

**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 158

Held at :

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

Tuesday, November 13 2007

Tenue à:

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

Mardi, le 13 novembre 2007

ERRATA
October 31, 2007
Volume 156

Transcript :

Page 187, line 14 to page 189, line 5

Ms. Daley was identified as speaker, however it should have read that M^e Robitaille was speaking.

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Maya Hamou	Commission Counsel
Mr. Peter Manderville	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Suzanne Costom	
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of
Mr. Terry Mazerolle	the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Bennett	The Men's Project
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Mr. Carson Chisholm

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C-848B	(200165) - Publication Ban - Garry Guzzo - handwritten notes prepared in or around 2000 - 13 Nov, 07	19

1 --- Upon commencing at 1:13 p.m./

2 L'audience débute à 13h13

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:** Thank you.

10 Mr. Engelmann.

11 **MR. ENGELMANN:** Good afternoon, Mr.
12 Commissioner.

13 **THE COMMISSIONER:** Good afternoon, sir.

14 **MR. ENGELMANN:** Mr. Garry Guzzo is our next
15 witness. Just before I introduce him and ask that he be
16 sworn, I just wanted to deal with a couple of housekeeping
17 matters if I could.

18 **THE COMMISSIONER:** Yes.

19 **MR. ENGELMANN:** Sir, just to indicate to
20 counsel and to the parties, we indicated to counsel we'd be
21 picking up some hearing dates ---

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

23 **MR. ENGELMANN:** --- so we'll be going from
24 now right through December 19th with hearing days four or
25 five days a week including this Friday, November 16th. And

1 we've picked up the dates November 26th, 27th, 28th and 29th.
2 If there are other dates that are picked up and counsel
3 have been advised that we may have to pick up an additional
4 Friday or two, they are aware of that.

5 **THE COMMISSIONER:** All right.

6 **MR. ENGELMANN:** The plan for this week is
7 Mr. Guzzo today and tomorrow; Mr. Adams on Thursday and
8 then we have a couple of overviews of documentary evidence;
9 one dealing with an alleged victim and the other dealing
10 with a fellow by the name of Nelson Barque, who's deceased.

11 So that's the week, sir. Mr. Guzzo is the
12 next witness for the Commission. I'd ask that he be sworn.

13 **THE COMMISSIONER:** Thank you.

14 **GARRY GUZZO:** Sworn/Assermenté

15 **THE COMMISSIONER:** Thank you.

16 Good afternoon, sir.

17 **MR. GUZZO:** Good afternoon, sir.

18 **THE COMMISSIONER:** As is usual, there's
19 water there for you. Things will either go up on the
20 screen or we'll give you a hard copy of the exhibits. If
21 there's something that you don't understand or that you
22 feel uncomfortable with, simply address your concerns to
23 me.

24 **MR. GUZZO:** Thank you.

25 **THE COMMISSIONER:** Thank you.

1 **MR. ENGELMANN:** Mr. Guzzo, if you have any
2 difficulty hearing -- yes, the speaker immediate to your
3 left. Great.

4 Mr. Commissioner, just before I start, I
5 neglected to introduce someone to you, a colleague of Mr.
6 Chisholm's, Terry Mazerolle, who's here -- who will be
7 joining us from time-to-time acting as counsel for the
8 Children's Aid Society of Stormont Dundas and Glengarry.

9 **THE COMMISSIONER:** Thank you.

10 **MR. ENGELMANN:** I believe everyone else is
11 known to you, sir.

12 **THE COMMISSIONER:** Yes.

13 **MR. ENGELMANN:** So I'd like to start then if
14 I may.

15 **THE COMMISSIONER:** There you go.

16 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
17 **ENGELMANN:**

18 **MR. ENGELMANN:** Mr. Guzzo, I understand that
19 you're not represented by counsel while giving evidence
20 here before the Inquiry?

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

22 **MR. ENGELMANN:** And with many of the
23 witnesses, sir, I've had to confirm that they understand
24 and they're aware of the mandate of the Cornwall Public
25 Inquiry. I understand you're well versed in what we're

1 doing here?

2 MR. GUZZO: I believe I am, yes.

3 MR. ENGELMANN: And I know from the
4 background, sir, while a member of the provincial
5 parliament, you called for an inquiry into matters arising
6 in Cornwall for some time?

7 MR. GUZZO: I did.

8 MR. ENGELMANN: All right. We'll get into
9 that as we progress through your evidence.

10 Sir, I understand that you were born on
11 November 18th, 1941 in the City of Ottawa?

12 MR. GUZZO: Correct.

13 MR. ENGELMANN: You were raised in the City
14 of Ottawa?

15 MR. GUZZO: Correct.

16 MR. ENGELMANN: Were you born in and around
17 Ottawa?

18 MR. GUZZO: I was.

19 MR. ENGELMANN: All right. And, sir, as far
20 as your faith upbringing, you've been raised in the
21 Catholic faith?

22 MR. GUZZO: That's correct.

23 MR. ENGELMANN: And you continue to be a
24 practicing Catholic?

25 MR. GUZZO: I am.

1 **MR. ENGELMANN:** And your background is
2 Italian-Canadian?

3 **MR. GUZZO:** My father's ---

4 **MR. ENGELMANN:** Yes.

5 **MR. GUZZO:** --- my mother was not. My
6 mother is Irish.

7 **MR. ENGELMANN:** All right. And both of them
8 practicing Catholics?

9 **MR. GUZZO:** Correct.

10 **MR. ENGELMANN:** All right. And you and your
11 wife continue to practice in the Catholic faith?

12 **MR. GUZZO:** We do.

13 **MR. ENGELMANN:** Sir, as far as your
14 educational background, I understand that after completing
15 high school, you obtained a Bachelor of Commerce Degree
16 from the University of Ottawa?

17 **MR. GUZZO:** Correct.

18 **MR. ENGELMANN:** And at formerly St.
19 Patrick's College?

20 **MR. GUZZO:** It was part of the U of O at the
21 time, yes.

22 **MR. ENGELMANN:** Yes. And that you also
23 obtained a law degree from the University of Ottawa Law
24 School?

25 **MR. GUZZO:** Correct.

1 **MR. ENGELMANN:** And, sir, with respect to
2 work experience as a lawyer, I understand that you were
3 called to the Bar of Ontario in 1969?

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

5 **MR. ENGELMANN:** And that you practiced in
6 the fields of matrimonial and municipal law?

7 **MR. GUZZO:** Primarily.

8 **MR. ENGELMANN:** And initially you practiced
9 in those first few years in a law firm with Mr. Chiarelli?

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

11 **MR. ENGELMANN:** And the firm was Chiarelli
12 and Guzzo?

13 **MR. GUZZO:** Correct.

14 **MR. ENGELMANN:** And at that time was the
15 work predominantly in the Ottawa area, sir?

16 **MR. GUZZO:** I would think so, yes.

17 **MR. ENGELMANN:** Did you do any work down
18 here in Cornwall at that time?

19 **MR. GUZZO:** Very little, but on one or two
20 occasions, I think, I may have been down here on insurance
21 work.

22 **MR. ENGELMANN:** All right. Now I understand
23 that in the very late '70s, you were appointed as a judge
24 of the Ontario Court of Justice?

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

1 **MR. ENGELMANN:** And that you served on the
2 bench for a period of approximately 10 or 11 years?

3 **MR. GUZZO:** That's right.

4 **MR. ENGELMANN:** And can you tell us as a
5 justice in the Ontario Courts of Justice, the types of
6 cases you would hear?

7 **MR. GUZZO:** Primarily matrimonial and child
8 welfare matters and matters under the *Young Offender's Act*.
9 But on occasion, when we'd be required to sit outside the
10 jurisdiction, we'd be required to replace what we called a
11 "two-hatter" and deal with criminal matters, adult criminal
12 matters as well.

13 **MR. ENGELMANN:** All right. Two-hatter
14 meaning adult criminal matters plus the matrimonial,
15 family, young offender?

16 **MR. GUZZO:** Right. Being a two-hatter,
17 being a term for a judge in a smaller area where there is
18 only one judge and that judge did both adult and juvenile
19 delinquent or like young offender matters.

20 **MR. ENGELMANN:** All right. And you would
21 have been on the bench during that period of time when we
22 went from a *Juvenile Delinquent's Act* to a *Young Offender's*
23 *Act*?

24 **MR. GUZZO:** I was.

25 **MR. ENGELMANN:** And, sir, from time-to-time

1 -- you sat primarily in the Ottawa area?

2 MR. GUZZO: That's correct.

3 MR. ENGELMANN: And did you, from time-to-
4 time, come to Cornwall to sit as a judge?

5 MR. GUZZO: I did on occasion. We would --
6 there were three or four judges at the time I was there and
7 we would have to spell holiday timed for people in the
8 Eastern Ontario area and sometimes elsewhere.

9 MR. ENGELMANN: All right. And as a
10 consequence, sir, would you get to know individuals who
11 would regularly appear before your court?

12 MR. GUZZO: I did, yes.

13 MR. ENGELMANN: And certain institutions
14 that would be represented with officials before your court?

15 MR. GUZZO: Yes, that's true.

16 MR. ENGELMANN: So you might get to know
17 officials from, say, Children's Aid or some of the youth
18 detention centres, things of that nature?

19 MR. GUZZO: Correct.

20 MR. ENGELMANN: And did you in fact develop
21 any relationships with such individuals here in the
22 Cornwall area?

23 MR. GUZZO: Well, I don't know that I had
24 relationships. I had a good working relationship with a
25 number of people.

1 **MR. ENGELMANN:** All right. And, as a
2 consequence, did you later on in your life attend functions
3 here in Cornwall?

4 **MR. GUZZO:** Yes, I -- some friends of mine
5 here in the legal community and otherwise were associated
6 with the Laurencrest Group Home.

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

8 **MR. GUZZO:** And I had made a habit of coming
9 down to the dinner each year, a fund-raising dinner for the
10 home, and I continued to do that when I was on the bench.

11 **MR. ENGELMANN:** All right. And, sir, after
12 retiring from the Ontario Courts of Justice, you went back
13 into practice as an in-house counsel with a land
14 development company. Is that correct?

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

16 **MR. ENGELMANN:** And the name of that
17 company, sir?

18 **MR. GUZZO:** Shenkman Corporation.

19 **MR. ENGELMANN:** And approximately how long
20 did you work with them?

21 **MR. GUZZO:** I think it was a two-year
22 contract.

23 **MR. ENGELMANN:** All right. And then, you
24 know, around 1991 you joined the law firm in Ottawa?

25 **MR. GUZZO:** I did, yes.

1 **MR. ENGELMANN:** And is that the law firm of
2 Kelly, Howard and Santini?

3 **MR. GUZZO:** That's correct.

4 **MR. ENGELMANN:** And how long were you there,
5 sir?

6 **MR. GUZZO:** I was with them for two years, I
7 think, and then I shared space with them for another short
8 while. After that, it -- I would think about two years as
9 an associate, as a counsel to them, and then I was
10 independent sharing space in the same -- in my same office.

11 **MR. ENGELMANN:** All right. And at that
12 point in time, you were sole practitioner?

13 **MR. GUZZO:** I was, yes.

14 **MR. ENGELMANN:** And was that from
15 approximately 1993 until you were elected as a member of
16 the provincial parliament?

17 **MR. GUZZO:** In that location, yes, in that
18 location. I continued the practice until 1999 at another
19 location.

20 **MR. ENGELMANN:** All right. And, sir, prior
21 to your experience in provincial politics, were you at all
22 active in municipal politics?

23 **MR. GUZZO:** I was. I served seven years on
24 Ottawa City Council and six of those years on the Regional
25 Council of the Regional Municipality of Ottawa-Carleton.

1 **MR. ENGELMANN:** And, sir, is that as a
2 councillor?

3 **MR. GUZZO:** As an alderman and member of the
4 Board of Control, a controller with the City of Ottawa, and
5 as a regional councillor.

6 **MR. ENGELMANN:** Now, in 1995, you ran in the
7 provincial election as a candidate for the Progressive
8 Conservative Party?

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

10 **MR. ENGELMANN:** And you were elected, sir.
11 Is that correct?

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

13 **MR. ENGELMANN:** And you were the member for
14 -- is it the Ottawa-Rideau electoral district?

15 **MR. GUZZO:** That's accurate, yes.

16 **MR. ENGELMANN:** Can you just give us a sense
17 as to where that would be?

18 **MR. GUZZO:** It was a long, narrow strip
19 running from mid west-end Ottawa to extreme east-end
20 Ottawa, basically along -- the southerly boundary would
21 have been the Hunt Club Road, save and except for the Air
22 Force Base at the -- the Military Base at the Uplands
23 Airport, and north to about Walkley Road.

24 **MR. ENGELMANN:** How far east would your
25 riding go?

1 MR. GUZZO: Conroy Road I think was the
2 easterly ---

3 MR. ENGELMANN: All right. So it would have
4 been the eastern -- or it would have been within the City
5 of Ottawa?

6 MR. GUZZO: Yes.

7 MR. ENGELMANN: And, sir, I understand that
8 in 1999, you were re-elected to the Ontario Legislature?

9 MR. GUZZO: That's correct.

10 MR. ENGELMANN: But your riding was somewhat
11 different?

12 MR. GUZZO: That's correct, yes.

13 MR. ENGELMANN: Where was it the second
14 time?

15 MR. GUZZO: The second time, the riding of
16 Ottawa-Rideau was divided into three ridings. Part went to
17 Ottawa South, part went to Ottawa Centre and part went to
18 Ottawa West, and I ran in Ottawa West.

19 MR. ENGELMANN: And, sir, then in the year
20 2003, did you run again?

21 MR. GUZZO: I did, yes.

22 MR. ENGELMANN: And on that third occasion
23 you were not elected?

24 MR. GUZZO: That's correct.

25 MR. ENGELMANN: Sir, prior to your

1 involvement as a candidate for the Progressive Conservative
2 Party in 1995, had you been active in the party either
3 provincially or federally?

4 **MR. GUZZO:** Very definitely, yes.

5 **MR. ENGELMANN:** And do you know for
6 approximately how many years?

7 **MR. GUZZO:** Well, I remember that I got my
8 first membership card in the Progressive Conservative
9 Party, the federal party, in 1956 and I remember it well.
10 It wasn't well received by my Italian father or my Irish
11 mother and I had gone to hear John Diefenbaker speak and
12 put half my allowance down to buy a card.

13 **MR. ENGELMANN:** Okay. And did you as well
14 become involved in the provincial Progressive Conservative
15 Party at some point in time?

16 **MR. GUZZO:** Later date, yes.

17 **MR. ENGELMANN:** Okay. As a consequence, did
18 you know party members from the Cornwall area?

19 **MR. GUZZO:** Yes, I did.

20 **MR. ENGELMANN:** All right. And some of
21 those people you later had interactions with as an MPP?

22 **MR. GUZZO:** Yes, that's right.

23 **MR. ENGELMANN:** All right. And there would
24 have been lawyers from the Cornwall area that you would
25 have known who were members of the party?

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

2 **MR. ENGELMANN:** Do you recall some of them
3 now, sir, looking back, active members?

4 **MR. GUZZO:** The son of the -- the son of the
5 city member, whose name escapes me now, articulated at
6 Chiarelli and Guzzo around about '73, Pierre. I think he
7 is the city solicitor that still acts for the City of
8 Cornwall if I'm not mistaken. His father was the Minister
9 of Tourism in the Davis Cabinet. I'm embarrassed I can't
10 remember his name. He made a bigger impression on me than
11 that, I must tell you.

12 **(LAUGHTER/RIRES)**

13 **MR. GUZZO:** And -- but I -- I knew -- oh,
14 jeepers, I knew other members of the -- associated with the
15 party, both legal people and non-legal people.

16 **MR. ENGELMANN:** Okay. Were you familiar
17 with a fellow by the name of Malcolm MacDonald?

18 **MR. GUZZO:** I was.

19 **MR. ENGELMANN:** And was he an active member
20 of either the federal or provincial party?

21 **MR. GUZZO:** When I -- when I got to know
22 him, he was certainly friendly with a lot of PCs, there was
23 no question about that, but I think he was then the Crown
24 attorney and I think he kept his involvement curtailed
25 somewhat but, subsequently, I did come in contact with him

1 again through party officials, yes.

2 MR. ENGELMANN: So he was an active member
3 of the party here in Cornwall?

4 MR. GUZZO: Well, certainly by the time I
5 was elected, he was seemingly quite active, yeah.

6 MR. ENGELMANN: Now, Mr. Guzzo, you've had a
7 number of occupations. You've served as a lawyer; correct?

8 MR. GUZZO: Correct.

9 MR. ENGELMANN: A judge?

10 MR. GUZZO: Yes.

11 MR. ENGELMANN: A former municipal
12 politician?

13 MR. GUZZO: Yes.

14 MR. ENGELMANN: And a former member of the
15 provincial parliament?

16 MR. GUZZO: Correct.

17 MR. ENGELMANN: So would you agree, sir,
18 that as a result of those -- having served in those
19 capacities that people listen to you when you speak on
20 various topics or some people listen to you when you speak?

21 MR. GUZZO: Some people, maybe. Some
22 people, yes.

23 MR. ENGELMANN: All right. And that people
24 with that kind of background can garner respect and
25 credibility?

1 MR. GUZZO: I think so, yes.

2 MR. ENGELMANN: And, therefore, that it's
3 important when people with the type of background you have
4 when they speak to the public or to the press that they do
5 so accurately?

6 MR. GUZZO: I agree.

7 MR. ENGELMANN: Sir, I want to ask you how
8 it is you became involved in matters that lead up to the
9 calling of this Inquiry and, in particular, I want to ask
10 you when it is that anyone first advises you of issues here
11 in Cornwall with respect to sexual abuse of young persons
12 or concerns about institutions investigating or responding
13 to these types of allegation?

14 MR. GUZZO: Well, my recollection is that it
15 was shortly after the election in spring of '95 and I
16 received a phone call.

17 MR. ENGELMANN: Right.

18 MR. GUZZO: From a lawyer here in Cornwall
19 congratulating me and wishing me well and raised the issue
20 for the first time. I think it was the first time that I
21 had any knowledge of it.

22 MR. ENGELMANN: All right. Mr. Guzzo, what
23 I'd like to do now is I'd like to show you some documents
24 which I believe are handwritten notes of yours that you
25 would have given to us.

1 If the witness could be shown Document
2 Number 124607?

3 (SHORT PAUSE/COURTE PAUSE)

4 THE COMMISSIONER: Thank you.

5 This will be Exhibit 847 and you are saying
6 that these are notes made by this witness?

7 MR. ENGELMANN: Mr. Guzzo, is that correct?

8 MR. GUZZO: Yes, they are.

9 THE COMMISSIONER: Thank you.

10 MR. ENGELMANN: All right.

11 MR. GUZZO: I think so, yes.

12 THE COMMISSIONER: When were ---

13 MR. GUZZO: There's other notes as well,
14 sir, and I'll -- what I'm going to try and do is let's get
15 them all out and then I will have the witness explain to us
16 when they were prepared and sub-parts of them if I can.

17 So, Mr. Commissioner, what we have done is
18 we have prepared an unofficial transcript of these notes.
19 We've done this before and I believe what we do is one of
20 them becomes 847A and one becomes 847B.

21 THE COMMISSIONER: Yes.

22 MR. ENGELMANN: And our unofficial
23 transcription of what I hope to call 847A is Document
24 Number 200167.

25 (SHORT PAUSE/COURTE PAUSE)

1 **THE COMMISSIONER:** So 847A ---

2 **MR. GUZZO:** Nothing is coming up on the
3 screen. Is there anything I should do?

4 **THE COMMISSIONER:** No, not yet.

5 So 847A is the unofficial transcription of
6 Mr. Guzzo's handwritten notes and 847B will be the original
7 -- or the handwritten part.

8 **---EXHIBIT NO./PIÈCE No. P-847A:**

9 (124167) Garry Guzzo - Unofficial transcript
10 of Garry Guzzo notes prepared in or around
11 2003 - 13 Nov, 07.

12 **---EXHIBIT NO./PIÈCE No. P-847B:**

13 (124607) Garry Guzzo - handwritten notes of
14 in or around 2003 - 13 Nov, 07

15 **MR. ENGELMANN:** All right. And as we've
16 said in the past, Mr. Guzzo, just to make sure you're
17 familiar with the practice, is if there is a difference
18 between the handwritten note, and hopefully you can help us
19 with that, and the unofficial transcription that would have
20 been prepared by Commission staff, it's the handwritten
21 note that carries the day.

22 **MR. GUZZO:** All right.

23 **MR. ENGELMANN:** So 847A is the unofficial
24 transcript; 847B, the handwritten note.

25 Mr. Commissioner, I'd like to do the same

1 with two other document numbers. Document Number 200165
2 and Document Number 200166.

3 (SHORT PAUSE/COURTE PAUSE)

4 THE COMMISSIONER: All right. So 848A will
5 be, again, some handwritten notes.

6 MR. ENGELMANN: Do you want to do it the
7 same way? The transcript as "A" and the handwritten note
8 as "B"?

9 THE COMMISSIONER: Yes. Madame Clerk, the
10 handwritten note should be "B" and the typed version should
11 be "A".

12 MR. ENGELMANN: So that will be 848 ---

13 THE COMMISSIONER: "A" is the unofficial
14 transcription and the 848B will be the handwritten notes.

15 ---EXHIBIT NO./PIÈCE No. C-848A:

16 (200166) - PUBLICATION BAN - Garry Guzzo -
17 Unofficial transcript of Garry Guzzo notes
18 prepared in or around 2000 - 13 Nov, 07

19 ---EXHIBIT NO./PIÈCE No. C-848B:

20 (200165) - PUBLICATION BAN - Garry Guzzo -
21 handwritten notes prepared in or around 2000
22 - 13 Nov, 07

23 MR. ENGELMANN: Okay. So Mr. Guzzo, you
24 should have 847 A and B and 848 A and B.

25 MR. GUZZO: Correct. I do.

1 **MR. ENGELMANN:** What I'd like you to look at
2 first then is 848 and let's just look at 848A, if we can.

3 We have a reference to a first set of notes
4 prepared in or around October, 2000 and then if you turn to
5 the fourth page, we have a second set of notes prepared
6 between 2001 and 2003. Do you see that?

7 **MR. GUZZO:** I see it and that's the best of
8 my recollection, yes.

9 **MR. ENGELMANN:** All right. So this is what
10 you would have indicated to us the best of your
11 recollection as to when you would have prepared these two
12 sets of notes ---

13 **MR. GUZZO:** Right.

14 **MR. ENGELMANN:** --- that are part of 848 A
15 and B.

16 **MR. GUZZO:** That's right.

17 **MR. ENGELMANN:** All right. And can you tell
18 us if there was something significant going on at those
19 particular times that would have caused you to put pen to
20 paper?

21 **MR. GUZZO:** Well, with regard to the first
22 five pages of 848B, I've -- my first bill calling for this
23 hearing is coming up for debate in the legislature and I'm
24 sitting down to do some background.

25 I'm going to have to speak to it and I'm

1 going to have to speak to it for 15 minutes and -- or more
2 with the rebuttal, so I'm putting down things and arguments
3 and different notings -- different things that I want to, I
4 want to have fresh in my mind.

5 **MR. ENGELMANN:** And this would have been
6 based on your memory and/or some documents that you would
7 have had in your possession?

8 **MR. GUZZO:** I -- I can't say I recall, but I
9 have an idea that I have my old day-timers and I'm
10 referring to my day-timers as well as maybe other things.
11 I don't recall.

12 **MR. ENGELMANN:** All right. The second set
13 of notes prepared between 2001 and 2003, can you tell us if
14 there was a particular reason at that time, and I realize
15 that time is anywhere within a one- or two-year period.

16 **MR. GUZZO:** I think the election is over.
17 I'm finished. I'm tidying up files and I sit down and I
18 make some notes, you know ---

19 **MR. ENGELMANN:** So if that's the case, is it
20 likely to be 2003? Are you talking about the third
21 election, sir?

22 **MR. GUZZO:** Yeah, definitely. I think
23 that's probably but I'm not certain. I'm guessing but I --
24 it seems to me that that's when I would do it.

25 I make a decision not to -- not to shred

1 this file. I'm shredding many other files. I'm getting
2 rid of them and the ones I'm keeping -- this is one and I
3 want to -- not too many, actually, and I pull it out and I
4 sit down and make some notes on it.

5 **MR. ENGELMANN:** All right. And the third
6 set of notes, which is 847 A and B, prepared in or around
7 2003, so around the same time as that second set of notes
8 you've just referred to likely after the election?

9 **MR. GUZZO:** What I think -- I think it's
10 right around the same time. I -- the election -- I have a
11 -- January of '04 -- the election's held in June of '03 and
12 I've cleaned out the offices and it's September I guess or
13 October.

14 I'm getting a hip operation. It's put off
15 until January of '04 and I do some work on this file when
16 I'm convalescing from the hip operation and I think I do in
17 early '04. I sit down and try and make some sense, you
18 know, make a chronological situation with regard to the
19 file.

20 **MR. ENGELMANN:** All right. And this is more
21 the chronological version, if I can call it that, this
22 third set?

23 **MR. GUZZO:** Yeah. If you look at the -- I
24 think there's a logical breakdown. Well, there is there
25 because of the time shift and I think that's what I'm

1 doing.

2 I think this could possibly -- could
3 accurately be called a condensation of 848 A and B.

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

5 **MR. GUZZO:** I think. That's my
6 recollection.

7 **MR. ENGELMANN:** Okay. So 847A is a
8 condensed version of those first two sets?

9 **MR. GUZZO:** Right.

10 **MR. ENGELMANN:** And the material that you
11 did keep, you were served with a summons to deliver over
12 your materials to the Commission?

13 **MR. GUZZO:** That's correct, yeah.

14 **MR. ENGELMANN:** And you delivered what in
15 the form of volume to the Commission, sir?

16 **MR. GUZZO:** Well, I think two boxes of
17 files, some tapes that had come from -- I thought might
18 have some material on them where they were associated with
19 one of the file boxes that I got. I left them there for
20 you and these were, I don't know, there must have been 14,
21 15 files all told of different phases of the time, the
22 different bills, the different things that went on.

23 **MR. ENGELMANN:** And there were also a couple
24 of binders ---

25 **MR. GUZZO:** Yes, there were.

1 **MR. ENGELMANN:** --- that you would have
2 received in the summer of 1998 and we'll come there ---

3 **MR. GUZZO:** That's right.

4 **MR. ENGELMANN:** --- from the Dunlops.

5 **MR. GUZZO:** From the Dunlops, right.

6 **MR. ENGELMANN:** All right.

7 **THE COMMISSIONER:** So have you given us all
8 the material that you have in your possession or under your
9 control?

10 **MR. GUZZO:** Yes, I do. Yes, I have. Yes, I
11 have.

12 **MR. ENGELMANN:** So, sir, getting back then
13 to the first contact that you had from a lawyer here in
14 Cornwall, 847A and 848A would indicate December, 1995 as
15 the first contact and you have a reference to "Telephone
16 from lawyer request to meet with victims". Do you see that
17 on 847A?

18 **MR. GUZZO:** I do.

19 **MR. ENGELMANN:** And then on 847 --
20 sorry, then on 848A -- and perhaps it's a little easier to
21 look at 848B. We have a series of blackouts?

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

23 **MR. ENGELMANN:** On that first contact,
24 December 1995. Do you see that?

25 **MR. GUZZO:** I do.

1 MR. ENGELMANN: Can you tell us who would
2 have done that?

3 MR. GUZZO: I did that.

4 MR. ENGELMANN: All right. And can you tell
5 us why you did that?

6 MR. GUZZO: Well, I had very early on, I had
7 been concerned taking the evidence, listening to these
8 people and I made a hard-and-fast rule that if people were
9 referred to me, if people spoke to me as an elected
10 representative, I would protect their anonymity.

11 And I explained to them that I was a lawyer,
12 that as a former judge I would treat it in the same manner
13 as I would treat it as a solicitor-client situation and I
14 further was of the opinion, and am of the opinion, that it
15 is a constitutional right in any free and democratic
16 society for a person to petition a legislator or the
17 legislature. They may do it, as some did it, to my office
18 by standing outside and waving placards and you may do it
19 by writing a letter and you can do it by coming and
20 addressing me and asking that the matter be kept
21 confidential.

22 And I think that -- I don't pretend to be a
23 constitutional law expert, but I have read different
24 constitutions of different societies that claim to be free
25 and democratic, and along with freedom of religion and

1 freedom of the press and the like, is the freedom to pursue
2 the legislature -- to lobby the legislature, if you like
3 and in a confidential manner.

4 And for that reason I had made it a point of
5 telling people very early on that if they spoke to me -- if
6 they choose to speak to me about this matter and other
7 matters and wanted to remain anonymous, that I would
8 protect that.

9 **MR. ENGELMANN:** All right. So the lawyer
10 who would have called you in December of 1995, is that
11 something that he or she asked for or is that something
12 that you offered?

13 **MR. GUZZO:** I would think that -- that I
14 probably told that person that I would, you know, if you
15 want to send them to me, send them to me. I'll treat it on
16 a confidential basis.

17 **MR. ENGELMANN:** Okay. So that goes to the
18 names of the people he's referring to, but what about his
19 name? Her name?

20 **MR. GUZZO:** His -- it was a man and I -- you
21 know, I recall having another discussion with him here in
22 Cornwall sometime later and, you know, explaining what I
23 was doing. I talked to -- by this time, I think I had
24 talked to some other alleged victims and I told them what I
25 was doing and I agreed that that would be something that I

1 would do for him.

2 MR. ENGELMANN: Protect his name?

3 MR. GUZZO: Yes.

4 MR. ENGELMANN: All right. So I think, Mr.
5 Commissioner, at this point, I just want to run through
6 some of the redactions that Mr. Guzzo has made.

7 You don't put the lawyer's name down here.
8 Is that fair?

9 MR. GUZZO: That's correct. I don't think -
10 - no, I did not. I did not.

11 MR. ENGELMANN: So the names you redacted
12 were the names of alleged victims he referred to you?

13 MR. GUZZO: That's correct.

14 THE COMMISSIONER: When did you make those
15 redactions, sir?

16 MR. GUZZO: I would think it was the summer
17 of '06. I met with counsel in the summer of '06. We
18 discussed whether or not, you know, I would be called as a
19 witness ---

20 THE COMMISSIONER: M'hm.

21 MR. GUZZO: --- and I think it was around
22 about that time, if I were -- I don't lately recall. I'm
23 surmising.

24 THE COMMISSIONER: Okay.

25 MR. ENGELMANN: Do you have your original

1 notes, Mr. Guzzo?

2 MR. GUZZO: I believe I do, yes.

3 MR. ENGELMANN: And do you have them with
4 you today?

5 MR. GUZZO: No, I don't, but I think I have
6 them ---

7 MR. ENGELMANN: And what you've provided to
8 the Commission recently then is a photocopy of what we're
9 looking at, at 848B?

10 MR. GUZZO: Yes, that's right.

11 MR. ENGELMANN: And do you recall if the
12 blacking-out that you did was on your original note or on a
13 photocopy of the note?

14 MR. GUZZO: I can't say. I can't recall.

15 MR. ENGELMANN: Do you recall the names of
16 the individuals that you would have blacked out?

17 MR. GUZZO: Most of them.

18 MR. ENGELMANN: And, sir, are there other
19 names that you would not have blacked out but that you just
20 would not have written from time-to-time, that you might
21 recall?

22 MR. GUZZO: Well, there certainly are names.
23 As to whether I can recall those, you know, I somehow, you
24 know, there's a point where I take it upon myself to take
25 action within the government and at that point, I don't

1 really want to hear any more. I don't really need to hear
2 anymore, you know, I'm satisfied that there's something
3 amiss so I'm going to ask the questions and move the
4 government to look at it.

5 And they -- and so, when anybody else tells
6 me after that first 5 or 10 people, whatever it was when I
7 made the decision, I'm not making any notes or I'm not, you
8 know, I may not even do anything other than have a reminder
9 in my day-timer.

10 **MR. ENGELMANN:** All right. You can
11 understand why it might be important for us to know some of
12 these names?

13 **MR. GUZZO:** Well, it might -- you know some
14 of them, they've testified here. They've gone to you,
15 they've gone to the citizen's group or they came to me from
16 the citizen's group -- or whatever. So you know -- you
17 know them. Some of them. Others have chosen not to come
18 forward and for a variety of reasons I've been told, but I
19 don't know, I can't comment on that.

20 **MR. ENGELMANN:** All right. I want to take
21 you through this. I want to take you through this, a list,
22 on 848B. June of 1996, you've redacted three other names?

23 **MR. GUZZO:** Yes, that's right.

24 **MR. ENGELMANN:** Are these also alleged
25 victims?

1 **MR. GUZZO:** Two of them definitely were; I'm
2 not certain that the third one was. I'm not certain that
3 the third one was, but may have been.

4 **MR. ENGELMANN:** That was the person that
5 came with the other two?

6 **MR. GUZZO:** Yes.

7 **MR. ENGELMANN:** November '96, right next to
8 the -- you say "Five victims; four new". You have
9 "Business leaders 1 and 2".

10 You've redacted the names of two alleged
11 victims who were business leaders. Do I have that right?

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

13 **MR. ENGELMANN:** Then on the next page,
14 summer '97, you've redacted a couple of names that probably
15 -- two or three names?

16 **MR. GUZZO:** I think there were two people
17 there.

18 **MR. ENGELMANN:** Okay. That's right. You
19 say, "Meet with threesome". That's July. Next to August,
20 you have two names that are redacted; it's next to the name
21 Barque, PO?

22 **MR. GUZZO:** Yes.

23 **MR. ENGELMANN:** And those were alleged
24 victims?

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

1 **THE COMMISSIONER:** We should indicate, sir,
2 that on March '97 there is the name of someone that is
3 written in there that is described by a moniker with the
4 full publication ban and his evidence was heard in-camera;
5 848A, March '97. Okay.

6 **MR. ENGELMANN:** Yes, that should be marked
7 with a "C".

8 **THE COMMISSIONER:** So the exhibits will be
9 marked with a "C".

10 **MR. ENGELMANN:** I apologize, Mr.
11 Commissioner, I should have caught that. I was working off
12 the handwritten one and it's harder to read.

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

14 **MR. ENGELMANN:** Sir, next to March '97, next
15 to the words -- this is another March '97, next to the
16 words "Cornwall diocese"?

17 **MR. GUZZO:** Yes.

18 **MR. ENGELMANN:** You've blacked out a name?

19 **MR. GUZZO:** Right.

20 **MR. ENGELMANN:** Is the name you blacked out
21 there an alleged victim or is that an official of the
22 Cornwall diocese or what is that?

23 **MR. GUZZO:** That's a Roman Catholic priest.

24 **MR. ENGELMANN:** September 2000, again, there
25 is blacked out names. Do you see that?

1 MR. GUZZO: Yes, I do.

2 MR. ENGELMANN: And can you tell us -- there
3 are six names apparently blacked out there on that page?

4 MR. GUZZO: Right.

5 MR. ENGELMANN: Are these all alleged
6 victims or are they members of institutions or what are we
7 dealing with here?

8 MR. GUZZO: The -- in the first paragraph
9 they're alleged victims.

10 MR. ENGELMANN: In the middle paragraph it
11 says "All", I think, "Finger Seguin" or I'm not sure if,
12 yeah, "Seems sincere".

13 Are those all alleged victims?

14 MR. GUZZO: I'm having trouble putting a
15 face on these people. I believe they were but I can't be
16 sure. By the fact that it says "All fingered Seguin" you'd
17 have to think that they, you know ---

18 THE COMMISSIONER: So you're trying to guess
19 now at who the names are because they've been redacted?

20 MR. GUZZO: I think I -- I think I know who
21 one of the persons are -- is, but I'd have to -- I don't --
22 I couldn't tell you the other two names they belong to.

23 THE COMMISSIONER: So having the original
24 would help you because you'd have the original names on
25 there?

1 MR. GUZZO: That's correct.

2 THE COMMISSIONER: And where is the
3 original?

4 MR. GUZZO: I believe it's at my cottage. I
5 believe that's where the original is, but it's not in the
6 files that I have at my home and I don't have an office.

7 MR. ENGELMANN: You understand why the
8 original would be important, sir?

9 MR. GUZZO: I understand very well, yeah.

10 THE COMMISSIONER: So where's your cottage?

11 MR. GUZZO: Westport, Ontario.

12 THE COMMISSIONER: How far away is that?

13 MR. GUZZO: An hour-and-a-half from Ottawa.

14 THE COMMISSIONER: M'hm.

15 MR. ENGELMANN: All right, I'm going to
16 carry on. The name further down on the page, sir, this is
17 presumably an alleged victim?

18 MR. GUZZO: Yes.

19 MR. ENGELMANN: It's next to "Abused by
20 Father" or -- "Fr. Lapierre"?

21 MR. GUZZO: Father Lapierre, yes.

22 MR. ENGELMANN: Then flipping over a couple
23 of pages under March of '98 ---

24 MR. GUZZO: Yes.

25 MR. ENGELMANN: I believe it says, "Victim

1 attends at QP, businessman wants to assist in financing,
2 refer him other victims in Cornwall" and there is either a
3 name or names blacked out?

4 MR. GUZZO: One name.

5 MR. ENGELMANN: And is that an alleged
6 victim?

7 MR. GUZZO: He could -- he ---

8 MR. ENGELMANN: Is this the businessman that
9 you're referring to?

10 MR. GUZZO: He's a businessman in the
11 Toronto area. He comes to my office at Queen's Park. He
12 said he's a victim. As I recollect it was minor in nature,
13 the allegation he made, but he wants to be of assistance.
14 He wants to do something. He's been hearing about it and I
15 tell him that if he wants to help he should contact the
16 Citizen's Group. I give him the names.

17 MR. ENGELMANN: Right. And in then
18 paragraph, summer of '98, there's a redaction. It says, "I
19 have discussed" and then there's a redaction, "action
20 possible with friends in Cornwall". Is that an alleged
21 victim, an institutional official, alleged perpetrator?

22 MR. GUZZO: Correct.

23 MR. ENGELMANN: Which?

24 MR. GUZZO: That's an alleged victim.

25 MR. ENGELMANN: All right. Then on page --

1 it says page 5 at the top. I'm on the handwritten version.
2 There appears to be a blackout there under "U.S.
3 Thanksgiving"?

4 **MR. GUZZO:** Let me catch up to you here.

5 **MR. ENGELMANN:** Next to "Dinner at ..." ---

6 **MR. GUZZO:** Yes, yes.

7 **MR. ENGELMANN:** --- Biaggio?

8 **MR. GUZZO:** Yes. These are not victims.

9 **MR. ENGELMANN:** It says "Fathers", does it?
10 The abbreviation?

11 **MR. GUZZO:** Two priests.

12 **MR. ENGELMANN:** Two priests come to see you?

13 **MR. GUZZO:** They take me to dinner; one of
14 the best restaurants in Toronto.

15 **MR. ENGELMANN:** And then there's a name
16 redacted at the end of that paragraph as well?

17 **MR. GUZZO:** Yeah, the next day I'm thinking
18 about our discussions. It's an in -- we deal with matters
19 here that -- that night relate to the church. We're
20 talking about the church in Canada, the church in the
21 United States, the church in the -- across Europe and one
22 of them is quite well-versed, very knowledgeable, well
23 connected in the hierarchy of the church, and he -- and I
24 give him a call the next day and thank him for dinner and,
25 yeah.

1 **MR. ENGELMANN:** So is this one of the names
2 that's redacted above or is this someone else?

3 **MR. GUZZO:** No, this is one of the names
4 above.

5 **MR. ENGELMANN:** All right. And then the
6 next paragraph there's a name redacted. It says "CS in
7 department of AG"?

8 **MR. GUZZO:** That's right.

9 **MR. ENGELMANN:** Is this a lawyer working for
10 the Attorney General?

11 **MR. GUZZO:** It is.

12 **MR. ENGELMANN:** And is this someone who
13 requested confidentiality from you?

14 **MR. GUZZO:** Very definitely.

15 **MR. ENGELMANN:** So those are the redactions
16 that I can see here. Just before leaving this though, if
17 we could look at -- maybe just at 847A for a minute
18 together with 848A?

19 So if we look at the first -- if we look at
20 March '97 where we had the name of the priest redacted, it
21 says, "Refers two victims"?

22 **MR. GUZZO:** You're on page ---

23 **MR. ENGELMANN:** Well, I'm on the first page
24 of 847A.

25 **THE COMMISSIONER:** Which is the typed

1 version. It's ---

2 MR. ENGELMANN: Yes, at the bottom, or I'm
3 on the second page of 848A ---

4 MR. GUZZO: All right.

5 MR. ENGELMANN: --- where it says "Name
6 redacted Cornwall Diocese".

7 I guess what I'm saying, sir, is it appears
8 that you don't mention some of the names of the alleged
9 victims. In other words, you redact the name of the priest
10 who refers them but you don't redact the names of the
11 victims?

12 MR. GUZZO: I don't have any ---

13 MR. ENGELMANN: You don't put them down?

14 MR. GUZZO: I don't put them down, right.

15 MR. ENGELMANN: Yeah, and what I'm asking
16 you, sir, is today do you remember who they were?

17 MR. GUZZO: I can't say I recall those three
18 victims. I don't think so.

19 MR. ENGELMANN: Just a little further down
20 that page you have a reference to "September, 2000-record
21 31 new victim calls" and you redact a couple of names; you
22 redact about six names on that -- under that item,
23 September, 2000?

24 THE COMMISSIONER: Where are you now?

25 MR. ENGELMANN: I'm on the second page of

1 848A.

2 THE COMMISSIONER: Yes.

3 MR. ENGELMANN: It's also a full page on
4 848B. But you certainly don't have 31 redactions?

5 MR. GUZZO: No, definitely not.

6 MR. ENGELMANN: All right. And you redact -
7 - I think we went through this before, about six names?

8 MR. GUZZO: I think you're right, yeah.

9 MR. ENGELMANN: Yeah, what about the other
10 25 names?

11 MR. GUZZO: Some -- some of them I might
12 have even taken their names or recorded their names.

13 MR. ENGELMANN: All right.

14 MR. GUZZO: And I certainly didn't save
15 them. The ones I did ---

16 MR. ENGELMANN: All right. Would you have
17 any recollection now of others over and above the six, if
18 you can remember the six?

19 MR. GUZZO: No. I mean, you know, I'm well
20 past the point here when I'm interested in who's telling me
21 what. I mean I'm not -- I made a statement at one point
22 that I thought I had been contacted by over 90 people. I
23 didn't believe them all.

24 I say in the notes that -- when I'm
25 referring to them that I think there are obviously some "me

1 too's", so there is some people who think that there's
2 going to be a pot of gold at the end of the rainbow and
3 they're coming in and saying, hey I -- you know, and I'm
4 not buying into it; I don't believe there are others who
5 have been damaged either -- for whatever reason, who I
6 can't follow the history line of what they're trying to
7 tell me.

8 And then there were others who, to me,
9 remarkably, have managed to have a normal family life.
10 They seemed to register with me more.

11 **MR. ENGELMANN:** All right, but -- so for
12 example then, if we look back in time, the third page on
13 848A:

14 "March '98, meet two victims in Ottawa,
15 one hurting -- one hurting but has
16 details re Barque, police laughed at
17 me."

18 Do you see that?

19 **MR. GUZZO:** Yes.

20 **MR. ENGELMANN:** And we've got a redaction
21 further down which is the businessman. But what about the
22 two victims you referred to -- or alleged victims you
23 referred to earlier on in that paragraph, do you have some
24 recollection as to who they are? I'm not asking you to
25 name them.

1 MR. GUZZO: Yes, I do, I do.

2 MR. ENGELMANN: All right. So that might be
3 an example where you have some recollection of who these
4 people were?

5 MR. GUZZO: Yes. Yes.

6 MR. ENGELMANN: Mr. Commissioner, I had a
7 discussion with Mr. Guzzo about his unwillingness to give
8 names to Commission counsel. I indicated to him that if I
9 asked him to help us fill in his notes, that at the end of
10 the day he may be ordered to give you these names if you
11 feel they're relevant.

12 And I also indicated to him that if he is
13 asked to name them that that may be done -- may be done --
14 in camera. I don't know who we're dealing with. I don't
15 know if in some cases we're dealing with people who are
16 subjected to a publication ban from a criminal proceeding
17 or possibly whether there's been some kind of
18 confidentiality measure put on people here at this Inquiry
19 because I don't have their names.

20 Given what we're trying to do, given that we
21 are looking at the institutional response in examining
22 this, I would think that in all of these cases there would
23 be some relevance to having the names of these individuals.

24 Whether or not those names are made public
25 is quite another thing, but if we're talking about

1 officials who work at an institution, whether that be the
2 Attorney's General's department, the Diocese of Alexandria
3 Cornwall, a lawyer from Cornwall who's referring people,
4 there may be linkages, there may be connections. I don't
5 know the answer, sir, without knowing more information
6 about who these people are and what their connection to
7 this matter is.

8 I'm in a difficult situation. I'd like to
9 explore some of these areas in some detail with this
10 witness to see how, if at all, they fit in with what we've
11 been doing here.

12 And I've indicated to my friends, who --
13 several of them have asked me for un-redacted notes for --
14 Mr. Guzzo's notes, and I'm very frank with them and told
15 them I don't have un-redacted notes but that I would try
16 and -- if I did get this information before putting Mr.
17 Guzzo on the stand that I would share it. I did not get
18 this information from Mr. Guzzo, so that's why I've asked
19 the questions that I've just asked.

20 **THE COMMISSIONER:** Okay. What about -- this
21 gentleman is seeming to claim some kind of privilege and
22 confidentiality. What's your view on his claim?

23 **MR. ENGELMANN:** I've indicated to Mr. Guzzo
24 that -- of course I'm not giving him legal advice, it's not
25 my role, but having worked on a parliamentary privilege

1 case already in my career, the extent and scope of
2 parliamentary privilege usually ends with the member's term
3 in office. There are also issues about parliamentary
4 privilege when you have a sitting MPP and whether people
5 can be summoned as witnesses et cetera at that time.

6 I don't think parliamentary privilege
7 applies here. I don't believe that there's any suggestion
8 that Mr. Guzzo was giving legal advice to any of these
9 individuals, despite the fact that he was a lawyer at the
10 time, despite the fact that he may have been seeing
11 individuals in either his constituency office or his law
12 office.

13 I understand, Mr. Guzzo, they're in the same
14 building?

15 **MR. GUZZO:** They were -- they were, yes,
16 they were.

17 **MR. ENGELMANN:** Yeah. And there's certainly
18 no evidence that we're aware of that there was a
19 solicitor/client relationship in the true nature of the
20 word; in the sense that Mr. Guzzo was opening a file,
21 having a retainer signed up, actually performing a legal
22 service.

23 It appeared that he simply would meet with
24 individuals who were referred to him from time-to-time.
25 From what I know, didn't seek them out but he simply had

1 people phone him and he met with them or he spoke to them
2 on the phone or he had people referred to him by third
3 parties.

4 That's my understanding, sir, is that
5 accurate?

6 **MR. GUZZO:** Yes. Referred to -- some also
7 referred to me by lawyers, to whom I gave the same opinion,
8 that I would treat it on a confidential basis as if it were
9 my client.

10 **THE COMMISSIONER:** Okay. Unless someone can
11 give me some legal assistance here, it doesn't seem to me
12 that someone can proclaim that he will do it in confidence
13 and use that as a shield now not to name those names,
14 unless it is under the solicitor/client or other
15 confidentiality measures that we've discussed, over and
16 above, and earlier in this Inquiry.

17 **MR. ENGELMANN:** Sir, I think really at this
18 stage it's a question of relevance and the relevance is
19 difficult to determine without having more information and
20 seeing how they link together.

21 Perhaps I'll let -- turn the floor over to
22 my friends and see if they have any comments or submissions
23 to make.

24 **THE COMMISSIONER:** All right.

25 Mr. Manson, do you have any comments?

1 **MR. MANSON:** If I can just have one second,
2 Your Honour.

3 **THE COMMISSIONER:** So what's on the table
4 now is how do we get -- (a) should we recognize this
5 privilege and if we do, well, then that's it. If we don't
6 recognize the privilege, how do we go about getting the
7 names?

8 It surprises me that we don't have the
9 original and it will have to be produced if we go down that
10 route.

11 Mr. Manson, your thoughts?

12 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:**

13 **MR. MANSON:** Mr. Commissioner, if I can just
14 deal with the privilege question because I may need
15 instructions from my clients on specific matters, because
16 as you know, we've taken the position that if a victim
17 wants to keep their experience private and not come
18 forward, that we were not going to assist in outing him.

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

20 **MR. MANSON:** But, specifically, with respect
21 to privilege, seems to me that there is no class privilege
22 that covers this situation. The only class privilege that
23 we have in Canada that the legal regime recognizes is
24 solicitor-client privilege.

25 The Supreme Court of Canada has recognized

1 confidentiality claims, and this goes back to the priest
2 and penitent case, which is *Gruenke* 1991, three Supreme
3 Court Reports, where the Supreme Court said:

4 "A claim for confidentiality can be
5 made on the basis of what was called
6 the Wigmore 4-fold test."

7 And the elements of that, Mr. Commissioner,
8 are:

9 "Number 1: That the communication
10 originated in confidence.

11 Number 2: That the
12 communication was part of a
13 relationship that requires
14 confidentiality to be effectual.

15 Number 3: That it's a
16 relationship that a community
17 would..."

18 And the court used Wigmore's unusual phrase:

19 "... sedulously foster."

20 But then:

21 "Number 4: In the balance, it's more
22 important to maintain the confidential
23 nature of that communication than to
24 have it received in litigation."

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

1 **MR. MANSON:** And, I think, leaving aside any
2 obstacles that numbers one two and three would represent,
3 given the nature of this Public Inquiry, it seems to me
4 that the need to have relevant names ought to outweigh any
5 preservation of a confidential relationship particularly
6 since Mr. Guzzo is no longer a sitting member.

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

8 **MR. MANSON:** So in my submission, I don't
9 think -- notwithstanding Mr. Guzzo's views about
10 constitutional claims, it doesn't seem to me that it's made
11 out on these facts, Mr. Commissioner.

12 Thank you.

13 **THE COMMISSIONER:** So -- well -- Mr. Manson,
14 what -- I think what Mr. Engelmann was suggesting -- or
15 what was bantered around was an in camera session in the
16 sense of, if I were to rule, that there's no privilege
17 attaching; that we would go in camera for strictly for the
18 purposes of hearing the names and then in camera we can
19 determine -- and you could speak to your clients -- about
20 which names should be held confidential, if any, and if any
21 should be published.

22 **MR. MANSON:** Well, certainly because -- Mr.
23 Commissioner, well if we could go through the groups of
24 victims, there could be victims who have said, "This is a
25 private experience, I want to talk to you about it, I don't

1 want the world to know about it". That's one group.

2 There's another group that may have similar
3 concerns but have already come forward and have monikers
4 within this Inquiry.

5 There's a third group who may have come
6 forward already and so any confidentiality is waived and I
7 suppose there's others that we just don't know anything
8 about. But we would certainly need to sort out those
9 participants.

10 But that's with respect to victims, Mr.
11 Commissioner. Mr. Guzzo has also made a claim about
12 sources of information and that's a different kettle of
13 fish altogether.

14 **THE COMMISSIONER:** Right. Well -- right,
15 all I'm saying is that if we flush them all out in camera
16 then we can sort everything out and then come back and
17 report to the public on something.

18 **MR. MANSON:** Yes, that may be the best way
19 to go at this point, Mr. Commissioner. Thank you.

20 **THE COMMISSIONER:** Thank you. I'm just
21 trying to save you a trip to the podium here.

22 All right. Mr. Horn?

23 **MR. HORN:** I have nothing to say.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Lee?

1 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:

2 **MR. LEE:** I don't have anything to add to
3 Mr. Manson's comments on the privilege claim and the
4 legality of it.

5 From a practical point of view, I have
6 similar issues to Mr. Manson in terms of seeking
7 instructions, in particular, because I think it entirely
8 possible that one or more of the names that comes out may
9 well be somebody that I represent and I don't know that at
10 this point.

11 I mean, as I understand it, we're talking
12 about sort of a two-step process here.

13 We hear the names and that's what it is;
14 it's counsel for the parties and that's all and then we
15 have -- as we usually would have -- the ability to make
16 submissions to you, seek instructions on what we do with
17 those names and I'm content with that process. I think
18 it's fair.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Neville?

21 I'm sorry, yes, yes. Mr. Bennett?

22 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. BENNETT:

23 **MR. BENNETT:** Good afternoon, Mr.
24 Commissioner.

25 I do have instructions on this matter and my

1 client's position is that anybody who has experienced
2 sexual abuse who has not come forward and had their name
3 put out in the public domain, should not through this
4 process.

5 Similar to what Mr. Manson said, there may
6 be different categories. Those who've had monikers, we
7 have no difficulty with that or people who have come
8 forward as witnesses that their names could be put out
9 there. But someone who may have spoken with Mr. Guzzo who
10 has never been before the Inquiry, whose name has never --
11 that this wouldn't be the way to do that.

12 On the other hand, with respect to names
13 from institutions, I feel very strongly that they should be
14 brought out because there are some very serious allegations
15 that Mr. Guzzo will be making and some involve my client
16 about -- not negative with respect to my client, but
17 pressure put on Mr. Guzzo by other people to cut funding if
18 he went forward and those are the types of names that my
19 client's not aware of and would like to know and believes
20 the public needs to know.

21 In terms of this process of going in camera
22 to determine that, we don't object to that -- figure out
23 who we are talking about because I think we're all in the
24 dark with respect to that.

25 Those are my comments. Thank you.

1 **THE COMMISSIONER:** Thank you, Mr. Bennett.
2 Mr. Neville?

3 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEVILLE:**

4 **MR. NEVILLE:** Thank you, Mr. Commissioner.
5 As usual, Professor Manson has summarized
6 well for us the basic principles which I think actually go
7 back to an earlier decision of *Slavutych v. Baker* and have
8 been carried forward the Wigmore test.

9 A practical concern I would raise, which I
10 think you touched on, is the frailties of memory being what
11 they are we may need the notes.

12 **THE COMMISSIONER:** Well, if we get to there
13 -- no, we will have the notes. I ---

14 **MR. NEVILLE:** No, I understand, I'm just
15 saying in terms of addressing some of the other concerns
16 which other counsel have raised as to confidentiality and
17 promises made and what balancing you may need to do, I'm
18 not sure Mr. Guzzo can actually fully identify the names
19 without the notes.

20 **THE COMMISSIONER:** Okay.

21 **MR. NEVILLE:** So all I'm suggesting to you
22 is that the usefulness of an in camera process may be
23 somewhat prejudiced by the lack of the originals.
24 Otherwise, the process makes sense.

25 **THE COMMISSIONER:** We'll see how we go.

1 Right, thank you.

2 Mr. Chisholm?

3 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CHISHOLM:

4 MR. CHISHOLM: Good afternoon, sir.

5 THE COMMISSIONER: Good afternoon.

6 MR. CHISHOLM: Professor Manson is modest;
7 he didn't tell us that he was counsel for the appellant in
8 the drug decision.

9 I would adopt the proposal that we go in
10 camera to further explore these issues.

11 THE COMMISSIONER: Thank you.

12 Maitre Rouleau?

13 ME. ROULEAU: I have nothing to add.

14 THE COMMISSIONER: Thank you.

15 Mr. Kloeze?

16 MR. KLOEZE: I have nothing to add, sir.

17 THE COMMISSIONER: Then, Ms. Robitaille?

18 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. ROBITAILLE:

19 MS. ROBITAILLE: Good afternoon, Mr.

20 Commissioner.

21 I have nothing to add except to say, as a
22 procedural note, there may be names that we would like to
23 know that aren't listed in those notes. Mr. Guzzo makes
24 reference to meeting with victims in letters and certain
25 correspondence that don't seem to correspond with some of

1 his notes.

2 So in our in camera session, we may want to
3 go through his notes and we may also seek answers to names
4 from some of that correspondence.

5 And just as a quick suggestion, I don't know
6 if Mr. Guzzo has retained some of his old day-timers, but
7 that may assist his memory on those issues.

8 **THE COMMISSIONER:** Well, I would hope that
9 if he has those, that they would have been released to us.
10 Mr. Guzzo?

11 **MR. GUZZO:** They would have been -- I'm
12 sure. I don't have them. I -- they went out with the --
13 at the end of the -- in '03 when I lost the election.

14 **THE COMMISSIONER:** Okay.

15 **MS. ROBITAILLE:** Thank you.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Sherriff-Scott?

18 **MR. SHERRIFF-SCOTT:** I have no submissions,
19 thank you, Commissioner.

20 **THE COMMISSIONER:** Thank you.

21 Mr. Manderville?

22 **MR. MANDERVILLE:** I have nothing to add, Mr.
23 Commissioner?

24 **THE COMMISSIONER:** Thank you.

25 Ms. Costom?

1 **MS. COSTOM:** I have nothing to add, Mr.
2 Commissioner.

3 **THE COMMISSIONER:** Thank you.
4 Mr. Carroll?

5 **Mr. CARROLL:** I have nothing to add, thank
6 you, sir.

7 **THE COMMISSIONER:** All right.
8 So no one else here?
9 All right. So Mr. Engelmann?

10 **MR. ENGELMANN:** I just want to say, I think
11 Mr. Manson took us through the Wigmore Test and it's really
12 the fourth test whether -- I think Mr. Guzzo meets the
13 first branch and he may well meet the second and third
14 branch, but the fourth branch and the probative value,
15 perhaps, of these names to assist us in doing the job we're
16 doing here as a public inquiry, in my respectful
17 submission, outweighs the confidentiality that he's
18 seeking. So ---

19 **THE COMMISSIONER:** Well, it certainly does
20 outweigh the confidentiality at this time in a sense that
21 all we want to do is to be able to get a complete picture
22 of what exactly we're talking about.

23 So I find that in going in camera, what
24 we're doing is taking an extra step to ensure that the
25 names are properly named, that all of the parties here and

1 those -- the party members who have signed undertakings can
2 be here so that we can see, and I think that what we've
3 described before is we have to see if there's any linkage.

4 And if there's no linkage, it certainly is
5 not my intention to embarrass or protect -- embarrass or
6 protect anyone, either way, and so I think it's a question
7 of all of us getting together, looking at those names and
8 making some sense of it.

9 So what I would suggest is we go in camera
10 for the purposes of going through these documents and
11 finding out what the names are. Then we will make
12 submissions -- I'll hear submissions on which names should
13 be protected and those that ought not be protected or
14 cannot be protected. And then when we come back from the
15 in camera session, we can explain to the public what we
16 have done and why.

17 Is that fair?

18 All right. So we will take 15 minutes. So
19 we'll shut down for 15 minutes. We'll go in camera and
20 then for those of you who are members of the public who
21 have not signed undertakings, you will have to wait outside
22 and for members who -- people who are looking at the
23 screen, the webcast, we will come back in -- well, I don't
24 want to put any time down. So people will have to stand
25 by.

1 Thank you.

2 **MR. ENGELMANN:** Thank you.

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

5 This hearing will resume at 2:40 p.m.

6 --- Upon recessing in public at 2:25 p.m./

7 L'audience publique est suspendue à 14h25

8 --- Upon resuming in Public Session at 4:02 p.m./

9 L'audience publique est reprise à 16h02

10 **THE REGISTRAR:** This hearing is now resumed.

11 Please be seated. Veuillez vous asseoir.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Engelmann?

14 **MR. ENGELMANN:** Mr. Commissioner, I believe
15 we're back on the webcast.

16 **THE COMMISSIONER:** Yes, we are.

17 **MR. ENGELMANN:** We've indicated in camera,
18 you instructed Mr. Guzzo to return tomorrow with the
19 original notes and any other documents he might locate at
20 his cottage and he's been asked to be here for nine-thirty
21 tomorrow morning.

22 I anticipate we'll have some discussion
23 about some of the individuals' names and we'll have some
24 decisions to make.

25 I'll certainly be checking the lists for

1 monikers and other things this evening and we'll be
2 prepared to deal with it in the morning. I've indicated to
3 counsel that I thought I'd be the better part of the day
4 tomorrow with Mr. Guzzo and it looks like then he'll have
5 to be returning the week after as well.

6 **THE COMMISSIONER:** All right.

7 **MR. ENGELMANN:** I'll confirm those dates
8 with everyone before we start tomorrow.

9 **THE COMMISSIONER:** Okay. So for those of
10 you still joining us on the webcast and members of the
11 public that were excluded, what we tried to do is go
12 through the documents with Mr. Guzzo so that he could give
13 us the names that he had edited, I guess, and unfortunately
14 that wasn't very productive because Mr. Guzzo couldn't
15 really remember a lot of the names.

16 So given that the original is available at
17 his cottage, what I did is indicate to him that my ruling
18 stood that he had to produce that document.

19 And while we -- I understand we may have some
20 disagreement as to where some privilege may lie, that's
21 something that we're going to have to decide at another day
22 or when we see the document, so we can assess where we're
23 going with all of this.

24 And so that's what we did while we were in
25 camera. We will be returning tomorrow morning with the

1 document, hopefully. At that time we will probably have to
2 go in camera for the purposes of identifying all of the
3 names once again and go through that exercise and then I
4 will permit counsel to make representations to me, along
5 with Mr. Guzzo if he wants to, as to which names should or
6 should not be made public.

7 As you can well understand, there are names
8 that were not made public that parties for everyone here
9 who represent all of the interests indicated that it would
10 not be necessary to do that.

11 So I am mindful of that fact and, of course,
12 the media will now, of course, be on notice that this is
13 being done and if they have certain representations to
14 make, they can make them as well.

15 But the important matter is that we get on
16 with this. I think that Mr. Guzzo is an important witness.
17 We want to know how he got involved in all of this and his
18 interactions with everyone, so that at the end he can make
19 an important contribution to the community as to what
20 happened through his eyes and what the institutional
21 response was in his view. And that's really what we want
22 to get at.

23 So on that basis, we will be breaking and
24 coming back tomorrow morning at nine-thirty.

25 All right. Thank you.

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

3 This hearing is adjourned until tomorrow
4 morning at 9:30 a.m.

5 --- Upon adjourning at 4:05 p.m. /

6 L'audience est ajournée à 16h05

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C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Sean Prouse, CVR-CM