

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
G. Normand Glaude

Commissaire

VOLUME 292

Held at :

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

Wednesday, October 22, 2008

Tenue à:

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

Mercredi, le 22 octobre 2008

Appearances/Comparutions

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

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

2 L'audience débute à 9h032

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Good morning, all.

11 Mr. Dumais?

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

16 **THE COMMISSIONER:** Yes.

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

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

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

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

24 **THE COMMISSIONER:** Yes.

25 Exhibit Number 2420.

1 letter? Who's the letter ---

2 **MR. DUMAIS:** Cieslewicz.

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

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

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

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

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

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

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

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

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

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

23 **THE COMMISSIONER:** Okay.

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

1 Thomas O'Brien.

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

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

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

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

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

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

14 MR. DUMAIS: Correct, Mr. Commissioner.

15 THE COMMISSIONER: Yeah, well.

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

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

19 THE COMMISSIONER: How many more do we have?

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

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

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

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

2 The next Document is Number 739301.

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

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

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

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

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

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

15 **THE COMMISSIONER:** Thank you.

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

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

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

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

24 **THE COMMISSIONER:** Thank you.

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

1 dated January 4th, 1990 from Lenore Jones.

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

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

5 MR. DUMAIS: Next document is Number 739318.

6 THE COMMISSIONER: Thank you.

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

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

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

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

14 THE COMMISSIONER: Thank you.

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

17 This has to do with ---

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

20 THE COMMISSIONER: All right.

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

22 MR. DUMAIS: It is C-76.

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

24 So, there you go.

25 Exhibit 2430.

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

4 **THE COMMISSIONER:** Yes.

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

6 (742266) - Case file of C-76

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

9 **THE COMMISSIONER:** Thank you.

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

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

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

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

19 **THE COMMISSIONER:** Thank you.

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

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

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

1 14, 1978

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

4 **THE COMMISSIONER:** All right.

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

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

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

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

11 **THE COMMISSIONER:** Thank you.

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

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

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

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

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

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

22 **THE COMMISSIONER:** Sure.

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

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

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

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

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

9 The reference is O'Brien's recollection.

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

14 He references his recollection.

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

23 The reference is his recollection.

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

1 Again, that is his recollection.

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

8 That is O'Brien's recollection.

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

16 That is O'Brien's recollection.

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

23 The reference is O'Brien's recollection.

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

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

8 Reference is his recollection.

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

17 The reference is O'Brien's recollection.

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

1 Glengarry."

2 The reference is O'Brien's recollection.

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

8 The reference is O'Brien's recollection.

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

12 Reference is O'Brien's recollection.

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

19 Reference is O'Brien's recollection.

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

25 Reference is O'Brien's recollection.

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

8 Reference is O'Brien's recollection.

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

13 Reference is O'Brien's recollection.

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

19 Reference is O'Brien's recollection.

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

25 Reference is O'Brien's recollection.

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

3 Reference is O'Brien's recollection.

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

11 Reference is O'Brien's recollection.

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

18 Reference is O'Brien's recollection.

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

22 Reference is O'Brien's recollection.

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

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

4 Reference is O'Brien's recollection.

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

9 Reference is O'Brien's recollection.

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

16 Reference is O'Brien's recollection.

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

19 Reference is O'Brien's recollection.

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

25 Reference is O'Brien's recollection.

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

4 Reference is Exhibit 1505 and Exhibit 2426.

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

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

13 The reference is Exhibit 2212.

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

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

1 Reference is Exhibit 2212.

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

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

11 Reference is Exhibit 2212.

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

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

25 The reference is Exhibit 2427 and Exhibit

1 2426.

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

9 The reference is O'Brien's recollection.

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

15 Reference is O'Brien's recollection.

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

22 Reference is O'Brien's recollection.

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

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

3 The reference is O'Brien's recollection.

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

10 Reference is Exhibit 2227.

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

17 Reference is Exhibit 2227.

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

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

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

4 The reference is Exhibit 2434.

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

8 Exhibit 2433? Thank you.

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

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

19 Reference is Exhibit 2434 and Exhibit 2227.

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

25 Reference is Exhibit 2431.

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

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

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

13 He references Exhibit 2227.

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

19 He references Exhibit 2227 and Exhibit 2337.

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

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

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

16 The reference is Exhibit 2227.

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

24 He references Exhibit 2433 and Exhibit 2227.

25 "On March 22nd, 1976, C-76's caseworker at

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

7 The Exhibit is 2433.

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

11 He references Exhibit 2227.

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

15 He references Exhibit 2421.

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

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

22 Reference is Exhibit 2227.

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

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

3 The reference is Exhibit 2360.

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

9 The reference is Exhibit 2337.

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

14 The reference is Exhibit 2228.

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

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

21 The reference is Exhibit 2338.

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

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

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

7 He references Exhibit 2432.

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

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

15 That is Exhibit 2432.

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

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

24 The reference is Exhibit 2432.

25 "O'Brien and Devlin told Penny that the

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

4 The reference is Exhibit 2432.

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

10 The reference is Exhibit 2432.

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

17 Reference is O'Brien's recollection.

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

21 The reference is O'Brien's recollection.

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

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

3 The reference is O'Brien's recollection.

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

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

11 He references O'Brien's recollection.

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

15 The reference is O'Brien's recollection.

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

25 Reference is Exhibit 1505.

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

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

11 Reference is Exhibit 1505.

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

20 The reference is Exhibit 1505.

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

1 closed."

2 He references Exhibit 2426.

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

10 Reference is Exhibit 1505.

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

20 He references Exhibit 1505 and Exhibit 2426.

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

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

5 Reference is Exhibit 1505.

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

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

15 The reference is Exhibit 1505.

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

24 The reference is Exhibit 1505.

25 "As of February 21st, 1990 O'Brien had not

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

10 The reference is Exhibit 1505 and Exhibit
11 2357.

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

14 The reference is O'Brien's recollection.

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

18 The reference is Exhibit 2428.

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

1 of the same."

2 The reference is Exhibit 2429.

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

12 He references Exhibit 2210.

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

18 He references O'Brien's recollection.

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

1 Brian Lapensée."

2 Reference is O'Brien's recollection.

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

9 Reference is Exhibit 2355.

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

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

24 The reference is Exhibit 2394.

25 "On December 2nd, 1982, O'Brien wrote to Mr.

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

8 The reference is Exhibit 129.

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

15 The reference is Exhibit 130.

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

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

1 The reference is Exhibit 2395.

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

8 The reference is Exhibit 2397.

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

15 The reference is Exhibit 2398.

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

24 The reference is Exhibit 2399.

25 "On April 2nd, 1983, Archambault stayed

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

10 The reference is Exhibit 131.

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

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

22 The reference is Exhibit 131.

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

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

4 The reference is Exhibit 131.

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

12 The reference is Exhibit 131.

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

18 The reference is Exhibit 131.

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

22 The reference is Exhibit 131.

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

1 The reference is Exhibit 2339.

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

5 The reference is Exhibit 2400.

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

13 The reference is Exhibit 134.

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

21 The reference is Exhibit 133.

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

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

7 The reference is Exhibit 2422.

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

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

16 The reference is Exhibit 2339.

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

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

3 The reference is Exhibit 2425.

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

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

13 The reference is Exhibit 2424 and Exhibit
14 2423.

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

19 The reference is O'Brien's recollection.

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

24 The reference is Exhibit 524 and Exhibit
25 538.

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

9 The reference is Exhibit 538.

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

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

20 The reference is Exhibit 538.

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

1 The reference is Exhibit 538.

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

7 The reference is Exhibit 139.

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

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

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

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

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

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

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

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

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

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

4 **THE COMMISSIONER:** Okay.

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

9 All right? Thank you.

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

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

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

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

15 L'audience est suspendue à 10h38

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

17 L'audience est reprise à 10h56

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

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

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

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

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

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

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

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

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

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

17 **THE COMMISSIONER:** All right?

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

19 **THE COMMISSIONER:** Thank you, sir.

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

22 **THE COMMISSIONER:** Yes, thank you.

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

24 **THOMAS O'BRIEN:** Sworn/Assermenté

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

1 **DUMAIS:**

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

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

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

9 **THE COMMISSIONER:** Yes.

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

12 "On September 24th, 1973 C-77 ---

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

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

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

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

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

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

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

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

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

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

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

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

8 **THE COMMISSIONER:** Yes?

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

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

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

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

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

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

23 **MR. DUMAIS:** Right.

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

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

1 Yes, it is.

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

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

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

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

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

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

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

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

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

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

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

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

3 **MR. DUMAIS:** Correct.

4 **THE COMMISSIONER:** Yes.

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

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

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

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

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

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

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

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

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

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

1 you those documents as we go.

2 And open it up at the page 2212?

3 **MR. DUMAIS:** Correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 well?

2 MR. O'BRIEN: Yes.

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

6 MR. O'BRIEN: Yes.

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

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

17 MR. DUMAIS: All right.

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

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

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

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

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

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

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

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

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

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

23 **MR. DUMAIS:** Yes.

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

1 the home came from Mr. Towndale.

2 MR. DUMAIS: All right.

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

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

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

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

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

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

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

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

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

11 Sorry, have I answered your question?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **MR. DUMAIS:** Correct.

25 So essentially we're just moving up in time

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

7 MR. O'BRIEN: Yes.

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

12 MR. O'BRIEN: Yes.

13 MR. DUMAIS: All right.

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

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

18 MR. DUMAIS: Okay.

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

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

24 MR. DUMAIS: Okay.

25 That would be your general practice?

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

4 **MR. DUMAIS:** Okay.

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

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

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

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

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

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

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

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

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

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

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

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

15 **MR. DUMAIS:** Okay.

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

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

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

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

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

1 the Second Street Group Home.

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

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

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

8 MR. DUMAIS: All right.

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

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

22 MR. O'BRIEN: I see that.

23 MR. DUMAIS: Do you see that?

24 MR. O'BRIEN: Yes.

25 MR. DUMAIS: All right.

1 So is that a fair characterization ---

2 MR. O'BRIEN: Yes.

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

5 MR. O'BRIEN: Yes.

6 MR. DUMAIS: All right.

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

10 MR. O'BRIEN: Yes.

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

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

18 MR. DUMAIS: Page 2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 Do you see that now?

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

9 **THE COMMISSIONER:** All right.

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

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

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

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

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

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

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

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

4 **THE COMMISSIONER:** Read the whole sentence
5 then.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 MR. O'BRIEN: Yes, yes.

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

6 MR. O'BRIEN: Yes.

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

10 MR. O'BRIEN: Yes.

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

16 MR. O'BRIEN: Yes.

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

21 MR. O'BRIEN: Yes.

22 MR. DUMAIS: All right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 MR. O'BRIEN: Yes, yes.

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

17 MR. O'BRIEN: Yes.

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

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

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

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

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

7 **MR. DUMAIS:** Yes.

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

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

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

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

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

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

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

5 And if we look at the next paragraph:

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

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

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

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

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

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

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

1 over the evidence?

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: You agree with that?

4 MR. O'BRIEN: Yes.

5 MR. DUMAIS: All right.

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

9 MR. O'BRIEN: Yes.

10 MR. DUMAIS: All right.

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

14 MR. O'BRIEN: Yes.

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

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

21 MR. DUMAIS: With the adoption process?

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

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

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

2 **THE COMMISSIONER:** Excuse me.

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

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

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

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

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

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

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

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

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

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

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

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

6 **THE COMMISSIONER:** There is.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **THE COMMISSIONER:** Okay.

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

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

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

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

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

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

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

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

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

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

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

19 **THE COMMISSIONER:** Sure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 MR. O'BRIEN: Yes.

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

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

9 MR. DUMAIS: Okay, all right.

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

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

17 (SHORT PAUSE/COURTE PAUSE)

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

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

23 THE COMMISSIONER: Okay.

24 Do you have much longer, Mr. Dumais?

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

1 Commissioner.

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

3 O'Brien?

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

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

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

8 **THE COMMISSIONER:** All right.

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

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

15 **THE COMMISSIONER:** Fine.

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

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

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

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

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

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

25 So my understanding is this is a letter that

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

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

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

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

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

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

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

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

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

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

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

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

1 credible.

2 MR. O'BRIEN: Yes.

3 MR. DUMAIS: Is that fair?

4 MR. O'BRIEN: Yes.

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

10 MR. O'BRIEN: Yes.

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

13 MR. O'BRIEN: Yes.

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

17 MR. O'BRIEN: Yes.

18 MR. DUMAIS:

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

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

5 MR. O'BRIEN: Yes.

6 MR. DUMAIS: All right.

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

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

12 MR. DUMAIS: It reads ---

13 MR. O'BRIEN: Oh, yes.

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

20 MR. O'BRIEN: Yes, okay.

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

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

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

1 that decision was not made?

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

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

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

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

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

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

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

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

5 Does that answer your question?

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

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

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

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

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

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

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

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

23 **MR. DUMAIS:** Yes.

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

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

1 today?

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

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

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

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

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

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

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

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

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

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

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

1 **MR. DUMAIS:** Okay.

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

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

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

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

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

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

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

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

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

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

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

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

2 MR. O'BRIEN: Yes.

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

5 MR. O'BRIEN: Son.

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

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

9 MR. DUMAIS: Okay.

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

12 MR. O'BRIEN: Yes.

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

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

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

21 MR. O'BRIEN: Yes.

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

25 MR. O'BRIEN: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 MR. O'BRIEN: Yes.

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

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

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

8 MR. O'BRIEN: With provisos.

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

12 MR. O'BRIEN: Yes.

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

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

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

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

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

24 MR. O'BRIEN: Yes.

25 MR. DUMAIS: All right.

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

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

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

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

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

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

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

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

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

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

18 **MR. DUMAIS:** Correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 paragraphs one and two.

2 THE COMMISSIONER: Right.

3 MR. DUMAIS: And paragraph five as well.

4 MR. O'BRIEN: Yes.

5 MR. DUMAIS: Do you see that?

6 MR. O'BRIEN: Yes.

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

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

20 MR. O'BRIEN: Yes.

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

24 MR. O'BRIEN: Yes.

25 MR. DUMAIS: All right.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 MR. O'BRIEN: Yes.

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

6 MR. O'BRIEN: Yes.

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

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

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

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

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

19 I have about five or 10 minutes left.

20 THE COMMISSIONER: All right.

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

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

24 THE COMMISSIONER: You'll come back?

25 MR. O'BRIEN: Yes.

1 **THE COMMISSIONER:** All right.

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

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

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

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

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

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

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

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

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

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

17 L'audience est suspendue à 12h18

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

19 L'audience est reprise à 13h53

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

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

24 **THE COMMISSIONER:** Thank you.

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

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

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

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

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

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

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

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

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

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

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

1 **THE COMMISSIONER:** Yes.

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

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

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

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

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

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

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

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

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

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

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

21 **MR. DUMAIS:** Yes.

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

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

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

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

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

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

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

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

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

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

25 **MR. DUMAIS:** Sixty-one (61).

1 **THE COMMISSIONER:** M'hm, page 61. What
2 date? Volume 283?

3 **MR. DUMAIS:** Actually, I'm not sure of my
4 page, Mr. Commissioner. I'm using a condensed version.

5 **THE COMMISSIONER:** So am I.

6 **MR. DUMAIS:** So top right-hand corner, line
7 4.

8 **THE COMMISSIONER:** So that would be page 67.

9 **MR. DUMAIS:** Thank you.

10 **THE COMMISSIONER:** So do you know Miss
11 Fitzpatrick?

12 **MR. O'BRIEN:** Do I know her?

13 **THE COMMISSIONER:** Yes?

14 **MR. O'BRIEN:** Yes, Mr. Commissioner. Yes, I
15 do.

16 **THE COMMISSIONER:** She was a worker when you
17 were the Executive Director was she?

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

19 **THE COMMISSIONER:** Okay.

20 **MR. DUMAIS:** All right. So this is one of
21 the answers that she's putting to -- a question put to her
22 by Ms. Daley, and her answer is as follows.

23 And she had just finished relating to us
24 that she had gone into a home, and this was a file of one
25 of her colleagues. I believe she indicated it was Mr.

1 Dupuis who was also a child protection worker with your
2 agency.

3 And while conducting her investigation, she
4 had had a conversation with someone else who had been found
5 in the home, and he had related to her that he had been
6 abused both by a Mr. Ken Seguin and while he was at Alfred,
7 the reform school.

8 So here she is indicating the following:

9 "MS. FITZPATRICK: --- told me that, in
10 the days of the Alfred trials, it was
11 Ken Seguin and Tom O'Brien who got on
12 the stand and said that -- they were
13 asked, "Did any of these wards or these
14 children that were running away from
15 Alfred, did they ever tell you that
16 they were being abused in the Alfred
17 group home?" And Carleen told me that
18 both Ken Seguin and Tom O'Brien
19 testified that they were never told by
20 these children that they were being
21 abused."

22 **MR. O'BRIEN:** Where was I supposed to have
23 testified?

24 **MR. DUMAIS:** Well, she's not indicating
25 specifically, but she's relating what Carleen would have

1 told her. She's simply indicating that you would have
2 testified that you had never been told by these children
3 that they were being abused. So I'm not exactly sure, I
4 can't give you any more details than that.

5 So the question is, have you ever been
6 involved in any of the Alfred trials?

7 **MR. O'BRIEN:** No, not to my knowledge. I
8 don't know what you are talking about.

9 **MR. DUMAIS:** Okay.

10 **THE COMMISSIONER:** Have you ---

11 **MR. O'BRIEN:** I know about the Alfred
12 Training School.

13 **THE COMMISSIONER:** Yes.

14 **MR. O'BRIEN:** And I can explain my
15 connection with it.

16 **THE COMMISSIONER:** Go ahead.

17 **MR. O'BRIEN:** When I was a probation
18 officer, if a boy or girl was committed to a training
19 school by the magistrate, if it was a boy, you took to
20 Alfred; if it was a girl you had to take a female with you
21 to take her to St. Mary's in Toronto.

22 So I knew about Alfred. I was there several
23 times. I had taken several boys there. I had participated
24 in their -- once a year, they had activities where they
25 brought in people from communities who were connected with

1 them somehow.

2 I was not aware that there was anything
3 improper going on in terms of physical or sexual abuse or
4 any other kind of abuse. I thought -- my perception was
5 that it was well-run place, but apparently it wasn't as
6 well run as I thought, but I did not know that.

7 **MR. DUMAIS:** Okay.

8 **THE COMMISSIONER:** Did you know Ken Seguin?

9 **MR. O'BRIEN:** The name has come up many
10 times, Mr. Commissioner. I don't remember Ken.

11 I left Probation in September of 1963. I
12 don't know when he was there. I think it was after that.

13 **THE COMMISSIONER:** Did you ever go, sir, to
14 a seminary school or anything like that?

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

16 **THE COMMISSIONER:** Have you ever attended a
17 seminary school?

18 **MR. O'BRIEN:** Me?

19 **THE COMMISSIONER:** Yes.

20 **MR. O'BRIEN:** Good God, no.

21 **THE COMMISSIONER:** Okay.

22 **(LAUGHTER/RIRES)**

23 **MR. O'BRIEN:** They wouldn't accept me, Mr.
24 Commissioner.

25 **THE COMMISSIONER:** Neither would they accept

1 me.

2 Okay. Go ahead, Mr. Dumais.

3 **MR. DUMAIS:** So is it fair to say then, Mr.
4 O'Brien, or is your evidence that you were never aware
5 until your date of retire of any allegations of either
6 physical or sexual abuse that would have occurred at
7 Alfred?

8 **MR. O'BRIEN:** I was not aware, no.

9 **MR. DUMAIS:** All right.

10 Thank you then, Mr. O'Brien. These ---

11 **MR. O'BRIEN:** Oh, I'm sorry, I don't know
12 whether I answered your question correctly. You said
13 before I retired? That's 1990.

14 **MR. DUMAIS:** Yes.

15 **MR. O'BRIEN:** I don't know when I became
16 aware but it was prior to 1990. I somehow wasn't part of
17 it but I became aware that ---

18 **THE COMMISSIONER:** But you never ---

19 **MR. O'BRIEN:** --- there were things
20 happening that weren't good.

21 **THE COMMISSIONER:** Yes.

22 You never went to any kind of court and
23 testified and gave evidence about what your knowledge was
24 of Alfred?

25 **MR. O'BRIEN:** I don't recall any of that,

1 Mr. Commissioner.

2 **THE COMMISSIONER:** Thank you.

3 **MR. DUMAIS:** All right.

4 Now, before I let my friends ask you some
5 questions as well, Mr. O'Brien, you have the opportunity at
6 this point in time to make a statement and provide the
7 Commissioner with some recommendations that you may have as
8 result of your experience as Executive Director from the
9 Children's Aid Society.

10 So you can go ahead now if you wish.

11 **MR. O'BRIEN:** I'm not quite sure how to
12 address this.

13 I'm disappointed. Perhaps it's only the
14 fault of the local press. Not all of the so-called
15 institutions the Inquiry is dealing with come out as being
16 incompetent and bad. And let's take the situation we're
17 dealing with today, where you're questioning validly the
18 actions of the Children's Aid Society in certain instances.

19 Nothing will come out in the press about
20 that fact that over 24 years I was there we had hundreds of
21 children go through the system. We had some excellent care
22 provided by foster parents but only the questionable ones
23 are coming to light in the Inquiry.

24 If I were to go back today, I think one of
25 the first things I would do is I would look at every policy

1 and procedure that is in place and try to determine whether
2 they were adequate and whether they should be changed; and
3 if they should be changed, then take steps to change them
4 and do that quickly.

5 There's one of the things that they -- and I
6 don't know how to remedy this -- I don't know that the
7 public fully understands, through the Inquiry, the
8 transition of things within society. I recall specifically
9 that in 1966 when I became the Director of Children's Aid
10 the word "abuse" was not in the legislation.

11 Then -- and I think there were two reasons
12 for that. I think society was denying -- particularly in
13 terms of sexual abuse, society was denying that such bad
14 things existed. They would say to themselves, "Who would
15 ever think that a grandfather would do anything improper
16 with his granddaughter? And even if you knew that it might
17 have occurred, are you going to take the word of a child
18 over an adult?" And at that time when I became Director,
19 no, society did not accept outwardly that these things were
20 existing.

21 Then when we became knowledgeable of the
22 fact that they were existing, we were not equipped to deal
23 with these things because we had never dealt with them
24 before and we didn't know how to deal with them. And even
25 if you wanted help in how to do it properly, where did you

1 go to get it? Nobody else had it either.

2 When we became aware that abuse was
3 existing, even the police just became aware about the same
4 time and they had no training either. You know, policemen
5 had no training in handling sexual abuse. And I'm not
6 excusing that we may have not done well. What I'm saying
7 is we didn't know how.

8 And I think I would ensure today, if I were
9 there, that the staff was quite knowledgeable about how to
10 deal with this kind of issue.

11 The other thing that concerns me is -- and I
12 don't know how to put this but the Inquiry is only dealing
13 with this area and, if my information is correct, there are
14 a lot of people coming forward needing counselling in this
15 area. If that be so -- and they're getting it, I
16 understand -- what's happening in the rest of Ontario?
17 What's happening for the other 10 million people in the
18 Province?

19 I'm confused as to the value of this Inquiry
20 and it not taking place in other areas. I don't know the
21 answer but I'm confused; that's all.

22 **THE COMMISSIONER:** Well, thank you, sir.

23 **MR. O'BRIEN:** But I guess, just one more
24 thing.

25 When I started out, the agency was very

1 small in terms of staff, so every time you wanted to talk
2 to somebody about something, you'd get the whole staff
3 together at coffee break. Now, as I understand it, they've
4 got 126 staff; can't do that at coffee break.

5 So being small and knowing everybody
6 personally, it was easier to communicate. And, for
7 instance, we socialized together because we were a small
8 staff. It was -- all I'm saying is that there was a
9 difference. That does not excuse any wrongdoing or any
10 failure to act.

11 I'm just trying to point out that
12 historically there's a difference and society has to
13 understand that.

14 Thank you.

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

16 I just have one last comment,
17 Mr. Commissioner; something I did this morning.

18 And you'll remember, Mr. O'Brien, I took you
19 to page 7 of Exhibit 2419 and I asked the Commissioner to
20 look at paragraph 39, and it had been pointed out that
21 "police" should be removed from the paragraph as it did not
22 appear in the underlying document.

23 After more close examination of the
24 document, "police station" is identified in the document,
25 so I'm just asking that ---

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

2 **MR. DUMAIS:** "Police station" is identified
3 in the document.

4 **THE COMMISSIONER:** So the word "police
5 station" goes back in.

6 **MR. DUMAIS:** Thank you.

7 **THE COMMISSIONER:** Thank you.

8 Ms. Daley?

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

10 **DALEY:**

11 **MS. DALEY:** Mr. O'Brien, my name is Helen
12 Daley. I'm counsel to the Citizens for Community Renewal,
13 a group -- a local group principally interested in the
14 protection of children.

15 I want to say two things to you at the
16 outset. We will stop at five minutes to 3:00, regardless
17 of where I'm at in my examination, but if for any reason
18 between now and then you begin to feel tired or
19 uncomfortable, please say so and we will stop when you say
20 so. You're in the driver's seat on that. Is that all
21 right, sir?

22 **MR. O'BRIEN:** Thank you very much.

23 **MS. DALEY:** And for the most part I'm going
24 to be asking you questions based upon Exhibit 2419, the
25 Testimony Document that was entered this morning. So I

1 don't know if you prefer to work with a hard copy or copy
2 on the screen, but make yourself comfortable and have that
3 document ready if you would, please.

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

5 **MS. DALEY:** Now, the first area I have some
6 questions about is CAS policy, especially with respect to
7 how children in care are to be treated. So that's my
8 subject matter; CAS policies.

9 And you mentioned that at paragraph 12 of
10 your document, sir, if you want to have a quick look there.
11 And your statement there is to the effect that the board
12 sets the policy.

13 Firstly on that point, sir, as I understand
14 it, the board at the CAS throughout your tenure as
15 Executive Director was a community board, meaning that it
16 was comprised of members of the community at large; is that
17 correct, sir?

18 **MR. O'BRIEN:** Excepting for five appointees.
19 There were -- the total board was 21.

20 **MS. DALEY:** Yes.

21 **MR. O'BRIEN:** There were three from the
22 United Counties and two from the city.

23 **MS. DALEY:** Here's my question. Would it be
24 correct, sir, that the members of this board were not in
25 fact social workers or child care professionals?

1 **MR. O'BRIEN:** Most of them were not.

2 **MS. DALEY:** Most of them were not. That's
3 what I understood.

4 And we've heard some evidence that in the
5 mid-seventies some of the board members were housewives, a
6 doctor, a religious sister, but they were not child care
7 professionals for the most part at that time?

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

9 **MS. DALEY:** Thank you.

10 Now, let me ask you this question about your
11 role as Executive Director. Did you see it as part of your
12 role to develop policies for the board to consider for the
13 good of the Agency?

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

15 **MS. DALEY:** And, sir, did you ever initiate
16 any written policies related to child care practices?

17 **MR. O'BRIEN:** I don't recall specific
18 policies that I initiated. I can't -- I just do not
19 recall.

20 **MS. DALEY:** All right.

21 Now, sir, could you please look at paragraph
22 15 of your document?

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

24 **MS. DALEY:** And it has to do with formal
25 protocols governing how the CAS was to interact with other

1 community institutions, if I could just direct your
2 attention to that topic?

3 Sir, was part of your job as an executive
4 director, as you saw it, to develop such protocols?

5 **MR. O'BRIEN:** Maybe I should have but I
6 didn't see it as a necessity because I was on a first-name
7 basis with the Chief of the Police, the head of the
8 hospital, the Bishop of the Diocese, and we just talked to
9 each other.

10 **MS. DALEY:** Understood. What you say in
11 this paragraph is that there were understandings with those
12 institutions. And I take, it, sir, those understandings
13 existed between yourself on behalf of the CAS and your
14 counterparts who were the heads of those other
15 institutions?

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

17 **MS. DALEY:** Thank you.

18 And let me ask this question, sir.

19 Did you ever develop a policy about when
20 matters that came to CAS's attention would be reported to
21 the police? And what I have in mind particularly, sir, are
22 internal matters of the sort we've been discussing. So a
23 child in care alleges abuse. Did you ever think it
24 necessary to develop a protocol for when that type of
25 matter would be reported to the police?

1 **MR. O'BRIEN:** No, I didn't.

2 **MS. DALEY:** Thank you.

3 Now, as you did make clear to us, for the
4 most part CAS's interactions with law enforcement agencies
5 were conducted by you personally and your personal
6 counterparts, whether it be at the Crown Attorney's Office
7 or the police office; is that correct, sir?

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

9 **MS. DALEY:** And you gave testimony about
10 your relationship with Mr. Johnston, who was the local
11 Crown, and you gave evidence to the effect that you would
12 have expected him to tell you to go to the police first if
13 that was the appropriate thing to do. Did you recall that?

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

15 **MS. DALEY:** Now, two questions about that.

16 Firstly, sir, during the time you were
17 Executive Director, and I'm referring now to an internal
18 matter; that is to say, a matter in which a ward is
19 complaining about either foster parent abuse or child care
20 worker abuse, so if you can focus on that type of instance.

21 Was there ever a time when you went to the
22 police directly without going to Mr. Johnston first to
23 report such a matter?

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

25 **MS. DALEY:** And can you tell me that

1 instance?

2 **THE COMMISSIONER:** Without naming the name;
3 just give us the general gist.

4 **MR. O'BRIEN:** There wasn't one particular
5 case. We had a habit, rightly or wrongly, the Chief and I,
6 of getting together periodically when we had a contentious
7 issue. And I would talk to him about a hypothetical case
8 and vice versa. And we both knew that it was more than
9 hypothetical but we wanted to -- we didn't know how to
10 handle it without getting into a position where we were
11 improperly naming somebody or accusing somebody. We met
12 more than once in that kind of situation. I don't know if
13 I'm answering your question or not.

14 **MS. DALEY:** So just so I'm clear about your
15 testimony there, sir, if you had a concern about perhaps
16 abuse by a worker or a foster parent you might raise it
17 with the Chief on a no-names basis and get his views; is
18 that the gist of it?

19 **MR. O'BRIEN:** Yes, that'd be correct, and if
20 he suggested to me that my hypothetical case needed more
21 examination or some action I would take it. I would listen
22 to him.

23 **MS. DALEY:** In those circumstances do you
24 ever recall an occasion where the Chief said, "Yes, this
25 needs more action. Bring that allegation to us formally so

1 we can investigate"?

2 MR. O'BRIEN: No.

3 MS. DALEY: Thank you.

4 Now, let me then ask you a few questions
5 about Mr. Johnston and the evidence that you gave about
6 your dealings with him. And, again, you had said, "If Mr.
7 Johnston had told me to go to the police I would have done
8 that."

9 The question that comes to my mind is that
10 did he ever tell you to go to the police?

11 MR. O'BRIEN: No, he never told me to go to
12 the police. In one instance he told me that he did not
13 need information that I had given to the police because if
14 they thought he should have it they'd give it to him. But
15 no, he didn't. He never told -- I don't recall him ever
16 telling me to go to the police.

17 MS. DALEY: And the instance that you're
18 just recollecting is the Jeannette Antoine instance in
19 1989; correct?

20 MR. O'BRIEN: I'm sorry?

21 MS. DALEY: The example you just gave me ---

22 MR. O'BRIEN: Oh, yes, yes.

23 MS. DALEY: That was Ms. Antoine's case,
24 right?

25 MR. O'BRIEN: Yes, that's correct.

1 **MS. DALEY:** Okay. So there was never a time
2 where you went directly to the Crown and he said, "Listen,
3 Tom, I think there needs to be an investigation first and
4 you should go to the police"?

5 **MR. O'BRIEN:** No, he never did that. But if
6 he had done it I'd have done what he told me.

7 **MS. DALEY:** I appreciate that.

8 Now, in terms of your counterparts at the
9 Cornwall Police I'm assuming, based on your testimony, you
10 had a very good rapport with the various men who were Chief
11 of Police during the time you were Executive Director?

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

13 **MS. DALEY:** And in the latter part of your
14 tenure that would be Mr. Shaver?

15 **MR. O'BRIEN:** Yes.

16 **MS. DALEY:** And prior to Mr. Shaver it was a
17 Chief of Police named Earl Landry, Sr. Do you recollect
18 him as well?

19 **MR. O'BRIEN:** Yes.

20 **MS. DALEY:** Did you have a good rapport with
21 Mr. Landry, Sr.?

22 **MR. O'BRIEN:** Yes, I knew all the chiefs
23 from 1960 up to 1990.

24 **MS. DALEY:** All right.

25 Now, I want to ask you a very specific

1 question about Mr. Landry, Sr. and his son. Did you ever
2 become aware, sir, in the summer of 1985 that a CAS worker
3 had received an allegation of child sexual abuse in which
4 Earl Landry, Jr. was the alleged perpetrator; that is to
5 say the Chief's son? Did that ever come to your attention?

6 MR. O'BRIEN: No, and I don't know why it
7 didn't. That was 1985 you said?

8 MS. DALEY: Yes.

9 MR. O'BRIEN: No, I sort of learned about
10 the junior through the Inquiry. I wasn't aware of this.

11 MS. DALEY: Did you know in the community,
12 just by reading the paper, that he was ultimately charged
13 with sexual offences; Mr. Landry, Jr.?

14 MR. O'BRIEN: I believe so, yes.

15 MS. DALEY: But regardless of all of that,
16 it never came to your attention in 1985 that someone had
17 come to your Agency and made that allegation?

18 MR. O'BRIEN: I do not recall it ever coming
19 to my attention; no.

20 MS. DALEY: All right.

21 Now, a few questions -- changing topics,
22 sir, just a few questions about your practice as a
23 supervisor and if you need to, by all means have a look at
24 page 4 of your document, paragraphs 21 to 24. But I just
25 have a specific question for you about your role in

1 supervision.

2 And as I read this part of the document,
3 what I took from this is that once you became the Executive
4 Director of the CAS you would not -- you no longer
5 routinely read case recordings on individual children in
6 care; is that correct, sir?

7 **MR. O'BRIEN:** Generally I did not see case
8 recordings on children in care. For prospective adoptive
9 parents I signed off on every couple who were going to
10 adopt and I'm -- I think -- I don't know whether that was
11 the law or whether it was just the local judge at the
12 County Court who demanded my signature, so I had to read
13 those files.

14 **MS. DALEY:** So those files you had to read,
15 but files of children just in care, be they in foster
16 placements or in group homes, you wouldn't have routinely
17 read those?

18 **MR. O'BRIEN:** No. My chief role there was
19 in seeing that the recording was done.

20 **MS. DALEY:** Correct.

21 **MR. O'BRIEN:** And even as Executive Director
22 I pushed my staff to get the recording done and get it done
23 on time, but it was reviewed and I think initialled by
24 supervisors rather than by me. I saw very -- I didn't see
25 very much of children's -- recording on children by

1 themselves.

2 **MS. DALEY:** Let me ask this question as
3 well, sir.

4 Once you become Executive Director is it the
5 case that you do not routinely read the case files on a
6 foster home?

7 **MR. O'BRIEN:** No, I didn't sign off on a
8 foster home. It was the home finder who had final
9 authority on that. And if that home finder had any
10 questions she -- generally it is "she" -- would go to her
11 supervisor.

12 **MS. DALEY:** All right.

13 So just to bring that evidence home to one
14 of the circumstances we talked about today, you recall the
15 Cieslewicz home? You were asked numerous questions about
16 that. I take it, sir, that you hadn't routinely read that
17 foster home file before the end; in other words, before
18 October of '78 when the problem crystallized; is that
19 correct?

20 **MR. O'BRIEN:** I don't recall seeing it
21 before that, no.

22 **MS. DALEY:** Okay, thank you.

23 Now, the next matter I want to speak to you
24 about is the use of what we've called corporal punishment
25 of wards by workers and foster parents during the time that

1 you were an executive director.

2 And just to clarify that term, when I use
3 that term what I am referring to is hitting a child with a
4 hand or another object, or perhaps intentionally causing
5 pain in some other ways and means of discipline. Is that
6 acceptable, that that's what I mean by hitting, slapping,
7 kneeling on beans like happened in the group home? That's
8 what we're talking about.

9 **THE COMMISSIONER:** Kneeling on beans?

10 **MR. O'BRIEN:** Well, I -- your perception --
11 if that's your perception of corporal punishment, it's not
12 mine.

13 **MS. DALEY:** All right.

14 But what's your perception?

15 **MR. O'BRIEN:** Well, I'll give you an
16 example.

17 Giving a child a tap on the rear for
18 misbehaviour -- and I mean a tap, not a punch. To me
19 that's quite different from kneeling on beans or something;
20 quite different.

21 **MS. DALEY:** Understood, understood.

22 Let's talk about slapping a child with a
23 hand or an object; hitting a child.

24 And let me just take you to the part of your
25 document where you talk about this, sir. At page 5 and 6

1 that's your recollection about the Second Street Group
2 Home, and then over on page 6, if I could take you to
3 paragraph 33, that's where I want to focus just for the
4 moment. And what you've said there is that:

5 "...to your recollection corporal
6 punishment was not to be used by foster
7 parents or CAS workers, although there
8 was no written policy forbidding it."

9 That's where I want to just focus for a
10 moment. Now, sir, did you have an opportunity to either
11 listen to or to read the testimony of Mr. Towndale at this
12 Inquiry?

13 **MR. O'BRIEN:** I don't know much about his
14 testimony.

15 **MS. DALEY:** All right.

16 What he told us here, and I'm going to
17 paraphrase it for you and ask if you agree or disagree, but
18 here's what he said.

19 He said that on this topic of corporal
20 punishment in 1976 -- he said there was no standard, that
21 there were different attitudes amongst different workers
22 and that there was no guideline or practice as to what was
23 acceptable physical discipline. That's his recollection
24 about this timeframe.

25 Would you agree with that, sir?

1 **MR. O'BRIEN:** Yes.

2 **MS. DALEY:** Right.

3 And he also testified, and I want to know if
4 you agree with this as well, that at that time -- and I
5 appreciate you were absent on your medical leave, but what
6 he said was that the board was deeply divided on that
7 issue. It was a very contentious issue. Some supported it
8 and some did not. Would you agree with that or have you
9 knowledge of that?

10 **THE COMMISSIONER:** I don't know that I would
11 characterize his testimony that strongly. I don't know
12 that he said there was deep divisions. I think in the end
13 that -- well, you could say that there were divisions.

14 **MS. DALEY:** Maybe this detail will help you,
15 sir.

16 One of the things he mentioned was that
17 Canon Irwin, who was on your board at the time, was a
18 proponent of corporal punishment. He strongly disagreed
19 with other board members who were opposed. Were you aware
20 of that?

21 **MR. O'BRIEN:** I was not aware of who agreed
22 to it and who did not agree with it, but I understand it
23 because you're talking about 1976 and for those of us who
24 were around at that time, there was a division in society.
25 As a matter of fact -- and you people would know better

1 than I, I think -- section 43 of the *Criminal Code of*
2 *Canada* still allows corporal punishment.

3 But we didn't know enough and didn't do
4 enough, now that I look back on it, to try to have foster
5 parents understand that there were other ways to discipline
6 children which were just as effective and less punitive.
7 Part of the reason for that is a lot of the -- some of the
8 children that came into our care were abused physically by
9 their foster parents, and it wasn't that the father gave a
10 slap to a child; it was the father gave a punch to a child.
11 And we were protecting them from very severe discipline.

12 But I understand the division in the board
13 at that time because that represented the division in
14 society, but it doesn't -- I don't think we were fast
15 enough at the Children's Aid in coming to grips with -- in
16 doing some work on what are other means of discipline and
17 how do you communicate that with your foster parents?

18 And I think we would -- did have an
19 obligation to do it, and I don't think -- and I accept
20 responsibility for that. I don't think we did it very
21 well.

22 **MS. DALEY:** On that point let me ask you
23 this question, sir, and it's not meant to be critical in
24 hindsight, but I take it that while you were Executive
25 Director of the local CAS you didn't propose a policy on

1 corporal punishment for the CAS to consider?

2 MR. O'BRIEN: I don't recall that I did.

3 MS. DALEY: Right.

4 Now, sir, when you returned from your
5 absence in April of 1976, did Mr. Towndale or anyone else
6 bring to your attention that a policy on physical
7 punishment of children in care was in fact required?

8 MR. O'BRIEN: I don't recall that but I
9 suspect I was told that by Mr. Towndale.

10 MS. DALEY: All right. Thank you.

11 Now, apart from a formal policy, sir, did
12 you ever take it upon yourself to directly communicate to
13 either the child care supervisors or the front-line workers
14 that they should not be resorting to corporal punishment
15 and that they should give the same message to foster
16 parents?

17 MR. O'BRIEN: What we did was -- and I don't
18 remember when it started but it was certain -- it was in
19 the late '70s, early '80s. We had compulsory training for
20 people who wanted to be foster parents. There was a
21 certain investigation of the way they acted in their home
22 and all that sort of thing but they couldn't -- we wouldn't
23 sign off on them becoming actual foster parents until they
24 took this course which was run by the Agency. And
25 discipline would have been dealt with in those courses and

1 I supported the teaching of what foster parents were
2 getting.

3 If you ask me specifically what was in the
4 course, I honestly don't know, but it would have been how
5 to understand the children who were coming into their care;
6 what they were losing from going out of their own home,
7 even if the home was not a good one; to understanding the
8 child, to help the child develop while in their own home.
9 There were a lot of issues that had to be discussed with
10 them and discipline would have been one of them.

11 **THE COMMISSIONER:** Ms. Daley, one question.
12 You bunched two groups of people there, foster parents and
13 social workers.

14 During your stay as Executive Director did
15 social workers have a right to discipline children
16 physically?

17 **MR. O'BRIEN:** Not only did they not have a
18 right to do it, no, they did not have a right nor did they
19 have the opportunity to do it.

20 **THE COMMISSIONER:** Well.

21 **MR. O'BRIEN:** Well, if you're talking about
22 the group home, that's a separate issue.

23 **THE COMMISSIONER:** No, I understand, but
24 what I'm saying is that Ms. Daley put together the foster
25 parents and the social workers and I think we should keep

1 them separate and apart.

2 **MS. DALEY:** Let's do them a piece at a time.
3 And on that last point, I want to help clarify your
4 response.

5 What the Commissioner has in mind are social
6 workers working in group homes.

7 **THE COMMISSIONER:** No, no. No.

8 **MS. DALEY:** Did you not?

9 **THE COMMISSIONER:** I'm sorry, no. What I --
10 is Children's Aid workers and you put them both in the
11 equation. Children's Aid workers, protection workers,
12 people who go out to the foster home to check up on the
13 children, do they have a right to discipline?

14 **MR. O'BRIEN:** No.

15 **THE COMMISSIONER:** Thank you.

16 **MS. DALEY:** And as you said, they wouldn't
17 have the opportunity either because that's not their role
18 with the child; correct?

19 **MR. O'BRIEN:** That's correct. That's
20 correct.

21 **MS. DALEY:** Okay, so let me take you to the
22 next piece.

23 What about employees of the CAS who are
24 childcare workers and who are working with wards in a group
25 home setting, did they have the right to impose physical

1 discipline on wards?

2 MR. O'BRIEN: If they were workers in the
3 group home, yes, they would have had the right to
4 discipline children. That does not necessarily imply
5 improper physical punishment though.

6 MS. DALEY: Was there any policy or any
7 directive to CAS employees working in group homes about
8 what was acceptable and what not in terms of physical
9 punishment of a ward?

10 MR. O'BRIEN: I don't think so, and I think
11 the indication that it did not exist was what happened in
12 the Second Street Group Home.

13 MS. DALEY: Thank you

14 And let me just finish up on the point or
15 the evidence you were giving us about foster parents and
16 the training program that you mentioned.

17 Now, do you know, sir, whether or not in
18 that training program or in any other process that a foster
19 parent had to go through, were they required to commit not
20 to use physical punishment of children?

21 MR. O'BRIEN: I don't believe so.

22 MS. DALEY: Thank you.

23 MR. O'BRIEN: They were encouraged not to,
24 but there was no signed statements and there was no policy
25 they had to sign on with.

1 **MS. DALEY:** So, in other words, the training
2 course that you mentioned obviously had had a lot of very
3 helpful content for them, but it didn't specifically say,
4 "You should not physically punish your child or your foster
5 child"?

6 **MR. O'BRIEN:** No, but what it did say was,
7 this is the way we used to treat children. We used to
8 discipline them mainly with physical punishment. Now, if
9 you want to get the children to obey, there are other ways
10 to do it, right, time out or writing lines or what have
11 you, and explain to foster parents who may have -- a lot of
12 them may have felt that physical punishment was quite okay.
13 We wanted to explain to them there are other ways that
14 we're doing it where it was less harmful and as effective
15 or maybe even more effective.

16 **MS. DALEY:** So it was an encouragement type
17 of approach?

18 **MR. O'BRIEN:** Yes.

19 **MS. DALEY:** All right. Now, just a few
20 questions about the group home itself.

21 Sir, let me just refer you to the part of
22 your outline that is of interest here, and I'm focusing on
23 actually, I guess, paragraph 32 in particular; what you
24 learn about the situation when you return from your period
25 of absence.

1 What's not clear to me so far is this, sir.
2 When you came back from your leave, your three-month leave,
3 did you actually read the Personnel Committee report at
4 that time?

5 **MR. O'BRIEN:** I'm sure I did. I don't
6 recall it, but I'm sure I did.

7 **MS. DALEY:** All right.

8 **MR. O'BRIEN:** That was -- the Personnel
9 Committee was the Personnel Committee of the Board.

10 **MS. DALEY:** Yes.

11 **MR. O'BRIEN:** Well, I would have been made
12 aware of the minutes of all meetings of committees of the
13 Board when I returned.

14 **MS. DALEY:** The reason I asked about that is
15 that that document -- and just for your help, that's
16 Exhibit 2212 -- that set out some details of what had
17 occurred in the group home. Do you recall reading a
18 detailed report of specifically what was done?

19 **MR. O'BRIEN:** No, but I probably did read
20 it, but I don't remember the detail.

21 **MS. DALEY:** All right. Just one question
22 for you about the document.

23 And perhaps there would be some benefit if
24 you just looked at the first page of Exhibit 2212, sir?

25 **THE COMMISSIONER:** Two-two-one-two (2212).

1 It might be up there.

2 MS. DALEY: Do you have that? Not yet,
3 sorry.

4 I was just going to ask you to take a quick
5 look at the portion of this report, and obviously we're not
6 going to mention the name that we see, but you see two-
7 thirds of the way down, there's the name of a resident and
8 there's some details about what occurred with her?

9 MR. O'BRIEN: Yes.

10 MS. DALEY: And my question for you is this,
11 sir. Had you reviewed that at the time, would you have
12 noted that there was a sexual component to the punishment
13 that that girl received?

14 MR. O'BRIEN: Yes.

15 MS. DALEY: That would have stuck out at you
16 in 1976?

17 MR. O'BRIEN: Well, I would never have
18 tolerated that for a minute.

19 MS. DALEY: Do you understand, sir, that for
20 the most part, those facts were confirmed by the workers
21 involved? In other words, it wasn't disputed. Do you
22 understand that?

23 MR. O'BRIEN: No, I didn't understand your
24 question or comment.

25 MS. DALEY: Well, if you look at page 4 of

1 the document, sir, and if you read the passage that's dated
2 March 17th.

3 To paraphrase, what's now happened is that
4 the staff have been called in. There's been discussion
5 about what's going on, and they have confirmed various of
6 the punishments reported by the children. They confirm
7 that the teenage girl was forced to do housework in her bra
8 and panties, and they say that that's okay because girls
9 dress like that at the beach; content to that effect.

10 Did you understand, sir, that essentially
11 this had been confirmed by the staff, that it had occurred?

12 **MR. O'BRIEN:** Are you talking about the
13 staff at the group home or the Children's Aid staff?

14 **THE COMMISSIONER:** The group home staff.

15 **MS. DALEY:** I am referring to the group home
16 staff.

17 **MR. O'BRIEN:** I don't recall a reaction --
18 meeting about the reaction of the group home staff. Is
19 that your ---

20 **MS. DALEY:** Is it your recollection, sir,
21 that the reason the Board required them to resign was
22 because they had admitted these facts and felt no -- felt
23 nothing was wrong with them?

24 **MR. O'BRIEN:** Nothing was what?

25 **MS. DALEY:** Nothing was wrong with what

1 they'd done. They justified what they had done.

2 **MR. O'BRIEN:** Who? The staff did?

3 **THE COMMISSIONER:** No.

4 **MS. DALEY:** The group home staff.

5 **THE COMMISSIONER:** So, no -- let's stop
6 here.

7 Sir, I'm going to read -- sir, Mr. O'Brien?
8 I am going to read the paragraph to you.

9 **MR. O'BRIEN:** Thank you.

10 **THE COMMISSIONER:** Okay. So:

11 "On March 17th, the Personnel Committee
12 met with the staff of the group home to
13 see how this matter could be worked
14 out."

15 Do you see where I am now? "March 17th",
16 about halfway down?

17 **MR. O'BRIEN:** I'm -- it starts with "The
18 Personnel Committee met with"?

19 **THE COMMISSIONER:** Yeah, so:

20 "...met with the staff of the group home
21 to see how this matter could be worked
22 out. Mr. Tenger refused to attend this
23 meeting but sent a letter voicing his
24 feelings. The staff still..."

25 "The staff" -- now that is the group home

1 staff:

2 "...still expressed hostility at the
3 removal of Mr. Tenger and when asked
4 about their philosophy re discipline
5 and corporal punishment, in particular,
6 they could see nothing wrong with the
7 punishment they had been using and they
8 all felt that strapping had been a good
9 method of disciplining."

10 They go on to say:

11 "They felt that other methods, like
12 removal of privileges or behaviour
13 modification or grounding, were too
14 easy."

15 And the quote they have there is "Like
16 patting a child on the head and saying naughty boy".

17 "They talked about discontinuing a
18 hyperactive child's medication without
19 the doctor's orders, and they said they
20 accomplished better results with their
21 method of disciplining him."

22 And here comes the last sentence:

23 "They could see nothing wrong with
24 forcing a teenage girl to do housework
25 all night in her bra and panties in

1 front of staff and they said that the
2 girls run around in less than that at
3 the beach."

4 Okay?

5 MR. O'BRIEN: Yes.

6 THE COMMISSIONER: So that's the situation
7 there. So then Ms. Daley was asking you, all right, do you
8 recall reading that at some point way back when?

9 MR. O'BRIEN: I don't recall it. I must
10 have read it ---

11 THE COMMISSIONER: Okay.

12 MR. O'BRIEN: --- because as I understand
13 it, it must have been contained in a personnel committee
14 minutes.

15 THE COMMISSIONER: Well, these are ---

16 MS. DALEY: That's where we are.

17 THE COMMISSIONER: That is a report of the
18 personnel committee of April of 1976.

19 MR. O'BRIEN: Well, I must have read it. I
20 must have read it, yes.

21 THE COMMISSIONER: Okay.

22 MS. DALEY: Are you feeling tired? Would
23 you like to take a break?

24 MR. O'BRIEN: No, go ahead.

25 MS. DALEY: Are you sure?

1 MR. O'BRIEN: Yes.

2 MS. DALEY: All right.

3 Sir, having reviewed it at the time, did you
4 see -- I think you would agree you saw that there was some
5 sexual element to that punishment.

6 THE COMMISSIONER: About having a girl ---

7 MR. O'BRIEN: Yeah, I understand what you're
8 saying. I guess I simply thought it was improper. That's
9 the best I can say.

10 MS. DALEY: It didn't register to you that
11 it might be a form of sexual abuse or it might be the type
12 of behaviour that could also lead to sexual abuse?

13 MR. O'BRIEN: I never considered it in terms
14 of sexual abuse. I just thought it was an improper way to
15 treat a girl.

16 MS. DALEY: All right.

17 And needless to say, that's why you agreed
18 with a decision that had been taken that these people be
19 terminated from the group home?

20 MR. O'BRIEN: Yes.

21 MS. DALEY: Now, sir, in April of 1976 when
22 you came back to the job and you reviewed what had
23 occurred, you learnt what had occurred, I take it you did
24 not go to the Crown to discuss what had been done to the
25 wards?

1 **MR. O'BRIEN:** No, I don't believe I did.

2 No.

3 **MS. DALEY:** All right.

4 Now, let me direct you, if I could, to
5 paragraph 34 of your document, sir.

6 And in paragraph 34 you say you don't know
7 why those allegations ---

8 **MR. O'BRIEN:** I'm sorry; just a minute.

9 **MS. DALEY:** Sorry, it's Exhibit 2419. And I
10 wanted you to look at paragraph 34, please, sir.

11 **MR. O'BRIEN:** Yes, go ahead.

12 **MS. DALEY:** Now, so my question there is
13 this. First of all, I wasn't quite sure how to interpret
14 the last sentence. Did you mean by that that that type of
15 allegation should have been reported to the police in
16 accordance with the standards that you held in 1976?

17 **MR. O'BRIEN:** Yes.

18 **MS. DALEY:** Thank you.

19 And I want to put to you again something
20 that Mr. Towndale told us here and just ask you if you
21 agree or disagree with his testimony. But in reference to
22 this timeframe Mr. Towndale said -- and I'm paraphrasing,
23 but fairly closely to his words -- that it was not the
24 practice at that time to report to the police and that he
25 doesn't remember any case of internal matters such as this

1 being reported to the police at that time. Would you agree
2 with that?

3 **MR. O'BRIEN:** Well, two things.

4 First of all, I think that was one of our
5 first experiences with a group home and as we progressed
6 and had more group homes we handled things a bit
7 differently, but for the sake of the children the staff had
8 been removed. So rightly or wrongly we decided, well, this
9 can't happen again because the staff -- those staff had
10 been removed, therefore the children are not in need of
11 protection from them. Now, maybe they should still have --
12 the police should still have been informed to have a look
13 at it. I don't know.

14 **MS. DALEY:** We heard some evidence here that
15 Mr. Tenger went on and worked in child care for a period of
16 time in North Bay. Did you know that?

17 **MR. O'BRIEN:** In North Bay?

18 **MS. DALEY:** I believe so.

19 **MR. O'BRIEN:** I don't recall that. I may
20 have known it but I don't recall it.

21 **MS. DALEY:** All right.

22 **MR. O'BRIEN:** Because a follow-up question
23 to that statement would be that, "Did you notify the CAS in
24 North Bay?" If I had any questions about any of my staff
25 who went to another agency, I would certainly alert the

1 Director of the next agency.

2 **THE COMMISSIONER:** Well, another question
3 arising out of that is did anyone phone you for a letter of
4 recommendation or anything about his past history before
5 him being hired?

6 **MR. O'BRIEN:** Not to my knowledge,
7 Mr. Commissioner.

8 **THE COMMISSIONER:** M'hm.

9 **MS. DALEY:** Again sir, I don't mean to be
10 critical, but I want to put a proposition to you and feel
11 free to disagree with me if you wish, but was one reason
12 why the Agency wouldn't have gone to the police at that
13 time -- be this; that you wanted to avoid exposing the
14 Agency to negative publicity had there been charges?

15 **MR. O'BRIEN:** No.

16 **MS. DALEY:** Was that an element of your
17 thinking?

18 **MR. O'BRIEN:** No.

19 **MS. DALEY:** And during the time that you
20 were in charge as Executive Director, sir, did you ever
21 consider that there was a need for a policy about reporting
22 internal matters of this sort to the police?

23 **MR. O'BRIEN:** I didn't at the time but if
24 you asked me if I were there today would I do it, I'd say
25 yes, I'd develop a policy.

1 **MS. DALEY:** Thank you.

2 **MR. O'BRIEN:** I didn't at the time, I think,
3 because we -- several of -- myself and several of the
4 senior staff felt comfortable in talking to the police.
5 But I guess a written policy would have been better.

6 **MS. DALEY:** All right.

7 During the time you were Executive Director
8 do you recall any circumstance in which a ward who said
9 that he or she had been abused by a staff person -- do you
10 recall a circumstance where a ward in that position was
11 told that he or she had the right to go to the police by a
12 CAS person?

13 **MR. O'BRIEN:** I don't recall the -- any
14 wards having been told that. Certainly, if they wanted to,
15 we would have no right to deny them that.

16 **MS. DALEY:** Were they ever informed that
17 they had that right?

18 **MR. O'BRIEN:** No, I never knew that it came
19 up where they asked permission or opinion or anything else
20 about it.

21 **MS. DALEY:** All right.

22 Just one or two more questions before we
23 stop. I think I can stop at -- I have a bit more to go,
24 but we're going to stop at five to 3:00 regardless.

25 During the time that you were Executive

1 Director, sir, did you ever develop a policy about how
2 allegations made by present wards of abuse by a CAS
3 employee would be addressed? In other words, was there any
4 policy ---

5 MR. O'BRIEN: I don't think ---

6 MS. DALEY: --- to tell you how to deal with
7 that circumstance?

8 MR. O'BRIEN: --- I don't recall developing
9 such a policy.

10 MS. DALEY: All right.

11 And just to change the question a little bit
12 and, sir, the circumstance that brings this to mind is Ms.
13 Antoine because she, as an adult, complained about things
14 that had occurred when she was a child in care. So sir,
15 did you ever develop a policy about how former wards who
16 made allegations of historic abuse while they were children
17 in care would be investigated and handled?

18 MR. O'BRIEN: Did you say did I ever
19 consider we should have had a policy?

20 MS. DALEY: Yes.

21 MR. O'BRIEN: Not then, but if I look back
22 on it now, I would say yes.

23 MS. DALEY: All right.

24 So at the time it didn't occur to you that
25 there'd be a need for that.

1 Could I ask just one more question before
2 the break? I need you to look briefly at paragraph 68 of
3 your document, and that states that as a result of
4 Antoine's complaint you undertook to the -- it doesn't say
5 to the Ministry, but the document is to the Ministry -- to
6 develop an internal directive for the handling of similar
7 situations. Now, I take it you didn't have the chance to
8 do that before your retirement. Is that correct?

9 **MR. O'BRIEN:** I must have had. I don't
10 recall it, but you have a letter dated January 4th to Lenore
11 Jones. I presume in that letter she must have suggested
12 this and if the letter was dated January 4th, I certainly
13 had time to develop an internal directive, but I don't
14 recall developing one.

15 **MS. DALEY:** Just to help you, if it's at all
16 helpful, Exhibit 2428 is that January 4th letter and I'll
17 just ask you to take a brief look there if you could; 2428.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MS. DALEY:** If I could take you just to the
20 last sentence of the third paragraph, the Program
21 Supervisor at the Ministry is saying:

22 "I'm aware that you are developing an
23 internal directive for the handling of
24 similar situations."

25 So I took from that that you had so advised

1 the Ministry?

2 MR. O'BRIEN: Yes.

3 MS. DALEY: And did you, in fact, develop an
4 internal directive to deal with complaints such as those
5 brought by Ms. Antoine?

6 MR. O'BRIEN: I don't know. What I said to
7 you was the letter from Lenore Jones was the 4th of January
8 and I didn't leave until sometime in May and I certainly
9 had time to develop what she's suggesting. It must have
10 been developed. I have a poor memory on that subject.

11 MS. DALEY: You have no specific
12 recollection, I take it, sir?

13 MR. O'BRIEN: No, but there must be
14 something on file with the CAS documents.

15 MS. DALEY: Why don't we stop?

16 THE COMMISSIONER: Why don't we ---

17 MR. O'BRIEN: Do you have more?

18 THE COMMISSIONER: Oh, yeah.

19 MS. DALEY: I have a bit more but I don't
20 want to push you past an hour.

21 THE COMMISSIONER: It seems that there are
22 other people as well who want to ask you questions.

23 MR. O'BRIEN: Yes.

24 THE COMMISSIONER: So the question to you is
25 do you want to come back another day? Do you want to

1 continue after a break? I don't want to overtax you and I
2 don't want you to get too tired. So what do you think
3 would be the best?

4 **MR. O'BRIEN:** Now, honestly,
5 Mr. Commissioner, after about 10 minutes I'd like to
6 continue.

7 **THE COMMISSIONER:** All right.

8 So let's take our afternoon break, which
9 will be 15 minutes, and then we'll try to continue some
10 more.

11 **MR. O'BRIEN:** Thank you.

12 **THE COMMISSIONER:** Thank you.

13 **THE REGISTRAR:** Order; all rise. À lordre;
14 veuillez vous lever.

15 This hearing will resume at 3:15 p.m.

16 ---Upon recessing at 2:57 p.m./

17 L'audience est suspendue à 14h57

18 ---Upon resuming at 3:19 p.m./

19 L'audience est reprise à 15h19

20 **THE REGISTRAR:** This hearing is now resumed.

21 Please be seated. Veuillez vous asseoir.

22 **THOMAS O'BRIEN, Resumed/Sous le même serment:**

23 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. DALEY

24 (Cont'd/Suite):

25 **THE COMMISSIONER:** How much longer do you

1 think you will have?

2 MS. DALEY: Probably 10.

3 THE COMMISSIONER: All right.

4 So, Mr. O'Brien ---

5 MR. O'BRIEN: Yes, sir.

6 THE COMMISSIONER: --- this young lady is
7 going to have about 10 minutes of questions for you and
8 then we're going to go off to Mr. Horn or Mr. Lee.

9 MR. O'BRIEN: Yes, sir.

10 THE COMMISSIONER: Some even younger people.

11 (LAUGHTER/RIRES)

12 THE COMMISSIONER: So we'll see where we go
13 but you're going to tell me when you've had enough for the
14 day.

15 MR. O'BRIEN: Was that a bit of a crack at
16 my age, Mr. Commissioner?

17 (LAUGHTER/RIRES)

18 THE COMMISSIONER: No, actually, I think it
19 was a crack at Ms. Daley's age.

20 (LAUGHTER/RIRES)

21 MS. DALEY: It's all relative.

22 Are you all right with water and everything
23 else there, sir?

24 MR. O'BRIEN: Yes, Ma'am.

25 MS. DALEY: All right.

1 Now, I have two more areas that I want to
2 discuss and the next area is the allegations that you hear
3 from Ms. Antoine in 1989 concerning Bryan Keough. All
4 right? And that's -- just to help you, if you'd like to
5 make reference at all to your document, it is -- let me
6 find it for you. It's contained at paragraph -- sorry,
7 pages 11 and following. But I have some specific questions
8 about that, sir.

9 Now, just looking backwards for a moment, I
10 take it that when you return to work in 1978 and you
11 apprise yourself of what's happened, it's your belief that
12 all of -- that any workers who were involved in
13 inappropriate activity at the group home had been asked to
14 resign ---

15 **MR. O'BRIEN:** Yes.

16 **MS. DALEY:** --- and in fact they were all
17 gone; correct?

18 **MR. O'BRIEN:** Yes.

19 **MS. DALEY:** And Mr. Keough, of course, had
20 not been terminated from the group home.

21 **THE COMMISSIONER:** Well, no. First of all,
22 Mr. Keough ---

23 **MS. DALEY:** Sorry, I misspoke. Mr. Keough
24 had not been terminated from his employment; he was still
25 employed by CAS?

1 **MR. O'BRIEN:** He was not terminated because
2 he was not an employee of the group home.

3 **MS. DALEY:** That was your understanding in
4 1976, sir?

5 **MR. O'BRIEN:** That he was terminated?

6 **MS. DALEY:** Yes, that he was not terminated
7 because he'd not been employed by the group home.

8 **MR. O'BRIEN:** Yes.

9 **MS. DALEY:** Now, I take it, sir, though, had
10 the Agency believed that notwithstanding that he'd involved
11 himself in inappropriate physical abuse or sexual abuse,
12 I'm sure Mr. Towndale would have terminated him, would he
13 not have?

14 **MR. CHISHOLM:** Objection. I'm not sure if
15 this witness can answer that question as to what
16 Mr. Towndale would have done.

17 **MS. DALEY:** You're absolutely right. That
18 was a foolish question. Let's try it this way.
19 Notwithstanding that Keough was not a direct staff of the
20 group home, had it been the case that the Agency believed
21 he'd still abused a ward there, would you have expected his
22 termination?

23 **MR. O'BRIEN:** I'm sorry; I'm not sure I
24 fully understand the question. Can you ---

25 **MS. DALEY:** Let me try it this way. The

1 people who were group home staff, they admitted wrongdoing,
2 they were all terminated; correct?

3 MR. O'BRIEN: Yes.

4 THE COMMISSIONER: Well, they didn't admit
5 to wrongdoing.

6 MS. DALEY: They admitted behaviour and as a
7 result of that they were asked to resign.

8 MR. CHISHOLM: I think the evidence would be
9 that they resigned and ---

10 THE COMMISSIONER: Well, no -- well, just a
11 second. Other than for Mr. Tenger, we have a note in the
12 personnel committee that says that they acknowledged that
13 they had done these acts and they defended them. But
14 because of the fact that it is just a note in the thing, I
15 don't think that we should be using that as the gospel
16 truth. So I think we have to speak in generalities when
17 we're dealing with that.

18 MS. DALEY: Let me try it this way, sir, and
19 I'm sorry for generating confusion here.

20 You come to the understanding that events
21 have occurred in the group home that have been
22 inappropriate. The result -- the outcome of that is that
23 the group home staff have left the CAS.

24 MR. O'BRIEN: Yes.

25 MS. DALEY: Have left the group home;

1 correct?

2 MR. O'BRIEN: Yes, yes.

3 MS. DALEY: And in terms of Mr. Keough, you
4 understood that he helped out in the group home from time
5 to time; correct?

6 MR. O'BRIEN: Yes.

7 MS. DALEY: And did that mean in your mind,
8 sir, or did you understand that he would work shifts in the
9 group home from time to time in order to help out?

10 MR. O'BRIEN: I wasn't aware of the
11 specifics but, yes, he helped out filling in for other
12 staff, yes.

13 MS. DALEY: Now, sir, he was not terminated
14 or asked to resign in 1976.

15 MR. O'BRIEN: No.

16 MS. DALEY: You knew that, right?

17 MR. O'BRIEN: Yes, I knew that.

18 MS. DALEY: And did it follow in your mind -
19 - I'm just trying to get inside your mindset -- that
20 because he had not been asked to resign or not been
21 terminated that he was likely not responsible for anything
22 that had been done inappropriately at the group home?

23 MR. O'BRIEN: Not exactly. I wouldn't use
24 your phrasing. He had, as you already know, I think, a
25 caseload of children at the Children's Aid Society. Since

1 everybody was out of the group home he would not have an
2 opportunity to use any kind of unreasonable discipline on
3 children because he wasn't responsible for the disciplining
4 of the children in his caseload, so I wasn't concerned
5 about that because he couldn't do it. The foster parents
6 did it.

7 **MS. DALEY:** I understand.

8 I guess what I'm trying to understand from
9 you is your personal belief about Ms. Antoine's allegations
10 against Mr. Keough, because she makes allegations to you
11 that are physical abuse in nature; also sexual abuse.

12 Now, my question for you is this, sir. Was
13 it your personal belief that Mr. Keough was likely innocent
14 of the wrongdoing which she alleged?

15 **MR. O'BRIEN:** No, my belief was simply I
16 didn't know. And I think if you follow through on that
17 you'll see that because of my uncertainty about
18 Ms. Antoine's allegations and the fact that she wouldn't
19 come and talk to me, I still felt I should do something and
20 I wasn't sure of what. So I talked to the police and I
21 talked to the Crown.

22 Is that answering your question?

23 **MS. DALEY:** Yes, that's helpful, sir.

24 Would you take a quick look at paragraph 66
25 of your document and just to help you out, sir, this part

1 of the document refers to the letter that you wrote on Mr.
2 Keough's behalf.

3 **THE COMMISSIONER:** It's Exhibit 2419, sir.

4 **MS. DALEY:** That's right.

5 **MR. O'BRIEN:** Oh, here, 2419; sorry.

6 **MS. DALEY:** And I was just looking at the
7 last sentence there, sir, in which you say on behalf of Mr.
8 Keough that you personally could not believe some of the
9 suggestions made by the complainant -- that's Ms. Antoine.
10 And I take it that correctly reflected your point of view
11 at the time?

12 **MR. O'BRIEN:** I believe so. I'm not sure
13 how I came to that conclusion but, yes, I'm aware of this
14 and therefore I think it's correct.

15 **MS. DALEY:** All right.

16 Now, let me then ask you about the meeting
17 that you have with the Deputy Chief -- that's Joe St. Denis
18 -- and Staff Sergeant Wells. Now, I need to give you the
19 reference for that. Give me one second.

20 I think here it will be helpful, sir, if I
21 ask you to look at Exhibit 1505, which were the detailed
22 notes that you wrote about this situation.

23 **THE COMMISSIONER:** What page, please?

24 **MS. DALEY:** Page 4.

25 **MR. O'BRIEN:** Yes.

1 **MS. DALEY:** Now, Mr. O'Brien, just to put
2 you in the context, these are the notes you make on October
3 2, 1999 and over on page 4 for the second full paragraph
4 you're referring to the meeting that you had with the
5 Deputy Chief and Staff Sergeant Wells. You just might want
6 to review that paragraph and the one following where the
7 Deputy Chief is surprised that you're coming back but you
8 explain why. It's that meeting I want to talk to you about
9 just for a second; all right?

10 **MR. O'BRIEN:** Yes.

11 **MS. DALEY:** Those were obviously very high-
12 level officers. The Deputy Chief was the right-hand man of
13 the Chief; correct, sir?

14 **THE COMMISSIONER:** Well, first of all, we
15 should ask him: Do you remember that meeting, sir?

16 **MR. O'BRIEN:** I remember a meeting with -- I
17 thought it had been with the Chief but obviously it was the
18 Deputy Chief, regarding Jeannette's telephone conversation
19 to me about abuse. And I wasn't sure what to do with it
20 because I couldn't get her in to explore it further with
21 her, so I went to the police and asked for their advice.

22 Is that answering you -- no?

23 **MS. DALEY:** There's some initial discussion
24 you have with the police.

25 **MR. O'BRIEN:** Yes.

1 **MS. DALEY:** And then, just to try to refresh
2 your mind, you go back to them a second time because you've
3 seen reference to sexual abuse in the social worker's notes
4 and that motivates you to go to them a second time.

5 **MR. O'BRIEN:** Yes.

6 **MS. DALEY:** It's the second meeting that
7 you're referring to in this part of the exhibit, sir.

8 **MR. O'BRIEN:** Okay, yes.

9 **MS. DALEY:** All right.

10 Now, to the Commissioner's point; do you
11 have a recollection about that meeting?

12 **MR. O'BRIEN:** Not much, no. I don't deny it
13 took place but I don't have much recollection.

14 **MS. DALEY:** I want to see if you can help me
15 here, and I'm going to propose something to you and you
16 tell me if it's right or wrong. I would have thought,
17 given your relationship with the police developed over a
18 period of years, that when you came back to them, surely
19 they must have asked you, "Tom, is there anything to this?
20 You work with Mr. Keough. Do you think there's anything to
21 this allegation?" Did that come up?

22 **MR. O'BRIEN:** More than likely.

23 **MS. DALEY:** And if it did come up, sir,
24 would it not be more than likely that you said, "Probably
25 not"?

1 **MR. O'BRIEN:** I would say it was more than
2 likely because the senior levels of the police -- well, all
3 the police I dealt with -- and myself, we were always open
4 with each other. So if you say would it have come up, all
5 I can say is probably.

6 **MS. DALEY:** And had it done so, you would
7 have been candid in your response and said, "I think it's
8 unlikely Mr. Keough did this"?

9 **MR. O'BRIEN:** I would have been candid in my
10 response because we were accustomed to being frank with
11 each other.

12 **THE COMMISSIONER:** Okay, but what she wants
13 to get to is what was your assessment of Mr. Keough at that
14 time?

15 **MR. O'BRIEN:** I think I rather doubted that
16 he would have committed any improper sexual acts.

17 **THE COMMISSIONER:** Okay.

18 **MS. DALEY:** Can I ask you to focus on the
19 physical abuse aspects of what Ms. Antoine had alleged to
20 you? Did you doubt he committed those also?

21 **MR. O'BRIEN:** No.

22 **MS. DALEY:** Did you tell the police that?

23 **MR. O'BRIEN:** I don't recall that I did.
24 Mr. Keough and Mr. Tenger had the same attitude about
25 physical punishment and I did not. They were -- excuse me

1 -- much more rigid than I was in terms of how you could
2 properly discipline a child.

3 Does that answer you?

4 **MS. DALEY:** Yes, thank you, sir.

5 My last topic -- are you feeling okay?

6 **MR. O'BRIEN:** Yes, ma'am.

7 **MS. DALEY:** Need a break?

8 **MR. O'BRIEN:** Yes, ma'am.

9 **THE COMMISSIONER:** That's not really the
10 point. The point is we have a lot of people to get
11 through.

12 **MS. DALEY:** I understand that.

13 We've heard evidence here about how
14 important the foster home process is to the CAS; in other
15 words, in your era as an Executive Director the CAS relied
16 very much on foster parents to house your wards, and I'm
17 sure you would agree with that. Is that fair, sir?

18 **MR. O'BRIEN:** We relied on them for what?

19 **MS. DALEY:** You relied on foster parents to
20 house your wards and to take care of children ---

21 **MR. O'BRIEN:** Oh, yeah, that's where most of
22 our children were placed, in foster care.

23 **MS. DALEY:** So it would be very, very
24 important to the CAS to maintain foster residences to the
25 extent they could?

1 **MR. O'BRIEN:** To maintain them as what?

2 **MS. DALEY:** Well, to maintain as many foster
3 homes in operation as you could helps the CAS fulfil its
4 mandate.

5 **MR. O'BRIEN:** Yes, you not only had to have
6 enough to look after the wards you had in care at the
7 present time but you had to have extra ones with different
8 kinds of abilities because you never knew what kind of
9 child was coming into care. So you had to have --
10 supposing you had 80 foster homes occupied, you might have
11 to have another 20 unoccupied for use if needed.

12 **MS. DALEY:** To focus you just for a moment
13 in my final line of questions on the Cieslwick home, you
14 recall that situation where unfortunately there were
15 numerous allegations of sexual abuse by Mr. Cieslwick?

16 Sir, is it possible that the thinking was,
17 "We should perhaps pay less heed to what the girls are
18 saying because we just can't afford to lose this foster
19 home"? Was that an element in anyone's thinking?

20 **MR. O'BRIEN:** No, not to my knowledge; no.
21 Our problem with the children coming to us about certain
22 allegations was over the years you found from experience
23 that certain children lied for various reasons; one in a
24 petty way to get back at the foster parents for something;
25 one is to -- another one would be to get the Agency to move

1 them into another home that they think they might like
2 better than the one they're in.

3 So you couldn't always -- don't forget, a
4 lot of these children were somewhat disturbed, so you
5 couldn't always have the confidence in what they were
6 saying that you would like to have. That doesn't mean that
7 they didn't tell you the truth but it's hard to be clear in
8 your mind.

9 **MS. DALEY:** Last question for you on that
10 topic, sir, and last question, period.

11 Did it come to your attention that there was
12 actually physical evidence that supported what one of the
13 girls had said about Mr. Cieslwich and his sexual conduct
14 with her? Did you know there was physical evidence that
15 supported her word?

16 **MR. O'BRIEN:** Are we talking about
17 masturbation?

18 **THE COMMISSIONER:** Yes.

19 **MS. DALEY:** Yes.

20 **THE COMMISSIONER:** And something left on her
21 sleeve.

22 **MR. O'BRIEN:** Was I aware of that?

23 **MS. DALEY:** Did you know that, sir?

24 **MR. O'BRIEN:** No.

25 **MS. DALEY:** Those are my questions for you.

1 Thank you kindly.

2 THE COMMISSIONER: Thank you.

3 MR. O'BRIEN: Thank you.

4 THE COMMISSIONER: Mr. Horn?

5 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

6 HORN:

7 MR. HORN: Frank Horn, Coalition for Action.

8 Mr. O'Brien, in that report that you were
9 just discussing ---

10 THE COMMISSIONER: You mean the Personnel
11 Committee?

12 MR. HORN: We've been talking about the
13 Personnel Committee report.

14 The one thing that it indicates is that Mr.
15 Keough tied a girl in a room with nylons and the door was
16 locked.

17 THE COMMISSIONER: Where? What exhibit
18 again?

19 MR. HORN: I'm talking about Exhibit ---

20 THE COMMISSIONER: Can anyone help him out?

21 MR. HORN: See, 123621 -- I don't know what
22 the exhibit number is, but it's -- we were just -- we just
23 had it out.

24 THE COMMISSIONER: Can someone just give it
25 to me? Twenty, I'm sorry? Twenty-two-twelve (2212).

1 MR. O'BRIEN: Yes, sir.

2 MR. HORN: That would be the paragraph
3 headed by ---

4 THE COMMISSIONER: What page? What page,
5 Mr. Horn?

6 MR. HORN: Page 1.

7 THE COMMISSIONER: Page 1? Great.
8 What paragraph, sir?

9 MR. HORN: The last set of paragraphs, under
10 the name ---

11 THE COMMISSIONER: Ah, okay. All right,
12 sir.

13 MR. HORN: Yes.

14 THE COMMISSIONER: So, Mr. O'Brien, first
15 page of the Personnel Committee report, the last paragraph,
16 the last heading there, he wants you to read that.

17 MR. O'BRIEN: The one with the child's name?

18 THE COMMISSIONER: No -- yes. Don't read
19 the child's name. It's says:

20 "Picked up at OPP Long Sault by Bryan
21 Keough. Brought to Mrs. Matte's
22 receiving home. Was sent to room and
23 told to strip but refused. Scuffle
24 with Bryan in bedroom. He bodily took
25 off slacks, jersey and bra. She was

1 given a housecoat and she removed her
2 own underpants. Hands and feet bound
3 with nylon and door locked."

4 That's about it. Is that right?

5 **MR. HORN:** That's right.

6 **MR. O'BRIEN:** Sorry, are you on the first
7 page, Mr. Commissioner?

8 **THE COMMISSIONER:** I sure am. The last big
9 paragraph on that page.

10 **MR. O'BRIEN:** Oh, yes.

11 **THE COMMISSIONER:** Okay.

12 **MR. HORN:** What would you say if Mr. Keough
13 was to say, yes, that did happen?

14 **THE COMMISSIONER:** No. That's a
15 hypothetical. That's not correct because he's testified
16 here ---

17 **MR. HORN:** He's testified ---

18 **THE COMMISSIONER:** --- and he's qualified
19 that.

20 **MR. HORN:** He's qualified that, but he's
21 admitted that he did do that, he did lock the girl in a
22 room and he tied her up. That was admitted by Mr. Keough.

23 **THE COMMISSIONER:** Sir?

24 **MR. O'BRIEN:** I ---

25 **THE COMMISSIONER:** If Mr. Keough -- if the

1 evidence was before you at that time, in 1976, that Mr.
2 Keough had taken a runaway back to a house, Mrs. Matte's
3 house -- a receiving home, I guess -- and tied the young
4 lady to the bed; what's the question, Mr. Horn?

5 **MR. HORN:** I'm just asking you if you knew
6 that, after reading this and he'd confirmed it, that that
7 happened, would you have dealt with it differently -- Mr.
8 Keough, differently?

9 **THE COMMISSIONER:** Mr. ---

10 **MR. CHISHOLM:** Sorry. Just in terms of the
11 timing for these -- Mr. Horn is suggesting that Mr. O'Brien
12 knew that when, and differently than what?

13 **MR. HORN:** Okay. You would have -- if you
14 would have known that back in 1976 when you came back from
15 your sick leave?

16 **MR. O'BRIEN:** Yes?

17 **MR. HORN:** If you would have known it back
18 then, how would you have dealt with Mr. Keough?

19 **THE COMMISSIONER:** Well, we don't have the
20 full facts, Mr. Horn, because we have the fact that Mr. --
21 if I get the evidence straight now -- that Mr. Keough would
22 have phoned his supervisor immediately and reported what
23 he'd done and knew that he was in trouble.

24 **MR. HORN:** And not only that but he was also
25 very upset at himself.

1 **THE COMMISSIONER:** Exactly.

2 **MR. HORN:** For what he had done because he
3 realised what he had done was wrong.

4 **THE COMMISSIONER:** Very good.

5 **MR. HORN:** Okay.

6 **MR. O'BRIEN:** And your question to me is
7 what would I have done?

8 **MR. HORN:** No, were you -- first of all,
9 were you aware of those facts?

10 **MR. O'BRIEN:** No.

11 **MR. HORN:** Pardon?

12 **MR. O'BRIEN:** I do not recall being aware of
13 those facts.

14 **MR. HORN:** And if you had been aware of the
15 facts, that he -- that those were confirmed by him, that
16 that had happened?

17 **MR. O'BRIEN:** Would I have done something?

18 **MR. HORN:** Yes?

19 **MR. O'BRIEN:** Yes, if you ask me what I
20 would have done, I'm not exactly sure. I would have to
21 know all the circumstances of the case to decide the
22 appropriate action, but it would not have pleased me. So
23 there would be some effect on Mr. Keough.

24 **MR. HORN:** So when you read this report,
25 that aspect of the report was never -- that was never

1 broached with Mr. Keough by yourself or anybody else so
2 that you would know exactly what had happened?

3 **THE COMMISSIONER:** I think the answer was,
4 he does not remember.

5 **MR. HORN:** There's another disturbing
6 element in this whole thing and that's the -- were you
7 aware that the people that worked at the group home all
8 dressed in black?

9 **THE COMMISSIONER:** That's disturbing?

10 **MR. HORN:** Very disturbing.

11 **THE COMMISSIONER:** Why is that?

12 **MR. HORN:** They're dressed up in the
13 uniforms, were you aware of that, in black, all of them,
14 anybody that worked there.

15 **THE COMMISSIONER:** Wow!

16 **MR. CHISHOLM:** I don't know if that is the
17 evidence.

18 **THE COMMISSIONER:** What's the evidence, Mr.
19 Horn?

20 **MR. HORN:** The -- well, this is the
21 allegations that Miss Antoine said, was that all of the
22 workers there dressed all in black.

23 **THE COMMISSIONER:** I don't know, I thought
24 there was a couple, but I don't think it was unanimous.

25 **MR. HORN:** I think it was all of them.

1 **THE COMMISSIONER:** Really?

2 **MR. HORN:** I think it was all of them.

3 **THE COMMISSIONER:** Get the transcript.

4 Go on to another question then we'll come
5 back to that one.

6 **MR. HORN:** Okay.

7 **THE COMMISSIONER:** Well, in any event, were
8 you aware that Mr. Tenger and maybe one or two more of the
9 staff over there dressed completely in black all the time?
10 We'll put it at its best.

11 **MR. O'BRIEN:** There were two.

12 **THE COMMISSIONER:** Who was that?

13 **MR. O'BRIEN:** Mr. Tenger and Mr. Keough.

14 **THE COMMISSIONER:** Okay.

15 **MR. O'BRIEN:** And to answer your question, I
16 thought it was rather peculiar, but -- and that's -- I
17 talked to them about it. I don't know the full extent of
18 the conversation, but I talked to them about it. I thought
19 it kind of funny to be wearing black all the time, but when
20 I looked at it, I couldn't find anything wrong with it,
21 except it looked peculiar. So I did not take any action to
22 make them dress any differently.

23 Well, I -- no, they were only in black in
24 the group home. When I came back, they were gone. I knew
25 about it.

1 **THE COMMISSIONER:** Except for Mr. Keough.
2 Mr. Keough was still in your employ?

3 **MR. O'BRIEN:** Yeah, when I came back, Mr.
4 Commissioner, I am not sure that he was dressing in black
5 at that time.

6 **THE COMMISSIONER:** Okay.
7 So, Mr. Horn, maybe I should bite my tongue,
8 but why is it disturbing that people would dress in black?

9 **MR. HORN:** The girls were scared. They were
10 afraid.

11 **THE COMMISSIONER:** Okay.

12 **MR. HORN:** They were afraid because they
13 felt intimidated by the colour.

14 **THE COMMISSIONER:** M'hm.

15 **MR. HORN:** By what was going on in the
16 house.

17 **THE COMMISSIONER:** Okay, no, I thought it
18 was something you had.

19 **MR. HORN:** No.

20 **THE COMMISSIONER:** Okay, go ahead.

21 **MR. HORN:** Now, you indicated that you and
22 the Crown Attorney were in the Highlanders. Which Crown
23 Attorney are you talking about?

24 **MR. O'BRIEN:** Percy Milligan.

25 **MR. HORN:** Pardon?

1 MR. O'BRIEN: Percy Milligan.

2 MR. HORN: That was the Crown Attorney?

3 MR. O'BRIEN: He was before your time, sir,
4 yes, 1959-60-61.

5 MR. HORN: And he was the Crown Attorney?

6 MR. O'BRIEN: Yes, sir.

7 MR. HORN: What about Malcolm MacDonald?

8 MR. O'BRIEN: No, Malcolm was in private --
9 well, I -- Malcolm was younger than Percy, and Malcolm was
10 in private practice. He became Crown much, much later. I
11 didn't have much contact with him -- well, I didn't have
12 any contact with him as a lawyer or as Crown Attorney.

13 MR. HORN: You are talking about Malcolm
14 MacDonald?

15 MR. O'BRIEN: Yes.

16 MR. HORN: Okay, I -- because you mentioned
17 a Crown Attorney and you were a member of the Highlanders
18 and I understand that Malcolm was also possibly a member.
19 Do you know if he was?

20 MR. O'BRIEN: He was a member of the
21 Officers Mess of the Highlanders, yes. I knew him there.

22 MR. HORN: And so it wasn't him that you
23 were socialising with?

24 MR. O'BRIEN: Only socialising in that we
25 went to parties in the mess together with our wives.

1 That's what I call socializing. You know, we weren't
2 socializing outside the mess. I would see Malcolm in the
3 mess. He was not married.

4 **MR. HORN:** So the impression that I've got
5 is that was that you -- when you first came into -- worked
6 with the Society that you were dealing with the Crown
7 attorney one-on-one because you'd been socializing with
8 him.

9 And as a result, that was your -- that's the
10 way you dealt with situations. You'd go directly to the
11 Crown or directly to the Chief of Police, or you'd go to
12 anybody and you'd go directly to them. And that was your
13 way of dealing with things?

14 **MR. O'BRIEN:** Yes. I knew Percy Mulligan as
15 a Crown attorney before I knew him socially. I knew -- he
16 was the only Crown attorney in Cornwall. He understood the
17 law. He was a lawyer. He could give me advice and we knew
18 each other well enough to -- he was pretty straightforward
19 with me. He'd tell me where to go and what to do if he
20 felt like it. But I respected him.

21 And I continued that kind of friendly and
22 business relationship with Crown attorneys. To me it
23 seemed perfectly natural. I didn't see anything wrong with
24 it.

25 **MR. HORN:** Okay. So that would be the

1 reason -- that would be one of the reasons why instead of
2 going to the police Chief, you'd go to the Crown attorney
3 first. You'd think of them first if you had a problem?

4 MR. O'BRIEN: Yes. I wasn't trying to cut
5 out the police.

6 THE COMMISSIONER: No, no. It's okay.

7 MR. O'BRIEN: I'm not answering ---

8 THE COMMISSIONER: Did you ever go to
9 Malcolm MacDonald when he was a Crown attorney?

10 MR. O'BRIEN: No.

11 THE COMMISSIONER: Was there a reason for
12 that?

13 MR. O'BRIEN: I just had no occasion through
14 the years.

15 THE COMMISSIONER: Fair enough.

16 MR. HORN: Okay. So you would have been
17 dealing with -- the only other Crown that I can think of is
18 Don Johnston in that way?

19 MR. O'BRIEN: Johnston and the assistant
20 Crown, Allen Ain.

21 MR. HORN: And what about Mr. Demarco?

22 MR. O'BRIEN: Yes, as a matter of fact, Mr.
23 Demarco was on our board one time. Then he went to
24 Kingston. He was -- yeah, he was a Crown attorney, yes.

25 MR. HORN: And how was Pat Rudden involved

1 with the board? I know that his name is mentioned at one
2 of the meetings.

3 **MR. O'BRIEN:** I don't know that he was
4 involved with the board. Pat was a criminal lawyer and
5 probably one of the best in Cornwall if not the best. And
6 I knew Pat socially and we went to the same church
7 together.

8 **THE COMMISSIONER:** So Mr. Horn, that would
9 put you as number two as a criminal lawyer in Cornwall.

10 **MR. HORN:** All right.

11 Now, when these issues came up regarding the
12 group home, did you have access to talking to Mr. Demarco
13 who was a Crown attorney and ask him for his opinion
14 because he was on the board?

15 **MR. O'BRIEN:** I don't recall talking to him
16 because I had -- when I came back from sick leave, I had a
17 man in charge of the Agency whom I considered one of the
18 best professionals in the business, Angelo Towndale. He
19 had used the board in an appropriate manner. The board had
20 made good decisions in my opinion and I was satisfied with
21 what had happened when I was away.

22 But speaking to Mr. Demarco personally about
23 this issue, I don't remember that.

24 **MR. HORN:** Okay. Now everything that
25 happened with the Second Street Group Home happened totally

1 while you were gone. There was -- it didn't happen -- it
2 only was a very short period of time that the group home
3 was opened under Mr. Tenger; is that ---

4 **MR. O'BRIEN:** It was opened, I think, before
5 I went on sick leave but nothing -- no inappropriate
6 behaviour was happening that I knew about before I went
7 away.

8 **MR. HORN:** Okay. But during the time when
9 it was opened under Mr. Tenger, that was the time you were
10 on sick leave?

11 **MR. O'BRIEN:** Yes.

12 **MR. HORN:** And by the time you got back, it
13 had been closed?

14 **MR. O'BRIEN:** Yes.

15 **MR. HORN:** Okay. And anything that you knew
16 then was only after the fact, you weren't involved in any
17 of the process as it was going on?

18 **MR. O'BRIEN:** That's correct.

19 **MR. HORN:** Okay. So when the situation came
20 up again many years later, 13 years later, 1989, this
21 occurred in '76; about 13 years later, suddenly, things
22 erupt again.

23 Ms. Antoine -- you were speaking to her.
24 You weren't speaking to a young person anymore. She was
25 what, about 30 years of age by then?

1 **MR. O'BRIEN:** I'm not sure of her age. She
2 was an adult for sure.

3 **MR. HORN:** Yeah. And she wasn't a ward
4 anymore?

5 **MR. O'BRIEN:** That's correct.

6 **MR. HORN:** So she was now someone that you
7 had deal with, not as a ward, but you had -- are you still
8 treating her like -- as you would look at them in the past?
9 Basically, you don't trust wards because they're basically
10 -- a lot of them don't tell the truth for different
11 reasons? Do you still ---

12 **MR. O'BRIEN:** You're using a generalization.
13 I don't think I quite worded it that way. What I said was
14 we had some difficulty sometimes with some children and
15 you're, I think, putting all the children in the same boat
16 and we didn't trust anybody. I don't -- that was not my
17 view.

18 **MR. HORN:** But ---

19 **MR. O'BRIEN:** I'm sorry.

20 I invited her to come and talk to me after
21 her telephone conversation. I don't know what more I could
22 have done.

23 **MR. HORN:** Okay, I understand that. But did
24 you look at her as if she's still a child -- or now she's
25 an adult. You're dealing with her and you're dealing with

1 a 30-year old talking about something that happened a long
2 time ago and you still didn't believe her.

3 **MR. CHISHOLM:** I don't know if the evidence
4 was that he disbelieved her at some time prior to 1989;
5 that's not the evidence as I understand it.

6 **MR. HORN:** In 1989, when you were dealing
7 with her at that time, did you still disbelieve her at that
8 time?

9 **THE COMMISSIONER:** Not "still"; not "still";
10 not "still". Remember, he was gone. All of this happened
11 at the group home while he was gone.

12 **MR. HORN:** That's right.

13 **THE COMMISSIONER:** Okay.

14 So when she phoned you in 1989, did you
15 believe her?

16 **MR. O'BRIEN:** Believe or disbelieve, it
17 wasn't a matter of believing or disbelieving; it was a
18 matter of listening to someone who had a complaint and
19 trying to get them appropriate attention so they voice
20 their complaint.

21 **THE COMMISSIONER:** Very good.

22 Mr. Horn?

23 **MR. HORN:** Okay. But what I'm trying to get
24 over is the fact that back -- you're saying back in those
25 days, you always more or less believed the foster parents

1 over the children because that was the general attitude a
2 long time ago.

3 Was that still the attitude in 1989 when you
4 were dealing with an adult who was making a complaint?

5 **MR. CHISHOLM:** I believe Mr. O'Brien's
6 evidence is he had some difficulty with some children some
7 of the time.

8 **THE COMMISSIONER:** So I think the proper
9 question might be -- to lay the foundation, but we should
10 really get moving on though.

11 Did you have any interaction with Ms.
12 Antoine when she was a ward? Did you ever talk to her?

13 **MR. O'BRIEN:** I don't recall having any.

14 **THE COMMISSIONER:** Did you ever make an
15 assessment when she was a ward as to whether she was one of
16 those persons that some of the time you couldn't believe?
17 Did you have -- had you made that kind of a judgment about
18 her at any time before she phoned you in 1989? I think
19 that's the question.

20 **MR. O'BRIEN:** I don't recall making that
21 judgment, no.

22 **THE COMMISSIONER:** There you go.

23 **MR. HORN:** Okay. So in 1989, when you got a
24 complaint in from Ms. Antoine, you knew that she was a ward
25 though at one -- sometime?

1 MR. O'BRIEN: Yes.

2 MR. HORN: And she is now a lady. She's an
3 older -- she's not young anymore.

4 THE COMMISSIONER: Okay, Mr. Horn, let's get
5 to it.

6 MR. O'BRIEN: Yes.

7 MR. HORN: Okay, all right.

8 Did you make your assessment of the
9 credibility of her statements based upon the fact that she
10 may have been one of those children that lied, that lied in
11 the past?

12 MR. O'BRIEN: No.

13 I think I had an open mind about it and I
14 wanted to listen to her and talk to her to try to determine
15 better her credibility about what she was saying.

16 Does that answer your question, sir?

17 MR. HORN: Okay.

18 Now, are you a member of the Knights of
19 Columbus?

20 MR. O'BRIEN: Am I?

21 MR. HORN: Yes.

22 MR. O'BRIEN: No.

23 MR. HORN: You're not. Were you ever?

24 MR. O'BRIEN: No. Do you want to know why?

25 (LAUGHTER/RIRES)

1 MR. HORN: You weren't at any time?

2 MR. O'BRIEN: No.

3 MR. HORN: Okay. But you were -- are you
4 still a member of the Catholic Laity Group?

5 MR. O'BRIEN: No.

6 MR. HORN: Were you at any time?

7 MR. O'BRIEN: Yes.

8 MR. HORN: And you were involved in
9 defending the Catholic Church against the allegations that
10 were in the web page on Mr. Nadon's web page?

11 MR. O'BRIEN: I was a member of the laity
12 committee and we were against the abuse of the web page by
13 certain people who were making accusations which everybody
14 had access to the knowledge of, and they had no defence as
15 to their name appearing on the web page or not.

16 MR. HORN: Okay. I understand the group
17 that you were with was specifically called the Catholic
18 Laity Group; right?

19 MR. O'BRIEN: Yes.

20 MR. HORN: So its purpose would be to
21 protect the Catholic Church?

22 MR. O'BRIEN: Not entirely. If someone came
23 to us from another denomination we would certainly have
24 listened to them if they had the same kind of thinking we
25 had, because it wasn't a Catholic issue. It was an issue,

1 in my opinion, of justice. But why it was termed the
2 Catholic Laity is because a lot of the people whose names
3 were appearing on the web page were Catholic.

4 **MR. HORN:** So you got involved in it.

5 Did you feel it was a slight against your
6 priests and against the Church or was it just a general
7 idea that something was wrong?

8 **MR. O'BRIEN:** Yeah, it was because we
9 thought that this was wrong and the people being attacked
10 were all Catholic.

11 **MR. HORN:** Okay, and as a good Catholic you
12 wanted to ---

13 **MR. O'BRIEN:** Pardon?

14 **MR. HORN:** As a good Catholic you wanted to
15 defend your fellow Catholics; is that right?

16 **MR. O'BRIEN:** As a Catholic. I don't know
17 whether I'd take the liberty of calling myself a good
18 Catholic but I was a Catholic, yes, and I wanted to defend
19 what was happening.

20 But if it had been an Anglican minister I
21 would have adopted the same attitude.

22 **MR. HORN:** Did you know Mr. Ken Seguin at
23 all?

24 **MR. O'BRIEN:** I don't think I did, no.

25 **MR. HORN:** And you're saying that you didn't

1 really know Mr. Malcolm MacDonald either?

2 MR. O'BRIEN: No, no, I knew Malcolm
3 MacDonald. Oh, yes.

4 THE COMMISSIONER: Under the terms that you
5 just told us, that you would see him at the mess hall?

6 MR. O'BRIEN: Yes.

7 THE COMMISSIONER: Did you spend any time
8 with him at the mess hall, like would you sit down with him
9 for an hour and chat, just you and him?

10 MR. O'BRIEN: Mr. Commissioner, we played
11 poker.

12 THE COMMISSIONER: Oh. Well, that's not
13 talking.

14 (LAUGHTER/RIRES)

15 MR. HORN: But that's the extent of your
16 involvement with Mr. ---

17 MR. O'BRIEN: Yes, it was strictly social.

18 MR. HORN: Okay.

19 Now, there's one other area that I'm
20 interested in. When you have a board of directors that's
21 made up of Crown attorneys, police officers and priests,
22 people in that way, is there any problem that if an issue
23 comes up and there may be an embarrassing situation that
24 could occur, like the Antoine situation, that there'd be
25 fear of embarrassing these different groups like the

1 Church, the police and the different organizations that are
2 on the board?

3 **MR. CHISHOLM:** I object to the question.

4 This witness is not in a position to comment on what a
5 board would do; a board of directors. He was the Executive
6 Director of the CAS, not a member of the board.

7 **THE COMMISSIONER:** Can you rephrase that?

8 **MR. HORN:** Pardon?

9 **THE COMMISSIONER:** Do you want to rephrase
10 that?

11 **MR. HORN:** Yes.

12 **THE COMMISSIONER:** Mr. Lee?

13 **MR. LEE:** This is a little bit odd, but I
14 think Mr. Horn may want to ask whether or not the witness
15 has ever spent any time on a CAS board, because the answer
16 may make the question appropriate.

17 **MR. HORN:** That would be a good question.

18 **MR. O'BRIEN:** I didn't get it.

19 **THE COMMISSIONER:** Did you ever sit on a CAS
20 board as a board of directors member?

21 **MR. O'BRIEN:** Did I ever?

22 **THE COMMISSIONER:** Yeah.

23 **MR. O'BRIEN:** Yes. Sure, Mr. Commissioner,
24 yes.

25 **THE COMMISSIONER:** When -- ballpark?

1 **MR. O'BRIEN:** Oh, 19 -- the late nineties or
2 -- yeah, the late nineties. I sat on the local CAS board.

3 **THE COMMISSIONER:** Okay.

4 **MR. HORN:** Okay.

5 **MR. CHISHOLM:** I'll withdraw my objection.

6 **MR. HORN:** All right.

7 As a board member, people coming from
8 different police departments, the Crown attorneys, they're
9 all sitting on the board together ---

10 **THE COMMISSIONER:** Well, no, just now you've
11 gotten a different story though.

12 When you were on the board do you remember
13 who the directors were?

14 **MR. O'BRIEN:** When I was on the board?

15 **THE COMMISSIONER:** Yeah.

16 **MR. O'BRIEN:** I remember two or three of
17 them.

18 **THE COMMISSIONER:** All right.

19 Was one of them a Crown Attorney?

20 **MR. O'BRIEN:** No.

21 **THE COMMISSIONER:** Was one of them a police
22 officer?

23 **MR. O'BRIEN:** Yes.

24 **THE COMMISSIONER:** Okay. Who else did you
25 want?

1 Was there any member of the Catholic Church
2 there like a priest or a vicar or whatever?

3 **MR. O'BRIEN:** Not when I was on the board.

4 **THE COMMISSIONER:** Okay. So you've got a
5 police officer. So use that as an example.

6 **MR. HORN:** All right.

7 As a board member, knowing the dynamics of
8 the board, would you have any feeling that as a result of a
9 situation that may arise that might embarrass the
10 Children's Aid Society, would it affect the way in which
11 Board members might react in terms of whether they'd go to
12 the police to make a complaint or not, because it might be
13 an embarrassing situation for the board and its members?

14 **MR. O'BRIEN:** I'm not quite sure I
15 understand your question. Are you talking about me as an
16 individual?

17 **MR. HORN:** No, not only as an individual but
18 as a board member and somebody who has seen how boards
19 operate.

20 **MR. O'BRIEN:** Okay. If I were on the board
21 and something happened that, if it became public knowledge,
22 would affect the board adversely and the board refused to
23 take appropriate action because they didn't want to have a
24 bad image in front of the public, I would have been very
25 upset with that. In other words, take action whether it's

1 bad for you or good for you if the action is necessary.

2 MR. HORN: Okay. So that would be your
3 particular way you would look at it and do?

4 MR. O'BRIEN: Yes.

5 MR. HORN: That's only -- you're talking
6 about yourself.

7 MR. O'BRIEN: My experience with boards over
8 the years is the more you kept them informed -- and I made
9 sure that my boards were always well informed -- the better
10 equipped they were and the more ready they were to take
11 decisions.

12 Does that help -- no? Does that help you?

13 MR. HORN: Yes.

14 Now, in relationship between you and, let's
15 say, the Children's Aid management and the Director, did
16 you view yourself as being like in charge and they're
17 subordinate to you?

18 MR. O'BRIEN: In charge of which?

19 MR. HORN: I'm talking about the board. Are
20 they the ones in charge of the CAS?

21 MR. O'BRIEN: Very much so.

22 MR. HORN: Okay. And you're a subordinate?

23 MR. O'BRIEN: Yes.

24 THE COMMISSIONER: Who is "you"; you as the
25 Director?

1 **MR. HORN:** I'm talking about the management,
2 upper management, the Director and the people that are
3 running the CAS.

4 **MR. O'BRIEN:** They were my bosses. The
5 board were my bosses.

6 **MR. HORN:** So if anything went wrong, the
7 buck stops here; it stops at the board?

8 **MR. O'BRIEN:** As opposed to stopping where?

9 **MR. HORN:** With the Director.

10 **MR. O'BRIEN:** I'm not sure I understand. If
11 the board felt that I wasn't doing my job they would let me
12 know.

13 Does that answer your question? Is that
14 what you want to know?

15 **MR. HORN:** In the final analysis, the
16 Antoine situation that occurred, who is held responsible?
17 Is it the board or the Director as to making sure that it
18 didn't happen again?

19 **MR. CHISHOLM:** When he speaks of the Antoine
20 situation perhaps you could have a bit more clarity of the
21 question so the witness can understand what he's speaking
22 about.

23 **MR. HORN:** The allegations that came from
24 Ms. Antoine about what had happened at the group home in
25 1976. The responsibility, is it with the Board or the

1 Director? Who is the one responsible ---

2 MR. O'BRIEN: Staff.

3 MR. HORN: --- for doing ---

4 MR. O'BRIEN: Staff.

5 MR. HORN: --- to make sure it doesn't
6 happen again?

7 MR. CHISHOLM: Mr. O'Brien -- which
8 allegations is he referring; to Ms. Antoine's ---

9 THE COMMISSIONER: Well, first of all,
10 responsibility. If you're asking him which one should
11 assume responsibility, as in legal or moral, it's not the
12 issue here.

13 If there's a question as to process, how --
14 is there anyone who was responsible for the process on how
15 to handle the complaint and how to deal with this matter,
16 that's a proper question.

17 MR. HORN: That's the -- thank you for
18 helping me with the question. That's really what I want to
19 know, is when a situation like this one occurred who was
20 responsible to do something; was it after the Board gets
21 the information and they make the decision or the was it
22 the Director could do it on his own and just go the police
23 and lay charges?

24 MR. CHISHOLM: Again, when Mr. Horn speaks
25 of the situation, Mr. O'Brien has not been here as long as

1 we have. Perhaps if Mr. Horn specifies what exactly he's
2 speaking of it will assist the witness in answering the
3 question.

4 **THE COMMISSIONER:** M'hm, yeah.

5 **MR. HORN:** Okay.

6 Ms. Antoine makes the phone call to you, has
7 a discussion with you. All right?

8 **MR. O'BRIEN:** Yes.

9 **MR. HORN:** Now something has to be done.
10 All right?

11 **MR. O'BRIEN:** That's correct, yes.

12 **MR. HORN:** You can't just let it sit.

13 **MR. O'BRIEN:** I'm sorry?

14 **MR. HORN:** We just can't let it lie.

15 **MR. O'BRIEN:** That's correct, yeah.

16 **MR. HORN:** Something has to be done.

17 **MR. O'BRIEN:** That's correct, yes.

18 **MR. HORN:** And so what do you do? Do you
19 make the decision or do you have to go to the Board first
20 and ask them for permission to do anything?

21 **MR. O'BRIEN:** No, I wouldn't go to the
22 Board. It would have been up to me to handle it. The call
23 came to me. It's a situation that staff should be dealing
24 with, not the Board of Directors. It should have been me,
25 and I did.

1 **MR. HORN:** Okay. So you were responsible.
2 When does the Board come into the picture then?

3 **MR. O'BRIEN:** The Board, generally speaking,
4 would not come into a picture on an individual case. They
5 would become involved on broader issues like the group home
6 where a number of things were reported to them as going on
7 that should not have been going on.

8 Staff were going to change the way we
9 operated by closing the group home and wanting staff to go.
10 And the senior staff, including Mr. Towndale, did not have
11 the authority to let anybody go. He didn't have the
12 authority, and neither did I. If someone was to be fired
13 it had to go to the board of directors.

14 But on individual situations, generally
15 speaking, the staff handled them. On the broader issues it
16 will be up to the Board. On a matter of policy, if there
17 was something brought to our attention that violated
18 policy, if the staff couldn't deal with it, then it had to
19 go to the Board.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. HORN:** Thank you.

22 **MR. O'BRIEN:** Thanks, Mr. Horn.

23 **THE COMMISSIONER:** Okay. So we're near the
24 end of the day, Mr. O'Brien. So what I'm going to do is
25 canvass the lawyers to see how much time they think they

1 need and then we'll chat about how we're going to do this.

2 MR. O'BRIEN: Thank you.

3 THE COMMISSIONER: All right.

4 Mr. Lee, how much time?

5 MR. LEE: I cut yesterday's estimate in half
6 and I think I should be no more than one hour, hopefully
7 less.

8 THE COMMISSIONER: Good. Thank you.

9 Mr. -- Probation, zero.

10 Mr. Thompson?

11 MR. THOMPSON: Approximately 10 or 15
12 minutes.

13 THE COMMISSIONER: Okay.

14 Mr. Glick, is it?

15 MR. GLICK: Yes. We have no questions.

16 THE COMMISSIONER: I didn't think so.

17 The Diocese isn't here.

18 Mr. Crane?

19 MR. CRANE: Nothing thus far.

20 THE COMMISSIONER: Ms. Lahaie?

21 MS. LAHAIE: I'm not anticipating anything.

22 THE COMMISSIONER: All right.

23 Mr. Wallace?

24 MR. WALLACE: Same position.

25 THE COMMISSIONER: All right.

1 So we've got about an hour and 15 minutes,
2 an hour and a half. I don't know that we should do it
3 tonight. I don't know that that would be a good thing for
4 you.

5 But would you rather come back tomorrow or
6 the day after or what would you like to do?

7 **MR. O'BRIEN:** Well, I'd like to take a -- if
8 I may, a five or 10 minute break and then come back and
9 work at least until 5:00 o'clock. No?

10 **THE COMMISSIONER:** Oh, no, that's great.
11 But you're sure you're up to it now, sir?

12 **MR. O'BRIEN:** Yes, sir.

13 **MR. CHISHOLM:** I'll just draw to your
14 attention the exhibits that were filed yesterday with
15 respect to the medical advice.

16 **THE COMMISSIONER:** Oh, no, I understand that
17 but -- well, I'm going to take a break. You folks talk and
18 let me know. Okay?

19 **THE REGISTRAR:** Order; all rise. À l'ordre;
20 veuillez vous lever.

21 This hearing will resume at 4:25 p.m.

22 --- Upon recessing at 4:13 p.m./

23 L'audience est suspendue à 16h13

24 --- Upon resuming at 4:25 p.m./

25 L'audience est reprise à 16h25

1 **THE REGISTRAR:** Order; all rise. À l'ordre;
2 veuillez vous lever.

3 This hearing is now resumed. Please be
4 seated. Veuillez vous asseoir.

5 **THOMAS O'BRIEN, Resumed/Sous le même serment:**

6 **THE COMMISSIONER:** Thank you.

7 **MR. CHISHOLM:** So, Mr. Commissioner, given
8 that we have about an hour, an hour and a half left of
9 cross-examination, Mr. O'Brien's preference at this point
10 would be that we would continue tomorrow morning.

11 **THE COMMISSIONER:** M'hm.

12 **MR. CHISHOLM:** He's requested that he have a
13 10:30 start. So we could start the day tomorrow with the
14 McDougald ODE, which will take 45 minutes to an hour, and
15 then continue on with Mr. O'Brien.

16 **THE COMMISSIONER:** All right.

17 Does that sound okay for you, sir?

18 **MR. O'BRIEN:** Yes. Yes, Mr. Commissioner.

19 **THE COMMISSIONER:** Thank you very much for
20 accommodating us in this regard.

21 So we'll end the day today. Now, I suppose
22 we have that sentencing evening tonight ---

23 **MR. DUMAIS:** Correct.

24 **THE COMMISSIONER:** --- at the Ramada Inn at

25 ---

1 **MR. DUMAIS:** Seven o'clock (7:00).

2 **THE COMMISSIONER:** --- 7:00 o'clock for
3 those who are watching on the web.

4 I feel like a promoter.

5 In any event, we'll start at 9:30, as you've
6 indicated.

7 **MR. DUMAIS:** Thank you very much, sir.

8 **THE COMMISSIONER:** We'll see you tomorrow,
9 sir. Thank you.

10 **MR. O'BRIEN:** Thank you, Mr. Commissioner.

11 **THE REGISTRAR:** Order; all rise. À l'ordre;
12 veuillez vous lever.

13 This hearing is adjourned until tomorrow
14 morning at 9:30 a.m.

15 --- Upon adjourning at 4:27 p.m./

16 L'audience est ajournée à 16h27

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C E R T I F I C A T I O N

I, Marc Demers a certified court reporter inthe Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Marc Demers, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CM