. ZEBRUCK:** No, we wouldn't be each doing
13 our own thing. That would be together -- work together.
14 Whether we went out together and -- I believe there's a few
15 times we did go out together but if I have -- if I did
16 something, had some information, I would come back and give
17 it to her and she'd do the same thing for me.

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

19 I guess specifically here, like if I look at
20 the bottom of this Bates page 031, and it appears that
21 again you're indicating here that you're assisting Cornwall
22 P.D. re. sexual assault interview, and there's the name of
23 Robert and Gladys Sheets here, which I believe are the
24 parents of Robert Sheets, and there's an address and a
25 telephone number there?

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

2 **MR. DUMAIS:** So it appears that you would go
3 out and you speak with these people. Is that correct?

4 **MR. ZEBRUCK:** Yes.

5 **MR. DUMAIS:** And do you recall whether or
6 not Constable Sebalj would have been with you for that
7 interview or whether or not you're conducting this alone?

8 **MR. ZEBRUCK:** I believe at this point she
9 was with me.

10 **MR. DUMAIS:** Certainly your notes don't
11 indicate that she's with you?

12 **MR. ZEBRUCK:** No.

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

14 So I'm looking at the next page now, Bates
15 page 032, and I'm presuming that you would have obtained an
16 address, contact numbers for Robert Sheets from his
17 parents. Am I correct?

18 **MR. ZEBRUCK:** Yes.

19 **MR. DUMAIS:** And do you recall whether or
20 not you ever made contact with Robert Sheets?

21 **MR. ZEBRUCK:** Yes, I do.

22 **MR. DUMAIS:** And do you believe you spoke
23 with him?

24 **MR. ZEBRUCK:** Yes, I did.

25 **MR. DUMAIS:** And you spoke to him over the

1 telephone?

2 MR. ZEBRUCK: No. He came to visit his
3 parents and I spoke with him at his parents' house.

4 MR. DUMAIS: Okay. And perhaps this is
5 something I missed from your notes, Mr. Zebruck, but I
6 couldn't see any meetings with Robert Sheets.

7 MR. ZEBRUCK: No. I didn't make notes of
8 it. There is -- he did not want anything to do with this
9 investigation and, as far as he was concerned, that was
10 done. He'd speak to me verbally but he didn't want
11 anything -- no notes, nothing.

12 MR. DUMAIS: He didn't want to cooperate
13 with you guys?

14 MR. ZEBRUCK: No.

15 MR. DUMAIS: And did he indicate to you at
16 any point-in-time that he had been an alleged victim of Mr.
17 Barque?

18 MR. ZEBRUCK: Yes.

19 MR. DUMAIS: So he had confirmed that for
20 you?

21 MR. ZEBRUCK: Yes.

22 MR. DUMAIS: All right. But simply he did
23 not want to cooperate with your investigation and provide
24 you with a statement. Fair enough?

25 MR. ZEBRUCK: Yes.

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

2 Now, if you look at the entry on December
3 3rd, 1994 -- so the bottom of the page, so 9 lines from the
4 bottom -- my understanding is that you would have
5 interviewed someone else. Is that correct?

6 **MR. ZEBRUCK:** Yes.

7 **MR. DUMAIS:** Mr. Commissioner, I'm not sure
8 if -- I'm reading from the statement. It's unclear to me
9 whether or not this gentleman was a victim of sexual abuse
10 but it certainly appears that way. My understanding is
11 that certainly no charges were ever made, the matter was
12 never made public, so on that basis I'm going to ask that
13 there be a publication ban on this document to protect his
14 name.

15 I don't know that we actually need a
16 moniker.

17 **THE COMMISSIONER:** For which name again
18 then?

19 **MR. DUMAIS:** Nine lines from the bottom on
20 Bates page 032.

21 **THE COMMISSIONER:** Okay.

22 **MR. DUMAIS:** Actually, perhaps,
23 Mr. Commissioner, it might be easier to give him a moniker
24 and ---

25 **THE COMMISSIONER:** Sure.

1 **MR. DUMAIS:** --- I'll identify that later
2 today.

3 **THE COMMISSIONER:** Yes. Thank you. So that
4 gentleman will have the moniker number 90.

5 **MR. DUMAIS:** C-90?

6 **THE COMMISSIONER:** C-90.

7 **MR. DUMAIS:** Thank you.

8 So you would have conducted the interview of
9 C-90 on December 3rd, 1994. Is that correct?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** And we could not locate a
12 statement but certainly you took detailed notes of what he
13 would have been relating to you during this interview;
14 correct?

15 **MR. ZEBRUCK:** Yes.

16 **MR. DUMAIS:** And most of it is found at
17 Bates page 033, so that's the next page.

18 **MR. ZEBRUCK:** Yes.

19 **MR. DUMAIS:** So he generally describes some
20 troubles that he had with the law and he confirms for you
21 that he would have been placed on probation at one point-
22 in-time, and at about mid-page he confirms that his
23 probation officer would have been Nelson Barque. Is that
24 correct?

25 **MR. ZEBRUCK:** Yes.

1 **MR. DUMAIS:** And then he describes his
2 experience while being on probation with Nelson Barque, and
3 he would have indicated to you that this probation officer
4 would have kept magazines locked in the bottom left-hand
5 drawer of his desk. Do you recall that?

6 **MR. ZEBRUCK:** Yes.

7 **MR. DUMAIS:** All right. And he would have
8 indicated to you that this probation officer would always
9 keep his door locked?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** Is that correct?

12 And that you noted at Bates page 034.

13 And if I can then just take you at the next
14 page, Bates page 035, about 8 or 9 lines down, he would
15 have also confirmed for you that Nelson Barque would have
16 been Robert Sheets' probation officer. Is that correct?

17 **MR. ZEBRUCK:** Yes.

18 **MR. DUMAIS:** And he would have described an
19 incident to you where he would have walked in on both of
20 them and what he viewed led him to believe that perhaps
21 Nelson Barque had been involved in some sort of a sexual
22 incident with Robert Sheets. Is that correct?

23 **MR. ZEBRUCK:** Yes.

24 **MR. DUMAIS:** And if you go to the bottom of
25 your notes, the last seven or eight pages (sic) and I'll

1 read it out for you.

2 So he indicates:

3 "So his drinking habit..."

4 And he's speaking here of Robert Sheets:

5 "...was paid by Nelson and Richard
6 Hickerson".

7 **MR. ZEBRUCK:** Yes.

8 **MR. DUMAIS:** "Richard was having a sexual
9 relationship with Robert."

10 Do you remember that?

11 **MR. ZEBRUCK:** Yes.

12 **MR. DUMAIS:** All right. And you remember C-
13 90 telling you that?

14 **MR. ZEBRUCK:** Yes.

15 **MR. DUMAIS:** Do you recall at that time, so
16 back in 1994, whether that name meant anything to you?

17 **MR. ZEBRUCK:** I checked in -- checked who
18 Robert -- Richard Hickerson was, and I looked into it, but
19 I didn't -- never went any further. I believe I passed
20 that on to Heidi, when we passed on to Heidi Sebalj,
21 was that, like I said, it wouldn't be a Cornwall -- in the
22 City of Cornwall.

23 **MR. DUMAIS:** Okay. So did you know who Mr.
24 Hickerson was?

25 **MR. ZEBRUCK:** No. He -- I learned where he

1 worked, but that was it.

2 MR. DUMAIS: Okay, so you -- at one point in
3 time during this investigation, you found out that he was
4 actually working at the Manpower office ---

5 MR. ZEBRUCK: Yes.

6 MR. DUMAIS: --- is that correct? And do
7 you recall whether or not you would have followed up on
8 this allegation, this specific allegation with respect to
9 Mr. Hickerson?

10 MR. ZEBRUCK: No, because they -- neither
11 one of them wanted anything to do -- done about it, and
12 they were fine with that, so I would not have -- I wouldn't
13 have gone any further than that.

14 MR. DUMAIS: All right. Were you aware
15 if -- or did you become aware at any time during this
16 investigation, whether or not Mr. Hickerson was a person of
17 interest for the OPP at that time?

18 MR. ZEBRUCK: I don't know. I don't
19 remember.

20 MR. DUMAIS: If you heard anything, was he
21 under investigation? Were you aware of any other
22 investigation?

23 MR. ZEBRUCK: No.

24 MR. DUMAIS: All right. And, certainly, you
25 would not have confronted Mr. Hickerson at this point in

1 time?

2 MR. ZEBRUCK: I don't -- no, I didn't.

3 MR. DUMAIS: All right. And I believe that
4 C-90 would have confirmed, that at the time that he walked
5 in on Nelson Barque and Mr. Sheets, that he would have been
6 16 years old at that time; is that correct?

7 MR. ZEBRUCK: Yes.

8 MR. DUMAIS: And when he's talking about the
9 involvement of Richard Hickerson, he's indicating to you
10 that this would have preceded Robert Sheets' involvement
11 with Nelson Barque; is that correct?

12 MR. ZEBRUCK: I'm not sure exactly what
13 you're asking me.

14 MR. DUMAIS: I'm just asking whether or not
15 the -- he's ascribing the involvement with
16 Richard Hickerson as having preceded the incident I just
17 described for you, the walking in on them.

18 MR. ZEBRUCK: Yes. I would gather that,
19 yes.

20 MR. DUMAIS: Now, it appears that our
21 interview ends at Bates pages 035, with this discussion
22 about Mr. Hickerson.

23 Do you recall whether or not C-90 ever
24 confirmed for you that he had been sexually abused by Mr.
25 Barque, while placed on probation?

1 **MR. ZEBRUCK:** No, he -- I don't believe he
2 did.

3 **MR. DUMAIS:** Okay. So he would not have
4 confirmed for you that he was a victim?

5 **MR. ZEBRUCK:** That's correct.

6 **MR. DUMAIS:** Okay. But, certainly, his
7 evidence would appear to corroborate what Mr. Albert Roy
8 was advancing?

9 **MR. ZEBRUCK:** Yes.

10 **MR. DUMAIS:** All right. So I am looking at
11 your entries now on December 7th, 1994. My understanding is
12 on that date Constable Sebalj would have received some
13 materials or documents from the Probation & Corrections
14 office, and I believe she provided you with a copy of those
15 materials; is that correct?

16 **MR. ZEBRUCK:** Yes.

17 **MR. DUMAIS:** And I'm just looking at the
18 entry that you have at 12:45 on that page. So you appear
19 to be following up on Occurrence 3723, and it's indicated:

20 "Material from Probation & Parole
21 received by Cornwall P.D. Copies made
22 for Staff Sergeant Messich and
23 Detective Staff Sergeant -- I think
24 it's Grant."

25 Do I have that right?

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

2 **MR. DUMAIS:** Okay. So who are these two
3 people, Mr. Zebruck?

4 **MR. ZEBRUCK:** Messich is a detachment
5 commander; Grant is the detective staff sergeant for the
6 district.

7 **MR. DUMAIS:** For the district?

8 **MR. ZEBRUCK:** Yes.

9 **MR. DUMAIS:** All right. And what about
10 Detective -- I believe it's Staff Sergeant Grant?

11 **MR. ZEBRUCK:** He was the detective staff
12 sergeant for the district. Staff Sergeant Messich was a
13 detachment commander ---

14 **MR. DUMAIS:** Okay.

15 **MR. ZEBRUCK:** --- for Long Sault
16 detachment.

17 **MR. DUMAIS:** All right. So it appears that
18 you would have made copies of whatever documents that you
19 received from -- for them. Do you recall why you did that?

20 **MR. ZEBRUCK:** Well, because he was involved
21 in another agency in a -- in fairly serious allegations
22 there. I made them aware of -- that this had occurred.

23 **MR. DUMAIS:** Okay. And if I can just have
24 you looking at document number -- this is Exhibit 125.
25 This is a document that's commonly referred to here as the

1 Sirrs Report, Mr. Zebruck, and it's dated May 31st, 1982.

2 This would have been a report on the
3 international investigation that would have been conducted
4 at the Probation & Corrections office and ---

5 **MR. ZEBRUCK:** Yes.

6 **MR. DUMAIS:** --- and it involves an
7 incident, which we have just spoken about, with Mr. Barque.

8 So do you believe this is the document that
9 you would have received from Constable Sebalj, and copied
10 for your staff sergeant and the detective staff sergeant?

11 **MR. ZEBRUCK:** I would have made copies of
12 all the documents I received from her.

13 **MR. DUMAIS:** Okay. You believe there were
14 other documents, other than this report?

15 **MR. ZEBRUCK:** I believe there was.

16 **MR. DUMAIS:** And is this first time that
17 these two individuals, your superiors, had been made aware
18 of this, or were they following your investigation?

19 **MR. ZEBRUCK:** I would say this would be the
20 first time they'd be involved.

21 **MR. DUMAIS:** Okay. Do you recall receiving
22 any specific instructions from them, or getting any
23 direction, as to where you should go with this
24 investigation?

25 **MR. ZEBRUCK:** If I -- whatever the direction

1 I got, I didn't -- I didn't write it down, I just ---

2 MR. DUMAIS: All right. So I'm looking at
3 the OMPPAC documents that I believe were prepared by
4 Constable Sebalj, and that's Exhibit 115, and if you can
5 just take a quick look at Bates page 831? So I'm just
6 looking at the bottom of that page. It's the entry on
7 December 1st, 1994, and there's an allegation that's made
8 by -- and you'll see the name there on the first line ---

9 MR. ZEBRUCK: Yes.

10 MR. DUMAIS: --- and his moniker,
11 Mr. Zebruck, is C-44.

12 And do you know who -- actually we see the
13 name. You saw the name?

14 MR. ZEBRUCK: Yes.

15 MR. DUMAIS: All right. So then it appears
16 that Constable Sebalj is interviewing C-44. Do you recall
17 whether or not you were involved in this interview?

18 MR. ZEBRUCK: I couldn't say.

19 MR. DUMAIS: All right. And if you're
20 looking at the -- and certainly it appears that C-44 would
21 have confirmed that he would have been on probation with
22 Nelson Barque, and certainly he would have indicated to
23 Constable Sebalj that he did not want to be involved in
24 this investigation?

25 MR. ZEBRUCK: Yes.

1 **MR. DUMAIS:** And if I'm looking at the last
2 two lines on that page, it reads as follows:

3 "On December 5th, 1994 a copy of an
4 interview report of C-90 was left for
5 my attention by Constable Zebruck."

6 So it certainly appears that you took a
7 written statement from C-90 and you would have given a copy
8 to Constable Sebalj.

9 Do you recall whether or not she was doing
10 the same?

11 **MR. ZEBRUCK:** Yes, she was. I would kind of
12 think that I -- well, when they interviewed C-44, I would
13 have been there.

14 **MR. DUMAIS:** But do you think you would have
15 been made aware of -- that she had conducted this interview
16 and ---

17 **MR. ZEBRUCK:** Yes.

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

19 And as this investigation is progressing,
20 who's keeping the documents, who's assembling the file?

21 **MR. ZEBRUCK:** I would be.

22 **MR. DUMAIS:** You would be?

23 **MR. ZEBRUCK:** Yes.

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

25 Now, if you just turn to the next page, so

1 Bates page 832, there's an entry here on December 8th and
2 I'll just read you the first couple of lines.

3 "On December 8th, 1994, I attend the
4 office of L'equipe Psycho-Sociale where
5 I spoke with the Director, Pierre
6 Landry. Information received indicated
7 that there had been no specific
8 allegation of improprieties involving
9 Nelson Barque. I did, however, learn
10 that concerned parents had demanded
11 Nelson Barque not be associated with
12 their children. When confronted with
13 this information, Barque resigned."

14 **MR. ZEBRUCK:** That I was not aware of.

15 **MR. DUMAIS:** You were not aware of?

16 **MR. ZEBRUCK:** No.

17 **MR. DUMAIS:** All right. And so certainly
18 you did not partake in this interview on December 8th?

19 **MR. ZEBRUCK:** No.

20 **MR. DUMAIS:** All right. So, if I ask you
21 today what this means, you have no knowledge?

22 **MR. ZEBRUCK:** No.

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

24 And my understanding is that you would have
25 proceeded with the arrest of Mr. Barque on December 14th,

1 1994?

2 MR. ZEBRUCK: Yes.

3 MR. DUMAIS: And that's confirmed in your
4 notes at Bates page 832, but certainly you're not aware of
5 this information before you proceeded with the arrest?

6 MR. ZEBRUCK: No.

7 MR. DUMAIS: And am I correct as well in
8 understanding that on December 14th, 1994 you still had not
9 conducted your interview of Mr. Roy?

10 MR. ZEBRUCK: That's correct.

11 MR. DUMAIS: All right.

12 And you spoke earlier of walking in on an
13 interview with Constable McDonell and if I can just ask you
14 to look at a further document which is Exhibit 136?

15 THE COMMISSIONER: One-three-six (136) is in
16 your -- oh, are you watching it on the screen?

17 MR. ZEBRUCK: As well.

18 MR. DUMAIS: So if we can just start and
19 look at the top here, this appears to be an interview
20 report that would have been prepared by Constable McDonell;
21 you see his name there at the top. And it appears that
22 this interview would have been conducted on December the
23 6th, 1994?

24 MR. ZEBRUCK: Yes.

25 MR. DUMAIS: All right. So, you're tasked

1 or assigned this investigation on November 29th, 1994 and
2 you indicated earlier this morning that you would arrive at
3 the Cornwall Police detachment and Constable McDonell would
4 have been in the middle of an interview or ---

5 MR. ZEBRUCK: Not on that that date, no.

6 MR. DUMAIS: All right. We're not talking
7 about December 6th, 1994?

8 MR. ZEBRUCK: I believe the -- when I walked
9 into the Cornwall P.D., Heidi and Chris were doing a taped
10 interview.

11 MR. DUMAIS: Yes.

12 MR. ZEBRUCK: I think that was the time I
13 went there. I hadn't yet spoken to Albert Roy.

14 MR. DUMAIS: But do you believe that this
15 occurred on December 6th, 1994?

16 MR. ZEBRUCK: I don't know.

17 MR. DUMAIS: All right. What makes you
18 think that this may not be the actual date that you would
19 have walked in there?

20 MR. ZEBRUCK: Well, I just see a -- yes, I
21 would believe that would have been the date. This appears
22 to be the same as the details in the taped interview.

23 MR. DUMAIS: Yes.

24 MR. ZEBRUCK: So that would have been the
25 date.

1 **MR. DUMAIS:** All right. And do you know
2 what Constable McDonell was doing there?

3 **MR. ZEBRUCK:** Well, there was an allegation
4 -- there had been an incident at the drive-in, -- I don't
5 know, I think it's a Mustang Drive-In, which is -- would be
6 in the Lancaster Detachment's area and I believe he was
7 there just because of -- possibly he was going to be
8 involved in this as well.

9 **MR. DUMAIS:** Any reason why you would not be
10 involved in this interview, Mr. Zebruck?

11 **MR. ZEBRUCK:** I don't know.

12 **MR. DUMAIS:** Do you recall whether or not
13 Constable McDonell would have given you a call before -- or
14 even Constable Sebalj -- and say "Listen, we're
15 interviewing Mr. Albert Roy, perhaps you should come down"?

16 **MR. ZEBRUCK:** Well, that's a good
17 possibility because I did end up down there but it was
18 after the -- some time later than they started the
19 interview. So possibly I was busy, I couldn't get down
20 there and they were doing the interview.

21 **MR. DUMAIS:** Okay. But certainly when you
22 arrived there, the interview would have been in progress.
23 Is that correct?

24 **MR. ZEBRUCK:** I believe so, yes.

25 **MR. DUMAIS:** And do you believe that the

1 interview would have been almost over by the time you got
2 there?

3 MR. ZEBRUCK: I believe so.

4 MR. DUMAIS: Okay. But certainly you would
5 not have participated in this interview?

6 MR. ZEBRUCK: No.

7 MR. DUMAIS: All right. And certainly on
8 December 6th, 1994 you would have not conducted your own
9 interview with Mr. Roy. Is that correct?

10 MR. ZEBRUCK: No.

11 MR. DUMAIS: And do you recall whether or
12 not you were introduced to Mr. Roy at that time?

13 MR. ZEBRUCK: I don't recall.

14 MR. DUMAIS: And do you recall whether or
15 not on December 6th or a short time after that or before you
16 proceeded to your interview, whether or not you had been
17 provided with a copy of this interview?

18 MR. ZEBRUCK: I don't know.

19 MR. DUMAIS: Because certainly if we have a
20 look at Bates page 653 of that Exhibit, 136.

21 (SHORT PAUSE/COURTE PAUSE)

22 MR. DUMAIS: So at the bottom of 652 and top
23 page of 654 Mr. Roy appears to be describing the different
24 allegations that he's making and it involves both Mr.
25 Barque and Mr. Seguin.

1 **MR. ZEBRUCK:** Yes.

2 **MR. DUMAIS:** And it describes the different
3 locations including the allegation that he had made at the
4 house; correct?

5 **MR. ZEBRUCK:** Yes.

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

7 Now, on December -- so on December 14th you
8 would have proceeded with the arrest of Mr. Nelson Barque.
9 Do you recall that day?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** Do you recall whether or not
12 Constable Sebalj was involved?

13 **MR. ZEBRUCK:** No, she wasn't.

14 **MR. DUMAIS:** She wasn't?

15 **MR. ZEBRUCK:** No.

16 **MR. DUMAIS:** Do you recall if Constable
17 McDonnell was involved?

18 **MR. ZEBRUCK:** No.

19 **MR. DUMAIS:** Okay. I'm looking then at the
20 entry in your notes on the 14th day of December, and that's
21 Bates pages 041.

22 So just before we get to the arrest, Mr.
23 Zebruck, if you just have a quick look at the entry on
24 December 13th, 1994? So it appears that you at 1245 hours
25 you would have attempted to set up a meeting with Mr. Roy.

1 Is that correct?

2 MR. ZEBRUCK: Yes.

3 MR. DUMAIS: And it appears from your notes
4 that he would not have been available?

5 MR. ZEBRUCK: No.

6 MR. DUMAIS: Okay. So on December 14th you
7 decide to proceed with the arrest of Mr. Barque; is that
8 correct?

9 MR. ZEBRUCK: Yes.

10 MR. DUMAIS: And you're advising him. So do
11 you recall where the arrest occurred, where you picked him
12 up?

13 MR. ZEBRUCK: At his residence.

14 MR. DUMAIS: Okay. So you pick him up at
15 his residence. Do you actually place him under arrest;
16 bring him back to the detachment?

17 MR. ZEBRUCK: It would be very informal.

18 MR. DUMAIS: Pardon me?

19 MR. ZEBRUCK: It would be very informal.

20 MR. DUMAIS: Informal in what sense?

21 MR. ZEBRUCK: I mean I just told him he was
22 under arrest and come on down and get fingerprinted,
23 photographed.

24 MR. DUMAIS: Okay. But I mean, certainly
25 you do recall that you would have placed him under arrest,

1 put him in your cruiser and brought him at the detachment?

2 MR. ZEBRUCK: Yes.

3 MR. DUMAIS: All right.

4 Do you recall whether or not that was at the
5 Cornwall Police Services Detachment or ---

6 MR. ZEBRUCK: No, it was Long Sault.

7 MR. DUMAIS: Okay. So he is processed
8 there. My understanding is he would have been released on,
9 I believe, it's a promise to appear.

10 MR. ZEBRUCK: Yes.

11 MR. DUMAIS: And you did provide him with
12 the opportunity to give a statement?

13 MR. ZEBRUCK: Yes.

14 MR. DUMAIS: And he essentially simply
15 indicated that he did not remember the circumstances?

16 MR. ZEBRUCK: That's correct.

17 MR. DUMAIS: All right.

18 So on December 16th, 1994 I understand that
19 an interview had been set up to permit you to take a
20 statement from Mr. Roy; is that correct?

21 MR. ZEBRUCK: I believe so, yes.

22 MR. DUMAIS: And do you recall whether or
23 not Constable Sebalj had made those arrangements?

24 MR. ZEBRUCK: I believe so, yes.

25 MR. DUMAIS: And do you recall whether or

1 not Constable Sebalj had made those arrangements?

2 MR. ZEBRUCK: Yes, she would have.

3 MR. DUMAIS: And my understanding is this
4 statement would have been taken at the Cornwall Police
5 Services Detachment?

6 MR. ZEBRUCK: Yes.

7 MR. DUMAIS: And if you can just have a
8 quick look at Exhibit 195?

9 (SHORT PAUSE/COURTE PAUSE)

10 MR. DUMAIS: Do you recognize this document,
11 Mr. Zebruck?

12 MR. ZEBRUCK: Yes.

13 MR. DUMAIS: So is this the statement you
14 had taken from Mr. Roy on the 16th day of December, 1994?

15 MR. ZEBRUCK: That would be the interview
16 report, yes.

17 MR. DUMAIS: Pardon me?

18 MR. ZEBRUCK: That would be the interview
19 report, yes.

20 MR. DUMAIS: Yes. And you'll agree with me
21 that this was a very short statement, Mr. Zebruck?

22 MR. ZEBRUCK: Yes, Mr. Roy had a hard time
23 talking to me.

24 MR. DUMAIS: Do you recall why or what he
25 was saying?

1 **MR. ZEBRUCK:** He didn't trust men.

2 **MR. DUMAIS:** And he would have expressed
3 that concern to you?

4 **MR. ZEBRUCK:** He expressed it to Heidi. I
5 mean, I had been trying to get interviews with him and no
6 way until after the charges were laid and then he was more
7 willing to meet with me but up until that time, no.

8 **MR. DUMAIS:** Okay. And you would have
9 conducted this investigation with -- this interview with
10 Constable Sebalj; is that correct?

11 **MR. ZEBRUCK:** Yes.

12 **MR. DUMAIS:** And fair to say that Mr. Roy
13 was fairly comfortable with her?

14 **MR. ZEBRUCK:** Certainly more comfortable
15 than with me.

16 **MR. DUMAIS:** Now, my understanding is that
17 at that period of time the location of the occurrence may
18 still have been an issue; is that correct? You guys were
19 still trying to determine which house, identify which house
20 where the abuse would have occurred?

21 **MR. ZEBRUCK:** Well, we believed that it
22 would have been at the Barque residence which was in St.
23 Andrew's.

24 **MR. DUMAIS:** But certainly you would have
25 been made aware by Constable Sebalj that she had a

1 difficult time in identifying which house it was; do you
2 recall that?

3 **MR. ZEBRUCK:** Yes, she would have, yeah.

4 **MR. DUMAIS:** Okay. And at a certain point
5 in time, I take it, you would have wanted confirmation of
6 the exact location of the occurrence; is that correct?

7 **MR. ZEBRUCK:** Yes.

8 **MR. DUMAIS:** And my understanding is that
9 you would have made arrangements to have Mr. Roy attend
10 with you in St. Andrew's in an attempt to identify the
11 house of Mr. Barque; is that correct?

12 **MR. ZEBRUCK:** Yes.

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

14 And do you recall whether or not this would
15 have been before or after December 16th, 1994?

16 **MR. ZEBRUCK:** That would have been after.

17 **MR. DUMAIS:** Okay. And you would have had
18 to attend at Mr. Roy's residence and you picked him up --
19 to pick him up; is that correct?

20 **MR. ZEBRUCK:** I believe so, yes.

21 **MR. DUMAIS:** Okay. Do you recall whether or
22 not you were driving a marked cruiser at that time?

23 **MR. ZEBRUCK:** No, I wouldn't have been.

24 **MR. DUMAIS:** Okay. So would you have been -
25 - were you a detective in 19 ---

1 MR. ZEBRUCK: Yes.

2 MR. DUMAIS: All right.

3 So you'd be usually driving an unmarked
4 cruiser?

5 MR. ZEBRUCK: That's right; correct.

6 MR. DUMAIS: All right.

7 And do you recall whether or not Constable
8 Sebalj was with you when you picked up Mr. Roy?

9 MR. ZEBRUCK: No, I don't.

10 MR. DUMAIS: Okay. And do you recall
11 whether or not Vicki Roy, Albert's wife, would have
12 attended with you on that trip?

13 MR. ZEBRUCK: I don't specifically recall
14 but, I mean, if that was the only way he was going to come
15 with me that would be fine with me; that she could come.
16 There was no problem with that.

17 MR. DUMAIS: Okay.

18 But certainly it does not appear anywhere in
19 your notes that you would have attended on this trip with
20 Mr. Roy or anyone else?

21 MR. ZEBRUCK: No.

22 MR. DUMAIS: But you have a specific
23 recollection?

24 MR. ZEBRUCK: Yes.

25 MR. DUMAIS: All right.

1 Now, as you know -- as you know, Mr.
2 Zebruck, Mr. Roy testified here at the Inquiry and he would
3 have indicated that you would have a discussion with him
4 during that trip. One of the comments that he indicated to
5 us that you made would be something to the effect that this
6 would be hard on Barque's family and that you would have
7 said something to the effect, "I believe he'll commit
8 suicide. He will."

9 **MR. ZEBRUCK:** I never made that statement.

10 **MR. DUMAIS:** Okay. So you don't recall any
11 words to that effect?

12 **MR. ZEBRUCK:** I definitely would not have
13 said that.

14 **MR. DUMAIS:** Okay.

15 **THE COMMISSIONER:** Well, no, just a second
16 now. I know that's your position that you definitely would
17 not have said that but I want to know if you have any
18 independent recollection of that trip.

19 **MR. ZEBRUCK:** I remember him being in the
20 car.

21 **THE COMMISSIONER:** Okay.

22 **MR. ZEBRUCK:** Yes.

23 **THE COMMISSIONER:** Okay. So do you
24 remember that you did not say those things or it's, "I
25 don't remember but I certainly wouldn't have because it's

1 not in my make-up to say something like that"? Do you see
2 what the difference is?

3 MR. ZEBRUCK: Yes. Well, I don't
4 specifically remember not saying that but -- you know.

5 THE COMMISSIONER: Okay.

6 MR. ZEBRUCK: I wouldn't say that.

7 MR. DUMAIS: Do you recall whether or not
8 Mr. Roy was anxious during that trip? Was it very similar
9 to the interview on December ---

10 MR. ZEBRUCK: Yes, he was.

11 MR. DUMAIS: All right. And part of the
12 fact that he was anxious would be because he was not
13 comfortable with you. Is that fair?

14 MR. ZEBRUCK: I would think so.

15 MR. DUMAIS: All right. Do you recall
16 whether or not you were able to identify the house or the
17 location of the house?

18 MR. ZEBRUCK: Yes.

19 MR. DUMAIS: And Mr. Roy also indicated that
20 he was getting the impression, by your comments, that you
21 were trying to convince him to back off from these
22 allegations. Did you say anything to him that would lead
23 him to believe that?

24 MR. ZEBRUCK: No, I did not.

25 MR. DUMAIS: Okay. Do you have any specific

1 recollection as to what type of conversation you were
2 having with him en route to the house?

3 MR. ZEBRUCK: No.

4 MR. DUMAIS: Okay. How long of a ride would
5 that be, Mr. Zebruck?

6 MR. ZEBRUCK: Possibly half an hour or 45
7 minutes.

8 MR. DUMAIS: Half an hour there or 45
9 minutes; half hour or 45 minutes back?

10 MR. ZEBRUCK: No, about total, maybe 45
11 minutes.

12 MR. DUMAIS: Now, Mr. Roy also indicated to
13 us that when he came back from this trip he was concerned
14 enough that he would have called at your detachment and
15 spoken to your supervisor. Do you recall who your
16 supervisor was in 1994?

17 MR. ZEBRUCK: That would be Staff Sergeant
18 Messich.

19 MR. DUMAIS: Okay. Do you recall having any
20 conversation with Staff Sergeant Messich regarding this?

21 MR. ZEBRUCK: No.

22 MR. DUMAIS: Okay. And as far as you know a
23 complaint was not filed?

24 MR. ZEBRUCK: Well, I'd have heard about it
25 if there was.

1 THE COMMISSIONER: I'm sorry?

2 MR. ZEBRUCK: I would have heard about it if
3 there was.

4 MR. DUMAIS: Now, I'm going back at your
5 notes now, in the entry of December 22nd, so Exhibit 121.

6 THE COMMISSIONER: Sorry, what page again?

7 MR. DUMAIS: The entry on December 22nd.

8 THE COMMISSIONER: So that would 1078046.

9 MR. DUMAIS: So the entry at 1845.

10 MR. ZEBRUCK: M'hm.

11 MR. DUMAIS: So about mid-page it's
12 indicated there that you're following up on Occurrence 3723
13 and you're preparing the Crown brief. Is that correct?

14 MR. ZEBRUCK: Yes.

15 MR. DUMAIS: All right. So you're the one
16 who has the responsibility of assembling all the evidence,
17 putting that in a brief to give to the -- your Crown
18 attorney or your assistant Crown attorney. Is that
19 correct?

20 MR. ZEBRUCK: That's correct.

21 MR. DUMAIS: All right. And do you recall
22 whether or not that brief dealt just specifically with the
23 allegations of Mr. Roy and contained only his statements
24 and none of the other statements?

25 MR. ZEBRUCK: There would have been

1 everything would have been put in there.

2 MR. DUMAIS: Pardon me?

3 MR. ZEBRUCK: Everything would have been put
4 in there.

5 MR. DUMAIS: You believe everything was put
6 in there?

7 MR. ZEBRUCK: Yes.

8 MR. DUMAIS: All right. And that would
9 include the statement of C-9. Is that correct?

10 MR. ZEBRUCK: Yes.

11 MR. DUMAIS: All right. And do you recall
12 whether or not you would have requested Constable Sebalj to
13 provide you with a Will-Say and provide you with a copy of
14 your notes -- her notes? Sorry.

15 MR. ZEBRUCK: Yes, I did.

16 MR. DUMAIS: And you think that was given to
17 you?

18 MR. ZEBRUCK: If I had them at the time,
19 yes, they would have been in there.

20 MR. DUMAIS: Okay, and these are the types
21 of things that you would have included in your Crown brief.
22 Is that correct?

23 MR. ZEBRUCK: That's correct.

24 MR. DUMAIS: All right. But is it fair to
25 say -- let me rephrase that.

1 On December 22nd, 1994 due you believe that
2 Constable Sebalj is still involved in this investigation?

3 I guess the reason why I'm asking that is
4 Mr. Roy has been placed under arrest ---

5 **THE COMMISSIONER:** No, no.

6 **MR. DUMAIS:** I'm sorry, Mr. Barque had been
7 placed under arrests. Statements have been taken from the
8 complainant and then you're preparing the Crown brief, so
9 do you believe that Constable Sebalj is still involved in
10 this investigation with you at this point in time?

11 **MR. ZEBRUCK:** Yes.

12 **MR. DUMAIS:** All right. Because if I take
13 you back to the -- to her OMPAC update, I'm just looking
14 at her entry on December 16th, 1994, Mr. Zebruck, so the
15 last five or six lines.

16 **THE COMMISSIONER:** Hold it now. Let's get
17 it up on the screen.

18 **MR. DUMAIS:** So Exhibit 115.

19 **THE COMMISSIONER:** What page again?

20 **MR. DUMAIS:** Eight three two (832). Bates
21 pages 832.

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

23 **MR. DUMAIS:** So again she's summarizing the
24 investigative steps that she would be involved in in this
25 investigation. If you look at the entry on December 14th,

1 1994 there's a confirmation there that you would have
2 arrested Mr. Barque.

3 MR. ZEBRUCK: M'hm.

4 MR. DUMAIS: And apparently you would have
5 confirmed that for her.

6 MR. ZEBRUCK: Yes.

7 MR. DUMAIS: And then if you look at the
8 entry on December 16th, 1994 and that's -- you'll recall
9 that's the date that you conducted the interview -- it
10 reads as follows:

11 "On December 16, 1994 I arranged for
12 the victim to meet Constable Zebruck at
13 Cornwall Police Service's headquarters.
14 At this time the victim provided me
15 with a picture of himself when he was
16 approximately 16 years old, as well as
17 dates of his probation period. I was
18 then advised, OPP having laid the
19 Information, that my involvement in
20 this investigation was complete."

21 So certainly -- and that appears to be the
22 last entry that Constable Sebalj makes in her -- I believe
23 it's a Supplementary Occurrence Report.

24 MR. ZEBRUCK: M'hm.

25 MR. DUMAIS: So certainly it appears that

1 from her point of view that she believes that she's no
2 longer involved in this investigation.

3 **MR. ZEBRUCK:** Well, I mean, I would still
4 confer with her and get information from her. We had a
5 good -- well-working relationship and anything I needed, if
6 I needed her assistance, she was willing to give it.

7 **MR. DUMAIS:** Okay. Because I guess what I'm
8 leading to is I understand that you would have conducted a
9 number of other investigations at the beginning of 1995, so
10 in January of 1995, and do you recall whether or not she
11 was involved in any of those interviews?

12 **MR. ZEBRUCK:** Well, I believe, like in
13 trying to locate some people, I would go and see her and
14 she'd -- I mean, she'd use the Cornwall system to see -- to
15 locate names, addresses and things like that. She'd assist
16 me, like, any way she could, whether -- I mean, as far as
17 her department was concerned. She was no longer involved
18 but if I asked her for help she'd give it to me.

19 **MR. DUMAIS:** Okay, but do you have a
20 specific recollection of any conversation with her after
21 December 16th, 1994? Certainly I'm looking at your notes
22 and I can't find anything in there that would indicate that
23 you would have had a contact with her.

24 **MR. ZEBRUCK:** I probably wouldn't have put
25 them in there.

1 **MR. DUMAIS:** Okay.

2 All right, if I can ask you then to look at
3 Exhibit 121, and these are your notes.

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **MR. DUMAIS:** And I'm looking at the entries
6 on Bates page 047.

7 So you would have followed up on Occurrence
8 3723, which is the Albert Roy investigation, and I'm just
9 looking at the bottom of the page there on January 3rd, 1995
10 and it appears that you're conducting here a number of
11 investigations of people that worked at the Probations and
12 Corrections office. Is that correct?

13 **MR. ZEBRUCK:** Yes.

14 **MR. DUMAIS:** Do you recall where you got
15 those names from?

16 **MR. ZEBRUCK:** It would have been from Heidi.

17 **MR. DUMAIS:** So she would have indicated to
18 you, "perhaps you should interview..." -- well, the first one
19 -- person that you interview is Carole Cardinal. Is that
20 correct?

21 **MR. ZEBRUCK:** Yes.

22 **MR. DUMAIS:** Do you recall who she was?

23 **MR. ZEBRUCK:** She was a -- no, offhand I
24 can't.

25 **MR. DUMAIS:** All right. And your notes

1 appear -- under Carole Cardinal it's indicated Probation
2 and Parole, so I presume she was working there at the
3 office?

4 MR. ZEBRUCK: Yes.

5 MR. DUMAIS: All right. And I'm just
6 looking at your notes here, and can you tell me from
7 reviewing those notes whether or not you actually spoke to
8 her? Does that tell you anything?

9 MR. ZEBRUCK: Yes, I would have spoke to
10 her. Yes. The word "interview" would indicate that I
11 spoke to the person.

12 MR. DUMAIS: Pardon me?

13 MR. ZEBRUCK: The word "interview" would
14 indicate that I spoke to her personally.

15 MR. DUMAIS: Okay. So -- and do you recall
16 whether or not you would have met with her specifically or
17 whether or not you spoke to her on the telephone?

18 MR. ZEBRUCK: I would have met with her.

19 MR. DUMAIS: Okay. And there certainly
20 appears to be no details in your notes of this interview.
21 Do you recall what Carole Cardinal would have told you?

22 MR. ZEBRUCK: Well, it would nothing of
23 interest or I'd have made notes of it.

24 MR. DUMAIS: Okay. And while you're
25 interviewing these Probation and Corrections people, are

1 you still at this point-in-time trying to gather evidence
2 for the Albert Roy complaint?

3 **MR. ZEBRUCK:** Yes.

4 **MR. DUMAIS:** Okay.

5 Now, there's also an entry a little later,
6 actually, I believe it's on the 4th day of January, so on
7 the following day. So it's indicated at the bottom, "8:15,
8 contact Peter Sirrs".

9 **THE COMMISSIONER:** What page, in January
10 now?

11 **MR. DUMAIS:** Yes. Bates page 047.

12 **THE COMMISSIONER:** Yes. Okay.

13 **MR. DUMAIS:** So at the -- you see the last
14 three lines on that page, "Contact Peter Sirrs in North
15 Bay"?

16 **MR. ZEBRUCK:** Yes, that would have been the
17 phone call.

18 **MR. DUMAIS:** Pardon me?

19 **MR. ZEBRUCK:** That would have been a phone
20 call.

21 **MR. DUMAIS:** You didn't go to North Bay?

22 **MR. ZEBRUCK:** No.

23 **MR. DUMAIS:** And so do you recall speaking
24 to Mr. Sirrs?

25 **MR. ZEBRUCK:** Not really.

1 **MR. DUMAIS:** You don't have a specific
2 recollection?

3 **MR. ZEBRUCK:** No.

4 **MR. DUMAIS:** All right. Do you recall that
5 he was the gentleman that had been involved in the 1982
6 investigation?

7 **MR. ZEBRUCK:** Well, from his -- from the
8 interview, yes, I learned that.

9 **MR. DUMAIS:** Okay. And certainly -- and if
10 we look at the notes that you took on that day, that's
11 following pages in his notes, so Bates page 048, and he
12 appears to confirm that he would have conducted a
13 preliminary investigation and that's at the first three or
14 four lines of that page.

15 Then if we go down a little further, a
16 little higher than mid-page, right underneath his telephone
17 number, he indicates -- you take the following note.

18 "Has been in contact with Heidi Sebalj.

19 All records on file have been faxed to
20 Heidi."

21 So do you recall whether or not you had a
22 copy of the records that he's referring to here?

23 **MR. ZEBRUCK:** Yeah, Heidi would have
24 provided me with copies.

25 **MR. DUMAIS:** Okay. So had you been made

1 aware that she had previously contacted Mr. Sirrs?

2 **MR. ZEBRUCK:** Yes.

3 **MR. DUMAIS:** Okay. And I guess the question
4 is, why do you contact him once again? Is there anything
5 specific, was there any reason?

6 **MR. ZEBRUCK:** I believe what I was trying to
7 do, I was trying to get enough evidence for my Crown brief
8 to keep Roy off the stand so that -- I was -- what I also
9 do is working for a guilty plea because I didn't think Roy
10 would be able to go onto the stand.

11 **MR. DUMAIS:** All right. So you were
12 concerned about his ability to testify. Is that correct?

13 **MR. ZEBRUCK:** Yes.

14 **MR. DUMAIS:** Fair to say that he -- you
15 viewed him as a fragile complainant?

16 **MR. ZEBRUCK:** Very.

17 **MR. DUMAIS:** Okay. So, therefore, you were
18 trying to gather as much corroborative evidence as you
19 could?

20 **MR. ZEBRUCK:** That's correct.

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

22 And if we go just a little further down the
23 page, I believe you would have also spoken to a lady by the
24 name of Clair McMaster. Is that correct, a Mr. Clair
25 McMaster?

1 **MR. ZEBRUCK:** Yes. I found it. Yes, I did.

2 **MR. DUMAIS:** And I'll just read you the --
3 from the bottom, it's about the twelfth line, so:

4 "Worked as counsellor with the French
5 school board. May have been a
6 psychiatric counsellor."

7 **MR. ZEBRUCK:** Yes.

8 **MR. DUMAIS:** Do you recall whether or not
9 the person giving you this information is indicating this
10 of Mr. Barque?

11 **MR. ZEBRUCK:** Yes, it would be.

12 **MR. DUMAIS:** Do you recall whether or not
13 you had done any follow-up with the French school board to
14 find out whether or not Mr. Barque had actually worked
15 there or was working there?

16 **MR. ZEBRUCK:** No, I don't believe I did.

17 **MR. DUMAIS:** All right. Was anyone else
18 ever able to confirm that for you?

19 **MR. ZEBRUCK:** I don't know. I believe maybe
20 Heidi may have looked into that part of it, I'm not sure.

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

22 And as you are conducting these -- as you're
23 conducting these interviews, are you updating your
24 superiors at the office as well?

25 **MR. ZEBRUCK:** Other than giving them the

1 documents I received from the -- from Probation/Parole,
2 probably not.

3 MR. DUMAIS: All right. So you would have
4 initially given them the records and the documents that had
5 been provided to you by Constable Sebalj but ---

6 MR. ZEBRUCK: Yes.

7 MR. DUMAIS: --- but after you're conducting
8 these interviews you are not updating anyone else. Is that
9 ---

10 MR. ZEBRUCK: I don't know, possibly
11 discussing it with them, but ---

12 MR. DUMAIS: Nothing formal or official?

13 MR. ZEBRUCK: No.

14 MR. DUMAIS: All right. And, I mean, in
15 your mind, you're conducting these interviews to assist in
16 the prosecution of the charge that you've laid against Mr.
17 Barque. Is that correct?

18 MR. ZEBRUCK: Yes.

19 MR. DUMAIS: All right.

20 Now, I'm looking now at Bates page 049, and
21 another one of the interviews that you would have conducted
22 would be with Marcelle Leger and that's the entry at 13:40
23 hours. Do you see that?

24 MR. ZEBRUCK: Yes.

25 MR. DUMAIS: So do you recall that

1 interview?

2 MR. ZEBRUCK: Not specifically.

3 MR. DUMAIS: Nothing specific. But she
4 appears to be indicating -- and looking at about 12, 13
5 lines from the bottom; it starts with "Nelson." One of the
6 things she indicates is that Nelson seemed to get too
7 involved with his probationers. Do you recall that?

8 MR. ZEBRUCK: I don't really specifically
9 recall her telling me that, but ---

10 MR. DUMAIS: But certainly if it's in your
11 notes it's something that ---

12 MR. ZEBRUCK: Yes.

13 MR. DUMAIS: --- she would have told you.

14 MR. ZEBRUCK: That would be something, yes.

15 MR. DUMAIS: And it was important enough for
16 you to note it. Is that correct?

17 MR. ZEBRUCK: That's correct.

18 MR. DUMAIS: All right.

19 And then the last four or five lines on that
20 page, she would have indicated that -- and she's speaking
21 of Mr. Barque here again, I believe:

22 "...liked to have younger clients and
23 wanted the ones charged with sexual
24 offences."

25 Is that correct?

1 **MR. ZEBRUCK:** Yes.

2 **MR. DUMAIS:** And then on the following page
3 she would have indicated that:

4 "Mr. Barque would often tell the staff
5 to lock the door."

6 That's about the sixth line on that page.

7 **MR. ZEBRUCK:** Yes.

8 **MR. DUMAIS:** And then a couple of lines
9 under that you would have noted that Nelson had a lock put
10 on his door and then installed soft lighting. Do you
11 recall that?

12 **MR. ZEBRUCK:** Yes, yes.

13 **MR. DUMAIS:** So again certainly this appears
14 to be evidence that would corroborate what you have already
15 heard from other people that had been placed on probation
16 with Mr. Barque. Is that correct?

17 **MR. ZEBRUCK:** Yes.

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

19 **THE COMMISSIONER:** Like to take a break?

20 **MR. DUMAIS:** Perhaps it's an appropriate
21 time for a break.

22 **THE COMMISSIONER:** Thank you. Let's take
23 the morning break.

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

1 This hearing will resume at 11:10 a.m.

2 --- Upon recessing at 10:55 a.m./

3 L'audience est suspendue à 10h55

4 --- Upon resuming at 11:17 a.m./

5 L'audience est reprise à 11h17

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

8 This hearing is now resumed. Please be
9 seated. Veuillez vous asseoir.

10 **WILLIAM ZEBRUCK, Resumed/Sous le même serment:**

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

13 **MR. DUMAIS:** Just to take you back.

14 Mr. Zebruck, we were looking at your notes, Bates pages
15 050, and this is the -- in the middle of your interview
16 with Marcelle Leger, and as you're asking her questions and
17 interviewing her she's -- she gives you the name of one
18 person who appears to have been on probation with
19 Mr. Barque, and she appears to be saying that Mr. Barque
20 would have struck a relationship with this gentleman.

21 And the name, which I'm not going to
22 mention, is at about mid-page on Bates pages 050. Do you
23 see that name there?

24 **MR. ZEBRUCK:** Yes.

25 **MR. DUMAIS:** And she appears to be

1 indicating that they became good friends afterward and he
2 would keep coming back at the office. Do you recall her
3 saying that?

4 **MR. ZEBRUCK:** Yes.

5 **MR. DUMAIS:** Do you recall whether or not
6 you ever followed up with this gentleman; whether or not
7 you spoke to him?

8 **MR. ZEBRUCK:** I would have followed that up;
9 yes, I would have. I would have followed that up.

10 **MR. DUMAIS:** You would have followed that
11 up?

12 **MR. ZEBRUCK:** Yes.

13 **MR. DUMAIS:** And do you recall what this
14 gentleman said?

15 **MR. ZEBRUCK:** I have no notes, well, to
16 indicate whether I even -- I contacted him or he denied
17 everything or didn't want to talk to me.

18 **MR. DUMAIS:** Okay.

19 **MR. ZEBRUCK:** It was pretty hard to get
20 somebody to jump up and talk to you when ---

21 **MR. DUMAIS:** Okay, but you have a specific
22 recollection of speaking to this gentleman?

23 **MR. ZEBRUCK:** No. But I know I -- in the
24 course of my investigation I would have tried to contact
25 him.

1 **THE COMMISSIONER:** Wait a minute, wait a
2 minute.

3 Sir, I'm going to ask you to keep two things
4 in mind. "I would have" is one thing and "I did" is
5 another, and "I don't recall" is another. So I want to
6 make it very clear. You're saying that you don't have any
7 independent recollection of having communicated or followed
8 up with this man?

9 **MR. ZEBRUCK:** I don't remember.

10 **THE COMMISSIONER:** Okay. So it's possible
11 that you didn't.

12 **MR. ZEBRUCK:** It's possible but unlikely.

13 **THE COMMISSIONER:** Okay.

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

15 **THE COMMISSIONER:** But again, sir, if it's
16 not in your notes ---

17 **MR. ZEBRUCK:** Well, I wouldn't have put it
18 in my note if I spoke to him, he had nothing to offer,
19 didn't want to offer anything.

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

21 **MR. ZEBRUCK:** I would not have made notes
22 about it.

23 **THE COMMISSIONER:** Okay.

24 **MR. DUMAIS:** Now, the next person that you
25 would have interviewed, Mr. Zebruck, and that's at 1505 on

1 that same day, same Bates pages -- Louise Quinn. Do you
2 remember speaking with her?

3 **MR. ZEBRUCK:** Yes.

4 **MR. DUMAIS:** And just a general question.
5 Did you know all these employees from Probations and
6 Corrections? Had you dealt with them before?

7 **MR. ZEBRUCK:** No.

8 **MR. DUMAIS:** Okay. So this is the first
9 time you speak with them?

10 **MR. ZEBRUCK:** I could have spoken to them in
11 the Crown's office or, you know, in court. That would have
12 been it; not dealing with them specifically.

13 **MR. DUMAIS:** All right. So do you recall
14 who Louise Quinn was? Do you recall that she worked at the
15 Probations office?

16 **MR. ZEBRUCK:** She -- yes.

17 **MR. DUMAIS:** She was a secretary there;
18 correct?

19 **MR. ZEBRUCK:** Yes.

20 **MR. DUMAIS:** All right. Now, and the notes
21 that you take down during this interview are found at the
22 following page, so Bates pages 051. And again at the top
23 of that page she would have indicated to you something that
24 you've heard before; that there would have been a porn
25 magazine in his desk. Is that correct?

1 **MR. ZEBRUCK:** Yes.

2 **MR. DUMAIS:** And then again, much like
3 Ms. Leger would have done, she would have provided you with
4 the names of probationers that perhaps should be of
5 interest ---

6 **MR. ZEBRUCK:** Yes.

7 **MR. DUMAIS:** --- to you.

8 **MR. ZEBRUCK:** Yes.

9 **MR. DUMAIS:** So the first one is -- and
10 again I'm not going to mention any of the names; I don't
11 believe the names ever came out -- is on the seventh line.
12 Do you see that name there?

13 **MR. ZEBRUCK:** Yes.

14 **MR. DUMAIS:** And again a couple of lines
15 lower down, the 16th line, there's a second name there.

16 **MR. ZEBRUCK:** Yes.

17 **MR. DUMAIS:** And, again, about 10 lines from
18 the bottom, there appears to be a third name there?

19 **MR. ZEBRUCK:** Yes.

20 **MR. DUMAIS:** So it appears that she's
21 remembering the names of certain individuals that would
22 have been on probation with Mr. Barque where they would
23 have struck a close relationship with him. Is that
24 essentially what she's telling you?

25 **MR. ZEBRUCK:** Yes.

1 **MR. DUMAIS:** All right. And she's giving
2 you these names as potential victims or witnesses that
3 would assist you in your investigation on the Albert Roy
4 allegations?

5 **MR. ZEBRUCK:** Yes.

6 **MR. DUMAIS:** All right. And, again, with
7 these three names there is no indication in your note that
8 you appear to follow up and to speak with these three
9 people. Do you have a recollection of speaking with them?

10 **MR. ZEBRUCK:** No.

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

12 Now, on the following page you would also
13 have interviewed a gentleman by the name of Hector Lavoie
14 and, as well, a gentleman by the name of Stewart Rousseau.
15 Is that correct?

16 **MR. ZEBRUCK:** Yes.

17 **MR. DUMAIS:** And presumably you're
18 interviewing all these people because you are aware or had
19 been made aware that they work at the Probations and
20 Corrections office. Is that correct?

21 **MR. ZEBRUCK:** Yes.

22 **MR. DUMAIS:** And as you're conducting these
23 interviews, it does not appear that you're putting to them
24 whether or not they recall Albert Roy being on probation
25 with Mr. Barque?

1 **MR. ZEBRUCK:** No.

2 **MR. DUMAIS:** So then are you interviewing
3 these people to find out whether or not they can
4 corroborate Mr. Roy's allegations or are you just following
5 up on the names of people that were identified in the Sirrs
6 Report?

7 **MR. ZEBRUCK:** My purpose to interview these
8 people would be to try to get names of other possible
9 victims. That's what I was only looking for.

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

11 And I had asked you earlier whether or not
12 you were having contacts with -- you had any further
13 contacts with Constable Sebalj during these interviews, and
14 if you look at the top of Bates page 053 ---

15 **MR. ZEBRUCK:** Yes.

16 **MR. DUMAIS:** --- so on top there, it appears
17 that you would have contacted Constable Sebalj to obtain a
18 copy of her Will Say and a copy of her notes. Is that
19 correct?

20 **MR. ZEBRUCK:** Yes.

21 **MR. DUMAIS:** It appears that they were still
22 not available at that time?

23 **MR. ZEBRUCK:** Yes.

24 **MR. DUMAIS:** So does it make sense then that
25 -- forget that question. All right.

1 So towards the bottom of that page, so I'm
2 still at Bates page 053, you would have also spoken to a
3 gentleman by the name of Gerard Desnoyers. Is that
4 correct?

5 **MR. ZEBRUCK:** Yes.

6 **MR. DUMAIS:** And he would have given you
7 some information that he was cleaning up some night and
8 would have found Mr. Barque in the Probations/Corrections
9 office not wearing a shirt. Is that correct?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** And do you recall whether or
12 not you would have obtained a statement from all of these
13 people? So are you actually taking a statement form and
14 filling that out or are you just putting that in your
15 notes?

16 **MR. ZEBRUCK:** I don't know.

17 **MR. DUMAIS:** If you look at the following
18 page at the bottom of Bates page 054, and that's toward the
19 end of your interview of Mr. Desnoyers. And if you can
20 just start reading and if you can read for us the entry
21 that starts with, "Didn't see them doing anything". So the
22 last eight or nine lines?

23 **MR. ZEBRUCK:** Yeah:

24 "Didn't see them doing anything.

25 Reported the incident with a partially-

1 clad probation officer to my
2 supervisor."

3 **MR. DUMAIS:** So it appears Mr. Desnoyers
4 would have reported that to his supervisor. Is that right?

5 **MR. ZEBRUCK:** Yes.

6 **MR. DUMAIS:** And then the next entry reads:

7 "Obtain copy of tape from Chris
8 McDonell."

9 Is that correct?

10 **MR. ZEBRUCK:** Yes.

11 **MR. DUMAIS:** Do you know what that refers
12 to?

13 **MR. ZEBRUCK:** Pardon?

14 **MR. DUMAIS:** Do you know copy of what tape?

15 **MR. ZEBRUCK:** That would have been the tape
16 made of the interview with Roy, Heidi and Chris McDonell.

17 **MR. DUMAIS:** Okay. So you're still
18 compiling them the statements for your Crown brief. Is
19 that correct?

20 **MR. ZEBRUCK:** Yes.

21 **MR. DUMAIS:** All right. So that just refers
22 to the videotaped statement that ---

23 **MR. ZEBRUCK:** Yes.

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

25 **MR. ZEBRUCK:** No, it was just a tape -- it

1 wasn't video. It was just a tape-recorded statement.

2 **MR. DUMAIS:** Okay, I see, an audio
3 statement?

4 **MR. ZEBRUCK:** Yes.

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

6 Now, if you can just have a look at Bates
7 page 057, which is the entry that you have on the 16th day
8 of January, 1995.

9 **MR. ZEBRUCK:** Yes.

10 **MR. DUMAIS:** So do you recall Mr. van
11 Diepen?

12 **MR. ZEBRUCK:** Yes.

13 **MR. DUMAIS:** And, essentially, he was saying
14 that he did not -- he would not have seen him doing
15 anything improper. Is that correct?

16 **MR. ZEBRUCK:** Yes.

17 **MR. DUMAIS:** And were you aware when you
18 were conducting these interviews that all these people had
19 previously been interviewed by another OPP officer the
20 previous year at the beginning of 1994?

21 **MR. ZEBRUCK:** No.

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

23 And as you're interviewing these people, and
24 just as an example, as you're interviewing Jos van Diepen,
25 you don't have with you the statement that he gave at the

1 beginning of 1994. Is that correct?

2 MR. ZEBRUCK: That's correct.

3 MR. DUMAIS: All right. And were you aware
4 of that, that these people had been interviewed?

5 MR. ZEBRUCK: No.

6 MR. DUMAIS: Were you made aware of that at
7 any point-in-time?

8 MR. ZEBRUCK: I don't recall.

9 MR. DUMAIS: Okay. So then clearly after
10 you would have finished with these interviews from
11 Probations and Corrections people, you're not advising, for
12 example, Constable McDonell of your findings?

13 MR. ZEBRUCK: No.

14 MR. DUMAIS: All right.

15 Now, I'd like you to look at -- and this is
16 a new document. It's Document Number 114321.

17 THE COMMISSIONER: Thank you.

18 Exhibit 2587 is notes of retired Constable
19 Bill Zebruck. The first date is the 3rd of December, 1994.

20 --- EXHIBIT NO./PIÈCE NO. P-2587:

21 (114321) - Notes of William Zebruck dated
22 December 4, 1994 to January 5, 1995

23 MR. DUMAIS: Do you recognize this document?

24 MR. ZEBRUCK: Yes.

25 MR. DUMAIS: And are these -- what are

1 these?

2 MR. ZEBRUCK: These are preliminary notes I
3 made in a loose leaf binder.

4 MR. DUMAIS: Okay, so just so I understand
5 the procedure; is these as you're conducting your
6 investigation you're taking down notes in the loose leaf
7 binder and then you're transferring these notes to your
8 police notebook?

9 MR. ZEBRUCK: Yes.

10 MR. DUMAIS: Or is it the other way around?

11 MR. ZEBRUCK: No, correct the first time.

12 MR. DUMAIS: Okay. So then if -- and these
13 are all taken in your handwriting; is that correct?

14 MR. ZEBRUCK: Yes.

15 MR. DUMAIS: And this document should be
16 stamped with the publication ban, Mr. Commissioner.

17 THE COMMISSIONER: So ordered.

18 MR. DUMAIS: And so if we look at the first
19 page, so we've already discussed this, so this is the
20 initial interview, the first interview that you took in
21 this investigation; is that correct? The name's at the ---

22 MR. ZEBRUCK: Yes.

23 MR. DUMAIS: --- top of that page.

24 MR. ZEBRUCK: Yes.

25 MR. DUMAIS: And then if we look at the next

1 two pages, so Bates pages 232, 233, so these are all
2 Probations and Corrections employees or related people that
3 you would have interviewed; correct?

4 MR. ZEBRUCK: Yes.

5 MR. DUMAIS: And if we look at the next
6 page, so Bates pages -- the next one is blank, sorry, but
7 the one after that, Bates pages 235, and do you have that,
8 Mr. Zebruck?

9 MR. ZEBRUCK: Yes.

10 MR. DUMAIS: So this appears to be a list
11 compiled by you of possible victims; is that correct?

12 MR. ZEBRUCK: Yes.

13 MR. DUMAIS: And the first four names that
14 we see on that page, we have not -- I've not seen before in
15 your notes but the last one we've seen, correct, the fifth
16 one ---

17 MR. ZEBRUCK: That's correct.

18 MR. DUMAIS: --- the bottom one.

19 Do you recall where you would have obtained
20 the names of the four other people?

21 MR. ZEBRUCK: Probably from Heidi.

22 MR. DUMAIS: So you think that you're having
23 discussions with Constable Sebalj about possible victims in
24 ---

25 MR. ZEBRUCK: Yes.

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

2 But certainly the last name that you're
3 finding on that list, you would have obtained that name
4 through the interview of one of the Probations and
5 Corrections employee; is that right?

6 **MR. ZEBRUCK:** Yes.

7 **MR. DUMAIS:** Do you recall whether or not
8 you would have followed up with any of these five
9 individuals that we see on that page?

10 **MR. ZEBRUCK:** I'm sure I did.

11 **MR. DUMAIS:** Do you have -- do you have a
12 specific recollection of following up with these people?

13 **MR. ZEBRUCK:** That was 12 years ago.

14 **MR. DUMAIS:** Yeah, all right. Because if we
15 look at the distinction between the five names, the name
16 that's in the middle, there is some contact information and
17 there's also a phone number there.

18 **MR. ZEBRUCK:** Yes.

19 **MR. DUMAIS:** With respect to the other four
20 names, there does not appear to be any contact information.
21 So would that tell you then that you would not have --
22 possibly not contacted these people; you don't have any
23 contact information?

24 **MR. ZEBRUCK:** No. I would -- that would
25 mean I was able to get that name from either a licensing

1 bureau, from criminal records, or get their address from
2 there or from the database at the Cornwall Police.

3 MR. DUMAIS: So police officers have a lot
4 of resources to find people.

5 MR. ZEBRUCK: Yes. I would believe that
6 would indicate that I had no problem finding their
7 addresses.

8 MR. DUMAIS: All right.

9 MR. ZEBRUCK: The one that's written down, I
10 would have.

11 MR. DUMAIS: And do you recall whether or
12 not you were able to connect with any of these people and
13 take a statement from them that would have been relevant to
14 your investigation?

15 MR. ZEBRUCK: No.

16 MR. DUMAIS: And the next couple of pages
17 are essentially the statements that you would have taken --
18 -

19 MR. ZEBRUCK: Yes.

20 MR. DUMAIS: --- from different people in
21 your investigation?

22 MR. ZEBRUCK: Yes.

23 MR. DUMAIS: And you would have transferred
24 then this information to your notes afterwards?

25 MR. ZEBRUCK: Yes.

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

2 And do you recall whether or not Constable
3 Sebalj would have been following up on some of these leads?
4 By that I mean other victims that had been identified.

5 **MR. ZEBRUCK:** Well, she had an interest in
6 it so I would believe she would have.

7 **MR. DUMAIS:** Okay. But you don't have a
8 specific recollection then that she did?

9 **MR. ZEBRUCK:** No.

10 **MR. DUMAIS:** All right. And she would never
11 have contacted you sometime in 1995 and told you, "Well
12 listen, I've reached this victim and I think perhaps it's
13 relevant"?

14 **MR. ZEBRUCK:** That would be a very good
15 possibility.

16 **MR. DUMAIS:** That she would have done so?

17 **MR. ZEBRUCK:** Yes.

18 **MR. DUMAIS:** All right. But I mean
19 certainly if that information -- if you had obtained
20 relevant information from Constable Sebalj you would have
21 put that in your notes and as well put that in your brief?

22 **MR. ZEBRUCK:** Not necessarily. Not if
23 there's nothing relevant that I can use in my brief, I
24 wouldn't have put it in the notes.

25 **MR. DUMAIS:** Okay. But fair to say that you

1 don't have an independent recollection that she would have
2 done so?

3 MR. ZEBRUCK: No.

4 MR. DUMAIS: All right.

5 If you can just have a look at Exhibit
6 Number 868.

7 (SHORT PAUSE/COURTE PAUSE)

8 MR. DUMAIS: Now, this -- is this the
9 charging document that was prepared for Nelson Barque?

10 MR. ZEBRUCK: Yes.

11 MR. DUMAIS: And the name or the Informant
12 that -- the name of the Informant at the top, and it's a
13 little bit cut off, I believe it's Senior Constable B.R.
14 Eadie.

15 MR. ZEBRUCK: Eadie?

16 MR. DUMAIS: Do you remember that name?

17 MR. ZEBRUCK: That would be Brian Eadie.

18 MR. DUMAIS: Brian Eadie?

19 MR. ZEBRUCK: Yes.

20 MR. DUMAIS: And is this gentleman the court
21 officer and the one that's in charge of preparing all
22 charging documents?

23 MR. ZEBRUCK: Yes.

24 MR. DUMAIS: Okay, so you go to him and give
25 him the information. He actually prepares the document ---

1 MR. ZEBRUCK: Yes.

2 MR. DUMAIS: --- and gets the Information
3 sworn from the ---

4 MR. ZEBRUCK: Yes.

5 MR. DUMAIS: All right.

6 And this Information would have been sworn
7 then on January 3rd, 1995?

8 MR. ZEBRUCK: Yes.

9 MR. DUMAIS: And the first appearance would
10 have been on January 11th, 1995?

11 MR. ZEBRUCK: Yes.

12 MR. DUMAIS: And do you recall whether or
13 not Mr. Barque had indicated that he was prepared to plead
14 guilty to the charge?

15 MR. ZEBRUCK: I don't know.

16 MR. DUMAIS: All right. But certainly we
17 know that at one point in time, and I believe that's in
18 August of 1995, he would have entered a plea of guilty to
19 the first count; is that correct?

20 MR. ZEBRUCK: Yes.

21 MR. DUMAIS: All right. Do you recall being
22 present for those court appearances, Mr. Zebruck?

23 MR. ZEBRUCK: No.

24 MR. DUMAIS: Sorry, do you recall -- you
25 don't recall or you weren't present?

1 **MR. ZEBRUCK:** I don't believe I would have
2 been present.

3 **MR. DUMAIS:** Okay.

4 And actually perhaps the next document might
5 be of some assistance, it's Document Number 114241.

6 **THE COMMISSIONER:** It would be a new one,
7 sir.

8 Thank you.

9 Exhibit 2588 is a document entitled File
10 Number 2395 and it's SD&G Crown Attorney's Office
11 Provincial Division court cover sheet.

12 --- **EXHIBIT NO./PIÈCE NO. P-2588:**

13 (114241) SD&G Crown Attorney's Office
14 Provincial Division Court Cover Sheet of R.
15 vs Nelson Barque dated 11 Jan 95

16 **MR. DUMAIS:** So I think, Mr. Zebruck, this
17 is sort of a docket sheet in the Crown file that sort of
18 summarizes the court appearances, so it does appear that
19 there was a court appearance on January 11th, '95 and a
20 number of other court appearances, and there was also a
21 pre-trial on May 12th, 1995. Do you see that entry?

22 **MR. ZEBRUCK:** Oh ---

23 **MR. DUMAIS:** On May 12, 1995. It's circled
24 "pre-trial."

25 **MR. ZEBRUCK:** Okay, yes.

1 **MR. DUMAIS:** So do you recall whether or
2 not you would have been involved in this pre-trial or you
3 would have given any information?

4 **MR. ZEBRUCK:** I would say that I would have
5 been there.

6 **MR. DUMAIS:** All right. And I'm looking at
7 -- do you recall who the prosecutor was on this file?

8 **MR. ZEBRUCK:** I think it would be Simard.

9 **MR. DUMAIS:** And do you recall meeting with
10 Mr. Simard and speaking to him about this file?

11 **MR. ZEBRUCK:** No.

12 **MR. DUMAIS:** Okay. And do you recall
13 whether or not you were updating him or providing him with
14 additional information as you're conducting your Probations
15 and Corrections interviews in January of '95?

16 **MR. ZEBRUCK:** That would be submitted to
17 Constable Wilson, who worked in the Crown's office, and he
18 would pass it on to the Crown.

19 **MR. DUMAIS:** Okay. So if your brief was
20 completed for your court appearance on January 11th, 1995 --
21 I'm assuming it was. Do you recall that?

22 **MR. ZEBRUCK:** No.

23 **MR. DUMAIS:** Okay. And if you're conducting
24 interviews after the brief is completed, you would submit
25 your statements to ---

1 **MR. ZEBRUCK:** Constable Wilson.

2 **MR. DUMAIS:** And he works at your
3 detachment? Is that correct?

4 **MR. ZEBRUCK:** No, he worked in the Crown's
5 office.

6 **MR. DUMAIS:** Okay. And is he an OPP
7 officer? Does he work ---

8 **MR. ZEBRUCK:** Yes.

9 **MR. DUMAIS:** Okay. So the typical practice
10 is -- would be to give this information to him and he would
11 have the responsibility of adding those to the file or the
12 brief? Is that correct?

13 **MR. ZEBRUCK:** Yes.

14 **MR. DUMAIS:** All right. But do you have any
15 specific recollection of speaking to Mr. Simard after your
16 Crown brief was initially submitted, and telling him about
17 the information you were getting from these Probations and
18 Corrections employees?

19 **MR. ZEBRUCK:** No.

20 **MR. DUMAIS:** Now, you'll recall at the
21 beginning of my questions this morning I pointed out to you
22 the fact that C-90 had identified Richard Hickerson as
23 possibly having been involved with Robert Sheets. Do you
24 recall that?

25 **MR. ZEBRUCK:** Yes.

1 **MR. DUMAIS:** And in a subsequent Project
2 Truth investigation we know that they would have
3 investigated Mr. Hickerson and confronted him specifically
4 about the allegations made by a Robert Sheets. Were you
5 aware of that?

6 **MR. ZEBRUCK:** No.

7 **MR. DUMAIS:** Did Project Truth officers ever
8 come back to you and say, "Listen, I understand you had
9 information about this Mr. Hickerson," or did they ever get
10 back to you and ask you for anything?

11 **MR. ZEBRUCK:** Well, while Project Truth was
12 going on I was seconded to the RCMP.

13 **MR. DUMAIS:** Okay.

14 **MR. ZEBRUCK:** So I was no longer in the
15 detachment.

16 **MR. DUMAIS:** Okay. And when you were
17 provided with the name of Mr. Hickerson as -- and I'll use
18 the terminology "as a person of interest" in that
19 statement, do you put that information anywhere on the
20 system, on any flagging system that the OPP may have been
21 using at that time?

22 **MR. ZEBRUCK:** I don't recall.

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

24 **THE COMMISSIONER:** Was there a tracking
25 system where you would throw these kinds of things in as an

1 alert or -- not an alert but as a possible place for people
2 to, you know, pick up on these things?

3 MR. ZEBRUCK: I believe there was but what
4 it was -- I just don't recall now what it was.

5 THE COMMISSIONER: All right.

6 MR. ZEBRUCK: The names would be submitted.
7 I believe that Hickerson was more of an interest to the
8 Cornwall Police than to us. I mean, the allegation made
9 about Hickerson, that would have involved the Cornwall
10 Police, not us. Because apparently everything that that
11 happened was within the city, so that would be Cornwall
12 Police doing that.

13 MR. DUMAIS: But certainly he would appear
14 to have some relevant information with respect to what
15 Mr. Roy was alleging; correct?

16 MR. ZEBRUCK: Yes.

17 MR. DUMAIS: I'm going to ask you to look at
18 another document, and these are your notes as well. So
19 it's Document Number 123718.

20 THE COMMISSIONER: Sir, the microphone.

21 MR. ZEBRUCK: Oh.

22 THE COMMISSIONER: You've got to watch --
23 yeah, there you go.

24 MR. ZEBRUCK: There are too many books here.

25 THE COMMISSIONER: Yeah, I know.

1 Thank you. Exhibit Number 2589 are Officer
2 Zebruck's notes. The date of first entry, the 8th of
3 February, 1995. Date of last entry, 13th of June, 1995.

4 **--- EXHIBIT NO./PIÈCE NO. P-2589:**

5 (123718) Notes of William Zebruck dated 08
6 Feb 95 to 13 Jun 95

7 **MR. DUMAIS:** These are also your notes,
8 Mr. Zebruck. These are also your notes, Mr. Zebruck?

9 **MR. ZEBRUCK:** Yes.

10 **MR. DUMAIS:** And I'm just looking at the
11 Bates pages 097 and there's, I think, two relevant entries.
12 The first one at --I'm not sure if that's at 0800 hours but
13 it appears that you would have attended the pre-trial in
14 the Nelson Barque matter. Is that correct?

15 **MR. ZEBRUCK:** Yes.

16 **MR. DUMAIS:** All right. And I should have
17 pointed that out to you firstly. And the second entry
18 there -- just before I ask you the question I'll just
19 determine whether or not that name has a moniker.

20 So it's indicated:

21 "Witness interview: Albert Lalonde.
22 Sexual assault, Father Charlie."

23 Is that what that reads?

24 **MR. ZEBRUCK:** Yes.

25 **MR. DUMAIS:** Okay. So do you recall being

1 involved in an interview of a Mr. Albert Lalonde?

2 MR. ZEBRUCK: Yes.

3 MR. DUMAIS: And can you tell us the
4 circumstances of this interview?

5 MR. ZEBRUCK: He was going to be interviewed
6 by Mike Fagan and he asked me to sit in on the interview.

7 MR. DUMAIS: Okay.

8 THE COMMISSIONER: I'm sorry, where do you
9 see that? Oh, at the bottom of 097. Okay, I got it. I'm
10 sorry, I've got it.

11 MR. DUMAIS: And we know that you would have
12 conducted this interview on May 12th, 1995. Does that make
13 sense?

14 MR. ZEBRUCK: I did not conduct the
15 interview.

16 MR. DUMAIS: Pardon me?

17 MR. ZEBRUCK: I did not conduct the
18 interview. I sat in on it.

19 MR. DUMAIS: Okay, which means what,
20 Mr. Zebruck?

21 MR. ZEBRUCK: Constable Fagan did all the
22 talking. I just sat there.

23 MR. DUMAIS: Okay. So he simply wanted a
24 witness to the interview. Is that fair?

25 MR. ZEBRUCK: Yes.

1 **MR. DUMAIS:** All right. Do you recall
2 whether or not you were taking notes during that interview?

3 **MR. ZEBRUCK:** No, I did not take notes.

4 **MR. DUMAIS:** Okay. Do you recall having any
5 type of discussion with Detective Constable Fagan about
6 what this interview was about and what the allegations were
7 about?

8 **MR. ZEBRUCK:** I probably would have been
9 briefed but I don't recall.

10 **MR. DUMAIS:** Okay. And do you recall being
11 involved in any further investigative steps with this --
12 with regards to this interview of Mr. Albert Lalonde?

13 **MR. ZEBRUCK:** No.

14 **MR. DUMAIS:** That was the extent of your
15 involvement?

16 **MR. ZEBRUCK:** Yes.

17 **MR. DUMAIS:** All right, Mr. Zebruck, these
18 are the questions that I have for you.

19 I believe I had advised you that at the
20 end of my questions you would be supplied with the
21 opportunity to make any recommendations, if you so wish.

22 I don't know if you have any comments to
23 make or any recommendations?

24 **MR. ZEBRUCK:** No.

25 **MR. DUMAIS:** All right, thank you.

1 **MR. ZEBRUCK:** Thank you.

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

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

4 **MS. DALEY:**

5 **MS. DALEY:** Good morning, sir. My name is
6 Helen Daley. I'm counsel to Citizens for Community
7 Renewal, and that is a local citizens' group with an
8 interest in the reform of institutions.

9 **MR. ZEBRUCK:** Right.

10 **MS. DALEY:** I want to start by seeing if I
11 can clarify just a point or two from the testimony you just
12 gave to my friend, Mr. Dumais.

13 My first question for you, sir, pertains to
14 Robert Sheets. You remember you gave testimony about him?

15 **MR. ZEBRUCK:** Yes.

16 **MS. DALEY:** And you told us that, indeed,
17 you had spoken with him, but there are no notes of that
18 conversation. Do you recall that, sir?

19 **MR. ZEBRUCK:** Yes.

20 **MS. DALEY:** Did I understand you correctly
21 that it was at Robert Sheets' insistence that you took no
22 notes? Was that your testimony?

23 **MR. ZEBRUCK:** Whether he insisted or not, he
24 did not want -- he wanted nothing to do with it. He talked
25 to me; that was all.

1 **MS. DALEY:** I understand that, but when he
2 talked to you he confirmed that, indeed, he was a victim of
3 Nelson Barque ; correct?

4 **MR. ZEBRUCK:** Yes.

5 **MS. DALEY:** You say he didn't wish to be
6 involved in any prosecution of Mr. Barque?

7 **MR. ZEBRUCK:** That's right.

8 **MS. DALEY:** And yet -- but you have no note
9 of that discussion between yourself and Robert Sheets?

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

11 **MS. DALEY:** Is there a reason why you
12 wouldn't take a note of that? Is that not a salient fact?

13 **MR. ZEBRUCK:** The -- I've -- the problem
14 with trying to take notes and talking to him, he wouldn't
15 talk to me if I took them, so I just sat there and listened
16 to him.

17 **MS. DALEY:** So you're suggesting you had a
18 notebook in front of you, you were about to ask him
19 questions ---

20 **MR. ZEBRUCK:** No, I didn't have a note -- I
21 would just be sitting -- sitting, talking to him. If
22 he ---

23 **MS. DALEY:** I'm not understanding you. He
24 didn't prevent you from taking a note. Is that fair?

25 **MR. ZEBRUCK:** No. He indicated that

1 he -- he didn't want to be involved and if I would have
2 started taking notes, I'm sure he would have quit talking
3 to me.

4 **MS. DALEY:** All right, fair enough.

5 So after the interview with Robert Sheets,
6 what prevented you from making a note of that occurrence in
7 your day book? I assume nothing prevented you from doing
8 that?

9 **MR. ZEBRUCK:** No.

10 **MS. DALEY:** Is there a specific reason why
11 you did not?

12 **MR. ZEBRUCK:** Because I wasn't going to be
13 using it in my Crown brief.

14 **MS. DALEY:** So, I take it your approach to
15 note-taking was that if a person told you nothing of
16 interest or if they told you something of interest but
17 didn't wish to be witnesses, you did not make a note? Was
18 that the practice?

19 **MR. ZEBRUCK:** Yes.

20 **MS. DALEY:** Let me ask you another question
21 following from what you said in-chief.

22 You had learned, I believe, from
23 Mister -- C-90 -- he also mentioned the name Hickerson to
24 you. You recall that, sir ?

25 **MR. ZEBRUCK:** Yes.

1 **MS. DALEY:** And he gave you some information
2 that Hickerson may have been involved sexually with another
3 individual. Did you know what Hickerson was doing for a
4 living?

5 **MR. ZEBRUCK:** Yes.

6 **MS. DALEY:** Did you turn your mind to
7 whether or not the information that you had received about
8 Mr. Hickerson was potentially something that should be
9 reported to the Children's Aid Society?

10 **MR. ZEBRUCK:** I -- that would have been --
11 all the information concerning Hickerson occurred in
12 Cornwall and that would be -- that would be Cornwall
13 Police's jurisdiction, not ours.

14 **MS. DALEY:** Did you communicate the
15 information you had from C-90 about Mr. Hickerson to anyone
16 at Cornall Police?

17 **MR. ZEBRUCK:** I would have discussed that
18 with Heidi Sebalj, yes.

19 **MS. DALEY:** Do you have a specific memory
20 that you discussed that with Heidi Sebalj?

21 **MR. ZEBRUCK:** No.

22 **MS. DALEY:** Do you have any memory
23 whatsoever about discussing with Officer Sebalj that
24 potentially this could be an occurrence that would be
25 reportable to the Children's Aid Society?

1 **MR. ZEBRUCK:** No specific recollection, no.

2 **MS. DALEY:** And could I ask the same line of
3 questioning concerning Nelson Barque? At the time you
4 became involved in investigating Nelson Barque, did you
5 have any information about what he was doing for a living
6 or whether he had access to children?

7 **MR. ZEBRUCK:** I was -- I was told that he
8 was -- he was a janitor.

9 **MS. DALEY:** All right. Sir, in relation to
10 Mr. Barque, did you turn your mind at all to whether or not
11 the allegations that you had against him -- from Albert Roy
12 and potentially others -- did you turn your mind to whether
13 that was potentially something that should be reported to
14 the Children's Aid Society?

15 **MR. ZEBRUCK:** No.

16 **MS. DALEY:** I want to see if you can help me
17 understand a little bit about the arrest of Mr. Barque, and
18 we know that that occurred on December 19th, (sic) 1994;
19 we've seen that from your notes. Do you recall that, sir?

20 **MR. ZEBRUCK:** Yes.

21 **MS. DALEY:** And I take it as of December
22 14th -- I might have misspoken, I meant to say 14. I take
23 it as of that day you hadn't taken any statement from
24 Albert Roy?

25 **MR. ZEBRUCK:** No.

1 **MS. DALEY:** And you weren't necessarily
2 aware of any statement that Officer McDonell may have
3 taken?

4 **MR. ZEBRUCK:** I was aware of the statement
5 that Heidi Sebalj had taken.

6 **MS. DALEY:** I guess what I am trying to
7 understand is, on what basis did you make the arrest?

8 **MR. ZEBRUCK:** On the statement that Roy gave
9 to Heidi Sebalj.

10 **MS. DALEY:** So that would be the statement
11 in November of '94?

12 **MR. ZEBRUCK:** Yes.

13 **MS. DALEY:** And you'd read that statement,
14 sir?

15 **MR. ZEBRUCK:** Yes.

16 **MS. DALEY:** Now, when you arrested
17 Nelson Barque, did you make any observations about him?

18 **MR. ZEBRUCK:** Referring to what?

19 **MS. DALEY:** Do you recall his demeanour?
20 Did he seem upset? Did he seem distraught? Do you recall
21 anything that you ---

22 **MR. ZEBRUCK:** He was very quiet; he hardly
23 spoke at all.

24 **MS. DALEY:** He hardly spoke at all?

25 **MR. ZEBRUCK:** That's right.

1 **MS. DALEY:** Did he seem upset or distraught?

2 **MR. ZEBRUCK:** No.

3 **MS. DALEY:** All right. Were you at all
4 surprised about his demeanour when you arrested him?

5 **MR. ZEBRUCK:** No.

6 **MS. DALEY:** All right. Let me just move on
7 to another area.

8 Sir, we moved very briefly over your career
9 experience, but I take it you had no training specific to
10 the investigation of any sexual offences at the time you
11 became involved with the Barque investigation?

12 **MR. ZEBRUCK:** Just part of the course; there
13 was parts of it dealing with sexual assault investigations.

14 **MS. DALEY:** Had you ever had any training
15 specific to an historic sexual abuse? That is to say,
16 someone who is alleging sexual abuse in the past?

17 **MR. ZEBRUCK:** That would probably have been
18 part of the curriculum there too.

19 **MS. DALEY:** So you're suggesting you did
20 have some sexual abuse training? Or training pertaining to
21 how to investigate abuse?

22 **MR. ZEBRUCK:** In the -- in the criminal
23 investigator's course, that was the only -- I mean, I never
24 took a specific sexual abuse course, no.

25 **MS. DALEY:** Okay, thank you. So no specific

1 courses, only to the extent it was a component of criminal
2 investigations generally?

3 MR. ZEBRUCK: Yes.

4 MS. DALEY: Now, at the time of your first
5 involvement in the Barque matter, just help me understand
6 something.

7 Was it not known at the outset that the
8 offence in relation to Albert Roy had occurred in St.
9 Andrew's? Was that not always known?

10 MR. ZEBRUCK: Initially, no. They weren't
11 sure where -- where Barque lived. Initially, they weren't
12 aware of that, that he lived in St. Andrew's, but that was
13 established.

14 MS. DALEY: Was it established fairly early
15 on in the investigation ---

16 MR. ZEBRUCK: Yes.

17 MS. DALEY: --- he resided in St. Andrew's?

18 And I thought from somewhere that the
19 evidence was he lived in the same residence for many, many
20 years; he wasn't mobile, he lived in the same place. Did
21 you know that?

22 MR. ZEBRUCK: No. No.

23 MS. DALEY: But, I take it, very soon after
24 you come into the picture, a residence, an address, is
25 established for ---

1 **MR. ZEBRUCK:** Yes.

2 **MS. DALEY:** --- Mr. Barque? All right.

3 And that's certainly -- based on the
4 information from Albert Roy, that was the venue of the
5 offence? It was known that he said the offence happened at
6 Barque's home?

7 **MR. ZEBRUCK:** There, and in Cornwall ---

8 **MS. DALEY:** Okay.

9 **MR. ZEBRUCK:** --- at the office.

10 **MS. DALEY:** And at Cornwall, all right.

11 Now, you've given evidence here about some
12 information that you did obtain from the Cornwall
13 Probation/Parole.

14 **MS. DALEY:** I take it you passed that
15 information onto your supervisors, your superiors, what you
16 were hearing from the Cornwall Probation office about both
17 Barque and Mr. Seguin?

18 **MR. ZEBRUCK:** The information I passed on
19 was the response we got from Probation/Parole involving the
20 1982 incident.

21 **MS. DALEY:** All right. That was Mr. Sirrs'
22 investigation and that was limited to Mr. Barque; correct?

23 **MR. ZEBRUCK:** Yes.

24 **MS. DALEY:** Was there ever any suggestion
25 that you were privy to between you and your superiors that

1 perhaps that office should be contacted by the OPP and
2 perhaps there should be some further discussion about the
3 events of the 1980s. In other words, perhaps the Ministry
4 should be looking at other clients of Mr. Barque's as
5 potential victims. Did that conversation ever occur
6 between yourself and your superiors?

7 **MR. ZEBRUCK:** I don't recall it
8 specifically.

9 **MS. DALEY:** Was it part of your thinking
10 that perhaps other people who had been probationers with
11 Mr. Barque in the same timeframe should be looked at as
12 potential victims?

13 **MR. ZEBRUCK:** Well, they should have been
14 looked at in 1982.

15 **MS. DALEY:** All right. Here you are but you
16 weren't there in 1982. So here you are in 1994, in the
17 early months of '95.

18 Was it part of your thinking that Barque's
19 other probationers, during the time he was an active
20 probation officer, should be looked at as possible abuse
21 victims?

22 **MR. ZEBRUCK:** Yes.

23 **MS. DALEY:** And did you communicate that
24 thought to any of your superiors?

25 **MR. ZEBRUCK:** I don't recall doing that

1 specifically.

2 **MS. DALEY:** Did you communicate that thought
3 to Heidi Sebalj or anyone else at the Cornwall Police
4 Service?

5 **MR. ZEBRUCK:** Well, we would be discussing
6 that. When we received the stuff, the information from
7 Probation and Parole, we would discuss that.

8 **MS. DALEY:** I guess just so that I'm really
9 as clear with you as I can be, the thought I'm talking
10 about is, "Listen, someone should go talk to the folks
11 running the probation office and determine if there were
12 other victims of Barque". Was that something that you
13 believe you discussed with Officer Sebalj?

14 **MR. ZEBRUCK:** I can't recall specifically.

15 **MS. DALEY:** The thrust of your evidence, as
16 I thought I understood it, was once you were assigned to
17 the Barque matter in -- I think it was November 29th, 1994 -
18 - from that point were you the officer in charge of that
19 investigation as opposed to Sebalj?

20 **MR. ZEBRUCK:** We would cooperate on it
21 because there's allegations there that involved Cornwall
22 Police so, I mean, we -- it would be like a joint
23 investigation.

24 **MS. DALEY:** Can you help clarify for me what
25 pieces of the investigation you thought were specific to

1 Cornwall as opposed to being your responsibility?

2 MR. ZEBRUCK: Well, the misconduct in the
3 probation office and that would be Cornwall Police.

4 MS. DALEY: And potentially some of the
5 other misconduct with the victims from 1982, was that also
6 Cornwall Police jurisdiction or did you turn your mind to
7 that?

8 MR. ZEBRUCK: That would be Cornwall Police
9 jurisdiction, yes.

10 MS. DALEY: All right. But Mr. Roy and his
11 complaint was your responsibility because that was your
12 jurisdiction?

13 MR. ZEBRUCK: Yeah. One of the areas where
14 an offence occurred was in our area so I was doing the
15 investigation for that, involving Roy.

16 MS. DALEY: Right.

17 I've understood what you said but, yet, it
18 was you who undertook to investigate with the employees,
19 including the janitor at the local office of
20 Probation/Parole; correct? That's work that you did as
21 opposed to Officer Sebalj?

22 MR. ZEBRUCK: Yes. I was looking for more
23 evidence to corroborate Mr. Roy's allegation.

24 MS. DALEY: Right. So you saw that work as
25 part of assisting in the Roy prosecution?

1 **MR. ZEBRUCK:** Yes.

2 **MS. DALEY:** Now, apart from assisting in the
3 Roy prosecution, did the information that you obtained --
4 that is to say the names of the potential victims that my
5 friend just took you to -- did it occur to you that other
6 charges might be laid against Barque on their information?

7 **MR. ZEBRUCK:** Yes.

8 **MS. DALEY:** And would that not be -- I think
9 to use your language -- you were looking for other possible
10 victims and one of the reasons to do that of course is to
11 lay charges on their information should it be appropriate,
12 right?

13 **MR. ZEBRUCK:** Yes.

14 **MS. DALEY:** And, certainly, it would have
15 assisted perhaps the charges brought on Mr. Roy's
16 information had there been companion charges of a similar
17 nature by other probationers; correct?

18 **MR. ZEBRUCK:** Yes.

19 **MS. DALEY:** Is it your evidence, sir, that
20 it would have been Officer Sebalj who would have laid such
21 charges if appropriate?

22 **MR. ZEBRUCK:** I don't think I made that
23 observation.

24 **MS. DALEY:** I'm sorry, I just ---

25 **MR. ZEBRUCK:** It would have been -- well,

1 depending on where it occurred. If it had happened at the
2 Nelson's house I would believe it.

3 **MS. DALEY:** Whose responsibility was it to
4 determine where they had occurred as between yourself and
5 the Cornwall Police? How did you see that?

6 **MR. ZEBRUCK:** Well, I mean, if I had
7 information that involved the OPP, I would think -- you
8 know, I make that decision. If Heidi thought it was their
9 jurisdiction, that would be her call.

10 **MS. DALEY:** I guess what I'm trying to get
11 to is this, sir.

12 In the course of, for example, talking to
13 Madam Leger, Louise Quinn, the janitor, others at the
14 probation offices, you developed a list of names and we saw
15 a list of at least five names that had come to you in some
16 fashion?

17 **MR. ZEBRUCK:** Yes.

18 **MS. DALEY:** All right. So my question to
19 you, sir, is, who did you think was responsible for
20 following up with those people and determining whether or
21 not they were also victims of Mr. Barque and if so where --
22 -

23 **MR. ZEBRUCK:** I took it upon myself to
24 follow it up on.

25 **MS. DALEY:** You say that was your

1 responsibility?

2 MR. ZEBRUCK: Yes.

3 MS. DALEY: Now, in the course of doing that
4 work, obviously you also came across information pertaining
5 to a deceased probation officer, and that was Mr. Seguin?

6 MR. ZEBRUCK: Yes.

7 MS. DALEY: And had you known Mr. Seguin at
8 all before he died?

9 MR. ZEBRUCK: No.

10 MS. DALEY: You had the same lack of
11 information about him as you would have of Mr. Barque
12 coming in?

13 MR. ZEBRUCK: Yes.

14 MS. DALEY: In other words, you hadn't known
15 either of them?

16 MR. ZEBRUCK: That's correct.

17 MS. DALEY: Now, during the course of your
18 work did you come across information to suggest that Mr.
19 Seguin was potentially also an abuser of probationers?

20 MR. ZEBRUCK: Yes, from Albert Roy.

21 MS. DALEY: Albert Roy would be one example
22 because ---

23 MR. ZEBRUCK: Yes.

24 MS. DALEY: --- he gave that information to
25 Officer McDonell, right?

1 **MR. ZEBRUCK:** Yes.

2 **MS. DALEY:** And in addition to Albert, were
3 there others that you came across or did you come across
4 information from any probation workers that suggested that
5 Ken may also have been involved in having sexual activity
6 with probationers?

7 **MR. ZEBRUCK:** No.

8 **MS. DALEY:** In respect of Mr. Roy's
9 allegation, did you consider that perhaps you or one of
10 your superiors at the detachment should again speak to
11 Probation/Parole about Mr. Seguin?

12 **MR. ZEBRUCK:** Mr. Seguin ---

13 **MS. DALEY:** And what ---

14 **MR. ZEBRUCK:** --- was deceased at the time.

15 **MS. DALEY:** I understand that, sir, but did
16 you consider whether contact should be made with Probation
17 to suggest that they look into Mr. Seguin's probationers to
18 determine whether any of them had stories of abuse similar
19 to Albert Roy's?

20 **MR. ZEBRUCK:** I don't recall specifically.

21 **MS. DALEY:** All right. All right, just a
22 few further questions here, sir.

23 We've seen reference to this in Exhibit 115,
24 which is Officer Sebalj's package of OMPPAC reports, and by
25 all means have a look there if you wish, but I took it from

1 your testimony that you were aware that from the very
2 outset when Albert Roy presented himself to Cornwall Police
3 he was very upset and it was very difficult for him to
4 speak about the situation.

5 Do you recall that, sir?

6 **MR. ZEBRUCK:** Yes.

7 **MS. DALEY:** And he -- according to what
8 Officer Sebalj records before you were involved but I
9 assume it was a similar experience that you had -- this
10 particular person was very uneasy and he was visibly
11 distraught?

12 **MR. ZEBRUCK:** Yes.

13 **MS. DALEY:** And he presented himself to you
14 in the same manner, I take it, when you finally met with
15 him?

16 **MR. ZEBRUCK:** Yes, he didn't want to talk to
17 me.

18 **MS. DALEY:** And you attributed that to the
19 fact that you were a male and he had difficulties with
20 males?

21 **MR. ZEBRUCK:** Yes.

22 **MS. DALEY:** By my count, there were at least
23 three interviews of Albert Roy. If I could help you,
24 there's the November 24th, 1994 interview that Officer
25 Sebalj does, that's the one that you rely upon to lay the

1 charge?

2 MR. ZEBRUCK: Yes.

3 MS. DALEY: So that's number one. Number
4 two is the December 6th, '94 interview conducted by Officer
5 McDonnell?

6 MR. ZEBRUCK: Yes.

7 MS. DALEY: And number three is the
8 interview that you and Officer Sebalj conduct on December
9 16th, '94; so there's three in total; is that correct, sir?

10 MR. ZEBRUCK: Yes.

11 MS. DALEY: What was the impact, if you saw
12 any, on Albert Roy, of having to retell the story three
13 times?

14 MR. ZEBRUCK: It was very hard for him. It
15 was very hard for him to do.

16 MS. DALEY: And just as a human being I
17 assume you could empathize a little bit with the suffering
18 he experienced at having to tell the story three times?

19 MR. ZEBRUCK: Well, that's why I didn't want
20 him to go to court.

21 MS. DALEY: I understand that. But before
22 we got to the court point, we had three interviews of this
23 gentleman.

24 MR. ZEBRUCK: Yes.

25 MS. DALEY: Correct?

1 **MR. ZEBRUCK:** Yes.

2 **MS. DALEY:** Was there anything, in hindsight
3 or otherwise, you could think of that could have obviated
4 the need to interview him three times?

5 **MR. ZEBRUCK:** I suppose possibly the third
6 time wasn't -- we could have done without but I wanted to
7 talk to him, make sure I -- you know, he didn't have
8 anything further to add to what he already said.

9 **MS. DALEY:** Did you get new or additional
10 information out of him during the third interview than the
11 prior ones?

12 **MR. ZEBRUCK:** I don't think so, no.

13 **MS. DALEY:** Give me one second, sir, I'm
14 almost done.

15 For the sake of the record I'm just going to
16 take a moment and ask you to look at the interview report
17 of Albert Lalonde and that's the last thing you testified
18 about.

19 It's a new document, 715016.

20 I'm sorry, yes. My learning disability is
21 acting up today; 715106.

22 **THE COMMISSIONER:** Thank you. Exhibit
23 Number 2590 is a statement of Albert Lalonde, taken on the
24 12 of May of -- 12th of May '95.

25 --- **EXHIBIT NO./PIÈCE No. P-2590:**

1 (715106) - Statement of Albert Lalonde
2 dated 12 May 95

3 **MS. DALEY:** Take your time with that, sir.
4 Take as much time as you need; I just have a question or
5 two for you about the very conclusion of that interview.

6 (SHORT PAUSE/COURTE PAUSE)

7 **MS. DALEY:** Are you ready for just a
8 question or two about this, sir?

9 **MR. ZEBRUCK:** Sure.

10 **MS. DALEY:** First of all, you made it clear
11 that you did not conduct this interview; it was Fagan who
12 conducted it and you just observed?

13 **MR. ZEBRUCK:** That's right.

14 **MS. DALEY:** The person being interviewed is
15 described as, "upset and crying" and I -- does that jog
16 your recollection at all, sir? Do you have a memory of Mr.
17 Lalonde and him being upset and crying in this interview?

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

19 **MS. DALEY:** Now, I just want to take you to
20 page 4 of the interview, after he's been asked questions
21 and given answers by Officer Fagan. And the focus here --
22 first of all, there's a question asked about David Silmsler;
23 did you know anything about Mr. Silmsler at this point in
24 time, sir?

25 **MR. ZEBRUCK:** No.

1 **MS. DALEY:** And the last few interactions
2 with McDonnell -- I'm sorry, Officer Fagan, I just want to
3 take you to. He's putting to this witness that there's
4 been a lot of media attention about Father Charles, why
5 didn't this man come forward previously. Do you remember
6 that aspect of the interview, sir?

7 **MR. ZEBRUCK:** Not ---

8 **MS. DALEY:** All right. The last question
9 is:

10 "What do you expect to gain by coming
11 forward now?"

12 Do you see that?

13 **MR. ZEBRUCK:** Yes.

14 **MS. DALEY:** Sir, did you talk to Officer
15 Fagan at all about this witness and this interview? Do you
16 remember any discussion with ---

17 **MR. ZEBRUCK:** No, I don't.

18 **MS. DALEY:** --- Officer Fagan?

19 **MR. ZEBRUCK:** No.

20 **MS. DALEY:** When I look at that question and
21 answer it occurs to me that perhaps Officer Fagan thinks
22 that this witness is looking to gain something personally
23 by coming forward as opposed to simply telling a truthful
24 story.

25 Was that the nature or the tenor of that

1 interview?

2 MR. ZEBRUCK: I don't think so.

3 MS. DALEY: Was it your impression that this
4 person was trying to gain something for himself by making
5 these allegations at this time?

6 MR. ZEBRUCK: No.

7 MS. DALEY: Those are my questions, thank
8 you, sir.

9 THE COMMISSIONER: Thank you.

10 Mr. Paul?

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

12 PAUL:

13 MR. PAUL: Mr. Zebruck, my name is Ian Paul,
14 I appear for a citizen's group called The Coalition for
15 Action.

16 And one area I'd like to ask you a few
17 questions about first, it would be the car ride to St.
18 Andrew's where you're with Mr. Roy and Peter, going to look
19 at a residence, have him look to try to point out a
20 residence in St. Andrew's area?

21 MR. ZEBRUCK: Yes.

22 MR. PAUL: And what I wanted to ask you
23 about is the conversation, as it was put to you previously,
24 that he gave evidence previously suggesting that there was
25 some discussion where you indicated a comment about Mr.

1 Barque committing suicide. And I believe you indicated
2 that you don't believe you made any comment of that nature.

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

4 **MR. PAUL:** What I wanted to ask you on that
5 issue was, at that point in time, the point in time of the
6 car trip to St. Andrew's you would have been aware, would
7 you not, that Ken Seguin was a probation officer who was --
8 appeared to have committed suicide; you would have been
9 aware of those facts?

10 **MR. ZEBRUCK:** I probably was but I don't
11 remember specifically.

12 **MR. PAUL:** Pardon me?

13 **MR. ZEBRUCK:** I probably was but I don't
14 remember specifically.

15 **MR. PAUL:** You did have some extensive
16 contact with the Probation office, with various personnel
17 at the Probation office; correct? You spoke to a lot of
18 people at the local Probation office?

19 **MR. ZEBRUCK:** Yes.

20 **MR. PAUL:** And you also had extensive
21 contact with Heidi Sebalj; correct?

22 **MR. ZEBRUCK:** Yes.

23 **MR. PAUL:** And in all that contact with the
24 Probation office and Heidi Sebalj and anything out there in
25 the public, in the community, would you not have known at

1 that time in the car ride about Ken Seguin?

2 MR. ZEBRUCK: I would have known, yes.

3 MR. PAUL: And you would have known that it
4 was believed at the time that he had committed suicide?

5 MR. ZEBRUCK: Yes.

6 MR. PAUL: And him being a probation officer
7 in the same office, is it not possible you made some
8 comment along the lines that perhaps you had a concern that
9 Mr. Barque might commit suicide because something of that
10 nature had occurred with Mr. Seguin?

11 MR. ZEBRUCK: No.

12 MR. PAUL: Now, with respect to Mr. Seguin,
13 I would understand that the allegations of Mr. Roy you were
14 investigating, involved an allegation that he was abused, I
15 believe firstly by Nelson Barque and then he goes to report
16 it to Ken Seguin and there's further abuse. Is that -- am
17 I correct ---

18 MR. ZEBRUCK: Yes.

19 MR. PAUL: And while obviously Mr. Seguin is
20 dead by the time you're involved, you're looking at aspects
21 of Mr. Seguin to try to corroborate the victim's story to
22 confirm aspects of it?

23 MR. ZEBRUCK: I was looking more for the
24 interaction that Nelson Barque had with his clients, not
25 Seguin.

1 **MR. PAUL:** But you're looking at -- I think
2 you indicated in your evidence that given the frailty of
3 the Complainant that you're looking to try to confirm as
4 much as possible, different aspects and details of what
5 he's told you?

6 **MR. ZEBRUCK:** Yes.

7 **MR. PAUL:** And one of those details is a
8 fairly important one, I would suggest, is the aspect of Mr.
9 Seguin, and I would suggest that you'd be looking at any
10 evidence that might come forward through the Probation
11 office or anywhere else that might confirm what he said
12 about Mr. Seguin? It would be something you'd note and be
13 interested in?

14 **MR. ZEBRUCK:** I don't recall.

15 **MR. PAUL:** Now, the sequence of events put
16 forth by Mr. Roy that he went to Mr. Barque, goes and
17 reports the abuse to Mr. Seguin, and is abused. Is it of
18 interest to you to look for any connection between Barque
19 and Seguin, whether the abuse is independent or whether
20 it's in collusion together, in working together? Is that
21 something you were looking for or interested in?

22 **MR. ZEBRUCK:** I was interested in Barque,
23 not Seguin.

24 **MR. PAUL:** You're not interested in any
25 information that might look -- might portray the abuse as

1 involving two perpetrators acting together and therefore
2 perhaps somewhat -- perhaps something of a more serious
3 nature?

4 MR. ZEBRUCK: Yes, I would have -- that I
5 would, yes.

6 MR. PAUL: So that aspect you'd be
7 interested if there was a connection between the two?

8 MR. ZEBRUCK: Yes.

9 MR. PAUL: And looking at that connection
10 did you ever look under OMPPAC Ken Seguin's name to see
11 what was on OMPPAC under Ken Seguin?

12 MR. ZEBRUCK: I don't recall doing that.

13 MR. PAUL: And I think as far as Officer
14 McDonnell's investigations about extortion, you weren't
15 really aware of the details of that?

16 MR. ZEBRUCK: No.

17 MR. PAUL: Now, as far as Ms. Sebalj I
18 wanted to ask you were you aware through contact with her
19 or otherwise that she had been involved in an investigation
20 of David Silmsler that had aspects of Ken Seguin?

21 MR. ZEBRUCK: No.

22 MR. PAUL: So you're saying at no point did
23 Heidi Sebalj ever discuss the Silmsler case with you?

24 MR. ZEBRUCK: I don't -- I don't recall her
25 doing that.

1 **MR. PAUL:** And just given the manner of the
2 way you took notes is it possible there could have been
3 such discussions and you wouldn't record or remember it; is
4 that possible?

5 **MR. ZEBRUCK:** I don't know.

6 **MR. PAUL:** Now, was there ever any
7 discussion with Heidi Sebalj about whether she had an
8 interest in Ken Seguin in relation to allegations
9 surrounding a group home and whether she had investigated a
10 group home in Cornwall?

11 **MR. ZEBRUCK:** I don't recall.

12 **MR. PAUL:** Did Ms. Sebalj regularly brief
13 you and meet you?

14 **MR. ZEBRUCK:** Yes.

15 **MR. PAUL:** And was she -- is it your
16 understanding at all times when she was interacting with
17 you, was she under the command of Staff Sergeant Brunet;
18 that was her immediate supervisor?

19 **MR. ZEBRUCK:** I believe so.

20 **MR. PAUL:** Now, are you -- with respect to
21 your notes I think you did make reference to the fact that
22 when you had contact with various probation office
23 employees some names came forward that you were looking at
24 out of interest as possible other victims.

25 **MR. ZEBRUCK:** Yes.

1 **MR. PAUL:** And those names that you didn't
2 record in your notes, whether you actually contacted those
3 people and interviewed them?

4 **MR. ZEBRUCK:** I didn't record whether I did.

5 **MR. PAUL:** And I just want to ask you, you
6 agree that it would not generally be a good practice for a
7 police officer to contact a potential witness or victim and
8 not make a record of it?

9 **MR. ZEBRUCK:** Only if you have something to
10 contribute to the investigation.

11 **MR. PAUL:** But just the contact itself and
12 what is said, that wouldn't be something that normally an
13 officer should be recording?

14 **MR. ZEBRUCK:** Well, apparently now you do
15 but at that time, no.

16 **MR. PAUL:** Just on that point would it have
17 been your understanding at that time, looking around 1994,
18 that there already were at that point legal pronouncements
19 with respect to the need to disclose information to the
20 defence and therefore, arguably, a duty to record the
21 information so it could be disclosed?

22 **MR. ZEBRUCK:** I believe at that time -- the
23 notes I made were from my reference only and the notes I
24 made I felt I required to refresh my memory, but they were
25 also submitted with the Crown brief.

1 **MR. PAUL:** All right.

2 But you didn't look at it from the
3 perspective of recording the information so it could be
4 maintained and disclosed to the defence if there were
5 charges?

6 **MR. ZEBRUCK:** If there would have been
7 charges I would have made notes.

8 **MR. PAUL:** Pardon me?

9 **MR. ZEBRUCK:** If there would have been
10 charges I would have made notes.

11 **MR. PAUL:** Well, I'd suggest that there was
12 a charge in relation to Mr. Barque so I would suggest that
13 there would have been a ---

14 **MR. ZEBRUCK:** But these other people had
15 nothing to offer to our investigation.

16 **MR. PAUL:** All right.

17 And you didn't see any need to record the
18 interaction of those other people for the Barque case?

19 **MR. ZEBRUCK:** If they had nothing to
20 contribute, no.

21 **MR. PAUL:** Now, in terms of the contact with
22 those other people that were referred to by the Probation
23 staff, when you get the names it wouldn't necessarily be
24 obviously clear whether they would potentially provide
25 information in respect of Cornwall charges or charges in

1 your jurisdiction; correct?

2 MR. ZEBRUCK: That's correct.

3 MR. PAUL: So it could be potentially
4 information that might be relevant to Heidi Sebalj?

5 MR. ZEBRUCK: Yes.

6 MR. PAUL: And even if it wasn't in Cornwall
7 I think, as you indicated, that there might be a need to
8 obtain the information even if it didn't result in OPP
9 charges to corroborate your victim; correct?

10 MR. ZEBRUCK: Well, if there was information
11 that would involve any charges from anybody I would have
12 recorded it.

13 MR. PAUL: Right. Now, if there was -- if
14 there were to be interviews of any of these potential
15 victims that came out of the Probation office interviews
16 would you not have had to arrange a joint interview with
17 Ms. Sebalj because it would not be clear at the initial
18 point whether the information is relevant to her, you, or
19 both of you combined?

20 MR. ZEBRUCK: Well, as far as it pertained
21 to Nelson Barque the information said covered Cornwall and
22 OPP area so I would just do it myself.

23 MR. PAUL: You don't have any notes with
24 respect to arranging any joint interviews with Ms. Sebalj?

25 MR. ZEBRUCK: The only one I had was with

1 Roy.

2 MR. PAUL: Right, and nobody else?

3 MR. ZEBRUCK: Not that I can remember.

4 MR. PAUL: Just one other point with respect
5 to the information you obtained from the Probation office.
6 I understand -- I think it's been indicated that the
7 investigations of Officers McDonell and Genier was not
8 available to you -- the extortion investigation?

9 MR. ZEBRUCK: No.

10 MR. PAUL: And in terms of the individuals,
11 speaking of Mr. van Diepen and Marcel Leger, did you ever
12 receive any information from those Probation staff officers
13 suggesting or implying in any way that there was any kind
14 of unusual relationship between Barque and Seguin or any
15 collusion?

16 MR. ZEBRUCK: No.

17 MR. PAUL: Did you ever sense any reluctance
18 in any way of the Probation workers to provide a full
19 account to you?

20 MR. ZEBRUCK: Not that I can recall.

21 MR. PAUL: Those are my questions.

22 THE COMMISSIONER: Thank you. We'll take
23 the lunch break.

24 Me. Dumais, could you canvass the folks to
25 find out what time we're going to spend on cross-

1 examination and how we'll spend the rest of our day? Thank
2 you.

3 Come back at two.

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

6 The hearing will resume at two p.m.

7 --- Upon recessing at 12:30 a.m. /

8 L'audience est suspendue à 12h30

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

10 L'audience est reprise à 14h03

11 **THE REGISTRAR:** Order; all rise. À l'ordre;
12 veuillez vous lever. This hearing is now resumed.

13 Please be seated. Veuillez vous asseoir.

14 **THE COMMISSIONER:** Thank you. Good
15 afternoon again, sir.

16 Mr. Lee?

17 **MR. LEE:** Good afternoon, sir.

18 **THE COMMISSIONER:** Sir.

19 **WILLIAM ZEBRUCK, Resumed/Sous le même serment:**

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

21 **MR. LEE:**

22 **MR. LEE:** Mr. Zebruck, my name is Dallas
23 Lee. I'm counsel for the Victims' Group. Okay, for your
24 purposes, three of my clients are of interest. One is
25 Robert Sheets, one is Albert Lalonde and another is C-44.

1 Do you recall who C-44 is? Madam Clerk can
2 show you.

3 MR. ZEBRUCK: Okay.

4 MR. LEE: You recall that C-44 was one of
5 the persons originally identified in 1982?

6 MR. ZEBRUCK: Yes.

7 MR. LEE: Can you just confirm for me that
8 you never personally had any contact whatsoever with C-44?

9 MR. ZEBRUCK: No, I can't. I may have been
10 with Heidi when she interviewed him.

11 MR. LEE: Okay. And what we know is that
12 Ms. Sebalj interviewed C-44 and that he confirmed that
13 certain things had occurred but that he had no interest in
14 a prosecution?

15 MR. ZEBRUCK: Yes.

16 MR. LEE: And you never followed up on that?
17 You were content to ---

18 MR. ZEBRUCK: Yes.

19 MR. LEE: --- leave that as it was?

20 MR. ZEBRUCK: Yes.

21 MR. LEE: Okay.

22 During the course of your evidence, we've
23 looked at your notes of people that you interviewed, and at
24 one point in your notes we had a list of potential victims.
25 Do you recall that?

1 **MR. ZEBRUCK:** Yes.

2 **MR. LEE:** And my understanding of your
3 evidence was that some of the information that you gathered
4 was to be followed up with by Heidi Sebalj rather than by
5 the OPP. Is that correct?

6 **MR. ZEBRUCK:** I'm not sure whether she
7 followed up or whether -- I mean, I was gathering evidence
8 for me, not for ---

9 **MR. LEE:** My question at this point -- I
10 don't expect you to know necessarily what Ms. Sebalj did --
11 my question is, in your mind, you understood that some of
12 the information that you gathered and that was passed to
13 Ms. Sebalj would be followed up on by her? Is that
14 correct?

15 **MR. ZEBRUCK:** Yes.

16 **MR. LEE:** And do you have any recollection
17 of ever discussing specifically who would do what in
18 relation to this information you gathered?

19 **MR. ZEBRUCK:** No.

20 **MR. LEE:** And you'll recall, when we looked
21 at the timeline, charges were laid by you in terms of the
22 chronology of witnesses you interviewed fairly early in the
23 process. Do you agree with that? You laid charges and
24 then you interviewed many people after laying charges.

25 **MR. ZEBRUCK:** Yes, right.

1 **MR. LEE:** And do you remember any specific
2 discussion with Heidi Sebalj any time post-charge of how
3 the labour would be divided or who would ---

4 **MR. ZEBRUCK:** There was no discussion about
5 that.

6 **MR. LEE:** Okay. So even after the charges,
7 you continued to share information with Ms. Sebalj?

8 **MR. ZEBRUCK:** Yes.

9 **MR. LEE:** And it sounds like in your mind
10 you left it to her decide whether she needed to follow up
11 on anything on behalf of the Cornwall Police or not?

12 **MR. ZEBRUCK:** Yes.

13 **MR. LEE:** And you worried about what you
14 needed to follow up on?

15 **MR. ZEBRUCK:** Yes.

16 **MR. LEE:** And your interest was the
17 complaints made by Albert Roy against Nelson Barque?

18 **MR. ZEBRUCK:** That's right.

19 **MR. LEE:** And is it fair for me to suggest
20 to you that your focus was quite narrow, in that you were
21 concerned about Albert Roy's complaint with the focus on
22 that, as opposed to focussing on Nelson Barque more
23 generally as an offender?

24 **MR. ZEBRUCK:** No. I'd say I was focussed on
25 Nelson Barque and if I had any more victims I would have

1 looked after that.

2 MR. LEE: So if ---

3 MR. ZEBRUCK: I was trying to find other
4 victims of Nelson Barque.

5 MR. LEE: And were you trying to find other
6 victims of Nelson Barque both to assist in the prosecution
7 of the Roy charges and, on the flip side, to also see if
8 you could find other victims?

9 MR. ZEBRUCK: Yes.

10 MR. LEE: And had you gathered information
11 that you felt would have led to further charges, you would
12 have laid those charges?

13 MR. ZEBRUCK: Either I or the Cornwall
14 Police.

15 MR. LEE: And is it your understanding that
16 when you're investigating one complaint that you need to
17 keep your mind open to whether or not other complaints may
18 be out there?

19 MR. ZEBRUCK: Yes.

20 MR. LEE: You were asked in your examination
21 in-chief about an interview you had with C-90. Do you
22 remember who that is? Madam Clerk will show you.

23 MR. ZEBRUCK: C-90. Madam Clerk will show
24 you the name again.

25 THE COMMISSIONER: Just a second.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. ZEBRUCK: Okay.

3 MR. LEE: It may be easiest if you could
4 turn up your notes please, sir; Exhibit 121. And if you
5 look at page 031, please?

6 MR. ZEBRUCK: Yes.

7 MR. LEE: And you'll see at the bottom of
8 the page you have:

9 "Assist Cornwall P.D. re sexual assault
10 interview."

11 MR. ZEBRUCK: Yes.

12 MR. LEE: And then you have "Robert and
13 Gladys Sheets". And you told us about their son, Robert
14 Sheets. Do you recall that?

15 MR. ZEBRUCK: Yes.

16 MR. LEE: And you told us here that you have
17 a specific recollection of an interview with Robert Sheets.
18 Is that right?

19 MR. ZEBRUCK: Yes.

20 MR. LEE: And that was at his parents'
21 house?

22 MR. ZEBRUCK: Yes.

23 MR. LEE: And if you continue on the -- over
24 to the next page, on December 3rd you have notes of a
25 meeting with C-90. You see that?

1 **MR. ZEBRUCK:** Yes.

2 **MR. LEE:** Can you recall where in this
3 chronology the interview with Robert Sheets occurred? Was
4 it before or after your interview with C-90?

5 **MR. ZEBRUCK:** That would have been before.

6 **MR. LEE:** So was this at the same time as
7 the entry relating to Robert and Gladys Sheets? Was he at
8 the home that day? Let me ask it this way. Do you have a
9 recollection of going to Robert and Gladys Sheets' home
10 twice?

11 **MR. ZEBRUCK:** No, that wouldn't have been
12 that day. He did not -- I interviewed him on another
13 occasion when he came to Cornwall. He wasn't living in
14 Cornwall.

15 **MR. LEE:** Okay. So on December 1st you meet
16 Mr. Sheets' parents for the first time. Is that correct?

17 **MR. ZEBRUCK:** Yes.

18 **MR. LEE:** And it was not that day?

19 **MR. ZEBRUCK:** No.

20 **MR. LEE:** So it had to be sometime after
21 that.

22 **MR. ZEBRUCK:** Yes.

23 **MR. LEE:** And you say you met with Robert
24 Sheets at their home?

25 **MR. ZEBRUCK:** Yes.

1 **MR. LEE:** So you had a second visit to their
2 home?

3 **MR. ZEBRUCK:** Yes.

4 **MR. LEE:** And it was after December 1st and
5 you interview C-90 on December 3rd?

6 **MR. ZEBRUCK:** Yes.

7 **MR. LEE:** So I guess the question is, could
8 the interview with Robert have been later on the 1st or on
9 the 2nd or must it have been after the interview with C-90?

10 **MR. ZEBRUCK:** It would probably be after.

11 **MR. LEE:** Okay. So C-90, one of the things
12 he tells you, if you -- Mr. Dumais brought you here on page
13 035, down at the very bottom. He gives you some
14 information about Richard Hickerson having had a sexual
15 relationship with Robert. Do you see that?

16 **MR. ZEBRUCK:** Yes.

17 **MR. LEE:** My question for you is, when you
18 met with Robert did you ask him about Nelson Barque and
19 Richard Hickerson, or just Nelson Barque?

20 **MR. ZEBRUCK:** I don't remember.

21 **MR. LEE:** And your evidence is that
22 Mr. Sheets was not prepared to cooperate with an
23 investigation into ---

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

25 **MR. LEE:** Into Mr. Barque. Is that correct?

1 **MR. ZEBRUCK:** Yes.

2 **MR. LEE:** And you have no recollection of
3 whether you discussed Mr. Hickerson with him or not?

4 **MR. ZEBRUCK:** No.

5 **MR. LEE:** And is it your understanding now,
6 perhaps during your preparation for the Inquiry, that Mr.
7 Sheets, Robert Sheets, was a criminal complainant in 1998
8 and the charges were laid against both Mr. Barque and Mr.
9 Hickerson in relation to those complaints?

10 **MR. ZEBRUCK:** No, I wasn't aware of that.

11 **MR. LEE:** You didn't know that?

12 **MR. ZEBRUCK:** No.

13 **MR. LEE:** Can you turn to page 047 in the
14 same exhibit, please, and this is where we see, slightly
15 below the middle of the page, a note of your January 3rd,
16 1995 interview with Carole Cardinal at Probation and
17 Parole. Do you see that?

18 **MR. ZEBRUCK:** Yes.

19 **MR. LEE:** And if you look in the left-hand
20 margin beside that entry we have the hours 13:45 to 17:00
21 hours. Do you see that?

22 **MR. ZEBRUCK:** Yes.

23 **MR. LEE:** So about 3 hours and 15 minutes.
24 Is this note meant to suggest that your interview with
25 Carole Cardinal was -- took place during those times?

1 **MR. ZEBRUCK:** No.

2 **MR. LEE:** Can you help me out with the ---

3 **MR. ZEBRUCK:** It was during that time but
4 that would probably not be just the only thing I did in
5 that -- on that time. I mean, this -- the interview didn't
6 last that long.

7 **MR. LEE:** You have a specific recollection
8 of that, of the fact it didn't take that long?

9 **MR. ZEBRUCK:** Well, just to know that is
10 after lunch I worked on this case and the only entry I made
11 of anybody I interviewed was Carole Cardinal.

12 **MR. LEE:** I want to make sure I understand
13 you. So your interpretation of the note is that between
14 13:45 and 17:00 hours you worked on this case?

15 **MR. ZEBRUCK:** That's right.

16 **MR. LEE:** And within that time period, at
17 some point you interviewed Carole Cardinal?

18 **MR. ZEBRUCK:** Yes.

19 **MR. LEE:** And so we shouldn't take this note
20 to suggest that there was a 3-hour and 15-minute interview
21 of Ms. Cardinal?

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

23 **MR. LEE:** And surely had there been a 3-hour
24 and 15-minute interview, we would have notes or a
25 statement?

1 **MR. ZEBRUCK:** There would be something
2 there.

3 **MR. LEE:** And you have no recollection in
4 your mind of having a 3-hour and 15-minute interview with
5 Ms. Cardinal?

6 **MR. ZEBRUCK:** No. I would not talk for that
7 long.

8 **MR. LEE:** Do you recall whether during your
9 discussion with Ms. Cardinal you spoke of both Mr. Barque
10 and Mr. Seguin or only the former?

11 **MR. ZEBRUCK:** No.

12 **MR. LEE:** I'd like to take you to Exhibit
13 120, please, hopefully in your same book.

14 **THE COMMISSIONER:** Yes, it is.

15 **MR. LEE:** Yeah, Document 737612, these are
16 the notes of Heidi Sebalj, okay, sir?

17 **MR. ZEBRUCK:** Okay.

18 **MR. LEE:** And if we can turn first to Bates
19 page 405, please? You there?

20 **MR. ZEBRUCK:** There.

21 **MR. LEE:** And you'll see these -- this is an
22 entry dated November 28th, 1994 and down towards the bottom
23 of the page, at 1126, she notes:

24 "TC from Chris; advises info received".

25 Do you see that? Four lines from the

1 bottom.

2 MR. ZEBRUCK: Yes.

3 MR. LEE: It continues: "A...", which I've
4 taken to mean accused ---

5 MR. ZEBRUCK: Yes.

6 MR. LEE: --- meaning Nelson Barque in a
7 situation.

8 MR. ZEBRUCK: Yeah.

9 MR. LEE: "...very good friends with Father
10 René Dubé, Christ the King Church, at a
11 house behind church; accused had
12 access? Also good friend with somebody
13 else and an address; accused came from
14 east end of Cornwall. File pre-1982;
15 informant has seen file with all
16 complaints against accused, a lot
17 destroyed."

18 Do you see that?

19 MR. ZEBRUCK: Yes.

20 MR. LEE: Do you have any recollection of a
21 conversation with Heidi Sebalj about anything related to
22 the note I've just read to you?

23 MR. ZEBRUCK: No.

24 MR. LEE: As an example, do you have any
25 recollection of her speaking to somebody who received

1 information from what's described in the notes as an
2 informant?

3 MR. ZEBRUCK: No.

4 MR. LEE: Do you have any recollection of
5 anything about a lot of documents being destroyed?

6 MR. ZEBRUCK: No.

7 MR. LEE: We looked at some notes of yours
8 earlier today about your preparation of a Crown brief. Do
9 you recall that?

10 MR. ZEBRUCK: Yes.

11 MR. LEE: Do you have a recollection of
12 having prepared a Crown brief in this matter?

13 MR. ZEBRUCK: I know I prepared a Crown
14 brief.

15 MR. LEE: You do recall doing that?

16 MR. ZEBRUCK: Yeah.

17 MR. LEE: And you haven't seen a Crown brief
18 in your preparation for the Inquiry, have you?

19 MR. ZEBRUCK: No.

20 MR. LEE: My understanding, just for your
21 information, Mr. Commissioner, is that we can't find that.

22 We don't have it on the hard drive and I
23 spoke with Mr. Wallis earlier and he's confirmed as
24 recently as today that the OPP doesn't have a copy of that
25 Crown brief and I presume MAG doesn't either; and the

1 understanding is that it may have been destroyed.

2 Is it your belief that all of the
3 information you've gathered during the course of your
4 investigation would have been part of that Crown brief?

5 **MR. ZEBRUCK:** All the information pertaining
6 to Nelson Barque, yes.

7 **MR. LEE:** And would you have included full
8 copies of your notes taken during the course of this
9 investigation?

10 **MR. ZEBRUCK:** Yes.

11 **MR. LEE:** And that would have included, as
12 an example, the notes of the interviews you conducted with
13 Probation/Parole employees?

14 **MR. ZEBRUCK:** Yes.

15 **MR. LEE:** And that would have included the -
16 - we looked earlier -- Mr. Dumais took you to a sheet that
17 had a list of possible victims that he asked you about.
18 Would that have been included in there?

19 **MR. ZEBRUCK:** Yes.

20 **MR. LEE:** Do you recall who you submitted
21 your Crown brief to?

22 **MR. ZEBRUCK:** It would have been the Court
23 Officer.

24 **MR. LEE:** Would have been the?

25 **MR. ZEBRUCK:** Court Officer.

1 **MR. LEE:** Do you remember which Crown was
2 dealing with this file?

3 **MR. ZEBRUCK:** No, I think earlier we saw it
4 was -- Guy Simard was doing the prelim or whatever.

5 **MR. LEE:** We had a note on that one form
6 that said "Guy"?

7 **MR. ZEBRUCK:** Yes.

8 **MR. LEE:** And that's what you're referring
9 to?

10 **MR. ZEBRUCK:** Yes.

11 **MR. LEE:** Do you have any specific
12 recollection of that?

13 **MR. ZEBRUCK:** No.

14 **MR. LEE:** And can we look -- do you still
15 have Heidi Sebalj notes available in front of you there?
16 Exhibit ---

17 **THE COMMISSIONER:** One-two-zero (120)?

18 **MR. LEE:** One-two-zero (120), yes.

19 **THE COMMISSIONER:** Yes.

20 **MR. ZEBRUCK:** Yes.

21 **MR. LEE:** Can you turn to page 422, please?
22 Are you there, sir?

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

24 **MR. LEE:** You'll see three lines down we
25 have a date of December 9, 1994 and an entry at 11:10 hours

1 and it reads:

2 "Met with Crown Attorney, L. Robinson;
3 briefed on investigation; shown copies
4 of investigation by Probation and
5 letter to Crown Attorney Johnson. Guy
6 Simard called in, agreed outside Crown
7 should handle. Both believe outside
8 force should investigate."

9 Do you see that?

10 **MR. ZEBRUCK:** Yes.

11 **MR. LEE:** Do you recall any discussion with
12 Ms. Sebalj of this meeting she had with the Crowns?

13 **MR. ZEBRUCK:** No.

14 **MR. LEE:** Do you ever recall any discussion
15 with Ms. Sebalj about any issues relating to an outside
16 Crown or an outside force?

17 **MR. ZEBRUCK:** No.

18 **MR. LEE:** Do you recall any discussion with
19 a Crown Attorney of whether or not an outside police force
20 should be investigating this matter?

21 **MR. ZEBRUCK:** No.

22 **MR. LEE:** Or with one of your superiors?

23 **MR. ZEBRUCK:** No.

24 **MR. LEE:** Do you recall any discussion with
25 a Crown Attorney about Don Johnson?

1 MR. ZEBRUCK: No.

2 MR. LEE: Were you familiar with Mr. Johnson
3 at this time, 1994?

4 MR. ZEBRUCK: Yes.

5 MR. LEE: You knew that he had formerly been
6 a Crown Attorney in Cornwall?

7 MR. ZEBRUCK: Yes.

8 MR. LEE: And you knew that he was, at this
9 time, a defence lawyer?

10 MR. ZEBRUCK: Yes.

11 MR. LEE: And was it your understanding that
12 Mr. Johnson was a defence counsel for Mr. Barque?

13 MR. ZEBRUCK: I don't remember.

14 MR. LEE: You don't recall that.

15 Do you recall any discussion about Mr.
16 Johnson having provided a Crown opinion in 1982 relating to
17 Mr. Barque?

18 MR. ZEBRUCK: No.

19 MR. LEE: None of that was raised with you
20 at all?

21 MR. ZEBRUCK: No.

22 MR. LEE: You were asked a few questions by
23 Mr. Dumais related to Albert Lalonde. Do you recall that?

24 MR. ZEBRUCK: Yes.

25 MR. LEE: And what you told us was that you

1 were asked to sit in on an interview as a witness?

2 **MR. ZEBRUCK:** Yes.

3 **MR. LEE:** And that you had no further
4 involvement in that matter?

5 **MR. ZEBRUCK:** That's right.

6 **MR. LEE:** And can I presume that means that
7 you at no time analysed the various statements given by Mr.
8 Lalonde?

9 **MR. ZEBRUCK:** I just read over the one I
10 signed.

11 **MR. LEE:** You didn't review documents or
12 anything along those lines?

13 **MR. ZEBRUCK:** No.

14 **MR. LEE:** You didn't review medical reports
15 received in relation to Albert Lalonde?

16 **MR. ZEBRUCK:** No.

17 **MR. LEE:** You didn't contribute in any way
18 to a decision about whether reasonable and probable grounds
19 existed to lay a charge?

20 **MR. ZEBRUCK:** No.

21 **MR. LEE:** You quite literally sat in on an
22 interview and that was the end of your involvement?

23 **MR. ZEBRUCK:** That was it.

24 **MR. LEE:** If I can have one moment, sir?

25 **THE COMMISSIONER:** Certainly.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. LEE: Just one final point, please.

3 Can you turn to Exhibit 121, those are your
4 notes, and if we can look at page 049, please, sir? Let's
5 start on 048, please.

6 MR. ZEBRUCK: Okay.

7 MR. LEE: And if we look maybe 10 lines up,
8 it reads, "Contact McMaster, Clair". Do you see that?

9 MR. ZEBRUCK: Yes.

10 MR. LEE: So that indicates that this is --
11 you're recording what he's telling you?

12 MR. ZEBRUCK: Yes.

13 MR. LEE: And if you turn over to the top of
14 the next page he tells you:

15 "Did not check for other victims".

16 MR. ZEBRUCK: Yes.

17 MR. LEE: Do you see that?

18 MR. ZEBRUCK: Yes.

19 MR. LEE: And so it was your understanding,
20 based on your conversation with Mr. McMaster, that the
21 Ministry of Corrections or the Probation and Parole office
22 hadn't checked for other victims in 1982?

23 MR. ZEBRUCK: That's right.

24 MR. LEE: And he made that known to you?

25 MR. ZEBRUCK: Yes.

1 **MR. LEE:** And you understood that?

2 **MR. ZEBRUCK:** Yes

3 **MR. LEE:** Thank you very much, sir, those
4 are my questions.

5 **THE COMMISSIONER:** Thank you.

6 Mr. Neville is not here.

7 Mr. Chisholm?

8 **MR. CHISHOLM:** No questions, sir, thank you.

9 **THE COMMISSIONER:** Thank you.

10 Mr. Rose?

11 **MR. ROSE:** No questions.

12 **THE COMMISSIONER:** Mr. Hakamali?

13 **MR. HAKAMALI:** No questions.

14 **THE COMMISSIONER:** Thank you.

15 No -- Mr. Crane?

16 --- **CROSS-EXAMINATION BY/COURTE-INTERROGATOIRE PAR MR.**

17 **CRANE:**

18 **MR. CRANE:** Good afternoon, Mr. Zebruck. My
19 name is Mark Crane. I am counsel representing the Cornwall
20 Community Police Service.

21 Sir, I don't intend to be very long, but a
22 few areas I want to touch on are some of your interactions
23 with the Cornwall Police Service during this investigation
24 and some of the interactions that would have occurred prior
25 to your assignment.

1 But to begin with, I took it from your
2 examination in-chief that you had a good working
3 relationship with Constable Sebalj throughout this
4 investigation?

5 **MR. ZEBRUCK:** Yes.

6 **MR. CRANE:** And by way of background, did
7 you have previous experience doing sexual assault
8 investigations prior to being assigned this investigation?

9 **MR. ZEBRUCK:** Yes.

10 **MR. CRANE:** Now, just by way of background,
11 you became first involved on November 29th, 1994; correct?

12 **MR. ZEBRUCK:** Yes.

13 **MR. CRANE:** And we know that Albert Roy
14 first reports to the Cornwall Police Service on November
15 23rd?

16 **MR. ZEBRUCK:** Yes.

17 **MR. CRANE:** And his statement is taken the
18 following day on November 24th?

19 **MR. ZEBRUCK:** Yes.

20 **MR. CRANE:** And what I want to do now is
21 look at some of the interactions that occurred prior to
22 your involvement that may shed some light on some of the
23 questions my friends have canvassed with you, and for the
24 purposes of the next few minutes, if you could have at your
25 discretion Exhibit 120 along with Exhibit 1201?

1 And we can begin with Exhibit 1201, Madam
2 Clerk.

3 (SHORT PAUSE/COURTE PAUSE)

4 MR. CRANE: Exhibit 1201, Mr. Zebruck, is
5 handwritten notes of Staff Sergeant Luc Brunet, and you
6 would have had some interactions with Staff Sergeant Luc
7 Brunet?

8 MR. ZEBRUCK: Yes.

9 MR. CRANE: Bates page 445, Madam Clerk, on
10 the bottom half of the page.

11 And we see here on November 25th that Staff
12 Sergeant Brunet has got a notation that he's meeting with
13 Deputy Chief St. Denis, Acting Chief Johnston and that
14 they're being briefed on the investigation and that there
15 is an issue of jurisdiction; correct?

16 MR. ZEBRUCK: Yes.

17 MR. CRANE: And that Staff Sergeant Brunet
18 has been advised to advise Detective Inspector Smith from
19 the OPP along with the Children's Aid Society in addition
20 to Inspector V. Burns from OPP Long Sault?

21 MR. ZEBRUCK: Yes.

22 MR. CRANE: And Staff Sergeant Brunet has a
23 notation that:

24 "CAS and Tim Smith were advised.

25 Inspector B. Burns was in meetings,

1 will call back Monday."

2 Correct?

3 **MR. ZEBRUCK:** Yes.

4 **MR. CRANE:** So early on two days within
5 Albert Roy touching or making contact with the Cornwall
6 Police Service and a day after the initial statement
7 contact is made with the Children's Aid Society, correct,
8 as far as these notes were concerned?

9 **MR. ZEBRUCK:** Yes.

10 **MR. CRANE:** And is it possible, sir, that
11 Constable Sebalj would have advised you of this and you
12 just don't have an independent recollection of it?

13 **MR. ZEBRUCK:** Yes, that's possible.

14 **MR. CRANE:** And if we can look at the notes
15 of Constable Sebalj, which are Exhibit 120, Bates page 402?
16 And at the top half of the page, Mr. Zebruck, Constable
17 Sebalj has a notation at 12:23:

18 "Telephone call to Crown Attorney, Guy
19 Simard, question re location and
20 victim's difficulty in recalling.
21 Suggested ward info accordingly. Not
22 concerned with Cornwall or OPP
23 jurisdiction."

24 So clearly they're having a discussion here
25 about the difficulty with jurisdiction, is that fair as far

1 as the note would suggest?

2 MR. ZEBRUCK: Yes.

3 MR. CRANE: And you can see at 13:20 that
4 Constable Sebalj is meeting with Constable McDonell in the
5 Youth Bureau. And you don't have any information, but it's
6 possible that they may be meeting with regards to the
7 jurisdictional issue. Is that fair?

8 THE COMMISSIONER: Well, come on. Come on.

9 MR. CRANE: Well, sir, I think it's a
10 logical inference to be drawn and I think it's a fair
11 question to ask the witness whether ---

12 THE COMMISSIONER: You think so?

13 MR. CRANE: I do, yes.

14 THE COMMISSIONER: I don't. Thank you.

15 MR. CRANE: Mr. Zebruck, if we can go back
16 to Exhibit 1201, looking at Bates page 446 beginning at the
17 top, a notation of Staff Sergeant Brunet from November 28,
18 the day before you become involved. And at the top he's
19 having -- he's advised Inspector V. Burns and that he's
20 been advised by Constable Sebalj that the victim could not
21 ID the house.

22 And then at 13:30 he has a notation:

23 "Spoke to Bill Carriere from the CAS.

24 He advised that Barque worked at

25 l'Equipe psycho-sociale. This came to

1 CAS's attention because a woman had
2 concerns before CAS could investigate.
3 Barque had resigned and it became
4 obvious that l'Equipe would not tell
5 them why the director said that it did
6 not implicate children under 16. CAS
7 closed their file."

8 Is it possible, sir, that you would have
9 been advised of this when you met with Staff Sergeant
10 Brunet and Constable Sebalj the following day?

11 MR. ZEBRUCK: I don't recall that.

12 MR. CRANE: It's possible, though?

13 MR. ZEBRUCK: Possible.

14 MR. CRANE: And if we continue on to Bates
15 page 447, which is a continuation of his notes from
16 November 28th, at the top he's talking about a discussion
17 that he's had with Detective Inspector Smith and Detective
18 Inspector Smith appears to be advising Staff Sergeant
19 Brunet that during the course of his investigation into the
20 Silmsler matter that he interviewed Mr. van Diepen and that
21 Mr. van Diepen has suggested that he could help our
22 investigation and that Barque resigned after allegations
23 raised by C-44 and Mr. Sheets.

24 Is that what the note says?

25 MR. ZEBRUCK: Yes.

1 **THE COMMISSIONER:** And so is there a
2 question arising out of that?

3 **MR. CRANE:** Sir, I'm just building a
4 foundation to my following questions.

5 If we can scroll back to Constable Sebalj's
6 notes, Mr. Zebruck, Bates pages 408-409?

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **MR. ZEBRUCK:** Yes.

9 **MR. CRANE:** And just following through this
10 chronologically, sir, and we'll be up to November 29th
11 shortly.

12 At the bottom of the page, Constable Sebalj
13 is taking note of a conversation that she's had with her
14 staff sergeant and confirming that the CAS were made aware
15 of the allegations and that the CAS further advised them
16 about l'Equipe sociale. And then on the following page, at
17 Bates page 409, Constable Sebalj has a notation with
18 regards to discussions she appears to have had with Greg
19 Bell from the Children's Aid Society where she's written:

20 "No victims under 16, therefore, no
21 further investigation. CAS to review
22 their files and will advise."

23 And is it -- you don't have any recollection
24 of that, sir, of being advised of that by Constable Sebalj
25 or Staff Sergeant Derochie, that CAS were advised but they

1 didn't want -- they weren't intending to investigate?

2 MR. ZEBRUCK: I don't remember.

3 MR. CRANE: And then we know that you meet
4 on the following day with Staff Sergeant Brunet and
5 Constable Sebalj. It appears on Bates page 409 that that
6 meeting lasted for about 45 minutes. Is that consistent
7 with your memory of the initial meeting?

8 MR. ZEBRUCK: I don't remember how long.

9 MR. CRANE: Okay.

10 So, Mr. Zebruck, we know that Detective
11 Inspector Smith advised Staff Sergeant Brunet of C-44 and
12 of Mr. Sheets. And what I want to touch on is some of the
13 diligence that Constable Sebalj would have undertaken to
14 have followed up on these two names, and with that respect,
15 if you can turn to Bates page 411 of Exhibit 120?

16 And at the bottom of the page you can see
17 that she appears to be trying to contact -- at the top of
18 the page, in fact, excuse me -- she's locating -- trying to
19 locate contact information for C-44 out of the phone book.

20 MR. ZEBRUCK: M'hm.

21 MR. CRANE: At the bottom of the page, she's
22 left him a message. And on Bates page 412 begins a
23 discussion that she had with C-44 on December 1st, and just
24 to draw your attention to a couple of points -- if we can
25 scroll down to the bottom half of the page, Madam Clerk --

1 beginning with the bullet:

2 "Advised doesn't need to be associated.
3 Always fighting rumours that he is
4 bi-sexual. New girlfriend, 18 years
5 old, does not want to be involved."

6 If we can scroll to the next Bates page,
7 Madam Clerk, and I'll follow up with a question.

8 Beginning with the third bullet at the top
9 of this page:

10 "Advised 19 to 20 years old at the
11 time, dropping acid, booze, et cetera.
12 It takes two to dance."

13 And is that your recollection of what
14 Constable Sebalj would have advised you of with respect to
15 her discussions with C-44, that he didn't want to proceed?

16 **MR. ZEBRUCK:** Yes.

17 **MR. CRANE:** And you've explained to us that
18 you spoke with Robert Sheets and that he didn't want to
19 become involved?

20 **MR. ZEBRUCK:** That's right.

21 **MR. CRANE:** And you did have any discussions
22 with C-90?

23 **MR. ZEBRUCK:** Yes.

24 **MR. CRANE:** And he didn't want to become
25 involved?

1 MR. ZEBRUCK: No.

2 MR. CRANE: If we can turn to Bates page 416
3 of Exhibit 120?

4 At the top of the page dated December 7th,
5 Constable Sebalj is contacting William Roy for the purpose
6 of obtaining the personnel file for Mr. Barque?

7 MR. ZEBRUCK: Yes.

8 MR. CRANE: Correct?

9 MR. ZEBRUCK: Yes.

10 MR. CRANE: And on Bates page 420, at the
11 bottom half of the page or beginning with the notation
12 "10:41", she's speaking with P.R. Landry from Équipe
13 sociale to follow-up on what Staff Sergeant Brunet learned
14 from the CAS. Are these communications that Constable
15 Sebalj likely would have shared with you, that she's
16 following up on this matter? Did she ultimately ---

17 MR. ZEBRUCK: I would think she did, but I
18 have no ---

19 MR. CRANE: And she ultimately forwarded to
20 you the documents that she received from the Probation
21 including the service report from 1982?

22 MR. ZEBRUCK: Yes.

23 MR. CRANE: And Mr. Barque was ultimately
24 charged by yourself on December 16th?

25 MR. ZEBRUCK: Yes.

1 **MR. CRANE:** And you had carriage of the file
2 at the point ---

3 **MR. ZEBRUCK:** Yes.

4 **MR. CRANE:** --- you laid the information?

5 **MR. ZEBRUCK:** Yes.

6 **MR. CRANE:** A few minutes ago, Mr. Lee asked
7 you about -- if we can turn to Bates page 422 -- a notation
8 from December 9th, 1994, with regards to a meeting with the
9 Crown Attorney.

10 Sir, I can tell you that Staff Sergeant
11 Brunet testified here, and he has a document that I'll
12 identify for the record if I can locate it -- I can't seem
13 to locate the document at this moment. I can tell
14 you -- oh, here it is -- for the record, it's Exhibit 1467.

15 I didn't give notice on this document, so
16 I'm in your hands, Mr. Commissioner, but that discussion
17 was in regards to the 1982 investigation, the internal
18 investigation of the Probation office, based on the
19 allegations of -- an investigation of Mr. Barque at that
20 time. Were you aware of that?

21 **MR. ZEBRUCK:** No.

22 **MR. CRANE:** No.

23 **THE COMMISSIONER:** Mr. Lee?

24 **MR. LEE:** I'm just not sure I understood
25 what Mr. Crane had to say there.

1 I presume he's not suggesting that the
2 discussion reflected on Bates page 422 between Lynn
3 Robinson, Guy Simard and Heidi Sebalj related to an outside
4 Crown being called in in 1982?

5 Surely, on the face of the note, that would
6 have related to whether or not an outside Crown should be
7 called in in 1994? And if Mr. Crane has a document that
8 suggests otherwise, I think whether he gave notice or not
9 we should take a look on the screen.

10 **THE COMMISSIONER:** Did you provide copies?

11 **MR. CRANE:** I'll certainly contend that the
12 way I developed that was perhaps confusing.

13 What I'm suggesting, sir, is the document,
14 Exhibit 1467, suggests that there was a discussion that
15 arose out of the 1982 report, and that the 1982 report
16 mentioned the names of -- the knowledge of two officers
17 from the Cornwall Police Service and, in light of that,
18 whether the Cornwall Police Service should be investigating
19 the allegations pertaining to Mr. Roy.

20 Exhibit 1467 includes a discussion that
21 the -- perhaps we should pull it up, sir, just for the sake
22 of clarity?

23 **THE COMMISSIONER:** Okay, I've got it.

24 **MR. CRANE:** Bates page ending in
25 four -- well, for the full context it would be Bates page

1 ending in 454. And at the bottom half of the screen, it
2 summarizes Staff Sergeant's Brunet's notes with respect to
3 a meeting that occurred shortly after the meeting at -- or
4 the same date of the meeting that Mr. Lee referenced the
5 witness to.

6 **THE COMMISSIONER:** Okay. So this clearly
7 speaks of 1994, right? December 9th, 1994? I mean ---

8 **MR. CRANE:** That's correct, and that would
9 align with Constable Sebalj's notes on that date.

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

11 **MR. CRANE:** And if you follow forward, sir,
12 to Bates page 457, at approximately 3:00 p.m., 15:00 hours,
13 at the bottom of half of the page? And the gist of the
14 paragraph there, sir, is that, collectively, they have
15 agreed that this is a different matter and it can be
16 handled as such.

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

18 **MR. CRANE:** The reason I raised it to the
19 witness is, there's some -- it's not clear on the record
20 how this matter is resolved based on the reference that Mr.
21 Lee took the witness to. I think this provides a more
22 fulsome view of the outcome and I think that's important
23 for the record.

24 **THE COMMISSIONER:** Okay.

25 **MR. CRANE:** That's why I drew his attention

1 to it.

2 THE COMMISSIONER: Okay.

3 MR. CRANE: Those are my questions, thank
4 you.

5 THE COMMISSIONER: Thank you.

6 OPP?

7 MS. LEHAIE: No questions, thank you.

8 THE COMMISSIONER: Thank you.

9 Mr. Wallace?

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

11 MR. WALLACE :

12 MR. WALLACE: Constable Zebruck, just
13 dealing with the last point that Mr. Crane was asking you
14 about concerning the discussions that took place about
15 whether or not an outside Crown was going to be called in,
16 or an outside police force, whatever discussions took
17 place. You, first of all, weren't party to those
18 discussions; correct?

19 MR. ZEBRUCK: That's correct.

20 MR. WALLACE: And you didn't have any
21 idea -- knowledge of those discussions?

22 MR. ZEBRUCK: No.

23 MR. WALLACE: Thank you.

24 I wanted to firstly draw your attention to a
25 part of your loose-leaf notes. Your notes consist of two

1 formats, one in a police notebook and another in a loose-
2 leaf format, and the loose leaf is Exhibit 2589 -- 87.
3 Sorry, 2587.

4 (SHORT PAUSE/COURTE PAUSE)

5 MR. WALLACE: And if you could turn to Bates
6 page 235, the title on the page is "Possible Victims".

7 MR. ZEBRUCK: Yes.

8 MR. WALLACE: Now, the last name on the list
9 was a name that was given in the course of one of your
10 Probation Office interviews?

11 MR. ZEBRUCK: Yes.

12 MR. WALLACE: The other names, do you have
13 any recollection of where you got those names; who the
14 source of that information was?

15 MR. ZEBRUCK: Positive recollection, no. I
16 would believe they came from Heidi Sebalj.

17 MR. WALLACE: In order to follow up on those
18 names you'd have to have contact information; an address, a
19 phone number, that sort of thing.

20 MR. ZEBRUCK: Yes.

21 MR. WALLACE: Did you try and obtain phone
22 numbers, addresses for the people on the list?

23 MR. ZEBRUCK: Yes. I would use police
24 records or ---

25 THE COMMISSIONER: Do you have an

1 independent recollection of doing that or is that just --
2 is it your fallback position that "I normally do that"?

3 MR. ZEBRUCK: Well, I know I would have done
4 it.

5 THE COMMISSIONER: You would have done it?
6 Do you remember doing it? Do you not -- do you understand
7 the difference?

8 MR. ZEBRUCK: Yes.

9 THE COMMISSIONER: Okay.

10 MR. WALLACE: What if I word this way ---

11 THE COMMISSIONER: Go ahead, go ahead.

12 MR. WALLACE: Can you tell Mr. Commissioner
13 that you did in fact try and check for the information, the
14 contact information?

15 MR. ZEBRUCK: Yes.

16 MR. WALLACE: Thank you.

17 The names on the list, numbers 1, 2, 4 and
18 5, have no contact information underneath it?

19 MR. ZEBRUCK: That's correct.

20 MR. WALLACE: Number 3 has some contact
21 information?

22 MR. ZEBRUCK: Yes.

23 MR. WALLACE: Do you recall where you got
24 that information from?

25 MR. ZEBRUCK: No.

1 **MR. WALLACE:** Armed with the contact
2 information, can you tell Mr. Commissioner that you
3 contacted this individual?

4 **MR. ZEBRUCK:** Yes.

5 **MR. WALLACE:** Do you have a recollection of
6 what information, if any, this person gave you?

7 **MR. ZEBRUCK:** I don't remember.

8 **MR. WALLACE:** Did you take a statement from
9 this individual?

10 **MR. ZEBRUCK:** No.

11 **MR. WALLACE:** And do you know why you didn't
12 take a statement?

13 **MR. ZEBRUCK:** Because he had relative
14 information -- relevant information.

15 **THE COMMISSIONER:** Sir, did you meet with
16 this witness or did you do this over the phone?

17 **MR. ZEBRUCK:** I don't remember.

18 **MR. WALLACE:** The other individuals on the
19 list where there is no contact information, you've
20 indicated that you did not receive any contact information.
21 I take it from that you weren't able to contact these
22 people, the other people on the list?

23 **MR. ZEBRUCK:** I would be able to get the
24 contact information through police records or driver's
25 licence check or ---

1 **THE COMMISSIONER:** That's what he said this
2 morning.

3 **MR. WALLACE:** Okay. What I'm asking you --
4 that would be a source -- a potential source of this
5 information?

6 **MR. ZEBRUCK:** Well, that was normal
7 procedure to do that.

8 **MR. WALLACE:** Fair enough. What I'm asking
9 you is, on this sheet of paper there is only one name that
10 has any contact information. Can we agree on that?

11 **MR. ZEBRUCK:** Yes.

12 **MR. WALLACE:** Okay. You've told us that you
13 tried to get contact information with respect to the other
14 four?

15 **MR. ZEBRUCK:** Yes.

16 **MR. WALLACE:** Can we take from the fact that
17 there is no contact information on the sheet ---

18 **MR. ZEBRUCK:** That's correct.

19 **MR. WALLACE:** --- that you were unsuccessful
20 in getting information?

21 **MR. ZEBRUCK:** Yes.

22 **MR. WALLACE:** I want to show you the other
23 list of information from your notebook. That's Exhibit 121
24 and if you can go to page 050?

25 **MR. ZEBRUCK:** Okay.

1 **MR. WALLACE:** On page 050 and the following
2 page, 051, appear the names of four individuals?

3 **MR. ZEBRUCK:** Yes.

4 **MR. WALLACE:** These were names that were
5 given to you in the course of two different interviews at
6 the Probation office?

7 **MR. ZEBRUCK:** Yes.

8 **MR. WALLACE:** In the case of the first one,
9 the person giving you the information indicated that she
10 wasn't sure if that was even the correct name. Do you see
11 that in your notes? It's right underneath the fellow's
12 name.

13 **THE COMMISSIONER:** At the bottom of the
14 page, sir.

15 **MR. ZEBRUCK:** Okay, I've got it.

16 **MR. WALLACE:** Do you see that?

17 **MR. ZEBRUCK:** Yes.

18 **MR. WALLACE:** Okay. When you received this
19 name did you ask, in this case, Ms. Legere, if she had any
20 contact information for you?

21 **MR. ZEBRUCK:** She would not have had any
22 contact information or it would have been on my notes.

23 **MR. WALLACE:** What I'm asking is, can you
24 tell us that you asked for contact information?

25 **MR. ZEBRUCK:** Yes, I would have asked for

1 that.

2 **MR. WALLACE:** And the fact that there is
3 none in your notes, can we take as you didn't get any?

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

5 **MR. WALLACE:** And is that the same with
6 respect to the other three names on the next page?

7 **MR. ZEBRUCK:** Yes.

8 **MR. WALLACE:** This was a different
9 individual giving you these names; correct?

10 **MR. ZEBRUCK:** Yes.

11 **MR. WALLACE:** And can you tell
12 Mr. Commissioner that when you received the names you
13 asked, in this case, Louise Quinn, if she had contact
14 information or any way for you to follow up on that?

15 **MR. ZEBRUCK:** Yes.

16 **THE COMMISSIONER:** You remember that? You
17 remember asking her for that?

18 **MR. ZEBRUCK:** I do not recall the interview
19 verbatim.

20 **THE COMMISSIONER:** No, no, I'm not asking
21 you that. I'm asking you whether you're -- what you're
22 saying -- I mean, it's quite logical that you could say
23 whatever counsel -- did you -- do you recall asking her for
24 ---

25 **MR. ZEBRUCK:** No.

1 **THE COMMISSIONER:** --- specifics as to the
2 thing. But you would logically -- you're saying to me you
3 would have -- "It's logical that I would have but I just
4 can't remember that"?

5 **MR. ZEBRUCK:** That's right.

6 **THE COMMISSIONER:** Is that where your memory
7 is?

8 **MR. ZEBRUCK:** Yes.

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

10 **MR. WALLACE:** And it would be logical to ask
11 for that, given the reason that you're at the Probation
12 office in the first place asking the questions?

13 **MR. ZEBRUCK:** That's right.

14 **MR. WALLACE:** The other area I want to ask
15 you a couple of questions on was at -- this morning,
16 Mr. Dumais put some questions to you concerning a drive
17 with Albert Roy ---

18 **MR. ZEBRUCK:** Yes.

19 **MR. WALLACE:** --- and the remark that was
20 attributed to you that the laying of these charges on
21 Nelson Barque would be hard on his family?

22 **MR. ZEBRUCK:** Yes.

23 **MR. WALLACE:** Do you recall that?

24 **MR. ZEBRUCK:** Yes.

25 **MR. WALLACE:** You've made it quite clear

1 that prior to your involvement in this case you did not
2 know Nelson Barque.

3 MR. ZEBRUCK: That's correct.

4 MR. WALLACE: You didn't know him as a
5 probation officer or as a member of this community.

6 MR. ZEBRUCK: That's right.

7 MR. WALLACE: Did you know any members of
8 his immediate family?

9 MR. ZEBRUCK: No.

10 MR. WALLACE: Was he a friend of yours?

11 MR. ZEBRUCK: No.

12 MR. WALLACE: Okay, thank you. Those are my
13 questions.

14 THE COMMISSIONER: Thank you.

15 Mâitre Dumais?

16 MR. DUMAIS: If we could just take a five-
17 minute break, Mr. Commissioner?

18 THE COMMISSIONER: Certainly.

19 MR. DUMAIS: Thank you.

20 THE REGISTRAR: Order. All rise. À
21 l'ordre. Veuillez vous lever.

22 This hearing will resume at 3:10 p.m.

23 --- Upon recessing at 2:53 p.m./

24 L'audience est suspendue à 14h53

25 --- Upon resuming at 3:14 p.m.

1 L'audience est reprise à 15h14

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

4 This hearing is now resumed. Please be
5 seated. Veuillez vous asseoir.

6 **THE COMMISSIONER:** Thank you.

7 **WILLIAM ZEBRUCK, Resumed/Sous le même serment:**

8 --- **RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. DUMAIS:**

9 **MR. DUMAIS:** Two quick issues, Mr. Zebruck,
10 I promise.

11 The -- so you were taken to Document Number
12 (sic) 121 which are essentially your notes and you were
13 asked to look at, once again, the statement that you would
14 have taken from Marcelle Leger, who was an employee of
15 Probations and Corrections, and you were asked as well to
16 look at the notes you had taken while interviewing Louise
17 Quinn who as well is a secretary at Probations and
18 Corrections office, and both of them would have provided
19 you with the names of a number of potential victims of Mr.
20 Barque?

21 **MR. ZEBRUCK:** Yes.

22 **MR. DUMAIS:** And the question that was put
23 to you is whether or not they would have provided you with
24 any contact information and certainly does not appear from
25 your notes that you would have taken anything down. But do

1 you recall asking either of them to provide you with any
2 contact information?

3 **MR. ZEBRUCK:** Yes, I would ask that. Well,
4 yeah. That would ---

5 **MR. DUMAIS:** That would -- you would usually
6 ask that of someone but you don't have a specific
7 recollection in this instance?

8 **MR. ZEBRUCK:** No.

9 **MR. DUMAIS:** But certainly all of these
10 potential witnesses would have had some involvement with
11 Nelson Barque as -- since he would have been their
12 probation officer. Is that correct?

13 **MR. ZEBRUCK:** Yes.

14 **MR. DUMAIS:** And did you request that the
15 files be searched or that contact information be looked
16 into their files?

17 **MR. ZEBRUCK:** I don't recall.

18 **MR. DUMAIS:** You don't recall, all right.

19 And just finally one last matter. We did
20 speak about two potential victims that had some involvement
21 with either you or Constable Sebalj.

22 The first one was Robert Sheets and you
23 interviewed Mr. Sheets and he indicated to you that he did
24 not want to participate in the prosecution of this matter?

25 **MR. ZEBRUCK:** That's right.

1 **MR. DUMAIS:** And you did as well -- you did
2 not speak to C-44. He was spoken to by Constable Sebalj
3 and he would have indicated to her that he did not want to
4 participate in the process either?

5 **MR. ZEBRUCK:** Yes.

6 **MR. DUMAIS:** And if you can just have a
7 quick look at Exhibit 1262.

8 **THE COMMISSIONER:** No, that's a different
9 book.

10 Madam Clerk?

11 One-two -- oh, one-two-six-two (1262),
12 right. Sorry.

13 **MR. DUMAIS:** So I'm looking at the fourth
14 paragraph and just so I can situate you, this is a
15 supplement to your occurrence report that appears to have
16 been prepared by Constable Sebalj and filed on December
17 21st, 1995. So certainly this appears to have been done
18 after the plea of guilty had been entered by Mr. Barque and
19 the sentence imposed.

20 But the fourth paragraph reads as follows:

21 "On December 21st, '95 Constable Sebalj
22 conducted an audiotaped interview with
23 C-44. C-44 recounted the sexual
24 activities he and his probation
25 officer, Nelson Barque, engaged in

1 while he was on probation."

2 Did Constable Sebalj ever get back to you in
3 December of 1995 and indicate to you that C-44 had come
4 back, spoken to her, and provided a statement?

5 MR. ZEBRUCK: No.

6 MR. DUMAIS: All right.

7 And the last individual that you spoke to,
8 Mr. Zebruck, was C-90 and he's the one that you took a
9 statement from?

10 MR. ZEBRUCK: Yes.

11 MR. DUMAIS: Do you recall who C-90 is?

12 MR. ZEBRUCK: Yes, I believe so. Yes, I
13 have a sheet here. The note here provides me who it is.

14 MR. DUMAIS: All right, so you know who C-90
15 is then?

16 MR. ZEBRUCK: Yes.

17 MR. DUMAIS: And C-90 never indicated to you
18 that he did not want to participate in this process?

19 MR. ZEBRUCK: Yes, he did. He would talk to
20 me but that's as far as it went.

21 MR. DUMAIS: So he spoke to you, he provided
22 -- but he also provided you with a statement; correct?

23 MR. ZEBRUCK: Yes, he did.

24 MR. DUMAIS: And that statement would have
25 been part, as far as you know, it would have been part of

1 the Crown brief?

2 MR. ZEBRUCK: Yes.

3 MR. DUMAIS: All right. And you believe
4 that he indicated to you that he did not want to
5 participate?

6 MR. ZEBRUCK: That's right.

7 MR. DUMAIS: All right, these are my
8 questions, Mr. Zebruck.

9 Thank you very much for coming.

10 THE COMMISSIONER: Thank you very much, sir,
11 for your attendance.

12 MR. ZEBRUCK: Thank you.

13 THE COMMISSIONER: Thank you.

14 You can leave them there; we'll take care of
15 that, sir. Thank you.

16 Can we go on with the next witness, please?

17 Maître Dumais? Can you gentlemen continue
18 your discussion someplace else so we can get on with the
19 next witness, please? Thank you.

20 Good afternoon, sir, just a second.

21 You can go please, thank you.

22 DETECTIVE INSPECTOR RANDOLPH MILLAR: Sworn/Assermenté

23 THE COMMISSIONER: Thank you.

24 Good afternoon, sir, welcome aboard.

25 DET. INSP. MILLAR: Good afternoon.

1 **THE COMMISSIONER:** I see you brought your
2 own water. We do have clean glasses and fresh water.

3 Please bring the microphone down. You'll
4 see things either on the screen or in the hard copy. Take
5 your time, we'll wait for you.

6 If you have any questions about what's going
7 on or you're not too sure, let me know and we'll take a
8 break and we'll work things out.

9 In the meantime, please answer the questions
10 to the best of your abilities. If you don't know something
11 you don't know and if you don't understand, please have
12 them rephrase it.

13 So now my question is, of course, you
14 brought along a plastic container with you today, sir.

15 **DET. INSP. MILLAR:** Yes, sir.

16 **THE COMMISSIONER:** What's in there?

17 **DET. INSP. MILLAR:** A binder broken down.

18 **THE COMMISSIONER:** Are they -- is that
19 material you received from the Inquiry?

20 **DET. INSP. MILLAR:** Yes.

21 **THE COMMISSIONER:** Nothing else?

22 **DET. INSP. MILLAR:** No.

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

24 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

25 **JONES:**

1 **MS. JONES:** Thank you, Mr. Commissioner.
2 Officer Millar, the very first thing that we
3 go through is your career profile and we will be putting
4 that in as evidence.

5 And then following looking at your career
6 background and what you're doing today, we're going to be
7 looking at a few topics. Specifically we're going to be
8 looking at what we call the Varley shooting in 1992; we're
9 then going to be looking into the Ron Leroux search warrant
10 which was in February, 1993; we're then going to be looking
11 into the Seguin suicide, November, 1993.

12 Then we're going to be looking at other
13 smaller items, including statements taken by Malcolm
14 MacDonald and then the Jean-Luc Leblanc investigation,
15 okay. So those are the topics. I don't think we're going
16 to reach all of them today but we'll see how much we can do
17 in the time that we have allotted to us. Thank you.

18 **THE COMMISSIONER:** Thank you. Career
19 profile is Exhibit Number 2591 -- Career profile of
20 Randolph Lyle Millar.

21 **--- EXHIBIT NO./PIÈCE NO. P-2592:**
22 (200308) Career Profile of Randolph Lyle
23 Millar

24 **MS. JONES:** Thank you.
25 I'm just going to hit on some of the more

1 important salient parts, Officer Millar.

2 You began as a probationary constable on May
3 10th, 1982 and became a provincial constable approximately a
4 year later, and you were based in Lancaster Detachment.
5 You also did a couple of joint force operations between '89
6 and '91 which were with the RCMP, the OPP and the CPS --
7 Cornwall Police Service.

8 You also were seconded -- I'm sorry, you
9 were also assigned to No. 11 District Headquarters on a
10 secondment and worked primarily on drug enforcement and
11 major crimes, and that is between '91 and '92. Ninety-two
12 ('92) to '94 you were posted at No. 11 District Lancaster
13 as a senior constable, and then at No. 11 District
14 Headquarters Crime Unit, where you remained until March
15 1996.

16 I also understand that around that time you
17 were working on two joint murder investigations with the
18 Akwesasne Mohawk police between January and May 1994. From
19 April '95 to October '95 again you were on the joint force
20 operation to investigate conspiracy to import cocaine into
21 Canada.

22 In 1996 you were a Weapons Unit
23 investigator, and then for two years until January '98 you
24 were an area crime supervisor, Crime Prevention and
25 Investigation for the eastern region of Prescott-Russell

1 and that's when you became a detective sergeant. From '98
2 to 2000 you occupied the position of area crimes
3 supervisor, Crime Prevention and Investigation, eastern
4 region, for the United Counties of Stormont, Dundas and
5 Glengarry.

6 For the next period until May 2001 you were
7 acting detective staff sergeant in Smiths Falls and you
8 were then promoted to detective staff sergeant. In May
9 2004 you were promoted to the rank of detective inspector,
10 Criminal Investigation Branch (CIB) in eastern region, and
11 I understand that that's the position that you still occupy
12 today.

13 **DET. INSP. MILLAR:** That's correct.

14 **MS. JONES:** Is that correct? And it would
15 appear that throughout your time with the Ontario
16 Provincial Police you have participated in a variety of in-
17 service training, including major case management, homicide
18 investigations, sexual assault investigations, organized
19 crime, admissibility of statements, management, leadership
20 training and development.

21 **DET. INSP. MILLAR:** That's correct.

22 **MS. JONES:** Were there any other highlights
23 that I've missed out in your background, sir?

24 **DET. INSP. MILLAR:** No, I don't believe so.

25 **MS. JONES:** Okay. And just for the sake of

1 completeness, I suppose, the question that's usually --
2 typically asked at this Inquiry; did you receive any
3 specialized training in historical sexual assaults?

4 **DET. INSP. MILLAR:** No.

5 **MS. JONES:** So the first area of questioning
6 has to do with what's called the Varley shooting, which is
7 in 1992, and we understand that in January 1992 you and
8 Officer Chris McDonell were assigned to investigate a
9 homicide involving one Travis Varley, and in that
10 particular investigation it turned out that the victim and
11 the other people that were involved with the victim on the
12 night of the incident, or the murder, had actually been in
13 the home of Ken Seguin the previous evening. And you were
14 involved in that side of the investigation. Is that
15 correct, sir?

16 **DET. INSP. MILLAR:** That's correct.

17 **MS. JONES:** Do you know why you were chosen
18 to be a part of this investigation?

19 **DET. INSP. MILLAR:** Constable McDonell and I
20 were the only two that investigated crimes of that nature
21 in Lancaster.

22 **MS. JONES:** I'm just wondering if you could
23 sit closer to the microphone, sir? I'm finding it
24 difficult to hear you. Thank you.

25 So you and Officer McDonell were on your own

1 in Lancaster?

2 DET. INSP. MILLAR: We were the only two
3 people that would investigate that kind of crime.

4 MS. JONES: And did you take turns being
5 lead investigators if a major crime came in? Is that how
6 it worked?

7 DET. INSP. MILLAR: Yes.

8 MS. JONES: I understand it was actually
9 Officer McDonell that was the lead investigator in this
10 particular one.

11 DET. INSP. MILLAR: That's correct.

12 MS. JONES: Had you known Ken Seguin before
13 this incident?

14 DET. INSP. MILLAR: No.

15 MS. JONES: Had you heard any rumours about
16 a person named Ken Seguin before this incident?

17 DET. INSP. MILLAR: No.

18 MS. JONES: Could we please go to Document
19 733046, Bates page 7376 -- sorry, 7375.

20 THE COMMISSIONER: Thank you. Exhibit
21 Number 2592 are notes of Randy Millar, Detective Inspector.
22 First date Thursday, January 9th, 1992.

23 --- EXHIBIT NO./PIÈCE NO. P-2592:

24 (733046) Notes of Randy Millar 09 Jan 92

25 MS. JONES: Thank you.

1 If I could just turn you to the second page,
2 Officer Millar. I understand that even though the first
3 page of this particular exhibit says the 9th of January, I
4 understand that the date of these notes actually happened
5 to be the 15th of January, 1992. Is that your recollection,
6 sir?

7 **DET. INSP. MILLAR:** Yes, I remember having
8 some discussion about that. Yes.

9 **MS. JONES:** Okay. And in that particular
10 timeframe, January 15th, 1992, you're investigating the
11 Varley shooting at that point?

12 **DET. INSP. MILLAR:** Yes.

13 **MS. JONES:** And in that particular timeframe
14 it says, "1400 hours, McDonnell seized tape," and I'm
15 wondering if you could just explain what that means. What
16 tape was he seizing, if you can recall?

17 **DET. INSP. MILLAR:** I believe that tape was
18 of one of the people involved in the shooting calling for
19 help, and they called the Cornwall Police Service and it
20 was taped. So we seized that from the Cornwall Police
21 Service.

22 **MS. JONES:** Do you call it a telecoms tape?

23 **DET. INSP. MILLAR:** Yes.

24 **MS. JONES:** Would that be a proper way of
25 saying it?

1 **DET. INSP. MILLAR:** Yeah.

2 **MS. JONES:** Okay.

3 At 1423 it says, "Attend the Probation
4 Office. Meet Ken Seguin."

5 **DET. INSP. MILLAR:** Yes.

6 **MS. JONES:** So if we could please go to
7 Document 128550. It's Exhibit 1199.

8 **THE COMMISSIONER:** It's already an exhibit?

9 **MS. JONES:** Yes.

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

11 **MS. JONES:** I'll just wait for it to get up
12 on the screen too, sir. Thank you.

13 Now, it's my understanding this statement
14 was taken on January 15th, 1992. Do you recall that you
15 were the person getting this statement from Ken Seguin on
16 that date?

17 **DET. INSP. MILLAR:** Yes.

18 **MS. JONES:** Were you in the company of
19 Officer McDonell or did you do that by yourself?

20 **DET. INSP. MILLAR:** No, I believe I was in
21 the company of McDonell.

22 **MS. JONES:** And just for the sake of
23 completeness, I would assume that there was one version
24 that was just handwriting and then it was committed to
25 typing later on.

1 **DET. INSP. MILLAR:** That's correct.

2 **MS. JONES:** Do you recall how you were made
3 aware of Ken Seguin so early in the investigation?

4 **DET. INSP. MILLAR:** We had taken statements
5 from two of the boys that were at the -- at Ken's house,
6 and that's how we learned that they were there.

7 **MS. JONES:** I'm just going to go over a
8 couple of salient points within this statement. It turns
9 out from this statement that Ken Seguin is telling you that
10 at the time when he was meeting with these boys, the night
11 before or the night of the homicide, he was actually
12 completing a pre-sentence report on Mark Woods and that
13 this was one of the reasons why they went to the Seguin
14 house, because Mr. Woods was fearful he was going to some
15 penitentiary time and they wanted to talk about that.

16 **DET. INSP. MILLAR:** Yes.

17 **MS. JONES:** Do you recall that?

18 **DET. INSP. MILLAR:** Yes.

19 **MS. JONES:** And this was an important issue
20 because Mr. Seguin claimed that he was not aware that Mr.
21 Woods was on a term of release to not consume alcohol. Do
22 you recall Mr. Seguin saying that?

23 **DET. INSP. MILLAR:** Is it in the statement?

24 **MS. JONES:** Yes.

25 **DET. INSP. MILLAR:** Okay, then yes.

1 **MS. JONES:** You can review the statement if
2 you wish?

3 **DET. INSP. MILLAR:** No, it -- I remember
4 that being correct, yes.

5 **MS. JONES:** Okay. And it appeared that,
6 according to Mr. Seguin, the only term he was actually
7 aware of, because he was told this by Mr. Woods, that
8 Mr. Woods was actually on a curfew of 9 o'clock.

9 **DET. INSP. MILLAR:** That's correct.

10 **MS. JONES:** And if you turn, please, to the
11 third page of the statement, which is Bates page 5158 the
12 last completed paragraph.

13 **THE COMMISSIONER:** Hang on. Are you there
14 yet, sir?

15 Do you know where the Bates pages are? They
16 are on the left-hand side?

17 **DET. INSP. MILLAR:** Okay, got you, yeah.

18 **THE COMMISSIONER:** In a square? So we
19 usually give out the last four numbers, 5158.

20 **DET. INSP. MILLAR:** Okay, got you.

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

22 **MS. JONES:** And Madam Clerk has it at the
23 exact spot on the screen if that's of any help to you as
24 well.

25 **DET. INSP. MILLAR:** Okay.

1 **MS. JONES:** And these were Mr. Seguin's
2 words:

3 "I looked at my watch and advised them
4 that it was 8:40 p.m. and they would
5 have to leave immediately in order to
6 get Mark back in time. They got up and
7 three of them went outside. Travis
8 stayed back and went to the fridge. He
9 opened the door and said, 'Where's the
10 beer?' I told him, 'There's no more
11 beer'. He said, 'What's this?' I
12 said, 'That's Coors Light and you don't
13 like it'. 'Anyway', he said, 'That's
14 okay' and grabbed the three beer.
15 Travis left. I went back to watching
16 TV and didn't notice which way they
17 went."

18 So that seemed to be an acknowledgement at
19 least that sometime he learned that there was a nine
20 o'clock curfew?

21 **DET. INSP. MILLAR:** Yes.

22 **MS. JONES:** Now, learning that Mr. Seguin
23 was actually Mr. Woods' probation officer and there was
24 alcohol involved, even though there's a release term, did
25 it occur to you at that point to notify Mr. Seguin's

1 supervisor, his probationary supervisor, Emile Robert?

2 **DET. INSP. MILLAR:** No, I wouldn't make that
3 decision. It's not right, but I wouldn't make that
4 decision to call Mr. Robert, especially when you have a
5 detective inspector in charge of the case. That's his
6 call.

7 **MS. JONES:** And who is the detective
8 inspector?

9 **DET. INSP. MILLAR:** Tim Smith.

10 **MS. JONES:** Okay. So did you make your
11 Detective Inspector aware of that?

12 **DET. INSP. MILLAR:** He would have read the
13 statement, yes.

14 **MS. JONES:** Can I just ask, if you were
15 involved in a situation like this and you take the
16 situation of Mr. Seguin as you did, how was it the
17 Detective Inspector learned about this statement and the
18 contents? Did you -- I know you weren't the lead
19 investigator on this but would you or the lead investigator
20 to make sure that your Detective Inspector learned about
21 it?

22 **DET. INSP. MILLAR:** Well, he would read the
23 statements, yeah.

24 **MS. JONES:** Now, if we could please go to
25 the document -- actually, we'll go to a new document that

1 might help.

2 Document 200312. This was the additional
3 document, Madam Clerk, that you got today.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 2593 is what -- is this your
6 handwriting, sir?

7 **DET. INSP. MILLAR:** Yes, it is.

8 **THE COMMISSIONER:** Okay. So this is Officer
9 Millar's notes and the first date is the 26th of August,
10 1992. Again, the Exhibit Number is 2593.

11 **--- EXHIBIT NO./PIÈCE NO. P-2593:**

12 (200312) - Notes of Randy Millar - August 26
13 to September 2, 1992

14 **MS. JONES:** Thank you.

15 I understand these were the notes that you
16 prepared. I believe you were literally in the courtroom
17 listening to the sentencing ---

18 **DET. INSP. MILLAR:** Yes.

19 **MS. JONES:** --- at the time.

20 And if I go to the second page of this
21 document -- it doesn't actually have a Bates page because
22 it was just catalogued today. The second page of the
23 document is still dated the 26th of August. It appears
24 there's a request by Tim Smith to notify the probation
25 supervisor of Ken Seguin, which is Mr. Robert?

1 **DET. INSP. MILLAR:** That's correct.

2 **MS. JONES:** And if we go to the next page,
3 the third page of your notes dated the 27th of August, '92,
4 it states:

5 "They are contacting Emile Robert,
6 supervisor of probation officer Ken
7 Seguin. Advised of statement --
8 advised by Duhamel not to send copy of
9 statement but a letter of summary."

10 **DET. INSP. MILLAR:** That's correct.

11 **MS. JONES:** The next page, which is dated
12 the 28th of August, '92 at 15:00 hours says:

13 "Letter re Seguin."

14 **DET. INSP. MILLAR:** Yes.

15 **MS. JONES:** And the very last entry, 2nd of
16 September, '92, 16:30:

17 "Prepare letter re Varley shooting."

18 **DET. INSP. MILLAR:** Yes.

19 **MS. JONES:** So to summarize then, Officer --
20 Inspector Smith, I should say, asked you to prepare a
21 letter to Mr. Seguin's supervisor?

22 **DET. INSP. MILLAR:** Yes.

23 **MS. JONES:** Do you know the reason behind
24 sending this letter at that point?

25 **DET. INSP. MILLAR:** Because the boys were

1 drinking beer in his house while one of them was one of his
2 clients. It's not right.

3 MS. JONES: Is there a reason why it was
4 sent then and not initially when you first discovered this
5 many months before?

6 DET. INSP. MILLAR: The only reason I can
7 figure is that that's the day that we were in court and it
8 was done. The case was done. And you'd have to ask Tim
9 Smith why he waited that long to have it sent.

10 MS. JONES: Okay. So that's not your
11 decision but someone else's?

12 DET. INSP. MILLAR: No, and I'm just
13 guessing at the date of the court proceedings being done
14 coincides with the date that he asked me to send the
15 letter.

16 MS. JONES: If we could please go to Exhibit
17 929, Document 100313?

18 MS. JONES: I'm wondering, Officer Millar,
19 if you can just keep handy because you have it in front of
20 you already the statement of Ken Seguin that we already
21 looked at? That's Exhibit 1119?

22 DET. INSP. MILLAR: Yes.

23 MS. JONES: If you just keep that handy?

24 DET. INSP. MILLAR: Yeah.

25 MS. JONES: Because I want to refer to both.

1 Thank you, Madam Clerk.

2 Now, the date of this letter is September
3 3rd, 1992. Had you had any other conversations with Ken
4 Seguin after January 15th when you took the original
5 statement, which is Exhibit 1199?

6 **DET. INSP. MILLAR:** Not that I can recall.

7 **MS. JONES:** Now, if we could please look at
8 the letter which is Exhibit 929. It states in the first
9 paragraph that you had interviewed Ken Seguin on the 9th of
10 January, '92. It possibly could have been the 15th.

11 **DET. INSP. MILLAR:** Yes.

12 **MS. JONES:** It doesn't really matter.

13 You're talking about the same statement, right?

14 **DET. INSP. MILLAR:** Yes.

15 **MS. JONES:** And in the third paragraph, it
16 states:

17 "Following our discussion of the 27th of
18 August, '92, the following is a brief
19 summary of Mr. Seguin's involvement in
20 this case."

21 It would appear that you had had a previous
22 conversation with Mr. Robert ---

23 **DET. INSP. MILLAR:** Yes.

24 **MS. JONES:** --- from that. Do you recall
25 having that conversation?

1 **DET. INSP. MILLAR:** No, I don't, but it's in
2 my notes.

3 **MS. JONES:** Okay. Do you know what the
4 purpose of that conversation would have been?

5 **DET. INSP. MILLAR:** I don't recall but I'm
6 just -- I would think it would be to give him a head's up
7 that this letter is coming in.

8 **MS. JONES:** All right.

9 Now, it appears from that paragraph onwards
10 -- it starts on the 9th of January '92 and then you start to
11 talk about things afterwards -- most of the letter seems to
12 be taken directly from that statement of Mr. Seguin, 1199?

13 **DET. INSP. MILLAR:** Yes.

14 **MS. JONES:** And some of it almost quotes it.
15 However, I just want to ask you a couple of questions about
16 a few phrases that you've inserted in the letter to Mr.
17 Robert.

18 **DET. INSP. MILLAR:** M'hm.

19 **MS. JONES:** I'd like to go on the last
20 paragraph on the second page, which is Bates page 0828.
21 That's correct, Madam Clerk. Thank you.

22 The paragraph starts off by saying:

23 "During the interview with Seguin, I
24 felt Seguin was obviously
25 embarrassed..."

1 That's just an observation you made when you
2 met him in January?

3 **DET. INSP. MILLAR:** Yes.

4 **MS. JONES:** Okay. The second part of that
5 sentence:

6 "...and he made it clear he did not
7 make a habit of having clients at his
8 residence."

9 Do you see that?

10 **DET. INSP. MILLAR:** Yes.

11 **MS. JONES:** Where did you get that
12 information from because that is actually not stated in the
13 statement.

14 **DET. INSP. MILLAR:** No, that would have been
15 talk after the statement was taken, probably Chris and I
16 bringing up the fact that, you know, he had these guys in
17 drinking beer and that doesn't look very good. And he was
18 genuinely embarrassed and I believe he went further and
19 told us that he was intimidated by, not the Varley boys,
20 but the other two boys coming in.

21 **MS. JONES:** Okay. We'll get to that in just
22 a second.

23 Did you make any further inquiries to see if
24 in fact Mr. Seguin did in fact make it a habit to have
25 clients over ---

1 DET. INSP. MILLAR: No.

2 MS. JONES: --- or that he had had other
3 people over that were probationers?

4 DET. INSP. MILLAR: No.

5 MS. JONES: So you were basically just going
6 by going his word?

7 DET. INSP. MILLAR: Yes, and the word of the
8 boys.

9 MS. JONES: Pardon me?

10 DET. INSP. MILLAR: Oh, you mean whether he
11 didn't make a habit of it?

12 MS. JONES: Yes.

13 DET. INSP. MILLAR: Yeah, just on his word.

14 MS. JONES: Because we have learned actually
15 Mr. Seguin had had other probationers at his house, that
16 this was not just a one-off occasion, that this happened on
17 other occasions as well. But you didn't investigate that
18 to ---

19 DET. INSP. MILLAR: No.

20 MS. JONES: --- verify that, okay.

21 And if we could go to the first paragraph on
22 the next page, Bates page 0829:

23 "Seguin stated he felt intimidated by
24 their presence and did not argue with
25 Travis Varley when he took three beer

1 from his fridge. He just wanted them
2 to leave."

3 That's another phrase that is actually not
4 in the statement.

5 **DET. INSP. MILLAR:** Yes, so that would have
6 been talk after the statement was taken.

7 **MS. JONES:** In fact, the quote that I read
8 to you from the statement does not sound like intimidation
9 at all, that he was actually quite happy to ---

10 **DET. INSP. MILLAR:** I'm just telling you
11 what he told me.

12 **MS. JONES:** Okay. So that was a
13 conversation you had afterwards?

14 **DET. INSP. MILLAR:** Yes.

15 **MS. JONES:** And the next paragraph:

16 "Seguin stated that he would notify his
17 superior of this incident and also that
18 without doubt he would be more
19 selective on who he allows into his
20 house in the future."

21 **DET. INSP. MILLAR:** Yes.

22 **MS. JONES:** Again, that wasn't in the
23 statement. Was that a discussion afterwards that you had?

24 **DET. INSP. MILLAR:** Yes.

25 **MS. JONES:** Did you actually find out if he

1 had notified his superior officer?

2 DET. INSP. MILLAR: I don't recall making
3 that call, no.

4 MS. JONES: Sending a letter to an employer,
5 in this sort of a situation, is that something that's
6 typically done by an investigator?

7 DET. INSP. MILLAR: No. Not me, anyways.

8 MS. JONES: And do you know why that would
9 have been done in this case?

10 DET. INSP. MILLAR: Because this was an odd
11 situation. It's not very often you have probation officers
12 having people in, drinking beer, when they're -- where
13 they're clients.

14 MS. JONES: Okay. Thank you. We're now
15 going to move on to the Ron Leroux search warrant issue,
16 which is February 10th, 1993.

17 The first place I'd like to take you, sir,
18 is Document 733051, Bates page 7411. It's just the first
19 page, 733051.

20 THE COMMISSIONER: Thank you. Exhibit 2594
21 are notes of Officer Millar. The first date is the 9th of
22 February '93. Okay, 2594.

23 ---EXHIBIT NO./PIECE NO P-2594:

24 (733051) Notes of Randy Millar dated 10 Feb

25 93

1 **MS. JONES:** Just looking at the bottom of
2 the page, Madam Clerk, the 10th of February? The 10th of
3 February.

4 Just to get us started on this then, Officer
5 Millar, the very first entry you have on this issue is
6 dated the 10th of February 1993.

7 I'm just noticing, Mr. Commissioner, I'm not
8 sure that the content of this first page at this particular
9 point shouldn't be subject to a publication ban. This
10 might have -- I don't think these are relevant to the
11 proceedings, but maybe should not be ---

12 **THE COMMISSIONER:** What are you talking
13 about, I'm sorry?

14 **MS. JONES:** The notes from the 10th of
15 February, upwards. These are not materials pertaining to
16 this Inquiry; these are other matters.

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

18 **MS. JONES:** Thank you. So at this
19 particular juncture, it shows on Wednesday, the 10th of
20 February '93, at 0800 hours, you were on duty at the office
21 and your first entry there says, "Assist McDougald re.
22 search warrant." Do you ---

23 **DET. INSP. MILLAR:** Yes.

24 **MS. JONES:** --- see that there?

25 **DET. INSP. MILLAR:** I see that.

1 **MS. JONES:** And, just to be clear, this is
2 not McDonell, this is a completely different officer?

3 **DET. INSP. MILLAR:** Yes.

4 **MS. JONES:** Because I know the names
5 sometimes can be mixed up.

6 **DET. INSP. MILLAR:** No, I know the
7 difference between the two of them.

8 **MS. JONES:** Okay.

9 **THE COMMISSIONER:** I think that was more for
10 my benefit, sir.

11 **MS. JONES:** Not directly, sir. The first
12 question is, why were you asked to be brought in on this
13 particular search warrant?

14 **DET. INSP. MILLAR:** I think Steve just said,
15 "Eh, what are you doing? Can you help me with a search
16 warrant?" "Sure."

17 **MS. JONES:** And this is Steve McDougald?

18 **DET. INSP. MILLAR:** Yes.

19 **MS. JONES:** Okay. And he was not a
20 detective at that time?

21 **DET. INSP. MILLAR:** No.

22 **MS. JONES:** We've heard from Officer
23 McDougald and, according to his testimony, this might have
24 been the very first search warrant that he did?

25 **DET. INSP. MILLAR:** I don't know, ma'am.

1 **MS. JONES:** Were you a person, at that
2 stage, experienced in search warrants?

3 **DET. INSP. MILLAR:** Yes.

4 **MS. JONES:** Do you think it's possible
5 that's why he had asked your advice, that you were an
6 experienced person in doing these before?

7 **DET. INSP. MILLAR:** If I recall, he just
8 asked me to help him with the search, not necessarily draft
9 the warrant, because he was investigating a case that
10 required him to get an Information to Obtain signed before
11 a J.P., get a warrant, "go get these guns." And I wasn't
12 familiar with that case, so I -- I mean, he'd have to draft
13 his own grounds for belief; I wouldn't be able to help him
14 there.

15 **MS. JONES:** Okay. So in the first entry
16 here, it says:

17 "Assist McDougald re search warrant."

18 The next entry is 11:15 at J.P.

19 Geoffrion's ---

20 **DET. INSP. MILLAR:** Yes.

21 **MS. JONES:** --- office. It's about three
22 hours there. Do you recall assisting in the drafting
23 or ---

24 **DET. INSP. MILLAR:** No, I don't.

25 **MS. JONES:** --- helping him with any of

1 that?

2 **DET. INSP. MILLAR:** I'm not saying it didn't
3 happen, to show him the faceplate and, you know, put "See
4 Appendix A" and have an appendix. It may have happened,
5 but I just don't recall it happening.

6 **MS. JONES:** Okay. And if we go to the Bates
7 page 7413, we have, at 11:22:

8 "Geoffrion signing warrant of Steve
9 McDougald."

10 **DET. INSP. MILLAR:** Yes.

11 **MS. JONES:** And then, 11:35:

12 "Leaving the courthouse."

13 **DET. INSP. MILLAR:** Yes.

14 **MS. JONES:** So, presumably, from that it
15 would appear that the warrant was successful and that you
16 went off now to execute the warrant?

17 **DET. INSP. MILLAR:** Yes.

18 **MS. JONES:** If we could please go to
19 Exhibit 2521, Document 706160? I understand that this is
20 actually the information of Steve McDougald concerning this
21 particular search warrant? I don't know if you've reviewed
22 this or not to confirm that, but this is what we
23 understand.

24 **DET. INSP. MILLAR:** In preparing for this
25 Inquiry, yes.

1 **MS. JONES:** And just on the face of the
2 document, it appears that the two items being searched for
3 are actually two types of firearms. Can you see that?

4 **DET. INSP. MILLAR:** Yes.

5 **MS. JONES:** There's not something else
6 that's listed there, but just the firearms?

7 **DET. INSP. MILLAR:** That's right.

8 **MS. JONES:** Then it refers to Appendix A and
9 Appendix B.

10 **DET. INSP. MILLAR:** Yes.

11 **MS. JONES:** And I'm wondering if you could
12 please go to Exhibit C-603, Document 706162?

13 And, Madam Clerk, while you're there, I'm
14 also going to be looking at Exhibit C-603, Document 706163,
15 so they're probably together, 162 and 163.

16 Officer Miller, these two items here appear
17 to be Appendix A and Appendix B, which was referred to
18 already, in Exhibit 2521, on the search warrant.

19 **DET. INSP. MILLAR:** Yes.

20 **MS. JONES:** Do you recall reading those
21 grounds at the time of the search warrant?

22 **DET. INSP. MILLAR:** No.

23 **MS. JONES:** Is this a typical type of search
24 warrant that you would have been involved in, in your
25 experience?

1 **DET. INSP. MILLAR:** Yes.

2 **MS. JONES:** And, again, the Appendix A and
3 Appendix B make reference to firearms only, no other type
4 of item?

5 **DET. INSP. MILLAR:** Yes.

6 **MS. JONES:** Okay, thank you. So, if we go
7 back to your notes, please, which is 733051, Exhibit 2594,
8 and we look at Bates page 7413 which Madam Clerk has up on
9 the screen, it appears that after receiving the blessing of
10 J.P. Geoffrion, at 12:45 you went to the Leroux residence
11 and no one was at home?

12 **DET. INSP. MILLAR:** That's correct.

13 **MS. JONES:** And then you left? It would
14 appear ---

15 **DET. INSP. MILLAR:** Yes.

16 **MS. JONES:** --- from that that possibly one
17 could draw the conclusion that you were wanting, or had
18 expected, to meet someone at the house to let you in?

19 **DET. INSP. MILLAR:** No, not me. No.

20 **MS. JONES:** So was there a discussion about
21 that with ---

22 **DET. INSP. MILLAR:** I don't recall.

23 **MS. JONES:** --- Officer McDougald?

24 **DET. INSP. MILLAR:** I don't recall any
25 discussion about that.

1 **MS. JONES:** Okay. And then at 1412, I
2 believe, "Advised by McDougald that a certain person"
3 -- and that person has a moniker here ---

4 **THE COMMISSIONER:** C-8.

5 **MS. JONES:** --- C-8, so we're not to use
6 that person's name.

7 **DET. INSP. MILLAR:** Yes, ma'am.

8 **MS. JONES:** And:

9 "Advised by McDougald that C-8 was at
10 Leroux's house."

11 **DET. INSP. MILLAR:** Yes.

12 **MS. JONES:** Do you see that?

13 **DET. INSP. MILLAR:** Yes.

14 **MS. JONES:** And then, presumably, you went
15 to the Leroux house ---

16 **DET. INSP. MILLAR:** Yes.

17 **MS. JONES:** --- and were let in?

18 Again, do you recall any sort of prior
19 arrangement that was made or a discussion ---

20 **DET. INSP. MILLAR:** No.

21 **MS. JONES:** --- with McDougald about that?

22 **DET. INSP. MILLAR:** No, other than the one
23 that -- what's in my notes. Obviously he's learned that C-
24 8 is at the Leroux house.

25 **THE COMMISSIONER:** Change that please; C-8.

1 **DET. INSP. MILLAR:** Oh, I'm sorry. Sorry.

2 **MS. JONES:** I beg your pardon?

3 **DET. INSP. MILLAR:** I said I'm sorry.

4 **MS. JONES:** I mean before that.

5 You had been alerted by C-8 that he would be
6 there to meet you?

7 **DET. INSP. MILLAR:** McDougald would have
8 been alerted by C-8 that he was at Leroux's house.

9 **MS. JONES:** Do you recall -- these hours
10 that you were with him, I presume that you're still with
11 him and have been with him possibly since 8:00, certainly
12 since 11 o'clock anyway. In the hours that you're spending
13 with McDougald, am I correct in assuming that there was
14 some sort of discussion as to how you're going to conduct
15 the search once you're there; how you're going to gain
16 entry; what you're looking for?

17 **DET. INSP. MILLAR:** No, not in this case.
18 He's got -- I'm waiting for him to get the warrant. I'm
19 going to help him search for guns.

20 **MS. JONES:** Okay. Well, he's got the
21 warrant at 11:35.

22 **DET. INSP. MILLAR:** Yeah.

23 **MS. JONES:** You're leaving the courthouse.

24 **DET. INSP. MILLAR:** That's right.

25 **MS. JONES:** But between 11:35 and being told

1 at 14:12 that you actually can now get into Mr. Leroux's
2 house, I'm assuming there must have been some sort of
3 discussion as to how you're going to be gaining entry, what
4 it is you're looking for?

5 DET. INSP. MILLAR: Do you see the time
6 13:05?

7 MS. JONES: Yes.

8 DET. INSP. MILLAR: "Meet Mark DouBrough."
9 That's a completely different case.

10 THE COMMISSIONER: Yeah.

11 DET. INSP. MILLAR: So I'm going with him to
12 preview the Glencairn Lodge to have a camera installed.
13 It's a completely different case; has nothing to do with
14 this.

15 THE COMMISSIONER: Okay, so you're kept
16 busy. At 12:45 you're out at the Leroux residence?

17 DET. INSP. MILLAR: Yes.

18 THE COMMISSIONER: Okay.

19 DET. INSP. MILLAR: Then we're back at the
20 detachment at 13:05.

21 THE COMMISSIONER: At detachment, yeah.

22 DET. INSP. MILLAR: So then I leave with
23 Mark DouBrough and then at 1412 McDougald advises me that
24 C-8 was at Leroux's house.

25 THE COMMISSIONER: Okay. Sure.

1 **MS. JONES:** Okay.

2 **DET. INSP. MILLAR:** So it's time for me to
3 go and help him search.

4 **MS. JONES:** So at that point then when
5 you're -- especially with your -- when you're with someone
6 who is a bit of a novice when it comes to search warrants,
7 certainly compared to you, was there any discussion as to
8 who would take what procedure or who would take what floor
9 of the house or was there any discussion of that nature?

10 **DET. INSP. MILLAR:** I'm sure there was but I
11 don't recall what the discussion was, except that I
12 obviously went upstairs. That's in my notes.

13 **MS. JONES:** All right.

14 So 14:24 you're at the Leroux residence. In
15 the yard you see a vehicle and in the house C-8 turned over
16 to Officer McDougald a specific type of handgun?

17 **DET. INSP. MILLAR:** Yes.

18 **MS. JONES:** I understand too one of the
19 handguns was actually forecast as being at the residence
20 pursuant to the search warrant?

21 **DET. INSP. MILLAR:** I don't know. I have
22 never compared that gun to what was on the warrant. It
23 doesn't matter anyways; it's a restricted weapon and he had
24 no papers for it.

25 **MS. JONES:** All right. So when you arrive

1 there, though, I'm assuming you're still looking for
2 firearms?

3 **DET. INSP. MILLAR:** Yes.

4 **MS. JONES:** Now, 14:24 you arrive. The next
5 entry then is at 14:35. Am I correct in assuming that
6 McDougald, who's in charge of this search, is busying
7 himself with C-8 ---

8 **DET. INSP. MILLAR:** Yes.

9 **MS. JONES:** --- and doing whatever needs to
10 be done with regards to that particular firearm?

11 **DET. INSP. MILLAR:** Yes.

12 **MS. JONES:** And do you recall at 14:35 going
13 upstairs to do the search?

14 **DET. INSP. MILLAR:** I have in my notes going
15 upstairs at 14:35, yes.

16 **MS. JONES:** I'm wondering if you could just
17 explain for the sake of everyone listening, why you would
18 go searching upstairs, what the process was?

19 **DET. INSP. MILLAR:** Why not? It's got to be
20 searched.

21 **MS. JONES:** Is there a specific reason why
22 you went upstairs first? Did you go upstairs first?

23 **DET. INSP. MILLAR:** Yeah.

24 **MS. JONES:** Okay. Is there a reason why?

25 **DET. INSP. MILLAR:** No reason. The search

1 has to be done. It's a very small house.

2 MS. JONES: Had you had any information
3 before you started the search that there were things other
4 than firearms that would be of interest to you ---

5 DET. INSP. MILLAR: No, ma'am.

6 MS. JONES: --- in that house?

7 DET. INSP. MILLAR: That's ridiculous.

8 THE COMMISSIONER: Well ---

9 DET. INSP. MILLAR: I didn't, sir.

10 THE COMMISSIONER: Well, keep the editorial
11 out.

12 MS. JONES: And when you went upstairs --
13 you said it's a small house -- do you recall if there were
14 one or two bedrooms?

15 DET. INSP. MILLAR: One, as I recall,
16 according to my notes.

17 MS. JONES: And it's stated here just in
18 your search here, the very first thing is:

19 "Searching upstairs closet in by tub.

20 Two tapes - suitcase locked with
21 padlock full of tapes - porno."

22 If we can just leave it there for a second.

23 Was the upstairs closet where you found this
24 suitcase with tapes in it the first place you looked at
25 upstairs when you went up there?

1 **DET. INSP. MILLAR:** I don't recall.

2 **MS. JONES:** And how was it you were able to
3 find this particular item? Could you please describe that?

4 **DET. INSP. MILLAR:** I was searching in the
5 closet. I'm down on my hands and knees because it's open
6 underneath the tub. When I look in underneath the tub I
7 see a little suitcase that is obviously hidden and has a
8 padlock on it. I pull it out. I don't have in my notes
9 that I broke the lock but the odds are very high that I
10 broke the lock.

11 **MS. JONES:** Okay, if I could just stop you
12 there.

13 I just wanted a description because you may
14 recall it confused me as well -- if you're looking at a
15 closet and also you're under a bathtub. Could you describe
16 that please?

17 **THE COMMISSIONER:** So you open the closet --
18 -

19 **DET. INSP. MILLAR:** You open the closet.
20 You go in the closet.

21 **THE COMMISSIONER:** Oh, you go in the closet?

22 **DET. INSP. MILLAR:** Yeah. You get down on
23 your hands and knees because inside the closet there is no
24 wall against the tub. Okay, it's just open tub. Now, if
25 you're having a hard time getting it, everybody else has.

1 The tubs are open on one side and when you go in the
2 bathroom you're closed in, like the tub is actually the tub
3 and then where it meets up against the wall, in this
4 particular house from the top of the tub to the ceiling was
5 wall.

6 THE COMMISSIONER: Yeah.

7 DET. INSP. MILLAR: From the top of the tub
8 to the floor in the closet was open.

9 THE COMMISSIONER: M'hm. So you would have
10 access, I guess, to the tub if you had any plumbing
11 problems ---

12 DET. INSP. MILLAR: Exactly.

13 THE COMMISSIONER: --- or anything like
14 that?

15 DET. INSP. MILLAR: Yeah.

16 THE COMMISSIONER: M'hm.

17 MS. JONES: Okay.

18 THE COMMISSIONER: So in the closet were
19 there things to hang up or shelves or ---

20 DET. INSP. MILLAR: I don't recall.

21 THE COMMISSIONER: Okay.

22 MS. JONES: And so really the suitcase
23 wasn't found per se in the closet; it was found in behind
24 the tub, like in the tub area ---

25 DET. INSP. MILLAR: Under the tub.

1 MS. JONES: --- rather than the closet?

2 DET. INSP. MILLAR: Yes.

3 MS. JONES: So you would have had to
4 presumably maybe part things away to look into this little
5 unwalled area and see the suitcase or ---

6 DET. INSP. MILLAR: I can't recall, but for
7 sure you could see the tub was open, so you're executing a
8 search warrant; perfect spot to hide guns.

9 MS. JONES: And was the suitcase just
10 sitting upright with the handle on top?

11 DET. INSP. MILLAR: Oh, I can't remember
12 that.

13 MS. JONES: And do you remember where the
14 tapes were, the two extra tapes? Were they sitting on top
15 ---

16 DET. INSP. MILLAR: No.

17 MS. JONES: --- of the suitcase?

18 DET. INSP. MILLAR: I don't recall that
19 either. They were in the same location as the suitcase.
20 Whether they were on top or beside or underneath I don't
21 remember.

22 MS. JONES: But they were found together
23 anyway?

24 DET. INSP. MILLAR: Yes.

25 MS. JONES: Certainly according to your

1 description?

2 DET. INSP. MILLAR: Yeah.

3 MS. JONES: And it would appear that you
4 opened up the padlock, just because in your notes you said
5 it was locked with the padlock and the next thing you know,
6 you know there's tapes inside?

7 DET. INSP. MILLAR: Yeah.

8 MS. JONES: So presumably you opened them?

9 DET. INSP. MILLAR: Exactly.

10 MS. JONES: And it would also appear from
11 your notes that it didn't take you long to determine that
12 these tapes appeared to contain pornography?

13 DET. INSP. MILLAR: Yes.

14 MS. JONES: Because the next entry that you
15 have in your book is at 14:42 and you have:

16 "Checking with Project P. No-one in in
17 Toronto."

18 I'm wondering if you could just explain what
19 Project P is?

20 DET. INSP. MILLAR: It's a specialized unit
21 that deals mainly in child pornography.

22 MS. JONES: And why would you be phoning
23 Project P?

24 DET. INSP. MILLAR: I would have some
25 concerns about what's on those tapes that are obviously

1 hidden.

2 MS. JONES: And what made you think that
3 they may contain child pornography?

4 DET. INSP. MILLAR: Just the fact that they
5 were hidden.

6 MS. JONES: Was there anything on the
7 outside, labels or pictures or any sort of description?

8 DET. INSP. MILLAR: I'm sure there had to be
9 for me to make that assumption.

10 MS. JONES: Because you hadn't actually
11 viewed them at that point?

12 DET. INSP. MILLAR: No. I never viewed
13 them.

14 MS. JONES: Pardon me?

15 DET. INSP. MILLAR: I say I never viewed
16 them.

17 MS. JONES: Right. But at that point you
18 hadn't viewed them, certainly?

19 DET. INSP. MILLAR: No, I never viewed them,
20 period.

21 THE COMMISSIONER: He never did. He never
22 did so ---

23 MS. JONES: That's right. But as I say,
24 though, you phoned Project P ---

25 DET. INSP. MILLAR: Yes.

1 **MS. JONES:** --- without the benefit of
2 actually viewing them. So based on something that you saw
3 when you opened the suitcase ---

4 **DET. INSP. MILLAR:** Yes.

5 **MS. JONES:** --- led you to believe that you
6 should contact them. You didn't have success with that it
7 appears?

8 **DET. INSP. MILLAR:** There was no answer.

9 **MS. JONES:** The next entry in your book is:
10 "15:19 - Closet at entrance. Locate
11 old handgun possibly in water for a
12 while. Rust and looks like gold spray.
13 Gave to McDougald."

14 **DET. INSP. MILLAR:** Yes.

15 **MS. JONES:** And when you say "at the
16 entrance", you're back down on the first floor again, I
17 take it?

18 **DET. INSP. MILLAR:** Yes. I was done
19 searching the upstairs.

20 **MS. JONES:** Do you recall if those were the
21 only items that were found on the search; the tapes and the
22 two guns?

23 **DET. INSP. MILLAR:** Yes, I believe that's
24 correct.

25 **MS. JONES:** Now, your next entry is that

1 you're leaving the residence:

2 "C-8 secured residence. McDougald with
3 all evidence."

4 **DET. INSP. MILLAR:** That's correct.

5 **MS. JONES:** So just to get this correct it's
6 -- because it's Officer McDougald's search, it's his
7 evidence and so he's going to be going off now with that?

8 **DET. INSP. MILLAR:** Yes.

9 **MS. JONES:** And your role is now ending?

10 **DET. INSP. MILLAR:** Yeah.

11 **MS. JONES:** Now, it appears on the warrant
12 that you're be only looking for firearms.

13 **DET. INSP. MILLAR:** Yes.

14 **MS. JONES:** Clearly, Officer McDougald was
15 also leaving with some videotapes in a suitcase.

16 **DET. INSP. MILLAR:** Yes.

17 **MS. JONES:** In your opinion was there a
18 lawful authority for seizing those videotapes?

19 **DET. INSP. MILLAR:** Yes, section ---

20 **MS. JONES:** And what was that lawful -- I'm
21 sorry, what was that lawful authority, sir?

22 **DET. INSP. MILLAR:** Section 49 of the
23 *Criminal Code*.

24 **MS. JONES:** And can you just elaborate on
25 what makes you think that you would have had the lawful

1 authority based on that section?

2 DET. INSP. MILLAR: I think it's reasonable
3 to believe that there was evidence of a crime on those
4 tapes because of the way they were hidden, so you could
5 seize them.

6 MS. JONES: Do you recall when you opened up
7 the suitcase that one or possibly two of the tapes were
8 viewed actually at the Leroux residence?

9 DET. INSP. MILLAR: I don't remember that.

10 MS. JONES: Is that possible that that
11 happened?

12 DET. INSP. MILLAR: Sure, it's possible.

13 MS. JONES: Were you aware that Mr. Leroux
14 was out of town at the time of the search?

15 DET. INSP. MILLAR: I don't remember.

16 MS. JONES: Do you know if there was any
17 discussion about why that particular date was chosen for
18 the search?

19 DET. INSP. MILLAR: No.

20 MS. JONES: If we could please go to
21 Document 733052, specifically Bates page 7416?

22 THE COMMISSIONER: Thank you. Exhibit 2595
23 are notes of Detective Inspective Millar. The first date -
24 - oh, it's an interview report ---

25 MS. JONES: Statement.

1 **THE COMMISSIONER:** Oh, it's your statement.
2 And it's dated the 3rd day of December 1998, and the
3 statement is taken by?

4 **MS. JONES:** Pat Hall.

5 **THE COMMISSIONER:** Right, right, Pat Hall.

6 **--- EXHIBIT NO./PIÈCE NO. P-2595:**

7 (733052) - Interview Report of Randy Millar
8 dated 03 Dec 98

9 **MS. JONES:** Do you recall giving this
10 statement, Officer Millar?

11 **DET. INSP. MILLAR:** Yes. Yes, I do. Yeah.

12 **MS. JONES:** We'll just let Madam Clerk get
13 the item on the screen.

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

15 **MS. JONES:** And I'm looking towards the
16 bottom, the bottom half. One of the questions that Officer
17 Hall is actually asking you is:

18 "Why were the videotapes seized?"

19 And your answer then was:

20 "The fact that the suitcase was hidden
21 and locked and suspected of containing evidence of a
22 criminal offence."

23 **DET. INSP. MILLAR:** Yes.

24 **MS. JONES:** Which is consistent with what
25 you said just a moment ago.

1 I'm wondering what criminal offence did you
2 think that those tapes have been involved in?

3 **DET. INSP. MILLAR:** That's probably one of
4 the reasons I was calling Project P and if it contained
5 child pornography -- I couldn't get a hold of Project P so
6 if it contained child pornography it's obviously in the
7 *Criminal Code* somewhere.

8 Now, I didn't seize the tapes. It's as
9 simple as that.

10 **MS. JONES:** True.

11 **DET. INSP. MILLAR:** So my mindset as to
12 whether to seize them or not -- it's Steve McDougald's
13 decision to seize them. If it would have been my decision
14 I would have seized them.

15 **MS. JONES:** I'm just looking as to what's
16 going on in your mind at the time, as I say.

17 **DET. INSP. MILLAR:** Yes.

18 **MS. JONES:** Because your first reaction
19 appears to be calling Project P.

20 **DET. INSP. MILLAR:** Yeah.

21 **MS. JONES:** And your first reaction is these
22 tapes might show something to do with a *Criminal Code*
23 violation.

24 **DET. INSP. MILLAR:** Yes.

25 **MS. JONES:** Do you recall Officer McDougald

1 saying anything to the effect that these tapes might
2 possibly contain local people or children on them?

3 DET. INSP. MILLAR: No.

4 MS. JONES: At this particular point in time
5 when these tapes are being seized as well, were you aware
6 of any connection between Ken Seguin and Ron Leroux?

7 DET. INSP. MILLAR: No.

8 MS. JONES: Were you aware of any connection
9 between Ken Seguin and C-8?

10 DET. INSP. MILLAR: No.

11 MS. JONES: At the time of this search
12 warrant were you aware of any connection between Ron Leroux
13 and Father Charles MacDonald?

14 DET. INSP. MILLAR: No.

15 MS. JONES: Now, after you gave the tapes to
16 Officer McDougald did you have any further involvement with
17 him whatsoever?

18 DET. INSP. MILLAR: No.

19 MS. JONES: Were you aware at all for any
20 reason as to if they were destroyed or when they were
21 destroyed?

22 DET. INSP. MILLAR: No.

23 MS. JONES: I'd like to turn your mind or
24 your attention, please, to Exhibit C-603 which I think you
25 still have there that also contained the Appendices A and

1 B.

2 DET. INSP. MILLAR: Yes.

3 MS. JONES: Document 706164.

4 DET. INSP. MILLAR: Yes.

5 MS. JONES: This is the return that was
6 completed by Steve McDougald on the 10th of February, 1993
7 and had to do with the search warrant at Ron Leroux's
8 residence. And you understand that this return is to list
9 the items that were seized on the search?

10 DET. INSP. MILLAR: Yes.

11 MS. JONES: And you'll see here that the two
12 items that are listed by Officer McDougald are the two
13 firearms that we've discussed just earlier.

14 DET. INSP. MILLAR: Yes.

15 MS. JONES: That C-8 either handed to him
16 and then you found the other one.

17 DET. INSP. MILLAR: Yes.

18 MS. JONES: You'll see that the videotapes
19 or suitcase and the extra two tapes are not listed here.

20 DET. INSP. MILLAR: Yes.

21 MS. JONES: Would you agree with me that
22 typically on a return all items that are seized should be
23 on a return?

24 DET. INSP. MILLAR: They should be, yes.

25 MS. JONES: Okay, thank you.

1 **THE COMMISSIONER:** Did you have anything to
2 do with completing this return, sir?

3 **DET. INSP. MILLAR:** No, sir.

4 **THE COMMISSIONER:** My understanding from
5 Officer McDougald is that -- people will certainly correct
6 me if I'm wrong, that he went away on leave and he thought
7 you were going to do the return? That's news to you?

8 **DET. INSP. MILLAR:** That's news to me, sir.

9 **THE COMMISSIONER:** Okay. So you had nothing
10 to do with the return?

11 **DET. INSP. MILLAR:** I had nothing to do with
12 the tapes or the return.

13 **THE COMMISSIONER:** Okay.

14 **DET. INSP. MILLAR:** When we left the
15 residence that was it for me.

16 **MS. JONES:** And if I could just quickly go
17 to Exhibit 1144, Document 703922?

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

19 **MS. JONES:** Sir, this is a property report
20 and, again, it lists items that were seized at the Leroux
21 residence, specifically the brown suitcase with 20
22 pornographic videos and two loose pornographic videos. And
23 it appears that they were destroyed by fire on or about the
24 4th of May, 1993 according to a notation here.

25 Did you have any knowledge about what

1 happened to this property?

2 DET. INSP. MILLAR: NO.

3 MS. JONES: Okay. You weren't involved at
4 all in any of this; correct?

5 DET. INSP. MILLAR: Not at all.

6 MS. JONES: All right, thank you.

7 Did you have any discussion with Staff
8 Sergeant McWade about the storage or disposal or use of
9 these pornographic tapes after you handed them over to
10 McDougald?

11 DET. INSP. MILLAR: No.

12 MS. JONES: Thank you.

13 The next item we're going to talk about is
14 the Ken Seguin suicide.

15 THE COMMISSIONER: Well, before we go there

16 ---

17 MS. JONES: Sorry.

18 THE COMMISSIONER: --- can I finish this up
19 a little bit, sir?

20 I guess there's some folks that -- the tapes
21 have taken on a life of their own, I suppose.

22 DET. INSP. MILLAR: So I've heard.

23 THE COMMISSIONER: So you've heard. So some
24 folks might say that you went in and you went directly to
25 where those tapes were.

1 DET. INSP. MILLAR: Not true.

2 THE COMMISSIONER: All right.

3 So did you have any, any idea or ulterior
4 motive in going into that home other than executing the
5 search?

6 DET. INSP. MILLAR: No, sir.

7 THE COMMISSIONER: All right.

8 Have you heard any information, hearsay or
9 whatever, about what happened to those tapes, on the issue
10 of the destruction of the tapes?

11 DET. INSP. MILLAR: Have I heard?

12 THE COMMISSIONER: Yeah.

13 DET. INSP. MILLAR: I have no knowledge of
14 it but I've certainly heard some rumours, yeah.

15 THE COMMISSIONER: M'hm.

16 DET. INSP. MILLAR: I heard that -- I heard
17 that I knew they were there, I knew that they contained
18 information about a paedophile ring or something about the
19 island and having sex with kids and then I arranged for
20 them to be seized and then they got burned.

21 THE COMMISSIONER: M'hm.

22 DET. INSP. MILLAR: Destroyed the evidence.
23 That's what I've heard as a rumour.

24 THE COMMISSIONER: Sure, all right.

25 DET. INSP. MILLAR: There's absolutely no

1 truth to that whatsoever.

2 THE COMMISSIONER: Well ---

3 DET. INSP. MILLAR: None.

4 THE COMMISSIONER: Okay, from your part.

5 So now what about the destruction of the
6 tapes themselves? There's some issue about who destroyed
7 them or what. Do you have -- have you ---

8 DET. INSP. MILLAR: I have no knowledge of
9 that, sir.

10 THE COMMISSIONER: No knowledge?

11 DET. INSP. MILLAR: No.

12 THE COMMISSIONER: You haven't heard of
13 anything in the grapevine or anything like that about what
14 happened to those tapes?

15 DET. INSP. MILLAR: No, I sat here and
16 listened to Arthur Lalonde's testimony. That's about all I
17 know.

18 THE COMMISSIONER: Yes. Okay, thank you.

19 We have a motion to be heard at 4:30. It
20 won't take very long, so we'll continue until 4:25, take a
21 short break, and then we'll deal with it.

22 MS. JONES: Now, I understand that you were
23 assigned to the scene of a sudden death at the residence of
24 Ken Seguin in Summerstown, and you were assigned this
25 investigation with, again, Chris McDonell?

1 **DET. INSP. MILLAR:** That's correct.

2 **MS. JONES:** Not McDougald; McDonell.

3 **DET. INSP. MILLAR:** McDonell.

4 **MS. JONES:** Okay. And do you know why you
5 were assigned to this investigation?

6 **DET. INSP. MILLAR:** Chris and I were the
7 only two that did those types of investigation at Lancaster
8 Detachment.

9 **MS. JONES:** And, again, was it a taking turn
10 sort of rotation?

11 **DET. INSP. MILLAR:** Exactly.

12 **MS. JONES:** And for this particular one,
13 though, you were the lead investigator?

14 **DET. INSP. MILLAR:** That's correct.

15 **MS. JONES:** And you had investigated
16 previous suicides or sudden deaths?

17 **DET. INSP. MILLAR:** Yes.

18 **MS. JONES:** Was this a typical sudden death
19 scene when you arrived there?

20 **DET. INSP. MILLAR:** Definitely not.

21 **MS. JONES:** Why is that?

22 **DET. INSP. MILLAR:** Ken Seguin was a very
23 determined man to take his own life. He used scalpels, or
24 a scalpel, a knife, two different types of wire, a skill
25 saw, and finally hung himself with an electrical cord.

1 There was blood -- lots of blood, lots of passive blood;
2 indications where he'd sat and laid in the bathtub smoking
3 cigarettes, with blood-soaked cigarette butts. It was just
4 -- I've never seen anything like it before or since in
5 terms of a suicide.

6 **MS. JONES:** So it was unusual?

7 **DET. INSP. MILLAR:** Yes, it was.

8 **MS. JONES:** I wonder if I could please refer
9 you to Document 725177, which are more notes of yourself,
10 Mr. Millar.

11 **THE COMMISSIONER:** Thank you.

12 Exhibit 2596 is Officer Millar's notes.

13 First date is on the top, 25th of November, '93.

14 **--- EXHIBIT NO./PIÈCE NO. P-2596:**

15 (725177) Notes of Randy Millar dated
16 November 25, 1993

17 **MS. JONES:** Thank you.

18 When you arrived -- I'm sorry, you were
19 advised by Staff Sergeant McWade of the suspicious death,
20 so that brought you there. And, apparently, according to
21 your notes, when you arrived there two officers, Constable
22 Pat Dussault and Sergeant VanderWoude from Lancaster, were
23 already there?

24 **DET. INSP. MILLAR:** That's correct.

25 **MS. JONES:** And I also understand that you

1 had given instructions to Officer Dussault to secure the
2 scene?

3 **DET. INSP. MILLAR:** Yes.

4 **MS. JONES:** Could you please describe what
5 you mean by that, securing the scene?

6 **DET. INSP. MILLAR:** Not allowing anyone to
7 enter the scene other than people that have a reason to be
8 there. For example, ident officers.

9 **MS. JONES:** The coroner?

10 **DET. INSP. MILLAR:** The coroner; exactly.

11 **MS. JONES:** But civilians should also be
12 kept track of, of coming and goings. Would that be also
13 securing the scene?

14 **DET. INSP. MILLAR:** They would not be
15 allowed in the scene, period. Now, the scene can be -- it
16 depends on what you make a scene. In this particular case,
17 we made just the inside of the house the scene, so the
18 outside -- they could walk around outside if they wanted
19 to.

20 **MS. JONES:** When you arrived there, did you
21 notice if there were any civilians in the house?

22 **DET. INSP. MILLAR:** No, I don't recall there
23 being any civilians in the house. I know that Ron Leroux
24 and his girlfriend -- I forget her name ---

25 **MS. JONES:** His wife?

1 **DET. INSP. MILLAR:** His wife who ---

2 **MS. JONES:** Cyndy Leroux?

3 **DET. INSP. MILLAR:** That's it. I know they
4 were there because they found him. Whether they were
5 inside or outside I can't remember.

6 **MS. JONES:** Would it be fair to say that you
7 also wanted Dussault to keep track of people that were sort
8 of coming and going from the scene as well?

9 **DET. INSP. MILLAR:** Yes.

10 **MS. JONES:** And who is assigned to make a
11 search for items on a scene? Relevant items such as a will
12 or other such things?

13 **DET. INSP. MILLAR:** Probably ident would
14 have. As they were processing the scene, they would have
15 kept their eye out, for example, for a suicide note or
16 signs, you know -- first of all, we're treating it as a
17 homicide to start. Then once we rule that out and, in this
18 particular case, close examination of the scene certainly
19 had no indication of homicide.

20 **MS. JONES:** Okay. It was actually ---

21 **DET. INSP. MILLAR:** So now ---

22 **MS. JONES:** Okay.

23 **DET. INSP. MILLAR:** As far as searching the
24 rest of the house, it's done under the authority of the
25 coroner, to look for suicide notes or something that would

1 indicate why did he do this. And Chris and I would have
2 engaged in that, without interrupting the ident officers,
3 of course.

4 **MS. JONES:** And you basically touched on
5 that just a moment ago. Could you please explain, when a
6 police officer arrives at a sudden death how you do treat
7 this. As you said ---

8 **DET. INSP. MILLAR:** As a homicide until you
9 ---

10 **MS. JONES:** --- earlier, and why is that?

11 **DET. INSP. MILLAR:** So you don't lose
12 evidence. It's treated -- the scene is -- should be kept
13 pristine while your ident officers are doing their job of
14 examination.

15 **MS. JONES:** The items -- you list various
16 items and various things on Bates page 8415 but I just want
17 to go to Bates page 8416 at the top. It says:

18 "16:04-Conway arrives and upstairs did
19 not enter bathroom."

20 That's the coroner? Is that right?

21 **DET. INSP. MILLAR:** Yes.

22 **MS. JONES:** And the next entry, "Notes Pat".
23 Are you able to explain what that means, please?

24 **DET. INSP. MILLAR:** I'm not quite sure what
25 that means. Obviously, this is Pat Dussault making contact

1 with Don -- Ron and Cyndy Leroux at 15:10, Doug and Nancy
2 Seguin at 16:00, and Keith Seguin at 16:07.

3 **MS. JONES:** And then C-8?

4 **DET. INSP. MILLAR:** And then C-8, you're
5 right.

6 **MS. JONES:** Was this your first indication
7 that C-8 and Ken Seguin may have had some sort of a
8 linkage?

9 **DET. INSP. MILLAR:** No, I don't -- I don't
10 even know why he was there. I think C-8 and Ron were an
11 item at one time. So I don't know, maybe Ron called him.
12 And it could be -- I don't know.

13 **MS. JONES:** Now, at the bottom of that same
14 Bates page at 16:42 hours it has here, "Interview Ron
15 Leroux".

16 **DET. INSP. MILLAR:** That's right.

17 **MS. JONES:** Were you aware when you did this
18 interview at 16:42, that Officer Dussault had already
19 interviewed Mr. Leroux?

20 **DET. INSP. MILLAR:** Yes.

21 **MS. JONES:** And so you ---

22 **DET. INSP. MILLAR:** I believe so.

23 **MS. JONES:** And the interview goes on for
24 some several pages here. If I could just go to Bates page
25 8418.

1 **DET. INSP. MILLAR:** Yes.

2 **MS. JONES:** I'm sorry, 8420.

3 **DET. INSP. MILLAR:** Yes.

4 **MS. JONES:** Towards the bottom.

5 **DET. INSP. MILLAR:** M'hm.

6 **MS. JONES:** And you asked a highly personal
7 question of Mr. Leroux. And the question was:

8 "Do you think maybe Ken was in love
9 with you and was depressed because you
10 got married and now you're going to
11 Maine?"

12 And the answer was:

13 "No. Ken never made any advances on
14 me. We even went on a trip to the
15 States. He never said or did anything
16 like that."

17 I'm just wondering what would have caused
18 you to think that. Had you had a conversation with
19 somebody about that?

20 **DET. INSP. MILLAR:** No, I think Ron Leroux
21 told me that he was -- he was gay and, of course, I'm
22 trying to find out what's his relation -- like who's he
23 having a relationship with. Does he have a boyfriend or
24 what, you know? And Ken -- or Ron knew where the key was,
25 which led me to believe that they were very close friends,

1 and his statement would also lead me to believe that they
2 were very close friends.

3 **MS. JONES:** Now, these particular notes that
4 I'll just take you very briefly through, are you literally
5 writing these notes ---

6 **DET. INSP. MILLAR:** Yes.

7 **MS. JONES:** --- as you're talking?

8 **DET. INSP. MILLAR:** Yes.

9 **MS. JONES:** So these are completely
10 contemporaneous of what's happening?

11 **DET. INSP. MILLAR:** He's in the cruiser with
12 me and I'm asking the question, writing out the question,
13 and I'm writing out his answer.

14 **MS. JONES:** Now, I spoke to you just a
15 moment ago -- 15:45 when you're first advised by Staff
16 Sergeant McWade of a suspicious death. The next entry I
17 see with Staff Sergeant McWade is at 20:20, which is at
18 Bates page 8425. It's about halfway through the page.
19 And, at this particular juncture, you're actually talking
20 with Emile Robert, who is Mr. Seguin's supervisor.

21 **DET. INSP. MILLAR:** Okay.

22 **MS. JONES:** And you can see that on the
23 previous page actually, and Mr Robert is telling you his
24 version of events, because, as you learned, he had been
25 there earlier at the house. He had tried calling, there

1 was first an engaged signal, then the phone just rang
2 through unanswered.

3 But at this particular point Mr. Robert is
4 telling you:

5 "Learned of Seguin's death from a
6 phone call from Staff Sergeant McWade."

7 Do you see that?

8 **DET. INSP. MILLAR:** Yes.

9 **MS. JONES:** And, I'm just wondering, how
10 would it have been that Staff Sergeant McWade learned of
11 this if you hadn't spoken to him since the dispatch? Or,
12 do you recall having a conversation between that time?

13 **DET. INSP. MILLAR:** No.

14 **THE COMMISSIONER:** Can we leave it there for
15 now?

16 **MS. JONES:** Certainly, yes.

17 **THE COMMISSIONER:** We'll come back at 3:30.
18 You can step down, sir. After the break, I'll deal with
19 the motion, then we'll see where we go.

20 **DET. INSP. MILLAR:** All right.

21 **THE COMMISSIONER:** Thank you.

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

24 This hearing will resume at 4:30 p.m.

25 --- Upon recessing at 4:24 p.m. /

1 L'audience est suspendue à 16h24

2 This hearing is now resumed. Please be
3 seated. Veuillez vous asseoir.

4 --- Upon commencing at 4:33 p.m./

5 L'audience débute à 16h33

6 **THE COMMISSIONER:** So Mr. Millar? Sorry.
7 You are excused for the day. You're not to discuss your
8 testimony with anyone -- I'm sure you know that -- and
9 we'll see you tomorrow morning at 9:30.

10 **DET. INSP. MILLAR:** All right.

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

12 Yes, sir?

13 **MR. DUMAIS:** Yes, Mr. Commissioner.

14 You've seen an application that was served on the Inquiry
15 last week or the week before. It's an application for
16 funding, that was filed by a Mr. Ken MacLennan, and you may
17 remember that Mr. MacLennan appeared last year requesting
18 for standing to deal with an issue regarding your decision
19 on granting funding to the Diocese back in 2005.

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

21 **MR. DUMAIS:** So as I understand it, this
22 application was to obtain financing to file a judicial
23 review on your decision of last summer.

24 So, the first document that I would like to
25 file is the Notice. It's titled, "Notice of Appeal of

1 Rejection of Standing of August 10, 2007." That should be
2 Exhibit 51.1.

3 Now, as well, Mr. MacLellan has provided a
4 second document which is titled, "Rationale for Request for
5 funding." So, he had indicated to me that, rather than
6 making oral submissions, he would write out his thoughts
7 and I could provide that to you.

8 And the third document, which is a document
9 that I received this afternoon, is a "Withdrawal of
10 Application for Funding," so my understanding is that Mr.
11 MacLennan was essentially withdrawing his application, and
12 that should be filed as Exhibit 51.3.

13 Notwithstanding his withdrawal,
14 Mr. MacLennan, who is present in the hearings room,
15 indicated that he wanted to address the matter before you.

16 **THE COMMISSIONER:** All right.

17 Mr. MacLennan? Where's Mr. MacLennan?

18 ---NOTICE OF APPEAL OF REJECTION OF STANDING OF AUGUST 10TH,
19 2007 PRESENTED BY/AVIS D'APPEL DU REJET DE SIÈGER DU 10
20 AOÛT, 2007 PRÉSENTÉ PAR R. MacLENNAN

21 **MR. MacLENNAN:** I'm sorry, Mr. Commissioner.
22 I'm a little bit hearing-impaired. Did you ask that the
23 documents be filed as part of the record? Thank you very
24 much.

25 **THE COMMISSIONER:** Yes.

1 **MR. MacLENNAN:** I'm here, Mr. Commissioner,
2 not by choice, but as you are aware I made application to
3 the Ontario Judicial Council ---

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

5 **MR. MacLENNAN:** --- on what I perceived as
6 your misconduct in not providing your reasons
7 for -- financial reasons for funding of the Diocese ---

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

9 **MR. MacLENNAN:** --- and also for what I
10 perceived as a contradictory comment on whether you used or
11 did not use religious law. And the Ontario Judicial
12 Council dismissed my application and, in effect, they said,
13 that I should -- that it was an appeal ---

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

15 **MR. MacLENNAN:** --- they attributed it as an
16 appeal, for my request for standing.

17 Well, I'm not interested -- I wasn't
18 interested in a request for standing, which I indicated
19 before. So it's not by choice I appear here, but I appear
20 here because I think some of the problems that may have
21 caused you to not provide your financial reasons, and maybe
22 making, in my view, contradictory comments, was as a result
23 of the flawed government's means test, a result of the
24 Diocese making an argument that -- you know, separating
25 religious and financial was not religious law.

1 And then, it appears as if the judicial
2 system has a policy that you are not required to provide
3 your reasons, and actually -- but the Ontario Judicial
4 Council, I asked for their reasons for dismissing my
5 application, or misinterpreting it, and they refused to
6 give me the reasons.

7 So, I felt as if I had no choice to appear,
8 but it's not -- it's not my choice. But, I thought it
9 would be useful for me to appear, simply to point out those
10 areas, and I won't go into detail ---

11 **THE COMMISSIONER:** No.

12 **MR. MacLENNAN:** --- that may have
13 contributed or limited your ability.

14 In other words, I'm trying to be sympathetic
15 to you. I -- maybe you need some sympathy, I'm not sure,
16 but ---

17 **THE COMMISSIONER:** I am in need of
18 something.

19 **MR. MacLENNAN:** --- I'm not intending to be
20 punitive in nature ---

21 **THE COMMISSIONER:** No.

22 **MR. MacLENNAN:** --- I want to be positive,
23 and I guess in my application of withdrawal, in effect I
24 said in my view you **made me** a victim and not an offender of
25 some of these -- whatever I feel may have been missteps.

1 So, my major concern then is that
2 the -- going to Divisional Court would not solve those
3 problems. It would not solve what I consider may have
4 contributed to what I may see wrong or -- or, correctly, is
5 your problem, and that is the flawed government's means
6 test, and I think I've pretty well outlined why I've said
7 that.

8 And the reason I make that point is that the
9 City of Cornwall Ratepayers, in my view, are being
10 discriminated by the government, and I've communicated with
11 Ministr Bryant, and he described the test as "principled
12 flexibility." And, it seemed to me, that if -- the test of
13 principled flexibility, it seemed to me that Minister
14 Bentley should apply the same principled flexibility to the
15 City of Cornwall. That will not be solved if I did proceed
16 to Divisional court.

17 The second thing I think is a broader
18 question, and that's the judicial system.

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

20 **MR. MacLENNAN:** It seems to me that if you
21 make -- for example, when you make your recommendations,
22 I'd like to think -- I realize it's not -- it's not an easy
23 task -- that you will provide some of the factual evidence
24 that would support your recommendations.

25 And I would like to think that the Ontario

1 Judicial Council, for example, would have simply said,
2 "Ken, that is not judicial misconduct; that is whatever."
3 But they refused to give me any, you know -- which -- you
4 know, for a private citizen, to not give a reason and then
5 simply say, "You have to go to Divisional Court," to me,
6 that's an abuse of power, Mr. Commissioner.

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

8 **MR. MacLENNAN:** So I just wanted to publicly
9 make that statement and I wanted to express my support for
10 you and -- in terms of -- I know it's a difficult task,
11 and -- and I wish you well in your future deliberations,
12 and I thank you, Mr. Commissioner.

13 **THE COMMISSIONER:** Thank you very much,
14 Mr. MacLennan.

15 So I have noted that the application has
16 been withdrawn. The application has been withdrawn?

17 **MR. MacLENNAN:** Yes. Yes, I thank you.

18 **THE COMMISSIONER:** And so all is on order on
19 that issue.

20 **MR. MacLENNAN:** Yes, I appreciate that.

21 **THE COMMISSIONER:** Thank you very much, sir.

22 **MR. MacLENNAN:** Well, thank you. Thank you.

23 **THE COMMISSIONER:** All right. Okay, so on
24 that note, we'll -- do you have anything else, Mister ---

25 **MR. DUMAIS:** No, nothing today.

1 **THE COMMISSIONER:** No? All right. Well,
2 we'll call it a day, and thank you.

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

5 This hearing is adjourned until tomorrow
6 morning at 9:30 a.m.

7 --- Upon adjourning at 4:41 p.m. /

8 --- L'audience est ajournée à 16h41

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C E R T I F I C A T I O N

I, Dale Waterman a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Dale Waterman, CVR-CM