

December 15, 2011

Vancouver, BC

(PROCEEDINGS RECOMMENCED AT 10:00 A.M.)

1 THE REGISTRAR: Order. The hearing is now resumed.

2 THE COMMISSIONER: Yes.

3 MS. BROOKS: Mr. Commissioner, before we get started today I  
4 just wanted to address something from yesterday,  
5 some remarks that Mr. Ward made about commission  
6 counsel's dealings with his clients. He seemed to  
7 suggest that commission counsel may not have made  
8 any real effort to interview his clients in  
9 advance of the hearings, and since I was the one  
10 primarily dealing with his clients I was hoping  
11 that I could just speak to that.

12 THE COMMISSIONER: Yes.

13 MS. BROOKS: So I would just like to outline for you the  
14 efforts that we did make to interview Mr. Ward's  
15 clients, and I should say that most of the  
16 dealings that I did have was with Mr. Chantler, so  
17 it could just be that Mr. Ward wasn't aware of the  
18 efforts that we did make to meet with his clients  
19 in advance.

20 We began discussions about interviews with  
21 Mr. Chantler in March, and at that time we agreed  
22 that we would interview his clients by telephone

1 conference because most of them were out of town.  
2 And I'd like to just sort of outline for you the  
3 various interviews that we did have and who we  
4 interviewed. Our first interview was on April  
5 21st, and that was with Rick and Lynn Frey, that's  
6 the stepmother of Marnie Frey, and that interview  
7 was almost three hours.

8 And I should just pause here actually,  
9 Mr. Commissioner, and let you know that we did  
10 take these interviews very seriously of course,  
11 and Ms. Samnani and I did the interviews together,  
12 and we spent considerable time in advance of the  
13 interviews preparing for them, reviewing  
14 documents. And not only that, but also thinking  
15 about the tone that the interviews should take.  
16 And we knew that this was going to be a very  
17 upsetting interview, perhaps a very emotional one,  
18 and we wanted to make sure that we did everything  
19 that we could to make the families feel very  
20 comfortable speaking to us. And so we have  
21 developed an introduction before we started our  
22 interview with the families, and in that  
23 introduction we introduced ourselves obviously,  
24 and told the families a bit about us, we told the  
25 families about the commission and what commissions

1 are. Some of them weren't familiar with what we  
2 were doing so we explained our mandate. We  
3 reviewed the terms of reference with them. We  
4 gave them lots of opportunities to ask questions.  
5 We told them before we even proceeded with the  
6 interview that if they wanted to just get anything  
7 off their chest that they could. And we listened  
8 to them and they asked questions and we answered  
9 those questions. And we did have quite an  
10 involved process in the interviewing with the  
11 family members. And, indeed, after the interviews  
12 were conducted we had feedback sessions with  
13 Mr. Chantler, and we talked about the evidence, we  
14 talked about how the evidence went, we got  
15 feedback from him, and by all counts Mr. Chantler,  
16 I think it's fair to say, was very pleased with  
17 the way that we were dealing with his clients and  
18 the interviews and expressed his appreciation.

19 So just back to now the interviews that we  
20 did conduct. So, as I say, on April 21st we spoke  
21 with Lynn and Rick Frey. On April 29th we  
22 interviewed Marilyn Kraft who is the stepmother of  
23 Cynthia Feliks. That interview was over two  
24 hours. On May 4th we interviewed Cynthia  
25 Cardinal, and she's the sister of Georgina Papin.

1           That interview was over two hours. The next day  
2           on May 5th we interviewed Lillian and René  
3           Beaudoin, and that's the adoptive sister and  
4           brother-in-law of Dianne Rock. That interview was  
5           over two hours. On May 10th we interviewed Eliza  
6           Willier, she's the sister of Angela Williams.  
7           That interview was an hour and a half. On May  
8           10th, the same day, we interviewed Lori-Ann Ellis,  
9           Bill Jr. Ellis and Judy Trimble, they are  
10          relatives of Cara Ellis. That interview was  
11          almost three hours. On May 18th we interviewed  
12          Evelyn, Sherry and Greg Murdock, that's the  
13          mother, daughter and brother of Jacqueline  
14          Murdock, and that interview was an hour.

15                 That brings us up to May, and I believe at  
16          that time actually Mr. Ward had 11 or 12 clients,  
17          we had interviewed seven representatives of the  
18          families at that time, so we were making progress.  
19          It became clear though in the course of the  
20          interviews that some of the people we were  
21          interviewing weren't as close to the facts as they  
22          might have -- as another representative perhaps  
23          was, so it was agreed with Mr. Chantler that he  
24          would do some pre-screening interviews and that he  
25          would put forward the appropriate representative

1           who he said should be a witness at the hearing.  
 2           So at that point in time that's how we agreed to  
 3           proceed. Mr. Chantler also agreed to provide us  
 4           with a summary of their evidence in advance so we  
 5           could really focus the interview on the most  
 6           salient issues.

7                         It was also around this time though that  
 8           Mr. Chantler and Mr. Ward informed us that they  
 9           were still working out some arrangements with the  
 10          government and so some of these, the witness  
 11          preparations, were put on hold for some time while  
 12          they sorted out those arrangements. But in the  
 13          meantime, and now we're into the summer, we  
 14          continued to communicate regularly with  
 15          Mr. Chantler and request those witness summaries.  
 16          And I won't get into that detail for you, I just  
 17          really wanted you to know that we had made very  
 18          concerted and deliberate efforts to interview his  
 19          clients, and then of course we came up against the  
 20          hearing time. But I wanted to make sure that you  
 21          didn't feel like your counsel had fallen down  
 22          there.

23                         And I have to say also just on a sort of  
 24          final and personal note that it has been quite  
 25          meaningful for us to get to know the family

1 members, and it's been a rather fulfilling part of  
2 this important work that we're doing, so I was  
3 quite sorry to hear some of the comments that  
4 Mr. Ward made yesterday, and as I say it may just  
5 be that he didn't really realize the extent to  
6 which we actually had reached out to his clients.

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

8 MR. CHANTLER: Mr. Commissioner, Neil Chantler --

9 THE COMMISSIONER: Look, this doesn't -- tell me what you want  
10 to say.

11 MR. CHANTLER: And I'm not prepared to say anything, we weren't  
12 expecting this, but I feel like some response is  
13 due.

14 THE COMMISSIONER: Say it in a sentence, because we don't have  
15 time to go back and forth. Mr. Ward yesterday  
16 made some serious allegations that counsel for the  
17 commission were less than conscientious in the way  
18 they carried out their duty, and I think she's  
19 responded to that and I want to move on. I don't  
20 want to -- we put a lot of time into this  
21 yesterday that we didn't have to do, we have work  
22 to do.

23 MR. CHANTLER: Yes, Mr. Commissioner, I don't take issue with  
24 anything Ms. Brooks said. Everything she said is  
25 accurate and correct. I understood Mr. Ward's

1 comment yesterday to be directed solely at a  
2 meeting that was arranged the Sunday before the  
3 families were to testify, apparently to prepare  
4 them for their examinations by commission counsel.  
5 They were all invited to come to commission's  
6 office at two o'clock the day before they were to  
7 testify. That was the comment Mr. Ward made. He  
8 made no disparaging remarks about all of the  
9 efforts that commission counsel had gone to in the  
10 months prior to --

11 THE COMMISSIONER: Well, that clearly isn't the impression I  
12 got.

13 MR. CHANTLER: That wasn't his intention at all.

14 THE COMMISSIONER: That clearly isn't the impression that I  
15 got. He left with me the impression, and probably  
16 did with others in the room, that all commission  
17 counsel did was one particular afternoon they  
18 dealt with people in a perfunctory manner. That's  
19 the impression that I got, that none of the people  
20 had been interviewed and now as I hear it from  
21 Ms. Brooks it is an entirely different picture.

22 MR. CHANTLER: I'm sure that wasn't the impression that was  
23 meant to be left.

24 THE COMMISSIONER: Well, I'm telling you that's the impression  
25 I got when Mr. Ward was on his feet yesterday, and

1                   it's clearly an incorrect impression. So I don't  
2                   want to deal with it anymore. Thank you.

3   MR. CHANTLER: Thank you.

4   THE REGISTRAR: Mr. Commissioner, before we start Mr. Baynham  
5                   requested that a document be marked for  
6                   identification yesterday, and searching back  
7                   through the records I found that that was actually  
8                   marked for identification M, I found in the record  
9                   it had already been marked for identification H,  
10                  so the M category will be withdrawn. Also I wish  
11                  to remind the witness that he's still under oath.

12   **DOUGLAS ALAN LEWARD: Resumed**

13   THE COMMISSIONER: All right. Mr. Woodall.

14   MR. WOODALL: Thank you, Mr. Commissioner. I've handed up a  
15                  blue book entitled "Missing Women Commission of  
16                  Inquiry Cross-Examination of DCC LePard by Counsel  
17                  for Constable Fell." Do you have a copy of that,  
18                  Mr. Commissioner?

19   THE COMMISSIONER: Yes.

20   MR. WOODALL: All right. And I have copies for any of the  
21                  participants on the table. I think most of them  
22                  have them.

23   **CROSS-EXAMINATION BY MR. WOODALL:**

24                  Q Deputy chief, I would ask you to turn in the book  
25                  that I've just referred to to tab 5, if you would.



1 This is some excerpts from your report, and I'm  
2 going to ask you to turn to page 19, which is the  
3 second page in that tab, and you'll see that this  
4 is part of the key findings of review that you set  
5 out as an executive summary at the beginning of  
6 the report?

7 A Yes.

8 Q All right. And I'm going to read paragraph 6 and  
9 ask you a few questions about it. Paragraph 6  
10 says this:

11 Notwithstanding the many deficiencies in the  
12 VPD investigation, they did not cause the  
13 failure of the investigation into Pickton  
14 because the RCMP had responsibility for that  
15 investigation while the VPD focused on other  
16 investigative avenues. If the VPD  
17 investigation had been better managed,  
18 however, the VPD could have brought more  
19 pressure to bear on the RCMP to pursue the  
20 Pickton investigation more vigorously.

21 You still stand by that as among the key points  
22 from your review?

23 A Yes.

24 Q All right. And if I can rephrase that slightly.  
25 Another way of saying what you said would be that

1 while many of the things the VPD did better --  
2 sorry did, could have been done better. The VPD  
3 investigation did not compromise the Pickton  
4 investigation on the whole; is that fair to say?

5 A Yes.

6 Q All right.

7 A There were many things that could have been done  
8 better not only in the VPD but in terms of trying  
9 to improve the investigation in Coquitlam, but  
10 that generally states that.

11 Q And so focusing on the VPD side of it -- paragraph  
12 6 really focuses on the VPD side of it, and you've  
13 dealt with the RCMP side of it in other findings  
14 and elsewhere in your report?

15 A Yes.

16 Q And when you say that the main fault was the  
17 failure of the VPD to bring more pressure to bear  
18 on the RCMP, I take it that refers to the fact  
19 that the VPD were aware that the Coquitlam RCMP  
20 were not pursuing it vigorously, and if management  
21 at the VPD had appreciated the magnitude of the  
22 problem they may have brought more pressure to  
23 bear to ensure that the Coquitlam RCMP were  
24 investigating more vigorously?

25 A Not only the magnitude of the problem, but also if

1           they'd understood the information that was  
2           available pointing to Pickton, which clearly  
3           senior managers did not, they made that clear.

4           Q    And when you said in the first line:

5                     Notwithstanding the many deficiencies in the  
6                     VPD investigation...

7           I take it that the many deficiencies would include  
8           any deficiencies in Constable Fell's and Constable  
9           Wolthers' participation?

10          A    Yes, that covers that.

11          Q    And so just as the VPD investigation as a whole  
12                could not be said to have compromised the  
13                investigation into Pickton as a whole, so too any  
14                deficiencies that may have been present in Fell  
15                and Wolthers's contribution could not be said to  
16                have compromised the Pickton investigation as a  
17                whole?

18          A    I would agree generally.

19          Q    And it wasn't obviously Constable Fell's and  
20                Constable Wolthers' job to be putting pressure on  
21                the RCMP, that would have been done by someone  
22                else in the VPD?

23          A    Correct.

24          Q    So to the extent that was a failing, or deficiency  
25                is probably a better word, that is not a

1           deficiency that could be laid at the door of Fell  
2           and Wolthers?

3           A    I agree.

4           Q    Now, although you said a moment ago or agreed a  
5           moment ago that any deficiencies that might have  
6           been present in Wolthers' and Fell's contribution  
7           did not compromise the Pickton investigation, you  
8           did in your report say the opposite, that their  
9           contribution did compromise the investigation?

10          A    Well, that's why I paused when you asked me the  
11          question, and maybe I didn't answer that as fully  
12          as I should have trying to give short answers, but  
13          the compromising was that they didn't provide  
14          information about pics of photos that may have  
15          been useful to the investigation and should have  
16          been information provided to the Coquitlam RCMP.  
17          So we don't know what the outcome of that is, and  
18          I've since learned of information that tends to  
19          lessen the impact that I thought occurred at the  
20          time, but so indirectly it could have.

21          Q    Could have, but didn't?

22          A    Well, I don't know. I don't think that we will  
23          know what the impact would have been.

24          Q    Well, I'm just having a difficult time squaring  
25          the logic of your defence of the VPD generally by

1 saying that its deficiencies, including those of  
2 Fell and Wolthers, did not compromise the  
3 investigation, while you then say that their  
4 investigation, their deficiencies that may have  
5 been present in their investigation did  
6 compromise?

7 A Well, I'd like to refer to what I wrote then.

8 Q Sure.

9 A And to put it more fully then is the fact is that  
10 they received information that we will not know  
11 what the impact was that should have been provided  
12 in the VPD, and it was information that the  
13 investigative team was looking for to try to  
14 associate Pickton to the Downtown Eastside and  
15 they did not provide that information. So it has  
16 to be assumed that in some way it detracted from  
17 providing the best investigation and the best  
18 information available. To the extent that it did  
19 it I don't know. And I've -- having learned more  
20 about what was available to the Coquitlam RCMP  
21 I've changed my mind a little bit about it, but  
22 what I tried to convey was regardless of what the  
23 impact was or was not, they had a responsibility  
24 to provide that information to the file  
25 co-ordinator and they did not.

1 Q Okay. And just so the commissioner is clear, our  
2 position is they did provide the information and  
3 we expect to have evidence on that point.

4 A Well, then I can only respond that they told me  
5 that they did not.

6 Q Well, no, that's not correct. Fell did not tell  
7 you they did not. Fell said that he thought he  
8 did, but he didn't document it; isn't that fair?

9 A Yes, that's fair.

10 Q So what you said just a moment ago wasn't correct?

11 A Well, in -- there were two statements that I took  
12 and so I was thinking of the two of them, and one  
13 advised me that he didn't -- it was not provided,  
14 and the other said well, I don't really remember,  
15 I don't think we documented it.

16 Q Well, Fell went further than that and he said I'm  
17 pretty sure we did but we didn't document it.  
18 That's what Fell said; right?

19 A And in my review, and in interviews of others,  
20 they expressed shock about the information and  
21 said that they had never received that.

22 Q Okay.

23 A So that's why I came to that finding.

24 Q All right. Fair enough. But that's -- the bottom  
25 line is you weren't there and we'll have to hear

1           that evidence from the people who were.

2           A    Yes, fair enough.

3           Q    Okay. Turning back to the issue of compromise is  
4           the -- you've been talking about the failure to  
5           communicate the fact that some sex trade workers  
6           identified Pickton's photograph from a photo pack;  
7           is that correct?

8           A    From an array of photos, yes.

9           Q    That's the only aspect of deficiencies that may  
10          have happened in their investigation which could  
11          potentially have had a compromising impact on the  
12          Pickton investigation; correct?

13          A    Directly, yes.

14          Q    All right. Now, to say that they compromised or  
15          may have compromised the investigation is a very  
16          serious allegation, would you agree?

17          A    Well, the whole matter is a very serious matter,  
18          so anything to do with it I think is serious. I  
19          don't think that if you look at what I've written  
20          in my report and the proportion in my report about  
21          them is relatively small.

22          Q    Well, it's small, but you used the word compromise  
23          the investigation. That's a serious allegation,  
24          is it not?

25          A    Yes, I think that it is. Again, I think that it

1 needs to be considered in context of the  
2 information and the weight and proportion in my  
3 report. And Mr. Commissioner will judge whether  
4 I've been fair in my comments. I believe that I  
5 have been.

6 Q Now, I want to ask you some questions about how  
7 deficiencies in performance and misconduct are  
8 handled within the policies of the Vancouver  
9 Police Department. When there are employment  
10 deficiencies broadly speaking they're divided into  
11 two categories. One are deficiencies which may  
12 result in a finding of misconduct under the *Police*  
13 *Act*, and others may simply be performance issues  
14 which need to be addressed through the labour  
15 employment system but are not considered actual  
16 misconduct. Do you agree with that?

17 A I agree.

18 Q All right. And when considering unsatisfactory  
19 performance it may be -- when somebody's  
20 investigating it they may start off, for example,  
21 looking at something as a *Police Act* matter,  
22 determine it doesn't rise to that level, but then  
23 continue on and consider it as a performance  
24 issue. Do you agree with that?

25 A Yes.



1 Q And in this case Sergeant Stewart did a *Police Act*  
2 investigation; correct?

3 A Yes.

4 Q And he found that there was no *Police Act*  
5 misconduct?

6 A Yes.

7 Q And that finding wasn't a finding to the effect  
8 that there's misconduct but we can't pursue it  
9 because of the passage of time, he found that  
10 there was no misconduct; correct?

11 A Based on the information that he had, yes.

12 Q And he then suggested some ways that these two  
13 officers could be managed from a human resources  
14 perspective?

15 A Yes.

16 Q But he didn't find any misconduct even at the  
17 human resources level, it was rather a matter of  
18 managing these particular officers going forward;  
19 correct?

20 A Yes.

21 Q Now, when a member has committed conduct that is  
22 considered serious -- just step back a bit.  
23 Obviously as in any workplace minor deficiencies  
24 may be dealt with by a comment from a supervisor  
25 and that may be the end of it; correct?

1 A Yes.

2 Q And then if there's something that's a little bit  
3 more serious than that there may be a notation  
4 if -- for example, a supervisor may make a  
5 notation in the officer's book, and the officer  
6 may make a notation in the supervisor's book, just  
7 to, I suppose, that small ceremony to bring to  
8 bear to both of them that this is something  
9 they've discussed and needs to be addressed in the  
10 future?

11 A The signing of the note. But if you're referring  
12 to generally, yes, it generally would not be done  
13 by a supervisor, it would be done by someone in a  
14 management level.

15 Q Okay. So somebody above the supervisor?

16 A Yes.

17 Q All right. But the essence of that is that if you  
18 started off with something that may be dealt with  
19 purely orally, the next step would be simply a  
20 notation in notebooks by a manager in the  
21 officer's and the manager would probably have the  
22 officer sign something, a memo or the manager's  
23 notebook, something along that line?

24 A That's one possibility. Often this supervisor or  
25 manager might simply document the problems and the

1 conversation and let the member know that it has  
2 been documented, that it is a concern.

3 Q Right. But what both of these have in common is  
4 that there's a document and a member is made aware  
5 of the document?

6 A Yes.

7 Q And the purpose behind that is -- there's several  
8 purposes. One of the purposes is simply for the  
9 historical record; correct?

10 A Yes.

11 Q One of the purposes is that again by that small  
12 ceremony the member is -- the attention of the  
13 member is brought to the fact that this is  
14 something that he needs or she needs to pay  
15 attention to?

16 A Correct.

17 Q And a third function is it provides a level of  
18 fairness, because if the officer disputes the  
19 facts which has led to the document he or she can  
20 say no, that's not what happened, or he or she can  
21 try to put it into context?

22 A Yes.

23 Q And all of those things should happen as close to  
24 the incident of alleged misconduct as possible;  
25 correct?

1 A That's ideal.

2 Q And one of the reasons for that is if it's raised  
3 months or years later the officer may simply not  
4 be able to defend himself because he can't recall  
5 the specifics of the incident; correct?

6 A Yes, I agree.

7 Q And it would be considered unfair according to VPD  
8 policies to wait months or years to bring  
9 something to someone's attention when it could  
10 have been brought to his or her attention at about  
11 the time that the alleged misconduct occurred?

12 A Yes, I agree.

13 Q And in fact to do so would be contrary to VPD  
14 policy; correct?

15 A To do what?

16 Q To wait months or years to bring something to an  
17 employee's -- to a member's attention when that  
18 misconduct could have been brought to his  
19 attention by a written document closer to the date  
20 of the alleged misconduct?

21 A By a written document or otherwise. I agree with  
22 you that it's important to do that contemporaneous  
23 with the behaviour. It might not be in a written  
24 document, but I agree it is intended to be  
25 corrective, so delaying it by any significant

1 period of time would be counterproductive.

2 Q Right. But if something is as serious as to  
3 require a written document to bring it to the  
4 attention of the member and to indicate its  
5 seriousness, that written document should be  
6 created close to the time of the alleged  
7 misconduct?

8 A That would be best.

9 Q Essentially as soon as it has come to the  
10 attention of the manager and the manager has had  
11 an opportunity to look at the issue and come to  
12 his or her own conclusions?

13 A I agree.

14 Q And further there is a duty upon Vancouver Police  
15 members that if they view outrageous conduct they  
16 must bring that outrageous conduct to the  
17 attention of a supervisor or manager; correct?

18 A Theoretically that's -- I agree that they have a  
19 duty too. Sometimes that is asking a lot of  
20 members, particularly if they feel intimidated or  
21 because they're juniors to the member or they're  
22 just trying to get along and not make it worse.  
23 So what you describe is the ideal situation, it's  
24 not necessarily as easy in reality.

25 Q No doubt it's difficult, but they have a duty,

1           they can't -- a member who sees outrageous  
2           conduct, and I'm using that term outrageous to  
3           indicate a level of severity, this is not some  
4           minor, trivial issue, they see conduct that they  
5           regard as outrageous that would outrage, for  
6           example, members of the public, they have a duty  
7           to bring that to the management's attention even  
8           if it's uncomfortable to do so?

9           A    Yes, I agree that they have a duty to do that.

10          Q    And the manager who receives the complaint about  
11           outrageous conduct has a duty to document it and  
12           deal with it quickly and contemporaneously?

13          A    That would be ideal, yes.

14          Q    Now, I want to focus in on your criticisms, and  
15           what I'm going to do is take you to a portion of  
16           your report and then take you to some of your  
17           testimony where you summarized it. So the first  
18           thing I would like you to do is turn in this book  
19           to tab 5 again, to page 263. Do you have that?

20          A    Yes.

21          Q    Okay. Now, towards the bottom of the first column  
22           you summarize the concerns you had with Detective  
23           Constable Fell and Wolthers as follows:

24                    There were three problems with Detective  
25                    Constables Fell and Wolthers' participation

1                   in the MWRT. First, their personalities were  
2                   not a good fit with the investigative unit.  
3                   Second, they were almost entirely focused on  
4                   a single subject to the detriment of the  
5                   larger investigation. Third, they did not  
6                   have the investigative skills required for  
7                   the work that they became involved in.

8                   Is that still a fair summary of your concerns with  
9                   those two officers?

10                  A    Yeah. The word I used was suspect, but not  
11                   subject, but yes.

12                  Q    I'm sorry, where was that? Okay. Correct. So  
13                   just to read that again. After the first issue --  
14                   the first issue was their personalities were not a  
15                   good fit with the investigative unit.

16                   Second, they were almost entirely focused on  
17                   a single suspect to the detriment of the  
18                   larger investigation. Third, they did not  
19                   have the investigative skills required for  
20                   the work that they became involved in.

21                  A    Yes.

22                  Q    Now, if you can turn in this book to tab 6. It's  
23                   the transcript from your evidence on November 9th  
24                   from Mr. Vertlieb. He asked you to summarize the  
25                   essence, and this is reading from page 25 of the

1 transcript of November 9th starting at line 5.  
2 I'm going to read the question and your answer and  
3 ask you some questions about it.

4 Q We've read your report and it's for everyone  
5 to read. Give us the essence of your  
6 criticism of those two detectives?

7 A The essence of it was, number one, it was a  
8 classic case of tunnel vision. They believed  
9 in their suspect to the exclusion of all  
10 others and wrote some things that were just  
11 ridiculous about it; that they could tell  
12 from his body language when they interviewed  
13 him that he was absolutely responsible for  
14 all the missing women and things like that  
15 that just can't be supported. But the main  
16 problem was they had been such a disruptive  
17 influence in the investigation. Detective  
18 Constable Shenher had no supervisory  
19 authority, Sergeant Field was not in the room  
20 actually to deal with them because she had  
21 her full-time assignment in the Homicide  
22 Squad. They had lots of energy but needed to  
23 be closely supervised and so their conduct as  
24 reported to by every member of the Missing  
25 Women Review Team was very destructive to the



1 work of the team.

2 So that's the summary that you gave Mr. Vertlieb,  
3 and would you agree with that as well?

4 A Yes.

5 Q All right. And just to marry these two together,  
6 you've used slightly different language but I  
7 think we know what you were talking about, when  
8 you were talking about the first problem they  
9 believed in their suspect to the exclusion of all  
10 others, that was the reference to the tunnel  
11 vision point; is that right?

12 A Yes.

13 Q And what you've described as the main problem  
14 being a disruptive influence on the investigation,  
15 that was a reference to your point about them not  
16 being a good fit?

17 A Yes.

18 Q And you haven't included in this summary the fact  
19 that they didn't have investigative skill. I take  
20 it that was a much -- that was a problem, but a  
21 problem of much lower scale?

22 A I wouldn't say that. I couldn't remember  
23 everything maybe I wanted to say when I was asked  
24 certain questions, but when I talked about some of  
25 the aspects of their investigation the implication

1 is there that some of their investigative skills  
2 and knowledge were an issue.

3 Q I'll come back to that in a bit, but while I can  
4 understand the essence of a criticism of engaging  
5 in tunnel vision, whether I agree with it or not,  
6 and I can understand that they may be criticized  
7 for being disruptive, if they don't have  
8 investigative skills that's not really their  
9 fault, that would be perhaps nobody's fault or if  
10 it's anybody's fault it would be the department's  
11 fault for not giving them these skills that they  
12 require?

13 A I agree. I wrote in my report about the need for  
14 there to be careful selection processes and make  
15 sure people that have the skills and knowledge to  
16 do the things that they're asked to do, and I  
17 agree with you that that is a management  
18 responsibility.

19 Q Okay. Now, I want to turn then to the issue of  
20 them not being a good fit. You would agree that  
21 even before Detective Constables Fell and Wolthers  
22 arrived there were strong feelings against them  
23 held by nearly everyone in the team; correct?

24 A There was certainly a perception of them, I think  
25 that that was fair to say. I'm not sure if it was

1 every member in the team. I'm not sure if every  
2 member knew about them, I'd have to refer to the  
3 statements that were given, but certainly there  
4 were concerns about them.

5 Q Certainly Field and Shenher had a negative view of  
6 them before they had even met them; correct?

7 A Well, met them in the course of this  
8 investigation?

9 Q Yes.

10 A I don't know if they had those feelings without  
11 having ever met them.

12 Q Okay. Well, we'll ask them obviously, but your  
13 review indicated -- well, Sergeant Field told you  
14 that even before they came over she didn't really  
15 want them on the team; correct?

16 A There were concerns about "baggage" they brought  
17 and their reputation, yes.

18 Q And she didn't want them on the team?

19 A I think that my recollection of her statement is  
20 that she was a little bit ambivalent about that,  
21 is that she wasn't thrilled, but also recognized  
22 that it was very difficult in that time to get  
23 staffing and that they were additional bodies and  
24 they were hard working and --

25 Q Well, you say she wasn't thrilled. I wouldn't

1 expect her to be thrilled, but what I say is she  
2 was in fact biased against them, wasn't she?

3 A Well, I don't know if the right word is biased,  
4 but yes, she had concerns about them.

5 Q And if you could turn in tab 6 to page 27.  
6 Actually perhaps the passage is better started on  
7 page 26. You'll see on page 26 there was  
8 discussion about finding people to fill spots on  
9 the team and then --

10 A Can you just point me to the line, please?

11 Q Yes. I'm going to start on page 26, and the  
12 question you were asked starts at line 16 and it's  
13 going to go over on page 27:

14 Q The question on a systemic basis, from your  
15 review of the file can you tell us if the  
16 police chief or any other deputy did anything  
17 to resolve the conflict you've just  
18 discussed?

19 The conflict being the conflict between Detective  
20 Constable Shenher and Sergeant Field on one hand  
21 and the two other officers on the other hand. You  
22 understood that was what the conflict that's being  
23 discussed in that question?

24 A Yes, I believe so.

25 Q Okay. So then the answer is:

1           A     Well, it wouldn't normally have been handled  
2                     at that senior a level. It was being handled  
3                     by Sergeant Field in consultation with her  
4                     inspector, Inspector Spencer, who I think was  
5                     very diligent in dealing with that. The  
6                     problem started because of the way they came  
7                     into the investigation and they brought some  
8                     baggage with them. They weren't selected by  
9                     the investigative team, but as Deputy Chief  
10                    Constable McGuinness outlined, it was so  
11                    difficult getting resources that they were  
12                    two warm bodies that had a suspect and it  
13                    was, "Can you use them? Can you work with  
14                    them?" That was to generate some problems  
15                    because the people at the investigative level  
16                    felt rightly or wrongly that these two people  
17                    come with the endorsement of the deputy chief  
18                    and so we're stuck with them, so they were  
19                    tolerating them.

20                   That was your perception of what you were told of  
21                   the view of these officers before they had even  
22                   arrived; correct?

23           A     There was some concern as you have described  
24                   before they arrived, but I also think that it is  
25                   fair to note that there were good faith efforts to

1 welcome them and work with them, and that those  
2 concerns that I'm describing there are concerns  
3 that were being developed along the way.

4 Q Well, you say there were good faith efforts to  
5 work with them. I dispute that. Can you show me  
6 any document created at the time, not something  
7 that someone has told you after the fact, but  
8 created at the time that they arrived stating that  
9 there were efforts made to integrate them into the  
10 team notwithstanding the perception they had  
11 baggage?

12 A I can't point you to a document created at the  
13 time. I can point you to a document that was  
14 created I believe in spring of 2000, so during the  
15 investigation, that Detective Constable Shenher  
16 wrote about her interactions with them.

17 Q Okay. And in that document did she -- sorry.  
18 That of course is not -- in May of 2000, spring of  
19 2000 is not contemporaneous with when they arrived  
20 on -- in the --

21 A Yes, that's correct.

22 Q And what document are you referring to?

23 A I'm talking about her critique of their report  
24 that they had originally submitted to the chief  
25 constable.

1 Q Okay. Not only was that -- that's the one that  
2 she wrote in May of 2000 after they had critiqued  
3 her; correct?

4 A Well, I don't know if it was a critique of her,  
5 but it was a critique of the investigation.

6 Q Well, she took -- just to put that document in  
7 context, Fell and Wolthers had written a memo to  
8 Chief Blythe; correct?

9 A Yes.

10 Q They were critical of the investigation; correct?

11 A Yes.

12 Q She replied; correct?

13 A Yes.

14 Q In that reply she took their criticism of the  
15 investigation to be a criticism of her; correct?

16 A Well, I didn't make that inference.

17 Q Okay. And she took upon herself to defend her  
18 investigation; right?

19 A She did do some of that, yes.

20 Q Right. That is the farthest thing, I'm going to  
21 suggest, from a contemporaneous document recording  
22 what occurred at the time, that is something that  
23 somebody wrote after they had left the team to  
24 tell their side of the story; correct?

25 A Yes, I agree.

1 Q All right. So going back to my question I asked  
2 you, there is no contemporaneous document by  
3 anyone outlining any efforts that were made to  
4 welcome them to the team and integrate them  
5 smoothly into it?

6 A No, I'm not aware of any document like that, and I  
7 wouldn't expect to have seen one.

8 Q And if I understand your evidence this morning  
9 you're resisting the suggestion that the members  
10 of the team were biased against them before they  
11 arrive and you say that that -- the hard feelings  
12 against them developed over time; is that correct?

13 A Well, no, I think that you've used the word  
14 biased. I agree with you that there were concerns  
15 about them because they came with a reputation,  
16 but that's not unusual in policing for people to  
17 have reputations. Some of them are deserved and  
18 some are undeserved. I think police officers are  
19 pretty fair minded and are willing to give people  
20 a chance because most of us have been a victim of,  
21 you know, reputational issues that were not true.  
22 So there was some concerns about them and their  
23 reputation, but then it was developed with  
24 experience the real concerns.

25 Q Right. And again as to what that experience is



1 all you have to go on is what you were told by the  
2 officers after they had left the team; right?

3 A Yes.

4 Q There are no documents of any misconduct perceived  
5 or actual concerning these officers while they  
6 were members of the team; correct?

7 A Well, you've asked a different question now about  
8 perceived misconduct. I did see notes in my  
9 review that, for example, Sergeant Field had made  
10 about speaking to them about getting their work  
11 done and so on because of concerns that Detective  
12 Constable Shenher had raised, so in terms of  
13 criticism I have seen documentation of that.

14 Q Okay. You're referring to her investigative log  
15 where she noted that there was a meeting on  
16 December 11th, 1999; correct?

17 A I don't know if that's the date I'm referring to.

18 Q I'll take you to that. But the issue that you've  
19 just described is a notation by Sergeant Field  
20 about them getting their work done; right?

21 A Yes.

22 Q You didn't see any document contemporaneously  
23 created that criticized them for any disruptive  
24 behaviour, did you?

25 A I didn't see documents like that, no.

1 Q You didn't see any documents alleging that they  
2 had used improper language?

3 A No.

4 Q While there was a document indicating that their  
5 work was being discussed, you didn't see any  
6 document that said that their work -- the work  
7 they were doing fell below the standard and needed  
8 to be corrected, did you?

9 A Not documents created contemporaneously with the  
10 events, no.

11 Q Right. But nevertheless the attitude that the  
12 team took was that they were stuck with these  
13 guys; right?

14 A There was some of that, yes.

15 Q And you say that they were tolerating them. It  
16 would be more accurate to say that they were  
17 barely tolerating them, don't you agree?

18 A No, I wouldn't agree with that because it makes it  
19 sound like they were the offending parties, and  
20 that was not my conclusion after interviewing all  
21 the people, including Detective Constables Fell  
22 and Wolthers and considering their statements to  
23 me as well.

24 Q Okay. You've answered a different question than  
25 the one I asked you. I'm not focusing at this

1 point on Fell and Wolthers, I'm focusing on the  
2 other members. And you said that the other  
3 members were tolerating them and I asked you is it  
4 fair to say that they were barely tolerating them.  
5 Isn't that fair?

6 A Well, I'm not sure because it seems that where you  
7 want to lead me is that they were engaging in, you  
8 know, unfriendly conduct towards them whereas that  
9 was not my impression from these police officers.

10 Q You knew from several people that you interviewed  
11 that some members of the team would walk out of  
12 the room when Fell and Wolthers walked in; right?

13 A I knew that there were members of the team that  
14 didn't want to be in the room with them, that's  
15 true.

16 Q Well, you also knew that they expressed that  
17 desire not to be in the room by walking out of the  
18 room when Fell and Wolthers walked in; right?

19 A I don't recall that. I wouldn't be surprised to  
20 hear that.

21 Q And that would be unacceptable conduct, would it  
22 not, to simply walk out of the room when someone  
23 is there as opposed to try an make efforts to get  
24 along?

25 A Well, it depends where in the sequence that was

1 occurring, and secondly, no, I wouldn't say it's  
2 inappropriate conduct to walk out of the room  
3 depending on the context. If they were giving a  
4 briefing to the team and people were turning their  
5 backs and walking out that would be completely  
6 inappropriate. If it was like this is a good time  
7 for us to, you know, head off and do some work  
8 because we're uncomfortable being in the room then  
9 that wouldn't be inappropriate.

10 Q Really. Under Vancouver Police policy it would be  
11 okay if you have a team meeting and someone  
12 doesn't like someone just to walk out as opposed  
13 to try and get along?

14 A Well, you didn't ask me about a team meeting.

15 THE COMMISSIONER: That isn't what you said.

16 MR. WOODALL: Okay. Fair enough.

17 THE WITNESS: Team meeting I agree with you, and that's what I  
18 just described that if there was a briefing going  
19 on then that would be unacceptable. However, if  
20 there were just people in the office doing their  
21 work or it was acceptable for them to move on and  
22 that's the time they chose to do it, then that  
23 would not be inappropriate. That was a different  
24 scenario than you just put to me.

25 MR. WOODALL:

1 Q But you know from the question I'm asking I'm not  
2 suggesting that people left to go do their work,  
3 obviously that wouldn't be an issue, what I'm  
4 talking about is somebody leaving the room when  
5 they come in to communicate to them that they  
6 don't like them. And that's what happened;  
7 correct?

8 A No, I did not find that, and I do not have that  
9 information.

10 Q You were told by Sergeant Field that that's what  
11 occurred; correct?

12 A No, I don't recall her telling me that members  
13 would leave the room in inappropriate  
14 circumstances.

15 Q Okay. Well, she didn't use the word inappropriate  
16 because she was on the same side of these guys,  
17 but it was obvious what she was talking about was  
18 rather than staying in the room and working  
19 co-operatively when Fell and Wolthers walked in  
20 other members would walk out to communicate the  
21 fact that they didn't like them?

22 A I did not get that information.

23 Q Well, we'll get that evidence when the members  
24 testify. But if that had happened that would be  
25 unacceptable; correct?

1           A    If the members as I've said were purposely being  
2                    insulting by walking out while the members were  
3                    speaking or during a briefing or something like  
4                    that, then I agree.  If they were simply leaving  
5                    because they could choose to leave and go do their  
6                    work and they didn't need to be in the office  
7                    because they were uncomfortable with the behaviour  
8                    that was described, then no, that might be a way  
9                    to resolve it without conflict.

10          Q    Now -- okay.  So we'll hear from these other  
11                    members in due course.  But certainly you did not  
12                    receive any complaint -- sorry.  You did not see  
13                    any document written contemporaneously in which  
14                    any member described any behaviour on the part of  
15                    Fell or Wolthers that would justify other members  
16                    walking out of the room every time they came in?

17          A    I didn't see a document describing those things,  
18                    no.

19          Q    And you didn't see any document created  
20                    contemporaneously where Fell and Wolthers were  
21                    alleged to have done anything that compromised the  
22                    investigation?

23          A    No.

24          Q    And you've already agreed that it would be, I  
25                    think, a serious matter to compromise an important

1 investigation like the one that was being  
2 conducted?

3 A Yes.

4 Q And if a member was doing something that was  
5 compromising that investigation, any other member  
6 who was aware of it would have a duty to document  
7 that and bring it to the attention of a supervisor  
8 or manager?

9 A Well, I think that it is important that members  
10 feel comfortable to go to their supervisor to  
11 express concerns about a member's conduct. I  
12 think that you're being a little bit unrealistic  
13 in expressing that they have a duty to document  
14 all that. In the real world that's not  
15 necessarily what's going to happen.

16 Q Well, I'm not talking about minor misconduct, I'm  
17 talking here about something that is compromising  
18 your work, compromising a major investigation. If  
19 an officer sees another officer engaging in  
20 conduct that is compromising a major investigation  
21 he or she has a duty to bring that to the  
22 attention of a manager and the manager has a duty  
23 to deal with it by documenting it and bring it to  
24 the member's attention; correct?

25 A Well, there are different degrees of compromising

1 an investigation and so I think that we need to  
2 recognize that. The fact that they were described  
3 as being loud and abusive and using inappropriate  
4 language both towards victims and also towards  
5 female staff in the office, for example, the  
6 compromising of the investigation was that it made  
7 it difficult to have an effective team working  
8 well together. And those are the sort of things  
9 that don't rise to the level of, you know,  
10 creating, you know, engaging in conduct that, you  
11 know, breaches the Charter in the course of an  
12 investigation or something like that, but  
13 certainly compromise the investigation in terms of  
14 team dynamics, and my understanding was those  
15 things were being raised with the supervisor.  
16 With respect to contemporaneous records of that,  
17 that's correct, I don't recall seeing records made  
18 at the time.

19 Q Okay. You've answered a number of different  
20 points. The first point that I want you to focus  
21 on is the word compromise. I'm not talking about  
22 something that affects an investigation, I'm not  
23 talking about something that makes the work  
24 environment uncomfortable, I'm talking about  
25 something that compromises an investigation.



1           That's a serious matter; correct?

2           A   Well, I think we're getting a little bit of  
3           semantics because I use the word compromise like  
4           you're using the word affected, which I would  
5           broaden to say negatively affected it.  It  
6           affected it in some way because it made the  
7           investigation more difficult.  And it also  
8           affected it in the way that Detective Constable  
9           Shenher was apparently continually trying to  
10          assign tips for those members to follow up and  
11          they were not getting that work done, and who  
12          knows where that work would have led.

13          Q   We're going to come to those tips.

14          A   Yes.

15          Q   What I'm talking to you right now about is the  
16          disruptive behaviour.

17          A   Yes.

18          Q   Obviously disruptive behaviour may be of a greater  
19          or lesser character, but at some point when you're  
20          using the word compromise, your word.

21          A   Yes.

22          Q   You're saying that it is having a material and  
23          measurable effect on the investigation, correct,  
24          that's what compromise the investigation means?

25          A   Yes, and it was having a material effect on the

1 investigation in the way that I've just described  
2 is that it was making it uncomfortable, affecting  
3 team dynamics. It meant that there was work that  
4 should have been getting done that was not getting  
5 done, so it compromised it in that way.

6 Q All right. But, and this is the point that I'm  
7 asking you, if something was actually compromising  
8 the investigation as opposed to having a trivial  
9 effect on it the members who viewed that had a  
10 duty to bring it to their attention of the manager  
11 in writing and the manager had a duty to deal with  
12 it in writing; correct?

13 A I think that they had a duty to bring it to their  
14 supervisor, and my understanding is that they did  
15 bring it to their supervisor. Whether it would go  
16 to the extent of, you know, a seven year constable  
17 having a duty to put in writing something like  
18 that to her manager when they're trying to get  
19 along and make things better not worse and work  
20 around certain problems, 'cause these are humans  
21 that we're dealing with, there is some give and  
22 take. In the ideal situation what you describe I  
23 agree would be best.

24 Q And there's not a single notation of anyone ever  
25 bringing that -- these concerns you've made to any

1 manager or supervisor? For example, Field has not  
2 a single note in any of her notes or in an  
3 independent memo saying on such and such a date  
4 somebody brought her a complaint; correct?

5 A I agree that there weren't -- I didn't see records  
6 made at the time of it. I have seen information  
7 after the fact that that was occurring.

8 Q Right. But this whole concept within the VPD  
9 policy that people have a duty to bring to their  
10 manager's attention information about somebody  
11 compromising an investigation has the merit that  
12 it helps you identify what is serious conduct and  
13 not serious conduct; correct?

14 A Well, first of all, you keep referring to VPD  
15 policy that requires this, and I'm not sure  
16 exactly what you're talking about. We certainly  
17 have workplace harassment policies that sets out  
18 options. I'm not aware of a policy that is  
19 written in the way that you describe. I agree  
20 that police officers when there is something going  
21 wrong have a duty to confront bad behaviour and  
22 that's going to be easier for some members than  
23 others and there are different ways that it is  
24 going to be dealt with. There is not one, only  
25 one correct way to deal with that.

1 Q Well, surely -- well, there may not be one correct  
2 way. A component in all of the correct ways if  
3 somebody had done something so serious as to  
4 compromise a major investigation is to document it  
5 in some way as the complaint comes in; correct?  
6 A I agree that documentation is important.  
7 Q Now, if there are personality problems between  
8 members of the team management have a duty to  
9 resolve it; correct?  
10 A If management is made aware of it, yes.  
11 Q Well, you just said here that the management was  
12 made aware of it?  
13 A Well, I thought you were putting a hypothetical to  
14 me. So if we're back to the specifics I'll answer  
15 that question.  
16 Q All right. And in this case there is no document  
17 anywhere in anybody's notes or any contemporaneous  
18 memorandum that anyone ever spoke to either Fell  
19 or Wolthers about being disruptive; correct?  
20 A There are the notes that you referred to, and  
21 there may be others, about Sergeant Field meeting  
22 with them, and the notes are short and cryptic  
23 about not getting their work done. I don't know  
24 what else was discussed during that meeting.  
25 Q I'll see if this is the issue that we're referring

1 to. If you turn in your book to tab 9. This  
2 we're told is Sergeant Field's log.

3 A Yes.

4 Q We don't know whether this was created  
5 contemporaneously or after the fact, we'll find  
6 that out from her, but you may be referring to the  
7 entry -- the only entry I saw in her whole log  
8 dealing with Constables Fell and Wolthers is an  
9 entry that starts at 99-12-11. Do you see that?

10 A Yes.

11 Q I'll first point out that I'm advised that date is  
12 wrong, it was the 9th of December 'cause they  
13 weren't working on the 11th of December. Do you  
14 have any reasons to dispute that?

15 A No, I don't know that.

16 Q Okay. And what she has written is:

17 Meet with Doug and Mark re duties and tenure.  
18 Do you see that?

19 A Yes.

20 Q I'm not sure, a hundred percent sure that the last  
21 word is tenure, but it seems that it's reasonable  
22 given that two entries down:

23 Advised Doug and Mark will remain on the  
24 team.

25 Do you see that?

1 A Yes.

2 Q So it may well have to do with tenure at that  
3 point. In any event, all she's written is:

4 Meet with Doug and Mark re duties.

5 Correct?

6 A Yes.

7 Q Not re unacceptable behaviour; right?

8 A Well, I inferred certain things from that from  
9 knowing the broad picture.

10 Q Right. You chose to read into that words that are  
11 not there because you had adopted one version of  
12 what had occurred and you had rejected the other  
13 version?

14 A No. Just having that these notes are consistent  
15 with what I had been told by a number of different  
16 parties including Constables Fell and Wolthers.

17 Q Right. I'm going to suggest to you that no  
18 reasonable person approaching this matter  
19 objectively and reading the words on the page  
20 could read into that sentence that they were -- at  
21 this meeting they had been told that they were  
22 disruptive. Do you agree with that?

23 A Well, I agree we couldn't read into these words on  
24 the page without looking at it in context and  
25 knowing all the other information. I agree.

1 Q And this -- this is the only written remark you  
2 saw in the entire record about issues being  
3 brought to their attention; correct?

4 A I don't recall others.

5 Q Right. So I'm going to suggest to you that if you  
6 look at the written record the inference to be  
7 drawn is that no manager at any point said to them  
8 you're being disruptive, stop it. Isn't that  
9 fair?

10 A If you look at the written record only then I  
11 agree with you. It points out the importance of  
12 documentation.

13 Q And if you were looking at the contemporaneous  
14 record as opposed to something that was said after  
15 the fact the same point, there's no -- there's no  
16 -- all you have is people after the fact making  
17 claims as opposed to there being any record of  
18 anything that occurred as the incidents were  
19 occurring; correct?

20 A I agree with you that what you have is the  
21 records -- all you have is these records after the  
22 fact, but I'm not quite so dismissive of them when  
23 there is such consistency between what people  
24 reported, a variety of people at a variety of  
25 ranks and gender, and what the two constables

1 reported themselves, so I view it through all of  
2 that.

3 Q Well, the people you're talking about who had  
4 firsthand information about their dealings with  
5 the team was limited to four or five people;  
6 right? Sergeant Field wouldn't fit in that  
7 category 'cause she was hardly ever in the office;  
8 right?

9 A Well, she had some exposure, so that's one.

10 Q But she herself did not witness any disruptive  
11 behaviour, did she?

12 A I would have to refer back to her statement to be  
13 sure of that.

14 THE COMMISSIONER: Why don't we just wait for her to testify.

15 MR. WOODALL: Sure.

16 Q But we are talking about a very small group of  
17 people, four or five; correct? Lepine, Chernoff,  
18 Clark, Shenher?

19 A Dickson.

20 Q Dickson and Dorothy Alford?

21 A Alford.

22 Q Right. And most of those people, those are the  
23 same people who expressed concerns about Fell and  
24 Wolthers coming into the team at all; right?

25 A I don't know that all of them expressed those



1 concerns.

2 MR. WOODALL: Right. Now, I want to focus on one particular  
3 aspect of alleged disruptive conduct.

4 Mr. Commissioner, what time do you rise for the  
5 morning break?

6 THE COMMISSIONER: Well, is this a good time for you?

7 MR. WOODALL: The part that I'm about to make won't take very  
8 long.

9 THE COMMISSIONER: Why don't you finish this issue off and then  
10 we'll break.

11 MR. WOODALL:

12 Q And you were asked questions by Mr. Gratl about  
13 the use of the word whore; correct?

14 A Yes.

15 Q And you were also asked questions about the use of  
16 the word hooker?

17 A Yes.

18 Q And as I understand your evidence, at least with  
19 regard to the work hooker, you're prepared to  
20 accept that even though the word is unacceptable a  
21 person who used that word may nevertheless not be  
22 biased against sex trade workers?

23 A Yes. I think -- I hope my evidence was that it  
24 would be unacceptable now. I think that it was  
25 much more common in the vernacular then and not, I

1 think I said, meant necessarily in a dismissive or  
2 condescending way. That does not apply to the  
3 other word, I'd say at any time.

4 Q And the other word is a word which again is  
5 unacceptable in your view, even more unacceptable  
6 as I understand it?

7 A I agree.

8 Q But if someone used that word you'd have to see  
9 what the context in which they use it to determine  
10 how unacceptable it is; correct?

11 A Well, I agree that context is important, but I  
12 think that there are some words that are pretty  
13 well always wrong.

14 Q Okay. If someone, for example, is repeating what  
15 someone else said that's obviously -- someone said  
16 if one of these officers is repeating that someone  
17 else used that word that would obviously be an  
18 acceptable context?

19 A Well, it might be. I wouldn't say that that's  
20 always an excuse to be able to use unacceptable  
21 language just because you're quoting somebody  
22 else.

23 Q Well, but surely there are circumstances where  
24 someone else may have called a sex trade worker a  
25 whore and it would be appropriate to quote that

1 other person because you want to be accurate about  
2 what that other person said; correct?

3 A Well, it depends on the context. If I were  
4 conducting an interrogation and that was important  
5 for the conduct of the interrogation then that  
6 might be true. If I were reporting because of  
7 concerns about language someone was using and so I  
8 needed to use the exact language that they were  
9 using then that might be a context where that  
10 would be understood.

11 Q Right.

12 A In general conversations, like I said, there are  
13 certain words that are just unacceptable.

14 Q And just as there were no contemporaneous records  
15 of any objectionable conduct by Fell and Wolthers  
16 there's no contemporaneous record of any occasion  
17 when they used that word; correct?

18 A I agree that I did not see documentation of that  
19 that was created contemporaneous with the events.

20 Q And in your interviews with Fell and Wolthers you  
21 asked if they had used that word, but you didn't  
22 ask what context it was used in; correct?

23 A I don't recall. I would have to check my notes,  
24 but I think it was pretty clear that I was asking  
25 them to respond to the allegations that had been

1           made.

2           Q   Well, we don't know what you asked them because  
3           you never bothered to write down the questions you  
4           were asking them; right?

5           A   I actually did write down the questions in my  
6           notes, but not in the statement.

7           Q   So you have a list of the actual word-for-word  
8           questions you wrote?

9           A   Not word for word, but I did make notes of the  
10          areas that I wanted to cover with each witness.

11          Q   Right. You made point form notes of the areas,  
12          but you never bothered to write down the actual  
13          questions you asked, did you?

14          A   No, I did not. I have explained the nature of the  
15          way that I was taking the statements, that I was  
16          putting information to them and creating what I  
17          hope was a fair and accurate statement that told  
18          their story and asking them to sign off on it.

19          Q   And you never bothered to audio record it?

20          A   I did not audio record it.

21          Q   You never bothered to video record it?

22          A   No, I did not video record it.

23          Q   And you never bothered to record in any manner,  
24          written, audio or video, the questions you asked?

25          A   As I said I did take notes of them, but I was not

1                   conducting a criminal investigation or a *Police*  
2                   *Act* investigation, so it was --

3           Q       So that's your excuse for not --

4           A       No.

5           Q       -- recording what the questions you asked, it  
6                   wasn't a criminal investigation?

7           A       No, it's -- Mr. Commissioner, I made decisions  
8                   about how I was going to take statements. I would  
9                   point out that I've taken hundreds of statements  
10                  in criminal investigations like that during that  
11                  time period that have been greatly appreciated by  
12                  Crown counsel for the quality of the statement  
13                  taking and the coherent statement, and although  
14                  certainly I wish I could turn on the tape for you  
15                  now here today, it was not unusual practice at all  
16                  to take statements in that way, and in the  
17                  circumstances there were concerns about whether it  
18                  would be helpful or not to audiotape a statement.  
19                  I certainly wasn't going to be videotaping  
20                  statements in this management review that I was  
21                  doing.

22          Q       But, in any event, as a consequence of those  
23                  decisions we have no record of the questions you  
24                  asked about the use of the word whore or any other  
25                  matter?

1           A    Well, just that I do have notes of the areas that  
2                    I wanted to cover, and that was obviously one of  
3                    them, the concerns about the language that they  
4                    used in the office and how that impacted on the  
5                    team.

6           Q    Well, I've seen that document. That document has  
7                    point form areas, it doesn't have any actual  
8                    questions, does it?

9           A    I would have to look and see whether there are  
10                   questions or just point form, and it depended on  
11                   who I was interviewing and so on. But what was  
12                   important was that I wanted to get an accurate  
13                   description of their story, of their version of  
14                   events.

15          Q    Now, I'm going to ask you to turn in the materials  
16                   to tab 7.

17   THE COMMISSIONER: Okay. We'll break there.

18   THE REGISTRAR: The hearing will now recess for 15 minutes:

19                   **(PROCEEDINGS ADJOURNED AT 11:08 A.M.)**

20                   **(PROCEEDINGS RESUMED AT 11:24 A.M.)**

21   THE REGISTRAR: Order. The hearing is now resumed.

22   THE COMMISSIONER: Yes. Go ahead.

23   MR. WOODALL: Thank you.

24          Q    Now, I want to bring you back to a question I  
25                   asked you a little while ago which was whether you

1 would accept the proposition that even if  
2 Constable Fell or Constable Wolthers used the word  
3 whore that they might nevertheless be unbiased  
4 against sex trade workers. Would you agree with  
5 that proposition?

6 A I think the problem was it wasn't just the word  
7 whore, it was coupled with another word in the way  
8 that it was described to me, so that makes it more  
9 difficult to accept that proposition, but I do  
10 agree that sometimes people use outrageous  
11 language and it doesn't reflect what they really  
12 believe.

13 Q And neither -- in your interviews with Fell and  
14 Wolthers neither of them agreed that there was any  
15 possibility they had used the second word;  
16 correct?

17 A I'm sorry, can you give me that again?

18 Q Yes. In your interviews with Constable Fell he  
19 allowed as how there was a possibility that he had  
20 used the word whore, but he did not allow as how  
21 there was a possibility that he had used the  
22 phrase fucking whore; correct?

23 A Yes, I think that's correct. That's my  
24 recollection.

25 Q And Wolthers was annoyed that you were asking him

1 the question at all and refused to discuss it?

2 A Essentially.

3 Q All right.

4 A It was a little bit more responsive than that, but  
5 essentially.

6 Q Now, I'm going to ask if you could turn in the  
7 book of materials to tab 7, which is the book of  
8 materials you have before you.

9 A Yes, I have it.

10 Q Okay. Great. This I understand is the covering  
11 page for the report to Crown counsel that  
12 Detective Constables Wolthers and Fell prepared  
13 for the prosecution of person of interest 390?

14 A Yes, that's what it looks like to me.

15 Q And person of interest 390 is the person that they  
16 had been investigating sometime and ultimately  
17 went and interviewed in Lethbridge?

18 A Yes, correct.

19 Q And I want to read you a passage or several  
20 passages from this and then ask you some  
21 questions. So beginning on the second paragraph  
22 they have written this:

23 The Downtown Eastside of Vancouver is home to  
24 the highest concentration of drug addicts in  
25 Canada. Many of these drug addicts work as



1 sex trade workers in order to support their  
2 drug addictions. STWs as a result of the  
3 nature of their occupation, combined with  
4 their drug addiction, become easy pray for  
5 the sexual predator. The sexual predator  
6 preying on STWs can often operate with little  
7 fear of impunity for several reasons.

8 Firstly, a drug addicted STW offers little  
9 physical resistance to a street wise sexual  
10 predator.

11 Secondly, a sexual predator can often mask  
12 his actions by offering plausible reasons for  
13 various occurrences. Some of these reasons  
14 might include she tried to rob me so I hit  
15 her. Part of our agreement was for me to tie  
16 her up. Thus actions by a sexual predator  
17 can be marginalized to a simple disagreement  
18 between a STW and client.

19 Thirdly, during the course of this  
20 investigation it was apparent that STWs have  
21 little faith in the court system and the  
22 police. There is a perception between STWs  
23 that the court system is too lenient toward  
24 sexual predators and there is a concern that  
25 STW will be vilified and humiliated in giving

1 evidence in court.  
2 Pertaining to the police, the vast majority  
3 of bad occurrences encountered by STWs are  
4 not reported to the police. They are more  
5 often reported to the Downtown Eastside Youth  
6 Activities Society (DEYAS) which in turn  
7 publishes a bad date list.  
8 Lastly, an investigation of this nature  
9 requires a good working knowledge of the drug  
10 addicted sex trade worker in the Downtown  
11 Eastside of Vancouver.  
12 Crimes against the drug addicted sex trade  
13 workers largely go unreported.  
14 When crimes are reported by drug addicted sex  
15 trade workers (victims) they're often treated  
16 with skepticism by persons in authority:  
17 Who fail to understand why a victim would  
18 again deal with an attacker?  
19 Why a victim would return to working the  
20 streets within hours after an assault?  
21 Often investigators working in a drug free  
22 environment view the actions of these victims  
23 to cause credibility issues. The  
24 investigators ignorance is based on not  
25 understanding what drug addiction is.

1                   In a sexual predators world the drug addicted  
2                   sex trade worker is the perfect victim.  
3                   It is within this context that independently  
4                   sex trade workers have come forward to the  
5                   police and described their experiences with  
6                   the accused. Taken as a whole they all  
7                   demonstrated corroborating knowledge of  
8                   person of interest 390. They had driven  
9                   around for a fairly long time but person of  
10                  interest 390 had not talked at all. When  
11                  Detective Constable Wolthers asked sex trade  
12                  workers why they had stopped at the store,  
13                  person of interest 390 had told her he had  
14                  come to get some change at the store so he  
15                  could pay her. Person of interest 390 had  
16                  \$300 in cash mostly 20s on his person.

17                  Aside from the one case where I changed a name of  
18                  a person to person of interest 390 have I read  
19                  that correctly?

20                  A    Yes.

21                  Q    All right. And would you agree that that is an  
22                  articulate, enlightened and accurate description  
23                  of the plight of drug addicted sex trade workers  
24                  in the Downtown Eastside?

25                  A    Yes, I think it's quite good.

1 Q And it is also an accurate, enlightened and --  
2 sorry, an articulate, enlightened and accurate  
3 description of why crimes against drug addicted  
4 sex trade workers might be difficult to uncover  
5 and prosecute?

6 A Some of it, yes. I mean, it tells some of the  
7 story, not all of the story. I agree with what  
8 they've written.

9 Q And that written explanation of the problem does  
10 not display anything like bias against sex trade  
11 workers; correct?

12 A I agree.

13 Q Or drug addicted sex trade workers in particular?

14 A I agree.

15 Q Now, the next issue I want to turn to is your  
16 second issue which is tunnel vision regarding  
17 person of interest 390. And just to remind you,  
18 and I'll direct you to it if you need to, when you  
19 were outlining the three issues in your report the  
20 second issue was described as follows:

21 Second, they were almost entirely focused on  
22 a single suspect to the detriment of the  
23 larger investigation.

24 So what I want to ask you is how was their focus  
25 on person of interest 390 -- I'm just going to

1 call him 390 from now on. How was their focus on  
2 390 detrimental to the overall investigation?

3 A Well, because in an investigation like that it is  
4 not up to the individual investigators to  
5 prioritize their work, is that they may have  
6 believed, and apparently did believe that he was  
7 responsible for the missing women, that he was the  
8 murderer, and so was focusing on him. But there  
9 were many other investigative avenues that needed  
10 to be pursued as well, and there was discussion  
11 about even whether this case should have been  
12 forwarded on to the Sexual Offence Squad because  
13 that's the kind of case that it was. So I don't  
14 knock them, in fact I write about their tenacity  
15 in pursuing this. The problem was that they were  
16 not responsive to direction from Detective  
17 Constable Shenher, who was the file co-ordinator  
18 and been empowered by Sergeant Field to decide on  
19 the priority and assignment of tips. There were  
20 other good suspects as well to follow up on and  
21 work that needed to be done.

22 Q So is that -- are there any other issues? What I  
23 understand from what you said, to summarize, is  
24 because they were focused on one person they  
25 weren't doing work on other suspects including the

1 victim?

2 A Yes, they weren't doing work on other suspects,  
3 but weren't doing work that they were assigned to  
4 do that the file co-ordinator believed was  
5 important work to get done.

6 Q And would you agree with the proposition that  
7 failing to work on other tips would be detrimental  
8 to the investigation only if those other tasks  
9 were in fact helpful to the investigation?

10 A Well, they couldn't have known whether they would  
11 be helpful unless they worked on them, so the real  
12 principle here is who gets to decide what an  
13 investigator assigned to a team is going to work  
14 on, that it can't be anarchy.

15 Q Okay. You may not know with certainty what is  
16 going to come out of every tip, but you can look  
17 at many tips and very quickly decide is that  
18 likely or is that not likely to be fruitful;  
19 correct?

20 A Well --

21 Q For example, out of the America's Most Wanted  
22 there was I think a hundred or 150 tips came which  
23 only 20 were pursued; correct?

24 A Only 20 were assigned for follow-up, is deemed to  
25 be worthy of follow-up, yes.

1 Q So that's an example of how some tips just by  
2 looking at them you can determine whether -- you  
3 don't know for a certainty of course, but by  
4 looking at them you can get a pretty good idea of  
5 whether it's going to be worth following up?

6 A You might be able to, yes, depending on the nature  
7 and the specificity of the information, but the  
8 point is is that those are decisions that are made  
9 by the file co-ordinator in consultation with the  
10 sergeant, and if there's a dispute about the value  
11 of pursuing a certain avenue of investigation then  
12 the appropriate way to deal with that is not just  
13 to ignore the direction but to discuss that with  
14 the file co-ordinator who is assigning out the  
15 tips and who is considering hopefully all the  
16 information.

17 Q Right. Now, would you agree with this  
18 proposition. Setting aside the question of who  
19 gets to decide what tips should be done and what  
20 priority, would you agree with the proposition  
21 that if upon examining the tips that were  
22 supposedly not done you determined that they were  
23 of little or no value, that you would have to  
24 conclude the failure to follow up those tips did  
25 not have a materially detrimental impact on the

1 investigation?

2 A Well, in hindsight you might be able to determine  
3 that, but you couldn't determine that at the time.  
4 The point is, as I've said, that when there is a  
5 commitment to investigate tips that you have been  
6 assigned and you agree with that commitment and  
7 say that you are doing it and then not do it.  
8 That's the problem in the investigation, is that's  
9 what creates problems in investigation when there  
10 is no management of it, there is no prioritization  
11 of tips, that there is no discipline in terms of  
12 who is assigned to what and who gets what work  
13 done. So you didn't have an investigator who just  
14 ignores everything except what they think, which  
15 might be right and might be wrong, but it's not  
16 their decision to make.

17 Q So it sounds to me like there's two separate  
18 issues here. One is the basic principle that they  
19 should have followed Shenher's lead even if  
20 Shenher was wrong. I don't mean obviously, but  
21 even if they were right, she was wrong, somebody  
22 has to decide and she was given the ability to  
23 decide. So one problem was they weren't following  
24 her lead. A separate but distinct issue might be  
25 that the un-pursued tips might actually have



1                   resulted in useful information or evidence. Those  
2                   are two distinct issues; correct?

3                   A    Yes.

4                   Q    And you're able only to comment on the first issue  
5                   because you don't know what the issues were --  
6                   sorry, what the tips were that they didn't pursue  
7                   if they didn't pursue the tips?

8                   A    Well, or other investigative avenues that they had  
9                   some good ideas. And, for example, if they  
10                  weren't so dismissive of Pickton as a suspect they  
11                  might have been more alive to what information  
12                  they might have been able to receive about him  
13                  that might have been helpful.

14                  Q    Well, they weren't dismissive of him as a suspect.  
15                  You have no information along that line?

16                  A    I absolutely do, and I've spoken to -- well,  
17                  Detective Constable Wolthers personally about that  
18                  issue and he was extremely dismissive.

19                  Q    Okay. We'll hear from them on that topic. Now,  
20                  in your findings that are found in this book on  
21                  tab 5, the key findings of the review, at the  
22                  number one finding it says:

23                                The VPD should have recognized earlier that  
24                                there was a serial killer at work and  
25                                responded appropriately, but the

1 investigation was plagued by a failure at the  
2 VPD's management level to recognize what it  
3 was faced with.

4 Have I read that correctly?

5 A Yes.

6 Q And that's number one because that was in fact the  
7 biggest and most prominent issue; correct?

8 A That was a prominent issue, yes.

9 Q And whatever criticism might be levelled at other  
10 members of the Vancouver Police Department, that  
11 criticism can't be levelled at Fell and Wolthers  
12 'cause they were very early adopters of the serial  
13 killer theory; correct?

14 A Yes, that's very true, they were convinced early  
15 on.

16 Q And given that that, the failure to recognize a  
17 serial killer was such a failing, where in your  
18 report have you commended them for being early  
19 adopters of the serial killer theory?

20 A Well, I think I do describe in my report in a  
21 number of places that they absolutely believed in  
22 the serial killer theory. I know that I wrote  
23 that, and could find it if I had time. I also  
24 complimented them on their tenacity in pursuing  
25 suspect 390.

1 Q Well, but you never complimented them and drew  
2 particular notice to them in a favourable way that  
3 they were among the earliest adopters of the  
4 serial killer theory, did you?

5 A Well, not in the way that you have worded it, but  
6 I do recall writing in there that they absolutely  
7 believed in the serial killer theory when they  
8 came to the investigation.

9 Q But when you wrote that it was in conjunction with  
10 a criticism of them for being focused on 390 as  
11 the serial killer; correct?

12 A Fair enough.

13 Q Right. So when you mentioned their early adoption  
14 of the serial killer theory it wasn't commending  
15 them it was in the context of criticism; correct?

16 A Well, there certainly was criticism there, and you  
17 can draw from the other what you want. I think  
18 that I did treat them fairly in noting their  
19 tenacity and also that they were committed to the  
20 serial killer theory.

21 Q And I'm going to suggest to you that if you had  
22 approached this matter in a more evenhanded manner  
23 while making whatever criticism you saw fair you  
24 would also commend them where commendations are  
25 due and would have commended them for being early

1           adopters of the serial killer theory?

2           A    Well, I wrote the facts as I saw them, I think  
3           that I did treat them very fairly in the context  
4           of all that I learned. I'm not sure how important  
5           it was that I complimented them for being an early  
6           adopter. There were many people that believed in  
7           the serial killer theory.

8           Q    But --

9           A    So I will agree with you now that they certainly  
10          were early adopters, absolutely believed in the  
11          serial killer theory and absolutely believed that  
12          suspect 390 was the killer.

13          Q    And they were adopters of the serial killer theory  
14          far earlier than Sergeant Field; correct?

15          A    I think that Sergeant Field was a little bit less  
16          sure of it, certainly was by the time that  
17          Detective Inspector Rossmo's report arrived  
18          believed that it was a very strong possibility,  
19          and I think that her efforts from fairly early on  
20          to get reports like Staff Sergeant Davidson's  
21          report and pursue a JFO showed her belief in the  
22          serial killer theory. I agree that she did  
23          express some ambivalence in the way that she wrote  
24          about it.

25          Q    Well, it wasn't ambivalence. She dismissed it in

1 as late as May of 2000; correct?

2 A I don't think that she dismissed it. I think that  
3 there were a number of people that had an  
4 unfortunate choice of words that contradicted  
5 their actions at the time. So, for example,  
6 writing that there was no evidence of a serial  
7 killer, that was in the context of saying there  
8 was no physical evidence, a scene, a witness, a  
9 body and that sort of thing, but you have to  
10 consider that in the context that she was working  
11 very hard to try to create a JFO based on the  
12 belief that there was a serial killer, and  
13 discussion of bodies being found in rural  
14 locations, getting a report from Staff Sergeant  
15 Davidson that was entirely premised on the belief  
16 that there was a predator that was possible for  
17 the missing women. So it needs to be squared with  
18 that other information as well.

19 Q Okay. Can you turn in the book of materials to  
20 tab 1, please. This is an excerpt from the Evans  
21 report. I'm going to read you a portion of that  
22 and then I'm going to ask you some questions. The  
23 portion I'm starting on is on page 8-39, the last  
24 paragraph. On May 17th, do you see that?

25 A Yes.

1           Q           On May 17th, 2000, Sergeant Field wrote a  
2                            memorandum to Inspector Spencer regarding the  
3                            investigation by Detective Constable Fell and  
4                            Detective Constable Wolthers into their  
5                            person of interest for multiple sexual  
6                            assault.

7                            I want to pause there for a moment. To put this  
8                            in context, Detective Constables Fell and Wolthers  
9                            had written a memorandum to the chief criticizing  
10                           the investigation, and this was her reply to that  
11                           memorandum; correct? Inspector Spencer was asked  
12                           to deal with this.

13           A           Yes.

14           Q           Chief Blythe was not going to deal with their  
15                            memorandum personally?

16           A           Right.

17           Q           He asked Inspector Spencer to deal with it?

18           A           Yes.

19           Q           So rather than those people replying to Chief  
20                            Blythe they replied to Inspector Spencer; correct?

21           A           Yes.

22           Q           And so then Evans continues:

23                            These two officers had travelled to  
24                            Lethbridge, Alberta in order to interview  
25                            him...

1 Being 390:

2 ... and return him to Vancouver to face  
3 charges for several criminal offences. While  
4 there, they interviewed him in relation to  
5 the missing women from Downtown Eastside.  
6 Sergeant Field referenced the subject in her  
7 memorandum.

8 Now quoting Sergeant Field:

9 Never would I have imagined they would  
10 attempt to interview him for any serial  
11 killings since this had never been discussed  
12 as a strategy with the team. He...

13 Being 390:

14 ... was still a person of interest along with  
15 many others. At any rate...

16 And here's the key passage:

17 ... this was still a missing persons  
18 investigation and not a serial killer  
19 investigation as they allude to constantly.  
20 We still have no evidence of such, only  
21 speculation.

22 Do you see that?

23 A Yes.

24 Q Again, it must have been obvious to you when she  
25 used the phrase "At any rate, this was a missing

1 persons investigation and not a serial killer  
2 investigation as they allude to constantly," the  
3 they in that passage was Fell and Wolthers;  
4 correct?

5 A Yes, I believe so.

6 Q And by using that phrase "as they allude to  
7 constantly," she was being disparaging of their  
8 holding the serial killer theory; right?

9 A No, I don't think that she was being disparaging  
10 of them, that wasn't my impression.

11 Q Well, it's obvious when she used the words "as  
12 they allude to constantly," she's not using that  
13 in a complimentary sense she's using it in a  
14 disparaging sense; correct?

15 A Well, it's not in a complimentary sense, I agree.

16 Q And then she says:

17 We still have no evidence of such, only  
18 speculation.

19 Correct?

20 A Yeah, I think that was a poor choice of words  
21 based on --

22 Q Well, it was certainly a poor choice of words if  
23 it's intended to reflect somebody who says this is  
24 a serial killer investigation and we do have  
25 evidence?



1           A    Well, I agree with you.  I -- just again I was  
2                   troubled by some of the language used in a variety  
3                   of memos, but I also considered that in the  
4                   context of what she was doing to try to advance it  
5                   and create a serial killer investigation, because  
6                   one of the problems was they kept pursuing the  
7                   missing angle and other than a short time did not  
8                   make the leap into being really a suspect focused  
9                   investigation.  It was one of the things I've  
10                  written about is that so many people had trouble  
11                  making the conceptional leap.  I agree with you  
12                  Detectives Fell and Wolthers did not.

13          Q    They did not what?

14          A    They did not have trouble making the conceptual  
15                  leap.

16          Q    Okay.  But this is a memo that Sergeant Field has  
17                  written in reply to a memo that Fell and Wolthers  
18                  wrote criticizing the direction of the Missing  
19                  Women Review Team; correct?

20          A    Yes.

21          Q    That context is very important in assessing where  
22                  her mind was, 'cause she was essentially defending  
23                  her mind-set; correct?

24          A    I think -- well, you know, I don't want to claim  
25                  to know what was going on in her mind.  I have had

1 the benefit of --

2 THE COMMISSIONER: I think it's better that you put the  
3 question to her once she testifies.

4 MR. WOODALL: Fair enough.

5 Q But from your perspective in your assessment don't  
6 you think it would have been better if Sergeant  
7 Field had kept an open mind in considering the  
8 input that Fell and Wolthers have, particularly on  
9 the question of the serial killer theory and  
10 whether it should be adopted?

11 A Well, though I think that she did have an open  
12 mind. That's just the thing. If you look at the  
13 other documentation around that time and what  
14 Sergeant Field was doing and what others were  
15 doing with the information available I agree that  
16 it wasn't articulated very well, but I think that  
17 she did have an open mind but was describing the  
18 nature of their investigation because it wasn't  
19 resourced yet as a serial killer investigation,  
20 but that was what she was vigorously advocating  
21 for was a proper JFO that would be able to pursue  
22 it in that way.

23 Q Now, turning to 390, he wasn't just one among many  
24 suspects, he was a prime suspect; correct?

25 A Well, he was certainly a worthy suspect in terms

1 of violence towards sex trade workers, I agree  
2 with you there.

3 Q He was a prime suspect in the murder of the  
4 missing women, he was a prime suspect for being  
5 the serial killer up to and including the time  
6 when they went to Lethbridge?

7 A No, I don't think that viewing all the information  
8 in context that you can draw that inference. When  
9 you just look at him and his actions and his  
10 record then he's a bad guy for sure. But in  
11 looking at the -- as Sergeant Field pointed out  
12 one of the frustrations was there were so many men  
13 that had histories of very violent behaviour  
14 towards sex workers and others that it's hard to  
15 say that he was a prime suspect. He was certainly  
16 listed, I will agree with you, on their suspect  
17 list in a top ten list, and I think even at one  
18 point in a top three list, so.

19 Q Okay. Could you turn in the book of materials to  
20 tab 2, please. This is a memo written by Sergeant  
21 Field to Deputy Chief McGuinness. Do you see  
22 that?

23 A Yes.

24 Q Turn to page 4, please.

25 A Yes.

1 Q On page 4 there's a list of active investigations,  
2 and one of them is Robert William Pickton, his  
3 name is misspelled, but obviously we know who we  
4 are talking about. Then if you go down to the  
5 third paragraph you'll see that she's written  
6 this. Sorry, the second paragraph she talks about  
7 Pickton and the fact that the Coquitlam RCMP are  
8 working on that matter.

9 A Yes.

10 Q And then she says:  
11 Another prime suspect being worked on...

12 A No, it doesn't say that.

13 Q You're probably reading the wrong paragraph then.  
14 Are you reading paragraph 4 -- sorry, page 4?

15 A Yes.

16 Q You see the paragraph that says the majority of  
17 our efforts?

18 A Yes.

19 Q The next paragraph, another prime subject?

20 A Yes, you said suspect.

21 Q I'm sorry. There's no difference in this context  
22 between subject and suspect, is there?

23 A I wasn't sure where you were taking me, so I just  
24 wanted to make sure we got it right.

25 Q Fair enough.

1                   Another prime subject being worked on is 390.  
2                   This subject currently resides in Lethbridge,  
3                   Alberta.

4                   Do you see that?

5                   A    Yes.

6                   Q    Other than Pickton no one else is described as  
7                   being a prime subject; correct?

8                   A    In this memo, no.

9                   Q    So you would agree at least as of that date he was  
10                  a prime subject?

11                  A    He was certainly a worthy target that -- subject  
12                  that she was writing about I agree. I see it  
13                  appears number seven of that list of suspects that  
14                  they were looking at. So, yes, I agree he was  
15                  someone worthy of looking at.

16                  Q    Why do you refuse to accept that he was a prime  
17                  subject when the sergeant in charge of the team  
18                  described him as a prime subject?

19                  A    I'm not refusing, I just wasn't -- you know, the  
20                  way that you characterized it made it sound like  
21                  he really stood out, and he certainly was a person  
22                  that was a worthy suspect, had a very serious  
23                  record, serious allegations. So if you want to  
24                  use the term prime subject I'm not disagreeing,  
25                  with you, just the way that you originally

1                   characterized it made me feel like you were trying  
2                   to say he was number one.

3                   Q    I never said that.

4                   A    Okay.  I accept that.

5                   Q    Okay.  So you will agree that he was a prime  
6                   subject?

7                   A    Yes, that he appeared on their top ten list, so  
8                   that would make him a prime subject.

9                   Q    Well, I don't know why you're making this  
10                  difficult.  It's not just that he's on the top ten  
11                  list, he's described by the supervisor in charge  
12                  of the investigation as a prime subject.  Why do  
13                  you keep changing that to worthy subject?  Why  
14                  will you not accept her words, not mine, her words  
15                  that he was a prime subject?

16                  A    Well, I accept that she believed that he was a  
17                  prime subject.

18                  Q    Okay.  And you of course weren't involved in the  
19                  investigation so you would have to take her word  
20                  for it; correct?

21                  A    Well, if I were evaluating I would look at all the  
22                  information that was available to me in making  
23                  that decision.

24                  Q    And certainly given that this was the view that  
25                  the sergeant took one would expect that her view

1           that he was a prime subject would have come from  
2           her consultations with all of the members of the  
3           team; right?

4           A    I don't know that.

5           Q    You would expect that's how she would come to that  
6           position, that opinion?

7           A    No. I would expect that she would have come to  
8           that discussing it with Detective Constables Fell  
9           and Wolthers. I don't know what other discussions  
10          she had.

11          Q    So you think that she would come to the view that  
12          390 was a prime subject by discussion with Fell  
13          and Wolthers and would not have also discussed  
14          that with Shenher and the other members to see  
15          whether they concurred?

16          A    I don't know.

17          Q    You expect her to?

18          A    I don't know whether she would have or not. I  
19          note the context about it, she talks about it,  
20          it's in the context of work. She said the  
21          majority of our efforts have been concentrated on  
22          Pickton, and then she says another prime subject  
23          being worked on, and so he definitely was on their  
24          list of their top suspects.

25          Q    As a prime suspect?

1 A As a prime subject as she's written here.

2 Q All right. And you're not suggesting in that  
3 context there's any difference between suspect and  
4 subject?

5 A I don't know what she was thinking in her mind and  
6 why she chose that word rather than suspect which  
7 would be typical.

8 Q So if you can turn to tab 4. This is a memo again  
9 by Field to Acting Inspector Dan Dureau, and I  
10 won't read it all into the record unless you'd  
11 like me to, but what you see in that very short  
12 memo is that she discusses three persons of  
13 interest, one being Robert Pickton, one being 390,  
14 and one being 11127. Do you see that?

15 A Well, the sentence says we also discussed many of  
16 our current subjects of interest including those  
17 three.

18 Q Right. The only one she mentions by name are  
19 Pickton, 390 and the third one; right?

20 A Yes, I agree.

21 Q And so that is obviously a strong indication that  
22 those three were in a different category than the  
23 others, 'cause she's taken the effort to mention  
24 them by name?

25 A Yes, I agree.



1 Q Sorry, I missed one tab. If you could go back to  
2 tab 3. This is an earlier e-mail, sorry, memo  
3 dated December 9th, 1999, and on the second page  
4 under the heading Persons of Interest, do you see  
5 that?

6 A Yes.

7 Q She says:

8 A number of persons of interest were removed  
9 from the active list. We are still waiting  
10 DNA results from person of interest 390 North  
11 Vancouver case.

12 Do you see that?

13 A Yes.

14 Q So the inference there is that some people were  
15 being removed from the active list but person of  
16 interest 390 was not, he was still an active case?

17 A Yes, because they were going to compare his DNA to  
18 outstanding unsolved cases. That certainly made  
19 sense.

20 Q I'm going to ask if you could then turn to tab 10.  
21 On page 2 under the heading Persons of Interest  
22 you see the first paragraph indicates that a  
23 number of people had been eliminated from the list  
24 of persons of interest. And then in the next  
25 paragraph it says:

1 Charges are currently being prepared on one  
2 individual who has been responsible for a  
3 number of attacks on prostitutes. He still  
4 remains a person of interest in relation to  
5 this file.

6 Do you see that?

7 A Yes.

8 Q That's obviously a reference to 390; correct?

9 A Yes.

10 Q So he was still a person of interest who was not  
11 only a person of interest but merited mention in  
12 this case not by name, but by individual  
13 identification; correct?

14 A Well, I think that that's true, I'm not  
15 disagreeing with you, but the reason he was in  
16 there that he merited mention is because they were  
17 actually charging him with some offences, so that  
18 was a notable matter.

19 Q Right. But you're ignoring the second sentence  
20 which is:

21 He still remains a person of interest in  
22 relation to this file.

23 This file being the Pickton file?

24 A Well, it wasn't the Pickton file, it was the  
25 missing women file at that point. And I'm not

1 ignoring that, I agree with you. The reason that  
2 it was -- it made sense to put it in there was  
3 because he was being charged hopefully with a  
4 number of offences, but I agree he did remain a  
5 person of interest in relation to the file.

6 Q And at no time between October of 1999 and May of  
7 2000 did anyone say 390 is no longer a prime  
8 subject, he's just one among many; correct?

9 A The dates again?

10 Q October 22nd, 1999 and -- well, until they went to  
11 Lethbridge?

12 A Yes.

13 Q I don't have on the tip of my tongue the date.

14 A Yes.

15 Q But before they went to Lethbridge there's no  
16 written record saying 390 is no longer a prime  
17 subject?

18 A There's no written record that I recall saying  
19 that he was not a suspect that should be looked  
20 at, I agree.

21 Q And 390 was a very dangerous man; correct?

22 A I agree.

23 Q He'd committed a large number of very serious  
24 violent offences against sex trade workers?

25 A That's my understanding.

1 Q And it was the work of Fell and Wolthers who got  
2 him off the street?

3 A Their work initially with some assistance from  
4 others, yes.

5 Q They were the primary investigators who got him  
6 off the street?

7 A Yes.

8 Q And other than the charges against Pickton, the  
9 charges against 390 are the only charges that  
10 arose from all of the work that the Missing Women  
11 Review Team did; correct?

12 A Yes, that's my understanding.

13 Q And so if they spent hours working on the  
14 investigation of 390 that could be reasonably  
15 expected to contribute to the prosecution of 390,  
16 those would be hours well spent; correct?

17 A I agree. And it's a two part question for me, is  
18 that I agree it's time well spent because they got  
19 a predator off the streets and he was a serious  
20 predator. The second part of that is -- maybe  
21 it's three parts, is yes, it advanced the interest  
22 of protecting women in the Downtown Eastside from  
23 predators. The question of whether it advanced  
24 the investigation into the missing women is a  
25 different question, and I would just point out

1 that, as I've said before, there were a number of  
2 serious predators like this that were being dealt  
3 with, for example where they're usually dealt with  
4 in our Sexual Offence Squad, and so that was one  
5 of the questions about whether it would be better  
6 for it to go there where those matters are  
7 normally dealt with if it wasn't going to advance  
8 the investigation into finding what happened with  
9 the missing women. But I'm not arguing that that  
10 should have occurred, because he was a good  
11 suspect, he was violent toward sex trade workers.  
12 I think that there was a debate about whether he  
13 was a likely suspect for women who had gone  
14 missing, but I do agree that it was a very good  
15 thing that they got him off the street, and I did  
16 compliment them for their tenacity in getting  
17 those charges.

18 Q And the reason they had to be tenacious in getting  
19 the charges is because they got no support from  
20 anyone on the missing women team regarding 390,  
21 did they?

22 A I don't agree that that's a fair characterization.

23 Q All right. But going back to a question I asked a  
24 moment ago, you would concede that if they did  
25 work that made a contribution to getting 390 off

1 the street that would be considered time well  
2 spent?

3 A I think that was a good thing generally, yes.

4 Q And considering the hours they were putting in,  
5 there's no suggestion that they were not putting  
6 in the hours that were expected of them on a daily  
7 or weekly basis?

8 A No, there was no question about their work ethic.

9 Q And there's -- no one's identified anything that  
10 they did in relation to 390 except perhaps the  
11 Lethbridge incident that did not contribute to the  
12 prosecution of 390, have they?

13 A Well, there were a number of problems with that  
14 investigation, and that's why I disagree with your  
15 characterization they didn't get any support,  
16 because they got support from others, and there  
17 was a question about whether they would involve  
18 anyone else in their investigation so it's a  
19 little bit unfair to say that about the other  
20 investigators. But there was some problems in  
21 that investigation, but I'm glad that it worked  
22 out, and good for them for the hard work they did.

23 Q Well, the question I asked you though is setting  
24 aside the Lethbridge incident I haven't seen any  
25 report that says that they did work towards

1 prosecuting 390 that did not contribute to the  
2 prosecution of 390, that they wasted their time to  
3 put it shortly?

4 A Yes, I agree.

5 Q All right. So if they have been putting in all  
6 the time that's expected of them, and the time  
7 that they have spent on 390 is time well spent,  
8 not wasted time, surely they can't be criticized  
9 for focusing on 390?

10 A Well, I disagree with your characterization,  
11 because although it was time well spent to get him  
12 off the street, that ignores the advances that  
13 could have been made into the investigation of the  
14 missing women had they been more team players and  
15 worked well with the rest of the team, including  
16 with their contacts on the street and their  
17 tenacity had they been open to it they might have  
18 been able to advance obtaining information about  
19 Pickton.

20 Q But --

21 A That's one example.

22 Q The assumption that I'm asking you to accept is  
23 that the work that they did -- sorry, I'm asking  
24 you to -- not to accept. The assumption I'm  
25 asking you to take into account is that there's no

1 evidence that any of the work they did did not  
2 contribute to the prosecution of 390?

3 A No, if you're isolating it to the prosecution of  
4 390 and that was the goal, that was time well  
5 spent in that they got some serious charges  
6 against a serious predator and he got a serious  
7 sentence, so that's good.

8 Q And there's no evidence that they were wasting  
9 time when they were investigating 390, that they  
10 were doing things that were not contributing to  
11 the prosecution?

12 A I agree they were working hard, there was no  
13 question about that.

14 Q And there's no evidence that they were doing other  
15 than putting in all of the hours that they were  
16 expected to do; correct?

17 A I have no information that they were engaged in  
18 time theft or anything like that. Their  
19 reputation was as hard workers.

20 Q So if you accept all of those points it must  
21 follow that the work they did on 390 was time well  
22 spent and they shouldn't be criticized for it?

23 A Well, I just don't think that you can go that far.  
24 It's time well spent, but the question is for  
25 example could they have better served the interest



1 of determining what happened to the missing women  
2 if they had been better team players and more  
3 co-operative, and for example would that  
4 investigation have been done more efficiently if  
5 they had passed it on -- when it appeared that  
6 what he was was a sexual predator if they had  
7 passed it on to the Sexual Offence Squad where  
8 there are investigators who are very experienced  
9 in dealing with that kind of matter, and that is  
10 what had to happen to make sure that case was  
11 ready to go to court.

12 Q Well, now you're introducing an attempt to argue  
13 that they may have been inefficient. Are you now  
14 saying that they may have been inefficient by  
15 doing it themselves and not passing it on to the  
16 sexual --

17 THE COMMISSIONER: Well, in fairness, you know, you're giving  
18 him the opportunity to do that.

19 MR. WOODALL: Yes.

20 THE COMMISSIONER: Yeah, so --

21 MR. WOODALL: I'm just trying to figure out where this witness  
22 is coming from. A moment ago I thought he had  
23 agreed that there was no evidence of inefficiency.  
24 Now I'm just trying to see what -- he's suggesting  
25 that what they should have done was give it to

1                    someone who may have been more effective. That's  
2                    all I'm trying to --

3       THE COMMISSIONER: Well, I thought that's what he said all  
4                    along.

5       THE WITNESS: I did not say -- you asked me the question about  
6                    their work ethic, were they working hard. I did  
7                    not say that for example as a hypothetical that  
8                    the investigation might have proceeded more  
9                    efficiently -- not that they weren't working hard,  
10                   but maybe less time would have been required had  
11                   it gone to someone more experienced dealing with  
12                   that sort of an investigation. So I agree that  
13                   they were working hard. Some people work hard and  
14                   don't get much done or do things much slower than  
15                   other people who more proficient.

16       MR. WOODALL:

17                   Q    But there were two reasons why it didn't go to the  
18                   Sexual Offence Squad. One of them was because 390  
19                   was still at a minimum a person of interest, and I  
20                   say a prime subject in the missing women case;  
21                   right? You're not going to have that same person  
22                   being investigated by two separate teams, that  
23                   would be grossly inefficient.

24                   A    Not necessarily. There were other tips that were  
25                   farmed out, I'll call it, to members of the

1 Homicide Squad that were beyond the capacity of  
2 the Missing Women Review Team. Investigations  
3 sometimes do get passed on, so generally it's  
4 better not to, I agree, but that's not the only  
5 scenario.

6 Q And nobody at the relevant time in management who  
7 could have moved it to the Sexual Offence Squad  
8 did move it to the Sexual Offence Squad?

9 A I agree that it did not get moved to the Sexual  
10 Offence Squad.

11 Q So it's certainly not Fell and Wolthers' fault  
12 that they were pursuing an investigation when no  
13 one said that you shouldn't work on this anymore,  
14 send it to the Sexual Offence Squad?

15 A Sorry, you lost me on the question.

16 Q Yes. Nobody can criticize Fell and Wolthers for  
17 continuing to work on 390 on the theory that they  
18 should have gone to the Sexual Offence Squad when  
19 no one in management told them to send it to the  
20 Sexual Offence Squad?

21 A Yes, I agree. That was supervisory or a  
22 management decision.

23 Q Now, have you read Sergeant Stewart's assessment  
24 of whether these officers were doing the work that  
25 was assigned to them?

1 A Yes, I've read it.

2 Q All right. That would be the loose document in  
3 the back of the book that you have. And he made  
4 some findings of fact -- just a moment, please. I  
5 apologize, I've lost my marked-up copy. Yes, if  
6 you turn to page 2 of this report he says on the  
7 fourth paragraph down it starts the team members.  
8 Do you see that?

9 A Is that the third paragraph down?

10 Q I'm sorry, yes, the third paragraph down.

11 A Yes.

12 Q The team members were to meet twice a week  
13 where they would discuss strategies and  
14 receive assignments, referred to as tips from  
15 the file co-ordinator. These tips were  
16 batched out to members who were given as much  
17 time as needed to complete them. Pertinent  
18 information that resulted from the tips was  
19 to be shared with the team at subsequent  
20 meetings. The data entry person kept track  
21 of both the tip assignments and the results.  
22 There were no BF dates assigned to the tips,  
23 however members were expected to complete  
24 them and advise the file co-ordinator. In  
25 July of 1999 the workforce increased

1                   dramatically for the team when the missing  
2                   women mystery was aired on the America's Most  
3                   Wanted. It became clear that there were  
4                   insufficient personnel to handle the incoming  
5                   workload. There are presently over 1300 tips  
6                   logged in the SIUSS program.

7                   Do you have any reason to doubt that those facts  
8                   are summarized correctly?

9                   A I don't think that you actually had it quite  
10                   correctly, and I think that you read the word  
11                   workforce for workload. And it seemed to me in my  
12                   review that although they were very concerned  
13                   about the workload that was going to be generated  
14                   by the reward and the America's Most Wanted show  
15                   that in fact it was negligible. So I don't think  
16                   they got that quite right.

17                   Q Okay. Fair enough. The issue I was focusing on  
18                   was the fact that there were -- that tips were  
19                   assigned but there were no BF dates assigned to  
20                   them except in the general expectation of members  
21                   would complete them and discuss with the file  
22                   co-ordinator?

23                   A Yes, I understand your point, and that there were  
24                   weaknesses in the system that they had put in  
25                   place for managing information.

1 Q And then going over on to page 4, under Summary of  
2 Findings, the third paragraph down, Sergeant  
3 Spencer says this:

4 Having said this, issues surrounding  
5 Constables Fell and Wolthers continue to  
6 arise. Although they did complete many of  
7 the tips that were assigned to them,  
8 Detective Constable Shenher had to repeatedly  
9 ask for the results of nine particular tips  
10 that she felt were high priority. She kept  
11 receiving the same answer that they were  
12 working on them. When questioned by Sergeant  
13 Field they gave the same answer and indicated  
14 they would get them done. However, there is  
15 no BF dates or direction given to them as to  
16 when they must be completed. Although  
17 frustrating to the MPRT it appears that their  
18 standard answer was accepted each time it was  
19 raised. It does not appear that these tips  
20 in question have yet to be completed. Part  
21 of the reason for not knowing the extent of  
22 this issue is a problem surrounding the data  
23 entry into SIUSS.

24 Do you agree that that's a fair summary of the  
25 situation?

1           A    I think that he got that mostly right, including  
2                    the weaknesses in the system that they put in  
3                    place, but my understanding from my review was  
4                    that there were tips there that had been assigned  
5                    in which they reported they were working on them  
6                    that in fact no work had been done. So I could  
7                    stand to be corrected on that, but that's my  
8                    recollection. So generally I think that he has  
9                    got it right in pointing out the management  
10                  weaknesses, but not necessarily focusing in on  
11                  what their responsibility was and whether they met  
12                  their obligations and whether what they said was  
13                  correct.

14          Q    And then at the bottom of that page 4 Sergeant  
15                  Spencer says this:

16                        The issue surrounding the prioritized tips  
17                        was not an outright refusal by Constables  
18                        Fell and Wolthers to complete them but an  
19                        indication of their attitude in regards to  
20                        the direction that the MPRT was heading.

21          A    Can I just correct you in that you've said  
22                  Sergeant Spencer twice and it's Sergeant Stewart  
23                  who wrote the memo.

24          Q    I'm sorry. Thank you.

25          A    Just for the record. So you're asking me a

1 question about that sentence?

2 Q Yes. The question I'm asking you is you have no  
3 reason to disagree with Sergeant Stewart's  
4 assessment that this was not an outright refusal  
5 by Fell and Wolthers to complete the tasks?

6 A Well, I think that that was a very generous and  
7 gentle way of describing it.

8 Q There is no written record contemporaneous with  
9 the events of anyone saying to them you need to do  
10 these tasks at all; correct?

11 A Well, the record is in the tips being assigned  
12 out, so that's the record of the tip being  
13 assigned on a certain day.

14 Q Right. But there's no record of anyone once  
15 they're assigned saying we've given these to you,  
16 where's the results or anything of that nature;  
17 correct?

18 A I think that there are notes about the fact that  
19 they were not getting their work done and were  
20 spoken to about it. In terms of a formal memo  
21 about it I agree with you.

22 Q Well, I haven't seen -- I haven't seen in your  
23 report you referring to any note that was given to  
24 them saying you're not getting your work done, do  
25 it, or anything along that line?



1 A Well, I think that you referred me to some notes  
2 in Sergeant Field's log about speaking to them  
3 about their duties and I believe that that was the  
4 context.

5 Q Okay. There wasn't a follow-up to that notation  
6 by Sergeant Field, correct, that she had to come  
7 back to them a second time; correct?

8 A In the records at the time or in the statements  
9 provided after the fact?

10 Q In the contemporaneous records.

11 A I'm sure you must be right. I don't recall  
12 that --

13 Q Okay.

14 A -- off the top of my head.

15 Q So if that refers to Sergeant Field saying get  
16 your tasks done and your tips done, there's no  
17 evidence that she had to follow it up and say I  
18 talked to you before, why do I have to talk to you  
19 again or anything like that?

20 A I agree with you that there isn't documentation  
21 written contemporaneous with the problems, but I  
22 think that there are memos written soon after  
23 describing the problems.

24 Q Right. And the memos written soon after were  
25 after they had left the team; correct? You're

1 talking about Field and Shenher's responses to  
2 their memo to Blythe?

3 A I think that there are memos around the time that  
4 they are leaving the team in terms of Inspector  
5 Spencer, they're all around that time, and the  
6 decisions being made that they are going to be  
7 leaving the team.

8 Q There is no memo in the record before they came  
9 back from Lethbridge criticizing them for failing  
10 to do the tips; correct?

11 A I don't recall seeing a record like that, I agree.

12 Q All right. And you have never done a quantitative  
13 analysis to determine how many tips they did and  
14 how many tips they failed to do; correct?

15 A That's true.

16 Q And you've never done a qualitative analysis by  
17 looking at each tip and saying what could one  
18 expect that this tip might contribute to the  
19 investigation had it been performed?

20 A That is true.

21 Q And I'm going to suggest that -- and you've never  
22 done an investigation or inquiry to see what tips  
23 other people were given but did not complete;  
24 correct?

25 A No. But I didn't have complaints from any other

1 member about any other member that they weren't  
2 doing what they were assigned to do.

3 Q Well, but that's because you had these two groups,  
4 the Shenher, Lepine, Chernoff group, and then you  
5 have the other side, the Fell, Wolthers group.  
6 You had no reason to expect anybody in the first  
7 group were going to be informing on anyone else in  
8 that group; correct?

9 A No, I think that you're creating this image that  
10 there was somehow this homogenous, cohesive group  
11 and reality is that Chernoff and Lepine came from  
12 the Homicide Squad, Detective Constable Alex Clark  
13 came from I think a neighbourhood police community  
14 office at the time, Detective Constable Shenher  
15 came from the Strike Force, Sergeant Field was in  
16 Homicide, so I don't think it's -- they were all  
17 put together in a cobbled together team. To  
18 suggest that there was like two opposing groups or  
19 something like that, these were people of wildly  
20 disparate years of service, you know, that  
21 weren't, you know, friends off the job or anything  
22 like that.

23 Q Well, there were two identifiable groups. There  
24 was the group who existed before Fell and Wolthers  
25 joined the team, and then there was Fell and

1                   Wolthers; correct?

2                   A   Well, Fell and Wolthers came about the same time  
3                   as Chernoff and Lepine.

4                   Q   Right.  But Chernoff and Lepine were among the  
5                   people who were prejudiced against Fell and  
6                   Wolthers?

7                   A   Well, I don't know if they were prejudiced against  
8                   them.  They certainly came to be very concerned  
9                   about their conduct.

10                  Q   All right.  Now, I'm going to suggest to you that  
11                  if you look at the record, the contemporaneous  
12                  record as opposed to what people said after Fell  
13                  and Wolthers had complained about them, the  
14                  contemporaneous record does not support the  
15                  allegation that they were disruptive, much less  
16                  that they were talked to about being disruptive.  
17                  Do you agree with that?

18                  A   No.  You've just put something to me that I don't  
19                  believe is accurate in that these responses were  
20                  written after they, quote, were complained about,  
21                  and in fact there were a number of members that  
22                  they do not complain about, and in fact I don't  
23                  know that they identify people specifically.  So  
24                  to suggest somehow that it was some kind of  
25                  revenge on them for being complained about, I

1 don't think that, you know, 30 year Detective Ron  
2 Lepine cared what they wrote, he simply said what  
3 he thought and pointed out how uncomfortable that  
4 was for him to complain about another police  
5 officer. So you had this disparate group of  
6 police officers who were not individually  
7 complained about but described behaviour that they  
8 had observed.

9 Q Okay. Well, I didn't ask you what you thought  
10 Lepine was thinking. I asked you about the  
11 contemporaneous written record. And if we will  
12 use a date at the 1st of May, approximately the  
13 time of the Lethbridge incident, before -- and let  
14 me just step back. It was clear that by the time  
15 Fell and Wolthers were back from Lethbridge they  
16 were going to be asked to leave the team; correct?  
17 Very shortly after they returned from Lethbridge  
18 they were going to be gone from the team?

19 A That's true that that did happen shortly after  
20 their return.

21 Q Prior to that event -- I'm going to tell you that  
22 the documentary record tells us this. Prior to  
23 that event there's not one record of any kind  
24 accusing either Fell or Wolthers of any kind of  
25 improper conduct of any nature; correct?

1           A    Yes.  I'm just not going to agree with you that I  
2                    can infer from that that there weren't any  
3                    problems.

4           Q    Have I asked you to infer that?

5           A    Well, you have asked me --

6   THE COMMISSIONER:  Well, actually you are.  I mean, you know,  
7                    you're asking him to draw a conclusion.

8   MR. WOODALL:  I'm asking -- I will get to that point, but I  
9                    would ask the witness to answer the questions I've  
10                   asked which are simple matters of what is in the  
11                   record.  What inferences can be drawn from it is  
12                   something I'd like to get through --

13   THE COMMISSIONER:  I think with all due respect your question  
14                    went beyond what's on the record.  You asked him  
15                    to -- in fact you're asking him to draw a  
16                    conclusion.  In any event, go ahead and do it  
17                    again.

18   MR. WOODALL:

19           Q    The question I'm asking you is on the documentary  
20                    record there's no record of anyone making a  
21                    complaint about Fell and Wolthers prior to May of  
22                    2000 of any objectionable conduct of any kind;  
23                    correct?

24           A    I agree with you there.

25           Q    Then Fell and Wolthers wrote their memo to the

1 deputy chief criticizing the investigation;  
2 correct?

3 A Yes.

4 Q And the written complaints about their conduct  
5 came about firstly as a result of -- sorry, as a  
6 response to their -- that's Fell and Wolthers  
7 complaint about the investigation; correct?

8 A Well, the written responses to my recollection are  
9 only from Sergeant Field and Detective Constable  
10 Shenher. So the others involved, Constable  
11 Dickson, Constable Clark, Detective Constable  
12 Chernoff, Detective Lepine, they didn't write  
13 records about that at that time, and they weren't  
14 responding to any report.

15 Q Exactly my point. The first response was from  
16 Field and Shenher. The first written record of  
17 any complaint comes from Field and Shenher in  
18 response to the complaints from Wolthers?

19 A Yes.

20 Q Even they did not -- even they, the ones who  
21 finally got around to writing the response, sorry,  
22 to writing down complaints, had not written any  
23 complaints before Wolthers and Fell complained  
24 about them; right?

25 A Yes, I agree that that is a very significant thing

1 to do to write a complaint about someone in the  
2 workplace and so those things were being handled,  
3 to the extent that they were being handled,  
4 verbally, and I agree with you that there weren't  
5 written records created at the time.

6 Q And given what you said early on in my questioning  
7 about the policy for recording serious misconduct,  
8 isn't the fair inference that if people were  
9 annoyed or bothered by what Fell or Wolthers were  
10 doing, before they complained to Blythe no one  
11 really considered it serious, so serious as to  
12 merit recording?

13 A No, I completely disagree with you. And you're  
14 putting something to me again that I disagreed  
15 with you earlier on about a policy and so on, that  
16 you'd have to be more specific about. And I've  
17 talked about how these things can be ideal, but  
18 not -- not necessarily realistic in the real world  
19 where people will try to put up with a fair amount  
20 and be reluctant to put something in writing about  
21 a peer, and that doesn't mean that it's not  
22 occurring.

23 Q You may have missed the last part of my question.  
24 The last part of the question I just asked you was  
25 no one considered it so serious as to write it



1 down or document it. That's an undeniable part of  
2 the record, correct, because nobody did write it  
3 down or document it?

4 A Well, I think it's two parts. I don't agree that  
5 people didn't consider it serious. I do agree  
6 they didn't document it.

7 Q But I'm asking you a different question from that.  
8 Nobody considered it so serious as to cause them  
9 to document it; correct?

10 MR. HERN: I think the witness has answered and now my friend  
11 is trying to ask him to draw the conclusion from  
12 those two pieces which he has not accepted.

13 THE COMMISSIONER: I think in fairness to the witness one  
14 doesn't necessarily follow the other. He said it  
15 was serious, but it wasn't documented.

16 MR. WOODALL: Well, I'll leave it. The record speaks for  
17 itself.

18 THE COMMISSIONER: Right.

19 MR. WOODALL: No one thought it was serious --

20 THE COMMISSIONER: No one documented it.

21 MR. WOODALL: Well, no one -- the record speaks for itself that  
22 no one thought it was so serious that they would  
23 document it. Whether they should have is another  
24 issue.

25 THE COMMISSIONER: Well, that's a matter for argument.

1 MR. WOODALL: That's right.

2 MR. HERN: I was going to say it's a matter of argument. I  
3 don't think the record does say that. I don't  
4 think that's fair. It's a matter that my friend  
5 is certainly entitled to argue.

6 THE COMMISSIONER: Okay.

7 MR. WOODALL: And I apologize to the commission, but I'm  
8 actually going to finish 30 seconds earlier than  
9 my time limit.

10 THE COMMISSIONER: Sorry?

11 MR. WOODALL: I apologize for finishing my questioning 30  
12 seconds earlier than my time limit. I hope that  
13 doesn't create difficulties for my other counsel.

14 THE COMMISSIONER: I think it's reassuring that someone  
15 finishes earlier than estimated, so maybe you  
16 should be commended for that.

17 MR. WOODALL: Thank you. Those are my questions.

18 THE COMMISSIONER: So you're done?

19 MR. WOODALL: I'm done.

20 THE COMMISSIONER: All right. Thank you, Mr. Woodall.  
21 Anything more?

22 MR. VERTLIEB: There's the matter of re-examination.

23 THE COMMISSIONER: Oh, I see. How long will that take?

24 MR. VERTLIEB: Perhaps 45 minutes from my perspective. I'm not  
25 sure about Mr. Hern who has some brief

1 re-examination.

2 MR. HERN: Five to ten minutes.

3 THE COMMISSIONER: Okay. Then we'll come back at two o'clock.

4 THE REGISTRAR: The hearing is now adjourned till two p.m.

5 **(PROCEEDINGS ADJOURNED AT 12:28 P.M.)**

6 **(PROCEEDINGS RESUMED AT 2:03 P.M.)**

7 THE REGISTRAR: Order. The hearing is now resumed.

8 THE COMMISSIONER: Yes, Mr. Woodall.

9 MR. WOODALL: Don't worry, I'm not going to be following  
10 tradition and coming back even though I've said I  
11 was finished.

12 THE COMMISSIONER: I knew you would never fool me, Mr. Woodall.

13 MR. WOODALL: I'm not that traditional. I rise merely to ask  
14 that the book I referred to be entered as a  
15 non-redacted exhibit. I understand from  
16 commission counsel that it can be given a full  
17 exhibit status but a notation not redacted so that  
18 it won't go on the website.

19 THE COMMISSIONER: It wouldn't go on the website. No, I  
20 understand that. Thank you.

21 THE REGISTRAR: That's correct. It will be marked as Exhibit  
22 46 non-redacted.

23 **(EXHIBIT 46-NR: Non-redacted Document entitled:**  
24 **Cross Examination of DCC LePard by Counsel for**  
25 **Constable Fell)**

1 MR. VERTLIEB: Now, I think the procedure would be Mr. Hern  
2 having the right of re-examination as his client  
3 was in the witness box and then commission counsel  
4 concluding. I'm not sure if Mr. Hern has any  
5 questions or not.

6 MR. HERN: Sorry, Mr. Commissioner, I thought it was going to  
7 be the other way around, so that's why I'm --

8 THE COMMISSIONER: Do you want some time?

9 MR. HERN: No, no, I -- just a few moments. I just need to  
10 hand around a couple of things. So,  
11 Mr. Commissioner, I've just got a few areas that I  
12 wanted to cover with Deputy Chief LePard, and the  
13 first is the subject of what Mr. Dickson is  
14 handing around and -- there's a copy for the  
15 commissioner. It's what's in this binder. While  
16 Mr. Dickson is handing this around I'll just  
17 explain a little bit about this because it  
18 requires a short introduction.

19 This is in reference to Mr. Gratl's line of  
20 cross-examination over the word hooker and Deputy  
21 Chief LePard's responses to it. Now, these  
22 documents in this binder are five media articles  
23 and then a sixth which -- a sixth document which  
24 is a compendium of media headlines drawn from a  
25 digital database of media articles, and so I just

1 wanted to take you and the witness through that  
2 and then ask a single question of Deputy Chief  
3 LePard, and I think you'll find it interesting as  
4 we go through it.

5 So the first five articles, the first article  
6 at tab 1 is an article from the *Montreal Gazette*  
7 from July 29, 1966 as produced by the digital  
8 database FPinfomart, and you can see the headline  
9 is *Prostitutes make easy prey for killers: More*  
10 *than half of recent murders of hookers remain*  
11 *unsolved.* So this -- Deputy Chief LePard, if you  
12 could follow along with me, we're in tab 1 of the  
13 binder. And that's a *Montreal Gazette* article.  
14 And this is an article that cites comments from  
15 John Lowman and which you can see in the fifth or  
16 sixth paragraph down talking about -- and in the  
17 fourth paragraph down talking about:

18 ... the grim reality is that hookers are an  
19 easy target and their killings are  
20 notoriously difficult to solve.

21 And similarly at tab 2 is an article from *The*  
22 *Province* of September 24, 1997, *Law blamed for*  
23 *hooker murders: City called the biggest pimp on*  
24 *the street.* And again the use of the word hooker  
25 throughout that article, but in conjunction with

1           comments from Professor John Lowman. And the  
2           point of these first five articles,  
3           Mr. Commissioner, is to illustrate the use of the  
4           word hooker in conjunction with an article that is  
5           reflective of --

6   THE COMMISSIONER: It was in vogue at the time, it was in use  
7           and there was nothing pejorative about it, that's  
8           what you're saying.

9   MR. HERN: And that's particularly illustrated in these first  
10           five full articles because --

11   THE COMMISSIONER: That's your position, that's why you're  
12           filing this?

13   MR. HERN: Correct. Let me just finish explaining. The first  
14           five articles, the reason they're printed out is  
15           because these five articles in fact are  
16           sympathetic to the plight of street prostitutes at  
17           the time that they're written and are citing John  
18           Lowman's concerns with that. So we can just move  
19           quickly through them because they're all of that  
20           same ilk.

21           The next one at tab 3 is from the *Edmonton*  
22           *Journal* from August 11, 2002 discussing *HOOKER*  
23           *HIERARCHY/ The image of women forced by drug*  
24           *addiction and predatory pimps to work seedy street*  
25           *corners fits the stereotype of prostitution, but*

1           *reflects just a small part of today's sexual*  
2           *commerce, and again comments from John Lowman in*  
3           *there.*

4           And the next, tab 4, is from the *Surrey Now*,  
5           June 28, 2003, *Hooker law called 'doomed'*,  
6           referring again to Mr. Lowman's work and  
7           commentary.

8           And at tab 5 is from July 20, 2004 in *The*  
9           *Vancouver Sun, Hooker laws need change, journal*  
10          *says: Escorts are ignored while street workers*  
11          *are at risk.*

12          And so then turning to the sixth tab, this is  
13          the compilation of headlines, and you can see that  
14          -- I just want to explain how this document was  
15          created. This was from this search called --  
16          media search digital database called proquest.com,  
17          and you can call up a large number of articles on  
18          that. In this instance the way that the articles  
19          were called up it came out in five different  
20          groupings that weren't chronologically organized,  
21          and so my office put it into this format in a Word  
22          table so it could be sorted by year, but otherwise  
23          didn't change anything about it. And so this  
24          shows from through 75 pages of headlines the use  
25          of the word hookers in the context of referring to

1 sex trade workers from January 21, 1997 all the  
2 way, and these are headlines in major media  
3 outlets, all the way to November 30, 2011. We can  
4 see the bulk of the entries, a larger portion of  
5 the entries are in the earlier years reflected in  
6 this document, and as it goes on they are less  
7 prevalent, but nevertheless still there. And so  
8 obviously I'm not going to ask Deputy Chief LePard  
9 to confirm the creation of this document.

10 **RE-EXAMINATION BY MR. LEPARD:**

11 Q But my question, Deputy Chief LePard, is while you  
12 can't speak to the creation of these documents,  
13 are these consistent with your recollection of the  
14 use of the word hooker as you explained in your  
15 testimony to Mr. Gratl?

16 A Yes.

17 THE COMMISSIONER: All right.

18 MR. HERN: Thank you. I don't intend to go further with that  
19 document or line of questioning, but I thought it  
20 would be helpful to have in the record in  
21 reference to that issue as I understand it will  
22 come up again with other witnesses. So if we  
23 could put that to one side, Mr. Commissioner, and  
24 then there's another document that's been handed  
25 up which is -- the covering is a transcript page



1                   that Mr. Dickson handed up and it's dated November  
2                   8, 2011. And do you have that, Mr. Commissioner?

3 THE REGISTRAR: Which one? Yes.

4 MR. HERN: Thank you. So that's in front of the witness as  
5                   well.

6                   Q Now, by way of explanation I understand, Deputy  
7                   Chief, you have -- you took the opportunity to  
8                   review the transcripts of your earlier testimony  
9                   as they were posted on the website of the  
10                  commission?

11                  A Not all of them, but I did on this day.

12                  Q All right. And you had noted a couple of  
13                  inaccuracies in terms of the transcription that  
14                  had been made and posted on the web?

15                  A Yes.

16                  Q All right. And so this is an extract from the  
17                  transcript from that day. And if you could  
18                  turn -- you'll see that I've hand numbered at the  
19                  top right-hand corner the pages, and so if we  
20                  could turn to page 3. This was a line of  
21                  cross-examination that Mr. Roberts was pursuing  
22                  with you in relation to kidnapping by fraud. Do  
23                  you see that in the --

24                  A Yes, and about the sufficiency of a search  
25                  warrant.

1 Q Correct. And so he had asked you -- on page 3 in  
2 the middle of the page he had asked you at the end  
3 of his question there:

4 ... what do you say to the proposition that,  
5 given the test required, reasonable  
6 probability, that this test is met on the  
7 application with this material?

8 Referring to his aide memoire.

9 A Yes.

10 Q And then you gave the answer, a fairly lengthy  
11 answer which is continued over on page 4 and 5 and  
12 6 and 7, 8 and 9, and if you could turn to 10.  
13 Then in the course of your answer Mr. Roberts  
14 interrupted and asked in the middle of page 10:

15 Can you tell me how much longer you might be?

16 And your answer was:

17 A Well, I have been asked the question about  
18 the sufficiency of the information to  
19 obtain...

20 And the transcript reads:

21 I agree that a warrant could have been  
22 obtained with the information...

23 And is that reflective of your answer, is that a  
24 mistake?

25 A No, that's a mistake. Mr. Commissioner, I clearly

1           said either I do not agree or I disagree, one of  
2           those two things. That's clear in all the context  
3           of my answer.

4           Q   And then the second instance that I understand you  
5           identified is a return to page 12 in the top right  
6           hand numbering, and in this instance Mr. Roberts  
7           at the bottom of the page in his question asks a  
8           very lengthy question about what a seasoned  
9           investigator who looked at the potential crime of  
10          kidnapping by fraud, and considered whether it  
11          would be open to ignore the stay of the charges in  
12          Coquitlam, and for the Vancouver Police Department  
13          to work with Crown counsel and charge Pickton with  
14          kidnapping by fraud. And over the page your  
15          answer on the top of page 13 did -- if I  
16          understand you had a concern with -- with that  
17          answer?

18          A   Yes, just a missing word again. Where it says:  
19               ... first of all, as a practical matter, she  
20               would have done that...  
21          I believe I said she would not have done that or  
22          wouldn't have done that.

23          Q   And where you say:  
24               ... I agree it would have been good to  
25               consider that strategy...

1 Do you have any concerns about the transcribing of  
2 that answer?

3 A No.

4 Q All right. And so the reason pages 14 and 15 are  
5 there as well is just simply to note that  
6 Mr. Roberts replaces to you the proposition -- the  
7 question again perhaps in a more concise way  
8 immediately following that exchange, and now I'm  
9 on the top of page 14, and so he says:

10 ... I didn't ask what Shenher was doing, I  
11 put my question that an experienced  
12 investigator would have to take that and  
13 consider working with Crown counsel and  
14 charging kidnapping by fraud and that would  
15 become a basis for an application for, a  
16 search warrant for similar fact evidence.

17 And below that your answer, if you could just  
18 quickly look at that and confirm that that is an  
19 accurate reflection of what your evidence really  
20 is on this point?

21 A Yes.

22 Q All right. So those two questions and answers  
23 need to be read together is the point in the  
24 transcript. That's all I have to say about that.  
25 We can put that aside. The next thing,

1 Mr. Registrar, if you could put in front of the  
2 witness Exhibit 40, please, which was the table  
3 that Ms. Tobias had introduced to Deputy Chief  
4 LePard in the course of her cross-examination.  
5 Yes, thank you. And if you could put a copy to  
6 the commissioner as well that would be great.

7 In this table Ms. Tobias, as I recall it,  
8 during the course of her cross-examination she was  
9 taking you through this slowly and you had raised  
10 the point that you had observed several  
11 inaccuracies in the table and Ms. Tobias I think  
12 advised you that you would come back to it, and I  
13 don't believe you ever got an opportunity to  
14 complete your answer on whether there were  
15 inaccuracies in the table you identified. And  
16 given that this table may be put to other  
17 witnesses in the future who may not have as  
18 comprehensive knowledge of the facts and documents  
19 that you do I'd like to ask you to identify any  
20 other inaccuracies within that table and complete  
21 your answer in that regard.

22 A Just very briefly then, there were three things  
23 that I noticed that I thought that I was going to  
24 have an opportunity to say and didn't. And the  
25 first one is that what is not on the table that I

1 saw, in the time that I had to see it anyway, is  
2 that Caldwell alleged that he was fed meat from a  
3 special freezer that he believed to be human meat,  
4 and given the context that that information was  
5 received in with other informants reporting  
6 information about having seen limbs in the  
7 freezer, in the special freezer and that sort of  
8 thing, I think that that was pretty important  
9 information and I was surprised not to see it in  
10 this table as informant information particularly  
11 considering the context.

12 The second point that I wanted to make was  
13 that there's information in there from Yelds that  
14 she had been interviewed and stated words to the  
15 effect that Pickton was gentle and would never  
16 hurt a sex trade worker, and it's put in there as  
17 undermining other information. I would have made  
18 the point that little if any value can be given to  
19 that information as undermining information  
20 because we already know that it's not true in that  
21 Pickton had been involved in a very violent attack  
22 on Victim 97 and so I don't know what the point of  
23 having that information and purporting it to be  
24 undermining information given what were known  
25 facts.

1           And then the third thing, and I may have said  
2           this and if I have I apologize, but I thought a  
3           weakness in the table was that there was no values  
4           given to the information as if they were all  
5           equal. You know, information coming directly from  
6           an informant that he had been told that Pickton  
7           could get rid of a body was given the same value  
8           on the face of it as information that Yelds stated  
9           that Pickton was gentle which I would state has no  
10          value whatsoever. So for this actually to be a  
11          benefit what I would say is that there needed to  
12          be some weight assigned to each of the pieces of  
13          the information both pro and con, and also weight  
14          given to looking at the totality of the  
15          information and how it adds up, and the  
16          probability of it being incorrect when you've got  
17          disparate pieces of information coming from  
18          multiple informants who are not colluding  
19          together. So I just thought that that was a  
20          weakness of the table, and the example of the  
21          Yelds allegedly undermining information being  
22          included in it was an example of the problem when  
23          you don't apply a weight to a piece of  
24          information.

25          Q All right. Is that all of the --

1 A Those were the key.

2 Q -- issues that you wanted to note?

3 A Key issues that I'm not sure that I covered.

4 Q Okay. Thank you. Put that aside. And then some  
5 issues came in cross-examination about the role of  
6 Vancouver Police Department members within the  
7 unsolved homicide unit, and could you please  
8 provide some context to how members who are  
9 seconded to that unit report back to the VPD, if  
10 at all?

11 A They don't. When a police officer is seconded  
12 from the VPD to the RCMP or to any unit because  
13 they're not the only -- RCMP led units are not the  
14 only units that we second members to, for all  
15 intents and purposes they become their employee.  
16 They report up through their chain of command,  
17 they follow direction from their supervisors and  
18 managers there. Really we facilitate the transfer  
19 of the employee to that unit, we ensure that they  
20 continue to be paid and we're reimbursed for their  
21 pay by the seconding agency, but in terms of the  
22 command and control and supervision they are for  
23 all intents and purposes that agency's employee.

24 Q And with respect to Evenhanded management was  
25 there reporting -- how was the reporting done of



1           the Evenhanded members up through the management  
2           of that unit?

3           A    They reported to the inspector in charge, the team  
4           commander, and he reported up through the RCMP  
5           chain of command. There was a liaison system set  
6           up so that if there were any issues that needed to  
7           be dealt with then the inspector in charge of our  
8           Major Crime Section was assigned as the liaison  
9           for the team commander from the RCMP to deal with,  
10          but again they reported to the team commander, one  
11          reporting structure, and he reported up through  
12          the RCMP chain of command.

13       MR. HERN: All right. Thank you. Those are the issues I  
14                wanted to raise with you. I understand that you  
15                had some words that you wanted to say on behalf of  
16                the department to the commissioner, but I think  
17                those are most appropriate to be left to the end  
18                of Mr. Vertlieb's re-direct, and so I'll just ask  
19                that you have the opportunity there.

20       THE COMMISSIONER: Thank you, Mr. HERN.

21       MR. HERN: Before I conclude I just wanted to mark two items.  
22                One was Exhibit F. Now that we've moved to the  
23                non-public exhibit mode of marking documents could  
24                we mark Exhibit F, which was, I'm hopeful, the  
25                exhibit that I had put to Deputy Chief LePard in

1 the first instance in my friendly cross, and if we  
2 could give that a number. And then in addition I  
3 would like to mark the media binder that I've just  
4 introduced. I don't think we need to mark the  
5 transcript corrections, because that's now on the  
6 transcript, it speaks for itself, so I wouldn't  
7 propose to mark those. I just wanted to mark  
8 Exhibit F and then this media use of the word  
9 hooker binder.

10 THE COMMISSIONER: Okay.

11 THE REGISTRAR: For identification document F will become  
12 Exhibit number 47.

13 **(EXHIBIT 47-NR: Non-redacted Documents Introduced**  
14 **by The Vancouver City Police Through DCC LePard)**

15 THE REGISTRAR: And the other one you have?

16 MR. HERN: Yeah, with respect to this media binder, I don't  
17 know if anyone has an issue with the documents and  
18 the fact that they are generated from my office  
19 printing the documents. We could produce an  
20 affidavit, for example, to bring those into  
21 evidence, but I wouldn't think it was contentious.

22 MR. VERTLIEB: That's not necessary.

23 MR. HERN: All right. So if everybody is content could we mark  
24 it, please, as an exhibit with a number and then  
25 move on.

1 THE REGISTRAR: Exhibit number 48.

2 (EXHIBIT 48: Document entitled: Media Use of the  
3 Word "Hooker" including six tabs of various press  
4 articles, together with a document entitled "Media  
5 Headlines Using the Word Hooker")

6 MR. VERTLIEB: I would suggest 48 and then A, B, C, et cetera,  
7 because there's five separate articles and each  
8 one separately identified, Mr. Giles. And 47  
9 should be NR, please.

10 THE REGISTRAR: Should be which?

11 MR. VERTLIEB: NR.

12 THE REGISTRAR: NR.

13 MR. VERTLIEB: Non-redacted, correct, Mr. Hern?

14 MR. HERN: Yes, that's right.

15 THE REGISTRAR: What about 48?

16 MR. VERTLIEB: Just separately mark each article, 'cause there  
17 are five.

18 THE REGISTRAR: Okay. I don't have a document here to look at,  
19 so I'll deal with that after.

20 MR. HERN: I'll provide that to you at the end. Thank you,  
21 that's all I have.

22 MR. VERTLIEB: Thank you, Mr. Commissioner.

23 **RE-EXAMINATION BY MR. VERTLIEB:**

24 Q Deputy LePard, there is some questions that  
25 emerged having heard your evidence, and I

1 appreciate some of this was given some time ago  
2 and I'm just relying on my notes, so if my note  
3 seems incorrect to you please don't hesitate to  
4 correct me or disagree. Don't worry about that at  
5 all. Early on in your evidence you made the  
6 comment that you had been given -- in terms of  
7 your review you had been given full co-operation  
8 and access to documents by the RCMP, and then you  
9 added the word, and I have it in quotes,  
10 eventually. Do you remember giving that evidence?

11 A I remember talking about how Detective Constable  
12 Shenher eventually got access to the files from  
13 the valley murders, and I think that I also may  
14 have given that evidence in respect to access to  
15 the actual Coquitlam RCMP file, and I think that  
16 that's what you're referring to.

17 Q Yes, it is.

18 A And that I did have to exercise the language in  
19 the MOU that we have with the RCMP to get access  
20 to that file and then it was provided.

21 Q So there was nothing unusual about you getting  
22 access, it wasn't as though there was resistance  
23 to giving you access?

24 A No, I wouldn't describe it as resistance. It took  
25 a little bit of just to and fro, I would say.

1 Q Normal --  
2 A Yes.  
3 Q Okay. Thank you. You said that you had  
4 interviewed Constable Yurkiw?  
5 A Yes.  
6 Q And you said to us by my note that she was upset  
7 with her employer?  
8 A Yes.  
9 Q Her employer of course are the RCMP?  
10 A Yes.  
11 Q Tell us about that?  
12 A She expressed to me that she was upset with the  
13 RCMP because she did not feel that she was given  
14 the support and resourcing and priority for her  
15 investigation, and I feel badly for her that she  
16 was very frank about what occurred, and I thought  
17 she had a good sense of what did need to be done,  
18 and she just expressed her frustration that in the  
19 same way that Detective Constable Shenher had, is  
20 that she didn't get the support from her  
21 supervisors and managers and the case didn't get  
22 the priority and the resourcing that it needed to  
23 be successful.  
24 Q Did she give you examples of that, did she for  
25 instance say they didn't do such and such or

1           didn't provide --

2           A    Yes, she did describe that in her statement to me  
3           in some detail examples of where she compared it  
4           to other investigations that did get a priority  
5           and when her investigation did not get priority.  
6           So I would have to refer back to her statement,  
7           but she did provide some examples.

8           Q    So we have the statement that you've taken from  
9           her and it's been given as part of our disclosure.

10          A    Yes.

11          Q    So we could find those facts in that statement?

12          A    Yes.

13          Q    And there would be nothing outside of that  
14          statement beyond what we've just discussed now?

15          A    No, the only thing that was outside of her  
16          statement was my initial conversation with her  
17          when I spoke to her on the phone, which I did give  
18          evidence about previously and summarized that.

19          Q    Did she get into criticisms in the phone call with  
20          you?

21          A    Briefly my recollection is that, and I took notes,  
22          is that basically words to the effect of we  
23          screwed it up. You know, we didn't -- could have  
24          done better.

25          Q    Have we seen those notes? I don't know that we

1 have. We've seen the formal statements taken.

2 A Yeah. No, those were just brief notes in my log.

3 But I did give evidence about having referred to

4 it more accurately and in more detail than I am

5 now. I referred to it when I gave evidence about

6 taking her statement.

7 Q And she felt "her force" screwed up?

8 A Yeah, she might not have used that word, but

9 didn't do a good enough job.

10 Q Okay. Thank you. In discussing the JFO and in

11 questions with Mr. Ward there was evidence given

12 about the creation of JFO, and of course there was

13 evidence given with other lawyers about it, but a

14 note that I had is that you said language to the

15 effect that in discussion it resulted in the RCMP

16 taking the lead. Do you remember saying that or

17 certainly you know that to be the case?

18 A Yes, both of those things.

19 Q So tell us about that. Why did that happen and

20 what was the discussion that resulted in the RCMP

21 taking the lead?

22 A Well, a couple of things. First of all there was

23 recognition and acknowledgment by that point that

24 this was and should be a multi-jurisdictional

25 investigation, that there was a belief based on

1 reports like Staff Sergeant Davidson, the criminal  
2 profiler, that bodies were going to turn up in  
3 unknown rural locations and likely in the  
4 jurisdiction of the RCMP. But in addition to that  
5 the RCMP are the provincial police, they can bring  
6 to bear very impressive resources, there were over  
7 6,000 RCMP officers in the province at that time I  
8 believe, and the reality is, and I'm not saying  
9 this in a critical way, but all of the JFOs  
10 integrated units that we are involved in with the  
11 RCMP they are the lead agency in all of them.

12 Q And was the RCMP then taking the initiative and  
13 saying we want to be the lead agency or were you  
14 asking the RCMP to take the lead?

15 A I don't know those things. I think that it was  
16 mutually agreed that it should be led, because the  
17 proposal was that it be led by the Unsolved  
18 Homicide Unit originally, and that's an RCMP led  
19 unit.

20 Q And also I gather from your evidence that it was  
21 -- seems to have almost have been the custom that  
22 the RCMP would lead every JFO?

23 A Yes. That, again I'm not being critical, but  
24 generally if the RCMP are going to be involved  
25 it's going to be their policies and their command



1 structure, and there are a number of different  
2 reasons for that including the funding of it.

3 Q You were asked about the McMynn kidnapping case.  
4 It would strike some of us hearing about the way  
5 that was handled that the VPD took a very intense,  
6 perhaps aggressive, highly energized, whichever  
7 words you want to use, they took a very powerful  
8 approach to responding to that kidnapping?

9 A Yes.

10 Q It could be seen to others that they didn't take  
11 such an aggressive or intense or active approach  
12 to women missing from the Downtown Eastside. Is  
13 that a fair way of contrasting?

14 A Well, I know how that characterization could be  
15 made so I'll just make a couple of comments.  
16 First of all, it's important to separate the  
17 investigative from the tactical response in  
18 McMynn. The investigative response in McMynn was  
19 entirely conducted by the Robbery Assault Squad in  
20 the Major Crime Section of the VPD, which is in  
21 its entirety about 20 detectives and not all of  
22 them were on that. We also had some assistance,  
23 for example, from the RCMP with affiants because  
24 there were a lot of wire applications being  
25 written. So there were a number of investigators

1 but it's, you know, a small number, less than two  
2 dozen, not the hundreds that are being quoted.  
3 The hundreds were for the tactical response in  
4 that there were 14 different residences that it  
5 was believed McMynn might be held in, and so  
6 basically used all the emergency response team and  
7 surveillance resources that were available in the  
8 Lower Mainland because the tactical challenges  
9 were so great. But that was a very short term  
10 thing and, you know, basically one or two days.  
11 And there was a life in the balance to be rescued  
12 that we believed would still be alive, but for  
13 example had he been abandoned somewhere because of  
14 the publicity around the case, because there had  
15 not been a ransom demand received, that if he had  
16 been abandoned somewhere he literally had maybe  
17 five to seven days to live if he had been left,  
18 you know, in a vehicle somewhere or a basement  
19 suite or something like that. I can tell you  
20 having -- although kidnapping is a fairly rare  
21 event we've had more than you might know because  
22 not all of them have media that decide to go and  
23 broadly publicize it when we ask them not to like  
24 they did in McMynn, or one media agency did, and  
25 sometimes they're resolved quietly without that

1 kind of publicity. But if we had received  
2 information about a drug addicted person or a sex  
3 trade worker and that was what was needed to  
4 rescue the person I can assure you that would have  
5 happened. And we have engaged in kidnapping  
6 investigations and rescues where there have been  
7 very significant resources, whatever resources  
8 were needed to effect the rescue and resolve it  
9 safely, which all of the kidnappings since I've  
10 been a deputy chief have been resolved safely with  
11 the return of the victim.

12 Q Okay. So I gather then you don't have a sense  
13 that there was a different approach taken to  
14 McMynn than might have been taken to a potential  
15 victim from the Downtown Eastside, you would say  
16 it's all event and circumstance driven?

17 A Yes, I believe that if there had actually been  
18 information that there was a woman being held  
19 against her will somewhere no matter what her life  
20 circumstances that there would have been a full  
21 core response. And I have seen that since that  
22 time and it all depends on the circumstances.  
23 Like I say there have been some marginalized  
24 victims in my experience that have been unlawfully  
25 confined or kidnapped, or believed to have been

1 kidnapped since that time and I can tell you that  
2 we initiate our, what we call our kidnapping  
3 protocol, and there is a very extensive response  
4 to that.

5 Q I understand that. It struck me, and I think we  
6 can all appreciate the tactical approach that  
7 would involve many, many police versus the  
8 investigative?

9 A Yes.

10 Q And you mentioned that in your evidence earlier.  
11 I just was thinking though as I was hearing you  
12 answer that on McMynn you said it was the squad  
13 and likely 20 or so investigating. I couldn't  
14 help but wonder in my mind as I heard that number  
15 there were never 20 people assigned though to the  
16 Downtown Eastside missing women as I went through  
17 those detectives with you; am I correct?

18 A Yes, that's true. And as I've said in my evidence  
19 it's based on the information and how the  
20 investigation was framed and what work there was  
21 to be done. And I've said the response especially  
22 after -- well, after Detective Inspector Rossmo's  
23 report for sure, I believe was inadequate. And  
24 even in 1998 I think that there should have been  
25 more resources applied to try to put to rest the

1 theories that there was some non-criminal reason  
2 that they had gone missing. So it could have and  
3 should have been better resourced, but again it  
4 would be dependent on what leads there were to  
5 follow up. It's a function of what are the  
6 investigative strategies that the facts lend  
7 themselves to.

8 Q Okay. Thank you. I want to deal with this  
9 discussion that you had with Mr. Roberts at some  
10 length about the kidnapping by fraud, as he called  
11 it, and I don't want to frame it around the words  
12 kidnapping by fraud. I respect Mr. Roberts' view  
13 of the Criminal Code and I don't want to cover  
14 that ground. But we did want to discuss it with  
15 you in the context of events that might have  
16 suggested that the Vancouver Police Department  
17 ought to have considered investigating a criminal  
18 act that started in Vancouver. That's why I don't  
19 really want to approach it from the same way  
20 Mr. Roberts did, I think he had his own view of it  
21 and I don't need to cover that. But I want you to  
22 have in your mind that as a concept that at the  
23 very least there could have been a development of  
24 facts that were there to be developed that would  
25 have led the Vancouver Police to say hmmm, maybe

1 we should consider investigating a criminal act  
2 that took place here in our jurisdiction as  
3 opposed to saying these women all willingly got in  
4 the car. You understand what I'm discussing with  
5 you?

6 A Yeah, and I'm happy to answer that.

7 Q Okay. And I know in your report I think you did  
8 use the word the women willingly got in the car.  
9 But that's where I want to go for a few moments  
10 now. I want you to just bear with me, because I  
11 want you to think of it in a way that it wasn't  
12 your obligation at the time, because we all know  
13 it wasn't your file and you weren't in any way  
14 leading the investigation and everything you've  
15 done has been done after the fact. As I said at  
16 the very beginning with you none of this is a  
17 criticism to you personally in any way. But you  
18 may have heard the evidence that sexual acts could  
19 be purchased on the Downtown Eastside for as low  
20 as five dollars?

21 A Yes.

22 Q And you have probably also heard that we know and  
23 there was evidence that Mr. Pickton would pay at  
24 least a hundred dollars sometimes and maybe more  
25 to get women to come with him. You know that?

1           A    I don't doubt that.  I don't recall that, but I  
2                    don't doubt it.

3           Q    So just think about it from a police officer's  
4                    perspective.  There was some evidence that shows  
5                    that someone was paying 20 times more money for a  
6                    sex act than might be needed to pay.  Okay?

7           A    Yes.

8           Q    You may have been familiar with the evidence of  
9                    Dr. Lowman, either you heard him say it or you  
10                   read his report or you've heard him say it another  
11                   time, about the serial killer would pose as a  
12                   purchaser of sex when he really is intending to  
13                   kill?

14          A    Yes.

15          Q    Okay.  And I gather Dr. Lowman hasn't just  
16                   fastened on to this as some breakthrough idea, I  
17                   gather he has held this idea for some considerable  
18                   period of time?

19          A    I don't know that, but I wouldn't disagree with  
20                   you.

21          Q    And it's not just Lowman, no doubt there's others  
22                   that postulated that the serial killer is posing  
23                   to get someone to come into his clutches, as it  
24                   were?

25          A    Yes.

1 Q Okay. So again I want you to be thinking as a  
2 police officer, not with perhaps the distinction  
3 that you've achieved, but just a police officer  
4 and you hear someone is significantly overpaying  
5 for a sex act, and we know serial killers can pose  
6 as a purchaser of sex when their ultimate  
7 intention to kill. Okay?

8 A Yes.

9 Q And you can see now when you start to think of it  
10 that way that starts to say hmmm, maybe when those  
11 people got in the car that was the commencement of  
12 a criminal act because there's fraudulent  
13 activity?

14 A Yes.

15 Q And you notice I'm not saying kidnapping by  
16 fraud --

17 A Yes.

18 Q -- because I've never done one of those cases, I  
19 don't know what that would be all about, but I  
20 understand a fraud case, and you do too?

21 A Yes.

22 Q Okay. So then as we were thinking about this we  
23 know now, and it wasn't known at the time, that  
24 this fellow Bellwood -- do you know Andrew  
25 Bellwood?



1 A Yes.

2 Q He gave evidence at the trial.

3 A Yes.

4 Q And I do say to you I don't think this evidence  
5 was known at the time, it was obviously there to  
6 be sussed out because somebody got him in a  
7 witness box. But I want to read some of the  
8 evidence that Bellwood gave at the trial, because  
9 I think this fits into this -- into again thinking  
10 about this as an option that the police should  
11 have been saying hmmm, let's at least consider  
12 whether we have a criminal act that occurred in  
13 our city. Okay?

14 A Yes.

15 Q So here's what he said. This is a discussion that  
16 he had directly with Pickton when Pickton said  
17 let's go get a prostitute. I'll give you a couple  
18 of hundred bucks and we'll go get a prostitute.  
19 And then this is his discussion with Crown counsel  
20 in chief, it was Mr. Baragar. And this evidence  
21 I'm reading from, and my colleagues have seen  
22 this, Mr. Commissioner, we sent this out to them  
23 in transcript, but I'm reading July 16, 2007 from  
24 the Pickton trial. Everyone's seen it. It's not  
25 hard to follow, I just want to read this to you:

1           So I kind of shrugged it off. I didn't want  
2           to get a prostitute. And he says, "Do you  
3           know what I do with these prostitutes?" From  
4           there...

5           And this is all Bellwood:

6           From there, he reached underneath his  
7           mattress. He pulled out a set of cufflinks  
8           to what would look like a police set of  
9           handcuffs.

10          Handcuffs, pardon me:

11          He pulled out a belt and he pulled out a  
12          piece of wire, a piece of wire, a couple of  
13          looped ends on it, looked to me like they had  
14          been spliced. The wire in my mind would have  
15          been the same consistency of, say, a piano  
16          wire, just a very fine, braided thin piece of  
17          wire. From there, he motioned on the bed.  
18          You know, he had asked me, "Do you know what  
19          I do with hookers?" I said, "No." He  
20          motioned to me that he would put them what we  
21          call doggy-style which I guess would be, you  
22          know, a sexual position onto the bed, having  
23          intercourse with them and as he was telling  
24          me this story it was almost as if there was a  
25          woman on the bed. It was pretty much kind of

1           like a play. Telling me that he'd reach  
2           behind her -- reach for their hand, slide it  
3           behind their back and slowly put on the  
4           handcuffs, stroking their hair, telling them  
5           it's going to be okay, everything's all over  
6           now. From there he would, after he got the  
7           handcuffs on them, he would strangle them,  
8           either with the belt or the piece of wire.  
9           From there he'd take them to the barn, bleed  
10          them and gut them.

11          And he talked about the gore of that. Later did  
12          he say where he'd get the prostitute was the  
13          question put to him by Crown counsel.

14          A     Downtown East Hastings.

15          Q     And did he tell you anything about how you  
16          would get the girls to come out to the farm?

17          A     There were times that luring the girls...  
18          That's his word:

19                 ... luring the girls, according to him to the  
20                 farm would sometimes be a tough thing to do.  
21                 They didn't really want to leave their  
22                 general area where the girls were, you know,  
23                 were working at the time. You'd have to  
24                 offer them, you know, some heroin or some  
25                 cocaine and kind of lure them in with the

1 drug of choice, and from there normally they  
2 would -- you know, sometimes they'd have to  
3 maybe offer a little more money. There was a  
4 little bit of conning to try and get -- to  
5 persuade them to come that distance.

6 Now, you probably can anticipate where we're going  
7 with this. You see this almost fits directly into  
8 what Dr. Lowman was talking about the posing as a  
9 sex customer when the real intent is to kill. So  
10 when you think about evidence that was there to be  
11 generated, and I don't want to be critical, the  
12 people didn't have Bellwood, I don't know why that  
13 didn't happen and that's not my concern as  
14 commission counsel right now, but if you put those  
15 facts together does that not give you as a really  
16 good police officer the concern that maybe there  
17 was a criminal act that did in fact take place in  
18 my city that we never considered?

19 A Well, I agree with you absolutely, and it's  
20 unfortunate but I feel like some of my evidence  
21 got lost, because my analysis after the fact that  
22 we didn't know for sure whether there had been an  
23 offence that occurred in Vancouver was really kind  
24 of irrelevant to what went on before Pickton was  
25 arrested and before it was known that Pickton was

1 the offender, because of course that always had to  
2 be the main suspicion was that women were somehow  
3 being lured, coerced, forcibly taken from the  
4 Downtown Eastside and other places where they went  
5 missing like New Westminster and Surrey, for  
6 example, and that was always something that  
7 absolutely had to be contemplated that that was an  
8 offence that was occurring. So the analysis of  
9 whether an offence occurred was only based on the  
10 information known after the fact. And if I'm  
11 wrong in my analysis I will accept that from this  
12 commission, but I want to be clear that in no way  
13 did it -- that was an after-the-fact analysis that  
14 in no way did it lessen the responsibility of the  
15 VPD to consider that as a likely scenario, and in  
16 fact that was the scenario that was suggested by  
17 Staff Sergeant Davidson, the criminal profiler, in  
18 which he described women being taken from the  
19 Downtown Eastside by an offender who has a car and  
20 so on. So I don't disagree with any of that in  
21 terms of the VPD's responsibility when the women  
22 were going missing that it was a likelihood, or at  
23 least a strong possibility, that if they were --  
24 if the disappearances were being caused by foul  
25 play, which some people had to struggle to come to

1           that, that a likely scenario is the one that you  
2           have described.

3           Q    But you see the significance though is that it's  
4           then not for the VPD to simply say RCMP Coquitlam  
5           had jurisdiction and we should have pushed them  
6           more aggressively.  The VPD can also say to  
7           themselves acting -- speaking honestly to  
8           themselves that we actually could have looked at  
9           it in a different way and said we have a criminal  
10          offence here in our own city that could give rise  
11          to our investigation.  You see that's why I wanted  
12          to put this to you.  Do you concede that the  
13          consideration at the very least had to be given to  
14          thinking of the case that way?

15          A    Yes.  And as I've said in my evidence though that  
16          the practicalities of it are that the most serious  
17          offence that was being alleged was the murder and  
18          that it was occurring in Coquitlam and there  
19          really wasn't too much to investigate in terms of  
20          how they got there, although I do think that there  
21          was more work that could have been done around  
22          prevention and identifying an offender and that  
23          sort of thing, but the proper way to deal with  
24          that is that there has to be a lead agency.  And  
25          the VPD wasn't going to go, and no agency should

1 go and just run rogue and say well, you've got an  
2 investigation, we're just going to do something  
3 separately and we're going to bang into each other  
4 on the doorstep as we're coming out to interview  
5 this suspect, that it needed to be done in a  
6 co-operative, collaborative way. And I agree that  
7 because the VPD have such a significant interest  
8 in this because the women for the most part have  
9 gone missing from the Downtown Eastside that they  
10 could have done more, accepted more  
11 responsibility, offered up resources. Say we have  
12 an interest in this, how can we make this  
13 investigation go better, and I think that if the  
14 people in the positions of responsibility had not  
15 been of the view that, as one manager said, well,  
16 he was just a name in a report, I didn't know  
17 anything about him, I didn't know any information  
18 pointing to him, I would like to think that there  
19 would have been a better response to it.

20 Q Let me think of another way to look at this same  
21 issue about the fact that the VPD could have  
22 asserted its own jurisdiction and not simply  
23 demurred to Coquitlam. And Ms. Brooks and I were  
24 thinking well, we don't again want to associate  
25 ourselves with kidnapping by fraud, that was

1           canvassed very fully by other counsel, but there  
2           was evidence that was known in '98 that Pickton  
3           had been threatening Ms. Anderson?

4           A    Yes.

5           Q    Because she had a genuine fear for her life?

6           A    Yes, there was hearsay information about that.

7           Q    But she had a -- okay.  But it's not hearsay about  
8           someone might, you know, take my bicycle, it's  
9           hearsay about someone is out to kill me?

10          A    Yes.

11          Q    Okay.  So it's serious?

12          A    Yes.

13          Q    So and we knew that Anderson at the time was  
14          working in Vancouver as a sex trade worker?

15          A    At the time of the attack, yes.

16          Q    And in '98?

17          A    I think she was in custody in 1998.

18          Q    Well, at some point she was around because she was  
19          still -- anyway, but she was here?

20          A    Yes.

21          Q    Okay.  So the point is another way the VPD could  
22          have said we're going to step in and take charge  
23          ourselves on something that could be very serious  
24          is to consider, not charge, but to consider  
25          whether charges of threatening could be made



1           against Mr. Pickton; correct?

2           A    Yes.  And again in the absence of an investigation  
3           that had already been initiated I agree that that  
4           would have been quite an appropriate strategy, but  
5           the reality is is that Corporate Connor had  
6           already initiated a file in Coquitlam, he was  
7           fully apprised of that information, he was being  
8           supported by Detective Constable Shenher and she  
9           was really letting him take the lead.  So could it  
10          have gone differently?  Yes.

11          Q    So help us understand one thing.  How come nowhere  
12          in all of this work material was there any  
13          reference to say let's consider a charge of  
14          threatening against Pickton?  How did that never  
15          occur to anybody in the police whether it was  
16          Vancouver or Coquitlam?

17          A    No, I think you'll find that there was some  
18          reference to it, and the problem was that it was  
19          hearsay, that she had not received the threat  
20          directly.  It was actually saying, you know, I  
21          think words to the effect of I'm okay with it, he  
22          doesn't know where I am, and that sort of thing.  
23          So, you know, in retrospect should that have been  
24          followed up more aggressively as a strategy to get  
25          to Pickton?  Yeah, maybe -- maybe it could have.

1 I don't know. I do know that the outcome of  
2 arresting someone for threatening would not have  
3 been that he would have been staying in custody.

4 Q I understand that, but no one even went out and  
5 interviewed him and said hey, we're worried about  
6 you threatening this woman. After all that was  
7 out in the open there was no investigation to go,  
8 right, 'cause he had been charged, he knew all  
9 that?

10 A Yes.

11 Q I can understand where police are reluctant to go  
12 confront him and tip him off that there's an  
13 investigation going. We all understand that.

14 A Yes.

15 Q But this wouldn't have been a surprise to him.  
16 Why didn't the police go interview him and say  
17 we're hearing that you've talking about  
18 threatening this woman. How come no one did that?

19 A Well, I think my understanding is in the context  
20 of that is that they were building up an  
21 investigation to investigating the more serious  
22 information and that that would eventually lead to  
23 an interview of Pickton. I really can't speak for  
24 what was going on in their minds at the time  
25 except to have come to the conclusion that they

1           didn't think that that was the way to go, and  
2           looking in an investigation in hindsight we can  
3           always see things that could have been done  
4           differently or -- I don't think that it was a lack  
5           of diligence by Shenher and Corporal Connor during  
6           that time.

7           Q    But there's no note that even consideration was  
8                given to going and interviewing Pickton for these  
9                threats hearsay or not.  There's not a single note  
10              about that approach to this gentleman.

11          A    Yeah, I inferred from that that because they did  
12                not have someone that could report this threat  
13                directly who was a witness, that I'm assuming that  
14                they didn't think that there was much to go on,  
15                that it wasn't going to go anywhere.  Again I'm  
16                not disagreeing with you that, you know, all  
17                investigative strategies should be considered, and  
18                that's the value of round tabling these things  
19                with experienced investigators and going through  
20                the pros and cons, and Corporal Connor was a very  
21                experienced investigator and so I make certain  
22                assumptions about it, but I don't disagree that it  
23                shouldn't be considered.

24          Q    Mr. Woodall, my learned friend Mr. Woodall was  
25                asking you about his clients Wolthers and Fell and

1 covered that at length with you. It was clear  
2 they spent time on this fellow, as you said real  
3 bad guy. We don't need to go through that. I  
4 just wanted to make sure though if police are  
5 working on one case, even if it's serious does  
6 that mean they don't work on any other cases or  
7 would they have a number of cases going at the  
8 same time?

9 A Often the way it works is that it's normal not to  
10 be able to have something to do on one particular  
11 suspect all the time. So, for example, when I was  
12 a detective in the Sexual Offence Squad I might  
13 have had 20 different cases assigned to me at any  
14 given time that were at different stages of the  
15 investigation.

16 Q I just wanted to make sure I had -- because as  
17 lawyers we all know we have multiple files at the  
18 same time, but I just wanted to ask you because we  
19 just don't know police business.

20 A Yes, similar I think.

21 Q Okay. Now, Mr. Hern was asking you about that  
22 chart that Ms. Tobias put to you.

23 A Yes.

24 Q And we have your notes of comments. You said that  
25 the information from informants was not weighted,

1 w-e-i-g-h-t-e-d; correct?

2 A Yes.

3 Q Is that also another way of discussing the  
4 multiplier effect that we had talked about when we  
5 had questioned you some --

6 A Yes, I think that's a very good way to  
7 characterize it.

8 Q Because that wasn't covered in her analysis at  
9 all, the multiplier effect?

10 A No, and multiplier effect or probabilities is  
11 another way of looking at it.

12 Q Thank you. Now, just some housekeeping issues.  
13 We covered the 1998 organizational structure that  
14 existed at the time. Since then through the  
15 assistance of your counsel, and we're appreciative  
16 of that, we've got structures from 1997 to 2001,  
17 and I would just like to have those marked.  
18 You've seen this documentation, you know what I'm  
19 talking about?

20 A Yes, I believe so.

21 MR. VERTLIEB: And that could just be one exhibit if it may  
22 please the commissioner. Just organizational  
23 structures 1997 through 2001, and it's altogether  
24 five pages.

25 THE REGISTRAR: Marked as Exhibit number 49.

1                   **(EXHIBIT 49: Document entitled: Organizational**  
2                   **Structure - 1997)**

3       MR. VERTLIEB: Just so we have this, Mr. Commissioner, again  
4                   with the assistance of the witness and his  
5                   counsel, we have summaries of the position  
6                   profiles that were existent at the time of the  
7                   startup of our term of reference being 1997, and  
8                   we have them for the positions of constable in  
9                   Homicide on up to inspector, and I think it would  
10                  be helpful just to have this on file. This has  
11                  come from the deputy. The documents appear to be  
12                  updated somewhere in '97 or '98. I want to cover  
13                  the deputy chief in a minute, but I just wanted to  
14                  get these on the record.

15                Q    You've looked at these job functions, job  
16                    descriptions and they reflect what was the  
17                    expectation for the different ranks, Constable,  
18                    Homicide, Constable, Missing Persons, Constable,  
19                    General Patrol, Constable, Neighbourhood Police  
20                    Team, which of course would be Dickson, Sergeant,  
21                    General Patrol, Sergeant in Homicide, that would  
22                    be Field and Al Boyd. Inspector, people like  
23                    Greer and Beach, Inspector, General Patrol,  
24                    Inspector, Major Crime, which would be  
25                    Biddlecombe, Spencer and Beach. You're familiar

1 with this information?

2 A I've glanced over them, yes.

3 Q This accurately tells the commissioner what the  
4 job descriptions were in that hearing?

5 A Yes.

6 MR. VERTLIEB: Thank you. And, Mr. Giles, at your convenience  
7 if we could have, and subject of course to the  
8 commissioner's leave, to have this marked as the  
9 next exhibit, and I would do each rank separately  
10 as an alphabetical letter.

11 THE REGISTRAR: Yes. The basic document will be marked as  
12 Exhibit number 50 and then I'll mark each one  
13 following that.

14 **(EXHIBIT 50 (A-J): Summaries of Position Profiles**  
15 **existent up to 1997)**

16 MR. VERTLIEB: Thank you, Mr. Giles.

17 Q Now, at the time there was no formal job  
18 description as we understand it for the deputy  
19 chief constable, the DCC; is that correct?

20 A Not that I'm aware of.

21 Q But there is one that's been updated in the year  
22 2008, and you've looked at that and you've  
23 provided it to us, and that's more or less the  
24 same job description for that position which was  
25 the position right below the police chief?

1           A    And I think that I received that shortly before  
2                    coming here or maybe on the way, that I actually  
3                    haven't read it, but I forwarded it to our counsel  
4                    Mr. Hern.

5           Q    And it's accepted as what the job for deputy chief  
6                    constable in terms of description of duties would  
7                    have been during the terms of reference of our  
8                    inquiry here?

9           A    I expect it to have been similar.

10          Q    Thank you. And so that could be the next exhibit,  
11                    please, Mr. Giles. And that would be the job  
12                    description for deputy chief constable. And  
13                    finally then as well, Mr. Giles and Deputy LePard,  
14                    subject of course to the commissioner's allowance,  
15                    there is a description for the chief constable.  
16                    And you've seen that?

17          A    I think the document I saw was the posting for the  
18                    chief constable in 1997.

19          Q    That's right, it's called schedule A.

20          A    Yes.

21          Q    And that reflects the job description?

22          A    Yes.

23   MR. VERTLIEB: So that would be the next exhibit as well. So  
24                    we have two more exhibits after the group of  
25                    exhibits.



1 THE REGISTRAR: You're losing me there.

2 MR. VERTLIEB: Sorry.

3 THE REGISTRAR: You wanted Exhibit number 50 which is the chief  
4 constable and there's A, B, C or whatever number  
5 after that, and then you're starting on 51?

6 MR. VERTLIEB: I'm sorry, Mr. Giles. Let me just tell you what  
7 we want and then we can sort it out off the record  
8 and not take everyone's time. There will be job  
9 profiles for all the positions constable up to  
10 inspector and they will be sub-lettered, please,  
11 and we'll make sure you've got those. I read  
12 those out. Then a separate exhibit number for  
13 deputy chief constable and a separate number for  
14 chief constable.

15 THE REGISTRAR: Exhibit number 51.

16 **(EXHIBIT 51 (A-B): Profile Positions for Deputy**  
17 **Chief Constable)**

18 **(EXHIBIT 52: Profile Position for Chief**  
19 **Constable)**

20 MR. VERTLIEB:

21 Q Okay. And, finally, in your report in your  
22 footnote you mentioned the Reid textbook?

23 A Yes.

24 Q And it's footnote 436 for my colleagues here today  
25 at page 306. And you refer to it in the footnote:

1                   For comprehensive information regarding  
2                   police interview and interrogation methods  
3                   the "bible" of the "Reid Technique" of  
4                   interviewing is...

5                   And then you give us the cite. We obtained that  
6                   book. Reid is actually considered by people in  
7                   this province to be the Bible on interrogations  
8                   and interviews and all the techniques that police  
9                   need, is that a fair way to put the Reid book?

10                  A   It's certainly a very influential textbook that  
11                   has been the standard for many years, not that  
12                   there aren't other interviewing textbooks, and not  
13                   to say that it is followed dogmatically, but it  
14                   certainly is very influential and is the basis I  
15                   would say for the interviewing and interrogation  
16                   courses that were commonly delivered during the  
17                   period in question, certainly the ones that I  
18                   received.

19                  Q   The period in question meaning the period in  
20                   question for Mr. Commissioner?

21                  A   Yes.

22                  Q   Now, the one that we have is the fourth edition.

23                  A   Yes.

24                  Q   Reid goes back into the '60s with the first  
25                   edition?

1 A Correct.

2 Q So this is a text that's been around for decades  
3 for police?

4 A Yes, that's correct.

5 Q And you would certainly expect people like Officer  
6 Shenher, Officer Yurkiw who are just constables,  
7 they're not chiefs and deputy chiefs but they're  
8 constables, you would expect them to be familiar  
9 with that kind of teaching?

10 A I don't know what training that Detective  
11 Constable Shenher had had around interviewing an  
12 interrogation, but I do know because Constable  
13 Yurkiw told me that she had had several  
14 interviewing and interrogation courses, one in  
15 1998 when she arrived in Coquitlam, and that  
16 Inspector Don Adam had actually been one of the  
17 instructors on one of those courses, so one of the  
18 RCMP's real experts.

19 MR. VERTLIEB: And for the record what we want to mark as an  
20 exhibit, Mr. Commissioner, subject of course to  
21 your leave, is Chapters 1, 2, 6, 7, 8, 10 and 13  
22 from Reid, and we'll give a copy of that to  
23 Mr. Giles.

24 **(EXHIBIT 53: Document entitled: Excerpts for**  
25 **Criminal Interrogation and Confessions)**

1 THE WITNESS: Could I just add that although that was the  
2 standard of training, and there are people that  
3 have received that training, that it is one of  
4 those skills that some people just do not, despite  
5 the fact that they have received training, they do  
6 not do well at it, it requires a certain aptitude  
7 to do well, and that is why both the VPD and the  
8 RCMP and many police departments I think have  
9 moved to a model of having expert forensic  
10 interview teams rather than just every detective  
11 with a case relying on their own skills. Some  
12 detectives are really good at it and enjoy it, and  
13 some detectives would rather do anything but.

14 MR. VERTLIEB:

15 Q That's fair. But from a standpoint of looking at  
16 establishing some teaching standards --

17 A Yes.

18 Q -- Reid is as good as there is?

19 A Certainly during that time, yes.

20 MR. VERTLIEB: Mr. Commissioner, I've concluded the  
21 re-examination.

22 THE COMMISSIONER: All right.

23 MR. VERTLIEB: I know from hearing Mr. Hern's comments that the  
24 deputy chief wanted to say something.

25 THE COMMISSIONER: All right.

1 MR. VERTLIEB: And I am totally at your liberty on that,  
2 Mr. Commissioner.

3 THE COMMISSIONER: Yes.

4 MR. VERTLIEB: But we have concluded and we thank you.

5 **(WITNESS EXCUSED)**

6 THE COMMISSIONER: Thank you. Yes.

7 DEPUTY CHIEF LEPARD: I just wanted to make some very brief  
8 comments. First of all, in the summer of 2010 I  
9 did apologize to the family and the widest -- the  
10 families and others that were hurt by the failure  
11 of the VPD, the VPD's role in the failure of this  
12 investigation to catch Pickton sooner, that was  
13 carried on live nation-wide TV, and I want to do  
14 that again here today is to apologize to the  
15 families and the loved ones of the missing women  
16 for the shortcomings of the VPD in this  
17 investigation, and as a leader in the Vancouver  
18 Police Department I take that responsibility of  
19 representing the VPD in that way.

20 I would like to say that we have learned a  
21 lot. We learned from our successes and our  
22 failures and we have not been sitting on our hands  
23 in the VPD. We have made many, many changes to be  
24 a better police department and to be able to  
25 respond better to challenging investigations. We

1 do have, I believe, a well-earned reputation for  
 2 being transparent and being a learning  
 3 organization, and I know that we don't have the  
 4 last word and we look forward to your  
 5 recommendations. No doubt there are other things  
 6 that you can recommend for us to complement those  
 7 things that we have already learned ourselves  
 8 being introspective.

9 I also would like to say that this wasn't an  
 10 easy job. I have done my best both in my report  
 11 and giving my evidence to give accurate, truthful  
 12 evidence, but if I have made mistakes in my report  
 13 or my evidence and you determine that then I  
 14 personally accept responsibility for those  
 15 mistakes and I will learn from whatever you have  
 16 to say as well.

17 And the last thing I would just like to do,  
 18 Mr. Commissioner, is thank you for your courtesy,  
 19 and commission counsel for their courtesy to me  
 20 over these 12 days of evidence, and actually to  
 21 thank all the counsel here for their diligence in  
 22 this really important matter.

23 THE COMMISSIONER: Well, I want to on behalf of the inquiry  
 24 thank you for coming forward and giving us this  
 25 comprehensive review. I'm sure it wasn't intended

1           that you would be here for 12 days. It was my  
2           understanding that this was going to be an  
3           overview and that much of, well most of your  
4           review contained and was made up of a review of  
5           other people's work. We know that. But obviously  
6           with the thorough cross-examination that's taken  
7           place counsel have really adopted a position that  
8           the evidence that you have given here is, I think,  
9           substantive evidence, and it's real evidence as  
10          opposed to hearsay, and I think I'm going to have  
11          to consider that when we're doing the rest of the  
12          evidence, and that is that I don't think that it's  
13          necessary that we repeat a lot of the evidence  
14          that was given here today or given here for the  
15          last 12 days, because the deputy chief constable  
16          has gone well beyond why he was called here to  
17          begin with. And I take from that that the lawyers  
18          have concluded that it was not merely a review of  
19          other people's activities, but the review of other  
20          people's activities actually substantively becomes  
21          a part of the record, and unless someone has any  
22          dispute about that at some stage we'll deal with  
23          it. But that's what I'm taking from this, and  
24          that is that in spite of the fact that it was  
25          intended to be a review of the activities of the

1 VPD, and the RCMP to a lesser extent, the fact is  
 2 that I think it has become real evidence by virtue  
 3 of the way the counsel here have treated it as  
 4 such.

5 And, finally, I do want to thank you  
 6 sincerely, because as I said a moment ago it's an  
 7 ordeal to testify at any time, and you've been  
 8 cross-examined vigorously here. And just as I  
 9 thank sincerely the families and the victims who  
 10 came here and bared their souls and their  
 11 sufferings for which we are eternally grateful,  
 12 I'm also grateful for you to come here and  
 13 actually accept responsibility for things that  
 14 weren't necessarily your fault and -- weren't your  
 15 fault. In fact you weren't there. And so those  
 16 are things that I think all the lawyers here and  
 17 everybody else associated with the inquiry  
 18 appreciate. Again I thank you sincerely for the  
 19 professional way you've discharged your duties.  
 20 Thank you. All right.

21 MR. VERTLIEB: That concludes the evidence for today. Tomorrow  
 22 at ten a.m. with Mr. Nathanson, he has Ms. Bryce  
 23 to give evidence, and he wishes to lead her  
 24 through the evidence and we're comfortable with  
 25 that. And that will be the only evidence tomorrow



1                   and the only issue to deal with tomorrow, so I  
2                   anticipate we will be finished certainly by the  
3                   lunch break.

4   THE COMMISSIONER:   Okay.   Thank you.

5   THE REGISTRAR:   The hearing is now adjourned for the day and  
6                   will resume at ten o'clock tomorrow morning.

7                   **(PROCEEDINGS ADJOURNED AT 3:12 P.M.)**

8                   I hereby certify the foregoing to be a  
9                   true and accurate transcript of the  
10                  proceedings transcribed herein to the  
11                  best of my skill and ability.

12

13

14                  Peri McHale

15                  Official Reporter

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