

**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 292**

**Held at :**

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

Wednesday, October 22, 2008

**Tenue à:**

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

Mercredi, le 22 octobre 2008

**Appearances/Comparutions**

Ms. Brigitte Beaulne	Registrar
M <sup>e</sup> Pierre R. Dumais	Commission Counsel
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Christopher Thompson	Attorney General for Ontario
Mr. Peter Chisholm Ms. Michele R.J. Allinotte Ms. Josée Quesnel	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
r. Jordan Glick	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Thomas O'Brien	CAS

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1 --- Upon commencing at 9:32 a.m./

2 L'audience débute à 9h032

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Good morning, all.

11 Mr. Dumais?

12 **MR. DUMAIS:** Mr. Commissioner, if we can  
13 start by filing the document that we referred to yesterday,  
14 the Testimony Facilitation Outline/Overview, as the next  
15 exhibit?

16 **THE COMMISSIONER:** Yes.

17 Subject to his adopting -- to Mr. O'Brien  
18 adopting it, yes. It will be 2419.

19 --- **EXHIBIT NO./PIECE NO. 2419:**

20 Testimony Facilitation Outline/Overview of  
21 Thomas O'Brien

22 **MR. DUMAIS:** And the next document to be  
23 filed should be his CV.

24 **THE COMMISSIONER:** Yes.

25 Exhibit Number 2420.

1           **--- EXHIBIT NO./PIECE NO. 2420:**

2                                   CV of Thomas O'Brien.

3                   **MR. DUMAIS:** As well, the document refers to  
4 some documents that are not exhibits yet and I'm going to  
5 file those right away.

6                                   The first one being Document Number 114427?

7                   **THE COMMISSIONER:** Yes.

8                                   That will be Exhibit 2421.

9           **--- EXHIBIT NO./PIECE NO. P-2421:**

10                                   (114427) Letter to Thomas O'Brien from Dora

11                                   Cieslewicz - October 16, 1978

12                   **MR. DUMAIS:** Then Document Number 738528?

13                   **THE COMMISSIONER:** Yes.

14                                   Exhibit 2422.

15           **--- EXHIBIT NO./PIECE NO. P-2422:**

16                                   (738528) Request for Approval re: Roberta

17                                   Mae Judd - June 15, 1993

18                   **MR. DUMAIS:** I think perhaps I'll give a  
19 description of the document.

20                   **THE COMMISSIONER:** Yeah, I think---

21                   **MR. DUMAIS:** As I read the Overview, I'm  
22 going to be referring to the exhibit number.

23                   **THE COMMISSIONER:** Well, Exhibit 2421 is a  
24 letter dated October 16<sup>th</sup>, 1978 to Mr. O'Brien from Dora --  
25 somebody, I don't know who the last name is. On the

1 letter? Who's the letter ---

2 **MR. DUMAIS:** Cieslewicz.

3 **THE COMMISSIONER:** Cieslewicz? Okay, good.

4 Exhibit 2422 is an excerpt of Document  
5 738528, which is a request for approval of director to  
6 continue provision of care and maintenance for Roberta Mae  
7 Judd. Okay?

8 **MR. DUMAIS:** And then the next document is  
9 Document Number 738529 and, again, that is an excerpt,  
10 Bates pages 7170730 to 0731.

11 **THE COMMISSIONER:** Okay. Sorry, no, that's  
12 a letter dated May 30<sup>th</sup>, 1984, addressed to Mrs. Valerie  
13 Markell ---

14 **MR. DUMAIS:** Correct, Mr. Commissioner.

15 **THE COMMISSIONER:** --- from Thomas O'Brien?

16 **MR. DUMAIS:** That's correct, yes.

17 **--- EXHIBIT NO./PIECE NO. P-2423:**

18 (7170730 - 0731) Letter to Valerie Markell  
19 from Thomas O'Brien - May 30, 1984

20 **MR. DUMAIS:** Then the next document is  
21 Document 738529 and, again, that's an excerpt of Bates  
22 pages ending 732 to 733?

23 **THE COMMISSIONER:** Okay.

24 So Exhibit 2424 will be a letter dated May  
25 25<sup>th</sup>, 1984 to the Ministry of Colleges and Universities from

1 Thomas O'Brien.

2 --- EXHIBIT NO./PIECE NO. P-2424:

3 (7170732 - 733) Letter from Thomas O'Brien  
4 to Mary Miller- May 25, 1984

5 MR. DUMAIS: And then the next document,  
6 same document, 738529, Bates page ending 737.

7 THE COMMISSIONER: Wait a minute now? Bates  
8 page ending ---

9 MR. DUMAIS: Seven-three-seven (737).  
10 Should be a letter dated September 21<sup>st</sup>, 1983, Mary Miller  
11 to Doctor Forson?

12 THE COMMISSIONER: That's Exhibit 2425,  
13 Madam Clerk.

14 MR. DUMAIS: Correct, Mr. Commissioner.

15 THE COMMISSIONER: Yeah, well.

16 --- EXHIBIT NO./PIECE NO. P-2425:

17 (738529) Excerpt: 7170737 - Letter from Mary  
18 Miller to Dr. A. Forson - September 21, 1983

19 THE COMMISSIONER: How many more do we have?

20 MR. DUMAIS: Just a few, Mr. Commissioner.

21 THE COMMISSIONER: Okay, we're getting a  
22 little caught up here.

23 Madam Clerk, I've changed the other one to  
24 2425, right, so just make sure that we've got it all  
25 cleared up. Okay.

1                   **MR. DUMAIS:** Nine to go.

2                   The next Document is Number 739301.

3                   **THE COMMISSIONER:** This is a report to the  
4 executive committee, Issue Possibly Contentious, dated  
5 November 1<sup>st</sup>, 1989. It will be Exhibit 2526.

6                   **MR. DUMAIS:** Two-four-two-six, Mr.  
7 Commissioner?

8                   **THE COMMISSIONER:** What did I say? Two-  
9 five-two-six? Well, you've written 2-5. Okay, 2426.

10                   **--- EXHIBIT NO./PIECE NO. P-2426:**

11                   (739301) Report to the Executive Committee  
12 "Issue Possibly Contentious" - November 1,  
13 1989

14                   **MR. DUMAIS:** Next document is Number 739316.

15                   **THE COMMISSIONER:** Thank you.

16                   Exhibit 2427 is a letter dated October 12<sup>th</sup>,  
17 1989 to Ms. Lenore Jones, program supervisor, from Thomas  
18 O'Brien.

19                   **--- EXHIBIT NO./PIECE NO. P-2427:**

20                   (739316) Letter to Lenore Jones - October  
21 12, 1989

22                   **MR. DUMAIS:** The next document is Number  
23 739317.

24                   **THE COMMISSIONER:** Thank you.

25                   Exhibit 2428 is a letter to Mr. Tom O'Brien

1           dated January 4<sup>th</sup>, 1990 from Lenore Jones.

2           **--- EXHIBIT NO./PIECE NO. P-2428:**

3                               (739317) - Letter from Lenore Jones to  
4                               Thomas O'Brien - January 4, 1990

5           **MR. DUMAIS:** Next document is Number 739318.

6           **THE COMMISSIONER:** Thank you.

7                               Exhibit 2429 is a memo to Rick Abell from  
8           Tom O'Brien dated May 8<sup>th</sup>, 1990.

9           **--- EXHIBIT NO./PIECE NO. P-2429:**

10                              Letter from Thomas O'Brien to Rick Abell -  
11                              May 8, 1990

12           **MR. DUMAIS:** The next document is Number  
13           742266.

14           **THE COMMISSIONER:** Thank you.

15                              Exhibit 2430 is a child care -- is a  
16           document with first page, Child Care Face Sheet.

17                              This has to do with ---

18           **MR. DUMAIS:** It should be the case file of a  
19           -- of a foster child that has a moniker, Mr. Commissioner.

20           **THE COMMISSIONER:** All right.

21                              What's the moniker number? Don't see it.

22           **MR. DUMAIS:** It is C-76.

23           **THE COMMISSIONER:** Yes, you're right, C-76.

24           So, there you go.

25                              Exhibit 2430.

1                   **MR. DUMAIS:** And that being said, Mr.  
2 Commissioner, that document should be stamped with a  
3 Publication Ban.

4                   **THE COMMISSIONER:** Yes.

5                   **--- EXHIBIT NO./PIECE NO. P-2430:**

6                                   (742266) - Case file of C-76

7                   **MR. DUMAIS:** The next document is Number  
8 742314.

9                   **THE COMMISSIONER:** Thank you.

10                                   It's Exhibit 2431, letter dated June 1<sup>st</sup>,  
11 1979 addressed to Mr. Gerald Duda -- yeah, and from Thomas  
12 O'Brien.

13                   **--- EXHIBIT NO./PIECE NO. P-2431:**

14                                   (742314) Letter from Thomas O'Brien to  
15 Gerald Duda - June 1, 1979

16                   **MR. DUMAIS:** The next document is Number  
17 742464 and, again, this document refers to a foster child  
18 that has a moniker, being C-78.

19                   **THE COMMISSIONER:** Thank you.

20                                   Exhibit 2432 is notes on the cases of  
21 Jeannette Lapointe and C-78, and the first date is February  
22 14<sup>th</sup>, 1978.

23                   **--- EXHIBIT NO./PIECE NO. P-2432:**

24                                   (742464) - Notes on the cases of  
25 Jeannette Lapointe and C-78 - February

1 14, 1978

2 **MR. DUMAIS:** And the next document is Number  
3 742472, and that refers to the case file of C-77.

4 **THE COMMISSIONER:** All right.

5 So this is case file -- portions of case  
6 file dealing with C-77; Exhibit 2433.

7 --- **EXHIBIT NO./PIECE NO. P-2433:**

8 (742472) - Portions of Case File of C-77

9 **MR. DUMAIS:** And the last document is Number  
10 742473.

11 **THE COMMISSIONER:** Thank you.

12 So Exhibit 2434 is an initial recording and  
13 what is this person's moniker?

14 **MR. DUMAIS:** C-77.

15 **THE COMMISSIONER:** I'm sorry, C-77, and the  
16 first date is 7/12/73; so Exhibit 2434.

17 --- **EXHIBIT NO./PIÈCE NO. P-2434:**

18 (742473) - Initial Reporting for C-77 -  
19 December 7, 1973

20 **MR. DUMAIS:** So, of course, the last three  
21 exhibits should be stamped the publication ban.

22 **THE COMMISSIONER:** Sure.

23 **MR. DUMAIS:** As well, Mr. Commissioner, the  
24 document that I'm going to be reading in should be stamped  
25 with a publication ban, that warning as well.

1                   **THE COMMISSIONER:** Thank you. Go ahead.

2                   **MR. DUMAIS:** So, Mr. Commissioner:

3                   **--- TESTIMONY FACILITATION OUTLINE/OVERVIEW BY /**  
4                   **PLAN/SOMMAIRE POUR LA FACILITATION DU TÉMOIGNAGE PAR MR.**  
5                   **DUMAIS:**

6                                 "Thomas O'Brien was born in 1933 in  
7                   Eganville, Ontario, and came to Cornwall, Ontario, in  
8                   1959."

9                                 The reference is O'Brien's recollection.

10                                "O'Brien received his post-secondary  
11                   education at St. Patrick's College in Ottawa. He completed  
12                   his Bachelor of Arts in 1955, his Bachelor of Social Work  
13                   in 1957, his Masters in Social Work in 1958."

14                                He references his recollection.

15                                "O'Brien was a probation officer in Cornwall  
16                   between 1959 and 1963 after which he joined the Children's  
17                   Aid Society in the United Counties of Stormont, Dundas and  
18                   Glengarry as a social worker. He began his supervisory  
19                   duties in 1963 in conjunction with his duties as a social  
20                   worker. He continued his supervisory role through to 1966  
21                   and became the Executive Director of the CAS on January 1<sup>st</sup>,  
22                   1966."

23                                The reference is his recollection.

24                                "O'Brien held the position of Executive  
25                   Director until his retirement in May of 1990."

1                   Again, that is his recollection.

2                   "O'Brien had approximately 20 employees in  
3                   the Children's Aid Society when he became the Executive  
4                   Director. When he retired in 1990, there were 53 employees  
5                   in the Children's Aid Society. Between 1969 and 1990,  
6                   there were no more than five supervisors in the Children's  
7                   Aid Society."

8                   That is O'Brien's recollection.

9                   "During the 1960s and 1970s, the Children's  
10                  Aid Society was made up of the Child Care Department, the  
11                  Foster Home Department, the Unmarried Parents Department,  
12                  the Adoption Department, and the Child Protection  
13                  Department. The Child Protection Department had the  
14                  largest number of staff, and each worker was carrying  
15                  between 20 to 30 active files."

16                  That is O'Brien's recollection.

17                  "The municipalities appointed five of the 21  
18                  members of the Board of Directors, each of whom served a  
19                  three-year term renewable for one term. The Board met once  
20                  a month, except in July and August. O'Brien kept the Board  
21                  informed during these meetings and through informal  
22                  conversations that he had with the Board's President."

23                  The reference is O'Brien's recollection.

24                  "O'Brien spent the majority of his time with  
25                  budget issues, dealing with budget issues. As Executive

1 Director, O'Brien drafted the budget and presented it to  
2 the Finance Committee of the Board. The Finance Committee  
3 would recommend the budget to the Board and then it would  
4 be presented to the Ministry of Child and Family Services.  
5 During his entire time as Executive Director, the budget  
6 for the Children's Aid Society was always in a deficit and  
7 the Ministry would cover the deficit."

8 Reference is his recollection.

9 "O'Brien met on a monthly basis with  
10 Executive Directors of the Children's Aid Society of  
11 Eastern Ontario to discuss common issues and concerns. The  
12 Children's Aid Society budgets, training needs and  
13 interaction with the Ministry were issues that were  
14 discussed on a regular basis. These meetings were an  
15 opportunity to exchange ideas on how other agencies were  
16 addressing these issues."

17 The reference is O'Brien's recollection.

18 "O'Brien does not believe that the  
19 Children's Aid Society had enough staff nor did they have  
20 sufficient money for staff training. There was no  
21 flexibility in the Children's Aid Society budget  
22 whatsoever; eighty-percent (80%) of the Children's Aid  
23 Society budget was received from the Ministry and 20  
24 percent (20%) was received from the municipality of Cornwall  
25 and from the United Counties of Stormont, Dundas and

1           Glengarry."

2                           The reference is O'Brien's recollection.

3                           "Despite budget constraints O'Brien  
4           maintained the budget allocations to foster families  
5           because he believes that the care and protection of  
6           children always came first. O'Brien never considered  
7           layoffs to stay within the budget."

8                           The reference is O'Brien's recollection.

9                           "The Board set Children's Aid Society policy  
10          and O'Brien cannot recall whether he conducted a policy  
11          review when he took over as Executive Director."

12                          Reference is O'Brien's recollection.

13                          "During the 1980s, two social workers were  
14          assigned to sexual abuse allegations and police officers  
15          were often at the Children's Aid Society office. During  
16          the same time, the Family Sexual Abuse Treatment Program  
17          was running, the funding for which was ultimately cut in  
18          1990."

19                          Reference is O'Brien's recollection.

20                          "O'Brien believes that in or around 1970,  
21          the Children's Aid Society became unionized. Around the  
22          same time, the Children's Aid Society salaries and the  
23          Children's Aid Society budget increased. This allowed more  
24          social workers to be hired."

25                          Reference is O'Brien's recollection.

1                   "The Children's Aid Society did not have  
2                   formal protocols with any other department or institution  
3                   until the early 1990s. Prior to then, O'Brien recalls that  
4                   there were understandings with the hospital, police and the  
5                   schools. O'Brien believes that the Children's Aid Society  
6                   enjoyed a good working relationship with other  
7                   departments."

8                   Reference is O'Brien's recollection.

9                   "O'Brien recalls that at the time of his  
10                  appointment as Executive Director, there is no training  
11                  available to assist newly appointed executive directors in  
12                  assuming that role."

13                  Reference is O'Brien's recollection.

14                  "O'Brien recalls that there were no minimum  
15                  formal, educational or training requirements for social  
16                  workers in the 1960s and 1970s, though the Children's Aid  
17                  Society looked for people with training or experience in  
18                  the area of child protection, such as nurses."

19                  Reference is O'Brien's recollection.

20                  "There was no formalised training program in  
21                  the Children's Aid Society nor was there a training  
22                  coordinator position during O'Brien's tenure. The staff  
23                  identified training needs, and efforts were made to  
24                  accommodate the requests within budgetary constraints."

25                  Reference is O'Brien's recollection.

1 "O'Brien instituted an orientation course  
2 for newly hired social workers."

3 Reference is O'Brien's recollection.

4 "During the 1960s and 1970s, communities  
5 never openly admitted that sexual abuse of children even  
6 existed. Issues of physical abuse were obvious while  
7 issues of emotional abuse were more difficult to identify  
8 and deal with. No training existed at the time to assist  
9 social workers in identifying indicators of sexual abuse in  
10 children."

11 Reference is O'Brien's recollection.

12 "As Executive Director, O'Brien would meet  
13 with the staff formally once a month. O'Brien prepared the  
14 agenda with input from the staff. The heavy workload and  
15 the need for additional staff were often issues discussed.  
16 Child protection workers raised the issue of workload most  
17 frequently."

18 Reference is O'Brien's recollection.

19 "O'Brien also met with workers for their  
20 annual review at which time their job descriptions were  
21 amended when required with input from the worker."

22 Reference is O'Brien's recollection.

23 "At various times, O'Brien approached the  
24 Ministry for more money to address the need for additional  
25 social workers and was told to manage within his budget.

1 He directed the supervisors to become more involved in  
2 casework in an effort to lessen the workload pressure on  
3 child protection workers."

4 Reference is O'Brien's recollection.

5 "O'Brien would meet with the supervisors  
6 once a month to discuss staff issues, case issues and  
7 supervisory concerns. He also met with supervisors and  
8 staff one-on-one as the need arose."

9 Reference is O'Brien's recollection.

10 "O'Brien recalls that there was no written  
11 policy in place that directed a newly assigned worker to  
12 review the case notes or record the summaries of the  
13 previous worker. The supervisors were aware that O'Brien  
14 expected these reviews to be done and they provided  
15 direction to the social workers."

16 Reference is O'Brien's recollection.

17 "Social workers case notes were to be  
18 completed within 24 hours."

19 Reference is O'Brien's recollection.

20 "O'Brien never had a written policy to deal  
21 with time limits for requests for information, but he  
22 expected that it should only take about a week. He has no  
23 specific recollection of requests for information from  
24 former Children's Aid Society clients."

25 Reference is O'Brien's recollection.

1                   "O'Brien was on sick leave at the beginning  
2                   of 1976, during which time Angelo Towndale was the Acting  
3                   Director."

4                   Reference is Exhibit 1505 and Exhibit 2426.

5                   "On March 10<sup>th</sup>, 1976, five children from the  
6                   Second Street Group Home ran away and subsequently reported  
7                   to the Children's Aid Society that the staff at the group  
8                   home was physically abusing them.

9                   The Personnel Committee investigated the  
10                  complaint and Towndale removed Derry Tenger from his  
11                  position as director of the group home, effective March  
12                  11<sup>th</sup>, 1976."

13                  The reference is Exhibit 2212.

14                  "The report of the Personnel Committee  
15                  indicates that on March 17<sup>th</sup>, 1976, the Personnel Committee  
16                  met with the group home staff, though the staff is not  
17                  named.

18                  The report states that Tenger refused to  
19                  attend the meeting with the Personnel Committee. The  
20                  report states that the staff confirmed the various  
21                  punishments reported by the children and indicated that  
22                  they would see nothing wrong with the punishment they had  
23                  been using. Staff believed in giving the strap for  
24                  swearing, lying, disobeying, disturbing others sleep or  
25                  acting up."

1 Reference is Exhibit 2212.

2 "The findings of the Personnel Committee  
3 were that the staff of the group home should submit their  
4 resignations to the Board immediately. If they refused,  
5 they would be immediately suspended and the matter would be  
6 brought to a full Board meeting within 14 days.

7 On March 18<sup>th</sup>, 1976, Heather Tenger, Mike  
8 Keough, Jerry McGillis and Ann Jaeger all submitted their  
9 resignations. Derry Tenger's resignation was also received  
10 on March 18<sup>th</sup>, 1976."

11 Reference is Exhibit 2212.

12 "O'Brien recalls being briefed upon his  
13 return by Towndale regarding what had happened at the group  
14 home and the action that had been taken by Towndale, the  
15 Board Personnel Committee and the Board of Directors.  
16 O'Brien may have also spoken to Dr. Miller, President of  
17 the Board, regarding their actions.

18 O'Brien was in complete agreement with the  
19 actions by both Towndale and the Board regarding the staff  
20 at the group home. O'Brien knew that corporal punishment,  
21 mainly strapping, had been used in the group home and that  
22 the wards had brought the discipline used to the attention  
23 of Towndale. O'Brien was aware that the Board did not  
24 sanction the use of the strap."

25 The reference is Exhibit 2427 and Exhibit

1 2426.

2 "O'Brien recalls that corporal punishment  
3 was not to be used by foster parents or Children's Aid  
4 Society workers though there was no written policy at the  
5 time expressly forbidding its use. O'Brien does not  
6 believe that, at the time, foster parents were taught other  
7 ways to discipline children in their care but they ought to  
8 have been."

9 The reference is O'Brien's recollection.

10 "O'Brien cannot recall the allegations  
11 against the group home were not reported to the Cornwall  
12 Police Service. O'Brien believes that the allegations  
13 should have been reported to the police for investigation  
14 in 1976."

15 Reference is O'Brien's recollection.

16 "O'Brien does not recall whether upon his  
17 return to the Children's Aid Society after his sick leave,  
18 he asked Towndale why Bryan Keough, his CAS case worker who  
19 had worked in the group home, was not disciplined for his  
20 involvement at the group home. O'Brien took no steps to  
21 discipline Keough upon his return."

22 Reference is O'Brien's recollection.

23 "O'Brien has no independent recollection of  
24 the Cieslewicz foster home or the allegations of sexual  
25 assault made against Hans Cieslewicz. O'Brien will say

1 that his notes and correspondence relating to the  
2 Cieslewicz foster home are all accurate and complete."

3 The reference is O'Brien's recollection.

4 "Dora and Hans Cieslewicz applied to become  
5 foster parents on November 12<sup>th</sup>, 1972 and they received  
6 their first foster children on April 26<sup>th</sup>, 1973. Their home  
7 was made a receiving home on November 14<sup>th</sup>, 1977 and was  
8 closed effective November 8<sup>th</sup>, 1978 after the Cieslewicz's  
9 resigned."

10 Reference is Exhibit 2227.

11 "On September 27<sup>th</sup>, 1978, case worker Fran  
12 Lepage made an entry in the Cieslewicz foster home case  
13 files indicating that several teenagers who had spent time  
14 in this home had made allegations of a sexual nature  
15 against Mr. Cieslewicz, including C-77, C-78, C-79 and C-  
16 76."

17 Reference is Exhibit 2227.

18 "C-77 was adopted in 1964. On September  
19 24<sup>th</sup>, 1973, C-77 attended at a police station along with her  
20 brother and complained that her adoptive father had been  
21 molesting her. She was admitted to the Children's Aid  
22 Society care after refusing to return home and was placed  
23 in a receiving home the same day.

24 C-77's adoptive father eventually admitted  
25 that he had made advances towards her on several occasions

1           though her case file indicates that her case worker, Cam  
2           Copeland, felt that C-77 was not totally innocent in these  
3           episodes."

4                           The reference is Exhibit 2434.

5                           "From October 19<sup>th</sup>, 1973, C-77 was placed in  
6           the Cieslewicz's home where she remained until November  
7           15<sup>th</sup>, 1973."

8                           Exhibit 2433? Thank you.

9                           "Lepage became C-77's case worker in June,  
10          1975. On September 27<sup>th</sup>, 1978, Lepage made an entry in the  
11          foster home case file indicating that several teenagers who  
12          had spent time in this home, including C-77, had made  
13          allegations of a sexual nature against Mr. Cieslewicz. The  
14          date that C-77 reported this to Lepage is not noted.

15                          Lepage was aware that C-77 had complained  
16          that Mr. Cieslewicz hand fondled her breasts. The  
17          recording indicates that the complaint was not investigated  
18          because C-77 was known to lie frequently."

19                          Reference is Exhibit 2434 and Exhibit 2227.

20                          "C-78 was born on May 17<sup>th</sup>, 1961 and came  
21          into the care of the Children's Aid Society on May 27<sup>th</sup>,  
22          1967. At the time of her admission, she was diagnosed as  
23          suffering from a convulsive disorder, mental sub-normality  
24          and secondary behaviour problems."

25                          Reference is Exhibit 2431.

1            "C-78 was placed in the Cieslewicz home on  
2            February 23<sup>rd</sup>, 1976. C-78 complained to Mrs. Cieslewicz  
3            that Mr. Cieslewicz had asked her to remove her sweater and  
4            bra in order that he ensure she was physically in good  
5            condition. She did this. And after Mr. Cieslewicz  
6            finished looking, he left. Mrs. Cieslewicz put this to her  
7            husband who responded that the girl was lying.

8            According to the recordings, the Children's  
9            Aid Society could neither prove nor disprove the allegation  
10           and on March 26<sup>th</sup>, 1976, C-78 was removed from the home.

11           Had C-78 not been removed, Mrs. Cieslewicz  
12           would have requested removal owing to C-78's misbehaviour."

13           He references Exhibit 2227.

14           "C-76, another ward in the Cieslewicz home,  
15           had initially supported C-78's allegations but later  
16           withdrew her statement. C-76 was questioned as to whether  
17           Mr. Cieslewicz had ever made any advances towards her and  
18           she stated that he had not."

19           He references Exhibit 2227 and Exhibit 2337.

20           "C-79 was picked up after running away from  
21           a group home in Québec and placed in the Cieslewicz home on  
22           September 16<sup>th</sup>, 1978 for two nights. C-79 told Lepage and  
23           Copeland that Mr. Cieslewicz had come to her bedroom on  
24           both nights that she was in the receiving home. On the  
25           first night, Mr. Cieslewicz touched her breast but did

1 nothing else once she indicated she would not cooperate.  
2 On the second night, Mr. Cieslewicz came to her bed and  
3 indicated that he wanted to have sexual intercourse with  
4 her. She refused and then practiced oral sex on him for a  
5 short period of time before he masturbated and ejaculated  
6 on her abdomen. C-79 wiped the semen from her abdomen with  
7 the sleeve of her blouse.

8 Workers at the interview held the next day  
9 observed that a substance had dried on her sleeve.  
10 According to the recordings, these allegations were given  
11 some consideration, but in view of her bad reputation, her  
12 allegations were not investigated. It was decided that  
13 should another allegation of a sexual nature be made  
14 against Mr. Cieslewicz, the matter should be given serious  
15 consideration."

16 The reference is Exhibit 2227.

17 "C-76 was born on October 16<sup>th</sup>, 1960 and  
18 entered the care of the Children's Aid Society on November  
19 22<sup>nd</sup>, 1968. She was placed in the Cieslewicz foster home on  
20 July 26<sup>th</sup>, 1973 and remained there until October 20<sup>th</sup>, 1978.  
21 C-76's case file indicates that she was a child of below-  
22 average intelligence and was considered by the Children's  
23 Aid Society to be a trainable retardate with an IQ of 59."

24 He references Exhibit 2433 and Exhibit 2227.

25 "On March 22<sup>nd</sup>, 1976, C-76's caseworker at

1 the time, Keough, made an entry in her case file  
2 identifying the following problem areas; lying, stealing,  
3 destructive behaviour and sexual misbehaviour. Keough  
4 notes that all the problem areas, excluding sexual  
5 misbehaviour, were reduced after C-76 was moved to the  
6 Cieslewicz foster home."

7 The Exhibit is 2433.

8 "On October 16<sup>th</sup>, 1978, C-76 confided to  
9 Keough that Mr. Cieslewicz had been involved sexually with  
10 her; not sexual intercourse for some time."

11 He references Exhibit 2227.

12 "On October 16<sup>th</sup>, 1978, Mrs. Cieslewicz wrote  
13 to O'Brien indicating that effective November 18<sup>th</sup>, 1978,  
14 she would be closing her receiving home."

15 He references Exhibit 2421.

16 "On October 19<sup>th</sup>, 1978, C-76 accused Mr.  
17 Cieslewicz, in the presence of Mrs. Cieslewicz, of having  
18 sexual play with her which he denied.

19 Mr. Cieslewicz called Keough on October 28<sup>th</sup>,  
20 1978 and requested that C-76 be removed from their home.  
21 She was removed on the same day."

22 Reference is Exhibit 2227.

23 "October 25, 1978, O'Brien wrote to Mr. and  
24 Mrs. Cieslewicz acknowledging receipt of Mrs. Cieslewicz's  
25 letter of October 16<sup>th</sup>, 1978 and thanking them for their

1 help and for the tenderness exhibited towards the  
2 children."

3 The reference is Exhibit 2360.

4 "On October 31<sup>st</sup>, 1978, O'Brien wrote to  
5 Robert Penny, the Director of Child Welfare, Child Welfare  
6 Branch providing a report on the receiving and foster home  
7 and describing the four complaints of a sexual nature made  
8 against Mr. Cieslewicz over the years."

9 The reference is Exhibit 2337.

10 "On October 31<sup>st</sup>, 1978, Penny wrote O'Brien  
11 indicating that the Child Welfare Branch was concerned  
12 about the events, which have apparently taken place, and he  
13 agreed that the Crown Attorney's office be fully involved."

14 The reference is Exhibit 2228.

15 "On November 1<sup>st</sup>, 1978, O'Brien wrote to  
16 Penny stating that he had met with Crown Attorney Johnson  
17 where he presented the facts of the allegations.

18 According to O'Brien's letter, Mr. Johnson  
19 was of the opinion that there was insufficient evidence to  
20 proceed with any charges against Mr. Cieslewicz."

21 The reference is Exhibit 2338.

22 "In or around 1978, David Phillips of the  
23 Anson Group Home in Minden, Ontario wrote a letter to the  
24 Child Welfare Branch concerning the treatment of the  
25 Children's Aid Society wards while in foster care including

1 that of Jeannette Antoine at the group home and C-78 at the  
2 Cieslewicz foster home.

3 As a result, O'Brien and David Devlin met  
4 with Penny, a supervisor with the Child Welfare Branch, on  
5 February 14<sup>th</sup>, 1978 to discuss both Lapointe's and C-78's  
6 care."

7 He references Exhibit 2432.

8 "As regards C-78, Penny was informed that  
9 the Children's Aid Society investigate the case and  
10 conference it with several staff members but that her  
11 accusations could be neither proved nor disproved.

12 Penny was told that C-78 had been removed  
13 from her Cieslewicz foster home and would have been, in any  
14 event, owing to her misbehaviour."

15 That is Exhibit 2432.

16 "As regards Lapointe, O'Brien informed Penny  
17 that several types of corporal punishment had been used in  
18 the group home; that when the matter came to light, the  
19 Children's Aid Society and the board expressed their  
20 disagreement with the punishment used.

21 Penny was informed that the group home staff  
22 had resigned; that they probably would have been asked to  
23 leave if they had not done so."

24 The reference is Exhibit 2432.

25 "O'Brien and Devlin told Penny that the

1 Children's Aid Society was currently involved in providing  
2 another type of group care, that is, where couples already  
3 living in their own homes operate group homes."

4 The reference is Exhibit 2432.

5 "O'Brien and Devlin knew that the person in  
6 charge of the group home had gone to another Children's Aid  
7 Society in North Bay, Ontario. O'Brien informed Penny that  
8 the staff member under discussion was no longer employed by  
9 the Nipissing agency."

10 The reference is Exhibit 2432.

11 "O'Brien recalls Antoine making a complaint  
12 about the group home in 1989 but he does not have a firm  
13 recollection of the specifics of the complaint of the  
14 actions he took. He states that his recordings,  
15 documentation and correspondence regarding Antoine are all  
16 accurate and complete."

17 Reference is O'Brien's recollection.

18 "O'Brien recalls being involved with  
19 Antoine's complaint in 1989 because it could not be  
20 resolved at the lower level."

21 The reference is O'Brien's recollection.

22 "O'Brien recalls speaking with the Cornwall  
23 Police Service's Deputy Chief of Police, Joseph St. Denis  
24 about the complaint and providing Antoine's entire file to  
25 the Crown Attorney's office and, in particular, to Don

1 Johnson who reviewed the file and told O'Brien that he did  
2 not have to take further action."

3 The reference is O'Brien's recollection.

4 "O'Brien recalls that he went to the Crown  
5 because he knew many of the Crown attorneys personally. It  
6 was easier for him to go directly to the Crown and he had  
7 confidence in Johnson's abilities.

8 O'Brien believes that if a Crown Attorney  
9 thought that the police should be involved they would have  
10 told him."

11 He references O'Brien's recollection.

12 "O'Brien recalls that the home study  
13 required for Keough's planned adoption of a foster child  
14 would have to be completed by an outside agency."

15 The reference is O'Brien's recollection.

16 "According to O'Brien's typed notes he took  
17 the following steps in response to Antoine's allegation:  
18 On August 21<sup>st</sup>, 1989 two Children's Aid supervisors, Don  
19 Jackson and Bob Smith reported to O'Brien that during the  
20 course of an investigation into Antoine's care of her nine-  
21 year old child Antoine made certain allegations about her  
22 treatment by the Children's Aid Society when she was in its  
23 care. O'Brien undertook to review the contents of the  
24 file."

25 Reference is Exhibit 1505.

1                   "After reviewing Antoine's file and speaking  
2                   with her on August 23<sup>rd</sup>, 1989, O'Brien met with Towndale and  
3                   Bill Carriere to discuss what action ought to be taken. It  
4                   was agreed that the President of the Board would be advised  
5                   and that a meeting with the Crown Attorney and the Cornwall  
6                   Police Services Chief of Police would be requested.

7                   On September 25<sup>th</sup>, 1989 O'Brien met with  
8                   Crown Attorney Johnson, St. Denis and Inspector Rick Trew  
9                   and explained the current and past involvement with the  
10                  Children's Aid Society with Antoine."

11                  Reference is Exhibit 1505.

12                  "On September 29<sup>th</sup>, 1989 Carriere, Towndale  
13                  and O'Brien agreed that the police would again be contacted  
14                  and provided with all relevant notes and minutes of  
15                  meetings. O'Brien's notes indicate that the main reason  
16                  for going back to the police was not to address the issue  
17                  of corporal punishment but because of the information  
18                  suggesting inappropriate sexual behaviour by Children's Aid  
19                  Society staff while the group home was in operation."

20                  The reference is Exhibit 1505.

21                  "O'Brien met with St. Denis and Sergeant  
22                  Wells on October 2<sup>nd</sup>, 1989 and provided copies of the  
23                  Personnel Committee meeting minutes, social workers notes,  
24                  a written statement from Antoine, and a letter from one  
25                  Board member to Towndale after the group home had been

1 closed."

2 He references Exhibit 2426.

3 "O'Brien updated Crown Attorney Johnson on  
4 October 3<sup>rd</sup>, 1989 with respect to the information provided  
5 to the police. O'Brien offered to provide the same  
6 materials to Johnson. Johnson informed O'Brien that if the  
7 police were going to pursue the matter further, they would  
8 forward him the information and he, therefore, declined to  
9 receive the documents from O'Brien."

10 Reference is Exhibit 1505.

11 "On November 1<sup>st</sup>, 1989 O'Brien advised the  
12 Executive Committee of the Board on the background of the  
13 Antoine case and the action that had been taken up to that  
14 point. In the report to the Executive Committee O'Brien  
15 stated that the main reason for going to the police, apart  
16 from the allegation of possible inappropriate sexual  
17 behaviour, was that Antoine might not perceive any action  
18 taken by the Children's Aid Society on its own as being  
19 objective."

20 He references Exhibit 1505 and Exhibit 2426.

21 "Between approximately December 8<sup>th</sup> and  
22 December 22<sup>nd</sup>, 1989 O'Brien spoke with Constable Kevin  
23 Malloy of the Cornwall Police Services twice with respect  
24 to Antoine's complaint. In their first conversation Malloy  
25 advised O'Brien that the police would close out the case

1 before Christmas; however, during their second  
2 conversation, Malloy indicated that he had not had enough  
3 time to close out the file but would do so very early in  
4 January of 1990."

5 Reference is Exhibit 1505.

6 "On February 2<sup>nd</sup>, 1990 Malloy advised O'Brien  
7 that the police did not have sufficient evidence on which  
8 to proceed with an investigation of Antoine's complaint and  
9 that the Crown Attorney's office had agreed with this  
10 police decision.

11 At the time, Malloy expected to meet with  
12 the Crown Attorney to review the evidence and to receive in  
13 writing the Crown's agreement that no further action is  
14 necessary."

15 The reference is Exhibit 1505.

16 "Between February 13<sup>th</sup> and 16<sup>th</sup>, 1990 O'Brien  
17 met with Keough a couple of times. O'Brien advised Keough  
18 of all the events relating to Antoine's complaint in August  
19 1989 and that the police had no current plans to proceed.  
20 Keough was upset and he ultimately informed O'Brien that he  
21 would not be proceeding with the adoption of a foster child  
22 and would be resigning from the Agency, whether or not he  
23 attended theological college."

24 The reference is Exhibit 1505.

25 "As of February 21<sup>st</sup>, 1990 O'Brien had not

1 yet received a letter from the Crown Attorney confirming  
2 that there was no current plans to proceed with an  
3 investigation. On that same date, O'Brien wrote a letter  
4 to the Canadian Theological Seminary in Saskatchewan  
5 regarding the complaints made against Keough. O'Brien  
6 referenced the use of corporal punishment in one of the  
7 group homes and allegations of improper sexual behaviour  
8 but noted that he could not believe some of the suggestions  
9 made by the complainant."

10 The reference is Exhibit 1505 and Exhibit  
11 2357.

12 "O'Brien has no recollection of ever  
13 receiving a letter from the Crown in this matter."

14 The reference is O'Brien's recollection.

15 "As a result of the Antoine complaint,  
16 O'Brien undertook to develop an internal directive for the  
17 handling of similar situations."

18 The reference is Exhibit 2428.

19 "On May 8<sup>th</sup>, 1990 O'Brien wrote a memo to  
20 Rick Abell, who was about to succeed him as Executive  
21 Director, suggesting that Abell write Lenore Jones advising  
22 her that the Antoine case was no longer a contentious one  
23 for the Children's Aid Society; that the police made the  
24 decision not to proceed after reviewing the Children's Aid  
25 Society documents, and that he should inform the executive

1 of the same."

2 The reference is Exhibit 2429.

3 "In 1994, the Cornwall Police Services  
4 reopened their investigation into Antoine's allegations of  
5 physical and sexual abuse of the group home. On April 28<sup>th</sup>,  
6 1994 Sergeant Ron Lefebvre and Constable White interviewed  
7 O'Brien. O'Brien confirmed that for a large part, at the  
8 time of the issue, he was away on sick leave and had little  
9 to no involvement with the group home. During his  
10 interview, O'Brien confirmed that Towndale was Acting  
11 Director in his absence."

12 He references Exhibit 2210.

13 "O'Brien has no independent recollection of  
14 Roberta Archambault, nee Judd, though he does recall the  
15 Lapensée group home. O'Brien states that his notes and  
16 correspondence relating to Archambault are all accurate and  
17 complete."

18 He references O'Brien's recollection.

19 "As regards his practice of speaking to the  
20 Crown Attorney, O'Brien will say that he went to the  
21 highest source for direction, which was the Crown. The  
22 Crown received information from the police and O'Brien was  
23 comfortable basing his decision on the proper way of  
24 proceeding on the Crown's opinion of the case. This  
25 includes the Crown's opinion to not lay charges against

1 Brian Lapensée."

2 Reference is O'Brien's recollection.

3 "Archambault entered into the care of the  
4 Children's Aid Society on September 3<sup>rd</sup>, 1970 at which time  
5 she was placed in the foster home of Mr. and Mrs. Hubert.  
6 On June 29<sup>th</sup>, 1972 Crown wardship was granted for  
7 Archambault. She remained at the Hubert's until December  
8 18<sup>th</sup>, 1980 when she was moved to the Lapensée group home."

9 Reference is Exhibit 2355.

10 "On December 1<sup>st</sup>, 1982 Children's Aid Society  
11 supervisor, Ian MacLean, completed a Serious Occurrence  
12 Report containing allegations that Brian Lapensée had  
13 sexually molested girls in the Lapensée group home as a  
14 result of complaints made by a resident of the home. This  
15 complaint was investigated and MacLean concluded that owing  
16 to the similar reports given by at least four girls and due  
17 to Brian's history, many, if not all, and perhaps more of  
18 the incidents did occur.

19 MacLean recommended that a letter of warning  
20 be sent to Brian Lapensée and a letter be sent to Ed and  
21 Alice Lapensée stating that Brian never be allowed on the  
22 Lapensée group home premises and that the Agency be  
23 notified should Brian move back to the area."

24 The reference is Exhibit 2394.

25 "On December 2<sup>nd</sup>, 1982, O'Brien wrote to Mr.

1 Robert Nadon, Program Supervisor, outlining the Serious  
2 Occurrence Report. O'Brien indicates that he is satisfied  
3 that there is no further immediate risk to the children  
4 involved due to the fact that Brian Lapensee had left the  
5 area. O'Brien did not expect any action on the part of the  
6 Crown Attorney or police, but decided to discuss the matter  
7 with the Crown Attorney."

8 The reference is Exhibit 129.

9 "On December 6<sup>th</sup>, 1982, O'Brien and MacLean  
10 met with the Crown Attorney. They had a brief discussion  
11 and read the Serious Occurrence Report and it was felt that  
12 no further legal action should be -- would be taken.  
13 O'Brien updated Nadon on the same date of the meeting by  
14 letter."

15 The reference is Exhibit 130.

16 "On December 2<sup>nd</sup>, 1982, MacLean wrote to Ed  
17 and Alice Lapensee enclosing a copy of the Serious  
18 Occurrence Report. MacLean stated that Brian Lapensee was  
19 to never be allowed on the premises as long as adolescent  
20 girls were living in the Lapensee Group Home.

21 MacLean also requested that should Brian  
22 move back to the area, that the Agency be notified  
23 immediately and that all incidents, alleged or otherwise,  
24 affecting the safety or well-being of a child be reported  
25 to the Children's Aid Society social worker immediately."

1                   The reference is Exhibit 2395.

2                   "On December 20<sup>th</sup>, 1982, O'Brien and MacLean  
3                   wrote to Brian Lapensee confirming that he had recently  
4                   returned to the area and was staying with his parents.  
5                   Brian was reminded that he was not to have any further  
6                   contact with the girls and that the further contact with  
7                   any of the wards may result in serious consequences."

8                   The reference is Exhibit 2397.

9                   "As Archambault did not have other family to  
10                  spend Christmas with in 1982, Ed Lapensee sought permission  
11                  from the Children's Aid Society on December 22<sup>nd</sup>, 1982, for  
12                  her to stay overnight at the Lapensee family home on  
13                  December 24<sup>th</sup> and 25<sup>th</sup>, 1982. Ed Lapensee accepted full  
14                  responsibility for Archambault during this period."

15                  The reference is Exhibit 2398.

16                  "O'Brien discussed Ed Lapensee's request  
17                  with MacLean, the Group Home Supervisor. O'Brien and  
18                  MacLean approved the request that Archambault be allowed to  
19                  join the Lapensee family on Christmas Eve and Day on the  
20                  understanding that the Lapensees assumed full  
21                  responsibility for her during that time, that Brian  
22                  Lapensee not have any contact with any of the female  
23                  wards."

24                  The reference is Exhibit 2399.

25                  "On April 2<sup>nd</sup>, 1983, Archambault stayed

1 overnight at the Lapensee farmhouse with the Lapensee  
2 family. On April 3<sup>rd</sup>, 1983, Archambault spent the day with  
3 the Lapensee family including Brian Lapensee to celebrate  
4 Easter. Archambault had a confrontation with Brian  
5 Lapensee after he allegedly made sexual advances towards  
6 her. At a later point, Archambault accused Brian Lapensee  
7 of more sexual advances and told him to keep his hands off  
8 her. This resulted in a family argument and Archambault  
9 spent the night at Murielle and Pierre Leroux' home."

10 The reference is Exhibit 131.

11 "On April 4<sup>th</sup>, 1983, at approximately 3:00  
12 p.m., Ed Lapensee picked Archambault up from the Leroux'  
13 and brought her back to the Lapensee Group Home. At  
14 approximately 8:30 p.m., Archambault purchased a bottle of  
15 Anacin, took 26 pills and went to bed.

16 On Tuesday, April 5<sup>th</sup>, 1983, Archambault went  
17 to school but called Mary Miller around 10:30 a.m. and  
18 spoke to Kate Power who then contacted Miller. Miller went  
19 to the school where Archambault told her that she had  
20 overdosed on Anacin the previous night. Miller took  
21 Archambault to the hospital at approximately 1:30 p.m."

22 The reference is Exhibit 131.

23 "At the hospital, Archambault acknowledged  
24 that the accusations made by various other girls in late  
25 November 1982 against Brian Lapensee were true and she had

1 previously denied them because she had always been able to  
2 handle him. Also, she did not want to hurt Ed and Alice  
3 Lapensee by telling them the truth."

4 The reference is Exhibit 131.

5 "On April 6<sup>th</sup> or 7<sup>th</sup>, 1983, Ed and Alice  
6 Lapensee met with Miller and MacLean regarding the Easter  
7 dinner and Archambault's overdose. MacLean informed the  
8 Lapensees that he had two choices; to close the home and  
9 give them a 60-day notice or to ask the Ministry for a  
10 review of the home and follow the recommendations  
11 provided."

12 The reference is Exhibit 131.

13 "On April 6<sup>th</sup> or 7<sup>th</sup>, 1983, MacLean met with  
14 O'Brien, Dave Jones, Copeland, and Towndale who unanimously  
15 felt that they should close the home as they could not  
16 afford further risk with Brian Lapensee. The Lapensees  
17 were given the opportunity to resign."

18 The reference is Exhibit 131.

19 "Nadon recommended that the police or Crown  
20 Attorney be consulted again with respect to Brian  
21 Lapensee."

22 The reference is Exhibit 131.

23 "On April 7<sup>th</sup>, 1983, both the Children's Aid  
24 Society and Archambault requested a referral to Dr.  
25 Manigat, a Psychiatrist."

1                   The reference is Exhibit 2339.

2                   "On April 11<sup>th</sup>, 1983, Ed Lapensee wrote to  
3                   MacLean resigning as group home parents effective June 11<sup>th</sup>,  
4                   1983."

5                   The reference is Exhibit 2400.

6                   On April 20<sup>th</sup>, 1983, O'Brien met with the  
7                   Assistant Crown Attorney, Mr. Alan Ain, with respect to the  
8                   matter of the Serious Occurrence Report in the Lapensee  
9                   Group Home. It was Ain's opinion that there would not be a  
10                  point in pursuing charges against Brian Lapensee at that  
11                  time. O'Brien advised Nadon of this meeting in a letter  
12                  dated April 22<sup>nd</sup>, 1983."

13                  The reference is Exhibit 134.

14                  "On April 22<sup>nd</sup>, 1983, O'Brien wrote to  
15                  Assistant Crown Attorney Ain enclosing a copy of the  
16                  Serious Occurrence Report. O'Brien provided his opinion to  
17                  Ain saying that it would not be necessary to pursue charges  
18                  because the nature of the sexual advance had not seemed too  
19                  serious. A decision was made to close the home and all of  
20                  the girls had been removed from the group home."

21                  The reference is Exhibit 133.

22                  "A request was made on June 15<sup>th</sup>, 1983 that  
23                  Archambault receive continued care and maintenance past her  
24                  18<sup>th</sup> birthday until she finished high school in June of  
25                  1984. This form indicates that Archambault experienced

1 emotional, physical and sexual abuse and that specialized  
2 foster home placement was necessary at that time and for  
3 the next 12 months to meet her emotional, social and  
4 psychological needs. O'Brien and the Ministry of Community  
5 and Social Services approved the request that Archambault  
6 continue as a non-ward until she finished high school."

7 The reference is Exhibit 2422.

8 "On September 14<sup>th</sup>, 1983, Archambault was  
9 admitted to the Cornwall General Hospital for depression  
10 after she threatened suicide. Dr. Manigat saw her on the  
11 same day.

12 On September 15<sup>th</sup>, 1983, Archambault was  
13 interviewed by Dr. Khan after which Archambault ran away  
14 from the hospital and returned to the foster home where she  
15 had recently been placed."

16 The reference is Exhibit 2339.

17 "On September 21<sup>st</sup>, 1983, Miller wrote to Dr.  
18 Forson regarding Archambault's overdose of Aspirin on April  
19 8<sup>th</sup>, 1983, at which time Dr. Forson was requested to make a  
20 referral to Dr. Manigat. Miller informed Dr. Forson that  
21 on September 14<sup>th</sup>, 1983, Archambault appeared quite  
22 depressed and suicidal and she refused to be admitted to  
23 the psychiatric ward. Miller stated her great  
24 disappointment that her request for referral to Dr. Manigat  
25 was not followed up and sought Dr. Forson's suggestion on

1 opening a quick referral to Dr. Manigat or a referral to  
2 another psychiatrist."

3 The reference is Exhibit 2425.

4 "On May 25<sup>th</sup>, 1984, O'Brien requested that  
5 the Ministry of Colleges and Universities provide  
6 Archambault with as generous a loan grant amount as  
7 possible in order to assist her attendance at St. Lawrence  
8 College.

9 On May 30<sup>th</sup>, 1984, O'Brien requested that the  
10 Children's Aid Society Auxiliary consider granting a small  
11 bursary on behalf of Archambault to assist her with costs  
12 not covered by student loans grants."

13 The reference is Exhibit 2424 and Exhibit  
14 2423.

15 "O'Brien has no independent recollection of  
16 C-14 or of any investigation into the Barber foster home.  
17 O'Brien will say that his notes and correspondence relating  
18 to C-14 are all accurate and complete."

19 The reference is O'Brien's recollection.

20 "C-14 was born on July 20<sup>th</sup>, 1962 and was  
21 admitted into the care of the Children's Aid Society on  
22 June 15<sup>th</sup>, 1972. He was made a Crown ward on June 15<sup>th</sup>, 1974  
23 and was discharged from care on June 18<sup>th</sup>, 1980."

24 The reference is Exhibit 524 and Exhibit  
25 538.

1                   "On August 29<sup>th</sup>, 1977 C-14 was moved from the  
2 Barber foster home to the Hubert foster home. On November  
3 22<sup>nd</sup>, 1977 C-14 reported to his case worker, Keough, that  
4 during his six years at the Barber's home he was often  
5 physically abused, beaten, horsewhipped, kicked with steel-  
6 toe boots, robbed of his clothing money, deprived of any  
7 personal life, overworked, not taken care of when ill, and  
8 threatened not to say a word to anyone."

9                   The reference is Exhibit 538.

10                   "Keough undertook an inquiry into the  
11 situation immediately, which included researching past  
12 recordings and speaking with Dick Mulligan and a former  
13 ward of the Barber home.

14                   As a result of his investigation Keough  
15 concluded that at times C-14 received treatment that was  
16 far too harsh and could be labelled 'a beating'. Keough  
17 further determined that as such times C-14 had driven his  
18 foster parents to a point where they lost control and later  
19 would regret their actions."

20                   The reference is Exhibit 538.

21                   "As a result of his week-long investigation  
22 Keough recommended that the Children's Aid Society not  
23 place any more children in the Barber home. The Barbers  
24 also requested that no more children be placed in their  
25 home and the home was closed."

1                   The reference is Exhibit 538.

2           "On July 13<sup>th</sup>, 1978 C-14 saw Diane Latreille, a  
3           psychometrist. The Children's Aid Society referred C-14 to  
4           Latreille for a personality assessment. Latreille noted  
5           that C-14 was insecure, worried and tense and that in the  
6           past he has been aggressive and rebellious."

7                   The reference is Exhibit 139.

8                               **(SHORT PAUSE/COURTE PAUSE)**

9                   **THE COMMISSIONER:** That's the end of the  
10           document?

11                   **MR. DUMAIS:** That's the end of the reading  
12           in of the document. I have just two comments,  
13           Mr. Commissioner.

14                   The first one refers to the reference in  
15           paragraph 46. When I read in the paragraph I indicated  
16           that the reference was Exhibit 2433 and Exhibit 2227.

17                   **THE COMMISSIONER:** I've got 2423.

18                   **MR. DUMAIS:** Okay, so I did read that  
19           correctly. So my notes say 2423.

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

21                   **MR. DUMAIS:** Ms. Daley has indicated that  
22           she believes it's another reference, so I'll check on that  
23           and report back.

24                   And there's one further -- if we look at  
25           page 15 of the document, the top paragraph, there's no

1 actual reference in the document and when I read in that  
2 paragraph I didn't make reference to this being O'Brien's  
3 recollections.

4 **THE COMMISSIONER:** Okay.

5 Well, let's take a short break. You guys  
6 can work out if there are any problems. I see that the  
7 witness is here. We should get on with that as quickly as  
8 possible.

9 All right? Thank you.

10 **MR. DUMAIS:** Thank you.

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

13 This hearing will resume at 10:55 a.m.

14 --- Upon recessing at 10:38 a.m. /

15 L'audience est suspendue à 10h38

16 --- Upon resuming at 10:56 a.m. /

17 L'audience est reprise à 10h56

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

20 This hearing is now resumed. Please be  
21 seated. Veuillez vous asseoir.

22 **THE COMMISSIONER:** Good morning, sir, how  
23 are you doing?

24 **MR. O'BRIEN:** Not too bad, thank you.

25 **THE COMMISSIONER:** Thank you very much for

1 coming. There is water and some fresh -- oh, you have  
2 water, all right.

3 MR. O'BRIEN: Thank you.

4 THE COMMISSIONER: There is a speaker, a  
5 little box like this. If you want to increase the volume  
6 it's the one on the right-hand side. Please, if you can  
7 bring down the speaker and your microphone to your voice --  
8 there you go.

9 So there will be some questions of you and  
10 I'd like you to answer them the best you can. If at any  
11 time you don't understand, let me know. More importantly,  
12 I understand that you have some health concerns and what  
13 I'd really like to do is if at any time you feel that you  
14 need a break or there's something that's not quite working,  
15 you just let me know and we will work things out.

16 MR. O'BRIEN: Thank you very much.

17 THE COMMISSIONER: All right?

18 MR. O'BRIEN: Yes.

19 THE COMMISSIONER: Thank you, sir.

20 MR. DUMAIS: Good morning, Mr. O'Brien. I'm  
21 going to ask that you be sworn in ---

22 THE COMMISSIONER: Yes, thank you.

23 MR. DUMAIS: --- before we begin.

24 THOMAS O'BRIEN: Sworn/Assermenté

25 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.

1           **DUMAIS:**

2                           **MR. DUMAIS:** Mr. O'Brien, just before we  
3 start there are two comments I want to make with respect to  
4 the document, the first one being paragraph 39 at page 7 --  
5 -

6                           **THE COMMISSIONER:** Whoa, whoa, wait -- last  
7 exhibit, no? What exhibit number?

8                           **MR. DUMAIS:** Exhibit 2419, page 7.

9                           **THE COMMISSIONER:** Yes.

10                          **MR. DUMAIS:** So on the first line the second  
11 sentence should read as follows:

12   "On September 24<sup>th</sup>, 1973 C-77 ---

13                           **THE COMMISSIONER:** Seventy three ('73) or  
14 '78?

15                           **MR. DUMAIS:** Seventy three ('73).

16                           **THE COMMISSIONER:** We're on page 7,  
17 paragraph 38.

18                           **MR. DUMAIS:** Thirty nine (39).

19                           **THE COMMISSIONER:** Thirty nine (39), okay.  
20 Sorry.

21                           **MR. DUMAIS:** The second sentence:

22   "On September 24<sup>th</sup>, 1973 C-77 attended  
23 at a station along with her brother."

24   So just removal of that word, the word  
25 "police."

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

2                   **MR. DUMAIS:** Just -- there should be no  
3 reference to the word "police" in that sentence. It should  
4 just be "attended at a station."

5                   **THE COMMISSIONER:** "At a station". Okay.

6                   **MR. DUMAIS:** And the last paragraph of the  
7 document.

8                   **THE COMMISSIONER:** Yes?

9                   **MR. DUMAIS:** I'm advised that the correct  
10 reference is Exhibit 539.

11                   **THE COMMISSIONER:** All right. Let's go.

12                   **MR. DUMAIS:** Thank you.

13                   All right. Mr. O'Brien, I was just making  
14 corrections to the document that we've prepared to assist  
15 you in giving your evidence here today.

16                   And before I ask you a few questions on some  
17 topics, I just want to confirm that you have been provided  
18 with a copy of that document. You've gone through it, you  
19 have read it and, as far as you can recall, it is true and  
20 accurate to your recollection?

21                   **MR. O'BRIEN:** I don't have a copy of the  
22 document here.

23                   **MR. DUMAIS:** Right.

24                   **MR. O'BRIEN:** The first document is 2419?

25                   **THE COMMISSIONER:** Yes, it is, sir.

1 Yes, it is.

2 **MR. O'BRIEN:** And what was the change?

3 **MR. DUMAIS:** You're correct, Mr. O'Brien,  
4 there was one change and that was to paragraph 39, on page  
5 7. Do you see this, Mr. O'Brien?

6 **MR. O'BRIEN:** Yes, I do.

7 **MR. DUMAIS:** So we removed the word "police"  
8 from the second sentence in that first line. So it now  
9 reads:

10 "On September 24<sup>th</sup>, 1973, C-77 attended  
11 at a station along with her brother."

12 **MR. O'BRIEN:** This is paragraph 39?

13 **MR. DUMAIS:** That's correct, Mr. O'Brien.

14 And perhaps I'll ask Madam Clerk -- just in  
15 the hearing's room, Mr. O'Brien, we use, rather than  
16 identifying names of children who were in foster homes, we  
17 refer to them as monikers and I'm going to ask Madam Clerk  
18 to identify who C-77 is for you.

19 **MR. O'BRIEN:** So the change you're making in  
20 the second sentence of paragraph 39 is something about the  
21 police?

22 **MR. DUMAIS:** The document that this  
23 paragraph ---

24 **THE COMMISSIONER:** The answer is yes, sir.  
25 They're taking out the word "police".

1                   **MR. O'BRIEN:** Just taking out the word  
2           "police"?

3                   **MR. DUMAIS:** Correct.

4                   **THE COMMISSIONER:** Yes.

5                   **MR. O'BRIEN:** Okay. Thank you.

6                   **MR. DUMAIS:** And the only other change I  
7           made reference to was an exhibit number so I just made a  
8           small correction on the actual exhibit number.

9                                So otherwise, Mr. O'Brien, are you content  
10           that the document reflects your recollection to the best of  
11           your knowledge?

12                   **MR. O'BRIEN:** Yes.

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

14                                Mr. O'Brien, I'm going to be dealing with a  
15           few issues; the first one being the involvement of Bryan  
16           Keough and the Second Street Group Home and the events of  
17           1976.

18                                I already read in the document that we just  
19           referred to this morning and it references a number of  
20           documents which have been filed as exhibits. So I'm just  
21           going to ask you to turn then to Exhibit 2212.

22                   **THE COMMISSIONER:** Sir, Madam Clerk -- Mr.  
23           O'Brien?

24                   **MR. O'BRIEN:** I'm sorry?

25                   **THE COMMISSIONER:** Yes. The clerk will give

1           you those documents as we go.

2                           And open it up at the page 2212?

3                           **MR. DUMAIS:** Correct.

4                           And if you can just turn to the last page of  
5           that document, the two last pages.

6                           **MR. O'BRIEN:** Yes, I have it.

7                           **MR. DUMAIS:** You're there? All right.

8                           So if we can just start with -- in 1976,  
9           although you were the Executive Director of the Children's  
10          Aid Society, you were away from the agency from January to  
11          about April of 1976. Is that correct?

12                           **MR. O'BRIEN:** That's correct, yes.

13                           **MR. DUMAIS:** And during your absence Mr.  
14          Angelo Towndale was the Acting Executive Director. Is that  
15          correct?

16                           **MR. O'BRIEN:** That's correct.

17                           **MR. DUMAIS:** All right. And we've heard  
18          evidence about the occurrences that happened at the Second  
19          Street Group Home and how the board and some of your staff  
20          members dealt with these issues.

21                           **MR. O'BRIEN:** Yes.

22                           **MR. DUMAIS:** So everything is happening  
23          while you're away; correct?

24                           **MR. O'BRIEN:** Yes.

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

1                   And on your return to the agency, someone  
2                   would have briefed you about what happened; correct?

3                   **MR. O'BRIEN:** Yes, I believe Mr. Towndale  
4                   did.

5                   **MR. DUMAIS:** Do you recall that  
6                   conversation? Can you just give us an idea of what he  
7                   would have told you?

8                   **MR. O'BRIEN:** Well, basically what he did  
9                   was review with me all of the things that had happened in  
10                  the group home and what he did about it and his liaison  
11                  with the committees of the board and with the board  
12                  members, with the board itself, and the action taken by the  
13                  board.

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

15                  And essentially they would have told -- Mr.  
16                  Towndale would have told you that he had removed the  
17                  director of the group home, Mr. Tenger, from his duties.  
18                  Is that correct?

19                  **MR. O'BRIEN:** Yes, that's correct.

20                  **MR. DUMAIS:** And subsequent to that Mr.  
21                  Tenger had tendered his resignation?

22                  **MR. O'BRIEN:** Yes, that's correct.

23                  **MR. DUMAIS:** And as well, you would have  
24                  been advised that staff members -- some staff members of  
25                  the group home would have tendered their resignations as

1 well?

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: And those staff members were  
4 Heather Tenger, Mike Keough, Jerry McGillis and Ann Jaeger;  
5 correct?

6 MR. O'BRIEN: Yes.

7 MR. DUMAIS: Now, what was your  
8 understanding of what Mr. Bryan Keough's role was with  
9 respect to the Second Street Group Home?

10 MR. O'BRIEN: Mr. Keough had a caseload at  
11 the Children's Aid Society and he assisted the group home  
12 staff part-time, probably because he and Mr. Tenger knew  
13 each other fairly well, they were friends. But his role  
14 was simply as a helper. He was not hired at the group home  
15 and his main function was still with the caseload he had at  
16 the Children's Aid.

17 MR. DUMAIS: All right.

18 Were you aware, Mr. O'Brien, that from time  
19 to time Mr. Keough would have replaced some of the staff  
20 members at the group home and would actually been working  
21 within the home?

22 MR. O'BRIEN: No, I don't recall that.

23 MR. DUMAIS: Okay. Mr. Keough, when he gave  
24 his evidence indicated that or described his role with the  
25 group home as some sort of a liaison officer between the

1 group home and the Children's Aid Agency. Would you agree  
2 with that?

3 **MR. O'BRIEN:** I just don't understand it. I  
4 have not heard -- I know what a liaison officer is in  
5 various capacities but I didn't understand that he saw  
6 himself in that role. I did not know that.

7 **MR. DUMAIS:** Okay. Then can you just  
8 explain to us what you mean when you say that he was  
9 assisting the staff at the group home? What does that  
10 mean?

11 **MR. O'BRIEN:** Periodically, for one reason  
12 or another, the group home staff would need help. And I  
13 think probably because of his friendship with Mr. Tenger he  
14 offered that help and it was accepted. He was not paid  
15 extra money, to my knowledge, for what help he gave in the  
16 group home, because he still was carrying a full caseload  
17 of his own.

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

19 And do you recall before you left the Agency  
20 on sick leave in January of 1976, whether or not Mr. Keough  
21 would have reported anything about the group home to you?

22 **MR. O'BRIEN:** To me?

23 **MR. DUMAIS:** Yes.

24 **MR. O'BRIEN:** I don't recall him reporting  
25 to me about the group home. Most of my information about

1 the home came from Mr. Towndale.

2 MR. DUMAIS: All right.

3 MR. O'BRIEN: I don't -- maybe he spoke to  
4 me but I don't recall it.

5 MR. DUMAIS: Okay. Now, when you're meeting  
6 with Mr. Towndale and he's briefing you on the events that  
7 occurred in your absence, does he talk to you about the  
8 involvement of Mr. Keough?

9 MR. O'BRIEN: He likely told me how Mr.  
10 Keough had assisted the other group home staff because for  
11 one reason or another, they needed extra help. He might  
12 have told me that. I don't remember the specifics of what  
13 he told me.

14 MR. DUMAIS: When Mr. Keough gave evidence  
15 here, he indicated that he would have witnessed corporal  
16 punishment being administered to some of the foster  
17 children that had been placed in that home and he also  
18 indicated to us that he would have administered the strap  
19 to one of those children himself.

20 Do you remember whether or not you had been  
21 made aware of that by Mr. Towndale?

22 MR. O'BRIEN: It was likely I was made aware  
23 of it.

24 MR. DUMAIS: Okay. Did, at any point in  
25 time when you returned to the agency in April of 1976,

1 consider whether or not Mr. Keough should be either 1)  
2 disciplined or 2) asked to resign from the agency?

3 **MR. O'BRIEN:** If I had concerns, I would not  
4 have been as concerned as if he had remained at the group  
5 home. And the reason for that is the -- I believe he was  
6 carrying a caseload of children who were in foster homes  
7 and, for instance, when it came to discipline, he would  
8 have no way of disciplining those children. That was the  
9 responsibility of the foster parents not of Mr. Keough. So  
10 I didn't have to be concerned about that.

11 Sorry, have I answered your question?

12 **MR. DUMAIS:** I think partly.

13 **THE COMMISSIONER:** Do you remember Mr.  
14 O'Brien -- do you remember sitting down and thinking,  
15 "M'hm, what am I going to do with Mr. O'Brien?" Do you  
16 remember going through that thought process or are you  
17 surmising what you think you would have done?

18 **MR. O'BRIEN:** I am sure that I discussed  
19 what I ought to have done with Mr. Towndale ---

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

21 **MR. O'BRIEN:** --- and whatever he told me  
22 did not concern me enough to, for instance, ask for Mr.  
23 Keough's resignation. It did not concern me. I thought  
24 that the children were protected which was the most  
25 important thing.

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

2                   **MR. DUMAIS:** And by that you mean they were  
3 protected by the fact that Mr. Keough was no longer  
4 involved with the Second Street Group Home?

5                   **MR. O'BRIEN:** He was no longer involved with  
6 the group home and also with the caseload he was carrying.  
7 He would not have been the one who would discipline the  
8 children if that was required. It would have been the  
9 foster parents not Mr. Keough. And he wouldn't have -- he  
10 wouldn't have had an opportunity to do it either.

11                   **MR. DUMAIS:** I understand that, but  
12 certainly, Mr. O'Brien, if a foster child is being  
13 disciplined or is being administered corporal punishment by  
14 his foster parents and has concerns about that and he would  
15 then advise Mr. Keough of his concerns; correct?

16                   **MR. O'BRIEN:** The foster parent would advise  
17 Mr. Keough?

18                   **MR. DUMAIS:** Well, let's assume for -- Mr.  
19 Keough is supervising these foster children in foster  
20 homes; correct?

21                   **MR. O'BRIEN:** Yes.

22                   **MR. DUMAIS:** And let's assume for a second  
23 that if one of these foster children is being administered  
24 corporal punishment and has concerns with that, he would  
25 have to deal with Mr. Keough to advise the agency; correct?

1                   **MR. O'BRIEN:** It would depend on the nature  
2 of the misdemeanour by the child and the extent of the  
3 punishment, if that was the term, by the foster mother or  
4 father. If it was no more punishment than the ordinary  
5 mother and father would give to their own children then  
6 there would be no need for the foster parent to report that  
7 to Mr. Keough.

8                   It would only be if the child had seriously  
9 misbehaved in such a way that the foster mother or foster  
10 father administered harsher discipline than seemed to be  
11 normal discipline; then they would probably tell Mr.  
12 Keough.

13                   And you have to remember that in 1976, the  
14 physical punishment of children was much more accepted than  
15 it is today. And part of the reason -- society in general  
16 accepted harsher discipline -- physical discipline than  
17 they would today.

18                   **MR. DUMAIS:** Fair enough.

19                   But do you recall the whole issue of whether  
20 or not corporal punishment should be administered by either  
21 staff in a group home or by foster parents was a point of  
22 discussion prior to January 1<sup>st</sup>, 1976, prior to your  
23 leaving?

24                   **MR. O'BRIEN:** Corporal punishment would only  
25 have been discussed within the staff of the agency if a

1 particular incident was considered severe and I don't know  
2 the definition of severe. We would have to -- the issue  
3 would have to be brought to our attention and we would  
4 discuss it to try to decide whether or not it was  
5 appropriate.

6 **MR. DUMAIS:** Do you recall whether or not  
7 there was a policy on corporal punishment at the Children's  
8 Aid Society while you were there prior to these events?

9 **MR. O'BRIEN:** No, I don't recall the years,  
10 but as time went on, we tried to help foster parents  
11 understand that there were other kinds of appropriate  
12 discipline than corporal punishment. I know that.

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

14 Now, if -- then Mr. O'Brien, if we can just  
15 move away from that. And I'm just going to ask you to have  
16 a look at another document and that's Exhibit 1505.

17 **MR. O'BRIEN:** Did you say 1505?

18 **THE COMMISSIONER:** No. Sir, it's another  
19 book. Mr. O'Brien, it's another book we're going to get  
20 to. There's no shortage of paper here.

21 **MR. O'BRIEN:** Apparently not.

22 **THE COMMISSIONER:** One five one five (1505)  
23 Mr. Dumais?

24 **MR. DUMAIS:** Correct.

25 So essentially we're just moving up in time

1 a bit, Mr. O'Brien. So we are in 1989 and we are still  
2 talking about Mr. Keough, but more specifically I  
3 understand that sometime in August of that year, you would  
4 have received a -- or you would have been told about  
5 allegations that Jeannette Antoine had been making about  
6 Mr. Keough. Is that correct?

7 MR. O'BRIEN: Yes.

8 MR. DUMAIS: And that document that we are  
9 looking at Mr. O'Brien, these are your notes which  
10 essentially indicate what you would have done during that  
11 period of six months on this matter. Is that correct?

12 MR. O'BRIEN: Yes.

13 MR. DUMAIS: All right.

14 And so you're typing these notes yourself.  
15 Is that correct?

16 MR. O'BRIEN: No, I can't type. My name is  
17 there because I dictated them to my secretary.

18 MR. DUMAIS: Okay.

19 So am I correct then that as these events  
20 are happening, you're dictating this and you're giving this  
21 to someone who types it up for you; correct?

22 MR. O'BRIEN: If my name is there, I  
23 dictated it on the date that is on the document.

24 MR. DUMAIS: Okay.

25 That would be your general practice?

1                   **MR. O'BRIEN:** Yes, I didn't do very much of  
2                   that, but if my name is there then I -- it was me who did  
3                   it.

4                   **MR. DUMAIS:** Okay.

5                   So then if we can just have a look at the  
6                   document, Mr. O'Brien -- so on August 21<sup>st</sup>, you're advised  
7                   by Don Jackson and Bob Smith that Jeannette has made  
8                   certain allegations about the care she received at the  
9                   Agency; correct?

10                  **MR. O'BRIEN:** Yes.

11                  **MR. DUMAIS:** And following that disclosure  
12                  on the following day you would have reviewed some  
13                  materials; correct?

14                  **MR. O'BRIEN:** Yes.

15                  **MR. DUMAIS:** And some of the materials that  
16                  you reviewed included placement cards, a statement that  
17                  Jeannette had signed Suzie Robinson's notes and some  
18                  minutes of the personnel committee meeting that were in a  
19                  confidential file; correct?

20                  **MR. O'BRIEN:** Yes, that personnel committee  
21                  is the personnel committee of the Board, I believe, not  
22                  just -- it's not a staff personnel committee. And it would  
23                  have to do with the -- I would think with the group home in  
24                  1976.

25                  **MR. DUMAIS:** Right, right, all right.

1                   So then my understanding is -- and I'm  
2                   looking at the couple of paragraphs on October 23<sup>rd</sup>, 1989.  
3                   You would have told the workers not to concern themselves  
4                   with the past allegations because my understanding is that  
5                   there was an ongoing investigation with respect to Mrs.  
6                   Antoine and her child and that you had made a request to  
7                   meet with her.

8                   **MR. O'BRIEN:** What's the date you're  
9                   referring to, sorry?

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

11                  So I'm just looking at the second paragraph  
12                  under the heading "August 23<sup>rd</sup>, 1989". I'll just read it  
13                  out to you.

14                  **MR. O'BRIEN:** I have it.

15                  **MR. DUMAIS:** Okay.

16                  **MR. O'BRIEN:** Yes, I understand that.

17                  **MR. DUMAIS:** Okay. So then you would have  
18                  requested that she come in and speak with you; is that  
19                  correct?

20                  **MR. O'BRIEN:** Yes.

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

22                  And you indicate in your notes that at least  
23                  at that point in time you were unclear as to whether or not  
24                  the allegations related to her personal experience or to  
25                  experiences that she had witnessed on other children within

1 the Second Street Group Home.

2 MR. O'BRIEN: I presume they were regarding  
3 herself.

4 MR. DUMAIS: And if I can just take you to  
5 the last paragraph on that page, Mr. O'Brien; do you have  
6 that?

7 MR. O'BRIEN: Yes, I do.

8 MR. DUMAIS: All right.

9 So I'm just going to read it out for the  
10 record:

11 "So at different times during the  
12 course of our telephone conversation  
13 Jeannette talked about bruises children  
14 had received in our group home as a  
15 result of the harsh corporal  
16 punishment. She spoke about sexual  
17 intercourse and rapes and I was not  
18 clear whether she was talking about  
19 things she said happened to her or  
20 about things that happened to her and  
21 the other children in the group home."

22 MR. O'BRIEN: I see that.

23 MR. DUMAIS: Do you see that?

24 MR. O'BRIEN: Yes.

25 MR. DUMAIS: All right.

1 So is that a fair characterization ---

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: --- of what she was telling  
4 you?

5 MR. O'BRIEN: Yes.

6 MR. DUMAIS: All right.

7 And certainly one of her concerns at that  
8 point in time was that Mr. Keough was still working for the  
9 Agency.

10 MR. O'BRIEN: Yes.

11 MR. DUMAIS: And I understand that at one  
12 point in time you would have had a meeting with  
13 Mr. Towndale and Mr. Carriere. And if you can just flip  
14 the page, I am looking here at the entry on September 8<sup>th</sup>,  
15 1989.

16 THE COMMISSIONER: September 8<sup>th</sup>, what page?  
17 Which way, backwards or frontwards?

18 MR. DUMAIS: Page 2.

19 THE COMMISSIONER: Yes? Oh, I'm sorry, yes,  
20 yes, yes.

21 MR. O'BRIEN: Yes, I have it.

22 MR. DUMAIS: So you see that. So you would  
23 have been at one time with Angelo Towndale and Bill  
24 Carriere and some decision was made and the President of  
25 the Board was advised?

1                   **MR. O'BRIEN:** Yes.

2                   **MR. DUMAIS:** And one of the other things  
3 that you did as well was you had a discussion with Lenore  
4 Jones, who was at the time Program Supervisor; is that  
5 correct?

6                   **MR. O'BRIEN:** Yes.

7                   **MR. DUMAIS:** So she was the Program  
8 Supervisor for the region?

9                   **MR. O'BRIEN:** Yes, she was with the Ministry  
10 of Community and Social Services. Her office was in Ottawa  
11 and she was the Program Supervisor for several Children's  
12 Aid Societies. I'm not sure of the number but somewhere  
13 between four and seven CASs.

14                   **MR. DUMAIS:** Now, I'm going to read you the  
15 last three lines of that first paragraph on September 8,  
16 1989. It reads as follows:

17                                "I should check perhaps with executive  
18                                directors of the Ottawa and Renfrew  
19                                CASs to see how they had handled abuse  
20                                allegations against staff and their  
21                                agencies."

22                   **MR. O'BRIEN:** I'm sorry, I can't find that.

23                   **THE COMMISSIONER:** In the September 8<sup>th</sup>  
24 paragraph, the one that starts with "Today".

25                   **MR. O'BRIEN:** Oh, I have it, okay.

1                   **THE COMMISSIONER:** Now, if you look down  
2                   where the little cursor is, where that little arrow is, it  
3                   said:

4                                    "It was also...that I should check  
5                                   perhaps with executive directors of the  
6                                   Ottawa..."

7                   Do you see that now?

8                   **MR. O'BRIEN:** Yes.

9                   **THE COMMISSIONER:** All right.

10                  **MR. DUMAIS:** Fair to say that at least at  
11                  this point in time you weren't sure how to deal with an  
12                  allegation against one of your staff members?

13                  **MR. O'BRIEN:** That's correct.

14                  **MR. DUMAIS:** And do you recall whether or  
15                  not you ever followed up with that or whether or not you  
16                  spoke to anyone from these other CAS agencies?

17                  **MR. O'BRIEN:** I don't recall talking to  
18                  them. I still remember the names of the Ottawa executive  
19                  director. I'm not sure of Renfrew County. I don't recall  
20                  any specific conversations with either one of them.

21                                 So if you're asking me whether I followed  
22                                 through, I do not recall.

23                  **MR. DUMAIS:** Okay. Now, if you can just  
24                  look at the next page, Mr. O'Brien, that's page 3, look at  
25                  the entries on September 29, '89.

1 MR. O'BRIEN: Yes.

2 MR. DUMAIS: The second paragraph, the last  
3 two lines.

4 THE COMMISSIONER: Read the whole sentence  
5 then.

6 MR. DUMAIS: So the paragraph actually reads  
7 as follows:

8 "So the main reason for going back to  
9 the police would not be because of the  
10 issue of corporal punishment but rather  
11 because of the information contained in  
12 Suzie Robinson's notes which suggests  
13 inappropriate sexual behaviour by our  
14 staff when the group home was in  
15 operation."

16 MR. O'BRIEN: Yes.

17 MR. DUMAIS: And, of course, certainly one  
18 of the allegations that was noted in Suzie Robinson's notes  
19 was inappropriate sexual behaviour by Mr. Keough; is that  
20 correct?

21 MR. O'BRIEN: Probably. I don't recall the  
22 notes, but probably.

23 MR. DUMAIS: And at this point in time, Mr.  
24 O'Brien, would you have done anything with respect to or  
25 acted on this with respect to Mr. Keough? Was he

1           suspended? Was he -- did you meet with him? Did you  
2           advise him of anything?

3                   **MR. O'BRIEN:** I don't recall that. I know  
4           that I was in a quandary as to what the law would say and  
5           that's why I involved myself with the Crown Attorney and  
6           the Deputy Chief of Police. When I spoke to Mr. Keough I'm  
7           not too sure but I must have alerted him at some point.

8                   **MR. DUMAIS:** Your notes, just so that you  
9           know, Mr. O'Brien -- your notes indicate that you would  
10          have spoken to him between February 13<sup>th</sup>, 1990 and February  
11          16<sup>th</sup>, 1990.

12                   **MR. O'BRIEN:** Yes.

13                   **MR. DUMAIS:** But certainly your notes don't  
14          appear to indicate that you would have met with him in  
15          September of 1989 or that you would have suspended him at  
16          that time.

17                   **MR. O'BRIEN:** I doubt very much that I  
18          suspended him. I think that I would recall that. Whether  
19          I met with him in September of '89 I do not recall.

20                   **MR. DUMAIS:** And fair to say that in  
21          September of 1989 Mr. Keough was still one of your child  
22          protection workers and had daily contact with foster  
23          children?

24                   **MR. O'BRIEN:** Yes.

25                   **MR. DUMAIS:** As part of his job; correct?

1                   **MR. O'BRIEN:** Yes.

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

3                   And despite having received allegations  
4                   against Mr. Keough of both a physical and sexual nature you  
5                   did not consider suspending him at that time?

6                   **MR. O'BRIEN:** No, because I was unsure of  
7                   what to do because I wasn't sure of the validity of some of  
8                   the information that was coming to me. And, again, that's  
9                   why I went to the Crown and the police because I was  
10                  unsure, and I needed some legal advice. They obviously  
11                  knew the law better than I.

12                  So I didn't know what I ought to do. I  
13                  didn't -- I didn't know how much I could have confidence in  
14                  what was being reported to me about abuse. I just did not  
15                  know.

16                  **MR. DUMAIS:** But at this point in time, did  
17                  you have any concerns the risk to some of the children who  
18                  were in the care of the society?

19                  **MR. O'BRIEN:** I could not have had concern  
20                  at that point or I would have taken specific action to  
21                  discipline Mr. Keough.

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

23                  Now, my understanding or perhaps let me ask  
24                  you this. You would have been concerned enough at one  
25                  point in time that you would have met with members of the

1 Cornwall Police Services on this matter; is that correct?

2 MR. O'BRIEN: Yes, yes.

3 MR. DUMAIS: And I believe you would have  
4 met with Deputy Chief Joe St. Denis and Staff Sergeant  
5 Wells. Do you recall that meeting?

6 MR. O'BRIEN: Yes.

7 MR. DUMAIS: And at one point in time, you  
8 would have been advised during that meeting that Detective  
9 Malloy would be investigating this matter; is that correct?

10 MR. O'BRIEN: Yes.

11 MR. DUMAIS: And in one of those meetings  
12 you would have pointed out to Cornwall Police Services that  
13 your concerns about the allegations or the source of your  
14 concerns came from Mrs. Robinson's case notes on the  
15 matter; is that correct?

16 MR. O'BRIEN: Yes.

17 MR. DUMAIS: Is it fair to say that, at this  
18 point in time Mr. O'Brien, you believed that the Cornwall  
19 Police Services was investigating the matter; is that  
20 correct?

21 MR. O'BRIEN: Yes.

22 MR. DUMAIS: All right.

23 And my understanding is that you would have  
24 had a subsequent meeting with the Crown Attorney's office  
25 as well; is that correct?

1                   **MR. O'BRIEN:** That's correct, yes.

2                   **MR. DUMAIS:** If we can just have a quick  
3 look at your entry on October 3<sup>rd</sup>, 1989?

4                   **THE COMMISSIONER:** It's on page 4?

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

6                   And if we just look at the first couple of  
7 lines, Mr. O'Brien, which reads as follows:

8                   "I was finally able to reach the Crown  
9 Attorney, Don Johnston, today and  
10 advised him that I had gone back to the  
11 police, my reasons for doing so and the  
12 kind of information I had given to  
13 them. I asked whether he wished a copy  
14 of this material at the present time  
15 and he said he did not because he felt  
16 if the police were going to pursue the  
17 matter further, they would be alerting  
18 him with the information they had."

19                   **MR. O'BRIEN:** Yes. Yes.

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

21                   So and is it fair to say that you would have  
22 provided the police then with the documents that you looked  
23 at, so the case notes of Mrs. Robinson, and other material  
24 that the Agency had compiled on this matter?

25                   **MR. O'BRIEN:** I would have given them all

1 the information we had, yes, copies of it.

2 MR. DUMAIS: Okay. And certainly, it  
3 appears that the Crown's office, at this point in time, are  
4 content with leaving the matter in the Cornwall Police's  
5 hands; is that correct?

6 MR. O'BRIEN: That's right, yes.

7 MR. DUMAIS: Now, my understanding is after  
8 these meetings, you would have requested updates from  
9 Detective Malloy; is that correct?

10 MR. O'BRIEN: Yes, that's right.

11 MR. DUMAIS: And we see a reference here on  
12 October 23<sup>rd</sup>, 1989, where you would have requested an update  
13 on where the investigation was at? Do you see that?

14 MR. O'BRIEN: Yes, yes.

15 MR. DUMAIS: And again you would have made a  
16 similar request on December 22<sup>nd</sup>, 1989?

17 MR. O'BRIEN: Yes.

18 MR. DUMAIS: And essentially at that time,  
19 he was telling you that he did not have time to close his  
20 investigation before the year end and he would do so in  
21 1990; is that correct?

22 MR. O'BRIEN: That's right, yes.

23 MR. DUMAIS: And my understanding is that  
24 during all of these events over that four or five-month  
25 period of time, Mr. Keough and his wife were in the process

1 of adopting a foster child themselves; is that correct?

2 **MR. O'BRIEN:** No, not in the process of  
3 adopting. What they would have done -- what he would have  
4 done probably would advise me that he was considering it.  
5 It was customary when you placed a child for adoption to  
6 have the adopting parents go through a screening process.

7 **MR. DUMAIS:** Yes.

8 **MR. O'BRIEN:** And that would have been made  
9 clear to him and it also would have been made clear to him  
10 that we would not do the investigation. It would have to  
11 be an outside agency doing an investigation on our own  
12 staff.

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

14 But certainly, Mr. O'Brien, you had  
15 knowledge at that time that they were considering adopting  
16 a foster child; is that correct?

17 **MR. O'BRIEN:** Yes.

18 **MR. DUMAIS:** Now, if you can just then turn  
19 to page 6 of the entry on February 7<sup>th</sup>, 1990? So I will  
20 just read it out:

21 "The Executive Director has made  
22 several calls to Detective Malloy and  
23 one at the Deputy Chief to learn the  
24 present status of this case. Today,  
25 Kevin Malloy advised me by telephone

1                   that they have not sufficient evidence  
2                   on which the police could proceed and  
3                   that by telephone the Crown Attorney  
4                   had agreed with the police decision."

5                   And if we look at the next paragraph:

6                   "Detective Malloy is to meet with the  
7                   Crown Attorney to go over the evidence  
8                   in this case and expects to be advised  
9                   in writing of the Crown's agreement  
10                  that no further action is necessary."

11                  **MR. O'BRIEN:** Yes.

12                  **MR. DUMAIS:** So at this point in time,  
13                  Detective Malloy is advising you that he does not have  
14                  sufficient grounds to lay any charge against Mr. Keough but  
15                  that he -- a subsequent meeting with the Crown Attorney's  
16                  office is to occur; is that correct?

17                  **MR. O'BRIEN:** I'm sorry, "a subsequent?"

18                  **MR. DUMAIS:** That there's to be a meeting  
19                  with the Crown Attorney on this matter?

20                  **MR. O'BRIEN:** Yes, he also had discussed it  
21                  prior to a meeting that was coming up. He had discussed it  
22                  by telephone with the Crown.

23                  **MR. DUMAIS:** Yeah, he indicated that he had  
24                  a discussion with the Crown and then -- but also indicates  
25                  that there is to be a meeting with the Crown Attorney to go

1 over the evidence?

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: You agree with that?

4 MR. O'BRIEN: Yes.

5 MR. DUMAIS: All right.

6 And then after this telephone conversation  
7 with Detective Malloy, you then would have met with Mr.  
8 Keough; is that correct?

9 MR. O'BRIEN: Yes.

10 MR. DUMAIS: All right.

11 And you explain essentially the events that  
12 have been happening in the last five or six months;  
13 correct?

14 MR. O'BRIEN: Yes.

15 MR. DUMAIS: And you have some discussions  
16 with him. One was with respect to his adoption and at one  
17 point in time he advises you that he no longer wishes to  
18 proceed with this process?

19 MR. O'BRIEN: No longer wishes to proceed  
20 with what?

21 MR. DUMAIS: With the adoption process?

22 MR. O'BRIEN: That's correct, yes.

23 MR. DUMAIS: And at the time, Mr. Keough had  
24 already advised you that he would be leaving the Agency  
25 shortly to attend to college; is that correct?

1                   **MR. O'BRIEN:** Yes.

2                   **THE COMMISSIONER:** Excuse me.

3                   Had he already told you that before or did  
4 he tell you that at the time that you met with him?

5                   **MR. O'BRIEN:** I think, Commissioner, at the  
6 time I met with him.

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

8                   **MR. DUMAIS:** And then we know that  
9 subsequently he would have left later that year in 1990,  
10 shortly after you left the Agency. Is that your  
11 understanding as well?

12                   **MR. O'BRIEN:** Yes.

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

14                   So at no point in time, Mr. O'Brien, did the  
15 Agency suspend Mr. Keough from any of his duties; is that  
16 correct?

17                   **MR. O'BRIEN:** That's correct.

18                   **MR. DUMAIS:** And is it fair to say that from  
19 the time that you referred the matter to the police  
20 services that the Agency was no longer investigating this  
21 matter?

22                   **MR. O'BRIEN:** That's true, except that I  
23 believe there's a letter on file somewhere that I wrote to  
24 the college that he wished to attend, and advised them of  
25 what we knew about him.

1                   **MR. DUMAIS:** All right. You would have  
2 written the letter to ---

3                   **MR. O'BRIEN:** And they were -- and advised  
4 the college that these were allegations; we could not prove  
5 them. There should be a letter on file.

6                   **THE COMMISSIONER:** There is.

7                   **MR. DUMAIS:** And after your telephone  
8 conversation with Detective Malloy you did not decide to  
9 conduct your own investigation to determine whether or not  
10 there were any merits to these allegations; correct?

11                   **MR. O'BRIEN:** That's correct, and what you  
12 have to understand, sir, my personal relationship and the  
13 Agency's relationship with Dr. Malloy. When it came to our  
14 attention as the years progressed that there was a lot of  
15 sexual abuse that had occurred in the area, we almost had  
16 two policemen living at the Children's Aid Society, one of  
17 whom was Detective Malloy, and I got to know him pretty  
18 well.

19                   So there was an open and honest exchange of  
20 facts as we each understood them. So when Malloy told me  
21 something I accepted it because we had a good working  
22 relationship. The other policeman who was in our place a  
23 lot was Sergeant Trottier but, as I just mentioned, the two  
24 cops were there as we became more knowledgeable about the  
25 sexual abuse occurring within the area. Because when I

1 became Director in 1966 the word "sexual abuse" was not in  
2 the legislation. It was not recognized by society.

3 I don't want to belabour that point but  
4 there's a change from when we didn't know as a society, or  
5 as a society we didn't admit -- I'm not sure which -- to  
6 becoming completely engrossed, where we had two cops almost  
7 living continuously at the Children's Aid because we had to  
8 protect children and they had to have enough knowledge to  
9 lay charges if necessary because of the criminal acts.

10 **MR. DUMAIS:** Fair enough, Mr. O'Brien, but I  
11 mean if the referral or the information that you had  
12 received with respect to Mr. Keough had been on any other  
13 person in Cornwall, the Agency would have investigated the  
14 matter; correct?

15 **MR. O'BRIEN:** Probably.

16 **MR. DUMAIS:** After your telephone  
17 conversation with Mr. Malloy do you recall that he would  
18 have told you that he would confirm everything in writing  
19 or send you a letter, or something to that effect?

20 **MR. O'BRIEN:** The notes indicate that and I  
21 accept them as being factual.

22 **MR. DUMAIS:** Okay. Perhaps if now have just  
23 a quick look at Exhibit ---

24 **THE COMMISSIONER:** Well, before we go there.  
25 You said that had anyone else been reported

1 to the Children's Aid Society in Cornwall about an  
2 allegation of abuse, something like what you had with  
3 Mr. Keough that you would have probably opened a file and  
4 done an investigation.

5 Is there an explanation why you didn't do  
6 that with Mr. Keough?

7 **MR. O'BRIEN:** Yes.

8 **THE COMMISSIONER:** Okay.

9 **MR. O'BRIEN:** As I recall, the information  
10 about possible sexual abuse by him came from Jeannette and,  
11 as you know, it came through a telephone conversation from  
12 her to me.

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

14 **MR. O'BRIEN:** I invited her to come to the  
15 office to discuss it further and she did not do so. So I  
16 wasn't sure of the validity of what she was talking about,  
17 but because I wasn't sure I discussed the whole matter with  
18 the Crown Attorney and with the Deputy Chief of Police.  
19 There was a lot of uncertainty about it.

20 I'm not excusing my actions. I just was not  
21 sure what to do.

22 **THE COMMISSIONER:** But those are actions,  
23 and commendable, to speak to police authorities. But that  
24 is different from your mandate to protect children, and  
25 oftentimes would you not have investigations going on that

1           wouldn't involve the police necessarily but would be  
2           looking at the protection of children?

3                   **MR. O'BRIEN:** Oh, yes, because protection of  
4           children, most of the time as a matter of fact, did not  
5           involve sexual abuse. It was all kinds of issues that were  
6           brought forth, indicating that children needed protection  
7           particularly from the way their parents were handling them.

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

9                   **MR. O'BRIEN:** Did I answer your question?

10                   **THE COMMISSIONER:** Well, not quite, because  
11           what you said was if it would have been anybody else in the  
12           community you would have investigated. Like I'm using the  
13           same facts that you had with Keough and you said -- and  
14           maybe you want to think about that -- is that you would  
15           have investigated, had it been somebody else in the  
16           community.

17                   **MR. O'BRIEN:** I guess I'm saying that in  
18           hindsight, Mr. Commissioner. It's over 30 years ago ---

19                   **THE COMMISSIONER:** Sure.

20                   **MR. O'BRIEN:** --- and I'm not positive about  
21           some of the conclusions I reached in all instances.

22                   **THE COMMISSIONER:** Okay, fair enough.

23                   **MR. DUMAIS:** If we can just have a quick  
24           look at Exhibit 2429, Mr. O'Brien?

25                                   **(SHORT PAUSE/COURTE PAUSE)**

1                   **MR. O'BRIEN:** Yes, sir.

2                   **MR. DUMAIS:** So am I correct that this is a  
3 memo that you would have, I guess, dictated to Mr. Abell in  
4 May of 1990 because essentially you were leaving the Agency  
5 and you wanted him to be aware of the situation?

6                   **MR. O'BRIEN:** I not only wanted him to be  
7 aware of the situation but I wanted, if I could, to resolve  
8 the situation before I went on leave because, all things  
9 considered, it was a pretty messy situation. I wanted to  
10 try and clear it up so Mr. Abell was not stuck with it.

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

12                   So you essentially wanted the matter dealt  
13 with before you left ---

14                   **MR. O'BRIEN:** Yes.

15                   **MR. DUMAIS:** --- to take your retirement;  
16 correct?

17                   **MR. O'BRIEN:** Yes.

18                   **MR. DUMAIS:** Right. So if we can just have  
19 a quick look at the memo that you left with him, so the  
20 first paragraph reads as follows:

21                   "I did follow up several times verbally  
22 with Detective Malloy but he had not on  
23 any occasion received a letter from the  
24 Crown Attorney and I'm not sure that he  
25 ever will. I'm not sure that there is

1                                   much point in your pursuing the matter  
2                                   with the Crown Attorney."

3                   **MR. O'BRIEN:** Yes.

4                   **MR. DUMAIS:** So fair to say that at this  
5 point in time you would not have received any sort of  
6 report from either the Crown Attorney's Office or the  
7 police services with respect to their subsequent meeting  
8 that Detective Malloy alluded to in your last conversation  
9 with him?

10                   **MR. O'BRIEN:** Yes.

11                   **MR. DUMAIS:** And then you make reference to  
12 the fact that he should consider advising the president of  
13 the board and, as well, he should be advising Ms. Lenore  
14 Jones that this is no longer a contentious issue for the  
15 society; correct?

16                   **MR. O'BRIEN:** That's correct.

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

18                   **MR. O'BRIEN:** The reason I would advise  
19 Lenore Jones it was no longer a contentious issue was that  
20 I was fairly certain that if the Crown thought further  
21 action should have taken with -- by us, he would have told  
22 me so.

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

24                                   So you're essentially relying on the fact  
25 that Detective Malloy is to meet with the Crown and if they

1 have any concerns that they would advise you; right?

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: Do you recall doing any follow-  
4 up with the Crown's office after that conversation with  
5 Detective Malloy yourself? Did you initiate the contact?  
6 Do you remember that?

7 MR. O'BRIEN: No, I don't recall initiating  
8 another contact.

9 MR. DUMAIS: Okay, all right.

10 If I can just ask you a few questions now on  
11 your involvement with events which occurred in the  
12 Cieslewicz foster home. And perhaps we can give you  
13 Exhibit 2337 to look at.

14 And perhaps Madam Clerk, we can identify the  
15 monikers for the four girls living in the foster home, so  
16 C-76, C-77, C-78 and C-79?

17 (SHORT PAUSE/COURTE PAUSE)

18 THE COMMISSIONER: So do you understand, Mr.  
19 O'Brien, that we're going to give you what we call monikers  
20 which are numbers so that we won't mention the names of the  
21 wards for their privacy interest?

22 MR. O'BRIEN: Yes, Your Honour.

23 THE COMMISSIONER: Okay.

24 Do you have much longer, Mr. Dumais?

25 MR. DUMAIS: A little more than halfway, Mr.

1 Commissioner.

2 **THE COMMISSIONER:** Mr. O'Brien? Mr.

3 O'Brien?

4 **MR. O'BRIEN:** Yes, Your Honour?

5 **THE COMMISSIONER:** How are you feeling at  
6 this point?

7 **MR. O'BRIEN:** Not too bad, sir.

8 **THE COMMISSIONER:** All right.

9 So can we go on for -- we had understood  
10 that we'd go for about an hour and take a break or see how  
11 we're going to go. It's been about an hour now. Would you  
12 like a break now or do you want to ---

13 **MR. O'BRIEN:** No, if I may, I'd like to make  
14 it 12:15 because I'm diabetic and I need to take some ---

15 **THE COMMISSIONER:** Fine.

16 **MR. O'BRIEN:** --- medicine. But I'll go on  
17 till 12:15 if it's okay with you?

18 **THE COMMISSIONER:** Oh, that's fine with me.  
19 Thank you very much, sir.

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

21 Mr. O'Brien, do you have Exhibit 2337 in  
22 front of you?

23 **MR. O'BRIEN:** Yes.

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

25 So my understanding is this is a letter that

1           you would have written to Mr. Dolby who was the director of  
2           child welfare ---

3                       **MR. O'BRIEN:** Yes.

4                       **MR. DUMAIS:** --- regarding the occurrences  
5           in the Cieslewicz home; is that correct?

6                       **MR. O'BRIEN:** Yes.

7                       **MR. DUMAIS:** And you have recently reviewed  
8           that report?

9                       **MR. O'BRIEN:** Reviewed that report or that  
10          letter?

11                      **MR. DUMAIS:** That letter, sorry.

12                      **MR. O'BRIEN:** Yes.

13                      **MR. DUMAIS:** And essentially you -- at the  
14          beginning of your letter you go through the separate -- the  
15          different occurrences or the different allegations that  
16          four foster girls that had been living in the Cieslewicz  
17          home would have made over the years; correct?

18                      **MR. O'BRIEN:** Yes.

19                      **MR. DUMAIS:** All right.

20                      And you go through in explaining the  
21          situation some of the rationalization for not closing this  
22          home or reporting the matter -- or doing anything with the  
23          initial allegations. And some of the rationalization was  
24          that the girls were either known to be liars or the girls  
25          were known to be promiscuous or were thought to be not

1 credible.

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: Is that fair?

4 MR. O'BRIEN: Yes.

5 MR. DUMAIS: But at one point in time, and I  
6 think that's after the last allegation, the society was  
7 sufficiently concerned that they had a meeting with child  
8 protection care workers that had children in this home to  
9 discuss the matter.

10 MR. O'BRIEN: Yes.

11 MR. DUMAIS: And a decision had been made to  
12 close the home.

13 MR. O'BRIEN: Yes.

14 MR. DUMAIS: And I'm just going to read out  
15 -- I'm looking at the second page of your letter. So the  
16 fourth paragraph from the bottom, it starts with "while."

17 MR. O'BRIEN: Yes.

18 MR. DUMAIS:

19 "While we question the credibility of  
20 this girl, we felt at this point that  
21 further investigation of this home was  
22 warranted. A meeting of all social  
23 workers involved with this home was  
24 called and the outcome was that the  
25 Cieslewicz home be closed as a

1 receiving home. And the decision with  
2 respect to removing C-76 from the home  
3 was deferred to the worker and  
4 supervisor level."

5 MR. O'BRIEN: Yes.

6 MR. DUMAIS: All right.

7 So a decision had only, at this point in  
8 time, been made to close it as a receiving home; correct?  
9 Am I reading that correctly?

10 MR. O'BRIEN: No, I guess -- was it a  
11 receiving home?

12 MR. DUMAIS: It reads ---

13 MR. O'BRIEN: Oh, yes.

14 MR. DUMAIS: --- "In the outcome was that  
15 the Cieslewicz home be closed as a  
16 receiving home. Any decision with  
17 respect to removing C-76 from the home  
18 was deferred to the worker and  
19 supervisor level."

20 MR. O'BRIEN: Yes, okay.

21 MR. DUMAIS: Do you recall that, whether or  
22 not a decision has been made just to close it as a  
23 receiving home but not necessarily as a foster home?

24 MR. O'BRIEN: No, I do not.

25 MR. DUMAIS: You don't recall that or; no,

1           that decision was not made?

2                       **MR. O'BRIEN:** I don't recall.

3                       **MR. DUMAIS:** Okay. And in the last  
4 paragraph of your letter, you indicate that you have had  
5 some contact with the Crown Attorney's office; is that  
6 correct?

7                       **MR. O'BRIEN:** Yes.

8                       **MR. DUMAIS:** Am I correct in understanding  
9 that you dealt exclusively with the Crown Attorney's office  
10 here and never referred the matter to the -- any police  
11 service?

12                      **MR. O'BRIEN:** Well, excuse me -- to  
13 understand why I would go to the Crown Attorney so often  
14 you have to go back in time to when I first came to  
15 Cornwall as a probation officer. There was only one Crown  
16 Attorney at that time and I knew him in working with the  
17 adult court.

18                      I also knew him personally on a social level  
19 because we were both members of the SDG Highlanders. I had  
20 a lot of respect not only for his knowledge but for his  
21 professionalism.

22                      Cornwall then and now is still a small  
23 community in terms of population and for years we only had  
24 one Crown Attorney and I knew them all. And when it came  
25 to a matter of wanting to understand the law better to make

1       sure I was doing what I should have been doing, I would  
2       discuss it with the Crown Attorney and, as I said before,  
3       if the Crown felt that I should be going to the police they  
4       would tell me in no uncertain terms.

5                   Does that answer your question?

6                   **MR. DUMAIS:** All right. I understand that.

7                   But you'd agree with me, Mr. O'Brien, that  
8       the Crown Attorney is not investigating these matters?

9                   **MR. O'BRIEN:** Oh, I understand that, yes.

10                  **MR. DUMAIS:** Yes? And I mean the Crown  
11       Attorney is basing his or her decision on your providing  
12       him with the facts of the events; correct?

13                  **MR. O'BRIEN:** Yes, but if he felt he wanted  
14       more facts or needed more facts to make an appropriate  
15       decision he would have told me so.

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

17                  And I mean in hindsight, Mr. O'Brien, are  
18       you still comfortable with that decision; going to the  
19       Crown rather than referring the matter to police to conduct  
20       an investigation?

21                  **MR. O'BRIEN:** Did I feel comfortable with  
22       it?

23                  **MR. DUMAIS:** Yes.

24                  **MR. O'BRIEN:** Yes, very much so.

25                  **MR. DUMAIS:** And you're still of that view

1           today?

2                       **MR. O'BRIEN:** I beg your pardon?

3                       **MR. DUMAIS:** You're still of that view  
4           today?

5                       **MR. O'BRIEN:** Well, I still am if there's  
6           one Crown Attorney, but if you've got half a dozen I don't  
7           know that I'd treat it the same way.

8                       **MR. DUMAIS:** I see.

9                       **MR. O'BRIEN:** If I had any questions I would  
10          contact the Chief of Police directly because we had a good  
11          rapport with the various institutions within the city.

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

13                      At that time you sort of had a relationship  
14          with persons in different institutions?

15                      **MR. O'BRIEN:** Yes.

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

17                      If I can just ask you a few questions then  
18          about Roberta Archambault -- she was known at the time as  
19          Roberta Judd, Mr. O'Brien -- and her placement in the  
20          Lapensée Group Home. Do you recall that, the Lapensée  
21          Group Home?

22                      **MR. O'BRIEN:** I remember the name and I  
23          remember reading about it. I don't remember a lot of  
24          detail about the Lapensée home but I know what the problem  
25          was or viewed it to have been.

1                   **MR. DUMAIS:** Okay.

2                   But certainly in preparation for your  
3 evidence, Mr. O'Brien, you would have looked at the Serious  
4 Occurrence Reports that had been prepared and filed with  
5 respect to this matter?

6                   **MR. O'BRIEN:** Filed with whom?

7                   **MR. DUMAIS:** Well, perhaps -- well, let me  
8 just take you to them.

9                   **MR. O'BRIEN:** Okay.

10                  **MR. DUMAIS:** If you can just have a quick  
11 look at Exhibit 2394?

12                                   **(SHORT PAUSE/COURTE PAUSE)**

13                  **MR. DUMAIS:** So this, I believe, is the  
14 first Serious Occurrence Report on the matter. If we look  
15 at the last page, it's a report by Mr. MacLean on December  
16 1<sup>st</sup>, 1982.

17                  **MR. O'BRIEN:** Yes.

18                  **MR. DUMAIS:** And it refers to allegations  
19 that Mr. Lapensée, Brian Lapensée, was sexually molesting  
20 her and other girls in the home. I'm just looking at the  
21 first paragraph, the last two lines. Do you see this?

22                  **MR. O'BRIEN:** Yes.

23                  **MR. DUMAIS:** And the report indicates that  
24 there would have been a number of incidents, and there is  
25 no need to go into them specifically but there's five

1 incidents that are noted there on the first page, right?

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: And these were all allegations  
4 made against Brian Lapensée, who was the ---

5 MR. O'BRIEN: Son.

6 MR. DUMAIS: --- son of the foster parents  
7 there?

8 MR. O'BRIEN: That's correct, yes.

9 MR. DUMAIS: Okay.

10 Now, if you can just have a look at Exhibit  
11 2397?

12 MR. O'BRIEN: Yes.

13 MR. DUMAIS: So am I correct in saying that  
14 this is a letter you had written to Mr. Lapensée on  
15 December 20<sup>th</sup>, 1982?

16 MR. O'BRIEN: Yes, I signed it.

17 MR. DUMAIS: So then you would have written  
18 a letter, and that was following your interview with him on  
19 November 30<sup>th</sup>, 1982. That's referenced on the first line of  
20 your letter; do you see that?

21 MR. O'BRIEN: Yes.

22 MR. DUMAIS: And then you indicate that you  
23 understand that he has recently returned to the area; is  
24 that correct?

25 MR. O'BRIEN: Yes.

1                   **MR. DUMAIS:** And essentially you're  
2                   reminding him that he's not to have any contact with any of  
3                   the wards placed in the home; is that correct?

4                   **MR. O'BRIEN:** That's correct, yes.

5                   **MR. DUMAIS:** Because you had concerns with  
6                   him having contact with your wards; correct?

7                   **MR. O'BRIEN:** Yes.

8                   **MR. DUMAIS:** And essentially you were  
9                   indicating that if you receive any complaints or  
10                  information that there was contact that there could be  
11                  serious consequences?

12                  **MR. O'BRIEN:** Yes.

13                  **MR. DUMAIS:** Now, a few days later -- if you  
14                  can just have a look at Exhibit 2398?

15                  **MR. O'BRIEN:** Yes.

16                  **MR. DUMAIS:** And this is a letter dated  
17                  December 22<sup>nd</sup>, '82 where Mr. Lapensée is writing to you,  
18                  indicating to you that Roberta has returned to their home  
19                  in early December; is that correct?

20                  **MR. O'BRIEN:** Yes.

21                  **MR. DUMAIS:** And then if we look at the last  
22                  three lines of that second paragraph -- and I'll just read  
23                  it out to you:

24                                    "The problem that exists, as you're  
25                                    aware, is that my son Brian has once

1                                   again returned to our farm home where  
2                                   we will be celebrating Christmas  
3                                   together as a family."

4                   **MR. O'BRIEN:** Yes.

5                   **MR. DUMAIS:** So I guess in that letter he's  
6 both advising you that Roberta is back in the home and so  
7 is the son which was the source of your concern.

8                   **THE COMMISSIONER:** Not quite; not quite.  
9 The concern is that he is at the farm and they are going to  
10 celebrate Christmas at the farm.

11                   **MR. DUMAIS:** Fair enough. And perhaps I can  
12 just read it for the purpose of clarity, just for the  
13 record:

14                                   "The problem that exists, as you're  
15                                   aware, is that my son Brian has once  
16                                   again returned to our farm home where  
17                                   we will be celebrating Christmas  
18                                   together as a family."

19                   So then, if you can just -- do you see that,  
20 Mr. O'Brien?

21                   **MR. O'BRIEN:** Yes.

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

23                   So then if you look at the next exhibit,  
24 which is 2399?

25                                   **(SHORT PAUSE/COURTE PAUSE)**

1 MR. O'BRIEN: Yes.

2 MR. DUMAIS: And you're essentially  
3 responding to his request that Roberta spend Christmas with  
4 them.

5 MR. O'BRIEN: That's correct.

6 MR. DUMAIS: And you're granting that  
7 permission to the foster parents; correct?

8 MR. O'BRIEN: With provisos.

9 MR. DUMAIS: With a proviso being that he  
10 assume full responsibility of her? That's the first one;  
11 correct?

12 MR. O'BRIEN: Yes.

13 MR. DUMAIS: And number 2, "That Roberta  
14 only stay overnight in the farm home when you both are  
15 there on Christmas Eve and Christmas night"?

16 MR. O'BRIEN: That's correct.

17 MR. DUMAIS: Now, was it your understanding  
18 at that time that Brian would be in the home but -- and the  
19 proviso was that Roberta could be there as long as Mr. and  
20 Mrs. Lapensée ---

21 MR. O'BRIEN: That's correct.

22 MR. DUMAIS: --- Lapensée were there;  
23 correct?

24 MR. O'BRIEN: Yes.

25 MR. DUMAIS: All right.

1                   Now, if you can just have a look then at the  
2                   next exhibit, which is Exhibit 131.

3                   **(SHORT PAUSE/COURTE PAUSE)**

4                   **MR. O'BRIEN:** Yes.

5                   **MR. DUMAIS:** So that's the second serious  
6                   occurrence report that was prepared in that file.

7                   Do you have that, Mr. O'Brien?

8                   **MR. O'BRIEN:** Yes, I have it.

9                   **MR. DUMAIS:** And it is -- it was prepared by  
10                  Mr. MacLean, and again, it's dated April 11<sup>th</sup>, 1983.

11                  In this occurrence report the childcare  
12                  worker would have picked up Roberta at her school after she  
13                  had been advised that Roberta had taken a number of pills;  
14                  correct?

15                  **MR. O'BRIEN:** Are you referring to the  
16                  letter -- a serious occurrence report?

17                  **THE COMMISSIONER:** That's right.

18                  **MR. DUMAIS:** Correct.

19                  **MR. O'BRIEN:** And where are you in that?

20                  **MR. DUMAIS:** Okay. So I'm just -- if you  
21                  look at the second page of that report ---

22                  **MR. O'BRIEN:** Yes.

23                  **MR. DUMAIS:** Well, actually, if you look at  
24                  the first page it's mentioned there as well under 1:30 p.m.

25                  **MR. O'BRIEN:** Yes.

1                   **MR. DUMAIS:** So she's -- and I'll just read  
2                   it out:

3                                 "Mary Miller visited Roberta at school  
4                                 who indicated she had a problem as a  
5                                 result of a weekend family party with  
6                                 the Lapensées and had overdosed on 26  
7                                 Anacin Monday evening."

8                   **MR. O'BRIEN:** Yes.

9                   **MR. DUMAIS:** So that's what started  
10                   everything in April of 1983. Do you agree with me?

11                   **MR. O'BRIEN:** Yes.

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

13                                 So then during the course of the worker's  
14                   investigation she's being advised that there's been a  
15                   sexual encounter between Roberta and Brian.

16                   **MR. O'BRIEN:** Brian whom?

17                   **MR. DUMAIS:** So if you just look at ---

18                   **MR. O'BRIEN:** Oh, Lapensée -- Brian ---

19                   **THE COMMISSIONER:** Brian Lapensée, yes.

20                   **MR. O'BRIEN:** Where is that that you're  
21                   speaking of?

22                   **MR. DUMAIS:** That's the second page. So all  
23                   the facts are related.

24                   **MR. O'BRIEN:** Okay.

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

1 paragraphs one and two.

2 THE COMMISSIONER: Right.

3 MR. DUMAIS: And paragraph five as well.

4 MR. O'BRIEN: Yes.

5 MR. DUMAIS: Do you see that?

6 MR. O'BRIEN: Yes.

7 MR. DUMAIS: And on the following page, page  
8 3, the first full paragraph after number 13, I'm just going  
9 to read it out to you, Mr. O'Brien, it might be easier. So  
10 it's the second part of that paragraph. So it reads as  
11 follows:

12 "Roberta acknowledged that the  
13 accusations made by various other girls  
14 in late November '82 against Brian were  
15 true and denied by her because she had  
16 always been able to handle Brian and  
17 his advances to her and she did not  
18 want to hurt Ed and Alice by telling  
19 them the truth."

20 MR. O'BRIEN: Yes.

21 MR. DUMAIS: She appears to be confirming  
22 the previous allegations that were part of the other  
23 serious occurrence report. Do you agree?

24 MR. O'BRIEN: Yes.

25 MR. DUMAIS: All right.

1                   And if -- I'm looking at the last page of  
2                   the report then, Mr. O'Brien, and the recommendations that  
3                   are being made by Mr. MacLean.

4                   **MR. O'BRIEN:** Yes.

5                   **MR. DUMAIS:** So the first recommendation is  
6                   that a serious occurrence report be prepared and that the  
7                   police or Crown Attorney be consulted.

8                   **MR. O'BRIEN:** Yes.

9                   **MR. DUMAIS:** And my understanding is that  
10                  you would then have communicated with the Crown Attorney's  
11                  office, with Mr. Alan Ain. Do you recall that?

12                  **MR. O'BRIEN:** Yes.

13                  **THE COMMISSIONER:** It's 12:15. Do you have  
14                  a couple questions left?

15                  **MR. DUMAIS:** If I could just -- just a few  
16                  questions to finish with this issue.

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

18                  **MR. DUMAIS:** Then if you can just have a  
19                  look at Exhibit 134?

20                  **MR. O'BRIEN:** I have it.

21                  **MR. DUMAIS:** You have that. So this is a  
22                  letter that would have been sent on April 22<sup>nd</sup>, 1983 to Mr.  
23                  Nadon essentially indicating that you would have met with  
24                  the Crown Attorney and it was his -- the Assistant Crown  
25                  Attorney -- sorry -- and it was his opinion that there

1 would be no point in pursuing charges against Brian  
2 Lapensée at this time.

3 MR. O'BRIEN: Yes.

4 MR. DUMAIS: So do you recall that, Mr. Ain  
5 advising you of that?

6 MR. O'BRIEN: Yes.

7 MR. DUMAIS: Okay. And you would have been  
8 the one, Mr. O'Brien, who would have met with him and made  
9 him aware of the facts regarding Mr. Lapensée?

10 MR. O'BRIEN: If it was a meeting with Mr.  
11 Ain it would have been me that met with him, yes.

12 MR. DUMAIS: Okay. And, again, you don't  
13 recall, Mr. O'Brien, having advised any police service  
14 about these allegations or asking them to investigate the  
15 matter. Is that correct?

16 MR. O'BRIEN: That's correct.

17 MR. DUMAIS: We can finish here, Mr.  
18 Commissioner.

19 I have about five or 10 minutes left.

20 THE COMMISSIONER: All right.

21 Mr. O'Brien, we're going to stop now for  
22 lunch. How are you feeling?

23 MR. O'BRIEN: I'll come back.

24 THE COMMISSIONER: You'll come back?

25 MR. O'BRIEN: Yes.

1                   **THE COMMISSIONER:** All right.

2                   So given that we're leaving at 12:20 we  
3 would come back at 10 to two.

4                   **MR. O'BRIEN:** Yes, Your Honour.

5                   **THE COMMISSIONER:** Is that okay? Do you  
6 fell up to it?

7                   **MR. O'BRIEN:** Yes, Your Honour.

8                   **THE COMMISSIONER:** Okay. So let's come back  
9 at 10 to two and then we'll see how long you want to stay  
10 further.

11                   **MR. O'BRIEN:** Thank you.

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

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

15                   This hearing will resume at 1:50 p.m.

16 ---Upon recessing at 12:18 p.m./

17 L'audience est suspendue à 12h18

18 ---Upon resuming at 1:53 p.m./

19 L'audience est reprise à 13h53

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

22                   This hearing is now resumed. Please be  
23 seated. Veuillez vous asseoir.

24                   **THE COMMISSIONER:** Thank you.

25 **THOMAS O'BRIEN, Resumed/Sous le même serment:**

1                   **THE COMMISSIONER:** Good afternoon, Mr.  
2           O'Brien. How are you doing, Mr. O'Brien?  
3                   **MR. O'BRIEN:** Very good, sir.  
4                   **THE COMMISSIONER:** You'll let me know if you  
5           need a break?  
6                   **MR. O'BRIEN:** In approximately an hour.  
7                   **THE COMMISSIONER:** Sure. That's fine.  
8           Thank you.  
9                   **MR. O'BRIEN:** Thank you.

10           **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF BY MR.**  
11           **DUMAIS (Cont'd/Suite):**

12                   **MR. DUMAIS:** All right.  
13                   Mr. O'Brien, just a few questions on Exhibit  
14           Number 538.  
15                   Perhaps, Madam Clerk, we can identify C-14  
16           for Mr. O'Brien.

17                   **(SHORT PAUSE/COURTE PAUSE)**

18                   **THE COMMISSIONER:** Which moniker, Mr. ---

19                   **MR. DUMAIS:** C-14.

20                   **THE COMMISSIONER:** Oh, yes, of course.

21                   **MR. DUMAIS:** So if you can just turn to page  
22           13 of the document or 609 Front ---

23                   **THE COMMISSIONER:** Sorry, what exhibit  
24           again? I'm just settling in here.

25                   **MR. DUMAIS:** Five-three-eight (538).

1                   **THE COMMISSIONER:** Yes.

2                   **MR. O'BRIEN:** I have it.

3                   **MR. DUMAIS:** Now, my understanding, Mr.  
4 O'Brien, having heard evidence from this from both, Mr.  
5 Keough and C-14, is that sometime in November of 1977, C-14  
6 had made a complaint to his childcare worker, Mr. Keough,  
7 that he had been physically abused for a period of six  
8 years while in the care of his foster parents, the Barbers.

9                   And my understanding is that Mr. Keough  
10 would have conducted an investigation into the allegations  
11 and what we are looking at here on page 13, right under the  
12 heading "Worker's Assessment and Recommendation", is his  
13 conclusions.

14                   So I'm just going to read it in:

15                   "There's a lot that one must give and  
16 take from C-14's accusations, however,  
17 I conclude that C-14 did at times  
18 receive treatment that was far too  
19 harsh and could be labelled a beating.  
20 I further believe that at such times,  
21 C-14 had driven the foster parents to  
22 the point where they lost control and  
23 later would regret their actions. I  
24 say this because there did appear to be  
25 an emotional attachment to the lad at

1 least from their point. As the foster  
2 parents did not see the day of C-14's  
3 departure from the home come to grips  
4 with this problem, I would recommend  
5 that we place no more children in their  
6 home. This would be quite simple as  
7 the Barbers requested from me once C-14  
8 left that their home be closed."

9 So my question to you, Mr. O'Brien, is do  
10 you recall the closure of this home and the allegations  
11 that had been made by C-14?

12 **MR. O'BRIEN:** No, I don't.

13 **MR. DUMAIS:** No? All right.

14 And you don't recall whether or not you  
15 would have been advised or spoken to either the Crown or  
16 the police about this matter?

17 **MR. O'BRIEN:** No, I don't recall talking to  
18 the police or the Crown or being asked to. The two people  
19 mentioned in this part of the file, Mrs. Gratton and Mr.  
20 Towndale ---

21 **MR. DUMAIS:** Yes.

22 **MR. O'BRIEN:** --- whom I knew well, I would  
23 have trusted their confidence to make -- their confidence  
24 to make whatever decision they thought fit. It would not  
25 necessarily have come to me.

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

2                   But if the agency was seeking the advice of  
3                   the Crown Attorney's office or was referring an occurrence  
4                   to a police service, would that ultimate decision always be  
5                   made by you?

6                   **MR. O'BRIEN:** We had no firm policy,  
7                   certainly no firm written policy on that.

8                   Normally, contact with the police in order  
9                   to ask them to investigate something would be made by me,  
10                  but if there was some urgency about the matter, I would not  
11                  expect them to wait until they had a chance to talk to me.  
12                  They should go ahead and contact the police themselves if  
13                  they thought it ought to be done.

14                  **MR. DUMAIS:** All right. So you didn't  
15                  necessarily have to sign off on all contacts with the  
16                  Crown's office or the police?

17                  **MR. O'BRIEN:** No.

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

19                  Just one last area, Mr. O'Brien, and I am  
20                  going to be reading from a transcript of evidence of Ms.  
21                  Geraldine Fitzpatrick. So she was called to testify on  
22                  October 8<sup>th</sup>, 2008, and this is out of Volume 283. And she  
23                  is being cross-examined by Ms. Daley.

24                  **THE COMMISSIONER:** Well, what page?

25                  **MR. DUMAIS:** Sixty-one (61).

1                   **THE COMMISSIONER:** M'hm, page 61. What  
2                   date? Volume 283?

3                   **MR. DUMAIS:** Actually, I'm not sure of my  
4                   page, Mr. Commissioner. I'm using a condensed version.

5                   **THE COMMISSIONER:** So am I.

6                   **MR. DUMAIS:** So top right-hand corner, line  
7                   4.

8                   **THE COMMISSIONER:** So that would be page 67.

9                   **MR. DUMAIS:** Thank you.

10                  **THE COMMISSIONER:** So do you know Miss  
11                  Fitzpatrick?

12                  **MR. O'BRIEN:** Do I know her?

13                  **THE COMMISSIONER:** Yes?

14                  **MR. O'BRIEN:** Yes, Mr. Commissioner. Yes, I  
15                  do.

16                  **THE COMMISSIONER:** She was a worker when you  
17                  were the Executive Director was she?

18                  **MR. O'BRIEN:** Yes.

19                  **THE COMMISSIONER:** Okay.

20                  **MR. DUMAIS:** All right. So this is one of  
21                  the answers that she's putting to -- a question put to her  
22                  by Ms. Daley, and her answer is as follows.

23                                 And she had just finished relating to us  
24                                 that she had gone into a home, and this was a file of one  
25                                 of her colleagues. I believe she indicated it was Mr.

1 Dupuis who was also a child protection worker with your  
2 agency.

3 And while conducting her investigation, she  
4 had had a conversation with someone else who had been found  
5 in the home, and he had related to her that he had been  
6 abused both by a Mr. Ken Seguin and while he was at Alfred,  
7 the reform school.

8 So here she is indicating the following:

9 "MS. FITZPATRICK: --- told me that, in  
10 the days of the Alfred trials, it was  
11 Ken Seguin and Tom O'Brien who got on  
12 the stand and said that -- they were  
13 asked, "Did any of these wards or these  
14 children that were running away from  
15 Alfred, did they ever tell you that  
16 they were being abused in the Alfred  
17 group home?" And Carleen told me that  
18 both Ken Seguin and Tom O'Brien  
19 testified that they were never told by  
20 these children that they were being  
21 abused."

22 **MR. O'BRIEN:** Where was I supposed to have  
23 testified?

24 **MR. DUMAIS:** Well, she's not indicating  
25 specifically, but she's relating what Carleen would have

1 told her. She's simply indicating that you would have  
2 testified that you had never been told by these children  
3 that they were being abused. So I'm not exactly sure, I  
4 can't give you any more details than that.

5 So the question is, have you ever been  
6 involved in any of the Alfred trials?

7 **MR. O'BRIEN:** No, not to my knowledge. I  
8 don't know what you are talking about.

9 **MR. DUMAIS:** Okay.

10 **THE COMMISSIONER:** Have you ---

11 **MR. O'BRIEN:** I know about the Alfred  
12 Training School.

13 **THE COMMISSIONER:** Yes.

14 **MR. O'BRIEN:** And I can explain my  
15 connection with it.

16 **THE COMMISSIONER:** Go ahead.

17 **MR. O'BRIEN:** When I was a probation  
18 officer, if a boy or girl was committed to a training  
19 school by the magistrate, if it was a boy, you took to  
20 Alfred; if it was a girl you had to take a female with you  
21 to take her to St. Mary's in Toronto.

22 So I knew about Alfred. I was there several  
23 times. I had taken several boys there. I had participated  
24 in their -- once a year, they had activities where they  
25 brought in people from communities who were connected with

1           them somehow.

2                           I was not aware that there was anything  
3           improper going on in terms of physical or sexual abuse or  
4           any other kind of abuse. I thought -- my perception was  
5           that it was well-run place, but apparently it wasn't as  
6           well run as I thought, but I did not know that.

7                           **MR. DUMAIS:** Okay.

8                           **THE COMMISSIONER:** Did you know Ken Seguin?

9                           **MR. O'BRIEN:** The name has come up many  
10          times, Mr. Commissioner. I don't remember Ken.

11                           I left Probation in September of 1963. I  
12          don't know when he was there. I think it was after that.

13                           **THE COMMISSIONER:** Did you ever go, sir, to  
14          a seminary school or anything like that?

15                           **MR. O'BRIEN:** I'm sorry?

16                           **THE COMMISSIONER:** Have you ever attended a  
17          seminary school?

18                           **MR. O'BRIEN:** Me?

19                           **THE COMMISSIONER:** Yes.

20                           **MR. O'BRIEN:** Good God, no.

21                           **THE COMMISSIONER:** Okay.

22   **(LAUGHTER/RIRES)**

23                           **MR. O'BRIEN:** They wouldn't accept me, Mr.  
24          Commissioner.

25                           **THE COMMISSIONER:** Neither would they accept

1 me.

2 Okay. Go ahead, Mr. Dumais.

3 **MR. DUMAIS:** So is it fair to say then, Mr.  
4 O'Brien, or is your evidence that you were never aware  
5 until your date of retire of any allegations of either  
6 physical or sexual abuse that would have occurred at  
7 Alfred?

8 **MR. O'BRIEN:** I was not aware, no.

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

10 Thank you then, Mr. O'Brien. These ---

11 **MR. O'BRIEN:** Oh, I'm sorry, I don't know  
12 whether I answered your question correctly. You said  
13 before I retired? That's 1990.

14 **MR. DUMAIS:** Yes.

15 **MR. O'BRIEN:** I don't know when I became  
16 aware but it was prior to 1990. I somehow wasn't part of  
17 it but I became aware that ---

18 **THE COMMISSIONER:** But you never ---

19 **MR. O'BRIEN:** --- there were things  
20 happening that weren't good.

21 **THE COMMISSIONER:** Yes.

22 You never went to any kind of court and  
23 testified and gave evidence about what your knowledge was  
24 of Alfred?

25 **MR. O'BRIEN:** I don't recall any of that,

1 Mr. Commissioner.

2 **THE COMMISSIONER:** Thank you.

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

4 Now, before I let my friends ask you some  
5 questions as well, Mr. O'Brien, you have the opportunity at  
6 this point in time to make a statement and provide the  
7 Commissioner with some recommendations that you may have as  
8 result of your experience as Executive Director from the  
9 Children's Aid Society.

10 So you can go ahead now if you wish.

11 **MR. O'BRIEN:** I'm not quite sure how to  
12 address this.

13 I'm disappointed. Perhaps it's only the  
14 fault of the local press. Not all of the so-called  
15 institutions the Inquiry is dealing with come out as being  
16 incompetent and bad. And let's take the situation we're  
17 dealing with today, where you're questioning validly the  
18 actions of the Children's Aid Society in certain instances.

19 Nothing will come out in the press about  
20 that fact that over 24 years I was there we had hundreds of  
21 children go through the system. We had some excellent care  
22 provided by foster parents but only the questionable ones  
23 are coming to light in the Inquiry.

24 If I were to go back today, I think one of  
25 the first things I would do is I would look at every policy

1 and procedure that is in place and try to determine whether  
2 they were adequate and whether they should be changed; and  
3 if they should be changed, then take steps to change them  
4 and do that quickly.

5 There's one of the things that they -- and I  
6 don't know how to remedy this -- I don't know that the  
7 public fully understands, through the Inquiry, the  
8 transition of things within society. I recall specifically  
9 that in 1966 when I became the Director of Children's Aid  
10 the word "abuse" was not in the legislation.

11 Then -- and I think there were two reasons  
12 for that. I think society was denying -- particularly in  
13 terms of sexual abuse, society was denying that such bad  
14 things existed. They would say to themselves, "Who would  
15 ever think that a grandfather would do anything improper  
16 with his granddaughter? And even if you knew that it might  
17 have occurred, are you going to take the word of a child  
18 over an adult?" And at that time when I became Director,  
19 no, society did not accept outwardly that these things were  
20 existing.

21 Then when we became knowledgeable of the  
22 fact that they were existing, we were not equipped to deal  
23 with these things because we had never dealt with them  
24 before and we didn't know how to deal with them. And even  
25 if you wanted help in how to do it properly, where did you

1 go to get it? Nobody else had it either.

2 When we became aware that abuse was  
3 existing, even the police just became aware about the same  
4 time and they had no training either. You know, policemen  
5 had no training in handling sexual abuse. And I'm not  
6 excusing that we may have not done well. What I'm saying  
7 is we didn't know how.

8 And I think I would ensure today, if I were  
9 there, that the staff was quite knowledgeable about how to  
10 deal with this kind of issue.

11 The other thing that concerns me is -- and I  
12 don't know how to put this but the Inquiry is only dealing  
13 with this area and, if my information is correct, there are  
14 a lot of people coming forward needing counselling in this  
15 area. If that be so -- and they're getting it, I  
16 understand -- what's happening in the rest of Ontario?  
17 What's happening for the other 10 million people in the  
18 Province?

19 I'm confused as to the value of this Inquiry  
20 and it not taking place in other areas. I don't know the  
21 answer but I'm confused; that's all.

22 **THE COMMISSIONER:** Well, thank you, sir.

23 **MR. O'BRIEN:** But I guess, just one more  
24 thing.

25 When I started out, the agency was very

1 small in terms of staff, so every time you wanted to talk  
2 to somebody about something, you'd get the whole staff  
3 together at coffee break. Now, as I understand it, they've  
4 got 126 staff; can't do that at coffee break.

5 So being small and knowing everybody  
6 personally, it was easier to communicate. And, for  
7 instance, we socialized together because we were a small  
8 staff. It was -- all I'm saying is that there was a  
9 difference. That does not excuse any wrongdoing or any  
10 failure to act.

11 I'm just trying to point out that  
12 historically there's a difference and society has to  
13 understand that.

14 Thank you.

15 **MR. DUMAIS:** Thank you.

16 I just have one last comment,  
17 Mr. Commissioner; something I did this morning.

18 And you'll remember, Mr. O'Brien, I took you  
19 to page 7 of Exhibit 2419 and I asked the Commissioner to  
20 look at paragraph 39, and it had been pointed out that  
21 "police" should be removed from the paragraph as it did not  
22 appear in the underlying document.

23 After more close examination of the  
24 document, "police station" is identified in the document,  
25 so I'm just asking that ---

1 THE COMMISSIONER: I'm sorry?

2 MR. DUMAIS: "Police station" is identified  
3 in the document.

4 THE COMMISSIONER: So the word "police  
5 station" goes back in.

6 MR. DUMAIS: Thank you.

7 THE COMMISSIONER: Thank you.

8 Ms. Daley?

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

10 DALEY:

11 MS. DALEY: Mr. O'Brien, my name is Helen  
12 Daley. I'm counsel to the Citizens for Community Renewal,  
13 a group -- a local group principally interested in the  
14 protection of children.

15 I want to say two things to you at the  
16 outset. We will stop at five minutes to 3:00, regardless  
17 of where I'm at in my examination, but if for any reason  
18 between now and then you begin to feel tired or  
19 uncomfortable, please say so and we will stop when you say  
20 so. You're in the driver's seat on that. Is that all  
21 right, sir?

22 MR. O'BRIEN: Thank you very much.

23 MS. DALEY: And for the most part I'm going  
24 to be asking you questions based upon Exhibit 2419, the  
25 Testimony Document that was entered this morning. So I

1 don't know if you prefer to work with a hard copy or copy  
2 on the screen, but make yourself comfortable and have that  
3 document ready if you would, please.

4 **MR. O'BRIEN:** Yes, I have it.

5 **MS. DALEY:** Now, the first area I have some  
6 questions about is CAS policy, especially with respect to  
7 how children in care are to be treated. So that's my  
8 subject matter; CAS policies.

9 And you mentioned that at paragraph 12 of  
10 your document, sir, if you want to have a quick look there.  
11 And your statement there is to the effect that the board  
12 sets the policy.

13 Firstly on that point, sir, as I understand  
14 it, the board at the CAS throughout your tenure as  
15 Executive Director was a community board, meaning that it  
16 was comprised of members of the community at large; is that  
17 correct, sir?

18 **MR. O'BRIEN:** Excepting for five appointees.  
19 There were -- the total board was 21.

20 **MS. DALEY:** Yes.

21 **MR. O'BRIEN:** There were three from the  
22 United Counties and two from the city.

23 **MS. DALEY:** Here's my question. Would it be  
24 correct, sir, that the members of this board were not in  
25 fact social workers or child care professionals?

1                   **MR. O'BRIEN:** Most of them were not.

2                   **MS. DALEY:** Most of them were not. That's  
3 what I understood.

4                   And we've heard some evidence that in the  
5 mid-seventies some of the board members were housewives, a  
6 doctor, a religious sister, but they were not child care  
7 professionals for the most part at that time?

8                   **MR. O'BRIEN:** That's correct.

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

10                  Now, let me ask you this question about your  
11 role as Executive Director. Did you see it as part of your  
12 role to develop policies for the board to consider for the  
13 good of the Agency?

14                  **MR. O'BRIEN:** Yes.

15                  **MS. DALEY:** And, sir, did you ever initiate  
16 any written policies related to child care practices?

17                  **MR. O'BRIEN:** I don't recall specific  
18 policies that I initiated. I can't -- I just do not  
19 recall.

20                  **MS. DALEY:** All right.

21                  Now, sir, could you please look at paragraph  
22 15 of your document?

23                  **MR. O'BRIEN:** Yes.

24                  **MS. DALEY:** And it has to do with formal  
25 protocols governing how the CAS was to interact with other

1 community institutions, if I could just direct your  
2 attention to that topic?

3 Sir, was part of your job as an executive  
4 director, as you saw it, to develop such protocols?

5 **MR. O'BRIEN:** Maybe I should have but I  
6 didn't see it as a necessity because I was on a first-name  
7 basis with the Chief of the Police, the head of the  
8 hospital, the Bishop of the Diocese, and we just talked to  
9 each other.

10 **MS. DALEY:** Understood. What you say in  
11 this paragraph is that there were understandings with those  
12 institutions. And I take, it, sir, those understandings  
13 existed between yourself on behalf of the CAS and your  
14 counterparts who were the heads of those other  
15 institutions?

16 **MR. O'BRIEN:** That's correct, yes.

17 **MS. DALEY:** Thank you.

18 And let me ask this question, sir.

19 Did you ever develop a policy about when  
20 matters that came to CAS's attention would be reported to  
21 the police? And what I have in mind particularly, sir, are  
22 internal matters of the sort we've been discussing. So a  
23 child in care alleges abuse. Did you ever think it  
24 necessary to develop a protocol for when that type of  
25 matter would be reported to the police?

1                   **MR. O'BRIEN:** No, I didn't.

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

3                   Now, as you did make clear to us, for the  
4 most part CAS's interactions with law enforcement agencies  
5 were conducted by you personally and your personal  
6 counterparts, whether it be at the Crown Attorney's Office  
7 or the police office; is that correct, sir?

8                   **MR. O'BRIEN:** Yes, that's correct.

9                   **MS. DALEY:** And you gave testimony about  
10 your relationship with Mr. Johnston, who was the local  
11 Crown, and you gave evidence to the effect that you would  
12 have expected him to tell you to go to the police first if  
13 that was the appropriate thing to do. Did you recall that?

14                   **MR. O'BRIEN:** Yes.

15                   **MS. DALEY:** Now, two questions about that.

16                   Firstly, sir, during the time you were  
17 Executive Director, and I'm referring now to an internal  
18 matter; that is to say, a matter in which a ward is  
19 complaining about either foster parent abuse or child care  
20 worker abuse, so if you can focus on that type of instance.

21                   Was there ever a time when you went to the  
22 police directly without going to Mr. Johnston first to  
23 report such a matter?

24                   **MR. O'BRIEN:** Yes.

25                   **MS. DALEY:** And can you tell me that

1 instance?

2 **THE COMMISSIONER:** Without naming the name;  
3 just give us the general gist.

4 **MR. O'BRIEN:** There wasn't one particular  
5 case. We had a habit, rightly or wrongly, the Chief and I,  
6 of getting together periodically when we had a contentious  
7 issue. And I would talk to him about a hypothetical case  
8 and vice versa. And we both knew that it was more than  
9 hypothetical but we wanted to -- we didn't know how to  
10 handle it without getting into a position where we were  
11 improperly naming somebody or accusing somebody. We met  
12 more than once in that kind of situation. I don't know if  
13 I'm answering your question or not.

14 **MS. DALEY:** So just so I'm clear about your  
15 testimony there, sir, if you had a concern about perhaps  
16 abuse by a worker or a foster parent you might raise it  
17 with the Chief on a no-names basis and get his views; is  
18 that the gist of it?

19 **MR. O'BRIEN:** Yes, that'd be correct, and if  
20 he suggested to me that my hypothetical case needed more  
21 examination or some action I would take it. I would listen  
22 to him.

23 **MS. DALEY:** In those circumstances do you  
24 ever recall an occasion where the Chief said, "Yes, this  
25 needs more action. Bring that allegation to us formally so

1 we can investigate"?

2 MR. O'BRIEN: No.

3 MS. DALEY: Thank you.

4 Now, let me then ask you a few questions  
5 about Mr. Johnston and the evidence that you gave about  
6 your dealings with him. And, again, you had said, "If Mr.  
7 Johnston had told me to go to the police I would have done  
8 that."

9 The question that comes to my mind is that  
10 did he ever tell you to go to the police?

11 MR. O'BRIEN: No, he never told me to go to  
12 the police. In one instance he told me that he did not  
13 need information that I had given to the police because if  
14 they thought he should have it they'd give it to him. But  
15 no, he didn't. He never told -- I don't recall him ever  
16 telling me to go to the police.

17 MS. DALEY: And the instance that you're  
18 just recollecting is the Jeannette Antoine instance in  
19 1989; correct?

20 MR. O'BRIEN: I'm sorry?

21 MS. DALEY: The example you just gave me ---

22 MR. O'BRIEN: Oh, yes, yes.

23 MS. DALEY: That was Ms. Antoine's case,  
24 right?

25 MR. O'BRIEN: Yes, that's correct.

1                   **MS. DALEY:** Okay. So there was never a time  
2 where you went directly to the Crown and he said, "Listen,  
3 Tom, I think there needs to be an investigation first and  
4 you should go to the police"?

5                   **MR. O'BRIEN:** No, he never did that. But if  
6 he had done it I'd have done what he told me.

7                   **MS. DALEY:** I appreciate that.

8                   Now, in terms of your counterparts at the  
9 Cornwall Police I'm assuming, based on your testimony, you  
10 had a very good rapport with the various men who were Chief  
11 of Police during the time you were Executive Director?

12                   **MR. O'BRIEN:** Yes.

13                   **MS. DALEY:** And in the latter part of your  
14 tenure that would be Mr. Shaver?

15                   **MR. O'BRIEN:** Yes.

16                   **MS. DALEY:** And prior to Mr. Shaver it was a  
17 Chief of Police named Earl Landry, Sr. Do you recollect  
18 him as well?

19                   **MR. O'BRIEN:** Yes.

20                   **MS. DALEY:** Did you have a good rapport with  
21 Mr. Landry, Sr.?

22                   **MR. O'BRIEN:** Yes, I knew all the chiefs  
23 from 1960 up to 1990.

24                   **MS. DALEY:** All right.

25                   Now, I want to ask you a very specific

1 question about Mr. Landry, Sr. and his son. Did you ever  
2 become aware, sir, in the summer of 1985 that a CAS worker  
3 had received an allegation of child sexual abuse in which  
4 Earl Landry, Jr. was the alleged perpetrator; that is to  
5 say the Chief's son? Did that ever come to your attention?

6 MR. O'BRIEN: No, and I don't know why it  
7 didn't. That was 1985 you said?

8 MS. DALEY: Yes.

9 MR. O'BRIEN: No, I sort of learned about  
10 the junior through the Inquiry. I wasn't aware of this.

11 MS. DALEY: Did you know in the community,  
12 just by reading the paper, that he was ultimately charged  
13 with sexual offences; Mr. Landry, Jr.?

14 MR. O'BRIEN: I believe so, yes.

15 MS. DALEY: But regardless of all of that,  
16 it never came to your attention in 1985 that someone had  
17 come to your Agency and made that allegation?

18 MR. O'BRIEN: I do not recall it ever coming  
19 to my attention; no.

20 MS. DALEY: All right.

21 Now, a few questions -- changing topics,  
22 sir, just a few questions about your practice as a  
23 supervisor and if you need to, by all means have a look at  
24 page 4 of your document, paragraphs 21 to 24. But I just  
25 have a specific question for you about your role in

1 supervision.

2 And as I read this part of the document,  
3 what I took from this is that once you became the Executive  
4 Director of the CAS you would not -- you no longer  
5 routinely read case recordings on individual children in  
6 care; is that correct, sir?

7 **MR. O'BRIEN:** Generally I did not see case  
8 recordings on children in care. For prospective adoptive  
9 parents I signed off on every couple who were going to  
10 adopt and I'm -- I think -- I don't know whether that was  
11 the law or whether it was just the local judge at the  
12 County Court who demanded my signature, so I had to read  
13 those files.

14 **MS. DALEY:** So those files you had to read,  
15 but files of children just in care, be they in foster  
16 placements or in group homes, you wouldn't have routinely  
17 read those?

18 **MR. O'BRIEN:** No. My chief role there was  
19 in seeing that the recording was done.

20 **MS. DALEY:** Correct.

21 **MR. O'BRIEN:** And even as Executive Director  
22 I pushed my staff to get the recording done and get it done  
23 on time, but it was reviewed and I think initialled by  
24 supervisors rather than by me. I saw very -- I didn't see  
25 very much of children's -- recording on children by

1 themselves.

2 **MS. DALEY:** Let me ask this question as  
3 well, sir.

4 Once you become Executive Director is it the  
5 case that you do not routinely read the case files on a  
6 foster home?

7 **MR. O'BRIEN:** No, I didn't sign off on a  
8 foster home. It was the home finder who had final  
9 authority on that. And if that home finder had any  
10 questions she -- generally it is "she" -- would go to her  
11 supervisor.

12 **MS. DALEY:** All right.

13 So just to bring that evidence home to one  
14 of the circumstances we talked about today, you recall the  
15 Cieslewicz home? You were asked numerous questions about  
16 that. I take it, sir, that you hadn't routinely read that  
17 foster home file before the end; in other words, before  
18 October of '78 when the problem crystallized; is that  
19 correct?

20 **MR. O'BRIEN:** I don't recall seeing it  
21 before that, no.

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

23 Now, the next matter I want to speak to you  
24 about is the use of what we've called corporal punishment  
25 of wards by workers and foster parents during the time that

1       you were an executive director.

2                   And just to clarify that term, when I use  
3       that term what I am referring to is hitting a child with a  
4       hand or another object, or perhaps intentionally causing  
5       pain in some other ways and means of discipline. Is that  
6       acceptable, that that's what I mean by hitting, slapping,  
7       kneeling on beans like happened in the group home? That's  
8       what we're talking about.

9                   **THE COMMISSIONER:** Kneeling on beans?

10                  **MR. O'BRIEN:** Well, I -- your perception --  
11       if that's your perception of corporal punishment, it's not  
12       mine.

13                  **MS. DALEY:** All right.

14                   But what's your perception?

15                  **MR. O'BRIEN:** Well, I'll give you an  
16       example.

17                   Giving a child a tap on the rear for  
18       misbehaviour -- and I mean a tap, not a punch. To me  
19       that's quite different from kneeling on beans or something;  
20       quite different.

21                  **MS. DALEY:** Understood, understood.

22                   Let's talk about slapping a child with a  
23       hand or an object; hitting a child.

24                   And let me just take you to the part of your  
25       document where you talk about this, sir. At page 5 and 6

1 that's your recollection about the Second Street Group  
2 Home, and then over on page 6, if I could take you to  
3 paragraph 33, that's where I want to focus just for the  
4 moment. And what you've said there is that:

5 "...to your recollection corporal  
6 punishment was not to be used by foster  
7 parents or CAS workers, although there  
8 was no written policy forbidding it."

9 That's where I want to just focus for a  
10 moment. Now, sir, did you have an opportunity to either  
11 listen to or to read the testimony of Mr. Towndale at this  
12 Inquiry?

13 **MR. O'BRIEN:** I don't know much about his  
14 testimony.

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

16 What he told us here, and I'm going to  
17 paraphrase it for you and ask if you agree or disagree, but  
18 here's what he said.

19 He said that on this topic of corporal  
20 punishment in 1976 -- he said there was no standard, that  
21 there were different attitudes amongst different workers  
22 and that there was no guideline or practice as to what was  
23 acceptable physical discipline. That's his recollection  
24 about this timeframe.

25 Would you agree with that, sir?

1                   **MR. O'BRIEN:** Yes.

2                   **MS. DALEY:** Right.

3                   And he also testified, and I want to know if  
4 you agree with this as well, that at that time -- and I  
5 appreciate you were absent on your medical leave, but what  
6 he said was that the board was deeply divided on that  
7 issue. It was a very contentious issue. Some supported it  
8 and some did not. Would you agree with that or have you  
9 knowledge of that?

10                   **THE COMMISSIONER:** I don't know that I would  
11 characterize his testimony that strongly. I don't know  
12 that he said there was deep divisions. I think in the end  
13 that -- well, you could say that there were divisions.

14                   **MS. DALEY:** Maybe this detail will help you,  
15 sir.

16                   One of the things he mentioned was that  
17 Canon Irwin, who was on your board at the time, was a  
18 proponent of corporal punishment. He strongly disagreed  
19 with other board members who were opposed. Were you aware  
20 of that?

21                   **MR. O'BRIEN:** I was not aware of who agreed  
22 to it and who did not agree with it, but I understand it  
23 because you're talking about 1976 and for those of us who  
24 were around at that time, there was a division in society.  
25 As a matter of fact -- and you people would know better

1       than I, I think -- section 43 of the *Criminal Code of*  
2       *Canada* still allows corporal punishment.

3                   But we didn't know enough and didn't do  
4       enough, now that I look back on it, to try to have foster  
5       parents understand that there were other ways to discipline  
6       children which were just as effective and less punitive.  
7       Part of the reason for that is a lot of the -- some of the  
8       children that came into our care were abused physically by  
9       their foster parents, and it wasn't that the father gave a  
10      slap to a child; it was the father gave a punch to a child.  
11     And we were protecting them from very severe discipline.

12                   But I understand the division in the board  
13      at that time because that represented the division in  
14      society, but it doesn't -- I don't think we were fast  
15      enough at the Children's Aid in coming to grips with -- in  
16      doing some work on what are other means of discipline and  
17      how do you communicate that with your foster parents?

18                   And I think we would -- did have an  
19      obligation to do it, and I don't think -- and I accept  
20      responsibility for that. I don't think we did it very  
21      well.

22                   **MS. DALEY:** On that point let me ask you  
23      this question, sir, and it's not meant to be critical in  
24      hindsight, but I take it that while you were Executive  
25      Director of the local CAS you didn't propose a policy on

1 corporal punishment for the CAS to consider?

2 MR. O'BRIEN: I don't recall that I did.

3 MS. DALEY: Right.

4 Now, sir, when you returned from your  
5 absence in April of 1976, did Mr. Towndale or anyone else  
6 bring to your attention that a policy on physical  
7 punishment of children in care was in fact required?

8 MR. O'BRIEN: I don't recall that but I  
9 suspect I was told that by Mr. Towndale.

10 MS. DALEY: All right. Thank you.

11 Now, apart from a formal policy, sir, did  
12 you ever take it upon yourself to directly communicate to  
13 either the child care supervisors or the front-line workers  
14 that they should not be resorting to corporal punishment  
15 and that they should give the same message to foster  
16 parents?

17 MR. O'BRIEN: What we did was -- and I don't  
18 remember when it started but it was certain -- it was in  
19 the late '70s, early '80s. We had compulsory training for  
20 people who wanted to be foster parents. There was a  
21 certain investigation of the way they acted in their home  
22 and all that sort of thing but they couldn't -- we wouldn't  
23 sign off on them becoming actual foster parents until they  
24 took this course which was run by the Agency. And  
25 discipline would have been dealt with in those courses and

1 I supported the teaching of what foster parents were  
2 getting.

3 If you ask me specifically what was in the  
4 course, I honestly don't know, but it would have been how  
5 to understand the children who were coming into their care;  
6 what they were losing from going out of their own home,  
7 even if the home was not a good one; to understanding the  
8 child, to help the child develop while in their own home.  
9 There were a lot of issues that had to be discussed with  
10 them and discipline would have been one of them.

11 **THE COMMISSIONER:** Ms. Daley, one question.  
12 You bunched two groups of people there, foster parents and  
13 social workers.

14 During your stay as Executive Director did  
15 social workers have a right to discipline children  
16 physically?

17 **MR. O'BRIEN:** Not only did they not have a  
18 right to do it, no, they did not have a right nor did they  
19 have the opportunity to do it.

20 **THE COMMISSIONER:** Well.

21 **MR. O'BRIEN:** Well, if you're talking about  
22 the group home, that's a separate issue.

23 **THE COMMISSIONER:** No, I understand, but  
24 what I'm saying is that Ms. Daley put together the foster  
25 parents and the social workers and I think we should keep

1           them separate and apart.

2                       **MS. DALEY:** Let's do them a piece at a time.  
3           And on that last point, I want to help clarify your  
4           response.

5                       What the Commissioner has in mind are social  
6           workers working in group homes.

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

8                       **MS. DALEY:** Did you not?

9                       **THE COMMISSIONER:** I'm sorry, no. What I --  
10          is Children's Aid workers and you put them both in the  
11          equation. Children's Aid workers, protection workers,  
12          people who go out to the foster home to check up on the  
13          children, do they have a right to discipline?

14                      **MR. O'BRIEN:** No.

15                      **THE COMMISSIONER:** Thank you.

16                      **MS. DALEY:** And as you said, they wouldn't  
17          have the opportunity either because that's not their role  
18          with the child; correct?

19                      **MR. O'BRIEN:** That's correct. That's  
20          correct.

21                      **MS. DALEY:** Okay, so let me take you to the  
22          next piece.

23                      What about employees of the CAS who are  
24          childcare workers and who are working with wards in a group  
25          home setting, did they have the right to impose physical

1 discipline on wards?

2 MR. O'BRIEN: If they were workers in the  
3 group home, yes, they would have had the right to  
4 discipline children. That does not necessarily imply  
5 improper physical punishment though.

6 MS. DALEY: Was there any policy or any  
7 directive to CAS employees working in group homes about  
8 what was acceptable and what not in terms of physical  
9 punishment of a ward?

10 MR. O'BRIEN: I don't think so, and I think  
11 the indication that it did not exist was what happened in  
12 the Second Street Group Home.

13 MS. DALEY: Thank you

14 And let me just finish up on the point or  
15 the evidence you were giving us about foster parents and  
16 the training program that you mentioned.

17 Now, do you know, sir, whether or not in  
18 that training program or in any other process that a foster  
19 parent had to go through, were they required to commit not  
20 to use physical punishment of children?

21 MR. O'BRIEN: I don't believe so.

22 MS. DALEY: Thank you.

23 MR. O'BRIEN: They were encouraged not to,  
24 but there was no signed statements and there was no policy  
25 they had to sign on with.

1                   **MS. DALEY:** So, in other words, the training  
2                   course that you mentioned obviously had had a lot of very  
3                   helpful content for them, but it didn't specifically say,  
4                   "You should not physically punish your child or your foster  
5                   child"?

6                   **MR. O'BRIEN:** No, but what it did say was,  
7                   this is the way we used to treat children. We used to  
8                   discipline them mainly with physical punishment. Now, if  
9                   you want to get the children to obey, there are other ways  
10                  to do it, right, time out or writing lines or what have  
11                  you, and explain to foster parents who may have -- a lot of  
12                  them may have felt that physical punishment was quite okay.  
13                  We wanted to explain to them there are other ways that  
14                  we're doing it where it was less harmful and as effective  
15                  or maybe even more effective.

16                  **MS. DALEY:** So it was an encouragement type  
17                  of approach?

18                  **MR. O'BRIEN:** Yes.

19                  **MS. DALEY:** All right. Now, just a few  
20                  questions about the group home itself.

21                  Sir, let me just refer you to the part of  
22                  your outline that is of interest here, and I'm focusing on  
23                  actually, I guess, paragraph 32 in particular; what you  
24                  learn about the situation when you return from your period  
25                  of absence.

1                   What's not clear to me so far is this, sir.  
2                   When you came back from your leave, your three-month leave,  
3                   did you actually read the Personnel Committee report at  
4                   that time?

5                   **MR. O'BRIEN:** I'm sure I did. I don't  
6                   recall it, but I'm sure I did.

7                   **MS. DALEY:** All right.

8                   **MR. O'BRIEN:** That was -- the Personnel  
9                   Committee was the Personnel Committee of the Board.

10                  **MS. DALEY:** Yes.

11                  **MR. O'BRIEN:** Well, I would have been made  
12                  aware of the minutes of all meetings of committees of the  
13                  Board when I returned.

14                  **MS. DALEY:** The reason I asked about that is  
15                  that that document -- and just for your help, that's  
16                  Exhibit 2212 -- that set out some details of what had  
17                  occurred in the group home. Do you recall reading a  
18                  detailed report of specifically what was done?

19                  **MR. O'BRIEN:** No, but I probably did read  
20                  it, but I don't remember the detail.

21                  **MS. DALEY:** All right. Just one question  
22                  for you about the document.

23                  And perhaps there would be some benefit if  
24                  you just looked at the first page of Exhibit 2212, sir?

25                  **THE COMMISSIONER:** Two-two-one-two (2212).

1 It might be up there.

2 MS. DALEY: Do you have that? Not yet,  
3 sorry.

4 I was just going to ask you to take a quick  
5 look at the portion of this report, and obviously we're not  
6 going to mention the name that we see, but you see two-  
7 thirds of the way down, there's the name of a resident and  
8 there's some details about what occurred with her?

9 MR. O'BRIEN: Yes.

10 MS. DALEY: And my question for you is this,  
11 sir. Had you reviewed that at the time, would you have  
12 noted that there was a sexual component to the punishment  
13 that that girl received?

14 MR. O'BRIEN: Yes.

15 MS. DALEY: That would have stuck out at you  
16 in 1976?

17 MR. O'BRIEN: Well, I would never have  
18 tolerated that for a minute.

19 MS. DALEY: Do you understand, sir, that for  
20 the most part, those facts were confirmed by the workers  
21 involved? In other words, it wasn't disputed. Do you  
22 understand that?

23 MR. O'BRIEN: No, I didn't understand your  
24 question or comment.

25 MS. DALEY: Well, if you look at page 4 of

1 the document, sir, and if you read the passage that's dated  
2 March 17<sup>th</sup>.

3 To paraphrase, what's now happened is that  
4 the staff have been called in. There's been discussion  
5 about what's going on, and they have confirmed various of  
6 the punishments reported by the children. They confirm  
7 that the teenage girl was forced to do housework in her bra  
8 and panties, and they say that that's okay because girls  
9 dress like that at the beach; content to that effect.

10 Did you understand, sir, that essentially  
11 this had been confirmed by the staff, that it had occurred?

12 **MR. O'BRIEN:** Are you talking about the  
13 staff at the group home or the Children's Aid staff?

14 **THE COMMISSIONER:** The group home staff.

15 **MS. DALEY:** I am referring to the group home  
16 staff.

17 **MR. O'BRIEN:** I don't recall a reaction --  
18 meeting about the reaction of the group home staff. Is  
19 that your ---

20 **MS. DALEY:** Is it your recollection, sir,  
21 that the reason the Board required them to resign was  
22 because they had admitted these facts and felt no -- felt  
23 nothing was wrong with them?

24 **MR. O'BRIEN:** Nothing was what?

25 **MS. DALEY:** Nothing was wrong with what

1           they'd done. They justified what they had done.

2                   **MR. O'BRIEN:** Who? The staff did?

3                   **THE COMMISSIONER:** No.

4                   **MS. DALEY:** The group home staff.

5                   **THE COMMISSIONER:** So, no -- let's stop  
6 here.

7                   Sir, I'm going to read -- sir, Mr. O'Brien?  
8 I am going to read the paragraph to you.

9                   **MR. O'BRIEN:** Thank you.

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

11                                "On March 17<sup>th</sup>, the Personnel Committee  
12 met with the staff of the group home to  
13 see how this matter could be worked  
14 out."

15                   Do you see where I am now? "March 17<sup>th</sup>",  
16 about halfway down?

17                   **MR. O'BRIEN:** I'm -- it starts with "The  
18 Personnel Committee met with"?

19                   **THE COMMISSIONER:** Yeah, so:

20                                "...met with the staff of the group home  
21 to see how this matter could be worked  
22 out. Mr. Tenger refused to attend this  
23 meeting but sent a letter voicing his  
24 feelings. The staff still..."

25                   "The staff" -- now that is the group home

1 staff:

2 "...still expressed hostility at the  
3 removal of Mr. Tenger and when asked  
4 about their philosophy re discipline  
5 and corporal punishment, in particular,  
6 they could see nothing wrong with the  
7 punishment they had been using and they  
8 all felt that strapping had been a good  
9 method of disciplining."

10 They go on to say:

11 "They felt that other methods, like  
12 removal of privileges or behaviour  
13 modification or grounding, were too  
14 easy."

15 And the quote they have there is "Like  
16 patting a child on the head and saying naughty boy".

17 "They talked about discontinuing a  
18 hyperactive child's medication without  
19 the doctor's orders, and they said they  
20 accomplished better results with their  
21 method of disciplining him."

22 And here comes the last sentence:

23 "They could see nothing wrong with  
24 forcing a teenage girl to do housework  
25 all night in her bra and panties in

1 front of staff and they said that the  
2 girls run around in less than that at  
3 the beach."

4 Okay?

5 MR. O'BRIEN: Yes.

6 THE COMMISSIONER: So that's the situation  
7 there. So then Ms. Daley was asking you, all right, do you  
8 recall reading that at some point way back when?

9 MR. O'BRIEN: I don't recall it. I must  
10 have read it ---

11 THE COMMISSIONER: Okay.

12 MR. O'BRIEN: --- because as I understand  
13 it, it must have been contained in a personnel committee  
14 minutes.

15 THE COMMISSIONER: Well, these are ---

16 MS. DALEY: That's where we are.

17 THE COMMISSIONER: That is a report of the  
18 personnel committee of April of 1976.

19 MR. O'BRIEN: Well, I must have read it. I  
20 must have read it, yes.

21 THE COMMISSIONER: Okay.

22 MS. DALEY: Are you feeling tired? Would  
23 you like to take a break?

24 MR. O'BRIEN: No, go ahead.

25 MS. DALEY: Are you sure?

1 MR. O'BRIEN: Yes.

2 MS. DALEY: All right.

3 Sir, having reviewed it at the time, did you  
4 see -- I think you would agree you saw that there was some  
5 sexual element to that punishment.

6 THE COMMISSIONER: About having a girl ---

7 MR. O'BRIEN: Yeah, I understand what you're  
8 saying. I guess I simply thought it was improper. That's  
9 the best I can say.

10 MS. DALEY: It didn't register to you that  
11 it might be a form of sexual abuse or it might be the type  
12 of behaviour that could also lead to sexual abuse?

13 MR. O'BRIEN: I never considered it in terms  
14 of sexual abuse. I just thought it was an improper way to  
15 treat a girl.

16 MS. DALEY: All right.

17 And needless to say, that's why you agreed  
18 with a decision that had been taken that these people be  
19 terminated from the group home?

20 MR. O'BRIEN: Yes.

21 MS. DALEY: Now, sir, in April of 1976 when  
22 you came back to the job and you reviewed what had  
23 occurred, you learnt what had occurred, I take it you did  
24 not go to the Crown to discuss what had been done to the  
25 wards?

1                   **MR. O'BRIEN:** No, I don't believe I did.

2                   No.

3                   **MS. DALEY:** All right.

4                   Now, let me direct you, if I could, to  
5 paragraph 34 of your document, sir.

6                   And in paragraph 34 you say you don't know  
7 why those allegations ---

8                   **MR. O'BRIEN:** I'm sorry; just a minute.

9                   **MS. DALEY:** Sorry, it's Exhibit 2419. And I  
10 wanted you to look at paragraph 34, please, sir.

11                   **MR. O'BRIEN:** Yes, go ahead.

12                   **MS. DALEY:** Now, so my question there is  
13 this. First of all, I wasn't quite sure how to interpret  
14 the last sentence. Did you mean by that that that type of  
15 allegation should have been reported to the police in  
16 accordance with the standards that you held in 1976?

17                   **MR. O'BRIEN:** Yes.

18                   **MS. DALEY:** Thank you.

19                   And I want to put to you again something  
20 that Mr. Towndale told us here and just ask you if you  
21 agree or disagree with his testimony. But in reference to  
22 this timeframe Mr. Towndale said -- and I'm paraphrasing,  
23 but fairly closely to his words -- that it was not the  
24 practice at that time to report to the police and that he  
25 doesn't remember any case of internal matters such as this

1           being reported to the police at that time. Would you agree  
2           with that?

3                       **MR. O'BRIEN:** Well, two things.

4                       First of all, I think that was one of our  
5           first experiences with a group home and as we progressed  
6           and had more group homes we handled things a bit  
7           differently, but for the sake of the children the staff had  
8           been removed. So rightly or wrongly we decided, well, this  
9           can't happen again because the staff -- those staff had  
10          been removed, therefore the children are not in need of  
11          protection from them. Now, maybe they should still have --  
12          the police should still have been informed to have a look  
13          at it. I don't know.

14                      **MS. DALEY:** We heard some evidence here that  
15          Mr. Tenger went on and worked in child care for a period of  
16          time in North Bay. Did you know that?

17                      **MR. O'BRIEN:** In North Bay?

18                      **MS. DALEY:** I believe so.

19                      **MR. O'BRIEN:** I don't recall that. I may  
20          have known it but I don't recall it.

21                      **MS. DALEY:** All right.

22                      **MR. O'BRIEN:** Because a follow-up question  
23          to that statement would be that, "Did you notify the CAS in  
24          North Bay?" If I had any questions about any of my staff  
25          who went to another agency, I would certainly alert the

1 Director of the next agency.

2 **THE COMMISSIONER:** Well, another question  
3 arising out of that is did anyone phone you for a letter of  
4 recommendation or anything about his past history before  
5 him being hired?

6 **MR. O'BRIEN:** Not to my knowledge,  
7 Mr. Commissioner.

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

9 **MS. DALEY:** Again sir, I don't mean to be  
10 critical, but I want to put a proposition to you and feel  
11 free to disagree with me if you wish, but was one reason  
12 why the Agency wouldn't have gone to the police at that  
13 time -- be this; that you wanted to avoid exposing the  
14 Agency to negative publicity had there been charges?

15 **MR. O'BRIEN:** No.

16 **MS. DALEY:** Was that an element of your  
17 thinking?

18 **MR. O'BRIEN:** No.

19 **MS. DALEY:** And during the time that you  
20 were in charge as Executive Director, sir, did you ever  
21 consider that there was a need for a policy about reporting  
22 internal matters of this sort to the police?

23 **MR. O'BRIEN:** I didn't at the time but if  
24 you asked me if I were there today would I do it, I'd say  
25 yes, I'd develop a policy.

1                   **MS. DALEY:** Thank you.

2                   **MR. O'BRIEN:** I didn't at the time, I think,  
3 because we -- several of -- myself and several of the  
4 senior staff felt comfortable in talking to the police.  
5 But I guess a written policy would have been better.

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

7                   During the time you were Executive Director  
8 do you recall any circumstance in which a ward who said  
9 that he or she had been abused by a staff person -- do you  
10 recall a circumstance where a ward in that position was  
11 told that he or she had the right to go to the police by a  
12 CAS person?

13                   **MR. O'BRIEN:** I don't recall the -- any  
14 wards having been told that. Certainly, if they wanted to,  
15 we would have no right to deny them that.

16                   **MS. DALEY:** Were they ever informed that  
17 they had that right?

18                   **MR. O'BRIEN:** No, I never knew that it came  
19 up where they asked permission or opinion or anything else  
20 about it.

21                   **MS. DALEY:** All right.

22                   Just one or two more questions before we  
23 stop. I think I can stop at -- I have a bit more to go,  
24 but we're going to stop at five to 3:00 regardless.

25                   During the time that you were Executive

1 Director, sir, did you ever develop a policy about how  
2 allegations made by present wards of abuse by a CAS  
3 employee would be addressed? In other words, was there any  
4 policy ---

5 MR. O'BRIEN: I don't think ---

6 MS. DALEY: --- to tell you how to deal with  
7 that circumstance?

8 MR. O'BRIEN: --- I don't recall developing  
9 such a policy.

10 MS. DALEY: All right.

11 And just to change the question a little bit  
12 and, sir, the circumstance that brings this to mind is Ms.  
13 Antoine because she, as an adult, complained about things  
14 that had occurred when she was a child in care. So sir,  
15 did you ever develop a policy about how former wards who  
16 made allegations of historic abuse while they were children  
17 in care would be investigated and handled?

18 MR. O'BRIEN: Did you say did I ever  
19 consider we should have had a policy?

20 MS. DALEY: Yes.

21 MR. O'BRIEN: Not then, but if I look back  
22 on it now, I would say yes.

23 MS. DALEY: All right.

24 So at the time it didn't occur to you that  
25 there'd be a need for that.

1                   Could I ask just one more question before  
2                   the break? I need you to look briefly at paragraph 68 of  
3                   your document, and that states that as a result of  
4                   Antoine's complaint you undertook to the -- it doesn't say  
5                   to the Ministry, but the document is to the Ministry -- to  
6                   develop an internal directive for the handling of similar  
7                   situations. Now, I take it you didn't have the chance to  
8                   do that before your retirement. Is that correct?

9                   **MR. O'BRIEN:** I must have had. I don't  
10                  recall it, but you have a letter dated January 4<sup>th</sup> to Lenore  
11                  Jones. I presume in that letter she must have suggested  
12                  this and if the letter was dated January 4<sup>th</sup>, I certainly  
13                  had time to develop an internal directive, but I don't  
14                  recall developing one.

15                  **MS. DALEY:** Just to help you, if it's at all  
16                  helpful, Exhibit 2428 is that January 4<sup>th</sup> letter and I'll  
17                  just ask you to take a brief look there if you could; 2428.

18                  **(SHORT PAUSE/COURTE PAUSE)**

19                  **MS. DALEY:** If I could take you just to the  
20                  last sentence of the third paragraph, the Program  
21                  Supervisor at the Ministry is saying:

22                                 "I'm aware that you are developing an  
23                                 internal directive for the handling of  
24                                 similar situations."

25                                 So I took from that that you had so advised

1 the Ministry?

2 MR. O'BRIEN: Yes.

3 MS. DALEY: And did you, in fact, develop an  
4 internal directive to deal with complaints such as those  
5 brought by Ms. Antoine?

6 MR. O'BRIEN: I don't know. What I said to  
7 you was the letter from Lenore Jones was the 4<sup>th</sup> of January  
8 and I didn't leave until sometime in May and I certainly  
9 had time to develop what she's suggesting. It must have  
10 been developed. I have a poor memory on that subject.

11 MS. DALEY: You have no specific  
12 recollection, I take it, sir?

13 MR. O'BRIEN: No, but there must be  
14 something on file with the CAS documents.

15 MS. DALEY: Why don't we stop?

16 THE COMMISSIONER: Why don't we ---

17 MR. O'BRIEN: Do you have more?

18 THE COMMISSIONER: Oh, yeah.

19 MS. DALEY: I have a bit more but I don't  
20 want to push you past an hour.

21 THE COMMISSIONER: It seems that there are  
22 other people as well who want to ask you questions.

23 MR. O'BRIEN: Yes.

24 THE COMMISSIONER: So the question to you is  
25 do you want to come back another day? Do you want to

1 continue after a break? I don't want to overtax you and I  
2 don't want you to get too tired. So what do you think  
3 would be the best?

4 **MR. O'BRIEN:** Now, honestly,  
5 Mr. Commissioner, after about 10 minutes I'd like to  
6 continue.

7 **THE COMMISSIONER:** All right.

8 So let's take our afternoon break, which  
9 will be 15 minutes, and then we'll try to continue some  
10 more.

11 **MR. O'BRIEN:** Thank you.

12 **THE COMMISSIONER:** Thank you.

13 **THE REGISTRAR:** Order; all rise. À lordre;  
14 veuillez vous lever.

15 This hearing will resume at 3:15 p.m.

16 ---Upon recessing at 2:57 p.m./

17 L'audience est suspendue à 14h57

18 ---Upon resuming at 3:19 p.m./

19 L'audience est reprise à 15h19

20 **THE REGISTRAR:** This hearing is now resumed.

21 Please be seated. Veuillez vous asseoir.

22 **THOMAS O'BRIEN, Resumed/Sous le même serment:**

23 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. DALEY

24 (Cont'd/Suite):

25 **THE COMMISSIONER:** How much longer do you

1 think you will have?

2 MS. DALEY: Probably 10.

3 THE COMMISSIONER: All right.

4 So, Mr. O'Brien ---

5 MR. O'BRIEN: Yes, sir.

6 THE COMMISSIONER: --- this young lady is  
7 going to have about 10 minutes of questions for you and  
8 then we're going to go off to Mr. Horn or Mr. Lee.

9 MR. O'BRIEN: Yes, sir.

10 THE COMMISSIONER: Some even younger people.

11 (LAUGHTER/RIRES)

12 THE COMMISSIONER: So we'll see where we go  
13 but you're going to tell me when you've had enough for the  
14 day.

15 MR. O'BRIEN: Was that a bit of a crack at  
16 my age, Mr. Commissioner?

17 (LAUGHTER/RIRES)

18 THE COMMISSIONER: No, actually, I think it  
19 was a crack at Ms. Daley's age.

20 (LAUGHTER/RIRES)

21 MS. DALEY: It's all relative.

22 Are you all right with water and everything  
23 else there, sir?

24 MR. O'BRIEN: Yes, Ma'am.

25 MS. DALEY: All right.

1                   Now, I have two more areas that I want to  
2           discuss and the next area is the allegations that you hear  
3           from Ms. Antoine in 1989 concerning Bryan Keough. All  
4           right? And that's -- just to help you, if you'd like to  
5           make reference at all to your document, it is -- let me  
6           find it for you. It's contained at paragraph -- sorry,  
7           pages 11 and following. But I have some specific questions  
8           about that, sir.

9                   Now, just looking backwards for a moment, I  
10          take it that when you return to work in 1978 and you  
11          apprise yourself of what's happened, it's your belief that  
12          all of -- that any workers who were involved in  
13          inappropriate activity at the group home had been asked to  
14          resign ---

15                   **MR. O'BRIEN:** Yes.

16                   **MS. DALEY:** --- and in fact they were all  
17          gone; correct?

18                   **MR. O'BRIEN:** Yes.

19                   **MS. DALEY:** And Mr. Keough, of course, had  
20          not been terminated from the group home.

21                   **THE COMMISSIONER:** Well, no. First of all,  
22          Mr. Keough ---

23                   **MS. DALEY:** Sorry, I misspoke. Mr. Keough  
24          had not been terminated from his employment; he was still  
25          employed by CAS?

1                   **MR. O'BRIEN:** He was not terminated because  
2 he was not an employee of the group home.

3                   **MS. DALEY:** That was your understanding in  
4 1976, sir?

5                   **MR. O'BRIEN:** That he was terminated?

6                   **MS. DALEY:** Yes, that he was not terminated  
7 because he'd not been employed by the group home.

8                   **MR. O'BRIEN:** Yes.

9                   **MS. DALEY:** Now, I take it, sir, though, had  
10 the Agency believed that notwithstanding that he'd involved  
11 himself in inappropriate physical abuse or sexual abuse,  
12 I'm sure Mr. Towndale would have terminated him, would he  
13 not have?

14                   **MR. CHISHOLM:** Objection. I'm not sure if  
15 this witness can answer that question as to what  
16 Mr. Towndale would have done.

17                   **MS. DALEY:** You're absolutely right. That  
18 was a foolish question. Let's try it this way.  
19 Notwithstanding that Keough was not a direct staff of the  
20 group home, had it been the case that the Agency believed  
21 he'd still abused a ward there, would you have expected his  
22 termination?

23                   **MR. O'BRIEN:** I'm sorry; I'm not sure I  
24 fully understand the question. Can you ---

25                   **MS. DALEY:** Let me try it this way. The

1 people who were group home staff, they admitted wrongdoing,  
2 they were all terminated; correct?

3 **MR. O'BRIEN:** Yes.

4 **THE COMMISSIONER:** Well, they didn't admit  
5 to wrongdoing.

6 **MS. DALEY:** They admitted behaviour and as a  
7 result of that they were asked to resign.

8 **MR. CHISHOLM:** I think the evidence would be  
9 that they resigned and ---

10 **THE COMMISSIONER:** Well, no -- well, just a  
11 second. Other than for Mr. Tenger, we have a note in the  
12 personnel committee that says that they acknowledged that  
13 they had done these acts and they defended them. But  
14 because of the fact that it is just a note in the thing, I  
15 don't think that we should be using that as the gospel  
16 truth. So I think we have to speak in generalities when  
17 we're dealing with that.

18 **MS. DALEY:** Let me try it this way, sir, and  
19 I'm sorry for generating confusion here.

20 You come to the understanding that events  
21 have occurred in the group home that have been  
22 inappropriate. The result -- the outcome of that is that  
23 the group home staff have left the CAS.

24 **MR. O'BRIEN:** Yes.

25 **MS. DALEY:** Have left the group home;

1 correct?

2 MR. O'BRIEN: Yes, yes.

3 MS. DALEY: And in terms of Mr. Keough, you  
4 understood that he helped out in the group home from time  
5 to time; correct?

6 MR. O'BRIEN: Yes.

7 MS. DALEY: And did that mean in your mind,  
8 sir, or did you understand that he would work shifts in the  
9 group home from time to time in order to help out?

10 MR. O'BRIEN: I wasn't aware of the  
11 specifics but, yes, he helped out filling in for other  
12 staff, yes.

13 MS. DALEY: Now, sir, he was not terminated  
14 or asked to resign in 1976.

15 MR. O'BRIEN: No.

16 MS. DALEY: You knew that, right?

17 MR. O'BRIEN: Yes, I knew that.

18 MS. DALEY: And did it follow in your mind -  
19 - I'm just trying to get inside your mindset -- that  
20 because he had not been asked to resign or not been  
21 terminated that he was likely not responsible for anything  
22 that had been done inappropriately at the group home?

23 MR. O'BRIEN: Not exactly. I wouldn't use  
24 your phrasing. He had, as you already know, I think, a  
25 caseload of children at the Children's Aid Society. Since

1           everybody was out of the group home he would not have an  
2           opportunity to use any kind of unreasonable discipline on  
3           children because he wasn't responsible for the disciplining  
4           of the children in his caseload, so I wasn't concerned  
5           about that because he couldn't do it. The foster parents  
6           did it.

7                           **MS. DALEY:** I understand.

8                           I guess what I'm trying to understand from  
9           you is your personal belief about Ms. Antoine's allegations  
10          against Mr. Keough, because she makes allegations to you  
11          that are physical abuse in nature; also sexual abuse.

12                          Now, my question for you is this, sir. Was  
13          it your personal belief that Mr. Keough was likely innocent  
14          of the wrongdoing which she alleged?

15                          **MR. O'BRIEN:** No, my belief was simply I  
16          didn't know. And I think if you follow through on that  
17          you'll see that because of my uncertainty about  
18          Ms. Antoine's allegations and the fact that she wouldn't  
19          come and talk to me, I still felt I should do something and  
20          I wasn't sure of what. So I talked to the police and I  
21          talked to the Crown.

22                          Is that answering your question?

23                          **MS. DALEY:** Yes, that's helpful, sir.

24                          Would you take a quick look at paragraph 66  
25          of your document and just to help you out, sir, this part

1 of the document refers to the letter that you wrote on Mr.  
2 Keough's behalf.

3 **THE COMMISSIONER:** It's Exhibit 2419, sir.

4 **MS. DALEY:** That's right.

5 **MR. O'BRIEN:** Oh, here, 2419; sorry.

6 **MS. DALEY:** And I was just looking at the  
7 last sentence there, sir, in which you say on behalf of Mr.  
8 Keough that you personally could not believe some of the  
9 suggestions made by the complainant -- that's Ms. Antoine.  
10 And I take it that correctly reflected your point of view  
11 at the time?

12 **MR. O'BRIEN:** I believe so. I'm not sure  
13 how I came to that conclusion but, yes, I'm aware of this  
14 and therefore I think it's correct.

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

16 Now, let me then ask you about the meeting  
17 that you have with the Deputy Chief -- that's Joe St. Denis  
18 -- and Staff Sergeant Wells. Now, I need to give you the  
19 reference for that. Give me one second.

20 I think here it will be helpful, sir, if I  
21 ask you to look at Exhibit 1505, which were the detailed  
22 notes that you wrote about this situation.

23 **THE COMMISSIONER:** What page, please?

24 **MS. DALEY:** Page 4.

25 **MR. O'BRIEN:** Yes.

1                   **MS. DALEY:** Now, Mr. O'Brien, just to put  
2                   you in the context, these are the notes you make on October  
3                   2, 1999 and over on page 4 for the second full paragraph  
4                   you're referring to the meeting that you had with the  
5                   Deputy Chief and Staff Sergeant Wells. You just might want  
6                   to review that paragraph and the one following where the  
7                   Deputy Chief is surprised that you're coming back but you  
8                   explain why. It's that meeting I want to talk to you about  
9                   just for a second; all right?

10                   **MR. O'BRIEN:** Yes.

11                   **MS. DALEY:** Those were obviously very high-  
12                   level officers. The Deputy Chief was the right-hand man of  
13                   the Chief; correct, sir?

14                   **THE COMMISSIONER:** Well, first of all, we  
15                   should ask him: Do you remember that meeting, sir?

16                   **MR. O'BRIEN:** I remember a meeting with -- I  
17                   thought it had been with the Chief but obviously it was the  
18                   Deputy Chief, regarding Jeannette's telephone conversation  
19                   to me about abuse. And I wasn't sure what to do with it  
20                   because I couldn't get her in to explore it further with  
21                   her, so I went to the police and asked for their advice.

22                                   Is that answering you -- no?

23                   **MS. DALEY:** There's some initial discussion  
24                   you have with the police.

25                   **MR. O'BRIEN:** Yes.

1                   **MS. DALEY:** And then, just to try to refresh  
2 your mind, you go back to them a second time because you've  
3 seen reference to sexual abuse in the social worker's notes  
4 and that motivates you to go to them a second time.

5                   **MR. O'BRIEN:** Yes.

6                   **MS. DALEY:** It's the second meeting that  
7 you're referring to in this part of the exhibit, sir.

8                   **MR. O'BRIEN:** Okay, yes.

9                   **MS. DALEY:** All right.

10                   Now, to the Commissioner's point; do you  
11 have a recollection about that meeting?

12                   **MR. O'BRIEN:** Not much, no. I don't deny it  
13 took place but I don't have much recollection.

14                   **MS. DALEY:** I want to see if you can help me  
15 here, and I'm going to propose something to you and you  
16 tell me if it's right or wrong. I would have thought,  
17 given your relationship with the police developed over a  
18 period of years, that when you came back to them, surely  
19 they must have asked you, "Tom, is there anything to this?  
20 You work with Mr. Keough. Do you think there's anything to  
21 this allegation?" Did that come up?

22                   **MR. O'BRIEN:** More than likely.

23                   **MS. DALEY:** And if it did come up, sir,  
24 would it not be more than likely that you said, "Probably  
25 not"?

1                   **MR. O'BRIEN:** I would say it was more than  
2                   likely because the senior levels of the police -- well, all  
3                   the police I dealt with -- and myself, we were always open  
4                   with each other. So if you say would it have come up, all  
5                   I can say is probably.

6                   **MS. DALEY:** And had it done so, you would  
7                   have been candid in your response and said, "I think it's  
8                   unlikely Mr. Keough did this"?

9                   **MR. O'BRIEN:** I would have been candid in my  
10                  response because we were accustomed to being frank with  
11                  each other.

12                  **THE COMMISSIONER:** Okay, but what she wants  
13                  to get to is what was your assessment of Mr. Keough at that  
14                  time?

15                  **MR. O'BRIEN:** I think I rather doubted that  
16                  he would have committed any improper sexual acts.

17                  **THE COMMISSIONER:** Okay.

18                  **MS. DALEY:** Can I ask you to focus on the  
19                  physical abuse aspects of what Ms. Antoine had alleged to  
20                  you? Did you doubt he committed those also?

21                  **MR. O'BRIEN:** No.

22                  **MS. DALEY:** Did you tell the police that?

23                  **MR. O'BRIEN:** I don't recall that I did.  
24                  Mr. Keough and Mr. Tenger had the same attitude about  
25                  physical punishment and I did not. They were -- excuse me

1 -- much more rigid than I was in terms of how you could  
2 properly discipline a child.

3 Does that answer you?

4 **MS. DALEY:** Yes, thank you, sir.

5 My last topic -- are you feeling okay?

6 **MR. O'BRIEN:** Yes, ma'am.

7 **MS. DALEY:** Need a break?

8 **MR. O'BRIEN:** Yes, ma'am.

9 **THE COMMISSIONER:** That's not really the  
10 point. The point is we have a lot of people to get  
11 through.

12 **MS. DALEY:** I understand that.

13 We've heard evidence here about how  
14 important the foster home process is to the CAS; in other  
15 words, in your era as an Executive Director the CAS relied  
16 very much on foster parents to house your wards, and I'm  
17 sure you would agree with that. Is that fair, sir?

18 **MR. O'BRIEN:** We relied on them for what?

19 **MS. DALEY:** You relied on foster parents to  
20 house your wards and to take care of children ---

21 **MR. O'BRIEN:** Oh, yeah, that's where most of  
22 our children were placed, in foster care.

23 **MS. DALEY:** So it would be very, very  
24 important to the CAS to maintain foster residences to the  
25 extent they could?

1                   **MR. O'BRIEN:** To maintain them as what?

2                   **MS. DALEY:** Well, to maintain as many foster  
3 homes in operation as you could helps the CAS fulfil its  
4 mandate.

5                   **MR. O'BRIEN:** Yes, you not only had to have  
6 enough to look after the wards you had in care at the  
7 present time but you had to have extra ones with different  
8 kinds of abilities because you never knew what kind of  
9 child was coming into care. So you had to have --  
10 supposing you had 80 foster homes occupied, you might have  
11 to have another 20 unoccupied for use if needed.

12                   **MS. DALEY:** To focus you just for a moment  
13 in my final line of questions on the Cieslwick home, you  
14 recall that situation where unfortunately there were  
15 numerous allegations of sexual abuse by Mr. Cieslwick?

16                   Sir, is it possible that the thinking was,  
17 "We should perhaps pay less heed to what the girls are  
18 saying because we just can't afford to lose this foster  
19 home"? Was that an element in anyone's thinking?

20                   **MR. O'BRIEN:** No, not to my knowledge; no.  
21 Our problem with the children coming to us about certain  
22 allegations was over the years you found from experience  
23 that certain children lied for various reasons; one in a  
24 petty way to get back at the foster parents for something;  
25 one is to -- another one would be to get the Agency to move

1       them into another home that they think they might like  
2       better than the one they're in.

3                   So you couldn't always -- don't forget, a  
4       lot of these children were somewhat disturbed, so you  
5       couldn't always have the confidence in what they were  
6       saying that you would like to have. That doesn't mean that  
7       they didn't tell you the truth but it's hard to be clear in  
8       your mind.

9                   **MS. DALEY:** Last question for you on that  
10       topic, sir, and last question, period.

11                   Did it come to your attention that there was  
12       actually physical evidence that supported what one of the  
13       girls had said about Mr. Cieslwich and his sexual conduct  
14       with her? Did you know there was physical evidence that  
15       supported her word?

16                   **MR. O'BRIEN:** Are we talking about  
17       masturbation?

18                   **THE COMMISSIONER:** Yes.

19                   **MS. DALEY:** Yes.

20                   **THE COMMISSIONER:** And something left on her  
21       sleeve.

22                   **MR. O'BRIEN:** Was I aware of that?

23                   **MS. DALEY:** Did you know that, sir?

24                   **MR. O'BRIEN:** No.

25                   **MS. DALEY:** Those are my questions for you.

1 Thank you kindly.

2 THE COMMISSIONER: Thank you.

3 MR. O'BRIEN: Thank you.

4 THE COMMISSIONER: Mr. Horn?

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

6 HORN:

7 MR. HORN: Frank Horn, Coalition for Action.

8 Mr. O'Brien, in that report that you were  
9 just discussing ---

10 THE COMMISSIONER: You mean the Personnel  
11 Committee?

12 MR. HORN: We've been talking about the  
13 Personnel Committee report.

14 The one thing that it indicates is that Mr.  
15 Keough tied a girl in a room with nylons and the door was  
16 locked.

17 THE COMMISSIONER: Where? What exhibit  
18 again?

19 MR. HORN: I'm talking about Exhibit ---

20 THE COMMISSIONER: Can anyone help him out?

21 MR. HORN: See, 123621 -- I don't know what  
22 the exhibit number is, but it's -- we were just -- we just  
23 had it out.

24 THE COMMISSIONER: Can someone just give it  
25 to me? Twenty, I'm sorry? Twenty-two-twelve (2212).

1                   **MR. O'BRIEN:** Yes, sir.

2                   **MR. HORN:** That would be the paragraph  
3           headed by ---

4                   **THE COMMISSIONER:** What page? What page,  
5           Mr. Horn?

6                   **MR. HORN:** Page 1.

7                   **THE COMMISSIONER:** Page 1? Great.  
8                   What paragraph, sir?

9                   **MR. HORN:** The last set of paragraphs, under  
10           the name ---

11                   **THE COMMISSIONER:** Ah, okay. All right,  
12           sir.

13                   **MR. HORN:** Yes.

14                   **THE COMMISSIONER:** So, Mr. O'Brien, first  
15           page of the Personnel Committee report, the last paragraph,  
16           the last heading there, he wants you to read that.

17                   **MR. O'BRIEN:** The one with the child's name?

18                   **THE COMMISSIONER:** No -- yes. Don't read  
19           the child's name. It's says:

20                                   "Picked up at OPP Long Sault by Bryan  
21                                   Keough. Brought to Mrs. Matte's  
22                                   receiving home. Was sent to room and  
23                                   told to strip but refused. Scuffle  
24                                   with Bryan in bedroom. He bodily took  
25                                   off slacks, jersey and bra. She was

1 given a housecoat and she removed her  
2 own underpants. Hands and feet bound  
3 with nylon and door locked."

4 That's about it. Is that right?

5 **MR. HORN:** That's right.

6 **MR. O'BRIEN:** Sorry, are you on the first  
7 page, Mr. Commissioner?

8 **THE COMMISSIONER:** I sure am. The last big  
9 paragraph on that page.

10 **MR. O'BRIEN:** Oh, yes.

11 **THE COMMISSIONER:** Okay.

12 **MR. HORN:** What would you say if Mr. Keough  
13 was to say, yes, that did happen?

14 **THE COMMISSIONER:** No. That's a  
15 hypothetical. That's not correct because he's testified  
16 here ---

17 **MR. HORN:** He's testified ---

18 **THE COMMISSIONER:** --- and he's qualified  
19 that.

20 **MR. HORN:** He's qualified that, but he's  
21 admitted that he did do that, he did lock the girl in a  
22 room and he tied her up. That was admitted by Mr. Keough.

23 **THE COMMISSIONER:** Sir?

24 **MR. O'BRIEN:** I ---

25 **THE COMMISSIONER:** If Mr. Keough -- if the

1 evidence was before you at that time, in 1976, that Mr.  
2 Keough had taken a runaway back to a house, Mrs. Matte's  
3 house -- a receiving home, I guess -- and tied the young  
4 lady to the bed; what's the question, Mr. Horn?

5 **MR. HORN:** I'm just asking you if you knew  
6 that, after reading this and he'd confirmed it, that that  
7 happened, would you have dealt with it differently -- Mr.  
8 Keough, differently?

9 **THE COMMISSIONER:** Mr. ---

10 **MR. CHISHOLM:** Sorry. Just in terms of the  
11 timing for these -- Mr. Horn is suggesting that Mr. O'Brien  
12 knew that when, and differently than what?

13 **MR. HORN:** Okay. You would have -- if you  
14 would have known that back in 1976 when you came back from  
15 your sick leave?

16 **MR. O'BRIEN:** Yes?

17 **MR. HORN:** If you would have known it back  
18 then, how would you have dealt with Mr. Keough?

19 **THE COMMISSIONER:** Well, we don't have the  
20 full facts, Mr. Horn, because we have the fact that Mr. --  
21 if I get the evidence straight now -- that Mr. Keough would  
22 have phoned his supervisor immediately and reported what  
23 he'd done and knew that he was in trouble.

24 **MR. HORN:** And not only that but he was also  
25 very upset at himself.

1                   **THE COMMISSIONER:** Exactly.

2                   **MR. HORN:** For what he had done because he  
3 realised what he had done was wrong.

4                   **THE COMMISSIONER:** Very good.

5                   **MR. HORN:** Okay.

6                   **MR. O'BRIEN:** And your question to me is  
7 what would I have done?

8                   **MR. HORN:** No, were you -- first of all,  
9 were you aware of those facts?

10                  **MR. O'BRIEN:** No.

11                  **MR. HORN:** Pardon?

12                  **MR. O'BRIEN:** I do not recall being aware of  
13 those facts.

14                  **MR. HORN:** And if you had been aware of the  
15 facts, that he -- that those were confirmed by him, that  
16 that had happened?

17                  **MR. O'BRIEN:** Would I have done something?

18                  **MR. HORN:** Yes?

19                  **MR. O'BRIEN:** Yes, if you ask me what I  
20 would have done, I'm not exactly sure. I would have to  
21 know all the circumstances of the case to decide the  
22 appropriate action, but it would not have pleased me. So  
23 there would be some effect on Mr. Keough.

24                  **MR. HORN:** So when you read this report,  
25 that aspect of the report was never -- that was never

1 broached with Mr. Keough by yourself or anybody else so  
2 that you would know exactly what had happened?

3 **THE COMMISSIONER:** I think the answer was,  
4 he does not remember.

5 **MR. HORN:** There's another disturbing  
6 element in this whole thing and that's the -- were you  
7 aware that the people that worked at the group home all  
8 dressed in black?

9 **THE COMMISSIONER:** That's disturbing?

10 **MR. HORN:** Very disturbing.

11 **THE COMMISSIONER:** Why is that?

12 **MR. HORN:** They're dressed up in the  
13 uniforms, were you aware of that, in black, all of them,  
14 anybody that worked there.

15 **THE COMMISSIONER:** Wow!

16 **MR. CHISHOLM:** I don't know if that is the  
17 evidence.

18 **THE COMMISSIONER:** What's the evidence, Mr.  
19 Horn?

20 **MR. HORN:** The -- well, this is the  
21 allegations that Miss Antoine said, was that all of the  
22 workers there dressed all in black.

23 **THE COMMISSIONER:** I don't know, I thought  
24 there was a couple, but I don't think it was unanimous.

25 **MR. HORN:** I think it was all of them.

1                   **THE COMMISSIONER:** Really?

2                   **MR. HORN:** I think it was all of them.

3                   **THE COMMISSIONER:** Get the transcript.

4                   Go on to another question then we'll come  
5 back to that one.

6                   **MR. HORN:** Okay.

7                   **THE COMMISSIONER:** Well, in any event, were  
8 you aware that Mr. Tenger and maybe one or two more of the  
9 staff over there dressed completely in black all the time?  
10 We'll put it at its best.

11                   **MR. O'BRIEN:** There were two.

12                   **THE COMMISSIONER:** Who was that?

13                   **MR. O'BRIEN:** Mr. Tenger and Mr. Keough.

14                   **THE COMMISSIONER:** Okay.

15                   **MR. O'BRIEN:** And to answer your question, I  
16 thought it was rather peculiar, but -- and that's -- I  
17 talked to them about it. I don't know the full extent of  
18 the conversation, but I talked to them about it. I thought  
19 it kind of funny to be wearing black all the time, but when  
20 I looked at it, I couldn't find anything wrong with it,  
21 except it looked peculiar. So I did not take any action to  
22 make them dress any differently.

23                   Well, I -- no, they were only in black in  
24 the group home. When I came back, they were gone. I knew  
25 about it.

1                   **THE COMMISSIONER:** Except for Mr. Keough.  
2                   Mr. Keough was still in your employ?

3                   **MR. O'BRIEN:** Yeah, when I came back, Mr.  
4                   Commissioner, I am not sure that he was dressing in black  
5                   at that time.

6                   **THE COMMISSIONER:** Okay.  
7                   So, Mr. Horn, maybe I should bite my tongue,  
8                   but why is it disturbing that people would dress in black?

9                   **MR. HORN:** The girls were scared. They were  
10                  afraid.

11                  **THE COMMISSIONER:** Okay.

12                  **MR. HORN:** They were afraid because they  
13                  felt intimidated by the colour.

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

15                  **MR. HORN:** By what was going on in the  
16                  house.

17                  **THE COMMISSIONER:** Okay, no, I thought it  
18                  was something you had.

19                  **MR. HORN:** No.

20                  **THE COMMISSIONER:** Okay, go ahead.

21                  **MR. HORN:** Now, you indicated that you and  
22                  the Crown Attorney were in the Highlanders. Which Crown  
23                  Attorney are you talking about?

24                  **MR. O'BRIEN:** Percy Milligan.

25                  **MR. HORN:** Pardon?

1 MR. O'BRIEN: Percy Milligan.

2 MR. HORN: That was the Crown Attorney?

3 MR. O'BRIEN: He was before your time, sir,  
4 yes, 1959-60-61.

5 MR. HORN: And he was the Crown Attorney?

6 MR. O'BRIEN: Yes, sir.

7 MR. HORN: What about Malcolm MacDonald?

8 MR. O'BRIEN: No, Malcolm was in private --  
9 well, I -- Malcolm was younger than Percy, and Malcolm was  
10 in private practice. He became Crown much, much later. I  
11 didn't have much contact with him -- well, I didn't have  
12 any contact with him as a lawyer or as Crown Attorney.

13 MR. HORN: You are talking about Malcolm  
14 MacDonald?

15 MR. O'BRIEN: Yes.

16 MR. HORN: Okay, I -- because you mentioned  
17 a Crown Attorney and you were a member of the Highlanders  
18 and I understand that Malcolm was also possibly a member.  
19 Do you know if he was?

20 MR. O'BRIEN: He was a member of the  
21 Officers Mess of the Highlanders, yes. I knew him there.

22 MR. HORN: And so it wasn't him that you  
23 were socialising with?

24 MR. O'BRIEN: Only socialising in that we  
25 went to parties in the mess together with our wives.

1           That's what I call socializing. You know, we weren't  
2           socializing outside the mess. I would see Malcolm in the  
3           mess. He was not married.

4                       **MR. HORN:** So the impression that I've got  
5           is that was that you -- when you first came into -- worked  
6           with the Society that you were dealing with the Crown  
7           attorney one-on-one because you'd been socializing with  
8           him.

9                       And as a result, that was your -- that's the  
10          way you dealt with situations. You'd go directly to the  
11          Crown or directly to the Chief of Police, or you'd go to  
12          anybody and you'd go directly to them. And that was your  
13          way of dealing with things?

14                      **MR. O'BRIEN:** Yes. I knew Percy Mulligan as  
15          a Crown attorney before I knew him socially. I knew -- he  
16          was the only Crown attorney in Cornwall. He understood the  
17          law. He was a lawyer. He could give me advice and we knew  
18          each other well enough to -- he was pretty straightforward  
19          with me. He'd tell me where to go and what to do if he  
20          felt like it. But I respected him.

21                      And I continued that kind of friendly and  
22          business relationship with Crown attorneys. To me it  
23          seemed perfectly natural. I didn't see anything wrong with  
24          it.

25                      **MR. HORN:** Okay. So that would be the

1 reason -- that would be one of the reasons why instead of  
2 going to the police Chief, you'd go to the Crown attorney  
3 first. You'd think of them first if you had a problem?

4 MR. O'BRIEN: Yes. I wasn't trying to cut  
5 out the police.

6 THE COMMISSIONER: No, no. It's okay.

7 MR. O'BRIEN: I'm not answering ---

8 THE COMMISSIONER: Did you ever go to  
9 Malcolm MacDonald when he was a Crown attorney?

10 MR. O'BRIEN: No.

11 THE COMMISSIONER: Was there a reason for  
12 that?

13 MR. O'BRIEN: I just had no occasion through  
14 the years.

15 THE COMMISSIONER: Fair enough.

16 MR. HORN: Okay. So you would have been  
17 dealing with -- the only other Crown that I can think of is  
18 Don Johnston in that way?

19 MR. O'BRIEN: Johnston and the assistant  
20 Crown, Allen Ain.

21 MR. HORN: And what about Mr. Demarco?

22 MR. O'BRIEN: Yes, as a matter of fact, Mr.  
23 Demarco was on our board one time. Then he went to  
24 Kingston. He was -- yeah, he was a Crown attorney, yes.

25 MR. HORN: And how was Pat Rudden involved

1 with the board? I know that his name is mentioned at one  
2 of the meetings.

3 **MR. O'BRIEN:** I don't know that he was  
4 involved with the board. Pat was a criminal lawyer and  
5 probably one of the best in Cornwall if not the best. And  
6 I knew Pat socially and we went to the same church  
7 together.

8 **THE COMMISSIONER:** So Mr. Horn, that would  
9 put you as number two as a criminal lawyer in Cornwall.

10 **MR. HORN:** All right.

11 Now, when these issues came up regarding the  
12 group home, did you have access to talking to Mr. Demarco  
13 who was a Crown attorney and ask him for his opinion  
14 because he was on the board?

15 **MR. O'BRIEN:** I don't recall talking to him  
16 because I had -- when I came back from sick leave, I had a  
17 man in charge of the Agency whom I considered one of the  
18 best professionals in the business, Angelo Towndale. He  
19 had used the board in an appropriate manner. The board had  
20 made good decisions in my opinion and I was satisfied with  
21 what had happened when I was away.

22 But speaking to Mr. Demarco personally about  
23 this issue, I don't remember that.

24 **MR. HORN:** Okay. Now everything that  
25 happened with the Second Street Group Home happened totally

1 while you were gone. There was -- it didn't happen -- it  
2 only was a very short period of time that the group home  
3 was opened under Mr. Tenger; is that ---

4 **MR. O'BRIEN:** It was opened, I think, before  
5 I went on sick leave but nothing -- no inappropriate  
6 behaviour was happening that I knew about before I went  
7 away.

8 **MR. HORN:** Okay. But during the time when  
9 it was opened under Mr. Tenger, that was the time you were  
10 on sick leave?

11 **MR. O'BRIEN:** Yes.

12 **MR. HORN:** And by the time you got back, it  
13 had been closed?

14 **MR. O'BRIEN:** Yes.

15 **MR. HORN:** Okay. And anything that you knew  
16 then was only after the fact, you weren't involved in any  
17 of the process as it was going on?

18 **MR. O'BRIEN:** That's correct.

19 **MR. HORN:** Okay. So when the situation came  
20 up again many years later, 13 years later, 1989, this  
21 occurred in '76; about 13 years later, suddenly, things  
22 erupt again.

23 Ms. Antoine -- you were speaking to her.  
24 You weren't speaking to a young person anymore. She was  
25 what, about 30 years of age by then?

1                   **MR. O'BRIEN:** I'm not sure of her age. She  
2 was an adult for sure.

3                   **MR. HORN:** Yeah. And she wasn't a ward  
4 anymore?

5                   **MR. O'BRIEN:** That's correct.

6                   **MR. HORN:** So she was now someone that you  
7 had deal with, not as a ward, but you had -- are you still  
8 treating her like -- as you would look at them in the past?  
9 Basically, you don't trust wards because they're basically  
10 -- a lot of them don't tell the truth for different  
11 reasons? Do you still ---

12                   **MR. O'BRIEN:** You're using a generalization.  
13 I don't think I quite worded it that way. What I said was  
14 we had some difficulty sometimes with some children and  
15 you're, I think, putting all the children in the same boat  
16 and we didn't trust anybody. I don't -- that was not my  
17 view.

18                   **MR. HORN:** But ---

19                   **MR. O'BRIEN:** I'm sorry.

20                   I invited her to come and talk to me after  
21 her telephone conversation. I don't know what more I could  
22 have done.

23                   **MR. HORN:** Okay, I understand that. But did  
24 you look at her as if she's still a child -- or now she's  
25 an adult. You're dealing with her and you're dealing with

1 a 30-year old talking about something that happened a long  
2 time ago and you still didn't believe her.

3 **MR. CHISHOLM:** I don't know if the evidence  
4 was that he disbelieved her at some time prior to 1989;  
5 that's not the evidence as I understand it.

6 **MR. HORN:** In 1989, when you were dealing  
7 with her at that time, did you still disbelieve her at that  
8 time?

9 **THE COMMISSIONER:** Not "still"; not "still";  
10 not "still". Remember, he was gone. All of this happened  
11 at the group home while he was gone.

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

13 **THE COMMISSIONER:** Okay.

14 So when she phoned you in 1989, did you  
15 believe her?

16 **MR. O'BRIEN:** Believe or disbelieve, it  
17 wasn't a matter of believing or disbelieving; it was a  
18 matter of listening to someone who had a complaint and  
19 trying to get them appropriate attention so they voice  
20 their complaint.

21 **THE COMMISSIONER:** Very good.

22 Mr. Horn?

23 **MR. HORN:** Okay. But what I'm trying to get  
24 over is the fact that back -- you're saying back in those  
25 days, you always more or less believed the foster parents

1 over the children because that was the general attitude a  
2 long time ago.

3 Was that still the attitude in 1989 when you  
4 were dealing with an adult who was making a complaint?

5 **MR. CHISHOLM:** I believe Mr. O'Brien's  
6 evidence is he had some difficulty with some children some  
7 of the time.

8 **THE COMMISSIONER:** So I think the proper  
9 question might be -- to lay the foundation, but we should  
10 really get moving on though.

11 Did you have any interaction with Ms.  
12 Antoine when she was a ward? Did you ever talk to her?

13 **MR. O'BRIEN:** I don't recall having any.

14 **THE COMMISSIONER:** Did you ever make an  
15 assessment when she was a ward as to whether she was one of  
16 those persons that some of the time you couldn't believe?  
17 Did you have -- had you made that kind of a judgment about  
18 her at any time before she phoned you in 1989? I think  
19 that's the question.

20 **MR. O'BRIEN:** I don't recall making that  
21 judgment, no.

22 **THE COMMISSIONER:** There you go.

23 **MR. HORN:** Okay. So in 1989, when you got a  
24 complaint in from Ms. Antoine, you knew that she was a ward  
25 though at one -- sometime?

1 MR. O'BRIEN: Yes.

2 MR. HORN: And she is now a lady. She's an  
3 older -- she's not young anymore.

4 THE COMMISSIONER: Okay, Mr. Horn, let's get  
5 to it.

6 MR. O'BRIEN: Yes.

7 MR. HORN: Okay, all right.

8 Did you make your assessment of the  
9 credibility of her statements based upon the fact that she  
10 may have been one of those children that lied, that lied in  
11 the past?

12 MR. O'BRIEN: No.

13 I think I had an open mind about it and I  
14 wanted to listen to her and talk to her to try to determine  
15 better her credibility about what she was saying.

16 Does that answer your question, sir?

17 MR. HORN: Okay.

18 Now, are you a member of the Knights of  
19 Columbus?

20 MR. O'BRIEN: Am I?

21 MR. HORN: Yes.

22 MR. O'BRIEN: No.

23 MR. HORN: You're not. Were you ever?

24 MR. O'BRIEN: No. Do you want to know why?

25 (LAUGHTER/RIRES)

1                   MR. HORN: You weren't at any time?

2                   MR. O'BRIEN: No.

3                   MR. HORN: Okay. But you were -- are you  
4 still a member of the Catholic Laity Group?

5                   MR. O'BRIEN: No.

6                   MR. HORN: Were you at any time?

7                   MR. O'BRIEN: Yes.

8                   MR. HORN: And you were involved in  
9 defending the Catholic Church against the allegations that  
10 were in the web page on Mr. Nadon's web page?

11                   MR. O'BRIEN: I was a member of the laity  
12 committee and we were against the abuse of the web page by  
13 certain people who were making accusations which everybody  
14 had access to the knowledge of, and they had no defence as  
15 to their name appearing on the web page or not.

16                   MR. HORN: Okay. I understand the group  
17 that you were with was specifically called the Catholic  
18 Laity Group; right?

19                   MR. O'BRIEN: Yes.

20                   MR. HORN: So its purpose would be to  
21 protect the Catholic Church?

22                   MR. O'BRIEN: Not entirely. If someone came  
23 to us from another denomination we would certainly have  
24 listened to them if they had the same kind of thinking we  
25 had, because it wasn't a Catholic issue. It was an issue,

1 in my opinion, of justice. But why it was termed the  
2 Catholic Laity is because a lot of the people whose names  
3 were appearing on the web page were Catholic.

4 **MR. HORN:** So you got involved in it.

5 Did you feel it was a slight against your  
6 priests and against the Church or was it just a general  
7 idea that something was wrong?

8 **MR. O'BRIEN:** Yeah, it was because we  
9 thought that this was wrong and the people being attacked  
10 were all Catholic.

11 **MR. HORN:** Okay, and as a good Catholic you  
12 wanted to ---

13 **MR. O'BRIEN:** Pardon?

14 **MR. HORN:** As a good Catholic you wanted to  
15 defend your fellow Catholics; is that right?

16 **MR. O'BRIEN:** As a Catholic. I don't know  
17 whether I'd take the liberty of calling myself a good  
18 Catholic but I was a Catholic, yes, and I wanted to defend  
19 what was happening.

20 But if it had been an Anglican minister I  
21 would have adopted the same attitude.

22 **MR. HORN:** Did you know Mr. Ken Seguin at  
23 all?

24 **MR. O'BRIEN:** I don't think I did, no.

25 **MR. HORN:** And you're saying that you didn't

1 really know Mr. Malcolm MacDonald either?

2 MR. O'BRIEN: No, no, I knew Malcolm  
3 MacDonald. Oh, yes.

4 THE COMMISSIONER: Under the terms that you  
5 just told us, that you would see him at the mess hall?

6 MR. O'BRIEN: Yes.

7 THE COMMISSIONER: Did you spend any time  
8 with him at the mess hall, like would you sit down with him  
9 for an hour and chat, just you and him?

10 MR. O'BRIEN: Mr. Commissioner, we played  
11 poker.

12 THE COMMISSIONER: Oh. Well, that's not  
13 talking.

14 (LAUGHTER/RIRES)

15 MR. HORN: But that's the extent of your  
16 involvement with Mr. ---

17 MR. O'BRIEN: Yes, it was strictly social.

18 MR. HORN: Okay.

19 Now, there's one other area that I'm  
20 interested in. When you have a board of directors that's  
21 made up of Crown attorneys, police officers and priests,  
22 people in that way, is there any problem that if an issue  
23 comes up and there may be an embarrassing situation that  
24 could occur, like the Antoine situation, that there'd be  
25 fear of embarrassing these different groups like the

1 Church, the police and the different organizations that are  
2 on the board?

3 **MR. CHISHOLM:** I object to the question.

4 This witness is not in a position to comment on what a  
5 board would do; a board of directors. He was the Executive  
6 Director of the CAS, not a member of the board.

7 **THE COMMISSIONER:** Can you rephrase that?

8 **MR. HORN:** Pardon?

9 **THE COMMISSIONER:** Do you want to rephrase  
10 that?

11 **MR. HORN:** Yes.

12 **THE COMMISSIONER:** Mr. Lee?

13 **MR. LEE:** This is a little bit odd, but I  
14 think Mr. Horn may want to ask whether or not the witness  
15 has ever spent any time on a CAS board, because the answer  
16 may make the question appropriate.

17 **MR. HORN:** That would be a good question.

18 **MR. O'BRIEN:** I didn't get it.

19 **THE COMMISSIONER:** Did you ever sit on a CAS  
20 board as a board of directors member?

21 **MR. O'BRIEN:** Did I ever?

22 **THE COMMISSIONER:** Yeah.

23 **MR. O'BRIEN:** Yes. Sure, Mr. Commissioner,  
24 yes.

25 **THE COMMISSIONER:** When -- ballpark?

1                   **MR. O'BRIEN:** Oh, 19 -- the late nineties or  
2                   -- yeah, the late nineties. I sat on the local CAS board.

3                   **THE COMMISSIONER:** Okay.

4                   **MR. HORN:** Okay.

5                   **MR. CHISHOLM:** I'll withdraw my objection.

6                   **MR. HORN:** All right.

7                   As a board member, people coming from  
8                   different police departments, the Crown attorneys, they're  
9                   all sitting on the board together ---

10                  **THE COMMISSIONER:** Well, no, just now you've  
11                  gotten a different story though.

12                  When you were on the board do you remember  
13                  who the directors were?

14                  **MR. O'BRIEN:** When I was on the board?

15                  **THE COMMISSIONER:** Yeah.

16                  **MR. O'BRIEN:** I remember two or three of  
17                  them.

18                  **THE COMMISSIONER:** All right.

19                  Was one of them a Crown Attorney?

20                  **MR. O'BRIEN:** No.

21                  **THE COMMISSIONER:** Was one of them a police  
22                  officer?

23                  **MR. O'BRIEN:** Yes.

24                  **THE COMMISSIONER:** Okay. Who else did you  
25                  want?

1                   Was there any member of the Catholic Church  
2                   there like a priest or a vicar or whatever?

3                   **MR. O'BRIEN:** Not when I was on the board.

4                   **THE COMMISSIONER:** Okay. So you've got a  
5                   police officer. So use that as an example.

6                   **MR. HORN:** All right.

7                   As a board member, knowing the dynamics of  
8                   the board, would you have any feeling that as a result of a  
9                   situation that may arise that might embarrass the  
10                  Children's Aid Society, would it affect the way in which  
11                  Board members might react in terms of whether they'd go to  
12                  the police to make a complaint or not, because it might be  
13                  an embarrassing situation for the board and its members?

14                  **MR. O'BRIEN:** I'm not quite sure I  
15                  understand your question. Are you talking about me as an  
16                  individual?

17                  **MR. HORN:** No, not only as an individual but  
18                  as a board member and somebody who has seen how boards  
19                  operate.

20                  **MR. O'BRIEN:** Okay. If I were on the board  
21                  and something happened that, if it became public knowledge,  
22                  would affect the board adversely and the board refused to  
23                  take appropriate action because they didn't want to have a  
24                  bad image in front of the public, I would have been very  
25                  upset with that. In other words, take action whether it's

1 bad for you or good for you if the action is necessary.

2 MR. HORN: Okay. So that would be your  
3 particular way you would look at it and do?

4 MR. O'BRIEN: Yes.

5 MR. HORN: That's only -- you're talking  
6 about yourself.

7 MR. O'BRIEN: My experience with boards over  
8 the years is the more you kept them informed -- and I made  
9 sure that my boards were always well informed -- the better  
10 equipped they were and the more ready they were to take  
11 decisions.

12 Does that help -- no? Does that help you?

13 MR. HORN: Yes.

14 Now, in relationship between you and, let's  
15 say, the Children's Aid management and the Director, did  
16 you view yourself as being like in charge and they're  
17 subordinate to you?

18 MR. O'BRIEN: In charge of which?

19 MR. HORN: I'm talking about the board. Are  
20 they the ones in charge of the CAS?

21 MR. O'BRIEN: Very much so.

22 MR. HORN: Okay. And you're a subordinate?

23 MR. O'BRIEN: Yes.

24 THE COMMISSIONER: Who is "you"; you as the  
25 Director?

1                   **MR. HORN:** I'm talking about the management,  
2                   upper management, the Director and the people that are  
3                   running the CAS.

4                   **MR. O'BRIEN:** They were my bosses. The  
5                   board were my bosses.

6                   **MR. HORN:** So if anything went wrong, the  
7                   buck stops here; it stops at the board?

8                   **MR. O'BRIEN:** As opposed to stopping where?

9                   **MR. HORN:** With the Director.

10                  **MR. O'BRIEN:** I'm not sure I understand. If  
11                  the board felt that I wasn't doing my job they would let me  
12                  know.

13                  Does that answer your question? Is that  
14                  what you want to know?

15                  **MR. HORN:** In the final analysis, the  
16                  Antoine situation that occurred, who is held responsible?  
17                  Is it the board or the Director as to making sure that it  
18                  didn't happen again?

19                  **MR. CHISHOLM:** When he speaks of the Antoine  
20                  situation perhaps you could have a bit more clarity of the  
21                  question so the witness can understand what he's speaking  
22                  about.

23                  **MR. HORN:** The allegations that came from  
24                  Ms. Antoine about what had happened at the group home in  
25                  1976. The responsibility, is it with the Board or the

1 Director? Who is the one responsible ---

2 MR. O'BRIEN: Staff.

3 MR. HORN: --- for doing ---

4 MR. O'BRIEN: Staff.

5 MR. HORN: --- to make sure it doesn't  
6 happen again?

7 MR. CHISHOLM: Mr. O'Brien -- which  
8 allegations is he referring; to Ms. Antoine's ---

9 THE COMMISSIONER: Well, first of all,  
10 responsibility. If you're asking him which one should  
11 assume responsibility, as in legal or moral, it's not the  
12 issue here.

13 If there's a question as to process, how --  
14 is there anyone who was responsible for the process on how  
15 to handle the complaint and how to deal with this matter,  
16 that's a proper question.

17 MR. HORN: That's the -- thank you for  
18 helping me with the question. That's really what I want to  
19 know, is when a situation like this one occurred who was  
20 responsible to do something; was it after the Board gets  
21 the information and they make the decision or the was it  
22 the Director could do it on his own and just go the police  
23 and lay charges?

24 MR. CHISHOLM: Again, when Mr. Horn speaks  
25 of the situation, Mr. O'Brien has not been here as long as

1 we have. Perhaps if Mr. Horn specifies what exactly he's  
2 speaking of it will assist the witness in answering the  
3 question.

4 **THE COMMISSIONER:** M'hm, yeah.

5 **MR. HORN:** Okay.

6 Ms. Antoine makes the phone call to you, has  
7 a discussion with you. All right?

8 **MR. O'BRIEN:** Yes.

9 **MR. HORN:** Now something has to be done.  
10 All right?

11 **MR. O'BRIEN:** That's correct, yes.

12 **MR. HORN:** You can't just let it sit.

13 **MR. O'BRIEN:** I'm sorry?

14 **MR. HORN:** We just can't let it lie.

15 **MR. O'BRIEN:** That's correct, yeah.

16 **MR. HORN:** Something has to be done.

17 **MR. O'BRIEN:** That's correct, yes.

18 **MR. HORN:** And so what do you do? Do you  
19 make the decision or do you have to go to the Board first  
20 and ask them for permission to do anything?

21 **MR. O'BRIEN:** No, I wouldn't go to the  
22 Board. It would have been up to me to handle it. The call  
23 came to me. It's a situation that staff should be dealing  
24 with, not the Board of Directors. It should have been me,  
25 and I did.

1                   **MR. HORN:** Okay. So you were responsible.  
2                   When does the Board come into the picture then?

3                   **MR. O'BRIEN:** The Board, generally speaking,  
4                   would not come into a picture on an individual case. They  
5                   would become involved on broader issues like the group home  
6                   where a number of things were reported to them as going on  
7                   that should not have been going on.

8                   Staff were going to change the way we  
9                   operated by closing the group home and wanting staff to go.  
10                  And the senior staff, including Mr. Towndale, did not have  
11                  the authority to let anybody go. He didn't have the  
12                  authority, and neither did I. If someone was to be fired  
13                  it had to go to the board of directors.

14                  But on individual situations, generally  
15                  speaking, the staff handled them. On the broader issues it  
16                  will be up to the Board. On a matter of policy, if there  
17                  was something brought to our attention that violated  
18                  policy, if the staff couldn't deal with it, then it had to  
19                  go to the Board.

20   **(SHORT PAUSE/COURTE PAUSE)**

21                   **MR. HORN:** Thank you.

22                   **MR. O'BRIEN:** Thanks, Mr. Horn.

23                   **THE COMMISSIONER:** Okay. So we're near the  
24                   end of the day, Mr. O'Brien. So what I'm going to do is  
25                   canvass the lawyers to see how much time they think they

1 need and then we'll chat about how we're going to do this.

2 MR. O'BRIEN: Thank you.

3 THE COMMISSIONER: All right.

4 Mr. Lee, how much time?

5 MR. LEE: I cut yesterday's estimate in half  
6 and I think I should be no more than one hour, hopefully  
7 less.

8 THE COMMISSIONER: Good. Thank you.

9 Mr. -- Probation, zero.

10 Mr. Thompson?

11 MR. THOMPSON: Approximately 10 or 15  
12 minutes.

13 THE COMMISSIONER: Okay.

14 Mr. Glick, is it?

15 MR. GLICK: Yes. We have no questions.

16 THE COMMISSIONER: I didn't think so.

17 The Diocese isn't here.

18 Mr. Crane?

19 MR. CRANE: Nothing thus far.

20 THE COMMISSIONER: Ms. Lahaie?

21 MS. LAHAIE: I'm not anticipating anything.

22 THE COMMISSIONER: All right.

23 Mr. Wallace?

24 MR. WALLACE: Same position.

25 THE COMMISSIONER: All right.

1                   So we've got about an hour and 15 minutes,  
2                   an hour and a half. I don't know that we should do it  
3                   tonight. I don't know that that would be a good thing for  
4                   you.

5                   But would you rather come back tomorrow or  
6                   the day after or what would you like to do?

7                   **MR. O'BRIEN:** Well, I'd like to take a -- if  
8                   I may, a five or 10 minute break and then come back and  
9                   work at least until 5:00 o'clock. No?

10                  **THE COMMISSIONER:** Oh, no, that's great.  
11                  But you're sure you're up to it now, sir?

12                  **MR. O'BRIEN:** Yes, sir.

13                  **MR. CHISHOLM:** I'll just draw to your  
14                  attention the exhibits that were filed yesterday with  
15                  respect to the medical advice.

16                  **THE COMMISSIONER:** Oh, no, I understand that  
17                  but -- well, I'm going to take a break. You folks talk and  
18                  let me know. Okay?

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

21                  This hearing will resume at 4:25 p.m.

22                  --- Upon recessing at 4:13 p.m./

23                  L'audience est suspendue à 16h13

24                  --- Upon resuming at 4:25 p.m./

25                  L'audience est reprise à 16h25

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                   **THOMAS O'BRIEN, Resumed/Sous le même serment:**

6                   **THE COMMISSIONER:** Thank you.

7                   **MR. CHISHOLM:** So, Mr. Commissioner, given  
8                   that we have about an hour, an hour and a half left of  
9                   cross-examination, Mr. O'Brien's preference at this point  
10                  would be that we would continue tomorrow morning.

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

12                  **MR. CHISHOLM:** He's requested that he have a  
13                  10:30 start. So we could start the day tomorrow with the  
14                  McDougald ODE, which will take 45 minutes to an hour, and  
15                  then continue on with Mr. O'Brien.

16                  **THE COMMISSIONER:** All right.

17                  Does that sound okay for you, sir?

18                  **MR. O'BRIEN:** Yes. Yes, Mr. Commissioner.

19                  **THE COMMISSIONER:** Thank you very much for  
20                  accommodating us in this regard.

21                  So we'll end the day today. Now, I suppose  
22                  we have that sentencing evening tonight ---

23                  **MR. DUMAIS:** Correct.

24                  **THE COMMISSIONER:** --- at the Ramada Inn at

25                  ---

1                   **MR. DUMAIS:** Seven o'clock (7:00).

2                   **THE COMMISSIONER:** --- 7:00 o'clock for  
3 those who are watching on the web.

4                   I feel like a promoter.

5                   In any event, we'll start at 9:30, as you've  
6 indicated.

7                   **MR. DUMAIS:** Thank you very much, sir.

8                   **THE COMMISSIONER:** We'll see you tomorrow,  
9 sir. Thank you.

10                  **MR. O'BRIEN:** Thank you, Mr. Commissioner.

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

13                               This hearing is adjourned until tomorrow  
14 morning at 9:30 a.m.

15                   --- Upon adjourning at 4:27 p.m./

16                   L'audience est ajournée à 16h27

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C E R T I F I C A T I O N

I, Marc Demers a certified court reporter inthe 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, Marc Demers, 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.



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Marc Demers, CM