

**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 298

Held at :

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

Thursday, October 30, 2008

Tenue à:

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

Jeudi, le 30 octobre 2008

Appearances/Comparutions

Ms. Brigitte Beaulne	Registrar
M ^e Pierre Dumais	Commission Counsel
Ms. Maya Hamou	
Ms. Karen Jones	
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
Mr. Tilton Donihee	
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Jodie-Lynn Waddilove	Attorney General for Ontario
Ms. Michele R.J. Allinotte	The Children's Aid Society of the United Counties
Mr. Juda Strawczynski	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Ms. Gisèle Levesque	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police
Mr. Mark Wallace	Association
Mr. Frank T. Horn	Coalition for Action
Mr. Larry O'Brien	Randy Millar
Mr. Jim McWade	

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1 --- Upon commencing at 9:35 a.m./

2 L'audience débute à 9h35

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning.

10 **MR. DUMAIS:** Good morning.

11 Mr. Commissioner, prepared to call our next
12 witness, Mr. Jim McWade.

13 **THE COMMISSIONER:** Thank you.

14 **JAMES ROBERT McWADE:** Sworn/Assermenté

15 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
16 DUMAIS:

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

18 So I'd ask you to sit up close to the
19 microphone. There's fresh water and clean glasses. You'll
20 have the screen to look at some of the documents and they
21 will be in hard copy as well. If you have any questions,
22 you feel uncomfortable about something, please let me know
23 and we'll try to deal with it. All right?

24 **MR. McWADE:** Okay.

25 **THE COMMISSIONER:** In the meantime, answer

1 the questions the best you can.

2 MR. McWADE: Yes, sir.

3 THE COMMISSIONER: Thank you.

4 MR. DUMAIS: Good morning, Mr. McWade.

5 MR. McWADE: Good morning.

6 MR. DUMAIS: I understand that you're a
7 retired Staff Sergeant with the Ontario Provincial Police?

8 MR. McWADE: Yes, sir.

9 MR. DUMAIS: And you would have retired in
10 1991?

11 MR. McWADE: I retired the 31st of December,
12 2001.

13 MR. DUMAIS: Two-thousand-and-one (2001),
14 sorry.

15 And I understand that, at that time, you
16 were Detachment Commander of the Renfrew Detachment. Is
17 that correct?

18 MR. McWADE: Yes, sir.

19 MR. DUMAIS: All right.

20 I'm going that a document be put to you. It
21 is a Career Profile that was prepared on your behalf. It
22 is Document Number 200307.

23 Do you see the document, Mr. McWade?

24 MR. McWADE: A portion of it, yes.

25 MR. DUMAIS: All right. So, essentially,

1 you would have started as a probationary officer with the
2 OPP in 1969?

3 **MR. McWADE:** Yes, sir.

4 **MR. DUMAIS:** And you were, at the time,
5 stationed at the Shabaqua Detachment in Thunder Bay?

6 **MR. McWADE:** Yes, sir. It's just west of
7 Thunder Bay.

8 **MR. DUMAIS:** All right.

9 And for a certain period of time, you were a
10 force diver with the OPP. Is that correct?

11 **MR. McWADE:** Yes, sir.

12 **MR. DUMAIS:** And you would have been
13 promoted to the rank of Detective Constable in 1977?

14 **MR. McWADE:** Yes, sir.

15 **MR. DUMAIS:** And then to the rank of
16 Corporal in 1985?

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

18 **MR. DUMAIS:** My understanding is that, at
19 one point-in-time, that rank was changed or abolished with
20 the OPP and you then became a Sergeant. Is that correct?

21 **MR. McWADE:** Yes, sir.

22 **MR. DUMAIS:** And you became a Staff Sergeant
23 and you were posted at the Lancaster OPP Detachment on
24 January 1st, 1990?

25 **MR. McWADE:** Yes, sir.

1 **MR. DUMAIS:** And you were Detachment
2 Commander from 1990 until you were transferred in November
3 of 1993?

4 **MR. McWADE:** Yes, sir.

5 **MR. DUMAIS:** So, essentially, the questions
6 that I will be putting to you will relate to your role as
7 Detachment Commander at the Lancaster Detachment during
8 that period of time. And more specifically, we'll be
9 looking at one particular event.

10 In 1993, you were then transferred to the
11 Renfrew Detachment where you were the NCO. Is that
12 correct?

13 **MR. McWADE:** I was transferred and I was
14 again Detachment Commander of Renfrew.

15 **MR. DUMAIS:** And for some period of time,
16 you transferred to the Ottawa Detachment. Is that correct?

17 **MR. McWADE:** After Renfrew, I went to the
18 Ottawa Telecommunications Unit located inside the same
19 building as the Ottawa Detachment.

20 **MR. DUMAIS:** All right. And my
21 understanding is that you, after a couple of years,
22 transferred back to Renfrew and you were the Detachment
23 Commander for some time and then you took your retirement?

24 **MR. McWADE:** Yes, sir.

25 **MR. DUMAIS:** And ---

1 **THE COMMISSIONER:** Exhibit Number 2520 is
2 the exhibit number for this C.V.

3 **---EXHIBIT NO./PIÈCE NO. P-2520:**

4 (200307) Career Profile of Jim McWade

5 **MR. DUMAIS:** And this career profile, Mr.
6 McWade, provides at the last page a number of training
7 courses that you've completed with the OPP. You've had a
8 chance to review those training courses. They are
9 accurate?

10 **MR. McWADE:** Yes, sir.

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

12 If we can then just start with when you're
13 transferred and you became the Detachment Commander at the
14 Lancaster Detachment.

15 Can you just give us a sense of how many
16 officers you were responsible for? Just give us a sense of
17 the detachment, how it's run, how many officers, and what
18 your role was there?

19 **MR. McWADE:** When I first arrived in January
20 of 1990, Lancaster was a 24-hour detachment that was just
21 in the process of reverting to extended hours but,
22 basically, over a -- not a 24-hour operation. We were
23 ending at around, I believe, 3:00 o'clock in the morning,
24 and so we were going through that transition.

25 And so some realignments of personnel were

1 being made at the same time. I can't give you specifics on
2 the exact numbers but we had a complement of myself, two
3 sergeants, detective constables, I believe two, and a
4 series of constables of different service length.

5 MR. DUMAIS: All right. So, just in general
6 terms, what were your responsibilities as Detachment
7 Commander?

8 MR. McWADE: Administration of the office.
9 The deployment of the manpower and resources that were
10 provided to me.

11 MR. DUMAIS: And as Detachment Commander,
12 who would you report to?

13 MR. McWADE: Directly to District
14 Headquarters.

15 MR. DUMAIS: All right. And headquarters,
16 where is that located?

17 MR. McWADE: At that time, it was in Long
18 Sault.

19 MR. DUMAIS: For that ---

20 MR. McWADE: Through that time period, it
21 was Long Sault. It's been restructured since then and now
22 the Regional Headquarters is Smith Falls.

23 MR. DUMAIS: All right.

24 Now, I understand that on December 18th,
25 1992, there's a complaint that came in to your station and

1 -- I'm just going to ask Madam Clerk for -- if a moniker
2 can be identified for you, C-8?

3 So, Mr. McWade, the names of certain
4 individuals are protected here and we refer to them as
5 moniker in the hearings room.

6 **MR. McWADE:** Okay. Thank you.

7 **MR. DUMAIS:** It is my understanding that C-8
8 would have made a complaint against a Mr. Ron Leroux. So
9 you're aware of that complaint, Mr. McWade?

10 **MR. McWADE:** I recall it.

11 **MR. DUMAIS:** All right. And did the -- that
12 information or that complaint come in directly to you?

13 **MR. McWADE:** I don't believe so. I have no
14 recollection of it. Occurrences are received in various
15 manners and I don't have any personal recollection.

16 **MR. DUMAIS:** So do you recall assigning this
17 occurrence or this investigation to someone specifically
18 from your detachment?

19 **MR. McWADE:** No, sir, I don't.

20 **MR. DUMAIS:** All right. My understanding is
21 that at one point-in-time one of your officers, Officer
22 McDougald, would have begun this investigation?

23 **MR. McWADE:** That is my understanding.

24 **MR. DUMAIS:** All right. So do you recall
25 what rank Officer McDougald had at the time?

1 **MR. McWADE:** Constable, I'm not sure of the
2 direct classification because there is different levels of
3 constable.

4 **MR. DUMAIS:** Okay. Do you recall this
5 investigation specifically?

6 **MR. McWADE:** Not in great detail.

7 **MR. DUMAIS:** Okay. So you required the
8 assistance of some of the documents that were put to you to
9 refresh your memory. Is that correct?

10 **MR. McWADE:** Yes, sir.

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

12 I understand, as a result of this complaint,
13 a number of firearms were seized or given to your
14 detachment for safekeeping. Is that correct?

15 **MR. McWADE:** That's -- yes, sir.

16 **MR. DUMAIS:** And my understanding is that
17 Officer McDougald, in his investigation, would have
18 uncovered that there would have been two outstanding
19 firearms located in the residence. Is that correct?

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

21 **MR. DUMAIS:** Okay. And my understanding is
22 that the information about these two outstanding firearms
23 came to you initially. Is that correct?

24 **MR. McWADE:** My recollection is that I
25 called the Firearms Registration people to obtain

1 information in regards to weapons that individual had
2 registered to his name and the location that they were
3 properly registered to.

4 **MR. DUMAIS:** Okay. And you would have
5 related this information to your officers. Is that
6 correct?

7 **MR. McWADE:** Yes, sir.

8 **MR. DUMAIS:** And my understanding is that at
9 some point in time a warrant would have been prepared, a
10 search warrant?

11 **MR. McWADE:** There was, sir.

12 **MR. DUMAIS:** And perhaps if I can just ask
13 Madam Clerk to show you this document, which is Document
14 Number 706160?

15 And, Madam Clerk, there are a number of
16 documents here, the information to obtain the warrant and
17 the actual warrant itself, and its Appendix are in separate
18 document form.

19 So it's 706160, 706161, 706162 --
20 actually, it's all Exhibit 603 -- and 706163. And it is
21 all Exhibit 603.

22 **THE COMMISSIONER:** Six zerothree (603)?

23 **(SHORT PAUSE/COURTE PAUSE)**

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

25 The first document number I gave you, Mr.

1 Commissioner, is not an exhibit yet. It's the information
2 to obtain the search warrant. So that should be filed as
3 the second exhibit this morning.

4 **THE COMMISSIONER:** All right.

5 Exhibit 2521 will be an Information to
6 Obtain a Search Warrant and it's sworn on the 10th of
7 February, 1993.

8 --- **EXHIBIT NO./PIÈCE NO. P-2521:**

9 (706160) Information to Obtain Search
10 Warrant - February 10, 1993.

11 **MR. DUMAIS:** So you have the Information to
12 Obtain before you, sir?

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

14 **MR. DUMAIS:** So if we look at the top there,
15 it appears ---

16 **MR. WALLACE:** Mr Commissioner, the last
17 exhibit is the Information, but there are two appendixes
18 that form ---

19 **THE COMMISSIONER:** Yeah.

20 **MR. WALLACE:** --- part of the Information
21 that are the latter documents, so I think they should all
22 go in. Referring to the Information, they would form part
23 of the Information although they are separate documents.

24 **MR. DUMAIS:** I mean -- that's right.

25 It wasn't filed at the time, Mr.

1 Commissioner, so ---

2 **THE COMMISSIONER:** Well, I have Appendix A
3 and B, and they are on -- are you saying -- I'm looking at
4 603, and Page 2 and 3, there's Appendix A and Appendix B
5 there. Is that the Appendix A and Appendix B that we're
6 looking for?

7 **MR. DUMAIS:** That's correct, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** Okay.

10 **MR. DUMAIS:** I think Document Number -- the
11 Appendix A and B, which is in the Exhibit 603, actually go
12 with the Information to Obtain the warrant.

13 **THE COMMISSIONER:** Okay. I'm clear on that.
14 Thank you.

15 **MR. DUMAIS:** So then this is an Information
16 to Obtain a Search Warrant. The information is being sworn
17 by Steve McDougald. You see where I'm at, at the top of
18 that document?

19 **MR. McWADE:** Yes, sir.

20 **MR. DUMAIS:** And then it refers to a -- the
21 search of a dwelling house, a garage and a boathouse of a
22 Mr. Ronald Leroux?

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

24 **MR. DUMAIS:** And I understand that this
25 search warrant is being requested to look for two weapons,

1 and they're identified there on the Information. You see
2 this?

3 **MR. McWADE:** Yes, sir.

4 **MR. DUMAIS:** And it appears that this
5 Information was sworn on the 10th day of February, 1993?

6 **MR. McWADE:** Yes, sir.

7 **MR. DUMAIS:** And in this Information, there
8 are two Appendices that are attached. The Number 1 are
9 essentially the grounds that Officer McDougald would have
10 had to obtain the warrant.

11 And I'm just going to ask you to look at
12 Appendix B of Exhibit 603.

13 And I'm assuming, Mr. Commissioner, that at
14 the time that this exhibit was filed, it was filed as a
15 confidential exhibit?

16 **THE COMMISSIONER:** Yes, it was.

17 **MR. DUMAIS:** Thank you.

18 **THE COMMISSIONER:** Hence ---

19 **MR. DUMAIS:** So you have this Appendix
20 before you, Mr. McWade?

21 **MR. McWADE:** Yes, sir.

22 **MR. DUMAIS:** So essentially that tells a
23 story, so what happened, that he conducted his
24 investigation and his grounds, his reasonable belief for
25 believing that the weapons are located at that residence.

1 Is that correct?

2 MR. McWADE: Yes, sir.

3 MR. DUMAIS: All right.

4 So the decision of Mr. -- or Officer
5 McDougald to obtain this search warrant and him swearing
6 information before a justice, were you involved in that
7 process at all?

8 MR. McWADE: No, sir.

9 MR. DUMAIS: Did you provide him with any
10 direction?

11 MR. McWADE: I believe I may have assigned
12 him somebody or asked him to seek out the assistance of
13 Randy Millar. He was one of our detective constables.

14 MR. DUMAIS: So he would have assisted in
15 the execution of the search warrant. Is that correct?

16 MR. McWADE: Yes, sir.

17 MR. DUMAIS: All right.

18 But do you recall at the time whether or not
19 you would have reviewed either the information to obtain or
20 the search warrant once it was granted and before it was
21 executed?

22 MR. McWADE: I did not, sir.

23 MR. DUMAIS: All right.

24 But at one point in time, you would have
25 become aware that these officers were executing this

1 warrant; is that correct?

2 **MR. McWADE:** I don't recall whether I knew
3 exactly when they were going to do it. I may have found
4 out after they had completed it or aware just before they
5 were going to the residence. I just cannot specifically
6 recall.

7 **MR. DUMAIS:** All right.

8 And you certainly were not involved with the
9 search itself; is that correct?

10 **MR. McWADE:** I was not involved, sir. I was
11 not there.

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

13 And as far as you know, Officer McDougald
14 and Officer Millar would have been involved in executing
15 this warrant. Is that correct?

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

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

18 And were both these officers directly under
19 your command?

20 **MR. McWADE:** They were part of, yes, sir, my
21 responsibility.

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

23 So Detective Constable Millar reported to
24 you as well; is that correct?

25 **MR. McWADE:** It was a situation where he was

1 part of a District Crime team as well as being a resource
2 of the detachment. So dependent on whatever was required,
3 I would seek out -- see if he was available to provide
4 assistance because he may be in another area assisting on
5 another case.

6 **MR. DUMAIS:** So my understanding is he would
7 -- and you made reference to this, that he reported to the
8 Area Crime Sergeant; is that correct?

9 **MR. McWADE:** Yes.

10 **MR. DUMAIS:** And he was part of the Regional
11 Criminal Investigation Bureau Commander -- or he reported
12 to him?

13 **MR. McWADE:** I missed the last part there.

14 **MR. DUMAIS:** He reported to the Regional
15 Criminal Investigation Bureau Commander? Did he report to
16 anyone else other than to ---

17 **MR. McWADE:** He was involved with the Area
18 Crime Sergeant and there was -- there's a chain of command
19 with them as well as a chain of command within the
20 detachment. He was a shared resource.

21 **MR. DUMAIS:** Okay.

22 **MR. McWADE:** But the paperwork and
23 accountability fell within the detachment, providing cars
24 and administrative assistance and occasionally
25 investigative assistance.

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

2 So do you recall whether or not the
3 Detective Constable was involved in the initial part of
4 this investigation, so when the information first came in,
5 in December, or whether or not he was just involved with
6 the search itself?

7 **MR. McWADE:** I have no definitive recall on
8 that, sir. I'm not 100 percent sure.

9 **MR. DUMAIS:** Do you have any specific memory
10 of assigning him to this search or assisting Officer
11 McDougald?

12 **MR. McWADE:** No, sir.

13 **MR. DUMAIS:** Okay. Now, my understanding is
14 that the search warrant was executed by the officers, and
15 at one point in time they would have returned to the
16 detachment.

17 Do you recall whether or not you would have
18 spoken to any of the officers when they came back?

19 **MR. McWADE:** In all probability I did, but I
20 don't have any direct recall of it as to the exact time of
21 day and when I exactly met one or the other or both.

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

23 I'm going to ask you then to look at the --
24 and I think this is the last page of Exhibit 603, which we
25 just looked at.

1 **THE COMMISSIONER:** Is the last page 198?

2 **MR. DUMAIS:** That's correct, Mr.

3 Commissioner.

4 **THE COMMISSIONER:** All right.

5 **MR. DUMAIS:** Now, my understanding, sir,
6 this is a return to a Justice on the execution of a search
7 warrant. Is that your understanding as well?

8 **MR. McWADE:** Yes, sir.

9 **MR. DUMAIS:** And this document is usually
10 prepared after the warrant is executed and you go back
11 before a Justice of the Peace and essentially indicate what
12 has been seized ---

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

14 **MR. DUMAIS:** --- during the execution of the
15 search. Is that correct?

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

17 **MR. DUMAIS:** And if we look at the bottom,
18 just below the date, there's two items that are noted.

19 The first one I believe reads:

20 "Seized Item 2, unknown weapons, 45
21 cal. [calibre], serial number 3."

22 And the second item that's indicated there:

23 "Seized unidentified restricted
24 weapons."

25 Is that correct?

1 **MR. McWADE:** Yes, sir.

2 **MR. DUMAIS:** So were you made aware when the
3 officers returned to the detachment that they had the
4 occasion to seize these two weapons?

5 **MR. McWADE:** Yes, sir.

6 **MR. DUMAIS:** And were you aware that after
7 the -- when they returned to the detachment, that they had
8 also seized a number of videotapes and a suitcase?

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

10 **MR. DUMAIS:** And these items do not form
11 part of the return that was made to a Justice. Is that
12 correct?

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

14 **MR. DUMAIS:** Do you have any explanation for
15 that?

16 **MR. McWADE:** No, sir.

17 **MR. DUMAIS:** Were you made aware that it was
18 not part of the return to Justice back at that time?

19 **MR. McWADE:** I don't recall.

20 **MR. DUMAIS:** Okay, so you don't recall
21 reviewing this document when it was prepared at the time?

22 **MR. McWADE:** No, sir, I've never seen this
23 document before.

24 **MR. DUMAIS:** Okay. Do you recall having any
25 discussion with the officers who had executed the search as

1 to whether or not they should include this on this return
2 to Justice, any type of conversation?

3 **MR. McWADE:** No recollection on that, sir.

4 **MR. DUMAIS:** All right. Is it fair to say
5 then that the first time that you were made aware that this
6 was not part of the listed items seized at the time was in
7 preparation for your evidence here today?

8 **MR. McWADE:** Yes, sir.

9 **THE COMMISSIONER:** Were you surprised by the
10 fact, sir, that it wasn't in the return?

11 **MR. McWADE:** Yes, sir.

12 **THE COMMISSIONER:** Is that a usual practice
13 that people don't put the whole thing down?

14 **MR. McWADE:** My understanding of it is if
15 you seize something as a result of a search warrant, that
16 every item that's seized should have been -- or should be
17 on the warrant.

18 **THE COMMISSIONER:** Okay. Thank you.

19 **MR. McWADE:** The disposition of it is to be
20 determined, but it should be listed.

21 **THE COMMISSIONER:** Thank you.

22 **MR. DUMAIS:** Now, I understand that later
23 on, Detective Sergeant Pat Hall would have conducted a
24 number of interviews with respect to this search, and I
25 understand that you would have been one of the persons

1 interviewed. Is that correct?

2 **MR. McWADE:** Yes, I was, sir.

3 **MR. DUMAIS:** And my understanding is that
4 the officers that were interviewed were Detective Sergeant
5 Randy Millar. Is that correct?

6 **MR. McWADE:** It's possible, sir. I know he
7 interviewed myself and he mentioned that he'd interviewed
8 Constable McDougald, but I can't remember any others.

9 **MR. DUMAIS:** And these interviews would have
10 been conducted at different times in 1998 and in 1999. Is
11 that correct?

12 **MR. McWADE:** I believe they started then.
13 Mine was in '99.

14 **MR. DUMAIS:** All right. And you were no
15 longer at the detachment at that time?

16 **MR. McWADE:** No, I was the Unit Commander of
17 the Telecommunications in Ottawa.

18 **MR. DUMAIS:** Okay, but had you been made
19 aware that Detective Sergeant Hall was looking into this
20 matter and was interviewing a number of your officers?

21 **MR. McWADE:** At some point-in-time I was
22 advised that I was going to be interviewed in regards to an
23 occurrence in Lancaster, and then when I met with him I got
24 the full details of what was going on.

25 **MR. DUMAIS:** So we're just going to go

1 through some of these statements that were given, Mr.
2 McWade, starting with Document Number 112710.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit 2522 is an interview report of Randy
5 Millar. The date of the interview is the 3rd day of
6 December, 1998, and there should be -- or should there not
7 be -- yes, a ban on publication stamp?

8 **MR. DUMAIS:** Yes, please, Mr. Commissioner.

9 **--- EXHIBIT NO./PIÈCE NO. P-2522:**

10 (112710) Interview Report of Randy Millar -
11 December 3, 1998

12 **MR. DUMAIS:** The name of C-8 appears on the
13 second page.

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

15 **MR. DUMAIS:** So this appears to be the
16 statement that was given by Detective Sergeant Randy Millar
17 on the 3rd day of December, 1998 and, essentially, he's
18 being asked what his involvement in this search was.

19 And he starts his statement -- or his answer
20 starts at the second paragraph on that first page,
21 essentially indicating that he would have been assisting
22 with the search and the times he would have attended the
23 residence on February 10th.

24 If you just look at the second page of his
25 statement, the first paragraph, and I'll just read it out

1 for you.

2 I'm starting to read it from the second line
3 -- I'll start with the first line:

4 "It was beside a bathtub. They
5 appeared to be hidden because of their
6 location. There was two loose
7 videotapes which appeared to be
8 pornographic. They were seized and
9 both tapes and suitcase were seized. A
10 telephone call was made to Project P to
11 ascertain if any *Criminal Code*
12 violations, but couldn't get an answer
13 on the phone. I located a handgun in
14 the closet which looked old and rusted.
15 It was in a closet at the entrance to
16 this house. We left the residence at
17 1540 hours, and it was secured by C-8.
18 Constable McDougald received all
19 evidence. That concludes my involvement
20 in that case."

21 So Detective Sergeant Millar appears to be
22 indicating here that he would have contacted Project P?

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

24 **MR. DUMAIS:** If you can just start, do you
25 know what Project P was?

1 **MR. McWADE:** A specialized group of
2 individuals that investigate pornographic aspects, based
3 out of Orillia.

4 **MR. DUMAIS:** All right. And were you made
5 aware when the officers came back or at any point-in-time
6 doing this search that the officers were contacting Project
7 P?

8 **MR. McWADE:** I believe it was mentioned that
9 they had contacted Project P but were unsuccessful.

10 **MR. DUMAIS:** Do you recall whether or not
11 any other attempts were made to contact them after the
12 execution of the search?

13 **MR. McWADE:** I have no recollection, sir.

14 **MR. DUMAIS:** But certainly Detective
15 Sergeant Millar appears to indicate here that he would have
16 had no further involvement in this case. Is that your
17 recollection as well?

18 **MR. McWADE:** Yes, sir.

19 **MR. DUMAIS:** And is that your recollection
20 that he would not have been involved in either reviewing
21 the videotapes or the destruction of them?

22 **MR. McWADE:** That's correct, sir.

23 **MR. DUMAIS:** Is it your understanding that
24 the video -- this suitcase would have been opened at the
25 residence?

1 **MR. McWADE:** My understanding of it is it
2 was opened at the residence.

3 **MR. DUMAIS:** And do you recall -- were you
4 provided with the description of what was found in the
5 suitcase?

6 **MR. McWADE:** I can't recall whether I was
7 told of what the contents were or whether it was shown to
8 me, but my understanding of it, it was full of tapes and
9 then there was two tapes that were -- didn't fit in the
10 case, they were loose.

11 **MR. DUMAIS:** Do you recall whether or not
12 you had been made aware whether or not the tapes had been
13 reviewed on site at the residence itself?

14 **MR. McWADE:** I can't recall, sir.

15 **MR. DUMAIS:** You can't recall.

16 At one point-in-time you would have provided
17 your officers with instructions with respect to those
18 tapes. Is that correct?

19 **MR. McWADE:** I directed them to view the
20 tapes for content to determine if there was anything that
21 might fall under pornographic guidelines.

22 **MR. DUMAIS:** Okay. Were you specific in
23 giving them instructions as to how they should be reviewing
24 these tapes?

25 **MR. McWADE:** I have no specific recall of

1 it. I don't recall whether, like, "Watch it all" or
2 "Reviewing the beginning, review the end and random in the
3 middle" to determine the content of the video. I just
4 don't have a total recall of that.

5 **MR. DUMAIS:** Okay.

6 And perhaps we can just have a look at the
7 statement you would have given on the 4th day of February
8 1999, and that's Exhibit 691.

9 And you're explaining this to, again,
10 Detective Sergeant Pat Hall. I'm just looking at the last
11 three lines of that first page.

12 "All of the tapes appear blank tapes
13 with recorded material on them. Some
14 are labelled. I directed that each of
15 the tapes be viewed for content. I
16 observed some of the contents. They
17 appeared to be copies of professionally
18 commercially produced movies involving
19 homosexual relationships between adult
20 males. Constable Steve McDougald, and
21 I'm not sure if there was someone else,
22 viewed the tapes."

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

24 **MR. DUMAIS:** So is that your recollection as
25 well that you would have viewed some of the contents of the

1 tape?

2 **MR. McWADE:** At some point-in-time I believe
3 I walked into where the reviewing process was being done
4 and saw for myself the material. I didn't stay for a
5 length of time, but I did personally see.

6 **MR. DUMAIS:** There were quite a number of
7 tapes. I believe there was 22 tapes in the suitcase and
8 the additional two loose tapes. Is that correct?

9 **MR. McWADE:** I'm not sure of the total
10 number. I think it was 22 in total.

11 **MR. DUMAIS:** Okay.

12 **MR. McWADE:** My recollection is a case -- a
13 locked case that had been opened.

14 **MR. DUMAIS:** Yes.

15 **MR. McWADE:** And two loose ones.

16 **MR. DUMAIS:** Okay. It would have taken a
17 considerable period of time to review all of these tapes
18 from end to end?

19 **MR. McWADE:** Yes, sir.

20 **MR. DUMAIS:** Do you recall whether or not
21 your officers were directed to review them from end to end?

22 **MR. McWADE:** I can't recall specifically
23 whether I told them to watch from end to end. I have a
24 thought in my mind that either "fast-forward" -- I didn't
25 have the resources to watch 22 tapes at full standard play

1 for that amount of time. It needed to be done, but by
2 doing the start, the finish, and random, they would be able
3 to give an opinion for viewing of the tapes.

4 **MR. DUMAIS:** All right.

5 And we'll look at Officer McDougald's
6 statement in just a minute, but in the latter part of this
7 paragraph you indicated to Detective Sergeant Hall that you
8 weren't sure who the second officer was that would have
9 reviewed these tapes?

10 **MR. McWADE:** Pardon me? I'm sorry, I missed
11 it.

12 **MR. DUMAIS:** You indicated in your statement
13 that you weren't sure who the second officer was that would
14 have reviewed the tapes?

15 **MR. McWADE:** At that time I wasn't sure,
16 sir.

17 **MR. DUMAIS:** Okay.

18 And I'm just going to ask you to look at
19 Document Number 112696.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit Number 2523 is an interview report
22 of Patrick Dussault. The date of the interview is 19th of
23 January, 1999.

24 --- **EXHIBIT NO./PIÈCE NO. P-2523:**

25 (112696) Interview Report of Patrick

1 Dussault - January 19, 1999

2 **MR. DUMAIS:** Now, this is a statement that a
3 police officer from the OPP Lancaster Detachment would have
4 given on the 19th of January, 1999. There's no rank there,
5 but do you recall whether or not Officer Dussault was one
6 of your officers during that period of time?

7 **MR. McWADE:** Yes, sir, he was.

8 **MR. DUMAIS:** And you have -- and he appears
9 to indicate that he would have assisted Officer McDougald
10 in reviewing these tapes?

11 **MR. McWADE:** That would be entirely
12 possible.

13 **MR. DUMAIS:** Okay. So you have no reason to
14 disbelieve that?

15 **MR. McWADE:** No, sir, none at all.

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

17 Now, the next statement is a statement that
18 would have been taken from Officer McDougald, and that is
19 Exhibit 690. So, again, this is a statement that was given
20 to Detective Sergeant Hall on the 11th day of December, '98.

21 I'm just looking at the last paragraph on
22 that first page. So Officer McDougald is referring to the
23 search warrant being executed on the 10th day of February at
24 Mr. Leroux's house. And I'm going to start reading from
25 the last four lines from the bottom:

1 "We contacted a lawyer, Malcolm
2 MacDonald, lawyer for Ron Leroux, and
3 advised him that a warrant was to be
4 executed at Ron Leroux's residence.
5 Detective Constable Randy Millar and
6 myself attended Ron Leroux's residence.
7 [C-8] was already at the residence and
8 had unlocked the front door. The house
9 was searched for restricted firearms on
10 the search warrant."

11 So my first question is, were you aware that
12 at the time, Mr. Leroux was represented by Mr. Malcolm
13 MacDonald?

14 **MR. McWADE:** No, sir.

15 **MR. DUMAIS:** Okay. Were you aware that the
16 officer had contacted him and asked him whether or not he
17 would attend the residence so that the search warrant could
18 be executed?

19 **MR. McWADE:** No, sir.

20 **MR. DUMAIS:** Did you subsequently become
21 aware that Mr. Malcolm MacDonald was acting for Ron Leroux
22 on the criminal charges?

23 **MR. McWADE:** I'm not 100 percent sure, but I
24 believe I first was advised there was charges laid and it
25 was at a court appearance later on, much later on. I think

1 April -- I think it's April.

2 MR. DUMAIS: All right.

3 MR. McWADE: But it was much later.

4 MR. DUMAIS: Do you recall whether or not
5 you were present at that court appearance?

6 MR. McWADE: I don't believe so.

7 MR. DUMAIS: Okay. So you think the
8 information would have come then from one of your officers
9 who would have reported back after the plea had been
10 entered?

11 MR. McWADE: Yes, sir.

12 MR. DUMAIS: All right.

13 And as far as you remember, Mr. Leroux had
14 entered a plea of guilty to the charge?

15 MR. McWADE: That's my recollection, sir.

16 MR. DUMAIS: All right.

17 So I'm just looking at the second page now
18 in the top paragraph. So I'm just looking at about halfway
19 in that paragraph and I'll just read it out for you. The
20 sentence starts with "The suitcase". So:

21 "The suitcase and tapes were seized.

22 It is not known whether any firearms
23 were being held inside the suitcase.

24 Handguns were found in the residence
25 and seized pursuant to the warrant.

1 The suitcase was opened and 20 more
2 videos were located inside. I took
3 possession of all the seized items
4 located in the house. C-8 made no
5 comments about the videotapes. All
6 items were removed from the house and
7 transported to the Lancaster detachment
8 and placed in the property room."

9 Is that correct?

10 **MR. McWADE:** That would appear to be the
11 evidence from Constable McDougald ---

12 **MR. DUMAIS:** And certainly ---

13 **MR. McWADE:** --- and my recollection is at
14 the end, when they returned to the detachment.

15 **MR. DUMAIS:** Right. But certainly you will
16 agree with me that Constable McDougald appears to be
17 indicating that the suitcase would have been opened at the
18 residence itself?

19 **MR. McWADE:** Yes, sir.

20 **MR. DUMAIS:** All right. And, as far as you
21 know, C-8 would not have been asked to provide a statement
22 about his knowledge of these tapes?

23 **MR. McWADE:** Not that I'm aware of, sir.

24 **MR. DUMAIS:** All right. And certainly you
25 would not have directed your officers to interview C-8

1 afterwards?

2 **MR. McWADE:** No, sir.

3 **MR. DUMAIS:** All right. Now, I'm then
4 looking at the second paragraph of that same page, and it
5 reads as follows:

6 "It was determined by Staff Sergeant
7 J. McWade that I view the videotapes
8 randomly to ascertain if there was any
9 child pornography or home video of
10 local people."

11 So, Officer McDougald appears to indicate
12 here in his statement that he had been instructed to review
13 the tapes randomly. Do you agree with that
14 characterization of Officer McDougald?

15 **MR. McWADE:** That -- that sounds -- forms,
16 like, part of my recollection, that I have it stuck in my
17 mind, kind of thing, that that's what I directed him to do.

18 **MR. DUMAIS:** All right. Now -- and the
19 second part of that statement is that you would have
20 directed him to review the tapes, keeping in mind
21 that -- whether or not there was any child pornography or
22 home videos of local people. Do you recall giving those
23 instructions to Officer McDougald?

24 **MR. McWADE:** I'm not sure if I -- if -- the
25 terminology I used for the content of the tapes, but I was

1 concerned about child pornography, yes.

2 MR. DUMAIS: And the second part of that, of
3 those instructions, were to look for home videos of local
4 people. So do you recall using those words and instructing
5 him specifically to look for that?

6 MR. McWADE: No, sir.

7 MR. DUMAIS: All right.

8 MR. McWADE: And would there have been
9 anything, any reason, in 1993 at the time of the search for
10 you to be looking for home videos for local people? Did
11 you have any prior knowledge that tapes were in existence,
12 or that was something that you were concerned with?

13 MR. McWADE: No, sir.

14 MR. DUMAIS: All right. After the tapes had
15 been reviewed by the officers, do you recall whether or not
16 they would have reported their findings to you afterwards?

17 MR. McWADE: I believe they just indicated
18 that they -- Constable McDougald indicated that the task
19 was completed and it was all material relating to, by and
20 large, sexual relations between adult males.

21 MR. DUMAIS: Do you recall whether or not
22 you were told if they were commercial tapes or if they were
23 homemade videos?

24 MR. McWADE: I believe he mentioned that,
25 and I also recall that when I was -- that I'd seen

1 commercial-type tapes or labels on -- on the tapes.

2 MR. DUMAIS: All right. I understand that
3 at one point in time Mr. Leroux would have been asked to
4 come at the detachment, is that correct, after this
5 seizure?

6 MR. McWADE: My understanding is for some
7 time they tried to contact him and they were not
8 successful, but sometime in the spring he did present
9 himself to the detachment and was -- and met with Constable
10 McDougald.

11 MR. DUMAIS: Okay. You were not part of
12 this interview?

13 MR. McWADE: No, sir.

14 MR. DUMAIS: Okay. I'm just looking at the
15 last paragraph of this statement, and this appears to be a
16 summary of the interview that Mr. Leroux would have given,
17 and reads as follows:

18 "During this interview, Leroux was
19 asked who owned the videotapes. He
20 replied that they were not his, and
21 that he found them in a garbage
22 dumpster at the Raisin River Camp
23 Ground where he was employed. He
24 stated that he took the suitcase with
25 videos away from the campground so that

1 they would not fall into the wrong
2 hands, or kids would not get a hold of
3 them."

4 So do you recall whether or not you had been
5 made aware of that, that Mr. Leroux was indicating that he
6 had found these tapes?

7 **MR. McWADE:** After the completion of the
8 interview, the -- Constable McDougald advised me that
9 the -- Mr. Leroux had indicated that the tapes were not his
10 and that they'd been found in a garbage can.

11 **MR. DUMAIS:** Okay. But you recall that,
12 that he had specifically said that he had found the tapes?

13 **MR. McWADE:** I got that information from
14 Constable McDougald.

15 **MR. DUMAIS:** Okay. And my understanding is
16 that Officer McDougald would have offered to return the
17 tapes to Mr. Leroux? Is that correct?

18 **MR. McWADE:** That's correct, sir. The tapes
19 that he had was not on -- it is not unlawful to possess
20 them, after the review, so he would have returned them.

21 **MR. DUMAIS:** My understanding is that
22 Mr. Leroux did not want the tapes to be returned to him, is
23 that correct?

24 **MR. McWADE:** That's correct, sir.

25 **MR. DUMAIS:** And my understanding is that he

1 would have executed a quit claim?

2 MR. McWADE: Yes.

3 MR. DUMAIS: And has agreed that these tapes
4 could be destroyed by the OPP?

5 MR. McWADE: Yes, sir.

6 MR. DUMAIS: All right. And if we can just
7 show you Exhibit 1144; do you recognize this document, Mr.
8 McWade?

9 MR. McWADE: Yes, sir. It's a property
10 report form. At that time, it was known as a LA135. It's
11 for control of property within the detachment.

12 MR. DUMAIS: Okay. So after a search
13 warrant is executed, one of these property reports has to
14 be filled out by the officers, just as some sort of a
15 control of the property that's ---

16 MR. McWADE: Yes, sir.

17 MR. DUMAIS: --- under your control? And it
18 refers here to -- if we look at the top of their document,
19 it provides the address of Mr. Leroux, it indicates the
20 name of Mr. Leroux, and then there's a description here of
21 the tapes?

22 MR. McWADE: Yes, sir.

23 MR. DUMAIS: And I think the first item is
24 the 20 tapes that were found in the briefcase -- or the
25 suitcase, sorry, and then the other two loose tapes. So

1 you were correct, there were 22 tapes. Do you see that?

2 **MR. McWADE:** Yes, sir.

3 **MR. DUMAIS:** And, if we look at the bottom
4 there, there's a signature that appears to have been given
5 on the 25th day of April, 1993. It appears to be the
6 signature of Mr. Ron Leroux?

7 **MR. McWADE:** Yes, sir.

8 **MR. DUMAIS:** Would you have been the one
9 that witnessed his signature?

10 **MR. McWADE:** I don't recall if I did or not,
11 sir.

12 **MR. DUMAIS:** Okay. But at one point in time
13 you would have been made aware that he would have agreed to
14 sign the quit claim?

15 **MR. McWADE:** Yes, sir.

16 **MR. DUMAIS:** All right. And then there's
17 another signature at the bottom. It appears to have been
18 signed on the 4th day of May, 1993, and if you look at the
19 middle box it appears to indicate, "Disposal approved," and
20 then there's a little "X" down there, at "Detachment
21 Commander," and there's a signature to the right. Is that
22 your signature, sir?

23 **MR. McWADE:** Yes, sir, it is.

24 **MR. DUMAIS:** All right. So am I to
25 understand then that you, as Detachment Commander, need to

1 sign off on the destruction of any property in your
2 Detachment?

3 **MR. McWADE:** There's procedures in place, or
4 there was at that time. I'm not aware of the current
5 policy, but there was procedures in place for disposal of
6 property, and it depended on the type of property how it
7 gets disposed of.

8 For example, liquor would be disposed of in
9 one manner. For example, it would be poured down the sink
10 and empties returned to the Beer Store. The other glass
11 would, at that time, have gone in the garbage. There's
12 particular areas that go back to the owner. If it was
13 found property, then there was criteria in our police
14 orders directing us as to how to do it. And if it was of
15 no value or deemed to be -- it could be destroyed, then it
16 would be signed off in that fashion.

17 **MR. DUMAIS:** Okay. But I guess the form
18 specifically provides that -- well, there was only one
19 checkmark for the detachment commander. Do you see that at
20 the bottom?

21 **MR. McWADE:** Yes, sir.

22 **MR. DUMAIS:** I guess my question was are you
23 the only one that can sign off on the destruction of
24 property?

25 **MR. McWADE:** For this kind of property, yes,

1 sir.

2 MR. DUMAIS: All right.

3 MR. McWADE: Unless I've designated it to
4 somebody else, but in this case I did it myself.

5 MR. DUMAIS: Yeah. But in -- I mean, does
6 this mean that you specifically have to destroy the
7 property yourself or does it simply mean that you have to
8 give the order?

9 MR. McWADE: Give the order.

10 MR. DUMAIS: Okay.

11 MR. McWADE: Some of the items, they
12 required the involvement of a uniform member.

13 MR. DUMAIS: And if I'm looking just on top
14 of your signature there at the bottom, it appears to
15 indicate "destroyed by fire". Is that correct?

16 MR. McWADE: Yes, sir.

17 MR. DUMAIS: All right. And that's your
18 handwriting, sir?

19 MR. McWADE: That's my handwriting, sir.

20 MR. DUMAIS: Okay. And during that period
21 of time, can you just give us an idea of what was the
22 method of destruction of seized property? Was there a
23 specific way that your detachment was destroying property?
24 Was there more than one way?

25 MR. McWADE: There is different ways of

1 disposing of the property. It was all laid out in what
2 they call Part 10 police orders and it provided directions,
3 for example, of found property; try and locate the owner;
4 period of retention; and if you still couldn't -- if there
5 was any value to it, how you can dispose of it by bids.
6 There was a whole series of guidelines laid out for us that
7 we follow.

8 **MR. DUMAIS:** All right.

9 So do you recall what the guidelines were
10 for the destruction of pornographic material?

11 **MR. McWADE:** To my recollection, there was
12 nothing specific relating to a specific area or line for
13 that kind of material.

14 **MR. DUMAIS:** Okay. And my understanding --
15 it's indicated here that these tapes would have been
16 destroyed by fire. Do you recall how things were set up at
17 the detachment for the destruction of property by fire?

18 **MR. McWADE:** The caretaker had a 45-gallon
19 drum in the backyard that occasionally the property would
20 get destroyed in. It would get set on fire and be gone.

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

22 So you guys, at the time, were not using any
23 type of incinerators locally? Everything was being --
24 that required to be burned was burned at the detachment
25 itself?

1 **MR. McWADE:** If it was an item that could be
2 burned locally, then it was burned locally. Some items,
3 for example, drugs, needed to be incinerated or taken
4 someplace else for disposal. They were dealt with in a
5 different fashion.

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

7 And you indicated that there was a drum. So
8 there's just a drum in the back of the detachment. Is that
9 correct?

10 **MR. McWADE:** Yes, sir.

11 **MR. DUMAIS:** And a fairly large drum, a 45-
12 gallon drum. Is that correct?

13 **MR. McWADE:** I believe it was a 45-gallon
14 drum.

15 **MR. DUMAIS:** Okay. And do you recall
16 specifically in this instance what your involvement --
17 well, whether or not you would have directed someone to
18 destroy those tapes or whether or not you had some personal
19 involvement?

20 **MR. McWADE:** I'm the one who put them in the
21 fire and personally burned them. I did not leave until
22 they were completely on fire.

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

24 And my understanding is that the caretaker,
25 Mr. Lalonde, would have been involved as well?

1 **MR. McWADE:** I have no specific recollection
2 of it. Whether he was standing right beside me when I did
3 it or he was someplace else, I'm not sure. All I can
4 recall was the barrel was on fire and I put the tapes in it
5 myself.

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

7 **MR. McWADE:** I just -- I can't remember
8 where he was or what he was doing.

9 **MR. DUMAIS:** Okay.

10 **THE COMMISSIONER:** Would he have been aware
11 that you were burning these things?

12 **MR. McWADE:** I would think that he would be
13 aware that I was burning something, but not specifically
14 what it was.

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

16 **MR. McWADE:** I don't have any specific
17 knowledge of him being there. I could have set it -- like
18 started the barrel on fire myself, but I just don't recall.

19 **MR. DUMAIS:** Do you recall whether or not
20 any accelerant had been used, whether or not there was any
21 gas?

22 **MR. McWADE:** I can't recall, sir.

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

24 So, just generally speaking, when property
25 requires to be destroyed by fire and your policy provides

1 that you can do it locally, who would typically do that at
2 your detachment?

3 **MR. McWADE:** It could be myself. One of the
4 NCOs would supervise the destruction or disposal of
5 property.

6 **MR. DUMAIS:** Is there any reason why you
7 would become personally involved with the destruction here?

8 **MR. McWADE:** No, sir, I just did it.

9 Sometimes there was days when I was the only
10 one that was in -- NCO that was in the office, and I would
11 do it.

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

13 So then my understanding is that the seized
14 items would have been in some sort of a property facility
15 at your detachment?

16 **MR. McWADE:** There was a property room
17 inside the detachment building, sir.

18 **MR. DUMAIS:** Okay. So do you have a
19 specific recollection of going to that room, grabbing that
20 suitcase and those tapes?

21 **MR. McWADE:** No, sir.

22 **MR. DUMAIS:** Okay. Do you recall whether or
23 not just the tapes were destroyed or was the suitcase
24 destroyed as well?

25 **MR. McWADE:** My recollection is the whole

1 thing went in, sir.

2 MR. DUMAIS: Okay. And do you recall
3 whether or not you would have been involved in starting the
4 fire in the barrel prior to putting the items in there?

5 MR. McWADE: I'm sorry, but I have no
6 recollection of that part.

7 MR. DUMAIS: All right.

8 Now, you indicated that you would have
9 placed the items in the barrel, sir. Do you recall whether
10 or not you would have stayed there until -- just to assure
11 yourself that everything had been destroyed?

12 MR. McWADE: When I left, everything was on
13 fire.

14 MR. DUMAIS: Okay.

15 MR. McWADE: Now, exactly -- I didn't wait
16 for the fire to burn out, I don't believe.

17 MR. DUMAIS: Okay. So you were there. You
18 made sure that the items were on fire, but you would have
19 left before you would have been able to ascertain that they
20 had been completely destroyed. Is that fair?

21 MR. McWADE: I don't recall remaining -- how
22 long I remained.

23 MR. DUMAIS: And would you recall, sir,
24 whether or not when you left, whether or not there was
25 anyone there at the barrel?

1 **MR. McWADE:** I don't recall, sir.

2 **MR. DUMAIS:** But certainly at one point-in-
3 time there would have been an indication that you would
4 have asked the caretaker to destroy these videos. Is that
5 correct? You've seen that in documents?

6 **MR. McWADE:** It may have, but I don't
7 recall.

8 **MR. DUMAIS:** All right.

9 And I mean -- I think if you can just look
10 again at the Exhibit 690?

11 So then at the last page, and this is
12 Officer McDougald's statement, so the last third paragraph
13 from the bottom. He indicates as follows:

14 "I was advised by Staff Sergeant McWade
15 on the 4th day of May, 1993 that the
16 videotapes and suitcase was destroyed
17 locally by the caretaker burning them
18 in a 45-gallon drum that date."

19 Do you see that?

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

21 **MR. DUMAIS:** Do you know whether or not you
22 would have advised Officer McDougald of that fact?

23 **MR. McWADE:** I don't recall saying that.

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

25 **MR. McWADE:** My recollection is that I

1 burned them.

2 MR. DUMAIS: Pardon me?

3 MR. McWADE: My recollection is I am the one
4 who physically put them in the fire, not the caretaker.

5 MR. DUMAIS: Now, I'm just going to ask you
6 to look at another statement, sir.

7 It's a statement that Mr. Leroux would have
8 given and it is Exhibit 562.

9 THE COMMISSIONER: Five-six-two (562)?

10 MR. DUMAIS: And this, sir, is a statement
11 that a Ronald George Leroux would have given to Detective
12 Constables McDonnell and Fagan. The date of interview in on
13 the 28th day of March, 1994.

14 And am I correct, sir, that at that
15 particular date, you were no longer the Commander at the
16 Lancaster Police Detachment?

17 MR. McWADE: That's correct, sir.

18 MR. DUMAIS: And this, as I understand it,
19 is a statement that was given by Mr. Leroux and it appears
20 that he would have been asked some questions about his
21 knowledge of the Ken Seguin suicide?

22 MR. McWADE: It would appear so, sir.

23 MR. DUMAIS: And I'm looking at the last
24 page of that statement, there's a reference here to
25 videotapes. And it's at about mid-page, there's a date

1 there. It starts with "In February of 1993". Do you see
2 that?

3 **MR. McWADE:** Yes, sir.

4 **MR. DUMAIS:** It reads as follows:

5 "In February of 1993, Ken put a
6 briefcase in my house containing VCR
7 tapes of gay men and the police seized
8 them when they took some guns from my
9 house when I wasn't there. The guns
10 were since sold to C-8. The Lancaster
11 OPP were the police department that
12 seized the tapes and guns."

13 Were you aware, sir, that Mr. Leroux had
14 subsequently indicated that these tapes actually belonged
15 to Mr. Ken Seguin?

16 **MR. McWADE:** I have no knowledge. I've
17 never heard that, sir.

18 **MR. DUMAIS:** Okay. So you had never been
19 made aware of that?

20 **MR. McWADE:** Just what I'm reading here now,
21 sir; never heard of it before.

22 **MR. DUMAIS:** And, actually, what Mr. Leroux
23 had indicated when he came to the detachment was that he
24 would have found those tapes at a camper. Is that correct?

25 **MR. McWADE:** The Raisin River campground. I

1 believe he worked there.

2 MR. DUMAIS: Correct. That was what he told
3 you in 1993. Is that correct?

4 MR. McWADE: Yes, sir.

5 MR. DUMAIS: Or what he told to Officer
6 McDougald?

7 MR. McWADE: Yes ---

8 MR. DUMAIS: Now, do you recall whether or
9 not during this investigation, and I mean the 1993
10 investigation of your officers, whether or not the name of
11 Mr. Ken Seguin ever surfaced?

12 MR. McWADE: Not to my knowledge, sir.

13 MR. DUMAIS: As far as you know, he would
14 not have been interviewed in this investigation?

15 MR. McWADE: Not that I'm aware of, sir.

16 MR. DUMAIS: And you would not been aware,
17 at the time, of any reason why he should be interviewed?

18 MR. McWADE: Not that I'm aware of, sir.

19 MR. DUMAIS: All right.

20 Now, Mr. Seguin would have committed suicide
21 later in that year, in November of 1993?

22 MR. McWADE: Yes, sir.

23 MR. DUMAIS: Do you recall that?

24 MR. McWADE: Yes, sir.

25 MR. DUMAIS: And were you still the

1 Detachment Commander of the Lancaster Detachment?

2 **MR. McWADE:** My transfer date was just
3 before that. I was in the process of going from one to the
4 other.

5 **MR. DUMAIS:** Yes.

6 **MR. McWADE:** I was physically working in
7 Lancaster, but on paper I was in Renfrew.

8 **MR. DUMAIS:** Do you believe that you were
9 still -- because your transfer date, I believe, is November
10 7th, 1993?

11 **MR. McWADE:** Yes, sir. But I -- at that
12 point-in-time, there were still things that needed to be
13 done so I remained as the Detachment Commander, physically,
14 until I think the first week of December when -- then I
15 went up to work in Renfrew.

16 My family was still in the Cornwall area and
17 didn't move until June. So I requested permission to
18 finish some items that needed to be done. And so I was
19 still the Detachment Commander sitting in that seat
20 physically until I believe it was the first week of
21 December.

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

23 If you can just have a look at Exhibit 922?

24 **THE COMMISSIONER:** Nine-two-two (922).

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

1 **MR. DUMAIS:** Now, this is the critical
2 incident report that was prepared by Mr. Émile Robert, who
3 was the area manager in Cornwall at the Probation Office;
4 and he did testify here at the Inquiry.

5 And in his report, if you look at the third
6 line, it starts with "Staff Sergeant" and I'll just read it
7 out to you:

8 "Staff Sergeant Jim McWade, Ontario
9 Provincial Police, Lancaster
10 Detachment, advised me that a friend
11 had obtained access to his residence
12 and found Ken Seguin hanging."

13 So do you recall having this discussion with
14 Mr. Robert?

15 **MR. McWADE:** Yes, sir.

16 **MR. DUMAIS:** Do you recall advising him of
17 that? What do you recall?

18 **MR. McWADE:** Having been advised by my
19 officers that Mr. Seguin was deceased.

20 **MR. DUMAIS:** Yes.

21 **MR. McWADE:** And knowing where he was
22 employed, I contacted their office to advise them of his
23 passing.

24 **MR. DUMAIS:** Okay. So you recall then
25 speaking to Mr. Robert?

1 **MR. McWADE:** I know I called the office. I
2 don't remember the individual's name specifically.

3 **MR. DUMAIS:** Okay.

4 **MR. McWADE:** I know that it was a supervisor
5 there.

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

7 Mr. Commissioner, if we can just take -- I
8 believe I'm done -- if we can just take the morning break.

9 **THE COMMISSIONER:** Certainly.

10 **MR. DUMAIS:** I'll just review my notes and
11 make sure I've covered everything and we can come back at
12 11:00.

13 **THE COMMISSIONER:** Certainly.

14 We'll take the morning break.

15 **MR. DUMAIS:** Thank you.

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

18 This hearing will resume at 11:00 a.m.

19 --- Upon recessing at 10:44 a.m. /

20 L'audience est suspendue à 10h44

21 --- Upon resuming at 11:07 a.m. /

22 L'audience est reprise à 11h07.

23 **THE REGISTRAR:** All rise. Veuillez vous
24 lever.

25 This hearing is now resumed. Please be

1 seated. Veuillez vous asseoir.

2 **JAMES ROBERT McWADE, Resumed/Sous le même serment:**

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

4 **DUMAIS (cont'd/suite):**

5 **THE COMMISSIONER:** Proceed, sir.

6 **MR. DUMAIS:** I'm almost done, Mr. McWade.

7 We've looked at a number of documents here today, we've
8 filed a number of them as well and certainly, you've used
9 them to refresh your memories. Do you have any personal
10 notes that you were taking during that particular period of
11 time?

12 **MR. McWADE:** No, sir.

13 **MR. DUMAIS:** All right. And is it just that
14 you're not able to find your notes or you didn't have any
15 notes then?

16 **MR. McWADE:** Unable to locate my notes for
17 that time period.

18 **MR. DUMAIS:** Okay. So you think you were
19 keeping notes when you were Detachment Commander at
20 Lancaster; you're just not able to find them?

21 **MR. McWADE:** I -- I would have notes. How
22 much specific detail, I don't recall.

23 **MR. DUMAIS:** Okay. Certainly you were
24 not able to review any of these notes to refresh your
25 memory before you testified here today?

1 **MR. McWADE:** No, sir.

2 **THE COMMISSIONER:** So you searched for these
3 notes.

4 **MR. McWADE:** Oh, yes sir.

5 **THE COMMISSIONER:** And would they normally
6 have been kept someplace?

7 **MR. McWADE:** When I retired, sir, I recall
8 packaging them up with my firearms and other police
9 paraphernalia and sending them to our headquarters in
10 Orillia, and neither they nor I have been able to locate
11 them.

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

13 **MR. DUMAIS:** And just one final issue, Mr.
14 McWade. Arthur Lalonde was your caretaker during the
15 relevant period of time?

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

17 **MR. DUMAIS:** And he's the only caretaker at
18 the detachment?

19 **MR. McWADE:** Yes, sir.

20 **MR. DUMAIS:** And would one of his duties or
21 responsibilities have been the destruction of exhibits?

22 **MR. McWADE:** The responsibility and duty of
23 it fell to myself and the other supervisors. He may have
24 assisted us but it was not his responsibility.

25 **MR. DUMAIS:** Not responsibility; fair to say

1 that he would have assisted with the destruction of
2 exhibits?

3 **MR. McWADE:** Sometimes he did, like when you
4 start dumping lots of you know, liquor for example. He'd
5 take away the empties, put out the garbage, things like
6 that, but the responsibility of it fell to us, not him.

7 **MR. DUMAIS:** All right.

8 And you have been made aware that Mr.
9 Lalonde has been asked the question whether or not he would
10 have assisted in the destruction of videotapes, and that
11 his answer is that he doesn't remember being involved in
12 this?

13 You've been made aware of that?

14 **MR. McWADE:** Yes, sir.

15 **MR. DUMAIS:** All right.

16 And you've given us your explanation
17 previously. Is that correct?

18 **MR. McWADE:** Yes, sir.

19 **MR. DUMAIS:** All right. So Mr. McWade,
20 these are my questions.

21 We did indicate to you that you would be
22 provided with the option either to comment on the effects
23 of participating in the Inquiry has had on you, or whether
24 or not you wish to make any recommendations for the
25 Commissioner to consider. You have the opportunity to do

1 that now, before I turn over to cross-examination.

2 Do you wish to say anything?

3 **MR. McWADE:** No, sir.

4 **MR. DUMAIS:** All right.

5 **THE COMMISSIONER:** Thank you.

6 **MR. McWADE:** Thank you.

7 **THE COMMISSIONER:** Mr. Strawczynski?

8 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

9 **STRAWCZYNSKI**

10 **MR. STRAWCZYNSKI:** Thank you. Good morning,
11 Mr. Commissioner.

12 **THE COMMISSIONER:** Good morning.

13 **MR. STRAWCZYNSKI:** Good morning, Staff
14 Sergeant McWade.

15 My name is Juda Strawczynski. I'm here on
16 behalf of a community group called Citizens for Community
17 Renewal. It's one of the parties with full standing here
18 at the Inquiry, and our organization's interest is -- it's
19 concerned principally with promoting institutional reform
20 to ensure the protection of children, and justice for all.

21 I just have a few questions relating to the
22 tapes that were seized. And first, just as a point of
23 clarification, with respect to the return to the Justice
24 and the discussion we had had earlier, is it your
25 testimony, sir, that in your opinion the tapes should have

1 been identified on the return to Justice at the time?

2 **MR. McWADE:** That's my opinion, yes, sir.

3 **MR. STRAWCZYNSKI:** Okay. Thank you.

4 I'm going to begin at the initial stages of
5 the search. When you found out that C-8 had been present
6 at the search, did that cause any concern to you?

7 **MR. McWADE:** No, sir.

8 **MR. STRAWCZYNSKI:** The fact that Mr. Leroux
9 was not present at the house either, did that cause any
10 concern to you at the time either?

11 **MR. McWADE:** No, sir.

12 **MR. STRAWCZYNSKI:** And in terms of the tapes
13 that were seized, I'm still having some difficulty
14 understanding why they would have been seized and whether
15 that might have posed some difficulty for you at the time?

16 Do you have any indication, any recollection
17 as to why the tapes may have been seized; what the officers
18 may have told you then?

19 **MR. McWADE:** I don't recollect exactly what
20 they -- what they told me, but I can understand that
21 there's provision for seizure of items that might be part
22 of a criminal offence that are not specifically listed in
23 the search warrant. So they would be able to seize these
24 items and -- and review them, and that's what they did do.

25 **MR. STRAWCZYNSKI:** And I understand these

1 were mostly commercially available tapes, is that correct?

2 **MR. McWADE:** On examination, yes sir.

3 **MR. STRAWCZYNSKI:** And at that point -- at
4 the time that they were seized, that would have been aware
5 to the officers?

6 **MR. McWADE:** Not without reviewing them,
7 sir. Like, you're dealing with a plastic item with a label
8 on it. It still needs to be reviewed as to the content.

9 **MR. STRAWCZYNSKI:** Okay, I understand.

10 Now you've already spoken about not having
11 access to notes that you may have had at the time and not
12 necessarily having a complete recollection of what you
13 would have instructed the officers to review.

14 But do you know whether you would have asked
15 them to review each and every tape to a certain extent, or
16 whether a random type of investigation may have been just
17 to randomly select one tape out of the pile and then
18 another tape out of the pile and do a few?

19 **MR. McWADE:** I cannot remember my specific
20 instructions but I'm quite sure that it would include the
21 review of each and every tape.

22 **MR. STRAWCZYNSKI:** And that would have
23 included the two separate tapes, as well as all of the
24 tapes ---

25 **MR. McWADE:** All of the tapes, sir.

1 **MR. STRAWCZYNSKI:** Okay.

2 Now I -- in your view, would it have been
3 best practice for the reviewing officer to have kept an
4 itemized list of each tape that was being reviewed and to
5 keep notes on them?

6 **MR. McWADE:** That would be a good practice,
7 yes.

8 **MR. STRAWCZYNSKI:** And to your knowledge,
9 was any such record made by the reviewing officer?

10 **MR. McWADE:** Not that I'm aware of.

11 **MR. STRAWCZYNSKI:** At the time that the
12 officer was presenting you with his report of what had been
13 found on the tapes, did you ask him why there was no such
14 note?

15 **MR. McWADE:** No, sir.

16 **MR. STRAWCZYNSKI:** It didn't trigger
17 anything for you at the time?

18 **MR. McWADE:** I didn't inspect his -- his
19 notebook for the content. It's not something that I do, or
20 would do, on a regular basis. They're given instructions
21 in the content of their notes and he puts in the material
22 that he feels is appropriate. In hindsight, it would
23 appear that it would have been beneficial to put more
24 information in his notebook if it's lacking.

25 **MR. STRAWCZYNSKI:** So I understand you just

1 heard verbally from the officer having reviewed the tapes
2 that there was no evidence that was causing him concern at
3 the time?

4 **MR. McWADE:** Yes, sir. Plus I had also seen
5 a couple myself.

6 **MR. STRAWCZYNSKI:** There's no template or
7 form sheet that the OPP provides to officers when reviewing
8 such evidence, or does the officer normally just provide
9 notes straight into a notebook?

10 **MR. McWADE:** There was -- there was nothing
11 in place at that time, other than list them on the Property
12 Record Report. I'm not aware of current policy or
13 procedures.

14 **MR. STRAWCZYNSKI:** In terms of the tapes
15 themselves, you had mentioned that they were labeled. Were
16 any of them packaged?

17 **MR. McWADE:** I believe they were all open
18 but I'm not one hundred percent.

19 **MR. STRAWCZYNSKI:** They -- by open, do you
20 mean they ---

21 **MR. McWADE:** Like there was no cellophane on
22 them.

23 **MR. STRAWCZYNSKI:** There was no cellophane
24 but did they have a VHS cover, for example?

25 **MR. McWADE:** Can't recall, sir.

1 **MR. STRAWCZYNSKI:** You don't recall whether
2 they were all loose tapes or whether some of them had
3 marketing attached to them?

4 **MR. McWADE:** Had what, sir?

5 **MR. STRAWCZYNSKI:** Had some sort of
6 marketing, promotional material on their cover?

7 **MR. McWADE:** My recollection of it was a
8 black tape with a label on -- on the tape. Now whether
9 some of them had the sleeve, the commercial sleeve that
10 might have come with it, I can't recall.

11 **MR. STRAWCZYNSKI:** Okay. I'd just like to
12 take you to one document, sir.

13 It's Exhibit 691, and the Bates page is 556,
14 6, and this is your statement made July 4th, 1999? I
15 believe, sir, in your testimony earlier today you indicated
16 that the quit claim discussion with Ron Leroux occurred
17 with Officer McDougald. Is that correct?

18 **MR. McWADE:** That's my recollection, sir.

19 **MR. STRAWCZYNSKI:** If you look at the first
20 full answer on this page, you've been asked as to your
21 knowledge as to who owned the videotapes, and you state:

22 "I don't know who owned them, but when
23 I spoke to Mr. Leroux in later April,
24 1993, he indicated that the suitcase
25 was not his. I asked him if he knew

1 who owned it, and he said no. I asked
2 him, since he didn't know who owned
3 them, would he object to having them
4 destroyed. He replied he didn't object
5 and signed a quit claim."

6 Sir, does this refresh your memory at all as
7 to discussions you may have had with Mr. Leroux?

8 **MR. McWADE:** Yes, sir.

9 **MR. STRAWCZYNSKI:** And is there anything in
10 addition to what is found on this interview that you can
11 recall?

12 **MR. McWADE:** No, sir.

13 **MR. STRAWCZYNSKI:** Do you have any
14 explanation as to why Mr. McDougald also may have had a
15 discussion with Mr. Leroux with respect to a quit claim?

16 **MR. McWADE:** No, sir.

17 **MR. STRAWCZYNSKI:** When you did ask Mr.
18 Leroux about who he thought owns the tapes, did you find
19 his answer surprising, that there would have been a
20 suitcase of tapes in his house which he had never -- he did
21 not know who had owned them?

22 **MR. McWADE:** He indicated that he didn't own
23 them, and I just took him at his word and -- and asked him
24 if he would -- it would appear, if he would object to
25 having them destroyed.

1 **MR. STRAWCZYNSKI:** Now, I just want to take
2 you to one document with respect to the destruction of the
3 tapes, and it's Exhibit 1144, I believe.

4 **THE COMMISSIONER:** One-one?

5 **MR. STRAWCZYNSKI:** One-one-four-four (1144).

6 **THE COMMISSIONER:** Okay.

7 **MR. STRAWCZYNSKI:** It is the property report
8 with respect to the tapes.

9 Now, sir, you had mentioned that you had not
10 received any officers' notes with itemized lists, and here
11 once again we don't have any itemized detail on any of the
12 tapes. Is that correct?

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

14 **MR. STRAWCZYNSKI:** Now, when we look to the
15 standard form here -- we've already reviewed that -- it was
16 you who had signed on the "Disposal approved by" section of
17 the form; correct?

18 **MR. McWADE:** Yes, sir.

19 **MR. STRAWCZYNSKI:** There doesn't, however,
20 appear to be anywhere in the form to show who had destroyed
21 the property. Is that correct?

22 **MR. McWADE:** No, sir.

23 **MR. STRAWCZYNSKI:** On other instances where
24 property needed to be destroyed, was there ever a place
25 where the OPP, in general, would try to make a note of who

1 had conducted the destruction of the property?

2 MR. McWADE: Not to my recollection.

3 MR. STRAWCZYNSKI: Do you think it might be
4 helpful to have a form that would include that?

5 MR. McWADE: It could be an addition to a
6 form, just to indicate who'd done the actual disposal.

7 MR. STRAWCZYNSKI: And I understand from
8 your testimony that absent that information you simply
9 hand-wrote "destroyed by fire" above your signature;
10 correct?

11 MR. McWADE: Yes, sir.

12 MR. STRAWCZYNSKI: And that was to indicate
13 that you had undertaken to destroy it?

14 MR. McWADE: Yes, sir.

15 MR. STRAWCZYNSKI: I'd like to just take you
16 to a new document. It's Doc Number 121104. It's an
17 article that appears to have initially appeared ---

18 THE COMMISSIONER: Excuse me ---

19 MR. STRAWCZYNSKI: --- in the Toronto Sun.

20 THE COMMISSIONER: --- it's a new document.

21 MR. STRAWCZYNSKI: The copy provided to the
22 Inquiry appeared on a web site, subsequently.

23 THE COMMISSIONER: Thank you.

24 Exhibit 2524 is a -- what is this now? This
25 is a newspaper clipping? Is it a newspaper article?

1 **MR. STRAWCZYNSKI:** It appears to be a
2 Toronto Sun article, Mr. Commissioner ---

3 **THE COMMISSIONER:** All right, thank you.

4 **MR. STRAWCZYNSKI:** --- that appeared on the
5 canoe.ca web site afterwards.

6 **THE COMMISSIONER:** Right. Monday,
7 April 5th, 1999.

8 **--- EXHIBIT NO./PIÈCE NO. P-2524:**

9 (121104) Toronto Sun Article "OPP Defend
10 Pedophile Inquiry" - April 5, 1999

11 **MR. STRAWCZYNSKI:** And if we can scroll down
12 to Bates page 314, the writer of this article, sir, has
13 suggested at the bottom that:

14 "The most popular urban myth about this
15 case is that police found and then
16 destroyed smoking-gun kiddy porn tapes
17 showing prominent citizens having sex
18 with their victims."

19 So, sir, clearly the incident involving the
20 tapes has been a very controversial issue for members of
21 this community. Would you agree?

22 **MR. McWADE:** Yes, sir.

23 **MR. STRAWCZYNSKI:** Do you recall when you
24 first became aware of how elevated this issue had become
25 within the community?

1 **MR. McWADE:** Not -- not for sure. Until
2 I -- I may have heard, prior to when I met with Pat Hall in
3 1999, but I -- like, I can't remember. Like, I knew
4 that -- I'd moved away, and it's what you hear in the news.

5 **MR. STRAWCZYNSKI:** Of course. But looking
6 back on it now, would you agree with me that there was a
7 lack of proper record-keeping at certain key points in this
8 investigation?

9 **MR. McWADE:** No, sir.

10 **MR. STRAWCZYNSKI:** Would you agree with me
11 that currently we don't have any notes to document your
12 instructions to officers as to how to review the tape?

13 **MR. McWADE:** I have no notes available to
14 me. I explained I turned them in.

15 **MR. STRAWCZYNSKI:** And that the tapes
16 themselves were not included on the return to justice as
17 they ought to have been, according to your evidence?

18 **MR. McWADE:** My understanding is that it
19 should have been.

20 **MR. STRAWCZYNSKI:** And that there was no
21 itemized list of the tapes or their contents provided for
22 by the reviewing officer?

23 **MR. McWADE:** That would have been better.

24 **MR. STRAWCZYNSKI:** And that, in fact, there
25 was some inconsistency between your interview and Officer

1 McDougald as to who had discussed receiving the quit claim
2 from Ron Leroux?

3 **MR. McWADE:** Was trying to do the best with
4 recall.

5 **MR. STRAWCZYNSKI:** And I understand that.

6 I guess my point, sir, is that given the
7 lack of paper record-keeping at this point, it is now
8 difficult for the OPP to finally disprove rumours that were
9 circulating in the community with respect to the tapes and
10 the smoking gun -- or alleged smoking gun -- evidence that
11 may have been in your possession. Isn't that correct?

12 **MR. McWADE:** I'm sorry, sir, I'm not
13 completely understanding where you're going with the
14 question.

15 **MR. STRAWCZYNSKI:** What I'm suggesting, sir,
16 is that unfortunately now -- possibly due to inadvertence,
17 possibly due to a passage of time -- for whatever reason,
18 at this point we do not have notes from yourself; we did
19 not have notes at the time from the officers reviewing the
20 tapes.

21 **MR. McWADE:** M'hm.

22 **MR. STRAWCZYNSKI:** We do not have clear
23 evidence within the documentary evidence to date as to who
24 would have spoken to Ron Leroux for the quit claim, and we
25 do not have an itemized list in the return to justice,

1 which would have made the authorities aware of the tapes in
2 the first place.

3 So, with all of that, that lack of proper
4 documentation in this case on record, it's difficult to
5 disprove that all of the tapes were thoroughly reviewed and
6 only destroyed after we had decided -- after the decision
7 was made that they did not affect any possible criminal
8 investigation. Is that correct?

9 **MR. McWADE:** When records aren't -- are not
10 available, it makes it difficult to rely strictly on
11 recall. For me, this has been 15 years, and I was a
12 policeman for 32 years, and you rely heavily on your
13 notebooks.

14 It has made my life very uneasy for me
15 realizing that I don't have my notebooks too, because it is
16 an assistance to me as well as yourself. And when it comes
17 to content of our notebooks, we put in as much information
18 as we can and it is a very personal thing, and sometimes
19 people would like us to put in more and it's not there, but
20 we try.

21 **MR. STRAWCZYNSKI:** It certainly would have
22 been your preference had your notebook been located in
23 advance of this Inquiry?

24 **MR. McWADE:** Oh, yes.

25 **MR. STRAWCZYNSKI:** Thank you, those are my

1 questions.

2 **THE COMMISSIONER:** Thank you.

3 Mr. Horn? Good morning, sir.

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

5 **HORN:**

6 **MR. HORN:** Frank Horn, Coalition for Action,
7 and I just have a few questions.

8 There were 22 tapes in the seizure?

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

10 **MR. HORN:** Okay. And there were three
11 officers that viewed the tapes?

12 **MR. McWADE:** At least three that I'm aware
13 of; myself and McDougald and Dussault.

14 **MR. HORN:** Do you know anybody else that
15 viewed them?

16 **MR. McWADE:** No, not that I'm aware of, sir.

17 **MR. HORN:** So you gave instructions to the
18 two officers to look at the tapes. You saw some of them?

19 **MR. McWADE:** I gave McDougald instructions.
20 I'm not sure how Constable Dussault got involved with the
21 assignment and then my sticking my nose in and having a
22 peek. Other than that, I'm not aware of anyone else.

23 **MR. HORN:** So the only evidence that we
24 would really have is three officers who viewed the tapes,
25 direct evidence?

1 **MR. McWADE:** Yes, sir.

2 **MR. HORN:** So your evidence, yourself, is
3 that you only saw some child pornography, which was
4 commercial?

5 **MR. McWADE:** Pardon me, sir? No.

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

7 **MR. CARROLL:** We don't see any child
8 pornography.

9 **MR. HORN:** Oh, I'm sorry.

10 You did not see any child pornography but
11 you saw commercial pornography?

12 **MR. McWADE:** It appeared to be commercial,
13 male adult.

14 **MR. HORN:** Okay. And the other two
15 officers, did they tell you what they saw?

16 **MR. McWADE:** Constable McDougald did. I'm
17 not -- I don't recall Constable Dussault if he told me as
18 well.

19 **MR. HORN:** You didn't give any instructions
20 to Constable Dussault?

21 **MR. McWADE:** Not that I recall, sir.

22 **MR. HORN:** Okay, now can we look at the
23 statement of Constable Dussault?

24 **THE COMMISSIONER:** Sure, what exhibit?

25 **MR. HORN:** It's 112696. What is it? Two?

1 **MR. McWADE:** Two-five-two-three (2523).

2 **(SHORT PAUSE/COURTE PAUSE)**

3 **MR. HORN:** If you take a look at the first
4 answer after the initial question, in the second paragraph:

5 "I viewed several of these tapes,
6 but..."

7 "Types" -- actually it's a mistake, typo:

8 "...found them to contain all gay-type
9 movies involving male in homosexual
10 situations. I did not view any
11 children or clergy in these tapes."

12 Okay?

13 "...clergy in these tapes. These
14 movies were commercially made video-
15 tapes."

16 Now, why would -- do you have any idea why
17 Mr. Dussault would be looking for clergy in the tapes?

18 **MR. CARROLL:** Excuse me. If I may, perhaps
19 my friend could also read the question that is put to this
20 witness and that puts his answer in context.

21 **THE COMMISSIONER:** Yes.

22 **MR. HORN:** "We are investigating
23 allegations of historical sexual
24 assault involving clergy and other
25 people in Cornwall and surrounding

1 area."

2 And he's asked about that.

3 So any direction to Mr. Dussault was not by
4 yourself but it was the interviewer who basically asked him
5 a question about the clergy?

6 **MR. McWADE:** It would appear so, sir.

7 **MR. HORN:** But you didn't do that?

8 **MR. McWADE:** No, sir.

9 **MR. HORN:** So it was the interviewer who
10 actually posed the question suggesting the answer?

11 **MR. McWADE:** Yes, sir.

12 **THE COMMISSIONER:** No. No. I don't know
13 that he was suggesting the answer. Mr. Horn, let's not
14 forget that this was in 1999, this interview.

15 **MR. HORN:** I understand.

16 **THE COMMISSIONER:** And that the search
17 warrant was in 1993 -- two or three.

18 **MR. CARROLL:** Three.

19 **MR. HORN:** Okay. I understand. I
20 understand but you're not the one, in any way, directing
21 him to look for clergy in the tapes.

22 **MR. McWADE:** That's correct, sir.

23 **MR. HORN:** Okay. And the initial complaint
24 by -- is it C-8?

25 **THE COMMISSIONER:** Yes, C-8.

1 **MR. HORN:** Yes -- that came to the Ontario
2 Provincial Police in -- is it Lancaster? Was that ever
3 followed up with criminal charges? Did that ever go to
4 court, criminal complaints?

5 **THE COMMISSIONER:** For the guns?

6 **MR. HORN:** Yes, the guns.

7 **THE COMMISSIONER:** Yeah, they did.

8 **MR. HORN:** Okay. And so they did go to --
9 there were charges laid?

10 **MR. McWADE:** Yes, sir, in the spring of
11 1993.

12 **THE COMMISSIONER:** And a plea of guilty was
13 entered.

14 **MR. HORN:** Okay, and the items that were
15 seized, when were they destroyed; prior to the plea or the
16 end of the trial or was it afterwards?

17 **THE COMMISSIONER:** There was no trial.
18 There was a plea of guilt where the ---

19 **MR. HORN:** I understand, but the -- the
20 evidence that was seized, was it destroyed? The tapes
21 destroyed before the plea; and the guns, were they dealt
22 with prior to the trial being completed; do you know?

23 **MR. McWADE:** I have no idea as to when he
24 cleared court, sir.

25 **MR. HORN:** Pardon?

1 **MR. McWADE:** I have no idea when he pled
2 guilty and received sentence. I don't know the date.

3 **MR. HORN:** You have no idea when it went
4 through and you could legally get rid of the evidence then
5 afterwards?

6 **MR. CARROLL:** No. That's, in my respectful
7 submission, that's an inappropriate proposition in terms of
8 illegally or legally getting rid of evidence. He keeps
9 referring, as I presume, to the tapes as evidence.

10 **THE COMMISSIONER:** Yes.

11 **MR. CARROLL:** And they're items seized.
12 They're not evidence of anything and particularly not
13 evidence of any charge under the Criminal Code relating to
14 guns.

15 **THE COMMISSIONER:** Well, a couple of things.
16 First of all, I think Mr. Carroll is right in the sense
17 that you've got to keep them different, but I think that
18 there's still some area to explore about answering why the
19 tapes weren't put on the return of the warrant. I mean I
20 think it's fairly clear they ought to have been.

21 **MR. HORN:** Yeah.

22 **THE COMMISSIONER:** But the guns; the guns is
23 something different.

24 So if you're saying -- my understanding is
25 that the tapes were destroyed on or about May 4th, 1993.

1 Right?

2 MR. HORN: Yes.

3 THE COMMISSIONER: So now when the guns were
4 destroyed, I don't know, but I know that Leroux entered a
5 plea of guilt on that possession and was fined.

6 MR. HORN: Okay. Are you aware that the
7 guns eventually were sold to C-8?

8 MR. McWADE: I have no idea, sir. I have no
9 recollection of that.

10 MR. HORN: This is according to Mr. Leroux'
11 evidence -- I mean his interview. He indicates -- let's
12 see here, at page -- on his interview. That would be
13 Exhibit 562.

14 THE COMMISSIONER: What page, sir?

15 MR. HORN: Page -- it would be 7098543. The
16 last page, sir.

17 THE COMMISSIONER: So in the middle of the
18 page, maybe one, two, three, five paragraphs down, it says,
19 "In February of 1993..." ---

20 MR. HORN: Yes.

21 THE COMMISSIONER: --- "...the guns were
22 since sold to C-8."

23 MR. HORN: That's right. Were you aware of
24 that?

25 MR. McWADE: I have no recollection of that,

1 sir.

2 MR. HORN: So the Complainant on the guns
3 eventually purchased the guns; is that -- were you aware of
4 that?

5 MR. CARROLL: Excuse me; this is the
6 statement of Ron Leroux. This is what he says happened.

7 THE COMMISSIONER: M'hm.

8 MR. CARROLL: The witness has said time and
9 again he has no knowledge of this.

10 THE COMMISSIONER: Okay. So he doesn't
11 know.

12 MR. HORN: Okay. All right. He doesn't
13 know. I'm just asking if he did know that. What
14 eventually happened to the guns?

15 THE COMMISSIONER: He doesn't know.

16 MR. HORN: Okay. Have you subsequently
17 spoken to the other two individuals who viewed the
18 videotapes regarding the content? Did you talk to them and
19 ask them what was in the tapes, what they viewed?

20 THE COMMISSIONER: He already answered that
21 he doesn't remember if he spoke to Dussault. Is that his
22 name?

23 MR. McWADE: Dussault.

24 THE COMMISSIONER: Anybody spoke to
25 McDougald.

1 **MR. HORN:** Okay. Now, you viewed some of
2 them, the tapes?

3 **MR. McWADE:** Yes, sir.

4 **MR. HORN:** And they viewed some of them. Do
5 you have any idea if you duplicated and saw the same ones
6 or you have no idea how they distributed who was going to
7 look at what?

8 **MR. CARROLL:** Excuse me; I don't believe his
9 evidence was "they viewed some of them". He gave
10 instructions, but he did not testify that the officers
11 viewed some of the tapes. He did not say that.

12 **THE COMMISSIONER:** Okay. No, but we have in
13 Dussault's statement he viewed some of the tapes.

14 **MR. CARROLL:** That's Dussault.

15 **THE COMMISSIONER:** Right.

16 **MR. CARROLL:** The instructions went to
17 McDougald and the officer's evidence is that he was
18 instructed to review them all in a fashion, but not -- it
19 never was the instruction to McDougald to view some of
20 them.

21 **THE COMMISSIONER:** Okay. But so far what we
22 have is this gentleman reviewed some of them and Dussault
23 reviewed some of them. Carry on.

24 **MR. HORN:** Okay. So you never went back and
25 talked to them and said, "Well, which ones did you look at"

1 and "These are the ones I looked at"? Do you know who else
2 looked at these? Did you ever have any conversations in
3 that regard?

4 **MR. McWADE:** My directions were to Constable
5 McDougald, and it was his responsibility to review the
6 tapes. I don't recall how Constable Dussault got involved
7 in it, and my involvement was to stick my nose in the door
8 briefly to see how they were making out, and it would be,
9 say, a minute, more or less, that I viewed whatever tape
10 was in the machine, and I left.

11 **MR. HORN:** So you must have told them then
12 the ones you looked at, so that they wouldn't look at them
13 again?

14 **MR. McWADE:** No, sir. I walked in while
15 they were being reviewed.

16 **MR. HORN:** Oh, you didn't take them
17 separately and do the ---

18 **MR. McWADE:** No, no. I, no -- I walked in
19 while Constable McDougald was reviewing a tape, saw what
20 was there, and I left.

21 **MR. HORN:** Okay.

22 **THE COMMISSIONER:** So the question, I guess,
23 is do you recall if McDougald ever came in to you and said,
24 "Sir, I'm reporting back to you. I've looked at them all
25 the way you instructed me, and this is what I found"?

1 **MR. McWADE:** I know when he completed the
2 task he told me that he -- that it was done and what he had
3 found, but the exact date and the time, I don't have any
4 recollection.

5 **THE COMMISSIONER:** Fine.

6 **MR. McWADE:** It was a long process.

7 **MR. HORN:** So you're indicating at that time
8 there was no interest in doing anything regarding some sort
9 of a conspiracy or anything. That was never on the table
10 at that time when you were involved initially?

11 **THE COMMISSIONER:** What do you mean by
12 "conspiracy"?

13 **MR. HORN:** I'm talking about the interviews
14 that took place afterwards ---

15 **THE COMMISSIONER:** Yes.

16 **MR. HORN:** --- in -- by the OPP in regards
17 to Project Truth.

18 But back then, in those days, you're saying
19 that really none of that was even in the air at the time?

20 **MR. McWADE:** The only thing that we were
21 looking for was child pornography or something -- what do
22 they call them -- bondage, snuff films, those kinds of
23 pornographic material to see if it was anything other than
24 on the face of it, it appeared to be commercial consenting
25 adults.

1 **MR. HORN:** Thank you.

2 **THE COMMISSIONER:** Mr. Lee?

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

4 **MR. LEE:** Mr. McWade, my name is Dallas Lee.
5 I'm counsel for the Victims Group. I have a few questions
6 for you.

7 Can we start with Exhibit C-603, please?
8 These are the search warrant materials.

9 **THE COMMISSIONER:** Yes.

10 **MR. LEE:** If you can turn to Appendix B when
11 you have that up, please, Bates page 197.

12 **MR. McWADE:** I'm sorry, I didn't hear you.

13 **THE COMMISSIONER:** Appendix B.

14 **MR. LEE:** Appendix B, please.

15 **MR. McWADE:** Yes, sir.

16 **MR. LEE:** And if you look at the second
17 paragraph, it sets out the officer's grounds and it states
18 that on December 18th, 1992, he received information from C-
19 8. Do you see that?

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

21 **MR. LEE:** And as we know, the search was
22 ultimately executed on February 10th, 1993.

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

24 **MR. LEE:** Do you have any information about
25 the delay there, the period of time between December 18th,

1 '92 and the search being executed on February 10th, '93?

2 MR. McWADE: No, sir.

3 MR. LEE: Would that have been typical at
4 that time for that amount of time to take place on a case
5 like this?

6 MR. McWADE: I couldn't comment on --
7 without all of the facts and notes.

8 MR. LEE: You have no recollection of any
9 discussion at any point on ---

10 MR. McWADE: No, sir.

11 MR. LEE: --- that?

12 Do you have any recollection of a discussion
13 around February 10th, 1993 about why the search warrant
14 would proceed at that time?

15 MR. McWADE: On February rather than
16 December?

17 MR. LEE: Well, in terms of -- a fair amount
18 of time has passed, and at some point, obviously, a
19 decision is made to go ahead and get the search warrant and
20 to execute a search. Do you recall any discussion at that
21 time about why it was happening right at that point?

22 MR. McWADE: No, sir.

23 MR. LEE: I want to put some information to
24 you and ask you whether or not you knew any of this at
25 time, okay?

1 **MR. McWADE:** Sure.

2 **MR. LEE:** And I appreciate it's a long time
3 ago, but are you familiar with the name David Silmser?

4 **MR. McWADE:** No, sir.

5 **MR. LEE:** You've never heard that name in
6 relation to -- in the media or anything like that, the
7 alleged abuse at the hands of Father Charles MacDonald and
8 Ken Seguin, and he was the one at the centre of the
9 controversy with an illegal settlement?

10 **MR. McWADE:** I may have heard it, sir, but I
11 don't recall under what context.

12 **MR. LEE:** We know from evidence here that
13 Mr. Silmser reported to the Cornwall Police Service on
14 December 9th, 1992 that he had been sexually abused by
15 Father Charles MacDonald and Ken Seguin. That's the
16 evidence we have here.

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

18 **MR. LEE:** Would you have known by February
19 10th, 1993 that Mr. Silmser had reported such abuse to the
20 Cornwall Police?

21 **MR. McWADE:** Not necessarily.

22 **MR. LEE:** You don't recall any ---

23 **MR. McWADE:** It's -- I don't recall anything
24 like that.

25 **MR. LEE:** Okay. And Mr. Silmser has said

1 that prior to going to the Cornwall Police, he advised an
2 OPP officer that he had been abused and that he was then
3 referred to the Cornwall Police because of an issue with
4 jurisdiction. The alleged assaults had occurred in
5 Cornwall and so he was referred from the OPP. That's what
6 he said.

7 Do you have any recollection of hearing
8 anything about that at that time?

9 **MR. McWADE:** No, sir.

10 **MR. LEE:** And does the name Heidi Sebalj
11 mean anything to you?

12 **MR. McWADE:** Pardon me, sir?

13 **MR. LEE:** Heidi Sebalj? She was a constable
14 with the Cornwall Police Service ---

15 **MR. McWADE:** No.

16 **MR. LEE:** --- in 1993.

17 **MR. McWADE:** No, sir.

18 **MR. LEE:** Never had any dealings with Ms.
19 Sebalj?

20 **MR. McWADE:** No.

21 **MR. LEE:** And what we know is that -- from
22 Ms. Sebalj's notes is that Mr. Silmser called her on
23 February 10th, 1993, so the same day that the search warrant
24 was obtained and the search executed, to advise that Ken
25 Seguin was "running scared". Okay? Do you recall ever

1 having heard that before?

2 **MR. McWADE:** Never heard that, sir.

3 **MR. LEE:** Were you aware, prior to coming to
4 this Inquiry, that Ron Leroux was both neighbours and
5 friends with Ken Seguin?

6 **MR. McWADE:** No, sir.

7 **MR. LEE:** None of -- you didn't know any of
8 that at all prior to February 10th, 1993, as far as you can
9 recall?

10 **MR. McWADE:** As far as I can recall, no,
11 sir.

12 **MR. LEE:** Have you ever had any discussions
13 with any of the officers we've discussed, McDougald, Millar
14 or Dussault, about any of the questions -- any of the
15 issues I've just raised with you?

16 **MR. McWADE:** In generalities. We know why
17 we're here. I've reviewed -- I had access to the documents
18 that I've seen today, their statements, my statements, Pat
19 Hall's. Information was provided to me like that, and I've
20 reviewed it, but once I left Lancaster, I was not involved
21 in the case and did not stay current with the case.

22 **MR. LEE:** You have no recollection
23 whatsoever of having discussed David Silmsler or Ken Seguin
24 or Ken Seguin's relationship to Ron Leroux prior to
25 February 10th, 1993 with any of these officers?

1 **MR. McWADE:** My next recollection or my only
2 recollection with Mr. Seguin is when -- the day he passed
3 away.

4 **MR. LEE:** Can you turn up Exhibit 690,
5 please? This is the interview report of Steve McDougald.
6 Do you have that, sir?

7 **MR. McWADE:** The interview with Steve
8 McDougald?

9 **MR. LEE:** Yes.

10 **MR. McWADE:** Yes.

11 **MR. LEE:** And you see this as an interview
12 being conducted by Pat Hall on December 11th, 1998. And if
13 you turn over to the second page, I believe you were taken
14 here in-chief, the first full paragraph on the page; down a
15 little lower, Madam Clerk, "It was determined." The
16 paragraph that -- yes, that's the one:

17 "It was determined by Staff Sergeant J.
18 McWade that I view the videotapes
19 randomly and ascertain if there was any
20 child pornography or home videos of
21 local people."

22 Do you see that?

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

24 **MR. LEE:** And what you told us in-chief was
25 the part about child pornography makes sense to you?

1 **MR. McWADE:** Pardon me?

2 **MR. LEE:** That makes sense to you? It's not

3 ---

4 **MR. McWADE:** Yes, sir.

5 **MR. LEE:** --- something you specifically
6 recall saying but it sounds like something you likely would
7 have said?

8 **MR. McWADE:** Yes, sir.

9 **MR. LEE:** And you're not so sure about the
10 home videos of local people?

11 **MR. McWADE:** No, sir.

12 **MR. LEE:** Are you telling us that you
13 definitely did not say that or that you simply cannot
14 recall saying that?

15 **MR. McWADE:** I can't recall saying anything
16 in that terminology.

17 **MR. LEE:** Do you take issue with the
18 specific phrase, "home videos of local people?" Or do you
19 take issue with the idea of it in general? I mean I'm not
20 sure that Officer McDougald's ---

21 **MR. McWADE:** That -- like the child
22 pornography would make sense; the home videos of local
23 people, I don't know what context to put that in, so ---

24 **MR. LEE:** Presumably to say something like
25 that, you would have had some suspicion then.

1 **MR. McWADE:** Well, no, I was thinking along
2 the lines of before you get into bondage, deeper stuff that
3 might have been homemade. Something that might be
4 classified as ---

5 **MR. LEE:** So in other words, homemade
6 pornography that would be illegal.

7 **MR. McWADE:** Yeah, yeah.

8 **MR. LEE:** And during your examination in-
9 chief, you told us that the tapes were "by and large" of
10 male homosexual activity. What did you mean by, "by and
11 large?"

12 **MR. McWADE:** My understanding, I don't know
13 how many incidents there were on the tapes, is that there
14 was elements of male/female relationships as well.

15 **MR. LEE:** Adult?

16 **MR. McWADE:** Yeah.

17 **MR. LEE:** That's your recol -- that's not
18 something you saw, that's information you gleaned from the
19 officers ---

20 **MR. McWADE:** Yes.

21 **MR. LEE:** --- who reviewed the tapes?

22 **MR. McWADE:** Yes. What I saw what male and
23 male.

24 **MR. LEE:** And you've also been asked about
25 labels. Do you recall whether or not you specifically

1 looked at all of the video -- not viewed the videotapes but
2 looked at the actual tapes themselves in terms of reviewing
3 the labels?

4 **MR. McWADE:** Not all of them. I looked down
5 and it appeared to be a commercial label, not the ones that
6 you -- comes with it and you peel it off and stick it on
7 and fill out your own information.

8 **MR. LEE:** Sorry, did you or did you not flip
9 through each -- every one of them to review the label?

10 **MR. McWADE:** Every one of them?

11 **MR. LEE:** Yes.

12 **MR. McWADE:** No.

13 **MR. LEE:** Do you recall seeing any that did
14 not have a label?

15 **MR. McWADE:** I believe there was a couple
16 but I'm not 100 percent sure.

17 **MR. LEE:** Do you recall seeing any with --
18 any that had labels with handwritten descriptions on them
19 rather than commercial printed descriptions?

20 **MR. McWADE:** I can't remember.

21 **MR. LEE:** Okay.

22 And do you still have Exhibit 690 up?

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

24 **MR. LEE:** Can you turn to the last page of
25 that, page 3 of 3, Bates page 550?

1 We saw this in-chief as well. The third-
2 last paragraph, the end of one of your answers as I was
3 advised -- or one of Officer McDougald's answers rather is:

4 "I was advised by Staff Sergeant McWade
5 on 4 May '93 that the videotapes and
6 suitcase was destroyed locally by the
7 caretaker, burning them in a 45-gallon
8 drum that date."

9 Do you see that?

10 **MR. McWADE:** Yes, sir.

11 **MR. LEE:** And you'll see that Officer
12 McDougald references a specific date?

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

14 **MR. LEE:** Four (4) May '93?

15 **MR. McWADE:** Yes sir.

16 **MR. LEE:** Has it been your experience that
17 typically a police officer giving a statement like this
18 would have his notes with him?

19 **MR. McWADE:** I don't know the circumstances
20 of what he had available to him when he made this
21 statement, sir.

22 **MR. LEE:** And as I pointed out earlier, the
23 statement is December 11th, 1998 so almost 10 years ago?

24 **MR. McWADE:** Yes, sir.

25 **MR. LEE:** And you've told us your efforts

1 and the OPP's efforts at finding your notes from that
2 period have been unsuccessful.

3 **MR. McWADE:** Yes, sir.

4 **MR. LEE:** You told us that Arthur Lalonde,
5 who was the caretaker at the Detachment, would sometimes
6 assist in the destruction of materials but that would not
7 be his responsibility, that was the responsibility of a
8 police officer to do that. Is that right?

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

10 **MR. LEE:** You have no specific recollection
11 of starting the fire?

12 **MR. McWADE:** No, sir.

13 **MR. LEE:** And you have no specific
14 recollection of extinguishing the fire?

15 **MR. McWADE:** No, sir.

16 **MR. LEE:** And would it be fair for me to say
17 that you typically wouldn't leave a fire going in a barrel
18 in the yard unattended?

19 **MR. McWADE:** I wouldn't think so. But like
20 I said, I have no specific recollection as to the state of
21 the fire when I left.

22 **MR. LEE:** And leaving the actual destruction
23 of the tapes aside, would you agree with me that if a fire
24 needed to be started in order to destroy evidence,
25 typically the caretaker would be assigned that task at

1 least?

2 MR. McWADE: I don't recall. Everyone has
3 access to it. I just don't recall.

4 MR. LEE: Do you recall -- was Mr. Lalonde
5 the caretaker of the detachment throughout the entirety of
6 your time there?

7 MR. McWADE: Yes, sir.

8 MR. LEE: Was he still there at the time you
9 left?

10 MR. McWADE: I believe so.

11 MR. LEE: Did you ever have any problems
12 with him at all?

13 MR. McWADE: No.

14 MR. LEE: Ever discipline him?

15 MR. McWADE: No, sir.

16 MR. LEE: Never had a falling out or
17 anything like that?

18 MR. McWADE: No, sir. He used to run most
19 days with me at lunchtime.

20 MR. LEE: Sorry, I missed that.

21 MR. McWADE: I used to run most days at
22 lunchtime with him.

23 MR. LEE: Thank you very much, sir. Those
24 are my questions.

25 THE COMMISSIONER: Mr. McWade, is there --

1 do you know in your experience, it seems on this occasion
2 before exercising the search warrant, they phoned Malcolm
3 MacDonald the lawyer? Is that a procedure that is normally
4 carried out before you exercise -- execute a warrant?

5 **MR. McWADE:** I don't know how Mr. -- the
6 lawyer got involved that -- like that was something to do,
7 I believe, with Constable McDougald and Constable --
8 Detective Constable Millar.

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

10 **MR. McWADE:** So I don't know exactly how it
11 came to be that they had contact with them.

12 **THE COMMISSIONER:** Okay.

13 **MR. McWADE:** It's not usual but it sounds
14 like they received information but I don't know where.

15 **THE COMMISSIONER:** No, but my question was,
16 is it usual for an OPP executing a search warrant to phone
17 up a lawyer and tell him that we're about to go and execute
18 the warrant at his client's house?

19 **MR. McWADE:** No, sir; it's not usual.

20 **THE COMMISSIONER:** Is it -- would it be
21 unusual?

22 **MR. McWADE:** I think I've -- I don't recall
23 ever doing it in my career.

24 **THE COMMISSIONER:** Thank you.

25 **MR. LEE:** Mr. Commissioner, I don't intend

1 to put another question to the witness but just for your
2 own information on that point, ---

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

4 **MR. LEE:** --- we have an Exhibit Number 1163
5 ---

6 **THE COMMISSIONER:** One-one-six-three (1163).

7 **MR. LEE:** --- that is an earlier interview
8 report of Steve McDougald, again taken by Pat Hall this
9 time with Joe Dupuis and ---

10 **THE COMMISSIONER:** One-one-six -- okay, I've
11 got it.

12 **MR. LEE:** One-one-six-three (1163) is a
13 September 2nd, '98 interview report.

14 **THE COMMISSIONER:** Yes.

15 **MR. LEE:** And if you look towards the very
16 bottom of the second page ---

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

18 **MR. LEE:** --- he summarizes what happened on
19 December 20th, 1998 where he proceeded for the Leroux
20 residence and advised him of C-8's complaint of harassment.
21 And he goes on over onto page 3 to describe how Officer
22 McDougald would have become aware that Malcolm MacDonald
23 was representing Ron Leroux.

24 And so that doesn't necessarily respond to
25 the question of why he would have contacted Malcolm

1 MacDonalld but at least it lets us understand how he would
2 have known about Malcolm MacDonalld at all.

3 **THE COMMISSIONER:** All right.

4 **MR. LEE:** For your information.

5 **THE COMMISSIONER:** Thank you.

6 Mr. Neville?

7 Good morning, sir.

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

9 **NEVILLE:**

10 **MR. NEVILLE:** Good morning, Commissioner.

11 Good morning, Mr. McWade. You and I know each other.

12 **MR. McWADE:** Yes, sir.

13 **MR. NEVILLE:** I represent Father Charles
14 MacDonalld and the estate of Ken Seguin, his brother and his
15 family.

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

17 **MR. NEVILLE:** I just have two or three
18 questions briefly for you.

19 One of the other counsel touched on the fact
20 that these tapes and the history of them became somewhat
21 controversial eventually?

22 **MR. McWADE:** That's my understanding.

23 **MR. NEVILLE:** And do you know -- at that
24 time in 1993 and a year or two thereafter, did you know
25 Constable Perry Dunlop of the Cornwall police?

1 **MR. McWADE:** I know the name.

2 **MR. NEVILLE:** Did you know him though as a
3 police officer or in any other capacity?

4 **MR. McWADE:** I never had any occasion to
5 work with the man or cases, or never had any involvement
6 with the man whatsoever.

7 **MR. NEVILLE:** And did you eventually become
8 aware that one of the persons making an issue, a
9 controversial interpretation, of these tapes was Mr.
10 Dunlop?

11 **MR. McWADE:** I read an item that he -- or
12 evidence that he took issue to the tapes.

13 **MR. NEVILLE:** Yes. And did you become aware
14 that another person by the name of Gary Guzzo was making a
15 controversial issue over these tapes?

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

17 **MR. NEVILLE:** Did either Mr. Dunlop or Mr.
18 Guzzo ever speak to you about the history and nature of
19 these tapes?

20 **MR. McWADE:** No, sir.

21 **MR. NEVILLE:** Thank you. Those are my
22 questions.

23 **THE COMMISSIONER:** Thank you.

24 Ms. Allinotte?

25 **MS. ALLINOTTE:** No questions.

1 **THE COMMISSIONER:** Thank you.

2 Maître Rouleau?

3 **MR. ROULEAU:** No questions.

4 **THE COMMISSIONER:** Thank you.

5 Ms. Waddilove?

6 **MS. WADDILOVE:** No questions, sir.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Crane? Sorry, Diocese -- excuse moi;

9 Madame Levesque?

10 **Me LEVESQUE:** Pas de questions.

11 **THE COMMISSIONER:** Parfait. Merci.

12 Mr. Crane, no questions.

13 So Mr. Kozloff or Ms. Lahaie?

14 **MR. KOZLOFF:** No questions.

15 **THE COMMISSIONER:** Thank you.

16 Mr. Carroll?

17 **MR. CARROLL:** Thank you.

18 **THE COMMISSIONER:** Oh, sorry. Wait a minute

19 now; where do you fit in?

20 **MR. CARROLL:** You missed somebody?

21 **MR. O'BRIEN:** I'm Mr. O'Brien.

22 **THE COMMISSIONER:** Yes, I know ---

23 **MR. O'BRIEN:** I would address the Commission

24 ---

25 **THE COMMISSIONER:** You want to address me?

1 Sure.

2 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. O'BRIEN:

3 MR. O'BRIEN: Yes. As you're undoubtedly
4 aware, on September 5th you provided limited standing to me
5 ---

6 THE COMMISSIONER: M'hm.

7 MR. O'BRIEN: --- with respect to any
8 alleged misconduct involving Detective Inspector Randy
9 Millar.

10 THE COMMISSIONER: M'hm.

11 MR. O'BRIEN: We've heard evidence today
12 that, in my humble submission, is in that area. We're
13 talking about the illegal search allegations and the
14 various smoking guns, if you will, of a conspiracy that
15 involves the OPP. It involves Randy Millar, another OPP
16 officer that would be represented by the OPPA. It involves
17 this gentleman here.

18 In my respectful submission, I would be
19 interested in asking questions with respect to the return
20 and the like from this witness, to fairly represent the
21 interests of Detective Inspector Randy Millar.

22 THE COMMISSIONER: Well, was Millar involved
23 in this search at all?

24 MR. O'BRIEN: Yes, he was the one that had
25 the tapes. He's the one that found the tapes.

1 **THE COMMISSIONER:** Okay. McDougald asked
2 for the search warrant.

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

4 **THE COMMISSIONER:** All right.

5 And McDougald's the one who made the return
6 on the search warrant.

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

8 **THE COMMISSIONER:** Okay.

9 **MR. O'BRIEN:** And Detective Inspector Randy
10 Millar accompanied McDougald to the Leroux residence.

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

12 **MR. O'BRIEN:** It's Detective Inspector Randy
13 Millar that found the tapes that were hidden up near the
14 bathtub ---

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

16 **MR. O'BRIEN:** --- and returned the tapes to
17 Officer McDougald, and both officers returned to the
18 detachment.

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

20 **MR. O'BRIEN:** It's my understanding in the
21 evidence that Detective Inspector Randy Millar was a PC at
22 the time, or detective constable, and he was asked to
23 assist as he has more experience, and that's why he went on
24 the search.

25 **THE COMMISSIONER:** Okay. But how would the

1 -- do you know anything about Officer Millar's involvement
2 in this search warrant?

3 **MR. McWADE:** Other than assisting Constable
4 McDougald with the search, my understanding of it, when he
5 left the house and came back to the office, that he was
6 done. I don't recall him being involved any more after
7 that.

8 **MR. O'BRIEN:** Mr. Commissioner, there's one
9 document that's before the Court. I'll get right to the
10 chase. There's a document before the Court that talks
11 about the return to the Justice of the Peace.

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

13 **MR. O'BRIEN:** Nobody has mentioned that
14 there's a box in there that is ticked off that is Section
15 49.

16 **THE COMMISSIONER:** Where -- what's -- 603?

17 **MR. O'BRIEN:** That's Document 706164.

18 **THE COMMISSIONER:** No, it's Exhibit 603.

19 **MR. O'BRIEN:** Six zero three (603).

20 **THE COMMISSIONER:** And there's a Section 47
21 and there's a Section 49.

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

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

24 **MR. O'BRIEN:** Now ---

25 **THE COMMISSIONER:** So ---

1 **MR. O'BRIEN:** The warrant was issued under
2 47.

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

4 **MR. O'BRIEN:** Items were seized -- items
5 were taken by Detective Inspector Randy Millar, given to
6 Officer McDougald. In the return, what we have is the box
7 ticked off on 47 and we have a listing of the weapons.

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

9 **MR. O'BRIEN:** We also have a box ticked off
10 under 49.

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

12 **MR. O'BRIEN:** And as Mr. McWade has
13 indicated, that provides legal authority to seize items
14 that were not named in the warrant, and I think that's
15 pertinent, especially when it's attributable to items that
16 were seized by Detective Inspector Randy Millar. That
17 should be brought out, that there was a return that was
18 before a Justice of the Peace that indicated that there
19 were other items seized.

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

21 **MR. O'BRIEN:** And in addition to that, a
22 property report does itemize those documents. That's the
23 area that I have.

24 **THE COMMISSIONER:** You made your point.
25 Thank you.

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

2 **THE COMMISSIONER:** Mr. Carroll.

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

4 **CARROLL:**

5 **MR. CARROLL:** I want to ask you about your
6 awareness of any policies, standard operating procedures or
7 orders in relation to the ---

8 **THE COMMISSIONER:** Your microphone, Mr.
9 Carroll.

10 **MR. CARROLL:** I'm sorry.

11 I would like to ask you a couple of
12 questions about your awareness of any policies or standard
13 operating procedures or orders in relation to the
14 responsibilities of a detachment commander when you were at
15 the relevant time during the issuance of the search warrant
16 and the return of the items to the station. Okay?

17 **MR. McWADE:** Sure.

18 **MR. CARROLL:** To your knowledge, was there
19 any OPP policy, standard operating procedure or order
20 directing the detachment commander to assist an officer in
21 the writing of the Information to obtain the search
22 warrant?

23 **MR. McWADE:** No, sir.

24 **MR. CARROLL:** Was there any such policy,
25 standard operating procedure or order directing the

1 detachment commander to review the Information and the
2 search warrant before it's presented to the Justice of the
3 Peace?

4 **MR. McWADE:** No, sir.

5 **MR. CARROLL:** Was there any policy, standard
6 operating procedure or order directing the detachment
7 commander to accompany the searching officers as they
8 conducted the search?

9 **MR. McWADE:** No, sir.

10 **MR. CARROLL:** Was there any policy, standard
11 operating procedure or order directing the detachment
12 commander to review the items seized once they were brought
13 back to the station?

14 **MR. McWADE:** No, sir.

15 **MR. CARROLL:** Was there any policy, standard
16 operating procedure or order directing the detachment
17 commander to follow up in terms of where the items seized
18 were stored?

19 **MR. McWADE:** There is policy in regards to
20 the property room, the property audits, but under the
21 management and inspection process, the detachment commander
22 can delegate that to other supervisory staff.

23 **MR. CARROLL:** All right.

24 Was there any policy, standard operating
25 procedure or order directing the detachment commander to

1 review the return to the Justice?

2 MR. McWADE: No, sir.

3 MR. CARROLL: From what you were able to --
4 was there a storage facility for items seized at the
5 detachment?

6 MR. McWADE: Yes, sir, there's a property
7 room.

8 MR. CARROLL: And were the items, to your
9 knowledge, that were seized, both listed and not listed in
10 the return, stored in the proper location within your
11 detachment?

12 MR. McWADE: Yes, sir.

13 MR. CARROLL: You've given us your best
14 recollections of the destruction of the tapes and the
15 process involving that. When you left the barrel, left the
16 tapes in whatever state, were you satisfied that those
17 tapes were in the process of being destroyed?

18 MR. McWADE: Yes, sir.

19 MR. CARROLL: Did you have any specialized -
20 - you talked about the Project "P" being a specialized
21 unit.

22 MR. McWADE: Yes, sir.

23 MR. CARROLL: Did you have any specialized
24 training in matters related to Project "P" or pornography
25 in general?

1 **MR. McWADE:** Not specific. During one of
2 the courses that I took -- I'm not sure of the exact date -
3 - a member of Project "P" came into the classroom and
4 provided us guidelines and it was information to let us
5 know that they existed and we are a resource to them.

6 **MR. CARROLL:** They're a resource to you?

7 **MR. McWADE:** Yes, sir.

8 **MR. CARROLL:** All right.

9 From what you observed yourself or what was
10 reported to you from -- by your officers, were you
11 satisfied that there was no illegal criminal activity
12 contained in those tapes?

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

14 **MR. CARROLL:** Thank you, sir.

15 **THE COMMISSIONER:** Maître Dumais?

16 **--- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. DUMAIS:**

17 **MR. DUMAIS:** Just one issue, sir. If you
18 could just have a look at Exhibit 603; that's the warrant.

19 So if we look at the itemized things that
20 Mr. McDougald has listed as being searched for, item 1 is
21 the Smith & Wesson .22 caliber revolver and there is a
22 specific serial number indicated there. Do you see that?

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

24 **MR. DUMAIS:** And the number 2 item is an
25 unknown European .45 caliber revolver, serial number 3.

1 **MR. McWADE:** Yes, sir.

2 **MR. DUMAIS:** Do you see that?

3 And if you can just have a quick look then
4 at the last page which is the return made to the Justice.

5 **MR. McWADE:** Yes, sir.

6 **MR. DUMAIS:** And I believe a point Mr.
7 O'Brien was making is that two boxes had been ticked off,
8 one being Section -- Item C pursuant to Section 47; the
9 second one being Section 49 which relates to other items
10 seized. So both are ticked off; correct?

11 **MR. McWADE:** Yes. Yes, sir.

12 **MR. DUMAIS:** And if we look at the bottom,
13 and you've looked at that already earlier today, the first
14 item that's indicated is seize Item Number 2, unknown
15 weapon, .45 caliber that appears to relate to Item 2 that
16 is found on the warrant which we just looked at.

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

18 **MR. DUMAIS:** The second item is seize
19 unidentifiable restricted weapons, which appears to be a
20 different weapon than the one that's listed on the top of
21 the warrant?

22 **MR. McWADE:** Yes, sir.

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

24 Those are my questions Mr. McWade. Thank
25 you.

1 **THE COMMISSIONER:** Thank you very much, Mr.
2 McWade. You're free to go.

3 **MR. McWADE:** Thank you very much, sir.

4 **THE COMMISSIONER:** Thank you very much for
5 coming.

6 **MR. DUMAIS:** Mr. Commissioner, our next
7 witness has been, I believe, asked to attend at 1:30, if we
8 can take an early lunch break. And it should be -- he
9 should be a very short witness. And the third witness that
10 we intend on calling today is present in the building as
11 well.

12 **THE COMMISSIONER:** All right. So I see this
13 gentleman didn't have any notes and the fellow yesterday
14 brought his notes. Are we going to have more discussions
15 about notes or how is that going?

16 **MR. DUMAIS:** Well, we had been advised early
17 on that Mr. McWade could not locate his notes and the OPP,
18 either the detachment or the head office, could not locate
19 his notes either. We had been advised of that.

20 So there's also the issue that came up
21 yesterday with respect to the witness, Mr. Fougère, there
22 was some issue with respect to those notes. Perhaps you
23 had instructed, I was not in the courtroom but you had
24 instructed that these -- Constable Fougère left his notes
25 with us to review. And Mr. Fougère would not leave us his

1 notes yesterday and left with them.

2 The -- I did have some discussion -- we had
3 a meeting with both Mr. Kozloff and other members of his
4 team last night. Mr. Kozloff indicated to me in a
5 subsequent telephone conversation that Mr. Fougère had
6 agreed to come back with his original notes sometime next
7 week and meet with one member of our staff so that we can
8 review those notes.

9 **THE COMMISSIONER:** Sometime next week?

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

11 **THE COMMISSIONER:** I'll think about that
12 one. Thank you.

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

14 **THE COMMISSIONER:** Break for lunch.

15 **MR. DUMAIS:** Yes, thank you, 1:30?

16 **THE COMMISSIONER:** Quarter to two.

17 **MR. DUMAIS:** Thank you.

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

20 This hearing will resume at 1:45 p.m.

21 --- Upon recessing at 12:11 p.m. /

22 L'audience est suspendue à 12h11

23 --- Upon commencing in public at 1:57 p.m. /

24 L'audience débute en public à 13h57

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing is now resumed. Please be
3 seated. Veuillez vous asseoir.

4

5 **THE COMMISSIONER:** For those of you who are
6 watching, we started a little later because we went in
7 camera to assign monikers to the names that were protected
8 yesterday.

9 **MR. DUMAIS:** I'd like to call our next
10 witness, Mr. Arthur Lalonde.

11 **THE COMMISSIONER:** Yes.

12 Good afternoon, sir. Go ahead.

13 **ARTHUR LALONDE, Sworn/Assermenté:**

14 **THE COMMISSIONER:** Thank you.

15 Good afternoon, sir.

16 **MR. LALONDE:** Good afternoon.

17 **THE COMMISSIONER:** You may have to refer to
18 some documents, I don't know, but in any event, if you
19 could speak into the microphone so we can hear you. There
20 is fresh water and glasses. There is a computer there that
21 you may or may not use. In any event, please answer the
22 questions to the best of your ability and if you have any
23 problems or you feel uneasy about something, just refer to
24 me and I'll help you out with it. Okay?

25 **MR. LALONDE:** M'hm. Right.

1 **THE COMMISSIONER:** Thank you.

2 Oh, yes, you have to answer yes or no for
3 the microphone.

4 **MR. LALONDE:** Yes.

5 **THE COMMISSIONER:** Thank you. Okay.
6 Go ahead.

7 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
8 **DUMAIS:**

9 **MR. DUMAIS:** Good afternoon, Mr. Lalonde.
10 I understand that you are a long-time
11 resident of Cornwall; is that correct?

12 **MR. LALONDE:** Yeah, m'hm.

13 **MR. DUMAIS:** And I understand that although
14 you're now retired, you worked for the Lancaster OPP
15 Detachment for your entire career. Is that correct?

16 **MR. LALONDE:** For 28 years, that's right.

17 **MR. DUMAIS:** And you would have started in
18 1968 and you took your retirement in 1996; right?

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

20 **MR. DUMAIS:** And you were the caretaker at
21 the detachment. Is that correct?

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

23 **MR. DUMAIS:** And I understand that
24 throughout your employment at the Lancaster Detachment,
25 from time to time, you would be asked to destroy some

1 property. Is that correct?

2 MR. LALONDE: Yes, that's correct.

3 MR. DUMAIS: And can you just give us a
4 sense of what type of property you were asked to take care
5 of and how you would do that?

6 MR. LALONDE: Well, mostly it was -- well,
7 say if there was clothes, if there was papers -- we burnt
8 all the papers in those days outside. We didn't have to
9 worry about -- but there was always an officer there,
10 accompanying me there.

11 MR. DUMAIS: All right. And what was the
12 setup for the burning process? I mean, was there a furnace
13 or something like that that you guys were using?

14 MR. LALONDE: No. This is going back. It
15 was a barrel. And we burnt it and when it was empty, we'd
16 put it in the garbage and the garbage picked it up.

17 MR. DUMAIS: Okay. So, sir, was it one of
18 your responsibilities to take care of this barrel, to burn
19 stuff in the barrel?

20 MR. LALONDE: If it was pertaining to the
21 containers in the office that I would empty, I'd bring them
22 out and burn them. But if the sergeant or an officer asked
23 me to burn something, they'd accompany me and watch me do
24 it.

25 MR. DUMAIS: Okay. So by "container" do you

1 mean, essentially, paper and garbage that accumulate ---

2 MR. LALONDE: Yes, that's right.

3 MR. DUMAIS: All right.

4 MR. LALONDE: And we have garbage pick-up
5 once a week.

6 MR. DUMAIS: Okay. But sometimes, some of
7 the officers would seize some items, for example, drugs,
8 marijuana. Would you be asked to destroy that as well?

9 MR. LALONDE: A couple of times, I witnessed
10 the burning of marijuana. I got a free high on it, but
11 just a few times; that's it.

12 (LAUGHTER/RIRES)

13 MR. DUMAIS: All right. And when you say
14 "witnessed the burning" would that mean that you're
15 actually the one operating the barrel, if I can put it that
16 way?

17 MR. LALONDE: Yes.

18 MR. DUMAIS: So you're lighting the fire.
19 You're putting the stuff in and you ---

20 MR. LALONDE: But there will always be the
21 officer that accompanied me there.

22 MR. DUMAIS: So you're never asked to do
23 this alone. Is that correct?

24 MR. LALONDE: No.

25 MR. DUMAIS: And was that a practice of the

1 detachment, whenever there's some burning that there's
2 always two persons doing this?

3 MR. LALONDE: Well, there would be me and
4 the officer.

5 MR. DUMAIS: And you remember the Detachment
6 Commander between 1990 and 1993, Staff Sergeant Jim McWade?

7 MR. LALONDE: Yes.

8 MR. DUMAIS: And you were employed as a
9 caretaker while he was there?

10 MR. LALONDE: M'hm.

11 MR. DUMAIS: And was there more than one
12 caretaker working at the detachment?

13 MR. LALONDE: No.

14 MR. DUMAIS: Okay, so there was just -- only
15 you?

16 MR. LALONDE: M'hm.

17 MR. DUMAIS: And if I can just ask you to
18 look at one exhibit quickly, and that is Exhibit Number
19 690. It should be in front of you, Mr. Lalonde.

20 MR. LALONDE: It is, yes.

21 MR. DUMAIS: And I am going to ask you to
22 look at the last page of that exhibit. It's going to come
23 up on the screen as well.

24 And just so that you know what you're
25 looking at ---

1 **THE COMMISSIONER:** Actually, Madam Clerk, I
2 think in front of there, there's a typed version. So if
3 you want to go to 7052550; yes, m'hm.

4 **MR. DUMAIS:** So this is a statement that was
5 given by a police officer stationed at the Lancaster
6 Detachment, Constable Steve McDougald. Do you remember Mr.
7 McDougald?

8 **MR. LALONDE:** Yes.

9 **MR. DUMAIS:** And he's here giving a
10 statement, answering questions of a Detective Sergeant Pat
11 Hall. Detective Sergeant Hall is asking him questions
12 about the seizure of videotapes in 1993 and their eventual
13 destruction at the detachment. So that's the context of
14 the question.

15 **MR. LALONDE:** M'hm.

16 **MR. DUMAIS:** So and if you can just then
17 look at the last page, the third last paragraph.

18 And this is Officer McDougald speaking:

19 "I was advised by Staff Sergeant McWade
20 on the 4th day of May, 1993 that the
21 videotapes and suitcase was destroyed
22 locally by the caretaker burning them
23 in a 45-gallon drum that date."

24 So, Mr. Lalonde, do you remember being
25 involved in the burning of videotapes or a suitcase at

1 about that period of time?

2 MR. LALONDE: No, I don't. I can't really
3 say I know, no.

4 MR. DUMAIS: Do you recall ever being
5 involved in the destruction of videotapes or a suitcase
6 during your entire career at the detachment?

7 MR. LALONDE: No, I can't say I can. No.

8 MR. DUMAIS: These were tapes that would
9 have been seized at the home of a gentleman called Ron
10 Leroux in 1993.

11 Were you ever aware that videotapes had been
12 seized at that location and were being stored at the
13 detachment?

14 MR. LALONDE: No. I never made a point to
15 know the property that was seized. That was the officers,
16 and my job was caretaker. That's it.

17 MR. DUMAIS: All right. And you don't
18 recall then the Detachment Commander asking for your
19 assistance in burning any videotapes?

20 MR. LALONDE: No.

21 MR. DUMAIS: And you would not have been
22 asked to burn videotapes by Constable McDougald either?

23 MR. LALONDE: I don't remember that, no.

24 MR. DUMAIS: Or Constable Dussault?

25 MR. LALONDE: No. No.

1 **MR. DUMAIS:** Do you remember whether or not
2 the Detachment Commander would -- would you ever have
3 witnessed him burning any type of property in the drum or
4 the barrel?

5 **MR. LALONDE:** No, but as I say, that drum
6 was used for that purpose; to burn. Now, like, what was
7 burned there? You know.

8 **THE COMMISSIONER:** Was there ever any
9 burning being done there without you being involved?

10 **MR. LALONDE:** There could be, sir.

11 **THE COMMISSIONER:** Well, did you ever ---

12 **MR. LALONDE:** There could be.

13 **THE COMMISSIONER:** Did you ever see anyone
14 burning anything without your assistance?

15 **MR. LALONDE:** No.

16 **THE COMMISSIONER:** And do you know
17 videotapes?

18 **MR. LALONDE:** Yes.

19 **THE COMMISSIONER:** Yes, okay, to me, it's
20 not like paper or wood. So did you ever burn anything in
21 there that was like plastic or anything like that?

22 **MR. LALONDE:** It's possible, yes, because
23 there'd be plastic bottles, you know, whatever. We'd just
24 throw them in.

25 **THE COMMISSIONER:** So you remember throwing

1 plastic bottles in?

2 MR. LALONDE: Well, in those days, there was
3 no recycling.

4 THE COMMISSIONER: No, I'm not -- no, I'm
5 not questioning your environmental footprint.

6 (LAUGHTER/RIRES)

7 THE COMMISSIONER: What I'm saying is you
8 threw anything and everything in there?

9 MR. LALONDE: Well, if we could destroy it,
10 we would and then we'd put it in the garbage, yeah.

11 THE COMMISSIONER: Okay, so but what I'm
12 saying, you know, to me, 22 videotapes in a fire, I just
13 can't picture that.

14 MR. LALONDE: Well, I don't remember -- I
15 can't remember that, sir.

16 THE COMMISSIONER: No, no, no, but do you
17 remember burning unusual things that would be like plastic?

18 MR. LALONDE: No.

19 THE COMMISSIONER: Okay. Mr. Dumais?

20 MR. DUMAIS: All right.

21 Thank you, Mr. Lalonde. These are the
22 questions I have for you.

23 My friends may have questions for you.

24 Thank you.

25 THE COMMISSIONER: Mr. Strawczynski?

1 **MR. STRAWCZYNSKI:** I have no questions, Mr.
2 Commissioner. Thank you for participating, Mr. Lalonde.

3 **MR. LALONDE:** Thank you.

4 **THE COMMISSIONER:** Thank you.
5 Mr. Horn?

6 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
7 **HORN:**

8 **MR. HORN:** Frank Horn, Coalition for Action.
9 I just have a couple of questions, a few questions.

10 When the matter that would come to you,
11 anything that you had to do to -- anything that you had to
12 destroy or burn, was there anybody that was there to keep a
13 record of that. Do you know?

14 **MR. LALONDE:** All I can say, sir, is that
15 there'd be an officer there, and we'd do it. After that, I
16 don't know.

17 **MR. HORN:** So you weren't involved in any
18 record-keeping of any kind?

19 **MR. LALONDE:** No.

20 **MR. HORN:** Okay. And did you have an
21 assistant of any kind, anybody that was helping you?

22 **MR. LALONDE:** No. No, just the officer that
23 would be there.

24 **MR. HORN:** And do you know any of the names
25 of the people that have been mentioned, like Mr. Leroux or

1 any of the names ---

2 MR. LALONDE: Just what I've read in the
3 paper and watched on the Inquiry.

4 MR. HORN: So none of these names are
5 familiar to you at all?

6 MR. LALONDE: No.

7 MR. HORN: Okay. So you would know what a
8 videotape was then?

9 MR. LALONDE: Yes.

10 MR. HORN: Okay. It's not like you're --
11 you don't -- you're not involved in listening to tapes or
12 that. Some people maybe wouldn't know, but you would know
13 what a tape was and what it did?

14 MR. LALONDE: M'hm, yeah.

15 MR. HORN: And you didn't see anything like
16 that?

17 MR. LALONDE: No.

18 MR. HORN: Was there ever any discussions
19 that you ever overheard of, any tapes or anything that was
20 destroyed that involved pornography?

21 MR. LALONDE: I made it a point, sir, that I
22 didn't get involved in hearing what was going on. That
23 wasn't my job, I'm sorry.

24 MR. HORN: The only way you knew it was
25 marijuana was because you smelled it and you knew what

1 marijuana was?

2 MR. LALONDE: Yes.

3 MR. HORN: Yeah. And the liquor, too also.
4 Did you destroy liquor also?

5 MR. LALONDE: We'd pour it down until the
6 law changed that they brought it to the liquor store and
7 emptied it there.

8 MR. HORN: Okay. I just have one other
9 area.

10 If you could look at 714169? This is an
11 interview that was done with you on March the 15th, 1994.

12 THE COMMISSIONER: Just a second, sir. It's
13 a new document.

14 MR. LALONDE: Okay.

15 THE COMMISSIONER: Thank you.

16 Exhibit Number 2525 is an interview report
17 of Mr. Lalonde taken on the 15th of March, 1994.

18 --- EXHIBIT NO. /PIECE NO. P-2525:

19 (714169) Interview Report of Arthur Lalonde
20 - March 15, 1994.

21 MR. HORN: This was done in 1994, is that --
22 -

23 MR. LALONDE: Yes, sir.

24 MR. HORN: Do you remember that interview?
25 The police officer that you spoke to his name was, let's

1 see, B -- do you remember that?

2 MR. LALONDE: What I have here, it's in '63
3 and '64?

4 THE COMMISSIONER: Sorry? Again?

5 MR. LALONDE: I have here ---

6 THE COMMISSIONER: In 1963 or '64? Oh, no,
7 no -- right. That's you talking ---

8 MR. LALONDE: M'hm?

9 THE COMMISSIONER: --- but you met with the
10 police on March 15th of 1994 and it seems it was a Detective
11 Constable Beatty that would have interviewed you.

12 MR. LALONDE: M'hm.

13 THE COMMISSIONER: Do you recall that?

14 MR. LALONDE: Excuse me, sir, like what year
15 what this; '94?

16 THE COMMISSIONER: Yes.

17 MR. LALONDE: I think so, yes.

18 THE COMMISSIONER: Okay.

19 Without mentioning any names there, Mr.
20 Horn?

21 MR. HORN: Okay. Do you remember the
22 interview?

23 MR. LALONDE: Yes, I do now, yes. Now that
24 I see like what it pertains to, yes.

25 THE COMMISSIONER: Sure, sure.

1 **MR. HORN:** Do you remember what was the
2 purpose of that interview? Were you told?

3 **MR. LALONDE:** Well, it was asking about a
4 certain individual.

5 **THE COMMISSIONER:** Oh, we can -- Milton
6 MacDonald.

7 **MR. LALONDE:** Yeah.

8 **THE COMMISSIONER:** Okay, we can say that
9 name.

10 **MR. HORN:** Okay. And according to your
11 statement, you'd known Milton MacDonald for some time?

12 **MR. LALONDE:** For years.

13 **MR. HORN:** You used to live in Lancaster?

14 **MR. LALONDE:** Yes, that's right, sir.

15 **MR. HORN:** Now, were you -- like, back in
16 those days, you were living in Lancaster ---

17 **MR. LALONDE:** M'hm.

18 **MR. HORN:** --- you weren't living in
19 Cornwall. Do you live in Cornwall now?

20 **MR. LALONDE:** Yes.

21 **MR. HORN:** But back then you were ---

22 **MR. LALONDE:** In Lancaster.

23 **MR. HORN:** ---in Lancaster. And did you --
24 is it like your home town? Is that where you grew up?

25 **MR. LALONDE:** Yes, I was raised there.

1 **MR. HORN:** Okay. So you would know a lot of
2 the local people in that community?

3 **MR. LALONDE:** That's right.

4 **MR. HORN:** And being raised -- now,
5 according to this, you started a gymnastic club for boys
6 and you worked with a certain police officer?

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

8 **MR. HORN:** And you were also involved with
9 the Boys' Club ---

10 **MR. LALONDE:** Boy Scouts.

11 **MR. HORN:** --- Boy Scouts, so you were
12 involved quite a bit in the community ---

13 **MR. LALONDE:** That's right.

14 **MR. HORN:** --- back in those days. So you
15 were a gymnastics teacher?

16 **MR. LALONDE:** Yes.

17 **THE COMMISSIONER:** Get to the point, Mr.
18 Horn.

19 **MR. HORN:** Okay.

20 And now one of the things that -- when you
21 were being interviewed, did you have any idea why you were
22 being asked to be -- why they came to you? Did you have
23 any reason why? They just didn't go to anybody else but
24 they wanted to talk to you?

25 **THE COMMISSIONER:** Well, how would he know?

1 **MR. HORN:** Well, they might have told him.

2 **MR. LALONDE:** Maybe because I lived there
3 all my life, almost, all my adult life and my teenage
4 years. That's the only thing I can see.

5 **MR. HORN:** Did you have any -- did you ask
6 them why you were chosen to be -- the police come and talk
7 to you?

8 **MR. LALONDE:** No, because when a police
9 officer asked me a question, I just answered them. It
10 didn't matter who it was as long as they showed me who they
11 were.

12 **MR. HORN:** Okay, so you had no idea why they
13 were ---

14 **MR. LALONDE:** No.

15 **MR. HORN:** --- but the -- some of your
16 answers were quite -- quite interesting in what was going
17 on in the community at the time.

18 One of the things you said was:
19 "As a result of this investigation, it was kept so quiet,
20 so hush-hush."

21 **THE COMMISSIONER:** Where do you see that,
22 Mr. Horn?

23 **MR. HORN:** It's on the third paragraph.

24 **THE COMMISSIONER:** Third paragraph from the
25 top, Monsieur Lalonde.

1 **MR. LALONDE:** From the top? Okay.

2 **THE COMMISSIONER:** It's in July of 1968.

3 "It was shortly after that Milton MacDonald was arrested
4 for being involved in some way with a little boy. It was
5 kept so quiet, so hush-hush."

6 **MR. HORN:** Do you remember that?

7 **MR. LALONDE:** Yes, I do.

8 **MR. DUMAIS:** And perhaps before we go any
9 further, Mr. Commissioner, perhaps there should be a
10 publication ban here?

11 **THE COMMISSIONER:** Yes.

12 **MR. DUMAIS:** It appears from this document
13 that this a -- is possibly one of the victims and if the
14 matter proceeded to court, I'm sure there must have been an
15 outstanding criminal publication ban.

16 **So** the name is third line from the bottom,
17 about ---

18 **THE COMMISSIONER:** Yeah. "The boy's name at
19 the time was", and the name -- there will have a ban on
20 publication of the name and any identifiers.

21 Mr. Horn, can you get to the point, please?

22 **MR. HORN:** Yes. So the -- what I'm
23 interested in is the last statement you made on the next
24 page.

25 **THE COMMISSIONER:** So that is:

1 "I don't think Milton served on the committee after that.
2 It was just like someone pulled the curtain down after that
3 and I never heard of anything else in regards to Milton
4 MacDonald."

5 MR. LALONDE: That's correct.

6 THE COMMISSIONER: Right.

7 MR. HORN: Okay. So it was -- that was the
8 -- that was what -- you are talking about yourself, but is
9 that sort of like what you said was happening in the
10 community?

11 MR. LALONDE: I would say that's a fair
12 assumption, yes.

13 MR. HORN: So you -- did you ever find out
14 why? You were working at the police station and ---

15 MR. LALONDE: No, no.

16 MR. HORN: Pardon?

17 MR. LALONDE: No.

18 MR. HORN: So nobody ever told you the
19 reason why they didn't -- it just sort of like went hush.
20 You never heard another word about it?

21 MR. LALONDE: There was talk and that's
22 about it.

23 MR. HORN: Talk. You mean?

24 MR. LALONDE: Well, talk.

25 MR. HORN: Just rumours, you're saying?

1 MR. LALONDE: Pardon me?

2 MR. HORN: You're just saying rumours?

3 MR. LALONDE: I guess.

4 MR. HORN: Okay. But as far as what you
5 knew yourself, you had no idea why all of a sudden
6 everything just went completely -- it just stopped like
7 that?

8 MR. LALONDE: M'hm.

9 MR. HORN: You had no idea ---

10 MR. LALONDE: No.

11 MR. HORN: --- what caused it?

12 MR. LALONDE: No.

13 MR. HORN: So to make that statement, what
14 was -- do you remember what it was that was in your mind?
15 Was that kind of a startling thing for you?

16 MR. LALONDE: Yes, it was in a way, yes.

17 MR. HORN: Why would that be startling to
18 you?

19 MR. LALONDE: He was always an outstanding
20 gentleman as far as I was concerned. I never saw him do
21 anything wrong.

22 MR. HORN: Okay. And you've known him for
23 quite a number of years?

24 MR. LALONDE: Forty-five (45) years, I
25 suppose.

1 **MR. HORN:** Okay. And did you know about
2 what happened to him eventually?

3 **MR. LALONDE:** Yes. Yes, I did.

4 **MR. HORN:** Okay. So at that time, you
5 didn't know?

6 **MR. LALONDE:** No, until he was proven
7 guilty, I guess.

8 **MR. HORN:** Okay.

9 All right, thank you. That's all.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Neville? I'm sorry. Mr. Lee, yes.

12 **MR. LEE:** I'll be very brief, sir, but if
13 can just have one moment?

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

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

16 **MR. LEE:** Mr. Lalonde, my name is Dallas
17 Lee. I'm counsel for the Victims' Group. I have just a
18 very few questions for you.

19 You retired from the Lancaster Detachment in
20 1996?

21 **MR. LALONDE:** Yes.

22 **MR. LEE:** Do you recall being contacted
23 after that time by any police officer to ask you about your
24 time spent as the caretaker at the detachment?

25 **MR. LALONDE:** I informed Jack ---

1 **MR. LEE:** Mr. Dumais ---

2 **MR. LALONDE:** --- that last summer, I forget
3 the exact date, there was a phone call. My wife answered
4 and she said it's for you.

5 And this person said she was with the OPP in
6 Toronto and I said, "I'm very sorry but I don't talk to
7 people I don't know or give out information on the phone",
8 and I hung up. That's the last I heard of anything.

9 **MR. LEE:** Did this woman identify herself?

10 **MR. LALONDE:** No, she just said she was with
11 the OPP.

12 **MR. LEE:** Did she give you a rank? Do you
13 remember?

14 **MR. LALONDE:** I think she said Inspector.

15 **MR. LEE:** And do you recall -- you said, as
16 I understand it, you weren't comfortable speaking on the
17 phone with somebody you didn't know?

18 **MR. LALONDE:** That's correct.

19 **MR. LEE:** Did you suggest you might be
20 willing to speak in person?

21 **MR. LALONDE:** No, I said if you wanted to
22 send somebody -- I think I said that -- to come and see me
23 at home.

24 **MR. LEE:** And do you know what the purpose
25 of the call was; did the woman say?

1 **MR. LALONDE:** No idea, sir.

2 **MR. LEE:** So you just -- did she at least
3 identify the fact that it related to your time as a
4 caretaker at the detachment?

5 **MR. LALONDE:** She asked me if I had worked
6 there, yes.

7 **MR. LEE:** Okay, and you can't offer me any
8 information than that?

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

10 **MR. LEE:** When you were the caretaker,
11 you've been asked some questions about destroying material,
12 and as I understand it this would have been a big, large
13 barrel you would have done this in?

14 **MR. LALONDE:** A 45-gallon drum. We'd change
15 it every three months; it would burn out.

16 **MR. LEE:** How would you start the fires?

17 **MR. LALONDE:** A paper and a match.

18 **MR. LEE:** A paper and a match?

19 **MR. LALONDE:** M'hm.

20 **MR. LEE:** And would you have had any wood
21 onsite or anything like that?

22 **MR. LALONDE:** No, never used wood.

23 **MR. LEE:** Any lighter fluid or accelerants
24 or anything like that?

25 **MR. LALONDE:** No; no fluid, no gas.

1 **MR. LEE:** And what about extinguishing the
2 fires, how would you put them out?

3 **MR. LALONDE:** I'd make sure that there was
4 no threat to the surrounding area.

5 **MR. LEE:** Did you use water or sand or
6 anything like that?

7 **MR. LALONDE:** I'd use sand, yeah.

8 **MR. LEE:** And do you recall ever having left
9 the barrel alight and walking away or were you would always
10 make sure that it was ---

11 **MR. LALONDE:** No, I'd always make sure
12 before I went home that it was out.

13 **MR. LEE:** Do you ever recall being left with
14 -- you've told us that you were always in the company of a
15 police officer when you were burning anything?

16 **MR. LALONDE:** If they brought something they
17 wanted destroyed, I'd -- they'd stay there until it
18 was done.

19 **MR. LEE:** Do you ever recall a situation
20 when an officer would have walked away once it was pretty
21 much done and left the rest to you?

22 **MR. LALONDE:** No, they'd make sure.

23 **MR. LEE:** Thank you very much. Those are my
24 questions.

25 **THE COMMISSIONER:** Thank you. Mr. Neville.

1 **MR. NEVILLE:** No questions.

2 **THE COMMISSIONER:** Thank you. Ms.

3 Allinotte?

4 **MS. ALLINOTTE:** No questions.

5 **THE COMMISSIONER:** Thank you. Mr. Rouleau?

6 **MR. ROULEAU:** No questions.

7 **THE COMMISSIONER:** Ms. Waddilove?

8 **MS. WADDILOVE:** No questions.

9 **THE COMMISSIONER:** Thank you. Mr. Crane?

10 **MR. CRANE:** No questions.

11 **THE COMMISSIONER:** Oh, I'm sorry. They keep

12 crossing out the Diocese. Excuse moi, Madame Lévesque.

13 Des questions; no?

14 **MME. LÉVESQUE:** Pas de questions.

15 **THE COMMISSIONER:** Mr. Kozloff?

16 **MR. KOZLOFF:** No questions.

17 **THE COMMISSIONER:** Mr. Carroll?

18 **MR. CARROLL:** Yes, thank you.

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

20 **CARROLL:**

21 **MR. CARROLL:** Good afternoon, Mr. Lalonde.

22 My name is Bill Carroll and I'm the counsel for the Ontario

23 Provincial Police Association.

24 **MR. LALONDE:** M'hm.

25 **MR. CARROLL:** And I just have a few

1 questions for you.

2 I just want to understand the protocol of
3 the detachment while you were there. And as I understand
4 your evidence, the rules required that if you were going to
5 burn something, particularly property seized, there be a
6 police officer present?

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

8 **MR. CARROLL:** There was no corresponding
9 rule that if a police officer was burning something, you
10 had to be present?

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

12 **MR. CARROLL:** You told various questioners
13 that, I think I got the quote right, you never made a point
14 of knowing what property that was being destroyed that had
15 been seized?

16 **MR. LALONDE:** That's correct.

17 **MR. CARROLL:** So whatever was to be burnt
18 was burnt and it was any of your -- I take it your position
19 was it was none of your business as to what had been seized
20 or what was being destroyed?

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

22 **MR. CARROLL:** You also -- at one point you
23 were talking -- Mr. Horn was asking you questions and you
24 said if a question was put to you by a police officer who
25 properly identified him or herself, you would answer the

1 questions?

2 MR. LALONDE: That's correct.

3 MR. CARROLL: And I take it, sir, you were
4 following that policy when whoever it was phoned you,
5 obviously could not prove they were a police officer, so
6 you declined to answer their questions?

7 MR. LALONDE: That's right.

8 MR. CARROLL: And finally, in dealing with
9 the -- back to the barrel for a moment, you were asked if
10 you made sure the flames were out and the fire was out and
11 your answer was, "I'd always make sure it was out before I
12 went home."

13 MR. LALONDE: That's correct.

14 MR. CARROLL: So I take it from that -- how
15 deep was the barrel, sir, may I ask you that? How high?

16 MR. LALONDE: It would be a 45-gallon drum,
17 so it would be three feet.

18 MR. CARROLL: Three feet in diameter?

19 MR. LALONDE: Yeah.

20 MR. CARROLL: And about what four or five
21 feet high?

22 MR. LALONDE: Oh, about four feet.

23 MR. CARROLL: Four feet high, okay. So what
24 I understand is you'd get a fire going or you'd put
25 material in it to be destroyed?

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

2 **MR. CARROLL:** And went about your business
3 making sure at the end of your shift that it was out; have
4 I got that right?

5 **MR. LALONDE:** I'd stay there until it was
6 completely burnt.

7 **MR. CARROLL:** You would stand at the barrel
8 until it was completely burnt?

9 **MR. LALONDE:** I'm make sure, yes.

10 **MR. CARROLL:** All right. I guess you can't
11 account for the practices of the police officers but that
12 was your practice?

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

14 **MR. CARROLL:** Okay. Thank you very much.

15 **THE COMMISSIONER:** Thank you.

16 Mr. Dumais?

17 **MR. DUMAIS:** No further questions. Thank
18 you very much.

19 **THE COMMISSIONER:** Mr. Lalonde, thank you
20 very much for coming. You're free to go. Au revoir.

21 **MR. DUMAIS:** Mr. Commissioner, if we could
22 just take five minutes, and I will get the exhibits.

23 **THE COMMISSIONER:** Thank you.

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

1 This hearing will resume at 2:35 p.m.

2 --- Upon recessing at 14:26 p.m. /

3 L'audience est suspendue à 14h26

4 --- Upon resuming at 14:36 p.m. /

5 L'audience est reprise à 10h50

6 **THE REGISTRAR:** This hearing is now resumed.
7 Please be seated. Veuillez vous asseoir.

8 **THE COMMISSIONER:** Thank you. The next
9 witness, please. The next witness's name is?

10 **MS. JONES:** Yes, Officer McDonell.

11 **THE COMMISSIONER:** Thank you.

12 **MS. JONES:** Christopher McDonell.

13 **THE COMMISSIONER:** Thank you.

14 ---**CHRISTOPHER McDONELL, Sworn/Assermenté:**

15 **THE COMMISSIONER :** Good afternoon, sir.

16 You may have heard this before, but in any
17 event, the water will become important at some point, so
18 there are fresh glasses and fresh water. Please speak into
19 the microphone.

20 We'll show you some documents either on the
21 computer or in hard copy. If there is any time you need a
22 break, let me know and if there is something you don't
23 understand or you feel uneasy about, let me know.

24 In the meantime, please answer the questions
25 as best you can and if you don't understand the question,

1 have him repeat it.

2 Thank you. Go ahead.

3 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

4 JONES:

5 MS. JONES: Good afternoon, Officer
6 McDonell.

7 MR. McDONELL: Good afternoon.

8 MS. JONES: The way that we're going to
9 proceed here today is that first I'm going to go over your
10 background and then I'm going to ask you a few questions
11 about certain situations that you were involved in over
12 your career here that are relevant to the Inquiry.

13 So just to deal with the first matter, your
14 career profile would be the first exhibit, which is
15 Document 200218.

16 THE COMMISSIONER: Thank you. Exhibit 2526
17 is a CV or employment record of Christopher McDonell,
18 Ontario Provincial Police.

19 --- EXHIBIT NO./PIÈCE No. P-2526:

20 (200218) Career Profile of Christopher
21 McDonell

22 MS. JONES: I'm just going to go over some
23 of the salient points here.

24 You were an ancillary consort at Long Sault
25 Detachment for 18 months prior to joining the OPP on April

1 8th, 1968.

2 You were initially posted to the Napanee
3 Detachment and became a provincial constable there in
4 April, 1969.

5 You then went to Downsview Detachment until
6 1972 and then from then to '74 you were at Elk Lake
7 Detachment in North Bay.

8 From 1974 to 1990 you were at the Lancaster
9 Detachment, District 11, and from November 20th, 1977 you
10 were assigned to general law enforcement duties at the
11 Lancaster Detachment and this also involved criminal
12 investigations.

13 You were acting sergeant at Lancaster from
14 December, '86 to '87 and then promoted to senior provincial
15 constable at Lancaster after that.

16 In either '91 or '92 you're promoted to
17 detective constable at Lancaster.

18 **MR. McDONELL:** I believe that's -- I would
19 have been -- I think those so-called promotions came with
20 the -- I think I became sort of a detective constable in
21 '76, '77. I'm not just sure what year because -- and then
22 as time went on, they changed the names of the positions or
23 whatever.

24 **MS. JONES:** All right.

25 **THE COMMISSIONER:** So what did you do to

1 merit a posting in Elk Lake?

2 MR. McDONELL: I was general duties in Elk
3 Lake and a diver up there.

4 THE COMMISSIONER: A nice little community?

5 MR. McDONELL: That's right.

6 MS. JONES: In 1998 -- I presume from 1990
7 to 1998 you were at the Lancaster Detachment?

8 MR. McDONELL: That's correct.

9 MS. JONES: And in 1998, you're promoted --
10 or you're acting sergeant position at Long Sault, and you
11 were doing that for a few months, and then you returned to
12 Lancaster in July '98, again as a Detective Constable. And
13 you retired from the OPP on July 30th, 1999.

14 You successfully completed a variety of in-
15 service training courses throughout your career in the OPP.
16 However, you do not have any specialized training related
17 to the investigation of sexual abuse of children or
18 historical sexual assaults. Is that fair to say, unless it
19 comes about in general training concepts?

20 MR. McDONELL: Yeah, we would have had in-
21 service training to deal with some of that.

22 MS. JONES: Okay. So the topics that I'm
23 going to be talking to you about here today and possibly
24 tomorrow as well is, first of all, we are going to start
25 off with the suicide of Ken Seguin. We are then going to

1 move on to the David Silmser extortion investigation and,
2 lastly, we are going to be looking at the Jean-Luc Leblanc
3 situation and your work between September and December 1998
4 at Lancaster.

5 So the very first issue that we are dealing
6 with here has to do with the Ken Seguin sudden death, and
7 there's a couple of documents that perhaps would be useful
8 for you to review.

9 What I'm going to try to do is give you the
10 documents ahead of time and then ask questions about them,
11 so that I'm not asking questions that you can later find
12 the source of in your notes, if you understand what I mean?
13 Sometimes I might like you to have two sources in front of
14 you for ease of reference. And do you remember how to
15 source the document? The document number is on the right-
16 hand side, and the Bates page is on the left hand-side; do
17 you recall that? Okay.

18 So if we could please have Officer
19 McDonnell's police notes. It's Document 737493. And I'm
20 going to give you the Bates page, 6942 to 6946.

21 **THE COMMISSIONER:** Thank you. Exhibit 2527
22 is an excerpt of Document Number 737493, which are Officer
23 McDonnell's notes, part thereof.

24 **MS. JONES:** Just a moment, please.

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

1 **MS. JONES:** Could I add one more document to
2 that excerpt? I apologize if this causes a problem. I
3 think what I am going to do is add the front pages just to
4 give the context of the date. That might make things
5 easier.

6 Same Document Number 737493, but could I
7 please add Bates page 6847 to that first exhibit, and if I
8 could put that in the front? It just gives the cover page
9 of the notebook, which will make it easier to facilitate
10 the dates. So if that could be added to that exhibit.

11 **THE COMMISSIONER:** Thank you. So the
12 notebook 2527 will be the -- a page will be added, and it
13 shows your notebook notes from 13th of September '93 to the
14 25th of November '93. Thank you.

15 **MS. JONES:** Thank you.

16 **--- EXHIBIT NO./PIÈCE No P-2527:**

17 (737493) Excerpt: 7156942-6946 - Notes of
18 Christopher McDonell

19 **MS. JONES:** Another useful reference I would
20 like to have with Mr. McDonell would be Document Number
21 111131.

22 **THE COMMISSIONER:** Thank you. Exhibit
23 Number 2528 is a Will-Say of Christopher McDonell -- let's
24 see what's it dated?

25 **MS. JONES:** I don't believe it's dated.

1 **THE COMMISSIONER:** Okay, but that's what it
2 is.

3 **--- EXHIBIT NO./PIÈCE No P-2528:**

4 (111131) Will-Say of Christopher McDonell

5 **MS. JONES:** That might help you refresh your
6 memory as to dates and chronology. It's just a bit easier
7 to read sometimes than your handwritten notes.

8 **THE COMMISSIONER:** So this is really -- no,
9 it's okay. Never mind. Go ahead.

10 **MS. JONES:** So we have -- if we go to your
11 notes, which are Exhibit 2527, it would appear that you
12 were called on the 25th of November to attend at the scene
13 of the suicide of Ken Seguin. Is that correct?

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

15 **MS. JONES:** What exactly was your role
16 there?

17 **MR. McDONELL:** In what -- how do you mean?

18 **THE COMMISSIONER:** Were you first on the
19 scene?

20 **MS. JONES:** What capacity did you have?

21 **MR. McDONELL:** No, we were not first on the
22 scene. We were the detectives. I was with, at the time,
23 Constable Millar.

24 **THE COMMISSIONER:** Yes?

25 **MR. McDONELL:** And it was our function to

1 investigate the death.

2 **THE COMMISSIONER:** So you were the officer
3 in charge?

4 **MR. McDONELL:** No, I -- well, I was
5 assisting Constable Millar.

6 **THE COMMISSIONER:** So Officer Millar was the
7 officer in charge and you were assisting him.

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

9 **THE COMMISSIONER:** That's what he was doing
10 there.

11 **MS. JONES:** Okay. And what do you then
12 assisting the officer in charge? What was your function or
13 your duties?

14 **MR. McDONELL:** Well, it would be pretty much
15 to assist the officer in charge. I mean taking notes,
16 trying to establish what happened; calling the proper
17 people in to assist with the investigation, the coroner,
18 whatever, things like that.

19 **MS. JONES:** What is the difference between
20 what you would do, say, and Officer Millar?

21 **MR. McDONELL:** Not a lot. We'd be working
22 together to come up to a resolution.

23 **MS. JONES:** So it wasn't a matter that
24 Officer Millar was the senior and you were the junior; you
25 worked more parallel? You were together more in ---

1 **MR. McDONELL:** I'm afraid I'm a little more
2 senior than he is, I mean, in age, but we worked together,
3 yes.

4 **MS. JONES:** So part of your role then would
5 be assessing what steps you take for the investigation, who
6 gets interviewed?

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

8 **MS. JONES:** How do you secure the crime
9 scene, those sorts of decisions?

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

11 **MS. JONES:** Okay. Is it true that when you
12 arrived at the scene, as you arrived on the 25th of
13 November, 1993, that you obviously have a death involved,
14 that you treat deaths as you find them initially as
15 suspicious until you rule otherwise or find otherwise?

16 **MR. McDONELL:** Correct.

17 **MS. JONES:** Is that right? So when you are
18 first on the scene on the 25th of November '93, proper
19 police procedure would be to treat this as a possible
20 homicide until you determine otherwise?

21 **MR. McDONELL:** Correct.

22 **MS. JONES:** And the reason for that is
23 because you want to do things like preserve evidence,
24 preserve the crime scene, ensure that the proper steps are
25 taken forensically and anything else that comes out of the

1 proper homicide investigation?

2 MR. McDONELL: Correct.

3 MS. JONES: Had you done homicide
4 investigations before this?

5 MR. McDONELL: Yes, several.

6 MS. JONES: Okay. Was there anything that
7 caused you concern at the time when you arrived at the
8 scene; anything noteworthy?

9 MR. McDONELL: I don't remember but I don't
10 believe there was anything out of the ordinary. There were
11 some police officers there upon our arrival, and we took
12 over the scene at that time.

13 MS. JONES: You said there was nothing out
14 of the ordinary?

15 MR. McDONELL: At the scene?

16 MS. JONES: Yes?

17 MR. McDONELL: No, I wouldn't -- not that I
18 can recall offhand.

19 MS. JONES: All right. And in your opinion,
20 was the -- when you arrived, you said there were already
21 police officers there. I believe one of the officers, in
22 fact, I think that one of the first officers on the scene
23 was Officer Dussault. Do you recall that?

24 MR. McDONELL: Yes, I believe so.

25 MS. JONES: And do you recall that Officer

1 Dussault was assigned the task of keeping the crime scene
2 secured?

3 **MR. McDONELL:** That's correct, taking names
4 of people that arrived and times.

5 **MS. JONES:** Had you specifically tasked him
6 to do that?

7 **MR. McDONELL:** I don't recall. I haven't
8 got it written here, but it would be Constable Millar or
9 myself, one or the other.

10 **MS. JONES:** And with regards to the people
11 that were interviewed, did you do interviews that day?

12 **MR. McDONELL:** Well, I believe I spoke with
13 Mr. Seguin, Keith Seguin and Douglas Seguin, which would be
14 brothers of the victim. I don't believe there was so-
15 called statements taken at that time.

16 **THE COMMISSIONER:** Do you have any
17 recollection -- independent recollection of that day?

18 **MR. McDONELL:** Yes, I do, Your Honour.

19 **THE COMMISSIONER:** I know it's a long time
20 ago, but are you basing your testimony solely on the
21 statements that you have in your notes or do you have
22 anything -- independent recollection?

23 **MR. McDONELL:** Well, parts of it -- most of
24 it is from my notes.

25 **THE COMMISSIONER:** Okay. Let's carry on.

1 **MS. JONES:** You said you spoke to some
2 members of the Seguin family that day?

3 **MR. McDONELL:** Correct.

4 **MS. JONES:** But you did not take formal
5 statements?

6 **MR. McDONELL:** No.

7 **MS. JONES:** Was there anyone else you spoke
8 to at that time?

9 **MR. McDONELL:** I don't remember that. I
10 don't -- I spoke with the coroner, the pathologist, the
11 ident. officers, other police officers. 'Til we cleared
12 the house, we weren't talking to too many people 'til we
13 established what evidence we required and whatnot.

14 **MS. JONES:** And was there care taken to
15 ensure nothing was removed from the scene, for example?

16 **MR. McDONELL:** Well, I don't remember, but I
17 would say yes, it wouldn't be. Not while we were there,
18 there was nothing removed.

19 **MS. JONES:** You're certain of that?

20 **MR. McDONELL:** Well, as far as I can recall.

21 **MS. JONES:** Was there anything missing from
22 that investigation that you would look back on, for
23 example, something that could have been done that wasn't
24 done?

25 **MR. McDONELL:** No, not that I can say, no.

1 **MS. JONES:** So when you left the scene then
2 on November 26 or when you and Officer Millar left the
3 scene, what was the status of the investigation at that
4 point? When you finished for the day on November 26th?

5 **MR. McDONELL:** As I recall or what I have in
6 my notes, I went with the undertaker to the Hotel Dieu
7 Hospital and placed the body in a vault and locked it,
8 sealed it.

9 After that, we spoke with Émile Robert who
10 was a boss of Mr. Seguin and -- as he was quite concerned
11 about his worker.

12 **MS. JONES:** And do you recall what you told
13 Mr. Robert?

14 **MR. McDONELL:** No, I do not.

15 **MS. JONES:** If we could go please to another
16 exhibit; these are more of your notes.

17 It's Exhibit --I'm sorry, Document 737494.
18 I can say that Exhibit 396 is this particular document
19 number and the excerpts of 396 are 6951 to 6964.

20 **THE COMMISSIONER:** So if it's already an
21 exhibit, why don't we just go to it?

22 **MS. JONES:** We can. The problem is I need
23 more pages in that particular exhibit.

24 **THE COMMISSIONER:** Right.

25 **MS. JONES:** I think I'm going to just have

1 to ask for a new exhibit.

2 Sorry, so 737494 and the excerpts are going
3 to be 6950 to -- I'm sorry, have I given notice to Document
4 7049? Is that consistent with -- yeah, 6950 to 7049.

5 Just a moment, please?

6 (SHORT PAUSE/COURTE PAUSE)

7 MS. JONES: Just a moment, please? This is
8 a confusing -- could I please -- could I have Exhibit --
9 then -- 396? We'll stick to that, 6951 to 6964?

10 THE COMMISSIONER: Well, just -- let's get
11 with the Exhibit 396 first of all.

12 (SHORT PAUSE/COURTE PAUSE)

13 MS. JONES: It's always a bit confusing with
14 notes because they come in chunks. We don't need all the
15 notes.

16 So if we go to Exhibit 396, these are your
17 notes dating from November 26, 1993, 737494 ---

18 THE COMMISSIONER: I see, sir, you're
19 referring to your originals, is that what you wanted to do?

20 MR. McDONELL: I have them here with me.

21 THE COMMISSIONER: Yes.

22 MR. McDONELL: You don't want me to ---

23 THE COMMISSIONER: No, I'd rather you look
24 at the photocopies for now because that's what we're doing,
25 unless there's something new that you put in there in the

1 last little while?

2 MR. McDONELL: No.

3 (LAUGHTER/RIRES)

4 THE COMMISSIONER: Okay. What page?

5 MS. JONES: Okay. It would be Bates page
6 6952.

7 THE COMMISSIONER: Six-nine-five-two (6952).

8 MS. JONES: And you'll see on that page that
9 the date is the 26th of November, '93. Do you see that?

10 MR. McDONELL: Correct. Yes.

11 MS. JONES: And that it was clear and cold
12 that day?

13 MR. McDONELL: Yes.

14 MS. JONES: Apparently, on that day you also
15 consulted with Cornwall Police and made an appointment to
16 see them. And you said to them you're going to go after
17 the post-mortem, but you made an appointment to see
18 Cornwall Police to find out more information about Ken
19 Seguin at that time. Do you recall that?

20 MR. McDONELL: But that's not the way --
21 that morning, I proceeded to Cornwall with Constable
22 Millar. And Millar went to Cornwall police and I went to
23 the post-mortem.

24 MS. JONES: Let me show you one document, if
25 may be of some help actually. It was a late filing by

1 Cornwall Police; Exhibit 1439, Document 729601. It is an
2 exhibit already.

3 **THE COMMISSIONER:** One-four-three-nine
4 (1439).

5 **MS. JONES:** One-four-three-nine (1439).

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MS. JONES:** Just proceeding to Bates page
8 7092 of that last Exhibit, 1439.

9 **THE COMMISSIONER:** Whose notes are these?

10 **MS. JONES:** These are Brunet's notes.

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

12 **MR. McDONELL:** There are not my notes.

13 **THE COMMISSIONER:** No, no, no ---

14 **MS. JONES:** It'll come up on the screen.

15 **THE COMMISSIONER:** They are notes of Officer
16 Brunet of the Cornwall Police Service. I guess what
17 they're trying to do is match them up with yours as to the
18 time. So here we go.

19 **MS. JONES:** And ---

20 **THE COMMISSIONER:** That's not the page; 09 -
21 --

22 **MS. JONES:** Yes -- no, that's not the page,
23 it's 7092.

24 **THE COMMISSIONER:** --- 092.

25 **S. JONES:** And you can see at 26th November,

1 '93, towards the top there, about four lines down? If I
2 could possibly have it to the bottom of the page, Madam
3 Clerk? Sorry; just save you doing it twice.

4 Okay, so these are -- I think they're Staff
5 Sergeant Brunet's notes? And on the 26th of November '93,
6 800 hours:

7 "Constable Chris McDonell called
8 back..."

9 He actually called you first, I think:

10 "...and reported he would be in after
11 the post mortem."

12 Which is consistent with what you just said
13 earlier. And:

14 "At 9:40, went to the senior officers'
15 lounge with Staff Sergeant Derocie and
16 Randy Millar, briefed them on what we
17 knew about Charlie MacDonald, Ken
18 Seguin, and Malcolm MacDonald."

19 And then, at the bottom:

20 "At 1055 hours, Constable McDonell
21 arrived in lounge."

22 So, that's pretty consistent with what you
23 have here. Do you see that, sir, on your notes as well?
24 At ten -- yours is 10:45, but ---

25 **MR. McDONELL:** Yes, I've -- I don't really

1 recall, but I would have probably dropped Constable Millar
2 off at the Cornwall Police station and proceeded on to the
3 post mortem, which concluded at 10:30, and then at 10:45 I
4 went to the Cornwall Police Department.

5 **THE COMMISSIONER:** Okay, so you're there.

6 **MS. JONES:** So you're there.

7 **THE COMMISSIONER:** Okay.

8 **MS. JONES:** So, according to your notes --we
9 don't have any other time to go by, actually, but the
10 meeting looked like it ended at twelve o'clock?

11 **MR. McDONELL:** That's correct, I would say;
12 we had lunch.

13 **MS. JONES:** All right. So there's an hour
14 and fifteen minutes there, and you were looking up info on
15 Ken Seguin. I don't know if you have any independent
16 recollection of that or not, but I could refer you to Randy
17 Millar's notes on this conversation, which might be some
18 help. If we could go to Document 715637?

19 **MR. McDONELL:** In reference to -- what do
20 you mean there?

21 **MS. JONES:** The conversation with Cornwall
22 Police on the 26th of November; that's what I'm trying to
23 establish here.

24 **THE COMMISSIONER:** Do you have any
25 recollection of that, sir?

1 **MR. McDONELL:** No, I don't.

2 **THE COMMISSIONER:** M'hm. So, we've got
3 you -- you've gone to the post mortem, you're coming back,
4 you're catching up with Millar and -- at the Cornwall
5 Police Service.

6 **MR. McDONELL:** Right.

7 **THE COMMISSIONER:** And you stay there about
8 an hour?

9 **MR. McDONELL:** That's correct, yes.

10 **THE COMMISSIONER:** Okay. Thank you.
11 Exhibit 2529 is an Occurrence Report, death investigation,
12 and the date ---

13 **MS. JONES:** These are actually handwritten
14 notes of Officer Millar; Randy.

15 **THE COMMISSIONER:** Yes. On an Occurrence
16 Report ---

17 **MS. JONES:** Yes.

18 **THE COMMISSIONER:** --- dated 25th of November
19 1993.

20 ---EXHIBIT NO./PIÈCE NO P-2529:

21 (715637) Occurrence Report - 25 Nov 93

22 **MS. JONES:** Yes. I'm just saying they were
23 prepared by Randy Millar, so these are his notes.

24 **THE COMMISSIONER:** Good. Now let's get on
25 with it, please.

1 **MS. JONES:** Bates page 8233, which is
2 page 3.

3 **THE COMMISSIONER:** Eight-two-three-three
4 (8233).

5 **MS. JONES:** In the middle of the page it's
6 talking about the conversation that you had with Cornwall
7 Police, it would appear, and the sentence that I wanted to
8 focus in on, it says, "CPD investigators..." It's towards
9 the bottom there. Yes, that's fine. So, where the cursor
10 is:

11 "CPD investigators felt corroboration
12 was required on the statement..."

13 And this is David Silmsers's statement:

14 "...due to the lengthy criminal
15 record of Silmsers which included crimes
16 of deceit."

17 Do you recall that conversation?

18 **MR. McDONELL:** No, I don't.

19 **MS. JONES:** But you'll agree that at the
20 Cornwall Police you certainly had, it would appear to be, a
21 meeting with Brunet, Derochie, Officer Millar and yourself
22 present?

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

24 **MS. JONES:** Okay. And it would appear
25 Officer Millar's notes seem to be the most detailed of all

1 three sources at that point?

2 MR. McDONELL: That's correct.

3 MS. JONES: And you were present for that
4 meeting?

5 MR. McDONELL: Well, I was present for part
6 of ---

7 MS. JONES: Part of that meeting?

8 MR. McDONELL: --- the meeting, yes.

9 MS. JONES: Okay. Is it fair to say that if
10 something was discussed, and you hadn't been there, that
11 Officer Millar would have said something to get you up to
12 date on things?

13 MR. McDONELL: I'm sure that while we were
14 driving to Bourget, he would have.

15 MS. JONES: Okay. Do you recall having
16 conversation with Officer Millar about that very point, the
17 credibility of David Silmser?

18 MR. McDONELL: No, I do not.

19 MS. JONES: Now, at that particular point in
20 time -- we learned that later on that same day you end up
21 interviewing Mr. Silmser.

22 MR. McDONELL: That's correct.

23 MS. JONES: Is it fair to say that if you
24 had spoken to Officer Millar, certainly, about what had
25 just been discussed with Cornwall Police, that the issue of

1 Mr. Silmsers credibility would likely have been discussed
2 between you before you met with David Silmsers? Is that a
3 natural assumption?

4 MR. McDONELL: Well, I've never really held
5 a criminal record against too many people, or ---

6 MS. JONES: But is that something that would
7 naturally have flowed in your conversation?

8 MR. McDONELL: I don't remember that being
9 discussed, but I -- I would have to think that it was.

10 MS. JONES: And you also learned, I
11 understand, that Staff Sergeant Dupuis had received a phone
12 call from David Silmsers the night before the sudden death,
13 in other words, November 24th, 1993? Do you recall that,
14 where David Silmsers said, "If anything happens to me, look
15 at Ken Seguin or Malcolm Macdonald"?

16 MR. McDONELL: That, I believe, was -- I
17 probably got that on Friday -- on the night of the
18 investigation, before -- that's probably the reason that
19 Millar went to the police department and I went to the post
20 mortem. That's ---

21 MS. JONES: All right. You clearly remember
22 that?

23 MR. McDONELL: I remember that, yes.

24 MS. JONES: All right. So these are the
25 facts, or the notions that you have in your mind, before

1 you meet with David Silmsers and interview him on the 26th of
2 November, 1993?

3 **MR. McDONELL:** Yes, because I never heard of
4 David Silmsers before that.

5 **MS. JONES:** So it would appear that on
6 the 26th of November 1993, you attend the residence of David
7 Silmsers in Bourget, Ontario with Officer Millar for the
8 purposes of conducting an interview with him.

9 **MR. McDONELL:** That is right.

10 **MS. JONES:** Okay. And in that interview --
11 you were present for it throughout?

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

13 **MS. JONES:** And do you recall that he made
14 allegations, or described the allegations he had made
15 against Ken Seguin and Father Charles MacDonald? Is that
16 right?

17 **MR. McDONELL:** Yes.

18 **MS. JONES:** And he also said to you at that
19 time that it had been reported to the OPP in Long Sault,
20 who then referred him on to Cornwall Police?

21 **MR. McDONELL:** That's correct; I have that
22 in my notes.

23 **MS. JONES:** Was this the first time that
24 you'd heard of these allegations?

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

1 **MS. JONES:** Now, had you had previous
2 dealings with Ken Seguin, say, on a professional level?

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

4 **MS. JONES:** And can you describe that? How
5 well did you know Ken Seguin?

6 **MR. McDONELL:** Well, I knew Ken Seguin for
7 several years as a probation officer. I often obtained
8 information from him, got help from him, and -- in
9 relationship to different people.

10 **THE COMMISSIONER:** M'hm. So, that's a
11 professional level. Did you see him outside of his work
12 and your work; socially?

13 **MR. McDONELL:** No, I did not, Your Honour.

14 **THE COMMISSIONER:** All right. So if you
15 were walking down the street, would you say "Hi" to him?

16 **MR. McDONELL:** Yes, I would.

17 **THE COMMISSIONER:** All right. Would you
18 stop and have a conversation with him?

19 **MR. McDONELL:** Yes, I would.

20 **THE COMMISSIONER:** All right. And would
21 that conversation be, as most Canadians, about the weather,
22 sports, that kind of thing? Or ---

23 **MR. McDONELL:** That's -- that's correct.

24 **THE COMMISSIONER:** Did you get into any
25 professional or personal matters?

1 **MR. McDONELL:** No.

2 **THE COMMISSIONER:** Okay.

3 **MS. JONES:** And you'd known him for some
4 period of time as well? Professionally, I mean.

5 **MR. McDONELL:** Yes. I believe Ken Seguin
6 was a probation officer when I arrived at Lancaster in '74.

7 **MS. JONES:** M'hm?

8 **MR. McDONELL:** I believe he was a probation
9 officer then, and I would have got to know the man then.

10 **MS. JONES:** So almost 20 years?

11 **MR. McDONELL:** Correct. If he was -- if he
12 was a probation officer when I went to Lancaster, I would
13 have met him through my dealings in the courts.

14 **MS. JONES:** Is it also true that sometimes
15 at your job, if you need to ask a question about a
16 probation order or something, Ken Seguin would be someone
17 that you might phone, just to say -- just to ask a
18 question, to fill in a gap of knowledge?

19 **MR. McDONELL:** That's correct. If he was
20 looking after the person I was interested in, yes.

21 **MS. JONES:** Okay. So you had a good working
22 relationship with him?

23 **R. McDONELL:** That's correct, yes.

24 **MS. JONES:** What about Father Charles
25 MacDonald? Did you have any knowledge of him?

1 **MR. McDONELL:** Yes, I knew Father Charles.

2 **MS. JONES:** How did you know him?

3 **MR. McDONELL:** Well, he was a local priest
4 in the area and I am a Catholic.

5 **MS. JONES:** M'hm.

6 **MR. McDONELL:** And I've seen him several
7 times in different churches and functions, whatever.

8 **MS. JONES:** Was there a personal
9 relationship or just, again, sort of a more professional
10 relationship?

11 **MR. McDONELL:** Just professionally, yes,
12 just a priest.

13 **MS. JONES:** Just priest and parishioner, I
14 suppose?

15 **MR. McDONELL:** No, he wasn't in my parish.

16 **MS. JONES:** Okay. So what were your
17 thoughts, then, when you heard these allegations against
18 Ken Seguin?

19 **MR. McDONELL:** Well, I was a little
20 horrified, I guess you could say, or a little -- I couldn't
21 -- they're quite the allegations.

22 **MS. JONES:** Right.

23 Did you believe David Silmsner when he said
24 it?

25 **MR. McDONELL:** Yes, I believed him, but it

1 was something that would have to be investigated, it wasn't
2 something you just take his word for it and, up into the
3 courts.

4 MS. JONES: All right. You were aware that
5 Cornwall Police had been investigating it?

6 MR. McDONELL: No, I was not.

7 MS. JONES: Did you ask him?

8 THE COMMISSIONER: Ask who?

9 MR. McDONELL: No, he told us.

10 MS. JONES: Did you ask -- did you ask David
11 Silmsers the status of the investigation when he said that
12 it was being investigated?

13 MR. McDONELL: I don't remember.

14 MS. JONES: Did you follow-up in any way
15 with Cornwall Police to find out the status of the
16 investigation, after speaking to David Silmsers?

17 MR. McDONELL: Well, I believe we had
18 information that Randy had obtained in the morning, so is
19 that what you mean?

20 MS. JONES: Okay. There was no -- all I'm
21 saying is, was there any information David Silmsers provided
22 you that you needed to follow-up on with Cornwall Police?
23 Or did you feel you already had the information of Cornwall
24 Police?

25 MR. McDONELL: We already had the

1 information of Cornwall Police.

2 **MS. JONES:** Had you ever heard -- before
3 talking to David Silmser, had you ever heard any rumours
4 about Ken Seguin; behaviour or about his sexuality in any
5 way?

6 **MR. McDONELL:** Not before the night of his
7 death. Never heard a word and I dealt with a lot of people
8 that he dealt with and never have I ever heard -- did I
9 ever hear anything about ---

10 **THE COMMISSIONER:** His sexual orientation?

11 **MR. McDONELL:** Never. Never.

12 **MS. JONES:** Okay. If I can refer you to
13 your notes, please? And that would be Exhibit 396 again,
14 Bates page 6964 at the very bottom.

15 **MR. McDONELL:** Which binder would that be
16 now?

17 **MS. JONES:** Exhibit 396; these are your
18 notes.

19 **THE COMMISSIONER:** Okay. It's in a binder
20 and all the numbers are on the side there, so you've got
21 396. Madam Clerk, would you give him a hand?

22 **MS. JONES:** Bates page 6964.

23 **MR. McDONELL:** I have it.

24 **MS. JONES:** Right. It's just at the very
25 bottom.

1 **MR. McDONELL:** Of what page?

2 **MS. JONES:** Six-nine-six-four (6964).

3 **THE COMMISSIONER:** It's a back page, last
4 one.

5 **MS. JONES:** That's good enough, Madam Clerk.

6 I'm just looking at the bottom entry. It
7 would appear that after you had talked to Mr. Silmsler, he
8 actually called you back at 15:57, it's the last sort of
9 entry before you're off duty there. And he actually gave
10 you the name of another person that he's saying was
11 assaulted by Ken Seguin.

12 **THE COMMISSIONER:** Which we won't name.

13 **MS. JONES:** Which we won't name, and I don't
14 see any notes thereafter that show any sort of a follow-up
15 on that particular name.

16 **MR. McDONELL:** I don't understand why I have
17 that phone -- that in there, to tell you the truth. Who
18 phoned me, do you know?

19 **MS. JONES:** It would appear to be David
20 Silmsler.

21 **THE COMMISSIONER:** And how -- what -- what
22 makes you conclude that?

23 **MR. McDONELL:** Because we didn't have cell
24 phones in them days.

25 **MS. JONES:** Actually that's a very good

1 point. That should be my first question, I suppose.

2 Who told you that?

3 **MR. McDONELL:** That what? There's no phone?

4 **MS. JONES:** The last, that another person
5 was assaulted by Ken Seguin?

6 **MR. McDONELL:** I don't know. I don't
7 recall.

8 **MS. JONES:** Okay.

9 Is it fair to say you didn't do any follow-
10 up on that, that you didn't interview that particular
11 individual?

12 **MR. McDONELL:** I believe I did down the
13 road.

14 **MS. JONES:** Yes, that's true, in July 1994,
15 but with regard to this investigation of the death of Ken
16 Seguin.

17 **MR. McDONELL:** Well to tell you the truth, I
18 don't remember. If I followed up on this name?

19 **MS. JONES:** Yes.

20 **MR. McDONELL:** I would believe we did but I
21 don't remember.

22 **MS. JONES:** I don't see any evidence of it
23 in your notes.

24 **MR. McDONELL:** No, I'm not the best note
25 taker in the world either.

1 **MS. JONES:** Right. In the final report
2 of the suicide, which I'll go to in a moment, there's no
3 reference made to that either.

4 And there is an interview with this
5 individual in July 1994 with respect to something else but
6 there doesn't seem to be any follow-up at this particular
7 stage.

8 **MR. McDONELL:** I can't help you there. I
9 don't know why if there isn't. Obviously you went through
10 my notes on down and there's nothing with that name?

11 I believe that individual was a cellmate in
12 a penitentiary but I'd have to check my notes to find out
13 for sure.

14 **MS. JONES:** You've also learned, on November
15 26, that there was a certain person that was a beneficiary
16 of Mr. Seguin's will. Do you recall that? Yeah, there
17 are.

18 **MR. McDONELL:** Whereabouts?

19 **MS. JONES:** On the 26th of November.

20 **THE COMMISSIONER:** Where in the notes,
21 please?

22 **MS. JONES:** Just looking for the reference,
23 here. Just a moment, please. I do have it.

24 **THE COMMISSIONER:** Let's take the afternoon
25 break.

1 **MS. JONES:** I'll leave that and come back to
2 it.

3 Okay, thank you.

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

6 This hearing will resume at 3:35 p.m.

7 --- Upon recessing at 3:18 p.m. /

8 L'audience est suspendue à 15h18

9 --- Upon resuming at 3:38 p.m. /

10 L'audience est reprise à 15h38

11 **THE REGISTRAR:** This hearing is now resumed.
12 Please be seated. Veuillez vous asseoir.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Dumais?

15 **MR. DUMAIS:** I apologize, Mr. Commissioner,
16 just one matter that I had addressed this morning with the
17 witness from yesterday, Mr. Fougère.

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

19 **MR. DUMAIS:** I've spoken to counsel for the
20 OPP. Mr. Fougère will be here on Monday with his original
21 notes and they will be reviewed by Commission counsel.

22 **THE COMMISSIONER:** Is that correct, Mr.
23 Kozloff?

24 **MR. KOZLOFF:** I'm communicating with him
25 right now, sir.

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

2 **MR. DUMAIS:** Thank you.

3 **CHRISTOPHER McDONELL, Resumed/Sous le même serment:**

4 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

5 **JONES (cont'd/suite):**

6 **MS. JONES:** Thank you.

7 I found the reference. My large yellow
8 sticky note wasn't large enough for me, I guess.

9 I'm looking at Exhibit 2527, which was
10 entered this morning, and these are your notes so you would
11 have a hard copy of that. It was entered this morning;
12 737493.

13 Now specifically looking at the last page,
14 actually, so it's Bates page 6946.

15 Have you got it there, sir?

16 **MR. McDONELL:** No, I have 6946, is the last
17 page I have.

18 **MS. JONES:** That's correct. That's the page
19 I want you to look at.

20 On the previous page, it says the 26th of
21 November but I actually think it's the 25th of November, not
22 that it really matters, to be quite frank, but on the last
23 page there, under 2025, it says, "A name was the
24 beneficiary."

25 Can you see that? I believe that's what

1 your notes say:

2 "Changed as beneficiary to his Estate,
3 September 30th, '93."

4 **MR. McDONELL:** Yes.

5 **MS. JONES:** And then you have a name there,
6 which appears, as I understand it, to be the beneficiary.

7 **MR. McDONELL:** I don't know.

8 **MR. LEE:** There is no concern with that
9 name.

10 **MS. JONES:** There's no concern? Thank you.
11 The name Gerry Renshaw; do you see that?

12 **MR. McDONELL:** Yes, but I don't know why
13 it's there. I don't -- is it "charged"?

14 **THE COMMISSIONER:** "Changed."

15 **MS. JONES:** "Changed as beneficiary to his
16 Estate." Which I'm assuming is Ken Seguin's, you're
17 investigating that.

18 **MR. McDONELL:** Yes, I think ---

19 **MS. JONES:** I understand the will was found
20 on the scene; correct?

21 **MR. McDONELL:** Pardon me?

22 **MS. JONES:** I understand a will was found on
23 the scene?

24 **MR. McDONELL:** Not that I recall.

25 **MS. JONES:** No? It looks as if that's --

1 Gerry Renshaw was changed as a beneficiary on that date,
2 according to your notes. I'm just asking you to verify
3 that.

4 **MR. McDONELL:** I don't know what it means.
5 I see we were in his office. It's not at his house. It's
6 at the probation office; correct?

7 **MS. JONES:** Pardon me?

8 **MR. McDONELL:** Is that probation offices ---

9 **MS. JONES:** No, I think ---

10 **THE COMMISSIONER:** Hold it. Hold it.

11 You have it in your note, sir, you have it
12 in your notes "Changed beneficiary to his Estate, September
13 30th, 1993, Gerry Renshaw."

14 You don't recall anything of the note?

15 **MR. McDONELL:** No, and we were at the
16 Probation Services at this time.

17 **THE COMMISSIONER:** Sure, okay. So can we
18 get to the point and get on it?

19 **MS. JONES:** Okay. I just want to clarify,
20 was that somebody that was a beneficiary or that you
21 thought perhaps was a beneficiary?

22 **MR. McDONELL:** That's correct. That's what
23 it says there.

24 **MS. JONES:** Did you do any follow-up with
25 this individual?

1 **MR. McDONELL:** Not that I recall.

2 I should maybe clarify that I believe that
3 gentleman was interviewed at a later date.

4 **MS. JONES:** That's right, but in regards to
5 your investigation of the suicide, you did not interview
6 him?

7 **MR. McDONELL:** Not at that time, no.

8 **MS. JONES:** Okay. If I could just refer you
9 to Exhibit 972, Document 704018.

10 **THE COMMISSIONER:** Nine-seven-two (972).

11 **MS. JONES:** I can identify this document for
12 you, Mr. Commissioner, if you wish. This document is the
13 Final Report written by Randy Millar. The date of the last
14 entry is the 26th of November 1993 even though on the front
15 page, it says 25th of November 1993. It actually has two
16 dates thereafter.

17 And the earlier handwritten version that I
18 had referred you to earlier as an exhibit seems to
19 incorporate most of that in this Final Report and,
20 presumably, as you and Officer Millar were working side by
21 side on this incident, you were involved, in part anyway,
22 with the preparation of this Final Report?

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

24 **MS. JONES:** And you would have read it over
25 at least at some point?

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

2 **MS. JONES:** If I could just take you to
3 Bates page 3763, which I believe is the final page, and
4 this is a very important paragraph because it's giving the
5 conclusions that were found, first of all, that after the
6 investigation and autopsy, there's no foul play suspected
7 in the death; this was a suicide.

8 And the second sentence:

9 "Extortion does not exist against
10 Silmser as per Section 346 subsection 2
11 of the *Criminal Code of Canada*."

12 Can you read that, sir?

13 **MR. McDONELL:** Yes.

14 **MS. JONES:** Okay. Do you recall the two of
15 you coming to the conclusions that you came to, as stated
16 on this page?

17 **MR. McDONELL:** Not on that date. I don't
18 know why the dates are like that, but I would believe that
19 that would be down the road, at least. I don't know how
20 many days, but I would think it would have been sometime
21 later than the next day.

22 I know the signature, I know the date is
23 there, but these reports were done over a length of time
24 and then they were typed when they went to a major incident
25 or ---

1 **MS. JONES:** M'hm. But it would appear that
2 this particular report was finalized on the 26th of November
3 '93, at least.

4 **MR. McDONELL:** It would appear that way, but
5 I don't believe it was.

6 **MS. JONES:** Okay, and the last entry on that
7 last page is dated the 29th of November '93, and something
8 to do with the driver's licence, nothing too significant at
9 that point, but certainly, it seemed to be everything was
10 finished before the 29th of November. Would you at least
11 agree with that?

12 **MR. McDONELL:** Possibly the 29th, yes.

13 **MS. JONES:** Okay. So you were aware then
14 that at this particular stage, both yourself and Officer
15 Millar did not believe there was any form of extortion on
16 the part of David Silmsner as against Ken Seguin?

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

18 **MS. JONES:** Now, if I could please go to
19 Document 737494.

20 **THE COMMISSIONER:** That's a new one, sir.

21 **MS. JONES:** These are also going to be your
22 notes. And the excerpt will be 6975 to 7049 -- 6975 to
23 6978; 6983 to 84; 86 to 91; 983; 995 to 98; 7000 to 7002;
24 7014; 7019-20; 7028 to 31; 7033; 7036 to 40; 7042; and 7045
25 to 49.

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Madame Lévesque.

3 MS. LÉVESQUE: Mr. Commissioner, I object to
4 the notes for Bates page 6986 and 6987 being referred to or
5 entered as exhibits.

6 THE COMMISSIONER: Just a second. Let me
7 see, and why is that?

8 MS. LÉVESQUE: They relate to a conversation
9 with Malcolm MacDonald.

10 THE COMMISSIONER: Yes.

11 MS. LÉVESQUE: I don't have the opportunity
12 to test that evidence. I'm entitled to test the evidence.
13 As well, the information which is contained there is not --
14 was not put into a statement, is not found in a statement
15 of this, bearing the same date of this interview.

16 It's hearsay.

17 THE COMMISSIONER: Of Malcolm -- we've been
18 dealing with hearsay, double hearsay, triple hearsay
19 throughout the Inquiry. So ---

20 MS. LÉVESQUE: I just wanted to put my
21 position on the record.

22 THE COMMISSIONER: Fine, thank you.

23 MS. LÉVESQUE: Thank you.

24 THE COMMISSIONER: Any comments?

25 MS. JONES: No.

1 **THE COMMISSIONER:** Then you want me to
2 exclude them?

3 **MS. JONES:** Oh, no, I have no comment,
4 except that they should be included.

5 **THE COMMISSIONER:** Why?

6 **MS. JONES:** Because they are relevant to the
7 proceedings and I'm not sure why Malcolm MacDonald's words
8 are -- should be excluded. I don't understand the rules of
9 exclusion. Quite frankly, I don't really understand the
10 objection.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **THE COMMISSIONER:** All right, Madame
13 Lévesque, which page you object to being put in there?

14 **MS. LÉVESQUE:** Six-nine-eight-six (6986),
15 and 87.

16 **THE COMMISSIONER:** Nine-eight-six (986)? So
17 we've got ---

18 **MS. LÉVESQUE:** Six-nine-eight-six (6986); I
19 think the way they were produced by Commission counsel,
20 they start 11-877, 0800 hours.

21 **THE COMMISSIONER:** Yes, "Proceed to Cornwall
22 re follow-up Seguin death".

23 **MS. LÉVESQUE:** M'hm.

24 **THE COMMISSIONER:** "Lawyer, Malcolm
25 MacDonald, Malcolm MacDonald's office,

1 Malcolm MacDonald."

2 Okay.

3 **MS. LÉVESQUE:** That's correct. And then the
4 next page ---

5 **THE COMMISSIONER:** Right, which is 87?

6 **MS. LÉVESQUE:** Yes, but it would stop
7 halfway through the page, if you like. It's difficult to
8 separate the pages.

9 **THE COMMISSIONER:** Okay, hang on.

10 **MS. LÉVESQUE:** And then the next entry from
11 the officer's notebook would be November 15th, that's ---

12 **THE COMMISSIONER:** No, first of all, I've
13 got to read it.

14 **MS. LÉVESQUE:** Sorry.

15 **THE COMMISSIONER:** And it's difficult to
16 read. I can't -- can you -- Okay.

17 So what is it that you object to?

18 **MS. LÉVESQUE:** Pardon me? What is it?

19 **THE COMMISSIONER:** What is it that you
20 object to?

21 **MS. LÉVESQUE:** The information contained
22 here does not -- is not part of a statement that was taken
23 on that day.

24 **THE COMMISSIONER:** Right.

25 **MS. LÉVESQUE:** It's hearsay.

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

2 **MS. LÉVESQUE:** And regrettably, Malcolm
3 MacDonald is deceased, so I'm unable to cross-examine him.
4 There's a reference to a meeting here, which ---

5 **THE COMMISSIONER:** "Meeting with Silmser
6 and..." ---

7 **MS. LÉVESQUE:** "...Diocese Committee."

8 **THE COMMISSIONER:** Right.

9 **MS. LÉVESQUE:** Which has been denied by the
10 Bishop and the Clergy.

11 **THE COMMISSIONER:** What can I tell you?
12 Okay. Does anybody else wish to make any comments on that?
13 Is there another place?

14 **MS. LÉVESQUE:** No, Mr. Commissioner, that's
15 the only.

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

17 **MS. LÉVESQUE:** Thank you.

18 **MS. JONES:** Well, I think that has been
19 mentioned several times in many different forms. I'm not
20 sure that this one more reference to it is going to cause
21 any undue concern.

22 **THE COMMISSIONER:** Okay. I -- no, I'll
23 permit it in. Is there -- that's it.

24 **MS. JONES:** Thank you.

25 **THE COMMISSIONER:** It's not in for the truth

1 of its contents. At this point, in any event, it's what
2 the note taker took and it should be part of the
3 institutional response and that's how it's going to be
4 dealt with. All right ---

5 **MS. JONES:** Bates page --- I'm sorry.

6 **THE COMMISSIONER:** Yes, what would you like
7 now?

8 **MS. JONES:** Bates page 6984, please.

9 **THE COMMISSIONER:** To do what now?

10 **MS. JONES:** For this witness.

11 **THE COMMISSIONER:** Maybe we should make them
12 exhibits, first of all.

13 **MS. JONES:** Oh, I'm sorry. I am jumping the
14 gun.

15 **THE COMMISSIONER:** Exhibits 2532 are notes
16 of Officer McDonell; 2533 are notes of Officer McDonell;
17 2534, more notes of Officer McDonell; 2535, the same; 2536,
18 the same; 2537 through to Exhibit 2543. Okay.

19 **MS. JONES:** I was hoping to have them all
20 one exhibit. We can't do that?

21 Okay, I guess we can't do that.

22 --- **EXHIBIT NO./PIÈCE No. P-2530:**

23 (737494 Excerpt: 7156975-7049) Notes of
24 Christopher McDonell

25 --- **EXHIBIT NO./PIÈCE No. P-2531:**

1 (737494 Excerpt: 7156975-6978) Notes of
2 Christopher McDonell

3 --- EXHIBIT NO./PIÈCE No. P-2532:

4 (737494 Excerpt: 7156983-6984) Notes of
5 Christopher McDonell

6 --- EXHIBIT NO./PIÈCE No. P-2533:

7 (737494 Excerpt: 7156986-6991) Notes of
8 Christopher McDonell

9 --- EXHIBIT NO./PIÈCE No. P-2534:

10 (737494 Excerpt: 7156995-6998) Notes of
11 Christopher McDonell

12 --- EXHIBIT NO./PIÈCE No. P-2535:

13 (737494 Excerpt: 7157000-7002) Notes of
14 Christopher McDonell

15 --- EXHIBIT NO./PIÈCE No. P-2536:

16 (737494 Excerpt: 7157014) Notes of Christopher
17 McDonell

18 --- EXHIBIT NO./PIÈCE No. P-2537:

19 (737494 Excerpt: 7157019-7020) Notes of
20 Christopher McDonell

21 --- EXHIBIT NO./PIÈCE No. P-2538:

22 (737494 Excerpt: 7157028-7031) Notes of
23 Christopher McDonell

24 --- EXHIBIT NO./PIÈCE No. P-2539:

25 (737494 Excerpt: 7157033) Notes of Christopher

1 McDonell

2 --- EXHIBIT NO./PIÈCE No. P-2540:

3 (737494 Excerpt: 7157036-7040) Notes of
4 Christopher McDonell

5 --- EXHIBIT NO./PIÈCE No. P-2541:

6 (737494 Excerpt: 7157042) Notes of Christopher
7 McDonell

8 --- EXHIBIT NO./PIÈCE No. P-2542:

9 (737494 Excerpt: 7157045-7049) Notes of
10 Christopher McDonell

11 --- EXHIBIT NO./PIÈCE No. P-2543:

12 (715309) Interview Notes of Malcolm MacDonald -
13 21 Dec, 93

14 MS. JONES: If we could go, please, to your
15 notes dated December 15th?

16 THE COMMISSIONER: What page please?

17 MS. JONES: Bates page 6984.

18 THE COMMISSIONER: Yes.

19 So at 3:00 o'clock, sir, you "meet with Doug
20 Seguin and mother and brother and sister re the death of
21 Ken Seguin." Do you remember that, sir?

22 MR. McDONELL: I don't believe I have that
23 page here.

24 THE COMMISSIONER: Well it's Exhibit 2531.

25 MR. McDONELL: Yes.

1 **THE COMMISSIONER:** Flip it over. So we're
2 at 3:00 o'clock in the afternoon on that date, which would
3 have been Wednesday, the 15th day of December 1993.

4 Do you recall meeting with Doug Seguin and
5 his mother and brother and sister re the death of Ken
6 Seguin?

7 **MR. McDONELL:** That's correct, I do.

8 **THE COMMISSIONER:** You do remember? Good.

9 **MR. McDONELL:** Yes.

10 **THE COMMISSIONER:** Do you have questions to
11 that?

12 **MS. JONES:** Yes, I do.

13 Do you recall the substance of the
14 conversation that you had that particular day, why were you
15 meeting with them on December 15th?

16 **MR. McDONELL:** Their request to talk to
17 Constable Millar and myself.

18 **MS. JONES:** And was it to discuss generally
19 your findings about the investigation that you had done on
20 their brother's death?

21 **MR. McDONELL:** Yes, I would believe it was.
22 I don't recall precisely what they wanted but it was to do
23 with the death of their brother.

24 **MS. JONES:** Do you recall their demeanor
25 during this meeting? Were they upset about things?

1 **MR. McDONELL:** Not anymore except -- upset
2 and, you know, their brother had died.

3 **MS. JONES:** Okay. Were they upset about
4 certain allegations that he had been homosexual for
5 example?

6 **MR. McDONELL:** I believe they probably were.

7 **MS. JONES:** All right.

8 If I could please go to Exhibit 1051?

9 **MR. McDONELL:** Do I have that in this?

10 **THE COMMISSIONER:** You will get it in a
11 minute, sir.

12 **MS. JONES:** You will have it, sir.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MS. JONES:** And I'll specifically look at
15 Bates page 1473 at the bottom. And I'll be going to the
16 next top of the page, Madam Clerk, as well.

17 Just looking at the bottom of that page,
18 1473, the very last paragraph, what this document is, Mr.
19 McDonell, is a description from Doug Seguin's perspective.
20 He wrote this document in preparation for a civil action
21 actually. So this is his version of that particular
22 meeting on December 15th, 1993.

23 "In December, '93, two weeks after my
24 brother's death, my brother Keith, my
25 sister Helena and myself talked to

1 Constables Chris McDonell and Randy
2 Millar at the Lancaster Detachment of
3 the OPP. They said they had
4 investigated my brother's death. They
5 said it was a suicide and then gave us
6 an atrocious description of what they
7 said my brother and others had been
8 doing to young boys. When questioned,
9 their suspicions turned out to be
10 nothing more than innuendo with the
11 notion that Ken was homosexual. They
12 cannot back up any of their accusations
13 and made some vague references to other
14 investigations going on in the area at
15 that time."

16 Do you recall saying things of that nature
17 during that meeting to the Seguin family?

18 **MR. McDONELL:** No, I do not. I remember the
19 meeting. I remember telling them that -- we told him that
20 his brother had committed suicide and that there was
21 allegations of him being homosexual. But an --
22 "atrocious", I don't believe that stuff. I never saw this
23 before.

24 **MS. JONES:** All right. So you would
25 disagree with that classification that you'd made some

1 atrocious comments?

2 **MR. McDONELL:** I would, yes.

3 **THE COMMISSIONER:** Well, never -- let's take
4 away the characterization, never mind the atrocious.

5 Did you tell them that -- well, you say
6 there's an allegation being homosexual. Well, being
7 homosexual even in 1993 wasn't illegal was it?

8 **MR. McDONELL:** No.

9 **THE COMMISSIONER:** Okay. So did you make
10 any allegation that he was -- that he had been abusing
11 young boys?

12 **MR. McDONELL:** I don't recall, Your Honour.
13 The thing is we probably, in the best way we could,
14 explained to him why we thought -- or our suspicions were
15 that he was homosexual. That he was picking on young boys,
16 I don't believe that was part of the allegations.

17 **THE COMMISSIONER:** Okay.

18 **MS. JONES:** Do you remember the Seguin's
19 reaction to what you were saying at the time?

20 **MR. McDONELL:** No. I mean, they were upset
21 with their brother's death as any family would be I would
22 imagine, and they didn't seem that upset with what we told
23 them. I didn't figure they were any more upset than they
24 should be.

25 **MS. JONES:** All right. If we just go to the

1 bottom of that same page that we're on, 1474. That's the
2 one; at the bottom paragraph, please.

3 If you look at the bottom paragraph of that
4 document. If you have -- if you find it easier to look on
5 the screen, it's also on the screen, it's larger print, I
6 sometimes find it easier.

7 It turns out that later on, in February, the
8 Seguins went to Con -- sorry, Superintendent Fougère and,
9 according to them, made a complaint about the conduct of
10 yourself and Officer Millar.

11 According to Doug Seguin:

12 "He immediately called the East
13 Regional Headquarters in Orillia and
14 started the formal investigation of
15 Silmsier for extortion. Unfortunately,
16 they used Chris McDonell, one of the
17 same officers who we had complained
18 about and who was also involved in
19 Inspector Tim Smith's investigation of
20 Father Charles MacDonald. In other
21 words, they were using the
22 investigation to Silmsier as an added
23 way of investigating Father MacDonald
24 and to my brother, Ken."

25 Can you see that?

1 **MR. McDONELL:** Yes.

2 **MS. JONES:** Were you aware that there had
3 been a discussion about yourself and Officer Millar at the
4 time?

5 **MR. McDONELL:** No, I was not.

6 **MS. JONES:** Were you ever made aware there
7 was any sort of a complaint or any sort of an allegation
8 made against you even it wasn't a public complaint?

9 **MR. McDONELL:** No. Not until last night or
10 recently.

11 **MS. JONES:** One of the problems that the
12 Seguin family had, of course, was that you had perhaps a
13 preconceived notion about the death of Ken Seguin and then
14 when you were put on this later investigation, that you had
15 this preconceived notion that you were bringing into this
16 newer investigation?

17 **THE COMMISSIONER:** Whoa, whoa. I'm sorry.
18 What's the preconceived notion?

19 **MS. JONES:** About Ken Seguin and his
20 homosexuality and the allegations that they listed earlier.

21 **MR. McDONELL:** Well, I would like to think
22 any conclusions I came to it was proven to myself for me to
23 come up with that gesture, I believe. I just didn't dump -
24 - jump to conclusions.

25 **MS. JONES:** We heard from Superintendent

1 Fougère yesterday, or was it the day before yesterday, and
2 he testified that when he related that conversation, in any
3 event, that your name and Officer Millar's had actually
4 been brought up in conversation.

5 But you never received any information from
6 him or heard from Duhamel or anyone else involved in any
7 future investigation that you'd be assigned to about this?

8 **MR. McDONELL:** No.

9 **MS. JONES:** Had you heard at any time that
10 the Seguin family were not happy that they, the family, had
11 not been interviewed at the time of the suicide
12 investigation?

13 **MR. McDONELL:** I don't understand what you
14 mean by that.

15 **MS. JONES:** Had you ever heard that the
16 Seguin family were not happy with the fact that you or
17 Officer Millar had not interviewed them at the time of the
18 investigation of Ken Seguin's suicide?

19 **MR. McDONELL:** I think you'll find that the
20 night of the death, they weren't formally interviewed but
21 we talked to them at that time. And from then on for some
22 time, they were not available.

23 **MS. JONES:** All right.

24 **MR. McDONELL:** I'm not sure of the date of
25 the funeral or whatever but it was down the road some time.

1 MS. JONES: If I could please ---

2 MR. McDONELL: And I did not know that they
3 were upset for not being interviewed either.

4 MS. JONES: If I could please go to Document
5 725210? Sorry, that's not correct; 725175.

6 (SHORT PAUSE/COURTE PAUSE)

7 THE COMMISSIONER: Was the fact -- sir, was
8 the fact -- or as to whether or nor Mr. Seguin was a
9 homosexual have anything to do with your investigation of
10 the suicide?

11 MR. McDONELL: Nothing whatsoever.

12 THE COMMISSIONER: Okay.

13 MS. JONES: Do you recall on December ---

14 THE COMMISSIONER: Hold it, hold it.

15 MS. JONES: I'm sorry.

16 THE COMMISSIONER: We don't have the
17 document yet.

18 MS. JONES: No. I understand that. I'm
19 trying to find another document to go ---

20 THE COMMISSIONER: Oh, if you don't want to
21 go with the document then ---

22 MS. JONES: Yeah.

23 THE COMMISSIONER: Go ahead.

24 MS. JONES: Just a moment, please.

25 (SHORT PAUSE/COURTE PAUSE)

1 **MS. JONES:** Can we go to Document 715309?

2 **THE COMMISSIONER:** Thank you. Exhibit 2513
3 (sic) is an assignment document dated the 21st of December
4 1993.

5 **--- EXHIBIT NO./PIÈCE No P-2543:**

6 (715309) Interview Notes of Malcolm
7 MacDonald - 21 Dec 93

8 **MS. JONES:** On this assignment, Mr.
9 McDonell, it seems that you were going to be interviewing
10 Malcolm MacDonald on the 21st of December '93. Do you see
11 that?

12 **MR. McDONELL:** Yes.

13 **MS. JONES:** And I'm just wondering -- you
14 did interview Malcolm MacDonald on that date, and I'm just
15 curious, at this particular point, we are talking December
16 26th; now the suicide investigation presumably had been
17 finished the previous month. The final report had been
18 made, but you met with the Seguin family on December 15th,
19 and now you're meeting with Malcolm MacDonald on the 21st of
20 December to discuss the situation between Ken Seguin and
21 David Silmser.

22 What was the purpose of taking this
23 statement from Malcolm MacDonald?

24 **MR. McDONELL:** I'd have to look at my
25 notebook to find that. This is to do with the extortion, I

1 believe, investigation.

2 **MS. JONES:** Well, it's dated December 21st,
3 '93. The extortion investigation doesn't start until
4 February, which we will talk about next.

5 **THE COMMISSIONER:** So I made a mistake. The
6 Exhibit should be 2543.

7 Okay. So do you recall this, sir?

8 **MR. McDONELL:** No, I don't, Your Honour, but
9 it's not my handwriting either but ---

10 **THE COMMISSIONER:** Whose handwriting is it;
11 do you know?

12 **MR. McDONELL:** I don't know whose it is.

13 **MS. JONES:** Do you recall meeting with
14 Malcolm MacDonald around that time?

15 **MR. McDONELL:** I met with Malcolm MacDonald
16 several times.

17 **THE COMMISSIONER:** On these matters?

18 **MR. McDONELL:** I would say, yes. I knew
19 Malcolm MacDonald quite well as -- he was a local lawyer in
20 the town and if I was doing something and required some
21 information on this case, we would go and see him.

22 **THE COMMISSIONER:** Okay.

23 **MR. McDONELL:** But as for this, I don't --
24 it's not my writing, and I don't know whose it ---

25 **THE COMMISSIONER:** It doesn't matter about

1 the writing. It's just to refresh your memory about you
2 having interviewed Malcolm MacDonald and him having told
3 you that he was the go-between between Seguin and Silmsers,
4 and that Silmsers was demanding money because he was
5 claiming he had been sexually assaulted by Seguin while he
6 was on probation.

7 **MR. McDONELL:** I remember taking that
8 statement, yes, sir.

9 **THE COMMISSIONER:** Okay.

10 **MS. JONES:** You do remember taking that?

11 **MR. McDONELL:** Yes.

12 **MS. JONES:** Thank you.

13 So again, I reiterate, if you've already
14 finished your findings on the Seguin suicide, what was the
15 purpose then of interviewing Malcolm MacDonald on the 21st
16 of December?

17 **MR. McDONELL:** I'm not sure.

18 **MS. JONES:** I don't have any notes for that
19 particular date.

20 **MR. McDONELL:** I'm not sure.

21 **MS. JONES:** So I'm not able to refer you to
22 that.

23 **MR. McDONELL:** I'm sure if I looked at my
24 notebook, I would see previously what I was doing in
25 relationship to this.

1 **MS. JONES:** Okay. Let me try another
2 question. If you are actually interviewing him, it says
3 here because of the relationship between Seguin and
4 Silmser, if it had to do with the suicide, would it not
5 have been part of the initial investigation in November?

6 **THE COMMISSIONER:** Okay. Can you bring me
7 back to that report that you say that was finished in
8 November?

9 **MS. JONES:** Yes.

10 **THE COMMISSIONER:** It's 972; isn't it?

11 **MS. JONES:** Yes.

12 **THE COMMISSIONER:** Okay. Well, you see, it
13 might not be -- it might be an error and maybe Millar can
14 talk to us about it, because this gentleman obviously
15 doesn't recall, but you see it says at the bottom of 13762,
16 it says:

17 "To meet with Crime supervisor 29th of
18 November 1993, DHQ. Investigation
19 continues."

20 You know, so maybe the date was wrong, but
21 it sure does say that the investigation continues after the
22 29th of November and even if date and time of the report is
23 the 25th of November '93, it might be a mistake.

24 So the question though is why would -- never
25 mind if the investigation is over, why were you talking to

1 Malcolm MacDonald; do you know?

2 **MR. McDONELL:** I do not recall, but it had
3 to do with following up on this.

4 **THE COMMISSIONER:** Mr. Wallace?

5 **MR. WALLACE:** There is a document that has
6 been -- notice has been given on as one of the cross
7 documents, 715308.

8 **(OFF-RECORD DISCUSSION/DISCUSSION HORS ENREGISTREMENT)**

9 **MR. WALLACE:** Okay. I think we'll just have
10 to agree at this stage that he didn't prepare this document
11 and if the date says something, it may be right; it may not
12 be right.

13 **THE COMMISSIONER:** Okay, we'll check with
14 Millar. Okay, let's just carry on.

15 **MS. JONES:** That's fine.

16 Perhaps I can refer to an Exhibit, 0973;
17 it's a statement of Malcolm MacDonald, a handwritten
18 statement, 715456.

19 **THE COMMISSIONER:** What is the exhibit?

20 **MS. JONES:** It's Exhibit 973.

21 **THE COMMISSIONER:** Nine-seven-three (973).

22 **MS. JONES:** Document 715456.

23 **THE COMMISSIONER:** Right, right here. Just
24 flip it over. So this is a statement of Malcolm MacDonald.

25 **MS. JONES:** Okay. Does this refresh your

1 memory, that you had been present during this statement? I
2 believe that's your signature on the left-hand side on the
3 pages, to confirm that ---

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

5 **MS. JONES:** --- you were present and such.

6 It seems the substance of this does
7 surrounds events leading up to November 25th, 1993?

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

9 **MS. JONES:** So are you, when you are
10 interviewing Malcolm MacDonald, are you then doing
11 something in furtherance of investigating a suicide at this
12 point?

13 **MR. McDONELL:** That's why I told you that I
14 don't believe the date on that first report is correct.

15 **MS. JONES:** Okay.

16 **MR. McDONELL:** Because this continued on for
17 some time.

18 **MS. JONES:** Right. And were you also
19 looking into the circumstances of extortion by David
20 Silmsler at this point?

21 **MR. McDONELL:** I don't know. I would
22 believe so, but I don't know for sure.

23 **MS. JONES:** This statement, by the way, the
24 way that it's written, looks like Malcolm MacDonald just
25 wrote it out himself. Is it his handwriting?

1 **MR. McDONELL:** No, it is not. It's Millar.

2 **MS. JONES:** Okay. Was it something that he
3 dictated at the time; do you recall that?

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

5 **MS. JONES:** Because it doesn't seem to be a
6 question-answer thing. It's just a monologue.

7 **MR. McDONELL:** Well we would -- it was a
8 practice in taking a statement, you would go in and tell
9 people what you were doing, who you were interviewing and
10 they would go through a scenario and then we would sit down
11 and put it to paper.

12 **MS. JONES:** But is it fair to say at that
13 point the only interest, really, that you have in Malcolm
14 MacDonald is to find out the background of events leading
15 up to November 25th, 1993?

16 **MR. McDONELL:** I would say yes.

17 **MS. JONES:** Now, on January 7th, I understand
18 that you also met with Officer Brunet, and I'd like to
19 direct you perhaps to Exhibit 1439 that we referred to
20 earlier.

21 **THE COMMISSIONER:** What page?

22 **MS. JONES:** Bates page 7094. And I'll just
23 give a bit of background leading up the 7th.

24 On the 5th of January -- this was a very
25 significant date because there was a lot of press

1 surrounding this whole issue, and it would appear that
2 according to officer Brunet, Constable Sebalj had
3 approached him and advised him that David Silmser had just
4 called her and was very upset about -- requesting where the
5 information came from.

6 He, David Silmser, had told her that Charlie
7 Greenwall called him at home and he was on his way to see
8 him. Then it states:

9 "Greenwell advised him he was being
10 investigated by the police for
11 extortion. I agreed to call him back
12 and explain the status of our
13 investigation."

14 And a little way down it states that:

15 "There was no investigation where he
16 was a suspect in."

17 And I'm just wondering, at that particular
18 point in light of your conversation with Malcolm McDonald
19 on the 21st of December, '93, was there an extortion
20 investigation going on by yourself at that time?

21 **MR. McDONELL:** I don't recall. I don't
22 recall.

23 **MS. JONES:** Then if I could please go to
24 Bates page 7097? Friday, January 7th, 1994.

25 Officer Brunet says:

1 "Called Constable McDonell, Lancaster
2 OPP, and left message. During the
3 morning he came in and said they had a
4 statement from Seguin in his own
5 handwriting. He will try and make that
6 available to me to review."

7 Do you recall why you would be exchanging
8 that, or giving a copy of that particular statement?

9 **MR. McDONELL:** Are you talking about
10 Ken Seguin's statement?

11 **MS. JONES:** Yes.

12 **MR. McDONELL:** I don't recall.

13 **MS. JONES:** Okay.

14 And I want to refer you to your notes dated
15 January 12th. If I could go to -- it's Bates page 7001.

16 **THE COMMISSIONER:** What exhibit?

17 **MS. JONES:** I don't know which exhibit it is
18 as this point; 7001; 7157001.

19 **THE REGISTRAR:** It's 253.

20 **MS. JONES:** Thank you, 2535 Exhibit. The
21 Doc is 737494.

22 **THE COMMISSIONER:** Sir? So you have to go
23 through that mess of documents that we've got here, and
24 2535 -- and what's the exhibit -- 997? And what did you
25 want?

1 **MS. JONES:** Two-five-three-five (2535).

2 **THE COMMISSIONER:** Yes. What Bates page
3 number?

4 **MS. JONES:** It's 7001. Madam Clerk has it
5 on the board there.

6 On the previous page it is dated the 12th of
7 January, '93; I just want to confirm that. It does say
8 that.

9 So, according to your notes, at 14:00 hours
10 it says:

11 "Proceed to Cornwall re. statement for
12 Luc Brunet re. Ken Seguin."

13 I believe that's what your handwriting says?

14 **MR. McDONELL:** Yes.

15 **MS. JONES:** All right. And according to
16 Brunet's notes for the same date, it says;

17 "Received package from Constable
18 Millar."

19 I'm not sure if he got the two of you mixed
20 up or not, but was there anything else besides the
21 statement of Ken Seguin that you can recall leaving with
22 Officer Brunet?

23 **MR. McDONELL:** Do you have the statements?

24 **MS. JONES:** I don't, sir. I don't know what
25 "the package" is that's received. I don't have that. Do

1 you recall leaving a package of some sort? If you don't,
2 then I mean that's your answer, but ---

3 **MR. McDONELL:** I don't.

4 **THE COMMISSIONER:** We'll be finishing up at
5 4:30, so if you want to find a place you can ---

6 **MS. JONES:** Yes. I have just one more
7 little point.

8 **MR. McDONELL:** Your Honour, I did see some
9 statements from Ken Seguin ---

10 **THE COMMISSIONER:** M'hm?

11 **MR. McDONELL:** --- this after -- this
12 morning that I never saw before.

13 **THE COMMISSIONER:** Right.

14 **MR. McDONELL:** If that's the statements
15 she's talking about.

16 **THE COMMISSIONER:** Well, we'll find out
17 tomorrow, I guess.

18 **MS. JONES:** I have one more Bates page
19 reference and that's it.

20 Again, it's the officer's notes and, I'm
21 sorry, don't know exactly which exhibit it is, but it's
22 Bates page 7157020.

23 **MR. McDONELL:** Do I have that?

24 **THE COMMISSIONER:** Well, you must. We have
25 to find out what exhibit it is.

1 **THE REGISTRAR:** It's 2537.

2 **MS. JONES:** So 2537.

3 **THE COMMISSIONER:** So on the top, 2537?

4 **MS. JONES:** It's Bates page 7020?

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

6 **MS. JONES:** That's correct.

7 Just the very top entry there briefly refers
8 again to speaking to the Seguin family about the death of
9 the brother. The date of that is on January 26th, 1994.

10 Do you recall what the purpose would be of
11 talking to the Seguin family at that point? I believe it's
12 the last time; it's the last reference I saw in your notes.

13 **MR. McDONELL:** Well, I will tell you that I
14 probably spoke with the Seguins once a week for -- from the
15 time of their brother's death. This -- it doesn't say
16 which member of the family it is?

17 **THE COMMISSIONER:** "The Seguin family."

18 **MR. McDONELL:** Seguin family, but it's
19 usually Helena that would call and she'd just call us to
20 talk, how things were going, or follow up on the case, but
21 I don't particularly remember what was discussed at that --
22 -

23 **MS. JONES:** All right.

24 At that point, had you already made a
25 finding as to the cause of death of Ken Seguin?

1 **MR. McDONELL:** I would say we made a
2 decision on the cause of death the night of his death.

3 **MS. JONES:** So what would be the purpose of
4 still talking to the Seguin family then?

5 **MR. McDONELL:** I guess mostly to prove to
6 people like yourself that it was a death by suicide.

7 **MS. JONES:** Was it difficult for them to
8 accept that? Is that why you were continuing ---

9 **MR. McDONELL:** It was difficult for
10 any -- any person that their family member commits suicide,
11 it's very difficult to accept. It's not something that
12 comes easy to anybody.

13 **MS. JONES:** Thank you.

14 That will be a good place to stop.

15 **THE COMMISSIONER:** Thank you. We'll come
16 back tomorrow morning at 9:30.

17 Thank you.

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

20 This hearing is now adjourned until tomorrow
21 morning 9:30 a.m.

22 --- Upon adjourning at 4:29 p.m. /

23 L'audience est ajournée à 16h29

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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.



Marc Demers, CM