

**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 341**

**Held at :**

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

Friday, January 23, 2009

**Tenue à:**

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

Vendredi, le 23 janvier 2009

**ERRATA**

**October 29, 2008  
Volume 297**

**Transcript :**

**Page 111, Line 3**

**MR. KOZLOFF:** It may well be that Mr. -- well, you can ask Mr. Fougère but -- who's a big boy and can answer for himself. It would appear that he did not turn his notes over to Detective Inspector, at the time, McWade for the purpose of being turned over.

**Should have read:**

**MR. KOZLOFF:** It may well be that Mr. -- well, you can ask Mr. Fougère but -- who's a big boy and can answer for himself. It would appear that he did not turn his notes over to Detective Inspector, at the time, **McQuade** for the purpose of being turned over.

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
Ms. Karen Jones	Commission Counsel
Ms. Maya Hamou	
Ms. Reena Lalji	Cornwall Community Police Service and Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
Mr. Darrell Kloeze	Attorney General for Ontario
Ms. Leslie McIntosh	
Ms. Juda Strawczynski	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Ms. Marie Henein	Mr. Jacques Leduc
M <sup>e</sup> Danielle Robitaille	
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Ms. Brydie Bethell	Wm Trudell Professional Corp. Simcoe Chambers
Ms. Shelley Hallett	
Ms. Lidia Narozniak	

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1 --- Upon commencing at 9:33 a.m./

2 L'audience débute à 9h33

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, all.

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

11 **THE COMMISSIONER:** How are you doing today,  
12 sir?

13 **MR. CARROLL:** I'm fine, thank you. How are  
14 you?

15 **THE COMMISSIONER:** Good. I'm a little  
16 tired.

17 I just want to make sure that we know about  
18 the time restraints this afternoon. I intend to leave no  
19 later than 2 o'clock and it is my full and complete  
20 intention to have both witnesses finished today, so please  
21 be guided by those timeframes.

22 Thank you.

23 **SHELLEY HALLETT:** Resumed/Sous le même serment

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

25 **CARROLL(cont'd/suite):**

1                   **MR. CARROLL:** Thank you, sir.

2                   And I had the opportunity last night to  
3 review my materials and I believe I've pared it down to --  
4 assuming cooperation -- I'll be finished in half-an-hour to  
5 40 minutes.

6                   **THE COMMISSIONER:** Okay, there we go.

7                   **MR. CARROLL:** And one thing I would like to  
8 start with though -- and I thank Mr. Engelmann for this,  
9 yesterday -- and I'm just putting this on the record, it  
10 really doesn't affect you materially, witness, but I put to  
11 the witness that there had been an error made in the  
12 examination in-chief with respect to C-22 and a threat to  
13 put him under subpoena, and I referenced the episode where  
14 the third party came out on the porch, and Mr. Engelmann  
15 brought to my attention that a portion of the transcript  
16 that he either wasn't familiar with or had forgotten where  
17 Officer Dupuis in his evidence acknowledged that he had  
18 directly -- he and/or Seguin had directly made that  
19 comment.

20                   So I apologize for that and the record is  
21 now appropriately fixed in that respect and, in any event -  
22 - and I should complete that -- Dupuis agreed that that was  
23 not an appropriate statement to make to the witness.

24                   Good morning.

25                   **MS. HALLETT:** Good morning, Mr. Carroll.



1                   **MR. CARROLL:** We talked a little bit  
2                   yesterday about the letter of February the 12<sup>th</sup> and if that  
3                   document could be put up, please, on the screen; 2646.  
4                   This is the -- this is the first in a series of disclosure  
5                   letters ---

6                   **MS. HALLETT:** Yes.

7                   **MR. CARROLL:** --- right after the February  
8                   7<sup>th</sup> meeting.

9                   **MS. HALLETT:** Requests for disclosure.

10                  **MR. CARROLL:** Yes. And there it is, yes.

11                  And you'll recall that I was putting to you  
12                  -- and it was towards the end of our discussions yesterday  
13                  -- I was suggesting to you that the contents of that letter  
14                  should -- should trigger some concerns about a possible  
15                  looming application or words to that effect. Do you  
16                  remember me putting that to you?

17                  **MS. HALLETT:** Yes.

18                  **MR. CARROLL:** And your response was, no, you  
19                  thought it was more in the nature of a disclosure request  
20                  and one of the reasons you thought that was because they  
21                  had agreed to continue on with the evidence.

22                  **MS. HALLETT:** Yes, they were inviting us to  
23                  do that.

24                  **MR. CARROLL:** Pardon?

25                  **MS. HALLETT:** Yes, they were inviting us to

1 do that.

2 MR. CARROLL: And so you maintain that this  
3 did not trigger any concern about a possible Charter  
4 application coming?

5 MS. HALLETT: It -- it certainly triggered  
6 concern about meeting this disclosure request as quickly as  
7 possible, but in view of what I knew at that time, Mr.  
8 Carroll, about the limited Dunlop contact with the mother  
9 of only one witness in this case, I -- I wasn't all that  
10 concerned about what might happen. I thought that the  
11 defence might themselves be persuaded that that was not  
12 worth pursuing.

13 MR. CARROLL: But you may have been of the  
14 belief that there was no merit should it proceed ---

15 MS. HALLETT: Pardon me?

16 MR. CARROLL: --- but I -- you may have been  
17 of the belief, based on your knowledge, that a Charter  
18 application would have no merit, but I suggested to you  
19 yesterday this letter should have triggered a concern about  
20 Charter relief and you said, no.

21 MS. HALLETT: No, it -- it definitely  
22 triggered concern about meeting the requests contained in  
23 the letter.

24 MR. CARROLL: Well, then, let's just look at  
25 the last sentence in the first -- second paragraph.

1                   **MS. HALLETT:** M'hm.

2                   **MR. CARROLL:** "We are considering whether  
3                                   to seek remedies for the non-  
4                                   disclosure, but will not be able to  
5                                   finalize our position on that subject  
6                                   until full disclosure is made."

7                   **MS. HALLETT:** M'hm.

8                   **MR. CARROLL:** To you as a experienced trial  
9                   lawyer you know, in the context of this letter, a remedy is  
10                   something pursuant to a Charter application?

11                   **MS. HALLETT:** Yes, but ---

12                   **MR. CARROLL:** So ---

13                   **MS. HALLETT:** --- the remedies include other  
14                   things than stays. They include, for example,  
15                   adjournments. They include opportunities to inspect.

16                   **MR. CARROLL:** So you ---

17                   **MS. HALLETT:** There are various remedies  
18                   that are available under section 24 of the Charter.

19                   **MR. CARROLL:** So you did direct your mind to  
20                   that sentence and you concluded that it was matters other  
21                   than a stay. You actually thought that -- went through  
22                   that funny thinking process?

23                   **MS. HALLETT:** That was possible. I have to  
24                   admit, I was extremely busy with just running the trial at  
25                   this point, Mr. Carroll, so I cannot identify every

1 possible thought that was going through my mind as I read  
2 this letter, but I was sufficiently concerned that we all  
3 got in gear to meet the disclosure request required --  
4 requested. So -- and we -- I thought that we turned it  
5 around fairly quickly. I thought that the -- any sort of  
6 remedy that might be sought would not result in a stay in  
7 this case.

8 MR. CARROLL: You concluded in the -- no,  
9 that was your belief, right?

10 MS. HALLETT: Is that not what I said?

11 MR. CARROLL: But -- all right, all right.

12 I was asking you what you thought that  
13 statement meant about remedies and you've now told us.

14 We know that -- we've gone through the  
15 various meetings; you with officers, then with the defence  
16 and then with the officers again on the 7<sup>th</sup>, right?

17 MS. HALLETT: Yes, m'hm.

18 MR. CARROLL: And then on the 8<sup>th</sup>, the letter  
19 materializes from Pat Hall?

20 MS. HALLETT: My letter?

21 MR. CARROLL: Right.

22 MS. HALLETT: Yes, a copy of my letter.

23 MR. CARROLL: Yes, exactly ---

24 MS. HALLETT: Sent to me, yes.

25 MR. CARROLL: --- a copy of your letter that

1           says "for your information"?

2                   **MS. HALLETT:** Yes.

3                   **MR. CARROLL:** It's handwritten on that ---

4                   **MS. HALLETT:** Yes.

5                   **MR. CARROLL:** --- right, and signed by Hall?

6                   **MS. HALLETT:** Yes.

7                   **MR. CARROLL:** What did you think the purpose  
8           was of him giving that letter to you?

9                   **MS. HALLETT:** I -- I was perplexed by it, as  
10          I believe I've testified. I thought that he was, sort of,  
11          banging me over the head -- the day before I had ---

12                   **MR. CARROLL:** Could I just stop you there  
13          and ask you what you mean by "he was banging me over the  
14          head"?

15                   **MS. HALLETT:** He was like ---

16                   **MR. CARROLL:** With what?

17                   **MS. HALLETT:** --- beating a dead horse.

18                   **MR. CARROLL:** About what?

19                   **MS. HALLETT:** See, you have had these Dunlop  
20          materials all along. You have had these Dunlop materials  
21          all along and I -- what perplexed me is that I had never  
22          disputed that and so I felt that he was really going  
23          overboard in trying to bang me over the head with that ---

24                   **MR. CARROLL:** How about trying ---

25                   **MS. HALLETT:** --- with that complication.

1                   **MR. CARROLL:** How about trying to impress  
2                   upon you the fact that this was an important issue and he  
3                   was saying to you, "I gave you this stuff"?

4                   **MS. HALLETT:** It was an important issue and  
5                   that's why we were turning it around in terms of providing  
6                   the Dunlop will say and notes, in terms of providing the  
7                   results of the investigation, in terms of finding that  
8                   entry -- that 5-line entry from Dupuis' notebook.

9                   **MR. CARROLL:** What did you think -- or why  
10                  did you think him giving you that letter was covering his  
11                  ass because that's the expression you used isn't it?

12                  **MS. HALLETT:** No, what ---

13                  **MR. CARROLL:** No?

14                  **MS. HALLETT:** --- what -- yes, that's the  
15                  expression I used in quoting -- in quoting ---

16                  **THE COMMISSIONER:** Just a minute, no, no,  
17                  just a minute. We're not going to start this over again.  
18                  She's talking; you wait. When she's finished, you can ask  
19                  a question.

20                  **MR. CARROLL:** I thought, in fairness to her,  
21                  I should take her to the document, but I'll wait.

22                  **THE COMMISSIONER:** Let her finish.

23                  **MR. CARROLL:** Sure.

24                  **THE COMMISSIONER:** Let her finish with the  
25                  statement, then go.

1                   **MS. HALLETT:** I believe that I have  
2 testified, and it has been my assertion throughout, that at  
3 the time that Detective Seguin provided me with this letter  
4 -- this letter of mine -- a copy of it -- endorsed by  
5 Detective Inspector Hall, he said to me, "Pat likes you,  
6 but he's a cover-your-ass kind of guy". That is what  
7 Detective Seguin told me at the time he hands this over to  
8 me just a few minutes before I go into court.

9                   **MR. CARROLL:** Well, you may or may not be  
10 right about the timing of that, and we can't put it to  
11 Seguin again, but I'm going to suggest ---

12                   **MS. HALLETT:** I'm putting on my shoes in  
13 order to go into court. I remember that very distinctly.

14                   **MR. CARROLL:** Did he turn up 28s?

15                   **MS. HALLETT:** From boots. From boots.

16                   **THE COMMISSIONER:** Okay, okay, okay. I don't  
17 know that I need to know that.

18                   **MR. CARROLL:** I thought you ---

19                   **THE COMMISSIONER:** Could you just please  
20 answer the questions and so we can get this completed?

21                   **MR. CARROLL:** Twenty-eight-twenty-six  
22 (2826), please? And if we could turn to Bates page 1010611  
23 ---

24                   **THE COMMISSIONER:** Second page in.

25                   **MR. CARROLL:** --- and 12. The last few

1 words on the -- 611, it is. Do you have it? Okay.

2 As already -- do you have that there, ma'am?

3 **THE COMMISSIONER:** It's on the screen.

4 **MS. HALLETT:** I have the second page. What  
5 paragraph, please?

6 **MR. CARROLL:** Just right at the bottom.  
7 See, yeah, the last few words on that and then the next  
8 page, please, Madam Clerk.

9 **MS. HALLETT:** I -- I did ---

10 **MR. CARROLL:** "As already mentioned, I  
11 Viewed receiving the copy of it from  
12 Hall on February the 8<sup>th</sup> as him covering  
13 his ass."

14 **MS. HALLETT:** Yes.

15 **MR. CARROLL:** But so forget whatever you say  
16 Seguin said to you.

17 **MS. HALLETT:** Okay.

18 **MR. CARROLL:** That's your view and my  
19 question to you is, what was -- to cover your ass, in your  
20 terms, just so we're on the same page here ---

21 **MS. HALLETT:** Yes.

22 **MR. CARROLL:** --- means to protect himself  
23 from some allegation, right?

24 **MS. HALLETT:** Yeah, yes, yeah.

25 **MR. CARROLL:** What was the allegation that



1           you thought he was covering his ass from?

2                       **MS. HALLETT:** I wasn't sure. I didn't know.  
3           I'm just quoting Detective Seguin at this point. I think  
4           what's important in that part of my letter is that I didn't  
5           advert to that document being something that should be  
6           disclosed to the defence.

7                       **MR. CARROLL:** Madam, you're not saying ---

8                       **MS. HALLETT:** And that's what's important.

9                       **MR. CARROLL:** You are saying "I viewed".

10                      **MS. HALLETT:** M'hm.

11                      **MR. CARROLL:** Not "Seguin viewed"; "I viewed  
12           this as a cover-your-ass."

13                      **MS. HALLETT:** Yes, but in what context, Mr.  
14           Carroll? Be fair.

15                      And if you see what I just said earlier in  
16           the very same paragraph, you can see the reason why I'm  
17           using that terminology at this point. Can you see that at  
18           the very beginning of that paragraph on the previous page?

19                      **MR. CARROLL:** "I did not even advert to my  
20                      letter to Dupuis of July 4<sup>th</sup> in relation  
21                      to MacDonald case as being responsive  
22                      to the disclosure request."

23                      You've said that and we understand that.

24                      **MS. HALLETT:** Yes.

25                      **MR. CARROLL:** I just fail to understand what

1           you meant by Pat Hall "covering his ass" if not further  
2           proof for you ---

3                       **MS. HALLETT:** Yeah.

4                       **MR. CARROLL:** --- to ultimately pass on that  
5           the police did give the disclosure to you about Dunlop?

6                       **MS. HALLETT:** He was banging me -- yes, I  
7           think I've already indicated that.

8                       **MR. CARROLL:** Do you agree that I just made  
9           a correct statement there?

10                      **MS. HALLETT:** And it's what I said earlier.  
11           He was beating a dead horse. He was beating me over the  
12           head with this confrontation that I had the notes.

13                      **THE COMMISSIONER:** Yes?

14                      **MS. BETHELL:** Good morning, Mr.  
15           Commissioner. That was actually a very unsatisfactory  
16           objection. I didn't have the proper heels and ability to  
17           get to the microphone.

18                      My objection is simple. Speaking of beating  
19           a dead horse, we've been over this ---

20                      **THE COMMISSIONER:** Yes.

21                      **MS. BETHELL:** --- and I think it would be  
22           appropriate for Mr. Carroll to move on. Thank you.

23                      **THE COMMISSIONER:** Thank you.

24                      Mr. Carroll?

25                      **MR. CARROLL:** I'll follow that invitation.

1 Thank you.

2 THE COMMISSIONER: Thank you.

3 MR. CARROLL: Because there's no doubt that  
4 you would have -- if you directed your mind to the issue of  
5 the Dunlop disclosure, you would have included that and you  
6 would have been pleased to include that memo in your  
7 disclosure, wouldn't you?

8 MS. HALLETT: Yes, if somebody had raised  
9 it, but ---

10 MR. CARROLL: You just didn't think of it?

11 MS. HALLETT: No, I didn't.

12 MR. CARROLL: And you didn't think to ask  
13 Pat Hall about -- "Why are you giving me this?"

14 MS. HALLETT: I didn't, but at the same  
15 time, Mr. Carroll, I have a courtroom commitment, I'm  
16 running a big trial at that point, I'm lead counsel on it,  
17 I've got a lot of issues to deal with and Pat Hall isn't  
18 even around.

19 MR. CARROLL: Well, he's ---

20 MS. HALLETT: I don't think he's in the  
21 building at that - on that day because that's why he had  
22 Seguin deliver it.

23 MR. CARROLL: That's why what?

24 MS. HALLETT: That's why he had Seguin  
25 deliver it.

1                   **MR. CARROLL:** Yeah, that's that day ---

2                   **MS. HALLETT:** Presumably.

3                   **MR. CARROLL:** --- but the two of you, along  
4 with other officers on the team, spend some time getting  
5 the disclosure together on the 15<sup>th</sup> and 16<sup>th</sup>?

6                   **MS. HALLETT:** Yes, we did.

7                   **MR. CARROLL:** So you're in the same room.  
8 You're putting the disclosure material ---

9                   **MS. HALLETT:** Not with Hall.

10                  **MR. CARROLL:** Madam, you ---

11                  **MS. HALLETT:** Not with Hall.

12                  **MR. CARROLL:** He didn't assist you in  
13 getting the disclosure together?

14                  **MS. HALLETT:** As I recall, those two days  
15 were spent at Long Sault with Marion Burns and with  
16 Detective Seguin and Dupuis, but I can't recall that Hall  
17 was even there because that's why, Mr. Carroll, I left a  
18 letter for Hall dated the 16<sup>th</sup>.

19                  **MR. CARROLL:** Knowing -- sorry?

20                  **MS. HALLETT:** That was the Friday, and I  
21 wanted -- there were items that we hadn't been able to come  
22 up with, that we hadn't yet been able to collect because of  
23 time pressures, and I left that memo for Detective  
24 Inspector Hall because he wasn't there.

25                  **MR. CARROLL:** Actually, he was gone for a

1 period of that time, but you're saying that he was not  
2 there to assist in the getting together of the disclosure  
3 materials?

4 **MS. HALLETT:** Not on the 15<sup>th</sup> and 16<sup>th</sup>, no.

5 **MR. CARROLL:** And you knew he was out of  
6 town, ultimately until the 19<sup>th</sup>?

7 **MS. HALLETT:** Yes, well -- no. I left a  
8 letter thinking that he would be able to pick it up perhaps  
9 that Friday. I wasn't sure where he was going to be, but I  
10 knew that he would be coming -- he might have been coming  
11 in over the week-end and been able to see it or at least he  
12 would get it on the Monday, the 19<sup>th</sup>.

13 **MR. CARROLL:** I may have to come back to  
14 that, but you're saying you didn't know he was out of town  
15 until the 19<sup>th</sup>?

16 **MS. HALLETT:** I knew he wasn't with us at  
17 the Long Sault Detachment and I wasn't sure when he was  
18 coming in, but I thought there was a possibility he would  
19 be in on the Friday night or over the weekend.

20 **MR. CARROLL:** Let's do it this way.  
21 You did have dinner with him on the 19<sup>th</sup>?

22 **MS. HALLETT:** I did, with him and Inspector  
23 Hall -- Inspector Smith.

24 **MR. CARROLL:** Smith, right.

25 So any discussion, did you ask him, "Pat,

1           why did you put 'for your information'? Why did you have  
2           that delivered to me?"

3                   **MS. HALLETT:** No.

4                   **MR. CARROLL:** Why not?

5                   **MS. HALLETT:** Not at that point. Well, I  
6           didn't even advert to it, Mr. Carroll ---

7                   **MR. CARROLL:** All right.

8                   **MS. HALLETT:** --- and I must say, too, by  
9           the same token, he never raised any concerns that he had  
10          about my not disclosing that item in the course of that  
11          dinner with him. And we had a very pleasant dinner, I have  
12          to say. We had laughs, we drank, but we were also on topic  
13          in terms of what was going in at this trial.

14                                But I never sensed from him that he was  
15          concerned in any way with a failure on my part to disclose  
16          anything. I would have -- I wish that he had told me about  
17          his concerns if he did have them at that point.

18                   **MR. CARROLL:** Is that still 2826 on the  
19          screen? Thank you. Second page of that document, please,  
20          which is Bates page 611.

21                                "Detective..."

22          -- third paragraph:

23                                "Detective Inspector Hall was out of  
24          town but scheduled to be back in town  
25          on Monday, February the 19<sup>th</sup>."

1           **MS. HALLETT:** M'hm.

2                   **MR. CARROLL:** Those are your words?

3                   **MS. HALLETT:** Yes, I wrote this, m'hm.

4                   **MR. CARROLL:** So you were aware that he  
5 would not be back until the 19<sup>th</sup>?

6                   **MS. HALLETT:** He was scheduled to be back in  
7 town on the 19<sup>th</sup> ---

8                   **MR. CARROLL:** Right.

9                   **MS. HALLETT:** --- but I wasn't sure, and  
10 that's why I left a letter at the Long Sault Detachment  
11 dated February 16<sup>th</sup> for him. I wasn't sure when he was  
12 coming back into town as opposed to being scheduled to be  
13 back into town. Do you see what I'm saying?

14                   **MR. CARROLL:** All of the information that  
15 you had was that he would be back in town on the 19<sup>th</sup>?

16                   **MS. HALLETT:** Yes.

17                   **MR. CARROLL:** All right. And you left a  
18 memo for him with respect to disclosure which was ---

19                   **MS. HALLETT:** Further disclosure.

20                   **MR. CARROLL:** Right. And when was he  
21 scheduled to testify?

22                   **MS. HALLETT:** M'hm ---

23                   **MR. CARROLL:** Twentieth? Twenty-first?

24                   **MS. HALLETT:** I think that we were supposed  
25 to have started on the 19<sup>th</sup>, but ---

1                   **MR. CARROLL:** All right.

2                   Is there any particular reason why you would  
3                   have left, knowing the urgency of getting this disclosure -  
4                   --

5                   **MS. HALLETT:** Yes?

6                   **MR. CARROLL:** --- to the defence -- knowing  
7                   the urgency of getting the disclosure to the defence and  
8                   knowing that he was not scheduled to be back until the 19<sup>th</sup>,  
9                   you left some matters unanswered?

10                  **MS. HALLETT:** I had done what I could. I  
11                  had -- Detective Seguin had taken what we had collected.  
12                  There were a few outstanding items. I left -- as I recall,  
13                  I left it with Marion or on Marion's desk to bring to Hall  
14                  -- Pat's attention, and, you know, the officers start  
15                  fairly early in the morning and I thought between Marion  
16                  and Detective Hall, the two of them might be able to come  
17                  up with the remaining items on the list by the time we  
18                  started -- or by the time we started.

19                  **MR. CARROLL:** On the 19<sup>th</sup>, at dinner, was  
20                  that Casa Paolo just down from the hotel, right?

21                  **MS. HALLETT:** That's right.

22                  **MR. CARROLL:** You didn't bring with you your  
23                  answer to the disclosure requests from the defence to go  
24                  over with Hall, did you?

25                  **MS. HALLETT:** No, I didn't. I ---



1                   **MR. CARROLL:** So -- and he -- and that was  
2 something that you compiled and submitted, apparently in  
3 his absence?

4                   **MS. HALLETT:** That's right, but ---

5                   **MR. CARROLL:** Okay.

6                   **MS. HALLETT:** --- you know, that's the way  
7 we had been communicating. There had been no glitch in  
8 communication of this nature before.

9                   **MR. CARROLL:** Okay, but I'm just -- my point  
10 is this.

11                   You didn't tell Hall on the 19<sup>th</sup> at dinner,  
12 you didn't say to him, "This is what we've disclosed", did  
13 you?

14                   **MS. HALLETT:** I don't know that I didn't do  
15 that.

16                   **MR. CARROLL:** Well you didn't bring the  
17 response to the defence with you.

18                   **MS. HALLETT:** I don't think I did but we did  
19 -- I have to be frank here. You're asking me -- we spent  
20 some time in my hotel room before we went to dinner ---

21                   **MR. CARROLL:** Yeah?

22                   **MS. HALLETT:** --- and that was for the  
23 purpose of discussing the stay, and I may very well -- I  
24 know I had my file there, so I -- there were a number of  
25 things that we discussed and that was the reason of

1 meeting, was to get ready for this stay.

2 So I'm not going to simply agree that there  
3 wasn't any discussion of disclosure in the course of that  
4 evening.

5 **MR. CARROLL:** No, no. I'm talking about  
6 advising Hall of what you had disclosed as of the 19<sup>th</sup>. You  
7 did not ---

8 **MS. HALLETT:** I may have done that.

9 **MR. CARROLL:** You don't have an independent  
10 recollection of doing it?

11 **MS. HALLETT:** No, but I -- no, I don't, but  
12 I can't say that I didn't. That's what -- that was the  
13 reason for spending so much time together this night.

14 **MR. CARROLL:** Okay. Did you ask Hall how's  
15 he doing with this -- at dinner on the 19<sup>th</sup> ---

16 **MS. HALLETT:** M'hm?

17 **MR. CARROLL:** ---did you ask Hall, or why  
18 didn't you ask him, "What about the extra disclosure stuff  
19 I left for you to do. Did you do it?"

20 **MS. HALLETT:** I don't recall asking that  
21 but, and this is a credit to Detective Hall, because he is  
22 so diligent, I assumed it would get done.

23 **MR. CARROLL:** You left it at that?

24 **MS. HALLETT:** I -- everything had --  
25 generally, all of these kind of requests for three years,

1           there hadn't been a problem with him, okay? We had a good  
2           working relationship and it was like passing the puck,  
3           okay?

4                       **MR. CARROLL:** Like what?

5                       **MS. HALLETT:** Passing the puck. Okay, I  
6           left ---

7                       **THE COMMISSIONER:** Oh, the puck?

8                       **MR. CARROLL:** Yes, I --

9                       **THE COMMISSIONER:** The puck.

10                      **MR. CARROLL:** That comes later.

11                      I'd like to move to your awareness -- on  
12           February the 20<sup>th</sup>, you were aware that the defence -- that  
13           the police were going to meet with defence counsel? You  
14           became ---

15                      **MS. HALLETT:** I'm sorry?

16                      **MR. CARROLL:** They made -- the police made  
17           you aware ---

18                      **MS. HALLETT:** Yes?

19                      **MR. CARROLL:** --- that given they were going  
20           to be witnesses on the defence application to stay ---

21                      **MS. HALLETT:** Yes.

22                      **MR. CARROLL:** --- they -- it was decided by  
23           Smith, and agreed to by all parties, that it would be a  
24           good idea to go and find out what kind of questions they  
25           were going ask?

1                   **MS. HALLETT:** Yes.

2                   **MR. CARROLL:** Yes.

3                   **MS. HALLETT:** Detective Inspector Smith came  
4 and asked about that. I found it -- I found that unusual.

5                   **MR. CARROLL:** Unusual to go and try and find  
6 out what you're going to be questioned about?

7                   **MS. HALLETT:** Yes, because usually it's the  
8 other way around. Usually, it's defence counsel who are  
9 asking to -- for an opportunity to inspect the police  
10 officer's notes.

11                   **MR. CARROLL:** Do you think ---

12                   **MS. HALLETT:** Usually, you can't assume --  
13 police officers can't assume that defence are going to  
14 simply open up and let you know what their strategy is  
15 going to be, what questions they're going to ask, on this  
16 kind of a stay.

17                   Usually it's the other way around, okay?  
18 That is, the defence are coming to you, the Crown, and  
19 asking, "Can we take a look at the police officer's notes?"  
20 Okay? "Just -- this will save time in court."

21                   So I was a little bit flummoxed, I have to  
22 say, by the -- sort of, the turning of the tables here.

23                   **MR. CARROLL:** Do you think it was unwise for  
24 the officers to try and find out what they were going to be  
25 asked?

1 MS. HALLETT: No.

2 MR. CARROLL: All right.

3 MS. HALLETT: I didn't. It was a great  
4 idea. In fact ---

5 MR. CARROLL: And -- but you termed it, in  
6 your evidence here, as a "reconnaissance mission"?

7 MS. HALLETT: Yes.

8 MR. CARROLL: And I understand that term,  
9 and you correct me if I'm wrong ---

10 MS. HALLETT: Yes.

11 MR. CARROLL: -- what you meant by that is,  
12 "the officers are going to go and find out what are these  
13 guys up to and then they'll report back and we'll have a  
14 discussion"?

15 MS. HALLETT: Yes. That's right.

16 MR. CARROLL: Right.

17 MS. HALLETT: But, I must say, it's the  
18 first time in the twenty years I've practised that I'd  
19 ever, sort of, seen that, okay?

20 MR. CARROLL: There are -- new things happen  
21 every day ---

22 MS. HALLETT: Yes.

23 MR. CARROLL: --- you know that.

24 MS. HALLETT: Yes, twenty years.

25 MR. CARROLL: At some point after that

1 meeting, officers come to your room and ask to borrow a  
2 copy of the July 4<sup>th</sup> memo; Seguin and Dupuis?

3 MS. HALLETT: Yes, but, you know, there's  
4 something else before that. I -- you know, Hall had failed  
5 to come to my room to debrief me on what had happened with  
6 the defence.

7 MR. CARROLL: There is a dispute in the  
8 evidence, ma'am. They say ---

9 MS. HALLETT: Is there? Okay.

10 MR. CARROLL: --- they came and you say they  
11 didn't ---

12 MS. HALLETT: Oh -- not ---

13 MR. CARROLL: --- on time, right?

14 MS. HALLETT: Right.

15 MR. CARROLL: It's a question of time.

16 MS. HALLETT: Very well.

17 MR. CARROLL: Smith was there ---

18 MS. HALLETT: Very well.

19 MR. CARROLL: --- was he not when they came  
20 and got the -- either got the memo or brought the copy back  
21 to you?

22 MS. HALLETT: Yes, after I ---

23 MR. CARROLL: So you ---

24 MS. HALLETT: --- had asked Detective Hall  
25 to go and get him from the bar.

1                   **MR. CARROLL:** So Smith was there?

2                   **MS. HALLETT:** Yes, he was.

3                   **MR. CARROLL:** So you had an opportunity to  
4 ask Smith what was said, what happened at that meeting?

5                   **MS. HALLETT:** Yes, and he was very vague.

6                   **MR. CARROLL:** Very vague?

7                   **MS. HALLETT:** Yes. And, I must say, he did  
8 not tell me that there had been this agreement with the  
9 defence to obtain this letter, or -- and provide it to the  
10 defence, the copy of my letter; that they never -- he never  
11 mentioned that, and neither did Hall when I asked him what  
12 happened at the meeting that day, nor did either of the  
13 officers who came to get that letter.

14                   **MR. CARROLL:** I'm going to suggest to you,  
15 ma'am, you never asked that question. You didn't ---

16                   **MS. HALLETT:** Pardon me?

17                   **MR. CARROLL:** --- ask anything about the  
18 meeting? You did not ask anything about the meeting when  
19 you spoke with them.

20                   **MS. HALLETT:** To whom?

21                   **MR. CARROLL:** To Hall or Smith.

22                   **MS. HALLETT:** Oh ---

23                   **MR. CARROLL:** You didn't inquire.

24                   **MS. HALLETT:** --- Mr. Carroll, that's not  
25 true.

1                   **MR. CARROLL:** No? Okay.

2                   **MS. HALLETT:** That's not true. That's  
3 specifically what I ---

4                   **MR. CARROLL:** Okay.

5                   **MS. HALLETT:** --- wanted to find out about.

6                   **MR. CARROLL:** Let's -- let's focus on this  
7 then.

8                   You've got this letter that Hall's delivered  
9 to you on the 8<sup>th</sup> and you're wondering, you know, he's  
10 beating a dead horse, whatever your expression was ---

11                   **MS. HALLETT:** You know what? That's  
12 history.

13                   **MR. CARROLL:** No, it's not.

14                   **MS. HALLETT:** That is history, by that  
15 point.

16                   **MR. CARROLL:** Because this comes up again  
17 that very day.

18                   **MS. HALLETT:** Okay.

19                   **MR. CARROLL:** Now this letter's up again;  
20 "Can we have it back to make a copy?"

21                   **MS. HALLETT:** M'hm.

22                   **MR. CARROLL:** And then they bring it back to  
23 you. Why didn't you ask at that point, "What's going on  
24 with this letter that you need it again?"

25                   **MS. HALLETT:** No. I -- I had no concern



1 about it, and you -- you haven't gotten exactly what  
2 happened right, okay?

3 As I believe I've testified, Detective  
4 Seguin called me and said, "Shelley, do you know what --  
5 have you gone through our boxes?" Okay? So they -- he'd  
6 thought I'd gone through their boxes in court, and I said,  
7 no, and he asked me, "Well, do you know -- you know that  
8 letter that you wrote to Dupuis of July the 4<sup>th</sup> of 2000?"  
9 "Yes." "Well, do you have it?" Or, no -- "We can't find  
10 it". I believe that's what he said, "We can't find it".

11 And I thought, I -- I didn't know what he  
12 wanted it for, but I -- I had no problem, I said, "Well --"  
13 -- I assumed that Detective Inspector Hall wanted to keep  
14 his files intact, keep everything in order, every -- "don't  
15 let anything out of the file", and so I invited the  
16 officers. I said, "Listen, you're welcome to come down,  
17 get it from me, make a copy. That's fine, come on -- come  
18 on over, come on down."

19 **MR. CARROLL:** And it never connected in your  
20 mind ---

21 **MS. HALLETT:** No. No.

22 **MR. CARROLL:** This is all in the -- and  
23 during this timeframe, it's getting disclosure ready to be  
24 handed over to read this -- this request from -- from the  
25 defence?

1 MS. HALLETT: Yes, but ---

2 MR. CARROLL: All right?

3 MS. HALLETT: --- that -- that, to me -- as  
4 I say, I never adverted to this item being ---

5 THE COMMISSIONER: Okay, you ---

6 MS. HALLETT: --- something that should be  
7 disclosed.

8 THE COMMISSIONER: Thank you. Let's carry  
9 on.

10 MR. CARROLL: All right, that's fine.

11 MS. HALLETT: And especially after my ---

12 THE COMMISSIONER: Okay.

13 MR. CARROLL: Mr. Hall testified on the 21<sup>st</sup>.

14 MS. HALLETT: And 22<sup>nd</sup>, m'hm.

15 MR. CARROLL: Just to situate you, maybe I  
16 can assist.

17 MS. HALLETT: M'hm.

18 MR. CARROLL: You had dinner with Jim  
19 Stewart on the night of the 21<sup>st</sup>?

20 MS. HALLETT: Yes, I did.

21 MR. CARROLL: And Hall is still in  
22 examinations ---

23 MS. HALLETT: In-chief.

24 MR. CARROLL: --- as I understood your  
25 evidence.

1 MS. HALLETT: Yes, he's in-chief.

2 MR. CARROLL: Okay, so he called -- does  
3 that assist you in fixing the date, that ---

4 MS. HALLETT: Yes.

5 MR. CARROLL: --- Hall was testifying on the  
6 21<sup>st</sup>?

7 MS. HALLETT: Yes.

8 MR. CARROLL: And in that testimony, he made  
9 it abundantly clear that in his view the Crown had -- not  
10 only did the police not intentionally withhold disclosure,  
11 but the Crown had not done so?

12 MS. HALLETT: On that particular day?

13 MR. CARROLL: Either that day or the next  
14 day.

15 MS. HALLETT: Well, the next day it was in  
16 the context of my asking about that letter. It was after  
17 that letter had been introduced, right? So, I mean, it's  
18 important to keep the dates straight here.

19 MR. CARROLL: Did Detective Inspector Hall  
20 ultimately testify ---

21 MS. HALLETT: M'hm?

22 MR. CARROLL: --- on the 21<sup>st</sup>, 22<sup>nd</sup> ---

23 MS. HALLETT: M'hm?

24 MR. CARROLL: --- that the Crown -- in his  
25 view -- the Crown did not intentionally withhold any

1 disclosure?

2 MS. HALLETT: In response to my questions,  
3 yes, he admitted ----

4 MR. CARROLL: Under oath ---

5 MS. HALLETT: Yes, that ---

6 MR. CARROLL: --- he said that?

7 MS. HALLETT: --- I had not intentionally  
8 withheld that letter from the defence.

9 MR. CARROLL: Or any other disclosure,  
10 right?

11 MS. HALLETT: Yes, I believe so.

12 MR. CARROLL: Yes. All right.

13 And Dupuis testified to the same effect,  
14 that from his -- in his belief ---

15 MS. HALLETT: M'hm?

16 MR. CARROLL: --- he testified, under oath,  
17 that the -- not only did the police not intentionally  
18 withhold anything, but that the Crown -- you -- did not  
19 intentionally withhold any material disclosure for the  
20 defence; correct?

21 MS. HALLETT: Yes, but he also testified,  
22 Mr. Carroll, that the police couldn't find the letter and  
23 that, unfortunately, created a suspicion around me that was  
24 palpable in the court that day, that somehow I had had  
25 something to do with trying to suppress that letter.

1                   **MR. CARROLL:** That may have been a  
2 conclusion others drew, ma'am, but the ---

3                   **MS. HALLETT:** Well, Mr. Justice Chadwick  
4 did.

5                   **MR. CARROLL:** --- plain words -- the plain -  
6 - yes, we're going to get to that in a minute.

7                   **MS. HALLETT:** Okay.

8                   **MR. CARROLL:** The plain words of his  
9 testimony was to exonerate -- in his view, exonerate you  
10 from any malfeasance whatsoever; correct?

11                   **MS. HALLETT:** Yes, the words were one thing,  
12 but the -- the inference to be drawn from their actions was  
13 another, and that -- and certainly the defence drew  
14 inferences and invited the court to draw inferences from  
15 their actions.

16                   **MR. CARROLL:** That's fine. That's what they  
17 did. And, ultimately -- let's cut to the chase here on  
18 something.

19                   Mr. Justice Chadwick, with all due respect,  
20 according to the Court of Appeal, got it wrong.

21                   **MS. HALLETT:** Yes.

22                   **MR. CARROLL:** The defence argument was not  
23 tenable ---

24                   **MS. HALLETT:** M'hm?

25                   **MR. CARROLL:** --- Justice Chadwick bought

1 that argument, made his decision, and the Court of appeal  
2 said he was wrong.

3 MS. HALLETT: Yes.

4 MR. CARROLL: So inferences -- arguments  
5 were made ---

6 MS. HALLETT: Yes.

7 MR. CARROLL: --- for the defence,  
8 inferences were drawn by the judge ---

9 MS. HALLETT: Yes.

10 MR. CARROLL: --- and they turned out to be  
11 wrong.

12 MS. HALLETT: Yes, but ---

13 MR. CARROLL: But ---

14 MS. HALLETT: But the inferences were drawn  
15 by the defence based on the actions of the officers, and  
16 Justice Chadwick was invited to act on those inferences,  
17 and did.

18 MR. CARROLL: Justice Chadwick, according to  
19 the Court of Appeal, got it wrong, didn't he ---

20 MS. HALLETT: Yes.

21 MR. CARROLL: --- in many respects?

22 MS. HALLETT: Yes.

23 MR. CARROLL: Okay.

24 Now, once Hall and Dupuis had finished  
25 testifying -- and this goes back to something that came up

1           yesterday and I just wanted to clarify it -- Tim Smith was  
2           still -- hadn't -- had not yet been called by the defence,  
3           right?

4                   **MS. HALLETT:** Yes, that's right.

5                   **MR. CARROLL:** All right. And you became  
6           aware that he was not going to be called by the defence?

7                   **MS. HALLETT:** Yes, Detective Hall told me --  
8           -

9                   **MR. CARROLL:** All right.

10                  **MS. HALLETT:** --- at the end of that day.

11                  **MR. CARROLL:** He was still available to you  
12           -- and I think that you can do this, just yes or no -- he  
13           was still available to you to call as a witness ---

14                  **MS. HALLETT:** M'hm.

15                  **MR. CARROLL:** --- wasn't he?

16                  **MS. HALLETT:** Yes, m'hm.

17                  **MR. CARROLL:** Okay.

18                           You've heard Dupuis testify ---

19                  **MS. HALLETT:** M'hm.

20                  **MR. CARROLL:** -- and you've heard Hall  
21           testify. You've just put it -- your characterization on  
22           their evidence now, and you knew the questions that were  
23           being put to them?

24                  **MS. HALLETT:** Yes.

25                  **MR. CARROLL:** Yesterday -- and I believe it

1 was counsel for Mr. Leduc was asking you about this and why  
2 you didn't call Smith.

3 MS. HALLETT: Right.

4 MR. CARROLL: And you gave an answer.

5 MS. HALLETT: M'hm.

6 MR. CARROLL: And you said, "I assumed the  
7 defence was conceding their failure to show that the lack  
8 of disclosure was intentional".

9 MS. HALLETT: Is that what I said?

10 MR. CARROLL: Yes.

11 MS. HALLETT: Okay.

12 MR. CARROLL: I'm paraphrasing the last few  
13 words ---

14 MS. HALLETT: I thought I might have been  
15 more articulate.

16 MR. CARROLL: --- but that's ---

17 MS. HALLETT: Okay.

18 MR. CARROLL: You thought you were more  
19 articulate?

20 MS. HALLETT: I thought I ---

21 MR. CARROLL: Well, then just a moment,  
22 ma'am, and I'll see if I can read my writing.

23 MS. HALLETT: Okay.

24 MR. CARROLL: Because I have no doubt you  
25 are an articulate woman:



1 "I assumed the defence was conceding that  
2 that failure to disclose was  
3 intentional."

4 So you came to the conclusion at the end of  
5 -- that's why you didn't call Smith, you said yesterday.

6 MS. HALLETT: M'hm.

7 MR. CARROLL: So ---

8 MS. HALLETT: Well, I ---

9 MR. CARROLL: All right.

10 MS. HALLETT: To tell you the truth, I never  
11 adverted to calling Smith. At the point that Detective  
12 Inspector Hall told me that they're not calling Smith,  
13 that's when I -- I realized what had occurred here, or I  
14 assumed what had occurred in terms of just circumstance --  
15 I was drawing my own conclusions from the circumstances.

16 MR. CARROLL: Do you accept what I just read  
17 back to you ---

18 MS. HALLETT: Yes.

19 MR. CARROLL: --- as being your position  
20 today?

21 MS. HALLETT: If that's what I said.

22 MR. CARROLL: That's what you -- under oath  
23 you've told us now ---

24 MS. HALLETT: Okay.

25 MR. CARROLL: --- you believed it's over,

1           they're giving up, right? And my question is very simple.

2                       **MS. HALLETT:** Well, in terms of the --  
3           perhaps in terms of the wilfulness.

4                       **MR. CARROLL:** Yeah.

5                       **MS. HALLETT:** M'hm.

6                       **MR. CARROLL:** And I think you said earlier  
7           in-chief that there's a major distinction, based on your  
8           knowledge of the law ---

9                       **MS. HALLETT:** Right.

10                      **MR. CARROLL:** --- between mere inadvertence,  
11           which is considered a human frailty and certainly not  
12           worthy of a stay ---

13                      **MS. HALLETT:** Right.

14                      **MR. CARROLL:** --- or intentional malfeasance  
15           by intentionally withholding disclosure.

16                      **MS. HALLETT:** Right.

17                      **MR. CARROLL:** So you were of the view that  
18           they'd abandoned that prong of their application or that  
19           aspect of an application that would get them the remedy  
20           they were seeking; correct?

21                      **MS. HALLETT:** Yes, which was astonishing, in  
22           view of the fact that two days later they had taken a very  
23           strong stance against the police officers.

24                      **MR. CARROLL:** We'll get to two days later.

25                      **MS. HALLETT:** M'hm.

1                   **MR. CARROLL:** Your mindset, as at the end of  
2                   Hall's evidence, is their application is finished. Why  
3                   didn't you go to ---

4                   **MS. HALLETT:** No.

5                   **MR. CARROLL:** --- the defence. Excuse me --  
6                   -

7                   **THE COMMISSIONER:** He's asking a question.

8                   **MS. HALLETT:** M'hm.

9                   **THE COMMISSIONER:** Let him finish.

10                  **MR. CARROLL:** Finished, in a sense of they  
11                  were acknowledging by not calling Smith, that they weren't  
12                  going to get what they wanted. They weren't going to be  
13                  able to prove intentional withholding.

14                                 Why didn't you go to defence if that was  
15                  your mindset and say, "Are you abandoning your  
16                  application?" Why didn't you do that?

17                  **MS. HALLETT:** I didn't -- okay, I'm sorry,  
18                  Mr. Carroll. I -- there's only one conclusion, I must say,  
19                  that I drew from the defence failure to call Detective  
20                  Smith and that's -- and that was that there had been some  
21                  sort of agreement between the defence and the police to  
22                  somehow let the Crown take the fall for this stay, okay?

23                                 And I have to say I know I was asked  
24                  yesterday, "Well, you know, why didn't you call Smith?" and  
25                  I'm not sure that I was thinking in terms of the stay at

1           that point. I was thinking in -- or, you know, the  
2           evidence. I was thinking in terms of what had gone on in  
3           relation to the disclosure of this letter from Hall and I  
4           connected -- and perhaps erroneously -- but I did connect  
5           that disclosure without my notice -- of my letter with the  
6           sudden decision of the defence to let Smith drop from the  
7           list of witnesses that they were going to call.

8                        So I may have made a mistake there, but I  
9           did connect those two facts.

10                      **MR. CARROLL:** I'm more interested in your  
11           testimony under oath yesterday.

12                      **MS. HALLETT:** Yes, right.

13                      **MR. CARROLL:** Where you -- and you swore  
14           under oath ---

15                      **MS. HALLETT:** Right.

16                      **MR. CARROLL:** --- yesterday that ---

17                      **MS. HALLETT:** Okay.

18                      **MR. CARROLL:** --- you were -- the reason you  
19           didn't call Smith ---

20                      **MS. HALLETT:** Right.

21                      **MR. CARROLL:** --- is you assumed they were  
22           going to give up on their application.

23                      **MS. HALLETT:** Well, I'm not sure that I did  
24           put my mind to that. The only reason I thought they  
25           weren't calling Smith was because the focus of the

1 application was changing -- the target.

2 **MR. CARROLL:** I may be mistaken, ma'am, but  
3 I thought that you only -- that only crystallized in your  
4 mind when you heard the submissions on the 26<sup>th</sup>?

5 **MS. HALLETT:** No, because I have testified  
6 that I confronted Detective Hall with that at the end of  
7 the day on February the 22<sup>nd</sup> and I did -- I was upfront with  
8 him about what I felt was going on at that point.

9 **MR. CARROLL:** And I guess to get to that,  
10 you came to the conclusion -- or at least a preliminary  
11 conclusion which you certainly had in mind as of the 26<sup>th</sup> of  
12 after the 26<sup>th</sup> ---

13 **MS. HALLETT:** Right, m'hm.

14 **MR. CARROLL:** --- that the police officers  
15 involved in this case, and specifically Hall, had made some  
16 kind of unholy deal with the defence, "Let us off the hook  
17 and we'll give you the ammunition to point the finger at  
18 the Crown". I'm paraphrasing but that was your mindset,  
19 wasn't it?

20 **MS. HALLETT:** I had grave concerns that that  
21 had occurred, and that had impact not only on me but on the  
22 trial and on the reputation of the administration of  
23 justice.

24 **MR. CARROLL:** And I just want to understand  
25 something, and there's a new document and copies are here,

1       sir, and it's 116152 and it's the evidence -- submissions,  
2       rather -- on the 26<sup>th</sup>. Copies have already been passed out  
3       to the parties, sir. And ---

4                   **THE COMMISSIONER:** Just a minute.

5                   Exhibit 3273 is a transcript of proceedings,  
6       *R. v. Leduc*, on stay of proceedings and submissions on  
7       February 26<sup>th</sup>, 2001.

8       **--- EXHIBIT NO./PIÈCE NO. P-3273:**

9                   (116152) - Proceedings on Application for  
10                  Stay of Proceedings re: Jacques Leduc dated  
11                  February 26, 2001

12                  **MR. CARROLL:** Now, I'm going to make, if I  
13       witness -- you can flip up -- oh, wait, I'll point you  
14       to the Bates page in a minute.

15                  **MS. HALLETT:** M'hm.

16                  **MR. CARROLL:** I'm going to make two comments  
17       on the evidence and I'm going to read a passage and then  
18       I'll ask you for your comments, okay?

19                  **MS. HALLETT:** Okay then.

20                  **MR. CARROLL:** By the 26<sup>th</sup>, both Officers Hall  
21       and Dupuis, with the evidence that you've given around the  
22       answers, you do acknowledge, testified under oath that they  
23       didn't believe you had intentionally -- you personally --  
24       had intentionally withheld anything from the defence;  
25       correct?

1                   **MS. HALLETT:** Yes.

2                   **MR. CARROLL:** And then if you can go to  
3                   Bates page 090 of the -- the pagination is 41 in the actual  
4                   transcript. And these are the submissions of Mr. Campbell  
5                   on the 26<sup>th</sup>. And just for the benefit of those who haven't  
6                   read the whole transcript, Campbell dealt with the police  
7                   and Mr. Skurka dealt with the Crown in broad strokes,  
8                   correct, in terms of submissions?

9                   **MS. HALLETT:** Okay.

10                  **MR. CARROLL:** All right.

11                  And I'm just going to read a couple of  
12                  passages. There are numerous references to their view with  
13                  respect to the police, but just a couple here. Line 20,  
14                  page 41:

15                                "By June 18<sup>th</sup>, '98 three senior officers  
16                                on this case know about Dunlop's  
17                                contact with C-16's mother, an  
18                                important figure in the genesis of the  
19                                whole Leduc prosecution. They know  
20                                about that contact, they talk about it,  
21                                they confront Dunlop about it. They  
22                                are sensitive to the need for  
23                                disclosure about it, but two of them  
24                                make no notes of it and the one note  
25                                that is made doesn't make it into the

1 disclosure brief. The result is that  
2 the defence knows nothing about until  
3 the trial of this case in early 2001 is  
4 two-thirds over."

5 **MS. HALLETT:** M'hm.

6 **MR. CARROLL:** "Inspector Hall and  
7 Inspector (sic) Dupuis, however, have  
8 sworn that nondisclosure in 1998 was  
9 not wilful and that they were not  
10 attempting to conceal anything from the  
11 defence and they were not attempting to  
12 protect their cases from his  
13 contamination."

14 **MS. HALLETT:** M'hm.

15 **MR. CARROLL:** Then he goes on to say the  
16 following:

17 "Accepting that evidence requires  
18 Your Honour to infer good faith where  
19 bad faith seems to be a more logical  
20 explanation for the omission of the  
21 note from the disclosure and for the  
22 failure to make a note, and it requires  
23 you to accept coincidence in the  
24 absence of that note from the  
25 disclosure package, but it is open to



1                   Your Honour to do that if you believe,  
2                   on the balance of probabilities, the  
3                   evidence of Dupuis and Hall about their  
4                   lack of wilful intent. There is, I  
5                   would submit, a cogent circumstantial  
6                   case for the wilfulness of the non-  
7                   disclosure, but on this issue, the  
8                   police nondisclosure, there is evidence  
9                   under oath in the opposite direction as  
10                  well, and we leave it to Your Honour's  
11                  determination..."

12                  Et cetera.

13                  **MS. HALLETT:** No, no, not "et cetera",  
14                  Mr. Carroll, because ---

15                  **MR. CARROLL:** "...and an evaluation of the  
16                  good faith and indeed honesty of the  
17                  officers who gave the evidence."

18                  **MS. HALLETT:** Yes.

19                  **MR. CARROLL:** Yeah.

20                  **MS. HALLETT:** And I'm glad you brought that  
21                  passage to the attention of the tribunal because I have  
22                  some comments on this passage too.

23                  **MR. CARROLL:** I'd like you to answer my  
24                  questions first and then ---

25                  **MS. HALLETT:** Okay, then.

1                   **MR. CARROLL:** --- you'll be given an  
2                   opportunity to make comments perhaps later.

3                   **MS. HALLETT:** M'hm.

4                   **MR. CARROLL:** Do you agree that the defence  
5                   here is suggesting that even though obviously it's up to a  
6                   tribunal to accept all, some or none of a witnesses  
7                   evidence?

8                   **MS. HALLETT:** Yes. M'hm.

9                   **MR. CARROLL:** It's -- that this lawyer is  
10                  saying to this judge that there is cogent -- and we'll  
11                  agree cogent means what to you?

12                  **MS. HALLETT:** Compelling.

13                  **MR. CARROLL:** Compelling evidence ---

14                  **MS. HALLETT:** M'hm.

15                  **MR. CARROLL:** --- to find that their  
16                  evidence is not truthful but rather that they wilfully  
17                  failed to disclose. That's what he's saying to them. To  
18                  the judge isn't it?

19                  **MS. HALLETT:** He's saying that but he's  
20                  pulling a punch here, I have to say.

21                  **MR. CARROLL:** He's what?

22                  **MS. HALLETT:** The -- I circled this passage,  
23                  in fact, as the one that demonstrates that the defence is  
24                  making a remarkable submission at this point. They're  
25                  actually inviting the court to consider the evidence of the

1 police officers under oath going in the opposite direction.

2 And, therefore, as far as I'm concerned,  
3 they're very much soft pedalling their argument in relation  
4 to the police officers on the stay, and if you contrast  
5 this argument, this what I consider to be pulling a punch,  
6 and I'm wearing my appellate counsel's hat at this point,  
7 okay, when I compare this passage on the comment -- in  
8 terms of the comments on the police action and the passage  
9 in which they are inviting the court to make a finding  
10 against me, there is a dramatic difference, Mr. Carroll.

11 **MR. CARROLL:** There may well be. There may  
12 well be. But there is -- in your interpretation ---

13 **MS. HALLETT:** M'hm.

14 **MR. CARROLL:** --- this lawyer is pulling  
15 punches.

16 **MS. HALLETT:** Yes.

17 **MR. CARROLL:** He is making an -- do you  
18 disagree with his positions in law, that is, that it's open  
19 to a trier of fact to make a determination on the  
20 credibility of any witness. Do you disagree with that?

21 **MS. HALLETT:** That's not -- that's not the  
22 kind of argument a defence counsel makes when he's inviting  
23 the court to find wilful non-disclosure by a police  
24 officer.

25 **MR. CARROLL:** He's saying that's the sworn

1 evidence, however, there is cogent circumstantial case for  
2 wilful non-disclosure. He's not giving them a pass. He's  
3 putting it to the judge that certainly open on the  
4 evidence, compelling evidence ---

5 **MS. HALLETT:** M'hm.

6 **MR. CARROLL:** --- that they are guilty of  
7 what they say they are.

8 **MS. HALLETT:** And the end:

9 "And we leave for Your Honour's  
10 determination an evaluation of the  
11 good faith and indeed honesty of the  
12 officers who gave that evidence."

13 **MR. CARROLL:** So in the face of sworn  
14 evidence from the officers ---

15 **MS. HALLETT:** M'hm.

16 **MR. CARROLL:** --- that you didn't withhold  
17 intentionally any evidence and in the face of submissions  
18 from the defence inviting the judge to find the police  
19 intentionally withheld, you somehow interpret that as the  
20 defence having made a deal to submarine you and save them?

21 **MS. HALLETT:** I find this a remarkable  
22 submission in these circumstances, in all of these  
23 circumstances.

24 **MR. CARROLL:** Right. That then -- is that  
25 what then what led you to say to the officers, "Tell Pat

1 Hall I'm going to scratch his eyes out if I see him"?

2 **MS. HALLETT:** The -- no, what led me to that  
3 very low moment -- the lowest probably in my professional  
4 career -- was hearing Mr. Skurka later in these submissions  
5 tell the court that in order to provide disclosure to the  
6 defence, the police officers had to bypass the crown.  
7 Okay?

8 **MR. CARROLL:** That's Skurka's ---

9 **MS. HALLETT:** And for a counsel like myself  
10 who has prided herself on an honest reputation over 20  
11 years, that was a devastating remark which I knew was not  
12 true.

13 **MR. CARROLL:** Did it ---

14 **MS. HALLETT:** I knew the police officers did  
15 not have to bypass me to make disclosure here. They had  
16 simply not spoken to me about it. And that is what caused  
17 me to go directly to the officers after this was over and  
18 tell them -- tell Pat Hall to keep a wide berth.

19 **MR. CARROLL:** Did it occur to you, ma'am,  
20 that perhaps your anger would be better directed at the  
21 counsel who made those submissions rather than the officer  
22 who testified that rather -- I'll finish the question if I  
23 may -- rather at the officer who testified under oath that  
24 you did not intentionally withhold anything. Did that  
25 occur to you?

1                   **THE COMMISSIONER:** Objection? Did you want  
2 to say something?

3                   **MS. BETHELL:** I would submit, Mr.  
4 Commissioner, that's not a relevant question for the  
5 mandate of this Inquiry.

6                   **THE COMMISSIONER:** Just argument. Put it in  
7 argument.

8                   **MR. CARROLL:** Okay. Thank you.

9                   **THE COMMISSIONER:** Thank you.

10                   Mr. Kloeze?

11                   **MR. KLOEZE:** Good morning, Mr. Commissioner.

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

13                   --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
14 **KLOEZE:**

15                   **MR. KLOEZE:** Good morning, Ms. Hallett.

16                   **MS. HALLETT:** Good morning, Mr. Kloeze.

17                   **MR. KLOEZE:** As you know, I'm counsel for  
18 the Ministry of the Attorney General. I just have a very  
19 few questions for you this morning. And the first one just  
20 follows up on what Mr. Carroll was asking you.

21                   And I guess there was some discussion  
22 yesterday and this morning over what Detective Inspector  
23 Hall, what his interpretation was of your words ---

24                   **MS. HALLETT:** Yes.

25                   **MR. KLOEZE:** --- at the February 7<sup>th</sup> meeting.

1 MS. HALLETT: Yes.

2 MR. KLOEZE: "It's all news to me."

3 MS. HALLETT: Yes.

4 MR. KLOEZE: And I'd like to ask you,  
5 regardless of what his interpretation was of those words --  
6 -

7 MS. HALLETT: M'hm.

8 MR. KLOEZE: --- as you said this morning,  
9 Detective Inspector Hall never told you at any point what  
10 his concerns were ---

11 MS. HALLETT: No.

12 MR. KLOEZE: --- about your statement on  
13 that day?

14 MS. HALLETT: That's right.

15 MR. KLOEZE: Okay.

16 And he never told you, as you said this  
17 morning on several times, he never told you why he was  
18 providing you with the July 4<sup>th</sup>, 2000 letter?

19 MS. HALLETT: Why he was providing ---

20 MR. KLOEZE: Why he was providing you with  
21 the July 4<sup>th</sup> letter?

22 MS. HALLETT: No. A copy of that letter,  
23 no.

24 MR. KLOEZE: That's right. You assumed that  
25 he was, again, repeating to you that the police had

1 delivered those materials to you in 2000?

2 MS. HALLETT: Yes.

3 MR. KLOEZE: And I think that your  
4 expression was that he was beating a dead horse?

5 MS. HALLETT: That's right.

6 MR. KLOEZE: And when Detective Seguin  
7 delivered that letter to you, you testified that it was  
8 Officer Seguin who said, "Pat likes you but he's a cover-  
9 your-ass kind of guy"?

10 MS. HALLETT: That's right.

11 MR. KLOEZE: And that's consistent with your  
12 statement to the York Regional Police. You gave them that  
13 evidence as well.

14 MS. HALLETT: I'm sorry?

15 MR. KLOEZE: You gave the York Regional  
16 Police that same evidence that ---

17 MS. HALLETT: Yes.

18 MR. KLOEZE: --- about what Officer Seguin  
19 had said to you?

20 MS. HALLETT: Yes.

21 MR. KLOEZE: And I wanted to direct you to  
22 your statement to the York Regional Police as Exhibit 3115.  
23 That may be in one of those binders that's in front of you.

24 MS. HALLETT: Okay. Okay.

25 MR. KLOEZE: It's a fairly recent exhibit,



1 3115. Actually, we can put it on the screen as well. And,  
2 Madam Registrar, I'll give you the Bates page. It's  
3 1145898.

4 I'm just going to refer to one page -- that  
5 one page of it, and the long paragraph, the second from the  
6 bottom, is what I'm referring to. If you go just above  
7 that actually, if you can scroll up just a bit.

8 You're obviously talking about the letter,  
9 the infamous exhibit, okay:

10 "Pat sent that to me through Seguin,  
11 that's why the endorsement is on it,  
12 "Shelley for your information".

13 **MS. HALLETT:** M'hm.

14 **MR. KLOEZE:** The officer says "Right". And  
15 then you say:

16 "And that's, you know -- then Steve  
17 said, you know, Pat likes you but he's  
18 a cover-your-ass kind of guy. I  
19 thought that what Pat was trying to  
20 tell me by sending me that -- a copy of  
21 that letter that he was saying to me,  
22 see you had them all along."

23 **MS. HALLETT:** Yes.

24 **MR. KLOEZE:** That's correct. So that's the  
25 evidence you gave to York Regional Police and that

1 ---

2 MS. HALLETT: That's a statement I gave,  
3 yes.

4 MR. KLOEZE: That's right.

5 Now, in a similar vein, Inspector Hall never  
6 told you at any point he believed that that letter should  
7 have been disclosed to defence counsel?

8 MS. HALLETT: He never told me that, no.

9 MR. KLOEZE: And he never told you that he,  
10 himself, arranged for that letter to be disclosed to  
11 defence counsel?

12 MS. HALLETT: No.

13 MR. KLOEZE: Okay. Now had he told you any  
14 of this ---

15 MS. HALLETT: M'hm.

16 MR. KLOEZE: --- I assume that you could  
17 have told him, first of all, that you had already made that  
18 known to defence counsel, that you had received those  
19 materials?

20 MS. HALLETT: Yes.

21 MR. KLOEZE: Defence counsel knew that?

22 MS. HALLETT: Yes.

23 MR. KLOEZE: You had made those submissions  
24 in court on February 14<sup>th</sup>?

25 MS. HALLETT: Yes. Exactly.

1                   **MR. KLOEZE:** That's all I wanted to cover  
2                   about that letter.

3                   I wanted to just put in two documents ---

4                   **MS. HALLETT:** M'hm.

5                   **MR. KLOEZE:** --- that you referred to in  
6                   your examination in-chief.

7                   **MS. HALLETT:** M'hm.

8                   **MR. KLOEZE:** I think they weren't put in in  
9                   that evidence, I just want to put them in now.

10                   The first one is Document Number 113270.  
11                   I've given late notice of it so I have copies. And I'm  
12                   going to give you copies of the next one too so you don't  
13                   have to get up twice.

14                   **THE COMMISSIONER:** Thank you.

15                   Exhibit Number 3274 is a letter dated March  
16                   17<sup>th</sup>, 1999 to Ms. Hallett from Michael Edelson.

17                   **--- EXHIBIT NO./PIÈCE NO. P-3274:**

18                   (113270) - Letter from Michael Edelson to  
19                   Shelley Hallett re: *R. v. Jacques Leduc*  
20                   dated March 17, 1999

21                   **MR. KLOEZE:** Now, you have this letter in  
22                   front of you, Ms. Hallett?

23                   **MS. HALLETT:** Yes, I do.

24                   **MR. KLOEZE:** This is a letter from Mr.  
25                   Edelson, and I guess to set it in context, you were seeking

1 an agreement from Mr. Edelson that he wouldn't disclose  
2 further or disseminate some of the disclosure that he was  
3 receiving in the Leduc trial?

4 **MS. HALLETT:** Well, I was specifically  
5 concerned with the undertaking with respect to the  
6 videotape of the complainant, C-22.

7 **MR. KLOEZE:** C-22, that's correct.

8 **MS. HALLETT:** Yes, and the officer, Police  
9 Officer Dupuis, was in a position of going to Ottawa that  
10 day and in a position of actually dropping off this  
11 videotape, and I wanted to -- I had communicated with Mr.  
12 Edelson about this, I believe, over the previous day or  
13 two, and I wanted to make sure that we did get this  
14 undertaking before the videotape was dropped off.

15 **MR. KLOEZE:** Okay. So this is the signed  
16 undertaking from Mr. Edelson and then the videotape was  
17 subsequently delivered to him thereafter?

18 **MS. HALLETT:** That's right.

19 **MR. KLOEZE:** Okay.

20 The next document I want to turn to is  
21 Document Number 105108.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit Number 3275 is a letter dated March  
24 22<sup>nd</sup>, 2000 to Ms. Hallett from Mr. Edelson, yes.

25 --- **EXHIBIT NO./PIÈCE NO. P-3275:**

1 (105108) - Letter from Michael Edelson to  
2 Shelley Hallett re: *R. v. Jacques Leduc*  
3 Judicial Pre-trial teleconference dated  
4 March 22, 2000

5 **MS. HALLETT:** Yes.

6 **MR. KLOEZE:** You have this letter?

7 **MS. HALLETT:** Yes.

8 **MR. KLOEZE:** You've referred to this a  
9 couple of times in your examination in-chief.

10 **MS. HALLETT:** Yes.

11 **MR. KLOEZE:** Subsequent to the delivery of  
12 the video the year earlier, I understand that Mr. Edelson  
13 had raised some issues and had indicated that he may be  
14 calling you as a witness?

15 **MS. HALLETT:** Yes.

16 **MR. KLOEZE:** In a potential abuse-of-process  
17 application?

18 **MS. HALLETT:** Charter application.

19 **MR. KLOEZE:** Charter application.

20 **MS. HALLETT:** Yes, that's right, on the  
21 basis of my purported personal involvement in the  
22 investigation of C-22.

23 **MR. KLOEZE:** That's right. And you said it  
24 wasn't until a year later, March 2000, that Mr. Edelson  
25 dropped that intention?

1                   **MS. HALLETT:** Yes, I indicated I wanted to  
2                   have this resolved, certainly by the time of the pre-trial  
3                   conference before the trial, and that had been February the  
4                   20<sup>th</sup> of 2000, I believe -- or, no, February 16<sup>th</sup> I believe.  
5                   And he still hadn't made a decision with respect to whether  
6                   or not he was going to do this but, ultimately, he did get  
7                   back to me with this letter and on page 2 at Item 2(2), he  
8                   does finally indicate that this -- my treatment of and my  
9                   involvement in simply identifying C-22 was not going to be  
10                  made the subject of any Charter application.

11                  **MR. KLOEZE:** Okay. Thank you.

12                  I have only one further question and that  
13                  comes back to the very beginning of your involvement in  
14                  Project Truth.

15                  **MS. HALLETT:** M'hm.

16                  **MR. KLOEZE:** And it's more for a  
17                  clarification on a point.

18                  You said that you were involved -- or you  
19                  were initially assigned to the administration of justice  
20                  prosecutions that were coming out of Project Truth?

21                  **MS. HALLETT:** That's right.

22                  **MR. KLOEZE:** And for the public who may not  
23                  recognise why you got the three of them, the first one is  
24                  Malcolm MacDonald and you got that brief to review because  
25                  Malcolm MacDonald was a former Crown in Cornwall.

1 MS. HALLETT: Right.

2 MR. KLOEZE: The second one ---

3 MS. HALLETT: And a lawyer -- even, had he  
4 not been a Crown, just the fact that he was a practising  
5 lawyer.

6 MR. KLOEZE: The very fact that he's a  
7 lawyer ---

8 MS. HALLETT: Yes.

9 MR. KLOEZE: --- means that it would go to  
10 720 Bay for prosecution?

11 MS. HALLETT: That's right.

12 MR. KLOEZE: Okay, and so that's the reason  
13 for the second one, Mr. Leduc, who was a practising lawyer  
14 in Cornwall.

15 MS. HALLETT: Yes.

16 MR. KLOEZE: The third one, Dr. Peachey, was  
17 a coroner, and I understand that the reason that you were  
18 assigned that is because Crown counsel often act as counsel  
19 to the coroner in a coroner's inquest?

20 MS. HALLETT: Yes, that's correct.

21 MR. KLOEZE: And so that was the reason that  
22 the local Crown would be conflicted out of that?

23 MS. HALLETT: Yes, and there are certain  
24 investigative duties that a coroner has under the *Coroner's*  
25 *Act* but, yes, and so for both of those reasons.

1                   **MR. KLOEZE:** Okay, thank you. Those are my  
2 questions, Miss Hallett. Thank you very much.

3                   **MS. HALLETT:** M'hm.

4                   **THE COMMISSIONER:** Ms. Bethell?

5                   **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

6                   **BETHELL:**

7                   **MS. BETHELL:** Good morning, Mr. Commissioner  
8 and Ms. Hallett. I'm Brydie Bethell. You know who I am.  
9 I act for you together with my colleague, Bill Trudell, who  
10 is not here this morning.

11                   **MS. HALLETT:** M'hm.

12                   **MS. BETHELL:** I have one clean-up question  
13 for you, Ms. Hallett.

14                   Why were you seeking to obtain the fruits of  
15 the York Regional Police investigation?

16                   **MS. HALLETT:** I was very concerned about  
17 getting those because they had been disclosed to the  
18 defence, Mr. Skurka and Mr. Campbell to my understanding,  
19 and also to counsel for Mr. Leduc on the appeal, and that  
20 was for the purpose of their using any of the fruits of  
21 that investigation as fresh evidence on the issue of  
22 whether or not the finding of wilful non-disclosure that  
23 had been made against me should be upheld or quashed.

24                   And so that is the reason that I also wanted  
25 to obtain the fruits of the investigation because I, at



1       that point, I believe, my -- I wasn't sure whether my  
2       employer, the Ministry of the Attorney General, was going  
3       to be -- my understanding was that they found that  
4       particular first ground perhaps one of the most problematic  
5       ones because of findings of fact. And I wasn't -- I was  
6       concerned that perhaps I should be able to -- I should  
7       intervene on the appeal myself for the purpose -- and  
8       through counsel -- for the purpose of introducing any  
9       evidence which might demonstrate the error behind Mr.  
10      Justice Chadwick's finding, based on some of the fresh  
11      evidence too.

12                    So I wasn't sure what was in the  
13      investigative brief, but I knew that it was going to be the  
14      subject or likely to be the subject of fresh evidence on  
15      the appeal, and I also wanted to have an opportunity to  
16      clear my name on that appeal.

17                    **MS. BETHELL:** Thank you.

18                    Over the last five days, Ms. Hallett, we  
19      have heard about your involvement in some of the matters  
20      that are before this Inquiry and about some of the things  
21      you did well?

22                    **MS. HALLETT:** Yes.

23                    **MS. BETHELL:** And about some of the things  
24      you've already suggested you might have done better ---

25                    **MS. HALLETT:** Yes.

1                   **MS. BETHELL:** --- perhaps with the benefit  
2 of 20/20 hindsight, right?

3                   **MS. HALLETT:** Yes, that's right.

4                   **MS. BETHELL:** You obviously took your  
5 professional obligations and duties seriously?

6                   **MS. HALLETT:** Yes.

7                   **MS. BETHELL:** Both as a prosecutor with  
8 numerous interests to balance.

9                   **MS. HALLETT:** M'hm.

10                   **MS. BETHELL:** And also as a judicial officer  
11 to assist the court to obtain the right and fair result  
12 among many of our duties as lawyers and judicial officers,  
13 right?

14                   **MS. HALLETT:** That's right.

15                   **MS. BETHELL:** Thank you. Those are my  
16 questions, Mr. Commissioner.

17                   **THE COMMISSIONER:** Mr. Engelmann.

18                   **MR. ENGELMANN:** I have no questions in re-  
19 examination. I just want to thank you, Ms. Hallett, for  
20 being here for this week.

21                   **MS. HALLETT:** Thank you.

22                   **THE COMMISSIONER:** Ms. Hallett, again, I  
23 echo Mr. Engelmann's thoughts. Thank you very much for  
24 your cooperation in this matter.

25                   **MS. HALLETT:** Thank you, Justice Glaude.

1                   **THE COMMISSIONER:** Thank you.

2                   **MR. ENGELMANN:** Sir, I understand Ms.  
3                   Narozniak is here. How long do you want to break? My  
4                   colleague, Ms. Jones, is ready.

5                   **THE COMMISSIONER:** Five minutes.

6                   **MR. ENGELMANN:** Five minutes. Thank you.

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

9                   This hearing will resume at 10:40 a.m.

10                  --- Upon recessing at 10:31 a.m./

11                  L'audience est suspendue à 10h31

12                  --- Upon resuming at 10:38 a.m./

13                  L'audience est reprise à 10h38

14                  **THE REGISTRAR:** Order; all rise. À l'ordre;  
15                  veuillez vous lever. This hearing is now resumed.

16                  Please be seated. Veuillez vous asseoir.

17                  **THE COMMISSIONER:** Thank you.

18                  Ms. Narozniak, would you come forward  
19                  please? Thank you.

20                  **LIDIA NAROZNIAK:** Resumed/Sous le même serment

21                  --- EXAMINATION IN-CHIEF/INTERROGATOIRE EN CHEF PAR MS.

22                  **JONES:** (cont'd/suite)

23                  **THE COMMISSIONER:** Well rested this morning?

24                  **MS. NAROZNIAK:** Reasonably so. Thank you.

25                  **THE COMMISSIONER:** Good. All right.

1                   **MS. JONES:** Good morning, Ms. Narozniak.

2                   **MS. NAROZNIAK:** Good morning.

3                   **MS. JONES:** I'm at a point now where I'm  
4 looking at the pre-trial motion now that was happening on  
5 the Leduc matter.

6                   **MS. NAROZNIAK:** Yes.

7                   **MS. JONES:** And that was the motion for  
8 disclosure for particulars.

9                   **MS. NAROZNIAK:** Yes.

10                  **MS. JONES:** And, essentially, that  
11 disclosure motion was to ensure that there was no other  
12 material or to explore whether there was any other material  
13 missing or in Dunlop's possession or the Crown's possession  
14 with regards to the Leduc matter. Is that correct?

15                  **MS. NAROZNIAK:** That's correct, along with  
16 also fleshing out the potential contact that Mr. Dunlop  
17 might have had with the victims in the case.

18                  **MS. JONES:** Correct. And I think the  
19 understanding was the delay motion would follow the  
20 disclosure motion, that you were going to be separating  
21 them?

22                  **MS. NAROZNIAK:** The delay motion would  
23 definitely be towards the end. There were also other  
24 motions that we were working on, including the  
25 solicitor/client privilege motion dealing with C-16's

1        lawsuits and the third-party record application with  
2        respect to C-17's record.

3                    **MS. JONES:**    Okay.

4                    And with regards to the disclosure motion,  
5        which is what we are going to talk about right now, I  
6        believe you may have answered this question yesterday, but  
7        did you think going into that, that there were in fact  
8        items missing?

9                    **MS. NAROZNIAK:**    I -- there was enough  
10       reasonable inference to be made that there may very well be  
11       outstanding material particularly the original version of  
12       the notebook that was missing at the Cornwall Police  
13       Service.

14                   **MS. JONES:**    But before this disclosure  
15       motion started, did you still feel though that there was --  
16       regardless of the outcome of these motions, did you still  
17       feel there was a reasonable prospect of conviction?

18                   **MS. NAROZNIAK:**    Prior to?

19                   **MS. JONES:**    Prior to the motion starting.

20                   **MS. NAROZNIAK:**    Absolutely, yes.

21                   **MS. JONES:**    Is it fair to say that the issue  
22       of a Crown opinion on whether there's reasonable prospect  
23       of conviction is something that's fluid. You feel it at  
24       one point but maybe something happens and maybe you change  
25       your mind further down the road?

1                   **MS. NAROZNIAK:** Very often that's the case  
2 where it is quite a fluid situation. It also can change  
3 even mid-trial, depending on how the evidence comes  
4 forward.

5                   When dealing with cases such as sexual  
6 assault, there's a reasonable prospect of a conviction if  
7 the evidence of the complainants is accepted, is not  
8 contradicted, and in its entirety the evidence is  
9 sufficient to meet the threshold of "beyond a reasonable  
10 doubt".

11                   So there's a lot of "ifs" connected, so if  
12 everything falls into place you can maintain the reasonable  
13 prospect of conviction, but it's certainly not an exact  
14 science.

15                   **MS. JONES:** Okay. But, certainly, just to  
16 be clear, before these motions started when you were  
17 starting into this whole Leduc prosecution, you did have  
18 the requisite reasonable prospect ---

19                   **MS. NAROZNIAK:** Oh, yes.

20                   **MS. JONES:** --- of conviction in your mind?

21                   **MS. NAROZNIAK:** Yes.

22                   **MS. JONES:** Okay.

23                   Now, with regards to before the motions  
24 actually started, clearly Mr. Dunlop was your principal  
25 witness or certainly the first witness in this particular

1 arena?

2 MS. NAROZNIAK: Correct.

3 MS. JONES: He was at that time living out  
4 in British Columbia and was subpoenaed to appear before the  
5 court; correct?

6 MS. NAROZNIAK: Correct.

7 MS. JONES: Did you have any conversations  
8 with Mr. Dunlop regarding the subpoena or regarding his  
9 attendance ---

10 MS. NAROZNIAK: Yes.

11 MS. JONES: --- before he came?

12 MS. NAROZNIAK: Yes.

13 MS. JONES: And what was the nature and  
14 frequency of that contact, please?

15 MS. NAROZNIAK: It was by phone. Frequency,  
16 I don't recall. There was definitely once or twice over  
17 the phone that we had discussions.

18 MS. JONES: And what was it you were just --  
19 you were discussing?

20 MS. NAROZNIAK: First of all. the  
21 explanation about the disclosure motion. I outlined the  
22 issues that were at hand. I identified the areas of  
23 concern. I also directed his attention to his previous  
24 testimony in the MacDonald case, indicating to him that it  
25 was going to be very similar in the approach.

1                   **MS. JONES:** Because you know Mr. Dunlop  
2 later on in the transcript, which I'll get to -- his  
3 position is there was no contact ---

4                   **MS. NAROZNIAK:** I know that.

5                   **MS. JONES:** --- with you. Okay, but you  
6 disagree with that?

7                   **MS. NAROZNIAK:** Completely. May I flesh  
8 this answer out?

9                   **MS. JONES:** Certainly.

10                  **MS. NAROZNIAK:** The context within which we  
11 had our discussions were unique, in that Mr. Dunlop was not  
12 a cooperative witness or cooperative individual in terms of  
13 coming to Cornwall. At the outset, my dealings with  
14 Mr. Dunlop focussed on addressing his concerns. He was  
15 providing numerous obstacles to his attendance in the first  
16 place that I needed to accommodate and try to convince him  
17 that I was doing everything I can to minimize his visit to  
18 Cornwall.

19                   There were always reasons or problems put  
20 into play before we even got to discussing the issues.

21                  **MS. JONES:** Because he was subpoenaed to  
22 come and you didn't want to have to go extra, say, criminal  
23 lengths even to secure his attendance.

24                  **MS. NAROZNIAK:** Yes.

25                  **MS. JONES:** You wanted there to be



1 cooperation.

2 **MS. NAROZNIAK:** Well, I was hoping for it,  
3 yes.

4 **MS. JONES:** And one of the items that  
5 Mr. Dunlop stated when he addressed the court later on in  
6 the motion was that he thought he was there or being called  
7 solely on the motion to address the contact he had with C-  
8 16's mother, the fact he didn't have contact with other  
9 victims and complainants -- alleged victims and  
10 complainants -- and he was not expecting what actually  
11 happened, which was a close examination of his role in all  
12 the disclosure and various Project Truth ---

13 **MS. NAROZNIAK:** Well, it was contrary to my  
14 advice to him and for him directing his attention to the  
15 various issues. We specifically had a discussion about the  
16 notebook. I specifically also mentioned the concern about  
17 other material that he may have in his possession, so that  
18 is not in keeping with my recollection of my contact with  
19 him.

20 **MS. JONES:** And I understood that you  
21 actually at one point sent out transcripts of the MacDonald  
22 testimony that he gave?

23 **MS. NAROZNIAK:** Correct.

24 **MS. JONES:** It's his position he asked for  
25 them. Do you recall that?

1                   **MS. NAROZNIAK:** In the court. I can't  
2 recall that specifically. It may have been. That was  
3 certainly going to happen one way or another but he might  
4 have been first to suggest that, because I mentioned the  
5 MacDonald case as a good reflection of what he could expect  
6 this time around.

7                   **MS. JONES:** And you're talking about the  
8 cross-examination by Mr. Neville at the MacDonald trial?

9                   **MS. NAROZNIAK:** Like the whole testimony in  
10 its entirety, yes.

11                   **MS. JONES:** Okay. And the applicant and  
12 respondent applications themselves, did you provide him a  
13 copy of those?

14                   **MS. NAROZNIAK:** I'm sorry, say again?

15                   **MS. JONES:** The actual applications, the  
16 disclosure motion and the records or any sort of documents  
17 ---

18                   **MS. NAROZNIAK:** The filings from court?

19                   **MS. JONES:** Yes.

20                   **MS. NAROZNIAK:** No, no. That's -- that  
21 would be irregular. We wouldn't do that.

22                   **MS. JONES:** Okay.

23                   Did you discuss any protection under the  
24 *Canada Evidence Act* before he testified?

25                   **MS. NAROZNIAK:** No. I am aware that he was

1           aware of it.

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

3                           **MS. NAROZNIAK:** I was aware that he was  
4           aware of it.

5                           **THE COMMISSIONER:** And how were you aware  
6           that he was aware of it?

7                           **MS. NAROZNIAK:** By my review of all the  
8           material.

9                           **THE COMMISSIONER:** Okay.

10                          **MS. JONES:** And did you at any point offer  
11           Mr. Dunlop or suggest to Mr. Dunlop that he receive  
12           independent legal advice, or ILA?

13                          **MS. NAROZNIAK:** I did not mention that  
14           specifically, no.

15                          **MS. JONES:** Was that ever discussed between  
16           the two of you ---

17                          **MS. NAROZNIAK:** No.

18                          **MS. JONES:** --- do you recall?

19                                       Knowing that he was going to be challenged  
20           about his credibility, and disclosure issues, do you think  
21           that it would have been beneficial for Mr. Dunlop to have  
22           procured ILA before testifying?

23                          **MS. NAROZNIAK:** From my reading of the prior  
24           testimony, it became clear to me that he was keenly aware  
25           of such issues and the ability to consult counsel, but in a

1 criminal proceeding there's only so much that a counsel  
2 could do in any event. It's not like a criminal lawyer or  
3 any other lawyer could engage in a standing in a criminal  
4 process.

5 But I was satisfied that he, as a  
6 professional witness given his prior experience as a police  
7 officer, he was very much aware of what options were  
8 available to him.

9 **THE COMMISSIONER:** Did he not have Ms. Pink  
10 as a lawyer?

11 **MS. NAROZNIAK:** Quite right,  
12 Mr. Commissioner. You're absolutely right. Thank you.  
13 That is exactly right.

14 I was also aware that he had contacted an  
15 independent counsel in British Columbia. He referred to  
16 her during my pre-trial motion and I believe he was also  
17 referencing her in a previous testimony in the MacDonald  
18 case.

19 **MS. JONES:** Right. That was his civil  
20 lawyer, I understand. Is that correct?

21 **MS. NAROZNIAK:** He seemed to suggest that  
22 she was also having a criminal practice.

23 **MS. JONES:** Okay.

24 And the concerns that you had about  
25 Mr. Dunlop's behaviour as a witness or conduct as a

1 witness, what you were expecting, you described that a bit  
2 yesterday as well; that you were expecting it to be maybe a  
3 difficult proceeding, that perhaps he was feeling quite  
4 hostile?

5 MS. NAROZNIAK: Yes.

6 MS. JONES: So that was possible?

7 MS. NAROZNIAK: Yes.

8 MS. JONES: A possible happening.

9 Did you have concerns about credibility or  
10 reliability of Mr. Dunlop?

11 MS. NAROZNIAK: Oh, yes.

12 MS. JONES: Did you discuss this with  
13 colleagues as to how to approach this?

14 MS. NAROZNIAK: Well, I was drawing on my  
15 experience. Certainly, I discussed it with co-counsel,  
16 Ms. Tier. I also drew a lot from my prior review of the  
17 MacDonald case and the testimony that took place during the  
18 motion.

19 He was a most unique witness. My dealings  
20 with him were very much framed in the context of what I  
21 knew about him. I was facing a witness -- I could cut it -  
22 - should I continue?

23 MS. JONES: Yes.

24 MS. NAROZNIAK: I was facing an individual  
25 who, first of all, was a professional witness, a police

1 officer with many years of experience. That in itself  
2 governed how a Crown would approach any preparation with a  
3 professional witness.

4 It is most unusual to spend a lot of time  
5 with veteran police officers in preparation of routine  
6 cases because they have been trained, they're familiar with  
7 the process, they are likely to have testified before.  
8 That's the kind of preparation you'd normally leave with a  
9 civilian witness.

10 However, my review of Project Truth and the  
11 MacDonald case and the Lalonde case clearly provided me  
12 with the following information. This was a witness that  
13 continued to persist in contacting victims and witnesses,  
14 contrary to direct orders by his superiors.

15 This was a witness who persisted in  
16 contacting media, contrary to requests and orders to cease  
17 and desist.

18 This is a witness who has been described as  
19 being over-zealous, to use one description, in his approach  
20 to investigating and contacting victims and witnesses.

21 This is a witness that has been described as  
22 being one who pushed victims to come up with certain  
23 evidence and, in fact, there were allegations that he  
24 counselled them to falsify their testimony resulting in the  
25 withdrawal of counts. This was absolutely critical

1 information, in my view, and put him in a totally different  
2 situation.

3 And, finally, this is a witness who clearly  
4 was not truthful while under oath. This is a witness that  
5 you have to approach with extreme caution.

6 I also was aware that Mr. McConnery, in  
7 company with officer and co-counsel, did meet with Mr.  
8 Dunlop before his testimony on the MacDonald case; went to  
9 the great lengths of showing Mr. Dunlop each paragraph of  
10 notes and having Mr. Dunlop initial them to acknowledge  
11 their accuracy. And yet, again, the following day, Mr.  
12 Dunlop started resiling from his prior -- prior statements  
13 to -- and again, just like in my case, started accusing the  
14 Crown of mistreatment, of ambush, and so on. This is the  
15 picture that I had as I was about to embark on a disclosure  
16 motion.

17 **MS. JONES:** Okay, thank you very much.

18 If we could please go to Exhibit 722; that's  
19 Document 109978.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MS. JONES:** This document is the first day  
22 of proceedings in the disclosure motion which started on  
23 August 16, 2004. I say the first day that Mr. Dunlop is  
24 involved.

25 **MS. NAROZNIAK:** Yes.

1                   **MS. JONES:** And according to Mr. Dunlop -- I  
2                   mean, I have the exact reference, but you've touched on  
3                   this already -- according to Mr. Dunlop, he was a bit  
4                   concerned because he'd received the transcripts he was  
5                   saying just a -- just a few days before he left. He hadn't  
6                   really had a chance to review them. So he was essentially  
7                   taking the stand without having read the transcripts.

8                   **MS. NAROZNIAK:** That was his position, yes.

9                   **MS. JONES:** And I'm just wondering, had  
10                  there been any discussion with yourself and Mr. Dunlop  
11                  concerning the fact that he was saying now he's not  
12                  prepared, actually, for this testimony?

13                  **MS. NAROZNIAK:** Well, not -- but that came  
14                  out during the testimony, so there was no opportunity prior  
15                  to that time.

16                  As you indicated, I believe that Mr. Dunlop  
17                  did request the transcript to be delivered to him. He  
18                  received delivery of the transcript. I would have assumed  
19                  that he would -- would have been interested in reading the  
20                  transcript, having asked for it.

21                  **MS. JONES:** But I'm just asking, you hadn't  
22                  discussed this issue though before he took the stand. This  
23                  was ---

24                  **MS. NAROZNIAK:** No, this was not ---

25                  **MS. JONES:** --- not an issue that had been



1 raised ---

2 MS. NAROZNIAK: Absolutely not, no.

3 MS. JONES: And Mr. Dunlop hadn't raised it  
4 with saying, by the way, I haven't read these transcripts  
5 or ---

6 MS. NAROZNIAK: No.

7 MS. JONES: --- anything of that nature?  
8 Okay.

9 Your chief took the morning ---

10 MS. NAROZNIAK: Yes.

11 MS. JONES: --- and ended about 12:30 on  
12 that first day before the cross started.

13 Just in general terms, how did you classify  
14 Mr. Dunlop's attitude and answers to the questions that you  
15 were posing to him?

16 MS. NAROZNIAK: Well, he started off  
17 relatively cooperatively. Occasionally, he was non-  
18 responsive or evasive, but I took the approach of trying to  
19 help him actually by setting out the entire context,  
20 particularly around dates and such because it's difficult  
21 for witnesses to present those dates in a sequential  
22 fashion. And so I actually am leading him, which is not  
23 would be the proper approach of counsel calling their own  
24 witness unless you have permission to do so or the evidence  
25 is neutral, benign, to get quickly through the information.

1 And that's the approach I took to try to set him up with  
2 the chronological context of his involvement in this case  
3 and he was reasonably responsive to my questions.

4 MS. JONES: Now, Ms. Henein started her  
5 cross-examination and her cross-examination took part over  
6 approximately four days, I believe.

7 MS. NAROZNIAK: I thought Mr. Dunlop  
8 finished on Wednesday and I ---

9 MS. JONES: I -- I think I've got four days  
10 of transcripts in total.

11 MS. NAROZNIAK: I thought Mr. Chisholm's  
12 evidence started on Thursday.

13 MS. JONES: Actually, maybe you're right.  
14 So ---

15 MS. NAROZNIAK: That was ---

16 MS. JONES: --- three days.

17 MS. NAROZNIAK: --- my recollection.

18 MS. JONES: Yeah.

19 MS. NAROZNIAK: It was three days.

20 Interrupted, of course, with the incidents that the  
21 transcript revealed about contacting counsel and ---

22 MS. JONES: M'hm.

23 MS. NAROZNIAK: --- that sort of thing.

24 MS. JONES: That's right.

25 And you're a seasoned veteran, shall we say,

1 of Crown counsel. You've been in many, many trials.  
2 You've had opponents as defence ---

3 **MS. NAROZNIAK:** Yes.

4 **MS. JONES:** --- counsel many, many times.

5 With regards to Ms. Henein's conduct in this  
6 adversarial system as defence counsel, how would you judge  
7 her conduct with regards to the types of questioning in  
8 this adversarial system? Was this something typical of  
9 defence counsel?

10 **MS. NAROZNIAK:** Professional, and she was  
11 one of the best cross-examiners I've seen.

12 **MS. JONES:** And there was -- Ms. Henein  
13 obviously used techniques that were common to other  
14 criminal defence lawyers?

15 **MS. NAROZNIAK:** Absolutely.

16 **MS. JONES:** One of the ---

17 **MS. NAROZNIAK:** I'm sorry, I ---

18 **THE COMMISSIONER:** Ms. Henein, are you going  
19 to object to this characterization of your cross-  
20 examination?

21 **MS. HENEIN:** I was going to ask for follow-  
22 up.

23 (LAUGHTER/RIRES)

24 **THE COMMISSIONER:** All right.

25 **MS. JONES:** I'm going to take that

1 opportunity that Ms. Henein's pleased with that.

2 MS. NAROZNIAK: I just want to point out  
3 that these are techniques not just for defence counsel,  
4 these are cross-examining questions -- examination  
5 techniques -- that all counsel are aware of.

6 MS. JONES: So when a Crown is cross-  
7 examining ---

8 MS. NAROZNIAK: Exactly.

9 MS. JONES: --- it's the same sort of  
10 techniques?

11 MS. NAROZNIAK: That's right.

12 MS. JONES: That's right.

13 But getting back to Ms. Henein again, with  
14 regards to cross-examining a police officer, were these  
15 commonly used techniques that are seen by other defence  
16 counsel as well?

17 MS. NAROZNIAK: Well, I can tell you that in  
18 my experience and the experience of my colleagues, I have  
19 seen far more grilling cross-examination and much more  
20 aggressive cross-examination of investigating officers.

21 I had -- investigating officers these days  
22 are now grilled on the stand for days. In fact, their  
23 investigation is really what becomes the focus of the trial  
24 of any major case; even minor cases for that matter. I  
25 have seen officers grilled about how they investigated,

1 about tunnel vision, about -- well, some have even been  
2 accused of lying on the stand, of forgery, of fabricating  
3 evidence. And there was a recent case, just last month,  
4 where the investigating officer in Hamilton was on the  
5 stand for eight days accused of the very things I've just  
6 mentioned.

7 **MS. JONES:** Now, you're aware that during  
8 the time that Ms. Henein was cross-examining Perry Dunlop,  
9 you didn't actually object to any of the questions at any  
10 point?

11 **MS. NAROZNIAK:** That's correct.

12 **MS. JONES:** And I'm just wondering if you  
13 could comment on that. Is that typical, not to object to a  
14 cross-examination of a defence counsel to a police officer?

15 **MS. NAROZNIAK:** Well, it depends on the  
16 circumstances. If it's -- if there's nothing to object to  
17 then, no, there are no objections. I have had cases where  
18 there are no objections and I've had cases where I have  
19 objected.

20 **MS. JONES:** So it's a case-by-case basis ---

21 **MS. NAROZNIAK:** Absolutely.

22 **MS. JONES:** --- is what you're saying.

23 There were instances during the time Mr.  
24 Dunlop was being cross-examined where the judge intervened  
25 occasionally and got clarifications on points.

1                   **MS. NAROZNIAK:** Correct.

2                   **MS. JONES:** And were these points where  
3 perhaps you could have intervened or not? Perhaps, you  
4 could set the stage for that?

5                   **MS. NAROZNIAK:** No, most of the points ---  
6 if you look through the transcript, the vast majority of  
7 the points Justice Platana actually acknowledges that this  
8 is a proper cross-examination, permits Ms. Henein to  
9 continue or he gets a clarification.

10                   The advantage I had that Justice Platana did  
11 not was that I was aware of all the material. Justice  
12 Platana did not read the nine boxes of Dunlop material. He  
13 was not aware of the prior transcripts that were also the  
14 subject matter of cross-examination, what was canvassed in  
15 those transcripts, so I had a broader picture allowing me  
16 to better understand what would be admissible or not.

17                   **MS. JONES:** And you'd agree with me that the  
18 role of the judge at any -- any proceeding in a courtroom  
19 is really to make sure that each role, either be it Crown  
20 or defence or witness, is behaving appropriately within  
21 that system?

22                   **MS. NAROZNIAK:** Absolutely, he's got the  
23 overriding role.

24                   **MS. JONES:** And if it was felt at any time  
25 that someone was being treated unfairly, it would be the

1 judge that would step in.

2 MS. NAROZNIAK: And Justice Platana said  
3 exactly that. He pointed it out to Mr. Dunlop that should  
4 at any time he feel that Ms. Henein was getting overly  
5 aggressive, he would have stopped her.

6 MS. JONES: I wonder if we could just go to  
7 page 81 of this transcript, which is Bates page 6652.

8 MS. NAROZNIAK: I'm sorry, what was the  
9 Bates number?

10 MS. JONES: Six-six-five-two (6652).

11 MS. NAROZNIAK: Thank you.

12 MS. JONES: It's page 81, which might be  
13 easier for you to find.

14 In this particular page, Ms. Henein is  
15 entering into an exchange with Mr. Dunlop about the time  
16 where he gave the statement of Mr. Silmsler to the CAS?

17 MS. NAROZNIAK: Yes.

18 MS. JONES: And you're aware of that whole  
19 issue ---

20 MS. NAROZNIAK: Yes.

21 MS. JONES: --- and what happened? There  
22 were *Police Service Act* charges and it was appealed, et  
23 cetera.

24 There's some period of time spent on whether  
25 or not he had the authorisation to do it. He expressed the

1 opinion, "I felt I did have the authorisation. I thought I  
2 was complying. It was my duty under the legislation."

3 **MS. NAROZNIAK:** Yes.

4 **MS. JONES:** Now, you're aware that Mr.  
5 Dunlop actually was charged, but he won that particular  
6 process and it was appealed, and it was found that what he  
7 did was actually appropriate ---

8 **MS. NAROZNIAK:** I'm aware of that, yes.

9 **MS. JONES:** Is the fact that it was not  
10 actually mentioned to the court that this actually was what  
11 the end result of that sort of thing -- is that something  
12 that perhaps you could have clarified perhaps in re-  
13 examination, for example?

14 **MS. NAROZNIAK:** I thought Mr. Dunlop did  
15 mention it? I thought he acknowledged -- he indicated that  
16 the -- he was vindicated?

17 **MS. JONES:** But with respect to the whole  
18 process that had happened. I don't believe that in the  
19 transcript it's very, very clear about that.

20 **MS. NAROZNIAK:** Certainly, at the time I  
21 thought that he made the point clearly. During the course  
22 of the cross-examination, it was my view that Ms. Henein  
23 was exploring some of his motivation and actions in  
24 contrast to what his direction was by superiors.

25 **MS. JONES:** Right.



1                   **MS. NAROZNIAK:** The actual result was not  
2                   the key, it was the process in his thinking as he behaved  
3                   throughout the entire period of time that he was involved  
4                   in his own investigation. I thought that that was  
5                   permissible and appropriate and the result exactly was not  
6                   at issue ---

7                   **MS. JONES:** M'hm.

8                   **MS. NAROZNIAK:** --- that this was not a  
9                   point of attack of credibility so much as his thinking  
10                  process during his own investigation.

11                  **MS. JONES:** Okay. Thank you.

12                  On page 120, which is Bates page 1046691,  
13                  towards the bottom of the page there, Ms. Henein started  
14                  asking him a series of questions about his psychiatric  
15                  history and whether he'd been under care of physicians,  
16                  whether there were medications, et cetera. Do you see that  
17                  portion then?

18                  **MS. NAROZNIAK:** Yes.

19                  **MS. JONES:** And the very first time the  
20                  question is asked:

21                                 "Now how long, sir, have you been under  
22                                 psychiatric care?"

23                  The answer is:

24                                 "I didn't think I have to answer that  
25                                 question".

1                   **MS. NAROZNIAK:** Yes.

2                   **MS. JONES:** The judge later on says  
3 actually, you do have to answer the question, so it's an  
4 appropriate question.

5                   **MS. NAROZNIAK:** Yes.

6                   **MS. JONES:** But my point that I want to make  
7 with you is, it would appear that this came as a surprise  
8 to him on the stand, that he was being asked about that  
9 issue?

10                  **MS. NAROZNIAK:** Well, this is part of the  
11 material that he himself collected and put into the nine  
12 boxes that are now known as the "Nine Dunlop Boxes". This  
13 is something he generated himself and included in the  
14 disclosure that he made back in 2000. So this formed part  
15 of the material that was disclosed to the defence.

16                   It is very common for witnesses and, sadly,  
17 specifically, sexual assault victims, to be queried about  
18 psychiatric care. They're not -- it's not limited to  
19 sexual assault victims because it becomes a potential  
20 source of prior statements that may be explored and has  
21 been allowed to be explored by defence counsel.

22                  **MS. JONES:** The question I had more though  
23 was, this clearly didn't seem to be something you talked  
24 about with him or warned him about ahead of time?

25                  **MS. NAROZNIAK:** No, certainly not, because I

1 did not review every piece of the Dunlop contents of his  
2 boxes, which he himself put together. I -- we generally  
3 talked about credibility but I didn't specifically talk  
4 about his psychiatric care.

5 **MS. JONES:** As a Crown Attorney, if you had  
6 a sexual assault victim, for instance, that might have  
7 psychiatric history put before the court, is this something  
8 you would discuss ahead of time to warn them, to prepare  
9 them for that?

10 **MS. NAROZNIAK:** I have -- my usual practice  
11 is to in my preparatory interviews with witnesses, is to  
12 advise them of the kind of general cross-examination  
13 questions that are permitted.

14 I do not seek out or elicit any information  
15 because once I elicit it from them, I'm duty-bound to  
16 disclose it, but I do warn them that these kinds of  
17 questions are typical.

18 At the very outset, I would object to them  
19 until we were -- "we" being Crown Attorneys -- were  
20 routinely shut down as judges ruled that this was  
21 permissible cross-examination.

22 **MS. JONES:** But if you -- if you do at least  
23 warn them, this could be something that could be brought up  
24 by defence counsel?

25 **MS. NAROZNIAK:** Oh, yes, for the uninitiated

1 civilian witness, absolutely, I would be canvassing it.  
2 Mr. Dunlop is not an uninitiated, lay witness.

3 MS. JONES: Is that why you didn't discuss  
4 that ahead of time?

5 MS. NAROZNIAK: Quite frankly, I didn't even  
6 think about discussing that, generally because we were  
7 focussed so much on addressing his concerns and his --  
8 trying to defuse the hostility I was meeting, I did not get  
9 into the specifics.

10 MS. JONES: If we could please go to Exhibit  
11 723, which I think would be the next exhibit? It's the  
12 next transcript on August 17<sup>th</sup> ---

13 MS. NAROZNIAK: Yes.

14 MS. JONES: --- which is Document 109979.

15 And I just want to briefly go to page 15.

16 And at that particular point, Ms. Henein was asking Mr.  
17 Dunlop about what could be classified -- and her words, I  
18 think, were "anti-homosexual views".

19 MS. NAROZNIAK: Yes.

20 MS. JONES: And there was quite a discussion  
21 about that.

22 MS. NAROZNIAK: Yes.

23 MS. JONES: And, again, it would appear from  
24 the transcript that Mr. Dunlop was not expecting to be  
25 asked questions about that sort of -- a personal opinion

1 about something that can be quite controversial, shall we  
2 say? Was this something that you talked about beforehand,  
3 to say this could be talked about?

4 **MS. NAROZNIAK:** I couldn't anticipate each  
5 and every thing that he might be cross-examined on.  
6 Certainly, it was permissible in the sense that Ms. Henein  
7 was obviously exploring his agenda, his *modus operandi* with  
8 respect to contact, his motivation and how he approached  
9 witnesses. This would have been appropriate exploration.

10 **MS. JONES:** Okay. Thank you.

11 On page 71 of the transcript, Bates page  
12 6780, Mr. Dunlop at this point has requested to have some  
13 independent legal advice; you may recall that point in the  
14 transcript?

15 **MS. NAROZNIAK:** Yes.

16 **MS. JONES:** I should point out, by the way -  
17 - which I maybe should have done at the very start -- the  
18 transcripts that we have here are dotted throughout with  
19 submissions by counsel, submissions by the Crown Attorney,  
20 submissions by defence and, unfortunately, they're not  
21 transcribed here.

22 **MS. NAROZNIAK:** Yes.

23 **MS. JONES:** And there have been efforts made  
24 -- I don't know if Ms. McIntosh wishes to put anything on  
25 the record that we've tried to obtain copies of the actual

1 transcripts but, unfortunately, we've been unable to do so.

2 MS. NAROZNIAK: That's my understanding.

3 MS. JONES: I'll just let Ms. McIntosh  
4 reveal that.

5 MS. McINTOSH: I just wanted to say, Mr.  
6 Commissioner, to clarify that issue, the transcripts of the  
7 submissions have not been in the possession of the  
8 Ministry, to the best of our knowledge, and we were asked  
9 many years ago by the Commission to investigate these  
10 transcripts of these submissions. We did inquire after  
11 them and were told that there was a technical problem with  
12 them and they were not available.

13 We always -- just, again, for the record,  
14 took the position that we were not obliged to produce  
15 things that were never in our possession but, having said  
16 that, we always at any time the Commission has asked us to  
17 arrange for transcripts, we've done that.

18 Lately, with Ms. Narozniak's testimony  
19 coming up, we went back to the court reporter's office and  
20 asked for the disk that the material was on and confirmed  
21 through our own technical people that it couldn't be  
22 retrieved from that disk. We tracked down the court  
23 reporter, who has retired. She does have audio tapes, she  
24 tells us, but she's not prepared to transcribe them because  
25 she's retired and the court reporting office took the

1 position that they had been transcribed before and it's not  
2 their policy to do a second transcript because then they  
3 have -- with a different person -- because they have two  
4 copies floating around.

5 We have persuaded them in these  
6 circumstances where the first copy is inaccessible, to  
7 transcribe them but they were not ready for today, and  
8 we're told that -- we asked them to expedite them and we're  
9 hoping they'll be ready before the end of the evidentiary  
10 period and at that point if they are ready, we'll provide  
11 them to counsel and hopefully they can be marked as an  
12 exhibit on consent.

13 Those are our efforts to get those  
14 transcripts, Mr. Commissioner.

15 **THE COMMISSIONER:** Thank you.

16 **MS. JONES:** Thank you.

17 So we don't actually have the transcript of  
18 your submission but, generally, when Mr. Dunlop was asking  
19 for independent legal counsel, do you recall what your  
20 position was on that?

21 **MS. NAROZNIAK:** I think I was supporting  
22 facilitating that request. And I recall asking the local  
23 Crown's Office to assist me in connecting with a Legal Aid  
24 lawyer or duty counsel that was in the building at the  
25 time.

1                   **MS. JONES:** And just for the record too, at  
2                   this particular point a couple of pages later, page 73 at  
3                   the top, Bates page 6782, Mr. Dunlop said that he was  
4                   feeling very threatened and intimidated and he wanted to  
5                   have a criminal lawyer who was acting on his behalf.

6                   **MS. NAROZNIAK:** That's what he said.

7                   **MS. JONES:** Okay. I wonder if we could go  
8                   to the next transcript. It's Exhibit 724 and it is  
9                   Document 109980. And I'm looking at Bates page 1046810,  
10                  which is page 3.

11                  **THE COMMISSIONER:** Just a minute. Just a  
12                  minute.

13                  **MS. JONES:** I'm sorry.

14                  **THE COMMISSIONER:** On that issue, I think if  
15                  we're -- as some counsel would say, for the public I think  
16                  it's important that we look at what the judge had to say  
17                  about that. So if we can go back to the ---

18                  **MS. JONES:** Certainly. The judge actually  
19                  speaks again on page 73, Bates page 6782.

20                  **THE COMMISSIONER:** Yes.

21                  **MS. JONES:** And if I could just summarize it  
22                  maybe for the record to assist the Court, the Inquiry,  
23                  essentially Judge Platana was finding it difficult because  
24                  he's in the middle of cross-examination and wondering how a  
25                  lawyer could up to speed on the complexity of these



1 particular issues.

2 But the judge stated:

3 "I certainly am of the view that while  
4 I recognize the questioning has been  
5 pointed, it has not been my view to  
6 this point in time that the questioning  
7 has been so intrusive or slanted such  
8 that I have found the necessity to  
9 forestall defence counsel from  
10 proceeding in that regard."

11 And then he took a brief break. But he did  
12 rule that ---

13 **THE COMMISSIONER:** Well, I think right from  
14 the beginning:

15 "Well, the difficulty that I'm now  
16 faced with, sir, of course is you're in  
17 the middle of cross-examination.  
18 Strictly speaking, I can't. Even if  
19 you had counsel at this point in time  
20 you would not be able to discuss with  
21 that counsel any of the evidence that  
22 you might give, since cross-examination  
23 has already been started and I have no  
24 idea how far into it we are. I can  
25 certainly tell you that I recognize the

1                   questioning has been significant and in  
2                   some points very pointed.  However, I'm  
3                   certainly of the view that my task in  
4                   this matter is not in any way to  
5                   consider you as an accused person.  
6                   You're not an accused person.  You're a  
7                   witness to give evidence so that I can  
8                   make a particular ruling on a matter  
9                   that is before the trial involving  
10                  Mr. Leduc."

11                 And then you caught on that.

12                 **MS. JONES:**  Correct.

13                 **THE COMMISSIONER:**  So ---

14                 **MS. JONES:**  And also too but after the break  
15                 -- what happened during the break is that duty counsel was  
16                 actually contacted.

17                 **MS. NAROZNIAK:**  That's right.

18                 **MS. JONES:**  And Mr. Dunlop spoke to the duty  
19                 counsel.

20                 **MS. NAROZNIAK:**  That's correct.

21                 **MS. JONES:**  He had some time alone with him.  
22                 Duty counsel addressed the court.

23                 **MS. NAROZNIAK:**  Yeah.

24                 **MS. JONES:**  And after that meeting with duty  
25                 counsel Mr. Dunlop was prepared then to proceed on again.

1                   **MS. NAROZNIAK:** Correct. That's right.

2                   **MS. JONES:** Okay. So now if we could go to  
3 the next set of transcripts, which is Document 724109980,  
4 and I'm specifically looking at page 3, which is Bates page  
5 1046810.

6                   And at the opening of day three of  
7 Mr. Dunlop's evidence he had written a letter I guess in  
8 the evening and wanted to read the prepared letter into the  
9 record, and actually the letter was put in as evidence.

10                  **MS. NAROZNIAK:** Correct.

11                  **MS. JONES:** Right. And ---

12                  **THE COMMISSIONER:** Well, just before we go  
13 on though, and I think we should close the loop on that  
14 issue about the lawyer in the sense that yes, he had  
15 Monsieur Lemieux come over.

16                  **MS. NAROZNIAK:** Yes.

17                  **THE COMMISSIONER:** And then Mr. Lemieux  
18 spoke with respect to an adjournment request by Mr. Dunlop.  
19 And Ms. Henein made submissions and Ms. Narozniak made  
20 submissions and then there was a ruling which I take it was  
21 that they would continue.

22                  **MS. JONES:** Correct.

23                  **THE COMMISSIONER:** Well, do you recall any  
24 of that?

25                  **MS. NAROZNIAK:** I don't have an independent

1 recollection that there was an adjournment request or the  
2 nature of it.

3 **THE COMMISSIONER:** Okay. Well, on page 75  
4 following the recess, upon resuming that's what we have.

5 **MS. NAROZNIAK:** I accept that, yes.

6 **THE COMMISSIONER:** All right. So at least  
7 we've got that. If we get the updated transcript we'll be  
8 able to file it and see what happened there.

9 **MS. JONES:** All right. I think it might be  
10 useful as well, just because we -- this issue was brought  
11 up. On page 74 of that transcript ---

12 **THE COMMISSIONER:** Yes.

13 **MS. JONES:** --- which is still Exhibit 723,  
14 Bates page 6783, the issue actually came up that he had  
15 counsel in British Columbia. He didn't mention by name but  
16 I think it's Ms. Pink he's referring to.

17 And Mr. Dunlop says:

18 "I currently have a lawyer in British  
19 Columbia that doesn't do criminal  
20 law."

21 **MS. NAROZNIAK:** That's correct. That was my  
22 mistake, yes.

23 **MS. JONES:** Okay. Just to clarify that.

24 So now if we go to exhibit 724 then, on page  
25 3, Bates page 6810, again it starts with this letter that

1 Mr. Dunlop wrote. And basically without going into the  
2 entire letter, he was basically saying he was being treated  
3 unfairly by the Crown.

4 And reference was also made that he had been  
5 treated unfairly and he used the words he was "blindsided",  
6 he felt -- he's been feeling like an accused. And he also  
7 states in this letter on page 4, at Bates page 6811, he  
8 said:

9 "I was subpoenaed here under false  
10 pretences with no guidance or  
11 assistance from the Crown; something  
12 I have never seen in my 18 years as a  
13 police officer."

14 How do you react to that, Ms. Narozniak?

15 **MS. NAROZNIAK:** I'm sorry, how do I react?

16 **MS. JONES:** How do you react to that?

17 **MS. NAROZNIAK:** Well, I tried in a measured  
18 response to make submissions were which reflected in the  
19 transcript but unfortunately they're one of those  
20 submissions that have not been transcribed.

21 I placed on the record that I disagreed with  
22 the statements made by Mr. Dunlop. I outlined the  
23 chronology of events that I had outlined to this hearing  
24 already with respect to my contact with Mr. Dunlop and his  
25 -- and the discussion of the issues that were forthcoming,

1 focusing his attention on the transcript and the testimony  
2 that he gave in the MacDonald case, which was going to be  
3 very similar to his experience in the Leduc pre-trial  
4 motion.

5 He chose not to read that transcript. I  
6 cannot force someone to read materials that are provided to  
7 him. And yet again, just like he did in the MacDonald  
8 case, once again he turned and accused the Crown of not  
9 helping.

10 Mr. Dunlop is a professional witness with 18  
11 years of experience. He had experience with meetings with  
12 counsel, with Crown counsel. He knows what is required to  
13 prepare for testimony. He does not need my help in asking  
14 him to read the transcript, so I very much disagree with  
15 the position that he took.

16 **MS. JONES:** Thank you very much.

17 Now, if we could just go to page 26, please,  
18 which is Bates page 6833. Thank you, Madam Clerk.

19 In this particular area of the questioning  
20 Ms. Henein has brought up the fact that Mr. Dunlop had read  
21 over the application, and there's a discussion about that.  
22 I'm just wondering is it typical for police officers, or  
23 witnesses for that matter, appearing on a motion to have  
24 read the application ahead of time?

25 **MS. NAROZNIAK:** Not at all. In fact quite

1 the opposite. It is highly irregular. This is the first  
2 time I've seen this happen in my experience.

3 **MS. JONES:** And why is that irregular? It's  
4 not illegal, is it?

5 **MS. NAROZNIAK:** No, it's not illegal because  
6 it's a filed document. But nevertheless it's a pre-trial  
7 motion. It can be considered a voir dire in the sense that  
8 it doesn't form the main portion of the trial evidence that  
9 is transcribed and is accessible to the public subject to  
10 publication orders.

11 It is proper for the Crown counsel to  
12 highlight issues to witnesses but it's a legally set out  
13 document filed by counsel for purposes of the trier of  
14 fact, the justice that is presiding over the matter. It is  
15 not for consumption by individual witnesses because very  
16 often that material might reference something that is not  
17 permissible to be taken into account by the particular  
18 witness because it's not their direct evidence.

19 **MS. JONES:** So it's not standard practice --  
20 -

21 **MS. NAROZNIAK:** Not at all.

22 **MS. JONES:** --- in any sort of an  
23 application to have your witness read over an application  
24 before they testify?

25 **MS. NAROZNIAK:** No.

1                   **MS. JONES:** Thank you.

2                   When Mr. Dunlop was making these allegations  
3                   against you he hinted at it sort of earlier and definitely  
4                   had made it on this particular day. Was there any  
5                   consideration by yourself for you to obtain independent  
6                   legal advice?

7                   **MS. NAROZNIAK:** No.

8                   **MS. JONES:** If we could please go to Exhibit  
9                   725, which is Document 109980 -- yes, I believe this the  
10                  fourth day of Mr. Dunlop; I believe.

11                  **THE COMMISSIONER:** I'm sorry, what exhibit?

12                  **MS. JONES:** The transcript of Mr. Dunlop's  
13                  evidence on Volume 5.

14                  **THE COMMISSIONER:** Yes.

15                  **MS. JONES:** August 19<sup>th</sup>.

16                  **THE COMMISSIONER:** It's Exhibit 725?

17                  **MS. JONES:** Yes.

18                  **MS. NAROZNIAK:** My apologies; that's  
19                  correct, it is the fourth.

20                  **MS. JONES:** Okay, thank you.

21                  Generally speaking, obviously there was a  
22                  lot of questioning about contact or alleged contact or  
23                  potential contact with other victims or complainants.

24                  **MS. NAROZNIAK:** Correct.

25                  **MS. JONES:** And that was, I think it would



1 be fair to say, one of the main focuses of the questioning  
2 from your viewpoint as well as the defence viewpoint?

3 **MS. NAROZNIAK:** Absolutely.

4 **MS. JONES:** And partway through this  
5 transcript, Ms. Heinen finishes her cross-examination, on  
6 page 55 which is Bates page 1046970. I think I'm incorrect  
7 on that; it's actually page 56, Bates page 6971.

8 And one of the, shall we say, philosophies  
9 of the defence cross-examination was that Mr. Dunlop had in  
10 fact had other contacts with other complainants, alleged  
11 complainants or alleged victims ---

12 **MS. NAROZNIAK:** Well, she was certainly ---

13 **MS. JONES:** --- pertinent to this case.

14 **MS. NAROZNIAK:** --- she was certainly  
15 exploring that and fleshing it out because it was already  
16 established that some contact had been made.

17 **MS. JONES:** Now, at that -- at the end of  
18 the cross-examination, now it's time to move over to the  
19 Crown for re-examination but you didn't have any  
20 re-examination?

21 **MS. NAROZNIAK:** Well, there weren't many  
22 questions left that weren't asked.

23 **MS. JONES:** Okay.

24 With regards to clarifying the issue,  
25 however, of whether there was any contact that was not

1 known with regards to Mr. Dunlop and any alleged victims of  
2 Jacques Leduc, is that something that could have perhaps  
3 been clarified during cross-examination?

4 **MS. NAROZNIAK:** I thought it was clear.

5 **MS. JONES:** And you recall that Ms. Hallett  
6 had actually put the alleged victims on the stand and each  
7 of them had said they'd had no contact with Mr. Dunlop?

8 **MS. NAROZNIAK:** That's correct.

9 **MS. JONES:** Do you think that that is  
10 something that may have addressed before the court to  
11 clarify or actually even call the complainants to say they  
12 had no contact?

13 **MS. NAROZNIAK:** Not for -- not during a  
14 disclosure motion focussing on Dunlop material. That would  
15 have been canvassed during the trial.

16 **MS. JONES:** But if you have a witness like  
17 Mr. Dunlop where there's allegations, shall we say, that he  
18 did have possible contacts that were not noted in his  
19 books, did you consider putting the complainants up to at  
20 least verify that much with regards to Mr. Dunlop's  
21 testimony?

22 **MS. NAROZNIAK:** This was not a test of  
23 credibility for Dunlop per se. This was a test -- this was  
24 a motion to elicit disclosure material. That was not the  
25 proper form for those witnesses to be called.

1                   In fact, I certainly would not have  
2                   considered forcing victims to testify at a pre-trial motion  
3                   for disclosure and then have them come back for trial.  
4                   That would be highly insensitive on my part to do so.

5                   **MS. JONES:** All right.

6                   I'm going to move now on to the -- I'm  
7                   sorry, before I move on, is there anything else you wish to  
8                   add with respect to -- anything I haven't covered in those  
9                   transcripts that you wish to add?

10                  **MS. NAROZNIAK:** Well, only because it was  
11                  raised, I think I would like to make one comment; that I  
12                  was actually disappointed with the actions taken by  
13                  Mr. Dunlop.

14                  As a veteran police officer with experience  
15                  in court and testimony, when you contrast what the victims  
16                  went through, the days of gruelling cross-examination --  
17                  and I say that, days, not only at the preliminary but at  
18                  the first trial -- facing yet another set of cross-  
19                  examination where defence counsel is armed with two sets of  
20                  transcripts now, I was truly disappointed that Mr. Dunlop  
21                  did not show the same kind of courage the victims did.

22                  **MS. JONES:** Thank you.

23                  We're going to move on to now, very briefly,  
24                  the 11(b) applications and that's the delay applications  
25                  that were brought.

1                   And the first document I'm going to look at  
2                   is the applicant's factum, which is Document 116155.

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

4                   **THE COMMISSIONER:** How much longer for your  
5                   examination because we haven't had ---

6                   **MS. JONES:** I should be done by noon, if not  
7                   earlier.

8                   **THE COMMISSIONER:** Okay, we'll go -- we'll  
9                   try to finish it off. Go ahead.

10                   So this is Exhibit 3276, a transcript of *R.*  
11                   *v. Leduc*, applicant's factum.

12                   **--- EXHIBIT NO./PIÈCE NO. P-3276:**

13                   (116155) - Applicant's Factum Section 11(b)  
14                   re: *R. v. Jacques Leduc* dated September 22,  
15                   2004

16                   **MS. JONES:** I can see it's dated actually  
17                   the 22<sup>nd</sup> of September, 2004, which is endorsed on the back  
18                   sheet.

19                   So this was not a surprise that you were  
20                   getting an 11(b) application; this had been discussed.

21                   **MS. NAROZNIAK:** No.

22                   **MS. JONES:** And the document is  
23                   approximately 100 pages in length and focuses a lot of it's  
24                   energy, shall we say, on the nondisclosure aspects ---

25                   **MS. NAROZNIAK:** Yes.

1                   **MS. JONES:** --- of the Crown.

2                   And with respect to part 2 of the factum,  
3                   which starts on Bates page 7193 -- I'm sorry, 1077193,  
4                   which is page 2 of the factum.

5                   **MS. NAROZNIAK:** Page 2?

6                   **MS. JONES:** Yes. And the summary of facts  
7                   actually incorporates paragraphs 2 -- I'm sorry, paragraphs  
8                   3 to paragraph 147.

9                   **MS. NAROZNIAK:** Yes.

10                  **MS. JONES:** And then it goes on to the third  
11                  portion, which is "Issues". I can bring you to the end if  
12                  you wish to see it, but that's part 2, which is the summary  
13                  of the facts.

14                  **MS. NAROZNIAK:** I've seen this document  
15                  before, yes.

16                  **MS. JONES:** Okay. And we'll look at your  
17                  document in a moment, but one of the things that you state  
18                  in your document was that -- one of the first things you  
19                  state was that you actually agree with part 2 of the  
20                  summary of facts?

21                  **MS. NAROZNIAK:** Yes.

22                  **MS. JONES:** And when the Crown agrees with  
23                  the facts as they're stated, is it fair to say that it's  
24                  almost like a joint statement of facts at that point if you  
25                  agree with it in its entirety?

1                   **MS. NAROZNIAK:** I think that can be  
2                   considered as a joint statement. It's very common in  
3                   applications of this nature, in appeal factums as well,  
4                   that the respondent does not duplicate what is set out by  
5                   the applicant and acknowledges the facts as being correct.

6                   **MS. JONES:** And is it fair to say that most  
7                   of these facts as they're set out are essentially outlining  
8                   how Perry Dunlop has caused the delay in the matter? That  
9                   seems to be the major focus.

10                  **MS. NAROZNIAK:** I'm not sure that I would  
11                  interpret it that way. I thought it to be more of a  
12                  chronology of events.

13                  **MS. JONES:** Correct. Perhaps I should  
14                  rephrase that. Certainly the Crown and Perry Dunlop in the  
15                  delay issue with regards to disclosure.

16                  **MS. NAROZNIAK:** Well, as the major players  
17                  in any kind of criminal case, and certainly in this one,  
18                  yes.

19                  **MS. JONES:** If we actually look at page 29,  
20                  which is paragraph 68 for ease of reference, and it's Bates  
21                  page 7220, the heading that is actually attributed there on  
22                  page 29 is "Non-disclosure of Perry Dunlop's Connection to  
23                  the Applicant's Case"?

24                  **MS. NAROZNIAK:** Correct.

25                  **MS. JONES:** Okay. So it seems the first

1 part is devoted to the Crown chronology or the problems  
2 with disclosure?

3 MS. NAROZNIAK: Yes.

4 MS. JONES: And then there's a portion  
5 devoted entirely just to Perry Dunlop's connections?

6 MS. NAROZNIAK: Correct.

7 MS. JONES: Okay. I could make myself a bit  
8 clearer then.

9 If we could -- just to summarize too -- when  
10 we look at the Crown disclosure in this, when things are  
11 disclosed to defence is entirely up to Crown counsel, is it  
12 not? The timing of the disclosure, once you receive it?

13 MS. NAROZNIAK: Well, yes and no. I mean,  
14 yes, because disclosure comes into the possession of the  
15 Crown, but it's not like we have our own independent  
16 timeline. We are under the pressure of timely disclosure  
17 at all times and we are always governed by that.

18 MS. JONES: But for example, we discussed  
19 yesterday when Mr. Dunlop made disclosure in April, 2000 of  
20 the nine banker's boxes ---

21 MS. NAROZNIAK: Yes.

22 MS. JONES: --- that was disclosed to  
23 defence in June 2002.

24 MS. NAROZNIAK: Right.

25 MS. JONES: But that's a decision of a Crown

1 Attorney not police officers or Mr. Dunlop?

2 MS. NAROZNIAK: Oh, correct. Absolutely,  
3 yes.

4 MS. JONES: So that's what I mean. The  
5 actual content of what's disclosed, and the timing of when  
6 that's going to happen is really down to the Crown?

7 MS. NAROZNIAK: That's true, yes.

8 MS. JONES: Okay, thank you.

9 If we could please go to the next page, page  
10 30, paragraph 71, which is Bates page 7221. I just want to  
11 go to the last complete sentence in paragraph 71.

12 Again, defence counsel is referring to Perry  
13 Dunlop's involvement in various aspects of Project Truth  
14 matters, and makes as a conclusion in this paragraph:

15 "As a result of his tainting..."

16 Meaning Perry Dunlop.

17 "...a number of Project Truth cases  
18 were ultimately withdrawn or stayed due  
19 to Dunlop's involvement."

20 MS. NAROZNIAK: Yes.

21 MS. JONES: And do you agree with that  
22 assertion?

23 MS. NAROZNIAK: Well, I was aware that  
24 definitely some matters were jeopardized by his  
25 involvement, yes. And I know counts were withdrawn on the



1 Macdonald case, and I believe there was another matter as  
2 well; that was my understanding.

3 MS. JONES: Okay. And at paragraph 72 it  
4 states:

5 "It is conceded that Dunlop's  
6 involvement and his taint of other  
7 proceedings was well-known to the Crown  
8 from the beginning of and throughout  
9 the proceedings against the Applicant."

10 Is that your understanding as well?

11 MS. NAROZNIAK: Yes.

12 MS. JONES: Okay. Just a moment, please.

13 (SHORT PAUSE/COURTE PAUSE)

14 MS. JONES: If I could please go to  
15 paragraph 80, which is on Bates page 7225. And in that  
16 paragraph it states:

17 "The Crown asserted that that failure  
18 to disclosure Constable Dunlop's notes  
19 and will say was inadvertent."

20 And I think that would be Ms. Hallett's  
21 submission at the first trial ---

22 MS. NAROZNIAK: Yes, it was.

23 MS. JONES: --- that they're referring to.

24 MS. NAROZNIAK: Yes.

25 MS. JONES: "Throughout these proceedings,

1 including at the first trial, Crown  
2 counsel had conceded that the Dunlop  
3 material was relevant and should have  
4 been disclosed. It is an admitted fact  
5 that the Dunlop material, including the  
6 nine boxes detailing his involvement  
7 with complainants, was relevant and  
8 properly the subject of a disclosure  
9 obligation by the Crown. The late  
10 disclosure of Dunlop's connection to  
11 the Applicant's case was devastating to  
12 the Applicant's ability to make fair  
13 answer in defence and to his fair trial  
14 rights."

15 **MS. NAROZNIAK:** Right.

16 **MS. JONES:** And again, is that your  
17 understanding too? Do you agree with that paragraph in its  
18 entirety?

19 **MS. NAROZNIAK:** Well, I mean, no. The last  
20 sentence is obviously the assertion made by Defence, but  
21 the previous sentences were accurate, yes.

22 **MS. JONES:** Okay. The reason I ask is if  
23 you've accepted this as part of your fact scenario too,  
24 it's assuming that you agree with all of the facts, be they  
25 submissions by Defence or the facts set out.

1                   **MS. HENEIN:** That is not an accurate  
2 statement. In any factum that is filed at any level of  
3 court, even if the Respondent agrees with the facts as  
4 being substantially correct, that does not mean that they  
5 accept the inferences that are submitted in the factum. So  
6 often you will summarize the facts and then you will wrap  
7 up that paragraph by drawing your own inferences.

8                   When the Crown acknowledges that you've  
9 summarized the facts correctly, you would never stand up in  
10 a court and submit that they've also accepted your  
11 submissions because there'd be no point of an application.

12                   So that's pretty common practice at the  
13 appellate courts and at any level of court. So just to  
14 assist my friend, that does not mean that when there is a  
15 concession on the facts that the inferences you put, the  
16 colour or the spin you put on the inferences you want the  
17 Court to draw, are accepted by the other side. They  
18 obviously are not.

19                   **THE COMMISSIONER:** Thank you. Do you accept  
20 that as ---

21                   **MS. NAROZNIAK:** Completely, and obviously  
22 Ms. Henein made herself much more clear than I was.

23                   **THE COMMISSIONER:** Okay.

24                   **MS. JONES:** As I say, I just need your  
25 explanation because if somebody reads the "I accept the

1 facts" I just want to have your explanation. So I'm going  
2 to put a couple of things to you to see ---

3 **MS. NAROZNIAK:** I understand now. I wasn't  
4 really understanding what you were getting at, so thank  
5 you.

6 **MS. JONES:** Thank you. If we could go to  
7 paragraph 82, please, which is the next page, Bates  
8 page 7226. It states:

9 "It is conceded by the Respondent..."  
10 Which is you, the Crown Attorney.

11 "It is conceded by the Respondent that  
12 fact that had a stay of proceedings not  
13 been granted, minimally the appropriate  
14 remedy would have been a mistrial,  
15 given the significance of Dunlop."

16 **MS. NAROZNIAK:** Correct.

17 **MS. JONES:** I think they're referring to the  
18 first trial that happened.

19 **MS. NAROZNIAK:** Exactly.

20 **MS. JONES:** Can you comment on that? Do you  
21 agree with that assertion?

22 **MS. NAROZNIAK:** Do I believe that it was in  
23 reference to my concession on this matter?

24 **MS. JONES:** Correct. So are you in  
25 agreement with that, that that ---

1                   **MS. NAROZNIAK:** Oh, there's no question  
2                   there. Justice MacKinnon was the first presiding justice,  
3                   and expressed some intention on continuing the trial should  
4                   the trial survive the stay application.

5                   Clearly, what we knew about Mr. Dunlop, he  
6                   would not have been in the position to continue with the  
7                   trial. There would have had to have been a mistrial, had  
8                   the contact and disclosure been fleshed out at the first  
9                   trial, so we had to make that concession.

10                  **MS. JONES:** If we could please go to  
11                  paragraph 116, which is Bates page 7239.

12                  And I'm looking specifically at the sentence  
13                  -- in this particular paragraph it's dealing with with C-  
14                  16's mother and the contact that Mr. Dunlop had, and he's  
15                  testifying about the May 8<sup>th</sup>, 1998 phone call. And partway  
16                  through the paragraph it says:

17                                 "Dunlop's assertion is contrary to the  
18                                 entirety of his evidence and the course  
19                                 of conduct."

20                  And then at the very last sentence it said:

21                                 "It is respectfully submitted that  
22                                 Dunlop's claim that he merely referred  
23                                 [C-16's] mother to the police he did  
24                                 not trust is patently false."

25                  **MS. NAROZNIAK:** That was in reference to the

1 cross-examination that was conducted during the disclosure  
2 motion, and the information that he was providing during  
3 that time.

4 **MS. JONES:** Did not C-16's mother describe  
5 pretty closely to how Mr. Dunlop had described with regards  
6 to the contacts she had with him?

7 **MS. NAROZNIAK:** No. She described it  
8 differently, from my recollection.

9 **MS. JONES:** Okay.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MS. JONES:** Now, if we go to your document -  
12 - I just want to file that, please. It's Document 116160.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **THE COMMISSIONER:** Thank you.

15 Exhibit Number 3277 is the respondent's  
16 factum in *R. v. Jacques Leduc* on the 11(b) motion.

17 **MS. JONES:** And it was filed on  
18 September 30<sup>th</sup>, 2004, Commissioner.

19 **THE COMMISSIONER:** Thank you very much.

20 **---EXHIBIT NO./PIÈCE NO. P-3277:**

21 (116160) - Respondent's Factum (11(b)  
22 Delay Motion) re: *R. v. Jacques Leduc*  
23 dated 30 Sep 04

24 **MS. JONES:** Did you have a hand in preparing  
25 this document, Ms. Narozniak?

1                   **MS. NAROZNIAK:** Yes, Ms. Tier and I worked  
2 on it together.

3                   **MS. JONES:** And I know that valid legal  
4 arguments aren't necessarily weighed by the pound, but you  
5 can see that this document is approximately 12 pages in  
6 length, in contrast to the rather lengthy document that was  
7 filed by Ms. Henein.

8                   **MS. NAROZNIAK:** Yes.

9                   **MS. JONES:** I'm wondering if you can comment  
10 on that, please?

11                   **MS. NAROZNIAK:** I was always told size  
12 didn't matter.

13   **( LAUGHTER/RIRES )**

14                   **MS. NAROZNIAK:** Brevity is the soul of wit.

15   It is appreciated by the Court -- and  
16 certainly, even the appellate courts at both levels, the  
17 Court of Appeal and the Supreme Court of Canada, have very  
18 strict rules about the length of factums and even  
19 arguments, where they are timed as short as 15 or 20  
20 minutes.

21   We worked very hard on all aspects of this  
22 case, Ms. Tier and I. In this particular case we knew that  
23 this was a critical motion for us, for obvious reasons.

24   We spent a lot of time researching,  
25 discussing, and we went so far as to engage what we refer

1 to in the field as a "scrum." We called upon senior  
2 experienced experts in the field of 11(b) and appellate  
3 discussion and argument to discuss and hash out how best to  
4 approach the response to the 11(b).

5 And our ultimate decision was to focus on  
6 our best argument. It doesn't have to be lengthy; it  
7 doesn't have to be prolonged. It requires to have the most  
8 salient facts in the most concise and clear fashion, which  
9 I'm told is the art of appellate writing.

10 **THE COMMISSIONER:** Well, as well, you  
11 accepted part 2 of the Applicant's factum ---

12 **MS. NAROZNIAK:** Thank you ---

13 **THE COMMISSIONER:** --- which ---

14 **MS. NAROZNIAK:** Thank you, Your Honour.

15 **THE COMMISSIONER:** --- was the bulk of your  
16 thing.

17 **MS. NAROZNIAK:** The other aspect of it is,  
18 of course, the Applicant has the onus.

19 **MS. JONES:** Correct.

20 **MS. NAROZNIAK:** The Respondent does not.  
21 The Applicant has to set out the history, the chronology of  
22 events, the evidence relied upon. The Respondent has the  
23 easier, if I will, approach because they can acknowledge  
24 much of the information and you don't have to duplicate it.

25 **MS. JONES:** Thank you.



1                   And just a couple of questions about your  
2                   document here. If we could go to the page marked "page 2",  
3                   which isn't actually page 2, but it's marked "page 2", and  
4                   it's Bates page 1077657. And the very first paragraph  
5                   there is the Respondent's position. And the very first  
6                   bullet point is what I wanted to ask you about where you  
7                   state:

8                                   "The total period of six years between  
9                                   the laying of charges and the second  
10                                  trial date is beyond the administrative  
11                                  guidelines and warrants judicial  
12                                  scrutiny."

13                   Could you just explain what you mean by  
14                   that?

15                                  **MS. NAROZNIAK:** What I mean is that we have  
16                   no choice but to review the passage of time because the law  
17                   sets out the limits within which a criminal case needs to  
18                   be completed, and we were way beyond those limits.

19                                  **MS. JONES:** Would it be fair to classify  
20                   your major legal argument or most of your energy is devoted  
21                   to saying that the Defence was barred from arguing 11(b)  
22                   because it hadn't been brought up earlier at the first  
23                   trial?

24                                  **MS. NAROZNIAK:** The conclusion that we came  
25                   to, Ms. Tier and I, from our research and from the fulsome

1 discussion we had with 720 Bay counsel, was that this was  
2 the best argument that we had.

3 **MS. JONES:** If we could go to page 7 of your  
4 factum, which is Bates page 7662, I'm looking at paragraph  
5 16.

6 **MS. NAROZNIAK:** Yes.

7 **MS. JONES:** And I'm looking at the first  
8 sentence:

9 "The Crown acknowledged on February  
10 14<sup>th</sup>, 2001 that the discovery of the  
11 Dunlop connection completely changed  
12 the nature of the case and her  
13 perception of her disclosure  
14 obligations."

15 Do you agree with that assertion?

16 **MS. NAROZNIAK:** Yes. We actually excerpted  
17 that from her submissions in the first trial.

18 **MS. JONES:** Okay. Thank you.

19 The next sentence:

20 "The Defence took the position that the  
21 Dunlop connection was not merely but a  
22 tangential conversation with [C-16's]  
23 mother but was far deeper than that,  
24 citing Dunlop's corruption of the  
25 integrity of witnesses in other cases.

1                   The Defence stated an intention to  
2                   establish that there was a deeper  
3                   connection between Dunlop and the  
4                   witnesses in this case than had been  
5                   shown."

6                   **MS. NAROZNIAK:** Yes.

7                   **MS. JONES:** One of the questions that arises  
8                   very commonly with regards to this whole situation and Mr.  
9                   Dunlop's involvement is that it would appear from the  
10                  testimony of the alleged victims and complainants of Mr.  
11                  Leduc that they did not actually have contact with Mr.  
12                  Dunlop.

13                  **MS. NAROZNIAK:** But what we discovered was  
14                  that there was far more contact than we initially thought  
15                  because it wasn't just Mr. Dunlop that we were looking at.  
16                  Mr. Dunlop, by his own testimony, asserted that he had a  
17                  team, so to speak, of people that assisted him in examining  
18                  or interviewing witnesses, including his wife, Helen  
19                  Dunlop, and his brother-in-law, particularly Carson  
20                  Chisholm.

21                  And it was through Carson Chisholm's  
22                  evidence that we discovered how much more contact there was  
23                  with the complainants' parents. Given the age and the  
24                  living situation of the majority of the complainants, the  
25                  contact with parents was as equally relevant as direct

1 contact with the complainants alone.

2 MS. JONES: Because you can understand that  
3 people looking at this from the outside would say, "Well,  
4 what relevance is it that someone other than Mr. Dunlop has  
5 contact with these people, first of all, and what relevance  
6 is it that Mr. Dunlop has behaved a certain way on other  
7 prosecutions, not this one"?

8 But in this particular one Mr. Dunlop did  
9 not have any contacts, certainly with the complainants that  
10 took the stand and testified at the first trial.

11 MS. NAROZNIAK: Well, certainly according to  
12 the evidence of the complainants he did not, but Mr. Dunlop  
13 was a team, and Mr. Chisholm could be considered as Mr.  
14 Dunlop because both acknowledged that it was Mr. Dunlop  
15 that was directing the investigation and both acknowledged  
16 that there was a reporting back to Mr. Dunlop.

17 So certainly the evidence of the  
18 complainants alone that it was just -- that there was no  
19 contact could not be left on its face. We had certainly  
20 far more information after the disclosure motion than  
21 anyone else had up to that time.

22 And as far as, you know, what relevance the  
23 other cases had to do with this particular case, quite  
24 frankly, if you have a so-called self-described  
25 investigator who victims have identified as being pushy and

1       trying to embellish or fabricate evidence, that doesn't  
2       stop at those other cases.

3               We have to be aware that this is a  
4       possibility that certainly has to be fleshed out at the  
5       trial to determine if there was any collaboration,  
6       collusion or tainting of evidence regardless of what the  
7       complainants say. Their declarations alone are not  
8       sufficient to meet the threshold during a trial.

9               **MS. JONES:** Thank you.

10              If I could please go to Document 112989,  
11       which is Exhibit 3252, I'm informed.

12              This is a very brief email from yourself to  
13       Ms. Hallett concerning the 11(b) argument. Were you  
14       looking for input from Ms. Hallett on this at that point?

15              **MS. NAROZNIAK:** Well, I would have expected  
16       input if she saw something that was problematic, yes.

17              **MS. JONES:** All right.

18              And if we could go to Document 705879.

19              **THE COMMISSIONER:** Thank you. Exhibit 3278  
20       are newspaper articles -- do we have the date? Yes,  
21       October 6<sup>th</sup>, '04 and they are from The Freeholder.

22       **--- EXHIBIT NO./PIÈCE NO P-3278:**

23              (705879) - Standard-Freeholder Article

24              'Judge to decide Oct 18 on Project Truth  
25       trial' dated 06 Oct 04

1                   **MS. JONES:** Thank you.

2                   This was an article written in the local  
3 newspaper, and I'm looking at the third column about  
4 halfway down, and it quotes you. And it's basically after  
5 the submissions on the 11(b) had been made and we're  
6 waiting for ---

7                   **THE COMMISSIONER:** Which article, I'm sorry?

8                   **MS. JONES:** I've only got one article on  
9 mine actually. It's the bottom article.

10                  **THE COMMISSIONER:** Okay.

11                  **MS. JONES:** Oh, thank you, Madam Clerk.

12                  And it states:

13                         "Narozniak agreed the length of time is  
14 a concern and that much of the  
15 responsibility must be acknowledged by  
16 the Crown, but she also spoke of the  
17 importance within the community of  
18 having this case go forward."

19                  **MS. NAROZNIAK:** Yes.

20                  **MS. JONES:** Correct?

21                  **MS. NAROZNIAK:** Correct.

22                  **MS. JONES:** Did you give a press conference  
23 or ---

24                  **MS. NAROZNIAK:** No.

25                  **MS. JONES:** --- give a statement or how did

1 that come about?

2 MS. NAROZNIAK: This person is quoting what  
3 I -- well, summarizing what I said in court in my  
4 submissions.

5 MS. JONES: Okay. So still at this point --  
6 these were part of your submissions, which unfortunately we  
7 don't have, but still at this point you wanted this case to  
8 proceed?

9 MS. NAROZNIAK: Oh, yes, most definitely.

10 MS. JONES: Thank you.

11 If I could please go to Exhibit 781, which  
12 is Document 112988.

13 And this is Justice Platana's decision,  
14 which was actually given on November 10<sup>th</sup>, 2004. And at the  
15 very end of the decision, page 31, which is Bates page  
16 6060, essentially the conclusion of Justice Platana was  
17 consistent with the conclusion of Justice Chilcott in the  
18 MacDonald case.

19 MS. NAROZNIAK: Yes.

20 MS. JONES: And he literally quotes Justice  
21 Chilcott as part of his decision; correct?

22 MS. NAROZNIAK: Yes.

23 MS. JONES: So he's making a decision that's  
24 consistent, in his viewpoint anyway, with the MacDonald  
25 situation.

1                   **MS. NAROZNIAK:** Well, he's certainly quoting  
2                   some of the legal principles that govern 11(b). It's a  
3                   little bit of boiler-plate here.

4                   **MS. JONES:** Okay.

5                   Was there any consideration given to  
6                   appealing the decision of Justice Platana?

7                   **MS. NAROZNIAK:** Yes. Oh, yes.

8                   **MS. JONES:** And did it go through the same  
9                   process that we discussed yesterday?

10                  **MS. NAROZNIAK:** Not in the same formal  
11                  method that was employed by Ms. Hallett with the use of the  
12                  checklist because the checklist was already submitted.

13                  I very astutely, I thought, when I engaged  
14                  the counsel from 720 Bay to review 11(b), they included  
15                  Paul Lindsay, the Director and Ken Campbell, the Deputy  
16                  Director. I couldn't go better than that.

17                  So, of course, all the issues were already  
18                  fully aware of the background of the case -- was fully in  
19                  the hands of the 720 Bay so I did not have to go through  
20                  the formality of submitting a checklist.

21                  **MS. JONES:** Did you have an opinion as to  
22                  whether it should be appealed or not or was that basically  
23                  given to someone else?

24                  **MS. NAROZNIAK:** I did not have -- I could  
25                  not have an opinion. It was not up to me to make that



1 decision, it was up to the panel.

2 MS. JONES: Thank you.

3 Was there anything else about the 11(b)  
4 application that you wish to comment on?

5 MS. NAROZNIAK: No, I don't think so. I  
6 don't think so. Thank you.

7 MS. JONES: And the last document that I  
8 wish to enter, please, is Document 732295.

9 THE COMMISSIONER: Thank you.

10 Exhibit 3279 is a letter to Murray  
11 MacDonald, Crown Attorney, dated 21<sup>st</sup> of October, 2004 from  
12 Colleen McQuade.

13 --- EXHIBIT NO./PIECE NO. P-3279:

14 (732295) Letter from Colleen McQuade to  
15 Murray MacDonald dated October 21, 2004

16 MS. JONES: I'm sorry, what was that exhibit  
17 number?

18 THE COMMISSIONER: It's 3279.

19 MS. JONES: Thank you.

20 And just to sum up here, this was a letter  
21 from Officer McQuade and was briefly complimenting you on  
22 your services in the Leduc matter?

23 MS. NAROZNIAK: Yes, it is.

24 MS. JONES: And just felt that certainly by  
25 OPP that you had done an excellent job in this prosecution?

1 MS. NAROZNIAK: Yes.

2 MS. JONES: Regardless of the outcome of  
3 that?

4 MS. NAROZNIAK: Yes.

5 MS. JONES: Okay. Those are my questions,  
6 Ms. Narozniak.

7 At this point, we typically ask for input  
8 from any witness with regards to recommendations that you  
9 may wish Mr. Commissioner to consider.

10 And this is an opportunity for you to  
11 describe any sort of impact that this process has had on  
12 you from your own personal viewpoint, and any other  
13 comments you wish to add.

14 MS. NAROZNIAK: I have nothing to add, thank  
15 you.

16 THE COMMISSIONER: Thank you.

17 What we'll do is we'll take ten minutes.

18 Ms. Jones, could you please canvass the  
19 parties to see how they're going to portion the time.

20 Thank you. We'll see you in a few minutes.

21 THE REGISTRAR: Order; all rise. A l'ordre;  
22 veuillez vous lever.

23 This hearing will resume at 12:05 p.m.

24 --- Upon recessing at 11:53 a.m./

25 L'audience est suspendue a 11h53

1 --- Upon resuming at 12:03 p.m./

2 L'audience est reprise a 12h03

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

5 This hearing is now resumed. Please be  
6 seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Strawczynski?

9 **MR. STRAWCZYNSKI:** Good afternoon, Mr.  
10 Commissioner.

11 **LIDIA NAROZNIAK, Resumed/Sous le meme serment:**

12 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
13 **STRAWCZYNSKI**

14 **MR. STRAWCZYNSKI:** And good afternoon, Ms.  
15 Narozniak.

16 **MS. NAROZNIAK:** Good afternoon.

17 **MR. STRAWCZYNSKI:** My name is Juda  
18 Strawczynski and I'm here on behalf of Citizens for  
19 Community Renewal. It's a group of concerned Cornwall  
20 citizens which is principally interested in promoting  
21 institutional reform so as to ensure the protection of  
22 children and justice for all.

23 And our group would like to thank you  
24 specifically for staying late last night and for your  
25 testimony for the Inquiry.

1 I wanted to start with just a general  
2 question about the Crown appeals process.

3 You had mentioned yesterday evening that Ms.  
4 Hallett had sent in her appeal process and that you had  
5 participated in writing a memo, one of the three memos that  
6 would have recommended an appeal.

7 **MS. NAROZNIAK:** Yes.

8 **MR. STRAWCZYNSKI:** And I'm wondering whether  
9 you know whether your memo or the other two memos were ever  
10 sent to Crown Hallett?

11 **MS. NAROZNIAK:** I don't know.

12 **MR. STRAWCZYNSKI:** Do you know in your  
13 experience as a Crown whether those memos were ever  
14 provided to you when you have requested an appeal?

15 **MS. NAROZNIAK:** I'm trying to think in my  
16 own experience if I had ever received opinion letters. I'm  
17 sorry, I can't recall. I'm not sure.

18 **MR. STRAWCZYNSKI:** Would you agree with me  
19 that for Crowns who are requesting an appeal, it may be  
20 instructive and helpful to be able to see what appellate-  
21 level counsel believe are the important matters to consider  
22 in determining whether to recommend an appeal?

23 **MS. NAROZNIAK:** The content of their opinion  
24 would certainly be shared with trial Crown because the  
25 panel reports back to the trial Crown especially if it's

1 bad news.

2 So we have a fulsome discussion with the  
3 appellate counsel outlining the reasons for their decision.

4 **MR. STRAWCZYNSKI:** Thank you.

5 And I understand it's a fairly structured  
6 system normally. Crown Hallett, for example, did use the  
7 checklist and I gather from your testimony moments ago you  
8 did not go through the checklist format in this case, but  
9 we do have a document.

10 I'm not going to turn it to you now but just  
11 for the Commission, Ms. Narozniak and Christine Tier did  
12 prepare a memorandum on this which did go up to John  
13 Pearson, Paul Lindsay, Ken Campbell.

14 It's Exhibit 2731, Document 105551, so it's  
15 not as though this matter was not considered further.

16 **MS. NAROZNIAK:** Oh, yes. Absolutely.

17 **MR. STRAWCZYNSKI:** We spoke last evening  
18 about your involvement in the Leduc matter and I understood  
19 that you came in fall of 2003; correct?

20 **MS. NAROZNIAK:** Correct.

21 **MR. STRAWCZYNSKI:** Now, I understand that  
22 there was a fairly significant period of time when the  
23 Court of Appeal was considering this matter. Do you -- and  
24 did I understand correctly from your testimony yesterday,  
25 you were not aware whether a Crown had been put on this

1 matter to work through the file and review it in case the  
2 appeal was successful until your arrival?

3 **MS. NAROZNIAK:** Are you talking about the  
4 Court of Appeal decision or the Supreme Court of Canada  
5 decision?

6 **MR. STRAWCZYNSKI:** Sorry, the -- both I  
7 suppose.

8 **MS. NAROZNIAK:** Well, appellate counsel were  
9 fully engaged during the Court of Appeal process as they  
10 were during the Supreme Court of Canada process, and it was  
11 the same one, John Pearson, with whomever he had as  
12 assistant.

13 In anticipation of a successful decision in  
14 the Supreme Court of Canada, John Pearson contacted me in  
15 the fall of 2003 and that's the first contact I had.

16 **MR. STRAWCZYNSKI:** But in -- so in the  
17 period when Ms. Hallett steps off the file and then passed  
18 the Court of Appeal, there's no dedicated Crown to prepare  
19 in the event that this matter will continue?

20 **MS. NAROZNIAK:** Other than appellate  
21 counsel, I wasn't aware of any.

22 **MR. STRAWCZYNSKI:** I do understand there was  
23 some disclosure that happened during the course of these  
24 appeals but ---

25 **MS. NAROZNIAK:** Right.

1                   **MR. STRAWCZYNSKI:** --- we're still not sure  
2                   where that happened and ---

3                   **MS. NAROZNIAK:** That was from appellate  
4                   counsel.

5                   **MR. STRAWCZYNSKI:** That was from appellate  
6                   counsel?

7                   **MS. NAROZNIAK:** Yes.

8                   **MR. STRAWCZYNSKI:** Okay. So there was some  
9                   file management throughout but ---

10                  **MS. NAROZNIAK:** Oh, yes.

11                  **MR. STRAWCZYNSKI:** --- it wouldn't have been  
12                  somebody gearing up again for the continued trial?

13                  **MS. NAROZNIAK:** That's correct.

14                  **MR. STRAWCZYNSKI:** I'm just going to try to  
15                  bring out some of the hurdles that you would have faced in  
16                  trying to bring this case through.

17                                I've understood from your evidence that  
18                  delay was definitely the major first factor. The first  
19                  hurdle that you were going to be facing there was this  
20                  11(b) motion?

21                  **MS. NAROZNIAK:** Yes.

22                  **MR. STRAWCZYNSKI:** And much of this delay  
23                  was attributable to the Crown aside from any of the  
24                  involvement of Perry Dunlop; correct?

25                  **MS. NAROZNIAK:** Well, actually the Perry

1 Dunlop involvement in the sense of the disclosure of Dunlop  
2 material was critical and the most significant problem  
3 because of the timing of its disclosure.

4 **MR. STRAWCZYNSKI:** I understand it's been  
5 labelled in the past as the top issue, if we could call it,  
6 that but my question is, specifically with respect to the  
7 Crown there were numerous requests and these were shown in  
8 the facts as set out by the applicant ---

9 **MS. NAROZNIAK:** Yes.

10 **MR. STRAWCZYNSKI:** --- that show that the  
11 Crown had been tardy in some of its disclosure obligations;  
12 correct?

13 **MS. NAROZNIAK:** Yes.

14 **MR. STRAWCZYNSKI:** And, in fact, this had  
15 helped extend this past the legislated guideline for  
16 disclosure purposes; correct?

17 **MS. NAROZNIAK:** It certainly contributed,  
18 yes.

19 **MR. STRAWCZYNSKI:** So on the Crown's  
20 disclosure obligations alone, excluding the Dunlop  
21 disclosure issues, we already were into serious delay which  
22 could have compromised the case if your waiver argument was  
23 not accepted by a court?

24 **MS. NAROZNIAK:** Yes.

25 **MR. STRAWCZYNSKI:** Then we have the Dunlop



1 complication as well. And I'm going to put to you that no  
2 one had figured out how to handle Mr. Dunlop before you had  
3 arrived on the scene. No one had figured out how to get  
4 his cooperation to disclose; correct?

5 **MS. NAROZNIAK:** Well, if you're referring to  
6 the efforts made by the police in the past, the continual  
7 requests for cooperation and compliance with orders, the  
8 process was a very long one from what I understood, yes.

9 **MR. STRAWCZYNSKI:** And the repeated requests  
10 for disclosure were never fully complied with?

11 **MS. NAROZNIAK:** That's correct.

12 **MR. STRAWCZYNSKI:** And the Crown and police  
13 were concerned by this by the time you became involved in  
14 the file?

15 **MS. NAROZNIAK:** Yes.

16 **MR. STRAWCZYNSKI:** And, ultimately, no  
17 successful steps were taken to obtain full disclosure and  
18 cooperation from Officer Dunlop before he was subpoenaed to  
19 come testify in your matter; correct?

20 **MS. NAROZNIAK:** Well, I think the  
21 understanding was that the compliance was finally achieved  
22 on -- in April or March of 2000 when he delivered the nine  
23 boxes.

24 **MR. STRAWCZYNSKI:** I understand. But by the  
25 time you had reviewed the file that had changed; that view

1 had changed?

2 MS. NAROZNIAK: I'm sorry, I'm not  
3 understanding what you're saying.

4 MR. STRAWCZYNSKI: You had mentioned that  
5 you were concerned there were some missing notebooks.

6 MS. NAROZNIAK: Yes, that I certainly ---

7 MR. STRAWCZYNSKI: Okay, so there was  
8 disclosure of boxes but later, upon further review, there  
9 was ---

10 MS. NAROZNIAK: There was a concern.

11 MR. STRAWCZYNSKI: There's an overriding  
12 concern that had resurfaced, shall we say?

13 MS. NAROZNIAK: That's fair. That's exactly  
14 right.

15 MR. STRAWCZYNSKI: And when Officer Dunlop  
16 came to the *voir dire*, and we saw some of the testimony  
17 today, he did admit to engaging in what was described as  
18 "incremental disclosure"?

19 MS. NAROZNIAK: Yes.

20 MR. STRAWCZYNSKI: He also characterized it  
21 as "sequentially". It sort of transpired?

22 MS. NAROZNIAK: Yes. I think he also  
23 admitted in the MacDonald case, if I recall correctly, or  
24 could have been -- no, it was MacDonald I think -- that he  
25 admitted to hiding disclosure, not disclosing it to the

1 police.

2 **MR. STRAWCZYNSKI:** I'm not going to turn you  
3 to those quotes now but, Mr. Commissioner, just so you know  
4 the reference to "incremental disclosure" is Exhibit 722,  
5 page 119 of the transcript; and Exhibit 723, page 46 is to  
6 the "sequential disclosure".

7 I take it there was a need to hear from  
8 Perry Dunlop on these matters of disclosure ---

9 **MS. NAROZNIAK:** Yes.

10 **MR. STRAWCZYNSKI:** --- and that's why he was  
11 called?

12 **MS. NAROZNIAK:** Yes.

13 **MR. STRAWCZYNSKI:** And you were having  
14 difficulties with him and you were hoping to have it  
15 resolved in a -- through the *voir dire* process?

16 **MS. NAROZNIAK:** That was definitely my hope.  
17 My goal was to ensure that the trial proceeded without any  
18 interruption, any derailment, as was evidenced in the first  
19 trial.

20 **MR. STRAWCZYNSKI:** The problem here with the  
21 incremental disclosure and Officer Dunlop's involvement, as  
22 I understand it though, is that your case is waiting for  
23 the disclosure that he will give when he has seen fit. Is  
24 that correct?

25 **MS. NAROZNIAK:** Well, everybody's case was

1 in that same position and that was why there was so much  
2 difficulty throughout that period of time where the Project  
3 Truth cases were going through the trial process.  
4 Discoveries were made that there was disclosure not  
5 forthcoming and that interfered and hindered with the  
6 successful prosecution of the cases.

7 **MR. STRAWCZYNSKI:** It also would have  
8 hindered the defence's ability to understand the case;  
9 correct?

10 **MS. NAROZNIAK:** Oh, absolutely, and they are  
11 Charter-protected to full answer and defence.

12 **MR. STRAWCZYNSKI:** So if I understand your  
13 evidence, between the Crown and Perry Dunlop's causes for  
14 delay, it would have been a very difficult motion that you  
15 would have faced for delay and waiver was your top  
16 argument; correct?

17 **MS. NAROZNIAK:** It was an uphill battle,  
18 that's correct, and we did a lot of work to try to come up  
19 with the best response and the best arguments, and waiver  
20 was it.

21 **MR. STRAWCZYNSKI:** Now, assuming you had  
22 been successful on that motion, you still would have had to  
23 go through and prove your case on -- beyond a reasonable  
24 doubt; correct?

25 **MS. NAROZNIAK:** Yes.

1                   **MR. STRAWCZYNSKI:** So it's not as though if  
2 we were to be successful at that level that we would --  
3 that would be the end of this matter?

4                   **MS. NAROZNIAK:** Oh, no, the work would have  
5 just started at that point, yes.

6                   **MR. STRAWCZYNSKI:** Now, I understand that  
7 after hearing from Officer Dunlop you continued to have  
8 some concerns about this case going forward, and these are  
9 presented in Exhibit 2731, which is Document 105551. This  
10 is your memo to John Pearson, Paul Lindsay and Ken  
11 Campbell?

12                   **MS. NAROZNIAK:** Yes.

13                   **MR. STRAWCZYNSKI:** If you move to page 3 of  
14 the document to the paragraph called -- which starts with,  
15 "In the context of". You're discussing how there's a  
16 concern of Officer Dunlop's tainting of witnesses and you  
17 note:

18                                    "In fact, this information has troubled  
19 us as to the credibility of our own  
20 witnesses."

21                   **MS. NAROZNIAK:** Yes.

22                   **MR. STRAWCZYNSKI:** Then, on the next page,  
23 not only in reporting up the chain of command do you note  
24 that you feel confident that the court is going to be very  
25 tempted to reject your foreclosure argument because it is

1 the only thing that stands of what you describe as a  
2 "highly meritorious 11(b) application"?

3 **MS. NAROZNIAK:** I'm afraid so, yes.

4 **MR. STRAWCZYNSKI:** You then turn to the  
5 merits of the case should you be successful on the 11(b)  
6 and you write:

7 "We now have the benefit of preliminary  
8 and trial transcripts and have met with  
9 all the complainants. After careful  
10 review of same, we have concluded that  
11 their evidence causes us significant  
12 concerns about their reliability."

13 And you talk about one case in particular --  
14 -

15 **MS. NAROZNIAK:** Yes.

16 **MR. STRAWCZYNSKI:** --- where there's a  
17 moniker here and the evidence, you conclude, is so weak  
18 with respect to that individual that you're now of the view  
19 that it cannot sustain a conviction regardless of the 11(b)  
20 ruling.

21 I take it that had you had a more complete  
22 understanding and had the police had a more complete  
23 understanding of the interactions of Officer Dunlop with  
24 some of the complainants, these matters could have been  
25 explored much earlier?

1                   **MS. NAROZNIAK:** Yes.

2                   **MR. STRAWCZYNSKI:** And had you been asked by  
3 Project Truth, as it was their standard practice to seek a  
4 Crown opinion whenever dealing with a Project Truth  
5 prosecution, with the facts that you knew by this point in  
6 the procedure, if you'd been asked to lay out your  
7 concerns, clearly tainting might have been one of them?

8                   **MS. NAROZNIAK:** I think I lost you, I'm  
9 sorry.

10                  **MR. STRAWCZYNSKI:** Okay, let me rewind.

11                   By the time we've heard from Officer  
12 Dunlop's *voir dire*, we come to recognize that there is  
13 concern for the credibility of witnesses and there are  
14 concerns about the number of times that they have met with  
15 Dunlop or members of his team; correct?

16                  **MS. NAROZNIAK:** Yes, that's correct.

17                  **MR. STRAWCZYNSKI:** And by this point, you're  
18 not even sure whether some of these charges should remain  
19 on the books; correct?

20                  **MS. NAROZNIAK:** Correct.

21                  **MR. STRAWCZYNSKI:** And, in fact, even if you  
22 were successful at 11(b), you may have considered  
23 withdrawing charges, I'd have said.

24                  **MS. NAROZNIAK:** With respect to the one  
25 complainant.

1                   **MR. STRAWCZYNSKI:** In respect to the one?

2                   **MS. NAROZNIAK:** Yes. And that was  
3                   crystallized as we completed the arguments and as a result  
4                   of the most recent contact I had.

5                   **MR. STRAWCZYNSKI:** I just want to put to you  
6                   that the difficulty in cases involving Perry Dunlop is that  
7                   the issue of tampering would be a concern and it could  
8                   cause a risk in cases even when there are highly credible  
9                   witnesses?

10                  **MS. NAROZNIAK:** Absolutely.

11                  **MR. STRAWCZYNSKI:** Is that not correct?

12                  **MS. NAROZNIAK:** That is very, very correct.

13                                It's not so much -- even if you had the  
14                   complainants clearly state there's been no contact, this  
15                   was clearly going to be fleshed out during the course of  
16                   the trial if we survived 11(b). There was definitely going  
17                   to be much evidence elicited around the contacts, the  
18                   meetings and so on that we discovered during the disclosure  
19                   motion.

20                                With the status of the law as it is, with  
21                   the case of WD, where even the complainant's evidence can  
22                   be completely accepted by the trier of fact, that doesn't  
23                   stop there. The trier of fact is required to consider if  
24                   the Crown nevertheless has proven the case beyond a  
25                   reasonable doubt, and that was the difficulty that we were



1 facing in this case.

2 MR. STRAWCZYNSKI: Thank you. I appreciate  
3 it. Those are my questions.

4 THE COMMISSIONER: Thank you.  
5 Mr. Horn? Good morning, sir.

6 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

7 MR. HORN:

8 MR. HORN: Yes. We've known each other for  
9 quite some time?

10 MS. NAROZNIAK: Yes, we have, Mr. Horn.

11 MR. HORN: And I know that you are aware  
12 that I'm representing the Coalition for Action, which is a  
13 citizens' group here in Cornwall which is concerned about  
14 what we believe was deliberate collusion and conspiracy ---

15 MS. NAROZNIAK: Yes.

16 MR. HORN: --- involving the things that  
17 came about to create Project Truth.

18 MS. NAROZNIAK: Yes.

19 MR. HORN: Okay. Now, the first thing that  
20 I'm interested in is the issue surrounding the decisions  
21 that you made in order to put Mr. Dunlop on the stand ---

22 MS. NAROZNIAK: Right.

23 MR. HORN: --- as your witness, which means  
24 that you opened him up to being cross-examined by the  
25 defence?

1                   **MS. NAROZNIAK:** Correct.

2                   **MR. HORN:** Okay. Now, from what I  
3 understand, you indicated that your thinking was that if  
4 you had allowed the defence that call him as witness then  
5 there would have had to have been an application for a --  
6 to make him a hostile witness and the judge would have had  
7 to allow the cross-examination.

8                   **MS. NAROZNIAK:** I would have expected that  
9 that would have been the turn of events, yes.

10                  **MR. HORN:** Okay.

11                  Now, the request for Mr. Dunlop to become  
12 your witness was made by the Defence; wasn't it?

13                  **MS. NAROZNIAK:** No, it was in response to  
14 the disclosure motion application. He was -- well, let's  
15 put it this way, the Crown was equally interested in  
16 fleshing out the involvement Mr. Dunlop had in the Leduc  
17 case. We were equally interested in ensuring there was a  
18 fulsome exploration of not only the contact but also to  
19 ensure there was no other material in his possession  
20 touching my case that I was obliged to disclose.

21                  **MR. HORN:** Okay. Can we look at Exhibit  
22 Number 3268, Document Number 733306?

23                  Now, at the bottom there's some discussions  
24 that were going on between yourself and I believe it was --

25                  -

1                   **MS. NAROZNIAK:** An Inspector -- Detective  
2           Inspector ---

3                   **MR. HORN:** --- McQuade.

4                   **MS. NAROZNIAK:** --- McQuade.

5                   **MR. HORN:** Colleen McQuade, and one of the  
6           things that came up was the fact that there was discussions  
7           regarding an approaching conference call with the presiding  
8           justice.

9                   **MS. NAROZNIAK:** Yes.

10                  **MR. HORN:** Okay.

11                  And at that point, it was brought -- it  
12           mentions the fact that the Defence was the one that was --  
13           feels that they need to cross-examine Dunlop.

14                  **MS. NAROZNIAK:** Yes.

15                  **MR. HORN:** So it -- the Defence was  
16           pressuring -- they wanted Dunlop on the stand so they can  
17           cross-examine him.

18                  **MS. NAROZNIAK:** Well, defence counsel wasn't  
19           in a position to pressure the justice for anything. It was  
20           a properly filed application for disclosure. Because she's  
21           aware that it's her application, she would be calling the  
22           witness, but she identified and anticipated what was the  
23           likely conclusion of that effort, and that was to cross-  
24           examine.

25                  But you're right, Mr. Horn. Ms. Henein was

1 very much interested in cross-examining.

2 **MR. HORN:** So you wanted to make it easy for  
3 her. You didn't want her to have to make an application to  
4 get a judge's order making him a hostile witness so that he  
5 could be cross-examined?

6 **MS. NAROZNIAK:** I wanted a more efficient  
7 way of getting to the truth and I was equally interested in  
8 exploring that, and cross-examination is the only method by  
9 which you can do that.

10 **MR. HORN:** Okay.

11 So if Dunlop -- Mr. Dunlop feels that you  
12 basically relinquished any feeling that he might have that  
13 he would be able to have you on his side, basically, he  
14 felt that you were just handing him over so that he could  
15 be cross-examined at will.

16 **MS. NAROZNIAK:** Mr. Dunlop, as a police  
17 officer, should know full well that the Crown is not on  
18 anybody's side but the side of the administration of  
19 justice. The overriding factor in any trial process for  
20 the Crown is to ensure that the process is fair.

21 **MR. HORN:** Oh, I understand that, but this  
22 is a person that you have said that he -- you felt that he  
23 had credibility problems.

24 **MS. NAROZNIAK:** Very much so, yes.

25 **MR. HORN:** Okay.

1                   So you're putting the person on the stand  
2                   that you already feel has credibility problems and you're  
3                   putting him there because you want to have him cross-  
4                   examined by the other side.

5                   **MS. NAROZNIAK:** I was in a very awkward  
6                   situation because the Crown is required to put credible  
7                   evidence in court and I was in a very difficult predicament  
8                   because I needed to put him on the stand, given the issue,  
9                   yet my putting him on the stand provided an inference that  
10                  the Crown was presenting this as credible evidence and I  
11                  had trouble with that too.

12                  **MR. HORN:** Okay.

13                  You may have had trouble with it, but what  
14                  you're doing is, rather than putting someone else there who  
15                  you feel has credibility -- you could have put Ms. Hallett  
16                  there.

17                  **MS. NAROZNIAK:** Well, no, she couldn't  
18                  answer whether she had material that she investigated  
19                  during the course of Project Truth cases. It was Dunlop  
20                  that was investigating.

21                  **MR. HORN:** She could have explained a lot of  
22                  things of why there was delays and why there were things  
23                  that were happening. She could have been put there as a  
24                  witness and you could have offered her as a witness to be  
25                  cross-examined.

1                   **MS. NAROZNIAK:** Not on the Dunlop ---

2                   **MS. HENEIN:** Sorry, Your Honour, there's  
3 something that Mr. Horn may not be aware of. The  
4 application was to cross-examine Mr. Dunlop and also Mr.  
5 Chisholm to find ---

6                   **THE COMMISSIONER:** You've got to speak into  
7 the microphone.

8                   **MS. HENEIN:** I'm sorry, I'm sorry -- to find  
9 out what was in Mr. Dunlop's possession. That was not  
10 something that Ms. Hallett could answer to ever. Her  
11 conduct was not the issue in this application.

12                   **MR. HORN:** Well, the application, from what  
13 I understand, dealt with questions regarding the  
14 administration of justice; right? The delay, why that took  
15 place, why there wasn't the disclosure.

16                   **MS. NAROZNIAK:** No, you're confusing 11(b)  
17 with the disclosure motion.

18                   **MR. HORN:** Pardon?

19                   **MS. NAROZNIAK:** You're confusing 11(b) with  
20 disclosure.

21                   **MR. HORN:** I understand, but they were all  
22 basically intertwined.

23                   **MS. NAROZNIAK:** No, they weren't.

24                   **MR. HORN:** They were entwined because a lot  
25 of the things that happened earlier in the disclosure

1 motions previously, they come up later on when you're  
2 dealing with it.

3 **MS. NAROZNIAK:** That is not quite accurate,  
4 Mr. Horn. The application for disclosure was very specific  
5 and it dealt strictly with what Mr. Dunlop had in his  
6 possession and what contact he had had with complainants.

7 **MR. HORN:** Okay.

8 So Mr. Dunlop, who is a -- is a police  
9 officer.

10 **MS. NAROZNIAK:** Well, not at that point, but  
11 he was, yes.

12 **MR. HORN:** Okay, he's a police officer. Mr.  
13 Carson Chisholm is not a police officer.

14 **MS. NAROZNIAK:** Correct.

15 **MR. HORN:** Okay.

16 And yet Mr. Carson Chisholm is treated like  
17 as if he was a part of your team or part of the -- the  
18 prosecution side.

19 **MS. NAROZNIAK:** I'm not sure I understand  
20 that.

21 **MR. HORN:** Well, okay. He's being put forth  
22 as a witness.

23 **MS. NAROZNIAK:** He was put forth as a  
24 witness because it was clear from Mr. Dunlop's evidence  
25 that he formed the investigative team by Mr. Dunlop that

1 assisted him in interviewing potential witnesses and  
2 victims.

3 MR. HORN: Okay. Where did you find that  
4 out?

5 MS. NAROZNIAK: Specifically, I can't recall  
6 whether it was through the testimony of Mr. Dunlop or  
7 through prior review.

8 MR. HORN: Okay, so he said, "I have a team  
9 of people and we're going out and we're interviewing  
10 people." Did he actually say that?

11 MS. NAROZNIAK: He ---

12 MR. HORN: That, "Mr. Carson Chisholm and I  
13 are a team ---"

14 MS. NAROZNIAK: Yes.

15 MR. HORN: "--- and Helen and I are a team,"  
16 and did he tell you that?

17 MS. NAROZNIAK: He testified to that effect  
18 during the motion, yes.

19 MR. HORN: Through the motion. When? That  
20 motion when you put him on the stand? Did you know that  
21 before you put him on the stand?

22 MS. NAROZNIAK: That I cannot recall because  
23 the subpoenas were added -- I can't recall if I -- if the  
24 subpoena was served on Mr. Chisholm before the motion or as  
25 a result of the information coming from the motion. I



1 don't recall any more.

2 **MR. HORN:** Okay. This is kind of an unusual  
3 situation in which you get a private citizen, Mr. Chisholm,  
4 and Helen Dunlop, who are both private citizens, and you're  
5 treating them as if they were part of the investigative  
6 team of the prosecution.

7 **MS. NAROZNIAK:** Because they were, according  
8 ---

9 **MR. HORN:** Pardon?

10 **MS. NAROZNIAK:** --- to Mr. Dunlop.

11 **MR. HORN:** Oh, they were? So they were part  
12 of your prosecution team?

13 **THE COMMISSIONER:** No, no, no, no, just a  
14 minute, Mr. Horn. She's -- the witness was qualifying  
15 that. Part of Mr. Dunlop's investigative team.

16 **MS. NAROZNIAK:** Correct.

17 **MR. HORN:** Okay, but he's your witness.

18 **MS. NAROZNIAK:** I called him to the stand,  
19 yes.

20 **MR. HORN:** Okay, he's your witness. You  
21 subpoenaed him. You brought him in. He's now part of the  
22 case that you're going to be presenting. He's going to be  
23 part of the case, right ---

24 **MS. NAROZNIAK:** He's not part of the case.

25 **MR. HORN:** --- that you're going to be

1 presenting?

2 **MS. NAROZNIAK:** No, he was not part of the  
3 case. The actual case is the case of sexual exploitation  
4 charges against Mr. Leduc. To this point he was not a  
5 substantive witness in that case or a material witness in  
6 that case. He was a witness on the disclosure motion and,  
7 through his testimony, Mr. Chisholm was identified as  
8 someone who also investigated and contacted witnesses, as  
9 did Mrs. Dunlop. That's why they were called to flesh out  
10 the entire pre-trial motion for disclosure.

11 **MR. HORN:** Okay.

12 Why did you choose Carson Chisholm, Helen  
13 Dunlop, and not the hundreds of other people that were  
14 involved in talking about this thing and out in the  
15 community questioning these things and questioning all  
16 kinds of people, and there was -- this sort of thing was  
17 going on all over the place. They're the only two that you  
18 picked.

19 **MS. NAROZNIAK:** Because they were the two  
20 identified by Mr. Dunlop.

21 **MR. HORN:** Okay.

22 You're suggesting then that you zeroed in on  
23 them and you -- whereas in the community everybody was  
24 talking and questioning and there was -- this sort of thing  
25 was going on.

1                   **MS. NAROZNIAK:** Mr. Dunlop was the only  
2 person identified as someone collecting statements and  
3 seeking out potential victims.

4                   **MR. HORN:** Okay. And yet you said, "Well, I  
5 have credibility problems with him."

6                   **MS. NAROZNIAK:** I did.

7                   **MR. HORN:** "I'm going to put him there  
8 anyways."

9                   **MS. NAROZNIAK:** I actually ---.

10                  **MR. HORN:** "I don't really believe anything  
11 he's going to say."

12                  **MS. NAROZNIAK:** I wasn't sure..

13                  **MR. HORN:** Okay, so you put him there. You  
14 knew that he was going to be then attacked, and also you  
15 allowed -- okay, Mr. Dunlop -- you allowed him to be  
16 questioned on, I believe, some psychological or medical  
17 problems that he had?

18                  **MS. NAROZNIAK:** I'm sorry?

19                  **MR. HORN:** Medical problems that he was  
20 seeking ---

21                  **MS. NAROZNIAK:** That was part of his  
22 disclosure, yes.

23                  **MR. HORN:** That's right, the disclosure  
24 being -- there was a question as to whether that disclosure  
25 should have been disclosed to the Defence. There should

1 have been a third-party application.

2 **MS. NAROZNIAK:** That was something he  
3 himself submitted to the police. Once it's in the property  
4 of the police, and in turn to the Crown ---

5 **MR. HORN:** Pardon?

6 **MS. NAROZNIAK:** --- there's an obligation  
7 for disclosure.

8 **MS. JONES:** I'm getting concerned where this  
9 is leading. Mr. Horn has used the words, the phrase to  
10 this witness, "You put Mr. Dunlop on the stand, knowing he  
11 was going to be attacked". I think that's an unfair  
12 designation.

13 And also too, with regard to the  
14 psychiatric records, it is well established, right in the  
15 transcript by the presiding justice, that that was  
16 appropriate questioning. This is not something subject to  
17 third party, and I think that Mr. Horn has to be very  
18 careful in phrasing these questions because it's actually  
19 not accurate the way he's stating it.

20 **THE COMMISSIONER:** Not only that, Mr. Horn,  
21 but the judge on the hearing went out of his way to assure  
22 Mr. Dunlop that the fact that he had suffered some  
23 emotional problems back there was something that is all too  
24 common in the Canadian fabric, and certainly would not be  
25 something that would be held against him in any way.

1                   **MR. HORN:** I understand that, but they  
2                   allowed him to be questioned in this area and yet, in the  
3                   affidavit of Mr. Leduc that's mentioned -- no, in the  
4                   motion for a re-election. I understand that in the motion  
5                   for re-election that was before Justice MacKinnon ---

6                   **THE COMMISSIONER:** Yes?

7                   **MR. HORN:** --- there was some -- there was -  
8                   - there was concern about Mr. Leduc being -- not having him  
9                   to another venue because he didn't want to be away from his  
10                  psychiatrist. So there was a concern about Mr. Leduc and  
11                  him not being away from his psychiatrist and the doctor,  
12                  because he was on -- he had medical problems.

13                  **THE COMMISSIONER:** Right.

14                  **MR. HORN:** That was a concern.

15                  **THE COMMISSIONER:** And so your point?

16                  **MR. HORN:** And yet ---

17                  **THE COMMISSIONER:** No, no. Mr. Horn, you  
18                  can't give the speech. You have to give me a question.

19                  **MR. HORN:** Okay. The question is, the issue  
20                  regarding Mr. Leduc's medical problems was also put into  
21                  the -- his affidavit. In his affidavit before ---

22                  **THE COMMISSIONER:** Mr. Leduc says ---

23                  **MR. HORN:** Yes. When he made it, when he  
24                  made the affidavit before, on the 11(b) motion, there was  
25                  mention of his medical problems.

1                   **MS. NAROZNIAK:** Yes, yes.

2                   **MR. HORN:** And did that -- was that a  
3 consideration that you took in as to why you didn't want to  
4 put him -- have him cross-examined?

5                   **THE COMMISSIONER:** Have who cross-examined?

6                   **MR. HORN:** Mr. Leduc, on his affidavit.

7                   **MS. NAROZNIAK:** The reason I did not call or  
8 cross-examine Mr. Leduc on the affidavit is that he  
9 highlighted his affidavit, supported the element and the  
10 factor required to be considered by the trier of fact on an  
11 11(b) motion -- the issue of prejudice. It was a tactical  
12 decision on my part not to provide Mr. Leduc with a more  
13 fulsome opportunity to indicate how he's been impacted by  
14 this case.

15                   I wanted to foreclose that opportunity and  
16 limit it to paper. It's much more compelling to hear it  
17 from the person on the stand in real life as opposed to  
18 reading a paper. I did not want him given that opportunity  
19 and that's why I did not cross-examine him.

20                   **MR. HORN:** Okay. So your decisions were  
21 that you were not going to have him cross-examined on his  
22 affidavit, you were going to put Mr. Chisholm and  
23 Mr. Dunlop on the stand, and you're going to not have  
24 either Ms. Hallett explain anything or anybody else. You  
25 just wanted only those two men on there so that they could

1 be questioned?

2 **MS. NAROZNIAK:** I wanted the relevant  
3 witnesses on the disclosure motion to be questioned.

4 **MS. HEINEN:** I'm conscious of the time, so  
5 very quickly; I don't know what affidavit Mr. Horn is  
6 referring to. The 11(b) affidavit makes no reference to  
7 psychiatric care.

8 Number 2, Commissioner, you're aware the  
9 11(b) affidavit had nothing to do with the application for  
10 disclosure.

11 **THE COMMISSIONER:** I know.

12 **MS. HEINEN:** And thirdly, as has now been  
13 repeated by Commission counsel and the Commissioner,  
14 Justice Platana allowed the questions which did not delve  
15 into psychiatric care but delved into only the letter  
16 disclosed and the names of the psychiatrists. And you'll  
17 actually see in the questions that he is cautioned not to  
18 disclose, by me -- not to disclose the content of his  
19 discussions but to identify the name of the person.

20 **THE COMMISSIONER:** And the medication he  
21 took.

22 **MS. HEINEN:** Yeah, that's right.

23 **MS. MCINTOSH:** Sorry to interrupt my friend  
24 as well, but I just wanted to make the point that it was  
25 Ms. Heinen who framed the disclosure motion and indicated

1       whose viva voce evidence was required for the purpose of  
2       that motion, and identified Dunlop and Chisholm as persons  
3       whose evidence was required, so I think that should be in  
4       the record.

5                   **MR. HORN** Okay. The issue I have is this.  
6       Since you knew that he was going to be the one that was  
7       going to be put the stand and you had -- how long did it  
8       take you to go through the boxes of material, the Dunlop  
9       material?

10                   **MS. NAROZNIAK;** I'm sorry, I can't recall.

11                   **MR. HORN:** How long? Months?

12                   **MS. NAROZNIAK:** No, I wouldn't say I spent  
13       months on it but I spent a good time on it.

14                   **MR. HORN:** Okay, and yet you're bringing Mr.  
15       Dunlop from British Columbia down here. How much time did  
16       he have to go over his notes and all of his paper -- all of  
17       the documentation that he could be questioned on?

18                   **MS. NAROZNIAK:** He chose not to read the  
19       most relevant piece of information that would have helped  
20       him and that was his testimony.

21                   **MR. HORN:** So you knew that you were putting  
22       him in a very vulnerable position by putting him there so  
23       that he didn't have that opportunity?

24                   **MS. NAROZNIAK:** I disagree with you  
25       entirely.



1 MR. HORN: Pardon?

2 MS. NAROZNIAK: I disagree with you.

3 MR. HORN: You didn't agree with him?

4 MS. NAROZNIAK: I disagree ---

5 THE COMMISSIONER: No, she disagrees with  
6 you.

7 MR. HORN: You disagree with me?

8 MS. NAROZNIAK: Yes.

9 MR. HORN: You disagree that you put him on  
10 the stand totally unprepared?

11 MS. NAROZNIAK: I disagree.

12 MR. HORN: You say that you prepared him?

13 MS. NAROZNIAK: Yes.

14 MR. HORN: How much time did you spend with  
15 him?

16 MS. NAROZNIAK: I spent as much time as he  
17 would allow me.

18 MR. HORN: Okay. So you're saying -- now,  
19 in your -- you describe the police officers as if in  
20 routine situations you don't really need to prepare them?

21 MS. NAROZNIAK: Absolutely. In the Ontario  
22 Court of Justice, Mr. Horn, you will recall that it's not  
23 unusual for the instructions simply being to investigating  
24 officers on routine cases, such as drinking and driving,  
25 mischiefs, assaults and the like, "Officer, review your

1 notes and you're on the stand".

2 MR. HORN: So you're saying that this is a  
3 routine case?

4 MS. NAROZNIAK: I'm not saying that. I'm  
5 just saying that it's not unusual for police officers not  
6 to have formal preparatory interviews, because they have  
7 experience and they're trained at the outset before they  
8 become police officers. And certainly by 18 years you are  
9 well familiar with the court process, which is the focus of  
10 any preparation.

11 THE COMMISSIONER: Okay, no. I want to stop  
12 for a minute now. I just want to make sure I have it  
13 straight in my mind as to when he -- on the last 11(b)  
14 application ---

15 MS. NAROZNIAK: Yes.

16 THE COMMISSIONER: --- right, you called Mr.  
17 Dunlop?

18 MS. NAROZNIAK: Yes.

19 THE COMMISSIONER: All right. And is this  
20 the situation where you're trying to call him and say,  
21 "Come in earlier so I can talk to you ---"

22 MS. NAROZNIAK: Yes.

23 THE COMMISSIONER: --- and he said, "No, I  
24 want to come in on the Monday"?

25 MS. NAROZNIAK: He was very reluctant to

1           come in early. I had to promise to keep him to a very  
2           limited time, just for purposes of the testimony, because  
3           of his reluctance.

4                   **THE COMMISSIONER:** All right. And you sent  
5           him the copy of the transcripts?

6                   **MS. NAROZNIAK:** Yes.

7                   **THE COMMISSIONER:** All right. And do you  
8           know, volume-wise, were there 5,000 pages ---

9                   **MS. NAROZNIAK:** Oh, it was quite thick, if I  
10          recall correctly.

11                   **THE COMMISSIONER:** Well, so, a couple of  
12          hundred? Thousands?

13                   **MS. NAROZNIAK:** More than that. An inch  
14          thick.

15                   **THE COMMISSIONER:** An inch thick? Okay,  
16          okay. And so - and he travelled from Vancouver to here?

17                   **MS. NAROZNIAK:** Yes.

18                   **THE COMMISSIONER:** All right.

19                   **MR. HORN:** Okay. Did you go out there to  
20          see him?

21                   **MS. NAROZNIAK:** No.

22                   **MR. HORN:** There were discussions about you  
23          going out there, though?

24                   **MS. NAROZNIAK:** No. There was discussion in  
25          the email to see what other methods we could employ to get

1 his material, if there was any.

2 MR. HORN: Okay. And when you had  
3 Mr. Dunlop in Cornwall -- he's come back now ---

4 MS. NAROZNIAK: Yes.

5 MR. HORN: --- how long did you -- was he in  
6 town, do you know, before he had to appear?

7 MS. NAROZNIAK: He insisted on coming in  
8 Sunday night.

9 MR. HORN: And he had to appear ---

10 MS. NAROZNIAK: On Monday morning, yes.

11 MR. HORN: On Monday morning?

12 MS. NAROZNIAK: Yeah.

13 MR. HORN: You're saying he insisted on  
14 that?

15 MS. NAROZNIAK: Yes.

16 MR. HORN: Okay. And so you met him how  
17 early in the morning?

18 MS. NAROZNIAK: I did not meet him prior to  
19 his testimony.

20 MR. HORN: Okay, so you had absolutely no  
21 contact with him before you put him on the stand?

22 MS. NAROZNIAK: I did have contact with him  
23 over the phone.

24 MR. HORN: Okay, but you never spoke to him  
25 face-to-face, going over documents of any kind before you

1 put him on the stand?

2 MS. NAROZNIAK: No.

3 MR. HORN: Pardon?

4 MS. NAROZNIAK: I did not.

5 MR. HORN: Okay.

6 And you're aware that as a result of him  
7 going on the stand that there was -- the Cornwall Police  
8 Services were going -- were doing everything within their  
9 power to have him charged for perjury?

10 MS. NAROZNIAK: I'm sorry, I'm not sure ---

11 MR. HORN: Pardon?

12 MS. NAROZNIAK: I didn't understand the  
13 question.

14 MS. LALJI: I'm sorry, I have to object to  
15 this, Mr. Commissioner. I saw you nodding your head. I  
16 think you know what I'm going to say.

17 That is not a fair or appropriate  
18 characterization of what the Cornwall Police Service was  
19 doing at that time.

20 THE COMMISSIONER: They were probably -- you  
21 could get away, Mr. Horn, by saying that the Cornwall  
22 Police was carefully monitoring the testimony to see if  
23 perjury charges or any charges can come out of that, but I  
24 don't think you can characterize it that they were doing  
25 everything possible.

1                   **MR. HORN:** Okay.

2                   Would you agree with me that Mr. Dunlop was  
3 being put into a very vulnerable position and there was a  
4 lot of people -- police were there watching and taking note  
5 of everything he might say, so that they could catch him  
6 somehow so that they could charge him or to something to  
7 him?

8                   **MS. NAROZNIAK:** I can't agree to that.

9                   **MR. HORN:** Pardon?

10                  **THE COMMISSIONER:** Well, she can't agree to  
11 it, so there you go.

12                  **MR. HORN:** You agree with that?

13                  **MS. NAROZNIAK:** I cannot.

14                  **MR. HORN:** Did you read the letter that the  
15 -- Constable Aikman wrote regarding the fact that there was  
16 -- the Cornwall Police Services were contemplating charging  
17 Mr. Dunlop for perjury?

18                  **MS. NAROZNIAK:** I'm not sure which letter  
19 you're referring to.

20                  **MR. HORN:** Well, we'll just look at it.

21                  **MS. LALJI:** Excuse me. Once this letter is  
22 put to the witness, I am hoping that Mr. Horn will correct  
23 the misstatement that he made with respect to what's in  
24 this letter.

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

1 MS. LALJI: And if he doesn't, I will.

2 THE COMMISSIONER: What exhibit number, Mr.  
3 Horn?

4 MR. HORN: Exhibit Number 1415.

5 THE COMMISSIONER: Fourteen-fifteen (1415).

6 MS. JONES: That's Document 731913.

7 THE COMMISSIONER: Okay, and so this is a  
8 letter dated -- go up, Madam Clerk, so I can see the date.  
9 September 10<sup>th</sup>. And when was he testifying?

10 MS. NAROZNIAK: He testified in August of  
11 2004.

12 THE COMMISSIONER: Okay, so that's post ---

13 MS. NAROZNIAK: Correct.

14 MR. HORN: Yeah, just after.

15 THE COMMISSIONER: M'hm.

16 MR. HORN: All right.

17 Okay, so they were -- at the second to the -  
18 - second paragraph from the bottom.

19 MS. NAROZNIAK: Yes.

20 MR. HORN: This is a letter to you?

21 MS. NAROZNIAK: Yes.

22 MR. HORN: Sergeant Snyder --

23 "Brian Snyder, our Professional  
24 Standards Officer, advises me that the  
25 nature of Mr. Dunlop's testimony may

1                                   constitute perjury on his part."

2                   **MS. NAROZNIAK:** Yes.

3                   **MR. HORN:** Okay?

4                   **MS. NAROZNIAK:** That was after his testimony  
5 on the Leduc pre-trial motion, yes.

6                   **MR. HORN:** Okay. So if -- now, when -- what  
7 are they talking about -- is when he was put on the stand  
8 by you?

9                   **MS. NAROZNIAK:** Yes.

10                  **MR. HORN:** And so do you know what police  
11 officers were -- from the Cornwall Police Services were  
12 there to observe or ---

13                  **MS. NAROZNIAK:** I recall one, Sergeant Brian  
14 Snyder, monitoring the proceedings, yes.

15                  **MR. HORN:** You saw him there?

16                  **MS. NAROZNIAK:** Yes. Well, he identified  
17 himself as Sergeant Brian Snyder.

18                  **MR. HORN:** Okay. And so he was observing  
19 and listening and -- did you notice if he was taking notes?

20                  **MS. NAROZNIAK:** I was busy focussing on  
21 other things.

22                  **MR. HORN:** I'm suggesting to you that  
23 Mr. Dunlop was brought in from British Columbia to be put  
24 on the stand with no preparation and with the purposes of  
25 getting him into big trouble, and that was deliberate.



1 MS. NAROZNIAK: Absolute ---

2 MR. HORN: That's my suggestion to you. Do  
3 you agree?

4 MS. NAROZNIAK: I disagree.

5 MR. HORN: Thank you.

6 THE COMMISSIONER: Mr. Lee?

7 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

8 MR. LEE:

9 MR. LEE: Ms. Narozniak, my name is Dallas  
10 Lee. I'm on for the Victims Group. For your purposes, the  
11 two clients that I represent here that you would recognize  
12 are C-17 and C-22.

13 MS. NAROZNIAK: Yes.

14 MR. LEE: I'd like to start -- you were  
15 asked during your examination in-chief by Ms. Jones about  
16 the reasonable prospect of conviction test.

17 MS. NAROZNIAK: Yes.

18 MR. LEE: And she described it, I believe,  
19 as being fluid ---

20 MS. NAROZNIAK: Yes.

21 MR. LEE: --- in the sense that the Crown is  
22 obliged, as I understand it, to constantly reassess whether  
23 there not only initially exists a reasonable prospect of  
24 conviction but whether or not the test is being met as you  
25 proceed?

1                   **MS. NAROZNIAK:** Yes.

2                   **MR. LEE:** As new information arises, the  
3 Crown is duty bound to reassess the reasonable prospect of  
4 conviction?

5                   **MS. NAROZNIAK:** Correct.

6                   **MR. LEE:** And as I understand it, if at any  
7 point the Crown's opinion is -- becomes that the reasonable  
8 prospect of conviction no longer exists, the Crown no  
9 longer proceeds?

10                  **MS. NAROZNIAK:** Correct.

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

12                               I'm not a criminal lawyer, so I'm asking  
13 because I don't know. If during the course of the motion  
14 for disclosure, as an example, information came to light  
15 that led you to reconsider whether a reasonable prospect of  
16 conviction existed and you came to the view that it did not  
17 during the middle of that application, what do you do?

18                  **MS. NAROZNIAK:** If there was some compelling  
19 information that brought into question the reasonable  
20 prospect of conviction on any of the counts that were being  
21 proceeded on and I concluded that there was no longer that  
22 reasonable prospect, it would be my obligation to stop the  
23 proceeding.

24                  **MR. LEE:** What do you mean by obligation?  
25 You would consider yourself quite literally bound to do

1           that as a Crown Attorney?

2                           **MS. NAROZNIAK:** That is my duty.

3                           **MR. LEE:** And that didn't happen at any  
4 point?

5                           **MS. NAROZNIAK:** No.

6                           **MR. LEE:** And at the time the -- obviously  
7 the fact that we have a decision on the stay suggests that  
8 it was always your intention to proceed.

9                           **MS. NAROZNIAK:** It was my intention to  
10 proceed.

11                           **MR. LEE:** Counsel for the CCR took you to  
12 Exhibit 2731 and that's your memo to John Pearson, Paul  
13 Lindsay and Ken Campbell dated October 8<sup>th</sup>, '04. It's on  
14 the screen now.

15                                   And if we can look at the very last  
16 paragraph on the last page, Madam Clerk, titled "Merits of  
17 the Case". And counsel for the CCR took you to the first  
18 part of this and you comment specifically on one of the  
19 complainants, C-16?

20                           **MS. NAROZNIAK:** Yes.

21                           **MR. LEE:** And in the bottom third of that  
22 paragraph, you write:

23                                   "After several very awkward minutes we  
24 left him in the hands of the..."

25                                   Sorry, I should start:

1 "In discussing possible outcomes of the  
2 11(b) application, this 28-year-old man  
3 put his hand into his hands and refused  
4 to talk. After several very awkward  
5 minutes, we left him in the hands of  
6 the officer in charge. This behaviour  
7 was also seen at the preliminary and  
8 trial when he would completely  
9 disengage and answer, 'I don't know' or  
10 'I don't remember', even during rather  
11 gentle examination in-chief, leaving  
12 the appearance of only answering  
13 questions he wanted to answer."

14 **MS. NAROZNIAK:** Yes.

15 **MR. LEE:** I don't -- obviously, given who I  
16 represent, I don't mean to be insensitive, but the gist of  
17 what you're saying here is that C-16, for whatever reason,  
18 had become a terrible witness?

19 **MS. NAROZNIAK:** He was going to have a lot  
20 of difficulty. He was, quite frankly, emotionally unable  
21 to handle the rigours of an adversarial system. When I  
22 read the transcripts of the preliminary, and particularly  
23 the first trial, Ms. Hallett, in a very unusual sort of way  
24 for a Crown, had extreme difficulty eliciting necessary  
25 evidence from him.

1                   **MR. LEE:** The language you use here is that  
2                   during the preliminary and trial he would completely  
3                   disengage?

4                   **MS. NAROZNIAK:** Yes.

5                   **MR. LEE:** And answer "I don't know" or "I  
6                   don't remember"?

7                   **MS. NAROZNIAK:** Yes.

8                   **MR. LEE:** Is what you're suggesting here  
9                   that he would answer "I don't know" or "I don't remember"  
10                  to questions where perhaps he did know or did remember?

11                  **MS. NAROZNIAK:** Exactly.

12                  **MR. LEE:** He shut down, essentially?

13                  **MS. NAROZNIAK:** He shut down.

14                  **MR. LEE:** And that doesn't make for a very  
15                  compelling witness.

16                  **MS. NAROZNIAK:** It makes for an impossible  
17                  witness. A trier of fact is going to be unable to make  
18                  assessments and that was very sad to see.

19                  **MR. LEE:** We can leave that aside. A point  
20                  of clarification.

21                  During your examination by Ms. Jones at the  
22                  point that you were being asked about Mr. Dunlop's  
23                  psychiatric history and being asked about those things, Ms.  
24                  Jones asked you whether or not you gave him some,  
25                  essentially, heads-up that he might be asked about those

1 issues.

2 I believe I heard you say, "I did not review  
3 every single piece of paper in the nine boxes"?

4 **MS. NAROZNIAK:** Yes.

5 **MR. LEE:** And I didn't know whether you  
6 meant you hadn't reviewed every piece of paper in the nine  
7 boxes with Mr. Dunlop ---

8 **MS. NAROZNIAK:** With Mr. Dunlop, yes.

9 **MR. LEE:** But you had reviewed ---

10 **MS. NAROZNIAK:** Oh, I most certainly have.

11 **MR. LEE:** And your evidence is clear on the  
12 fact that you reviewed a tremendous number of documents.

13 **MS. NAROZNIAK:** Absolutely.

14 **MR. LEE:** And that -- a phrase we use often  
15 here -- no stone was left unturned, in your review of the  
16 documents?

17 **MS. NAROZNIAK:** Oh, I certainly tried that,  
18 that's for sure.

19 **MR. LEE:** I presumed that's what you would  
20 say.

21 I began by asking about the reasonable  
22 prospect of conviction and I suppose related to that, it is  
23 the Crown's obligation to turn her mind to what is in the  
24 best interests of the administration of justice?

25 **MS. NAROZNIAK:** Yes, that's true.

1                   **MR. LEE:** And that's something that a Crown  
2 constantly has on her mind as well; is that fair?

3                   **MS. NAROZNIAK:** That's correct.

4                   **MR. LEE:** And it was your position at the  
5 time of the 11(b) application in Leduc that the best  
6 interests of the administration of justice were served by a  
7 trial on the merits?

8                   **MS. NAROZNIAK:** Absolutely.

9                   **MR. LEE:** And that remained your position  
10 throughout?

11                   **MS. NAROZNIAK:** Absolutely.

12                   **MR. LEE:** And you were taken specifically to  
13 a newspaper article where your comments reflected that. Do  
14 you recall that?

15                   **MS. NAROZNIAK:** Yes.

16                   **MR. LEE:** And so I take it on the 11(b) in  
17 part, your job was to attempt to explain to the Court that  
18 regardless of the prejudice to Mr. Leduc, there would be a  
19 greater prejudice in having the matter stayed.

20                   **MS. NAROZNIAK:** Correct.

21                   **MR. LEE:** Is that a fair way of putting it?

22                   **MS. NAROZNIAK:** Yes.

23                   **MR. LEE:** And is that something you tried to  
24 do?

25                   **MS. NAROZNIAK:** Every time I made those

1 submissions, yes.

2 **MR. LEE:** You appreciate, obviously, that we  
3 are at a public inquiry that is intended to answer some of  
4 the ---

5 **MS. NAROZNIAK:** Yes.

6 **MR. LEE:** --- questions that have been  
7 lingering here for quite a long time, and I am going to cut  
8 to the chase, I suppose, given we are under time pressure,  
9 and I'm going to put some questions to you about things  
10 that I get asked and things that I know are ---

11 **MS. NAROZNIAK:** I understand.

12 **MR. LEE:** Are you aware about perception in  
13 some quarters here that you didn't put up much of a fight  
14 in opposing the Defence efforts in this matter?

15 **MS. NAROZNIAK:** I believe that would have  
16 come through the cross-examination of Mr. Dunlop. That was  
17 believed.

18 My next argument, the 11(b) motion, a member  
19 of the audience actually approached me and complimented me  
20 and thanked me for my efforts.

21 **MR. LEE:** And -- but you are aware there's  
22 been some suggestion that ---

23 **MS. NAROZNIAK:** That was the perception, I  
24 believe, because of Mr. Dunlop's actions and behaviour  
25 during the course of his testimony on the pre-trial motion.



1 And sadly, perceptions were made without the full  
2 appreciation of what stage we were at, what was part of the  
3 process, and what was my obligation. That was abundantly  
4 clear.

5 And as I've mentioned before, I was very  
6 much interested in ensuring that a full exploration of the  
7 Dunlop issue was made at a pre-trial process, and that is  
8 only facilitated by a vigorous cross-examination, so that  
9 my victims were not exposed to yet another derailment. And  
10 that was my goal.

11 Unfortunately, perceptions are often based  
12 on what people see in television and movies, and that's not  
13 the way it is.

14 **MR. LEE:** Were you, after having reviewed  
15 all of the materials that you reviewed and considered the  
16 issues and spoken with Defence counsel, were you resigned  
17 by the time that the disclosure motion proceeded that there  
18 would be a stay in this matter?

19 **MS. NAROZNIAK:** If I was resigned, I  
20 wouldn't have been staying up all night trying to make sure  
21 my submissions were the most compelling possible.

22 I was worried, but I -- both my co-counsel  
23 and myself did a full-court press. We worked very, very  
24 hard to try to make sure that this case went on.

25 **MR. LEE:** Did you, at any point, conclude

1 that the proceedings would likely be stayed and as such,  
2 that it was in the Crown's best interest to do what it  
3 could to have the focus on Mr. Dunlop rather than on Ms.  
4 Hallett?

5 **MS. NAROZNIAK:** Not at all.

6 **MR. LEE:** You said a little while ago that  
7 the contacts between Mr. Dunlop or Mr. Chisholm and the  
8 parents of the complainants were equally as relevant as the  
9 contact with the complainants themselves.

10 **MS. NAROZNIAK:** I felt so, yes.

11 **MR. LEE:** Did you overstate things a little  
12 bit when you suggested, "they're equally as relevant"?

13 **MS. NAROZNIAK:** Perhaps maybe not equally  
14 but if my complainants still had a lot of relationship -- a  
15 strong relationship with parents, even lived with them, as  
16 in the case of C-17, if not ---

17 **MR. LEE:** Seventeen (17) certainly I think.

18 **MS. NAROZNIAK:** Seventeen (17) and possibly  
19 -- well, initially, it was C-16, during the course of the  
20 investigation. Parental guidance and influence can be a  
21 very, very strong factor in how a person behaves or what a  
22 person says.

23 **MR. LEE:** I take it you didn't, given the  
24 discussion we had earlier about the reasonable prospect of  
25 conviction, you, at no point, came to the conclusion in

1 your own mind that any of these complainants had been  
2 pressured to fabricate their allegations?

3 **MS. NAROZNIAK:** I never came to the  
4 conclusion that that took place; that's true.

5 **MR. LEE:** You were asked by counsel for the  
6 CCR about the disclosure problems.

7 **MS. NAROZNIAK:** Yes.

8 **MR. LEE:** Aside from the Dunlop problem,  
9 some of the others; and nevertheless, you tied it back and  
10 I don't remember the exact wording, but it was something  
11 along the lines of the single most important factor was  
12 Dunlop ---

13 **MS. NAROZNIAK:** Yes.

14 **MR. LEE:** --- as it related to disclosure.  
15 One of the documents we have is Exhibit 3231, and this is  
16 titled, "The top six disclosure problems of the Crown." Do  
17 you see that?

18 **MS. NAROZNIAK:** Yes.

19 **MR. LEE:** And if we skip to the bottom of  
20 the page -- this is fine as it is, Madam Clerk -- with a  
21 little bit of a dramatic flair, and the number one  
22 disclosure problem is the May '98 Dunlop/C-16 contact that  
23 was disclosed in the trial.

24 Do you see that?

25 **MS. NAROZNIAK:** Yes, I do.

1                   **MR. LEE:** And if we look at this page, the  
2 first five top disclosure problems of the Crown, you would  
3 agree, do not relate to Mr. Dunlop?

4                   **MS. NAROZNIAK:** That's correct.

5                   **MR. LEE:** These relate to late disclosures  
6 by ---

7                   **MS. NAROZNIAK:** Yes.

8                   **MR. LEE:** --- the Crown, being Miss Hallett,  
9 during the conduct of that?

10                   **MS. NAROZNIAK:** Yes.

11                   **MR. LEE:** And you would have analysed these  
12 various matters when you were coming to your decision  
13 whether or not to concede Crown delay?

14                   **MS. NAROZNIAK:** This document was prepared  
15 in advance of the meeting we had with the senior Crown  
16 counsel from 720 Bay in brainstorming our response to  
17 11(b).

18                   **MR. LEE:** I take it your response to 11(b),  
19 one of the things you need to do is examine each tick of  
20 the clock that goes to delay?

21                   **MS. NAROZNIAK:** Yes.

22                   **MR. LEE:** And attribute it to Crown or  
23 Defence?

24                   **MS. NAROZNIAK:** We spent a lot of time  
25 preparing the timeline in a chronological and sequential

1 fashion, identifying exactly when disclosure was given,  
2 when it was in the possession of the police, and so on.

3 MR. LEE: And at the end of the day, your  
4 analysis revealed to you that the issues with delay needed  
5 to rest with the Crown?

6 MS. NAROZNIAK: Regardless of what reason  
7 there was or whose fault it was, it was not a blame-  
8 attributing situation. The law is that when it's issues of  
9 disclosure and delay in disclosure it rests at the feet of  
10 the Crown.

11 MR. LEE: And when you ---

12 MS. NAROZNIAK: I had no choice in that.

13 MR. LEE: When you look at the list we have  
14 in front of you here, certainly these five -- the top five  
15 on the page -- would certainly lay at the feet of the  
16 Crown?

17 MS. NAROZNIAK: Oh, yes.

18 MR. LEE: Thank you very much, ma'am. Those  
19 are my questions.

20 THE COMMISSIONER: Thank you.

21 Ms. Henein, do you have any questions?

22 MS. HENEIN: Yes.

23 --- CROSS-EXAMINATION BY/CONTRE-INGERROGATOIRE PAR MS.

24 HENEIN:

25 THE COMMISSIONER: Ms. Henein, I should tell

1       you though, I don't know that I need to hear and I don't  
2       know if you were thinking of exploring the merits of the  
3       11(b) application your client wanted fair and square, and  
4       there's no suggestion that you or any Defence counsel did  
5       anything inappropriate. So I don't need to hear from you  
6       on those things.

7                   **MS. HENEIN:** I understand.

8                   **THE COMMISSIONER:** All right.

9                   **MS. HENEIN:** Thank you.

10                   Just in terms of some of the questions you  
11       were asked regarding the service of the subpoena on Mr.  
12       Dunlop.

13                   **MS. NAROZNIAK:** Yes.

14                   **MS. HENEIN:** Were you aware that there had  
15       been problems in Mr. Dunlop's refusal to accept a subpoena  
16       in the prior trial?

17                   **MS. NAROZNIAK:** Yes, I was.

18                   **MS. HENEIN:** All right.

19                   And do you recall that Mr. Dunlop had  
20       indicated on that occasion that the courier that had  
21       attended at his house, that he would not accept any courier  
22       service?

23                   **MS. NAROZNIAK:** Yes.

24                   **MS. HENEIN:** All right.

25                   Do you also recall, Ms. Narozniak, that on

1           this occasion, the documents had been couriered to Mr.  
2           Dunlop on a Wednesday or a Thursday and, once again, he  
3           asserted that he was not notified that you had sent him the  
4           transcript?

5                       **MS. NAROZNIAK:** Yes.

6                       **MS. HENEIN:** Until the Friday?

7                       **MS. NAROZNIAK:** Yes.

8                       **MS. HENEIN:** All right. And were you aware  
9           that Mr. Dunlop and this is just -- I'll give you the  
10          pinpoint reference, Mr. Commissioner, ---

11                      **THE COMMISSIONER:** Yes, please.

12                      **MS. HENEIN:** --- and I'm not going to ask  
13          for it to be turned up.

14                      **THE COMMISSIONER:** Thank you.

15                      **MS. HENEIN:** It's from the MacDonald trial,  
16          and you'll find it at Volume 4, page 575 of that trial.

17                      Were you aware that Mr. Dunlop in that trial  
18          had indicated and asserted that the Crown had failed to  
19          prepare him and that he did not have time to review his  
20          transcripts there either?

21                      **MS. NAROZNIAK:** Exactly so. I was aware of  
22          that, yes.

23                      **MS. HENEIN:** I want to briefly just get a  
24          clear fix on an opinion that you had expressed in terms of  
25          the appeal from the first trial, and you indicated that you

1 thought there was merit to that appeal.

2 MS. NAROZNIAK: Yes.

3 MS. HENEIN: All right. And one of the  
4 things that you were taken to by my friend Commission  
5 counsel was various assertions that the contact that Mr.  
6 Dunlop had had was, in fact, innocuous.

7 MS. NAROZNIAK: Yes.

8 MS. HENEIN: All right. And at the time  
9 that you provided that opinion, I take it when you prepare  
10 an opinion for an appeal there is a 30-day window in which  
11 a person can appeal.

12 MS. NAROZNIAK: Yes.

13 MS. HENEIN: And I take it you're aware that  
14 a Crown is -- has a more narrow right of appeal, and it's  
15 limited to a question of law.

16 MS. NAROZNIAK: Exactly so.

17 MS. HENEIN: All right. And in terms of the  
18 focus of the material you would have had within that 30-day  
19 window, I take it that you would have focused on the trial  
20 judge's Reasons for Judgment ---

21 MS. NAROZNIAK: Exactly so.

22 MS. HENEIN: --- in the stay? You would not  
23 have reviewed the entire trial transcript because it  
24 wouldn't be available.

25 MS. NAROZNIAK: No.



1                   **MS. HENEIN:** You would not have reviewed the  
2                   Dunlop boxes or the Dunlop Will-Say?

3                   **MS. NAROZNIAK:** Not at all.

4                   **MS. HENEIN:** All right. And you would not  
5                   have reviewed, as you subsequently did, the history or  
6                   nature or pattern of Mr. Dunlop's contact with sexual  
7                   assault complainants.

8                   **MS. NAROZNIAK:** That's absolutely correct.  
9                   I was not aware of them.

10                  **MS. HENEIN:** I am going to ask if Exhibit  
11                  781, which is Justice Plantana's Reasons, could be brought  
12                  up. And I want to bring to your attention a finding that  
13                  Justice Plantana made; Document 112988. I'm going to ask  
14                  that it be turned to page 14.

15                  **THE COMMISSIONER:** No, this ---

16                  **MS. HENEIN:** The Reasons for Judgment, it's  
17                  ---

18                  **THE COMMISSIONER:** It ---

19                  **MS. HENEIN:** --- Document 112988. It was up  
20                  a moment ago. Yes, thank you.

21                  And can I ask you to go down to -- scroll  
22                  down to paragraph 8, the very last ---

23                  **THE COMMISSIONER:** Paragraph 88?

24                  **MS. HENEIN:** I'm sorry; thank you, Justice.  
25                  Paragraph 88.

1                   **THE COMMISSIONER:** Yes, okay.

2                   **MS. HENEIN:** And at the very last line there  
3                   it says, "What the evidence does clearly establish..." Are  
4                   you there, Ms. Narozniak?

5                   **MS. NAROZNIAK:** Yes.

6                   **MS. HENEIN:** Can you just read along with  
7                   me?

8                                    "What the evidence does clearly  
9                                   establish is that Mr. Dunlop's contact  
10                                  with the complainants, while originally  
11                                  thought of in incomplete material  
12                                  before the Court of Appeal as being  
13                                  innocuous, is far from benign and far  
14                                  from innocuous."

15                   **MS. NAROZNIAK:** I came to the same  
16                   conclusion.

17                   **MS. HENEIN:** All right. So you agreed with  
18                   the conclusion of Justice Plantana?

19                   **MS. NAROZNIAK:** Yes, I did.

20                   **MS. HENEIN:** And just so we're aware what  
21                   Justice Plantana had before him, he did have, in fact, the  
22                   entire testimony of Mr. Dunlop.

23                   **MS. NAROZNIAK:** Yes.

24                   **MS. HENEIN:** And he had the opportunity to  
25                   consider what the pattern of contact was with prior

1 complainants?

2 **MS. NAROZNIAK:** He would have elicited that  
3 in the cross-examination, yes.

4 **MS. HENEIN:** All right. And if I can just  
5 take you to the next paragraph, which is paragraph 89,  
6 Justice Plantana says:

7 "In addition, the information before me  
8 as a result of the Defence application  
9 for production, establishes a far more  
10 extensive relationship between Dunlop,  
11 Chisholm, and the complainants in Mr.  
12 Leduc's case than has previously been  
13 disclosed. The evidence of Mr.  
14 Chisholm in particular discloses, for  
15 the first time, repeated contacts with  
16 C-16's mother..."

17 **MS. NAROZNIAK:** Yes.

18 **MS. HENEIN:** "...the fact that he attended  
19 her home and..."

20 **THE COMMISSIONER:** No, no. Sorry.

21 **MS. HENEIN:** Is that C ---

22 **THE COMMISSIONER:** Yes, C -- I'm sorry.

23 **MS. HENEIN:** Thank you:

24 "The fact that he attended her home  
25 and, indeed, that he had contact C-17's

1 mother on more than one occasion."

2 **MS. NAROZNIAK:** Yes.

3 **MS. HENEIN:** "The evidence before me now  
4 satisfies me that Mr. Chisholm has  
5 acted in close concert with, and under  
6 the direction of, Mr. Dunlop. The  
7 entire course of conduct of Dunlop and  
8 Chisholm was, in fact, in my view,  
9 properly and appropriately the subject  
10 matter of disclosure which should have  
11 been made. It is clear that if the  
12 evidentiary record that was before me  
13 had been available to the Defence at  
14 trial or, indeed, to the court of  
15 Appeal, that would have had a  
16 significant aspect in terms of the  
17 evidence before those courts on any  
18 stay of proceedings."

19 **MS. NAROZNIAK:** I agree with that.

20 **MS. HENEIN:** Now, just if I can wrap up the  
21 evidence of Mr. Chisholm. The evidence of Mr. Chisholm, I  
22 take it, was not something that you were aware of prior to  
23 his testifying.

24 **MS. NAROZNIAK:** No, not at all.

25 **MS. HENEIN:** All right. And in addition to

1 the fact that Mr. Chisholm had repeated contacts with C-  
2 16's mother and C-17's mother, he also testified to contact  
3 -- repeated contact between C-16 and C-17's mothers as  
4 well.

5 MS. NAROZNIAK: Yes.

6 MS. HENEIN: That they too were  
7 communicating.

8 MS. NAROZNIAK: That's correct.

9 MS. HENEIN: All right.  
10 You were asked some questions about the  
11 review you did of the nine Dunlop boxes.

12 MS. NAROZNIAK: Yes.

13 MS. HENEIN: Do you recall that at one  
14 point, out of an abundance of caution, you attended at  
15 Defence counsel's office, and did, literally, a document-  
16 by-document comparison to ensure that everybody was working  
17 off the same material.

18 MS. NAROZNIAK: Exactly so.

19 MS. HENEIN: All right.

20 And can I ask, please, for Document 105384  
21 to be pulled up?

22 THE COMMISSIONER: Ms. Robitaille, are you  
23 objecting?

24 MS. HENEIN: No, she's going to be  
25 explaining to me what I'm doing wrong.

1 (SHORT PAUSE/COURTE PAUSE)

2 MS. HENEIN: I'm told I have to provide  
3 copies ---

4 THE COMMISSIONER: Yes.

5 Thank you. Exhibit 3280 is a letter dated  
6 May 17<sup>th</sup>, 2004 to Ms. Narozniak from Mary Henein.

7 ---EXHIBIT NO./PIÈCE NO. P-3280:

8 (105384) - Letter from Marie Henein to  
9 Lidia Narozniak re: R. v. Jacques Leduc  
10 dated 17 May 04

11 MS. HENEIN: Thank you.

12 Is that going to come up on the screen?

13 THE COMMISSIONER: It should.

14 MS. HENEIN: One zero five three eight four  
15 (105384).

16 If I could go to the second page, please?  
17 Thank you very much.

18 If I can draw your attention, Ms. Narozniak,  
19 to the letter dated May 17<sup>th</sup>, 2004, the second paragraph; it  
20 says:

21 "As is evidenced from our review, it  
22 appears that a significant portion of  
23 Dunlop's materials, particularly notes  
24 from 1998 when Mr. Leduc was charged,  
25 and in particular May of 1998 when

1 Dunlop claims he spoke to C-16's  
2 mother, are completely absent from both  
3 our boxes. Accordingly, I respectfully  
4 request an opportunity to review the  
5 original police notes that were  
6 provided by Dunlop to the police."

7 **MS. NAROZNIAK:** That's right.

8 **MS. HENEIN:** All right. So do you recall  
9 that in reviewing the documents, there was -- there  
10 appeared to be some documents that were missing?

11 **MS. NAROZNIAK:** That's correct.

12 **MS. HENEIN:** All right. And do you recall  
13 subsequent to that then -- because my friend took you to  
14 this -- there was an attendance arranged by you at the  
15 police station; the Defence attended to review the original  
16 boxes?

17 **MS. NAROZNIAK:** That's correct.

18 **MS. HENEIN:** All right. And my friend took  
19 you to, I believe, the Will-Say of Sergeant Garry Derochie,  
20 which is Exhibit 3272.

21 **THE COMMISSIONER:** Actually, it's Derochie.

22 **MS. HENEIN:** Derochie.

23 **THE COMMISSIONER:** He's Anglophone.

24 **MS. HENEIN:** Thank you.

25 And can I take you, please, to page 5 of 5

1 of that document, the very last page. And do you see there  
2 that the very last line in the last full paragraph, it  
3 says:

4 "Subsequently I was contacted by  
5 Genier and informed that I would be  
6 subpoenaed to produce documents  
7 identified in the document registry as  
8 276-1, 277-3, and 278-1."

9 **MS. NAROZNIAK:** Correct.

10 **MS. HENEIN:** Do you recall that the Defence  
11 then requested, after reviewing the original boxes, that  
12 certain original documents were brought to court?

13 **MS. NAROZNIAK:** That's correct.

14 **MS. HENEIN:** All right. Now, in the course  
15 of your review of Mr. Dunlop's involvement, you have  
16 testified that you reviewed some -- over 40 boxes.

17 **MS. NAROZNIAK:** Yes.

18 **MS. HENEIN:** All right. And do you recall  
19 that as a result of that review you continued, in fact, to  
20 provide additional disclosure to the Defence?

21 **MS. NAROZNIAK:** I did.

22 **MS. HENEIN:** All right. And do you recall  
23 for example, that you provided the notes of Mr. McConnery  
24 and a police officer pertaining to a complainant who had  
25 made serious allegations against Mr. Dunlop?



1                   **MS. NAROZNIAK:** That's correct.

2                   **MS. HENEIN:** And the disclosure that you  
3 provided related to the assertion that C-8 had stated that  
4 he had been counselled by Mr. Dunlop to sue his accuser or  
5 his abuser and ---

6                   **MS. NAROZNIAK:** Yes.

7                   **MS. HENEIN:** --- also to change his evidence  
8 to make that or fortify that civil suit?

9                   **MS. NAROZNIAK:** That's correct.

10                  **THE COMMISSIONER:** Well, now, I don't know  
11 that the word, "counselled" is fair. Mr. Dunlop isn't  
12 here. I think that the idea was -- that C-8 said, "He kept  
13 saying that if I -- if I had been abused during the school  
14 trip, the school council would have deeper pockets". So I  
15 don't know if that's exactly counselling to lie or to  
16 embellish, but he was putting those -- he was making  
17 certain remarks to him about his case.

18                  **MS. HENEIN:** Fair enough, fair enough.

19                                 And were you aware during your review that -  
20 - of the efforts the police had been making to obtain  
21 Mr. Dunlop's information?

22                  **MS. NAROZNIAK:** Yes, I was.

23                  **MS. HENEIN:** All right.

24                                 And did you come to learn that Mr. Dunlop  
25 had displayed a repeated pattern of non-compliance and non-

1 disclosure?

2 MS. NAROZNIAK: I was.

3 MS. HENEIN: Did you also come to learn in  
4 your review of the evidence and disclosure that Mr. Dunlop  
5 had placed Mr. Leduc in a photo line-up long before 1998?

6 MS. NAROZNIAK: Yes, I was aware of that.

7 MS. HENEIN: And you were aware that he had  
8 shown that to -- you disclosed in fact ---

9 MS. NAROZNIAK: Yes.

10 MS. HENEIN: --- that he had shown that on  
11 video, attempting to get an individual to identify  
12 Mr. Leduc?

13 MS. NAROZNIAK: Yes.

14 MS. HENEIN: All right.

15 Now, at the end of your exhaustive review  
16 and the ongoing disclosure you continued to make to the  
17 defence, I take it you were not satisfied that Mr. Dunlop  
18 had indeed fully disclosed all of his information or  
19 contact?

20 MS. NAROZNIAK: That would be fair.

21 MS. HENEIN: All right.

22 Now, you made various admissions regarding  
23 the nondisclosure by the Crown and, just so it's very clear  
24 on the record, in an 11(b) application the reasons for the  
25 nondisclosure are not relevant.

1                   **MS. NAROZNIAK:** Exactly.

2                   **MS. HENEIN:** And so it is not a question of  
3 attaching blame to an individual for nondisclosure but  
4 rather focussing the inquiry on when the disclosure was  
5 received, when it was given to the defence and the  
6 timelines that that caused and what the impact of the  
7 disclosure was.

8                   **MS. NAROZNIAK:** Exactly so.

9                   **MS. HENEIN:** All right.

10                   Now, you were asked about your factum and  
11 how long it was. Do you recall that in preparing your  
12 factum that you also prepared a timeline?

13                   **MS. NAROZNIAK:** I did.

14                   **MS. HENEIN:** All right. I'm going to ask  
15 for Document 102995 and it's Exhibit 3179.

16                   Just a few more minutes, Mr. Commissioner.

17                   **THE COMMISSIONER:** Thank you. It's not you  
18 I'm worried about.

19                   **(SHORT PAUSE/COURTE PAUSE)**

20                   **MS. HENEIN:** Thank you.

21                   That is a five-page document, Ms. Narozniak,  
22 that I take it you prepared in conjunction with Ms. Tier?

23                   **MS. NAROZNIAK:** Yes, I did.

24                   **MS. HENEIN:** All right. And would you agree  
25 with me that the preparation of that document details, in

1 extreme detail, what disclosure was provided, when it was  
2 provided, when it was received through those five pages?

3 **MS. NAROZNIAK:** That's correct.

4 **MS. HENEIN:** And if I can just ask you to  
5 refer to the defence factum, which is now Exhibit 3276,  
6 starting at page 13. And while that's being looked up, if  
7 I can just ask you some questions.

8 Before you made your concession on what the  
9 timeline was, you prepared the chart with Ms. Tier?

10 **MS. NAROZNIAK:** That's correct.

11 **MS. HENEIN:** All right. And I take it that  
12 obviously assisted you in the review of the facts as they  
13 were set out ---

14 **MS. NAROZNIAK:** That's correct.

15 **MS. HENEIN:** --- in the factum?

16 **THE REGISTRAR:** Document ---

17 **MS. HENEIN:** Okay, thank you.

18 **THE COMMISSIONER:** I'm sorry, it's on?

19 **MS. HENEIN:** Three-two-seven six (3276).

20 **THE COMMISSIONER:** No, just it's not on my  
21 screen.

22 **MS. HENEIN:** Thank you very much.

23 And if I can ask you to just go to page 14,  
24 which would be Bates 1077205.

25 So I'm just going to ask you, Ms. Narozniak,

1 just to look at that. You'll see that paragraph 37 -- and  
2 if we can continue to the next page on page 15 -- page 16,  
3 please? If that can be just brought up? Page 17, page 18,  
4 that -- page 19.

5 You've had an opportunity to review this  
6 factum before your testimony before this Inquiry?

7 **MS. NAROZNIAK:** Yes, I did. Yes.

8 **MS. HENEIN:** Those pages are some of the  
9 pages that set out the -- what appear to be an ongoing  
10 delayed disclosure issue.

11 **MS. NAROZNIAK:** Yes.

12 **MS. HENEIN:** All right. And I take it you  
13 would not have acknowledged that there was delay  
14 attributable to Crown delayed disclosure had that not been  
15 consistent with your findings in your examination of the  
16 entire file?

17 **MS. NAROZNIAK:** Right.

18 **MS. HENEIN:** All right.

19 Now, you were asked about a concession you  
20 made regarding the relevance of Mr. Dunlop to the first  
21 trial.

22 **MS. NAROZNIAK:** Yes.

23 **MS. HENEIN:** You recall that?

24 I'm going to ask you -- your indulgence  
25 please, sir. I'm going to ask you to look at Exhibit 2647,

1 Bates page 1076846.

2 Mr. Commissioner, this is the transcript of  
3 the submissions on February 14<sup>th</sup>, 2001 and right at the  
4 bottom there -- sorry, the -- beginning, "We have come up  
5 with a notebook entry".

6 Oh, page 16. I apologize; the next page,  
7 thank you. So line 20. This is Ms. Hallett's submissions:

8 "We have come up with a notebook entry  
9 but of course that small bit of  
10 evidence completely changes the nature  
11 of the case and of course changes my  
12 perception of my disclosure obligations  
13 in this matter."

14 **MS. NAROZNIAK:** That's right, and that's the  
15 excerpt that I included in my factum.

16 **MS. HENEIN:** All right. And did that inform  
17 the -- obviously the concessions the Crown would make?

18 **MS. NAROZNIAK:** Of course.

19 **MS. HENEIN:** The position that the Crown  
20 took at the first trial?

21 **MS. NAROZNIAK:** That's right.

22 **MS. HENEIN:** Okay. And if I can just stay  
23 with that for a moment, please.

24 Ms. Hallett has testified that it was her  
25 position that this material was in fact disclosable.

1                   **MS. NAROZNIAK:** That's correct.

2                   **MS. HENEIN:** All right. And in the course  
3 of your decision to concede that this Dunlop material was  
4 disclosable in its entirety, did Ms. Hallett ever change  
5 her position with you and suggest ---

6                   **MS. NAROZNIAK:** Not at all.

7                   **MS. HENEIN:** --- that she was resiling from  
8 that position?

9                   **MS. NAROZNIAK:** Not at all.

10                  **MS. HENEIN:** All right. So it was  
11 consistent with her testimony here that as a Crown Attorney  
12 she felt this was all disclosable?

13                  **MS. NAROZNIAK:** Exactly.

14                  **MS. HENEIN:** All right.

15                   I want to talk to you just very briefly  
16 about the concession that you were also taken to regarding  
17 the inevitable delay, even leaving aside the stay of  
18 proceedings.

19                  **MS. NAROZNIAK:** Correct.

20                  **MS. HENEIN:** All right. If I can take you,  
21 please, to what has been marked as Exhibit 787, and it is  
22 addressed as February 20<sup>th</sup>, 2001, the submissions of  
23 Ms. Hallett, and it is Bates 1076886.

24                   Thank you, and if I can ask you to go to  
25 line 15, please, that paragraph. Thank you. Ms. Hallett

1 makes the following submissions:

2 "With respect, Your Honour, to  
3 Your Honour continuing to sit on this  
4 trial, in the event that the  
5 application for a stay is dismissed, it  
6 would be the Crown's position that that  
7 would be perceived that there is a  
8 conflict of interest, Your Honour.  
9 That would be perceived, if the defence  
10 continues to mount the defence that the  
11 complainants in this case are vehicles  
12 for Constable Dunlop to allege false  
13 allegations of sexual misconduct by  
14 Jacques Leduc. If that continues to be  
15 the defence in this case, then I cannot  
16 see how Your Honour can continue to sit  
17 and be perceived as impartial and I  
18 have serious misgivings about certainly  
19 making this submission but I feel it  
20 has to be made, Your Honour."

21 And then she goes on to say:

22 "Now, perhaps we are putting the cart  
23 before the horse at this point. We  
24 don't now what the result of the stay  
25 application is going to be."



1                   **MS. NAROZNIAK:** Right.

2                   **MS. HENEIN:** "But as I have already  
3                   indicated to my friends this morning,  
4                   if that continues to be the defence  
5                   in this case, it is the Crown's  
6                   submission that Your Honour cannot  
7                   continue to sit on this case."

8                   **MS. NAROZNIAK:** I was aware of that.

9                   **MS. HENEIN:** All right.

10                   And so when the Crown then concedes that  
11                   even had the stay been set aside given the concession of  
12                   the Crown Ms. Hallett that disclosure had to be made and  
13                   that the justice was now precluded from continuing, that  
14                   there would have inevitably had to be a mistrial ---

15                   **MS. NAROZNIAK:** That's right.

16                   **MS. HENEIN:** --- did that inform your  
17                   decision to concede that the disclosure would have resulted  
18                   in delay in any event?

19                   **MS. NAROZNIAK:** Exactly.

20                   **MS. HENEIN:** All right.

21                   Throughout the course of your dealings, Ms.  
22                   Narozniak, did you feel that you acted professionally and  
23                   candidly with the Court and with Mr. Dunlop in all your  
24                   dealings with him?

25                   **MS. NAROZNIAK:** Absolutely.

1                   **MS. HENEIN:** Thank you. Those are my  
2                   questions.

3                   **THE COMMISSIONER:** Thank you.  
4                   Ms. Lalji.

5                   **MS. LALJI:** Thank you. Don't worry, it's  
6                   worse than it seems. There's only three documents. Good  
7                   afternoon, Mr. Commissioner.

8                   **THE COMMISSIONER:** Good afternoon.

9                   --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

10                  **LALJI:**

11                   **MS. LALJI:** Good afternoon, Ms. Narozniak.  
12                   My name is Reena Lalji. I'm counsel for the Cornwall  
13                   Police Service.

14                   **MS. NAROZNIAK:** Good afternoon.

15                   **MS. LALJI:** Good afternoon.

16                   Now, I'd like to talk to you about the  
17                   interactions that you had with the Cornwall Police Service.

18                   And I realize it was not extensive.

19                   **MS. NAROZNIAK:** No.

20                   **MS. LALJI:** But I just wanted to ask you a  
21                   few questions ---

22                   **MS. NAROZNIAK:** Sure.

23                   **MS. LALJI:** --- because there was some  
24                   interaction.

25                   Now you dealt primarily with Staff Sergeant

1 Garry Derochie, correct?

2 MS. NAROZNIAK: Mainly over the phone.

3 MS. LALJI: Right.

4 But he was the main person from the Cornwall  
5 Police that you had spoken to?

6 MS. NAROZNIAK: He was the contact person  
7 for the documents that he was controlling, yes.

8 MS. LALJI: That's right.

9 Now, on May 17<sup>th</sup>, 2004 -- and this is already  
10 an exhibit -- we don't have to go to it ---

11 MS. NAROZNIAK: Sure.

12 MS. LALJI: --- unless you need to. But  
13 just for counsel, it's exhibit 3269.

14 On May 17<sup>th</sup>, 2004 you had actually requested  
15 to Staff Sergeant Derochie by way of a letter regarding  
16 some notebooks of Perry Dunlop. Do you recall that?

17 MS. NAROZNIAK: Correct, yes.

18 MS. LALJI: Okay. And in fact, you had  
19 asked him about very specific notebooks over a span of  
20 years, correct?

21 MS. NAROZNIAK: Correct.

22 MS. LALJI: And with respect to that  
23 request, it would be fair to say that Staff Sergeant Garry  
24 Derochie was accommodating?

25 MS. NAROZNIAK: Oh, yes, absolutely.

1                   **MS. LALJI:** Okay. And in fact, the very  
2 next day, on May 19<sup>th</sup>, around that timeframe, Staff Sergeant  
3 Derochie and Detective Seguin got together and the  
4 notebooks were given over to Detective Seguin?

5                   **MS. NAROZNIAK:** Yes, there was full  
6 cooperation.

7                   **MS. LALJI:** Right.

8                   And would it be fair to say that you  
9 considered Staff Sergeant Derochie to also behave in a  
10 professional manner?

11                   **MS. NAROZNIAK:** Oh, yes.

12                   **MS. LALJI:** Okay. And you would not have  
13 had any issue with respect to the cooperation you received  
14 from the Cornwall Police Service?

15                   **MS. NAROZNIAK:** Not at all.

16                   **MS. LALJI:** I just want to turn to a  
17 different area now. And this is specifically with respect  
18 to some of the issues involving Dunlop.

19                   Now, from your testimony this morning, the  
20 sense that I got was that you seemed to have some concerns  
21 regarding Mr. Dunlop and possible additional disclosure  
22 issues. Would that be fair?

23                   **MS. NAROZNIAK:** Yes.

24                   **MS. LALJI:** Okay. Now, you did not go to  
25 the Cornwall Police Service at any time to advise them

1 about any of these concerns?

2 MS. NAROZNIAK: No.

3 MS. LALJI: You didn't make any formal  
4 complaint with the Cornwall Police Service?

5 MS. NAROZNIAK: Oh, no. No, no, no.

6 MS. LALJI: Are you aware that Pat Hall also  
7 did not make a formal complaint about Mr. Dunlop to the  
8 Cornwall Police Service?

9 MS. NAROZNIAK: I wasn't aware of that.

10 MS. LALJI: Right.

11 Are you at all aware that at some point  
12 prior, that Detective Inspector Pat Hall had told Staff  
13 Sergeant Derochie that he thought the Crown wanted to wait  
14 a little bit until the Leduc matter was dealt with before  
15 they made any decision as to whether they should do  
16 anything regarding Mr. Dunlop?

17 Were you aware of any of that?

18 MS. NAROZNIAK: I'm not aware of that.

19 MS. LALJI: And I take it also that you  
20 would not have made any complaints to Pat Hall about any  
21 issues you had with Mr. Dunlop?

22 MS. NAROZNIAK: No, not at all. We had very  
23 little contact.

24 MS. LALJI: Okay. Did you make any  
25 complaints to anyone else at the OPP?

1                   **MS. NAROZNIAK:** No.

2                   **MS. LALJI:** Okay. Now, I wanted to very  
3 briefly speak to you about a letter that Frank Horn had put  
4 to you, and I'll just have that brought to your attention.  
5 It's exhibit 1415.

6                   And this is the letter that Deputy Chief  
7 Danny Aikman had sent to you?

8                   **MS. NAROZNIAK:** Yes. Yes.

9                   **MS. LALJI:** Okay. So I'll just get that  
10 pulled up. And we'll just work towards the lower end of  
11 the paragraph if we do need to get to it.

12                   So now in this letter -- and I'm sure that  
13 you recall -- and it's in front of you -- that the Cornwall  
14 Police was actually seeking direction from the Crown  
15 regarding whether an investigation should be undertaken  
16 with respect to Mr. Dunlop?

17                   **MS. NAROZNIAK:** Yes.

18                   **MS. LALJI:** Right.

19                   Now, you didn't respond to Deputy Chief  
20 Aikman, did you?

21                   **MS. NAROZNIAK:** I did not.

22                   **MS. LALJI:** You didn't even give him a phone  
23 call?

24                   **MS. NAROZNIAK:** I did not.

25                   **MS. LALJI:** Okay. Why was that?

1                   **MS. NAROZNIAK:** Two reasons. First, it was  
2 right before the preparation and argument of the 11(b), if  
3 I recall. I was very, very focussed on that area and to  
4 engage in any kind of review and discussion about  
5 investigation would have been inappropriate at that time  
6 from a time management standpoint.

7                   Secondly, I recall that a similar request  
8 was made earlier regarding Dunlop's investigation, and I  
9 was aware that my previous immediate supervisor, Marc  
10 Garson, provided a letter responding to a very similar type  
11 of request.

12                   I contacted him advising what I had just  
13 received and, contrary to my normal practice, he said that  
14 was asked and answered and advised me not to respond.

15                   **MS. LALJI:** And that was the reason you  
16 didn't?

17                   **MS. NAROZNIAK:** Correct.

18                   **MS. LALJI:** Okay. And just to put some  
19 timelines on this for Mr. Commissioner and for the public,  
20 with respect to the previous request that was given to Marc  
21 Garson, you're referring to the November 1999 letter and --  
22 -

23                   **MS. NAROZNIAK:** I can't remember the date,  
24 but I'll accept that, yes.

25                   **MS. LALJI:** Okay. And just for the purposes

1 of the record, it's Exhibit 1326.

2 MS. NAROZNIAK: Okay.

3 MS. LALJI: Okay? And I'm assuming that  
4 either you would have seen this when you referred to all of  
5 the -- and reviewed all of the Project Truth material ---

6 MS. NAROZNIAK: Yes.

7 MS. LALJI: --- or Mr. Garson had talked to  
8 you about this?

9 MS. NAROZNIAK: I reviewed it myself. I saw  
10 that.

11 MS. LALJI: Okay. And with respect to the  
12 1999 request that the Cornwall Police sent over to Marc  
13 Garson, do you recall that that was specifically in regard  
14 to the Marcel Lalonde trial?

15 MS. NAROZNIAK: I believe it was.

16 MS. LALJI: Okay. And with respect to the  
17 letter that Deputy Chief Danny Aikman sent to you in 2004,  
18 that was specifically with respect to -- and if we looked  
19 at -- if we just go back to the letter -- and I apologize,  
20 Madame Clerk -- Exhibit 1415.

21 We'll just get it on the screen, 1415. Just  
22 go to the second-last paragraph. Actually this is fine.  
23 This is actually fine.

24 And if you see with respect to this letter  
25 that Deputy Chief Aikman sends to you, it's specifically



1 with respect to the evidence that Mr. Dunlop had just  
2 finished giving ---

3 MS. NAROZNIAK: That's correct.

4 MS. LALJI: --- on the Leduc matter.

5 MS. NAROZNIAK: Yes.

6 MS. LALJI: So it's not exactly the same,  
7 but it's somewhat related in terms of the issues?

8 MS. NAROZNIAK: The similarity had to do  
9 with the request as to how investigation was to be  
10 conducted. And the focus, from my recollection, in Mr.  
11 Garson's response was the separation of the role between  
12 police and the crown and whose obligation it was to conduct  
13 an investigation.

14 MS. LALJI: Okay. And the other reason that  
15 you had given was around this timeframe when you received  
16 this letter, you were extremely busy preparing.

17 MS. NAROZNIAK: Oh, yes.

18 MS. LALJI: Right.

19 Now, I'm assuming this, but it wouldn't be  
20 your normal practice that when you're receiving  
21 correspondence, that you wouldn't respond to it?

22 MS. NAROZNIAK: It's actually very unusual.  
23 And I really queried Marc Garson about it, you know, "Are  
24 you sure I shouldn't respond in some sort of way?" He  
25 suggested that it was already responded to by my

1 supervisors, meaning the directors, and not to concern  
2 myself with it. Given the status of where we were at that  
3 time, I welcomed that advice and let it go.

4 Once the 11(b) was argued and the decision  
5 was rendered, the inquiry declaration came immediately  
6 thereafter, and it became a moot point.

7 **MS. LALJI:** Right.

8 And I'm assuming -- because I was going to  
9 take you to that -- that it was shortly thereafter that  
10 this Inquiry was called ---

11 **MS. NAROZNIAK:** Exactly.

12 **MS. LALJI:** --- in April 2005.

13 **MS. NAROZNIAK:** Exactly.

14 **MS. LALJI:** And, you know, presumably that  
15 that would have been the reason that you hadn't responded?

16 **MS. NAROZNIAK:** That's right.

17 **MS. LALJI:** But in hindsight, do you think  
18 it would be a fair thing to say that even perhaps a phone  
19 call to Deputy Chief Aikman might have been warranted?

20 **MS. NAROZNIAK:** Out of professional  
21 courtesy, I should have said "I can't respond to you at  
22 this time or will not respond to you at this time." You're  
23 right, yes.

24 **MS. LALJI:** Okay. Thank you very much. I  
25 have no further questions.

1                   **THE COMMISSIONER:** Thank you.

2                   I'm sorry, you have no questions Ms. Lahaie.

3                   Thank you very much.

4                   Mr. Carroll.

5                   **MS. LAHAIE:** Actually, I will, but I will  
6                   just be very brief.

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

8                   **CARROLL**

9                   **MR. CARROLL:** Good afternoon.

10                  **MS. NAROZNIAK:** Good afternoon, Mr. Carroll.

11                  **MR. CARROLL:** My name is Bill Carroll and I  
12                  represent the Ontario Provincial Police Association. I  
13                  have just a few areas to canvass with you.

14                  During your tenure as having carriage of  
15                  this file, your primary contact with the OPP would have  
16                  been with Steve Seguin?

17                  **MS. NAROZNIAK:** Correct.

18                  **MR. CARROLL:** And there was mention made in  
19                  an earlier examination about Pat Hall and, to your  
20                  knowledge, he had retired by the time you took over the  
21                  file; correct?

22                  **MS. NAROZNIAK:** That's correct.

23                  **MR. CARROLL:** As had Joe Dupuis and you  
24                  didn't have any contact with him either?

25                  **MS. NAROZNIAK:** None at all.

1                   **MR. CARROLL:** Okay. Would you agree that in  
2                   the assistance that Seguin provided you that it was always  
3                   done in a timely and professional manner?

4                   **MS. NAROZNIAK:** Absolutely.

5                   **MR. CARROLL:** And there was a lot to do,  
6                   wasn't there, in terms of either -- from arranging  
7                   accommodations for you to getting additional disclosure to  
8                   be given out, any number of tasks that were ---

9                   **MS. NAROZNIAK:** There was a lot of things to  
10                  do, yes.

11                  **MR. CARROLL:** And he carried those requests  
12                  out in a timely fashion?

13                  **MS. NAROZNIAK:** Correct.

14                  **MR. CARROLL:** You also had the opportunity -  
15                  - and I take it your contacts were in person by telephone,  
16                  by fax, or emails?

17                  **MS. NAROZNIAK:** Emails, yes.

18                  **MR. CARROLL:** Sir, rather than -- just bear  
19                  with me, witness -- rather than go through each of the  
20                  emails, I have a representative selection of them, and I  
21                  propose to simply file them. I have copies for the other  
22                  parties.

23                  **THE COMMISSIONER:** Sure.

24                  **MR. CARROLL:** There being late notice on  
25                  them.

1                   **THE COMMISSIONER:** And these emails ---

2                   **MR. CARROLL:** These are emails -- it's email  
3 traffic to or from the witness to Seguin.

4                   **THE COMMISSIONER:** Okay, well.

5                   **MR. CARROLL:** And that -- I'll just give the  
6 numbers for the record without going in the details of  
7 them, if it's all right: 706020, 706035, 706051, 706010,  
8 706053, and 706017.

9                   **THE COMMISSIONER:** So these are all emails  
10 showing the great cooperation between both of them?

11                   **MR. CARROLL:** Showing the efforts that were  
12 -- yes.

13                   And in that vein, you also had the  
14 opportunity to review Seguin and the other officers' work  
15 product during the investigatory stage and preparation for  
16 the Leduc trial; correct?

17                   **MS. NAROZNIAK:** Yes.

18                   **MR. CARROLL:** And as an experienced Crown,  
19 you would agree with me that the work product that you  
20 reviewed by these officers was done in a thorough and  
21 professional manner?

22                   **MS. NAROZNIAK:** Yes. I think so, yes.

23                   **MR. CARROLL:** In the efforts to get all of  
24 his material, that is Dunlop's material, ultimately Justice  
25 Platana made an order for production, did he not?

1 MS. NAROZNIAK: Correct.

2 MR. CARROLL: And that order was given to  
3 Officer Seguin and perhaps Genier too?

4 MS. NAROZNIAK: Yes.

5 MR. CARROLL: To serve on Dunlop in B.C.?

6 MS. NAROZNIAK: Yes. That's correct.

7 MR. CARROLL: And to your knowledge, that  
8 was done?

9 MS. NAROZNIAK: Yes.

10 MR. CARROLL: Right. Thank you very much  
11 for your evidence. Thank you, sir.

12 THE COMMISSIONER: Thank you.

13 Before you go, do you have them there? No,  
14 no, go ahead. I want to make sure those documents are  
15 given exhibit numbers.

16 MR. CARROLL: Okay.

17 THE COMMISSIONER: Ms. Lahaie, go ahead.

18 MS. LAHAIE: Thank you. Do you wish to --  
19 no. Thank you.

20 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

21 MS. LAHAIE:

22 MS. LAHAIE: I have four questions for you.  
23 Good afternoon, Ms. Narozniak. My name is Diane Lahaie and  
24 I'm counsel for the Ontario Provincial Police at the  
25 Inquiry.

1                   **MS. NAROZNIAK:** Good afternoon.

2                   **MS. LAHAIE:** Ms. Narozniak, how would you  
3 describe the degree of cooperation that you received from  
4 the Ontario Provincial Police in your dealings with them on  
5 this brief?

6                   **MS. NAROZNIAK:** It was excellent.

7                   **MS. LAHAIE:** And how would you characterize  
8 the commitment of Detective Inspector Colleen McQuade in  
9 assisting you with the work that you had to do?

10                  **MS. NAROZNIAK:** Utmost dedication and  
11 commitment.

12                  **MS. LAHAIE:** Pardon me?

13                  **MS. NAROZNIAK:** The utmost dedication and  
14 commitment.

15                  **MS. LAHAIE:** Thank you. And would you say  
16 that there was a positive working relationship then overall  
17 with the Ontario Provincial Police and you as a Crown in  
18 this matter?

19                  **MS. NAROZNIAK:** Yes, there was.

20                  **MS. LAHAIE:** And in your vast experience as  
21 a Crown and looking at your review of all of the work  
22 product in all of the boxes, numerous boxes of disclosure  
23 that you reviewed, would you agree that in all respects the  
24 work was done in a competent and professional manner?

25                  **MS. NAROZNIAK:** Yes, I believe so.

1                   **MS. LAHAIE:** Thank you. Those are all my  
2 questions. Thank you.

3                   **THE COMMISSIONER:** Thank you. We'll go  
4 through the exhibits then. Three two eight one (3281) is  
5 email correspondence from Ms. Narozniak to Steve Seguin,  
6 May 18<sup>th</sup>, 2004.

7                   **--- EXHIBIT NO./PIÈCE NO P-3281:**

8                                 (706020) - E-mail from Lidia Narozniak to  
9 Steve Seguin re: Time Line dated 18 May 04

10                   **THE COMMISSIONER:** Three two eight two  
11 (3282) is email correspondence from Ms. Narozniak to Steve  
12 Seguin, June 25<sup>th</sup>, 2004.

13                   **--- EXHIBIT NO./PIÈCE NO P-3282:**

14                                 (706035) - E-mail from Lidia Narozniak to  
15 Steve Seguin re: R.v. Leduc Disclosure dated  
16 25 Jun 04

17                   **THE COMMISSIONER:** Three two eight three  
18 (3283) is email correspondence from this witness to Steve  
19 Seguin, August 12<sup>th</sup>, 2004

20                   **--- EXHIBIT NO./PIÈCE NO P-3283:**

21                                 (706051) - E-mail from Lidia Narozniak to  
22 Steve Seguin re: Index of Dunlop Boxes dated  
23 12 Aug 04

24                   **THE COMMISSIONER:** Again, the same  
25 correspondence from the same people and that will be



1 Exhibit 3284 and the date is September 20<sup>th</sup>, 2004.

2 --- EXHIBIT NO./PIÈCE NO P-3284:

3 (706010) - E-mail from Lidia Narozniak to  
4 Steve Seguin re: Update dated 20 Sep 04

5 **THE COMMISSIONER:** You do write a lot of  
6 emails, Ms. Narozniak.

7 Exhibit 3285 is again the same recipient,  
8 same sender, but the date is September 20, 2004.

9 --- EXHIBIT NO./PIÈCE NO P-3285

10 (706053) - E-mail from Lidia Narozniak to  
11 Steve Seguin re: More Stuff dated 20 Sep 04

12 **THE COMMISSIONER:** And now, the last  
13 Exhibit, 3286, is a fax transmission to Mr. Derochie from  
14 Ms. Narozniak, dated November 8<sup>th</sup>, 2004.

15 --- EXHIBIT NO./PIÈCE NO P-3286:

16 (706017) - Fax Transmission from Lidia  
17 Narozniak to Garry Derochie dated 08 Nov 04

18 **THE COMMISSIONER:** All right.

19 Now, Ms. McIntosh?

20 **MS. McINTOSH:** Thank you.

21 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

22 **McINTOSH:**

23 **MS. McINTOSH:** I actually have a couple of  
24 emails that I want to put in too, and the first is Document  
25 Number 733383. I don't think it's an exhibit yet. I think

1 it's on the list of documents likely to be entered.

2 (SHORT PAUSE/COURTE PAUSE)

3 THE COMMISSIONER: How is your voice? We  
4 are not overtaxing it?

5 MS. NAROZNIAK: I'm okay. We're almost  
6 there, I hope.

7 MS. McINTOSH: Rather than taking up any  
8 time with it, I only wanted to put it in, Ms. Narozniak,  
9 for the purpose, and you may recall it. It appears to be a  
10 reporting email from you to Ms. McQuade -- to Officers  
11 McQuade, Seguin, Genier about the -- in June of 2004, about  
12 the schedule for these proceedings unfolding.

13 MS. NAROZNIAK: Right. Yes, I remember that  
14 one.

15 THE COMMISSIONER: We have it now. It's  
16 Exhibit 3287, email from Ms. Narozniak to Colleen McQuade,  
17 June 4<sup>th</sup>, 2004.

18 --- EXHIBIT NO./PIÈCE NO. P-3287:

19 (733383) E-mail from Colleen McQuade to  
20 Lidia Narozniak dated 04 Jun 04

21 MS. McINTOSH: And I just asked you to look  
22 at it. There are names in here, Mr. Commissioner.

23 THE COMMISSIONER: A stamp will be put on,  
24 yes.

25 MS. McINTOSH: And just for the purpose of

1 the record, just to show the other pre-trial motions that  
2 you were talking about.

3 **MS. NAROZNIAK:** Correct.

4 **MS. McINTOSH:** All right. Now, one of the  
5 other issues is the question of the subpoena to Mr. Dunlop,  
6 and I wanted to direct your attention to another email,  
7 706026.

8 **THE COMMISSIONER:** Thank you. Exhibit  
9 Number 3288, email correspondence from Ms. Narozniak to  
10 Steve Seguin, June 10<sup>th</sup>, 2004.

11 **--- EXHIBIT NO./PIÈCE NO P-3288:**

12 (706026) - E-mail from Steve Seguin to Lidia  
13 Narozniak re: Subpoenas dated 10 Jun 04

14 **MS. McINTOSH:** I'll just give you a chance  
15 to look at that.

16 **MS. NAROZNIAK:** Yes.

17 **MS. McINTOSH:** So there are just a couple of  
18 things about that. First of all, you are talking subpoenas  
19 in plural, so I wondered if that helped you remember that  
20 there was going to be a subpoena to more than just Mr.  
21 Dunlop.

22 **MS. NAROZNIAK:** It does -- awareness of Mr.  
23 Chisholm's involvement as part of the Dunlop team was  
24 obviously in advance of the pre-trial motion.

25 **MS. McINTOSH:** All right. And then there

1 had obviously then been discussion -- a discussion between  
2 you and Ms. Henein about the Crown's subpoenaing, rather  
3 than the Defence?

4 **MS. NAROZNIAK:** Correct.

5 **MS. McINTOSH:** And what did you mean when  
6 you said:

7 "It's going to be a disclosure motion brought by the  
8 Defence and given that disclosure is the Crown's  
9 responsibility, the Crown is in a better position to get  
10 that -- to get this done."

11 What were you getting at there?

12 **MS. NAROZNIAK:** I was referring to the  
13 overriding responsibility of the Crown to provide full  
14 disclosure, and because there was a disclosure motion there  
15 was some continuing onus on me to facilitate that process.

16 **MS. McINTOSH:** All right. And then you go  
17 on to say:

18 "This will not affect my ability to  
19 cross-examine if that's what I want to  
20 do as that is an agreement by counsel."

21 **MS. NAROZNIAK:** Yes.

22 **MS. McINTOSH:** Can you explain that, please?

23 **MS. NAROZNIAK:** Certainly. After reading  
24 the MacDonald transcript where Mr. Dunlop testified, I saw  
25 what happened with Mr. McConnery and his experience with

1 Mr. Dunlop in the preparation interview the night before.  
2 Mr. McConnery himself ended up having to cross-examine  
3 Mr. Dunlop. I was expecting the same kind of event in my  
4 pre-trial motion and I wanted to be sure that I was not  
5 foreclosed from cross-examining Mr. Dunlop if the same  
6 thing happened.

7 **MS. McINTOSH:** And so you elicited that  
8 agreement from Ms. Heinen ---

9 **MS. NAROZNIAK:** Yes, in advance.

10 **MS. McINTOSH:** Thank you.

11 And with respect to whether or not Helen  
12 Dunlop was subpoenaed, I wanted to direct your attention to  
13 Document Number 705799. Actually, sorry, that's a  
14 different document. My apologies. It's 705791.

15 **THE COMMISSIONER:** Thank you. Exhibit  
16 Number 3289, email correspondence from Ms. Narozniak to Mr.  
17 Seguin dated October 12<sup>th</sup>, 2004.

18 --- **EXHIBIT NO./PIÈCE NO. P-3289:**

19 (705791) - E-mail from Steve Seguin to Lidia  
20 Narozniak re: Dunlop Expenses dated 12 Oct  
21 04

22 **MS. McINTOSH:** I'm actually looking down  
23 below the top email to the email from you, Ms. Narozniak to  
24 Murray MacDonald and Steve Seguin on Friday, October the 8<sup>th</sup>  
25 of 2004.

1                   **MS. NAROZNIAK:** Yes, right.

2                   **MS. McINTOSH:** And in that email you'll see  
3 that it was apparently an inquiry about the Dunlops'  
4 expenses ---

5                   **MS. NAROZNIAK:** Yes.

6                   **MS. McINTOSH:** --- for the purpose of the  
7 disclosure motion, and you'll see that there was a request  
8 in the letter apparently to get expenses for Mrs. Dunlop.

9                   **MS. NAROZNIAK:** Correct.

10                  **MS. McINTOSH:** All right. And your position  
11 is set out there; that she was not subpoenaed to come to  
12 the trial but was subpoenaed as a result of her being  
13 there. Is that right?

14                  **MS. NAROZNIAK:** That's correct.

15                  **MS. McINTOSH:** Thank you. So she was not  
16 subpoenaed in advance?

17                  **MS. NAROZNIAK:** Not in advance.

18                  **MS. McINTOSH:** Thank you.

19                  **THE COMMISSIONER:** Okay, now, but just a  
20 second now.

21                                 And why is Murray MacDonald being copied on  
22 these things? I thought he was supposed to stay right out  
23 of this.

24                  **MS. NAROZNIAK:** I was seeking out assistance  
25 in the expense portion, the Courts Admin portion.

1                   **THE COMMISSIONER:** Yeah, but why write to  
2 Murray MacDonald?

3                   **MS. NAROZNIAK:** Because he was the Crown in  
4 Cornwall.

5                   **MS. McINTOSH:** And the other thing, though,  
6 Mr. Commissioner, if you just look up above you'll see that  
7 Mr. Dunlop -- Mr. Dunlop's lawyer -- sorry, in the same  
8 email from Ms. Narozniak to Mr. Seguin. It says:

9                                   "Greetings. Perry Dunlop has  
10                                   apparently retained the services of a  
11                                   lawyer in B.C. who sent a letter  
12                                   addressed to you, Murray."

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

14                   **MS. McINTOSH:** So it was Mr. Dunlop's lawyer  
15 who addressed the letter to ---

16                   **MS. NAROZNIAK:** That's correct.

17                   **MS. McINTOSH:** --- to Mr. MacDonald.

18                   **MS. NAROZNIAK:** That's exactly right.

19                   **THE COMMISSIONER:** Saved by a good reading  
20 of the email.

21                   **MS. NAROZNIAK:** Yes. Thank you.

22                   **MS. McINTOSH:** Thank you.

23                                   And then on the issue of your contact with  
24 Mr. Dunlop before he attended, there's an email which is  
25 the email I just referred to, 705799.

1                   **THE COMMISSIONER:** Thank you. Exhibit  
2                   Number 3290 is an email from Paul Murphy to Steve Seguin,  
3                   July 12<sup>th</sup>, 2004.

4                   **--- EXHIBIT NO./PIÈCE NO. P-3290:**

5                                 (705799) - E-mail from Paul Murphy to Steve  
6                                 Seguin re: Project Truth dated 12 Jul 04

7                   **MS. McINTOSH:** And then in the middle of the  
8                   page, Ms. Narozniak, you'll see that you sent an email to  
9                   Messrs. Murphy and Seguin on Monday, July the 12<sup>th</sup>.

10                   **MS. NAROZNIAK:** Yes.

11                   **MS. McINTOSH:** All right. And the first  
12                   line of that email, "Just now talked with Perry Dunlop."

13                   **MS. NAROZNIAK:** Yes.

14                   **MS. McINTOSH:** So do I take from that that  
15                   you spoke to Perry Dunlop on that day?

16                   **MS. NAROZNIAK:** Correct.

17                   **MS. McINTOSH:** All right. And you had a  
18                   discussion with him about the arrangements being done  
19                   through -- I take it that's Mr. Murphy, Paul Murphy.

20                   **MS. NAROZNIAK:** Yes.

21                   **MS. McINTOSH:** Right. And you say:

22   "He has a contract to play for the City  
23   on Saturday, August 14<sup>th</sup>, so he doesn't  
24   want to travel on that day."

25                   **MS. NAROZNIAK:** Correct.



1                   **MS. McINTOSH:** Is that Mr. Dunlop you're  
2                   talking about?

3                   **MS. NAROZNIAK:** That was Mr. Dunlop. I  
4                   specifically even addressed to him the need to come early  
5                   enough to be rested from a trip and that sort of thing, and  
6                   he insisted on coming Sunday night.

7                   **MS. McINTOSH:** All right. And then you'll  
8                   see, continuing down a couple of lines, "He wanted to  
9                   review his transcripts."

10                  **MS. NAROZNIAK:** Yes.

11                  **MS. McINTOSH:** And you clarified with him  
12                  what transcripts there were?

13                  **MS. NAROZNIAK:** Yes.

14                  **MS. McINTOSH:** And you asked for some help  
15                  from the officers to get those transcripts together?

16                  **MS. NAROZNIAK:** That's correct. I clarified  
17                  with him that he did not testify because I had a  
18                  conversation with Mrs. Dunlop, who made some disparaging  
19                  comments to me for not knowing that Mr. Dunlop testified on  
20                  the Leduc case. I knew that he did not and she accused me  
21                  of not knowing what I was doing.

22                  **MS. McINTOSH:** Right. And then in the last  
23                  paragraph you also talk about what you spoke to him about  
24                  on that day. So you spoke to him about his notes ---

25                  **MS. NAROZNIAK:** Yes.

1                   **MS. McINTOSH:** --- and the need for  
2 originals. Is that correct?

3                   **MS. NAROZNIAK:** Yes.

4                   **MS. McINTOSH:** And you explained some of the  
5 particular notebooks that you were interested in?

6                   **MS. NAROZNIAK:** Yes.

7                   **MS. McINTOSH:** And then you said that your  
8 focus would be on any contact he had with the witnesses and  
9 victims on Leduc.

10                  **MS. NAROZNIAK:** Correct.

11                  **MS. McINTOSH:** And then you talked about the  
12 fact that you didn't expect he'd be on the stand for the  
13 entire time but you couldn't guarantee a time.

14                  **MS. NAROZNIAK:** Guarantee; correct.

15                  **MS. McINTOSH:** Now, the issues that you said  
16 you told him would be canvassed -- I think you said there  
17 were two, the contact with the witnesses and whether he had  
18 anything else.

19                  **MS. NAROZNIAK:** That's correct.

20                  **MS. McINTOSH:** The disclosure issue, right.  
21 Were these complicated issues?

22                  **MS. NAROZNIAK:** No, they were  
23 straightforward issues.

24                  **MS. McINTOSH:** All right.

25                  **MS. NAROZNIAK:** They could be handled in a

1 very forthright and easy manner.

2 **MS. McINTOSH:** All right. So for -- again,  
3 for these kinds of issues would you expect to have a long  
4 sort of interview with the police officer in advance?

5 **MS. NAROZNIAK:** Not at all.

6 **MS. McINTOSH:** Now, one other question just  
7 arising out of what Ms. Lalji just asked you about Exhibit  
8 1415. I don't think we need to turn it up but I just  
9 wanted to confirm with you that it is not the case that the  
10 police need authorization or direction from the Ministry of  
11 the Attorney General to investigate a crime.

12 **MS. NAROZNIAK:** That's correct.

13 **MS. McINTOSH:** Those are my questions.

14 Thank you.

15 **THE COMMISSIONER:** Thank you. Ms. Jones?

16 Nothing.

17 Well, thank you very much for your  
18 attendance and your patience with us, and have a safe trip  
19 home.

20 **MS. NAROZNIAK:** Thank you.

21 **THE COMMISSIONER:** Thank you. So we come  
22 back 9:30 Monday morning. Thank you.

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

25 This hearing is adjourned until Monday

1 morning at 9:30 a.m.

2 --- Upon adjourning at 1:48 p.m. /

3 L'audience est ajournée à 13h48

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

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

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



---

Dale Waterman, CVR-CM