

**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 288

Held at :

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

Thursday, October 16, 2008

Tenue à:

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

Jeudi, le 16 octobre 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
Ms. Suzanne Sinnamon	Commission Counsel
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach Ms. Jodie-Lynn Waddilove	Attorney General for Ontario
Mr. Peter Chisholm Ms. Michele R.J. Allinotte	The Children's Aid Society of the United Counties
Mr. Juda Stawczynski	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Ian MacLean	CAS

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

2 L'audience débute à 9h34

3 **THE REGISTRAR:** This hearing of the
4 Cornwall Public Inquiry is now in session. The Honourable
5 Mr. Justice Normand Glaude, Commissioner, presiding.

6 Please be seated. Veuillez vous asseoir.

7 **IAN MacLEAN, Resumed/Sous le même serment:**

8 **THE COMMISSIONER:** Thank you.

9 Good morning, all.

10 **MR. MacLEAN:** Good morning, sir.

11 **THE COMMISSIONER:** Mr. Engelmann.

12 **MR. ENGELMANN:** Good morning, Mr.

13 Commissioner.

14 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
15 **ENGELMANN (cont'd/suite):**

16 **MR. ENGELMANN:** Good morning, Mr. MacLean.

17 **MR. MacLEAN:** Good morning.

18 **MR. ENGELMANN:** Sir, when we left off
19 yesterday we were dealing with your work with the Second
20 Street Group Home?

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

22 **MR. ENGELMANN:** Perhaps just to start there
23 for a minute, were some of the wards -- we talked about the
24 fact that there were approximately six ---

25 **MR. MacLEAN:** Yes, I believe there were.

1 **MR. ENGELMANN:** --- and four or five of them
2 were female?

3 **MR. MacLEAN:** Yes.

4 **MR. ENGELMANN:** Some of those were the same
5 wards that had been there before you were hired?

6 **MR. MacLEAN:** Yes, they were.

7 **MR. ENGELMANN:** Right.

8 And my question to you is, did you have
9 anything to do with the placement of any of these wards in
10 other homes or other facilities?

11 **MR. MacLEAN:** No, I didn't.

12 **MR. ENGELMANN:** And who would have been
13 responsible for that?

14 **MR. MacLEAN:** That would have been the
15 caseworker and their supervisor.

16 **MR. ENGELMANN:** All right.

17 So each of them would have had an individual
18 caseworker?

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

20 **MR. ENGELMANN:** And if they were moved
21 somewhere else, even outside of Cornwall to elsewhere in
22 the province, that would have been their caseworker that
23 would have been involved in that decision-making?

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

25 **MR. ENGELMANN:** You had nothing to do with

1 that, sir?

2 MR. MacLEAN: No, I didn't.

3 MR. ENGELMANN: All right.

4 And you indicated to us that you didn't
5 really become aware of the full extent of the allegations
6 until there was an investigation by the Cornwall Police
7 sometime in 1994?

8 MR. MacLEAN: That's correct.

9 MR. ENGELMANN: And until then you had just
10 known that there had been disciplinary action taken and
11 that, essentially, the staff of the Second Street Group
12 Home had all been terminated?

13 MR. MacLEAN: That's correct, yes.

14 MR. ENGELMANN: And the investigation that
15 would have taken place, sir, were you aware that that was
16 as a result of allegations made by Jeannette Antoine, who
17 was -- who had been a ward of the Second Street Group Home?

18 MR. MacLEAN: I became aware of that, yes.

19 MR. ENGELMANN: All right.

20 And it's my understanding, sir, that the
21 investigation would have looked at allegations both -- at
22 the Second Street Group Home both before you arrived and
23 also some after you arrived?

24 MR. MacLEAN: Yes, that's correct.

25 MR. ENGELMANN: Is that correct?

1 **MR. MacLEAN:** I understand that.

2 **MR. ENGELMANN:** And during the
3 investigation, were you aware that allegations of sexual
4 abuse were made against at least one of the staff members
5 who would have been on staff when you were the liaison?

6 **MR. MacLEAN:** This is in '94?

7 **MR. ENGELMANN:** Yes.

8 **MR. MacLEAN:** The investigation in '94? I
9 can't recall that that was disclosed to me during my
10 interview.

11 **MR. ENGELMANN:** All right.

12 So you can't recall now, sir, whether you
13 were advised in 1994 that John Primeau, who had been a
14 staff member there, had allegedly abused some of the wards?

15 **MR. MacLEAN:** Certainly, I was aware -- I
16 was asked questions about Mr. Primeau.

17 **MR. ENGELMANN:** Right.

18 **MR. MacLEAN:** But I cannot recall being
19 aware that there was allegations.

20 **MR. ENGELMANN:** Sir, do you have Exhibit
21 2210 handy? If he doesn't, if that could be provided?

22 **THE COMMISSIONER:** I think he wants to take
23 you to a statement at 5441. So if you look on the top
24 left-hand corner, there's a bunch of numbers there.

25 **MR. MacLEAN:** Yes.

1 **THE COMMISSIONER:** And so the Bates pages
2 ends with 5441.

3 **MR. ENGELMANN:** Actually, just before that,
4 Mr. Commissioner ---

5 **THE COMMISSIONER:** Okay.

6 **MR. ENGELMANN:** --- there's one other one
7 I'd like to take him to, if I may, at 341.

8 **THE COMMISSIONER:** Best laid plans of mice
9 and men.

10 **MR. MacLEAN:** At 341?

11 **MR. ENGELMANN:** Yeah, 441 is your statement.

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** That's fair enough.

14 Do you have 341 handy?

15 **MR. MacLEAN:** It's coming up.

16 **MR. ENGELMANN:** So you'll see in the second
17 paragraph there's a reference to one of the wards in that
18 first line where the arrow is:

19 "On Thursday March 17th, 1994 at nine
20 o'clock I met with..."

21 Do you see that?

22 **MR. MacLEAN:** I'm sorry, I don't. On Bates
23 page 341?

24 **MR. ENGELMANN:** Right. It's on the screen,
25 right where the marker is.

1 **THE COMMISSIONER:** So it says "Residents in
2 Alberta".

3 **MR. MacLEAN:** Yes.

4 **THE COMMISSIONER:** The next paragraph. And
5 that's ---

6 **MR. ENGELMANN:** "On Thursday March 17th..." -
7 --

8 **MR. MacLEAN:** Yes.

9 **MR. ENGELMANN:** It's indicating one of the
10 girls who was a ward at the time.

11 **MR. MacLEAN:** Yes.

12 **MR. ENGELMANN:** And I don't know if that
13 name rings a bell, sir?

14 **MR. MacLEAN:** It's familiar.

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

16 And if you look at the bottom of the page,
17 right where the marker is, again, she indicates some sexual
18 touching by Mr. Primeau. Do you see that?

19 **MR. MacLEAN:** I see that, yes.

20 **MR. ENGELMANN:** And, as well, if we flip
21 over to the next page, 342, again, at the top of the page,
22 again, an indication of a sexual assault of some sort;
23 correct?

24 **MR. MacLEAN:** Yes.

25 **MR. ENGELMANN:** And then, sir, if we flip

1 ahead to Bates page 346 -- I'm just giving you a couple of
2 examples.

3 Right at the middle of the page, "At 14:35
4 hours I met with..." -- do you see that name?

5 MR. MacLEAN: Yes.

6 MR. ENGELMANN: That was another ward at the
7 time?

8 MR. MacLEAN: Yes, that's correct.

9 MR. ENGELMANN: And she describes some of
10 her experiences. A group home worker by the name of John
11 who would fondle her. Do you see that?

12 MR. MacLEAN: Yes.

13 MR. ENGELMANN: And then in the next
14 paragraph, again, when he would restrain her, again, he
15 would touch her; and the paragraph underneath that as well.

16 And there's also the indication that he
17 would spy on the girls when they would take a shower.

18 MR. MacLEAN: Yes.

19 MR. ENGELMANN: So these are some of the

20 ---

21 MR. MacLEAN: Yes.

22 MR. ENGELMANN: So, sir, were you not made
23 aware of these allegations during the course of the
24 investigation in 1994?

25 MR. MacLEAN: I didn't know this until I

1 read it in preparation for the hearing.

2 MR. ENGELMANN: All right.

3 So just very recently?

4 MR. MacLEAN: Very recently.

5 MR. ENGELMANN: All right.

6 So you were not aware of any actual sexual
7 misconduct ---

8 MR. MacLEAN: No, I wasn't.

9 MR. ENGELMANN: --- at the time. Is that
10 what you're telling us?

11 MR. MacLEAN: That's correct.

12 MR. ENGELMANN: And when I say "at the
13 time", I mean back in 1976?

14 MR. MacLEAN: In '76, that's correct.

15 MR. ENGELMANN: However, when you were
16 interviewed by Constable White -- and if we could turn back
17 to -- it's Bates page ---

18 THE COMMISSIONER: Four-four-one (441).

19 MR. ENGELMANN: --- 441. Thank you.

20 MR. MacLEAN: Yes, I have it.

21 MR. ENGELMANN: And 442.

22 You did indicate to Constable White that
23 there were some problems with Mr. Primeau?

24 MR. MacLEAN: That's correct.

25 MR. ENGELMANN: And, in fact, you set that

1 out at -- it's Bates page 442:

2 "I can remember having some problems
3 with one of the workers in the group
4 home, John Primeau. Mr. Primeau was a
5 stubborn individual, liked to do
6 everything his own way. One of his
7 practices was to take a child from the
8 group home out on outings. He did this
9 especially with the girls."

10 And then sure enough one of the two that
11 I've just taken you to is mentioned here?

12 **MR. MacLEAN:** Yes.

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

14 "I was against this practice and had
15 advised John to refrain from doing it,
16 however, he did not always comply.
17 However, I had no recollection of
18 anyone ever making a complaint against
19 him for any wrongdoing."

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

21 **MR. ENGELMANN:** All right.

22 So you had some concerns?

23 **MR. MacLEAN:** I had certainly concerns.

24 **MR. ENGELMANN:** And he was not following the
25 rules, if I can call them that, at the time?

1 **MR. MacLEAN:** Yes, one of my first -- if I
2 can just enlarge on this.

3 One of my first goals was to develop a
4 teamwork atmosphere amongst the staff. It seemed as I went
5 in and observed in the first couple of weeks, that
6 everybody was doing their own thing. As I mentioned
7 yesterday, there was little routine.

8 And so I well remember many meetings around
9 the dining room table with the three fellows trying to
10 establish -- and it was very simple, basic, daily routine,
11 what time will the kids get up in the morning -- you know,
12 what time is bed time. You know, what are they going to
13 do; you know, when will they -- will they assist in helping
14 with meals, clean up afterward, cleaning up their room.

15 So it was very basic routine and we would
16 decide on a procedure, on a routine, and then I would come
17 back and it would be usually Mr. -- well, it was always Mr.
18 Primeau that had not followed the routine that we had all
19 agreed to.

20 **MR. ENGELMANN:** All right. I'm particularly
21 concerned about routines involving him being alone with
22 some of those female wards.

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

24 **MR. ENGELMANN:** Because you've already told
25 us ---

1 MR. MacLEAN: Yes.

2 MR. ENGELMANN: --- you didn't know about
3 the allegations that these female wards, or these wards,
4 had been that led to the firing or termination of your --
5 of people before you.

6 MR. MacLEAN: That's correct.

7 MR. ENGELMANN: You weren't aware of
8 allegations of physical and/or sexual abuse?

9 MR. MacLEAN: No. I knew of excessive
10 discipline.

11 MR. ENGELMANN: All right.

12 MR. MacLEAN: Yes.

13 MR. ENGELMANN: So you were aware that there
14 had been excessive discipline?

15 MR. MacLEAN: But not the detail.

16 MR. ENGELMANN: All right.

17 MR. MacLEAN: Yes.

18 MR. ENGELMANN: And, sir, you observed
19 Mr. Primeau leaving the premises with wards from time-to-
20 time?

21 MR. MacLEAN: No. I would come back and
22 read in the log book but that ---

23 MR. ENGELMANN: That he had signed himself
24 out with one of these girls?

25 MR. MacLEAN: Yes, or Al Herrington or Ray

1 Houde, two other staff fellows who would write and would
2 say that John had taken someone out and ---

3 MR. ENGELMANN: Would it say where?

4 MR. MacLEAN: I can't recall that.

5 MR. ENGELMANN: All right.

6 MR. MacLEAN: No.

7 MR. ENGELMANN: And when you noted this, you
8 would confront him from time-to-time, sir?

9 MR. MacLEAN: I would, and we would confront
10 together in our group meetings as well.

11 MR. ENGELMANN: And did you ask him where he
12 went with the girls?

13 MR. MacLEAN: I can't recall that. I am
14 sure that the discussion was open and he would have a
15 place, but that detail I cannot recall.

16 MR. ENGELMANN: Did you ask him why he
17 continued to do this when he knew or when you had indicated
18 to him that he wasn't to do it?

19 MR. MacLEAN: I don't know whether I left
20 him with that privilege of explaining why. I was saying,
21 "This is dangerous. This is not something we should be
22 doing. We have decided as a group not to do this." And it
23 would be around that type of a discussion.

24 MR. ENGELMANN: All right. Did you ever
25 indicate to him that there would be any discipline of any

1 sort if he continued to do this?

2 MR. MacLEAN: No, I didn't, but I did bring
3 it down to Mr. Devlin, our supervisor, the supervisor that
4 was supervising those four individuals, myself and the
5 three ---

6 MR. ENGELMANN: All right. So you made your
7 supervisor aware of it?

8 MR. MacLEAN: Very much so.

9 MR. ENGELMANN: Did you indicate to
10 Mr. Primeau that you were making Mr. Devlin aware of it?

11 MR. MacLEAN: I don't recall that, but I
12 would.

13 MR. ENGELMANN: All right. And did you ever
14 bring it to the attention of Mr. Devlin's supervisor?

15 MR. MacLEAN: No, I don't believe so.

16 MR. ENGELMANN: And who would that have
17 been?

18 MR. MacLEAN: That would have been
19 Mr. O'Brien.

20 MR. ENGELMANN: All right.

21 MR. MacLEAN: That's after he came back, and
22 he was back when I started at the end of June. That's
23 correct.

24 MR. ENGELMANN: All right. So do you know
25 if Mr. O'Brien was aware of this pattern of conduct on the

1 part of John Primeau?

2 MR. MacLEAN: I'm not aware of that, no.

3 MR. ENGELMANN: All right.

4 Sir, you indicated that some of what I just
5 would have shown you did not -- you did not become familiar
6 with until your preparation for this Inquiry. I'm
7 wondering if you could have a look at -- it's Document
8 Number 739292.

9 THE COMMISSIONER: You won't have that, sir.

10 MR. MacLEAN: Okay.

11 THE COMMISSIONER: It's a new document.

12 Thank you.

13 Exhibit 2391 is a Memo to File. The case is
14 Antoine/Lapointe dated November 7th, 1994.

15 --- EXHIBIT NO./PIÈCE NO. P-2391:

16 (739292) Memo to File of Rick Abell re
17 Antoine dated November 7, 1994

18 MR. ENGELMANN: Sir, it's my understanding
19 this is a Memo to File of Rick Abell?

20 MR. MacLEAN: That's correct.

21 MR. ENGELMANN: And you've seen this
22 document?

23 MR. MacLEAN: In preparation for this.

24 MR. ENGELMANN: All right, not at the time -

25 --

1 **MR. MacLEAN:** No.

2 **MR. ENGELMANN:** --- but you've seen it
3 recently?

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

5 **MR. ENGELMANN:** In it he says that he spoke
6 with you on November 3rd, '94 and gave you the results of
7 the police investigation.

8 **MR. MacLEAN:** Yes, that's correct.

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

10 So -- and you were aware, sir, that charges
11 did not proceed against Mr. Keough as a result of this
12 investigation?

13 **MR. MacLEAN:** I became of aware of that,
14 yes.

15 **MR. ENGELMANN:** Right. Aside from giving
16 you the results of the investigation, would he have
17 explained to you some of the details and some of the
18 allegations that arose?

19 **MR. MacLEAN:** Not that I recall.

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

21 **MR. MacLEAN:** That came when I read the
22 detail here in Mr. White's -- Constable White's ---

23 **MR. ENGELMANN:** The reason I ask is because
24 he's specifically asking you about John Primeau when he
25 says:

1 "I asked him..."

2 this would be you, Mr. MacLean.

3 **MR. MacLEAN:** Yes.

4 **MR. ENGELMANN:** "... if during that time
5 there had been any allegations of
6 sexual abuse/misconduct by group home
7 staff. He said none. He, Ian, did
8 find John Primeau difficult to get in
9 line with other staff, e.g. rule was
10 that no males were to be alone with
11 female residents. Primeau would do so
12 anyway. Example, as escort on trips to
13 the park."

14 All right.

15 **MR. MacLEAN:** Yes, I see that now.

16 **MR. ENGELMANN:** So when he's asking you
17 about that and this discussion turns to John Primeau,
18 Mr. Abell doesn't tell you about these allegations that
19 have come to light?

20 **MR. MacLEAN:** Not that I recall, sir, no.

21 **MR. ENGELMANN:** All right.

22 And was this a rule or was this just a
23 practice that the workers were not to take the wards out on
24 trips on their own?

25 **MR. MacLEAN:** In my capacity at that time I

1 would say it was a practice that we should be doing as wise
2 workers.

3 MR. ENGELMANN: All right. But it was well
4 known?

5 MR. MacLEAN: Oh, it was very well known.

6 MR. ENGELMANN: That this was a rule, for
7 lack of a better term?

8 MR. MacLEAN: Yes.

9 THE COMMISSIONER: Was the rule you can't --
10 a male worker can't go out with a female ward, or was it
11 that no worker could go out with a ward alone?

12 MR. MacLEAN: It was more directed in the
13 male-female.

14 THE COMMISSIONER: M'hm.

15 MR. MacLEAN: Because we did have lads,
16 young fellows there, and I didn't see it as a problem and
17 the others didn't see it as a problem to have one male
18 worker go out with a male youth.

19 THE COMMISSIONER: M'hm.

20 MR. MacLEAN: Yes.

21 MR. ENGELMANN: So the concern was more
22 heterosexual abuse at that time than same-sex abuse?

23 MR. MacLEAN: That's correct, yes.

24 MR. ENGELMANN: You acknowledge, of course,
25 sir, that that can happen as well?

1 **MR. MacLEAN:** Oh, indeed. I'm fully aware
2 of that.

3 **MR. ENGELMANN:** And, sir, at the time you
4 thought what he was doing -- "he" being Mr. Primeau ---

5 **MR. MacLEAN:** Yes.

6 **MR. ENGELMANN:** --- was a dangerous
7 practice?

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

9 **MR. ENGELMANN:** And, as you said, you
10 advised him not to do this, and do you recall on how many
11 occasions that might have been?

12 **MR. MacLEAN:** The period of time would be
13 from, I would say, late July to -- and this is -- I'm just
14 estimating times here.

15 **MR. ENGELMANN:** Yes.

16 **MR. MacLEAN:** To the point where we hired a
17 female staff, and that was in early September.

18 **MR. ENGELMANN:** All right, so it was the
19 summer of 1976?

20 **MR. MacLEAN:** Yes. And so the frequency of
21 times -- I know it came up in more than one of our unit
22 staff meetings.

23 **MR. ENGELMANN:** You certainly indicate that
24 in your statement.

25 **MR. MacLEAN:** Yes.

1 **MR. ENGELMANN:** That this happened on more
2 than one occasion.

3 **MR. MacLEAN:** Yes, that's correct.

4 **MR. ENGELMANN:** Did you have some concerns
5 about leaving him in the home in light of this behaviour?

6 **MR. MacLEAN:** The more I worked with John,
7 the higher my anxiety level became, yes, and that was not
8 necessarily what I felt that he was doing; it was his
9 demeanour, his -- he was down at the office a great many
10 times as well. There were a number of alerts and I can't
11 recall them but I know that I felt much more comfortable
12 when we had female staff on ---

13 **MR. ENGELMANN:** Right.

14 **MR. MacLEAN:** --- that would be able to then
15 be the eyes and ears for me.

16 **MR. ENGELMANN:** So you remember some red
17 flags. You're just not sure what some of them were.

18 **MR. MacLEAN:** Yes.

19 **MR. ENGELMANN:** And, sir, given those
20 concerns and given the fact that he wasn't listening to you
21 and he was continuing to breach this rule and engage in
22 what you labelled a dangerous practice, did you take any
23 steps to ensure that girls knew their rights, these girls
24 that he might be taking out?

25 **MR. MacLEAN:** No, I did not.

1 **MR. ENGELMANN:** And you didn't question them
2 at all about what might have happened during these outings
3 with him, did you?

4 **MR. MacLEAN:** No, I didn't but there was
5 opportunity for them to speak to me.

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

7 **MR. MacLEAN:** Yes.

8 **MR. ENGELMANN:** But you've heard in this
9 hearing, and you'd be well aware of this, that often
10 children or youths who are abused don't come forward with
11 the allegations.

12 **MR. MacLEAN:** I'm aware of that.

13 **THE COMMISSIONER:** But just for the record,
14 what do you mean by there was ample opportunity?

15 **MR. MacLEAN:** I would be on duty and I would
16 be sitting around in the lounge, the living room. It
17 didn't happen very often. I think they knew that I was not
18 a shift staff. I was a fill-in.

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

20 **MR. MacLEAN:** I began developing
21 relationships with one of the girls there as far as a case
22 worker was concerned. The case was assigned to me. So I
23 was building a rapport and a trust with the residents, yes.

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

25 **MR. ENGELMANN:** Sir, one of the allegations

1 we looked at and this was at Bates page 346, it was the
2 second of the two girls that we looked at. Part of the
3 allegation that she had was that she was fondled when he
4 was restraining her, and actually sitting on her.

5 MR. MacLEAN: Yes.

6 MR. ENGELMANN: Do you recall that?

7 MR. MacLEAN: Yes.

8 MR. ENGELMANN: And were you aware, sir, at
9 that time that one of the methods of restraint that was
10 being used by these three men was to actually sit on the
11 wards?

12 MR. MacLEAN: Unfortunately, I hadn't
13 observed any and I was not aware of the technique. I don't
14 believe that they were using -- I knew there were
15 restraints but the exact how I wasn't, and I didn't go into
16 that.

17 I was a trained -- I was trained in
18 restraint myself and in the period of time, as I said, our
19 focus was at the beginning -- and this was in June or July
20 and the latter part of July and August, September -- was
21 developing the programme and developing some policies. We
22 talked about steering away from any restraint.

23 THE COMMISSIONER: But as far as restraints
24 went, are you saying that sitting on someone is not an
25 option?

1 **MR. MacLEAN:** It depends. Certainly if a
2 female is being restrained and a male is the -- and I have
3 restrained, with a female, a young lady in Belleville and I
4 certainly was very careful that -- and this was a suicidal
5 youth and we needed to do this for safety purposes. And
6 the female worker with me held her shoulders and this was
7 in a laying down position and I held her feet and there was
8 no -- and that's the way we were trained to sit on a child
9 who needed that and there's been investigations into the
10 smothering of some youth that ---

11 **THE COMMISSIONER:** Right.

12 **MR. MacLEAN:** --- if that kind of restraint
13 is used. There's correct ways and there's not correct
14 ways.

15 **THE COMMISSIONER:** So is sitting on someone
16 a not correct way?

17 **MR. MacLEAN:** I would say so, yes.

18 **THE COMMISSIONER:** Okay.

19 **MR. ENGELMANN:** Sir, the reason I asked you
20 about it is, again, if you look at -- it's Bates page 431
21 of Exhibit 2210, and this is the statement of one of the
22 workers, Raymond Houde, and he's describing this being a
23 common practice.

24 If you look at page 431, it's 7175431.

25 **THE COMMISSIONER:** Hang on a second.

1 **MR. ENGELMANN:** Sir, I'm just again
2 wondering if you were aware that the -- not just the
3 discipline that was being invoked prior to your arrival but
4 also the method of restraints that had been used had been a
5 concern with prior staff? Were you made aware of that?

6 **MR. MacLEAN:** I'm sorry?

7 **MR. ENGELMANN:** Were you made aware when you
8 started that part of the problem with the prior staff that
9 was no longer there was how they had restrained the wards?

10 **MR. MacLEAN:** It wasn't so much -- it was --
11 the term used was excessive discipline ---

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

13 **MR. MacLEAN:** --- and that was as far as
14 that went.

15 **MR. ENGELMANN:** Okay. So again, if we look
16 at Bates page 431, he says:

17 "At times they become aggressive..."

18 **THE COMMISSIONER:** You've got show him
19 where.

20 **MR. ENGELMANN:** I'm sorry?

21 **THE COMMISSIONER:** Okay.

22 **MR. ENGELMANN:** Yeah, it's second and third
23 paragraphs and when he talks about the restraints, this was
24 done by having the resident lie flat on their stomach with
25 their hands behind their back. The worker would then sit

1 on them, and it goes down:

2 "The method was shown to me by John
3 Primeau and all the workers in the home
4 used it. Whenever someone in the group
5 home required discipline or was causing
6 problem of some kind, it was recorded
7 in a daily journal."

8 Now, you would look at the journal from time
9 to time?

10 **MR. MacLEAN:** Yes, I would.

11 **MR. ENGELMANN:** All right. And would there
12 not be notations about the use of restraints?

13 **MR. MacLEAN:** It would be -- the statement
14 would be so and so was restrained.

15 **MR. ENGELMANN:** All right. It wouldn't
16 describe how?

17 **MR. MacLEAN:** Sometimes it would be the
18 length of time but -- or only briefly or that kind of
19 thing. It would not go into the detail of how, that I'm
20 aware of.

21 **MR. ENGELMANN:** All right. You're saying
22 you weren't aware of this allegedly common practice that
23 was being used?

24 **MR. MacLEAN:** No, no.

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

1 **MR. MacLEAN:** I have seen restraint as well
2 -- I'll step back for a moment. On males, larger males and
3 where a single individual is doing it, ---

4 **MR. ENGELMANN:** Yes.

5 **MR. MacLEAN:** --- and sometimes there has to
6 be that -- and it's approved as well where the hands are
7 held behind.

8 **MR. ENGELMANN:** Yes.

9 **MR. MacLEAN:** You straddle the child and --
10 but sitting on is adding pressure and the worker is to be
11 in control of his body, okay?

12 **MR. ENGELMANN:** Right.

13 **MR. MacLEAN:** And is attempting to control,
14 and you're not supposed to use excessive. I would say to
15 sit on that's putting your weight onto him as well.

16 **MR. ENGELMANN:** All right. But clearly
17 there were restraint techniques that were taught?

18 **MR. MacLEAN:** Yes.

19 **MR. ENGELMANN:** Because they were necessary
20 to use from time to time?

21 **MR. MacLEAN:** Yes.

22 **MR. ENGELMANN:** But this wasn't one that you
23 were familiar with and you're telling us you weren't aware
24 that it was a widespread practice.

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

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

2 And, sir, I believe you've already indicated
3 this but you were not aware about workers spying on girls
4 when they were taking showers?

5 **MR. MacLEAN:** Not at all.

6 **MR. ENGELMANN:** You only became aware in
7 reviewing this material?

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

9 **MR. ENGELMANN:** Now, sir, again and this is
10 in the Crown brief, Exhibit 2210. This is at page ---

11 **THE COMMISSIONER:** Sir, if you look in your
12 book, 2210 is a couple of exhibits that way. Yeah.

13 And what page, Mr. Engelmann?

14 **MR. ENGELMANN:** Three five four (354) and
15 this is in the supplementary occurrence report authored by
16 Shawn White. Right at the top of the page there's a
17 reference to a Sergeant Lefebvre meeting with you and it's
18 indicated:

19 "MacLean went on to describe how he
20 recommended and went about the
21 termination of the group home."

22 Do you see that?

23 **MR. MacLEAN:** Yes.

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

25 You were involved in recommending the

1 termination of this group home?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: And do you recall, sir, when
4 that would have been and why?

5 MR. MacLEAN: That would have been -- I was
6 asked to bring a report to the Services Committee of the
7 Board -- I believe that's what it was called at that time -
8 - in, it could be November or December of '76. At that
9 time, I was hearing from Mr. O'Brien that with the addition
10 of the two female staff, we were now five plus Mrs. Pelkey,
11 that we were becoming overpriced as far as the cost of
12 running a group home for the Agency was concerned.

13 At that time I spoke, I believe it would be
14 with Mr. O'Brien, about the possibility of developing
15 parent model group homes using existing or new foster
16 parents who had homes that could care for six, eight
17 children at a time. He asked me to explore that and put
18 together a business proposal, you might say, and present it
19 to the committee of the Board.

20 MR. ENGELMANN: All right.

21 And you talked about that briefly yesterday

22 ---

23 MR. MacLEAN: Yes.

24 MR. ENGELMANN: --- the night before, and
25 then we had this opening up several group homes.

1 **MR. MacLEAN:** That's right. And so the
2 Board then made a decision, I think it's the in the minutes
3 of January or early February to close the Second Street
4 Home.

5 **MR. ENGELMANN:** And at that point then the
6 employees in the group home, well, they're no longer CAS
7 employees.

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

9 **MR. ENGELMANN:** They are foster parents,
10 essentially?

11 **MR. MacLEAN:** No, no.

12 **MR. ENGELMANN:** No?

13 **MR. MacLEAN:** No, none of the employees were
14 used as foster parents.

15 **MR. ENGELMANN:** No, the group homes that
16 then get opened.

17 **MR. MacLEAN:** Sorry?

18 **MR. ENGELMANN:** After Second Street gets
19 closed ---

20 **MR. MacLEAN:** Yes.

21 **MR. ENGELMANN:** --- there are several group
22 homes that are opened, right?

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

24 **MR. ENGELMANN:** And they are staffed by?

25 **MR. MacLEAN:** They're not staffed. They're

1 operated by the foster parents.

2 MR. ENGELMANN: Right.

3 MR. MacLEAN: Yes.

4 MR. ENGELMANN: That was what I was trying
5 to ---

6 MR. MacLEAN: Okay.

7 MR. ENGELMANN: Okay, fair enough.

8 And sir, so the reasons for the closure of
9 the Second Street Group Home had nothing to do with
10 allegations of wrongdoing, either sexual or physical abuse?

11 MR. MacLEAN: Not that I'm aware of.

12 MR. ENGELMANN: All right.

13 MR. MacLEAN: It was strictly financial.

14 MR. ENGELMANN: All right.

15 Sir, I'd like to ask you a few questions
16 about your knowledge of a former CAS ward. He goes by the
17 moniker C-14.

18 THE COMMISSIONER: We'll show you that name
19 in a moment, sir.

20 (SHORT PAUSE/COURTE PAUSE)

21 MR. ENGELMANN: Sir, is that name familiar
22 to you?

23 MR. MacLEAN: Yes, it is.

24 MR. ENGELMANN: All right.

25 I understand, sir, that in approximately May

1 of 1978 you became his worker?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: All right.

4 And you would have reviewed some documents
5 with respect to him for your testimony?

6 MR. MacLEAN: Oh, yes. Yes, I did.

7 MR. ENGELMANN: And were you aware that
8 Brian Keough had been his worker before you?

9 MR. MacLEAN: Yes, I was.

10 MR. ENGELMANN: All right.

11 And as I understand it, his file was
12 transferred to you because he was transferred to the
13 Lapensée Group Home.

14 MR. MacLEAN: That's correct.

15 MR. ENGELMANN: And that was a group home
16 that you were responsible for?

17 MR. MacLEAN: Yes.

18 MR. ENGELMANN: And this was again in the
19 spring of 1978. And sir, we have, as a document, case
20 notes involving his care.

21 MR. MacLEAN: Yes.

22 MR. ENGELMANN: And it is Exhibit 538.

23 (SHORT PAUSE/COURTE PAUSE)

24 MR. ENGELMANN: Mr. Commissioner, the Bates
25 page that I'm interested in is 1072610 and it has a front

1 after it. These are front and back.

2 Mr. MacLean, that will be the top left
3 corner.

4 MR. MacLEAN: Yes.

5 MR. ENGELMANN: And the last three digits,
6 610 front.

7 MR. MacLEAN: Yes.

8 MR. ENGELMANN: Do you have that?

9 MR. MacLEAN: Yes, I do.

10 MR. ENGELMANN: There is a reference to a
11 transfer summary and a date of May 16th, 1978; that appears
12 to be when the case was transferred to you.

13 MR. MacLEAN: Yes.

14 MR. ENGELMANN: If this is accurate?

15 MR. MacLEAN: Yes.

16 MR. ENGELMANN: All right.

17 And it would suggest that you were
18 responsible for C-14 from May 16th, '78 to October 31st, '78.

19 MR. MacLEAN: That's correct.

20 MR. ENGELMANN: Is that accurate?

21 MR. MacLEAN: Yes, it is.

22 MR. ENGELMANN: And sir, were you
23 responsible for him at any other time?

24 MR. MacLEAN: No, I wasn't.

25 MR. ENGELMANN: All right.

1 And you've indicated to us who was before
2 you, Mr. Keough. If we look at the indication on Bates
3 page 1072611 front it would appear that the case worker
4 after you is a fellow by the name of Bill McNally.

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

6 **MR. ENGELMANN:** Does that again accord with
7 your recollection?

8 **MR. MacLEAN:** Yes.

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

10 So that four or five-month period, would
11 that have been your only period of involvement with C-14?

12 **MR. MacLEAN:** To my recollection, yes.

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

14 And do you know if any other workers were
15 involved with him during the time you were; for example,
16 whether Bryan Keough still had some involvement or whether
17 Bill McNally would have started involvement earlier?

18 **MR. MacLEAN:** No, I don't believe so.

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

20 Now, when you took over this file would you
21 have reviewed -- when you took over responsibility for C-14
22 would you have reviewed his file?

23 **MR. MacLEAN:** Yes, that was my practice.

24 **MR. ENGELMANN:** Yeah, and that was
25 presumably a requirement.

1 MR. MacLEAN: Yes.

2 MR. ENGELMANN: All right.

3 MR. MacLEAN: Yes.

4 MR. ENGELMANN: And would you have met with
5 your predecessor, Mr. Keough, to discuss C-14?

6 MR. MacLEAN: The practice was again yes. I
7 cannot recall.

8 MR. ENGELMANN: All right.

9 Well, were you aware of allegations that C-
10 14 had made of mistreatment while at a previous foster
11 home, a foster home by the name of Barber?

12 MR. MacLEAN: Yes, I was.

13 MR. ENGELMANN: And how did you become aware
14 of that?

15 MR. MacLEAN: From the file.

16 MR. ENGELMANN: From the file?

17 MR. MacLEAN: Yes.

18 MR. ENGELMANN: Okay. And it says on Bates
19 page 610 front just under the term "replacements" near the
20 bottom ---

21 MR. MacLEAN: Yes.

22 MR. ENGELMANN: --- that on June 26th, '78
23 following a run from the Lapensée Group Home that C-14 was
24 placed temporarily in the ---

25 MR. MacLEAN: Cieslewicz.

1 **MR. ENGELMANN:** Cieslewicz. Is that a
2 receiving home, RH?

3 **MR. MacLEAN:** RH receiving home, yes.

4 **MR. ENGELMANN:** Yeah, do you recall that,
5 sir?

6 **MR. MacLEAN:** Yes, I do.

7 **MR. ENGELMANN:** And did you have any
8 involvement in this; for example, would you have taken him
9 to that home, the receiving home?

10 **MR. MacLEAN:** I believe I would have. That
11 was the practice. The only -- I cannot recall that. The
12 only possibility would be if he was picked up in the
13 evening, a duty worker would have transported him.

14 **MR. ENGELMANN:** All right.
15 So you don't have any recollection of it?

16 **MR. MacLEAN:** No, I don't.

17 **MR. ENGELMANN:** All right.
18 And it indicates as well that he was then
19 placed in the foster home of the MacIntosh's.

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

21 **MR. ENGELMANN:** And he says where he remains
22 to date. Do you see that?

23 **MR. MacLEAN:** Yes.

24 **MR. ENGELMANN:** And so he would have stayed
25 at the MacIntosh's thereafter?

1 **MR. MacLEAN:** Yes, he did.

2 **MR. ENGELMANN:** All right.

3 And during the period of time you were his
4 worker it appears that C-14 had a psychological assessment?

5 **MR. MacLEAN:** Yes, he did.

6 **MR. ENGELMANN:** At Cornwall General
7 Hospital?

8 **MR. MacLEAN:** Yes.

9 **MR. ENGELMANN:** By a woman named Diane
10 Latreille?

11 **MR. MacLEAN:** That's correct.

12 **MR. ENGELMANN:** And would you have been
13 responsible for that, sir?

14 **MR. MacLEAN:** I made the appointment
15 following some of the behaviours that started exhibiting
16 itself in the Lapensée Home. There was -- I believe he was
17 wandering around at night and there was some cause for
18 alarm -- I just can't remember the detail; it's likely here
19 -- for him and the safety of himself and others. And then
20 based on his history as well I felt that we should have a
21 psychological begin -- it was a psychometrist that saw him,
22 Ms. Latreille.

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

24 And so can you just give us a sense as to
25 what the reasons were for the assessment then, for the

1 referral?

2 **MR. MacLEAN:** He was -- he didn't settle
3 well into the Lapensée foster home, Lapensée Group Home.
4 There were issues with developing relationships with his
5 peers. And then there was this uneasiness. He would get
6 up and wander around in the night, and if I can refresh my
7 -- I think ---

8 **MR. ENGELMANN:** Is it set out on Bates page
9 610 back?

10 **MR. MacLEAN:** Yes, okay.

11 It was something that -- if I recall, he
12 turned the burners on in the stove one night in the kitchen
13 and the foster parents found this in the morning.

14 And so plus what I had read before with his
15 behaviours and some of his allegations from the other
16 foster home, I felt it was wise to get a psychological
17 done.

18 **MR. ENGELMANN:** So would you have made that
19 decision before he ran from the home?

20 **MR. MacLEAN:** Yes, it was before he ran,
21 yes. And the appointment was set before July.

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

23 Now, you note on Bates page 1072610 on the
24 back page, that he befriended a beekeeper friend of the
25 MacIntosh's?

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

2 **MR. ENGELMANN:** During the summer of 1978.
3 It's a fellow named Frank Rolland.

4 **MR. MacLEAN:** Yes.

5 **MR. ENGELMANN:** And Mr. Rolland was an older
6 gentleman; correct? An older man.

7 **MR. MacLEAN:** In those days, he was an older
8 man, yes.

9 **MR. ENGELMANN:** Well, okay. Do you recall
10 approximately how old he would have been?

11 **MR. MacLEAN:** He would be around, I would
12 say, 60s. Yes.

13 **MR. ENGELMANN:** All right.
14 And would you have met Frank Rolland that
15 summer?

16 **MR. MacLEAN:** Yes, I did.

17 **MR. ENGELMANN:** And do you know how it was
18 or when Frank Rolland would have met C-14? Would it have
19 been shortly after he arrived at the MacIntosh home?

20 **MR. MacLEAN:** Yes, it would be after he
21 arrived at the MacIntosh home. I got a call from -- well,
22 I believe it was even my first visit back with Mrs.
23 MacIntosh and C-14, and there was an expression then that
24 he had met this gentleman. And I saw the relationship, the
25 possibility of a big brother relationship, for this fellow.

1 **MR. ENGELMANN:** All right. Did you have a
2 meeting with Mr. Rolland on one of your visits to the
3 MacIntosh home?

4 **MR. MacLEAN:** I believe I actually
5 interviewed him in the office. I believe he came to
6 Cornwall.

7 **MR. ENGELMANN:** No, you indicate that in
8 your notes. I'm just wondering if you would have met him
9 at the home before then?

10 **MR. MacLEAN:** No, I didn't.

11 **MR. ENGELMANN:** All right. And do you
12 recall the -- so had you ever witnessed the two of them
13 together, C-14 and Mr. Rolland, before he came to your
14 office?

15 **MR. MacLEAN:** No, I didn't.

16 **MR. ENGELMANN:** All right. And the purpose
17 of the interview at your office?

18 **MR. MacLEAN:** To find out about Mr. Rolland
19 and to share some information, limited information,
20 concerning C-14.

21 **MR. ENGELMANN:** All right. And were you
22 aware that Mr. Rolland was asking to be allowed to take C-
23 14 on a trip?

24 **MR. MacLEAN:** Yes. Not on a trip; he lived
25 in Montreal.

1 MR. ENGELMANN: Yes?

2 MR. MacLEAN: And he wanted to take him to
3 his home.

4 MR. ENGELMANN: All right.

5 MR. MacLEAN: And to show him around
6 Montreal.

7 MR. ENGELMANN: All right. And that's why
8 you insisted that he come in for an interview?

9 MR. MacLEAN: Yes, that's correct.

10 MR. ENGELMANN: All right. Because he would
11 need your permission or the CAS permission to take C-14
12 from the home?

13 MR. MacLEAN: Yes, and there was a form that
14 would have been signed by Mr. O'Brien that gave permission
15 for him to take C-14 as a ward of the agency out of the
16 province.

17 MR. ENGELMANN: All right.

18 Well, maybe we can go there right now.

19 MR. MacLEAN: Yes.

20 MR. ENGELMANN: Document Number 742259.

21 (SHORT PAUSE/COURTE PAUSE)

22 MR. ENGELMANN: Just before I have the form,
23 a form needed to be filled out; correct?

24 MR. MacLEAN: Yes, that's correct.

25 MR. ENGELMANN: And it needed to be signed

1 off by the Executive Director?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: And did he just sign these
4 things blank and then leave it to the worker's discretion
5 or do you recall?

6 MR. MacLEAN: I believe at that time he was
7 signing each one, individual. It wasn't pre-signed.

8 MR. ENGELMANN: Okay, well, the one I'm just
9 showing you, 742259, if that might be the next exhibit.
10 It's a Children's Aid Society form, sir, for permission for
11 a child to accompany an adult.

12 THE COMMISSIONER: Yes, Exhibit 2392.

13 --- EXHIBIT NO./PIÈCE NO. P-2392:

14 (742259) - Permission Form of CAS

15 MR. ENGELMANN: Two-three-nine-two (2392)
16 appears to be, essentially, a blank form that's already
17 been pre-signed by Mr. O'Brien.

18 MR. MacLEAN: Yes. I prepared this for the
19 Inquiry.

20 MR. ENGELMANN: Oh, okay.

21 MR. MacLEAN: And I blocked out everything.
22 I should have blocked Mr. O'Brien's name out as well.

23 MR. ENGELMANN: Oh, I see. So ---

24 MR. MacLEAN: Yes. I just left it there.

25 MR. ENGELMANN: --- you took a form that had

1 been filled out for an individual?

2 **MR. MacLEAN:** That's correct.

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

4 **MR. MacLEAN:** Yes.

5 **MR. ENGELMANN:** Okay.

6 So the practice then was the worker would
7 meet with the adult who was to accompany a ward?

8 **MR. MacLEAN:** Yes.

9 **MR. ENGELMANN:** If they were taking them out
10 of the home they were in?

11 **MR. MacLEAN:** Yes.

12 **MR. ENGELMANN:** And then you would go to Mr.
13 O'Brien and have that signed off?

14 **MR. MacLEAN:** That's right. Yes.

15 **MR. ENGELMANN:** And so presumably you would
16 have to satisfy him ---

17 **MR. MacLEAN:** Yes.

18 **MR. ENGELMANN:** --- that you didn't feel
19 there was any risk to the child and that you thought this
20 would be beneficial to the child to be able to do this?

21 **MR. MacLEAN:** Yes, that would be our
22 practice.

23 **MR. ENGELMANN:** And, sir, you would have
24 asked Mr. Rolland some questions?

25 **MR. MacLEAN:** Yes, it was an interview.

1 **MR. ENGELMANN:** Do you recall if you asked
2 him if he was married?

3 **MR. MacLEAN:** I believe he told me he was
4 married. I don't recall that, but he told me he's a
5 beekeeper. He had an apiary in the Montreal area.

6 He didn't tell me, that I recall, anything
7 about his family but that the MacIntosh's knew him, spoke
8 well of him, and I didn't get any other vibes from him as
9 well at that time.

10 **MR. ENGELMANN:** All right. Well, was any
11 form of reference check done or was it simply checking with
12 the foster parents?

13 **MR. MacLEAN:** It was Mr. and Mrs.
14 MacIntosh's knowledge of him that he was a good man. They
15 had known him over the years and he had taken a shine to
16 young C-14.

17 **MR. ENGELMANN:** Do you know why he was at
18 the MacIntosh's to begin with that summer?

19 **MR. MacLEAN:** Because he had bees on the
20 property.

21 **MR. ENGELMANN:** All right.

22 **MR. MacLEAN:** Yes.

23 **THE COMMISSIONER:** How old would C-14 have
24 been at that time?

25 **MR. MacLEAN:** I believe he was ---

1 **MR. ENGELMANN:** He was turning 16 that
2 summer, was he not?

3 **MR. MacLEAN:** I was going to say 15.

4 **MR. ENGELMANN:** Yeah. So he was 15 just
5 going on 16?

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

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

8 And, sir, to your knowledge, did Mr. Rolland
9 take C-14 to Montreal?

10 **MR. MacLEAN:** Yes, he did.

11 **MR. ENGELMANN:** And do you know if that was
12 one occasion or more?

13 **MR. MacLEAN:** I've been trying to -- the
14 time period again I go to and it's from -- he was placed
15 there I believe on the 9th of -- early July.

16 **MR. ENGELMANN:** Right.

17 **MR. MacLEAN:** I would have seen him in a
18 week's time.

19 **MR. ENGELMANN:** Yes.

20 **MR. MacLEAN:** And, in fact, I believe I did
21 see him in a week's time and I took him to the psychologist
22 for his testing. And then it would be at that time,
23 likely, that Mrs. MacIntosh had introduced me to the idea
24 of Mr. Rolland. It would have been another week before I
25 saw Mr. Rolland in my office, make arrangements for him to

1 come up and meet with me the next time he was in town. So
2 his first visit would not -- could not be until about the
3 third weekend of the month.

4 I was a very strong supporter of not
5 allowing foster children to go every weekend for visits
6 anywhere, whether if it was with their families or in a
7 situation like this.

8 So taking that into consideration, I don't
9 think he saw Mr. Rolland more than three, maximum four,
10 times.

11 **MR. ENGELMANN:** And as far as trips to
12 Montreal, do you know if there was more than one?

13 **MR. MacLEAN:** I think he took him there each
14 time.

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

16 **MR. MacLEAN:** Yes.

17 **MR. ENGELMANN:** Because I think when C-14
18 testified here, I believe his testimony was that he only
19 went on the one occasion to Montreal with Mr. Rolland.

20 **MR. MacLEAN:** I was not aware of that.

21 **MR. ENGELMANN:** And did you have some sense
22 as to where they would stay when they were in Montreal?

23 **MR. MacLEAN:** He would have given me his
24 address. Unfortunately, I didn't log it in the notes.

25 **MR. ENGELMANN:** But aside from address,

1 whether or not there were other people that were going to
2 be in the house where they were going?

3 **MR. MacLEAN:** I draw a blank on that. I
4 don't know.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. ENGELMANN:** I'll just be a moment, sir.

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

8 **MR. ENGELMANN:** Yeah, in your note, again,
9 at the back side of 1072610, you say C-14 made a good
10 relation with the beekeeper, the friend of the MacIntosh's,
11 and you describe the fact that he spent several weekends
12 with him during the summer, right?

13 **MR. MacLEAN:** Yes, that's correct.

14 **MR. ENGELMANN:** All right. It's not very
15 explicit about where they went or what happened.

16 **MR. MacLEAN:** No.

17 **MR. ENGELMANN:** Did you have notes that were
18 more detailed than these and this is a summary or do you
19 recall ---

20 **MR. MacLEAN:** Yeah, this would be a summary
21 of my notes, yes.

22 **MR. ENGELMANN:** And the original notes would
23 have been?

24 **MR. MacLEAN:** They would be destroyed.

25 **MR. ENGELMANN:** At the time you would have

1 made the summary?

2 MR. MacLEAN: Or shortly thereafter, yes.

3 MR. ENGELMANN: And would you have spoken
4 with him after the trip to Montreal back in the summer ---

5 THE COMMISSIONER: C-14 or?

6 MR. ENGELMANN: With C-14.

7 MR. MacLEAN: I would have -- I don't
8 recall.

9 MR. ENGELMANN: All right.

10 Well, you certainly spoke to Mr. Rolland.

11 MR. MacLEAN: I certainly spoke to Mr.
12 Rolland.

13 MR. ENGELMANN: Because he described some
14 circumstances to you that must have been troubling?

15 MR. MacLEAN: Yes, they were.

16 MR. ENGELMANN: You know, given what he says
17 in that paragraph about what C-14 did within the sight of
18 Mr. Rolland. Do you see that?

19 MR. MacLEAN: Yes.

20 MR. ENGELMANN: And did you explore that
21 further to find out what was going on and if, in fact,
22 there was any truth to what Mr. Rolland was saying?

23 MR. MacLEAN: This was the first incident of
24 any sexual misbehaviour on C-14's part and I did not see it
25 necessary, I guess, to go beyond logging it and then being

1 aware, observing. He was a young 15, almost 16 year-old
2 male, doing this in front of. It was not proper.

3 **MR. ENGELMANN:** Yes.

4 **MR. MacLEAN:** I would have, again, in normal
5 practice -- I have not got recollection as to whether I
6 spoke to C-14 on this -- but in common practice I would
7 have sat down with him and told him a few proper behaviours
8 as far as being by himself away from others, various things
9 like that.

10 **MR. ENGELMANN:** All right.

11 Well, again, it's some time ago since C-14
12 was with us but I think this was news to him when he read
13 this in his file.

14 **MR. MacLEAN:** M'hm. Well, it's very
15 possible that I didn't, that I just recorded it in my mind
16 and on notes, and made a note of it to observe.

17 **MR. ENGELMANN:** Right, well, would this not
18 have raised a bit of a warning flag about maybe he
19 shouldn't be with this fellow? This is unusual behaviour,
20 the allegation that's being made?

21 **MR. MacLEAN:** Again, he was a 16 year-old.

22 **MR. ENGELMANN:** Yes.

23 **MR. MacLEAN:** He possibly had not been
24 taught appropriate behaviours. And it raised a flag in
25 that, okay, I need to be aware and I need to hear, you

1 know, are things happening at the MacIntosh's? You know,
2 is this becoming a behaviour pattern.

3 **MR. ENGELMANN:** Sir, there's a big
4 difference between a 16-year old doing this in private and
5 a 16 year-old doing this in front of a man he's just met.

6 **MR. MacLEAN:** Definitely, yes.

7 **MR. ENGELMANN:** So I'm just wondering in
8 that case whether that raised a flag and whether that ---

9 **MR. MacLEAN:** It raised a flag in that I
10 needed to know whether this was happening more often.

11 **MR. ENGELMANN:** And in that type of
12 situation, best practices surely would have been to speak
13 to the child and possibly speak to the foster parents to
14 find out what was going on?

15 **MR. MacLEAN:** That would have been best
16 practice, yes.

17 **MR. ENGELMANN:** You just don't know if you
18 did?

19 **MR. MacLEAN:** I don't. I have no recall.

20 **THE COMMISSIONER:** So just in fairness to
21 Mr. Rolland, there was never any allegation against him
22 made?

23 **MR. MacLEAN:** None at all.

24 **THE COMMISSIONER:** All right. And he's the
25 one who volunteered the information to you about C-14's

1 actions?

2 MR. MacLEAN: That's right.

3 THE COMMISSIONER: Okay.

4 MR. MacLEAN: And I'm sure I coached him in
5 how to deal with that. It wouldn't be -- it wouldn't be
6 just a ho-hum, you know, I'll make note of it.

7 MR. ENGELMANN: But you didn't ---

8 MR. MacLEAN: But I cannot again -- but I
9 can't imagine for the life of me that I would just pass
10 over this with Mr. Rolland and continue. But, again, very
11 shortly after that he was killed.

12 MR. ENGELMANN: All right.

13 Of course, C-14 has told us about alleged
14 abuse that he suffered at the hands of Mr. Rolland?

15 MR. MacLEAN: I have read that, yeah.

16 MR. ENGELMANN: And that he was quite
17 disturbed when he saw that Mr. Rolland was suggesting that
18 his actions were inappropriate?

19 MR. MacLEAN: Yes.

20 MR. ENGELMANN: All right.

21 MR. MacLEAN: Yes.

22 MR. ENGELMANN: But you just can't recall
23 whether you dealt with either C-14 or the Macintosh's on
24 this issue?

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

1 **MR. ENGELMANN:** And you would agree, sir,
2 that that type of behaviour described here on the part of
3 C-14 was unusual?

4 **MR. MacLEAN:** Yes.

5 **MR. ENGELMANN:** Not just unusual but unusual
6 for him? We don't see that?

7 **MR. MacLEAN:** Totally unusual for him.

8 **MR. ENGELMANN:** Right.

9 **MR. MacLEAN:** Yes.

10 **MR. ENGELMANN:** Although there were some
11 behavioural issues before ---

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** --- you hadn't seen anything
14 like this in the notes?

15 **MR. MacLEAN:** The aggression was not, but
16 the sexual behaviour was.

17 **MR. ENGELMANN:** Right.

18 And do you recall whether you took any
19 action to have a further assessment by the psychometrist or
20 by anyone else as a result of this information?

21 **MR. MacLEAN:** He was seeing -- and there was
22 an open invitation, I believe, with Diane Latreille and
23 there was another appointment set up. I believe the record
24 shows November and that would have been the next time he
25 saw her.

1 **MR. ENGELMANN:** But did you take any steps
2 to alert her to this situation or try and set something up?

3 **MR. MacLEAN:** Not to my recollection.

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

5 Did you consider that this might in some way
6 be any kind of an indication of sexual abuse?

7 **MR. MacLEAN:** Of sexual abuse, no, I did
8 not. That did not enter my mind.

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

10 And did you think that Mr. Rolland might
11 have had something to do with this alleged behaviour since
12 we hadn't seen that on the part of C-14 earlier?

13 **MR. MacLEAN:** No, it was not his character
14 either. I remember him as a very mild-mannered man.

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

16 And even after explaining this to you, at
17 least according to your note, he indicated to you that he
18 wanted to continue this relationship with C-14?

19 **MR. MacLEAN:** Yes.

20 **MR. ENGELMANN:** And to your knowledge did he
21 continue to spend time with him after he related this story
22 to you?

23 **MR. MacLEAN:** That I don't know. There's --

24 -

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

1 Well, we know he was killed in late August.

2 MR. MacLEAN: That's right, and I don't know
3 whether ---

4 MR. ENGELMANN: All right.

5 MR. MacLEAN: --- there was another visit
6 after that. It was -- the dates are not there and I cannot
7 recall.

8 MR. ENGELMANN: All right.

9 Well, then unless there is anything further
10 on C-14, I'm going to move onto someone else.

11 And her name is Roberta Archambault. The
12 name is also Roberta Judd.

13 MR. MacLEAN: Yes.

14 MR. ENGELMANN: That may be the name you
15 remember?

16 MR. MacLEAN: Yes, I do.

17 MR. ENGELMANN: She, like C-14, was in
18 foster care for many years and at some point-in-time you
19 would have been responsible for her?

20 MR. MacLEAN: I wasn't responsible for her.
21 As a case worker, I supervised Ms. Miller, I believe, in
22 the eighties.

23 MR. ENGELMANN: Fair enough.

24 MR. MacLEAN: Yes.

25 MR. ENGELMANN: And Ms. Miller would have

1 been directly responsible for her as the worker?

2 **MR. MacLEAN:** That's correct, yes.

3 **MR. ENGELMANN:** And if we look at -- just be
4 a moment.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. ENGELMANN:** Sir, I'd like you to have a
7 look at -- and it's Document Number 738529.

8 This is an excerpt of Ms. Archambault's
9 file, sir. It runs from Bates pages 7170614 to 7170640.

10 **THE COMMISSIONER:** Thank you. Exhibit 2393
11 is an excerpt of Document 738529 and it's regarding Roberta
12 Judd, and the first date is the 31st of December, 1970 in
13 the top left-hand corner.

14 **--- EXHIBIT NO./PIÈCE NO. P-2393:**

15 (738529-7170614-40) Excerpt of CAS child
16 file of Roberta Judd

17 **MR. ENGELMANN:** Now, Mr. MacLean, it
18 indicates just on the first page that she would have been
19 admitted into care on September 3rd, 1970; correct?

20 **MR. MacLEAN:** That's the record, yes.

21 **MR. ENGELMANN:** And the notes indicate a
22 number of placements with a variety of workers. I just
23 want to take you, if I can, to Bates page 634. There's an
24 indication of a Transfer Summary there.

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

1 **MR. ENGELMANN:** And at the time the worker
2 is Bryan Keough; correct?

3 **MR. MacLEAN:** Yes.

4 **MR. ENGELMANN:** And she is in the Hubert
5 foster home and she's being transferred to the Lapensée
6 Group Home. Is that correct?

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

8 **MR. ENGELMANN:** So at this point in time
9 Bryan Keough ceases to be her worker and Mary Miller
10 becomes her worker?

11 **MR. MacLEAN:** Yes.

12 **MR. ENGELMANN:** And that's in or around
13 December of 1980; correct?

14 **MR. MacLEAN:** Yes, that's correct.

15 **MR. ENGELMANN:** It's when she's placed in
16 the Lapensée Group Home.

17 **MR. MacLEAN:** Yes, yes.

18 **MR. ENGELMANN:** And it's at that point that
19 you get involved, in the sense that you are Ms. Miller's
20 supervisor?

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

22 **MR. ENGELMANN:** And there was a practice at
23 that time, presumably, when a file was transferred between
24 workers? There were some guidelines in place for that?

25 **MR. MacLEAN:** Yes, for ---

1 **MR. ENGELMANN:** All right. And would a
2 supervisor normally receive that file and review it, and be
3 involved in the transfer?

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

5 **MR. ENGELMANN:** So you would have had some
6 involvement in that, sir?

7 **MR. MacLEAN:** Yes.

8 **MR. ENGELMANN:** And as I understand it,
9 transfer conferences were required but not always held.

10 **MR. MacLEAN:** That's correct.

11 **MR. ENGELMANN:** And do you recall, sir, do
12 you have any recollection whether or not you would have
13 reviewed this file on its transfer?

14 **MR. MacLEAN:** I would have reviewed it. The
15 placement committee meeting was a place where we would have
16 reviewed her file, and I don't know whether that took the
17 place of the transfer conference but certainly all the
18 parties are there, and along with Mr. and Mrs. Lapensée.

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

20 There is a note on Bates page 635 that might
21 be your initials. It's dated January 7th, 1981.

22 **MR. MacLEAN:** Yes, that's correct.

23 **MR. ENGELMANN:** Do you see that?

24 **MR. MacLEAN:** Yes.

25 **MR. ENGELMANN:** Are those your initials?

1 **MR. MacLEAN:** Those are my initials.

2 **MR. ENGELMANN:** Do you know why you would be
3 initialling something on January 7th, 1981 involving a
4 transfer that took place I think in December of 1980?

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. MacLEAN:** Other than this was a part of
7 the minutes of the placement committee which I would have
8 chaired.

9 **MR. ENGELMANN:** All right. So you were
10 involved in a placement committee conference?

11 **MR. MacLEAN:** Yes.

12 **MR. ENGELMANN:** There's no indication on
13 this file that there actually was a transfer committee
14 conference held.

15 **MR. MacLEAN:** No, that's correct.

16 **MR. ENGELMANN:** So you can't tell us now
17 whether there was?

18 **MR. MacLEAN:** No, and I'm thinking that the
19 placement committee took place instead of the transfer.

20 **MR. ENGELMANN:** Okay. But the standards at
21 the time required both, did they not?

22 **MR. MacLEAN:** Yes, yes.

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

24 **MR. MacLEAN:** Well, certainly the transfer.
25 The placement committee was an internal process.

1 **MR. ENGELMANN:** All right. What would
2 normally occur at a transfer conference or a transfer
3 committee conference?

4 **MR. MacLEAN:** That's where the former worker
5 and supervisor, and the present worker and supervisor would
6 get together and review the file and come up with a -- they
7 would identify current issues. They would identify a plan.

8 **MR. ENGELMANN:** All right, so that any
9 issues or concerns that had arisen in the past would be
10 transferred from the previous worker to the new worker and
11 supervisor?

12 **MR. MacLEAN:** Yes, yes. It would be
13 highlighted. I mean it's in the file ---

14 **MR. ENGELMANN:** Certainly.

15 **MR. MacLEAN:** --- but it would highlighted.

16 **MR. ENGELMANN:** Certainly, but not
17 everything is always written in these files ---

18 **MR. MacLEAN:** No, this is true.

19 **MR. ENGELMANN:** --- as you know.

20 **MR. MacLEAN:** Yes.

21 **MR. ENGELMANN:** So there was a placement
22 committee meeting held?

23 **MR. MacLEAN:** Yes, there was.

24 **MR. ENGELMANN:** And as I understand it, that
25 would involve a foster parent. And would that also involve

1 the former worker or simply the new worker and supervisor?

2 MR. MacLEAN: That has Mr. Keough present.

3 MR. ENGELMANN: Right.

4 MR. MacLEAN: That would be the former
5 worker.

6 MR. ENGELMANN: And there's a reference to
7 that, sir. I'm just looking for it -- oh, at the bottom of
8 Bates page 634 there's a reference to a placement committee
9 meeting on December 17th, 1980.

10 MR. MacLEAN: Yes.

11 MR. ENGELMANN: And you were present.

12 MR. MacLEAN: That's correct.

13 MR. ENGELMANN: Together with the former
14 worker and the current worker, the group home parents and a
15 woman by the name of Karen Clarke.

16 MR. MacLEAN: That's correct.

17 MR. ENGELMANN: Do you know who that was?

18 MR. MacLEAN: She was another worker in the
19 Agency at that time.

20 MR. ENGELMANN: All right. Do you have any
21 notes of this or were notes taken ---

22 MR. MacLEAN: It appears that ---

23 MR. ENGELMANN: --- other than the
24 description we see on the following Bates page?

25 MR. MacLEAN: I know when the placement

1 committee began in the -- early '81, I believe it was.
2 When did this happen?

3 MR. ENGELMANN: All right, well ---

4 MR. MacLEAN: It must have been in the
5 eighties. It was after I became supervisor, and that was
6 November '80, so this would be a very early on meeting of a
7 placement committee.

8 MR. ENGELMANN: So this is a new structure?

9 MR. MacLEAN: A new structure in the Agency.

10 MR. ENGELMANN: All right.

11 MR. MacLEAN: And I was chair of that and
12 there were minutes kept apart from -- there was a minute
13 book ---

14 MR. ENGELMANN: All right.

15 MR. MacLEAN: --- that went -- that had the
16 minutes of every child reviewed in the placement committee.

17 MR. ENGELMANN: So what we have here is a
18 summary of what took place?

19 MR. MacLEAN: That's right.

20 MR. ENGELMANN: Because there seems to be a
21 note, for example, saying that the situation in the foster
22 home is not workable.

23 MR. MacLEAN: Yes, that's correct.

24 MR. ENGELMANN: Do you see that?

25 MR. MacLEAN: Yes.

1 **MR. ENGELMANN:** And other issues that are
2 set out, and there's a placement time span that she's going
3 to be in this new group home, from six months to a year.

4 **MR. MacLEAN:** Yes.

5 **MR. ENGELMANN:** Right?

6 **MR. MacLEAN:** Yes.

7 **MR. ENGELMANN:** And there are some issues or
8 problems identified.

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

10 **MR. ENGELMANN:** And so you would have had
11 some sense as to why the previous foster home arrangement
12 was not working out?

13 **MR. MacLEAN:** Yes, I did.

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

15 And, sir, there are a number of references,
16 if we look back in the case notes, to issues that came up.
17 I don't want to get into too many of them ---

18 **MR. MacLEAN:** No.

19 **MR. ENGELMANN:** --- but if we look back to
20 Bates page 631, there's concerns about attention span
21 issues, problem areas, including possible sexual
22 misbehaviour. And again on Bates page 633 we've got "mood
23 changes, manipulative, jealous, possessive, et cetera,
24 possibly promiscuous." And again there's a fear of
25 promiscuity mentioned by the former foster mother.

1 MR. MacLEAN: Yes.

2 MR. ENGELMANN: So there are issues
3 involving sexual behaviour, misbehaviour ---

4 MR. MacLEAN: Yes, that's correct.

5 MR. ENGELMANN: --- that are clearly noted
6 while she's a ward in the previous foster home.

7 MR. MacLEAN: Yes.

8 MR. ENGELMANN: And you would have read
9 those references and perhaps they were even discussed at
10 that placement committee meeting.

11 MR. MacLEAN: Yes, they were.

12 MR. ENGELMANN: All right. And presumably
13 Mr. Keough would have highlighted some of those facts?

14 MR. MacLEAN: Yes.

15 MR. ENGELMANN: As the previous worker?

16 MR. MacLEAN: I don't recall but I'm sure
17 they did.

18 MR. ENGELMANN: All right.

19 And your role, sir, as the supervisor
20 presumably would be to ensure that the new worker is going
21 to take those facts into consideration and try and deal
22 with some of those issues?

23 MR. MacLEAN: That would be the practice,
24 yes.

25 MR. ENGELMANN: Right.

1 And do you recall, sir, any discussion with
2 the new worker or the new group home foster parents about
3 arranging for any type of psychological assessment of the
4 ward in light of some of the issues that had been raised in
5 the case notes?

6 **MR. MacLEAN:** I know that later on -- and
7 that could be in the -- be a year or a year and a half
8 later we started making -- not sure when it was. But
9 immediately, no, I don't.

10 **MR. ENGELMANN:** No, there was a referral in
11 April, 1983.

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** You'll see that at Bates
14 page 636.

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

16 **MR. ENGELMANN:** To a local psychiatrist.

17 I am just wondering, given the fact that you
18 had taken that initiative with C-14, here we clearly have
19 some issues and concerns from the past, and I'm just
20 wondering if there was some thought to counselling or some
21 kind of an assessment to just make sure she's okay when
22 she's going into this new placement; because I don't see
23 that in the notes.

24 **MR. MacLEAN:** No. And I don't believe there
25 was.

1 **MR. ENGELMANN:** All right. Would you agree
2 sir that, you know, with an awareness of these issues, that
3 such an arrangement might have been prudent at the time?

4 **MR. MacLEAN:** Certainly, yes.

5 **MR. ENGELMANN:** And during the course of the
6 time that Roberta was in the Lapensée home, would Ms.
7 Miller as her worker and you as the supervisor, have
8 reviewed some of these case recordings from time-to-time
9 and talked about her care?

10 **MR. MacLEAN:** After the fact? After her
11 move to the Lapensées?

12 **MR. ENGELMANN:** Yes.

13 **MR. MacLEAN:** Yes.

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

15 **MR. MacLEAN:** Yes.

16 **MR. ENGELMANN:** And you continued to be Ms.
17 Miller's supervisor during the early eighties?

18 **MR. MacLEAN:** Yes, I was.

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

20 Was the initial intention that she would be
21 in the group home temporarily and then for her to return to
22 the Huberts?

23 **MR. MacLEAN:** Yes, it was the hope. Because
24 of the relationship and the length of time she had been in
25 the Hubert home, there was a hope amongst the workers and

1 myself that she could return to the Hubert home and
2 continue with that family.

3 Her sister had been there and had, I
4 believe, by this time had left and had married, but there
5 was a relationship, and it was our hope that that could be
6 restored for her to allow for consistency in her life.

7 **MR. ENGELMANN:** I understand though, sir,
8 within a period of three or four months that she made it
9 very clear that she was not going to go back to the Hubert
10 home?

11 **MR. MacLEAN:** That's correct. I believe
12 there were one or two visits back or attempts at visits.
13 I'm not clear now and the memory of my notes -- of the
14 notes; but back to the Huberts and she was then comparing
15 the relationship she was developing in the new group home
16 with what she was being confronted with in the Hubert home.

17 **MR. ENGELMANN:** Well, on Bates page 636, you
18 note or the worker notes, and I'm looking under
19 "Replacement", second line:

20 "Within three months of her arrival,
21 she adamantly refused to return to the
22 Hubert foster home."

23 **MR. MacLEAN:** Yes.

24 **MR. ENGELMANN:** Do you recall why she did
25 not want to return there?

1 **MR. MacLEAN:** As I said, I believe that
2 there was a former -- that there had been one visit or an
3 effort at visit or a phone call or something where, again,
4 she was confronted by Mrs. Hubert and the past situations
5 that were there and she was beginning -- she desperately --
6 this young lady desperately wanted a family, and I recall
7 that very clearly.

8 **MR. ENGELMANN:** All right. So you have that
9 vivid recollection of her?

10 **MR. MacLEAN:** Very much so. And she was
11 beginning to see that she was getting that from Alice and
12 Ed, in the Lapensée home.

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

14 Did you ever have a concern -- was it ever
15 disclosed to you that she experienced both physical and
16 sexual abuse while in the Hubert home?

17 **MR. MacLEAN:** That was knowledge I received
18 later in preparation for this.

19 **MR. ENGELMANN:** All right. So quite
20 recently?

21 **MR. MacLEAN:** Yeah, quite recently.

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

23 And do you know if she was ever asked about
24 that? And when she was so adamant about not going back,
25 would that have been explored with her do you know by other

1 -- the worker, yourself?

2 MR. MacLEAN: I don't believe -- it would be
3 Ms. Miller that would have explored that. I can't recall.

4 MR. ENGELMANN: I believe in her evidence
5 that she gave here, Ms. Archambault said that she had
6 blocked out the sexual abuse -- aspects of the sexual
7 abuse, but that she had disclosed incidents of physical
8 abuse while at the Hubert home to both the Lapensées and
9 also to the worker, Ms. Miller.

10 MR. MacLEAN: I don't recall that.

11 MR. ENGELMANN: All right. You don't recall
12 any of that being brought to your attention?

13 MR. MacLEAN: Not that it didn't, but I
14 can't recall, no.

15 MR. ENGELMANN: All right.

16 MR. MacLEAN: Unless there's notes here that
17 says I did.

18 MR. ENGELMANN: I don't believe there are.

19 MR. MacLEAN: No, okay.

20 MR. ENGELMANN: Now, there was also the
21 possibility, sir, and I believe it's set out at Bates page
22 635, that she might be returning to Crystal Beach, Ontario,
23 to live with her natural mother?

24 MR. MacLEAN: Yes, I believe there was a
25 visit arranged at Christmas time.

1 **MR. ENGELMANN:** There's a reference to
2 August 31st, '82:

3 "Moved to Thérèse Rouleau, Crystal
4 Beach, Ontario, remain a Crown ward."
5 That was her natural mother, right?

6 **MR. MacLEAN:** That's correct, yes.

7 **MR. ENGELMANN:** Did you understand what was
8 going on there, she's going to her mother but still
9 remaining a ward?

10 **MR. MacLEAN:** Yes, that was practice then
11 and it was in an effort to test the waters there. I
12 believe there was a contact with the agency, I forget the
13 name of the agency, the Children's Aid in that area.

14 **MR. ENGELMANN:** Yes.

15 **MR. MacLEAN:** That would have supervised
16 that.

17 **MR. ENGELMANN:** All right. She did not stay
18 there long though?

19 **MR. MacLEAN:** No.

20 **MR. ENGELMANN:** And she came back to the
21 Lapensée group home?

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

23 **MR. ENGELMANN:** Correct?

24 **MR. MacLEAN:** Yes.

25 **MR. ENGELMANN:** And she apparently came back

1 in early December of 1982?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: That's according to the note
4 here.

5 MR. MacLEAN: Yes.

6 MR. ENGELMANN: I also understand that in or
7 around November of 1982, the CAS conducted a serious
8 occurrence investigation into several allegations made
9 against Brian Lapensée?

10 MR. MacLEAN: Yes.

11 MR. ENGELMANN: Who was the adult son of Mr.
12 and Mrs. Lapensée running the group home?

13 MR. MacLEAN: Yes, that's correct.

14 MR. ENGELMANN: And you are aware of that,
15 sir?

16 MR. MacLEAN: Yes, I am.

17 MR. ENGELMANN: And you would have been
18 involved in that to some extent?

19 MR. MacLEAN: I certainly was.

20 MR. ENGELMANN: All right. And at that
21 time, I understand he was 21 years of age; this is Brian
22 Lapensée in 1982?

23 MR. MacLEAN: He would be around that age,
24 yes.

25 MR. ENGELMANN: All right. And it's my

1 understanding that there were allegations that he had made
2 sexual advances, sexual assaults, against various female
3 wards at the group home?

4 **MR. MacLEAN:** Yes.

5 **MR. ENGELMANN:** And, sir, if we could look
6 at 738539.

7 **THE COMMISSIONER:** That's in Exhibit 2393.

8 **MR. ENGELMANN:** No, 738539. I'm looking at
9 an excerpt of it, sir, between Bates pages ---

10 **THE COMMISSIONER:** Oh, sorry. We don't have
11 it then. That will be a new one. Thank you.

12 **MR. ENGELMANN:** If I could just have a
13 moment.

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

15 **THE COMMISSIONER:** So, it's a new document?

16 **MR. ENGELMANN:** Yes. I'm all set.

17 Sometimes my numbers are not always in the right order too,
18 and it's an excerpt of Document Number 738539. It's Bates
19 pages 822 to 826.

20 **THE COMMISSIONER:** Okay.

21 **MR. ENGELMANN:** Sir, this document lists
22 some of the girls who were allegedly sexually abused by
23 Brian Lapensée. If this could have a publication ban
24 stamp?

25 **THE COMMISSIONER:** Yes.

1 **MR. ENGELMANN:** I could speak to those names
2 in camera.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit 2394 is an excerpt of Document
5 Number 738539, and it's called a "Serious Occurrence
6 Report" and the date is November 30th, at 10:30 a.m.

7 **--- EXHIBIT NO./PIÈCE NO. P-2394:**

8 (738539 Excerpt - Serious Occurrence Report
9 dated November 30, 1982

10 **MR. ENGELMANN:** Sir, this is a document
11 you've seen before?

12 **MR. MacLEAN:** Yes ---

13 **MR. ENGELMANN:** In fact, it's a document you
14 prepared?

15 **MR. MacLEAN:** Correct.

16 **MR. ENGELMANN:** Then you would have prepared
17 it in or around December 1st of 1982?

18 **MR. MacLEAN:** Yes.

19 **MR. ENGELMANN:** And, as I understand it,
20 this was prepared following an investigation by CAS
21 workers?

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

23 **MR. ENGELMANN:** And that this was prompted
24 by the worker, Ms. Miller, reporting to you that a girl in
25 the group home had alleged that Brian Lapensée was sexually

1 molesting her and other girls in the home.

2 MR. MacLEAN: That's correct.

3 MR. ENGELMANN: And it was decided
4 immediately to conduct a full investigation?

5 MR. MacLEAN: Yes.

6 MR. ENGELMANN: And you and Ms. Miller would
7 have interviewed the female wards in the Lapensée Group
8 Home?

9 MR. MacLEAN: We interviewed the female
10 wards in the office.

11 MR. ENGELMANN: Oh, I'm sorry, the wards
12 from the Lapensée Group Home?

13 MR. MacLEAN: That's correct.

14 MR. ENGELMANN: Yes, and you interviewed
15 them in your office?

16 MR. MacLEAN: Yes.

17 MR. ENGELMANN: I don't really want to go
18 into what is set out in here other than there were a number
19 of allegations from several or perhaps all of the female
20 wards ---

21 MR. MacLEAN: Yes.

22 MR. ENGELMANN: --- who were in the Lapensée
23 Group Home; is that fair?

24 MR. MacLEAN: That's correct. I believe
25 there was only one, possibly -- I'd have to review this

1 again but that had said there had been no contact with
2 them.

3 MR. ENGELMANN: All right.

4 So of the four at the time three of them
5 were alleging some form of sexual misconduct on the part of
6 Brian Lapensée?

7 MR. MacLEAN: That's correct.

8 MR. ENGELMANN: And you would have also
9 interviewed the parents, Ed and Alice Lapensée?

10 MR. MacLEAN: Yes, I did -- we did.

11 MR. ENGELMANN: And there had been an issue
12 before, had there not?

13 MR. MacLEAN: There was, yes.

14 MR. ENGELMANN: Where there had been
15 inappropriate sexual misconducts or at least there had been
16 sexual misconduct on the part of Brian Lapensée several
17 years earlier?

18 MR. MacLEAN: That's correct.

19 MR. ENGELMANN: As a result, a female ward
20 became pregnant?

21 MR. MacLEAN: Yes.

22 MR. ENGELMANN: And CAS was aware of this?

23 MR. MacLEAN: Yes.

24 MR. ENGELMANN: And were there certain
25 restrictions in place with respect to whether or not Brian

1 Lapensée could be in the group home in the presence of
2 female wards, sir?

3 **MR. MacLEAN:** Certainly I had many
4 discussions with Brian Lapensée.

5 **MR. ENGELMANN:** Okay, also discussions with
6 the parents, though?

7 **MR. MacLEAN:** And with the parents and,
8 again, I do not recall. He was not constantly living in
9 the home. He would be out on his own and then I'd come
10 back and he's moved back in again. This kind of thing
11 happened. And each time I would meet with him and I would
12 meet with the parents and have a very frank discussion with
13 him that he needed to be very careful of his actions.

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

15 Well, looking at Bates page 7170824, just
16 below the halfway point in the page, there is a note that
17 you interviewed the parents on November 30th at 6:45 p.m.

18 **MR. MacLEAN:** Yes.

19 **MR. ENGELMANN:** They indicated that Brian is
20 not allowed in the group home, nor are the girls allowed at
21 the farmhouse. They had two properties; is that correct?

22 **MR. MacLEAN:** They had two properties,
23 that's correct.

24 **MR. ENGELMANN:** Were they close together or
25 not?

1 **MR. MacLEAN:** No, they were about -- one was
2 east of Martintown and one was right in the village of
3 Martintown and I would say there'd be four kilometres
4 between them -- five.

5 **MR. ENGELMANN:** All right.
6 And was Brian living at the farmhouse?

7 **MR. MacLEAN:** He was living at the
8 farmhouse.

9 **MR. ENGELMANN:** And it says they did admit
10 that Brian and Donald -- is that another son of theirs?

11 **MR. MacLEAN:** No, that refers to another --
12 another ward.

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

14 "...do drop in occasionally to pick up
15 their supper but only briefly and Alice
16 and Ed both watch them carefully."

17 And then they reference the fact that he did
18 sleep over on Sunday night and there's references to some
19 issues. They also recall that the girls were at the
20 farmhouse on one occasion, if I'm looking at this note
21 correctly ---

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

23 **MR. ENGELMANN:** --- towards the bottom of
24 the page.

25 And you would have interviewed Brian

1 Lapensée as well?

2 **MR. MacLEAN:** Yes, I did -- we did.

3 **MR. ENGELMANN:** And that we can see if we
4 flip over the page to 7170825, and he's denying any
5 physical or sexual contact with the girls. Do you see
6 that?

7 **MR. MacLEAN:** Yes, he did.

8 **MR. ENGELMANN:** And he is suggesting to you
9 that he is being set up?

10 **MR. MacLEAN:** Yes.

11 **MR. ENGELMANN:** And despite his denial you
12 conclude, under the conclusion:

13 "With all the similar reports given by
14 at least four of the girls and with
15 Brian's past history one has to
16 conclude that many if not all and
17 perhaps more of these incidents did
18 occur."

19 Fair enough?

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

21 **MR. ENGELMANN:** You do then say:

22 "How much setting up was done by the
23 girls (who all have promiscuous
24 backgrounds) one will never know.
25 However, Brian has to realize that this

1 home is a home of safety of these girls
2 and that he, under no circumstance, can
3 be involved with them. I feel I made
4 that very clear to him."

5 Do you see that?

6 **MR. MacLEAN:** Yeah, that's correct.

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

8 So you conclude that all or perhaps even
9 more incidents have occurred than those that are reported;
10 fair enough?

11 **MR. MacLEAN:** Certainly all of these.

12 **MR. ENGELMANN:** Yes, and perhaps more.

13 And I'm just wondering, you say how much
14 setting up was done by the girls who all have promiscuous
15 backgrounds, what did you mean by that and why would you
16 have included that here?

17 **MR. MacLEAN:** I'd have to go over the
18 testimony or the statements of some of the girls.

19 **MR. ENGELMANN:** Well, sir, what's being
20 described here ---

21 **MR. MacLEAN:** Yes.

22 **MR. ENGELMANN:** --- is not consensual sex.

23 **MR. MacLEAN:** No, this is true, yes.

24 **MR. ENGELMANN:** I mean they're saying that
25 they're being touched and grabbed and touched in sexual

1 areas of their bodies.

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: They're certainly not
4 suggesting that they're consenting to this activity.

5 MR. MacLEAN: That's correct.

6 MR. ENGELMANN: Is that fair?

7 MR. MacLEAN: That's right, yes.

8 MR. ENGELMANN: And you would agree with me
9 that whether someone is promiscuous or not they can still
10 be sexually assaulted or sexually abused?

11 MR. MacLEAN: Certainly, yes.

12 MR. ENGELMANN: And whether or not they were
13 at times promiscuous doesn't excuse in any way Brian
14 Lapensée's behaviour?

15 MR. MacLEAN: That's correct.

16 MR. ENGELMANN: And he was 21?

17 MR. MacLEAN: Yes.

18 MR. ENGELMANN: And these girls were all 15.

19 MR. MacLEAN: That's correct, yes.

20 MR. ENGELMANN: You say at the end in the
21 conclusion, and again I'm wondering about your choice of
22 words that:

23 "He, under no circumstance, can be
24 involved with them."

25 I mean the key here is that what's being

1 alleged is unwanted or non-consensual sexual touching?

2 **MR. MacLEAN:** That's correct.

3 **MR. ENGELMANN:** And I'm just wondering why
4 you wouldn't have used that term or the term of sexual
5 molestation or something of that nature.

6 **MR. MacLEAN:** Other than this is -- I have
7 no excuse for that.

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

9 **MR. MacLEAN:** No.

10 **MR. ENGELMANN:** Do you believe you should
11 have done that now, looking at it?

12 **MR. MacLEAN:** I should have been more
13 explicit possibly, yes.

14 **MR. ENGELMANN:** You know there were a number
15 of recommendations made at the bottom and not one of them
16 talks about possibly reporting this to the police.

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

18 **MR. ENGELMANN:** Did that not cross your mind
19 at the time, either you or Ms. Miller?

20 **MR. MacLEAN:** Yes, Ms. Miller and I
21 certainly were of the mind that we would hope that some
22 charges would be laid.

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

24 **MR. MacLEAN:** Hence the ---

25 **MR. ENGELMANN:** What did you do to try and

1 see that that happened?

2 MR. MacLEAN: Well, we reported back to Mr.
3 O'Brien, and that was the practice apparently at that time.

4 MR. ENGELMANN: Did you make it clear to
5 him?

6 MR. MacLEAN: Because ---

7 MR. ENGELMANN: Sorry. I'm sorry.

8 MR. MacLEAN: Well, we did it this time and
9 we did it the next time as well in reporting back to him
10 and then ---

11 MR. ENGELMANN: The next time being in April
12 of 1983?

13 MR. MacLEAN: In April of '83.

14 MR. ENGELMANN: And in both instances did
15 you make it clear that you thought the police should be
16 involved and that charges should be laid?

17 MR. MacLEAN: Certainly, I thought however
18 it would happen, whether it was through the Crown or
19 through the police, that charges should be laid, yes.

20 MR. ENGELMANN: And you would have advised -
21 - this report would have been given to Mr. O'Brien ---

22 MR. MacLEAN: It was.

23 MR. ENGELMANN: --- right after it was done?

24 MR. MacLEAN: In its entirety on December
25 the 1st, the very next day.

1 **MR. ENGELMANN:** December 1st, '82?

2 **MR. MacLEAN:** Yes.

3 **MR. ENGELMANN:** And did it go to the
4 Ministry at that time as well or did it just go to Mr.
5 O'Brien as your boss?

6 **MR. MacLEAN:** I haven't got the document in
7 front of me but the policy was notification of the Ministry
8 within 24 hours, I believe it was.

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

10 So again, because it was a serious
11 occurrence report the Ministry was also to be notified?

12 **MR. MacLEAN:** Yes. Yes, that's correct.

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

14 And do you know if the recommendations that
15 were set out were in fact implemented; in other words, a
16 letter of warning under the *Child Welfare Act* be sent to
17 Brian Lapensée and recorded?

18 **MR. MacLEAN:** Yes, that was done.

19 **MR. ENGELMANN:** That the Ministry be
20 notified?

21 **MR. MacLEAN:** Yes.

22 **MR. ENGELMANN:** And that a letter be sent to
23 Ed and Alice containing a copy of Brian's letters and
24 certain recommendations?

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

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

2 So those recommendations were followed?

3 **MR. MacLEAN:** Yes.

4 **MR. ENGELMANN:** And in fact, sir, and I
5 don't think we have to turn to it, but on Exhibit 129, Mr.
6 Commissioner, is a letter that is sent by Thomas O'Brien on
7 December 2nd, 1982 to a Robert Nadon.

8 **MR. MacLEAN:** He was the Ministry supervisor
9 in Ottawa at that time.

10 **MR. ENGELMANN:** All right.

11 Well, maybe we should just look at it
12 briefly just before the break, if we can, sir.

13 **THE COMMISSIONER:** Sure.

14 **MR. ENGELMANN:** It's Exhibit 129 and Exhibit
15 130.

16 And Mr. Nadon was a Ministry official?

17 **MR. MacLEAN:** Yes, he was.

18 **MR. ENGELMANN:** And he's been ---

19 **MR. MacLEAN:** I think they were ---

20 **MR. ENGELMANN:** --- written to to enclose a
21 copy of the Serious Occurrence Report?

22 **MR. MacLEAN:** Yes.

23 **MR. ENGELMANN:** He's being advised, amongst
24 other things, that there's no further immediate risk to the
25 children involved due to the fact that the young man in

1 question has not only left the home but has also left the
2 area?

3 MR. MacLEAN: That's correct.

4 MR. ENGELMANN: And that was your
5 understanding, that Brian Lapensee had left the area?

6 MR. MacLEAN: Yes, he was taking a train
7 that night.

8 MR. ENGELMANN: All right. So he wasn't
9 going to the farmhouse, he was ---

10 MR. MacLEAN: He was leaving.

11 MR. ENGELMANN: --- getting out of town.

12 MR. MacLEAN: And he was going to Toronto.

13 MR. ENGELMANN: Toronto? Okay.

14 MR. MacLEAN: He wasn't sure where he was
15 going to land but he was going to meet up with friends.

16 MR. ENGELMANN: All right.

17 The next paragraph, second paragraph,
18 indicates:

19 "While the sexual play itself may not
20 be too serious, the fact that it did
21 occur is serious. We will accept
22 responsibility to deal with this matter
23 further in line with option number 1
24 under investigational options."

25 And those were the recommendations we looked

1 at earlier?

2 MR. MacLEAN: That's correct.

3 MR. ENGELMANN: All right.

4 And the choice of the term "sexual play", I
5 realize those aren't your words. Again, we're talking
6 about sexual abuse or non-consensual sex?

7 MR. MacLEAN: That's correct.

8 MR. ENGELMANN: Do you know why that term
9 was used?

10 MR. MacLEAN: I do not know.

11 MR. ENGELMANN: All right.

12 It goes on to say:

13 "I do not think that the 'investigation
14 unit' of the Ministry need be brought
15 into play."

16 Were you aware of an investigation unit at
17 the Ministry?

18 MR. MacLEAN: In reviewing this in
19 preparation for this day, that I've not ---

20 MR. ENGELMANN: All right.

21 MR. MacLEAN: I don't understand that
22 sentence.

23 MR. ENGELMANN: All right, so you didn't
24 know at the time what that was?

25 MR. MacLEAN: Not to my recall.

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

2 And in the last paragraph, he says:

3 "While I do not expect any action on
4 the part of the Crown Attorney or the
5 police, I decided to discuss the whole
6 matter with the Crown Attorney and have
7 made an appointment with him."

8 Do you know why Mr. O'Brien would be saying
9 that, while he didn't expect any action?

10 **MR. MacLEAN:** It would appear that that's
11 his assessment.

12 **MR. ENGELMANN:** All right. Had he discussed
13 that with you and come to that conclusion with you?

14 **MR. MacLEAN:** Not to my recall, no.

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

16 At this point-in-time, the police have not
17 been contacted?

18 **MR. MacLEAN:** No.

19 **MR. ENGELMANN:** And to your knowledge, were
20 the local police ever contacted about this?

21 **MR. MacLEAN:** I -- not to my knowledge.

22 **MR. ENGELMANN:** And do you know how it was
23 expected that the police could take any action if they're
24 not to be advised? I just -- it's fine.

25 Exhibit 130, which is the next exhibit in

1 your binder, is yet a further letter to Mr. Nadon from Mr.
2 O'Brien?

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

4 **MR. ENGELMANN:** Indicating that he met with
5 the Crown Attorney on December 6th. Do you see that?

6 **MR. MacLEAN:** Yes.

7 **MR. ENGELMANN:** And would that -- would you
8 have been in attendance with him, sir, at that time?

9 **MR. MacLEAN:** I was.

10 **MR. ENGELMANN:** All right. And do you
11 recall anything about that meeting, sir?

12 **MR. MacLEAN:** I remember being there.

13 **MR. ENGELMANN:** All right. Do you know who
14 the Crown Attorney was?

15 **MR. MacLEAN:** No, I don't.

16 **MR. ENGELMANN:** All right. Do you recall
17 anything about the reaction of the Crown Attorney to this
18 report at the time?

19 **MR. MacLEAN:** I know he read it. It was
20 given to him, I believe.

21 **MR. ENGELMANN:** All right. And do you know
22 why you were going directly to the Crown Attorney without
23 speaking to the police first?

24 **MR. MacLEAN:** I do not know.

25 **MR. ENGELMANN:** That was not your decision?

1 **MR. MacLEAN:** No.

2 **MR. ENGELMANN:** All right.

3 Second paragraph says:

4 "We are waiting for a new address for
5 Mr. Lapensee in Toronto. We'll
6 continue to pursue this so as to fulfil
7 Mr. MacLean's recommendations in the
8 report."

9 Is that why a letter had not been sent to
10 him yet?

11 **MR. MacLEAN:** At that point ---

12 **MR. ENGELMANN:** I understand there was a
13 letter sent later in December?

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

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

16 Sir, perhaps we could take the break.

17 **THE COMMISSIONER:** Thank you.

18 We'll take the morning break.

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

21 This hearing will resume at 11:25 a.m.

22 --- Upon recessing at 11:08 a.m./

23 L'audience est suspendue à 11h08

24 --- Upon resuming at 11:31 a.m./

25 L'audience est reprise à 11h31

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

3 This hearing is now resumed. Please be
4 seated. Veuillez vous asseoir.

5 **THE COMMISSIONER:** Mr. Engelmann.

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

7 **IAN MacLEAN, Resumed/Sous le même serment:**

8 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR**

9 **MR. ENGELMANN (cont'd/suite):**

10 **MR. ENGELMANN:** Mr. MacLean, just to follow
11 up on your Serious Occurrence Report.

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** I know one of the things you
14 did was you wrote to the Lapensees and you gave them a copy
15 of the report?

16 **MR. MacLEAN:** Yes, I did.

17 **MR. ENGELMANN:** And if the witness could be
18 shown 738539.

19 Again, I'm looking at an excerpt of that
20 document, so an excerpt of 738539, Bates pages 7170926 and
21 27.

22 Mr. Commissioner, this is a letter dated
23 December 7th, 1982 to Mr. and Mrs. Edward Lapensee from Ian
24 MacLean.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **THE COMMISSIONER:** Thank you.
2 Exhibit Number 2395 then.

3 **--- EXHIBIT NO./PIÈCE NO. P-2395:**
4 (738539 - 7170926-27) Excerpt - Letter from
5 Ian MacLean to Mr. & Mrs. Lapensee dated
6 December 7, 1982

7 **MR. ENGELMANN:** Mr. MacLean, this is a cover
8 letter that you're writing to the Lapensees. You're
9 enclosing some material, including a report?

10 **MR. MacLEAN:** That's correct.

11 **MR. ENGELMANN:** You're also enclosing the
12 letter to Mr. Nadon -- the two letters to him, December 2nd
13 and December 7th?

14 **MR. MacLEAN:** Yes.

15 **MR. ENGELMANN:** And you're setting out some
16 recommendations and you're being very clear about them in
17 this letter, I would suggest?

18 **MR. MacLEAN:** That's correct.

19 **MR. ENGELMANN:** And, for example:
20 "That your son, Brian Lapensee, never be
21 allowed on the group home premises as long
22 as you have adolescent girls living with you
23 in the group home."

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

25 **MR. ENGELMANN:** Pretty clear?

1 **MR. MacLEAN:** Yes.

2 **MR. ENGELMANN:** Number 1.

3 Number 2:

4 "That should Brian move back to our
5 area, we request and understand that
6 you will notify us immediately."

7 And number 3:

8 "That all incidents, alleged or
9 otherwise, affecting the Society or
10 wellbeing of a child, be reported to
11 the CAS social worker immediately as
12 outlined in our policy, besides
13 recording it in your daily log."

14 So they were to give -- they were to write a
15 daily log but these were to be reported immediately?

16 **MR. MacLEAN:** That's correct.

17 **MR. ENGELMANN:** And you then reinforce that
18 at point 4, to reinforce the fact that the log is a daily
19 log; correct?

20 **MR. MacLEAN:** Yes, that's correct.

21 **MR. ENGELMANN:** All right. And you do
22 indicate to them on the second page that:

23 "We have discussed the issue with the
24 Crown Attorney and he has decided that
25 no further legal action would be

1 taken."

2 Do you see that?

3 **MR. MacLEAN:** Yes.

4 **MR. ENGELMANN:** Do you know why you did
5 that, sir; why you would have advised them that there was
6 going to be no legal action? Do you recall?

7 **MR. MacLEAN:** Other than just clear and open
8 communication with a foster parent.

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

10 And that was the feedback that you'd
11 received from the Crown prosecutor?

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

13 **MR. ENGELMANN:** Sir, then in addition
14 there's another letter. It is also an excerpt of Document
15 738539, and it is found at Bates page 923.

16 Mr. Commissioner, this is a letter dated
17 December 14th, 1982 from Robert Nadon, Program Supervisor at
18 the Ministry, to T.J. O'Brien, and it's regarding the
19 Serious Occurrence Report of December 1st, 1982.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit 2396.

22 **--- EXHIBIT NO./PIÈCE NO. P-2396:**

23 (738539) Excerpt - Letter from Robert Nadon
24 to Thomas O'Brien dated December 14, 1982
25 re: Serious Occurrence Report dated December

1 1, 1982

2 MR. ENGELMANN: Sir, I'm assuming that you
3 would have seen this at the time?

4 MR. MacLEAN: I did.

5 MR. ENGELMANN: Okay. And this is a letter
6 from Nadon, thanking Mr. O'Brien for the two previous
7 letters and sending the Serious Occurrence Report, and for
8 his letter reporting his follow-up discussions with the
9 Crown?

10 MR. MacLEAN: That's correct.

11 MR. ENGELMANN: And he writes that he's
12 satisfied that the children in the Lapensee home are no
13 longer at risk?

14 MR. MacLEAN: Yes.

15 MR. ENGELMANN: And do you recall, sir, at
16 this time -- and I'm thinking from November 30th until about
17 this time, December 14th -- was there any discussion at the
18 local CAS about closing this home?

19 MR. MacLEAN: Not at this time that I would
20 recall.

21 MR. ENGELMANN: All right. The reason I ask
22 that is I haven't seen anything on that.

23 MR. MacLEAN: No, no.

24 MR. ENGELMANN: But you had the problem from
25 a few years before.

1 **MR. MacLEAN:** Yes.

2 **MR. ENGELMANN:** And now you have this
3 investigation that pretty much verifies that sexual abuse
4 was occurring in the home?

5 **MR. MacLEAN:** That's correct, yes.

6 **MR. ENGELMANN:** And I'm wondering did the
7 fact that Brian Lapensée had left the area have some impact
8 on the issue of whether or not to close the home, do you
9 know? Or was it just not an issue?

10 **MR. MacLEAN:** It wasn't -- the closing of
11 the home at that point was not an issue. He was out of the
12 home. They had moved from the farmhouse. They were re-
13 established. The girls were going to be living in the
14 Carenick Group Home in town.

15 We had set up what I understood to be
16 working relationships to keep Brian away.

17 **MR. ENGELMANN:** All right. You've been very
18 clear in your letter.

19 **MR. MacLEAN:** Yes.

20 **MR. ENGELMANN:** But the fact that he was
21 actually moving away from the area, did that have some
22 influence on your comfort level with this home?

23 **MR. MacLEAN:** It certainly would have, yes.

24 **MR. ENGELMANN:** Because he returns to the
25 area very shortly thereafter, does he not?

1 **MR. MacLEAN:** That's correct, yes.

2 **MR. ENGELMANN:** Again, sir, if we could look
3 at the letter then that you write to Brian Lapensée and
4 that is at -- it's again an excerpt of Document Number
5 738539. It is Bates pages 921 and 922. It's a letter
6 dated December 20th, 1982 from both Mr. O'Brien and Mr.
7 MacLean to Brian Lapensée.

8 And, sir, you're going to have it in a
9 minute, but the letter is addressed to him in Martintown
10 and I'm presuming that's Rural Route Number 1, Martintown.
11 Is that the farmhouse address, sir?

12 **MR. MacLEAN:** That's correct, and I believe
13 at this time he had returned.

14 **THE COMMISSIONER:** Exhibit 2397.

15 **--- EXHIBIT NO./PIÈCE NO. P-2397:**

16 (738539 - 7170921-22) Excerpt - Letter
17 from Thomas O'Brien and Ian MacLean to
18 Brian Lapensée - dated December 20,
19 1982

20 **MR. ENGELMANN:** And that's what you indicate
21 in the first paragraph of your letter?

22 **MR. MacLEAN:** Yes.

23 **MR. ENGELMANN:** Right?

24 "I understand you have recently again
25 returned to this area and are in fact

1 living at your parents' farmhouse."

2 **MR. MacLEAN:** That's correct.

3 **MR. ENGELMANN:** "May I remind you that you
4 agreed with our agency at the meeting
5 of November 30th, 1982 that you would be
6 leaving your parents' home and would
7 never have any further contact with the
8 girls that are placed in the Carenick
9 Group Home in Martintown."

10 Now, what is the Carenick Group Home in
11 Martintown?

12 **MR. MacLEAN:** That was the home that was
13 being licensed as a group home operated by Mr. and Mrs.
14 Lapensée.

15 **MR. ENGELMANN:** Okay.

16 **MR. MacLEAN:** In Martintown.

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

18 **MR. MacLEAN:** Compared to the farmhouse ---

19 **MR. ENGELMANN:** All right, fair enough.

20 **MR. MacLEAN:** --- where they originally
21 started.

22 **MR. ENGELMANN:** And again, you, in your
23 letter in the third paragraph, stress the seriousness of
24 the statements you received?

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

1 **MR. ENGELMANN:** And that any further contact
2 with the wards may result in serious consequences,
3 presumably to him?

4 **MR. MacLEAN:** Yes, yes.

5 **MR. ENGELMANN:** And you then go on to quote
6 him from Section 46 of the *Child Welfare Act*?

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

8 **MR. ENGELMANN:** Correct?

9 **MR. MacLEAN:** Yes.

10 **MR. ENGELMANN:** And, again, that's copied to
11 his parents, to the worker and to the fellow with the
12 Ministry.

13 And, sir, did you -- did you think that was
14 sufficient at that time, the actions that had been taken?

15 **MR. MacLEAN:** My recollection was that Brian
16 was in agreement and was willing to follow the conditions,
17 yes.

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

19 Because quite aside from Section 46 of the
20 *Child Welfare Act*, you were aware that what he allegedly
21 did to at least three of the girls in that home would have
22 been a breach of the *Criminal Code* or may have been a
23 breach of the *Criminal Code*?

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

25 **MR. ENGELMANN:** And the provision that we're

1 dealing with appears to really deal with something other
2 than sexual assault or sexual molestation; Section 46 of
3 the *Child Welfare Act* that is.

4 **MR. MacLEAN:** I guess the "d" part under
5 subsection 35 on page 2, Visit, Right to Telephone, it was
6 underlining that if he went against what we wanted -- if he
7 went against the conditions and had contact, that's
8 correct.

9 **MR. ENGELMANN:** Right, but I guess what I'm
10 saying is, if we're dealing with a problem of an adult male
11 ---

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** --- sexually molesting 15
14 year-old girls in a group home, I don't see how this
15 section really deals with that issue. Do you?

16 **MR. MacLEAN:** I guess on the knowledge that
17 the Crown was going to be proceeding and there was no
18 charges laid, this was my next best ---

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

20 **MR. MacLEAN:** --- our next best thing.

21 **MR. ENGELMANN:** All right. Now, do you know
22 that -- he's back in the area now. He's at the farmhouse.

23 Any consideration about closing the home
24 then because he's now back in the area? Or did that not
25 come up yet?

1 MR. MacLEAN: No, there wasn't.

2 MR. ENGELMANN: All right.

3 Do you know, sir, if the Ministry was
4 involved or was notified about his return to the area?

5 MR. MacLEAN: I don't recall that.

6 MR. ENGELMANN: All right.

7 THE COMMISSIONER: If -- was the
8 Ministry...?

9 MR. ENGELMANN: Notified of his return to
10 the area.

11 THE COMMISSIONER: Well, I think by the
12 letter given to -- copy of the letter of the 20th ---

13 MR. ENGELMANN: Oh, of course.

14 THE COMMISSIONER: --- was sent to -- I know
15 you're just checking to see if I was listening.

16 (LAUGHTER/RIRES)

17 MR. ENGELMANN: Yes, I was.

18 All right. I guess that would have been
19 clear from Exhibit 2397. Fair enough. Thank you, Mr.
20 Commissioner.

21 So we know from Ms. Archambault's case notes
22 that she comes back to this home on December 2nd, 1982?

23 MR. MacLEAN: That's correct.

24 MR. ENGELMANN: And, sir, if we can look at
25 -- I'll just be a moment.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. ENGELMANN: That is Exhibit 2393, Bates
3 pages 635.

4 All right. So we see at the bottom of the
5 page that on December 2nd, she returned to the Lapensée
6 group home. Do you see that?

7 MR. MacLEAN: That's correct.

8 MR. ENGELMANN: And, sir, it would appear
9 from looking at the bottom of the next page, 636, that she
10 would have been advised of the serious occurrence
11 investigation and some of the allegations vis-à-vis Brian
12 Lapensée, if you look at the bottom paragraph?

13 MR. MacLEAN: Yes.

14 MR. ENGELMANN: And she was upset about this
15 because it notes that:

16 "This upset Bertie considerably as she
17 denied Brian never made any advances
18 towards her and also stated she had
19 returned to the group home planning
20 that she could eventually 'graduate' to
21 the Lapensée family home and from there
22 find a sense of family belonging."

23 MR. MacLEAN: That's correct.

24 MR. ENGELMANN: All right.

25 So there would have been a decision made by

1 Ms. Miller presumably to inform Roberta about what had
2 happened?

3 **MR. MacLEAN:** Yes, there was.

4 **MR. ENGELMANN:** And no doubt to warn her
5 about what had happened.

6 And do you know if there had been direct
7 questions about whether she had been abused in a similar
8 way?

9 **MR. MacLEAN:** I would have no recollection
10 of that.

11 **MR. ENGELMANN:** All right.

12 **MR. MacLEAN:** Other than the notes that we
13 have.

14 **MR. ENGELMANN:** Now, I understand, sir, that
15 there was an arrangement made to allow Roberta to spend
16 Christmas with the Lapensée family and that's -- if you see
17 at the top of the next page, 7170637?

18 **MR. MacLEAN:** Yes.

19 **MR. ENGELMANN:** It says:

20 "By special agreement signed by Ed
21 Lapensée, Ian MacLean and Bertie, it
22 was agreed she could spend Christmas
23 1982, two days and one night, with the
24 Lapensée family on condition that the
25 parents provide constant supervision

1 and ensure Brian was not allowed to be
2 alone with Bertie."

3 Okay?

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

5 **MR. ENGELMANN:** "At that time, Bertie was
6 unwanted by any of her family in the
7 area and was very unhappy at having no
8 one to spend Christmas with."

9 Do you see that?

10 **MR. MacLEAN:** Yes.

11 **MR. ENGELMANN:** So this is signed by the
12 three of you -- or was there something or was this just a
13 verbal agreement because we don't seem to have this?

14 **MR. MacLEAN:** I believe there is a document.

15 **MR. ENGELMANN:** All right. Well, then I've
16 just missed it. You recall there being something in
17 writing about this?

18 **MR. MacLEAN:** Oh, there was something in
19 writing, yes.

20 **MR. ENGELMANN:** All right, fair enough.
21 Would you agree that you were in a bit of a
22 dilemma here?

23 **MR. MacLEAN:** When Mr. Lapensée wrote a
24 letter to us and came into the office with Bertie and
25 presented this on Bertie's behalf, Bertie was there was

1 well.

2 Yes, it presented a dilemma. We were faced
3 with a young lady who is now 17 and-a-half, still a minor
4 but 17 and-a-half years of age; she had been visiting her
5 parents -- her mother. That had broken down and that was
6 quite disturbing to her.

7 At that point, she was in -- no speaking
8 terms, I believe, with her sister. She very desperately
9 wanted to have family, again, as I've spoken before, and it
10 was Christmas.

11 **MR. ENGELMANN:** Right.

12 **MR. MacLEAN:** And there ---

13 **MR. ENGELMANN:** So that was on the one side?

14 **MR. MacLEAN:** That was on the one side.

15 **MR. ENGELMANN:** And on the other side?

16 **MR. MacLEAN:** On the other side, I had Brian
17 and I had the conditions that we had laid out, that I was
18 fully aware of with the Ministry. And we made the
19 decision, I was very much a part of that decision, to allow
20 for the one night and two days. It was Christmas Eve and
21 Christmas Day for her to spend, with the conditions.

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

23 **MR. MacLEAN:** And we discussed that very
24 openly and that is, again, in working with children, my
25 practice is that when we have a problem and it's confronted

1 and faced and conditions laid out, that that's a very big
2 preventative measure.

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

4 And, in fact, the documents on this, sir, if
5 we look at 73835 -- sorry, 738539 again, another excerpt
6 from that document.

7 **THE COMMISSIONER:** It's a new document, sir.
8 It's a new one.

9 **MR. ENGELMANN:** And it's Bates page 7170924.
10 There's a letter written by Ed Lapensée to -- it's to your
11 attention.

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** Dated December 22nd, 1982.

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

15 **MR. ENGELMANN:** You would agree that
16 allowing some arrangement, three weeks after you put in
17 place prohibitions and conditions, was a major departure
18 from that original prohibition?

19 **MR. MacLEAN:** We were certainly aware of
20 that.

21 **MR. ENGELMANN:** All right.

22 And do you know if the Ministry was advised
23 of this departure?

24 **MR. MacLEAN:** I regret -- I don't believe I
25 notified the Ministry.

1 **THE COMMISSIONER:** Exhibit 2398 is an
2 excerpt of 738539, which is a letter dated December 22nd,
3 1982 to Mr. Thomas O'Brien from Ed Lapensée.

4 **--- EXHIBIT NO./PIÈCE NO. P-2398:**

5 (738539 - 7170924) Excerpt - Letter from
6 Edward Lapensee to Thomas O'Brien - dated
7 December 22, 1982

8 **MR. ENGELMANN:** Sorry, that was 2398, sir?

9 **THE COMMISSIONER:** Two-three-nine-eight
10 (2398), yes.

11 **MR. ENGELMANN:** So he's essentially advising
12 that his family is willing to have her spend Christmas with
13 them and that they are going to accept full responsibility.
14 He is also confirming that his son, Brian, will be there;
15 correct?

16 **MR. MacLEAN:** Yes.

17 **MR. ENGELMANN:** But that they're -- as he
18 said, accept full responsibility:

19 "...assure you that at no other time
20 than Christmas Eve and Christmas will
21 she be allowed to stay overnight in our
22 farm home."

23 And he's requesting a written approval or
24 further direction; correct?

25 **MR. MacLEAN:** Yes. I might also add that

1 the -- on the other hand, she would be alone in the group
2 home in Martintown with a staff member. And that versus --
3 -

4 **MR. ENGELMANN:** That versus being with the
5 parents and their family at the farm home.

6 **MR. MacLEAN:** That versus -- with the
7 Lapensée family.

8 **MR. MacLEAN:** And still the weight of Brian
9 on our heads as well.

10 **MR. ENGELMANN:** Yes. So those were the
11 choices?

12 **MR. MacLEAN:** Those were.

13 **THE COMMISSIONER:** Well ---

14 **MR. ENGELMANN:** And, well, those were the
15 choices you thought you had?

16 **THE COMMISSIONER:** Right. You could have
17 asked Brian to stay away for Christmas Day or, you know,
18 and have her go in for half a day or something like that?

19 **MR. MacLEAN:** That would have been a
20 possibility. It was a foster family. It wasn't a staff
21 setting. It was ---

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

23 **MR. MacLEAN:** And I guess we were soft in
24 that area, yes.

25 **THE COMMISSIONER:** Okay. And she is 17 and-

1 a-half years of age?

2 **MR. MacLEAN:** And she is 17 and-a-half.

3 **THE COMMISSIONER:** She can withdrawn at any
4 time from the control of the Children's Aid Society?

5 **MR. MacLEAN:** That's correct, and she can
6 also -- she would also have our after-duty hour phone
7 number and the worker's phone number.

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

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

10 So the next document, again, an excerpt of
11 738539. It's Bates page 7170925.

12 **THE COMMISSIONER:** Again, that's a new
13 document.

14 **MR. ENGELMANN:** This is the response from
15 Mr. O'Brien, and perhaps this is what you meant by a
16 written agreement, sir, the letter coming from Mr. Lapensée
17 and there's a letter going back?

18 **MR. MacLEAN:** It's very possible. Yes. I
19 knew there was something in writing anyway.

20 **MR. ENGELMANN:** Yes.

21 **THE COMMISSIONER:** Thank you.

22 Exhibit 2399, excerpt of 738539, a letter
23 dated December 22nd, 1982 to Mr. Lapensée from Thomas
24 O'Brien.

25 --- **EXHIBIT NO./PIÈCE NO. P-2399:**

1 (738539 - 7170925) Excerpt - Letter from
2 Thomas O'Brien to Mr. & Mrs. Lapensee -
3 dated December 22, 1982

4 **MR. ENGELMANN:** Sir, you are familiar with
5 this letter as well?

6 **MR. MacLEAN:** Yes, very much so.

7 **MR. ENGELMANN:** Right.

8 So, again, the conditions are she is allowed
9 to join the Lapensée family, Christmas Eve, Christmas Day:

10 "(1) You assume full responsibility of
11 her during the time she is with your
12 family in the farmhouse; and (2) oberta
13 only stay overnight in the farmhouse
14 when you both are there on Christmas
15 Eve and Christmas night."

16 **MR. MacLEAN:** That's correct.

17 **MR. ENGELMANN:** Here's maybe two nights that
18 are being allowed; correct?

19 **MR. MacLEAN:** My recollection is that it was
20 one -- it was two days and one night, but ---

21 **MR. ENGELMANN:** Right. It says:

22 "May I stress to you our disapproval of
23 any contact Brian may have with any of
24 our female wards placed at Carenick
25 Group Home. I trust that you and Mr.

1 MacLean will be able to rectify this
2 situation early in the New Year to both
3 our satisfaction."

4 And I'm wondering what's meant by that sir,
5 "rectify the situation". What was left to be rectified?

6 **MR. MacLEAN:** This is written on December
7 22nd. We got information that Brian had returned home on
8 the -- somewhere -- by the 20th.

9 I think this refers to the fact of just
10 solidifying the conditions that Brian was going to live or
11 stay in the farmhouse and have absolutely no contact -- it
12 was in force at that time, but there wasn't a great deal of
13 practice at that point.

14 **MR. ENGELMANN:** All right. Because the
15 reason I asked is you had already set that out in the
16 letter of December 20th. I'm not sure what was left to
17 rectify.

18 **MR. MacLEAN:** Well, I think just to clarify
19 that we weren't nullifying that.

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

21 **MR. MacLEAN:** We were continuing that.

22 **MR. ENGELMANN:** And she stayed there at
23 Christmas?

24 **MR. MacLEAN:** Indeed she did, yes.

25 **MR. ENGELMANN:** And to your knowledge, there

1 were no reports of any wrongdoing?

2 **MR. MacLEAN:** There's no episodes until
3 April.

4 **MR. ENGELMANN:** I understand that though
5 approximately three months later, there was a serious
6 occurrence again involving this home?

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

8 **MR. ENGELMANN:** And if we could look again
9 at an excerpt of 738539. Oh, I'm sorry, sir. This is
10 already an exhibit. It's Exhibit 131.

11 Counsel, it is Bates pages 7170817 through
12 7170821; again, an excerpt of Document 738539. It's been
13 previously filed as Exhibit 131.

14 Sir, this again is a Serious Occurrence
15 Report that you prepared on April 11th of 1983?

16 **MR. MacLEAN:** That's correct.

17 **MR. ENGELMANN:** Is this the same kind of
18 document that you prepared with respect to this same home
19 on December 1st, 1982?

20 **MR. MacLEAN:** Very similar.

21 **MR. ENGELMANN:** All right. So here we are
22 four months later and we have another serious occurrence;
23 correct?

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

25 **MR. ENGELMANN:** And this results from an

1 event that occurred on or about April 5th, 1983? Sorry --
2 yes, 1983.

3 MR. MacLEAN: That's correct.

4 MR. ENGELMANN: And I'm looking at Bates
5 page 817 and this arises as a result of Roberta Archambault
6 contacting the worker the morning of April 5th; correct?

7 MR. MacLEAN: Yes.

8 MR. ENGELMANN: And then there is a meeting
9 at 1:30 that day where the worker is advised about a
10 problem that resulted over the weekend.

11 MR. MacLEAN: That's correct.

12 MR. ENGELMANN: And there was an issue of
13 Roberta having overdosed. Do you see that?

14 MR. MacLEAN: That's correct.

15 MR. ENGELMANN: And she was taken to the
16 hospital?

17 MR. MacLEAN: Yes.

18 MR. ENGELMANN: And as I understand it, sir,
19 she was interviewed by both you and Ms. Miller the
20 following day?

21 MR. MacLEAN: Yes, I attended the hospital
22 with Ms. Miller.

23 MR. ENGELMANN: All right.

24 And she revealed a number of facts to you
25 and they're set out at Bates page 818?

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

2 **MR. ENGELMANN:** And including the fact that
3 Brian Lapensée was in her -- this is in her bedroom. I'm
4 looking at paragraph one on that page. Was in when she
5 woke up on Sunday morning; do you see that?

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

7 **MR. ENGELMANN:** There was a confrontation
8 with him and there was an allegation of a sexual advance on
9 his part; correct?

10 **MR. MacLEAN:** Yes.

11 **MR. ENGELMANN:** And I'm just wondering, sir,
12 at this point, Roberta is again staying the night at the
13 Lapensée farm home.

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

15 **MR. ENGELMANN:** Had there been any
16 arrangement made for that to happen?

17 **MR. MacLEAN:** Not at all.

18 **MR. ENGELMANN:** So the CAS was not aware
19 that that was going to take place?

20 **MR. MacLEAN:** No, we did not.

21 **MR. ENGELMANN:** There had been no
22 information given to you either by Roberta herself or by
23 the Lapensées?

24 **MR. MacLEAN:** None at all.

25 **MR. ENGELMANN:** And would you have expected

1 that, sir?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: And in fact, when did ---

4 MR. MacLEAN: We wouldn't have expected it
5 unless there had been a request and a very special
6 circumstance set up.

7 MR. ENGELMANN: Right. There was -- she was
8 not to stay there.

9 MR. MacLEAN: That's correct.

10 MR. ENGELMANN: And they were aware of that?

11 MR. MacLEAN: Yes.

12 MR. ENGELMANN: And there were restrictions
13 in place vis-à-vis Brian's contact with any of the female
14 wards?

15 MR. MacLEAN: That's right.

16 MR. ENGELMANN: That hadn't changed?

17 MR. MacLEAN: That's correct.

18 MR. ENGELMANN: All right.

19 So this arrangement where they are both at
20 the Lapensée farm home was done without your knowledge?

21 MR. MacLEAN: And without knowledge or
22 permission.

23 MR. ENGELMANN: All right.

24 And when I say "your" I meant the CAS?

25 MR. MacLEAN: That's correct.

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

2 And just going back to what we see on page
3 818 she is describing a family party, consumption of
4 alcohol and an argument ensues. There is allegations of
5 more sexual advances and apparently she leaves, stays with
6 other relatives, returns to the Lapensées the next day and
7 there is the question of the overdose as well.

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

9 **MR. ENGELMANN:** And then on page 819, the
10 Lapensées, the parents were interviewed?

11 **MR. MacLEAN:** Yes.

12 **MR. ENGELMANN:** And essentially were given
13 two options?

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

15 **MR. ENGELMANN:** The Ministry could do a
16 review. What were the options they were given, sir?

17 **MR. MacLEAN:** I believe the ---

18 **THE COMMISSIONER:** I think it's on page 4 of
19 the report:

20 "To close the home and give them a 60-
21 day notice or to ask the Ministry for
22 review of the home and follow
23 recommendations laid down."

24 **MR. MacLEAN:** Those were the two options.

25 **MR. ENGELMANN:** See that in the middle of

1 the page?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: All right.

4 MR. MacLEAN: And I believe that was in the
5 -- the second one was an option in the Ministry guidelines
6 on residential group homes, if I recollect properly.

7 MR. ENGELMANN: Well, if you look a bit
8 further down the page apparently there was a meeting later
9 that day and at that meeting we have a number of
10 individuals. Are these supervisors from the CAS; Mr.
11 O'Brien, Dave Jones, Cam Copeland?

12 MR. MacLEAN: Mr. O'Brien was the director,
13 Executive Director. Dave Jones was a supervisor. I'm not
14 sure about Cam Copeland.

15 MR. ENGELMANN: All right.

16 MR. MacLEAN: But Angelo Towndale would be
17 the Assistant Director.

18 MR. ENGELMANN: All right.
19 You were at the meeting with them?

20 MR. MacLEAN: Yes.

21 MR. ENGELMANN: And the feeling at that
22 point was that it was unanimous that the home should be
23 closed?

24 MR. MacLEAN: That's correct.

25 MR. ENGELMANN: Now, it does say that you

1 had notified the Ministry:

2 "...prepare a report indicating our
3 reasons but that the Lapensées will be
4 given the opportunity to resign."

5 Do you see that?

6 **MR. MacLEAN:** Yes, I do.

7 **MR. ENGELMANN:** And why is that, sir?

8 **MR. MacLEAN:** I cannot remember from that
9 point but today I'm reasoning that they were members of a
10 fairly tight -- I say tight -- it was a great working
11 relationship between the group home parents and the
12 specialized foster parents. And whether that was an
13 opportunity for them to say publicly that they had resigned
14 and that could be no questions asked from that point, I'm
15 not sure why that is -- why that is in there.

16 **MR. ENGELMANN:** All right.

17 **MR. MacLEAN:** That is one possibility.

18 **MR. ENGELMANN:** Well, sir, there is some
19 recommendations that are set out on the last page of the
20 report. One, I guess which is obvious:

21 "A Serious Occurrence Report prepared
22 and filed."

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

24 **MR. ENGELMANN:** That obviously would have
25 been required?

1 MR. MacLEAN: Yes.

2 MR. ENGELMANN: Two:

3 "The police or Crown Attorney will
4 again be consulted on the
5 recommendation of Mr. Robert Nadon
6 regarding Brian Lapensée."

7 Do you see that?

8 MR. MacLEAN: That's correct.

9 MR. ENGELMANN: So it seems to be that --
10 are you suggesting that it's only going to happen if he
11 recommends it?

12 MR. MacLEAN: It would appear that that's
13 correct, yes.

14 MR. ENGELMANN: All right.

15 And there is a deadline given for closing
16 the home.

17 MR. MacLEAN: That's correct.

18 MR. ENGELMANN: And in fact, he is going to
19 be asked for a letter of resignation?

20 MR. MacLEAN: Yes, and that gives -- there
21 was an understanding in the contract that if we closed or
22 they closed there would be a 60-day notice of that
23 fulfilment and that was fulfilled.

24 MR. ENGELMANN: All right.

25 But on the resignation issue it would appear

1 that that's CAS-driven as opposed to writing it up and
2 doing a report saying, "We're closing the home" you're
3 giving them a direction to, "just give us a resignation"?

4 **MR. MacLEAN:** But we were at the same time -
5 - the mindset was we're closing the home.

6 **MR. ENGELMANN:** No, fair enough.

7 **MR. MacLEAN:** Whether we got the resignation
8 letter or not.

9 **MR. ENGELMANN:** Fair enough.

10 **MR. MacLEAN:** Yes.

11 **MR. ENGELMANN:** All right.

12 And the reasons are set out at the bottom
13 two paragraphs, correct?

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

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

16 And one of them -- the first one is that
17 they broke the agreement; correct?

18 **MR. MacLEAN:** That's correct.

19 **MR. ENGELMANN:** And secondly:

20 "We are not prepared to expose our
21 adolescent wards to further chances of
22 sexual harassment from Brian."

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

24 **MR. ENGELMANN:** Now, any kind of policy in
25 place at that time about when to contact the police?

1 **MR. MacLEAN:** I don't believe that was in
2 place at that time.

3 **MR. ENGELMANN:** All right. And sir --

4 **MR. MacLEAN:** I could ---

5 **MR. ENGELMANN:** I'm sorry?

6 **MR. MacLEAN:** I could be corrected on that.
7 It appeared to be a practice of Mr. O'Brien at that time to
8 contact the Crown.

9 **MR. ENGELMANN:** Right. I just wanted to
10 suggest to you again that the police were not contacted; it
11 was just the Crown Attorney again.

12 **MR. MacLEAN:** Yes.

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

14 And in fact, that's obvious from looking at
15 Exhibit 132. I hope you still have that binder.

16 Counsel, that's another excerpt of Document
17 Number 738539. It's Bates page 7170837. And this is a
18 letter from the program supervisor at the Ministry to Mr.
19 O'Brien.

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

21 **MR. ENGELMANN:** And he is referring to a
22 letter he's received regarding the closure of the home from
23 Mr. O'Brien and he says:

24 "I understand from Ian MacLean that the
25 home will officially be closed as of

1 June 11th, 1983 and that no children are
2 presently placed nor will be placed in
3 the home. I would ask you to return to
4 this office the licence to operate the
5 home so that the residents can be
6 struck from the list of approved
7 homes."

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

9 **MR. ENGELMANN:** And it says:

10 "Furthermore, I understand that you
11 will be consulting with the Crown
12 Attorney in relation to the latest
13 reported incident."

14 And sir, is the handwriting yours?

15 **MR. MacLEAN:** No, it isn't.

16 **MR. ENGELMANN:** Okay. Would that be Mr.
17 O'Brien?

18 **MR. MacLEAN:** It is.

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

20 So you're to be responsible for what's found
21 in the second paragraph and he is going to follow up then
22 with the Crown Attorney which is listed in the third
23 paragraph?

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

25 **MR. ENGELMANN:** To your knowledge was there

1 any recommendation at all from Mr. Nadon that this matter
2 be reported to the police?

3 **MR. MacLEAN:** No, there wasn't.

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

5 And then if you flip your binder to Exhibit
6 133, again, counsel, that's an excerpt from 738539. It's
7 Bates page 7170909.

8 This is a letter from Thomas O'Brien to
9 Allan Ain, April 22nd, 1983; correct?

10 **MR. MacLEAN:** Yes.

11 **MR. ENGELMANN:** And Mr. Ain, would have been
12 familiar to you at that time, sir, as one of the Crown
13 Attorneys?

14 **MR. MacLEAN:** I, at that time, had not met
15 him before but I knew the name.

16 **MR. ENGELMANN:** All right.

17 The letter references a telephone call from
18 the previous day?

19 **MR. MacLEAN:** Yes.

20 **MR. ENGELMANN:** Do you know, sir, whether
21 you were part of that discussion or was that just Mr.
22 O'Brien and Mr. Ain?

23 **MR. MacLEAN:** That would be Mr. O'Brien and
24 Mr. Ain.

25 **MR. ENGELMANN:** All right. Would you have

1 had any discussions with Mr. O'Brien about what he was
2 going to say to the prosecutor?

3 **MR. MacLEAN:** Other than the recommendations
4 that we've just reviewed and ---

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

6 **MR. MacLEAN:** And the serious occurrence.

7 **MR. ENGELMANN:** So he would have had your
8 Serious Occurrence Report?

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

10 **MR. ENGELMANN:** In the third paragraph of
11 the letter, it says:

12 "While it is your decision as to
13 whether charges should be laid, I would
14 like to take the liberty of giving you
15 my opinion which is that there would
16 not be a necessity to pursue charges.
17 I'm basing my decision on three
18 specific items. The nature of the
19 sexual advance does not seem too
20 serious; (2) Since the advance in
21 question was one more in a series of
22 inappropriate advances, we see it as
23 the 'straw that broke the camel's back'
24 and therefore decided to close this
25 group home. The home is now closed,

1 though because of a contract we must
2 continue to pay, [et cetera]; (3) All
3 girls have been removed from this group
4 home. The licence for the operation
5 has been revoked by us." (As read)

6 Okay?

7 **MR. MacLEAN:** Yes.

8 **MR. ENGELMANN:** So, again, it appears Mr.
9 O'Brien is suggesting that -- or he's giving his opinion
10 that charges are not needed?

11 **MR. MacLEAN:** That's -- yes.

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

13 And one of the things he says is:

14 "This advance in question was one more
15 in a series of inappropriate advances.
16 We see it as the 'straw that broke the
17 camel's back'."

18 Well, we know that there had been another
19 straw back in December ---

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

21 **MR. ENGELMANN:** --- of the previous year,
22 and we know there'd been something three or four years
23 earlier; correct?

24 **MR. MacLEAN:** Yes, yes.

25 **MR. ENGELMANN:** Did you share this view,

1 this opinion?

2 MR. MacLEAN: I did not have those opinions.

3 MR. ENGELMANN: All right.

4 MR. MacLEAN: My opinion was that it should
5 have been -- we should have been acting on at least the
6 Christmas one.

7 MR. ENGELMANN: All right.

8 MR. MacLEAN: Or the prior to Christmas --
9 November ---

10 MR. ENGELMANN: What had happened in
11 December?

12 MR. MacLEAN: Yes.

13 MR. ENGELMANN: You did not have any
14 discussion with Mr. Ain in April of 1983 about this matter?

15 MR. MacLEAN: Not to my recollection, no.

16 THE COMMISSIONER: Mr. Ain was a Crown
17 Attorney or Assistant ---

18 MR. MacLEAN: Assistant Crown.

19 THE COMMISSIONER: Was there any thought,
20 sir -- or did anybody check with the rest of the girls that
21 were in that home from 1977 to '83 as to whether or not
22 they had suffered any sexual advances?

23 MR. MacLEAN: No, that would be done today,
24 but it was not done at that point.

25 MR. ENGELMANN: Do you know whether you or

1 Mr. O'Brien would have spoken to Roberta Archambault about
2 the opinion that was then going to be given to the Crown
3 Attorney about laying charges?

4 MR. MacLEAN: I do not know.

5 MR. ENGELMANN: All right.

6 MR. MacLEAN: I didn't.

7 MR. ENGELMANN: Were you also of the view,
8 sir, that the nature of the sexual advances were not
9 serious?

10 MR. MacLEAN: I felt that they were serious.

11 MR. ENGELMANN: Do you know if Mr. O'Brien
12 considered the emotional or psychological impact that this
13 might have had on Roberta or perhaps these other girls?

14 MR. MacLEAN: I can't answer that.

15 MR. ENGELMANN: All right.

16 And again, sir, this -- these allegations
17 could well have been *Criminal Code* violations?

18 MR. MacLEAN: Yes, they could have been.

19 MR. ENGELMANN: And I'm just wondering if
20 you thought at that time that perhaps the police should
21 have been contacted, whether for the April incident or the
22 December incident or both?

23 MR. MacLEAN: I think I considered the fact
24 that going to the Crown was sufficient and that's

25 ---

1 **MR. ENGELMANN:** Did you have an
2 understanding, sir, about the different role between the
3 Crown and the police?

4 **MR. MacLEAN:** No, I did not.

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

6 **MR. MacLEAN:** No, not a healthy
7 understanding of that.

8 **MR. ENGELMANN:** About who was responsible to
9 lay the charge?

10 **MR. MacLEAN:** That's correct. Well, I knew
11 police were responsible to lay the charge ---

12 **MR. ENGELMANN:** Right.

13 **MR. MacLEAN:** --- and the Crown more or less
14 looked at the evidence and would make a recommendation to
15 contact the police if there was sufficient grounds to lay a
16 charge. That was my understanding.

17 **MR. ENGELMANN:** If the police were
18 responsible for laying the charge, you'd agree that for
19 them to be able to assess that and make that decision
20 they'd have to be notified?

21 **MR. MacLEAN:** Yes.

22 **MR. ENGELMANN:** If we could then look at --
23 I'll just be a moment, sir.

24 **THE COMMISSIONER:** Sure.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **MR. ENGELMANN:** If we could have a look at
2 Exhibit 134. It should be the next document.

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

4 **MR. ENGELMANN:** Again, it's an excerpt of
5 Document Number 738539, Bates page 7170833.

6 This is the very same day, sir, April 22nd.
7 We now have Mr. O'Brien writing to Mr. Nadon, the program
8 supervisor; correct?

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

10 **MR. ENGELMANN:** And he's indicating that he
11 discussed the matter with the Assistant Crown Attorney ---

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** --- and that it was the
14 opinion of the Assistant Crown Attorney that there would
15 not be a point in pursuing charges against Brian Lapensée
16 at this time.

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

18 **MR. ENGELMANN:** Correct?

19 **MR. MacLEAN:** Yes.

20 **MR. ENGELMANN:** He doesn't seem to be
21 suggesting to the program supervisor that that really was
22 his opinion that he would have given to the Crown Attorney?

23 **MR. MacLEAN:** No.

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

25 He says:

1 "Should the Assistant Crown advise us
2 that upon reviewing the typed report he
3 does feel that more action should be
4 taken, we will keep your office
5 updated."

6 And you were copied with that?

7 **MR. MacLEAN:** That's correct, yes.

8 **MR. ENGELMANN:** Now, do you know if there
9 were any further discussions with the Crown about this
10 matter?

11 **MR. MacLEAN:** No, I'm not aware.

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

13 Sir, you referenced a resignation letter
14 that was going to be sought out from the Lapensées?

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

16 **MR. ENGELMANN:** If we could look at --
17 again, it's an excerpt, Madam Clerk, from Document Number
18 738539. You'll find it at Bates page 7170906. It's a
19 letter dated April 11th, '93 from Edward Lapensée to Ian
20 MacLean.

21 **THE COMMISSIONER:** Thank you.

22 Exhibit Number 2400 is a letter to Ian
23 MacLean dated April 11th, 1983 from Edward Lapensée.

24 --- **EXHIBIT NO./PIÈCE NO. P-2400:**

25 (738539 - 7170906) - Excerpt - Resignation

1 Letter from Edward Lapensée to Ian MacLean -
2 dated April 11, 1983

3 **MR. ENGELMANN:** Sir, amongst other things,
4 Mr. Lapensée's telling you that:

5 "We now find the heartache, pressure
6 and emotional strain too great for us
7 to continue in the capacity of group
8 home parents at this time..."

9 Do you see that?

10 **MR. MacLEAN:** Yes.

11 **MR. ENGELMANN:** "...and it is time we..."

12 I'm not sure what that says:

13 "...demand more of ourselves to our own
14 family."

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

16 **MR. ENGELMANN:** Now, there's nothing in the
17 letter suggesting there are any issues here in this home;
18 correct?

19 **MR. MacLEAN:** Well, other than the emotional
20 strain and pressure.

21 **MR. ENGELMANN:** No, but there's nothing in
22 here ---

23 **MR. MacLEAN:** No.

24 **MR. ENGELMANN:** --- about the problem ---

25 **MR. MacLEAN:** No.

1 **MR. ENGELMANN:** --- that clearly has been
2 identified. There's nothing in here acknowledging
3 breaching any contracts?

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

5 **MR. ENGELMANN:** Anything about wrongdoing by
6 their son or anything of that nature?

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

8 **MR. ENGELMANN:** Is that fair?

9 **MR. MacLEAN:** Yes.

10 **MR. ENGELMANN:** Did you think that the
11 resignation letter was appropriate, given the
12 circumstances, sir?

13 **MR. MacLEAN:** That's -- we asked for a
14 letter of resignation. I didn't expect him to go into any
15 great detail at that point.

16 **MR. ENGELMANN:** All right. You didn't ask
17 for something that might have more accurately set out what
18 happened?

19 **MR. MacLEAN:** No.

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

21 **MR. MacLEAN:** And I also knew that I had a
22 closing summary in the -- to do in the Lapensée foster
23 home.

24 **MR. ENGELMANN:** So if the Lapensée's were to
25 move to another CAS jurisdiction and decide to become

1 foster parents or group home parents again and the CAS in
2 that jurisdiction were to contact your agency ---

3 MR. MacLEAN: That's correct.

4 MR. ENGELMANN: --- would they have been
5 told the real reasons behind this resignation?

6 MR. MacLEAN: Yes.

7 MR. ENGELMANN: You're confident of that?

8 MR. MacLEAN: I am very confident of that.

9 MR. ENGELMANN: Despite this resignation
10 letter?

11 MR. MacLEAN: Yes. This would be likely a
12 part that would be photographed but -- photocopied but the
13 closing summary, which I wrote and was part of, I believe,
14 of the Lapensée group home, which is the permanent file of
15 the Agency, that would be shared with them, very
16 definitely.

17 MR. ENGELMANN: All right.

18 THE COMMISSIONER: That's assuming you were
19 there and that people had a corporate history. But let's
20 assume all of you had left and ---

21 MR. MacLEAN: Even today I'm sure that that
22 history would be shared with them, yes, because it's part
23 of our -- it's part of the existing file, yes.

24 MR. ENGELMANN: All right, and let's just
25 look at part of that file for a minute if we can. Again

1 it's another excerpt from 738539 and it runs Bates pages
2 7170885 through to Bates page 905.

3 I just want to make sure, sir, if this would
4 have been made available to another CAS in another
5 jurisdiction.

6 **MR. MacLEAN:** Okay.

7 **MR. ENGELMANN:** It's entitled "Social
8 History," sir, and it starts on December 17th, 1965.

9 **THE COMMISSIONER:** Thank you.

10 Exhibit 2401 is a social history and the
11 first date is the 17th of the 12th of '65.

12 --- **EXHIBIT NO./PIÈCE NO. P-2401:**

13 (738539 - 7170885-905) Excerpt - Home Study
14 of Lapensée Home

15 **MR. ENGELMANN:** Sir, what are the 10 or so
16 pages we're looking at here?

17 **MR. MacLEAN:** This is the home study.

18 **MR. ENGELMANN:** Twenty (20) pages, sorry.

19 **MR. MacLEAN:** The first number of pages
20 would be the home study of Mr. and Mrs. Lapensée, and then
21 there are yearly or periodic summaries of workers'
22 evaluations and activity in the home.

23 **MR. ENGELMANN:** All right. Well, they're
24 certainly not annual, are they?

25 **MR. MacLEAN:** They're not annual.

1 MR. ENGELMANN: All right, because if we ---

2 MR. MacLEAN: They are annual today to the
3 letter.

4 MR. ENGELMANN: They appear to be annual
5 until 1973 and then we have this gap until 1985.

6 MR. MacLEAN: That's correct.

7 MR. ENGELMANN: If you look at Bates page
8 7170903b; correct?

9 MR. MacLEAN: I'm sorry, I missed the page.

10 MR. ENGELMANN: Seven one seven zero nine
11 zero three b (7170903b).

12 MR. MacLEAN: Zero nine.

13 MR. ENGELMANN: You've got a reference from
14 1973. The childcare worker is D. Filliol, and then the
15 next reference that we have is January 7th, 1985 and you're
16 the recorder.

17 MR. MacLEAN: Is that the back page? Where
18 are we?

19 MR. ENGELMANN: It's page 19 of the summary
20 at the top.

21 MR. MacLEAN: I'm sorry. Okay.

22 MR. ENGELMANN: It's on the screen.

23 THE COMMISSIONER: So it's before the last
24 page, sir.

25 MR. MacLEAN: Yes.

1 **THE COMMISSIONER:** Okay.

2 So if you look on the left hand -- no, the
3 other one right there. What he's saying is that the
4 recording was -- on the top of the page is August 30th, '73.

5 **MR. MacLEAN:** Yes.

6 **THE COMMISSIONER:** And the next one is
7 January 7th, '85.

8 **MR. MacLEAN:** It's not ---

9 **MR. ENGELMANN:** You agree with me it's not
10 complete at all?

11 **MR. MacLEAN:** That's correct.

12 **MR. ENGELMANN:** All right. And in fact not
13 only not annual but we really have nothing from the group
14 home phase until your writing on January 7th, '85.

15 **MR. MacLEAN:** That's correct, and that's two
16 years after the closure ---

17 **MR. ENGELMANN:** Which is almost two years
18 after the home is closed.

19 **MR. MacLEAN:** Yes.

20 **MR. ENGELMANN:** Or a year and a half anyway.

21 **MR. MacLEAN:** Yes.

22 **MR. ENGELMANN:** Do you know why that is?

23 **MR. MacLEAN:** It ranges from workload to my
24 tardiness.

25 **MR. ENGELMANN:** All right. We've heard that

1 sometimes closing summaries are done quite a bit after ---

2 MR. MacLEAN: That's correct.

3 MR. ENGELMANN: --- files are actually
4 closed.

5 MR. MacLEAN: Yes.

6 MR. ENGELMANN: But do you know why there's
7 nothing between '73 and '85?

8 MR. MacLEAN: I don't know why.

9 MR. ENGELMANN: All right. There should be
10 something.

11 MR. MacLEAN: There should be.

12 MR. ENGELMANN: All right.

13 MR. MacLEAN: Yes.

14 MR. ENGELMANN: And, sir, so it would appear
15 really that the -- aside from your closing summary --
16 sorry, your recording of January 7, '85 and the closing
17 summary, there's nothing about the group home. The rest is
18 foster home stuff from the early days, from '65 through
19 '73. Is that fair?

20 MR. MacLEAN: That's correct. The early
21 part is -- yes, mine is dealing with the group home.

22 MR. ENGELMANN: All right.

23 And we do know that there were log reports
24 that the group home parents were supposed to be taking.

25 MR. MacLEAN: That's correct.

1 **MR. ENGELMANN:** Would something like that
2 not find its way into this, or at least a summary?

3 **MR. MacLEAN:** There wasn't a requirement and
4 it was whatever we decided to put in. And yes, in
5 hindsight that should be in. It was not the practice at
6 that point.

7 **MR. ENGELMANN:** All right. So when you do
8 your recording in 1985 you say, for example, in the second
9 paragraph:

10 "They've always been open to new ideas,
11 have attended all our training sessions
12 with a great degree of enthusiasm. On
13 the whole I would say that our children
14 received excellent care from Ed and
15 Alice. However, occasionally Alice was
16 not able to connect in a relationship
17 with a child and hence the placement
18 quickly broke down."

19 And you do note at the top of the next page:

20 "Apart from the excellent care provided
21 in this home, there has been one
22 recurring negative theme throughout the
23 six years I have worked in the home.
24 Very early in our group home
25 relationship I had our female wards

1 complain that Brian Lapensée, youngest
2 son of Ed and Alice, was attempting to
3 have..."

4 And you use the term "sexual play with
5 them;" okay?

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

7 **MR. ENGELMANN:** And you go on and you
8 describe the December incident. It's very brief though,
9 sir, what's described there. It just says "sexual play."
10 You refer to the fact -- or perhaps is this the first
11 incident when he's younger?

12 **THE COMMISSIONER:** Yeah.

13 **MR. MacLEAN:** Yes, I believe it is.

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

15 Yes, I'm sorry, that's the first incident
16 where there's an issue with Brian, and this is the ward who
17 becomes pregnant.

18 **MR. MacLEAN:** Yes.

19 **MR. ENGELMANN:** Correct? And then you have
20 a brief paragraph, the second paragraph dealing with the
21 two Serious Occurrence Reports.

22 **MR. MacLEAN:** That's correct, and those two
23 Serious Occurrence Reports are on file.

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

25 And you do note -- you say:

1 "During these recent incidences
2 Mrs. Lapensée tended to turn her anger
3 back on our girls, labelling them as
4 being responsible for the initiation of
5 the sexual activity and saying that
6 Brian was victimized. Only in the last
7 case did Ed truly begin to accept that
8 Brian was the instigator, however was
9 not prepared to take any significant
10 action. At no time was Alice ever able
11 to recognize Brian was a problem in the
12 home."

13 Do you see that?

14 **MR. MacLEAN:** Yes.

15 **MR. ENGELMANN:** So that would have been the
16 case in '79, presumably, with the first incident? Did
17 neither of the parents really see their son being
18 responsible? I'm just ---

19 **MR. MacLEAN:** Ed was always much more ready
20 to listen and agree. Now, whether that was in '79 I'm not
21 sure, but Alice was -- as the mother she found it very,
22 very difficult to accept that any of her children could do
23 anything wrong.

24 **MR. ENGELMANN:** All right. But in '79 he
25 would have been 18 or 19.

1 **MR. MacLEAN:** And he was 18 or 19; that's
2 right.

3 **MR. ENGELMANN:** And in the end of 1980 we
4 know that he's 21.

5 **MR. MacLEAN:** Yes. I believe 21.

6 **MR. ENGELMANN:** Sorry, end of '82 he's 21.
7 I'm just wondering, sir; you write:

8 "As a result I see no other possible
9 alternative than to close the home so
10 as to protect our wards from Brian."

11 And I think we've seen that before. Do you
12 know -- you told us the police were never consulted, Brian
13 was never charged.

14 **MR. MacLEAN:** That's right.

15 **MR. ENGELMANN:** Is there any thought to
16 protecting other girls from Brian? I mean, I know you're
17 concerned about your wards, they're in the home, but what
18 about other adolescent girls in the community? Was there
19 any concern on the part of the CAS there?

20 **MR. MacLEAN:** At that point I had no
21 discussion around that.

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

23 **MR. MacLEAN:** And I had no -- I don't recall
24 any ---

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

1 **MR. MacLEAN:** --- concern about that.

2 **MR. ENGELMANN:** If there was no effort to do
3 that and have this issue dealt with by the police or our
4 justice system, what about some kind of an effort to
5 arrange for Brian to have counselling, or some kind of
6 effort to see that something is done to correct his
7 behaviour in some other way?

8 **MR. MacLEAN:** Thinking today, that would
9 have been great. It wasn't thought about then.

10 **MR. ENGELMANN:** All right. It was nothing
11 that was discussed or thought of at the time by you or
12 others?

13 **MR. MacLEAN:** No, no.

14 **THE COMMISSIONER:** I understand that Brian,
15 from reading the material, had taken on a job working with
16 handicapped children?

17 **MR. MacLEAN:** Yeah.

18 **THE COMMISSIONER:** And he was assigned a
19 male at the time, but was there any thought given to
20 advising the employer to be careful about assigning young
21 girls to him?

22 **MR. MacLEAN:** I believe that was a -- with
23 the Ministry. I believe, sir, that was with adults.

24 **THE COMMISSIONER:** With what?

25 **MR. MacLEAN:** With adults.

1 THE COMMISSIONER: M'hm.

2 MR. MacLEAN: No?

3 THE COMMISSIONER: I don't know where I read
4 it but it's in the material ---

5 MR. MacLEAN: I thought that -- well, in my
6 ---

7 THE COMMISSIONER: I thought it was a young
8 person, young male?

9 MR. MacLEAN: Sorry, I ---

10 THE COMMISSIONER: Okay.

11 MR. ENGELMANN: Not sure if I saw that, sir.

12 Can I just ask you, Mr. MacLean, given
13 everything on the file regarding the behaviour of Brian
14 Lapensée towards female wards and given that his parents
15 who were operating the group home were in effect condoning
16 the behaviour, they weren't recognizing the seriousness of
17 their son's actions or they were suggesting he was being
18 victimized. They clearly weren't seeing the seriousness of
19 this and weren't accepting the responsibility of their
20 child.

21 Do you believe now that you should have
22 perhaps closed that group home earlier than you did?

23 MR. MacLEAN: I guess looking back, and with
24 the knowledge I have today, yes.

25 MR. ENGELMANN: That wasn't something that

1 was considered at the time?

2 **MR. MacLEAN:** At that time, it wasn't.

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

4 When she testified here, Ms. Archambault
5 claimed that she was not offered counselling at that time.
6 Do you know if there were any efforts made to get her
7 counselling or assistance following the incidents at the
8 Lapensée home?

9 **MR. MacLEAN:** Following the closure of the
10 foster home -- or the Lapensée home, she was moved to the
11 home of Pat and Fred Deronde and these were -- this was a
12 couple who had a great deal of experience working with
13 adolescents. They were specialized foster parents in that
14 they only took -- I believe their max was two. They had a
15 young family.

16 And they took -- we placed Roberta with them
17 and I believe following, going back to the overdose
18 episode, there was an effort made to refer her to Dr.
19 Manigat.

20 **MR. ENGELMANN:** Yes, that's noted, sir.

21 That's in ---

22 **MR. MacLEAN:** And that would be the -- that
23 could be the counselling that could be offered.

24 **MR. ENGELMANN:** All right. In 2393, there's
25 a reference to an appointment with a doctor on April 7th,

1 1983?

2 MR. MacLEAN: Yes.

3 MR. ENGELMANN: A Dr. Forson, reaction to
4 overdose; referral to Dr. Manigat?

5 MR. MacLEAN: Yes.

6 MR. ENGELMANN: All right, so ---

7 MR. MacLEAN: And I believe that went on and
8 I think she was referred and received counselling. In my
9 preparation, I saw notes from Ms. Miller where she was
10 receiving counselling every two weeks, I believe the
11 frequency was.

12 MR. ENGELMANN: All right.

13 MR. MacLEAN: At the -- it could be the
14 adolescent centre at the Cornwall General Hospital.

15 MR. ENGELMANN: Sir, it's my understanding
16 you were not involved in any disclosure requests that
17 Ms. Archambault made for her file in 1991?

18 MR. MacLEAN: No, I wasn't.

19 MR. ENGELMANN: All right.

20 Mr. Commissioner, I note the time. I have
21 very few questions of Mr. MacLean dealing with the adoption
22 file of Bryan Keough, and then I have a few questions on
23 the Earl Landry, Jr. foster home.

24 I think I'll probably be 20 to 25 minutes or
25 so. Do you want to break now, and I'm happy to do that

1 after lunch?

2 **THE COMMISSIONER:** Yeah. I have a meeting
3 so I think we should break and come back at 2:00. All
4 right, thank you.

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

7 This hearing will resume at 2:00 p.m.

8 --- Upon recessing at 12:31 p.m./

9 L'audience est suspendue à 12h31

10 --- Upon resuming at 3:35 p.m./

11 L'audience est reprise à 15h35

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

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

16 **THE COMMISSIONER:** Thank you. My apologies
17 for keeping you.

18 I had an urgent matter that I had to take
19 care of, and so now it's taken care of and we can continue.

20 Sorry about that. Thank you.

21 **IAN MacLEAN, Resumed/assertment:**

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

24 **MR. ENGELMANN:** Mr. MacLean, when we left
25 off, just before the lunch break, I finished asking you

1 some questions about Roberta Archambault and her file, and
2 the Lapensée group home.

3 MR. MacLEAN: Yes.

4 MR. ENGELMANN: And I wanted to ask you a
5 few questions about Bryan Keough.

6 MR. MacLEAN: Yes.

7 MR. ENGELMANN: And you may recall some
8 involvement in an application that Mr. Keough had made to
9 be a foster parent or an adoptive parent in or around 1990?

10 MR. MacLEAN: Yes, I believe he put in an
11 application to become an adoptive parent.

12 MR. ENGELMANN: Right. And he was a
13 colleague of yours at the local CAS?

14 MR. MacLEAN: I supervised him from -- he
15 was a colleague up here ---

16 MR. ENGELMANN: Yes.

17 MR. MacLEAN: --- from '76 to 1980, and then
18 I became a supervisor and I supervised his work.

19 MR. ENGELMANN: All right.

20 Sir, if the witness could be shown -- it's
21 Exhibit 1505. Counsel, the Document Number is 739308.

22 THE COMMISSIONER: Fifteen-zero-five (1505)?

23 MR. ENGELMANN: Sir, 1505.

24 THE COMMISSIONER: Yes.

25 MR. ENGELMANN: And the Bates page is

1 7177236.

2 Sir, do you see a note at the bottom of that
3 page? It says, "January 23rd, 1990, Thomas O'Brien".

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

5 **MR. ENGELMANN:** And, sir, this is in a file
6 that's opened under the name Jeannette Antoine -- if you
7 look at the front page of the document we're looking at.

8 **MR. MacLEAN:** Yes.

9 **MR. ENGELMANN:** And in brackets (Lapointe).

10 And it would appear that on January 23rd,
11 1990, that you would have had a meeting with your Executive
12 Director and Mr. Abell, who had just recently joined the
13 agency and I believe at the time was the Clinical Director?

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

15 **MR. ENGELMANN:** And the meeting was to
16 discuss Mr. Keough's application to be a foster parent with
17 a view to adopting a specific child?

18 **MR. MacLEAN:** Okay.

19 **MR. ENGELMANN:** Do you see that?

20 **MR. MacLEAN:** I stand corrected, yes.

21 **MR. ENGELMANN:** All right. No, no, that's
22 fine. Nothing turns on that.

23 **MR. MacLEAN:** No.

24 **MR. ENGELMANN:** I wasn't sure myself.

25 I'm just wondering how you would have come

1 to -- would you have been briefed on this prior to this
2 meeting, do you recall?

3 **MR. MacLEAN:** Briefed on the fact that he
4 was applying?

5 **MR. ENGELMANN:** Yes.

6 **MR. MacLEAN:** I knew that he had developed a
7 relationship with a child ---

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

9 **MR. MacLEAN:** --- in one of the homes. I'm
10 not sure that it was on his caseload but however he had met
11 somehow.

12 **MR. ENGELMANN:** Fair enough.

13 **MR. MacLEAN:** And he was wanting to -- I
14 understood it was adoption.

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

16 Well, in any event, you were part of a
17 decision-making process with Mr. O'Brien and Mr. Abell that
18 decided to have an outside agency do the home study in this
19 case?

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

21 **MR. ENGELMANN:** And was that the practice
22 that you had adopted if this had happened in the past?

23 **MR. MacLEAN:** Whenever a situation like that
24 would happen; it happened very infrequently but that's what
25 we had decided to do.

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

2 And, sir, were you aware at that time about
3 allegations that had been made against Mr. Keough by
4 Jeannette Antoine?

5 **MR. MacLEAN:** I believe it was around that
6 time that I became aware, and I can't tell you whether it
7 was before or after January.

8 **MR. ENGELMANN:** Okay. I think, from looking
9 at the document, it should become apparent that it would
10 have been somewhat before that time. I just note at the
11 bottom of the page:

12 "Should we begin a home study when the
13 outcome of the police investigation is
14 not known?"

15 **MR. MacLEAN:** Okay, yes.

16 **MR. ENGELMANN:** And I'm assuming the police
17 investigation is dealing with the allegations made by Ms.
18 Antoine.

19 **MR. MacLEAN:** I believe so.

20 **MR. ENGELMANN:** And if you look, if you'll
21 turn the page on to Bates 7177237:

22 "it was agreed that we still could not
23 make a move until whether the police
24 and Crown Attorney were going to
25 proceed with any criminal charges as a

1 result of Jeannette laying a charge."

2 All right?

3 **MR. MacLEAN:** That's correct. But I knew
4 that information, I didn't know the details.

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

6 And in fact, when you're looking at the
7 concerns, again at the bottom of page 236, there seemed to
8 be two issues:

9 "We'll begin a home study ourselves
10 would it not appear to indicate that we
11 are quite prepared to seriously
12 consider the Keoughs as foster parents
13 with a further intention of adopting
14 the child with the McKivers; and two,
15 should we begin the home study when the
16 outcome of the police investigation is
17 not known."

18 **MR. MacLEAN:** That's correct.

19 **MR. ENGELMANN:** So those were the issues
20 that ---

21 **MR. MacLEAN:** Yes.

22 **MR. ENGELMANN:** --- you were considering at
23 the time?

24 **MR. MacLEAN:** Yes.

25 **MR. ENGELMANN:** Now, sir, as I understand

1 it, you didn't really have to go any further with this
2 because at or about this time when Mr. Keough became aware
3 that charges were pending against him, he withdrew his
4 application?

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

6 **MR. ENGELMANN:** So you never went through
7 with the external home study?

8 **MR. MacLEAN:** No, we didn't.

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

10 Sir, I'd like to then ask you a few
11 questions about another individual who has come to our
12 attention here. His name is Earl Landry, Jr.

13 **MR. MacLEAN:** Yes.

14 **MR. ENGELMANN:** Is that name familiar to
15 you?

16 **MR. MacLEAN:** Yes, it is.

17 **MR. ENGELMANN:** Were you aware, sir, that he
18 was the son or is the son of a former police chief?

19 **MR. MacLEAN:** I became aware of it, yes.

20 **MR. ENGELMANN:** And did you become aware of
21 it during the course of your dealings with Mr. Landry, Jr.

22 **MR. MacLEAN:** Yes.

23 **MR. ENGELMANN:** And were you aware, sir,
24 that in 1993 the CAS became involved with Earl Landry, Jr.
25 for two different reasons?

1 **MR. MacLEAN:** That's correct, yes.

2 **MR. ENGELMANN:** All right.

3 One of those reasons was that he and his
4 wife were applying to be foster parents of his wife's
5 younger brother.

6 **MR. MacLEAN:** Yes, that's right.

7 **MR. ENGELMANN:** And this is an individual
8 who has been referred to at this Inquiry by way of a
9 moniker and the moniker is C-54.

10 Perhaps if that name could be shown to the
11 witness?

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

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. ENGELMANN:** Sir, is that name familiar
15 to you?

16 **MR. MacLEAN:** Yes, it is.

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

18 And this is the -- this is the foster child
19 or the young person who was in care before?

20 **MR. MacLEAN:** That's correct, yes.

21 **MR. ENGELMANN:** If the witness could be
22 shown -- Madam Clerk, if the witness could be shown
23 Document Number 129120 -- 129120?

24 Mr. Commissioner, the document in question
25 is the Landry foster home assessment. It has a date of

1 July 5th, 1993. The worker is identified as Kelly Raymond.

2 MR. MacLEAN: That's correct.

3 THE COMMISSIONER: Exhibit 2402 is the
4 Landry foster home assessment.

5 --- EXHIBIT NO./PIÈCE No. P-2402:

6 (129120) - Foster Home Assessment re: Earl
7 Landry Jr. dated 05 Jul 93

8 MR. ENGELMANN: Sir, were you a supervisor
9 for Kelly Raymond at this time?

10 MR. MacLEAN: I was.

11 MR. ENGELMANN: All right.

12 And if you turn to the second page of the
13 document, Bates page 116726, it would appear that the
14 application date for the foster home -- this was an
15 application to become a provisional foster home?

16 MR. MacLEAN: A provisional foster home,
17 yes.

18 MR. ENGELMANN: And what's the distinction
19 between a provisional foster home and a foster home, sir?

20 MR. MacLEAN: They weren't prepared to --
21 the applicants were not prepared to take any other child
22 other than C-54.

23 MR. ENGELMANN: Fair enough. And it would
24 appear that sometime in May of 1993 the application was
25 made?

1 MR. MacLEAN: Yes.

2 MR. ENGELMANN: And sir, there is a
3 reference to an internal cross-reference on May 18th.

4 MR. MacLEAN: That's correct.

5 MR. ENGELMANN: That's about six days after
6 the application date?

7 MR. MacLEAN: Yes.

8 MR. ENGELMANN: Can you explain to us what
9 that is?

10 MR. MacLEAN: That's a cross-reference of
11 our own records system and ---

12 MR. ENGELMANN: And it's purpose?

13 MR. MacLEAN: It's purpose is to pickup any
14 files that may be open at that time and active or closed
15 historically.

16 MR. ENGELMANN: So for example if Earl
17 Landry, Jr. had been known to the CAS as an alleged
18 perpetrator ---

19 MR. MacLEAN: Yes.

20 MR. ENGELMANN: --- involved in child sexual
21 abuse, you would expect him to be picked up by way of an
22 internal cross-reference?

23 MR. MacLEAN: That's right, I would if there
24 had been a file opened.

25 MR. ENGELMANN: All right.

1 And at this particular time nothing was
2 picked up, was it?

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

4 **MR. ENGELMANN:** So it would mean that, sir,
5 neither you nor Ms. Raymond were aware of allegations
6 against Earl Landry, Jr. from come back in 1985?

7 **MR. MacLEAN:** That's correct, we were not
8 aware.

9 **MR. ENGELMANN:** And to have caught that
10 presumably there would have had to have been some kind of
11 file opened back in 1985?

12 **MR. MacLEAN:** Yes.

13 **MR. ENGELMANN:** And some kind of reference
14 to him on a card index or otherwise ---

15 **MR. MacLEAN:** That's ---

16 **MR. ENGELMANN:** --- as an alleged
17 perpetrator.

18 **MR. MacLEAN:** That's correct.

19 **MR. ENGELMANN:** And sir, as I understand it
20 ---

21 **MR. MacLEAN:** Not -- I'm sorry -- not
22 necessarily as an alleged perpetrator but any file that had
23 been developed on any -- it would have been cross-
24 referenced to this.

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

1 **MR. MacLEAN:** Yes, any involvement.

2 **MR. ENGELMANN:** And certainly if there was
3 an allegation of child sexual abuse ---

4 **MR. MacLEAN:** By all means.

5 **MR. ENGELMANN:** Yeah. And sir, as well on
6 Bates page 726 there were references that were required?

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

8 **MR. ENGELMANN:** And that was standard
9 procedure at that time?

10 **MR. MacLEAN:** Yes, it was.

11 **MR. ENGELMANN:** And one of the references
12 noted is from Earl Landry, Sr.

13 **MR. MacLEAN:** Yes.

14 **MR. ENGELMANN:** And it states that he is the
15 retired chief of police.

16 **MR. MacLEAN:** That's right.

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

18 And so if you didn't know it before you
19 certainly knew it then?

20 **MR. MacLEAN:** That's when I became aware.

21 **MR. ENGELMANN:** All right.

22 And in fact -- Madam Clerk, if you could
23 show the witness Document Number 129115?

24 Mr. Commissioner, it's a letter dated June
25 11th, 1993 from Earl Landry, Sr.

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Thank you. Exhibit 2403
3 is the letter dated June 11th, 1993 from Earl Landry, Sr.

4 --- EXHIBIT NO./PIÈCE No. P-2403:

5 (129115) - Letter of Reference from Earl
6 Landry Sr. to CAS dated 11 Jun 93

7 MR. ENGELMANN: Mr. MacLean, I don't know if
8 you can recall this but there is a reference, at least in
9 Exhibit 2402, the foster home assessment file, that Earl
10 Landry, Sr. did provide a letter of reference?

11 MR. MacLEAN: That's right.

12 MR. ENGELMANN: And is this in fact the
13 letter of reference he would have provided?

14 MR. MacLEAN: Yes, it is.

15 MR. ENGELMANN: All right.

16 And sir, did you often get letters of
17 reference from parents of applicants or family members?

18 MR. MacLEAN: It was not uncommon.

19 MR. ENGELMANN: All right.

20 MR. MacLEAN: We asked for a relative
21 frequently -- well, standard.

22 MR. ENGELMANN: All right.

23 Any particular impact here because the
24 letter is coming from a former police chief?

25 MR. MacLEAN: Not that I know of. We took

1 all our references very seriously, often reading between
2 the lines as well as exactly what was written.

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

4 And sir, are relatives of foster home
5 applicants still accepted as references today?

6 **MR. MacLEAN:** Yes, I believe they are. And
7 children of the reference -- of applicants as well are
8 asked for references -- adult children.

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

10 Now, the home assessment that was done was
11 signed off by you and Ms. Raymond on July 13th, 1993?

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

13 **MR. ENGELMANN:** And there were some
14 recommendations made at the time?

15 **MR. MacLEAN:** Yes.

16 **MR. ENGELMANN:** And one of them was that
17 they be allowed to foster C-54.

18 **MR. MacLEAN:** That's correct.

19 **MR. ENGELMANN:** Until he is ready for
20 independence. And he was a teenager at this time?

21 **MR. MacLEAN:** I believe he was 16 years of
22 age. He was in the Beauregard Group Home at that time.

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

24 **MR. MacLEAN:** Prior to placement.

25 **MR. ENGELMANN:** Now, I don't know why this

1 would have happened but it appears that they weren't
2 notified of their acceptance as foster parents until
3 September. And that's a document I believe we've looked at
4 before. There is a letter and I believe there is another
5 letter already in evidence, sir, but if we could look at
6 129132?

7 This is a letter from Kelly Raymond to the
8 Landrys dated September 20th, 1993.

9 **THE COMMISSIONER:** Thank you. Exhibit 2404
10 is a letter dated September 20th, 1993, Kelly Raymond to Mr.
11 And Mrs. Earl Landry.

12 --- **EXHIBIT NO./PIÈCE No P-2404:**

13 (129132) - Letter from Kelly Raymond to Mr.
14 & Mrs. Earl Landry Jr. dated 20 Sep 93

15 **MR. ENGELMANN:** I believe there was another
16 letter sent, sir. I note this one is not signed but maybe
17 that's just because it's a copy from the file.

18 **MR. MacLEAN:** It's a copy, yes.

19 **MR. ENGELMANN:** All right. So any idea why
20 it takes a couple of months for this to come out?

21 **MR. MacLEAN:** I see that Manon Vachon, who
22 was the secretary at that time, and I know she always took
23 holidays in August.

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

25 **MR. MacLEAN:** That would be a possible one

1 reason. I'm not able to say exactly why.

2 MR. ENGELMANN: Because you had a positive
3 home assessment ---

4 MR. MacLEAN: Yes.

5 MR. ENGELMANN: --- recommendation from
6 yourself and the worker?

7 MR. MacLEAN: That's correct.

8 MR. ENGELMANN: All right. But in any
9 event, this is going out on September 20th congratulating
10 them on being accepted as foster parents?

11 MR. MacLEAN: And this is a form letter as
12 well.

13 MR. ENGELMANN: All right.

14 MR. MacLEAN: Now, sir, we have heard
15 through other witnesses here that a week before this
16 letter, on September 13th, information was given to the
17 Children's Aid Society from a local psychologist about a
18 complaint of child sexual abuse, one of his patients ---

19 MR. MacLEAN: Yes.

20 MR. ENGELMANN: --- complaining about abuse
21 by Earl Landry, Jr., historical abuse, and that would have
22 come in to the CAS on September 13th ---

23 MR. MacLEAN: Yes.

24 MR. ENGELMANN: --- of that same year, 1993.
25 Do you have some sense, sir, when you became aware of this

1 complaint?

2 MR. MacLEAN: It could be at least a couple
3 of weeks later than that or early October.

4 MR. ENGELMANN: All right.

5 MR. MacLEAN: That's without checking the
6 notes here.

7 MR. ENGELMANN: Yeah, the complaint came in
8 to Fran Lepage ---

9 MR. MacLEAN: Yes.

10 MR. ENGELMANN: --- who was an intake
11 worker.

12 MR. MacLEAN: I've read her case notes.

13 MR. ENGELMANN: All right.

14 MR. MacLEAN: There was some need to
15 identify the exact individual that it was being complained
16 against.

17 MR. ENGELMANN: Okay, and to confirm that
18 that individual was one and the same with Earl Landry, Jr.

19 MR. MacLEAN: That's right. Yes.

20 MR. ENGELMANN: If the witness could be
21 shown briefly Exhibit 2282. Document number is 115673.

22 Sir, these are case notes from Fran Lepage?

23 MR. MacLEAN: That's correct.

24 MR. ENGELMANN: If you want to refer just
25 briefly to the bottom of the first page -- sorry, the Bates

1 page is 1074541. There is a reference to September 21st,
2 bottom of the page:

3 "Shared info with supervisor Bob Smith,
4 since ward of the Society may be in
5 Earl Landry's home. Without further
6 information, it is impossible to
7 determine."

8 And then, sir, if you flip over to page 3,
9 which is Bates page 542:

10 "Records secured at the Society
11 indicates that an Earl Landry is
12 provisional home for one of our wards.
13 We need more identifying info to
14 confirm if Earl Landry is..."

15 I'm not sure if I can read that.

16 **THE COMMISSIONER:** Where are you?

17 **MR. ENGELMANN:** Sir, it's the first
18 paragraph on Bates page 542, page 3.

19 **MR. MacLEAN:** "...is this no-name intake."

20 **MR. ENGELMANN:** I'm sorry?

21 "...is the no-name intake is the same
22 person."

23 All right.

24 **MR. MacLEAN:** On this no-name intake.

25 **MR. ENGELMANN:** And there's a reference to

1 sharing of information, and Bob Smith was the supervisor?

2 MR. MacLEAN: He was the supervisor of the
3 worker of C-54.

4 MR. ENGELMANN: All right, and that was
5 Frances Axton?

6 MR. MacLEAN: I believe so, yes.

7 MR. ENGELMANN: All right. And was the
8 information shared with you at that time or was it sometime
9 later before it was shared with the foster home side?

10 MR. MacLEAN: It would be shared when the --
11 there was a risk management committee meeting later, I
12 believe, and that's when it would be shared with us at that
13 time.

14 MR. ENGELMANN: All right. And that's why
15 you thought it might have been early October?

16 MR. MacLEAN: Yes.

17 MR. ENGELMANN: All right. Yes, we went
18 through those with Mr. Carriere, so I'm not going to go
19 back there with you, sir.

20 Sir, do you recall at the time whether it
21 was recommended to C-54 that he not remain in the home?

22 MR. MacLEAN: Yes, it was our position that
23 he should not remain in the home, that he should move.

24 MR. ENGELMANN: I understand that he wanted
25 to stay and consequently was not removed?

1 **MR. MacLEAN:** Very definitely, he wanted to
2 stay.

3 **MR. ENGELMANN:** All right. Was it open for
4 him to change his mind?

5 **MR. MacLEAN:** Yes.

6 **MR. ENGELMANN:** Would there have been
7 somewhere else for him to go?

8 **MR. MacLEAN:** Yes, at all times.

9 **MR. ENGELMANN:** All right, and that would
10 have been somewhere else in the community?

11 **MR. MacLEAN:** That's correct.

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

13 **MR. MacLEAN:** We had a bed available for him
14 in the Community Family Care Program.

15 **MR. ENGELMANN:** Yes?

16 **MR. MacLEAN:** And even if that had been
17 filled up later, there would have still been a bed in the
18 system.

19 **MR. ENGELMANN:** And your colleagues on the
20 protection side of things would have been aware of that as
21 well?

22 **MR. MacLEAN:** Yes, they were.

23 **MR. ENGELMANN:** All right. If I could just
24 have a moment, sir?

25 **THE COMMISSIONER:** Certainly.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. ENGELMANN: Sir, we've asked all
3 witnesses at the Inquiry a couple of questions before they
4 finish their evidence in-chief.

5 One of those questions is, at least for
6 people working at the various institutions, if they want to
7 comment about the effects working in this area, dealing
8 with child sexual abuse may have had on them.

9 And the second question is if, as someone
10 working in this area for as many years as you did, sir,
11 some 38 if I recall ---

12 MR. MacLEAN: Yes.

13 MR. ENGELMANN: --- if you have some
14 recommendations or suggestions to the Commissioner. As you
15 know, he has a report to write and in that report he has to
16 comment on the institutional response to allegations of
17 this nature. So we would be very thankful to have any
18 suggestions or recommendations you may have as well.

19 MR. MacLEAN: Great, thank you.

20 MR. ENGELMANN: So I'll leave you with those
21 two questions, the personal effects and recommendations.

22 MR. MacLEAN: Very well, thank you. I have
23 a prepared statement here.

24 THE COMMISSIONER: Thank you.

25 ---STATEMENT BY/DÉCLARATION PAR MR. MacLEAN:

1 **MR. MacLEAN:** Every time a child is injured
2 or abused in any way, Your Honour, my heart grieves, and I
3 vow to correct the system even more so that wouldn't happen
4 again.

5 Over the years, I have come to realize that
6 indeed we are dealing with a system directed by
7 legislation, standards and guidelines, and fully dependent
8 on people with all our variety of backgrounds, education,
9 training, personal judgments to see that this system was
10 perfectly enacted.

11 Mr. Commissioner, you have heard that the
12 system is by no means perfect but as I reflect on the
13 errors that have been made by myself and others, I also
14 have to balance that story with the stories of hundreds of
15 children who have been helped in a positive way, and that
16 brings me great satisfaction.

17 I did not enter this profession to bring
18 harm to children. In fact, I and all my fellow workers
19 entered the field of child welfare to give children an
20 opportunity for healing, to overcome their abuse and
21 hardships, and to have a life filled with joy, peace and
22 success in safe environments.

23 As a past and present member of this group
24 of professionals, I know that the current staff in
25 management of the Society have been keenly affected by this

1 Inquiry. Our fear is that the members of our community
2 might lose their faith and trust in the work that we do
3 resulting in further suffering to our most vulnerable group
4 of our citizens, the children.

5 I want to tell you, Mr. Commissioner, that
6 our Board of Directors, our Executive Director, our
7 management staff and the staff as a whole have already
8 taken steps to improve not only our system but our image
9 and position as an effective partner in our community. We
10 will be watching with interest and a commitment to enact
11 any recommendations coming from this Inquiry.

12 Over the last 30 years, I have had the
13 privilege of developing a strong, mature, sensitive,
14 caring, highly trained and skilled community of foster
15 parents in this jurisdiction. All of those alternate
16 caregivers have answered a call to respond to the plight of
17 needy children in our City and our Counties.

18 They have come with beating hearts with
19 their families, and have opened their families and homes to
20 the scrutiny and demands of the system. Each caregiver,
21 each foster parent, is feeling the effects of this Inquiry
22 as details of historical abuse and allegations while in
23 foster care are brought to public scrutiny.

24 Mr. Commissioner, I believe that after a
25 thorough screening process and training, we open healthy

1 homes to foster our children in care, but those homes
2 cannot and do not function independently.

3 Healthy foster homes can soon become
4 malfunctional as they adapt to new members of the household
5 and the demands of the system that we place on them. They
6 consistently need a very high degree of resources,
7 training, community and support services to meet the
8 extremely high needs of children who are suffering from
9 abuse and neglect.

10 This weekend kicks off Foster Parent Week in
11 Ontario and I would like the Inquiry to take a moment to
12 recognize and salute the dedication and service of a very
13 strong and essential volunteer service rooted in our own
14 community of Stormont, Dundas and Glengarry, Akwesasne and
15 the City of Cornwall. And in every community across
16 Ontario are foster parents.

17 I have two recommendations that I would like
18 to make to you, Mr. Commissioner, to consider.

19 You've heard from some of our former wards
20 the fact that if the agency had visited the foster home
21 without an appointment, they would have been seeing
22 something different than what they saw on the day of their
23 scheduled visit. This parallels with some of the
24 statements I understand that are made by our youth and care
25 network that represents youth in care across Ontario.

1 Therefore, I strongly suggest that a
2 recommendation be made to the Ministry of Child and Youth
3 Services that Children's Aid Societies redefine their
4 working relationships with their foster parents and in the
5 families, and include in their service agreements the
6 requirement and approval of unscheduled visits by the
7 workers to the foster home.

8 Our agency has already taken steps to
9 introduce unscheduled visits. I led recently a focus group
10 that was held between workers and foster parents where the
11 positives and negatives were discussed. Although there was
12 some concern, the greatest majority felt that it should be
13 an expectation to further the safety of our children. And
14 I can say now that our agency will be introducing
15 unscheduled visits as a practice later this fall.

16 Another theme that has emerged from the
17 testimonies of our former wards is the immense difficulty
18 they have experienced in their efforts to get information
19 from their file and the pain that that has created.

20 I am, therefore, recommending that the
21 Ministry require the Children's Aid Societies to release to
22 all Crown wards leaving their care a record of their
23 updated social history; their full medical history, both
24 during the time they were in care and that collected on
25 themselves during care and their families; the names,

1 addresses, telephone numbers of mental health professionals
2 who have done tests and produced reports for the youth and
3 how to obtain those reports and test results; a full list
4 of schools attended with names of teachers, grades
5 completed and copies of report cards. And last but not
6 least, a list of the foster homes where they lived,
7 including the dates and placements and the names of the
8 foster family members living with them in the home. A list
9 of churches, clubs, et cetera attended and any certificates
10 received from same. A sign-off by a parent or guardian or
11 the youth themselves would be a requirement.

12 A full copy of the material given, including
13 the sign-off, would be kept by the agency at the front of
14 the child's file and would be immediately available to the
15 individual if required in later years.

16 Currently, Crown ward workers are required
17 to update social histories annually. Foster parents are
18 required to keep life books, which are for the child or
19 youth to keep.

20 I am pleased to inform you and the Inquiry
21 that the local agency has hired a full-time worker to deal
22 with record disclosure requests. At the moment -- that is
23 of yesterday morning -- the agency is receiving between 20
24 and 30 requests per month and there are 55 requests
25 outstanding. Nine (9) of those are from 2007 and 4 of

1 those 9 lack sufficient consents and I.D. to go further
2 with. Medical history requests and other such urgent
3 requests receive priority. A second worker has been hired
4 for the next six months dedicated to clean up the backlog.

5 These are my comments and recommendations.

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

7 I can tell you that quite aside from this
8 Inquiry, foster parents and the Children's Aid Society
9 across this province are recognized as essential to the
10 wellbeing of children and I think all of us -- without
11 exception -- hail the work of the foster parents and of the
12 Children's Aid Society generally in the province.

13 Thank you very much.

14 **MR. MacLEAN:** Thank you.

15 **THE COMMISSIONER:** Mr. Engelmann.

16 **MR. ENGELMANN:** Those are all my questions.

17 Thank you, Mr. MacLean.

18 **THE COMMISSIONER:** Thank you.

19 Mr. Strawczynski? Oh, sorry.

20 **MR. ENGELMANN:** I'm just going to just
21 advise you, sir, that counsel will identify who they are
22 and also the name of the party they represent.

23 **THE COMMISSIONER:** There you go. Thank you.

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

25 **STRAWCZYNSKI:**

1 **MR. STRAWCZYNSKI:** Good afternoon, Mr.
2 Commissioner.

3 **THE COMMISSIONER:** Good afternoon, sir.

4 **MR. STRAWCZYNSKI:** And good afternoon, Mr.
5 MacLean. My name is Juda Strawczynski and I'm here on
6 behalf of Citizens for Community Renewal.

7 **MR. MacLEAN:** Yes.

8 **MR. STRAWCZYNSKI:** It is one of the parties
9 with standing here at the Inquiry and we're principally
10 interested in promoting institutional reform to ensure the
11 protection of children and justice for all.

12 I just wanted to start my questioning today
13 by going back to some comments that you made yesterday
14 during your examination in-chief with respect to the Second
15 Street Group Home.

16 You'd mentioned yesterday that when you were
17 initially hired on to the CAS to work with this home, you
18 weren't fully briefed about what had happened at that home
19 prior to you taking the position; correct?

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

21 **MR. STRAWCZYNSKI:** And part of your role was
22 to come in and to develop programming and to develop
23 policies. Is that correct?

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

25 **MR. STRAWCZYNSKI:** And as the new liaison

1 worker you were there to, if I could say so, help the
2 Second Street home start fresh. Would that be accurate?

3 **MR. MacLEAN:** Yes.

4 **MR. STRAWCZYNSKI:** And would you agree with
5 me that it was unfortunate that you weren't provided with a
6 more full explanation of what had happened to the home?

7 **MR. MacLEAN:** Yes and no. I was provided
8 with the information that it was excessive discipline and
9 there was a group of staff leave. I would have appreciated
10 hearing more of what some of the drama -- the trauma that
11 some of the children still left in the home had. I would
12 have been able to understand them better and respond to
13 them.

14 **MR. STRAWCZYNSKI:** And presumably knowing
15 that would have helped you to create more tailored
16 programming for the children; correct?

17 **MR. MacLEAN:** Yes. I knew they were
18 children from a variety of backgrounds and I guess I went
19 in on a broader scope of -- and based on my experience from
20 the Belleville agency where it was a therapeutic foster
21 home -- therapeutic group home that I was developing, based
22 on that I knew what I wanted to do here ---

23 **MR. STRAWCZYNSKI:** Okay.

24 **MR. MacLEAN:** --- irregardless of what
25 individual experiences had happened.

1 **MR. STRAWCZYNSKI:** Knowing a bit more about
2 the background of the events that had transpired may have
3 also made you more prepared to provide training
4 recommendations for staff. Would you admit that?

5 **MR. MacLEAN:** Very much so.

6 **MR. STRAWCZYNSKI:** And if you had known
7 about the previous background, you would have been more
8 triggered, if I could say so, you would be more attentive,
9 the seed would have been planted for you to have been aware
10 of possible red flags regarding abuse, restraint, or other
11 potential difficulties that would -- that might arise?

12 **MR. MacLEAN:** Yes, I would agree with that.

13 **MR. STRAWCZYNSKI:** So in short, when your
14 superiors -- when you were brought into this new position,
15 when they were not as candid as they might have been and
16 even after you had asked them for details about what had
17 happened, you didn't get as full a set of answers as one
18 would have possibly have hoped, this presented you with
19 some additional challenges in taking on your new
20 responsibilities.

21 Is that correct?

22 **MR. MacLEAN:** Certainly looking back, it
23 presented -- it presents a lot of challenges, yes.

24 **MR. STRAWCZYNSKI:** You were effectively less
25 equipped than you could have been.

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

2 **MR. STRAWCZYNSKI:** And yesterday we talked a
3 bit about some of the staffing difficulties that you
4 encountered when you were at the home and they focused on
5 one individual in particular. And you had mentioned as
6 well at Volume 287 of the transcript, page 302, there's a
7 reference that we'll put to you, sir, and I just wanted to
8 go over it with you.

9 **THE COMMISSIONER:** I'm sorry; which
10 reference?

11 **MR. STRAWCZYNSKI:** It's yesterday's
12 transcript at page 302.

13 **THE COMMISSIONER:** Right. Sorry. Thank
14 you.

15 **MR. STRAWCZYNSKI:** It's a comment that
16 starts at line 14, sir, and runs through to line 20, if
17 you'd like a moment to review it.

18 In it, you effectively stated that you had
19 mentioned to your superior, to Mr. Devlin, that you didn't
20 have teeth with respect to the development of policies and
21 you didn't have power in the home and that could pose some
22 difficulty.

23 And I guess my question here, sir, is
24 obviously there were some communication problems when you
25 tried to report issues in the home up to Mr. Devlin. And

1 what sort of power or what sort of understanding of the
2 dynamic did you think needed to occur in the home that
3 wasn't being well received at this point by Mr. Devlin?

4 **MR. MacLEAN:** The concern over Mr. Primeau
5 was heard. I didn't have the -- I guess the decision-
6 making power, like I could come with recommendations. So
7 what I did, I worked as a team and reported back but it was
8 a -- from my experience before, again I go back to my
9 experience in Belleville where I was a supervisor and I had
10 the ability to say, "Okay, these are the new policies that
11 we're going to take," I would have still gone to my
12 superior and got that approved.

13 But the way the thing was set up here, it
14 didn't give me that final say and be able to go and do what
15 I wanted to do I guess is -- is that -- sorry, I wandered.

16 **MR. STRAWCZYNSKI:** I think if I understand
17 you correctly, there was a chain of command here.

18 **MR. MacLEAN:** Yes.

19 **MR. STRAWCZYNSKI:** And you weren't being
20 provided with the authority to make decisions at key
21 points. Is that about accurate?

22 **MR. MacLEAN:** That's right, yes.

23 **MR. STRAWCZYNSKI:** And did the staff at the
24 group home become aware that you were having difficulty in
25 making decisions or that if they had a confrontation or a

1 dispute, in fact, it wasn't necessarily going to be your
2 final call on anything?

3 **MR. MacLEAN:** I think they knew that, yes.

4 **MR. STRAWCZYNSKI:** And would that have
5 exacerbated some of the difficulties you were having in
6 your view with respect to some of the concerns you were
7 having?

8 **MR. MacLEAN:** It certainly didn't help.

9 **MR. STRAWCZYNSKI:** And in terms of how the
10 staff were acting, we talked about some of the policies
11 that you were trying to bring into place.

12 **MR. MacLEAN:** Yes.

13 **MR. STRAWCZYNSKI:** Just to be clear, I
14 understand that you hadn't prepared any written policies
15 upon your immediate arrival into the Second Street Home.
16 Is that correct?

17 **MR. MacLEAN:** Not prior to, no.

18 **MR. STRAWCZYNSKI:** And when you were there,
19 there weren't any that were developed in writing with
20 respect to the use of discipline, for example?

21 **MR. MacLEAN:** No, that was still being
22 discussed at Board level. We made the policy. We made the
23 policy within the home that corporal punishment was not
24 going to be used.

25 **MR. STRAWCZYNSKI:** And there wasn't ---

1 **MR. MacLEAN:** And that was accepted by Mr.
2 Devlin and Mr. Towndale. I mean, I had Agency support. It
3 wasn't across the board in foster care at that time or
4 agreed to at the Board level that time either, but ---

5 **MR. STRAWCZYNSKI:** But it was internally
6 decided that with respect to this particular home, there
7 were standards that would apply with respect to discipline
8 and restraint; correct?

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

10 **MR. STRAWCZYNSKI:** I take it that this was
11 generally understood by all staff but it simply wasn't in
12 writing. Is that correct?

13 **MR. MacLEAN:** That's correct, yes.

14 **MR. STRAWCZYNSKI:** Was there any training
15 that was conducted immediately upon your arrival to the
16 Second Street Home for staff?

17 **MR. MacLEAN:** The training would be -- that
18 would be provided would be our own discussions and coming
19 from our own experiences and the training that I had had
20 and I would bring that to the table.

21 **MR. STRAWCZYNSKI:** Okay. Thank you.

22 I'm going to move now to a different area
23 here. I've just got a couple of questions related to C-14.
24 If you could check the moniker list to familiarize yourself
25 with the name.

1 **MR. MacLEAN:** Yes, I am.

2 **THE COMMISSIONER:** You know who C-14 is,
3 sir?

4 **MR. MacLEAN:** Yes.

5 **THE COMMISSIONER:** Thank you.

6 **MR. STRAWCZYNSKI:** Thank you. And if we
7 could just turn to one document, it's Exhibit 538 I
8 believe, Number 114549, and the Bates page is around 607,
9 the final three numbers.

10 This is the complaint by C-14 that would
11 have been investigated by Bryan Keough.

12 **MR. MacLEAN:** Bates page?

13 **MR. STRAWCZYNSKI:** I have it as 1072607, the
14 back page.

15 **THE COMMISSIONER:** So it would be page 9 of
16 the report I would say, if you look in the middle -- page
17 10, sorry.

18 Is that what it is, sir, "On most of my
19 visits," is that where it starts on?

20 **MR. STRAWCZYNSKI:** That's right.

21 **THE COMMISSIONER:** All right. There we go.
22 So what part of the document do you want him to look at?

23 **MR. STRAWCZYNSKI:** We're going to head to
24 number 3 that starts, "Further, that I as his social
25 worker..."

1 **THE COMMISSIONER:** So the following were
2 some of his accusations and you're going down to number 3.

3 **MR. STRAWCZYNSKI:** That's right.

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

5 **MR. STRAWCZYNSKI:** So Mr. MacLean, I
6 understand that you had an opportunity to read this report
7 prior to taking over this file; correct?

8 **MR. MacLEAN:** Yes.

9 **MR. STRAWCZYNSKI:** And if you see at number
10 3, there are allegations that really pertain to Bryan
11 Keough who was the social worker prior to you becoming
12 involved. Is that right?

13 The complaint here appears to be that Mr.
14 Keough, as his social worker, always sided with the foster
15 parents and did not pick up on the danger signals. Do you
16 see that as number 3?

17 **MR. MacLEAN:** Correct, yes.

18 **MR. STRAWCZYNSKI:** So it appears that in
19 fact C-14 had been making a complaint against Mr. Keough,
20 as well as against the Barbers. Is that not right?

21 **MR. MacLEAN:** That would appear right, yes.

22 **MR. STRAWCZYNSKI:** And at any time, did it
23 occur to you as odd or out of place that there was no note
24 indicating that Mr. Keough had first consulted with a
25 superior before commencing this investigation?

1 **MR. MacLEAN:** I wasn't -- I didn't know -- I
2 wasn't party to that at all, to that whole investigation.

3 **MR. STRAWCZYNSKI:** Sure, but in your review
4 of it, in reviewing the file to get up to speed on it, was
5 this something that at any point triggered something; you
6 asked yourself why a certain protocol wasn't followed or
7 why something was missing in the file?

8 **MR. MacLEAN:** I don't recall.

9 **MR. STRAWCZYNSKI:** Okay. Did you ever
10 wonder, upon reading this, why it would be that Mr. Keough
11 would effectively be investigating a complaint against
12 himself?

13 **MR. MacLEAN:** In reading it, and my
14 understanding was that he had also discussed that with his
15 supervisor, and that it had been worked out or resolved to
16 his satisfaction.

17 **MR. STRAWCZYNSKI:** Thank you.

18 **THE COMMISSIONER:** Now, what had been
19 resolved? The fact that he would investigate himself or
20 that ---

21 **MR. MacLEAN:** No, the issues brought forward
22 by C-14.

23 **MR. STRAWCZYNSKI:** In general, though, would
24 you agree with me that when a complaint is launched against
25 a social worker, it would be ideal or preferable to have a

1 separate social worker conduct the investigation?

2 MR. MacLEAN: And today, sir, that is done.

3 MR. STRAWCZYNSKI: Thank you.

4 I just want to touch upon one other question
5 related to a new theme, which is the policy developments in
6 1985 with respect to the use of discipline.

7 MR. MacLEAN: Yes.

8 MR. STRAWCZYNSKI: I understand that we had
9 a new written policy in place for the whole CAS at that
10 point; correct?

11 MR. MacLEAN: That's correct.

12 MR. STRAWCZYNSKI: And I'm just wondering
13 whether there is a particular event that sparked the
14 decision to write down a written policy at that point?

15 MR. MacLEAN: The Act was revised in '84 and
16 the Act was very clear.

17 MR. STRAWCZYNSKI: So it was really statute
18 driven?

19 MR. MacLEAN: That sealed all arguments, and
20 the naysayers disappeared.

21 MR. STRAWCZYNSKI: In terms of the naysayers
22 are you suggesting, sir, that there were efforts to write a
23 policy prior to this time?

24 MR. MacLEAN: There was policy written, I
25 believe, in the early eighties or late seventies.

1 **MR. STRAWCZYNSKI:** Okay. I guess what I'm -

2 --

3 **MR. MacLEAN:** That talked about spanking and

4 ---

5 **MR. STRAWCZYNSKI:** What I'm getting to is
6 whether there was any active debate occurring within the
7 CAS after hearing about the incidents at the Second Street
8 Group Home or following C-14's complaint that would have
9 led to further debate or discussion about the appropriate
10 standards?

11 **MR. MacLEAN:** I think it was in the mill, so
12 to speak, already at the Board level and it was being
13 debated, and it was being debated amongst staff. I'm not
14 sure of the year but there was a whole annual meeting and
15 the debate set up at an annual meeting function where the
16 pro and the cons were discussed.

17 And that would have been, I believe, between
18 '76 and '80 at least. Maybe it was around '78. I'm not
19 sure on that but I know that event happened.

20 **MR. STRAWCZYNSKI:** Okay. It just seems that
21 there is a fair delay between those sorts of debates
22 occurring and the actual written policy coming through in
23 '85.

24 **MR. MacLEAN:** That's correct, yes. And that
25 was -- and that sealed -- that was actually in '84 that we

1 got that.

2 **MR. STRAWCZYNSKI:** Okay, thank you.

3 I'm going to turn now to the Earl Landry,
4 Jr. matter, your involvement in it.

5 **MR. MacLEAN:** Yes.

6 **MR. STRAWCZYNSKI:** And as was discussed,
7 there were two issues in play here. The first was that
8 Earl Landry, Jr. had applied to be a foster parent of C-54
9 and, secondly, there were child protection issues that
10 later came to your attention; correct?

11 **MR. MacLEAN:** Yes.

12 **MR. STRAWCZYNSKI:** And the Earl Landry, Jr.
13 application to be a foster parent occurred in 1993, which
14 would have been well after the policy changes created in
15 '85; correct?

16 **MR. MacLEAN:** That's correct.

17 **MR. STRAWCZYNSKI:** And so there would be a
18 more rigorous screening process in place, in theory, at
19 that time; correct?

20 **MR. MacLEAN:** Yes.

21 **MR. STRAWCZYNSKI:** Now, we've already heard
22 that you received a reference letter from Earl Landry, Sr.
23 on this matter; correct?

24 **MR. MacLEAN:** Yes.

25 **MR. STRAWCZYNSKI:** And you've already

1 acknowledged that you knew who that man was in the
2 community; correct?

3 **MR. MacLEAN:** Yes.

4 **MR. STRAWCZYNSKI:** And presumably a letter
5 from somebody of that stature would have held sway. It
6 would have been something given great weight. Is that
7 correct?

8 **MR. MacLEAN:** I do not recall it giving me
9 any sway as far as any greater weight than the others. I
10 accepted it on face value for what it was, and he was a
11 former chief and I took it at face value.

12 **MR. STRAWCZYNSKI:** And so in terms of the
13 other steps in addition to the reference letters, we've
14 already heard that there was an internal cross-reference
15 conducted?

16 **MR. MacLEAN:** Yes.

17 **MR. STRAWCZYNSKI:** Was there a criminal
18 record check conducted?

19 **MR. MacLEAN:** Yes, there was.

20 **MR. STRAWCZYNSKI:** Were there any other
21 steps taken to go out into the community to follow up on
22 Earl Landry, Jr.'s interactions with youth there?

23 **MR. MacLEAN:** Well, other than the reference
24 letters, no. There wasn't anything -- to go to his place
25 of work, to see what he was doing.

1 **MR. STRAWCZYNSKI:** Right.

2 **MR. MacLEAN:** And that wasn't common
3 practice.

4 **MR. STRAWCZYNSKI:** So even when an applicant
5 clearly already is working with children or with youth --
6 in this case, for example, Earl Landry, Jr., -- his
7 father's reference letter stated that he coached what
8 appears to be high school sports.

9 **MR. MacLEAN:** Yes.

10 **MR. STRAWCZYNSKI:** He also worked at a park.
11 There would have been no efforts taken in this or other
12 cases to try to talk to either parents or youth to get some
13 impressions about him?

14 **MR. MacLEAN:** No.

15 **MR. STRAWCZYNSKI:** Is that done today?

16 **MR. MacLEAN:** I don't believe so.

17 I might add that when an individual in the
18 community, in this community, announces or speaks at all
19 openly about the fact that they are applying to become
20 foster parents, I have had individuals come forward,
21 anonymous, and said, "Listen to me. Do not place children
22 in that home." This didn't happen in that case, nor do I
23 know whether Mr. Landry had spoken openly with his friends.

24 But I do know that once an applicant for
25 foster care -- once an individual puts in an application

1 for foster care he becomes a public figure, you might say,
2 and the community, if they have things to say about them,
3 do not hesitate to come forward.

4 **MR. STRAWCZYNSKI:** I'm wondering whether,
5 after you received the letter which triggered the child
6 protection wing of the CAS, so to speak, whether there were
7 any steps to go to talk to parents of children enrolled in
8 sports or children who were at the park, or that sort of
9 step?

10 **MR. MacLEAN:** Not outside the investigation.

11 **MR. STRAWCZYNSKI:** I'm sorry, just to be
12 clear, was that sort of step taken as part of the
13 investigation?

14 **MR. MacLEAN:** I believe -- I don't know for
15 sure but one of the practices is to -- if there's children
16 that he's had contact with -- and this is a child
17 protection investigation. It would have been at the front
18 end.

19 **MR. STRAWCZYNSKI:** Okay.

20 And I guess the last question I have, the
21 last group of question in this area, sir; I notice there is
22 a -- there were risk management conferences that were held
23 with respect to Earl Landry, Jr. in -- starting in October,
24 1993; correct?

25 **MR. MacLEAN:** Yes.

1 **MR. STRAWCZYNSKI:** And you were the
2 supervisor of Kelly Raymond for the application for her to
3 become a foster parent; correct?

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

5 **MR. STRAWCZYNSKI:** And it's noted that you
6 weren't at all of the risk management conference meetings;
7 correct?

8 **MR. MacLEAN:** Yes.

9 **MR. STRAWCZYNSKI:** Can you explain to me
10 what the purpose of the meetings are and why your presence
11 wouldn't have been necessary?

12 **MR. MacLEAN:** There were a series of risk
13 management meetings, some called by Child Protection
14 conducting the investigation. I wouldn't necessarily --
15 and that would be chaired by Mr. Carriere.

16 I wouldn't necessarily be called to those
17 meetings. I would be invited and called to the ones that
18 would kick off an investigation against -- that would be
19 discussing an allegation against the foster parent, and I
20 would be called in along with my resource worker.

21 Why I wasn't at all those meetings --
22 outside of the division I think there was one other one
23 that I didn't get to that I should have been at as far as
24 the resources -- I'm not again clear, but the set-up was I
25 was situated in an office building over on Second Street,

1 about five or six blocks from the main building on York,
2 during the late -- mid-eighties to about '93 or '94.

3 That further divided -- and I'm not being
4 critical to the agency. That was the practical way we were
5 housed at that time and so we'll get phone calls saying we
6 need to discuss immediately. I may have been out visiting
7 a foster parent when that phone call came in. I have no
8 recollection.

9 **MR. STRAWCZYNSKI:** Just at these meetings
10 were decisions ever made, final decisions made, of the
11 meetings without the supervisor's presence?

12 **MR. MacLEAN:** There was always a supervisor
13 present.

14 **MR. STRAWCZYNSKI:** I'm going to shift topics
15 now again, sir, and return to the Lapensée home for a few
16 minutes.

17 Now, the Lapensées became foster parents
18 contracted to the CAS in the late seventies; correct?

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

20 **MR. STRAWCZYNSKI:** And so when they were
21 screened they would have been screened in the pre-1985 more
22 relaxed system; is that correct?

23 **MR. MacLEAN:** Yes, I believe they were -- in
24 '77 when we opened them as a group home, they had already
25 been active foster parents for 10 or 12 years before that.

1 **MR. STRAWCZYNSKI:** Yes, I saw that from the
2 file.

3 **MR. MacLEAN:** And they would be screened.
4 So it would be back in '65, I believe, that they were
5 actually opened.

6 **MR. STRAWCZYNSKI:** Okay. In your final
7 report, though, from 1985, which is at 738539, and the
8 Bates page 7170904 ---

9 **THE COMMISSIONER:** What exhibit number are
10 we talking about?

11 **MR. STRAWCZYNSKI:** I believe it's Exhibit
12 129, sir, but I may have that wrong.

13 **THE COMMISSIONER:** You wouldn't have that
14 yet, sir, I don't think. Hang on -- 129 is a letter,
15 December 2nd to Robert Nadon. Is that what you're referring
16 to?

17 **MR. STRAWCZYNSKI:** No, it's part of the home
18 file for the Lapensée group home. We referred to it
19 earlier this morning.

20 **THE COMMISSIONER:** Well, we only have a
21 couple of thousand exhibits, Mr. ---

22 **MR. STRAWCZYNSKI:** Sorry, Mr. Commissioner.

23 **THE COMMISSIONER:** We only have a couple
24 thousand exhibits.

25 **MR. STRAWCZYNSKI:** I understand. It might

1 be 2401.

2 **THE COMMISSIONER:** Two-four-zero-one (2401).

3 (SHORT PAUSE/COURTE PAUSE)

4 **THE COMMISSIONER:** What Bates page, please?

5 **MR. STRAWCZYNSKI:** The Bates page is -- it
6 ends with 904.

7 **THE COMMISSIONER:** Yeah, before the last
8 page, sir, on Exhibit 2401, and it's near the end.

9 I'm sorry, it's 904 you wanted?

10 **MR. STRAWCZYNSKI:** Yes, sir.

11 **THE COMMISSIONER:** Yeah, so it's before the
12 last page of that exhibit. Right there, yes.

13 **MR. STRAWCZYNSKI:** So I just wanted to start
14 the clock here a bit.

15 The Lapensées are contracted by CAS in 1977
16 and then at the top of this page in the first paragraph you
17 wrote in 1985 that:

18 "Very early in our group home
19 relationship, I had our female wards
20 complain that Brian Lapensée was
21 attempting to have sexual play with
22 them. At this point, Brian was about
23 16 years of age and given a firm
24 warning."

25 So this would have been the first incident;

1 correct?

2 MR. MacLEAN: Yes.

3 MR. STRAWCZYNSKI: And in this incident was
4 there anything noted in writing to the Lapensée family?

5 MR. MacLEAN: I don't believe so, no.

6 MR. STRAWCZYNSKI: And nothing to Brian
7 Lapensée either?

8 MR. MacLEAN: No.

9 MR. STRAWCZYNSKI: And the Ministry wasn't
10 contacted?

11 MR. MacLEAN: No.

12 MR. STRAWCZYNSKI: And it was just -- this
13 warning was just a sit down sort of talk?

14 MR. MacLEAN: That's correct.

15 MR. STRAWCZYNSKI: And this was between
16 yourself and him?

17 MR. MacLEAN: Yes.

18 MR. STRAWCZYNSKI: And how did you learn of
19 this particular allegation?

20 MR. MacLEAN: I don't recall.

21 MR. STRAWCZYNSKI: I notice here that there
22 is a sanction, though. Did you find the complaint
23 credible?

24 MR. MacLEAN: I don't know whether there was
25 -- I don't recall even the situation or the complaint. I'm

1 going by what is written here.

2 MR. STRAWCZYNSKI: But it does seem to pre-
3 date ---

4 MR. MacLEAN: It was ---

5 MR. STRAWCZYNSKI: --- the incident in 1979
6 and in '82. This seems to be the very first complaint,
7 would you agree?

8 MR. MacLEAN: It is, it is. That's it.

9 MR. STRAWCZYNSKI: And you recall that you
10 did in fact need to sit down with Brian Lapensée and talk
11 with him about this matter?

12 MR. MacLEAN: With his parents.

13 MR. STRAWCZYNSKI: With his parents present?

14 MR. MacLEAN: Yes.

15 MR. STRAWCZYNSKI: But there was no note
16 within this particular document we're looking at within the
17 Lapensée folder until your 1985 reference to this incident.
18 Isn't that correct?

19 MR. MacLEAN: That's correct, yes.

20 MR. STRAWCZYNSKI: And was this a complaint
21 that you would have taken up the chain within CAS?

22 THE COMMISSIONER: When, at the time?

23 MR. MacLEAN: I should have.

24 THE COMMISSIONER: When, at the time in '77?

25 MR. STRAWCZYNSKI: I'm sorry, yes, at the

1 time in 1970 -- well, it doesn't quite say here but
2 presumably '77.

3 **MR. MacLEAN:** I should have. I have no
4 memory.

5 **MR. STRAWCZYNSKI:** Thank you.

6 And I assume from the comment here that
7 there were no checks put in place with respect to Brian's
8 interactions with wards at this point?

9 **MR. MacLEAN:** Not at that point, no.

10 **MR. STRAWCZYNSKI:** We move to the second
11 incident which was in the fall of 1979, which is also
12 mentioned at the page that you have in front of you, sir.

13 **MR. MacLEAN:** Yes.

14 **MR. STRAWCZYNSKI:** And I'm just wondering
15 whether there was any discussion about this matter at the
16 time when Brian moved out west, with a ward who was
17 pregnant, with the Lapensée family?

18 **MR. MacLEAN:** Yes, there was, again.

19 **MR. STRAWCZYNSKI:** And what was the nature
20 of the conversation there?

21 **MR. MacLEAN:** Well, it would be certainly
22 one of concern. I was the worker for the young lady as
23 well, but we didn't go beyond the discussion and the
24 concern, you know, that this shouldn't be happening, and I
25 was concerned as well with the welfare of the young lady

1 herself who headed out to her parents.

2 **MR. STRAWCZYNSKI:** And, again, there is no
3 explicit reference to this particular incident in the
4 Lapensée file, correct, until this point in ---

5 **MR. MacLEAN:** Until this point; that's
6 correct.

7 **MR. STRAWCZYNSKI:** Before moving onto the
8 third incident, on September 14th, 1982 there was a training
9 session held for the Lapensées, and it's at 738539.

10 **THE COMMISSIONER:** Is this a new exhibit?

11 **MR. STRAWCZYNSKI:** Mr. Commissioner, to be
12 honest, my ability to track this particular document number
13 has been -- is not accurate at the moment, so I apologize.

14 **THE COMMISSIONER:** Well, to be honest with
15 you, we've got to have the exhibit numbers.

16 **MR. STRAWCZYNSKI:** I understand.

17 **THE COMMISSIONER:** So you say you don't
18 know.

19 Madam Clerk, what do you need? Is it an
20 exhibit?

21 **THE REGISTRAR:** There are several.

22 **THE COMMISSIONER:** Right.

23 So did you give notice for this document,
24 sir.

25 **MR. STRAWCZYNSKI:** Yes, I did, I believe.

1 THE COMMISSIONER: Okay.

2 MR. STRAWCZYNSKI: Sorry, the Bates page is

3 ---

4 THE COMMISSIONER: Great.

5 MR. STRAWCZYNSKI: --- 7170869.

6 MR. STRAWCZYNSKI: I'm informed by my
7 friends, Mr. Commissioner, it's not yet an exhibit.

8 THE COMMISSIONER: M'hm.

9 (SHORT PAUSE/COURTE PAUSE)

10 THE COMMISSIONER: Thank you.

11 Exhibit 2405 is an excerpt of Document
12 738539 which is a staff training -- which document dated
13 Tuesday, September 14th, 1982.

14 --- EXHIBIT NO./PIÈCE NO. P-2405:

15 (738539 - 7170869-71) Excerpt - Staff
16 Training, Lapensée-Carenick Group Home -
17 dated September 14, 1982

18 MR. STRAWCZYNSKI: Mr. MacLean, I'm just
19 wondering if there is particular reason for having training
20 held at this point in time or whether this was part of
21 general training?

22 MR. MacLEAN: At this point in time, it was
23 specifically to do with the licensing of the Carenick Home.

24 THE COMMISSIONER: I'm sorry, licensing of?

25 MR. MacLEAN: Of the Carenick Home, Group

1 Home.

2 **THE COMMISSIONER:** Right.

3 **MR. MacLEAN:** They had moved from the farm
4 to Martintown, the girls and the Lapensées had purchased
5 this home in Martintown and it was the licensing of that.
6 And I was going through some of the regulations and
7 requirements of that licence.

8 **MR. STRAWCZYNSKI:** And if you turn to Bates
9 page 871 are the final three digits, sir.

10 **MR. MacLEAN:** Yes.

11 **MR. STRAWCZYNSKI:** There's a reference here
12 to reporting procedures and discipline, and it has at the
13 very end, there's a reference there to "abuse of children
14 will also be investigated and reported."

15 And I'm wondering, sir, whether the method
16 of investigation or how the reporting would take place was
17 ever explained to the Lapensées at this point?

18 **MR. MacLEAN:** It would have been explained
19 in a general way and I say "general" because it wasn't
20 until nineteen -- I believe it was 1992 that we developed a
21 procedure for the investigation of allegations against
22 foster parents. We at that point went into a great detail
23 as to how it would be -- the process for foster parents.

24 **MR. STRAWCZYNSKI:** So there wouldn't have
25 been any discussion about whether it was an internal

1 investigation, whether the police would be involved,
2 whether the Crown would be contacted. It was just
3 generally a discussion that this sort of thing would not be
4 tolerated?

5 **MR. MacLEAN:** It would not be tolerated and
6 it would be investigated, yes.

7 **MR. STRAWCZYNSKI:** I know you answered
8 Commission counsel's question earlier about training for
9 Brian. Did Brian attend this session?

10 **MR. MacLEAN:** No, he wouldn't, no because he
11 was not part of the group home.

12 **MR. STRAWCZYNSKI:** Okay, so I'm just going
13 to move now to the allegations that came out in 1982 with
14 respect to sexual assault.

15 We have got in your document, in your
16 report, the Special Occurrence Report, and it's exhibit
17 2394, Bates page -- the Bates page, sir, is ending 825.

18 **MR. MacLEAN:** Yes, I have it.

19 **MR. STRAWCZYNSKI:** We have a reference here
20 at the conclusion, which has already been read to you, it
21 mentions Brian's past history as one factor which helped
22 you to ascertain the likelihood of these events occurring;
23 correct?

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

25 **MR. STRAWCZYNSKI:** Now, when you refer to

1 the past history, was this past history the event in 1977,
2 which is documented in the 1985 report that I've taken to
3 you previously?

4 Another option, sir, is that it could be the
5 event of 1979 where Brian leaves the home with a ward who
6 is pregnant.

7 Another option, sir, is that it could be the
8 two of them, and I'm just wondering whether the reader
9 would have known what past history you are talking about
10 here.

11 **MR. MacLEAN:** No, they weren't -- they
12 wouldn't know, but I'm writing it; I'm aware of it, of the
13 history, so I would -- I don't remember being consciously
14 saying, "You know, this is only from '79."

15 I would say the entire history.

16 **MR. STRAWCZYNSKI:** And would you have been
17 able to explain that entire history to Mr. O'Brien or
18 others who were reviewing the file or this incident report,
19 I should say?

20 **MR. MacLEAN:** I don't see why I wouldn't
21 have been able to.

22 **MR. STRAWCZYNSKI:** Now, we've already
23 discussed how, in your recommendations in this report, you
24 don't suggest that the CAS contact the police. But in
25 cases of child abuse by this point, there already was a

1 government standard in place and I'm going to take you to
2 it now.

3 **THE COMMISSIONER:** Just a minute. Just a
4 minute.

5 You know, we have gone over this before, and
6 he says, "No, we didn't talk to the police" but he reported
7 to Mr. O'Brien.

8 **MR. STRAWCZYNSKI:** Yes, sir.

9 **THE COMMISSIONER:** Okay.

10 **MR. STRAWCZYNSKI:** Well, if you prefer, I
11 could leave this for Mr. O'Brien.

12 **THE COMMISSIONER:** Yes.

13 I am going to have to take a short break.
14 Do you know how long you are going to be for the rest of
15 your cross?

16 **MR. STRAWCZYNSKI:** I can be review on the
17 break. It will be less than 20 minutes, probably closer to
18 15.

19 **THE COMMISSIONER:** All right.

20 I need to take a break at this time.

21 **MR. STRAWCZYNSKI:** Absolutely.

22 **THE COMMISSIONER:** Give me 10 minutes
23 please. Thank you.

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

1 The hearing will resume at 4:55 p.m.

2 --- Upon recessing at 4:46 p.m./

3 L'audience est suspendue à 16h46

4 --- Upon resuming at 5:00 p.m./

5 L'audience est reprise à 17h00

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 **THE COMMISSIONER:** Yes, sir. So can I just
11 canvass? I know it's five o'clock, I'm trying to cover up
12 for some time. How long do you think you are going to be
13 to finish, sir?

14 **MR. STRAWCZYNSKI:** Reviewing my notes, Mr.
15 Commissioner, 20, 25 minutes.

16 **THE COMMISSIONER:** All right. Mr. Horn, are
17 you going to have any questions?

18 **MR. HORN:** Sir, Mr. Dallas is going to go
19 before me.

20 **THE COMMISSIONER:** Yes, Mr. Lee?

21 **MR. LEE:** Forty-five minutes to an hour.

22 **THE COMMISSIONER:** Okay.

23 **IAN MacLEAN, Resumed/Sous le même serment:**

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

25 **STRAWCZYNSKI (Cont'd/Suite):**

1 **MR. STRAWCZYNSKI:** Mr. Commissioner, we
2 talked just before the break about whether I should be
3 putting a particular document to this witness, and I just
4 wanted to explain that from my client's perspective, it is
5 important the document I'm about to put, just to get a
6 sense of what the understanding was among employees at the
7 time in question.

8 **THE COMMISSIONER:** What document are we
9 talking about?

10 **MR. STRAWCZYNSKI:** The document is Exhibit
11 25, Tab 4.

12 **THE COMMISSIONER:** Exhibit 25, that's in
13 another book, sir.

14 **MR. STRAWCZYNSKI:** It's a document prepared
15 by the Ministry of Community and Social Services dated
16 February 1981.

17 **THE COMMISSIONER:** Thank you. Tab 4?

18 **MR. STRAWCZYNSKI:** Tab 4, I believe, sir.

19 **THE COMMISSIONER:** What page?

20 **MR. STRAWCZYNSKI:** We can start on the first
21 page.

22 **THE COMMISSIONER:** Okay.

23 **MR. STRAWCZYNSKI:** Mr. MacLean, do you have
24 the document in front of you, sir?

25 **MR. MacLEAN:** Yes, I do.

1 **MR. STRAWCZYNSKI:** And do you recall having
2 seen this document?

3 **MR. MacLEAN:** I have seen it, yes.

4 **MR. STRAWCZYNSKI:** Would you have been aware
5 of it prior to writing your report in 1982?

6 **MR. MacLEAN:** I don't recall.

7 **MR. STRAWCZYNSKI:** You don't recall.

8 If you turn to page 11 of the document,
9 which is the Bates page 906, you'll see under "Commentary"
10 that ---

11 **THE COMMISSIONER:** I'm sorry; what page?

12 **MR. STRAWCZYNSKI:** Bates page 906.

13 **THE COMMISSIONER:** I'm sorry, we don't have
14 Bates pages. Can you refer to the number?

15 **MR. STRAWCZYNSKI:** Page 11; sorry, Mr.
16 Commissioner.

17 **THE COMMISSIONER:** Thank you. No, that's
18 fine.

19 **MR. STRAWCZYNSKI:** At page 11, it says:
20 "Child abuse cases are given and should continue to be
21 given the highest priority in the provision of Children's
22 Aid Society service."

23 Then moving to page 13, about halfway down
24 the page, sir, it suggests that:

25 "Police shall be informed of complaints received of alleged

1 child abuse according to a predetermined plan that will
2 have been worked out jointly by the police and local
3 Children's Aid Society."

4 **MR. MacLEAN:** I see that.

5 **MR. STRAWCZYNSKI:** Page 34, at the top just
6 underneath "Standards" it says:

7 "A plan shall be developed jointly by
8 the local Children's Aid Society and
9 the police to ensure that there is a
10 cooperative working agreement."

11 And below "Guidelines" it says:

12 "At the time of notification and
13 consultation, a decision will be made
14 regarding the most appropriate and
15 effective means of investigation."

16 And we have there the possibilities, which
17 include the Children's Aid Society conducting the
18 investigation, joint investigations, parallel
19 investigations and information sharing.

20 Do you see that, sir?

21 **MR. MacLEAN:** I do, yes.

22 **MR. STRAWCZYNSKI:** So according to this
23 guideline, the standard in February 1981 -- the Children's
24 Aid Society for abuse complaints, including sexual abuse
25 complaints, ought to have at least contacted the police to

1 determine whether or not the police would be involved. Is
2 that not correct, sir?

3 **MR. MacLEAN:** I'm assuming that -- that
4 wasn't in my department. I was in foster care and special
5 resources. I'm assuming the agency -- the people that were
6 responsible for that developed those.

7 **MR. STRAWCZYNSKI:** So we've got the two
8 lobes going again here, sir, then. We have the child
9 protection group that would have presumably been familiar
10 with this document, correct, in February, 1981?

11 **MR. MacLEAN:** They should be.

12 **MR. STRAWCZYNSKI:** So under this guideline,
13 by February, 1981, if a complaint comes in about family
14 abuse or about abuse by a person under the -- a caregiver
15 or a teacher, for example, if a complaint comes in,
16 presumably the protection workers will call the police and
17 they will canvass their options at that point; correct?

18 **MR. MacLEAN:** I don't know what the practice
19 was in '81.

20 **MR. STRAWCZYNSKI:** According to this
21 document, sir, that would be ---

22 **MR. MacLEAN:** According to this document,
23 yes.

24 **MR. STRAWCZYNSKI:** And that was not followed
25 though on your side at this time; correct?

1 **MR. MacLEAN:** No, that's correct.

2 **MR. STRAWCZYNSKI:** So, in effect, wards of
3 the CAS had a different protocol in effect from what the
4 policies provincially were at the time with respect to all
5 sex abuse allegations; correct?

6 **MR. MacLEAN:** It should not have been, and I
7 don't know what the practice -- in our agency it seemed
8 that I was given approval. I did not have anyone come to
9 me and say "You should not be investigating this". I
10 reported to Mr. O'Brien on that and we've gone over the
11 results.

12 **MR. STRAWCZYNSKI:** I understand that. Thank
13 you, Mr. MacLean.

14 I just want to take you to a new document
15 now. Sorry, it's already an exhibit. It's Exhibit 130.

16 And this is with respect to reporting this
17 to Mr. O'Brien and subsequently Mr. O'Brien taking this to
18 the Crown.

19 Do you have the document, sir?

20 **MR. MacLEAN:** Dated December 6th?

21 **MR. STRAWCZYNSKI:** Yes, sir.

22 The second line of the letter says:

23 "As stated in my letter of December 2nd,
24 1982, Mr. Ian MacLean and I had a
25 meeting with the Crown Attorney."

1 This is according to Mr. O'Brien. Do you
2 recall being present at that meeting?

3 **MR. MacLEAN:** Yes, I indicated before that.

4 **MR. STRAWCZYNSKI:** Okay. I'm sorry, I
5 misunderstood that.

6 So you were present, but if I understand
7 correctly then, you don't recall the specifics of what was
8 discussed?

9 **MR. MacLEAN:** No. I know my report was
10 given and ---

11 **MR. STRAWCZYNSKI:** Thank you.

12 In terms of reporting to the Crown of the
13 last incident in 1983, was it your understanding that the
14 report up to the Crown would specifically focus just on
15 this last one incident or would it also take into account
16 all of the other incidents?

17 **THE COMMISSIONER:** Well, just a second. Is
18 this -- he wrote to the Crown in 1983, April 22nd, right,
19 and he enclosed a copy of a Serious Occurrence Report?

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

21 **THE COMMISSIONER:** Okay. So then ---

22 **MR. STRAWCZYNSKI:** Well, if we'd like to
23 pull up the cover letter then, sir, it might help.

24 **THE COMMISSIONER:** Well, the cover letter is
25 133. Exhibit 133, sir.

1 **MR. MacLEAN:** Yes, I have it.

2 **THE COMMISSIONER:** So all I'm saying is that
3 he would have had the Serious Occurrence Report, whatever
4 that is, and I take it that the Serious Occurrence Report
5 would be Exhibit 131.

6 **MR. STRAWCZYNSKI:** Yes, Mr. Commissioner,
7 but I'm getting to the second paragraph of this letter from
8 Mr. O'Brien.

9 **THE COMMISSIONER:** Yes.

10 **MR. STRAWCZYNSKI:** It says:

11 "The specific item I discussed with you
12 is referred to as Item Number 2 on page
13 2 of the occurrence report."

14 **THE COMMISSIONER:** Yes.

15 **MR. STRAWCZYNSKI:** Now, incident number two
16 is only the last incident of all of the incidents, and this
17 suggests that they talked about that one item in
18 particular.

19 So, Mr. MacLean, if that did, in fact,
20 happen, and we will canvass that issue with Mr. O'Brien,
21 would that go contrary to your understanding of what would
22 be reported to the Crown?

23 **MR. MacLEAN:** I believe the contents of this
24 report would have been reported to the Crown at that time.

25 **MR. STRAWCZYNSKI:** They weren't

1 investigating that one specific issue in isolation then?

2 **MR. MacLEAN:** He draws attention to it but
3 the whole Serious Occurrence Report was presented.

4 **MR. STRAWCZYNSKI:** But in the end, after all
5 is said and done, we have complaints from 1977, we have a
6 ward who is impregnated by Mr. Lapensée in 1979. In 1982,
7 and subsequently in 1983, we have Serious Occurrence
8 Reports issued, yet there is not a single police
9 investigation; correct?

10 **MR. MacLEAN:** That's correct.

11 **MR. STRAWCZYNSKI:** And from the Children's
12 Aid Society's perspective, I'll submit to you that as soon
13 as the girls were removed from harm and the home eventually
14 was itself closed, this matter was resolved. Is that
15 correct?

16 **MR. MacLEAN:** I'm sorry, I don't understand
17 the question.

18 **MR. STRAWCZYNSKI:** From the Children's Aid
19 Society's perspective, from your own perspective, once the
20 home was closed after that final straw broke, after the
21 girls were moved to a new home, at that point the situation
22 involving the Lapensée's was resolved to satisfaction. Is
23 that correct?

24 **MR. MacLEAN:** Yes.

25 **MR. STRAWCZYNSKI:** I'd just like to take you

1 to a quote. It's attributed to Investigator White during
2 the Jeannette Antoine investigation. It's in the Jeannette
3 Antoine brief.

4 **THE COMMISSIONER:** And what exhibit would
5 that be, sir?

6 **MR. STRAWCZYNSKI:** Sorry?

7 **THE COMMISSIONER:** Exhibit?

8 **MR. STRAWCZYNSKI:** Sorry, Mr. Commissioner.
9 It's Exhibit 2210 and the Bates page is 7175375.

10 **THE COMMISSIONER:** And the Bates page?

11 **MR. STRAWCZYNSKI:** It's 7175375.

12 Mr. MacLean, this is an investigation that
13 was conducted by Shawn White into the sexual abuse
14 allegations at the Second Street Group Home, and you were
15 interviewed briefly about it in 1994. Do you have the
16 reference there in front of you, sir?

17 **MR. MacLEAN:** Is that Bates page 375?

18 **MR. STRAWCZYNSKI:** Three-seven-five (375),
19 yes, sir.

20 **MR. MacLEAN:** Yes, I have that.

21 **MR. STRAWCZYNSKI:** The second last paragraph
22 begins, "During the 1970s" and there's a paraphrase here
23 from Officer White. It says:

24 "During the 1970s, MacLean indicated
25 the philosophy concerning allegations

1 of sexual abuse were still in the
2 closet stages. Also, it was believed
3 that wards of the Children's Aid
4 Society were troubled individuals whose
5 allegations were not to be believed."

6 Do you recall making a statement to that
7 effect, sir?

8 **MR. MacLEAN:** I don't recall but that is the
9 summary of my comments and so I have to own them.

10 **MR. STRAWCZYNSKI:** It seems accurate of your
11 impression of what might have been a cause for the lack of
12 understanding and the difficulties in engaging in the
13 Second Street Home events once you learned of them;
14 correct?

15 **MR. MacLEAN:** That's correct. We were not
16 trained at that point and there was very little training in
17 Ontario at that point either.

18 **MR. STRAWCZYNSKI:** And that was the late
19 seventies; right?

20 **MR. MacLEAN:** Yes.

21 **MR. STRAWCZYNSKI:** And now we're moving into
22 the Lapensée era. It starts in the late seventies and
23 commences through to the early eighties.

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

25 **MR. STRAWCZYNSKI:** And what I'm going to

1 suggest to you is that in the Lapensée case, even though
2 the allegations were ultimately believed, the CAS was
3 engaging in a balancing test throughout where you were
4 protecting the interests of the child and considering the
5 possibility of criminal sanction, but also weighing other
6 factors such as the ability to continue to offer services
7 through foster care homes. Isn't that correct?

8 **MR. MacLEAN:** In the Lapensée situation,
9 yes.

10 **MR. STRAWCZYNSKI:** And the fact that the
11 wards were troubled, they were difficult, they were
12 possibly promiscuous -- in one case, that's noted -- and
13 difficult to deal with were all factors which would have
14 been considered in determining how to properly balance the
15 situation. Isn't that correct?

16 **MR. MacLEAN:** All of that was taken into
17 consideration, yes.

18 **MR. STRAWCZYNSKI:** And would you agree with
19 me that the belief that the children were not totally
20 blameless or the adolescents in this case were not totally
21 blameless, they were promiscuous in one case for example,
22 may have resulted in a more relaxed approach in addressing
23 the allegations of abuse? It was one factor of considering
24 how to act. Is that right?

25 **MR. MacLEAN:** I don't agree with the relaxed

1 approach. I think we dealt with it as well as we knew how
2 with the resources available that we knew how, other than
3 the police. And yes, we did not notify the police.

4 **MR. STRAWCZYNSKI:** But you understood for
5 example, sir, that the Lapensées were carrying out an
6 important public service; correct?

7 **MR. MacLEAN:** Indeed.

8 **MR. STRAWCZYNSKI:** And that they were
9 working under very stressful conditions?

10 **MR. MacLEAN:** Yes.

11 **MR. STRAWCZYNSKI:** And that, at times, in
12 these situations, the children or adolescents could be very
13 difficult to deal with?

14 **MR. MacLEAN:** Yes, they were.

15 **MR. STRAWCZYNSKI:** You also had resource
16 problems throughout this time at the Children's Aid
17 Society; didn't you, sir?

18 **MR. MacLEAN:** That's correct.

19 **MR. STRAWCZYNSKI:** You knew that there were
20 only so many places you could put children in care;
21 correct?

22 **MR. MacLEAN:** Yes, there was ---

23 **MR. STRAWCZYNSKI:** And in the case of Ms.
24 Judd or Archambault, you already couldn't send her to the
25 Hubert Home; correct?

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

2 **MR. STRAWCZYNSKI:** And she couldn't go back
3 to her mother at Crystal Beach at this point?

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

5 **MR. STRAWCZYNSKI:** And you were generally
6 under-resourced to meet the needs of the community at the
7 time. Isn't that correct?

8 **MR. MacLEAN:** In our local community, yes.
9 We could go to the various homes across the province but my
10 belief and I believe the belief of the Agency was that
11 placing children outside jurisdictions, although we had
12 many out, but it was the last resource that we wanted to go
13 to.

14 **MR. STRAWCZYNSKI:** So in essence, what was
15 happening here is you were trying to weigh all of these
16 factors and sort of take a utilitarian approach to find the
17 right balance. Is that correct?

18 **MR. MacLEAN:** Yes, and we were constantly
19 mindful of the safety of the children. I mean that was not
20 off the screen.

21 **MR. STRAWCZYNSKI:** Of course it wasn't off
22 the screen, Mr. MacLean, but on the screen as well was the
23 concern that if you did need to close a home, there would
24 be fewer places to put children. Isn't that correct?

25 **MR. MacLEAN:** But that didn't -- that didn't

1 stop us from where absolutely necessary we had to close the
2 home.

3 **THE COMMISSIONER:** I guess what he ---

4 **MR. MacLEAN:** In eighty -- I'm sorry.

5 **THE COMMISSIONER:** Go ahead.

6 **MR. MacLEAN:** In '83, I did not say, "Oh my,
7 we're going to be down -- we're going to be lacking beds
8 now." We had to change course. We went out and recruited
9 more specialized foster homes to replace.

10 **MR. STRAWCZYNSKI:** And finally, there's the
11 reference in your comments that were reported by Constable
12 White about how allegations of sexual abuse were in the
13 closet at the time. And what I'm going to suggest to you
14 here, sir, is that similarly the institution of the
15 Children's Aid Society wished at this time to keep these
16 things as quiet as possible.

17 Certainly this was seen in the second group
18 home prior to your arrival, but in the Lapensée situation,
19 the end result was that outside agencies that could have
20 investigated, namely the police, weren't consulted.

21 Would you agree with me, sir, that there was
22 a concern here that, at this point in the early eighties,
23 abuse, sexual abuse cases were still treated, so to speak,
24 in the closet?

25 **MR. MacLEAN:** I disagree in the fact that we

1 did go outside of our Agency to seek counsel. We did go
2 outside of our Agency to report the abuse and that's going
3 to the Ministry, as well as to the -- as well as to the
4 Crown.

5 I did not see any effort to sweep this
6 under the rug or to keep it hidden. I would disagree with
7 that.

8 **MR. STRAWCZYNSKI:** Okay. I appreciate that,
9 but in essence, at the end of the day, the police weren't
10 consulted and ---

11 **MR. MacLEAN:** That's right.

12 **MR. STRAWCZYNSKI:** --- one outcome of this
13 was that there was no criminal sanction at the end of the
14 day for these events; correct?

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

16 **MR. STRAWCZYNSKI:** And ---

17 **THE COMMISSIONER:** Well, sanction; there
18 wasn't -- it wasn't brought before a judicial system for
19 determination.

20 **MR. STRAWCZYNSKI:** I apologize. That's
21 absolutely correct, Mr. Commissioner. There was no -- the
22 criminal justice system was not brought into play here.

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

24 **MR. STRAWCZYNSKI:** And it could not do its
25 task of determining whether it needed to play a deterrent

1 role in this case; correct?

2 MR. MacLEAN: That's right.

3 MR. STRAWCZYNSKI: And so as a result, there
4 was somebody here who, in your view, ought to have been
5 investigated and the police ought to have been involved but
6 who was not investigated; correct?

7 MR. MacLEAN: That's correct.

8 MR. STRAWCZYNSKI: And ultimately, given
9 that the police were not involved and the criminal justice
10 system could not pursue its course, this individual was
11 free to go without any indicator on a police file that he
12 had been investigated; correct?

13 MR. MacLEAN: Yes.

14 MR. STRAWCZYNSKI: I suggest to you that in
15 the event that the individual in question had later been
16 picked up on some sort of criminal allegations of a sexual
17 nature, that as a result the police would not have been
18 aware of these previous events; correct?

19 MR. MacLEAN: Unfortunately not.

20 MR. STRAWCZYNSKI: Okay. Thank you very
21 much, Mr. MacLean. Those are my questions.

22 THE COMMISSIONER: Thank you.

23 Mr. Lee?

24 How long did you say you would be, Mr. Lee,
25 an hour?

1 **MR. LEE:** I said an hour yesterday.

2 **THE COMMISSIONER:** Would you prefer -- like
3 I'd like to go for another half hour. Can you do a half
4 hour and then ---

5 **MR. LEE:** I'm completely indifferent, sir.
6 I can start if you like.

7 **THE COMMISSIONER:** Well, you're not
8 indifferent.

9 **MR. LEE:** No, but I'm in your hands. It
10 doesn't matter to me. I'm happy either way.

11 **THE COMMISSIONER:** All right. So why don't
12 we try to get in a -- do half an hour and then we'll
13 complete the rest tomorrow morning.

14 **MR. LEE:** Sure.

15 **THE COMMISSIONER:** Thank you.

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

17 **MR. LEE:** Mr. MacLean, my name is Dallas
18 Lee. I'm counsel for the Victims' Group.

19 **MR. MacLEAN:** Yes.

20 **MR. LEE:** I have a few areas that I'd like
21 to ask you about.

22 I wanted to start by going back to your
23 recommendations, not to ask you any questions about them
24 but to tell you that they're appreciated by my clients. It
25 was rather obvious that you took some time and put some

1 thought into those recommendations.

2 **MR. MacLEAN:** Yes.

3 **MR. LEE:** I think they would have a direct
4 impact on childcare and on even some of my clients who are
5 adults now dealing with records disclosure; and I can tell
6 you that those were appreciated. So thank you for that.

7 **MR. MacLEAN:** Thank you.

8 **MR. LEE:** I want to begin by asking you
9 about foster parent screening. When you were first here
10 during the contextual evidence, you told us that the foster
11 -- essentially the Home Finding Department at the CAS was a
12 single-worker department from the 1950s through the 1970s.

13 Is that right?

14 **MR. MacLEAN:** That would be correct.

15 **MR. LEE:** And you told us that in 1985,
16 there were significant changes made to the role of the home
17 finder and that's essentially a time post that ---

18 **MR. MacLEAN:** Yes.

19 **MR. LEE:** --- we can look before and after
20 and see radical changes. Is that right?

21 **MR. MacLEAN:** Yes, that's correct.

22 **MR. LEE:** So I want to focus you on the
23 period prior to 1985. My understanding is that a woman
24 named Mary Gratton was the home finder from 1966 until the
25 late 1970s.

1 **MR. MacLEAN:** I believe so. She was the
2 home finder when I came in '76.

3 **MR. LEE:** I guess, do you know when Mrs.
4 Gratton would have retired or changed jobs, when she
5 stopped being a home finder? I have seen evidence that at
6 least until 1978, but I don't know if it may have gone on
7 longer than that. Do you know?

8 **MR. MacLEAN:** I can't give you an exact date
9 but it was a few years after I arrived and I didn't -- I
10 did not believe she was the home finder when I began in
11 1980 to be the supervisor.

12 **MR. LEE:** You do not believe she was by
13 1980?

14 **MR. MacLEAN:** She was not the home finder,
15 to my recollection.

16 **MR. LEE:** And is it your understanding that
17 Mrs. Gratton was a secretary at the CAS for four years
18 before becoming a home finder? Did you know that?

19 **MR. MacLEAN:** I wasn't aware of that.

20 **MR. LEE:** Did you know Mrs. Gratton
21 personally? You would have worked with her at some point?

22 **MR. MacLEAN:** When I came I was -- yes, she
23 shared an office -- not shared an office but kitty-corner
24 to my office was hers, so I saw her every day.

25 **MR. LEE:** During your preparation for the

1 Inquiry did you become aware that Shawn White from the
2 Cornwall Police interviewed Mrs. Gratton in 1994 as part of
3 his investigation?

4 **MR. MacLEAN:** I believe I remember seeing
5 that.

6 **MR. LEE:** I want to take you to that if I
7 could. It's Exhibit 2210. That is the Crown brief.

8 **MR. MacLEAN:** Yes.

9 **THE COMMISSIONER:** We're there.

10 **MR. MacLEAN:** I have it.

11 **THE COMMISSIONER:** What Bates page?

12 **MR. LEE:** Bates page ending in 354.

13 And you can see, sir, at the top of the page
14 it references a meeting with you first, and then in the
15 second paragraph it speaks of Sergeant Lefebvre and Shawn
16 White attending the residence of Mary Gratton. Do you see
17 that?

18 **MR. MacLEAN:** Yes, down further. Yes.

19 **MR. LEE:** Yes, and if you look midway
20 through that paragraph, they're asking her about home
21 finding and screening of foster parents, and the fourth-
22 last line of that paragraph towards the end reads:

23 "Ms. Gratton indicated that potential
24 foster parents could be checked by her
25 with a police agency to see if they had

1 a criminal record. However, this was
2 not her practice unless the applicant
3 appeared to be of suspect character."

4 You see that?

5 **MR. MacLEAN:** Yes, I see that.

6 **MR. LEE:** And it continues on:

7 "During the interview, writer got the
8 impression that despite her age of
9 81 years, Ms. Gratton appeared to be
10 somewhat naive to the realities of the
11 world. She felt that if people were
12 churchgoing people that they were of
13 worthy and good character. She also
14 expressed her belief that when two
15 different stories to an event existed
16 between an adult and a child, the adult
17 should usually be believed because
18 children have a tendency to lie."

19 Do you see that, sir?

20 **MR. MacLEAN:** Yes, I do.

21 **MR. LEE:** Would you have made similar
22 observations about Ms. Gratton and naivety in the time that
23 you knew her?

24 **MR. MacLEAN:** I never supervised her to see
25 and to determine the quality of her work. I mean I saw the

1 results in home studies but that was just when I would
2 review some of her home studies it was to gather
3 information about a home that I was going out to. And it
4 was again very similar to the home studies I saw earlier in
5 my career. They were very basic to what we see today.
6 They were very -- there wasn't much detail in them that I
7 would -- compared to what we have today.

8 She was a very sincere woman, as I saw her;
9 took her job very diligently, you know, very seriously.
10 She was an older lady so she was -- you know, she certainly
11 had her limits as to how speedily the task could get
12 completed.

13 **MR. LEE:** Was it your impression during the
14 1970s that the role of the home finder was more about the
15 recruitment of foster parents than it was about the
16 critical scrutiny of foster homes?

17 **MR. MacLEAN:** I've never heard it put that
18 way. It was certainly a recruiting, but also the task was
19 to go out and see that -- I mean it was very, very basic.
20 It was very basic. The visit to the home was to see that
21 there was a bed and that there was sort of food and water
22 on the table, and the basics of life.

23 Certainly there was no discussion, and she
24 wasn't required to make any safety decisions. I suppose if
25 she saw a house -- well, often her files would comment

1 whether it was a neat and clean home versus a home that had
2 messy -- and the housekeeping wasn't up to standard -- up
3 to her standard. So does that answer ---

4 **MR. LEE:** It does.

5 Might we substitute -- you've been using the
6 word "basic" to describe the home-finding sort of analysis
7 at that time.

8 **MR. MacLEAN:** Yes.

9 **MR. LEE:** Might we substitute the word
10 "superficial" for that?

11 **MR. MacLEAN:** I would say -- I would suppose
12 it could be seen as superficial.

13 **MR. LEE:** Do you know anything about
14 Mrs. Gratton's training at all?

15 **MR. MacLEAN:** No, I don't.

16 **MR. LEE:** Do you know whether or not she
17 would have had access to an investigator, if necessary, at
18 the home-finding stage? And when I say "an investigator,"
19 be it a caseworker or somebody else that could perform an
20 investigative function.

21 **MR. MacLEAN:** They were certainly in the
22 office. I don't know whether there was ever a practice of
23 a caseworker going out with her that would have a family
24 protection background.

25 **MR. LEE:** Do you know whether or not her

1 choices, I suppose her decisions in terms of recommending a
2 home or not recommending a home, were scrutinized by
3 anyone? Or whether or not she had sort of final say on
4 whether a home was open?

5 **MR. MacLEAN:** She would review -- if I
6 remember the practice, she would review those home studies
7 with Mr. Towndale in supervision prior to the opening.

8 **MR. LEE:** With Mr. Towndale?

9 **MR. MacLEAN:** Yes.

10 **MR. LEE:** Can you recall a time when
11 Ms. Gratton would have recommended a home being opened and
12 was overruled?

13 **MR. MacLEAN:** I would not be party to that.

14 **MR. LEE:** We have a document that was
15 entered during the contextual evidence. It's Exhibit 27,
16 Tab 14. Do you have that, sir?

17 **MR. MacLEAN:** Yes, I do.

18 **MR. LEE:** And you'll see this is a Foster
19 Home Department Policy Index that's amended October of
20 1979.

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

22 **MR. LEE:** And if you turn over to the third
23 page, Bates page 520, you'll seen under the first heading,
24 Section 1, General Aims of Policy, it's titled,
25 "Instructions to foster home workers. Extract from *Child*

1 *Welfare Act 1965* as amended." Do you see that?

2 **MR. MacLEAN:** Yes.

3 **MR. LEE:** And if you take a quick glance at
4 that list, there are a couple that jump out as being
5 relevant to a home finder. B, as an example, reads that:

6 "The Society shall interview separately
7 and jointly the male and female
8 applicants and assess the consequences
9 for other children in the home of the
10 applicants of granting the
11 application."

12 And at D, the Society -- well, it doesn't
13 start with "Society" but:

14 "Reassess each foster home at intervals
15 of not less than six months and record
16 the reassessment."

17 You see that?

18 **MR. MacLEAN:** Yes.

19 **MR. LEE:** Do you recall these being
20 requirements under the legislation in the 1960s and 1970s?

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

22 **MR. LEE:** I can't recall seeing a file -- a
23 foster home file where there were semi-annual
24 reassessments. Do you recall seeing that at any point?

25 **MR. MacLEAN:** Not on a consistent basis.

1 **MR. LEE:** Did you understand the provisions
2 of the Act at that time as being mandatory?

3 **MR. MacLEAN:** It was seen as good practice.
4 The mandatory part would come when the licensing of foster
5 homes and the standards and guidelines were introduced in
6 '85, and then everything became mandatory.

7 **MR. LEE:** Was there any kind of -- and
8 that's 1985?

9 **MR. MacLEAN:** Yes -- '84.

10 **MR. LEE:** Was there any process prior to the
11 mid-eighties for, as an example, applying to the Ministry
12 to dispense with compliance with the Act or anything like
13 that?

14 **MR. MacLEAN:** Not to my recollection in
15 foster care.

16 **MR. LEE:** When you were last here you were
17 asked about -- if you can look at that same exhibit but Tab
18 26. It's hopefully in the same book.

19 **THE COMMISSIONER:** No, it's not. Tab 26
20 would be in Volume -- probably 2.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. LEE:** Do you have that, sir?

23 **MR. MacLEAN:** Yes, I do.

24 **MR. LEE:** These are minutes of a staff
25 meeting held on February 17th, 1977 and you're indicated as

1 being present. Do you see that?

2 **MR. MacLEAN:** Yes.

3 **MR. LEE:** And if you look down a little bit
4 above the centre of the page, we have a heading Criminal
5 Records.

6 **MR. MacLEAN:** Yes.

7 **MR. LEE:** And it reads:

8 "A recent memo from Branch suggested
9 obtaining of criminal records on
10 persons responsible for care of CAS
11 wards. Since then Mr. Ken MacDonald
12 has met with people from the office of
13 the Attorney General and the Police
14 Association who have agreed to refuse
15 to supply such information to CAS.
16 Therefore, request interdepartmental
17 memorandum cancelled."

18 Do you see that?

19 **MR. MacLEAN:** Yes.

20 **MR. LEE:** I don't understand what that
21 means, sir. Is your recollection that this request was
22 made of the Attorney General and the Police Association who
23 between themselves agreed not to honour the request, or did
24 they agree with the CAS's request that they not agree to
25 provide this service? Do you have any recollection of

1 this?

2 **MR. MacLEAN:** I don't have -- I remember
3 hearing this in a staff meeting. I remember a desire to
4 have police checks. I do not recall how that decision came
5 down and came about.

6 **MR. LEE:** Well, you may have answered my
7 question. Do you have a specific recollection of a desire
8 on the part of the CAS to have police checks done?

9 **MR. MacLEAN:** Certainly. We were -- I guess
10 myself personally at that point in '77-'78.

11 **MR. LEE:** And presumably then, if we have
12 here mentioned that the police checks will not be done
13 because an agreement by the Attorney General and the Police
14 Association we need to assume that the CAS had requested
15 and been denied?

16 **MR. MacLEAN:** Yes.

17 **MR. LEE:** Okay. And do you have any other
18 information about that process at all or that request?

19 **MR. MacLEAN:** No, other than it came about
20 in 1984.

21 **MR. LEE:** Do you have any recollection of --
22 who's Ken MacDonald, first?

23 **MR. MacLEAN:** Ken MacDonald would be with
24 the Ministry. I don't know whether he -- he would be a
25 director. He'd be with the Ministry of Child Welfare.

1 **MR. LEE:** Okay. And do you have any
2 knowledge of who he met with from the Attorney General's
3 office or ---

4 **MR. MacLEAN:** I have no idea.

5 **MR. LEE:** --- from the Police Association?

6 **MR. MacLEAN:** No.

7 **MR. LEE:** Do you have any knowledge of which
8 Police Association is being referred to here?

9 **MR. MacLEAN:** No. I presume it was
10 something that would be governing provincial. Whether it
11 was -- this was coming from the province ---

12 **MR. LEE:** Okay.

13 **MR. MacLEAN:** --- when Ken MacDonald is
14 mentioned.

15 **MR. LEE:** I'm just thinking that the local
16 CAS would deal with both the OPP and the Cornwall police so
17 I didn't know if it was ---

18 **MR. MacLEAN:** No, I ---

19 **MR. LEE:** You have no idea?

20 **MR. MacLEAN:** I'm not aware.

21 **MR. LEE:** Okay. I want to ask you about
22 discipline by foster parents. And when Mr. Strawczynski
23 was on his -- I'm told I pronounced the name properly --
24 was up here, you alluded to a policy that you thought was
25 written in the late 70s or the early 80s dealing with

1 discipline. I'd like to show you a document. I wonder if
2 it might be -- it's Exhibit 27, Tab 42 this time.

3 **MR. MacLEAN:** Twenty-seven (27)?

4 **THE COMMISSIONER:** Tab 42 is another volume.

5 **MR. LEE:** Are you thinking until 6:00 p.m.,
6 Mr. Commissioner?

7 **THE COMMISSIONER:** Yes, or before if there's
8 a section that you can finish.

9 **MR. LEE:** Sure. Thank you.

10 Do you have that, sir?

11 **MR. MacLEAN:** "Principles of Care for
12 Children in Placement"?

13 **MR. LEE:** Yes.

14 So we see that it relates to the SD&G CAS,
15 and as you said, it's "Principles of Care for Children in
16 Placement." We have an identifying date, being that it's
17 approved May 17, 1978.

18 **MR. MacLEAN:** That's correct.

19 **MR. LEE:** But we have no signatures, we have
20 no stamps, we have no names. Can you help me out with what
21 this document is?

22 **MR. MacLEAN:** That is exactly what it is.
23 It's a policy. It was included in our Book of Policies in
24 1978. And it talks about the care for the child and the
25 placing agency and it ends up with the general principles

1 of behaviour management is the key part there.

2 **MR. LEE:** Now, you said it's titled
3 "Principles of Care for Children in Placement" and you've
4 described it as being part of a policy manual. Is this --
5 is compliance with this mandatory or is this meant to be
6 more of a guideline for best practices?

7 **MR. MacLEAN:** The policies at that time were
8 mandatory, in my understanding.

9 **MR. LEE:** Can you turn over to page 3,
10 please?

11 **MR. MacLEAN:** Mandatory in our local agency.

12 **MR. LEE:** Yeah, I -- this is a local
13 document, is that right?

14 **MR. MacLEAN:** Yes.

15 **MR. LEE:** If you turn over to page 3 -- on
16 page 2 there is a broad heading "General Principles of
17 Behaviour Management" and on page 3 in the fifth full
18 paragraph it speaks to discipline and it reads that:

19 "It should be suitable in terms of
20 severity and duration. The punishment
21 should fit the crime. But it must also
22 take into account the circumstances and
23 the age and physical characteristics of
24 the child."

25 And it ends with:

1 "The purpose of punishment should never
2 be to humiliate or disgrace the child."

3 Do you see that? If you look on the screen

4 ---

5 **MR. MacLEAN:** I'm familiar with it, yes.

6 **MR. LEE:** And it goes on and describes
7 things that substitute parents must never do under any
8 circumstance. I take it a substitute parent would be
9 anything but a natural parent?

10 **MR. MacLEAN:** That's correct.

11 **MR. LEE:** And number one speaks to threaten
12 to have the child moved out of their home.

13 **MR. MacLEAN:** Yes.

14 **MR. LEE:** I take it that would be a fairly
15 significant issue? Not to hold the fear of the child being
16 abandoned over their head, essentially?

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

18 **MR. LEE:** And if we go down, there's another
19 broad heading "General Principles for Discipline" and we
20 have about a page and a half that sets out the rules
21 essentially for discipline, as I see it, and it includes a
22 subsequent section on spanking. Do you see that, sir?

23 **MR. MacLEAN:** Yes, I do.

24 **MR. LEE:** And it speaks on page 4 of
25 discipline being consistent and ensuring that it's

1 understood by the child, things along those lines. And
2 under spanking, the first principle is that spanking is
3 generally not effective in developing a self-disciplined
4 child. It does not usually correct behaviour but tends to
5 teach a child to learn ways of avoiding being caught. It
6 teaches a child to strike others, things along those lines.
7 Do you see that?

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

9 **MR. LEE:** And down at the bottom we have a
10 definition of spanking and it specifically precludes
11 hitting the child on the face or head. It says that it
12 should never result in bruising and that it cannot be done
13 with anything but the open palm of the hand. Do you see
14 that?

15 **MR. MacLEAN:** Yes, I do.

16 **MR. LEE:** What I'm wondering is whether or
17 not this is essentially a codification or an articulation
18 of what you would have understood the CAS's position on
19 discipline to be prior to this time or whether these are
20 fairly radical ideas for 1978 when this is approved?

21 **MR. MacLEAN:** As I look at this I wonder --
22 and I'm not sure that I can answer it properly -- but
23 whether it's a transition paper from -- and policy from the
24 one side of the severe spanking and no real definition of
25 what corporal punishment was that had been practiced

1 earlier to the one adopted in '84. And it's certainly in
2 the middle, it comes in '78, and it starts talking and
3 writing down a lot of things that weren't written down
4 before.

5 So I guess my answer is it would be bringing
6 the Agency to a current place.

7 I'm not sure who the author of this is.

8 **MR. LEE:** I'm not either.

9 **MR. MacLEAN:** I know you haven't asked that
10 but whether it was the Board or whether it was a Committee
11 ---

12 **MR. LEE:** Regardless of the author, the fact
13 that it's approved May 17th ---

14 **MR. MacLEAN:** Yes.

15 **MR. LEE:** --- means that it's an official
16 document. Is that right?

17 **MR. MacLEAN:** That's right. And it was
18 approved by the Board.

19 **MR. LEE:** Let me put it to you this way, you
20 ran a group home in 1970 in Belleville. Is that correct?

21 **MR. MacLEAN:** Yes, I did.

22 **MR. LEE:** Take a look at the definition of
23 spanking on the last page of this document. Would that
24 definition have been any different than the definition of
25 spanking you might have come up with in 1970 had you been

1 asked?

2 **MR. MacLEAN:** Not overly. It wouldn't be
3 much different.

4 **MR. LEE:** Would you have, in 1970, condoned
5 anything more severe than what is set out there?

6 **MR. MacLEAN:** No. No.

7 **MR. LEE:** You've had a chance to look at --
8 now I understand you weren't in the loop, so to speak, when
9 you first came to the CAS, but you've now, in preparation
10 for the Inquiry, had a chance to consider the allegations
11 that were made in the Second Street Group Home situation --
12 -

13 **MR. MacLEAN:** Yes.

14 **MR. LEE:** --- in terms of physical
15 punishment.

16 **MR. MacLEAN:** That's right.

17 **MR. LEE:** Kneeling on beams in the corner
18 and ---

19 **MR. MacLEAN:** Yes.

20 **MR. LEE:** --- being tied to a bed and things
21 along those lines. None of that would have been acceptable
22 in 1970 when you managed a group home?

23 **MR. MacLEAN:** In Belleville?

24 **MR. LEE:** Yes.

25 **MR. MacLEAN:** No, we never practiced that.

1 **MR. LEE:** And you would not have condoned
2 it?

3 **MR. MacLEAN:** No.

4 **MR. LEE:** Not even close?

5 **MR. MacLEAN:** No.

6 **MR. LEE:** If I can ask you a quick question
7 please. Hopefully in your same binder at Tab 54, Exhibit
8 27, Tab 54 ---

9 **THE COMMISSIONER:** The last one.

10 **MR. LEE:** And this should be a memorandum to
11 all Children's Aid Societies from the Assistant Deputy
12 Minister Operations dated April 10th, 1984. Do you see
13 that?

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

15 **MR. LEE:** And the subject is "Compensation
16 for Children Victims of Child Abuse". Do you see that?

17 **MR. MacLEAN:** Yes.

18 **MR. LEE:** And, essentially, it sets out that
19 Section 51 of the *Child Welfare Act* at that time provided a
20 mechanism for seeking compensation for child abuse victims,
21 and it suggests that:

22 "The official guardian, or in the case
23 of a child in the care of a society,
24 the Children's Aid Society, can
25 consider initiating proceedings to

1 recover damages or compensation if it's
2 deemed to be in the best interests of
3 the child."

4 Do you see that?

5 **MR. MacLEAN:** Yes.

6 **MR. LEE:** In the second paragraph, it speaks
7 of initiating either a civil action or an application to
8 the Ontario Criminal Injuries Compensation Board. Do you
9 see that?

10 **MR. MacLEAN:** That's correct.

11 **MR. LEE:** Do you have any knowledge of this
12 CAS ever taking steps to secure compensation for a child
13 under its care?

14 **MR. MacLEAN:** It is a practice that -- I
15 don't know when it began, it likely began in the '80s --
16 where the worker for Crown wards would apply for Criminal
17 Injuries Compensation for certain children. It would be up
18 to the worker and his/her supervisor to determine that.

19 **MR. LEE:** Would that be done as a matter of
20 course?

21 **MR. MacLEAN:** No. Unfortunately, that would
22 be done as -- it would be considered, but it was up to the
23 individual worker and supervisor, and it's one of the areas
24 that our local agency is looking at now, to, at the
25 disposition meeting following an investigation into an

1 allegation, okay, where it is found that the child has, in
2 fact, been abused, that there will be discussion exactly
3 for this to have that considered.

4 Right now, up until I retired in '06, the
5 practice was it went back to the worker, and the worker and
6 the supervisor would discuss at a point, you know, when a
7 child possibly became of age 15, 17, some place in there,
8 to make application.

9 **MR. LEE:** Do you have any experience
10 personally with having either overseen an application or
11 approved an application?

12 **MR. MacLEAN:** I would have approved -- prior
13 to my retirement, we took on a contract individual to
14 review and to make -- first of all, we identified the
15 children wherein we should be applying for the Criminal
16 Injuries.

17 And then we hired a worker, part-time, to
18 come in to review the file to make the application. It's
19 quite a process I understand, and to do that initial
20 application and then to follow that up. So they did the
21 research into the file, but that only happened in an
22 organized fashion with that contract worker, I would
23 believe, around 2002.

24 **MR. LEE:** Do you know whether the current
25 discussions underway at the CAS contemplate -- I suppose

1 contemplate looking at situations where a ward comes into
2 care having been abused by natural parents as well as a
3 situation where a ward may be abused while in the care of
4 the CAS, for example, by foster parents or by a worker?

5 **MR. MacLEAN:** That is done consistently at
6 the front end, yes, but if -- I'm speaking only to children
7 who have been in care; they didn't come in because of ---

8 **THE COMMISSIONER:** Abuse.

9 **MR. MacLEAN:** --- of abuse.

10 **MR. LEE:** Sure.

11 **MR. MacLEAN:** But they were admitted to care
12 and then were abused in a foster home or outside -- the
13 resource or wherever.

14 **MR. LEE:** Right.

15 **MR. MacLEAN:** And so what we discovered was
16 that we, indeed, had two systems. And what we are wanting
17 to develop and change our policy and practice is to --
18 whenever the child protection investigators do an
19 assessment of a referral from the community, okay, and find
20 that the child has been abused, they consider that right
21 there, okay, for an application.

22 **MR. LEE:** Right.

23 **MR. MacLEAN:** However, what we weren't doing
24 was when a Crown ward, say, that had been in care for some
25 time was in a situation of abuse, we were not applying at

1 the disposition conference, we were not applying and having
2 that discussion. And that's the proposal now, to have that
3 discussion and to go ahead with application.

4 **MR. LEE:** So it's on the CAS's radar at this
5 point?

6 **MR. MacLEAN:** It's on the CAS' radar.

7 **MR. LEE:** Do you know if that's provincially
8 or is that locally?

9 **MR. MacLEAN:** It's certainly locally. I
10 can't speak provincially on that matter.

11 **MR. LEE:** Mr. Commissioner, the witness has
12 dealt with Roberta Archambault and C-14, both of whom are
13 my clients. I have questions relating to both. I won't
14 complete the Archambault questions, but I can start them if
15 you want.

16 **THE COMMISSIONER:** No, it's about time. We
17 will start that afresh tomorrow morning.

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

19 **THE COMMISSIONER:** Thank you for your
20 patience, sir. Thank you, 9:30 tomorrow morning.

21 **MR. MacLEAN:** Thank you.

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

24 This hearing is adjourned until tomorrow
25 morning at 9:30 a.m.

1 --- Upon adjourning at 5:50 p.m./
2 L'audience est ajournée à 17h50
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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