

# THE CORNWALL PUBLIC INQUIRY

THE HONOURABLE G. Normand Glaude, COMMISSIONER

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## SUBMISSIONS OF THE ONTARIO PROVINCIAL POLICE ASSOCIATION AND ITS MEMBERS

### Phase I

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## **PART I**

### **EXECUTIVE SUMMARY**

1. The preamble to the Order in Council states:

Whereas allegations of abuse of young people have surrounded the City of Cornwall and its citizens for many years. The police investigations and criminal prosecutions relating to these allegations have concluded. Community members have indicated that a public inquiry will encourage individual and community healing.

Hopefully this Inquiry will provide a significant contribution to that healing process.

2. That healing would include, for some, re-establishing trust and confidence in the ability of public institutions to deal with the issue of sexual abuse of young persons in a competent and sensitive manner. For others, that healing will be achieved in part by having had the opportunity to testify here, thereby sharing their experiences, both positive and negative, in dealing with the public institutions.
3. The Ontario Provincial Police Association (OPPA) has participated fully in Phase One. It is sincerely hoped that the participation of the OPPA has assisted and will continue to assist in the healing process.

4. The members and retired members who have testified before this Commission have tried to be helpful and informative and in that way assist the Commissioner in his fact-finding role.
5. Getting to the bottom of what happened here, in order to give the public a fair and fulsome explanation, is a daunting task. It was made more difficult by the refusal of such a central figure as Perry Dunlop (Dunlop) to testify. The failures of David Silmsler (Silmsler) and Ron Leroux (Leroux) to complete their evidence were unfortunate setbacks.
6. Silmsler made an allegation of sexual abuse to the Cornwall Police Service (CPS) in 1993. No one could have predicted the chain of events that that allegation started, a chain of events that ultimately led to the calling of this Inquiry.
7. The Ontario Provincial Police (OPP) was involved in many of the police investigations examined by this Commission. One issue looked at by the Commission was the training of the OPP personnel that did the actual investigating. It cannot be forgotten that at the time those investigations were carried out there was not any training available that dealt with male historical sexual assault investigations. Investigative shortcomings, if found by this Commission, were most likely due to the lack of training.

8. The investigative steps taken in some of the investigations were also examined. A number of the decisions made were the subject of significant questioning. The officers brought their best judgment to bear on their decisions. Perfection can not be the standard. It has been acknowledged that mistakes were made along the way.
  
9. Project Truth was a large-scale historical sexual assault investigation primarily brought about by the allegations of Dunlop. There were several difficulties inherent in investigating a crime decades after the fact. Project Truth, in addition, had to cope with witness contamination, the dissemination of false information through the media and the withholding of vital information by Dunlop.
  
10. Garry Guzzo (Guzzo) conducted a campaign in the press to enlist support for a public inquiry. He frequently put out information in the public realm even after he knew those facts to be wrong. Those misstatements of facts would lessen the public confidence in the integrity of Project Truth.
  
11. The significant obstacles presented by the interference of Dunlop and Guzzo only served to exacerbate the problems encountered by the investigators.

12. The fact-finding process that has unfolded over the last three years at this Inquiry has been enlightening and undoubtedly informative to the citizens of this community and elsewhere. It has also been in many instances a painful experience for those persons who have been called to testify and relive traumatic events from the past. The emotional reaction of OPP officers in the witness box is proof that police officers are not immune to the tragic effects of sexual abuse in our communities.

13. For those who have followed the proceedings closely it should be readily apparent that the integrity of the officers involved in the various investigations was beyond reproach although not free from human error. The expanded educational and training programs available today will serve to improve the performance of officers.

14. The integrity and dedication of the retired and serving members of the OPPA have served this community well. The improved training that is available today will only serve to enhance the performance of members today and into the future.

15. The recommendations that are offered for the Commissioner's consideration, on behalf of the OPPA are the following:

- i. Expanding the counseling services available for male victims of sexual abuse;

- ii. Consider legislation dealing with a duty to report child sexual abuse allegations to an alleged perpetrator's employer;
- iii. To make counseling available to front-line officers investigating large-scale sexual abuse allegations;
- iv. Officers investigating large-scale sexual abuse cases should be seconded full-time to that investigation;
- v. There should be a dedicated Crown Attorney to large-scale sexual abuse investigations.

**PART II**  
**INTRODUCTION**

ONTARIO PROVINCIAL POLICE ASSOCIATION

1. The Ontario Provincial Police Association came into existence in 1954. The Association represents the employment-related interests of the non-commissioned officers of the Ontario Provincial Police up to and including the rank of Staff Sergeant. The Ontario Provincial Police Association also provides representation to the civilian members employed by the Ontario Provincial Police.
2. Amongst many services provided to the membership, the Association provides representation and assistance to all of its members for matters that are related to their employment with the Ontario Provincial Police, including representation before this Commission.
3. The Ontario Provincial Police Association, through legal counsel, represents the individual and collective interests of its members, including retired members, at the Inquiry.
4. Commencing as far back as early 2007, nineteen members and former members of the Association were identified and notified by Commission

Counsel that they were potential witnesses to be called to give evidence at the Inquiry. Of those nineteen, fourteen were interviewed by Commission Counsel. The preparation for those interviews was extensive, given the years to be covered and the passage of time since the events in question. Of the fourteen officers interviewed, six members or retired members of the Ontario Provincial Police Association actually testified.

5. All members of the Ontario Provincial Police Association (both active and retired) cooperated fully with Commission Counsel and made themselves available for interviews in a consistently punctual manner. Often this created significant difficulties in their personal lives and schedules. As a result of their review of materials provided to them in advance of the interviews, Ontario Provincial Police Association members were well-versed in the documentation relevant to the Commission's interests and were fully prepared to answer all questions of counsel in the interview process preceding the giving of their testimony.
6. Some of these interviews extended over a number of days. In some instances, travel arrangements over significant distances were required to be made.
7. In all cases the Ontario Provincial Police Association members attended as requested, remained until Commission Counsel completed the interviews and at all times were thoughtful in their presentations and respectful to

Commission Counsel during this process. Those members who were called to testify did so with dignity and civility.

8. Many of the events under consideration at the Commission dated back decades. In each and every instance the Ontario Provincial Police Association members, using what *aide-memoirs* were available, did their best to recall and recount their part in the investigations under scrutiny. All members appeared before the Commission when required to do so, in some instances testifying for several days.
9. A fair review of the evidence establishes that these officers and former officers carried out their duties in good faith, with skill and dedication of purpose under the direction of their supervisors.
10. In giving their evidence these frontline and former frontline officers quite rightly expressed their concern over the plight of the victims of sexual abuse. It is to be remembered, as well, that frontline workers, including police officers, may be subject to experiencing “vicarious trauma” as a result of their involvement in these investigations of this type.
11. Our officers’ performances in the carrying out of their duties were not perfect. No human endeavour of such complexity can lay claim to that level of achievement. Nor should they be judged against that standard or indeed by

today's standards given the developments in investigative techniques and training which the Commission heard have taken place in just the past few years. When one looks at the lack of formalized training and education on the subject of historical sexual abuse investigations, particularly involving male victims, during the relevant time periods the accomplishments of the officers can readily be seen as significant.

12. It is submitted that the appropriate evaluation of the officers' performances of their duties should be measured against a standard of conduct that could reasonably be expected of an officer at the time when the conduct under consideration occurred. It may be that in some instances such standards will be articulated or published. In other instances, the standards may be obvious, based on reasonable expectations or, indeed, common sense.

*Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. Appendix 5(c) p. 655 at para. 667*

13. This Inquiry has been examining, *inter alia*, a number of OPP investigations. It is submitted that the officers conducting those investigations did so in a professional and competent fashion. It is important to consider the context in which these investigations took place and not to judge the quality of the investigations by simply saying that more could have been done, or it could have been done differently. No human endeavour is immune to the criticism that perfect hindsight affords.

14. It is the hope of the Ontario Provincial Police Association and its members that their participation in this Inquiry has assisted the work of the Commission in ultimately achieving the goals as set forth in the Commission mandate.

## **PART III**

### **PRE PROJECT TRUTH INVESTIGATIONS**

#### **1. RON LEROUX HARASSMENT INVESTIGATION AND SEIZURE OF TAPES**

15. On Dec. 18, 1992 C-8 made a complaint to the Lancaster detachment of harassment by Ron Leroux (Leroux). The complaint was received by Cst. Steve McDougald (McDougald). C-8 also reported that Leroux was a gun collector, that he often had a gun with him and that he was concerned because Leroux had talked about suicide. McDougald arranged for C-8 to attend at the detachment to provide a statement, which he did. C-8 also turned over four handguns, which he said belonged to Leroux, for safekeeping.

**Ex. 2554**

16. McDougald and Cst. Pat Dussault (Dussault) attended at Leroux's residence on December 20, 1992 to meet with Leroux to warn him about the alleged harassment. Leroux denied C-8's harassment accusation and stated that he was not suicidal. Leroux also advised that he was in the process of signing over his house to C-8. Malcolm MacDonald Leroux's solicitor on the transaction. At that time, McDougald advised Leroux of the four guns handed over by C-8. Leroux told McDougald that he did not want the guns returned to him.

**Evidence of Steve McDougald  
CPI Vol. 300**

**pp.11-13**

17. McDougald spoke again with Leroux on January 10, 1993, by telephone. Leroux stated that he was not concerned with the return of the firearms and that C-8 could keep them if he wanted. McDougald advises him that C-8 cannot keep them as he does not have the appropriate licences and paperwork to possess the weapons. McDougald was concerned that Leroux was “holding something back”; however there was no legal basis upon which to retain the guns. Leroux had denied he was suicidal. McDougald sought advice from two of his superiors regarding what to do with Leroux’s firearms. There was a possibility that a judicial hearing could be held to determine if Leroux should be permitted to possess firearms.

**Evidence of Steve McDougald  
CPI Vol. 300  
pp.14-17**

18. S/Sgt. Jim McWade (McWade) was the Lancaster Detachment Commander at that time. As Detachment Commander, McWade’s responsibilities included deployment of manpower and resources that were made available to him. McWade testified that he had no specific recollection of C-8’s complaint but because the complaint involved firearms, it was brought to his attention. McWade asked the RCMP Firearms Registration to search the firearms database in relation to Leroux. On February 9, 1993 it was learned that Leroux still had two unaccounted for firearms registered to his name. McWade advised McDougald of this fact.

**Evidence of Jim McWade**

**CPI vol. 298  
pp. 6-9**

19. A decision was made to obtain a search warrant for the two outstanding firearms. McDougald swore the Information to Obtain and was successful in obtaining the search warrant. McWade was not involved in the preparation of the search warrant, nor did he review the information to obtain. He was not involved in the search itself. None of these functions would have fallen under his responsibility as Detachment Commander.

**Ex. 2521**

**Evidence of Jim McWade  
CPI vol. 298  
pp. 12-14**

20. Sr. Cst. Randy Millar (Millar) assisted McDougald in drafting the Information to Obtain and in executing the search warrant. It was the first time McDougald had authored Information to Obtain and search warrant documentation. Neither McDougald nor McWade could recall exactly how Randy Millar became involved. McWade testified that he may have asked Millar to assist McDougald with swearing the Information to Obtain and the search warrant. Millar was a shared resource between Lancaster Detachment and the Area Crime Sergeant to whom Millar reported.

**Evidence of Jim McWade  
CPI vol. 298  
pp. 13-15**

21. On February 10, 1993, McDougald and Millar attended at Leroux's residence to execute the warrant however there was no one home. Upon returning to the

detachment, McDougald phoned Malcolm MacDonald, Leroux's lawyer, and learned that Leroux was in Florida for two weeks. In an effort to locate a key to the residence, McDougald then phoned C-8 who advised that he did not have a key. McDougald then called MacDonald to advise him of the search warrant for Leroux's residence and to ask him if he wanted to be present during the search. MacDonald declined. McDougald then received a call from C-8 advising that he had found a key, was in the house and had located one of the firearms. McDougald advised him to remain in the house as they were on their way. McDougald and Millar proceeded to Leroux's home where they were met by C- 8 who was already in the residence and had located one of the two guns

**Ex. 2555**

**Evidence of Steve McDougald  
CPI Vol. 300  
pp. 21-23**

22. Millar and McDougald searched the house. Millar searched the upstairs of the house and located two loose videotapes as well as a locked suitcase. The suitcase was located in a closet behind the bath tub. McDougald was not present when Millar made these discoveries. The two loose videos appeared to be pornographic. The suitcase was opened at the Leroux residence and was found to contain 20 VHS video tapes of primarily pornographic material. According to McDougald, some of the tapes appeared to be blank and some had commercial labels. While at the residence, at least one tape was viewed which depicted male homosexual acts. In addition to the movies and suitcase,

the second firearm was also located. Before returning to the detachment, McDougald took a statement from C-8 regarding the firearms. The issue of the tapes was not discussed in the statement.

**Evidence of Steve McDougald**  
**CPI Vol. 300**  
**pp. 26-29**

**Evidence of Randy Millar**  
**CPI Vol. 305**  
**pp. 192-195**

23. Randy Millar testified that he located the suitcase in the bathroom, hidden by the bathtub. The suitcase was locked with a padlock and the two loose videos were nearby. After opening the case, he determined that the videos were pornographic and he placed a call to Project "P", a specialized unit of the OPP dealing with illegal pornography. There was no answer. Millar testified that although he did not view the tapes, there was something about them which led him to believe that there was pornography involved. He had no reason to believe, prior to searching the house that any such videos would be in the residence. He had no knowledge of any association between Ron Leroux and Ken Seguin. The second firearm had been found in the front closet. He then handed over to Cst. McDougald the suitcase, the two loose videos and the second firearm which had been located in the front hall closet. This ended his involvement as it was not "his search".

**Evidence of Randy Millar**  
**CPI Vol. 305**  
**pp. 193-200**

24. C-8 testified that he had contacted the Lancaster detachment of the OPP regarding Ron Leroux and threats Leroux had made against him. C-8 stated that Leroux had a collection of 33 handguns, that he had put a gun to C-8's head and told him that if he ever left, he would kill him. C-8 testified that he took the guns from Leroux's home before moving back to his mother's house. He brought the guns to the Lancaster OPP Detachment. He could not recall exactly when this was or the exact sequence of events.

**Evidence of C-8 *in camera***  
**CPI Vol. 129**  
**pp. 26-27**

25. C-8 testified that he attended the Detachment with approximately 12 of Ron Leroux's guns. He stated he did not tell the police about any other guns as he did not know of any more. Although he stated that he did not hear anything from the police again after this, he agreed that he was indeed present at Leroux's house when the search warrant was executed. He recalled that he had been the one to let the police into Leroux's home as he still had a key.

**Evidence of C-8 *in camera***  
**CPI Vol. 129**  
**pp. 27-29**

26. C-8 testified that he did not recall seeing the search warrant, but he believed it was shown to him. He also testified that he drove up and let the officers in the house and as soon as the police entered Leroux's home, they went straight upstairs. He later stated that the police had actually found the gun first, and then went upstairs. He did not state that he provided the officers with one of the handguns when they arrived.

**Evidence of C-8 *in camera***  
**CPI Vol. 129**  
**p. 35**

27. According to C-8, both police officers went straight upstairs and into the cupboard in the bathroom behind the bathtub from which they pulled out a locked suitcase or briefcase. He stated that they threw the suitcase on the bed, picked the locks and opened up the case to find tapes. C-8 stated there was child pornography in the cassette cases.

**Evidence of C-8 *in camera***  
**CPI Vol. 129**  
**p. 37**

28. C-8 elaborated on the location in which the suitcase was found. He described the officers going to the closet, removing all the clothes and then locating the small 2-foot square cupboard behind the bathtub. He then could not say with certainty what the suitcase looked like, or even what colour it was. He also could not say how he knew it was child pornography. He at one point said the officers had said that. He then stated that it was pornography, and then said he only assumed it was pornography based on what the officers were saying. He also did not recall seeing any commercial labels on the tapes and stated that the videotapes were homemade. Later in his evidence, C-8 erroneously testified that Chris McDonnell was one of the officers involved in the search.

**Evidence of C-8 *in camera***  
**CPI Vol. 129**  
**pp. 38-43, 51**

29. C-8 agreed that he had heard many stories over the years about the tapes containing child pornography. He admitted he could not point to anything that supports the idea that the tapes were child pornography.

**Evidence of C-8 *in camera***  
**CPI Vol. 130**  
**pp. 55-56**

30. It is submitted that C-8's credibility as a witness is highly questionable and his evidence would be dangerous to rely upon. He is an admitted (albeit not convicted) perjurer having lied at the preliminary hearing as to his accusations against father Charles. He admitted that he fabricated allegations in a statement he gave to Perry Dunlop about Father Charles. In 1997 he was found guilty of sexual assault against a relative under the age of 18. In the course of his sentencing hearing, in mitigation of the offence, through his counsel he referred to his own sexual assault victimization at the hands of Father Charles MacDonald. He admitted before Justice Metivier in 2000 to this being a false accusation.

**Ex. 3494**

**Ex. 609**

31. C-8 testified that Perry Dunlop pressured him into giving information about Father Charles. C-8 further agreed that between December 12, 1996 and January 23, 1997 his story had changed significantly. This is clear from a review of the various signed statements he provided between 1996 and 1997, once he had met Perry Dunlop. In his statement of June 24, 1996 he alleges

sexual abuse by Father Charles and Marcel Lalonde. His statements do not mention any sexual abuse by Ron Leroux until he meets with the OPP on January 23, 1997.

**Evidence of C-8 *in camera***  
**CPI Vol. 129**  
**pp. 79, 90**

**Evidence of C-8 *in camera***  
**CPI Vol. 130**  
**p. 73**

**Ex. 606**

**Ex. 605**

**Ex. 607**

**Ex. 608**

32. In addition, his evidence regarding the search of the home by Millar and MacDougald is contradicted by both officers' evidence whereby both officers testified that they were met by C-8 at Leroux's home at which time he provide them with one of the firearms. Both also testified that only Millar went upstairs to search. In addition, C-8's statement from December 12, 1996 made no mention of the tapes containing child pornography, nor did he, in that statement, suggest that the officers said that to him at the time of the search. In this statement, he simply said that he had never seen the tapes before.

**Evidence of C-8 *in camera***  
**CPI Vol. 131**  
**pp. 76, 90**

**Evidence of Steve McDougald**  
**CPI Vol. 300**  
**pp. 26-29**

**Evidence of Randy Millar  
CPI Vol. 305  
pp. 192-195**

**Ex. 609**

**Ex. 606**

**Ex. 610**

**Evidence of C-8 *in camera*  
CPI Vol. 130  
pp. 70, 73**

33. The officers returned to the detachment with two firearms, the suitcase containing the 20 videotapes and the two additional videotapes. The suitcase and tapes were lodged in the property vault and the guns were secured in the exhibit locker at the detachment. A property report was entered by McDougald. Only uniformed officers had access to the property vaults at that time.

**Evidence of Steve McDougald  
CPI Vol. 300  
pp. 30-31, 37**

**Ex. 114**

34. McWade assigned McDougald and Dussault to review the tapes. According to McDougald, McWade told him to view the tapes by fast-forwarding, pressing play and essentially skipping through the tapes in order to view them randomly, but from start to finish. He was to look for evidence of criminal activity such as child pornography, snuff films and bondage. McDougald said that McWade never asked him to look for local people. The comment about

“local people” arises in McDougald’s 2005 will say. McDougald testified that this would not have been an instruction from McWade and it is a note he would have made for himself.

**Evidence of Steve McDougald  
CPI Vol. 300  
pp. 32-34**

35. On February 16, 1993, McDougald attended at the office of the Justice of the Peace for the Return to Justice of the search warrant. Although there is nothing written about the tapes having been seized, McDougald testified he had checked off boxes s. 487 and s. 489 on the Return indicating that items not listed in the warrant were in fact seized. He testified that this was in relation to the suitcase and videos. McDougald testified that he was in error on not specifying the videotapes on the Return to the Justice. Given that this was the first search warrant execution for which he was responsible, it is submitted that failure to list the tapes on the return was an oversight on McDougald’s part.

**Ex. 603**

**Evidence of Steve McDougald  
CPI Vol. 300  
pp. 44-45**

36. When McWade was presented with the Return to a Justice during his testimony at CPI, he was surprised to see that the seized video tapes were not included in the return and in general was surprised that not every item seized was included in the return. As Detachment Commander he would not have reviewed the search warrant or the Return.

**Ex. 603**

37. McWade understood that the suitcase containing the tapes was opened up at the residence. He directed officers to review the tapes to see if they contained illegal pornographic content. He instructed the officers to view the tapes randomly by fast forwarding through and pressing play to view some parts throughout the duration of the movie. McWade did not have the resources to instruct a full viewing of the tapes, but it needed to be done. He did not order that the tapes be viewed in their entirety as resources would not permit the viewing of some 20-plus hours of videotapes. McWade testified that he assigned Steve McDougald and Pat Dussault to review the tapes. McWade instructed the officers to review the tapes to see if there was anything that might fall under illegal pornographic content. Beginning on February 17, 1993, McDougald and Dussault began viewing the tapes. McWade himself viewed the tapes as well, but to a very limited extent. The tapes contained commercially produced movies of adult male homosexual activities. McWade testified that at that time he would not have had any prior knowledge of the existence of the tapes, nor did he have any reason to be looking for local people in the videotapes.

**Ex. 691**

**Evidence of Jim McWade  
CPI Vol. 298  
pp. 25-33**

38. It is submitted that when McWade directed the officers to review the tapes, he had no factual basis to believe the tapes contained anything illegal. It is further submitted that given the limited resources available to him, McWade's viewing instructions were reasonable.
39. From February 17, 1993 onwards McDougald attempted to contact Mr. Leroux numerous times. It was not until April 25, 1993 that Leroux attended the Lancaster Detachment in relation to the firearms investigation. He was arrested on 11 firearms-related charges and released on a Promise to Appear. McDougald also discussed the videotapes with him. Since no charges were to be laid in relation to the tapes, McDougald asked Leroux if he wanted them back. Leroux indicated that the tapes were not his, that he had found them in the garbage at the Raisin River campground where he worked as caretaker and that he took them out of fear that children might find them. He did not want them back. He was offered the opportunity to sign a quit claim for the tapes, which he did. McDougald did not have any further involvement with the tapes after that. The destruction of the tapes fell to the Detachment Commander or his designate.

**Ex. 690**

**Ex. 1144**

**Evidence of Steve McDougald  
CPI Vol. 300  
pp. 49-50**

40. Leroux testified that when he returned home from Florida, he found his house had been “trashed”. Randy Millar testified that he did not believe he and McDougald left the house in disarray after the search. Leroux testified that he learned that a search warrant had been executed at his home to search for guns. Leroux could not recall if it was the police that called him first or Ken Seguin in relation to the search.

**Evidence of Ron Leroux  
CPI Vol. 121  
p. 17**

**Evidence of Randy Millar  
CPI Vol. 306  
p. 248**

41. Leroux testified Seguin told him that he had hidden a brown suitcase with tapes in it upstairs in Leroux’s house. According to Leroux, Seguin wanted to get the tapes back fearing they were going to destroy reputations. Leroux testified that he attended at the police station and although his recollection of what took place there was “foggy”, he was desperate to get the tapes back.

**Evidence of Ron Leroux  
CPI Vol. 121  
pp. 18-19**

42. Leroux claimed that he told the officer at the detachment, who he thinks was “Tim”, that he wanted the tapes back and that he had found them in a dumpster. He claimed that he thought he was signing a release document to get the tapes back.

**Evidence of Ron Leroux  
CPI Vol. 121  
p. 18-22**

43. When confronted with his affidavit of November 13, 1996, Leroux was unable to explain why significant portions of the sworn information contained therein contradicted his evidence at the Inquiry. Leroux testified at the Inquiry that Seguin did not tell him that the videotapes contained pornographic material, nor did Seguin ever say to him that he was under investigation for sexual assault and that the tapes would “clinch” a conviction against him. Leroux testified that he had no idea where those words came from and that those were not his words.

**Ex. 567**

**Evidence of Ron Leroux  
CPI Vol. 121  
pp. 30-32**

44. In separate briefs unrelated to the tapes issue, Crown Attorney Lorne McConnery (McConnery) was required to assess and comment upon the credibility of Ron Leroux. In the McConnery-reviewed investigations, the assessment of Leroux’s credibility was the central issue. In addition to other materials, McConnery reviewed all of Leroux’s prior statements reduced to writing as well as various videotapes including tapes made of interviews at OPP headquarters in Orillia on February 7, 1997. Having reviewed all of this material, McConnery expressed the very strongly held view that Ron Leroux had no credibility.

**Evidence of Lorne McConnery  
CPI Vol. 333  
p. 196**

**Ex. 572A**

**Ex. 573A**

45. A comparison of his testimony at the Inquiry to his prior written statements and sworn affidavits demonstrates that Leroux recanted many of his prior allegations. It is submitted that when all of his prior allegations are viewed in detail and looked at in the context of his CPI testimony, it would be highly dangerous to rely on any claims made by Leroux in the absence of credible, confirmatory evidence. This danger is heightened, of course, by the lack of complete and thorough cross-examination by all parties.

**Ex. 563**

**Ex. 564**

**Ex. 565**

**Ex. 566**

**Ex. 567**

**Ex. 568A**

**Ex. 569**

**Ex. 570**

**Ex. 571A**

**Ex. 572A**

**Ex. 573A**

**Ex. 574A**

**Ex. 577A**

**Ex. 577B**

**Ex. 578**

46. On May 4, 1993 the 22 videotapes and the suitcase containing them were destroyed by fire. McWade signed off on the destruction of the tapes as he was required to do for property of this nature. He testified that he destroyed the tapes himself.

**Evidence of Jim McWade  
CPI vol. 298  
pp.38-41**

47. McDougald's evidence on the destruction of the tapes was challenged. He testified that the tapes were destroyed by the Detachment Commander or his designate. However, in his 1998 interview with Pat Hall and his 2005 will say, he indicated that McWade told him that the tapes were destroyed by the caretaker.

**Ex. 1163**

**Ex. 2544**

48. The destruction of property was a task that normally fell to the caretaker, Arthur Lalonde (Lalonde). Lalonde testified that some property was destroyed by fire. He generally did the burning, and an officer would be present when he did. However, he would not be present if the destruction was being carried out by an officer and therefore it was possible that property could be destroyed without his knowledge. This would not be unusual, according to Lalonde. He testified that he did not recall ever being involved in the destruction of tapes and suitcase. McWade also testified that he could not recall whether Lalonde had been present when the suitcase and tapes were burned.

**Evidence of Arthur Lalonde  
CPI Vol. 298  
p.114**

**Evidence of Jim McWade  
CPI vol. 298  
p.42**

49. Much has been made of these tapes and whether or not they were destroyed and also by whom. Randy Millar testified that he had heard rumours that he (Millar) knew the tapes were in the house, that he knew they contained information of a pedophile ring and that he arranged to have them burned. Millar vehemently denied these rumours.

**Evidence of Randy Millar  
CPI Vol. 305  
p. 208**

50. On the basis of the credible evidence tendered at the Inquiry, the following is respectfully submitted:
- a) The tapes were seized in the execution of a search warrant for firearms;
  - b) The officers were not in error in seizing the videotapes to determine if they contained evidence of a crime given the secretive nature of their location;
  - c) Upon reviewing the tapes and being satisfied that they did not contain any evidence of criminality the offer was made to Leroux to return the tapes to him;

- d) For his own reasons, Leroux declined the offer and signed a quit claim deed;
- e) The tapes were destroyed by fire, most likely by S/Sgt. McWade on May 4, 1993;

## **2. INVESTIGATION OF KEN SEGUIN'S DEATH**

### **Background**

51. On November 25, 1993 Dussault attended the residence of probation officer Ken Seguin in response to a request from Seguin's supervisor, Emile Robert. Robert was concerned that Seguin had missed a dentist appointment and had also not reported to work. On arriving at Seguin's, Dussault noted that the house was locked up but otherwise in order, and Seguin's car was in the driveway. Dussault, in consultation with Emile Robert, decided to wait another 24 hours before taking any further action.

#### **Ex. 972**

52. At approximately 3:00 p.m. that same day, Ken Seguin's neighbour and friend, Ron Leroux, entered Seguin's home using a spare key. Ron Leroux's wife, Cindy, had alerted her husband to the fact that the police had been at the residence looking for Seguin. Ron Leroux found Ken Seguin hanging in the bathroom. Cindy Leroux called the OPP at approximately 3:10 p.m. Ron and

Cindy Leroux remained at the house until police arrived. Cst. Dussault and Sgt. Vanderwoude arrived shortly thereafter at 3:30 p.m.

**Ex. 972**

53. At 3:45 p.m., Det. Cst. Chris McDonell (McDonell) and Det. Cst. Randy Millar were dispatched by Lancaster Detachment Commander S/Sgt. McWade to the sudden death investigation of Ken Seguin at his residence, arriving at approximately 4:03 p.m.

**Ex. 972  
Evidence of Randy Millar  
CPI Vol. 305  
p. 211**

54. McDonell assisted Millar who was the officer in charge. McDonell took direction from Millar. Following standard procedure, the death was initially treated as suspicious and the scene was secured once Millar and McDonell arrived in order to preserve evidence. McDonell spoke with Ken Seguin's brother and sister-in-law, Doug and Nancy Seguin as well as another brother, Keith Seguin, who had all arrived at the residence. Observations were noted of the scene.

**Evidence of Chris McDonnell  
CPI Vol. 298  
p. 143-145**

55. Also on scene were Ron Leroux, his wife, Cindy and C-8. Ron Leroux was interviewed by Cst. Dussault as well as by Millar.

**Evidence of Randy Millar  
CPI Vol. 305  
p. 215**

**Ex. 561**

56. McWade, as Lancaster Detachment Commander, advised Emile Robert that Ken Seguin had been found hanging in his residence. McDonnell made an appointment to meet with Emile Robert later that evening to view Ken Seguin's office at Probation Services.

**Evidence of Jim McWade  
CPI vol. 298  
p. 51**

57. On November 26, 1993, McDonnell attended the Hotel Dieu Hospital for the post mortem where it was confirmed that Ken Seguin had committed suicide. McDonnell then continued on to the Cornwall Police Department for a follow-up meeting with CPS Sgt. Brunet and Cst. Derochie regarding Ken Seguin. Millar was already at CPS when McDonnell arrived.

**Ex. 396, bp. 7156953**

58. The purpose of the meeting was for CPS to inform the OPP about their ongoing investigation into Silmsers' allegations against Father Charles and Ken Seguin. CPS also informed Millar of Silmsers' statement to CPS of November 24, 1993 that if anything happened to him, Father Charles and Ken Seguin should be considered as suspects. Cornwall Police were looking to the OPP for assistance in their investigation to determine if corroboration existed for the allegations contained in Silmsers' statement. This was the first that Millar had heard of the association between Silmsers, Seguin and Father Charles.

**Evidence of Randy Millar  
CPI Vol. 306  
p. 12-13**

59. Upon leaving the CPS offices, Millar and McDonell proceeded to Bourget, Ontario to interview Silmsler. McDonell testified that prior to this he did not know nor had never heard of Silmsler. In the interview, Silmsler related his allegations against Ken Seguin and Father Charles. They learned that Silmsler had made a complaint of sexual assault to the Long Sault Detachment of the OPP on a prior occasion at which time he was apparently referred to the CPS. McDonell testified that he knew Seguin in a professional capacity only and that he had no personal or professional dealings with Father Charles.

**Evidence of Chris McDonell  
CPI Vol. 298  
p. 156**

**Ken Seguin Death Investigation**

60. On November 29, 1993, Millar and McDonell updated their superior, D/Sgt. Norm Duhamel, about the investigation to date.

**Ex. 2528**

61. On December 15, 1993, McDonell and Millar met with Ken Seguin's two brothers, sister and mother. The purpose of the meeting was to advise the family regarding their investigation into Ken Seguin's death. The family was advised that the death was a suicide. They were further advised that there was information that Ken Seguin had been a homosexual.

**Evidence of Chris McDonnell  
CPI Vol. 298  
pp. 180-181**

62. The Seguin family later filed a civil suit alleging “atrocious” comments made by the officers in relation to Ken Seguin. McDonnell agreed that he and Millar had told the family, in the best way they could, that Seguin was thought to be homosexual. McDonnell denied that any inappropriate comments were made to family members at all in relation to Ken Seguin.

**Ex. 1051  
Evidence of Chris McDonnell  
CPI Vol. 298  
p. 182**

### **3. 1994 OPP INVESTIGATIONS**

63. The OPPA relies in part on the submissions of the OPP for this section but have reproduced them for the reader’s benefit.

## **THE 1994 OPP INVESTIGATIONS**

### **THE OPP RE-INVESTIGATION OF FATHER CHARLES MACDONALD**

### **THE OPP INVESTIGATION INTO AN ALLEGED CONSPIRACY BETWEEN THE CPS, THE DIOCESE AND THE CROWN ATTORNEY**

### **THE OPP INVESTIGATION INTO AN ALLEGED OBSTRUCTION OF JUSTICE BY LAWYERS**

## **OVERVIEW**

The relevant institutional response of the Ontario Provincial Police (OPP) was the response to a request from Acting Chief Johnston (JOHNSTON) of the Cornwall Police Service (CPS) at the end of January 1994 that the OPP conduct investigations into: (1) an alleged conspiracy between the CPS and the Diocese of Alexandria Cornwall

(DIOCESE) to effect a civil settlement with David Silmsler (SILMSER), an alleged victim of historical sexual assault, that terminated (the CPS) investigation of those allegations; (2) an alleged obstruction of justice by lawyers who brought about that civil settlement in consultation with the local Crown Attorney; and (3) that the OPP reinvestigate SILMSER's allegations of historical sexual assault against Father Charles MacDonald (FATHER CHARLES).

## **BACKGROUND OF THE INVESTIGATIONS**

### ***1992***

In December of 1992 SILMSER called the CPS and reported that he had been a victim of historical sexual assault by a Cornwall area priest – FATHER CHARLES - and a Cornwall probation officer – Ken Seguin (SEGUIN).

#### ***Evidence, David Silmsler***

At the same time SILMSER reported the allegations to Msgr. Peter Schonenbach (SCHONENBACH) of the Archdiocese of Ottawa. SCHONENBACH immediately notified his counterpart Msgr. McDougald (MCDOUGALD) at the DIOCESE.

#### ***Evidence, Msgr. Peter Schonenbach***

MCDOUGALD in turn advised FATHER CHARLES of the allegations, and FATHER CHARLES retained the former Cornwall Crown Attorney, Angus Malcolm MacDonald (MALCOLM), as his counsel.

#### ***Exhibit C-1154 Overview of Documentary Evidence, Angus Malcolm MacDonald***

### ***1993***

On January 13 1993, Detective Constable Heidi Sebalj (SEBALJ) of the CPS was assigned to conduct an investigation into SILMSER's allegations. Because of

reservations he had about a female officer being assigned, SILMSER was interviewed by Sergeant Ron Lefebvre (LEFEBVRE) and Detective Constable Kevin Malloy (MALLOY) (in the presence of SEBALJ) on January 28 1993. He was given a blank statement form and subsequently provided an 8 page handwritten statement (undated) to SEBALJ.

*Exhibit C-1236  
Overview of Documentary Evidence,  
Heidi Sebalj*

While the CPS investigation was proceeding, the DIOCESE was conducting its own investigation. On February 9 1993 SILMSER was interviewed by a panel that included MCDUGALD and the Diocesan lawyer, Jacques Leduc (LEDUC)

*Transcript of Evidence, Jacques Leduc  
July 15 2008, Volume 254, p. 36*

SEBALJ continued to investigate SILMSER's allegations as against the priest. (She did not undertake any further investigation of his allegations against SEGUIN, as SILMSER told her he could only deal with "one at a time.") SEBALJ was able to locate and interview numerous witnesses during the months of February and March, 1993, many of whom were supportive of FATHER CHARLES. She also found two additional alleged victims of FATHER CHARLES, C-3 and C-56; however, C-3 refused to get involved and C-56 would only agree to be a witness. SEBALJ consulted on her investigation at various times with Cornwall Crown Attorney Murray MacDonald (MURRAY).

*Exhibit C-1236  
Overview of Documentary Evidence, Heidi Sebalj*

It became apparent that SEBALJ was having difficulty formulating "reasonable and probable grounds". In any event, her investigative activity appears to have stopped in April, 1993. MURRAY had at some point discussed with SEBALJ the possibility of a consultation with Robert Pelletier (PELLETIER), the Crown Attorney of Prescott and Russell; however, this never took place.

*Transcript of Evidence, Murray MacDonald*

*December 17 2008, Volume 325, pp. 270, 271*

As late as August 23 1993, however, SILMSER contacted SEBALJ to inquire about the progress of the investigation (and told her he was in no hurry). MALCOLM (who had been communicating with her as far back as February, 1993 regarding the matter) had called SEBALJ that same day to propose a less intrusive form of arrest for FATHER CHARLES.

*Exhibit C-1236  
Overview of Documentary Evidence,  
Heidi Sebalj*

For some time SILMSER had indicated his interest in a civil settlement with the Diocese, and had one point consulted with former Cornwall Crown Attorney Don Johnson.

*Evidence, Don Johnson*

Eventually LEDUC and MALCOLM approached the Bishop of the Diocese, Eugene LaRocque (LAROQUE) seeking his agreement to the idea of a settlement. LAROQUE initially refused to entertain their proposal, but eventually agreed.

*Evidence, Bishop Eugene LaRocque*

MALCOLM was chosen to conduct negotiations with SILMSER. During the first week of September, SILMSER attended at MALCOLM's law office and in return for the sum of \$32,000.00 executed a Full and Final Release (Release), a Direction to the CPS to terminate their investigation and a Certificate of Independent Legal Advice. Cornwall lawyer Sean Adams (ADAMS) provided the independent legal advice to Silmsers.

*Exhibit C-1154  
Overview of Documentary Evidence,  
Angus Malcolm MacDonald*

*Evidence of Sean Adams*

When advised of the settlement and SILMSER's direction to terminate the investigation, the CPS head of CIB (and SEBALJ'S supervisor), Staff Sergeant Luc Brunet (BRUNET), was concerned and upset. He contacted MURRAY, who responded both verbally and in writing that Ministry policy precluded prosecutions of historical sexual assault where the alleged victim was unwilling to proceed.

*Evidence, Staff Sergeant Luc Brunet*

By mid-September of 1993 the CPS investigation appeared to be at a dead end. However, word of the termination of the investigation began to circulate within the CPS. Constable Perry Dunlop (DUNLOP) obtained a copy of SILMSER's handwritten statement from SEBALJ.

*Exhibit C-1236  
Overview of Documentary Evidence,  
Heidi Sebalj*

DUNLOP met with the Executive Director of the SD&G Children's Aid Society (CAS), Richard Abell (ABELL) on September 25 1993 and discussed the matter with him.

*Evidence of Richard Abell*

DUNLOP also expressed concerns about the matter to BRUNET, who cautioned him to let others deal with the situation. The matter was also discussed at a morning meeting of CPS senior officers that included the Chief of the CPS, Claude Shaver (SHAVER).

*Evidence of Staff Sergeant Luc Brunet*

DUNLOP provided a copy of SILMSER's statement to Abell. The CAS immediately commenced an investigation code-named Project Blue.

*Evidence of Richard Abell*

When SILMSER attended at the CPS on September 29 1993 to meet with SEBALJ and confirm his decision in writing, he informed her that he had received a telephone call the

previous evening from a “crazy lady” who turned out to be Helen Dunlop (HELEN). SEBALJ brought this information to the attention of BRUNET.

*Exhibit C-1236  
Overview of Documentary Evidence,  
Heidi Sebalj*

At the beginning of October 1993, SHAVER and BRUNET travelled to Ottawa to meet with the Papal Nuncio, Archbishop Carlo Curis (CURIS), who counselled them to share their concerns to LAROCQUE which they did that same afternoon.

*Evidence of Claude Shaver*

LAROCQUE spoke with FATHER CHARLES, who at that point was still the parish priest of St. Andrews. FATHER CHARLES was sent to Southdown in Aurora, Ontario for treatment.

*Exhibit 2235  
Overview of Documentary Evidence, Charles MacDonald*

Staff Sergeant Garry Derochie (DEROCHIE) of the CPS was instructed by SHAVER to investigate DUNLOP’s actions in the matter. It was decided that DUNLOP would be counselled for his actions, but this never took place.

*Evidence of Garry Derochie*

On November 25 1993, Ken SEGUIN was found dead in his home of an apparent suicide.

SHAVER tendered his resignation as CPS Chief effective December 31 1993.

**1994**

In early January, 1994, stories regarding the settlement appeared in the media. The DIOCESE held a press conference at which LARCOQUE, LEDUC and MALCOLM attended. They left the impression that the settlement was civil in nature.

*Evidence of Bishop Eugene LaRocque*

The following day, Ottawa lawyer Bryce Geoffrey (GEOFFREY) who was now acting for SILMSER, advised the DIOCESE that the Release contained an illegal clause that required SILMSER to terminate the criminal investigation.

*Evidence of Bryce Geoffrey*

The DIOCESE then held a second press conference at which LAROCQUE corrected the facts underlying the settlement and apologized for previously misinforming the public.

*Evidence of Eugene LaRocque*

CPS Acting Chief JOHNSTON requested that the Ottawa Police Service (OPS) conduct an audit of the FATHER CHARLES investigation. OPS Superintendent Brian Skinner (SKINNER) and OPS Staff Sergeant Bill Blake (BLAKE) conducted an audit and delivered a report which was critical of the SEBALJ investigation and the conduct of CPS senior management personnel (and MURRAY), but which identified no evidence of criminal behaviour on the part of any police officer.

*Evidence of Brian Skinner*

## **THE 1994 OPP INVESTIGATIONS**

### **OPP Officers**

Retired Detective Inspector Tim Smith, Case Manager  
Retired Detective Constable Mike Fagan, Lead Investigator  
Retired Detective Constable Chris McDonell, Investigator

**Crown(s):**

Peter Griffiths, Director of Crown Operations, East Region

***MANDATE***

JOHNSTON exchanged correspondence with OPP Deputy Commissioner R.E. Piers (PIERS) at the end of January, 1994. JOHNSTON requested and PIERS agreed that the OPP would examine the investigation of the alleged sexual assault against SILMSER by FATHER CHARLES. A suggested mandate for the OPP investigation was set out in a letter from JOHNSTON to PIERS dated January 31 1994.

***Exhibit 2558***

***Letter from Carl Johnston to R.E. Piers, January 31 1994***

The three-pronged mandate proposed by Johnston addressed: (1) media allegations of an alleged conspiracy between the CPS and the DIOCESE to effect a civil settlement with SILMSER, thus terminating criminal proceedings; (2) whether there was an obstruction of justice when two lawyers, one acting on behalf of SILMSER (ADAMS), the other on behalf of the DIOCESE (LEDUC), worked to bring about a cash settlement which resulted in the termination of the CPS investigation, upon consultation with MURRAY; and (3) whether in the absence of co-operation of SILMSER the CPS should consider proceeding with the prosecution against the local priest (FATHER CHARLES).

***Exhibit 2558***

***Letter from Carl Johnston to R.E. Piers, January 31 1994***

On February 2 1994, the OPP announced in a News Release communiqué that the OPP would be conducting a new investigation into SILMSER's allegations of sexual assault. Detective Superintendent Wayne Frechette (FRECHETTE), OPP Director of CIB, was listed as the contact name.

***Exhibit 2559***

***News Release***

***'New Investigation into Allegations of Sexual Assault',***

***February 2 1994***

On February 3 1994, Detective Inspector OPP D/Insp. Tim Smith (SMITH) of the CIB (Kingston Office) received a telephone call from FRECHETTE, his Supervisor, assigning Smith to conduct the investigation.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 50*

SMITH testified that as his investigation unfolded he became aware that the two lawyers most involved with the settlement were MALCOLM and LEDUC.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 57*

SMITH also believed that it was part of his mandate to investigate MURRAY's involvement. He considered MURRAY a suspect in the obstruction of justice investigation.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 59, 62*

SMITH's notes for February 3 1994 indicate that the first call he made following his assignment to this investigation was to Peter Griffiths (GRIFFITHS), Director of Crown Operations, East Region. (Griffiths was not in until Monday February 7 1994). He then called FRECHETTE back regarding who to contact. His next call was to JOHNSTON. They made an appointment for February 7 1994 to meet together with CPS CIB personnel to discuss the investigation and turn over their files to SMITH.

*Exhibit C-1803, BP 1054212  
Handwritten Notes of Tim Smith*

SMITH understood from the beginning that his mandate included a reinvestigation of SILMSER's allegations of sexual assault against FATHER CHARLES.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 65*

*Exhibit 2519*

*Letter from Carl Johnston to R.E. Piers, February 1 1994*

SMITH did not consider SILMSER's allegations of sexual assault against (the now deceased) SEGUIN were part of his mandate.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 68*

SMITH testified that he looked at all of the circumstances surrounding the settlement, including all of the lawyers directly involved in the settlement (MALCOLM, LEDUC, ADAMS) as well as MURRAY, and the parties involved (FATHER CHARLES, DIOCESE, AND SILMSER).

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 68 to 69, 114*

## **INVESTIGATIVE STEPS (PRELIMINARY)**

On February 7 1994, SMITH met with JOHNSTON to discuss the case and then with BRUNET to discuss the case and obtain documentation for his review.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp.70 to 72*

On February 8 1994 SMITH called GRIFFITHS and advised him he was starting his investigation and planned to commence "from the start". GRIFFITHS agreed that he would obtain a copy of the settlement for SMITH from the lawyers for the DIOCESE.

*Exhibit C-1803, BP 1054213  
Handwritten Notes of Tim Smith*

SMITH immediately made efforts to contact SILMSER, as a result of which he received a call from GEOFFREY. Upon being advised by SMITH that he had been assigned to investigate SILMSER's allegations, GEOFFREY replied that he represented SILMSER,

that they would cooperate fully in the investigation, and that SILMSER was happy the OPP were investigating the matter. SMITH told GEOFFREY he wanted to conduct a videotaped interview of SILMSER and agreed that GEOFFREY could be present. Initially a date was set for February 17 1994 at OPP Kanata Detachment.

*Exhibit C-1803, BP 1054213-14  
Handwritten Notes of Tim Smith*

## **ISSUES**

### **A. THE CONCURRENT INVESTIGATION**

At noon on February 8 1994, SMITH met with Detective Inspector Hamelink (HAMELINK), to obtain further information regarding HAMELINK's investigation.

*Exhibit C-1803, BP 1054214  
Handwritten Notes of Tim Smith*

It was SMITH's understanding that HAMELINK was conducting a concurrent investigation of SILMSER for an alleged extortion involving SEGUIN. The fact that SILMSER was both a victim and a suspect in concurrent investigations raised concerns for SMITH.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp.89-91*

They discussed what they were doing in their respective investigations. To SMITH it was apparent that they were going to trip over one another because they would each have an interest in common people. SMITH suggested to HAMELINK that he allow SMITH to proceed with SILMSER first (as a victim) and not approach SILMSER (as a suspect) "or we're liable to lose everything". SMITH wanted HAMELINK to work around SILMSER and let him continue his investigation to the point where he felt satisfied that he had got as much as he could at which point he would let HAMELINK know and then he could proceed with SILMSER.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp.93 to 94*

SMITH's plan was that when their investigations were complete, he and HAMELINK would get together, compare notes, see what they had, and then go to GRIFFITHS with their briefs for his recommendations.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 94*

On February 10 1994 SMITH called GRIFFITHS. GRIFFITHS advised SMITH that the lawyers for the DIOCESE would provide a copy of the settlement as requested. SMITH and GRIFFITHS then discussed the method for interviewing SILMSER, and whether he should be cautioned on extortion. It would appear that neither of them knew if what SILMSER was alleged to have done with SEGUIN fit the *Criminal Code* definition of extortion. On HAMELINK's behalf, SMITH requested and GRIFFITHS agreed to research the issue and advise.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp.107 to 108*

*Exhibit C-1803, BP 1054214  
Handwritten Notes of Tim Smith*

## **B. STAFFING**

Prior to his being assigned to this investigation in 1994, SMITH had been a criminal investigator since 1983 and a CIB Detective Inspector (acting in the role of Case Manager) since 1988. He came to the assignment with considerable experience on historical sexual assault investigations involving multiple male victims and perpetrators, having acted as Case Manager on both the St. Joseph's (Alfred) and St. John's Training Schools investigations. He was familiar with the challenges posed by victims in investigations of this kind. He did state that this was the first time that he had done non-institutional investigations - male on male.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, pp. 5 to 17*  
*November 12 2008, Volume 302, p. 57*

SMITH testified that his expertise in the investigation of sexual assaults of young people came primarily from his experience (as an investigator, sexual assault coordinator, and case manager) rather than training. He explained that there was very little training available, and what training there was involved female victims.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, pp. 5 to 8, 24*

For this investigation, Smith asked for one investigator and, at his request, was assigned Detective Constable Mike Fagan (FAGAN). FAGAN had worked as an investigator under SMITH for three years on the Alfred (St. Joseph's Training School). Given the mandate – dealing with the Chief of Police, the Crown Attorney, the Bishop, lawyers - SMITH thought that he was going to get “hands-on involved” in the investigation and, rather than send a Constable to deal with them, somebody with more experience and a higher rank would be appropriate. FAGAN could work on the sexual assault issue, given his experience on that with Alfred. SMITH had seen FAGAN's work and felt he was a capable investigator. Moreover, he believed that FAGAN had a knack of getting along with people, and that having been made aware of some of the difficulties that were encountered with SILMSER; he thought FAGAN would be a good candidate assisting in this investigation.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, pp. 78 to 79, 81 to 82*

SMITH testified that if anywhere along he required more personnel then he would get them. As matters developed, he would be able to get additional help from the HAMELINK investigation i.e. using HAMELINK's investigators Detective Constable Chris McDonell (McDONELL) And Detective Constable Don Genier (GENIER), with FAGAN to conduct parallel interviews. This served two purposes: (1) many of the

people to be interviewed were of common interest to both investigations; and (2) it would provide an opportunity for them to be aware of their respective investigations as each proceeded.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, pp.79 to 80*

SMITH went on to explain that both he and HAMELINK had a number of cases on the go and could only meet to exchange information periodically; however, if SMITH had one of HAMELINK's investigators helping FAGAN then there would be a constant exchange of information so that FAGAN could keep SMITH updated, and HAMELINK's investigators could keep him updated, on both investigations.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, pp. 95, 176 to 177, 184 to 186*

SMITH's expectation was that if HAMELINK's investigators came across anything relating to his investigation (FATHER CHARLIE, the conspiracy and the obstruct justice) he wanted it and he expected that HAMELINK's investigators would be aware of that.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, p. 96*

In explaining why he did not request FAGAN's assistance later on (in 1997) with Project Truth, SMITH stated that when you deal with long-term investigations involving sexual assaults, it has a tendency to burn you out. SMITH said that eventually (by 1997) he could see those signs with FAGAN.

*Transcript of Evidence, Tim Smith*  
*November 11 2008, Volume 301, pp. 85 to 88*

### **C. VICTIM RELATIONS AND WITNESS ISSUES**

On February 10 1994 GEOFFREY called SMITH to reschedule SILMSER's interview (from February 17 1994) to February 22 1994 at the OPP Kanata Detachment. GEOFFREY explained that he had to be in Court in Toronto on the original date, and would advise SILMSER of the change in plan.

*Exhibit C-1803, BP 1054214  
Handwritten Notes of Tim Smith*

On February 14 1994 SMITH called GRIFFITHS to report that he had received the settlement documents he had requested and they agreed to meet on the 21<sup>st</sup> in Ottawa. The meeting was attended by GRIFFITHS, his law student Claudette BREault, SMITH, HAMELINK, FAGAN, McDONELL and GENIER. SMITH's notes indicate that they discussed the SILMSER interview and how the settlement came about. He did not note, but did recall that the extortion issue came up, and could not recall if the subject of cautioning SILMSER arose.

*Exhibit C-1803, BP 1054215  
Handwritten Notes of Tim Smith*

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 105*

SMITH explained that it was agreed that HAMELINK would observe the interview (hidden from view) behind closed glass and that SMITH would put some questions to SILMSER about the extortion issue in order to give HAMELINK an idea of where he was going with his investigation without interfering with SMITH's investigation of SILMSER as a victim. He acknowledged that it was a chance they took and it worked, in that SMITH wanted to avoid cautioning SILMSER at all costs, and, it was never necessary to caution SILMSER.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 105, 109-110, 118*

The interview of SILMSER by SMITH and FAGAN on February 22 1994 (with GEOFFREY in attendance) took place in an interview room at OPP Kanata Detachment

and lasted approximately two hours. The interview was videotaped. SILMSER was asked for the details of his (four) allegations against FATHER CHARLIE, as well as about his allegations against SEGUIN and a third man, Cornwall school teacher Marcel Lalonde (MARCEL). At one point after SILMSER announced that he would have to leave before the interview could be completed. As his own lawyer (who had been late in arriving) was imploring him to stay, SILMSER stormed out of the room. GEOFFREY went after him and managed to get him to return.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 117*

*Exhibit 267  
David Silmsler - Video Interview, February 22 1994*

Regarding the February 22 1994 interview, SILMSER testified that every interview was difficult, but that this one was “...ten times harder. I think I wasn’t actually in a good state of mind when they brought me down here; I was frustrated, I was depressed...and Tim Smith just pushed, pushed, pushed, pushed. He wouldn’t let me have a second break. His questions were going bang, bang, bang, bang and I had been questioned so much through that period of time that my patience ran low.”

*Transcript of Evidence, David Silmsler  
January 30 1997, Volume 86, pp. 158 to 159*

The entire two hour videotaped interview of SILMSER was played in the hearing room on April 17th, 2007. Insofar as the content, tone and pace of the interview (conducted primarily by SMITH with interjections by FAGAN and GEOFFREY) are concerned, it is submitted that they were entirely appropriate in the circumstances, and that SMITH and FAGAN conducted themselves at all times with SILMSER in a patient,, respectful and professional manner.

*Transcript of Evidence, Volume 103  
Submissions by Neil Kozloff, OPP Counsel  
Alternative to Cross-Examination of David Silmsler*

*Exhibit 267  
David Silmsler – Video Interview, February 22 1994*

SMITH testified that in hindsight, he may have been able to conduct a better interview had he found a place to do it other than a police station (in a hard interrogation room) given SILMSER'S "experience with police stations" and given his nervous state and discomfort from the outset.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 118 to 121, 126*

SMITH also acknowledged that multiple interviews and statements can cause difficulties. As of February 22 1994, SILMSER had previously been interviewed by Church officials (2), CPS officers (2), OPP officers following SEGUIN's suicide (1), and the CAS.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 121-125*

In response to SILMSER's characterization of his interview by SMITH and FAGAN as "push, push, push", SMITH testified that "the difficulty seemed to come when I started questioning for more particulars...and I didn't know any other way to get what I needed...I thought that it was done as easily as I could. And I can't think of any other way I could have done it."

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 132*

SMITH went on to explain that he was trying to get what he needed as quickly as he could, given his concern to avoid yet another interview and the fact that he was not satisfied with the handwritten statement (SILMSER had provided to the CPS) because "... there was not enough particulars in it." SMITH's view was that otherwise there was insufficient detail in the information SILMSER had provided to lay a charge or to help him further in the investigation.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 137*

On March 1 1994, just one week after the interview, SILMSER called SMITH and left a message to call “*and if he didn’t he was going to press.*” SMITH called SILMSER who asked how the investigation was going. SMITH told him two officers were working on it and were in the process of interviewing altar boys. SILMSER replied that he didn’t care about them and wanted charges laid soon for what happened to him. SILMSER said “*he had another come forward who had the same thing happen to him*” by SEGUIN and FATHER CHARLES, but refused to give SMITH his name. SILMSER told SMITH he had better lay charges soon or “*we are going to the press*”. SMITH tried to explain that the investigation required some cooperation on his part, but SILMSER said he was “*pissed off*” and hung up on SMITH. SMITH called GEOFFREY who was out of town.

*Exhibit C-1803, BP 1054215-16*  
*Handwritten Notes of Tim Smith*

SMITH spoke to GEOFFREY the next day. GEOFFREY apologized for SILMSER’s actions, said he had spoken to him and told him to allow the police to get on with their investigation. SMITH asked GEOFFREY to get the name of the witness who was abused by FATHER CHARLES and give it to him. GEOFFREY said he would approach the person to have him report it to the police. SMITH advised GEOFFREY and GEOFFREY agreed that should SMITH require anything from SILMSER he would go through GEOFFREY rather than SILMSER.

*Exhibit C-1803, BP 1054216*  
*Handwritten Notes of Tim Smith*

SMITH testified that he never had a chance to really speak to SILMSER again after the February 22 1994 interview, and that any conversations he had with SILMSER after that (such as those in March 1994 and September 1994) were adversarial. The exception was when SMITH called SILMSER in December 1994 to tell him that there would not be any charges. At that time SILMSER thanked him for the investigation and apologized. When SMITH told him that the investigation would stay open – that if anything further came up they would reopen it – SILMSER seemed to be content with that. SMITH said: “*...that’s the best conversation I had with Mr. Silmser the whole time that I dealt with him.*”

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, p. 244*

*Exhibit C-1803, BP 1054215 to 1054216 and 1054229 to-1054230  
Handwritten Notes of Tim Smith*

#### **D. INVESTIGATIVE STEPS AND TECHNIQUES**

##### **1. Reinvestigation of Father Charles MacDonald**

SMITH testified that “*our intention was to conduct our own investigation...and start from the beginning, which would start with our own statement from Mr. Silmser*”.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 219*

SMITH felt that in order to mount a successful prosecution, other alleged victims would have to be found, given his previous experience in historical sexual abuse cases (wherein he had never obtained a conviction on “*the I on I*”).

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 220*

SMITH met with SEBALJ in March 1994 to discuss what she had done in her 1993 investigation.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 211*

SMITH directed his investigators to re-interview everybody (from the CPS investigation). In addition the investigators identified two additional persons (C-88 and C-89) who SMITH described as “*persons of interest to send to the Regional Director for recommendations*”.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, p. 222  
November 12 2008, Volume 302, p. 11*

Regarding the length of the investigation, SMITH testified that “*with sexual abuse you never know. You can’t put a deadline on things...I think I had indicated that realistically that by Christmas we would have it wrapped up...I was prepared for lulls, hoping that the press might generate some people coming forward...*”. In any event, GRIFFITHS called on October 4 1994 requesting an update and that the investigation be completed.

*Transcript of Evidence, Tim Smith  
November 12, Volume 302, pp. 40 to 44*

SMITH was asked about the failure to get copies of the correspondence between C-3 and LAROCQUE. He noted that C-3 had made it abundantly clear to FAGAN in February 1994 (as he had to SEBALJ previously) that he wanted nothing whatsoever to do with the investigation and just wanted to be left alone.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 24 to 35*

With regard to the interviews FAGAN conducted with C-88 and C-89, SMITH agreed that he would have asked a few more questions about what happened. The fact remains that their allegations were not of real assistance to the police (or GRIFFITHS) on the issue of reasonable and probable grounds.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 11 to 12*

With regard to the interview FAGAN conducted with FATHER CHARLES, SMITH testified that he prepared a list of questions and faxed them to FAGAN. SMITH added that it had been his intention to be there but for some reason or other couldn’t make it.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 50, 54*

SMITH felt that FAGAN was fully capable of conducting the interview, adding that had he been there the interview would have been conducted differently, that he wouldn’t have permitted MALCOLM to control it. However, SMITH pointed out the difficulties in

questioning priests as alleged perpetrators, and noted that MALCOLM's interjections gave them insight into FATHER CHARLES' defence.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, p. 55*

SMITH acknowledged the failure to properly research the dates of the acts SILMSER was alleging given the discrepancies between SILMSER's handwritten statement to the CPS and his videotaped interview by the OPP. SMITH also acknowledged the failure to question FATHER CHARLES in detail about C-3, C-56, C-88, and C-89. SMITH admitted that, in hindsight, he should have done the interview himself. "I take responsibility for that. I could have had a better interviewer assigned to this case."

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 65 to 80, 81 to 84 and 89*

## **2. Conspiracy and 3. Obstruct Justice**

SMITH says he looked at the police, the Church, and the Crown because that is where the evidence took him.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 92, 172*

With regard to the CPS, after his interview of SHAVER and because he accepted his version of events regarding his dealings with the Bishop, SMITH saw no need to conduct any investigation into other members of the CPS (because he believed SHAVER would have had to be involved for a conspiracy to work, and because) he found all three – SHAVER, BRUNET, AND SEBALJ – very credible as to what went on.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 98 to 100*

SMITH felt that there were just too many people who knew what was going on (in the CPS) to carry on a conspiracy.

*Transcript of Evidence, Tim Smith*

*November 12 2008, Volume 302, p. 103*

SMITH felt that in conspiracy investigations you look at motive and reward and that there was “*nothing in it*” for the police (or MURRAY) to not lay a charge. He also pointed out that MURRAY had previously prosecuted Christian brothers (in the Alfred case) and had turned in his own father (in February 1994).

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 112 to 113*

SMITH acknowledged that it would have been helpful to (formally) interview the CPS officers.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, p. 107*

SMITH also acknowledged that Sebalj could have been asked if she felt she had reasonable and probable grounds at any point, if she thought her investigation was concluded, about her dealings with SILMSER before and after the settlement, about her dealings with MALCOLM, and about her discussions with BRUNET and SHAVER regarding the settlement OR about her views regarding the alleged conspiracy and cover up.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 110 to 112*

SMITH testified that he had complete cooperation from the CPS and that anything he wanted or required was provided. He never considered BRUNET (or SEBALJ) as a potential suspects. He felt that MALCOLM was the common denominator in the settlement and termination of charges given that he was the only one known to have had contacts with FATHER CHARLES, the Bishop, LEDUC, SEBALJ, BRUNETT and MURRAY. For the whole thing to work there had to be the okay of the Chief. He had to be a central figure to make the conspiracy work. SMITH was satisfied that SHAVER and the Bishop did not get along (going back to the Deslauriers investigation in the 80’s) and

would not agree (conspire) to (do) anything. SMITH reviewed BRUNET's notes and spoke with him and believed that his explanations were reasonable.

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 191 to 201, 211 to 213*

With regard to MURRAY, SMITH and FAGAN interviewed him on July 14 1994. MURRAY told them that SEBALJ had clearly not reached a point of reasonable and probable grounds at their initial meeting and was seeking his direction. When he learned from SEBALJ that SILMSER was seeking a civil settlement from the DIOCESE, MURRAY – given the position he had taken during Ecclesia 2000 in opposition to such settlements - decided that he wanted an outside Crown to review the charge after it was laid (although he was of the view that his office could prosecute the case).

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 166 to 188*

*Exhibit 1233  
Interview Report of Murray McDonald, July 14 1994*

MURRAY confirmed that he was contacted by MALCOLM and advised that “*from our perspective it's unfounded but we're negotiating with this fellow.*” SMITH did not think that was unusual, given his previous experience with concurrent criminal and civil cases in the Alfred and St. John's Training School investigations. SEBALJ had made an entry in her notes that SILMSER had called her on August 24 1993, just prior to the settlement, and told her to take all the time she wanted. When he subsequently spoke to SEBALJ and then BRUNET in September 1993 after the settlement, MURRAY stated that “*they still didn't feel they had enough*” – even with C-3 and C-56 – to believe SILMSER (who was now an unwilling complainant) to the point of reasonable and probable grounds.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 190-200*

With regard to the settlement, and in particular the Release, MURRAY told the officers he had “*never seen this clause. I never knew about this, this bar on prosecutions.*”

***Exhibit 1233  
Interview Report of Murray McDonald, July 14 1994***

MURRAY went on to state that when he met with BRUNET after the settlement, he told him that if you (have a reluctant complainant and you) don't feel you have reasonable and probable grounds, then the answer is simple. No reasonable and probable grounds - no charge.

***Exhibit 1233  
Interview Report of Murray McDonald, July 14 1994***

When SHAVER called him at the end of September 1993 to express his displeasure about the settlement, MURRAY told him: *"The point is your officers don't even form RPG here. If you don't have RPG, if you have a reluctant complainant, you can't go any further."*

***Exhibit 1233  
Interview Report of Murray McDonald, July 14 1994***

In the statement he provided to SMITH, SHAVER said the Bishop told him that (of the \$32,000 paid to Silmsler), *"the Diocese contributed \$10,000, the priest contributed \$10,000, and another \$12,000 came from another source."* SMITH had a feeling that the other source was MALCOLM.

***Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, p. 152***

When he was interviewed, the Diocese Bursar, Gordon Bryan (BRYAN), told SMITH that he cut a cheque for \$27,000, suggesting the cut was \$27 and \$5.

***Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, p. 154***

SMITH testified that the issue of *"who paid what"* was not really an issue for him in his investigation of the alleged conspiracy and/or obstruct justice because it wasn't unreasonable to expect the DIOCESE to contribute money for one of its priests, nor would

it surprise him that one of the contributors was a close friend of the priest (MALCOLM) who was known to have money.

*Transcript of Evidence, Tim Smith  
November 12 2008, Volume 302, pp. 155 to 156*

Regarding the role of the Church, SMITH and/or FAGAN interviewed at least five Diocesan officials, including LEDUC (August 2 1994), LAROCQUE (September 12 1994), BRYAN (September 13 1994), Father VAILLANCOURT (September 29 1994) and MCDOUGALD (October 14 1994). In addition, SMITH met on March 7 1994 with Doug Seguin (DOUG) and Nancy Seguin (NANCY). (HAMELINK has suggested to NANCY that she call SMITH as she may have information to assist him in his investigation). At that time NANCY reported the details of her conversation with LAROCQUE on January 10 1994, including that the Bishop told her that the Church was advised to settle with SILMSER to avoid scandal and harm to FATHER CHARLES' reputation, that it would be a lot quicker and cheaper, that in return, SILMSER was to stay quiet and not bring charges against FATHER CHARLES, and that while he was against settling this way, it was LEDUC's decision to make.

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, pp. 125-133*

*Exhibit C-1803 BP 1054216-1054219  
Handwritten Notes of Tim Smith*

It is submitted that it is significant that in his meeting with the DOUG and NANCY the Bishop appeared to be adverting to the illegal clause at a time (immediately after the first press conference) when he has always maintained (at the second press conference and in his interview with SMITH and FAGAN) that he was (still) unaware of it. It may be that NANCY misquoted him or that she confused what he told her then with what she later heard or read after the second press conference. In any event, there was no other evidence then (or now) that the Bishop knew about the illegal clause until just before the second press conference (after GEOFFREY had brought it their attention).

At any rate, during LAROCQUE's interview, NANCY's version of their conversation – in particular what he said about not bringing charges - was put to LAROCQUE. He denied saying that, adding that he would never have agreed to that clause.

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, pp. 180 to 183*

Regarding the interview with LEDUC, SMITH testified that he was pretty well satisfied at this point in his own mind that MALCOLM had drafted the settlement document containing the illegal clause. LEDUC acknowledged that he sent MALCOLM a precedent to assist him, and that MALCOLM sent a draft back for corrections. Leduc stated that the word 'criminal' could have been there (in the returned draft) at the time, but (if it was) he did not catch it. On all accounts LEDUC was not present at the time the documents were executed. SMITH testified that the fact that LEDUC (claimed he) did not review the signed documents afterward before releasing the funds to MALCOLM for payment to SILMSER did not make him suspicious. Nor did it strike SMITH as unusual that both MALCOLM and LEDUC sought out the Crown with regard to a civil settlement

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, pp. 180 to 183*

*Exhibit 1892  
Interview Report of Jacques Leduc, August 2 1994*

SMITH testified that he did not ask either LEDUC or MALCOLM for their files – or (try to) get a search warrant for them – because he was satisfied that he had sufficient information to put together a brief and send it to GRIFFITHS for his advice.

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, pp. 180 to 183*

SMITH testified that he was well prepared for his meeting with LAROCQUE. During this interview, it was suggested to LAROCQUE and he acknowledged that the Diocesan protocol (for dealing with allegations against priests) was not followed that is, no file was opened, the CAS was not notified, the meeting minutes were erased, FATHER CHARLES

was not asked to resign (until later). Regarding his telephone conversation with SHAVER on the evening of October 7 1993, LAROCQUE stated that FATHER CHARLES “*never admitted to me that he’d had any sexual contact with young people.*” When confronted with SHAVER’s version, LAROCQUE replied: “*Well, he couldn’t have admitted to the assault because he never has, and, even after his treatment in Southdown, the same thing, he’s never admitted to the incident and relations with teenagers.*”

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, pp. 161 to 169*

*Exhibit 1790  
Interview Report of Bishop Eugene LaRocque, September 12 1994*

With regard to the settlement, LAROCQUE’s position was that he’d been pressured into it by MALCOLM and LEDUC, that when they initially urged him to make a settlement he had refused, and that after his return (from a Canadian Council of Bishops meeting) on September 1 1994, he reluctantly agreed to it.

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, p. 174*

*Exhibit 1790  
Interview Report of Bishop Eugene LaRocque, September 12 1994*

In SMITH’s view, the Bishop came across as very truthful and very forthright in the interview.

*Transcript of Evidence, Tim Smith  
November 24 2008, Volume 310, p. 179*

#### ***E. THE MARCEL LALONDE ISSUE***

SILMSER did not identify Marcel Lalonde (MARCEL) as an abuser in any of his dealings with the CPS or the Diocese. He initially made a bald allegation that MARCEL was one of his abusers in an interview with Greg Bell (BELL) of the CAS on November 2 1993.

BELL in turn notified Detective Constable Ron Wilson (WILSON) about the existence of the allegation on December 14 1993. WILSON had made efforts to speak with SILMSER just prior to that on December 7 1993. SILMSER told him he “*wanted to let it drop*” and refused to meet with him. WILSON told SILMSER to think it over and call him back if he wanted to talk.

The CAS made numerous efforts to convince SILMSER to cooperate with their investigation following the November 2 1993 meeting, to no avail. SILMSER would never provide any further information or assistance to the CAS, in particular with regard to MARCEL.

In his testimony, SMITH’s recollection was that it was WILSON who brought the Marcel Lalonde allegation to his attention prior to the interview of SILMSER on February 22 1994. BELL had also provided the information to GENIER Genier in an interview on February 8 1994. BELL also gave GENIER a transcript of his November 2 1993 interview of SILMSER.

It was SMITH who raised SILMSER’s allegation against MARCEL with SILMSER during the February 22 1994 interview. SILMSER reluctantly provided a few details. SMITH could not recall if he had read the transcript of BELL’s interviewed SILMSER. In any event, MARCEL was not part of his mandate.

SMITH addressed MARCEL with Bell in a telephone call on March 21 1994. BELL told him that SILMSER had not been specific regarding his allegations and when he was requested to provide further details to the CAS, SILMERS did not respond.

The following day SMITH met with ABELL, BELL, and Bill Carriere (CARRIERE) at the CAS regarding the FATHER CHARLES investigation. SMITH raised the MARCEL issue again, recommending that the CAS should advise the school board about him. Their response was that they could not pursue the allegation further without more details from SILMSER, which they had been trying without success to get for over four months.

On July 21 1994, to SMITH wrote to Acting Chief JOHNSTON regarding SILMSER's allegations against MARCEL. SMITH could not recall (or otherwise account for – some 15 years after the fact – what if anything (else) he had done about the MARCEL allegation in the interim between his interview of SILMSER and letter to JOHNSTON.

Efforts by the CPS to get SILMSER to cooperate with an investigation of MARCEL were equally unsuccessful. Nothing further occurred with respect to MARCELL until others came forward with allegations against him in 1996.

**References for all of the above:**

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 138 to 165*

*Transcript of Evidence, Volume 103, pp. 2 to 7  
Submissions by Neil Kozloff, OPP Counsel  
Alternative to Cross-Examination of David Silmsler*

*Exhibit 391  
Handwritten Notes of Detective Constable Ron Wilson, July 26 1993  
(redaction modified, see Exhibit 391A)*

*Exhibit 391A  
Corrected Redacted page from Notes of Ron Wilson, July 16 1993  
BP 737488*

*Exhibit 397  
Handwritten Notes of Detective Constable Ron Wilson – Date*

*Unknown*

*Letter from Tim Smith to Carl Johnston, July 21 1994*

*Exhibit C-1803  
Handwritten Notes of Tim Smith*

*Exhibit C-2324  
Case Notes Package from Greg Bell, October 14 1993*

*Exhibit 2454  
Detective Constable Don Genier, Notebook 6*

**F. RELATIONSHIPS WITH OTHER INSTITUTIONS:**

SMITH testified that his relationships with the CAS and CPS were excellent, that each was totally cooperative with him in the investigation

*Transcript of Evidence, Tim Smith  
November 11 2008, Volume 301, pp. 165 and 191*

## **G. INVESTIGATIVE RESULTS**

In mid-November 1994, SMITH and FAGAN submitted three briefs to GRIFFITHS in relation to the various parts of their investigation:

1. The investigation of Father Charles MacDonald;
2. The investigation into alleged collusion between Crown, Church, and Police in Cornwall; and,
3. The investigation of Angus Malcolm MacDonald for Obstruction of Justice.

On December 21 1994 Griffiths wrote two letters to Smith.

In relation to FATHER CHARLES, it was GRIFFITHS' advice based on the material provided in the brief that *“the vagueness of the allegations, the difficulty in placing them within a reliable time frame, and the lack of corroboration all combine to prevent the evidence from reaching the threshold of objective reasonable and probable grounds.”* In addition, noting that SMITH was not subjectively satisfied that he had reasonable and probable grounds, it was his opinion that absent that belief charges could not be laid by SMITH.

*Exhibit 393  
Letter from Peter Griffiths to Tim Smith, December 21 1994*

In relation to the alleged collusion, GRIFFITHS observed that there was no evidence, direct or indirect, of any agreement between the parties. He agreed with SMITH's assessment that objectively there were no reasonable and probable grounds to warrant the laying of any charges, also noting that SMITH was not subjectively satisfied that he had reasonable and probable grounds.

*Exhibit 1148*  
*Letter from Peter Griffiths to Tim Smith, December 21 1994*

In relation to the obstruct justice, GRIFFITHS sought and received a second opinion from another Crown before advising SMITH in January 1995 that in his view a charge against MALCOLM could proceed. Later that year, MALCOLM pled guilty and received an absolute discharge.

## **CONCLUSION**

GRIFFITHS was a very experienced Crown in 1994. At the time he was Director of Crown Operations, East Region. He was consulted at the outset, and at various times during the investigations. He did not then, nor did he in his testimony at the Inquiry, suggest that the investigations carried out by SMITH and FAGAN were anything but thorough and competently done.

With the benefit of hindsight, aided by knowledge of the facts that have only come to light since the work was done and by the luxury of time to reflect, it is possible to pick through an investigation conducted 15 years ago and identify things which could have been done and were not or which should not have been done but were.

In conclusion, it is respectfully submitted that the 1994 OPP investigations were carried out conscientiously, competently, thoroughly, and professionally.

## **4. EXTORTION INVESTIGATION**

64. Arising out of information obtained during the course of the investigation of Ken Seguin's death, an additional investigation into the possible extortion of Ken Seguin by David Silmsner was undertaken.

**Evidence of Chris McDonell**  
**CPI Vol. 299**  
**p. 3**

65. On December 21, 1993, Millar and McDonell interviewed Malcolm MacDonald regarding his involvement in the settlement discussions between Ken Seguin and David Silmser.

**Evidence of Chris McDonell  
CPI Vol. 298  
p. 193**

66. MacDonald's statement to the officers included his recounting of conversations between David Silmser, Ken Seguin and himself. According to MacDonald, Ken Seguin had been receiving calls from David Silmser from January 1993 onwards, making allegations of sexual abuse. In the ten days prior to Seguin's death, Silmser had been trying to get a settlement from Seguin. MacDonald had spoken to Silmser who was requesting \$10,000 per year for ten years, or he would go to the Ministry. MacDonald advised Ken Seguin to lay a charge of extortion against David Silmser, or at least tell his employer. Silmser had given Seguin until November 26, 1993 to get back to him with an answer.

**Ex. 973**

67. The extortion investigation was headed up by Det. Insp Fred Hamelink (Hamelink) and is fully reviewed in the written submissions filed by the OPP.

**Evidence of Fred Hamelink  
CPI Vol. 303  
p. 9**

68. McDonell was tasked with assisting Hamelink in the investigation and met with him at the Long Sault Detachment of the OPP on February 2, 1994. On

February 3, 1994, Cst. Don Genier (Genier) was assigned to assist in the investigation.

**Evidence of Fred Hamelink  
CPI Vol. 303  
pp. 12, 19**

**Evidence of Chris McDonell  
CPI Vol. 299  
p.2**

69. From time to time McDonell was also directed to assist Smith in his investigation of accusations that Father Charles MacDonald had sexually assaulted David Silmsler. McDonell believed his assignment to the investigations was based on his knowledge of the area and the people involved.

**Evidence of Chris McDonell  
CPI Vol. 299  
pp.6-7**

70. In neither investigation was McDonell the decision-maker. He received instructions as to whom to interview and he carried out those instructions.

**Evidence of Chris McDonell  
CPI Vol. 299  
p.9**

71. Commencing on February 3, 1994, McDonell, assisted by Genier, interviewed numerous people that may have had information that would further the extortion investigation. Included in these interviews were members of the Seguin family, Probation and Parole office personnel, CPS officers, C-8 and

others. These interviews were carried out based on the direction from Det. Insp. Hamelink.

**Ex. 2528**

**Evidence of Chris McDonell  
CPI Vol. 299  
p.14**

**Evidence of Fred Hamelink  
CPI Vol. 303  
p. 23**

**Ex. 604**

72. McDonell's (and Genier's) role in the extortion investigation was to interview witnesses, take statements and provide them to Det. Insp. Hamelink. It was Hamelink who determined the course of the investigation.

**Evidence of Fred Hamelink  
CPI Vol. 303  
p. 12**

**Evidence of Chris McDonell  
CPI Vol. 299  
pp. 7, 9-10, 58**

73. If, upon review of his work product, Det. Insp. Hamelink perceived a problem or deficiency it would be sent back for further work. McDonell did not recall receiving any criticism for his work from Hamelink.

**(Evidence of Chris McDonell, CPI Vol. 299, p. 140)**

74. Det. Insp. Hamelink testified that the primary investigators assisting him in the extortion investigation were McDonell and Genier. Det. Cst. Mike Fagan assisted in the investigation from time to time

**Evidence of Fred Hamelink**

**CPI Vol. 304  
p. 79**

75. Hamelink testified that in his view, McDonell was a thorough and seasoned investigator based on past experiences with him. In the extortion investigation McDonell carried out his duties in a timely and thorough manner. Hamelink stated that he reviewed the work product of McDonell and found no deficiencies therein. According to Hamelink, McDonell did not display any predisposition to a certain result nor did he attempt to exert influence in the decision-making process.

**Evidence of Fred Hamelink  
CPI Vol. 304  
pp. 79-80**

76. Because Hamelink had no prior knowledge of Genier, he paid close attention to his work product. Genier's work was found to meet the inspector's standards

**Evidence of Fred Hamelink  
CPI Vol. 304  
pp. 80-81**

77. Neither McDonell nor Genier balked at carrying out any assignments or tasks given to them by Hamelink in the course of the investigation.

**Evidence of Fred Hamelink  
CPI Vol. 304  
pp. 81**

78. Hamelink testified that after the brief was submitted there were no follow-up investigative steps directed by Peter Griffiths.

**Evidence of Fred Hamelink  
CPI Vol. 304  
pp. 81-82**

79. McDonell and Genier spent nine months on the extortion investigation and were the officers who performed the work that comprised the brief submitted to then Regional Senior Crown Peter Griffiths. The brief and its contents represented a full effort at investigating the matter. The brief was not deficient in any way.

**Evidence of Peter Griffiths  
CPI Vol. 332  
p. 328**

80. On October 12, 1994, Peter Griffiths provided his opinion to S/Sgt. Hamelink regarding the extortion allegations. His opinion, having reviewed the two volume brief, was that there was not sufficient evidence to provide reasonable and probable grounds to support a criminal charge of extortion.

**Ex. 2574**

81. On February 3, 1994, Spt. Frechette assigned Tim Smith to re-investigate Silmsers' allegations and tasked him with a three-part mandate investigating: whether there was a conspiracy between CPS and the Diocese to effect a civil settlement to cover up the allegations of abuse; whether there was obstruction by the lawyers who brought about the civil settlement; and whether in the

absence of a cooperating victim, should the CPS consider proceeding with the prosecution of the priest.

**Ex. 1803 bp. 106212**

82. Smith met with CPS S/Sgt. Luc Brunet on February 7, 1994 to obtain documentation about the investigation. He began investigating the next day.

**Ex. 1803 bp. 106213**

83. Smith determined that because of the number of high profile individuals to be investigated (the chief of police, the Crown Attorney, the Bishop, lawyers) he did not want to send a constable to do the interviews. He wanted to be hands-on involved as the interviews would require someone with more experience and a higher ranking protocol. Smith would conduct the interviews of the high-profile individuals and he would be the lead.

**Evidence of Tim Smith  
CPI Vol. 301  
p.79, 83**

84. Smith had asked that Cst. Mike Fagan (Fagan) be assigned to assist him in the investigation. He had worked with Fagan on the Alfred investigations and he felt that Fagan had a knack for getting along with people. One of the main reasons he wanted Fagan was because of his ability to deal with victims and alleged victims. He had seen Fagan deal with difficult victims and he handled them very well. Smith was aware of some of the difficulties with Silmsler and he felt that Fagan was someone who could assist with those issues.

**Evidence of Tim Smith**

**CPI Vol. 301  
p. 82**

85. Smith testified that as a result of the Alfred investigations, he had come to respect Fagan's ability to develop rapport with victims. He further testified that the toughest victims were usually assigned to Fagan. Smith agreed that Fagan was able to bring victims onside so that they would cooperate and provide information to the team, leading to a successful prosecution.

**Evidence of Tim Smith  
CPI Vol. 313  
pp. 65-67**

86. When questioned about his level of satisfaction with Fagan's work, Smith testified that the statements he took were short but to the point. He was satisfied with the statements as taken by Fagan and received no complaints from any Crown Attorneys who reviewed Fagan's work. The reason Smith did not ask Fagan to work on Project Truth was because, in his view, the years of long-term sexual assault investigations appeared to be taking their toll on Fagan. Smith did not disagree with the suggestion from Commission Counsel that Fagan may well have been beginning to suffer from "vicarious trauma" from the years of investigating child sexual abuse.

**Evidence of Tim Smith  
CPI Vol. 301  
p. 85-88**

87. Smith never wanted Fagan to do an interview alone. Smith always assigned two officers to conduct interviews of witnesses. He stated this is just good

practice and had nothing to do with any concern about the ability of the officer to conduct the interview alone.

**Evidence of Tim Smith  
CPI Vol. 301  
p.101**

88. In addition to Fagan, Smith availed himself of at least two other investigators, Genier and McDonell, who were working under Hamelink on the extortion investigation. This was a good arrangement as the two investigations were being conducted in parallel. A number of witnesses interviewed would be relevant to both investigations and it also allowed the two inspectors to be aware of the other's investigation.

**Evidence of Tim Smith  
CPI Vol. 301  
pp. 79-80, 97**

89. Silmsers was interviewed by Smith and Fagan at the Kanata OPP detachment on February 22, 1994. Silmsers's lawyer, Bryce Geoffrey, attended with Silmsers at the interview. Smith testified that, in hindsight, another location for the interview might have been better. Because Geoffrey arrived late to the interview, Silmsers was quite "antsy" about being in the police station. Smith testified that even Fagan could not calm him down and, in Smith's opinion, Fagan could calm anyone down or make them feel comfortable.

**Ex. 267**

**Evidence of Tim Smith  
CPI Vol. 301  
pp.118-119**

90. The interview was difficult for Silmsler and he at one point left the room for approximately 10 minutes. He had also expressed some concern about having to meet his wife. Both the officers and Silmsler's lawyer, Bryce Geoffrey, were trying to convince him to stay to finish the interview, despite this. Smith testified that his reasoning behind this was that Silmsler had already given a number of statements but he wanted more particulars than what had been provided in the most recent handwritten statement. Smith tried to accommodate Silmsler as much as possible, even having the interview in Ottawa so that Silmsler's lawyer could be present.

**Evidence of Tim Smith**  
**CPI Vol. 301**  
**pp. 132-135**

91. Silmsler testified at this Inquiry that during this interview he felt "pushed" by Smith, however he felt he had a good rapport with Fagan although that did not develop until later. In addition to having a good rapport, Silmsler also testified that in the years following this interview, he appreciated Fagan's intervention when, in 1997, Fagan contacted CPS on Silmsler's behalf to advise them that Silmsler had "too much on his plate right now" and could not be involved in two investigations at the same time. CPS was inquiring into Silmsler's allegations against Marcel Lalonde. Silmsler testified that this occurred while he was in the midst of the preliminary hearing for Father Charles.

**Evidence of David Silmsler**  
**CPI Vol. 86**

**pp. 129, 159, 181**

92. During the interview, Silmsler provided information about a former teacher, Marcel Lalonde, who Silmsler alleged was another perpetrator. Smith was in contact with the CAS in March 1994, however he did not share with them what Silmsler said in his statement about Marcel Lalonde. Smith testified that he somehow missed this. He was very apologetic and that there was no excuse for this oversight on his part. He took responsibility for his error. He did, however, provide a letter to the CAS and CPS in July 1994 outlining Silmsler's allegations. It was not suggested that this was something Fagan should have done. It is submitted that the reason for this is because he would have been under direction from Smith.

**Evidence of Tim Smith  
CPI Vol. 301  
pp. 140, 160, 164**

93. Although Silmsler was satisfied with his dealings with Fagan, he expressed concerns about Chris McDonell whom he claimed was a cousin to Father Charles and as such was distrustful of him. Chris McDonell testified that he is not related to Father Charles, either by blood or marriage.

**Evidence of David Silmsler  
CPI Vol. 86  
p. 159**

**Evidence of Chris McDonell  
CPI Vol. 299  
p. 65**

94. Silmsers also testified that he had been told by John Maloney that McDonnell was badmouthing him (Silmsers) to other altar boys he was interviewing. He testified that McDonnell was telling people he was a person with no credibility and that he was “cutting him to pieces in front of others”. Silmsers also testified that McDonnell had told John Maloney all about him, his allegations and his criminal record. McDonnell denied this allegation as well, stating that he did not speak to any members of the public about investigations. He testified he may have spoken to police officers about it.

**Evidence of David Silmsers**  
**CPI Vol. 86**  
**p. 127**

**Evidence of David Silmsers**  
**CPI Vol. 87**  
**pp. 20-22**

**Evidence of Chris McDonnell**  
**CPI Vol. 299**  
**p. 90**

95. It is submitted that both of Silmsers’s allegations regarding McDonnell are not supported by any evidence. What the Inquiry has heard is McDonnell’s uncontradicted testimony which puts to rest those allegations.
96. Smith testified that the 1994 investigations were a reinvestigation of what had been done by CPS. His directions were to re-interview everyone. In addition to those already interviewed, the OPP investigation also revealed additional witnesses to be interviewed. Attempts were made to locate other altar boys who would have been at St. Columban’s at the same time as Silmsers.

**Evidence of Tim Smith  
CPI Vol. 301  
pp. 222-3**

97. C-3 had come to the attention of the CPS in 1993 when Cst. Sebalj received information about C-3 being another victim of Father Charles. Cst. Sebalj contacted him on March 12, 1993. She spoke with him over the phone at which time he described an incident of sexual assault by Father Charles when he was an altar boy at St. Columban's. He declined to provide a statement for personal reasons and because he wanted to "forget about it and dealt with it". He did, however, ask Cst. Sebalj to keep in contact with him to let him know if she located further victims. In January 1994, C-3 took it upon himself to write a letter to Bishop Larocque setting out that he had been a victim of Father Charles and how it has affected his life.

**C-3 ODE  
CPI Vol. 106  
pp. 88-92**

98. Det. Fagan contacted C-3 on February 16, 1994 as part of the reinvestigation of Father Charles. C-3 did not wish to get involved, but stated that he had seen media coverage wherein the Bishop asked people to come forward. C-3 spoke about the letter he had sent to the Bishop and the Bishop's response.

**C-3 ODE  
CPI Vol. 106  
pp. 97-98**

99. Smith testified that at the time of this interview, it would not have been a good idea to make more efforts with C-3 to get him to come forward. Smith

testified that in his experience, if you leave reluctant witnesses alone after a while they come back. That is what happened later on with C-3 later.

**Evidence of Tim Smith  
CPI Vol. 312  
p. 64**

100. On June 6, 1994, Cst. Fagan was tasked by Smith with the interview of Father MacDonald. Although this is the type of interview that Smith would normally have done, given this witness' status and position, Smith was not available to do the interview. He testified that he did not reschedule the interview to a time more convenient to his own schedule because he had been trying to meet with Father MacDonald for some time and he was anxious to get it done. Smith had Fagan conduct the interview with Cst. Norm Hurtubise. He had faith that Cst. Fagan could conduct the interview. He also provided him with a set of questions he wanted answered. Malcolm MacDonald, Father Charles' lawyer, participated in the interview and intervened frequently. Although Smith testified that he would not have permitted as many interruptions and interventions by Malcolm MacDonald as Fagan did, Smith felt that the interview was still helpful as interruptions from counsel often result in some insight into potential defences. They were still able to confirm in this interview that Father Charles was in charge of altar boys and that Silmsner and other boys were altar boys.

**Evidence of Tim Smith  
CPI Vol. 302  
pp.53-59**

**Ex. 2251**

101. Also arising out of the interview was information about contacts between Father Charles and Silmsler, in particular, the “Dear Chuck” letter Silmsler had sent to Father Charles. This information was previously unknown to the team and was important information to uncover. Smith testified that an investigator collects information and that was good information. The more Malcolm MacDonald talked, the more information he provided. This gave the officers more leads. Smith also agreed that Fagan did not have any choice as to whether Malcolm MacDonald was present for the interview.

**Evidence of Tim Smith  
CPI Vol. 313  
pp.65-70**

**Ex. 309**

102. Insp. Smith was questioned about and acknowledged that there were some discrepancies put to Father MacDonald about the dates that SILMSER would have been an altar boy. The different dates are the result of information provide by SILMSER in two different statements: one being his handwritten statement provided to CPS in February 1993 and the other being his audiotape statement to OPP in February 1994. Insp. Smith acknowledged that he failed to properly research the issue of the dates and he took responsibility for it. Smith agreed that this was something that should have been looked at.

**Ex. 267**

**Ex. 2251**

**Evidence of Tim Smith  
CPI Vol. 302  
pp. 53-69, 80**

103. Insp. Smith also testified that had he conducted the interview, he would have asked more questions regarding C-3 and C-56. When asked if he considered doing a second interview, Smith testified that he was not going to do a second interview.

**Evidence of Tim Smith  
CPI Vol. 302  
pp. 84, 88-89**

104. It is submitted that Insp. Smith would have reviewed the statement that Fagan took. Neither at the time, nor at any time afterwards, did Smith or the Crown Attorney who reviewed the brief, raise any concerns with Fagan about the interview and the information that resulted from it. Although Smith may have a different interviewing style and technique from that of Fagan, no concerns were raised with the officer. As stated earlier, Smith testified that he had complete faith in Fagan.

105. Smith could not recall if the questions put to Father MacDonald in the June 1994 interview also touched on the conspiracy/obstruction of justice allegations. He testified that, in his opinion, the lawyers were more involved in that. Despite Father Charles being the principal, the lawyers worked out the settlement to which Father Charles contributed money. Ultimately, the obstruction of justice charge was laid and a finding of guilt was made against Malcolm MacDonald.

**Evidence of Tim Smith  
CPI Vol. 302**

**pp.60**

106. In addition to the reinvestigation of Silmsers' allegations and the obstruct justice, Inspector Smith was tasked with investigating the alleged conspiracy between the Diocese of Alexandria-Cornwall, the Cornwall Crown Attorney and the Cornwall Police Service not to lay charges in relation to Silmsers' allegations against Father Charles .

**Ex. 2566**

107. Numerous interviews were conducted in furtherance of the investigations. These included interviews and/or meetings with Heidi Sebalj, Murray MacDonald, Bishop Larocque and other Diocesan officials and Jacques Leduc. These statements were taken either by Smith and Fagan or one of these two officers and another officer. These statements formed part of the Crown briefs on the investigations into the Conspiracy not to lay charges and to the Obstruction of Justice through the \$32,000 settlement.

**Ex. 1242**

**Ex. 1233**

**Ex. 1790**

**Ex. 1892**

**Evidence of Tim Smith  
CPI Vol. 310  
pp. 124-125**

108. Fagan prepared the Crown briefs under the direction of Smith. Smith testified that he reviewed them in their rough, untyped form. He also testified that these briefs were somewhat rushed as Peter Griffiths let him know in October

1994 that they were required to finish the investigation. Smith provided Griffiths with the briefs by November 8, 1994.

**Evidence of Tim Smith  
CPI Vol. 310  
pp. 231-236**

109. Throughout the month of December 1994, Smith was trying to get in touch with Griffiths and it was only on December 20, 1994 that he received the Crown opinions over the phone. He also received two written opinions on December 21, 1994 regarding Silmsers' allegations against Father Charles as well as the conspiracy not to lay charges. Insp. Smith testified that Griffiths did not ask him to go and get more evidence.

**Evidence of Tim Smith  
CPI Vol. 310  
pp. 238-239**

**Ex. 393**

110. Smith called Silmsers shortly after receiving Griffiths' opinion. He explained to Silmsers that the matter had been reviewed and that there would be no charges. He advised Silmsers, however, that the investigation would stay open and that if anything further came up they would reopen it. According to Smith, Silmsers seemed content with that.

**Evidence of Tim Smith  
CPI Vol. 310  
p. 244**

## **5. ALBERT ROY AND NELSON BARQUE INVESTIGATION**

111. On November 23, 1994, CPS Cst. Heidi Sebalj (Sebalj) received information from Albert Roy (Roy) about allegations of sexual abuse by his former probation officers, Nelson Barque (Barque) and Ken Seguin. The allegations against Ken Seguin were not pursued as he had been deceased for approximately one year. Albert Roy provided an audio-taped statement to Sebalj November 24, 1994.

112. The OPP became involved in the investigation of Barque as a result of being contacted by Sebalj on November 25, 1994. Sebalj contacted McDonell as two of the locations of abuse as identified by Roy were outside the Cornwall City limits.

**Heidi Sebalj ODE  
CPI Vol. 200  
p. 60-62**

113. On November 29, 1994, Det. Cst. William Zebruck (Zebuck) attended at CPS to meet with CPS S/Sgt. Luc Brunet and Sebalj. Sebalj briefed Zebruck on what she had done so far in her investigation. Although Sebalj was handling the investigation for the CPS, Zebruck was investigating the allegations that would have occurred in OPP jurisdiction. Prior to this investigation, Zebruck did not know Barque.

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 7-9**

114. This investigation was a joint investigation between CPS and OPP, with Zebruck dealing with Roy's allegations against Barque and Sebalj looking

after the Probation and Corrections aspects. Zebruck was aware that there had previously been allegations of a previous incident involving Barque and an internal investigation at Probation and Parole regarding Barque as a result. Zebruck was not aware, however, of the extortion and Ken Seguin suicide investigations going on at the same time.

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 94-95, 13**

115. Zebruck's investigation began with the interview of Robert Sheets (Sheets). Sheets alleged that he had been a victim of Barque but he did not want to cooperate with the investigation. Sheets provided no statement and would not permit Zebruck to make any notes of his conversations with him. According to Zebruck, would stop talking if Zebruck took notes of their conversation.

**Evidence of William Zebruck  
CPI Vol. 305  
p. 17**

116. On December 3, 1994, Zebruck was able to secure an interview with C-90. He left a copy of this interview for Sebalj. C-90 confirmed that Barque had been his and Sheets' probation officer. He alleged that Barque always kept his door locked and kept magazines in the locked bottom left-hand drawer of his desk. Although C-90 did not say he was himself a victim of abuse by Barque, he confirmed Roy's allegations that Sheets had been abused by Barque. There was also mention of abuse by Richard Hickerson (Hickerson). However, neither Sheets nor C-90 wished to pursue the matters against

Barque or Hickerson. Zebruck did not follow up on the Hickerson matter for that reason. Any information Zebruck received, he passed on to Sebalj as Hickerson would have fallen under CPS jurisdiction.

**Ex. 121, bp.1078032-35**

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 19-20**

117. It is submitted that Zebruck was looking for corroboration of Roy's allegations and Sheets was able to provide that, even though he did not wish to be part of the investigation. Zebruck did not go further with whatever information was provided about Hickerson as it had nothing to do with Roy and he was not conducting a wide-sweeping investigation into all manners of historical sexual activities involving probation officers. Roy's allegations against Barque were his only concern.

**Evidence of William Zebruck  
CPI Vol. 305  
p. 21**

118. On December 5, 1994, Sebalj left for Zebruck a copy of her interview with C-44, another alleged victim of Barque. C-44 did not wish to be part of the investigation.

**Evidence of Bill Zebruck  
CPI Vol. 305  
pp. 27-28**

119. Cst. McDonell interviewed Roy on December 6, 1994 at CPS with Sebalj present. Zebruck testified that he attended CPS while this interview was going on. In the interview, Roy made allegations against Barque and Ken Seguin. He also described different locations where the assaults had occurred.

**Ex. 136**

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 33-34**

120. When Roy testified at the Inquiry on November 8, 2006, he described a very negative experience with McDonell. He described his interview by McDonell as being the scariest of all the interviews he did with police. He felt intimidated and belittled by McDonell. Roy further testified that he felt intimidated, physically, because of the position he was placed in (placed right in front of McDonnell). He also stated that McDonell did not care. Roy described McDonnell as being very bold, that he seemed to have no patience, and that he made Roy feel uneasy. According to Roy, McDonnell wanted to know details and he pushed it. Roy testified that he felt sick after he talked to this police officer. Roy testified he felt like he was in a vacuum, like it was “me against all of them, even the people that say they are here to help”. In addition, he testified that McDonell’s handwritten recording of Roy’s statement makes it sound like it is Roy talking but it is not. Roy testified that he did not read the whole statement and did not understand that he should. He automatically assumed he would not have to worry.

**Evidence of Albert Roy  
CPI vol. 66**

**pp. 51-55**

121. Roy agreed that he had trouble dealing with male authority figures such as police officers. He also agreed that part of the problem he had with McDonell during the interview had to do with the fact that when he attended for the interview on December 6, 1994, Roy was not aware that McDonell had been involved in the investigation up until then.

**Evidence of Albert Roy,  
CPI Vol. 70  
pp.45-46**

122. Additionally, Roy agreed that he was fearful of all males and that it was the proximity of the officer to Roy that made him uncomfortable. Roy agreed he did not advise the officer of his state of mind. Roy also agreed that the officer might not have been aware of the reaction he caused in Mr. Roy. He further agreed that when he met with McDonnell, other than the new information he provided about Ken Seguin, everything else in the statement he had already told to Sebalj. Roy further agreed that despite being uncomfortable in the interview with McDonell, he never asked Sebalj why she did not intervene even though, he testified, he was “looking around for her” for help. It is submitted that neither McDonell nor Sebalj had any way of knowing that Roy was as uncomfortable as he testified to being at the time.

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**Evidence of Albert Roy  
CPI Vol. 70  
pp.72-74, 114-115, 135, 138-140**

123. On December 7, 1994, Zebruck received Probation and Parole documents from Sebalj. He made copies of these documents and provided them to his superiors for them to do with as they saw fit. These documents included the 1982 Peter Siirs report. Zebruck believed that the investigation pertaining to Probation and Parole fell under CPS and therefore Sebalj's purview.

**Ex. 125**

**Evidence of William Zebruck  
CPI Vol. 305  
p. 95**

124. On December 13, 1994, Zebruck attempted to meet with Roy, however Roy was not available.

125. Based on the information gathered, Zebruck arrested Barque on December 14, 1994 for indecent assault and acts of indecency against Roy. The basis for the arrest was Roy's November 1994 statement to Sebalj.

**Evidence of William Zebruck  
CPI Vol. 305  
p. 89**

126. On December 16, 1994, Zebruck arranged through Cst. Sebalj to meet with Roy. At that time, Roy provided a very short statement. Zebruck testified that the reason for this was that Roy had a hard time talking to him. Roy did not trust men and would not meet with Zebruck until charges had been laid against Barque.

**Ex. 195**

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 37-38**

127. In addition to obtaining a statement, Zebruck wanted to meet with Albert Roy for the purpose of having Roy attempt to locate Barque's house. Zebruck testified that he was driving an unmarked police car. He further testified that he could not specifically say that Vicki Roy was with them, however if that was the only way to get Albert to go with him, then she could come.

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 40**

128. Roy testified before this Inquiry that Zebruck took Mr. Roy and his wife, Vicky, in an unmarked police car to identify Barque's home. Roy expressed dissatisfaction with how Cst. Zebruck dealt with him. Roy testified that while in the car, Zebruck said to Mr. Roy that all this would be hard on Barque and his family and he will probably commit suicide.

129. When this comment was put to Zebruck, he testified that he did not recall saying that. He further stated that he never said it and it is not something that he would say. He denied that he would have said anything to Roy to get him to back off the allegations. Zebruck also testified that he did not know Nelson Barque, either as a member of the community or as a probation officer, nor did he know any members of Barque's family. It is submitted that Zebruck had no reason and no motive to have made such comments to Roy.

**Evidence of William Zebruck**

**CPI Vol. 305  
pp. 41-42, 154-155**

130. Roy agreed that in his interview with Sebalj on November 23, 1994, he had expressed guilt about ruining Nelson Barque's life. He also agreed that he was afraid that Barque would take his own life.

**Evidence of Albert Roy  
CPI Vol. 70  
pp. 26-7, 31**

**Ex. 120**

131. Roy further testified that when he and his wife got back home, Roy called OPP to speak to Zebruck's supervisor at Long Sault. Roy testified that he did not recall who the supervisor was but that person said he would take care of it. He testified that no one ever called him back or followed up with him. He did not make a formal complaint to the police.

132. When this was put to Zebruck, he stated that his supervisor at the time was S/Sgt. Messich. Zebruck did not have any conversation with Messich about a complaint by Roy. He was never made aware of any complaint.

**Evidence of William Zebruck  
CPI Vol. 305  
p. 43**

133. Roy agreed that he did not include the complaint about Zebruck in his civil suit, as he was not suing the OPP for that and that he had no problem with Cst. Zebruck when he interviewed Mr. Roy at CPS with Heidi Sebalj there.

**Evidence of Albert Roy**

**CPI Vol. 77  
pp. 62-66**

134. Roy testified that he never felt threatened or intimidated by Zebruck. It was the “odd” conversation that bothered Roy. It was upsetting to him that Zebruck would speak in a “vulgar” way about a vulgar subject with Roy’s wife there. Roy thought, in retrospect, that Zebruck was trying to make him feel better and that Zebruck did not mean it in a way to intimidate Roy. Roy agreed that he did not feel intimidated.

**Evidence of Albert Roy  
CPI Vol. 77  
pp. 75-78**

135. Roy further testified that he would have preferred to be interviewed by female. He testified that when he met with the OPP, he was never asked if he would prefer to speak with a female officer. Roy thinks he told them, however. Roy also testified that apart from statements made in the car, Zebruck did not “do anything wrong against me”.

**Evidence of Albert Roy  
CPI Vol. 67  
pp. 72-73**

136. Zebruck began preparing the Crown Brief on Barque on December 22, 1994.

137. After arresting Barque, Zebruck continued his investigation. Although Sebalj's involvement in the Roy/Barque matters was by this time completed, Zebruck continued to utilize her as a resource. She assisted him in locating people. In January 1995, Zebruck continued to interview individuals from Probation and Parole. He received these individuals' names from Sebalj.

**Evidence of William Zebruck  
CPI Vol. 305  
pp. 48-49**

138. Beginning in January 1995, Zebruck interviewed a number of individuals from Probation and Parole. Although Zebruck's notes are rather sparse, he testified that if the individual had nothing of interest to say or did not contribute to his investigation, he did not have it in his notes. This included any follow-ups with potential victims whose names he received from the Probation and Parole employees.

**Evidence of William Zebruck  
CPI Vol. 305  
p. 50, 112**

139. Throughout his investigation, Zebruck provided Sebalj with information pertaining to matters that applied to her investigation of Cornwall incidents, including the information about Hickerson. He also received information from her in return.

**(Evidence of William Zebruck  
CPI Vol. 305  
p. 15, 21**

140. In speaking with the Probation and Parole staff, Zebruck was provided with information about Barque as a probation officer as well as the names of some of his former clients. Zebruck testified that he followed up on these names and interviewed them. However, where the former probationer did not have anything of interest to add, no notes were taken. In interviewing these individuals, Zebruck was looking for names of other potential victims. Zebruck kept notes of his interviews in a separate loose-leaf book and then transferred the information into his notebook. Although some of the names of individuals in the notebook had no contact information, Zebruck explained that he had other means of accessing their contact information and did not necessarily write it down.

**Evidence of William Zebruck**  
**CPI Vol. 305**  
**pp. 64-68, 72**

**Ex. 2587**

141. At the time of his interviews with Probation and Parole staff, Zebruck was not aware that they had been interviewed the year before by another OPP officer.

**Evidence of William Zebruck**  
**CPI Vol. 305**  
**p. 67**

142. Zebruck testified that one of the reasons he continued to contact people that Sebalj had already contacted was to get as much corroboration as possible for his Crown brief into the Barque allegations. He wanted a very comprehensive brief in order to keep Roy off the stand. He viewed Roy as a very fragile complainant and was trying to get a guilty plea from Barque. Zebruck

testified that even having to give three interviews to police, to have to keep retelling his story, was difficult for Roy. That was another reason why Zebruck did not want to have him to go to court.

**Evidence of William Zebruck  
CPI Vol. 305  
p. 53 and 101**

143. The Information pertaining to Nelson Barque was sworn on January 3, 1995 with a first appearance date of January 11, 1995. On April 19, 1995, Zebruck assisted Roy with a Victim Impact Statement. On July 10, 1995 Barque pleaded guilty. He was sentenced on August 18, 1995 to four months of incarceration followed by a period of 18 months probation.

**Ex. 193**

**Ex. 114**

## **Part IV**

### **Project Truth**

#### **1. OVERVIEW**

144. Project Truth was the name given to an OPP investigation. The Regional Director of Crown Attorneys for the East Region in 1997 had requested the OPP investigate allegations contained in a document prepared by Perry Dunlop (Dunlop) and his lawyer Charles Bourgeois (Bourgeois). The

allegations concerned primarily historical sexual assaults being perpetrated on young males by a group of influential citizens in Cornwall. Project Truth lasted approximately four years. It resulted in 15 persons being charged with a total of 115 counts of various sexual offences against 34 persons.

## 2. ORIGIN

145. In Part III, the initial allegations of David Silmsler (Silmsler) were discussed. In 1993, Silmsler alleged in a statement to the Cornwall Police Service (CPS) that he was the victim of Father Charles MacDonald and Ken Seguin. However, he indicated he was not ready to proceed with the investigation of Ken Seguin at that time. Consequently, the CPS only investigated the allegations concerning Father Charles. That investigation ended after Silmsler informed the CPS in early September 1993 that he did not wish the matter to proceed any further.
  
146. Those instructions were given to the CPS after he had made a cash settlement with the Diocese of Cornwall-Alexandria in the amount of \$32,000.00. In exchange for the money, Silmsler agreed not to take any legal proceedings, either criminal or civil, against any of the parties (the Diocese, the Bishop and Father Charles MacDonald). In addition, Silmsler agreed to terminate any actions that may be in progress, which of course was the then current investigation of Father Charles by CPS.

147. On September 23, 1993, Dunlop of the CPS became aware of the allegations of Silmsler. Cst. Dunlop knew Father Charles. He was concerned that young boys remained at risk of being abused by Father Charles since the investigation had been terminated. On September 29, 1993, Cst. Dunlop gave a copy of Silmsler's statement to Richard Abell (Abell) of the Children's Aid Society (CAS).
148. In early January, Silmsler's statement was leaked to the media and consequently became public. The fact that no charge had been laid against Father Charles became an issue.
149. On January 10, 1994, the new Acting Chief of the Cornwall Police Service, Carl Johnston (Johnston), requested that the Ottawa Police Service (OPS) conduct a review of the adequacy of the investigation done by CPS of Silmsler's allegations. The OPS concluded in a report dated January 24, 1994 that while the CPS investigation had been inept and ineffective there had been no attempt made to cover up the situation. They recommended that Silmsler's allegations be reinvestigated by another police service.

**Ex. 1207**

150. The OPP was requested by CPS on February 1, 1994 to reinvestigate the Silmsler allegations. They were also asked to investigate whether there was a conspiracy between CPS and the Diocese to effect the civil settlement. The

matter was assigned to Inspector Tim Smith on February 3, 1994. He felt his mandate required answers to the following questions:

- i. Was there a conspiracy between Cornwall Police and the Catholic Diocese to effect a civil settlement with the alleged victim, thus terminating criminal proceedings?
- ii. Was there obstruction of justice by lawyers who brought about civil settlement of the allegedly assaulted victim which resulted in the termination of a police investigation upon consultation with the local Crown Attorney?
- iii. In the absence of cooperation of the allegedly assault victim, should the Cornwall Police have considered proceeding with the prosecution against the priest?

**Ex. 1803**

**Evidence of Tim Smith  
CPI Vol. 301  
pP. 51-52**

**Ex. 2519**

151. The matters were investigated and Regional Director of Crown Operations for the East Region Peter Griffiths (Griffiths) was consulted. He reviewed the brief that was prepared and he agreed with Inspector Smith's view that no

reasonable and probable grounds existed to warrant the laying of charges in connection with Silmsers' allegations concerning Father Charles. Likewise, he agreed that there were no reasonable and probable grounds in connection with the alleged conspiracy among the CPS, the Diocese and the Crown Attorney to block the prosecution of Father Charles. These opinions were rendered on December 21, 1994. In January 1995 it was determined that Malcolm MacDonald (Malcolm) would be charged with attempting to obstruct justice based on his involvement in creating the settlement document. He was charged and later pled guilty.

**Ex. 1148**

**Ex. 1147**

152. In August of 1995, John MacDonald came forward with allegations against Father Charles. This caused another investigation to be undertaken, led by Insp. Smith. It resulted in Father Charles was charged on March 11, 1996 with seven counts of indecent assault against three complainants.

**Ex. 2254**

153. Meanwhile, Dunlop had been charged under the Police Services Act as a result of having given Abell of the CAS a copy of Silmsers' statement. CPS S/Sgt. Derochie had conducted an internal investigation of Dunlop's actions. Dunlop was charged May 4, 1994 with two counts of breach of confidence and one count of discreditable conduct. On January 31, 1995, the Board of Inquiry stayed the charges holding that Dunlop was in fact complying with his

statutory duty to report, as a police officer, when he turned the statement over to Abell. That decision was appealed by the Police Complaints Commission. The Divisional Court upheld the decision of the Board of Inquiry on December 7, 1995. Dunlop, who had been off work since January 1994, did not return to work until May of 1997.

154. On June 7, 1996, Dunlop instituted a civil action against Claude Shaver, Carl Johnston, Joseph St. Denis, Lucien Brunet, Brendan Wells, The Cornwall Police Services Board, The Cornwall Police Service, Doug Seguin, the Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall, Malcolm MacDonald and the Office of the Police Complaints Commission. The original Statement of Claim sought millions of dollars in damages. This original claim, dated July 5, 1996, centered on the investigation of the allegations of Silmsler and its fallout. Dunlop claimed there was a conspiracy to derail the investigation of Father Charles and Ken Seguin. He further claimed that his prosecution under the Police Services Act was an abuse of power. He also claimed to have been libeled and slandered by various defendants.

**Ex. 726**

155. The original Statement of Claim was amended on November 15, 1996. It alleged the existence of a clan of pedophiles whose activities dated back to about 1957. It further claimed that the investigations of Father Charles and Ken Seguin were purposely thwarted to protect not only those two but also

other members of the clan. Dunlop also claimed that in late August/early September 1993 a meeting took place at Stanley Island to plot the cover up of the allegations against Father Charles and Ken Seguin. Dunlop went on to name specifically as being present at Stanley Island:

Bishop Larocque

Father Charles MacDonald

Malcolm MacDonald

Claude Shaver

Ken Seguin

Murray MacDonald

**Ex. 672**

156. Dunlop claimed to have suffered personally and professionally as a result of the alleged conspiracy to cover up the sexual abuses. Dunlop and his counsel, Charles Bourgeois, had collected a number of statements, pictures and affidavits in support of the civil action. These materials, as well as the Amended Statement of Claim, were sent to Julian Fantino who at the time was the Chief of Police in London, Ontario. The reason they were sent to Fantino was because of his work on Project Guardian. This collection of materials has been referred to as “The Fantino Brief” or “The Dunlop Brief”. An interview of Dunlop on CBC’s “The Fifth Estate” and a video-taped interview of Ron Leroux and conducted by Perry Dunlop also accompanied the brief.

**Ex. 3034**

**Ex. 567**

**Evidence of Charles Bourgeois  
CPI Vol. 152  
pp. 73-74**

**Ex. 719**

157. Most notable among the documents were the allegations of Ron Leroux (Leroux). His affidavit contained an incredible cocktail of assertions. He alleged the existence of a clan of pedophiles. Leroux named those persons whom he alleged were clan members. He claimed to have himself witnessed sexual improprieties having taken place between minors and every single member of “the clan”. These acts would have taken place from roughly 1957 through to 1993. He claimed the acts took place in locales in and around Cornwall as well as at two specific locations in Fort Lauderdale, Florida.

**Ex. 567**

158. Perhaps the most outrageous allegation was Leroux’s claim to have witnessed a ceremonial ritual involving altar boys being fondled by members of the clergy, including a priest who would become the Bishop of Cornwall. Leroux said he himself was a victim of the Bishop and two other priests. He also stated that there was a conspiracy involving, among others, Chief Shaver, Murray MacDonald and Bishop Larocque, to quash the investigation concerning Silmsner’s allegations against Father Charles and Ken Seguin. In addition, he claimed there was a conspiracy to kill Cst. Dunlop and his family

because Cst. Dunlop would not let the Father Charles and Ken Seguin matters go. On February 7, 1997 Leroux attended the OPP detachment in Orillia and reported his allegations.

**Ex. 567**  
**Ex. 572A**

159. In January of 1997 Fantino gave the Dunlop materials to OPP Chief Supt. Frechette. The brief made its way to Tim Smith, probably because of his prior experience investigating allegations of historical sexual abuse at St. John's and St. Joseph's training schools, as well as the fact of his prior investigation of Father Charles. Det. Insp. Smith brought the brief and its contents to the attention of Crown Attorney Bob Pelletier who was then prosecuting Father Charles. The Fantino Brief had triggered some disclosure obligations in that case. Smith met with Pelletier on March 20, 1997. At that time, Smith requested that a meeting be set up with Peter Griffiths. That meeting was held on April 24, 1997.

**Ex. 392**

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**pp. 129-131**

160. Prior to the April 24, 1997 meeting, Smith had determined that the allegations called for a special investigation in the form of a Project.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**pp. 133-134**

161. Present at the meeting of April 24, 1997 were Griffiths, Pelletier, Crown Attorney Murray MacDonald, Smith, Hall, Genier and Fagan. Smith, Hall and Genier, from the police side, had read the Fantino brief prior to the meeting.

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 142-144**

162. The purpose of the April 24, 1997 meeting was to decide the course of action to be followed with respect to the allegations contained in the Fantino brief. It was decided that the matters would be investigated by a team lead by Smith. This would require Griffiths to formally request of Smith's supervisors that he be assigned. On May 27, 1997, Griffiths wrote to Supt. Larry Edgar to make that request. Griffiths asked that "Det. Insp. Smith be assigned to investigate the Dunlop/Bourgeois brief". It was this letter that lead to the creation of Project Truth.

**Ex. 2679**

**Ex. 2680**

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 145-147**

163. The name Truth was chosen by Hall and Smith on May 14, 1997. It was a simple expression of what they were doing, i.e. trying to find the truth about the allegations in the Dunlop brief.

**Evidence of Pat Hall**

164. In order to get funding as a special project, an operational plan was required. Det. Insp. Smith began work on the plan in March of 1997. In June of 1997 the plan was completed and had been submitted to OPP Headquarters in Orillia for approval. There were significant delays for that approval; in fact, it did not happen until June of 1998. Despite the delays for approval of the operational plan, the funding was in place by July 24, 1997. On July 28, 1997, a Press Release announced the investigation and invited persons with information to contact the Lancaster OPP.

**Ex. 1149  
Ex. 2681  
Evidence of Tim Smith  
CPI Vol. 319  
pp. 79-80, 185**

### **3. THE MANDATE**

165. The first order of business for Smith was to figure out the scope of what exactly was being investigated. The mandate for the investigation would dictate what was necessary to achieve it. The basis for the mandate was the Dunlop brief and letter to the Solicitor General dated April 7, 1997, Ron

Leroux's February 1997 statements and Peter Griffiths' May 27, 1997 letter.

The mandate was reduced to writing. It read as follows:

**Project Truth Mandate**

This investigation is being conducted into pedophile activity both historic and ongoing in the Cornwall, Ontario area. The alleged suspects are prominent and respected citizens of Cornwall and include lawyers, Catholic priests, a Catholic Bishop, teachers, probation officers, businessmen, a former Chief of Police and the present Crown Attorney. The alleged offences occurred and are occurring both in the City of Cornwall and the outlying area.

In addition, it is alleged the suspects were able to terminate investigations and prosecutions against them by abusing their position of trust within the community. It is alleged the Crown Attorney, the Diocese of Cornwall, and the Cornwall Police Service conspired to obstruct justice in these matters.

**Ex. 331**

**Evidence of Tim Smith  
CPI Vol. 311  
p. 147**

**Ex. 730**

166. The mandate was drafted after Smith, Hall and Griffiths reviewed the Fantino brief. The mandate did not contemplate that Project Truth would investigate every sexual assault complaint in the Cornwall area. On the other hand it was

not limited to investigate only the alleged perpetrators named in the Dunlop brief.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**pp. 165-6, 170**

167. The mandate was drafted before the investigation began and therefore prior to knowing exactly the nature of the allegations they would uncover. What the mandate was designed to include were those allegations set out in the Dunlop brief as well as those that could be said to be “associated” to them. Whether a given case could be said to be associated required the exercise of discretion and judgment.

**Evidence of Pat Hall**  
**CPI Vol. 316**  
**pp. 178, 187**

168. They were going to investigate those alleged perpetrators mentioned in the Dunlop materials plus any additional ones that could be said to be associated. The purpose of the investigation was to determine if they were involved in illicit activities with young males and thereafter to determine if any of the alleged perpetrators were acting in common in furtherance of the illegal activity under investigation.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**pp. 171-3**

169. “Associated” was interpreted to mean that the perpetrators could be associated by occupation, but could also be associated by victim. The latter case would

cover a situation in which a victim has two alleged perpetrators, one of whom was clearly covered by the mandate.

**Evidence of Pat Hall  
CPI Vol. 316  
p. 185**

170. The decision whether or not a specific case fit within the mandate generally was made by Pat Hall. However, Tim Smith would be made aware of the decision and would have the final word on the issue by virtue of his rank.

**Evidence of Pat Hall  
CPI Vol. 316  
pp. 182-183**

171. The term “Clan of Pedophiles” which appeared in the Dunlop material did not appear in the mandate. The term does not really have any meaning in the context of a criminal investigation. This required Project Truth to firstly investigate the allegations made against named persons. If it was determined that grounds existed to charge two or more of them with sexual offences then the evidence could be further reviewed to see if there was any evidence to support a charge that they conspired to act together or did act together to commit sexual assault. This would require more than two alleged perpetrators knowing each other or having a victim in common.

172. The mandate would therefore include not only looking at individuals but also at various associations between those individuals to see if evidence existed that would justify laying a conspiracy charge. The mandate therefore required

the examination of commonality of victims among alleged abusers, associations between abusers, evidence of assistance in perpetrating the abuse or evidence of covering up the abuse.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**p. 173**

173. Hall and Smith drafted the mandate, although Hall did most of the work. Hall's intention was to make it broad so that Dunlop's information was covered by it. Not surprisingly, at the time of drafting it was unknown how many victims or witnesses would have to be interviewed. The various Crowns who were assigned to the files were aware of the mandate. It was never raised as an issue that someone should or should not be in the Project Truth investigation. Obviously, not every case referred to Project Truth was considered to fit the mandate. If it did not, it was referred to the appropriate police force or detachment.

**Evidence of Pat Hall**  
**CPI Vol. 324**  
**pp. 67-68**

#### **4. OPP PROJECT TRUTH TEAM**

174. Smith had been the case manager from 1990-1997 of two major historical sexual assault investigations – St. Joseph's (Alfred) and St. John's Training Schools. These cases involved abuse of young male inmates of these two schools by the staff, the majority of which were either clergy or Christian

Brothers. There had been two investigations set up: one for St. Joseph's and the other for St. John's. There were over 1300 victims between the two cases.

Inspector Smith was in charge of both.

**Evidence of Tim Smith**  
**CPI Vol. 301**  
**pp. 7-8**

175. These two investigations had no previous provincial comparison. Smith was in new investigative territory. Shortly after being assigned to the Alfred investigation, he and Pelletier went to Newfoundland to learn from the Mount Cashel investigative and prosecutorial team. He sought particular guidance on case management and investigative techniques and particular with respect to interview techniques. None of the OPP investigators, himself included, had any significant experience interviewing adult male victims of historical sexual abuse. Smith wanted to make sure that his investigations were on the right track.

**Evidence of Tim Smith**  
**CPI Vol. 301**  
**pp. 9-12, 117**

176. Inspector Smith learned a great deal as those investigations and prosecutions unfolded. He learned for example that it was not uncommon for a victim to underreport, there was a reluctance to disclose penetration. These disclosures may come to light for the first time while the witness is in the stand.

**Evidence of Tim Smith**  
**CPI Vol. 301**  
**pp. 14, 18**

177. They also learned that it was best not to re-interview victims. The best interview would usually be the first. Re-interviewing could re-victimize the victim. It could also taint the case, for example by creating inconsistencies.

**Evidence of Tim Smith  
CPI Vol. 301  
pp. 14, 19**

178. As a result of these two investigations, Smith had the most experience managing male historical sexual assault cases in the OPP at that time. His experience managing the St. Joseph's and St. John's cases highlighted for him some problems with staffing.

179. A number of his investigators in St. Joseph's and St. John's were from out of town. This meant that they spent time travelling which was unproductive to the investigation. Smith was losing two days a week to travel in many cases. There were other issues associated with the investigators being away from home that Inspector Smith viewed as a negative. Therefore in Project Truth he wished his investigators to be fairly local.

**Evidence of Tim Smith  
CPI Vol. 301  
pp. 152-153**

180. Smith was aware that there was very little training available at the time for dealing with sexual abuse of young people. The training that was available dealt mainly with female victims. He wanted persons he felt he would be able to train, to pass on what had been learned in St. Joseph's and St. John's.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**p. 153**

181. Smith explained how he wanted statements taken. To that end, Smith very early on in the investigation brought down some court briefs he had done the Alfred investigations so that the officers could get an idea of how he wanted things briefs prepared.

**Evidence of Tim Smith**  
**CPI Vol. 313**  
**pp. 75-76**

**Evidence of Pat Hall**  
**CPI Vol. 316**  
**p. 220**

182. Smith wanted a small group. It is submitted that by keeping it small, it allowed for all the team members (investigators) to be aware of that status of all of the investigations. This would allow for an officer to have a heightened awareness of the potential relevance of a given piece of information. It would also allow for more probing interviews to be done. The investigators met daily and discussed what had gone on the day before and planned the upcoming day. This promoted the sharing of information.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**p. 153**

**Evidence of Tim Smith  
CPI Vol. 313  
pp. 72-74**

183. An example of how the small team could be a benefit was brought out by Commission Counsel in the evidence of Steve Seguin (Seguin). Seguin spoke to C-100 on September 1, 1998. C-100 alleged he was abused by Father Charles, however, he did not want to be involved in the investigation. He told Seguin that Father Charles had written him a letter of apology about what had happened. He showed the letter to Seguin but would not let Seguin keep it. On January 18, 1999 Cst. Dupuis attended C-4's residence. Dupuis became aware that C-4 had received a similar letter from Father Charles and he obtained it from C-4's brother. The connection between the two incidents was not lost on the Project Truth team who had spoken about them. This information was entered in the Crown brief.

**Evidence of Steve Seguin  
CPI Vol. 314  
pp. 94-97**

**Ex. 2705**

**Ex. 2722**

**Ex. 2885**

184. In St. Joseph's and St. John's, officers were assigned to the investigation. Smith did not get to choose his team which at one point consisted of 22 investigators. He was able to pick his team for Project Truth. He was quite pleased with who he got.

**Evidence of Tim Smith  
CPI Vol. 311**

**pp. 152-153**

185. Smith chose his team with the above consideration in mind. He chose people with sexual assault investigation experience, who were reasonably local and committed to the long haul and who were willing to learn.

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 153**

186. Pat Hall became part of Project Truth before he knew it. When Smith read the Dunlop materials and concluded that this would have to be investigated, he asked that Hall be assigned to the investigation of the alleged death threats against Dunlop and his family. Smith called Hall's supervisor on March 17, 1997 to free him up for the death threats investigation, but really what he wanted him for was the broader investigation. Smith realized the Dunlop material was going to spawn a large investigation. Smith knew he could not be hands-on full time. Smith felt that Hall was the most experienced investigator he knew. Smith felt that if he was going to take this case on, he wanted Pat Hall. Hall signed on the Project Truth after the April 24, 1997 meeting.

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 125-127**

187. Don Genier of the Lancaster Detachment was chosen because he was a detective with experience in sexual assaults as well as being fully bilingual.

Smith had some difficulties with the St. Joseph's investigation because he did not have bilingual investigators.

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 148-149**

188. Seguin from Long Sault detachment was seen as a good fit for the team. Smith had seen him work on the death threats investigation. He appeared to be eager and well respected by other officers.

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 149**

189. Joe Dupuis (Dupuis) was added in September 1997. Smith had envisioned having two teams. Each team would have an older and a younger detective on it. The younger officers would be Seguin and Genier. The older officers were to have been Joe Dupuis and Frank Wort. However, Wort could not make the time commitment. Therefore the "older" officers were Dupuis and Hall. Hall was wearing two hats because he was the supervisor as well as a part of the investigative team.

**Evidence of Tim Smith  
CPI Vol. 311  
pp. 191**

190. Lorne McConnery (McConnery), a prosecutor with over 30 years experience, testified before this Commission in a thoughtful, perceptive and unbiased fashion. He dealt with all of the Project Truth team in connection with the Father Charles prosecution in 2001 and 2002 and with respect to his opinions on the Crown briefs he submitted in August 2001. He said this about Hall and his team:

...generally speaking when I meet an officer because he is who he is, I have some respect for him in his position but then there's earned respect. And as I worked with these officers over the 10 months that I did, they certainly earned my respect. Pat Hall was very focused, he was a very driven investigator and I believed him to be trying to do what he was doing properly. I thought he was properly motivated, properly directing his mind to things...and I can tell you, sir, I thought the other officers were superb.

**Evidence of Lorne McConnery**  
**CPI Vol. 335**  
**pp. 39-40**

191. Deputy Commissioner Chris Lewis (Lewis) remarked on Hall's suitability to lead Project Truth: "There's nobody better to have that job than Pat Hall. Pat Hall has incredible integrity, incredible credibility. I think the world of him as an investigator and as a case manager".

**Evidence of Chris Lewis**  
**CPI Vol. 325**  
**p. 75**

192. Although the investigators had been brought into Project Truth, it would be erroneous to think they were exclusively dedicated to it. They had other cases on the go when they started with Project Truth. One only has to look at the large amount of redactions in the officers' notes to see that point.

**Evidence of Pat Hall  
CPI Vol. 316  
p. 169**

193. The fact that each officer gave up between \$5,000 to \$10,000 annually in overtime is testament to their dedication to the Project. They believed in the investigation.

**Evidence of Tim Smith  
CPI Vol. 311  
p. 192**

**Evidence of Tim Smith  
CPI Vol. 313  
p. 76**

## **5. INVESTIGATIVE PLAN**

194. On May 14, 1997 a meeting was held at East Region Headquarters to discuss as operational plan for Project Truth. In attendance were Smith, Hall, Genier, Seguin and Insp. Leo Sweeney (Sweeney). It was anticipated that all of the

allegations would be investigated, whether part of the original Dunlop material or through additional cases viewed to be associated cases. Once the investigation was complete, a brief would be compiled and submitted to a Crown.

**Ex. 2681**  
**Ex. 2744 bp. 7109476**

195. It is submitted that the Crown's input at this stage would allow for the following:
- a) direct further investigation to take place, where necessary;
  - b) determine, on the basis of a final police work product, what charges if any were appropriate and against whom,
  - c) determine whether or not the objective component of the RPG test was not met and therefore the Crown opinion was that there was no reasonable prospect of conviction;
  - d) as a caveat, although admittedly unlikely, in the face of such an opinion, the police were always free to lay charges
196. A computerized case management system (Access) was put in place. It had been specifically modified for this project.

**Ex. 2804**  
**Evidence of Pat Hall**  
**CPI Vol. 316**  
**p. 237**

197. An operational plan was drawn up in conjunction with the request for funding. The plan predicted that previously unknown victims would come forward and therefore expand the investigation. Therefore the actual size of the investigation was unknown at the outset. It was anticipated that the media would generate additional victims once the existence of Project Truth became known to the public. Those persons had to be interviewed. If it was determined that their allegation fit the mandate, then it was to be investigated by Project Truth. If it was decided that the case was outside of the mandate, then a referral to the appropriate police force would be made.

**Ex. 2681**

198. Smith would have overall responsibility for the investigations. However, Hall was the supervisor on a day to day basis. Between the two of them they had over fifty years of experience. The investigators had practically daily access to Hall. Smith attended the Truth offices usually on Thursday and Friday every week.

**Evidence of Pat Hall  
CPI Vol. 316  
p. 198**

199. At the outset of Project Truth, over a three month period, Seguin broke down the Dunlop material. This was the first step in organizing the investigative effort. Persons mentioned in the brief were identified as suspects, victims, witnesses or other.

**Evidence of Steve Seguin**  
**CPI Vol. 313**  
**p. 159**

**Evidence of Pat Hall**  
**CPI Vol. 316**  
**pp. 205-206**

200. Once this was done the actual investigations could start in an orderly and coherent fashion. The Case Manager's Assignment Register recorded the individual to be interviewed or the piece of information to be followed up on. It recorded when it was assigned and to whom and when it was completed. Project Truth completed approximately 1069 assignments.

**Ex. 2668**

201. Each assignment would spawn a document called the Case Manager's Assignment Form. This was cross-referenced to the Assignment Register. It recorded in summary form the background of the assignment, i.e. why it was being done, what was done.

**Ex. 2836**

202. The starting point of the investigation of a specific alleged perpetrator was to interview the alleged victim. The first few pages of the Assignment Register are exclusively devoted to alleged victims.

**Evidence of Pat Hall**  
**CPI Vol. 316**  
**p. 231**

203. Seguin's efforts had identified the names of the alleged perpetrators. The investigation of an identified perpetrator was assigned to one of the three investigators, who would be responsible for compiling the brief that the Crown would review. Although that investigation would be turned over to the lead investigator, in reality Hall was the lead in the sense that he directed the investigation on a day to day basis.

**Evidence of Pat Hall  
CPI Vol. 316  
p. 255**

204. The team did a current risk assessment for all alleged perpetrators: did this person currently pose a risk to and to whom? This was seen in fact as the most important part of the investigation.

**Evidence of Steve Seguin  
CPI Vol. 314  
pp. 105-6**

205. Although a particular officer was the lead on a file they were all expected to be knowledgeable about all the investigations. The team spoke daily about what they were going to do, what they had done. By knowing what the rest of the team was doing and what information they were getting allowed each person to see where things fit, to establish linkages if possible. It would allow them to see the different connections between the different players.

**Evidence of Steve Seguin  
CPI Vol. 315  
p. 164**

206. In the course of victim interviews they would often be provided with other names of persons who were thought to be victims, witnesses or someone of potential interest to Project Truth. Often the interviews would generate follow up in locating school records, hospital records, yearbooks etc. These documents have valuable potential to corroborate the victim's story or at least situate the events at a particular time.

**Evidence of Steve Seguin  
CPI Vol. 315  
p. 164**

207. The Dunlop materials dealt primarily with local sexual assaults. However, since they were dated, a number of persons needing to be interviewed were no longer local. Interviews were conducted practically from coast to coast and in the U.S.

208. The timing of these interviews was scheduled in a fashion to make efficient use of the time. For example, when the Renshaw brothers were interviewed in Walkerton on November 5, 1997 they were part of a series of interviews taking place in a number of locations throughout Southern Ontario.

**Ex. 2694 bp. 7128288**

209. At the beginning of the project, Smith explained to the team the way he wanted interviews to be done. One of the things he stressed was compassion, the idea of being there for the survivors.

**Evidence of Steve Seguin  
CPI Vol. 314**

**p. 125**

210. Smith provided Project Truth with briefs in connection with the earlier investigation he did with respect to the Silmsler allegations, the conspiracy and the attempt to obstruct justice. The extortion investigation of Insp. Hamelink was provided at a later point. Project Truth was also provided with the earlier CPS investigation and the OPS investigation.

**Evidence of Pat Hall  
CPI Vol. 316  
pp. 220-222**

211. The Association Report was part of the ACCESS system. It displayed the various associations persons had to others. It made connections to parties. It did not explain, except in the most general terms, the nature of the association. To get further insight one had to read the statements of the persons, either the named person or the person they were associated to. This document was helpful in tying together people for the purposes of preparing the brief. It could also be seen as a good starting point when doing a linkage analysis.

**Ex. 2697**

**Evidence of Pat Hall  
CPI Vol. 316  
p. 280**

212. When the Project started, Father Charles' case was assigned priority. This was because he had charges currently before the court. Smith was aware that if the investigation of the allegations against him turned up new charges that would probably impact on the existing charges. At the other end of the

spectrum was the conspiracy to obstruct investigation. It was decided that this investigation would be presented to the Crown last. This would allow for the fact that the other investigations had the potential of revealing evidence relevant to the conspiracy.

**Evidence of Pat Hall  
CPI Vol. 316  
p. 224-225**

213. While it was not possible to investigate all the cases at once, it was necessary to prioritize. It was the case manager who set the investigative priorities.

**Evidence of Steve Seguin  
CPI Vol. 314  
p. 132**

214. It is submitted that prioritizing cases meant delays in the cases put to the side. A simple solution would be to get more investigators. However by getting bigger you risk losing the real benefit of staying small, which was the ability of the team to keep track of what everyone was doing. In an investigation where it is so important to have the big picture in order to make connections the decision to stay small had considerable merit.

## **6. SELECTED INVESTIGATIONS**

### **a. DUNLOP DEATH THREATS INVESTIGATION**

215. The information about death threats first surfaced in the Dunlop material. Leroux alleged that he was present and overheard a conversation between

Malcolm MacDonald, Father Charles and Ken Seguin in which they talked about killing Dunlop and his family. This conversation was supposed to have taken place in the two week period before Ken Seguin's death which occurred on November 24, 1993. In October and November of 1996 Leroux gave a series of statements and affidavits to Dunlop and his lawyer, Bourgeois. He tells them about this alleged plot.

**Ex. 3034**

**Ex. 2715**

216. Leroux was interviewed within hours of Ken Seguin's death by the OPP in connection with that death. He did not mention this plot at that time.

**Ex. 561**

217. The OPP interviewed him a second time on March 28, 1994 in Norway, Maine. This was part of the investigation concerning Ken Seguin's death and whether or not he was being extorted by Silmsler. He again did not mention the plot.

218. On August 1, 1997, Silmsler gave a statement to Genier and Hall in the presence of Silmsler's wife. There he said that Dunlop told him that there was a contract on both their lives. The plotters included Malcolm and Father Charles. He said Dunlop first told him one and half years earlier, which would mean early in 1996.

**Ex. 395**

219. On December 18, 1996 when the Dunlop brief was sent to Julian Fantino, the covering letter made reference to the planned hit on the Dunlops. This would appear to be the first time that Dunlop brought the existence of the threats to the attention of any police agency.

**Ex. 719**

220. The brief found its way to Smith. On March 19, 1997, Hall was assigned to investigate the death threats. Shortly before that Helen Dunlop had come to the Long Sault detachment and had spoken to Steve Seguin wanting to know the status of the investigation. Hall called Helen Dunlop the next day and an interview was set up. One has to wonder why she would wait three months if she had a true belief that the threat posed a present risk.

**Evidence of Tim Smith  
CPI Vol. 316  
pp. 31, 44**

221. Leroux and Bourgeois attended at the Orillia OPP office on February 7, 1997. During the second of two taped interviews, Leroux tells about the threats on Perry Dunlop and his family. He claims he did not tell Perry until September-October 1996 out of fear for his own life, a fear of reprisal from the alleged plotters.

**Ex. 573A**

222. On March 21, 1997 Insp. Smith wrote to Chief Repa (Repa) of CPS. He told Repa of the alleged threats and the fact that the OPP were investigating. He requested that the Dunlop family and their residence be added to the hazardous address file. This fact was conveyed to Hall who relayed it to Helen Dunlop.

**ex. 1818**

223. Helen Dunlop was interviewed on March 21. She taped the interview apparently on the advice of her lawyer. During the interview, Helen was asked if Perry wanted to give a statement. She said she would check. She was asked if she felt she needed protection. She said she did not but would if the police felt she did after speaking to the alleged conspirators. At this point she clearly did not feel that the threat posed a risk to her or her family. It was clear that Helen Dunlop had no first-hand knowledge of the threats. The basis for the allegation was Leroux.

**Ex. 651**

**Evidence of Pat Hall**

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**p. 40**

224. Given that it was his family, Hall thought Dunlop might be concerned and wish to give a statement to shed what light he could on the matter. However on April 4, 1997 Helen said that Perry was not willing to talk to Hall and that

he had already given his statements. It is submitted that it is hard to understand why he would not want to at least try to cooperate.

(Evidence of Pat Hall, CPI Vol. 316, p. 38)

225. From Hall's perspective, he is starting a death threats investigation where the threat was allegedly made three and a half years before. There appears to be one witness: Leroux. Perry hears about the threat, depending on whose version is correct, for the first time in October 1996 or approximately February 1996 yet the police are not informed at that time. In fact the earliest date would be the 18<sup>th</sup> of December 1996 with the delivery of the Dunlop brief.

226. Hall was also mindful of the fact that Leroux dealt with the police on a number of occasions and did not mention the threat. There was no information that any of the three persons who were behind the alleged threat had done anything to put the Dunlops' safety in jeopardy at any time.

(Evidence of Pat Hall, CPI Vol. 316, p. 45)

227. In early April 1997 Hall takes a number of investigative steps: he viewed the Leroux tapes and he listened to various tapes from the Dunlop brief; he provided Helen with an update; he informed her that the interview of Malcolm

and Father Charles would be the last step; and he spoke to McDonnell about the interview he conducted in 1994 with Leroux.

(Evidence of Pat Hall, CPI Vol. 316, pp. 54-60)

228. In early April 1997 Hall spoke to Smith about going to Maine to interview Leroux. Smith advised him of the upcoming meeting on April 24, 1997 with Griffiths. Smith asked him to hold off on the interview until after that meeting.

(Evidence of Pat Hall, CPI Vol. 316, p. 62)

229. Hall was aware of Helen Dunlop's concerns however he was skeptical of the delay from the time between learning about it at the latest in October 1996 and waiting until March 1997 to do anything serious about it.

(Evidence of Pat Hall, CPI Vol. 316, p. 63)

230. At the April 24, 1997 meeting it was decided that Project Truth was commencing and the investigation would be carried out. The entire Dunlop materials were to be investigated. The death threats were simply part of the overall investigation that became Project Truth.

231. Hall contacted Helen Dunlop on April 30, 1997 and left a message for her that all the allegations were going to be investigated. He repeats the message in a telephone call to her on May 16, 1997.
232. It must not be forgotten that although Hall was initially enlisted to do the death threats investigation, he had become the day-to-day supervisor of Project Truth. Truth was a much larger undertaking than just the death threats investigation. Project Truth was starting up in the summer of 1997. Hall was heavily involved in the drafting of the operational plans and getting the project organized both from an administrative and investigative standpoint.
233. The death threats matter, it can be fairly said, went down on the priority list. Father Charles was before the courts and there were new allegations and victims to be investigated. Claude Marleau (Marleau) appeared with a whole new set of alleged perpetrators. In fact the alleged Dunlop death threat was over three years old before the OPP ever learned of it and there was no evidence of any steps taken to act upon it during that time.
- (Evidence of Pat Hall, CPI Vol. 316, p. 89-92)
234. There has never been any suggestion that the Project Truth team was not busy and were simply dragging their feet. They should not be criticized for not meeting the Dunlops' timetable. The OPP could be subject to criticism if they had investigated it, at the expense of other more pressing matters.

235. On August 1, 1997, Hall interviewed Silmsler about the death threats. Silmsler had gone to CPS and reported the death threat on July 4, 1997. Insp. Trew (Trew) spoke to Hall on July 7, 1997. He opined that Silmsler's attendance at CPS may have been orchestrated by Dunlop as a tactic to kick start the investigation.

(Evidence of Pat Hall, CPI Vol. 316, p. 94)

236. On August 7, 1997 Dunlop met with Smith and Hall in the presence of Trew at CPS. Hall spoke to Dunlop about the Silmsler interview and the discrepancy between him and Silmsler as to when Dunlop knew about the threats. Dunlop denied telling Silmsler about it. Hall asked Dunlop for a statement, who became agitated at the request. Smith diffused the situation by telling Dunlop to speak to Silmsler and straighten it out.

(Evidence of Pat Hall, CPI Vol. 316, pp. 102-104)

237. Hall was busy with Project Truth investigation and other priority matters; however on November 25, 1997 Hall and Genier travelled to Maine to interview Leroux. In that interview he repeats the allegations of the death threats. At this point he says he thought those were the rantings and ravings

of an old man. He was not sure they were serious or that they could carry it out.

(Ex. 574A)

238. On January 26, 1998 Father Charlie was arrested on the second set of charges and Sgt. Hall instructed Seguin and Dupuis to try to get a statement concerning the death threats. Father Charlie exercised his right to silence. Malcolm was interviewed on June 8, 1998. He denied any threats being made.

(Ex. 2764)

(Ex. 2765)

239. The brief was sent off on August 19, 1998 to Robert Pelletier. On December 22, 1998 Pelletier sent his written opinion on the matter to Pat Hall. He opined that there was no RPG to lay any charges and even if there were grounds, there was no reasonable prospect of conviction. He also said that even if there were reasonable and probable grounds, it would not be in the public interest to pursue the matter.

(Ex. 2769)

240. The explanation for the delay is simply one of priority. With the huge workload, other more pressing matters demanded the team's attention.

#### **b. JACQUES LEDUC INVESTIGATION**

241. Jacques Leduc had previously come under scrutiny by the police because of his involvement in the cash settlement with David Silmser. It was because of that link that Project Truth took on the sexual assault allegations against him that were made by C-16 on May 7, 1998.

(Evidence of Tim Smith, CPI Vol. 311, p. 258)

242. On May 8<sup>th</sup>, 1998, Cst. Dupuis spoke to Cst. Charlene Davidson (Davidson) at the Lancaster Detachment. She had taken C-16's initial statement. She informed him of the fact that the allegations had been made. She wanted to know if that case was within Project Truth's mandate. Dupuis checked with Smith, who decided that the case was indeed a Project Truth case.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 27-28)

243. C-16 provided a video taped interview to Project Truth on May 11, 1998. In the interview he confirmed the contents of the statement he had provided to Davidson on May 7, 1998. He stated that he worked for Jacques Leduc in the summer on his property. He described having been sexually assaulted by

Leduc. The last assault was about three years prior. He gave the investigators the names of C-17 and C-23.

(Ex. 2373)

244. C-17 was spoken to by Dupuis on May 12, 1998 and gave a video statement on May 13, 1998. While Dupuis was speaking to C-17 at his residence on May 12, 1998, Leduc actually arrived at the residence. In his video statement he said that he, as well, worked for Leduc periodically in the summers. He, as well, said he was sexually assaulted by Leduc.

(Ex. 2609 bp. 7131291-2)

(Ex. 2374)

(Evidence of Joe Dupuis, CPI Vol. 308, p. 51)

245. On May 27, 1998 Dupuis interviewed a possible witness in the Leduc matter. While he was at the house the phone rang. Dupuis was advised that it was Leduc who called. Leduc had called to see if the witness would work for him.

(Ex. 2609 bp. 7131306-7)

(Evidence of Joe Dupuis, CPI Vol. 308, p. 54)

246. On June 15, 1998 Dupuis went to C-16's mother's house. He went there to pick up a video he had left with her earlier. It was a video to assist sexual assault victims. It had been prepared by the Project Guardian team. He made the following notation in his notebook. This notation occupied five lines in

his notebook. This was the first time Dunlop's name had come up in the Leduc investigation:

10:54 picked up Project Guardian tape from (C-16's)

Mrs. (C-16) stated that she had received a call from Perry Dunlop wanting to know how the investigation was proceeding.

(Ex. 2609 bp. 7131321)

247. Dupuis understood that this phone call took place while he was at the residence. Dupuis asked Mrs. C-16 not to speak to Dunlop while this investigation was going on. He did not know that she had spoken to Perry Dunlop earlier in the month of May.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 36-37)

248. When he returned to the office, Dupuis informed those present of the fact of Dunlop's call to Mrs. C-16. Hall was present, however Smith was not. He was told of the phone call when he next attended the office on June 18, 1998. This information was not noted in any of the officers' notes. It was not viewed as having any investigative significance because Dunlop's contact was not with an alleged victim.

(Evidence of Pat Hall, CPI Vol. 319, p. 167-8)

249. On June 22, 1998 Leduc was arrested. Project Truth did not prepare a brief and solicit a Crown opinion prior to Leduc's arrest. This was because the allegations concerned ongoing abuse, a matter of urgent concern, and not merely historical allegations.

(Evidence of Tim Smith, CPI Vol. 311, pp. 261-263)

250. On July 2, 1998 Shelley Hallett (Hallett) from the Crown Law Office was given responsibility for the prosecution of Jacques Leduc and Dr. Peachey. She was also asked to provide an opinion with respect to a brief prepared on the allegations against Malcolm.

(Evidence of Shelley Hallett, CPI Vol. 337, p. 29)

(Ex. 3114)

251. On July 23, 1998 Hall and Smith met with Dunlop in the presence of Trew. The main purposes of the meeting was to ensure that Project Truth had full disclosure of Dunlop's materials as well as discussing statements in the press that his wife had made that could undermine victim confidence in the competency of the investigation. In the course of the meeting, which lasted one-half hour to 45 minutes, the contact with C-16's mother was raised. Dunlop acknowledged two conversations with Mrs. C-16. In the first he referred her to the OPP (which had happened already). In the second he was simply calling to see how C-16 was coping. Neither Smith nor Hall made any

notes about this aspect of the meeting which occupied a minute or two of the discussion with Dunlop.

(Ex. 2685)

(Ex. 2648 bp. 1077005-7)

(Evidence of Pat Hall, CPI Vol. 318, pp. 103-105, 108)

252. On March 14, 2000, Hall received a copy of Dunlop's handwritten notes from CPS S/Sgt. Derochie. A copy of the notes was forwarded that same day to Shelley Hallett. On April 10, 2000 Hall had received the Dunlop 110 page will-say and its appendices (four binders). These documents were provided it to Hallett on April 17, 2000.

(Ex. 2623)

(Ex. 2807 bp. 1145570-1)

253. The trial began on January 15, 2001. On February 7, 2001 C-16's mother testified to having had two telephone contacts with Dunlop. She spoke of the June 15, 1998 contact and an earlier one (May 8, 1998). The first contact was in an effort to get some counseling for her son. She had been referred to Dunlop. She called and Dunlop offered to speak to her son (the offer was never taken up). He also gave some advice about suing Leduc. The second call, Dunlop was the originator. He was calling to find out how C-16 was doing.

254. When Dupuis, who was in the courtroom, heard C-16's mother's evidence it jogged his memory. He tried to find a reference to it in his own will-say but could not because it was not there. At a later point he tried his notes. It took him three tries before finding it.

(Evidence of Joe Dupuis, CPI Vol.308, pp. 61-64)

255. The five-line note, which Dupuis made of the June 15, 1998 contact with Perry Dunlop of C-16's mother, was not disclosed to the Crown and consequently not to the defence. Likewise this contact was not included in his own will-say Dupuis prepared for the Leduc case which was disclosed to the defence. The reason for this was simply oversight.

(Evidence of Joe Dupuis, CPI Vol.308, pp. 59-60)

256. Before this Commission, Hall explained how the five line entry in Dupuis' notes could have been missed by Dupuis when he was preparing his will-say for inclusion in the brief. The computer would list all the statements taken with respect to the accused person. The officers would provide their notes in relation to those statements. Since the attendance at C-16's mother's house on June 15, 1998 was not for the purposes of obtaining a statement, the computer would not generate anything with which to jog Dupuis' memory.

(Evidence of Pat Hall, CPI Vol. 319, p.162)

257. After C-16's mother testified about her contacts with Dunlop, court recessed. Dupuis called Hall who was at the office. He informed Hall of the substance of her evidence. Hall had read the will-say in its entirety on April 10, 2000. When Hall got the call from Dupuis he recalled the fact that there had been references to the conversations of May 8 and July 23, 1998.

(Evidence of Pat Hall, CPI Vol. 319, p.159)

258. Hall went to the Dunlop will-say and appendices and the handwritten notes. He specifically photocopied pages 68 and 69 of the will-say which contained the reference to May 8 and July 23, 1998, page 111 of Dunlop's handwritten notes, referencing May 8, 1998, Dunlop's notebook entry for July 23, 1998 and Hall's notebook entry for July 23, 1998. Hall went to the court house and gave Hallett these documents.

(Ex. 579)

(Ex. 2807)

(Evidence of Pat Hall, CPI Vol. 319, p.158)

259. The notes and will-say both record the May 8, 1998 conversation with C-16's mother. They also record the July 23, 1998 meeting with Smith and Hall and the fact that he was asked about his contact with C-16's mother. The June 15,

1998 conversation was not contained in either the will-say or the notes of Dunlop.

260. Hall, at Hallett's request, accompanied her, Seguin, Dupuis and her assistant to meet with defence counsel at the courthouse. She provided defence counsel with the documents Hall had photocopied.

(Evidence of Pat Hall, CPI Vol. 319, p.172)

261. Hall explained where the documents came from and when they had been received by the police. He did not tell them that Hallett had received all those materials by April 2000. There was a discussion of the July 23, 1998 meeting. The defence said these matters should have been disclosed and the police should have known that. Hallett's contribution to the meeting was to remark that "this is all news to me". It was clear that the defence was accusing the police of wilful non-disclosure.

(Evidence of Pat Hall, CPI Vol. 319, pp. 176-8)

262. Defence counsel, Steven Skurka (Slurka), attacked Insp. Hall and by implication Project Truth for what was an allegation of willful non-disclosure.

(Evidence of Steve Seguin, CPI Vol. 314, p. 136-137)

263. Hallett testified in chief that the defence were suggesting that the police wilfully suppressed any reference to Dunlop's contact with C-16's mother

(Evidence of Shelley Hallett, CPI Vol. 338, p. 130)

264. In cross-examination, she characterized the February 7, 2001 meeting with defence counsel in a different fashion. She testified that they were aggressive but not accusing the police of wilfully holding back. They were expressing concern about the Dunlop references not being in the brief.

(Evidence of Shelley Hallett, CPI Vol. 340, pp. 261-3)

265. Hallett testified that her response “this is all news to me” was a reference to the July 23<sup>rd</sup> meeting. Up until the February 7 meeting with defence counsel she stated that she had not been aware that Smith had questioned Dunlop about this contact with C-16’s mother, even though the event is referenced in the Perry Dunlop will say.

(Evidence of Shelley Hallett, CPI Vol. 338, p. 131)

(Evidence of Shelley Hallett, CPI Vol. 340, p. 264)

266. When Hall left the meeting he felt that defense was of the belief that the police had not disclosed those materials to Hallett. Hall indicated that he did not raise that in the meeting because he did not know what had been said in court that morning and he did not want to embarrass Hallett in front of defence counsel

(Evidence of Pat Hall, CPI Vol. 324, pp. 76-77)

267. Immediately after the meeting with defence counsel, Hall, Dupuis and Seguin met with Hallett and her assistant. Hall brought up the fact that defence was accusing police of non-disclosure. Hall reminded Hallett that all of this material had been given to her in April 2000. She acknowledged that by saying “yeah, yeah, yeah, I know”.

(Evidence of Pat Hall, Vol. 319, p. 177)

268. Hall was of the view that Hallett had not been honest with defence counsel. Given the fact that in the meeting with defence she said the information was a revelation to her and then immediately following the meeting she acknowledged that she had in fact had all the materials, it cannot be said that Hall’s belief was not without a factual foundation. What other reasonable interpretation can be put on those words? Hallett did not offer any explanation for her remarks to defence counsel.

(Evidence of Pat Hall, CPI Vol. 319, p.185)

269. Following that meeting Hall went back to the Project Truth offices. Hallett’s July 4, 2000 letter to Dupuis in which Hall was copied was retrieved. It was photocopied and the next day provided to Hallett by Seguin. The letter, among other things, acknowledged that she had Dunlop’s will say and appendices as of April 17, 2000. Hall had the letter sent to Hallett to remind

her of its existence and so she would have it if she decided to disclose it. Hall wrote across the letter “Shelley for your information”.

(Evidence of Pat Hall, CPI Vol. 319, p. 184)

(Ex. 2623)

270. She described receiving a copy of the July 4, 2000 letter from Seguin on February 8, 2001 as Hall “covering his ass”. She never thought to ask Hall about the letter and why it had been given to her. Therefore she never asked why he felt it necessary to “cover his ass”. Hall never asked her what she did with it. The letter was never discussed between them. If Hallett’s characterization of Hall providing copies of the July 4, 2000 letter inscribed with “for your information” is correct, it was to confirm the fact that she had indeed received and would be reviewing the material contained therein.

(Ex. 2826)

(Evidence of Shelley Hallett, CPI Vol. 341, pp. 11-13)

(Evidence of Pat Hall, CPI Vol. 319, p. 187)

271. On February 12, 2001, defense made a formal request for the disclosure as a result of the February 7, 2001 revelation. Defense has articulated their position flatly. They were accusing the police of willful non-disclosure. Hallett did not see this as anything more than a statement accompanying a disclosure request. She did not see this as a potentially serious problem that

could jeopardize the prosecution. The letter noted that although the evidence relating to C-16 could be completed, the balance of the evidence could not, without resolution of the disclosure issue.

(Evidence of Shelley Hallett, CPI Vol. 340, pp. 293-7)

(Evidence of Shelley Hallett, CPI Vol. 341, pp. 4-5)

(Ex. 2646)

272. The request indicated *inter alia*:

Additionally, we require immediate disclosure of a statement outlining Mr. Dunlop's involvement in the Cornwall area sexual abuse investigations reportedly provided to Ms. Hallett in April 2000 by Dunlop.

Hallett said that the will say and notes had been disclosed the day before this letter. She indicates that she had told defense counsel that she had had the materials since April 2000.

(Ex. 2646)

(Evidence of Shelley Hallett, CPI Vol. 338, p. 152)

273. On February 15, 2001 Hall provided his statement in response to the February 12, 2001 letter. His response clearly shows that he is still concerned about the allegations of wilful non-disclosure.

(Ex. 2622)

(Evidence of Shelley Hallett, CPI Vol. 338, p. 153)

274. Hall was of the view that the disclosure request of February 12 could have included the July 4 letter. He was unaware up until the meeting of February 20 whether the letter had been disclosed in response to the disclosure requests of February 12, February 14 or February 15.

(Evidence of Pat Hall, CPI Vol. 319, p. 252)

275. The defense had announced in court their intention to bring a stay application on February 14, 2001. The application dated February 15, 2001 was served on Hallett on February 16, 2001. Both the oral declaration and the written notice cited willful non-disclosure by the police.

(Evidence of Shelley Hallett, Vol. 338, p. 154, 168)

276. On February 14, 2001 Hallett addressed Justice MacKinnon. She indicated to him that she had come into possession of the Dunlop notes and will say in April 2000. She had reviewed them in a cursory way. She had not noticed the reference to the contact between C-16's mother and Perry Dunlop. She took responsibility for the failure to disclose. Hall was unaware of this statement to the court until he testified on the stay application on February 22, 2001.

(Evidence of Shelley Hallett, CPI Vol. 338, p. 158)

(Evidence of Pat Hall, CPI Vol. 319, pp. 223-6)

277. Hall sat down and assisted Hallett in answering some of the disclosure requests. She did not indicate to Hall that she intended to clear up the defence belief in wilful non-disclosure by the police.

(Evidence of Pat Hall, CPI Vol. 324, p. 85)

278. On February 19, 2001 an issue arose about Justice McKinnon's suitability to continue as the trial judge.

(Evidence of Shelley Hallett, CPI Vol.338, p. 169)

(Ex. 796)

279. Hallett met with Smith and Hall on February 19, 2001 to discuss the stay application. The strategy was simply that the non-disclosure was inadvertent. There was no reference to the July 4, 2000 letter.

(Evidence of Shelley Hallett, Vol. 338, p. 175)

280. On February 20, 2001 McKinnon J. recused himself. Court adjourned early that day. Smith, Hall and Dupuis were going to be defence witnesses on the stay application. They met on February 20, 2001 with defence counsel to find out what they were going to be asked. This meeting took place with the knowledge and blessing of Hallett.

(Evidence of Shelley Hallett, CPI Vol. 338, p. 175)

(Evidence of Shelley Hallett, CPI Vol. 341, pp. 22-23)

281. Skurka had asked Smith if he had any notes of his conversation with Dupuis concerning C-16's mother's contact with Dunlop. He did not but remembered it well. Skurka said he might not call him after all. Smith left Hall and Dupuis and went back to the courtroom. Hallett asked about the discussion and Smith told her.

(Evidence of Tim Smith, Vol.312, p. 24-25)

282. At the February 20, 2001 meeting the defence position was still police wilfull non-disclosure. They examined Dupuis' notebook for his entries shortly before and after the 15<sup>th</sup> of June. Hall was asked about the Dunlop will say and notes. He was asked when Hallett had received them and whether there was any correspondence relating to them. Hall indicated that there was and the defence requested a copy of it. Hall agreed to provide it. He was referring to the July 4, 2000 letter.

(Evidence of Joe Dupuis, CPI Vol. 308, p. 71)

(Evidence of Pat Hall, CPI Vol. 319, pp. 210-12)

283. Hall went to the meeting to find out what he was going to be asked. When direct questions were put to him he had to answer honestly. He was going o be asked the same questions in court under oath, probably the next day.

(Evidence of Pat Hall, CPI Vol. 319, p. 233)

284. Pat Hall said he did not know, when he was asked about correspondence in the meeting on February 20, 2001, whether the July 4, 2000 letter had been disclosed to the defence. He felt it was clearly covered by the February 12, 2001 disclosure request.

(Evidence of Pat Hall, CPI Vol. 319, p. 252)

285. Hall said that when the meeting was over he spoke to Hallett who was still in the courtroom. He told her the defence was going to ask him about the Dunlop disclosure, when it was received, when it was disclosed and any correspondence relating to it. It was agreed that Hallett would meet with Hall and Smith at 1:00 p.m. at the Best Western Hotel. Smith and Hall went to her room close to 1:00 p.m. She was not there. Smith went to the bar and Hall made some calls from his room. His room was across the hall from Hallett's room. Hall was leaving to go home to Perth to take advantage of the early court day. He was going to surprise his wife and take her out for dinner since it was their anniversary. He intended on stopping at Long Sault on his way home to arrange for the delivery to defence of the July 4, 2000 correspondence. On his way out he ran into Hallett. He informed her of his intention to go home. He got Smith so Hallett could speak to him. She did not ask about the meeting with defence counsel. Hallett testified she did ask and he was vague about the meeting. He did not tell her he had agreed to

provide a copy of the July 4, 2000 letter. He acknowledged that he should have told her.

(Evidence of Pat Hall, CPI Vol. 319, pp. 210-215, 234-5, 253)

286. On February 20, 2001 Hall tasked Dupuis with providing defence counsel with a copy of the July 4, 2000 letter. Dupuis was under the impression that Shelley Hallett had authorized the disclosure. Hall had been unable find the office copy. Hall instructed him to obtain Hallett's copy and reproduce it. Dupuis went to Hallett's hotel room and requested her copy. He did not tell her it was for disclosure purposes. He thought she was already aware of why he wanted it. He believed that she and Hall had discussed it prior to him getting his instructions from Hall. Dupuis then turned the letter over to Phil Campbell, defence counsel. Dupuis did not question the instruction he had received from his superior. Hall did not give instructions to his officers to withhold from Hallett the reason the letter was sought.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 77-80)

287. Hall said he forwarded the document over to the defence because he knew it was going to be asked about it the next day. He also said it was turned over because it clearly showed that the police did not fail to disclose.

(Evidence of Pat Hall, CPI Vol. 319, pp. 233, 250, 254)

288. Although Dupuis had been at the meeting it does not appear that Hallett asked him about it. She does not appear to have asked him when he came to her room to pick up the July 4, 2000 letter.

289. On the stay application Dupuis testified as a defence witness. His evidence, like his evidence before this Commission, was that he simply overlooked it. This was accepted by the trial judge Justice Chadwick. The Court of Appeal characterized it as an “inadvertent failure to include his June 15, 1998 handwritten note in the Crown brief”.

(Ex. 2640, para. 117)

290. Dupuis and Hall both testified on the stay application that they did not believe that the Crown had intentionally withheld any material prejudicial to the prosecution. Hallett elicited this evidence from both officers.

(Evidence of Shelley Hallett, CPI Vol. 341, p. 29-30)

(Ex. 2674 at para. 78)

291. When Hallett learned that the defence was not calling Smith she felt that the defence was abandoning the “wilful” aspect of the non-disclosure. She did not call Smith as a Crown witness.

(Evidence of Shelley Hallett, CPI Vol. 341, p. 36)

(Evidence of Shelley Hallett, CPI Vol. 340, p. 77)

292. The defence had originally formed the stay application based on police misconduct. The defence in their closing argument changed the focus to the Crown. On February 26, 2001 they argued that the Crown wilfully withheld the Dunlop materials. Notwithstanding the shift in focus, the Court of Appeal felt that from the start of the hearing of the stay application she seemed to be aware of the allegation against her and prepared to respond to it.

(Ex. 2640, para. 75-78)

293. Pat Hall testified on the stay application on February 21 and February 22, 2001. While he was being cross-examined by Hallett, she questioned him about her work load and the number of Project Truth files she had. The Brief Log was made an exhibit on the motion. The evidence of her work load would be relevant to the issue of explaining how the Crown could miss the document. The brief log was tendered before the letter of July 4, 2000.

(Ex. 21)

(Ex. 2648 bp. 1077017)

294. Hallett said that on the evening of the 21<sup>st</sup> of February she had dinner with Jim Stewart. Hall spoke to them. Hallett said Hall mentioned obliquely about a surprise happening tomorrow. Hallett did not ask what he meant and Stewart did not mention it in his evidence. Significantly these alleged remarks were not put to Hall when he testified. It is submitted that fairness would dictate that they be given no weight.

(Evidence of Shelley Hallett, CPI Vol. 338, p. 188)

295. On February 26, 2001 after the stay motion was argued, Dupuis, Seguin, Hallett and her assistant met. Hallett was upset at Hall for disclosing the memo to defence counsel without her knowledge.
296. The stay application was granted on March 1, 2001. An award of costs against the Crown was made. The Crown appealed and was successful. The cost order was set aside and an order for a new trial was made. The defence sought leave to appeal to the Supreme Court. Leave was denied. At the new trial in October 2004 the defence sought a stay based on s. 11(b) of the *Canadian Charter of Rights and Freedoms*. The motion was successful with the result that all charges were stayed on October 18, 2004. That brought the Leduc prosecution to its final end.

**i) Discussion**

297. It is submitted that C-16's mother's evidence came as a surprise to all counsel. The chain of events that it set off led to a shocking result. How events unfolded from February 7, 2001 to March 1, 2001 can best be described as entirely avoidable.
298. It is submitted that things started to go off the rails at the February 7, 2001 meeting with defence counsel. Hall brought to that meeting the Dunlop

materials that contained the reference to C-16's mother. Hall would have known that Hallett would have had all of that material since April 17, 2000. Defence counsel, in front of Hallett, accused the police of intentionally holding these materials back. Hallett would have had to know at that point that the police had not held back. Rather than coming to the assistance of the police, she remarks that this was "all news to her". This remark could only reinforce the defence counsel's belief, that the police had intentionally withheld the disclosure. It is submitted that by the end of the meeting with defence counsel, Hall was entirely justified in thinking that the police were being blamed for the failure to disclose the Dunlop materials.

299. It is submitted that it is difficult to understand why she would not have simply laid out the facts: 'I received the material, I read them, I missed the relevance'. It was not a complicated explanation and very understandable, as so found by the Court of Appeal.
300. It is submitted that when the group met without the defence counsel, the situation got worse. Hall reminded Hallett that she indeed had had the Dunlop materials for some time. Hal would not have had to remind Hallett if he had felt that she had acknowledged that minutes earlier with defence counsel. If Hallett had been clear with defence, this would not have been necessary. She acknowledged to Hall that she had the materials. Accordingly, Hall felt that

her earlier statement to defence, that ‘it was all news to me’, had not been truthful.

301. There was another opportunity to set the record straight for Hallett. She could have found Skurka and Campbell and told them the police had not held back. Nor did she say to the police “listen you guys, I know you did not hold back. I will straighten this out”. In short, she neither said nor did anything that would dispel Hall’s belief that the police were being blamed by defence were not being supported by the Crown. Conversely, there would have been nothing preventing Hall from asking Hallett to do that very thing.
302. Hall had the July 4, 2000 letter delivered to Hallett the next day, February 8, 2001. Neither he nor Hallett discussed why he had wanted it. It is submitted that due to this failure to communicate, an opportunity was missed to ease the concern that Hall had about the police being blamed and further that Hallett was not doing what she could do to dispel this notion. These feelings unfortunately were allowed to fester, again due to a failure to communicate.
303. Hallett in her evidence pointed to a passage in the February 12 disclosure request as evidence of the fact that she had acknowledged prior to February 12 to defence of having had possession of the Dunlop materials. It was suggested

that this should have been seen by Hall as Hallett acknowledging the police had discharged their disclosure obligation. The passage read:

Additionally, we request immediate disclosure of a statement outlining Mr. Dunlop's involvement in the Cornwall area sexual abuse investigations, reportedly provided to Ms. Hallett in April 2000 by Mr. Dunlop.

(Evidence of Shelley Hallett, CPI Vol. 338, p. 152)

304. It is submitted that this statement would have done nothing to dispel the notion that the police held back the Dunlop materials from Hallett. In fact, it reinforces that point of view. The letter says that the documents were provided to Hallett by Dunlop, not the police in April 2000.
305. It is submitted that since the February 12, 2001 disclosure letter is premised on the wilful failure of the police it was incumbent on Hallett to do two things: Firstly, she should have set defence counsel straight that it was the police, not Dunlop, who turned the material over to her in April 2000. She did this in court on February 14 when she accepted responsibility for the non-disclosure. Secondly, she should have informed Hall that she had accepted responsibility since he was not in court on February 14 to hear it.
306. Hall's response to the February 12 letter was on February 15. It is submitted that Hall was firmly of the belief that the issue was police non-disclosure. The very first sentence addressing the request says: "I did not at any time

willfully fail to make disclosure in this case”. When Hallett read that she should have advised Hall of what she had acknowledged in court on February 14, 2001. Clearly she should have known that Hall was unaware of what she had said in court the day before.

307. It should be noted that at no time did Hallett speak directly to Hall and acknowledge that there was not any willful non-disclosure on the part of the police. She did not accept responsibility for the non-disclosure to the defense in any conversation with Hall. Her statement accepting responsibility that was made to the court on February 14, 2001 was made in his absence and he was not aware of it until she cross-examined him on February 21, 2001.

(Evidence of Pat Hall, CPI Vol. 319, p. 229)

308. It is submitted that when Hall spoke to defence counsel on February 20 he had no choice but to answer the questions put to him honestly. This was all the more so given the fact that his integrity was being called into question in the stay application. It is submitted and acknowledged that he should have informed Hallett of his intention to turn over the July 4, 2000 letter.

309. Chadwick J. heard the stay application. He found that the Crown had willfully failed to disclose the Dunlop materials and stayed the prosecution. The Court

of Appeal set the stay aside because they did not find any evidence on the record to sustain the finding of wilfull non-disclosure.

310. The Court of Appeal said that the crucial plank upon which the finding of wilful non-disclosure rested appeared to be the July 4, 2000 letter, both its contents and the circumstances of its disclosure to the defence. The Court said Chadwick J. misapprehended both. It is respectfully submitted that Hall cannot be held responsible for the erroneous decision of the judge.

(Ex. 2640, para. 107)

311. Hall testified there were other memos that indicated she had reviewed the Dunlop material for the purpose of her prosecutions. In a letter dated April 19, 2000 to James Stewart, Hallett wrote that she intended to review the Dunlop materials contained in the bankers boxes which contained the notes and will say. She would review the materials to see if there was any new and relevant material and make necessary disclosure for the prosecutions she was responsible for. She would also advise the other Crown counsel of the results of her review.

(Evidence of Pat Hall, CPI Vol. 319, p. 183)

(Ex. 244)

(Ex. 1725)

312. Hallett did not agree with the suggestion that Hall's conclusion that she had not been candid with defence counsel was a reasonable one based on the two letters she had written.

(Evidence of Shelley Hallett, CPI Vol. 340, p. 281)

313. Pat Hall had read a number of memos Shelley Hallett wrote about the Dunlop material. On the basis of that he was lead to believe she had done a good review of it. It made his position about the February 7, 2001 meeting more understandable and reasonable.

(Evidence of Pat Hall, CPI Vol. 319, p. 231)

314. Hall acknowledged that it was an unusual situation for the police to provide disclosure directly to the defence and to do so without the Crown knowing. He said this, however, was an unusual situation.

315. Hallett had accepted responsibility for the non-disclosure on February 14, 2001. Hall asked rhetorically why she could not have made that same acknowledgment on February 7, 2001 to Skurka and Campbell when they were blaming the police. Clearly that should have happened.

(Evidence of Pat Hall, CPI Vol. 319, p. 230)

316. On the basis of the July 4, 2000 and the April 19, 2000 letters from Shelley Hallett, Pat Hall was justified in his belief that Hallett was not being honest when she said this was “all news to me”.
317. Pat Hall finished off his evidence at the Inquiry on December 5, 2008 by saying that in hindsight both he and Shelley Hallett could have done things differently. A more fulsome degree of communication between them once the issue arose on February 7, 2001 may well have resulted in a different outcome at the time.

**C) DAVID PETEPIECE INVESTIGATION**

318. Seguin received a complaint from Mr. Petepiece on July 15, 1998. He provided Seguin a written version on July 16, 1998. In it, he alleged that in 1956 when he was 10 years old, he was a patient in the Cornwall General Hospital for 10 days. A person who identified himself as an Anglican cleric asked if he could touch Mr. Petepiece’s penis. Petepiece said no and the man left. Petepiece identified a boy who he said was in a nearby bed in the hospital room.

(Ex. 323)

319. Seguin testified that he explained to Mr. Petepiece on July 16, 1998 that what he was describing did not constitute an offence in 1956. He indicated that it

would have been an offence in 1998. Mr. Petepiece apparently misunderstood this explanation from Seguin.

(Evidence of David Petepiece, CPI Vol. 92, p. 36)

(Evidence of Steve Seguin, CPI Vol. 314, p. 58)

320. Seguin indicated on July 16, 1998 that he would get back to Mr. Petepiece. He did not. Seguin acknowledged that he should have. Seguin said that what he wanted to accomplish by getting back to Mr. Petepiece would be to provide him with closure.

(Evidence of Steve Seguin, CPI Vol. 314, p. 56, 68)

321. Seguin interviewed the person identified as being in the other bed in the room. He told Seguin he was not a patient at the Cornwall general Hospital and he did not know Mr. Petepiece.

(Evidence of Steve Seguin, CPI Vol. 314, p. 52)

(Ex. 326)

322. After a number of months went by, Mr. Petepiece contacted Cst. Seguin. Seguin told him of the result of the interview. Petepiece also testified that Seguin told him that there was no offence of invitation to sexual touching back in 1956. He felt it was still an open case.

(Evidence of David Petepiece, CPI Vol. 92, pp. 38-39)

323. In July 2001, Mr. Petepiece was going to make a complaint to the OPP Professional Standards Bureau about the fact that nothing appeared to have been done with his investigation. He met with Seguin and Dupuis. In that meeting Mr. Petepiece said Seguin told him that Seguin had been mistaken about whether the offence of invitation to sexual touching existed in 1956. It should be noted however that Seguin's evidence was that from the start, Mr. Petepiece was told that there was no offence of invitation to sexual touching.

(Evidence of David Petepiece, CPI Vol. 92, pp. 42)

(Ex. 325)

324. Inspector Hall followed that meeting up with a letter setting out a more fulsome explanation.

(Ex. 326)

325. Mr. Petepiece should have been dealt with in a more timely fashion. A more timely communication by Seguin perhaps would not have made him feel that his investigation had been ignored.

#### **D. JEAN LUC LEBLANC INVESTIGATION**

326. Jean Luc Leblanc was a person who had been convicted on November 7, 1986 of sexual offences involving Jason Tyo and Jody Burgess. He had been placed on probation for three years.

(Ex. 97)

327. On August 5, 1998, Jody's mother reported to CPS that Leblanc had been seen in the company of boys aged approximately 8-12 years in the Cornwall area on a number of occasions in the previous month. The report was made out of concern given Leblanc's history.

(Ex. 2601)

328. On September 10, 1998, Cst. Tyo of CPS contacted Det. Sgt. Randy Millar of the OPP, who was the area crime supervisor. Cst. Tyo informed him of the report. Tyo also provided Millar with Leblanc's current address in Newington, which was in OPP territory. Tyo told Millar as well, that there were no judicial conditions governing Leblanc's behaviour. The information had been passed on for informational purposes as there was no allegation Leblanc was committing an offence.

(Ex. 2601)

(Evidence of Randy Millar, CPI Vol. 306, p. 80)

329. Millar did not have spare manpower to assign anyone to conduct surveillance. From Millar's end, no action was taken in response to the information Tyo provided. Millar has acknowledged he could have done something, for example causing a zone alert to be posted. This would have notified the Long

Sault officers of the fact that Leblanc was living in their area and of his prior history as well as of the present concern (having been seen with young boys).

(Evidence of Randy Millar, CPI Vol. 306, p. 86)

330. Jean Luc Leblanc did not come to the attention of Project Truth until December 16, 1998. On December 16, 1998, Seguin and Genier did a video interview of C-21. The day before, another witness was being interviewed in connection to allegations against Malcolm and in the course of that interview he gave the name of C-21 as a possible victim of Leblanc.

(Ex. 2704)

(Evidence of Steve Seguin, CPI Vol. 313, p. 226)

331. C-21's allegations were historical only; he was not alleging any current abuse. His statement outlined allegations that were quite unusual. Among other things he said he and his friend were sexually assaulted while in an airplane flying over Cornwall, both by Leblanc and the pilot of the plane. He also said that both of them on other occasions had had knives inserted into their anuses resulting in severe bleeding. The cuts were stitched by a female friend of Leblanc's. C-21's friend, who had allegedly been present for these events but was dead and therefore could not corroborate C-21's account.

(Ex. 2704)

332. Seguin testified he did not feel he had RPG at this point based on the statement. The allegations needed to be investigated further since he had concerns about the credibility of the claims. There were a number of allegations that needed significant investigation.

(Evidence of Steve Seguin, CPI Vol. 313, pp. 228-9)

333. On December 17, 1998 Leblanc was queried on OMPPAC and CPIC by Hall. At that time Project Truth had become aware of the information that had been passed on to Millar. Millar was contacted and it was learned that there had been no follow up due to manpower issues. Therefore there was nothing learned from Millar that would advance the investigation.

(Evidence of Tim Smith, CPI Vol. 311, pp. 289-90)

334. Smith decided that there should be surveillance commenced on Leblanc. The allegations of C-21 as they stood on December 17, 1998 did not provide Project Truth with RPG to arrest Leblanc. Smith said the file needed work, calling the allegations of C-21 a little far-fetched. It is submitted that without both the subjective and objective basis for RPG an arrest at that point would have been without lawful authority and hence illegal.

(Evidence of Tim Smith, CPI Vol. 311, p. 282-3)

335. The purpose of the surveillance, which began December 18, 1998, was to see if Leblanc was currently associating with young boys. If that was the case

then the boy would be identified and spoken to, to find out if any illegal activity was occurring.

(Evidence of Tim Smith, CPI Vol. 311, p. 283)

336. This is precisely what happened. On December 30, 1998, C-82 was identified and interviewed by Seguin and Dupuis. A written statement was commenced but when he started to disclose sexual misconduct by Leblanc it was stopped and a video statement was done. In the video statement C-82 describes being sexually assaulted by Leblanc. The assaults were recent, some having occurred approximately a week earlier.

(Ex. 2625)

(Ex. 2626)

337. At this stage reasonable and probable grounds existed to arrest Leblanc. Smith made the decision to defer the arrest until January 5, 1999. Leblanc was arrested prior to starting his rounds as a school bus driver on the first day back to school. Smith acknowledged the decision to delay the arrest was a bad one and poor judgement on his part. Hall, who agreed with the decision at the time, agreed as well that it was a bad decision. Although there was no evidence to suggest that further abuse of children had occurred from December 30, 1998 to January 5, 1999, the potential was there.

(Evidence of Pat Hall, CPI Vol. 318, p. 189)

338. Leblanc was arrested on January 5, 1999 for offences against C-21 and C-82. He was rearrested and charged with further offences on March 11, 1999 and on June 27, 1999. Leblanc faced a total of 51 charges involving 13 victims. Some were victims of recent sexual offences while others were victims of historical offences.

(Ex. 2604)

339. Leblanc ultimately plead guilty to 18 charges. He was declared a Long Term Offender and received a jail sentence of 10 years less credit for time served.

## **E. CONSPIRACY**

### **i. Background**

340. The Dunlop materials contained serious allegations of obstruction of justice. It was specifically alleged that a number of persons conspired to prevent the prosecution of Father Charles MacDonald.

341. The following is an excerpt from the Project Truth mandate:

...In addition it is alleged the suspects were able to terminate investigations or prosecutions against them by abusing their position of trust within the community.

(Ex. 331)

342. It had been alleged that the Crown Attorney, the Diocese of Alexandria-Cornwall and the CPS conspired to obstruct justice in these matters.
343. The mandate for the conspiracy investigation was drawn largely from the Fantino materials and a letter to the Solicitor General from Dunlop) dated April 7, 1997 alleging corrupt practices and alleged involvement in obstruction of justice against several members of his own Cornwall Police Service in regard to the complaint of David Silmsler (Silmsler) to CPS in 1992-1993.

(Evidence of Pat Hall, CPI Vol. 320, pp. 43-46)

(Ex. 730)

## **ii) THE INVESTIGATION**

344. At the commencement of the Project, Det. Seguin was tasked with breaking down the Fantino brief materials on May 14, 1997.

(Evidence of Steve Seguin, CPI Vol. 315, p. 160)

345. He looked at every single piece of information and categorized that information on clipboards. Eventually the brief was broken down, separated and organized with respect to witnesses, suspects and victims. The process took over two and a half months to do.

(Evidence of Steve Seguin, CPI Vol. 315, p. 160)

346. Hall assigned suspects to the investigating officers although each officer was assigned a number of specific suspect files, the offices worked as a team or group on all files. There was a lot of resource sharing. Hall regularly reviewed investigative material as it came in.

(Evidence of Steve Seguin, CPI Vol. 315, pp. 150-155)

347. Dupuis was designated as the lead investigator on the conspiracy brief. Although so designated, all instructions and directions came from Hall. Dupuis interviewed the people he was directed to but had leeway to interview other persons. Evaluation and analysis of the evidence was done by Hall.

(Evidence of Joe Dupuis, CPI Vol. 309, pp. 10-13)

(Evidence of Pat Hall, CPI Vol. 320, pp. 42-43)

348. In reviewing the Fantino brief it was determined that the conspiracy issue from 1994 had resurfaced. In 1994 Smith led an investigation based upon the allegations of Silmsler. Part of that investigation looked at whether a conspiracy existed among the CPS, Diocese and the Crown (or any two of them) to obstruct justice. Smith found that there was no evidence to support the laying of that charge. Smith directed Hall to review and reinvestigate the work he had done on the conspiracy in 1994.

(Evidence of Tim Smith, CPI Vol. 311, p. 164-165, 171)

349. Smith reviewed the 1994 investigation with the Truth officers. He provided for their review the 1994 brief on the subject as well as the brief on the attempt obstruct justice charge against Malcolm.

(Evidence of Steve Seguin, CPI Vol. 315, p. 148)

350. It was determined by Hall that the overall interests of the investigations would be best served by proceeding with the conspiracy aspect of the mandate after the investigations into the individual allegations of sexual assault had been completed. This decision was based primarily on two following reasons:

a) in keeping with OPP policy, crimes against the person (i.e. assaultive behaviour) are assigned the highest priority;

b) In carrying out sexual assault investigations first, it was thought that there may be evidence uncovered in those investigations which would assist in the investigation of the alleged conspiracy.

(Evidence of Pat Hall, CPI Vol. 324, pp. 114-115)

(Evidence of Pat Hall, CPI Vol. 315, p. 224)

(Evidence of Joe Dupuis, CPI Vol. 308, p. 156)

(Evidence of Joe Dupuis, CPI Vol. 309, p. 14)

351. It was suggested that having Dupuis reinvestigate his superior's work compromised Dupuis' ability to reach a conclusion different from the one Smith had come to. Dupuis testified at the Inquiry:

a) by the time the Truth conspiracy was completed and the brief forwarded to the Crown for an opinion, Smith had retired,

b) by 1998, the investigators had gathered and reviewed more evidence than Smith had in his 1994 investigation,

c) that it would not have been difficult for him to come to conclusions different from that of Smith if the evidence warranted "I have my own mind". He further stated that if he had disagreed with Smith he would have said so, having done so in the past when he disagreed with superiors,

d) it is to be noted that the conspiracy allegation, based on Leroux's allegations and those in the Dunlop amended Statement of Claim first arose in 1996, clearly post-dating the original Smith investigation into the alleged conspiracy.

(Evidence of Joe Dupuis, CPI Vol. 309, pp. 17-23)

(Evidence of Joe Dupuis, CPI Vol. 310, p. 90)

352. As understood by Dupuis, the investigation focused on whether CPS, the local Crown's office and the Diocese of Alexandria-Cornwall (or any two of them) were involved in an attempt to obstruct justice by suppressing the Silmsler complaint and thus prevent the laying of criminal charges. This approach was taken directly from the Truth mandate.

(Evidence of Joe Dupuis, CPI Vol. 308, p. 157)

353. In furtherance of this investigation, Dupuis met with Fagan who had been assisting Smith in his 1994 investigation. He obtained from Fagan the 1994 Smith-led conspiracy investigation file. He also obtained the Ottawa Police Service (OPS) investigation referencing the alleged conspiracy.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 159-161)

354. As set out in the nine-volume brief, submitted for Crown review in July 2000, this investigation encompassed, in addition to Dunlop's Statement of Claim, a large number of interviews as well as the assembly and review of a significant quantity of written materials (correspondence, police reports etc) totaling more than 3100 pages:

- a) Number of civilian interviews and/or statements reviewed: 47 (note: some persons were interviewed more than once)

Civilians: Richard Abell  
Sean Adams  
Gregory Bell  
Maureen Chabot  
Carson Chisholm  
John Cleary  
Rita Crans  
Bill Cvetkovski  
Helen Dunlop  
Ron Gendron  
C-8  
Jacques Leduc  
Rachelle Leduc  
Ron Leroux  
Sean Lynch  
Malcolm MacDonald  
Murray MacDonald  
Milton MacDonald  
Andre Pommier  
C-3  
David Silmser  
Ken Seguin

Jos Van Diepen

Ronald Wilson

- b) Number of cleric interviews and/or statements reviewed: 16 (note: some persons were interviewed more than once)

Clerics:        Rev. Bernard Cameron  
                    Rev. Gordon Bryan  
                    Bishop Eugene Larocque  
                    Rev. Charles MacDonald  
                    Monsignor Donald McDougald  
                    Rev. Kevin Maloney  
                    Rev. David Ostler  
                    Rev. Gary Ostler  
                    Rev. Denis Vaillancourt

- c) Number of police officer interviews reviewed and/or statements/notes reviewed: 23 (note: some persons were interviewed more than once)

Police:         Dan Anthony (OPP)  
                    Cathy Bell (OPP)  
                    Lucien Brunet (CPS)

Gary Derochie (CPS)

Perry Dunlop (CPS)

Darcy Dupuis (CPS)

Pat Dussault (OPP)

Don Genier (OPP)

Ron Lefebvre (CPS)

Claude Lortie (CPS)

Kevin Malloy (CPS)

Stuart McDonald (CPS)

Jim McWade (OPP)

Randy Millar (OPP)

Steve Nakic (CPS)

Heidi Sebalj (CPS)

Claude Shaver (CPS)

Tim Smith (OPP)

Joe St. Denis (CPS)

Brendan Wells (CPS)

d) Correspondence/memos/Press releases etc. reviewed: 775 pages

e) Police reports reviewed: 80 pages

(Ex. 2631)

355. Dupuis reinterviewed persons who had been previously interviewed in the 1994 investigation. In addition, he interviewed members of the CPS not previously interviewed including Darcy Dupuis, Kevin Malloy, Garry Derochie, Ron Lefebvre and Claude Lortie. In conducting these interviews, a prepared list of questions was given to some of the subjects just prior to the start of the interview to assist them in their thought processes and to make the interviewee aware of the information the investigators were seeking.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 167)

(Evidence of Pat Hall, CPI Vol. 319, pp. 113)

356. In the prepared list of questions, issues were addressed about whether the interviewee had attended at Ken Seguin's home or Malcolm's cottage, reflective of a widening of the scope of previous obstruct justice investigations. In addition to matters related to the \$32,000 settlement, Dupuis stated that he was looking for any evidence that would fall into the category of obstruct: "we tried to look at everything".

(Evidence of Joe Dupuis, CPI Vol. 308, p. 169)

357. In investigating police officers for alleged criminal activity, Hall stated that he would not hesitate to charge a police officer where evidence exists. He was accustomed to investigating police officers and he further stated that he had no

prior relationship with any of the officers named by Dunlop that were to be interviewed.

(Evidence of Pat Hall, CPI Vol. 322, pp. 100-101)

358. In the course of his interview, former CPS officer Ron Wilson stated his belief that there likely had been a pedophile ring operating in Cornwall in 1967 out of the Classical College.

(Ex. 2163)

(Evidence of Joe Dupuis, CPI Vol. 309, p. 151)

359. In an effort to follow up this information, on August 9, 1999 Dupuis addressed the issue with Trew (Trew). Trew advised Dupuis that the CPS did not have any files remaining from that era.

(Ex. 2611)

(Evidence of Joe Dupuis, CPI Vol. 308, p. 153)

360. Ron Leroux was a key source for Dunlop's allegations regarding the conspiracy. Leroux claimed that former Chief of Police Claude Shaver, Bishop Larocque, Father Charles, Malcolm MacDonald, Murray MacDonald and others were present at Malcolm MacDonald's cottage on Stanley Island to conspire to terminate the criminal investigations regarding Father Charles and Ken Seguin.

(Evidence of Joe Dupuis, CPI Vol. 309, p. 5)

(Ex. 567)

(Ex. 569)

(Ex. 570)

(Ex. 572 A and B)

(Ex. 573 A and B)

(Ex. 574)

(Ex. 672)

361. In January 2000, Hall and Dupuis prepared a list of 44 questions to put to Dunlop in an interview. Dunlop declined to answer the questions in an interview format at the time of the meeting. He said he would review the questions and incorporate his answers in the will-state he was preparing pursuant to the January 10, 2000 order from CPS to disclose all materials in his possession.

(Evidence of Pat Hall, CPI Vol. 318, p. 168-169)

362. Malcolm was a person of interest in the conspiracy investigation, having been Father Charles' lawyer at the time of the settlement. Prior to meeting with him, a list of questions was prepared regarding certain meetings and/or interactions with certain individuals allegedly seen at Stanley Island and Cameron's Point. Statements were taken from him on November 18, 1998 and December 17, 1999.

(Evidence of Pat Hall, CPI Vol. 318, p. 34)

(Ex. 1157)

(Ex. 3057)

363. Crown Attorney Murray MacDonald was interviewed by Hall and Smith December 7, 1998. He categorically denied being at the places and meetings he was alleged to have been at.

(Ex. 2683)

(Evidence of Pat Hall, CPI Vol. 319, p. 86)

364. Bishop Larocque was interviewed regarding the conspiracy on December 18, 1998. He categorically denied being at the meetings or locations alleged by Leroux.

(Ex. 680)

(Evidence of Pat Hall, CPI Vol. 319, pp. 86-87)

365. Claude Shaver, former chief of CPS, was interviewed by Hall and Dupuis in connection with the investigation on July 9, 1999. He categorically denied attending any meetings and locations as alleged by Leroux or in any way participating in a cover-up or conspiracy to obstruct justice.

(Evidence of Joe Dupuis, CPI Vol. 309, p. 81)

(Ex. 1238)

(Evidence of Pat Hall, CPI Vol. 319, pp. 86-87)

366. Former CPS Cst. Heidi Sebalj who had been interviewed in 1994 declined to be reinterviewed. Hall stated that it would have been helpful to have been able to interview her. Although he did have her notes, other questions would have been put to her concerning her investigation including her conversations with Murray MacDonald, Malcolm and Silmser. Hall also stated that he would have liked to canvass her views on reasonable and probable grounds as it related to her investigation.

(Evidence of Pat Hall, CPI Vol. 319, pp. 86-87)

367. Hall wished to interview Father Charles regarding the conspiracy. He was already before the court on sexual assault charges and declined to be interviewed in connection with the conspiracy allegation.

(Evidence of Pat Hall, CPI Vol. 320, p. 95)

368. Jacques Leduc was already before the court on sexual assault charges. An interview with him was not attempted. Hall had the benefit of Smith's interviews from the 1994 investigation.

(Evidence of Pat Hall, CPI Vol. 320, p. 95)

369. Helen Jones, secretary to Jacques Leduc at the relevant time, was interviewed. Subsequent to that interview in a telephone call she stated that, on instructions

from Jacques Leduc, she wiped the memory of her typewriter clean, erasing the information concerning the preparation of the settlement documents.

(Evidence of Pat Hall, CPI Vol. 320, p. 104)

370. Hall did not reinterview Sean Adams, relying on the statement obtained from him in the 1994 investigation.

(Evidence of Pat Hall, CPI Vol. 320, p. 103)

371. Hall was aware that in the Silmsler settlement negotiations there had been an exchange of documents between the lawyers involved (Malcolm Macdonald and Jacques Leduc). Hall did not believe that he had the requisite reasonable and probable grounds to obtain a search warrant for the documents.

(Evidence of Pat Hall, CPI Vol. 320, p. 100)

### **3. VIDEOTAPES SEIZED BY OPP**

372. On February 10, 1993 acting on a search warrant to locate and seize firearms, OPP officers McDougald and Millar attended the home of Leroux. In addition to firearms a number of pornographic videotapes were seized. The tapes were brought to the OPP detachment at Lancaster and pursuant to the directive of S/Sgt. McWade, the tapes were reviewed by McDougald and Dussault to determine if there was anything illegal contained therein that

would afford evidence of criminal activity. According to McDougald, he reviewed the tapes in a random fashion, looking, fast-forwarding thereby viewing various segments of each of the tapes, but not each one in its entirety. He found them all to contain commercially made, adult, homosexual pornography (except for one segment of adult heterosexual pornography). When not being viewed the tapes were stored, pursuant to policy, in the evidence room. Given that the tapes contained no illegal material, Leroux was interviewed at which time the offer was made to return the tapes to him. Leroux declined the offer and on April 25, 1993 signed a quit-claim ceding any claim to the tapes. Ultimately, McWade authorized the destruction by fire of the tapes and McWade testified that his best recollection was that he had destroyed the tapes in a fire barrel.

(Ex. 2521)

(Evidence of Randy Millar, CPI Vol. 308, pp. 193-200)

(Evidence of Jim McWade, CPI Vol. 298, pp. 25-33)

(Ex. 1144)

(Evidence of Jim McWade, CPI Vol. 298, pp. 38-41)

373. It was later alleged that the tapes contained evidence of a pedophile gang in Cornwall. Accordingly, the Truth investigators were looking at fellow OPP officers to determine if by destroying the tapes the involved officers had engaged in an obstruction of justice.

(Evidence of Joe Dupuis, CPI Vol. 309, pp. 25-26)

374. This aspect of the investigation was conducted because of the allegations contained in the Dunlop materials, including Leroux's statements. In the course of this investigation into the seizure and destruction of the tapes, McDougald and Dussault as well as Millar and McWade were interviewed. Pat Hall assumed the lead on these interviews.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 171-172)

(Ex. 690)

(Ex. 691)

(Ex. 2522)

(Ex. 2523)

(Ex. 1163)

375. Dupuis testified that he looked at the evidence objectively and if evidence was found he would have acted on it. He did everything he could to uncover the truth. They were treated no differently just because they were OPP officers. He stated that a thorough investigation was done.

(Evidence of Joe Dupuis, CPI Vol. 308, pp. 145-146)

376. No charges were laid as a result of this investigation.

377. In addition to the conspiracy to obstruct justice allegations, the Truth team was also investigating the allegations of Leroux and Dunlop that there was operating in Cornwall a ring or clan of pedophiles. In a legal context, the officers were looking for evidence of a conspiracy involving two or more perpetrators. Hall accepted that an appropriate definition of “ring” is a group of persons working in conjunction with each other, abusing people. He was attempting to determine if evidence existed to support Leroux’s claim of a clan of pedophiles. Hall was examining linkages to see if suspects were acting in concert to abuse children.

(Evidence of Pat Hall, CPI Vol. 316, pp. 188-192)

378. Smith considered it part of the mandate to investigate whether there was an organized group of pedophiles operating in the Cornwall area. The suspects were investigated individually but also with a view to seeing whether some or all may be tied together in an organized ring.

(Evidence of Tim Smith, CPI Vol. 311, p. 171)

379. The officers were looking at associations, victims in common and individuals who have knowledge of each others’ (pedophile) activities.

(Evidence of Tim Smith, CPI Vol. 311, p. 172-173)

380. Smith was of the view (one shared by Hall) that given the nature of this historical investigation, the use of wiretaps, undercover agents and surveillance were not appropriate investigative tools.
- (Evidence of Tim Smith, CPI Vol. 311, p. 174)
381. In addition to the conspiracy to obstruct allegations, the Truth team was also reviewing the evidence to see if alleged sexual assault perpetrators were working in concert with one another.
- (Evidence of Pat Hall, CPI Vol. 320, p. 67)
382. According to Hall it was important to be able to say to the people of Cornwall ‘there is no ring’ or ‘there is evidence and we are going to deal with it’.
- (Evidence of Pat Hall, CPI Vol. 321, p. 92)
383. There was no evidence uncovered during the investigations of an organized pedophile network even though there were a number of associations and links amongst the alleged perpetrators.
- (Evidence of Pat Hall, CPI Vol. 320, p. 203)
384. Alain Godin was the Crown responsible for the Marleau prosecutions. When he entered the case he reviewed the police briefs provided to him and thereafter instructed the officers to seek further evidence including school records and other documentation. Next, he reviewed the evidence to determine

if it supported a charge of conspiracy amongst two or more of the perpetrators. Having reviewed the evidence and subject to further evidence being obtained, he was of the view that there was no conspiracy amongst the alleged perpetrators accused of assaulting Marleau.

(Evidence of Alain Godin, CPI Vol. 330, p. 259)

385. Mr. Godin testified that he was not even close to establishing a common goal between the alleged perpetrators: “There was a link but it was not even close to a conspiracy”.

(Evidence of Alain Godin, CPI Vol. 330, p. 261)

#### **4. FINDINGS OF LORNE MCCONNERY**

386. Project Truth was structured such that the police would conduct their investigations, prepare a brief and submit it to the Crown for review and an opinion. The ultimate decision to lay charges rests with the police, but if the Crown indicated upon review that there is no reasonable prospect of conviction, it would be fruitless to lay a charge.

(Evidence of Pat Hall, CPI Vol. 320, p. 42)

387. The conspiracy brief was submitted to the Crown for review and an opinion on July 20, 2000.

(Ex. 2772)

388. Although the conspiracy brief was initially assigned to Hallett, she never did produce an opinion and the matter was ultimately reassigned to McConnery in June 2001. On June 4, 2001 McConnery retrieved nine bankers' boxes of material previously in the possession of Hallett.

(Evidence of Lorne McConnery, CPI Vol. 333, p. 99)

389. The material for McConnery's review consisted of five sexual assault briefs containing sexual assault allegations against priests, a 3200 page brief on the conspiracy and between 500-600 pages of Dunlop's notes.

(Evidence of Lorne McConnery, CPI Vol. 333, p. 108)

390. McConnery was required to meet with Hall and Dupuis on June 13, 2001 to obtain a copy of the conspiracy brief since Hallett had not yet turned over her copy. He ultimately got Hallett's copy on June 15, 2001.

(Evidence of Lorne McConnery, CPI Vol. 333, p. 109)

391. Assistant Crown Attorney Kevin Phillips was assigned to work with McConnery by July 3, 2001.

(Evidence of Lorne McConnery, CPI Vol. 333, p. 111)

392. There was a series of requests from McConnery for further materials that he wished to review.

(Evidence of Lorne McConnery, CPI Vol. 333, p. 112)

393. Hall responded to McConnery's request by correspondence dated July 4, 2001 along with a series of enclosures. The enclosures consisted of:

**1. Conspiracy to Obstruct Justice**

Vol. 6: 22 Feb 94 statement of David Silmser

Vol. 7: Will say and notes of Joe Dupuis and Don Genier

Vol. 8: Will say and notes of Randy Millar, Steve Seguin and Tim Smith

Vol. 9: Ken Seguin Death Investigation Occurrence Report – 25 Nov 93

**2. Father Kevin Maloney**

Vol. 3: Replace will say – D/Cst. Don Genier

C-15 CICB correspondence and claims documents

**3. Nine Banker Boxes of Perry Dunlop**

Photocopies of

Boxes 1 to 4 – 4 copies of each box

Boxes 5 to 9 – 1 master copy of each box

Total 21 boxes – 12 boxes left at Project Office

Box 1 to 4 Crown, Judge and Defence

**4. R. v. David Silmser re: Victim: Ken Seguin**

Vols. 1, 2 and 3

(Ex. 2652)

394. Both McConnery and Phillips reviewed the conspiracy brief.

(Evidence of Lorne McConnery, CPI Vol. 333, p.120)

395. Leroux was the complainant in the briefs involving four of the priests.

McConnery wanted to review these files as well as the conspiracy brief. He recognized the importance of assessing Leroux's credibility in relation to the conspiracy allegations immediately upon reviewing the videotaped interviews of Leroux conducted at the OPP headquarters in Orillia on February 7, 1997.

**6. ROLE OF GARRY GUZZO**

396. Garry Guzzo was a lawyer, Judge, municipal politician and member of the Ontario Legislature. He recognized that because of that background people would respect and believe in him. Unfortunately, his actions and public utterances regarding Project Truth and its officers were worthy of neither respect nor belief. His irresponsible words and writings were an abuse of his position of influence.

397. Gary Guzzo testified with the assistance of notes. This was a set of notes spanning a period of time from December 1995 until February 2003. These

notes were made in the spring or summer of 2006. Additional notes were prepared in and around October 2000. They span from December 1995 to summer 1998 and within that exhibit (Ex. 848B) is a second set of notes prepared between January and February 2004 and May 1997 to February 2003.

**Ex. 847B**  
**Ex. 848B**  
**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**pp. 13-14**

398. His notes contained a series of blackouts. The blackouts he said concerned names of victims who contacted him. He said the redactions were to protect the anonymity of the victims. He said he did the redactions in 2006.
399. He provided Commission Counsel with a photocopy of his original notes. He was not sure if he redacted the originals or the photocopies. He did however recall most of the names he had redacted. He said the names would still be on the originals of his notes, which he figured were at his cottage. He was ordered to return the next day with the originals. The anticipation was that the originals would have the names.

**Evidence of Garry Guzzo**  
**CPI Vol. 158**  
**p. 56**

400. Guzzo returned the following day with his original notes. The originals were redacted but they also contained names that were not on the notes he had

previously provided to the Commission. He had a list of the redacted names that he made at the time of the redactions. The hearing went *in camera* again to learn the identities of the persons whose names had been redacted. However there was concern about the accuracy of some of the names given *in camera*.

401. Although he had been obligated to provide all relevant documents, he clearly had not.

402. On the issue of redactions he provided a preposterous explanation. He said that the names that were redacted were codes for the real names of actual victims. For example, he could give a victim the name of a football player. This raises the obvious question of why do the redactions at all if this code of his would have no meaning to anyone else.

**Evidence of Garry Guzzo**  
**CPI Vol. 164**  
**p. 17**

403. When asked by the Commissioner how he would know which victim's name related to a specific code word, he said he kept a master list which of course he could not find.

**Evidence of Garry Guzzo**  
**CPI Vol. 164**  
**pp. 18-19**

404. In December 1995 he got a call from Duncan MacDonald. He, MacDonald, was troubled about the Silmsler settlement issue. He felt that Guzzo as an elected official and Catholic should be concerned. He asked Guzzo to speak to some people who were allegedly victims of child sexual abuse.

**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**pp. 20-27**

405. Guzzo met with C-24 and C-25 within a week of Macdonald's call. Both of them appeared to be under the influence of alcohol. He did not take a statement. He told them to speak to the police.

**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**pp. 28-31**

406. Over time he spoke to a number of persons who gave him information concerning the issue of child sexual abuse in the Cornwall area.

407. In June of 1996 he met with C-26, C-27 and C-28. He recalls that he told these persons in addition to reporting it to the police that they should consider civil action. Later in the fall of 1996 C-26 introduced other alleged victims to Guzzo. He heard allegations against clergy and probation personnel. It was suggested to him that this is a government problem or at least the government should do something about the Cornwall situation.

**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**pp. 51-52, 59-65**

408. This last group he met on the evening he attended a Laurencrest benefit dinner in Cornwall. The next day he discussed the issue confronting the area. Guzzo came to the conclusion that something should be done.

**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**p. 69**

409. Guzzo also heard some concerns being expressed about the police. The concerns appeared to be around the investigation of David Silmsers' allegations. In addition some persons said they had made complaints to the police but nothing had been done. Guzzo said he started to make inquiries of his political colleagues in Toronto around the fall of 1996. He was generally dissatisfied with the answers and reactions he received.

**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**pp. 70-78**

410. In March of 1997 he spoke to a retired Ft. Lauderdale policeman. He thinks his name was Dixon Fitzpatrick or Fitzgerald. They had been introduced the previous winter while Guzzo was holidaying in Florida. Dixon had spoken of the Cornwall issue at that time and how Cornwall pedophiles came to Ft. Lauderdale.

**Evidence of Garry Guzzo**  
**CPI Vol. 159**  
**p. 41**

411. Dixon took Guzzo to an area frequented by male prostitutes. He said he was shown the Marlin Beach and the Saltaire Motels. They visited the home of a person Guzzo said was the former accountant of the Saltaire who was still doing the books for the retired owner. He was shown registration slips for Ron Leroux, Malcolm MacDonald, C-8 and C-46.

**Evidence of Garry Guzzo**  
**CPI Vol. 164**  
**pp. 30-33**

412. In the summer of 1997 Guzzo was visited by additional victims. He learned that John Cleary, a local MPP sitting in opposition, had been approached by victims as well.

**Evidence of Garry Guzzo**  
**CPI Vol. 164**  
**p. 57**

413. By the spring of 1998 he was being approached by members of different citizens groups in Cornwall, including the Dunlops.

**Evidence of Garry Guzzo**  
**CPI Vol. 164**  
**p. 84**

414. In July of 1998 he met with Perry and Helen Dunlop. They discussed the documents Dunlop had served on Fantino as well as on the Attorney General and the Solicitor General. He asked Dunlop for a copy. About one week later Dunlop delivered documents to Guzzo's office.

**Evidence of Garry Guzzo**  
**CPI Vol. 164**  
**pp. 107-108**

415. Within months of receiving the Dunlop materials he started his campaign of writing letters to the Premier and Government on this issue. He wrote firstly to Premier Harris on September 18, 1998 In the September 18, 1998 missive he vouches for his own accuracy in the following words:

I want to assure you at the outset that I have been most careful; and diligent in the manner in which I have satisfied myself of the information I am about to relay.

This correspondence reveals the beginning of a theme of police wrongdoing or cover-up in connection with the investigation of an alleged pedophile ring in Cornwall. This theme was kept alive by Guzzo for the next four years.

**Ex. 983**  
**Evidence of Garry Guzzo**  
**CPI Vol. 182**  
**pp. 108-109**

416. He states that the Cornwall Police, the Ottawa Police and the OPP in 1994 all investigated these allegations about the existence of the pedophile ring. They all came to the conclusion that there was no evidence of same. As this Commission has repeatedly heard, none of those investigations were investigating a pedophile ring. He did nothing to inform himself of the true scope of those investigations before advancing this dangerous proposition.

**Evidence of Garry Guzzo**  
**CPI Vol. 182**  
**pp. 110-113, 17**

417. He noted that Project Truth was now reinvestigating the matter. He noted that a number of high profile persons were charged by Project Truth. However, he is concerned about the sufficiency of the investigation Project Truth is conducting. He stated that statements and affidavits extremely relevant to the investigation had been served on the government one and a half years earlier. He stated none of those persons had ever been interviewed by the OPP. He questioned whether Project Truth was doing a proper job. Guzzo really had no idea whether or not that fact was true because he never asked any of the persons if they had been interviewed or not. He was unable to name a single person who had given a statement or affidavit that he had referred to, that had not been interviewed. He made absolutely no effort to ascertain if that statement had any basis in fact, and seemed indifferent as to the consequences of his reckless claims.

**Evidence of Garry Guzzo**  
**CPI Vol. 182**  
**pp. 118-119**

**Evidence of Garry Guzzo**  
**CPI Vol. 182**  
**pp. 184-186**

418. Guzzo wrote a follow-up letter to Premier Harris on February 23, 1999. He repeated his concern about key people having not been interviewed. He referred to the fact that a perpetrator who had signed an affidavit, that was part of the materials in the government's hands since April of 1997, had still not been spoken to by the OPP. Guzzo acknowledged in evidence that this was Ron Leroux. He did not know that Leroux had in fact been interviewed by the OPP on February 7, 1997 and November 1997.

**Ex. 984**

**Evidence of Garry Guzzo**  
**CPI Vol. 182**  
**pp.183-183**

419. On March 24, 1999 Guzzo was quoted in an article in the Ottawa Sun. In the article he publicly questioned the competence of Project Truth officers. He said he had spoken to a victim who had not been interviewed by the OPP officers. He repeated his remarks about Project Truth not having interviewed some of the person who swore affidavits and gave statements. These are the documents that went to the government in April of 1997.

**Ex. 992**

420. The article contains a photocopy of the receipt Pat Hall provided to Dunlop upon receipt of a copy of the materials which Dunlop had left with the Attorney General in April 1997. The receipt read:

The Ontario Provincial Police “Project Truth Investigators” never received the full package that was delivered to the Office of the Attorney General, or the Office of the Solicitor General, Ontario Civilian Commission on Policing Services that was hand delivered on the 8<sup>th</sup> of April 1997 to the said offices by Constable Perry Dunlop.

**Ex. 1478**

421. On April 3, 1999, Guzzo wrote to Premier Harris’ Chief of Staff. His central thesis as far as the police were concerned was that there had been three prior investigations into the alleged pedophile ring. None of those investigations resulted in anything. Then Project Truth came to town and people started to get charged. According to Guzzo, the explanation for this was either police incompetence or some sort of cover-up in the first three investigations.

**Ex. 985**

**Evidence of Garry Guzzo  
CPI Vol. 182  
pp. 144, 151-2**

422. In this letter Guzzo stated that the receipt Hall signed showed that the OPP had not received any of the documents served on the Attorney General prior to Dunlop giving him a copy. This became a cornerstone of the cover-up/incompetency theory of Guzzo. He went on to say that a judicial inquiry may be necessary to get to the bottom of this.

**Ex. 985**

423. On June 24, 1999 Hall wrote to Guzzo. Guzzo had been quoted in the media as having the names of victims whom the police had not interviewed because the investigation was incompetent; e.g. Ottawa Sun March 24, 1999. Hall requested a meeting to give Guzzo an opportunity to share with the police the information he had. Hall assured him that the police would follow through.

**Ex. 996**

**Ex. 992**

424. The meeting with Guzzo was not taken lightly. Hall had discussed it with Jim Stewart and Mark Garson in March of 1999. It was further discussed with John Corelli of Special Prosecutions. Later he discussed it with Det. Supt. Larry Edgar who gave him the go ahead to write to Guzzo.

**Evidence of Pat Hall**

**Vol. 319**

**p. 113**

425. On June 29, 1999 Guzzo's Executive Assistant, William Grant, replied. He stated that Guzzo was on holiday and that he would inform Guzzo of the request when he came back to work. On August 10, 1999 Hall received a letter from Grant informing him of the fact that Guzzo had bypass surgery and

would be recuperating for the next 60 days. Grant would get back to Hall advising him of Guzzo's availability.

**Ex. 997**

**Ex. 998**

426. Grant had not gotten back to Hall so on January 25, 2000 Hall called him. They spoke of getting together the second week of February 2000. On February 21, 2000 Hall was paged by Grant who proposed a meeting date of February 23, 2000. Hall was tied up in court at that time so the 23<sup>rd</sup> was not feasible. Grant said he would contact Guzzo but failed to do so.

**Ex. 1006**

427. In July of 2000 Guzzo circulated a copy of a draft of his Private Members' Bill, Bill 103, which would have established a Commission of Inquiry to inquire into investigations by police forces of sexual abuse allegations against minors in the Cornwall are. Ultimately, Bill 103 went forward as it was in draft form because of time restrictions. The Bill identified seven specific topics that were to be investigated by the proposed Commission of Inquiry.

**Ex. 1137**

**Evidence of Garry Guzzo**  
**CPI Vol. 182**  
**p. 37**

428. The Bill, it is submitted, was a legislative extension of his central claim of why the charges, uncovered by Project Truth, were missed by the three prior investigations.

429. On July 15, 2000 Guzzo appeared on CJOH television. In the interview he explained why he thought it necessary to have proposed Bill 103. He cites his cover-up/incompetency theory. He said he had asked for an explanation as to how the police missed all those charges and no one told him he was wrong. To make his point about the missed charges Guzzo said that the OPP held a press conference on Christmas Eve 1994 at which time it was stated “we’ve left no stone unturned. There is no one to charge. There is no pedophile ring”. In reality there was not a press conference on Christmas Eve. There was a press release on December 23, 1994. The words quoted by Guzzo did not appear. He repeated the erroneous statement he had made earlier in correspondence that the Project Truth investigator had acknowledged that he never saw the materials left with the Attorney General’s department.

**Ex. 1138**

**Ex. 1000**

430. On September 13, 2000 Guzzo wrote a letter to the editor of the Cornwall Standard Freeholder about Bill 103. In it he stated among other things the following:

The issue of Bill 103 is simple! Either the investigation which was left with “no stone unturned” was incompetent or there has been a major cover-up on the part of certain police services.

He said he was concerned because this incompetency/cover-up could be occurring elsewhere in the province with other OPP investigations. He closed off the letter with an open invitation:

If there are simple explanations and I have missed some evidence along the way, I should be obliged if I might be advised of my error.

**Ex. 1005**

431. On September 15, 2000 Hall wrote to Guzzo. He set out the chronology of their attempts to get together. He went on to inform Guzzo that the Project Truth investigation was drawing to a close subject to new victims coming forward. He again repeated his request for additional victims' names so that their allegations can be investigated. Guzzo replied on September 21, 2000 and agreed to meet.

**Ex. 1006**

432. On October 4, 2000 Guzzo wrote to his colleagues ("Dear Colleague") to enlist support for his Bill 103 that was going to be in the legislature on October 12, 2000. He lays out his version of the facts which contained the same misstatements as in earlier correspondence albeit in a more fulsome fashion.

**Ex. 1008**

433. He knew that by advancing the cover-up or incompetence theory he risked undermining the public's confidence in the legitimacy of the current Project Truth investigation.

**Evidence of Garry Guzzo  
CPI Vol. 182  
p. 166**

434. On October 5, 2000 Hall wrote to his Director of CIB a seven page letter. It was a response to the seven topics outlined in the draft Bill 103.

**Ex. 302**

435. Deputy Commissioner Chris Lewis became the director of CIB in early October 2000. He was of the view that it was necessary to speak to Guzzo to try to educate him on the reality of the facts. That way hopefully he would stop spreading those misstatements in the public forum. Lewis was quite concerned about Guzzo's misinformation and the negative impact it could have on Project Truth. It clearly would not give the public, and specifically victims, confidence to hear that the OPP does not know what it is doing. There was also thought given to holding an OPP press conference to dispel these misstatements.

**Evidence of Chris Lewis  
Vol. 324  
p. 159**

**Evidence of Chris Lewis  
Vol. 324  
p. 160**

436. Lewis met with Hall on October 16, 2000 in preparation for the meeting with Guzzo. Hall briefed him on the events leading up to Project Truth and the investigation itself. Hall told him that the investigation was winding down. In the absence of new victims coming forward all that was left to be received were the Crown opinions. Those briefs had been submitted in September 1999, November 1999 and July 2000. Pat Hall prepared in effect a briefing note for Lewis in anticipation of meeting with Guzzo.

**Evidence of Chris Lewis  
Vol. 324  
p. 161**

**Ex. 2901, 2902**

437. On November 1, 2000 Hall provided to the OPP his response to the “Dear Colleague” letter of October 4, 2000.

**Ex. 2825**

438. On November 20, 2000 Guzzo met with Lewis and Hall. Lewis opened the meeting by letting Guzzo know that he had been misinformed and that they wished to give him the actual facts. The message was: you have been fed misinformation and you have been misinforming the public, please do not do it anymore. He was not accusing Guzzo of lying but rather passing on untruths. Lewis relied on Hall for a presentation of the facts. Guzzo was asked if he had any victims’ names as their allegations could be investigated. He did not provide any names or any information of any investigative worth. The bulk of this meeting was occupied with Hall trying to correct the misinformation about the investigations and Project Truth that Guzzo had been spreading.

**Evidence of Chris Lewis  
Vol. 325  
p. 62**

439. Hall explained to Guzzo that the 115 charges turned up by Project Truth were not missed in previous investigations. Hall explained to Guzzo that the prior investigations had a much more restrictive focus than Project Truth.

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 278**

440. Hall explained the true facts surrounding the July 31, 1998 receipt that appeared in the Ottawa Sun on March 24, 1999. Hall showed Guzzo the indexes he had. He showed him the index from the package the OPP had received from Fantino. He also showed him the index from the binders he had received on July 31, 1998 and the index of the Police Services Act Proceedings (the two volumes). He wanted to make it clear that Guzzo's statement that Project Truth had not seen any of the material served on the government on April 7, 1997 was wrong. Guzzo accepted that Project Truth had most of the materials prior to July 31, 1998.

**Evidence of Pat Hall**  
**Vol. 319**  
**pp. 116-117**

441. Hall laid out for him that the fact that the CPS investigation was of Silmsers' allegations and that the Ottawa Police investigation was not a reinvestigation. He explained the precise scope of the 1994 OPP investigation. None of the three investigations was an investigation into the existence or non-existence of an alleged pedophile ring in Cornwall. When he left the meeting Guzzo knew the mandates of each investigation. Guzzo accepted that.

**Evidence of Garry Guzzo**  
**Vol. 183**  
**pp. 262-263, 278**

442. Before this Commission, Guzzo acknowledged that he was wrong about the three earlier investigations. They did not miss the 115 charges. They did not miss them because they were not looking for them.

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 243**

443. Hall said he informed Guzzo that they had had the registration receipts from the Saltaire forwarded. Hall did not show any receipts that day because he did not have any with him. Guzzo's assertion that Hall said he had a receipt in the name of the Bishop does not make any sense. Hall knew that he did not have one for the Bishop. He knew as well that he had no evidence to substantiate that the Bishop had ever been to the Saltaire. It does not make sense that Hall would mislead Guzzo on this point given one of the reasons for the meeting was to set him straight. Guzzo himself felt that they were there to debrief him.

**Evidence of Pat Hall**  
**Vol. 319**  
**p. 118**

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 208**

444. Guzzo and Hall discussed the seizure of the tapes from Ron Leroux's place. Guzzo claimed that Hall told him that the tapes were destroyed because Ken Seguin was dead: "We can't charge a dead man".

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 270**

445. Guzzo himself recognized the illogicality of the explanation. If part of Hall's reason for meeting with Guzzo was to straighten out his misunderstandings, why would he offer this version that did not make sense?

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 271**

446. This explanation hardly seems a likely one offered by Hall. The seizure took place February 10, 1993 and the tapes were destroyed May 4, 1993. Seguin was alive and well up until November 1993. The OPP were not investigating Seguin at that time. The tapes were not seized from the possession of Ken Seguin. They were seized from Leroux's house. It is submitted that the reason for the destruction was laid out the way Pat Hall testified. That is, Leroux did not want them. There was no illegal material on them so there was no reason to keep them. There was no evidence the tapes had anything to do with Ken Seguin.

447. Guzzo says he told Hall "everywhere I look, the chain of command is broken" to which Hall allegedly replied "don't play dumb with me, go and ask your

Premier”. Guzzo took this as meaning that the Premier’s office was quarterbacking a police investigation. Hall denied making these comments to Guzzo.

**Evidence of Pat Hall**  
**Vol. 319**  
**p. 121**

**Evidence of Garry Guzzo**  
**Vol. 165**  
**p. 87**

448. Guzzo claimed that he had been asking for an explanation. It is submitted that it had now been provided to him. There was no cover-up; it was not a botched investigation. The prior investigations were more narrowly focused. As a result of Project Truth’s more expansive mandate there were now 115 charges. The explanation was quite simple.

449. Guzzo acknowledged that he found the debriefing very helpful. He said Hall had an impressive mastery of the facts. Hall came across as a very honest and straightforward straight shooter. He saw him as a competent person to have in charge of the investigation.

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 247**

450. Lewis said Guzzo began slumping in his chair as Hall was explaining the facts. He asked very few questions. Hall did most of the talking. At the end Guzzo apologized for his critical words about the OPP. Both Lewis and Hall felt that the meeting was a success. They had accomplished what they

wanted, which was to have Guzzo realize his facts were wrong. The door was left open for Guzzo to contact Hall and provide any information he could or have Hall answer any questions he had.

**Evidence of Chris Lewis**  
**Vol. 324**  
**pp. 176-77**

451. On December 8, 2000 less than three weeks after he spoke to Hall and Lewis, Guzzo wrote another letter to Premier Harris. Guzzo was trying to revive Bill 103.

**Ex. 1010**

452. It is submitted that there is something disingenuous about this. He wrote on September 13, 2000 to the Standard Freeholder that the issue of the Bill was simple. It was an issue of police incompetency or cover-up. The whole idea of incompetency/cover-up had been addressed on November 22, 2000. Guzzo had accepted Hall's explanation. The whole basis for Bill 103 had disappeared with that explanation.

453. He did not mention, of course, the details of Hall's explanation in the December 8, 2000 letter. If he had it would not have helped his cause. Up until November 22, 2000 Guzzo had been reckless with the facts. He did not do anything to inform himself of the accuracy of the facts that were the basis

of serious allegations being made about the police. After November 22, 2000 he was not honest.

454. In an email from Lewis to Hall of January 14, 2001, Lewis is referencing an article in the Ottawa Sun of the same date. Lewis is pointing out that Guzzo is badmouthing the OPP and saying things that are untrue and that Lewis and Hall had told to him were untrue.

**Evidence of Chris Lewis**  
**Vol. 325**  
**p. 119**

**Ex. 2910**

455. On May 29, 2001, he spoke in the legislature and repeated his thesis of the three investigations missing 115 charges. Incredibly he mentioned the debriefing he received and yet still pushed this bogus theory.

**Ex. 1139**

456. Lewis was aware of the fact that by virtue of his present office and former judgeship, Guzzo would have public credibility. He was having a very negative effect. He was saying things that could cause present victims to lose confidence in the judicial system. Potential victims might not come forward. His remarks that the OPP was inept could impact on other aspects of policing. It lowered morale within the organization generally and specifically those persons who were part of the Project Truth team. He felt it important for the public to get the true facts and not be influenced by someone who clearly did not know what he was talking about.

**Evidence of Chris Lewis**  
**Vol. 325**  
**pp. 17-18**

457. Pat Hall had always been concerned about the optics surrounding the Attorney General's Department losing the Perry Dunlop materials. He felt that there should be a concerted effort to get to the bottom of what happened. His belief was not that there had been an effort to bury the materials, but he wanted to be able to explain exactly what happened in order to answer the conspiracy theorists. This was the point of view being advanced steadfastly by Guzzo in the media. He raised this in his letter of July 13, 2001 to Lorne McConnery, who referred it to Jim Stewart.

**Ex. 2811**  
**Ex. 2813**

458. Jim Stewart responded to the concerns by focusing on the fact that the absence of those materials did not compromise the Project Truth investigations. This was true. However, it missed the point that Guzzo had been advancing which was Hall's concern.

**Ex. 2814**

459. Hall said as late as April 22, 2004 in a letter to Jim Stewart:

I am not suggesting anyone from the Ministry of the Attorney General was purposely keeping the information from the OPP. It is the public perception that it was being held back

**Ex. 2832**

460. Murray Segal, the Assistant Deputy Minister, Ministry of the Attorney General, shared the view that the issue was simply one of ensuring that at the end of the day Project Truth had in fact received the Dunlop materials. Segal had looked into this issue in 1999 when was dealing directly with Guzzo on the issue of the missing documents. He was made aware in 2001 that Pat Hall had raised the issue with Lorne McConnery in July.

461. Segal said Hall's concern made no sense to him, because Hall would have known he had everything in the final analysis. Segal failed to realize the essence of Hall's complaint and consequently did nothing to address it. Nothing was provided to the OPP to give a credible explanation for the missing documents.

**Evidence of Murray Segal**  
**Vol. 345**  
**pp. 230-236**

462. Guzzo persisted in repeating this claim in later communications even though he did not question Pat Hall's integrity.

**Ex. 1022**

**Evidence of Garry Guzzo**  
**Vol. 183**  
**p. 281**

463. Guzzo spoke in the legislature on June 27, 2001. He said that copies of some of the tapes seized from Leroux's place in 1993 have been found. He said the citizens group found them. He mentioned being briefed by Pat Hall in November 2000 about the tapes. Hall told him they were destroyed. When

questioned about the destruction Guzzo told the legislature that he had shrugged like he had done when he could not explain the fact that 115 charges were missed three times. Guzzo said the kingpins of the organization were depicted in the movies.

**Ex. 1011**

464. The basis for this statement appears to be the following. Guzzo stated that C-39 showed him part of an 8millimetre film in May of 1999. It depicted two males performing a homosexual act. Guzzo said you could not see the faces of the two males in the film. He was told by C-39 that it was him and Ken Seguin. Significantly, C-39 did not link this movie to the seized tapes from Ron Leroux's.

**Evidence of Garry Guzzo  
Vol. 165  
pp. 122-130**

**Evidence of Garry Guzzo  
Vol. 182  
p. 45**

465. One has to wonder how Guzzo actually believed what he told the legislature in 2001. Why did he not raise this with Hall when he told him the tapes had been destroyed? He would have seen the 8mm film by that time.
466. Carson Chisholm, the leader of the Citizen's Group, testified he had never seen the tapes seized from Ron Leroux's and consequently does not know

what or who was on the tapes. He could not have made a statement that the “kingpins of the organization” were on the tapes.

**Evidence of Carson Chisholm**  
**CPI Vol. 144**  
**pp. 110-114**

467. On July 18, 2001, Hall wrote to Guzzo about his remarks in the legislature. He wanted to find out who had these movies or knowledge of them and how the OPP could be provided with a copy.

**Ex. 1013**

468. On July 24, 2001 Guzzo called Hall and left a message that he had received Hall’s letter but he wanted to talk to him first before he replies. Hall calls back and Guzzo tells him he does not have the video tapes. He described some as being professionally made. He tells Hall the tapes are in a safety deposit box in Massena and that he will have to make some calls. Needless to say, Guzzo did not provide any tapes or any information that would allow the police to follow up.

**Ex. 2758**  
**bp. 7110985-6**

**Evidence of Pat Hall**  
**Vol. 319**  
**p. 123**

469. Guzzo replied in writing on July 25, 2001. His letter said he had not seen the film. This inconsistency with his evidence he explains as a typing problem.

He went on to say that the movies were described as being copies of the Leroux tapes. This is contrary to what he said before the Commission.

**Ex. 1012**

470. On August 24, 2001 Guzzo appeared on Canada A.M. with Supt. Miller of the OPP. Incredibly, Guzzo is still talking about the 115 missed charges and whether it was incompetence or a cover-up. He is still misinforming the public about the material Pat Hall had never seen.

**Ex. 1017**

471. On August 28, 2001 Guzzo stated to the Ottawa Citizen that the OPP destroyed the video tapes that would have proven the existence of a pedophile ring in Cornwall. He repeated the “kingpins” claim, i.e. the tapes depicted the kingpins on the videotapes.

**Ex. 698**  
**bp. 1090105-7**

472. Gary Guzzo had a negative effect on the Project Truth investigation. His words and comments in the media could only serve to undermine the public’s confidence in the competence and integrity of Project Truth and its officers. He recognized himself that by virtue of the office he occupied he was in a position to influence public perceptions. It is submitted that his inaccurate public pronouncements adversely influenced those public perceptions.

473. It is more difficult to quantify that negative effect. We do not know how many victims failed to come forward because they had no faith in Project Truth's ability to investigate their complaint as a result of the spread of Guzzo's information through the media.

474. In his closing remarks before this Inquiry he makes reference to a "Dear Colleague" letter written on May 14, 2002. This letter in turn references his earlier "Dear Colleague" letter of October 18, 2001. Both of these letters were written to enlist his colleagues' support for his bill to establish a public inquiry. Both letters are replete with misinformation concerning the facts Lewis and Hall told him about. He complained to this Commission that he never got answers to his questions. That statement is disingenuous. The OPP tried to answer his questions but he chose not to listen

**Ex. 1025**

**Ex. 1022**  
**Evidence of Garry Guzzo**  
**Vol. 170**  
**p. 116**

475. Further in his remarks he says: "No one has ever come to me and denied anything. No one has come to me and said 'you're wrong' as they did on a health matter". It is submitted that Hall, in the presence of Chris Lewis, detailed for him where Guzzo was wrong. Hall's efforts fell on deaf ears.

**Evidence of Garry Guzzo**

**Vol. 170**  
**p. 121**

476. He stated the major concern he had was with the adequacy of the investigations by the police in Cornwall. Unfortunately, he did not listen when the OPP addressed his concerns.

**Evidence of Garry Guzzo**  
**Vol. 170**  
**p. 144**

477. It is difficult to understand why he persisted with his rhetoric against the police after November 22, 2000. He said before this Commission that he accepted what Hall told him about the three prior investigations. If that is so then when he spoke about the prior investigations not uncovering evidence to support the 115 charges, he knew he was misleading people.

478. It is submitted that like any right thinking person, he would not want to do anything that could possibly hinder the investigation of Project Truth. Yet he knowingly did just that. Perhaps only he knows why.

## **7. ROLE OF PERRY DUNLOP**

479. The OPPA adopts the submissions made by the OPP with respect to the role of Perry Dunlop. We are reproducing them here for the ease of the reader.

# **PROJECT TRUTH**

## **THE IMPACT OF PERRY DUNLOP ON THE OPP PROJECT TRUTH INVESTIGATION**

### **OVERVIEW**

The relevant institutional response of the Ontario Provincial Police (OPP) was the response to the involvement of Perry Dunlop (DUNLOP) in the various Project Truth Investigations.

### **OPP Officers**

Detective Inspector Tim Smith, Case Manager (to March 31 1999)

Detective Sergeant Pat Hall, Supervisor (to March 31 1999)

Detective Inspector Pat Hall, Case Manager (from April 1 1999)

Detective Constable Joseph Dupuis, Investigator

Detective Constable Steve Seguin, Investigator

Detective Constable Don Genier, Investigator

The Commission has heard evidence during the course of more than three (3) years regarding the actions of DUNLOP. His involvement in the OPP Project Truth investigations was, from a very early stage in these investigations, a source of frustration for the Project Truth Officers

Although the Commission has heard evidence that alleged victims of sexual abuse trusted DUNLOP in the early stages and found the courage to come forward as a result of hearing of his mission to help survivors of sexual abuse find justice, DUNLOP proved to be a great hindrance to the work of the Project Truth Team, and jeopardized prosecutions. This was a direct result of DUNLOP's failure to follow the orders of his own police force, the Cornwall Police Service (CPS) and to heed the the advice of Detective Inspector Smith (SMITH) who gave him three (3) simple rules to follow:

1. provide the disclosure which you, as a police officer, know is necessary in any criminal prosecution;
2. stop speaking with alleged victims or potential witnesses and simply direct them to Project Truth for further investigation; and
3. stop speaking with the media

DUNLOP did not follow the direction of his own police force and did not heed the advice of SMITH. His explanation, under oath, was that he did not trust the police. Although he had been through trying *Police Services Act* proceedings with his own police force, DUNLOP had no articulable reason for distrusting the OPP.

We have selected a very small representative sample of the sworn evidence given by DUNLOP, in various Project Truth prosecutions, to illustrate the nature of the difficulties faced by the Project Trust Team in attempting to deal with him.

The first passage sets out the lack of foundation or reasonable basis for DUNLOP's mistrust of the OPP. It is a portion of the examination in chief of DUNLOP by Crown prosecutor, Lorne McConnery (McCONNERY) during the s. 11(b) Motion before Justice CHILCOTT in *R. v. Charles F. MacDonald* on May 2, 2002 (Exhibit 721), beginning at page 475:

Q: Now, yesterday sir, in my asking questions of you, you indicated your lack of trust of fellow officers, fellow Cornwall officers, OPP officers, correct?

A: Yes.

Q: You talked about certain reasons very generally, you rhymed them off. You spoke of illegal search warrants or illegal search warrant.

A: Yes

Q. Okay. You talked about police officer or officers tearing up witness statements.

A. Witness statements disappearing.

Q. Witness statements disappearing. You spoke of pages being ripped out of notebooks.

A. Yes.

Q. The Project Truth officers, all of whom are pretty well sitting in this courtroom today, have you one iota of evidence to suggest any of these officers was responsible for any act of that nature?

A. That's not what I'm saying. The state ...

Q. But these are the officers, sir, respectfully, in 1997, 1998, 1999 and 2000 that you were dealing with. Do you have one iota of evidence that any of that team of officers did any of the things that you alleged yesterday?

A. No

Q. And the two officers who were monitoring on behalf of the Cornwall Police Service your contact with the Ontario Provincial Police we've heard were Inspector Trew and Staff Sergeant Derochie, correct?

A. Correct.

Q. Do you have one iota of evidence that they were responsible for any activities such as you described and alleged yesterday?

A. No.

Q. Okay. Are you aware of any evidence to suggest any officer, under the umbrella of the Project Truth investigation, destroying videotaped evidence?

A. No.

Q. Okay. Are you aware of any officer, under the umbrella of the investigation headed by Detective Inspector Tim Smith in 1994, destroying videotaped evidence when that investigation centered on the allegation of David Silmsler and the conduct of the Cornwall Police Service?

A: No.

Q: Are you aware, sir, of any evidence that any member of the Cornwall Police Service, while investigating the complaint of David Silmsler, destroyed videotaped evidence?

A. No.

Q: So it begs the question: What is it that you're talking about?

482. When I sent my package to the Attorney General and the Sol. Gen., it was my understanding that pages were ripped out, statements were taken out before they then got returned through to the OPP.

Q. From whom did you get that?

A. From whom did I get that information from? I forget who told me, to be honest with you.

The second passage is a representative sample of the evidence given by DUNLOP on the issue of his misleading approach to Detective Sergeant Pat Hall (HALL) of the Project Truth Team on the issue of disclosure. It is a portion of the examination in chief of DUNLOP by McCONNERY the s. 11(b) Motion before Justice CHILCOTT in *R. v. Charles F. MacDonald* on May 1, 2002: (Exhibit 720), beginning at page 447, line 12:

Q. Sir, did you, on October the 10<sup>th</sup>, make it clear to Detective Sergeant Hall that what you were giving him in this yellow binder was merely a scratch on the surface of what you had?

A. I can't recall that either.

Q. If I may, I'm going to suggest to you, sir, that you held out to the officer, Sergeant Hall, that you were giving him everything in compliance with the order of Trew.

A. Uh-huh.

Q. Is that correct?

A. Yes.

Q. Paragraph 3, all notes, tapes statements, et cetera, you have made or received. You're indicating that, from that meeting with Sergeant Hall, you would have left him with the impression you'd given him all notes, tapes and statements.

A. Again, I gotta go back to legal advice, you know.

Q. Well, was the legal advice that you mislead Sergeant Hall?

A. No, my legal advice was from my legal counselor, and it was not to mislead anybody.

Q. Did you tell Sergeant Hall that you were not providing him all notes, memoranda, tapes, videotapes, audio cassettes of your involvement with sexual assault allegations in which Inspector Tim Smith was leading an investigation?

A. Did I tell him I wasn't gonna give it to him?

Q. Correct.

A. No.

Q. In fact, you led him to believe you were complying with the order completely.

A. Well, at that time I guess that's how it went down.

There are numerous other passages of import which could be referred to that illustrate the thrust of our submissions. These include for example: Marie Henein's (HENEIN) cross-examination of DUNLOP in the matter of *R. v. Leduc*, where DUNLOP admitted to lying to the Court on the issue of providing materials to Richard Nadeau (NADEAU) for his website. HENEIN elicited from DUNLOP that he did in fact, provide such material to NADEAU and then confronted him with the transcript of his own evidence, given two (2) years earlier, in the matter of *R. v. Charles MacDonald*, in which DUNLOP had indicated, under oath, that he was not aware where NADEAU would have received those materials.

***Exhibit C-723, p. 34-37  
Transcript of Her Majesty the Queen vs. Jacques Leduc  
Extract Pre-Trial Motion, August 17 2004***

We respectfully commend to this Commission the following findings and observations of the triers of fact in the matters of *R. v. Charles MacDonald* and *R. v. Jacques Leduc* and of the Ontario Court of Appeal in *R. v. Jacques Leduc*. The OPP relies on these observations and findings made in those cases in relation to the role played by DUNLOP in the Project Truth Investigations.

**In his Reasons for Judgment in the matter of *R. v. Jacques Leduc*, dated March 1 2001, Justice Chadwick made the following observations and findings: (*Exhibit 845*)**

[14] ... Crown counsel also disclosed materials relating to the Marcel Lalonde case and Perry Dunlop's involvement with the witness [C-8]. [C-8] was counselled by Dunlop to change his evidence in order that he would have grounds for a civil suit against the school board ...

[15] It is clear from the evidence of Detective Inspector Pat Hall, that the Project Truth investigative team had serious concerns about Perry Dunlop and his contact with the witnesses and complainants. They were also concerned that they would not be able to make proper disclosure as Dunlop had not provided his notes and documents.

[16] Dunlop was also using the media to disclose information. The *Fifth Estate* had done a program. *CBC National News* had reported on the allegations along with local radio stations and print media.

[17] As early as August the 7<sup>th</sup>, 1997, Detective Hall met with Perry Dunlop in order to obtain his notes. At that time, he was also investigating a death threat against Perry Dunlop and his family.

[18] Detective Hall had received the first binder of Perry Dunlop's material in March of 1997. He observed that Dunlop's notes were not in the binder. Perry Dunlop was still contacting witnesses, but the OPP did not have any of Perry Dunlop's notes relating to the interviews of these witnesses and complainants.

[19] On September 23<sup>rd</sup>, 1997, Inspector Trew of the Cornwall Police Services (sic) ordered Perry Dunlop to stop contacting witnesses and the media and to turn over his notes to the Project Truth team.

[20] Detective Hall tried for two and a half years to obtain Perry Dunlop's notes. The Cornwall Police Services (sic) made another formal order on January 10<sup>th</sup>, 2000, requiring Dunlop to turn over the notes.

[21] On March 14<sup>th</sup>, 2000, Perry Dunlop turned over his notes to Detective Hall and on April the 10<sup>th</sup>, 2000, he provided a will say statement. The will say statement basically conforms with the notes.

.....

[24] When one looks at the notes of Perry Dunlop, one becomes suspicious as to when entries were actually made and whether they are complete.

.....

[29] Dunlop was subpoenaed by the defence but did not appear. Dunlop resides in British Columbia and had agreed verbally to accept service of a subpoena by Federal Express. Defence agreed to reimburse him for his air fare. At the last moment, he reneged and refused to appear.

[30] There is no doubt Project Truth was a large ongoing investigation. Over 850 people were interviewed. There were massive productions (sic) of documents. Fifteen individuals had been charged. There were many suspects.

.....

[39] It was apparent to the Project Truth Team from the start that Dunlop was a problem. Dunlop was a self-appointed investigator, prosecutor, judge, jury and executioner.

[40] Dunlop's vigilante approach permeated the complete Project Truth investigation.

**In his Reasons for Judgment on a s. 11(b) delay Motion in the matter of *R. v. Charles MacDonald*, dated May 13 2002, Justice Chilcott made the following findings in relation to DUNLOP: *Exhibit 227***

.....

[52] (v) other reasons for delay. In the Court's opinion, the greatest contributor to the delay in this matter was Mr. Dunlop, formerly a police officer on the Cornwall Force. Mr. Dunlop has been described with many colourful adjectives, few if any I would disagree with, but I do not propose to add to or embellish them further. Mr. Dunlop had significant information relating to this prosecution. He had conducted his own investigation, and continued to investigate while the proceedings were ongoing. He continued to undertake to provide, and promised to provide, the material he had and to have no contact with the media. There were oral and written instructions that he was ordered to comply with. He refused to provide the statements and documentation until he had seriously imperiled this prosecution and it was too late to be salvaged. It is easy to say in hindsight why didn't they come down harder on Dunlop, but remember, at the time that he had been through a hearing under the *Police Act* and had been successful, he was suing the Police Chief of Cornwall and the others that I mentioned earlier, including the Diocese, for millions of damages in a civil action. He kept promising to produce and, as his inspector at the time said, they were afraid that, if they were too harsh on him he would provide nothing and refuse to cooperate at all. That I can appreciate in the circumstances at the time.

[53] Now it is clear that Dunlop was trusted at the time, and that was a mistake. Mr. Dunlop was the cause of a large part of the delay. I do not

attribute that delay to the Crown. In my opinion, it would fall under subsection (v) in *Regina v. Morin*, i.e. other reasons for delay. I do not attribute the delay by reason of Dunlop's actions or lack thereof to any party because of his purposeful deceit and deception. However, if I had to charge the delay to some party, I would as a result of considering all of the circumstances, have to lay it at the feet of the Crown because the Crown and the police were aware of Dunlop's reluctance to provide the material.

**In the unanimous decision of the Ontario Court of Appeal in *R. v. Jacques Leduc* released on July 24 2003, Laskin JA., writing for the Court, made the following observations: (Exhibit 774)**

[10] Perry Dunlop was a constable with the Cornwall Police Service. Counsel for Leduc labeled him a "rogue police officer" and a "witness contaminator".

[11] In the mid-1990s, Dunlop set out to expose what he believed was a massive conspiracy among high-ranking members of the community. According to Dunlop, the conspiracy was aimed at preventing the public from finding out about a ring of pedophiles operating in the Cornwall area. Dunlop alleged that members of the Cornwall Police Service, the Crown Attorney's Office and the Catholic Church had paid off a complainant and had collaborated to cover up sexual abuse. Leduc was counsel to the Catholic diocese. He thus became a target of Dunlop's allegations.

[12] In 1997, Dunlop gave to the London Chief of Police a number of witness statements that alleged sexual abuse by prominent members of the Cornwall community. Significantly, none of these statements alleged that Leduc had committed sexual abuse. The statements were turned over to the OPP. In July 1997, the OPP established Project Truth to investigate the sexual abuse allegations.

[13] The Project Truth team interviewed approximately 850 people. Dunlop had no official role in the investigation. Nonetheless, he maintained an interest in Project Truth, and managed, without authorization, to inject himself into the OPP investigation. The Project Truth investigators soon became concerned that Dunlop was interviewing both witnesses and complainants and trying to colour their evidence. They viewed him as a potential obstacle to successful prosecutions, and made numerous attempts – mostly unsuccessful – to stop him from contacting complainants or witnesses in any Project Truth Inquiry.

[14] The investigators also repeatedly asked Dunlop to surrender all his notes and to produce a detailed history in the form of a will say statement recounting his involvement in Project Truth matters. At a meeting on July 23, 1998, Dunlop was told to turn over his notes as they were needed for inclusion

in disclosure briefs for defence counsel on a number of Project Truth cases. He refused to comply. Not until the spring of 2000 did Dunlop hand over to the investigators his notes, a will say statement and other materials. As I will discuss, two items in his notes and in his will say statement precipitated the stay application.

**In the Reasons for Judgment of Justice Platana in the Superior Court of Justice on a pre-trial Motion by defence counsel on the retrial in *R. v. Jacques Leduc*, delivered on November 10 2004, the Court wrote: (Exhibit 781)**

[85] Mr. Dunlop's evidence during the four days on the motion for production before me should not be given any more emphasis than it deserves. The purpose of exploring his connection to this case is to uncover any contamination of witnesses and that, indeed, is an issue for the trier of fact. It is, therefore, not necessary for me in this application to detail the full involvement of Mr. Dunlop and Mr. Chisholm as evidenced in the pre-trial matters before me. I repeat, none of the evidence given by them was available to the Court of Appeal during the hearing of the appeal from the stay. ...

[86] What is of import to the issue of delay before me is that from very early on in his involvement, Mr. Dunlop projected himself, his wife and Mr. Chisholm into circumstances where numerous individuals, potential witnesses, were interviewed and/or tape-recorded. Extensive records were kept and those notes were the subject of ongoing problems with disclosure in a timely fashion. They are, as I've said, acknowledged by the Crown to be relevant to these charges and non-disclosure is acknowledged to have contributed to the delay in having these charges proceed. I will review only some of the facts which the respondent accepts as correct and which relate to a disclosure obligation which is now acknowledged to be relevant to the delay issue.

[87] Mr. Dunlop became a police officer in 1983 and from July of 1997 to July of 2000, a period of time relevant to this case, Cst. Dunlop was on active duty. He began his involvement in sexual abuse allegations in 1993 and enlisted the aid of both his wife and Carson Chisholm. As a police officer (sic), he testified in the pre-trial motion, that he was well trained in keeping notes of an investigation and, indeed, did so in a constant basis. It is apparent also that between June of 1997 and January of 2000, the police repeatedly attempted to obtain compliance from Cst. Dunlop to give (sic) them his notes, videotapes and interviews. Indeed, on at least four occasions, he was given orders to provide the information in his possession to the police. That was not done and in his testimony before me, he acknowledged that he had not complied with those orders. It was on March 6<sup>th</sup> of 2000 that Cst. Dunlop finally disclosed his notebooks and personal notes regarding his investigation.

[88] It is acknowledged and the evidence is clear that between 1993 and 2000 when he resigned, he was a police officer and his material, therefore, was the

subject of disclosure obligations. A memo from Staff Sgt. Derochie in January of 2000, which Cst. Dunlop acknowledged receiving, clearly specified the extent of the disclosure obligations which Mr. Dunlop had in relation to the material in his possession. In particular, the evidence now discloses that notebooks which are particularly relevant to the proceedings against Mr. Leduc have, in some cases, never been produced in their original form. The evidence before me indicates that some of the material appears to be missing; some of it, on the basis of the evidence which I have heard, appears to be out of order. What the evidence does clearly establish is that Mr. Dunlop's contact with the complainants, while originally thought of in incomplete material before the Court of Appeal as being innocuous, is far from benign and far from innocuous.

[89] In addition, the information before me, as a result of the defence application for production, establishes a far more extensive relationship between Dunlop, Chisholm and the complainants in Mr. Leduc's case than has previously been disclosed. The evidence of Mr. Chisholm, in particular, discloses for the first time repeated contacts with [C-16's mother], the fact that he attended her home and, indeed, that he had contact with [C-17's mother] on more than one occasion. The evidence before me now satisfies me that Mr. Chisholm has acted in close concert with and under the direction of Mr. Dunlop. The entire course of conduct of Dunlop and Chisholm was, in fact, in my view, properly and appropriately the subject matter of disclosure which should have been made. It is clear that if the evidentiary record that was before me had been available to the defence at trial or, indeed, to the Court of Appeal, that that would have had a significant aspect in terms of the evidence before those courts on any stay of proceedings.

**We also rely upon the insightful comments of Lydia Narozniak (NAROZNIAK), the Crown prosecutor who was assigned to prosecute the retrial of Jacques Leduc. During her evidence before this Commission, NAROZNIAK testified that Mr. Dunlop was uncooperative and a difficult witness to deal with. She testified to the following:**

The context within which we had our discussions were unique, in that Mr. Dunlop was not a cooperative witness or cooperative individual in terms of coming to Cornwall. At the outset, my dealings with Mr. Dunlop focused on addressing his concerns. He was providing numerous obstacles to his attendance in the first place that I needed to accommodate and try to convince him that I was doing everything I can to minimize his visit to Cornwall.

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

*Transcript of Evidence, Lydia Narozniak  
January 23 2009, Volume 341 p. 66*

**NAROZNIAK indicated to the Commission that she had concerns about DUNLOP's credibility and reliability and made the following revealing observation with respect to DUNLOP based upon her review of the Project Truth material:**

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

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

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

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

This was absolutely critical information in my view, and put him in a totally different situation.

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

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

*Transcript of Evidence, Lydia Narozniak  
January 23 2009, Volume 341 pp. 71-73*

**On the issue of DUNLOP's courage during the Court proceedings and her disappointment in him as a witness, NAROZNIAK testified as follows:**

As a veteran police officer with experience in court and testimony, when you contrast what the victims went through, the days of gruelling cross-examination – and I say that, days, not only at the preliminary but at the first trial – facing yet another set of cross-examination where defence counsel is

armed with two sets of transcripts now, I was truly disappointed that Mr. Dunlop did not show the same kind of courage the victims did.

*Transcript of Evidence, Lydia Narozniak  
January 23 2009, Volume 341 p. 101*

## **A FINAL WORD**

It is respectfully submitted that based upon the evidence and judicial findings referred to above, DUNLOP was a substantial impediment both to the work of the Project Truth Investigators and to the prosecutions generated by the Project Truth Investigations from the outset of Project Truth to its conclusion. DUNLOP's stated purposes of "doing for the kids" and "doing for the victims" were really excuses for his campaign of self promotion and self aggrandizement characterized by a callous indifference to the work of the police and the courts. The unfortunate consequence of his negligence was great harm to proper administration of justice and to the community of Cornwall.

## **8. OPP COOPERATION WITH PUBLIC INSTITUTIONS**

### **a) CAS**

480.As far back as 1994, the OPP were consulting with members of the Children's Aid Society (CAS) for Stormont, Dundas and Glengarry on the investigations under consideration. A few examples of this cooperation and interfacing are illustrative of the point.

481.In 1994, Det. Insp. Smith was conducting a reinvestigation of the allegations made by David Silmsler against Father Charles MacDonald. On March 22, 1994 members of the OPP met with Richard Abell,

Executive Director of the CAS and CAS worker Greg Bell to advise them of their ongoing investigation and what they were going to be doing.

**Evidence of Richard Abell**  
**CPI Vol. 294**  
**pp.122-123**

482. On June 27, 1994 Smith updated Bell by telephone with respect to the status of an ongoing investigation. Abell further stated that there were other conversations in this regard with Smith.

**Ex. 2324**

**Evidence of Richard Abell**  
**CPI Vol. 296**  
**pp. 297-299**

483. On September 25, 1995, Abell met with John MacDonald and as a result of that meeting Abell contacted Smith to advise him that MacDonald wanted to speak to the police about his complaint of abuse. Smith followed up on that information. Mr. Abell stated that the quick follow-up by Smith was very important and that he deserved credit for making the contact in such a timely manner.

**Evidence of Richard Abell**  
**CPI Vol. 296,**  
**pp. 144**

484. At the outset of what was to become Project Truth, Det. Sgt. Hall (as he then was) (Hall) directed Det. Cst. Steve Seguin (Seguin) to review and breakdown the Fantino brief (the Dunlop materials) which contained allegations of sexual assault and conspiracy to obstruct justice involving several prominent

members of the Cornwall community. This process was commenced by Seguin on May 14, 1997. He was directed by Hall to divide up the briefs into a format that would allow assignments to be created so that the actual investigations could be commenced.

**Evidence of Steve Seguin.**  
**CPI Vol. 313**  
p. 151-165

485. One week later, at the direction of Smith, a meeting was arranged with Abell. On March 21, 1997, Smith along with Seguin and Det. CSt. Don Genier (Genier) met with Abell to design a cooperative, strategic approach between the OPP and the CAS regarding the upcoming investigations. Smith, according to Abell, was very clear that he wanted there to be close contact between the OPP and the CAS as the investigations went forward. Although not reduced to writing, a comprehensive protocol was developed to facilitate that cooperative effort.

Included in this agreement were the following points:

484.the OPP agreed to permit the CAS to review videotapes it had in relation to the investigations;

485.in a planned follow-up interview with Ron Leroux (Leroux), the OPP agreed to put a series of questions to Leroux on behalf of the CAS in order to advance the particular interests of the CAS;

486.the OPP agreed to provide all records of interviews conducted to the CAS;

487.the OPP agreed that the CAS could proceed with its mandated

responsibilities without concern that their efforts would cause any problems to the police investigation;

488.the CAS would attempt to conduct an interview with Tom Swabey

(Swabey), counsel for Father Kevin Maloney (Maloney) and Monsignor McDougald;

489.the CAS was to communicate with senior Church officials regarding

access of the accused to children;

490.if the CAS was contacted by a victim directly a statement would be taken

and the person in question would be encourage to speak to the police.

Written material from the OPP advising of the investigation was posted in the CAS offices and distributed to those who came forward in order to facilitate contact with the OPP

491.The OPP agreed to inform victims that they should speak with the CAS in

furtherance of understand that the CAS would explore treatment resources for any victims coming forward.

Richard Abell stated, after a review of the above measures, that the level of

cooperation between the OPP and the CAS was excellent.

**Evidence of Richard Abell**

**vol. 296**

**pp. 286-292**

486. Hall was made aware of the matters discussed during that meeting. Hall confirmed in his evidence that the objectives set out in the March 21, 1997 meeting were achieved. He further stated that he encountered no difficulties with

the CAS in accomplishing these aims. He testified that the lack of a written protocol did not cause any difficulties in the dealings between the OPP and the CAS.

**Evidence of Pat Hall  
CPI Vol. 324  
pp. 105-108**

487. It is respectfully submitted that a review of the evidence confirms that the degree of cooperation between the OPP and the CAS during the investigations under review was excellent. It is further submitted that the protocol as developed by Smith and Abell and carried on by Hall and the other Project Truth officers was reasonable and effective in the circumstances.

**b) DIOCESE**

488. Near the commencement of the Project Truth investigations, Hall and Smith met with Bishop Eugene Larocque (Larocque).

(Evidence of Pat Hall, CPI Vol. 323, p. 61)

489. At that meeting, Larocque was generally informed regarding the type of information the officers would be seeking. He was advised that he would cooperate voluntarily and turn over the information as requested or a search warrant would be employed to obtain the necessary documentation (Hall conceded in his evidence that he did not have the grounds to obtain a search warrant). Because Larocque himself was also a person under investigation, he

was not advised as to the reasons for the various requests but rather just what was needed in the expectation that he would provide what was asked for. Requests for information were in writing. The response from Larocque was timely and complete.

(Evidence of Pat Hall, CPI Vol. 323, pp. 261-265)

490. If he did not have the information, Larocque directed the offices to where it could be located

(Evidence of Pat Hall, CPI Vol. 323, p. 265)

491. There were numerous written requests made by the OPP and written responses were forthcoming from Larocque.

(Ex, 2869)

(Evidence of Pat Hall, CPI Vol. 323, pp. 266-269)

492. In addition to the material contained in Exhibit 2869, there were many additional documents transferred from Larocque to the OPP upon request.

(Evidence of Pat Hall, CPI Vol. 323 pp. 269-273)

(Ex. 1934) (Ex. 2115) (Ex. 2120)

(Ex. 2118) (Ex. 1993) (Ex. 2152)

(Ex. 1994) (Ex. 2119) (Ex. 2117)

(Ex. 2114) (Ex. 1857) (Ex. 2154)

(Ex. 1973) (Ex. 2116) (Ex. 1940)

(Ex. 1912)

493. It is respectfully submitted that as a result of the relationship developed with Larocque, the Truth team was able to obtain valuable information regarding suspects, documentation and a statement from Larocque himself. While not formalized in a written protocol, in these unusual circumstances the approach adopted served the best interests of the investigations, particularly so since a search warrant was not considered to be a viable option.

**c) UPPER CANADA DISTRICT SCHOOL BOARD AND THE CATHOLIC DISTRICT SCHOOLBOARD OF EASTERN ONTARIO**

494. Hall testified that he was unaware of any difficulties encountered by his offices in their dealings with school boards in the area. On the evidence, the lack of a protocol, written or otherwise, was not an impediment to the police investigations.

(Evidence of Pat Hall, CPI Vol. 324 pp. 109-111)

**d. REFERRAL OF CASES**

495. Once a determination was made that a case did not fit within the Project Truth mandate, it was referred to either the CPS or a local detachment of the OPP.

(Evidence of Pat Hall, CPI Vol. 324 p. 112)

496. No difficulties were encountered in the referral process. Any notes made or statements taken during the investigation before the referral were forwarded to the appropriate agency.

(Evidence of Pat Hall, CPI Vol. 324 p. 112)

497. It is respectfully submitted that given the highly unusual circumstances in existence at the time of the Project Truth investigations (i.e. active officers of the CPS under investigation as well as the documented problems presented by Dunlop's persistent refusal to act in a professional and responsible manner) the fact that an ongoing cooperative and productive relationship was maintained with the CPS is a testament to the officers involved from both services.

## **9. LENGTH OF INVESTIGATIONS**

498. Some Project Truth investigations have been criticized for the length of time they took. It is submitted that the yard stick for delay should not be a simple calculation of the time that passed between receiving the complaint and making a decision to charge or not. No one investigation took place in isolation. Each investigation took place in the context of the constellation of investigations that was Project Truth.

499. Project Truth was never designed around speed. It was recognized that in the case of historical cases that to move too quickly could work to a disadvantage. If an investigation is conducted with haste, charges laid and legal proceedings

commence and then further victims of the same perpetrator come forward, that can cause disclosure problems and problems with the judicial process.

**Evidence of Tim Smith**  
**CPI Vol. 301**  
**p. 83**

**Ex. 2681**

500. Counsel for the CCR recognized that Project Truth had a number of complex investigations going on at the same time. It has never been suggested that the reason for the delays was the fact that Project Truth team were not working hard enough. Cst. Seguin said he had a full plate on a regular basis.

**Evidence of Steve Seguin**  
**CPI Vol. 314**  
**p. 129**

501. By July 28, 1997 the organization of the Dunlop brief had generated 293 assignments. There had been 18 potential suspects identified with potentially 20 known victims and six confirmed victims. Each interview (an assignment) would generate more assignments.

**Evidence of Tim Smith**  
**CPI Vol. 311**  
**p. 188**

502. This list of assignments would not include Claude Marleau who came forward and was only interviewed on July 31, 1997. This interview and subsequent investigation resulted in five persons being charged by Project Truth.

**Ex. 2772**

**Ex. 2778**

503. In addition to the above, the preliminary hearing for Father Charles was set to resume on September 8, 1997.

**Ex. 1803**

**bp. 1054268**

504. Project Truth prepared briefs for Crown recommendations on 31 separate investigations, involving 29 different suspects. The majority of the briefs involved more than one victim.

**Ex. 2772**

505. Against that backdrop, it may be useful to examine the issue of delay by examining the case of Malcolm MacDonald as an example.

506. Three persons made allegations against Malcolm MacDonald:

C-5 was first interviewed on September 30, 1997

C-10 was first interviewed on February 3, 1998

C-21 was first interviewed on December 16, 1998

**Evidence of Steve Seguin**

**CPI Vol. 314**

**pp. 71-72**

507. It was felt necessary to do a clarifying interview with C-10. That interview was delayed because C-10 had moved and not told the OPP. They

ultimately tracked him down through an ex-girlfriend. He gave the interview on June 26, 1998. The brief was sent off about 10 days later.

**Ex. 378**

**Evidence of C-10  
CPI Vol. 102  
pp. 69-72**

508. A three-volume brief was submitted to Shelley Hallett for review on July 7, 1998. This brief only dealt with C-5 and C-10 since C-21 had not been identified yet. The Crown recommended charges on March 9, 1999 and on March 11, 1999 Malcolm was charged.

**Ex. 2772**

**Ex. 2896**

509. C-21 only came to the attention of Project Truth on December 15, 1998 and he was interviewed on December 16, 1998. He made allegations against Malcolm MacDonald, however it was his interview that spawned the Jean Luc Leblanc investigation. That investigation very quickly went to the top of the priority list because of the risk that Leblanc was currently abusing. Leblanc was arrested on January 5, 1999. There was significant follow-up work required on Leblanc which was done. That follow-up yielded more victims and more charges. C-21 was re-interviewed on February 12, 1999. The brief on C-21 with respect to Malcolm MacDonald was submitted to Hallett for review on March 9, 1999. Malcolm died before any decision was made.

**Ex. 2729**

**Ex. 2772**

**Ex. 2704**

**Ex. 2896**

**Evidence of Steve Seguin  
CPI Vol. 313  
pp. 226-228, 235**

510. At the time of the Malcolm MacDonald investigation, Project Truth had three other major investigations on the go: Father Charles, Claude Marleau's allegations and Jacques Leduc. Father Charles had been identified as a priority for Project Truth because he was already before the court. The new allegations against him contained in the Fantino brief were investigated and a brief submitted to Bob Pelletier on January 6, 1998. He recommended eight further charges concerning five victims. That Information was sworn on January 26, 1998.

**Ex. 1803  
bp. 1054277**

511. Claude Marleau was not a name known to Project Truth when he came forward in July 1997. He alleged abuse by a number of perpetrators. The investigation of his allegations resulted in six persons being charged in early July 1998. One of Claude Marleau's alleged perpetrators were Roch Landry. Steve Seguin was the lead investigator on that file.

**Ex. 1803 bp. 1054268**

**Ex. 2772**

**Evidence of Steve Seguin  
CPI Vol. 313  
p. 153**

512. Jacques Leduc came to the attention of Project Truth as an alleged sexual assault perpetrator in May 1998. His case had to be acted on with haste because the potential for future abuse. He was investigated and charged by June 1998.

513. Victims and witnesses were interviewed. Those interviews could lead to more persons being interviewed. These persons may not be local. The investigators had to track down corroborating evidence in the form of documents.

**Evidence of Steve Seguin**  
**CPI Vol. 315**  
**p. 163**

514. Once the charges were laid, the disclosure obligations to the defence kicked in. In some cases the defence made lengthy specific disclosure requests. The information sought had to be tracked down and forwarded to the Crown for distribution. There was a lot of work that had to be done while at the same time pursuing other ongoing investigations.

**Evidence of Steve Seguin**  
**CPI Vol. 315**  
**pp. 167-8**

515. Cst. Seguin was the lead investigator in the matters of Brian Dufour, Jean Luc Leblanc, Harvey Latour, Roch Landry, Bishop Larocque, Father Kevin Maloney, Malcolm MacDonald and Jacques Leduc. He also assisted in the other Project Truth investigations where someone else was the lead.

**Evidence of Steve Seguin**  
**CPI Vol. 313**  
**p. 153**

516. Those investigations resulted in the following:

a) Brian Dufour: 1 volume brief, 219 pages, 10 subjects interviewed

**Ex. 2873**

b) Jean Luc Leblanc: 6 volume brief, 1207 pages, 52 subjects interviewed

**Ex. 2881**

c) Harvey Latour: 1 volume brief, 179 pages, 9 subjects interviewed

**Ex. 2879**

d) Roch Landry: 6 volume brief, 736 pages, 3 subjects interviewed

**Ex. 2877**

e) Bishop Larocque: 3 volume brief, 1044 pages, 41 subjects interviewed

**Ex. 2878**

f) Father Kevin Maloney: 3 volume brief, 991 pages, 39 subjects interviewed.

**Ex. 2886**

g) Malcolm MacDonald: 6 volume brief, 1857 pages, 85 subjects interviewed.

**Ex. 2896**

517. It is submitted that if one were to examine the investigations in isolation then it may appear that it took too long to investigate. However hiving off a particular investigation from the Project as a whole is not, it is submitted, a fair gauge of the pace at which the officers conducted their investigation.

518. It is further submitted that some cases were delayed simply because of prioritizing. With the scope of the investigation as a whole it was not possible to investigate everything at once. Some cases were deemed more pressing than others. Also because of the nature of the investigations (historical sexual assault) generally, it was not desirable that they be done hastily.

519. It is submitted that the Project Truth team conducted their investigations in as a whole a timely fashion. Any deficiencies with respect to individual investigations were not born out of negligence on the part of the officers.

**10. CROWN COMMENTS ON THE PERFORMANCE AND WORK PRODUCT  
OF THE OFFICERS**

**THE HONOURABLE MR. JUSTICE ROBERT PELLETIER**

520. Prior to his appointment to the Superior Court of Justice, Mr. Justice Robert Pelletier (Pelletier) was an Assistant Crown Attorney in L'Orignal after

his call to the bar in 1985. In 1989 he became the Crown Attorney for the United Counties of Prescott and Russell.

**Evidence of Robert Pelletier**  
**CPI Vol. 342**  
**p. 3**

521. He was the lead prosecutor on the Alfred prosecutions and Tim Smith was the lead investigator.

**Evidence of Robert Pelletier**  
**CPI Vol. 342**  
**p. 85, 260**

522. Pelletier became involved in the prosecution of Father Charles MacDonald as the result of an assignment from Regional Senior Crown Peter Griffiths (as he then was) on January 15, 1996 to review the brief and prosecute Father Charles Macdonald

**Evidence of Robert Pelletier**  
**CPI Vol. 342**  
**pp. 3, 227**

523. The officers who prepared the briefs and assisted Pelletier in the prosecution were Smith, Fagan and Dupuis.

**Evidence of Robert Pelletier**  
**CPI Vol. 342**  
**p. 3, 227**

524. Pelletier reviewed all the briefs submitted to him in respect of the prosecution of Father Charles. He testified that in his opinion, the investigatory stage of the officers' work was done professionally, reflecting appropriate

investigative work. Follow-up work assigned to the officers was done in a timely and efficient manner.

**Evidence of Robert Pelletier  
CPI Vol. 342  
p. 248**

525. Pelletier further testified that the quality of the officers' work done during the preliminary hearing was similar to that described in the investigatory stage referred in the preceding paragraph. He stated that the officers, citing Fagan and Dupuis in particular, took a very active role as the preliminary hearing progressed, looking into issues on an overnight basis where necessary. Pelletier described Smith's performance of his duties as being "beyond reproach".

**Evidence of Robert Pelletier  
CPI Vol. 342  
p. 249**

526. Unlike the Alfred prosecutions, there were no Victim Witness Assistance Program services available to the prosecution at the time of Pelletier's involvement. Whatever services the Victim Witness Assistance Program personnel would have provided were taken up by the officers on a day-to-day basis.

**Evidence of Robert Pelletier  
CPI Vol. 342  
pp. 249-250**

ALAIN GODIN

527. Alain Godin (Godin) was called to the bar of Ontario in 1985. After periods of employment in the private bar, teaching and the public sector he joined the Ministry of the Attorney General in 1992 as an Assistant Crown Attorney. Since 1992, he has continued in his prosecutorial duties in North Bay and Fort Francis. He stated that he worked with four of the Project Truth officers in the prosecution of the cases involving Claude Marleau (Marleau).

**Evidence of Alain Godin  
CPI Vol. 330  
pp. 27-28**

528. He stated that he spent a lot of time with the officers and had a good rapport with them. He considered their efforts to be very helpful in the prosecution of cases to which he was assigned (Marleau).

**Evidence of Alain Godin  
CPI Vol. 330  
pp. 280-281**

529. Godin conducted his own review of the briefs and thereafter directed the officers to obtain further evidentiary material including school records, registry office records and island geographical charts. Godin stated that these officers carried out this work quickly and professionally “leaving no stone unturned”.

**Evidence of Alain Godin  
CPI Vol. 330  
pp. 281-282**

#### SHELLEY HALLETT

530. Ms. Shelley Hallett joined the Ministry of the Attorney General in May 1980. She worked as an Assistant Crown Attorney in Toronto from 1980 to 1988.

During that time frame she held Acting Crown Attorney positions in Kapuskasing, Woodstock, Brockville and Guelph. She was seconded to the Attorney General's Victim Witness Assistance Program in 1988. She organized training sessions for Crown Attorneys as a result of the implementation of Bill C-15. She lectured at the National Judicial Institute in 1990 and 1991.

**Evidence of Shelley Hallett  
CPI Vol. 337  
pp. 5-23**

**Ex. 3113**

531. Hallett has experience at both the trial and appellate levels prosecuting sexual assault cases of a current and historical nature.

**Ex. 3113**

(NOTE: Hallett was asked for her professional opinion on the performance of the officers that were working on the cases to which she was assigned. Due to the certain difficulties that arose during the prosecution of Jacques LEDUC on and after February 7, 2001, questioning was directed at the time frame prior to that date).

532. She was initially assigned to review and prosecute, where appropriate, briefs concerning Arthur Peachy, Jacques Leduc and Malcolm MacDonald. In

addition she was assigned the Conspiracy brief as well as the briefs of five priests. In addition she took over the prosecution of Father Charles MacDonald from Pelletier.

**Evidence of Shelley Hallett  
CPI Vol. 340  
p. 227**

533. Generally speaking, she had a very good working relationship with all four of the officers involved in her cases.

**Evidence of Shelley Hallett  
CPI Vol. 340  
p. 225**

534. In the police chain of command, Det. Inspector HALL was the overall Manager of the Investigations. DUPUIS had the title of Lead Investigator on the LEDUC matter, but it was clear to her that HALL was the officer “calling the shots”. It appeared to her that DUPUIS, being more “hands on” involved in the file was the most knowledgeable officer.

**Evidence of Shelley Hallett  
CPI Vol. 340  
p. 226**

535. HALLETT and the officers were in constant communication with one another. The officers wore pagers enabling them to be available on a 24/7 basis. Both HALLETT and HALL tried to copy each other on correspondence to keep

each other informed. When in Cornwall, HALLETT and the officers dined together enabling a further opportunity to discuss the files.

**Evidence of Shelley Hallett  
CPI Vol. 340  
p. 226-227**

536. SEGUIN and DUPUIS were the officers with whom she worked most closely. In preparing for LEDUC and other cases she reviewed the briefs prepared by these officers. That entailed reading all the interview reports and other documentation that was generated for the files.

**Evidence of Shelley Hallett  
CPI Vol. 340  
p. 227-228**

537. HALLETT stated that she had the opportunity to closely scrutinize their work product. From her perspective as an experienced Crown, she was of the view that the interviews were well done, the brief was well prepared and generally speaking she considered that she had been put in a very good position as a Crown (by virtue of the officer's work) to prosecute the matters.

**Evidence of Shelley Hallett  
CPI Vol. 340  
p. 227-228**

LORNE MCCONNERY

538. Lorne McConnery (McConnery) was called to the Bar of Ontario in 1973. He joined the Crown Attorney's office in Ottawa in 1974. He has worked continuously as a prosecuting counsel after Ottawa in Brampton, back to Ottawa again, followed by periods in Newmarket and Barrie where he was the Crown Attorney at the time of his testimony at this Inquiry.

**Ex. 3035**

539. McConnery has extensive trial experience including multi-victim sexual assault cases. He has prosecuted historical sexual assault cases as well as many major cases, generally homicides.

**Evidence of Lorne McConnery  
CPI Vol. 333  
pp. 4-5**

540. Mr. McConnery stated his opinion on the performance of Det. Insp. Pat Hall and the other members of the Truth team (Joe Dupuis, Don Genier and Steve Seguin). McConnery stated that as he worked with these officers over the ten-month period that he did, they certainly earned his respect. According to McConnery, Hall was very focused; he was a very driven investigator trying to do his work properly. In McConnery's view Hall was properly motivated, directing his mind to the appropriate issues. Hall responded to McConnery's requests in a timely fashion. Hall complied as best he could with any requests for assistance from McConnery.

**Evidence of Lorne McConnery  
CPI Vol. 335  
pp. 38-40**

541. Mr. McConnery's observation regarding the other officers (Seguin, Genier, Dupuis) was that he thought they were superb.

**Evidence of Lorne McConnery  
CPI Vol. 335  
pp. 38-40**

#### LIDIA NAROZNIAK

542. Crown counsel Ms. Lidia Narozniak (Narozniak) was called to the Bar of Ontario in 1983 at which time she became an Assistant Crown Attorney in Hamilton, Ontario. In 1987 she became the Crown Attorney in Kitchener and remained in that position until 2003. She returned to Hamilton to prosecute cases from 2003 to 2007.

**Evidence of Lidia Narozniak  
CPI Vol. 342  
p. 306**

**Ex. 3256**

543. In 2007 she was seconded to the Ministry of the Attorney General where she continued to work as at the date of her testimony before the Inquiry.

**Evidence of Lidia Narozniak  
CPI Vol. 342  
p. 307**

544. She has had significant experience prosecuting both current and historical sexual assault cases. In addition to her prosecutorial duties, she has lectured Assistant Crown Attorneys on the subject of sexual assault and historical sexual assault cases.

**Evidence of Lidia Narozniak  
CPI Vol. 342  
p. 307**

545. Narozniak was assigned to prosecute the matter of *R. v. Leduc* (#2), initially scheduled to begin on May 4, 2004. By that time, Det. Insp. Pat Hall and Det. Cst. Joe Dupuis had retired. In the course of her preparation for trial, Narozniak reviewed the work product of Det. Cst. Seguin and that of the other officers (Hall, Dupuis and Genier) from the investigatory and preparatory stages of the first Leduc trial. Narozniak was of the view that all work was performed in a thorough and professional manner.

**Ex. 3264**

**Evidence of Lidia Narozniak  
CPI Vol. 343  
pp. 205-209**

546. At the time of her preparation for and participation in the Leduc trial (#2) she worked closely with Seguin. They kept in touch by telephone and email on a very regular basis. Seguin's duties ranged from securing accommodations for Ms. Narozniak when she was in town to obtaining additional disclosure as requested. She found the assistance of Seguin to be carried out in a timely and professional manner.

**Evidence of Lidia Narozniak  
CPI Vol. 343  
pp. 205-209**

547. It is respectfully submitted that the Crown Attorneys and former Crown Attorneys who reviewed the officers' files and prosecuted the cases where it was deemed appropriate to do so are in the best position to comment on the officers' performance of their professional duties. They are uniquely positioned to evaluate these performances for at least three reasons: first, as experienced prosecutors, they would have had the ability to compare and contrast the performances of the OPP officers with undoubtedly what would amount to thousands of other officers that they worked with over the years. Second, they had day-to-day contacts with the officers involved and were therefore in a position to observe and evaluate the officers' work and dedication thereto over an extended period of time. Third, these evaluations are informed by knowledge of the conditions and circumstances as they existed at the time, taking into account the experience and training of the officers they dealt with.

548. A review of the preceding excerpts from the testimony of these experienced Crown prosecutors (a combined total in excess of one hundred and twenty years of Crown Counsel work) confirms that all the officers with whom they worked were highly regarded as professionals who carried out their duties in a conscientious and thorough manner.

## 11. THE INVESTIGATORS

549. It is respectfully submitted that all OPP officers involved in the investigations under review at the Cornwall Public Inquiry carried out their duties in a competent and professional manner. A fair analysis of their performances must take into account the level of training and education that was available at the relevant time. A careful review of the career profiles of S/Sgt, Jim McWade (Ex. 2520), Cst. Steve McDougald (Ex. 2553), D/Cst. Chris McDonnell (Ex. 2526), D/Cst. William Zebruck (Ex. 2586), D/Cst. Joe Dupuis (Ex. 2608) and D/Cst. Steve Seguin (Ex. 2693) establishes that during the time frames in question there was a demonstrable paucity of specialized training in relation to investigations of sexual assault, whether under the auspices of the Ontario Police College or the OPP Academy.

550. Training with respect to the investigation of historical sexual assaults was virtually non-existent and most certainly was not available for the investigation of cases involving allegations of historical sexual assault perpetrated against male victims. Taken one step further, there was a complete dearth of education on the subject at hand, that is, historical sexual assault investigations featuring multiple perpetrators-multiple male victims.

551. Notwithstanding this lack of formal education and training, it is respectfully submitted that, judged against the standards of the day the officers performed in an admirable and professional manner.

552. Mike Fagan (retired) and Don Genier (long-term disability), although referred in the evidence, were not called as witnesses to testify at the Inquiry. It is submitted that it is a reasonable to conclude, given the era in which they were active police officers, that no training in the aforementioned specialized areas of investigation was available to them.

553. The Commission has heard from Crown counsel Godin, McConnery and Narozniak regarding their opinions of the work product and effort put into the investigations by Don Genier. His former supervisor, Pat Hall, testified at the Commission as to his views of his former colleague:

He put his heart and soul into this investigation. He was responsible for identifying most of the members of the clergy and made many trips to Montreal regarding the Québec prosecutions, working with our Québec counterparts. We would not have accomplished the success that we did without his efforts, particularly in the French language.

...he is in the fight of his life as he has been diagnosed with ALS, Lou Gehrig's disease. The prognosis is not good. I can't help but wonder if the Project Truth investigation and the stress associated with it had any bearing on his present condition.

**p. 27-28**

**Evidence of Lorne McConnery  
CPI Vol. 335  
pp. 38-40**

**Evidence of Lidia Narozniak  
CPI Vol. 343  
pp. 205-209**

**Evidence of Pat Hall  
CPI Vol. ????  
p. 222**

554. Former Crown counsel Robert Pelletier spoke highly of Mike Fagan's work on the Father Charles MacDonald brief.

**Evidence of Robert Pelletier  
CPI Vol. 342  
p. 249**

555. One will recall the emotional testimony of D/Insp. Smith, who made the following comments regarding Fagan and the potential fallout from long-term investigations of sexual assault allegations:

**MR. SMITH:** ...Constable Fagan's statements that he had taken are short but to the point. There's not a lot of extra in them. But I had no complaints from the Crown Attorneys that he had worked with. And his other attributes, as far as I'm concerned, far outshone the ability to take a lengthy statement.

...He could have been -- he could have taken a bit more with a bit more detail...But I can live with that.

...When you deal with long-term investigations involving sexual assaults it has a tendency to burn you out...And I didn't realize at the time but -- pardon me.

**THE COMMISSIONER:** It's okay. Would you like a break, sir?

**MR. SMITH:** Yes, please.

.....

**MR. SMITH:** I'd like to apologize. I'm sorry.

**THE COMMISSIONER:** Oh, no, sir, you need not apologize, not at all.

**MR. SMITH:**...what I found over a number of years is that it's -- you can only do this type of investigation in short periods of time because it does affect you. I've had to send some of my men home because it affects them. It didn't affect me when I was working, but it does now. We had secretaries who couldn't type the statements or couldn't type the transcripts. They'd break down. They were tough investigations. And I've seen everything in the world, I've seen every crime you can think of and murders and awful things. These are harder. These are tough.

.....

**MR. SMITH:** And even when they're adults when you see the affect of it, it rips you. I'll get into it later but for now that's okay. I think we can go on.

.....

**MR. SMITH:** None of you will be the same after this, I'll tell you that right now. You'll look at things differently at the end of this Inquiry.

.....

**MR. ENGELMANN:** We had some contextual evidence early on and we had some experts talk to us about I think they used the term "vicarious trauma" -- that some of the people working for police or other public institutions dealing with child sexual abuse can suffer from.

**MR. SMITH:** Well, we're not quite as tough as we think we are.

**Evidence of Tim Smith**  
**CPI Vol. 301**  
**pp. 85-88**

556. It is respectfully submitted that officers Joe Dupuis and Steve Seguin are to be commended for the manner in which they carried out their responsibilities while seconded to Project Truth investigations. A review of the relevant portions of their career profiles and evidence reveals the following:

557. Re: Joe Dupuis:

- Joined OPP in February 1972
- Designated Senior Constable in January 1999
- Designated Det. Sr. Cst., Stormont Dundas and Glengarry crime unit October 1995
- Note: (he remained responsible for his ongoing crime files for up to one and a half years after joining the Truth team)

Relevant Training and experience:

The only relevant courses he had taken by the time of his secondment to the Truth team were the Criminal Investigations course at the OPP Academy in June 1991 and a Case Management course in September 2001.

**Ex. 2608**

**Evidence of Joe Dupuis  
CPI Vol. 307  
pp. 12-15**

558. Re: Steve Seguin:

- Joined OPP in 1991
- Traffic and General Law enforcement duties up to 1997
- Designated Detective Constable May 1997

Relevant Training and experience:

- Advanced Patrol Training Course (involved a small segment in sexual assault investigations) in 1996
- Criminal Investigation Course (a portion of which deal with sexual assault investigations) in 1998
- Some sexual assault investigation experience
- Minimal historical sexual assault investigative experience – only with female victims.

**Ex. 2693**

**Evidence of Steve Seguin  
CPI Vol. 313  
pp. 126-127**

559. It is respectfully submitted that the reason the officers' performances rose to the level they did was, in no small part, due to their initiative, dedication and natural abilities. Beyond that, however, the leadership, mentoring and influence of Tim Smith and Pat Hall undoubtedly were of the greatest assistance to the Truth team members.

560. Former Crown Robert Pelletier who had worked closely with Smith on the Alfred prosecutions, summed up his view of Smith's work on the Father Charles McDonald prosecution in simple terms: "His work was beyond reproach".

**Evidence of Robert Pelletier**  
**CPI Vol. 342**  
**p. 249**

561. Smith's expertise is canvassed elsewhere in these submissions under the heading "OPP PROJECT TRUTH TEAM" at paragraphs 31 to 35.

562. Although Tim Smith was the Detective Inspector initially heading up Project Truth, almost from the outset Pat Hall was the "hands-on" supervisor of the team, formally taking over the leadership role upon the retirement of Smith in March 1999.

563. A review of Hall's career profile reveals the following relevant entries:

- Joined OPP April 1968
- Supervised criminal investigations within 13 detachments from 1984 to 1987
- Victim Assistance Sexual Assault Coordinator
- Conducted internal investigations for both OPP and municipal forces

- Promoted to Detective Inspector – Major cases in April 1999
- Retired April 30, 2004

**Ex. 2742**

**Evidence of Pat Hall  
CPI Vol. 315  
pp. 189-198**

564. Hall had extensive experience investigating sexual assault and child abuse cases. That experience included the investigation of historical sexual assault cases both of an institutional and non-institutional nature. He was also experienced in the investigation of historical extra-familial and incest cases.

**Evidence of Pat Hall  
CPI Vol. 315  
pp. 203-208**

565. Hall's abilities and dedication to the investigations were described by Crown counsel Lorne McConery referring to him as a very focused, properly motivated and very driven investigator.

**Evidence of Lorne McConery  
CPI Vol. 335  
pp. 38-40**

566. Chris Lewis was Pat Hall's supervisor during the fall of 2000 into February 2001. In response to a question from the Commissioner, Lewis said "there is nobody better to have that job than Pat Hall. Pat Hall has incredible integrity, incredible credibility. I think the world of him as an investigator and as a case manager"

**Evidence of Chris Lewis  
CPI Vol. 325  
pp. 2, 75**

567. Rosalyn Train, counsel with the Ministry of the Attorney General, wrote of Pat Hall in 2003:

Detective Inspector Pat Hall has been of immeasurable assistance to me. His knowledge of the Project Truth investigation and his memory of people, places and events is second to none. He is recognized as the definitive expert in this area and has been referred to me as such by a number of different police and Crown Attorney sources. More importantly, he is as generous, supportive and co-operative as he is knowledgeable.

It is a pleasure to work with him and re-assuring to know that he is there.

**Ex. 2897**

568. It is respectfully submitted that the above comments from Ms. Train, along with those of McConnery and Lewis, are an accurate reflection of Pat Hall's skills, professionalism and character.

**LACK OF DEDICATED VICTIM WITNESS ASSISTANCE PROGRAM**

569. At the direction of Hall his team members were told to keep complainants advised of significant court dates as cases proceeded through the courts. Unlike the Alfred prosecutions, Project Truth did not have the services of a dedicated Victim Witness Assistance Program.

**Evidence of Pat Hall  
CPI Vol. 324  
pp. 116-117**

570. Pelletier testified that in the prosecutions he was dealing with in the Cornwall area, services normally provided by the Victim Witness Assistance Program were taken up by the officers on a day-to-day basis.

**Evidence of Robert Pelletier  
CPI Vol. 342  
pp. 249-250**

571. Smith initiated contact with the Men's Project (a program providing counseling services for male sexual assault survivors) to assist in providing counseling to the victims in the Cornwall area. He also reached out to the Victim Assistance Coordinator in Kingston to obtain services for victims.

**Evidence of Pat Hall  
CPI Vol. 324  
p. 117**

572. Truth team members obtained and handed out flyers to victims advising of the counseling services available through the Men's Project

**Evidence of Steve Seguin  
CPI Vol. 315  
pp. 171-172**

573. Truth team members (Hall, Dupuis, Seguin and Genier) assisted several victims in completing applications for the Criminal Injuries Compensation Board as well as Freedom of Information requests.

**Evidence of Steve Seguin  
CPI Vol. 315  
p. 170**

**Evidence of Pat Hall  
CPI Vol. 324  
p. 117**

574. Seguin, in addition to his policing duties, assisted victims during the course of court proceedings with meals and transportation needs.

**Evidence of Steve Seguin**  
**CPI Vol. 315**  
**pp. 169-170**

575. Hall was aware of the sexual assault victim services facilities that existed in Eastern Ontario at the time by virtue of his past experience as a Victim Assistance Sexual Assault Coordinator for Number 10 district from 1990 to 1996.

**Evidence of Pat Hall**  
**CPI Vol. 324**  
**p. 117**

576. A number of differences in the Alfred and Truth prosecutions in relating to providing victim assistance were pointed out in the evidence of Cossette Chafe. During the Alfred prosecutions there were five positions that the Victim Witness Assistance Program dedicated to the prosecution team.

**Evidence of Cossette Chafe**  
**CPI Vol. 337**  
**pp. 309-311, 328**

577. There were seconded Victim Witness Assistance Program personnel in the St. John's prosecution as well as the Project Jericho prosecution (both multiple victim/multiple offender).

**Evidence of Cossette Chafe**  
**CPI Vol. 337**  
**pp. 328-329**

578. Ultimately, before this Commission, Ms. Chafe was unable to explain why Victim Witness Assistance Program services were not made available in Cornwall with Project Truth.

**Evidence of Cossette Chafe  
CPI Vol. 337  
pp. 334-335**

## **PART IV**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **CONCLUSIONS**

This Inquiry has heard the evidence of over 80 witnesses who were part of those institutions whose activities are the subject matter of this Commission's business. The overwhelming majority of those witnesses are persons of whom it can simply be said that they are very decent, hardworking souls. They all wanted to do a good job. Somehow, despite all of that, a shroud of suspicion enveloped those institutions and, by extension, those who served them.

It can be fairly stated that Perry Dunlop, Ron Leroux and Garry Guzzo played focal roles in creating and perpetuating this aura of corruption that wafted over Cornwall. All were integral. Their motivations may have been different; however they shared one common denominator. None of them had a deep respect for telling the truth.

Dunlop and Guzzo undoubtedly had honourable goals when they started their respective crusades. At some point, however, these goals gave way to the pursuit of self-interest. Why would Perry Dunlop not want Project Truth to do its job? Project Truth was set up to investigate the very wrongs he sought to right. Why would Garry Guzzo not listen to Project Truth when they provided him the answers to the very questions he had been raising and begging to be answered?

It is submitted that these persons created this shroud of corruption. The time has come for the shroud to be lifted so the citizens of their community and elsewhere can say with confidence that they have been provided with a clear and unbiased accounting of the events as they were in reality, untainted by rumours and innuendo.

## **RECOMMENDATIONS**

David Silmsner made his allegation to the Cornwall Police 16 years ago. In the time since then, there have been a number of changes in how institutions respond to allegations of historical sexual abuse of young persons. These changes are a reflection of a greater sensitivity to and understanding of the trauma suffered by victims. These courageous souls are deserving of our respect and gratitude. The suggestions that follow are not designed to be a criticism of any institution, but are offered in the spirit of improving the status quo.

1. We request that the Commissioner consider making a recommendation to expand the counseling services for male victims of sexual abuse. Barriers of availability, cost and transportation should be removed.
2. We request that Commissioner consider making a recommendation to bring more clarity to or create a duty for institutions to report allegations of sexual abuse to an alleged perpetrator's employer. It may be that there should be legislation in place to define, among other things, when the obligation arises and upon whom.
3. We request that the Commissioner consider making a recommendation that front-line officers investigating large-scale sexual abuse cases receive timely counseling if necessary. Insp. Smith spoke of the burn-out that can occur when an officer is in this type of investigation.

Dealing with these tragic and horrific cases can easily take its toll.

Supervisors should be vigilant in looking out for the emotional well-being of their staff and should be able to offer a professional referral in appropriate cases.

4. We request that the Commissioner consider making a recommendation that officers investigating large-scale sexual abuse allegations should be seconded full-time to the investigation. They should be freed up from their existing cases load as much as possible. This, as we have seen, would allow investigations to be done in a more timely fashion. The timelines of the investigations had been mentioned by more than one victim as a source of frustration.
  
5. We request that the Commissioner consider making a recommendation that in large-scale sexual abuse investigations there be a dedicated Crown Attorney. This would allow officers to get their legal advice in a more timely and consistent fashion. In addition, by virtue of being dedicated, he or she would be more aware of the investigations and would be able to provide helpful suggestions to the investigators concerning areas that could pose future evidentiary problems.

All of which is respectfully submitted this 19<sup>th</sup> day of February, 2009

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