

January 12, 2012

Vancouver, BC

(PROCEEDINGS RECONVENED AT 9:34 A.M.)

THE REGISTRAR: Order. The hearing is now resumed.

ROBERT WILLIAMS: Resumed

THE COMMISSIONER: Mr. Ward.

CROSS-EXAMINATION BY MR. WARD (Cont'd):

Q Thank you, Mr. Commissioner. Cameron Ward,
counsel for the families of 25 murdered women.
Sir, I'm going to pick up essentially where I left
off yesterday. I'm going to ask you some more
questions about the subject of what the RCMP view
about the possible legal activities occurring on
the Pickton's property and when they knew it. And
in that vein do you appreciate, sir, that this
inquiry is dealing with what may be considered the
worst serial killing in Canadian history in terms
of the number of victims?

A Yes. That's correct.

Q Are you aware, based on your 42 years of RCMP
experience, of any serial killing in Canada that
comes close to the number of victims attributed to
Mr. Pickton?

A No, sir.

Q What is the RCMP's estimate, if you know it, of

1 the number of women he was involved in killing?

2 A I wouldn't be at liberty to give you a number.

3 I'm not familiar with a number.

4 Q He admitted after his arrest in 2002 in interviews
5 that he may have been responsible for as many as
6 49. Do you recall that?

7 A I had nothing to do with the interview, so I'm
8 in -- I'm only -- whatever the media or whatever
9 the reports indicated, that's all I'm familiar
10 with.

11 Q Certainly he was charged with 26 murders and it
12 has been reported that remains or DNA of 33 women
13 were found on his property. Are you aware of
14 those numbers generally?

15 A Yes. Generally, yes.

16 Q All right. Now, although you're from Alberta,
17 you've visited both the Down Eastside and Port
18 Coquitlam, correct?

19 A I did not visit the Downtown Eastside. No, sir.

20 Q Have you been through it?

21 A No.

22 Q All right. Do you accept that it's a gritty,
23 urban area where people are impoverished and that
24 many of them live on the streets?

25 A Yes, sir. I accept that.

1 Q All right. And do you accept that in that area
2 drug use and drug users are quite apparent?

3 A Yes, sir.

4 Q You went to Port Coquitlam, right?

5 A Yes, sir.

6 Q And that is, depending on traffic, about a
7 45-minute drive from Vancouver, Downtown
8 Vancouver?

9 A Possibly, yes.

10 Q And in comparison with the Down Eastside, Port
11 Coquitlam is a relatively affluent, middle-class
12 suburb; is that fair?

13 A That's fair, yes.

14 Q We've heard in this inquiry that the phenomenon of
15 women going missing from the Downtown Eastside of
16 Vancouver attracted international media attention
17 from shows like NBC's Dateline and America's Most
18 Wanted? You appreciate that?

19 A Yes, sir.

20 Q And we've heard that that phenomenon of the
21 missing women from the downtown received lots of
22 local media attention in the Vancouver press. And
23 I will refer just parenthetically to Exhibit 35.
24 And you accept that there was lots of attention?

25 A Yes, sir.

1 Q And, in particular, from about mid-1997 through
2 the balance of that decade, the nineties, there
3 was lots and lots of media coverage about the
4 missing women from the Downtown Eastside?

5 A There was, yes.

6 Q And you know, based on your experience in the
7 RCMP, that it has media relations personnel, part
8 of whose job is to monitor news and media reports
9 of crime or policing issues, fair?

10 A Yes, sir.

11 Q So you'd accept by 1998 it would be well known to
12 the RCMP as an institution that women were
13 reportedly going missing from the Downtown
14 Eastside of Vancouver?

15 A I would think they would be aware of it, yes.

16 Q And we know now that Robert William Pickton was
17 responsible for as many as perhaps 49 of those
18 disappearances and subsequent murders, fair?

19 A I can't give you the exact number, but it's fair.
20 I would say it's fair.

21 Q And Deputy Chief LePard testified, as I understood
22 his testimony earlier in this proceeding, that in
23 addition to however -- whatever number he
24 murdered, there were another 13 Downtown Eastside
25 sex trade workers who the VPD subsequently

1 interviewed who had been to the property and had
2 returned home and were able to tell about their
3 experience?

4 A If Deputy LePard testified to that, I'll take it
5 for his word, yes.

6 Q So given all of that, at least 62 women -- and
7 we're talking here about poverty stricken, drug
8 addicted sex trade workers in the survival sex
9 trade industry, many of whom were aboriginal, were
10 taken from the Downtown Eastside out to the
11 Vancouver suburb of Port Coquitlam, fair?

12 A That's fair. Sure.

13 Q It's entirely possible that many more than 62 were
14 actually taken from the streets of the Downtown
15 Eastside to Port Coquitlam. The number could be
16 in the hundreds?

17 A I can't dispute that.

18 Q All right. Sir, I suggest to you that if scores
19 and perhaps hundreds of poverty stricken, drug
20 addicted, low track, so-called sex trade workers
21 from the inner suburb -- or inner city of
22 Vancouver, about half of whom were aboriginal,
23 they would have stuck out like a sore thumb in
24 Port Coquitlam. It would have been obvious that
25 scores of women were plying their trade there to

1 anyone who was paying attention and, in
2 particular, the RCMP who were charged with the
3 duty of policing the community? Does that make
4 sense?

5 A I can't really speak for Coquitlam Detachment.
6 When you say they stuck out like a sore thumb, I
7 assumed that going in their vehicle -- if they are
8 going, they're going in a vehicle to his residence
9 and leaving in a vehicle and I'm not sure that
10 they would have any interaction with Coquitlam,
11 but I would suggest if they were remaining in
12 Coquitlam, they should have been -- stuck out like
13 a sore thumb, I would think, yes.

14 Q Well, look at the facts as you understood them
15 from your interviews. Superintendent Moulton, OIC
16 operations of the Coquitlam Detachment, was well
17 aware of Piggy's Palace and the clients, as he
18 described them, of that operation, right?

19 A Yes. Inspector Moulton did say there was clients.
20 I don't recall him saying that he had observed the
21 sex trade workers there, just clients.

22 Q We have to ask Moulton and other members of the
23 Coquitlam Detachment exactly what they knew of
24 what was going on at Piggy's Palace; that is, the
25 knowledge of prostitutes or sex trade workers on

1 those premises and the frequency of it, right?

2 A I would expect that Inspector Moulton and other
3 members of Coquitlam Detachment would be able to
4 explain that more -- in more detail than I could.

5 MR. WARD: Well, here's the question I have for you. And maybe
6 you can't answer this, but you're here for the
7 RCMP, so this is a question my clients have.
8 Given the notoriety of Piggy's Palace and the
9 Coquitlam RCMP's efforts to shut it down, given
10 the fact that scores of women from the Downtown
11 Eastside we now know were operating around the
12 Pickton properties and many of them were murdered
13 there, given the fact that the Coquitlam RCMP knew
14 that Robert William Pickton had attempted to
15 murder a Downtown Eastside sex trade worker in
16 March of 1997, and given the fact that the
17 Coquitlam RCMP had a person on staff who had been
18 intimately friendly with the Pickton brothers for
19 two decades, the question is this: When the media
20 reports in '97, '98 and '99 were suggesting that
21 dozens of women involved in the sex trade in
22 Downtown Vancouver were going missing, how in the
23 world did the RCMP fail to put two and two
24 together?

25 MR. BRONGERS: Mr. Commissioner, the question was premised on

1 the notion that Superintendent Williams is
2 somehow, quote, here for the RCMP. I thought we
3 made it very clear in the examination yesterday
4 that Superintendent Williams was not asked to
5 develop a position of the RCMP with respect to the
6 quality and the adequacy of the investigation, and
7 he is not here as a spokesperson for the RCMP to
8 give the RCMP's position. He is here to assist
9 the commission in understanding what he learned
10 during his limited review back in 2002, but this
11 is neither the time nor the place to put
12 essentially legal positions to this witness in the
13 hope that he might agree to them and then that
14 that is then ascribed to the RCMP as being its
15 position.

16 THE COMMISSIONER: Well, I have a difficulty with your position
17 that he's not here speaking for the RCMP. I mean
18 how could there be any person who's more qualified
19 to speak for the RCMP than him? He's been a
20 member for 40 years, over 40 years. Having said
21 that, there are other parts of the question that I
22 do have difficulty with, and that is that, in
23 fairness, the witness has said he's not familiar
24 with any of this. He did a -- what appears to be
25 a somewhat brief review of 27 pages. And he's not

1 familiar with the Downtown Eastside. He's not
2 familiar with any of this. And I assume that
3 there will be other witnesses who will be called
4 from the Coquitlam RCMP. Is Inspector Moulton
5 going to be called?

6 MR. VERTLIEB: The plan is to call the people that we feel we
7 need to give you the information you need. It's
8 early, but he is on our tentative list, yes. Mr.
9 Ward knows that.

10 MR. BRONGERS: And my understanding, Mr. Commissioner, is that
11 every single individual whom Superintendent
12 Williams has spoken to is in fact on the witness
13 list.

14 THE COMMISSIONER: I think that's a better objection from your
15 perspective. And that is, Mr. Ward, you know, I
16 think I know what you're trying to do, but the
17 fact is, though, his evidence really is of very
18 limited value because he's from Alberta. He has
19 limited knowledge of the -- of the -- of the
20 background and he's been fair about that.

21 MR. WARD:

22 Q Maybe I can -- and I've heard the objection and
23 the exchange and I would propose to rephrase a
24 question that may be less objectionable, in fact
25 may be -- that should be entirely unobjectionable,

1 if I may attempt to do that.

2 Sir, based on your interviews of Coquitlam
3 RCMP personnel like Moulton and Connor and
4 Pollock, did you gain an understanding of why the
5 RCMP in Coquitlam apparently did not connect the
6 notorious media reports of women going missing in
7 the Downtown Eastside with the knowledge that the
8 detachment gained as early as '97 and then into
9 '98 from the attempted murder incident and from
10 the four informants about Pickton's dealings with
11 Downtown Eastside prostitutes?

12 A I believe from my review the members and, in
13 particular, Corporal Connor, Sergeant Connor, was
14 fully aware of Pickton's activities or suspected
15 activities and had been working on Mr. Pickton in
16 conjunction with the -- with members of the
17 Vancouver Police Department. He had taken
18 numerous steps over a number of years working on
19 him as well as I believe some of the other members
20 that we interviewed, in particular Pollock, who
21 had been out to the Pickton farm. So Inspector
22 Moulton, I believe, were all aware that he was a
23 person of interest and a number of the members of
24 Coquitlam knew that Mr. Pickton was still
25 considered to be by Coquitlam Serious Crime Unit

1 as a top priority file. And they had several
2 meetings back and forth between Vancouver Police
3 Department. So I'm going to suggest that they
4 were all aware of him being a person of interest
5 and they had worked on him. I can't entirely
6 outline without going through the file with how
7 often they interacted with him or how much they
8 did in fact work on him, but they certainly did
9 over the course of a number of years consider him
10 to be a high priority. And certainly Connor was
11 instrumental in leading the investigation trying
12 to track down Mr. Pickton.

13 Q Fair enough. Thank you. Do you, sir, agree with
14 this proposition based on your 42 years of RCMP
15 experience: Once Connor of the Coquitlam RCMP
16 received clear, credible information in August of
17 1998 that Robert William Pickton might be the
18 person responsible for the sex trade worker
19 disappearances, he and the RCMP had a positive
20 obligation to either rule him out as the suspect
21 or confirm him to be the suspect as quickly as
22 they could?

23 A That's a normal course of action, yes.

24 Q And you would agree, based on what actually
25 happened, that from August, 1998 up until February

1 5, 2002, the RCMP failed to do either of those
2 things, rule him out or confirm him as the person
3 responsible, correct?

4 A I believe in looking at the global -- the big
5 picture there was a number of suspects that were
6 involved and they were working on. Obviously they
7 didn't apprehend him or rule him out prior to
8 February of 2002. We now know that. That's -- I
9 mean he wasn't arrested until February, 2002, so
10 it appears that he wasn't eliminated as a person
11 of interest nor was he arrested prior to that
12 date.

13 Q And my point is that according to policing
14 practices as you understand them, one of those two
15 things had to be done. He had to be ruled out or
16 he had to be confirmed, right?

17 A That's normally the practice that we would do.

18 Q And, in fact, what happened is that the rest of
19 1998 went by from August onwards, all of 1999, all
20 of 2000, all of 2001 and the first month of 2002
21 before quite by accident it was learned that he
22 was indeed the person responsible, correct?

23 A I'm not familiar with the total -- total
24 working -- or the total massive of the file. You
25 must understand, Mr. Ward, there's probably

1 hundreds if not -- well, I'll say hundreds of
2 suspects because I'm not sure if there was any
3 more, but they have to look at each and every one
4 of those suspects to properly analyse it, assess
5 the file to see. You only go where the evidence
6 leads you on an investigation. And certainly
7 there are persons of interest on these massive
8 files when you have multiple homicides or missing
9 persons; that you'll want to examine everyone.
10 You don't want to put tunnel vision on to some
11 particular person. You don't want to put the
12 blinders on and go after one particular person.
13 You have to look at the global investigation. So
14 certainly although Mr. Pickton was a suspect,
15 there was numerous other suspects that I'm led to
16 believe that they were looking at one at a time.
17 They take time to do the elimination process. And
18 over the core of those -- the time period that you
19 alluded to, it appears that they had worked on --
20 in addition to Mr. Pickton, they had worked on
21 numerous suspects, so obviously he wasn't
22 apprehended prior to February, 2002.

23 Q Sir, a couple of follow-up questions. You said
24 you go where the evidence leads you. In this
25 case, the evidence of Hiscox and Caldwell and Best

1 led -- or ought to have led the RCMP right to Mr.
2 Pickton's door, right?

3 A If the evidence -- if there is evidence there and
4 other than hearsay or secondhand -- people
5 receiving information secondhand usually you will
6 go to where the evidence leads you. You have to
7 recall -- you have to remember that the people
8 that they're dealing with have to be credible too.

9 Q Right. Now, with respect to this concept of
10 multiple suspects, assuming that at least 62 and
11 perhaps hundreds of sex trade workers from the
12 Downtown Eastside of Vancouver were transported
13 out to Port Coquitlam, are you aware, based on
14 your work on this file, whether there was any
15 other community in British Columbia policed by the
16 RCMP or otherwise that was experiencing a similar
17 influx or trafficking of women in the sex trade
18 from the Downtown Eastside to their community?

19 A No. Not to my knowledge, sir.

20 MR. WARD: All right. Sir, looking at this objectively now,
21 the only reasonable conclusion is that the RCMP
22 botched the investigation from August, 1998
23 through to February 5, 2002. Do you accept that?

24 MR. BRONGERS: Mr. Commissioner, isn't that the ultimate
25 question for the commission to decide? I don't

1 know what value there is in asking the witness a
2 question of that nature, did the RCMP botch the
3 investigation. Even if the superintendent has an
4 opinion on that, I'm not sure how that assists the
5 commissioner either way, whether he says it was
6 done perfectly or whether he says it was botched.
7 Quite frankly, that is not a proper question to
8 put to this witness.

9 THE COMMISSIONER: I agree that you have to be weary of the
10 ultimate issue doctrine, but this is really an
11 inquiry and he's already given opinion that --
12 opinions regarding the nature of the
13 investigation. You're right. I'm the one that
14 has to decide that at the end of the day, whether
15 or not they botched the investigation or they did
16 everything reasonable under the circumstances.
17 But, you know, he can offer an opinion. I don't
18 have any difficulty with that.

19 MR. BRONGERS: Just for the record, though, Mr. Commissioner,
20 again, we have no objection with Superintendent
21 Williams giving his opinion with respect to
22 specific practices, specific acts or omissions,
23 whether they were done properly or not, but this
24 is a very broad question: Did the RCMP botch the
25 investigation? And it's that specific opinion

1 that we object to, for the record.

2 THE COMMISSIONER: I agree with that point.

3 MR. WARD:

4 Q Thank you. I'll again rephrase the question.

5 Sir, you wrote in your report -- I'm

6 paraphrasing -- that the RCMP handled the

7 investigation of Pickton as a subject

8 appropriately and given the opportunity to do it

9 over, you wouldn't change anything or very much.

10 Is that a fair summary of what you said in your
11 report?

12 A Yes, sir.

13 Q Do you still stand by that today?

14 A Yes, sir.

15 Q How can you square that with your acknowledgment

16 that the RCMP had a duty as of August, 1998 when

17 they started receiving information pointing to

18 Pickton as the suspect and in failing that duty to

19 rule him out over the next three plus years?

20 A Well, there was a combination of investigations

21 ongoing and they never -- they never were able to

22 rule him out prior to that date. That's -- I --

23 I'm not in a position to -- to answer that

24 question much more broadly other than the fact

25 that the people I interviewed, there was -- each

1 one of them gave their version to us. And
2 certainly there was areas that they worked on and
3 worked on him over the course of years and various
4 other things, other priorities, other homicides,
5 other missing people. There's a number of, you
6 know, areas probably that coupled -- or hindered
7 the investigation into him, thus the time delay.
8 They still pressed on, I guess, as best as they
9 could.

10 Q All right. Thank you. I'm going to move to
11 another area, and this is where I intend to pick
12 up a thread that I left hanging yesterday. And
13 the subject of the next series of questions is
14 that March, 1997 incident that resulted in four
15 serious charges being laid against Robert William
16 Pickton. And the conclusion in your report, if I
17 understand your report correctly, that the reason
18 for the staying of the charge was the failure of
19 the victim to co-operate with police and Crown,
20 okay? That was your conclusion?

21 A That's what I was led to believe, yes.

22 Q What I've done, sir, overnight is I have excerpted
23 from the Coquitlam file, which is one of the
24 appendices to your report, a collection of
25 documents, because I think this is the easiest way

1 to address these points.

2 A Yes, sir.

3 Q And I've passed up copies to Mr. Registrar. It's
4 a bundle of documents. They're 42 pages. And all
5 of these documents were taken from what I believe
6 to be Exhibit 2B -- maybe 2B and C. I'm not sure.
7 We don't have a matched set. But, in any event,
8 this is from the Coquitlam file, which formed part
9 of your review. Do you understand that?

10 A Yes, sir.

11 Q All right. I'm just going to take you through
12 some of the statements in here on this point. So
13 this is the Coquitlam file -- pardon me. This is
14 part of the Coquitlam file that was created in
15 respect of the March 23, 1997 incident where
16 Robert William Pickton attacked the victim
17 described as victim 97 or Anderson. Do you
18 appreciate that?

19 A Yes, sir.

20 Q The first page I can tell you -- the top of it's
21 cut off, but these appear to be notes of Mike
22 Connor. And you know him? You interviewed him?
23 He was a Coquitlam member, correct?

24 A Yes, sir. They appear to be his -- I can't see
25 any indication where his name's on here.

1 Q The very top. Mike Connor is partly cut off. Do
2 you see that? And then a phone number?

3 A I don't believe I -- I don't have his name on
4 mine.

5 Q All right. Anyway, under the phone number it says
6 this, and I'll just read it:

7 Hooker raped and stabbed, handcuffed. House
8 in Coquitlam, 953 Dominion.

9 And then there's a redaction for the victim's
10 name. Do you see that.

11 A Yes.

12 Q And then underneath that it says:

13 Susp --

14 Which I take to be suspect.

15 -- Robert Pickton, birth date. Brother assoc
16 to HA.

17 I take that to be associated to Hells Angels; is
18 that right?

19 A I can't say for sure, but HA normally stands for
20 Hells Angels, yes.

21 Q And then:

22 Went to another HA house grow op.

23 Do you see that?

24 A Yes.

25 Q

1 And throat slit ear to chest.

2 So it's a very brief description of the incident?

3 A Yes.

4 Q All right. Turning over the page -- and I'll just
5 tell you what this is. I won't take you through
6 it. The next pages -- and they're numbered in the
7 upper right-hand corner, Mr. Commissioner. Pages
8 2 to 8 consist of one of the sworn informations to
9 obtain a search warrant in relation to this
10 incident. There were, from my review of the file,
11 several warrants obtained. This is the affidavit
12 supporting one of them. The affidavits match up
13 and basically, sir, as you can see, describe the
14 police evidence of the incident as a grounds for
15 obtaining further search warrant material,
16 correct?

17 A Yes. The information to obtain, yes.

18 MR. WARD: Okay. Now I want to take you to page 9, please.

19 THE COMMISSIONER: Are we going to have other witnesses who are
20 going to come here and testify to this?

21 MR. VERTLIEB: Absolutely.

22 THE COMMISSIONER: Then why are we getting into something that
23 this witness has a very cursory knowledge of?
24 When I read his report, what he said was that it's
25 my understanding. He's got a -- so I don't know

1 how much weight you can put on that. I know the
2 fact that the Crown enter a stay of proceedings,
3 whether that was proper or not is something
4 ultimately that we'll have to decide as a separate
5 term of reference, but this -- I can tell you now
6 that his evidence on that issue is not very
7 helpful to me.

8 MR. WARD: We haven't had any evidence yet on this issue.

9 THE COMMISSIONER: I know, but I'm sure that they're going to
10 call --

11 MR. WARD: Well, I -- this witness dealt with this issue in his
12 report.

13 THE COMMISSIONER: I know, but in a very cursory manner he
14 dealt with it, but I'm telling you now that I'm
15 the one that has to write the report at the end of
16 the day and I can tell you that it really doesn't
17 help me as to whether or not he was erroneous in
18 his view that what the -- that the stay was a
19 proper one. I'm going to learn that from --
20 hopefully from the other witnesses that the
21 commission counsel will call. I mean I -- all he
22 said is that my understanding -- and I'm
23 paraphrasing -- it's my understanding that the
24 stay was entered into because of a lack of
25 co-operation of the Crown witness. Now, that may

1 be completely erroneous, but, you know, he's
2 learning this thirdhand and all I'm telling you is
3 that it doesn't help me much and, you know, this
4 evidence will be called from the witnesses who are
5 better qualified and in a better position to tell
6 us about that.

7 MR. WARD: Mr. Commissioner, one of your terms of reference, as
8 you know, of course, is to inquire into and make
9 findings of fact respecting the decision to stay
10 the charges.

11 THE COMMISSIONER: Yes.

12 MR. WARD: What I'm doing right now, since this witness said --
13 or gave a reason for the staying of the charges,
14 which is squarely within the terms of reference,
15 and then appended to his report these documents,
16 which are factual evidence of the event -- I'm
17 simply taking him to them because they are
18 relevant to that item of the terms of reference.
19 He is the first witness to deal with this subject.
20 More will come. This will introduce their
21 testimony, with respect. This is the first time
22 you're hearing any evidence about the stay in any
23 substance. It is part of his report. It is
24 relevant to the terms of reference and my clients
25 consider it crucial to this inquiry because, as

1 many witnesses have said, if Pickton was
2 prosecuted in the --

3 THE COMMISSIONER: No, no. You know, we know all of that.

4 MR. WARD: All right.

5 THE COMMISSIONER: I know that. But what my point -- and
6 pardon me for interrupting you, but my point in
7 all of this is that he's not the best witness to
8 testify on that and particularly when other
9 witnesses will be called. And all he's saying is
10 that I looked at this. From what I know and from
11 what I was told, the stay of proceedings was
12 proper. Well, he might be completely wrong when
13 we hear the witnesses who actually got the
14 warrant, who did the investigation and when the
15 Crown testifies. And that's going to be the real
16 evidence on this. And I can tell you right now
17 that his evidence on this doesn't help me a bit.

18 MR. WARD: Well, I -- I hear you, but I perceive as counsel for
19 the families of the deceased that these
20 documents -- these documents that I'm showing you
21 and him help you a very great deal with the fact
22 finding exercise that you have been commissioned
23 to undertake.

24 THE COMMISSIONER: I assume those documents will be before the
25 witness -- the real witnesses who actually had

1 something to do with it. He's from Alberta. He
2 did a review of it.

3 MR. WARD: Well, if I may, Mr. Commissioner, with those
4 comments in mind, I will shorten my
5 cross-examination by just taking him to two or
6 three of these documents and showing them to you
7 and him.

8 THE COMMISSIONER: I mean --

9 MR. WARD: It's important, I submit, for you to understand that
10 what the documents say about this aspect of your
11 mandate so when the other witnesses get here, you
12 will have a bit of a foundation.

13 THE COMMISSIONER: Yes. Yes. I mean you're perfectly -- it's
14 perfectly permissible for you to suggest to him
15 that his opinion was completely erroneous because
16 he didn't have any real knowledge of this.

17 MR. WARD: But the difficulty is he wrote that opinion down.
18 I'm entitled, indeed obliged, to challenge it and
19 the best way to challenge it is to take him to the
20 documents he looked at to form the opinion.

21 THE COMMISSIONER: All right.

22 MR. WARD:

23 Q Thank you. Page 9. This, witness, is a copy of a
24 subpoena dated December 9, 1997 issued to the
25 victim disclosing that the trial is set for

1 February 2 to 6, 1998 commencing at 9:30. And I'd
2 like you to look at the very bottom of the
3 subpoena because I submit this is important. In
4 this subpoena to the victim, the following appears
5 at the very bottom:

6 Crown counsel requests you attend our office
7 1/2 hour prior to trial for interview.

8 Please call the number and advise of your
9 daytime telephone number.

10 Do you see that?

11 A Yes, sir.

12 Q All right. And it's common, in your experience,
13 for Crown to have witnesses show up on the morning
14 of the first trial date and go through their
15 evidence with them?

16 A Yes, sir.

17 Q The next batch of documents -- and I won't spend
18 any time on them -- are 11 witness notifications
19 to police officers. And just looking at the first
20 one on page 10, you will see that each of the
21 police officer witnesses, 11 of them who were
22 summonsed to trial in February, were denotified on
23 January 27, 1998. Do you see that?

24 A Yes.

25 Q And, again, that's common if the trial is

1 adjourned or --

2 A It's very common because the report to Crown
3 counsel usually in this particular province, all
4 names are submitted and it's -- not necessarily
5 all are required or called by the Crown or by the
6 defence or what as such.

7 Q And I'm going to take you quickly to one last page
8 and then I'm going to leave this issue. It's page
9 28.

10 A Yes, sir.

11 Q I'll tell you what this is. The package is here,
12 but Victims Assistance Personnel, VAP, Victims
13 Assistance Program were dealing with the victim
14 Ms. Anderson over time and this is their log, part
15 of the file that you reviewed when you concluded
16 that she wasn't co-operative.

17 A Yes, sir.

18 Q Fourth line down. This date entry must be
19 11/17/98, January 17, 1998 at 1030 a.m. Do you
20 see that?

21 A Yes, sir.

22 Q The author says:

23 Spoke to victim's mother. Asked her if her
24 daughter would like a court escort for the
25 upcoming trial. She says she did not know,

1 but would ask. Told her to tell her daughter
2 to contact us and left phone number.

3 Do you see that?

4 A Yes, sir.

5 Q Same date entry below, 01/17/1998, 35 minutes
6 later 11:05 a.m.:

7 Victim called back. She is interested in a
8 court escort. Told her I would set one up
9 and that the person providing the escort
10 would call her mother to arrange at what time
11 and where to meet on the day of the trial.

12 Do you see that?

13 A Yes, sir.

14 Q And then the subsequent entries reveal that 11
15 days later the trial, it was determined, would not
16 proceeding and witnesses were denotified. You can
17 just see at the very bottom an entry for January
18 30th, '98. The victim is aware and there's a
19 reference to her being denotified.

20 A I think it said she spoke to the mother.

21 Q Yes. I think that's what it said. The documents
22 that you reviewed in the course of writing your
23 report, the ones I've shown you certainly suggest
24 that the victim was ready, willing and able to go
25 to trial on February 2nd, don't they?

1 A The documents here, yes.

2 Q Thank you. You've dealt with the Crown, I'm
3 expecting or -- that's the wrong word. Well,
4 you've dealt with the Crown on prosecutions many,
5 many, many times over your 42-year career, right?

6 A Over my forty-four-and-a-half-year career, yes.

7 Q Sorry. Pardon me. I didn't mean to cut a couple
8 of years off. And you're aware from your dealings
9 with the Crown that when they make important
10 decisions, especially on serious cases involving
11 serious charges, they tend to document them very
12 well, fair?

13 A I would suggest that's normal, yes.

14 Q Thank you. Sir, just -- I actually have one more
15 point on this package. If you go to page 30.
16 I'll tell you that from the file these are
17 identified as the handwritten notes of RCMP
18 Corporal Van Overbeek. And they're made on June
19 25th, 2001. You know Corporal Van Overbeek to be
20 one of the important members of the JFO that was
21 formed in early 2001, correct?

22 A I'm not familiar with Corporal Van Overbeek,
23 but --

24 Q I just want to ask you about the entry in the
25 middle of the page. He's written -- it looks like

1 he's reviewed the file and he's written this:

2 Blood-soaked gauze seized without warrant at
3 hospital matched to used condom seized with
4 warrant.

5 Do you see that?

6 A Yes, sir.

7 Q Do you know whether -- from your dealings with the
8 people you interviewed in the Coquitlam RCMP
9 whether the seizure of evidence without a warrant
10 was a factor in the Crown's decision to stay the
11 charge against Robert William Pickton in this '97
12 incident?

13 A No, sir.

14 Q Thank you. Now, just on Van Overbeek.
15 Detective -- or Deputy Chief Evans' report and
16 LePard's report and the record shows that in
17 August of 1999 he met with Leah Best, one of the
18 informants who attributed the disappearances to
19 Willie Pickton. I'll ask you to assume that.

20 A I assume that, yes.

21 Q From this document on the Coquitlam RCMP file, he
22 reviewed the attempted murder file in June of
23 2001. Do you see that?

24 A Yes.

25 Q He, we know, worked with Don Adam on the Project

1 Evenhanded JFO. So my question for you is this:
2 Do you have any understanding of why he, armed
3 with the Leah Best interview and his file review,
4 didn't act sooner with the JFO in taking steps to
5 rule Pickton out as the suspect in the
6 disappearances?

7 A No. I can't answer that, sir.

8 Q We'd have to ask him?

9 A Well, I'm only looking at his notes here and
10 there's -- I'm not sure if this is the end of his
11 notes or the reason why he did this review other
12 than if he was tasked to look at this particular
13 file as a part of Project Evenhanded. I can only
14 assume that. I'm not sure why he would pick this
15 file up some four years later and have a look at
16 it.

17 Q Fair enough. You've touched on in your evidence
18 the issue -- I'm moving to another subject --
19 touched on in your evidence the issue of
20 resources?

21 A Yes, sir.

22 Q And that inadequate resources may have been a
23 factor in failing to move the investigation into
24 Pickton along further than it went; is that fair?

25 A Resources are always an issue, major files like

1 this in some cases, or some parts of the
2 investigation there may have been inadequate
3 resources or reasons for not having enough
4 resources.

5 Q But would you accept this: That the RCMP as an
6 institution, given its stature as Canada's
7 national police force and the resources at its
8 disposal, would have had ample resources if it had
9 been serious about investigating the issue of
10 dozens of missing women and the possible link to
11 the Port Coquitlam property of William Pickton?
12 There would have been ample resources available?

13 A It would depend on the investigation, yes.

14 Q All right. Sir, my friend Mr. Vertlieb -- I'm
15 moving to something else and I'm almost finished.
16 My friend Mr. Vertlieb referred to Professor
17 Duxbury's report. I believe it was called
18 *Yesterday, Today and Tomorrow*.

19 A Yes. Something along those lines, yes.

20 Q And it addressed at least in part the work --
21 workplace culture within the RCMP?

22 A I believe it did, yes.

23 Q The commission has on its witness list a woman
24 named Catherine Galliford, who was the
25 spokesperson for the JFO -- media spokesperson for

1 the JFO known as Project Evenhanded. Do you know
2 her?

3 A I don't know her, no.

4 Q Do you know of her?

5 A I know of her, yes.

6 Q I expect her testimony will be to the effect that
7 the culture within the RCMP was such that there
8 was sexism and perhaps misogyny directed to women
9 in general and that that may have been a factor in
10 failing to investigate these allegations in a more
11 effective and timely way. Do you, sir, based on
12 your 44 odd years of experience, have familiarity
13 with any aspect of RCMP culture that suggests that
14 there may be sexism within the ranks of the male
15 membership?

16 A No. I would say not -- I have no indications that
17 that would be a problem, no.

18 Q So you've seen nothing over the years that would
19 reveal to you that male members sometimes had
20 attitudes about women in general and sex trade
21 workers in particular that might lead them to
22 treat those cases differently than others?

23 A Not that I'm -- I mean obviously some members have
24 different, you know, opinions on members working
25 in the force, female members, and as do female

1 members have on male members. Sex trade
2 workers -- when you're a homicide investigator and
3 you're investigating people that are killed,
4 regardless of race, colour, creed, nationality,
5 they're all treated the same. That's my -- that's
6 my direction and anyone that works for me or
7 underneath me over the past years, each
8 investigation that we deal with is treated in an
9 equal manner.

10 Q On the issue of race, which you just mentioned,
11 have you seen examples over the years in the force
12 that aboriginal persons in Alberta, or perhaps
13 here in BC, are treated with less respect
14 sometimes by members of the force?

15 A I'm sure it's probably happened in all areas, but
16 I -- it's not something that's common.

17 Q Sir, I'm going to -- let me finish with this, sir.
18 We earlier heard from a member of the Vancouver
19 Police Department, a senior member, a Deputy Chief
20 Doug LePard, and as I understood his public
21 statements and his evidence, he acknowledged that
22 there were failings at the Vancouver Police
23 Department end of the investigations into the
24 disappearances and he apologized for those. Are
25 you, sir, in any position today to apologize to my

1 clients for the way the RCMP handled the cases of
2 the disappearances?

3 A No. I don't think that would be my position to
4 apologize. That would be more up to the
5 management of E Division. Certainly, as Deputy
6 LePard indicated, there were areas of this
7 investigation that perhaps we could have expanded
8 on further in certain areas, but as far as for any
9 apologies, it's unfortunate that what has happened
10 has happened, but I would think that the
11 management of the division would be more
12 knowledgeable with respect to that and I would
13 like to defer that to them.

14 Q And, of course, top management today is
15 Commissioner Robert Paulson?

16 A Yes, sir.

17 Q And he, in fact, worked on these missing women
18 investigations while a sergeant here in the Lower
19 Mainland, didn't he?

20 A I'm not sure if he was a sergeant or a corporal,
21 but he, I believe -- he was referenced in some
22 areas. I'm not -- I had nothing to deal with
23 Commissioner Paulson at the time other than the
24 fact that I knew he was part of the Major Crime
25 Unit.

1 Q All right. But it would fall to him ultimately
2 with respect to the issue of any apology?

3 A I would think it would fall to him or, actually,
4 the deputy commissioner of E Division.

5 Q Fair enough. Thank you, sir. Those are my
6 questions.

7 A Thank you.

8 THE COMMISSIONER: Thank you, Mr. Ward.

9 MR. GRATL: Mr. Commissioner, I'm led to believe by Mr. Roberts
10 that he's next in the order of cross-examination.

11 THE COMMISSIONER: All right.

12 MR. GRATL: Is that correct?

13 THE COMMISSIONER: Does anybody know the order here?

14 MR. GRATL: I had expected --

15 MR. ROBERTS: Let me address -- Mr. Commissioner, let me
16 address why. I'm appearing today, Mr.
17 Commissioner, on behalf of Marion Bryce.

18 THE COMMISSIONER: Yes.

19 MR. ROBERTS: And I believe that I don't really need to say
20 anything more than that. I am working together
21 with Mr. Nathanson on this inquiry from here on.
22 I will be very brief in the matters I want to
23 address with Superintendent Williams.

24 THE COMMISSIONER: All right.

25 THE REGISTRAR: Would you state your name for the hearing,

1 please?

2 MR. ROBERTS: Pardon me?

3 THE REGISTRAR: Would you state your name?

4 **CROSS-EXAMINATION BY MR. ROBERTS:**

5 Q I'm sorry. I did. I thought I did. Thank you,
6 sir. It's Darrell Roberts appearing today for
7 Marion Bryce.

8 Superintendent, could you turn, please, to
9 your resume in your report? The reason I do that,
10 sir, is that -- if you could turn to the last
11 page. It's page 5.

12 A Yes.

13 Q You've had a very lengthy, if I could use that
14 word, and distinguished career, as I read your
15 resume, with many awards and I thought that should
16 be noted. And I note as well you've been involved
17 in two matters which leap out at me as very
18 challenging. They're called Project Kourage, and
19 that's as team commander with respect to the
20 murder of the four RCMP officers at Mayerthorpe
21 District, Alberta and that must have been
22 emotionally at least a very challenging matter for
23 you?

24 A Yes. Very emotional and very challenging.

25 Q And the second one as well, Project Grace, a

1 murder of Constable Christopher Worden, that
2 probably fits into the same sort of challenging
3 category?

4 A Yes, sir.

5 Q And turning to your report, we've heard that your
6 report, of course, was not written for this
7 inquiry. It was written for purposes of assisting
8 in defending civil litigation, both current at the
9 time and 2000 when pending, right?

10 A Yes, sir.

11 Q So it must have come as a bit of a surprise to you
12 that you end up here in the witness box on a
13 matter which -- for which you haven't written your
14 report?

15 A Yes, sir. It's quite a while since I wrote it.

16 Q And quite a while since you wrote it. But at the
17 same time, however, I guess you're quite willing
18 to recognize that you're a very senior officer in
19 the RCMP with a long career in policing and
20 perhaps there are some areas where you can offer
21 us assistance. And one of them is the first area
22 I want to turn to in your report, and it happens
23 to be the same subject-matter tangentially at
24 least that Mr. Ward was pursuing, which is on page
25 9 of your report.

1 A Yes, sir.

2 Q You see, sometimes reports even though they're not
3 intended for our purposes, I take it -- let me
4 back up. If you had been writing a report for
5 this inquiry, I take it you might well have
6 written it a little differently than you did for
7 the purposes that you were asked to write?

8 A Absolutely.

9 Q And as well it would be fair to say that your
10 report is -- perhaps the right word to use is
11 constrained by the fact that it's been written to
12 assist in pending litigation; is that fair?

13 A It was written to assist the Department of
14 Justice, yes.

15 Q And being a little bit knowledgeable about these
16 matters, the report, it would appear to me, was
17 actually written in a privileged context. It
18 would be a privileged report between you and the
19 Department of Justice?

20 A I wrote it for the Department of -- or we wrote it
21 for the Department of Justice, yes.

22 Q And it had to be somebody connected to the
23 Department of Justice that decided to release it.
24 That certainly wasn't you?

25 A It wasn't me, no.

1 Q And I suppose we don't need to know who it was,
2 but, nevertheless, it has been released and it
3 finds its way here. But the second aspect that
4 constrains your report, it seems to me, a little
5 bit for our purposes is that you did not interview
6 Vancouver police officers where, for example, they
7 may have had an involvement with the RCMP such as,
8 for example, Constable Lori Shenher, who
9 interacted in 1998 at least with Corporal Connor.
10 You've told us you didn't interview the Vancouver
11 police officers, right?

12 A That's correct, sir.

13 Q And the reason for that is that a legal authority
14 lawyer for the RCMP advised not to?

15 A The Department of Justice lawyer recommended that
16 we not interview them.

17 Q Right. So you can't be blamed for that. That's
18 what you did. But that absence of an interview of
19 respect of Vancouver Police Force members also has
20 an effect somewhat of constraining -- putting a
21 constraint on your report?

22 A That's absolutely correct. If I had to do the
23 report such as a total review of the
24 investigation, I would have certainly spent, you
25 know, considerable time and I would have

1 interviewed everyone that I could from the
2 Vancouver Police Department as well.

3 Q And that's not because the evidence of the RCMP
4 officers can't be trusted or followed, but
5 sometimes people's memory needs to be jogged by
6 others that they've been working with?

7 A Yes. That's why we we did the interviews. That's
8 why we attached a lot of our appendices to show
9 where we had --

10 Q Exactly. However, your report is here. And
11 sometimes, sir, reports can take on a life of
12 their own when they -- and so if there's a chance
13 to do a little bit of correction, in my view we
14 should try to do that. And so when I go to your
15 report at the top of page 10 of 27, the
16 subject-matter here, of course, is that attempted
17 murder charge in -- in March of 1997. And the
18 information here -- as I understand from the
19 cross-examination of Mr. Ward, your information
20 was, first, the documentation and, second, your
21 interview of Corporal Connor?

22 A Yes, sir.

23 Q Now, I've read the interview of Corporal Connor.
24 Were there any other -- with respect to this
25 matter, the investigation by the RCMP office in

1 Coquitlam with respect to the attempt murder
2 matter -- I call it attempt murder, but there were
3 a number of charges, correct?

4 A Yes. There was, I believe, several more charges,
5 I think.

6 Q But your understanding of what happened with
7 respect to the stay comes -- and does it come
8 entirely from Corporal Connor?

9 A I believe it did. Part of it comes from Exhibit
10 C, the affidavit of Sergeant Mike Connor.

11 Q I should have asked a better question. In terms
12 of an interview, was it only Corporal Connor that
13 you interviewed in this matter?

14 A I believe it was because Corporal Connor was the
15 investigating officer, certainly.

16 MR. ROBERTS: Now, I have two points I want to pursue you
17 through, one simply to see if there might be a
18 mistake in the writing of your report, an innocent
19 mistake, of course, with respect to three words at
20 the top of page 10 of 27. And that's the three
21 words being after "with" the phrase "both the
22 police and the Crown". It's the phrase "the
23 police" that I want to just check on with you.
24 And would you be good enough if you could look at
25 the report of Deputy Chief Jennifer Evans?

1 Exhibit, Mr. Registrar, 34. If you could put that
2 before the witness.

3 THE REGISTRAR: I think he has it there.

4 MR. BRONGERS: Mr. Commissioner, the witness has signalled to
5 me that he would like to speak with me.

6 THE COMMISSIONER: He would what?

7 MR. BRONGERS: That he would like to speak with me. May I have
8 permission to speak with the witness?

9 MR. ROBERTS: I don't mind.

10 THE COMMISSIONER: All right. We can stand down. How much
11 time do you need?

12 MR. BRONGERS: Five minutes, please. Thank you, Mr.
13 Commissioner.

14 THE REGISTRAR: The hearing will now recess for five minutes.

15 **(PROCEEDINGS ADJOURNED AT 10:33 A.M.)**

16 **(PROCEEDINGS RESUMED AT 10:36 A.M.)**

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

18 MR. ROBERTS:

19 Q Yes. Thank you. Again, Darrell Roberts for
20 Marion Bryce. Again, I'm at the top of page 10 of
21 27 of your report, sir. And with some trepidation
22 on this subject, could I ask you to turn in the
23 Exhibit 34, the report of Deputy Chief Evans, to
24 page 52?

25 A I'm not sure I have that.

1 Q 8-52. Are you there?

2 A I don't have that report.

3 MR. ROBERTS: Mr. Registrar, the Evans report, Exhibit 34, page
4 8-52.

5 THE REGISTRAR: He has it.

6 THE WITNESS: 8-52?

7 MR. ROBERTS:

8 Q Yes. Take your time. 8-52.

9 A Yes.

10 Q All right. Now, I don't know -- you have told us
11 yesterday that some parts of Deputy Chief Evans'
12 report you've read, but perhaps not all?

13 A Parts.

14 Q Is that fair?

15 A Parts only, yes.

16 Q Parts only. So let me just take my time with you
17 with this one. It's under the chronological date
18 26 January, '98. It's about just more than
19 halfway down the page.

20 A Yes, sir.

21 Q It reads, and I'll read it slowly:

22 Crown counsel stayed the charges of attempted
23 murder and forcible confinement which had
24 been laid against Pickton. Corporal Connor
25 had no personal contact with victim 97 --

1 That's the same person sometimes referred to as
2 Anderson.

3 -- during this entire investigation because
4 Constable Strachan and Constable Casson or
5 Casson had taken victim 97's original
6 statement. During Corporal Connor's
7 interview he advised that he had received a
8 telephone call from Assistant Crown Attorney
9 Randi --

10 That's a lady attorney.

11 -- Randi Connor and was told the following:
12 Connor: Victim 97 wasn't, wasn't
13 co-operating, wasn't attending her meetings,
14 scheduled meetings; and she said just based
15 on her heroin addiction and her lack of
16 co-operation, that the likelihood of
17 conviction wasn't going to be there --
18 Evans: Oh, okay.

19 Connor: -- and that she was going to stay
20 the charges, so --

21 And then Evans concludes:

22 Corporal Connor was not involved in the
23 decision to stay Pickton's charges nor did he
24 have any contact with victim 97 up to this
25 point.

1 Now, my only question there is I've also read your
2 interview together with your staff sergeant
3 assistant when you were the inspector, Mr.
4 Williams, your interview of Corporal Connor, and
5 it pretty well mirrors what is here in the report
6 of Deputy Chief Evans, and so I'm just wondering
7 if it might be -- I don't challenge the accuracy
8 of your report that the Crown did stay it, and
9 there we see this problem, largely Crown counsel
10 who had made that decision. And we will have
11 questions on that, but I'm wondering if there
12 might be a mistake in the writing of your report
13 by referring to a lack of co-operation with both
14 the police and perhaps that phrase shouldn't
15 really be there?

16 A Well, based on Deputy Evans and based on the
17 affidavit of Sergeant Mike Connor, which is
18 contained in here, where it says the criminal
19 charges were subsequently stayed by Miss -- Ms.
20 Randi Connor, the Port Coquitlam Crown counsel
21 office, because of continued heroin addiction and
22 her unreliability to attend Crown counsel for
23 related interviews, perhaps there's no indication
24 of the police, but we -- we may have assumed and
25 we may have got the impression that the victim was

1 not -- you know, when the victim was not
2 contacting the Crown, in normal circumstances the
3 Crown may contact the police to see if we can
4 locate her and that was probably our intentions;
5 that she refused or couldn't -- either couldn't be
6 located because of her continued addiction and her
7 unreliability; that the police as well as the
8 Crown -- she wasn't co-operating. So that might
9 have been how we came to be using those words.

10 Q Thank you very much for that. Thank you for
11 mentioning that you also checked a passage in the
12 affidavit of -- is that the draft affidavit of
13 Corporal Connor or the affidavit of Sergeant
14 Connor? I'm aware that it's there.

15 A It's the affidavit of Sergeant Mike Connor.

16 Q Right. The one that was used ultimately in 2002?

17 A Yes.

18 Q Thank you. And so -- because I formed the
19 impression from everything I've read about -- of
20 the words of Corporal Connor that he was actually
21 quite irritated with the staying of the charge and
22 didn't agree with it. Did you form that
23 impression too?

24 A I don't -- I don't recall that. Obviously it's a
25 long time ago, but I can assure you that most

1 times when the charges are stayed that unless
2 there's a good reason, the police will be
3 somewhat -- I guess not impressed is the easiest
4 way to say it, because a lot of hard work goes
5 into these and obviously we want to bring the
6 people to justice and certainly if the charges are
7 stayed, there has to be a good reason and -- and
8 often more than not then the charges are stayed
9 without any notification of the police. So I
10 would suggest that he would be somewhat upset,
11 yes.

12 Q Well, I also thank you for that because that's the
13 other aspect of this I wanted to pursue. I want
14 to draw on your experience a little more than what
15 you've just said now. That what is -- what is it
16 in your experience the right role -- maybe role is
17 not the correct word, but what should be the
18 interaction between Crown counsel and the police
19 officer or officers who were involved in the
20 research and assistance in the laying of the
21 charges? What should be their interaction before
22 a stay is entered under the prerogative of Crown
23 counsel in your experience?

24 A It's a little different, I believe, in this
25 province compared to other provinces. And I

1 haven't been in this province -- stationed in this
2 province since 1999. So they have what they would
3 call -- I call as a report to Crown counsel where
4 the charges are contemplated by the Crown and laid
5 appropriately; that they decide on the direction
6 there what charges to be laid. Other divisions
7 such as Alberta, the police lay the charges and
8 the Crown prosecutes. When it comes to a point --
9 in my experience and my opinion when charges are
10 stayed or withdrawn or whatever, I'm always the
11 one that would like to have, you know, meetings to
12 discuss what options there are and certainly give
13 the opportunity for the Crown to -- to say we need
14 to do more work or give a good reason. The
15 unlikelihood of conviction comes up quite
16 frequently and certainly if that comes up, then
17 what steps need to be taken if there are available
18 steps to, you know, bring the likelihood of
19 conviction into play. You know, is there other
20 investigative avenues or strategies that we can
21 employ to try and bring the charges so that the
22 charges will proceed through the court system?

23 Q So that really speaks to there being, in your
24 view, some obligation on Crown counsel to consult
25 with the police who put the charge -- who have

1 done a lot of hard work?

2 A Unfortunately, some Crown counsel don't consult.
3 You know, I'm not fully appraised, but in my
4 experience, every once in awhile you'll receive
5 notification that a charge has been withdrawn or
6 stayed without our consultation. It's up to an
7 individual prosecutor, I would suggest. Some are
8 more favourable and work closer with the police
9 than others and, you know, if we can -- it's a
10 team effort sort of thing, the Crown and the
11 police, when they're working on the prosecution
12 avenue. If they would give us a reason or get
13 together and explain the process of the law, it's
14 a lot easier. Not only that, we encourage them to
15 bring the families in or immediate associates of
16 the person that's affected by the charges being
17 withdrawn or stayed and certainly meet with them
18 and provide them with an explanation.

19 Q But in terms of both of the police and the Crown
20 counsel being involved in the same endeavour, the
21 investigation and prosecution of crime, would it
22 be your opinion that that consultation ought to
23 take place?

24 A That would be my opinion, yes, sir.

25 Q Having in mind also the hard work at the public

1 expense that's gone into the investigation and
2 prosecution of the case up to that point?

3 A Yes, sir.

4 Q The second matter I'd like to pursue for a few
5 minutes is the subject of -- I'll call it
6 communication. We're going to hear soon, Monday,
7 I believe, from Deputy Chief Evans, and part of
8 her report talks about the matter of
9 communication, in particular communication between
10 police forces where you have perhaps a
11 multi-jurisdictional offence. And so can I speak
12 to you about that for a moment with some
13 questions? And I think a good starting point for
14 this would be to go back to the Evans report at
15 page -- I think it's 48.

16 A 8-48?

17 Q 48, yes.

18 A Yes, sir.

19 Q Now, before I look at the material on this page,
20 in your interview of the police officers for the
21 writing of your report, in particular Corporal
22 Connor, what was your understanding of the charges
23 that were laid against Pickton in that March 23,
24 1997 matter?

25 A My recollection is it was certainly an attempt

1 murder. I don't recall the other associated
2 charges.

3 Q Again, they were attempt murder and --

4 A And I believe sexual assault.

5 Q Sexual assault.

6 A I don't recall the other charges.

7 Q All right. Well, what about forcible confinement?

8 A In -- I'm just reading it here. I don't remember.
9 I remember that the -- you know, from my report --
10 I'd have to look at it, but certainly attempt
11 murder and sexual assault, I believe, was
12 prevalent, forcible confinement. I understand
13 there was additional charges laid as well.

14 Q Yes. Well, in the first paragraph on page 48 in
15 the Evans report, she identifies that Pickton was
16 charged with attempted murder and forcible
17 confinement. Now, whether or not she herself left
18 out other charges I don't know, but those are the
19 two that she identifies there in her report?

20 A Yes. And subsequently in my report I put sexual
21 assault, attempt murder, et al, which means
22 additional charges.

23 MR. ROBERTS: All right. Well, I wonder if you could put
24 Exhibit G, Mr. Registrar, For Identification
25 before the witness.

1 THE REGISTRAR: Exhibit G?

2 MR. ROBERTS:

3 Q Tab 1. I'm just going to this one -- first page
4 at Tab 1. You can stay right there. The Tab 1 at
5 Exhibit G For Identification simply sets out
6 Section 279 of the Criminal Code and 279(2) is the
7 section for charging forcible confinement. Do you
8 see that?

9 A Are you --

10 MR. ROBERTS: G For Identification. At least that's what my
11 records say it should be. Documents for the
12 cross-examination of Deputy Chief Douglas LePard,
13 Tab 1. I might be operating, Mr. Commissioner,
14 under a misunderstanding. I thought the binder I
15 put forward for cross-examination of Douglas
16 LePard is Exhibit G For Identification. If not,
17 what is, Mr. Registrar?

18 THE REGISTRAR: Let me see what you have there.

19 MR. ROBERTS: I had it correctly assembled with tabs for both
20 the exhibit and for the commissioner. The only
21 reason I'm going to it is because the section of
22 the code is there under Tab 1, which has the
23 forcible confinement section.

24 THE REGISTRAR: Perhaps we can take a break.

25 THE COMMISSIONER: We'll take the morning break.

1 THE REGISTRAR: The hearing will now recess for 15 minutes.

2 (PROCEEDINGS ADJOURNED AT 10:54 A.M.)

3 (PROCEEDINGS RESUMED AT 11:15 A.M.)

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

5 THE COMMISSIONER: Mr. Roberts.

6 MR. ROBERTS:

7 Q Mr. Commissioner, Darrell Roberts for Marion
8 Bryce. The exhibit reference actually is H. I
9 was one out, so I couldn't find that. If you
10 could turn to it. But I have a question that
11 relates back to a stay in a moment. If you could
12 just turn to Tab 1 in Exhibit H and I'll come to
13 it in a moment. Can I take your mind back to the
14 subject of a stay, Mr. Williams, please? Just can
15 we go back to a stay, the subject-matter for a
16 moment?

17 A Yes, sir.

18 Q In your experience -- perhaps I should put it in
19 your opinion, does there ever become an occasion
20 where someone senior in the police might approach
21 the Attorney General to have -- let me stop the
22 question. A stay is a discretionary matter. The
23 charge can always be proceeded with by a change in
24 that discretion?

25 A Yes, sir.

1 Q Has there ever been in your experience an occasion
2 to go to the Attorney General and ask for a stay
3 to be lifted?

4 A Yes. Definitely. Yes.

5 Q And that is -- and is that something which the --
6 a senior police person might consider approaching?

7 A I believe there -- if it was brought to their
8 attention and the police -- the involved police
9 officer or investigative body or the investigators
10 had made that submission, certainly it would be --
11 it's not out of the ordinary that the senior --
12 senior officer or senior supervisor, preferably an
13 officer, would probably contact -- in my
14 experience we usually go to the Assistant Deputy
15 Minister of Justice. That would be our first --

16 Q I see.

17 A It's a little different in this province, but I'm
18 more familiar with how we would do it in other
19 areas. It has been done, yes.

20 Q And so if Corporal Connor, for example, felt
21 strongly enough about it -- and I guess it depends
22 from person to person, but let's assume he did --
23 he would have an avenue to pursue by approaching
24 somebody else senior in his command or in the
25 province to have such an approach considered?

1 A I'm not familiar with how they would do it, but I
2 would suggest that if -- Corporal Connor could
3 approach Inspector Moulton or Superintendent Hall
4 to make a submission, you know, via criminal
5 operations, who has the contacts or the
6 appropriate parties within the Attorney General's
7 department to consider it.

8 Q All right. Thank you. Communication. The
9 section of the Criminal Code that's open before
10 you in Tab 1 of Exhibit H is Section 279 and (2)
11 reads:

12 Everyone who without lawful authority
13 confines, imprisons or forcibly seizes
14 another person is guilty of an indictable
15 offence and liable to imprisonment for a term
16 not exceeding 10 years.

17 That's the full reading of the section. It's sort
18 of popularly known in policing circles as a
19 forcible confinement charge?

20 A Yes, sir.

21 Q All right. And this would be the section that
22 Pickton would have been charged under in that
23 March 23, 1997 matter?

24 A I would have to agree with you. I'm not familiar
25 with the actual charges other than kidnapping, so

1 I'm assuming this 279(2) would be applicable.

2 Q Well, it is the forcible confinement charge
3 section, isn't it, 279(2)?

4 A Yes, but I'm not sure if that was the charge that
5 was laid.

6 Q But before I close up the book, it is a companion
7 section to the kidnapping charge under 279(1)?

8 A Yes, sir.

9 Q And often thought of as a sister companion. I.e.
10 forcible confinement together with transporting
11 from point A to point B would be your kidnapping
12 charge?

13 A Yes, sir.

14 Q Now, I guess I should have asked you this. I take
15 it you don't recall having a conversation with
16 Corporal Connor, who you were interviewing to
17 write your report, as to his involvement, if any,
18 in the laying of the forcible confinement charge?

19 A I don't recall that. The investigation would have
20 been forwarded in its entirety to Crown counsel,
21 who would have recommended the following charges.
22 That's normally the way it's done.

23 Q Well, I guess now I'm drawing upon your
24 experience. It would be normal, however, for
25 Crown counsel to draw also upon the participation

1 and the work of the police in laying the charges?

2 A Yes.

3 Q And it would be most likely for the policing
4 person -- here in this case Corporal Connor, who
5 was the officer in charge on this matter, it would
6 be most common for him to be aware of all of the
7 charges?

8 A I believe so, yes.

9 Q And have some involvement with Crown counsel in
10 the laying of those charges, at least -- at least
11 on a communication basis?

12 A I would think so. I can't speak for Corporal
13 Connor what transpired at that time, but in normal
14 circumstances, yes. I agree.

15 Q Right. That would be normal. And so let's stay
16 with the stay for a moment. When these charges
17 became stayed, that, of course, included the
18 staying of a forcible confinement charge, right,
19 obviously?

20 A It stayed all the charges, I believe, yes.

21 Q Yes. Would you take a moment, then, to look at
22 that page I took you to earlier, page 48 of
23 Jennifer Evans' report?

24 A Yes, sir.

25 Q Are you there at page 48?

1 A Yes, I am.

2 Q I'm just going to refer to the second paragraph:

3 Victim 97 --

4 That's Anderson.

5 -- provided a statement to RCMP Constable
6 Casson and Constable Strachan and advised
7 that at approximately midnight she was
8 hitchhiking in the area of Cordova Street and
9 Princess Avenue in the Downtown Eastside of
10 Vancouver when she was picked up by a male
11 who identified himself as Willy. At the time
12 he was driving a 1981 red pick-up truck that
13 she described as a work vehicle. Willy
14 offered victim 97 one hundred dollars for a
15 blow job if she agreed to attend his
16 residence in Port Coquitlam. She agreed. On
17 the way to Port Coquitlam she asked Willy to
18 stop at a gas station so she could use the
19 washroom. He ignored her request and drove
20 on the freeway to get to his trailer. She
21 indicated that she believed he did not stop
22 because he did not want anyone to see her
23 because she wasn't expected to get out of
24 there.

25 I'm not going to read more. You've read all of

1 this before. I think it would have been in the
2 file which you reviewed, Mr. Williams?

3 A Yes. Quite a bit of this is reference -- if you
4 look at the bottom of the page, it's coming from
5 my report.

6 Q Yes. That's reference -- quite good for you.
7 It's reference to your report, so you've read it
8 before. This was obviously seen by Crown counsel
9 as a basis for the forcible confinement charge in
10 the handcuffing of him -- the handcuffing that
11 Pickton put on Anderson. That's in the middle of
12 the next paragraph. He handcuffed her wrist and
13 said something, used an abusive phrase. All of
14 this evidence was the basis, it would appear, for
15 the forcible confinement charge?

16 A That would be my suggestion, yes.

17 Q Would you not expect that a knowledgeable police
18 officer would also see it as a basis for a
19 kidnapping charge if it was -- took account of the
20 transporting of these people from Vancouver to --
21 this person from Vancouver to Port Coquitlam?

22 A Well, I guess it would be something you'd have to
23 examine when you -- the investigation would be set
24 out by Corporal Connor with the statements and the
25 material would be provided to the Crown counsel

1 for decision on charges. I assume that what's
2 contained in the investigation that was conducted
3 on this particular incident would certainly lend
4 support to the Crown prosecutor to determine what
5 charges to be laid, if any. I anticipate if there
6 was additional evidence or sufficient evidence to
7 lay a kidnapping charge, then we would have
8 considered a kidnapping charge. I can't speak for
9 the Crown prosecutor, of course, though.

10 Q All right. Well, I guess I'm trying to explore
11 this with you. My thinking is sort of being --
12 and you correct me if I'm wrong -- that the
13 kidnapping charge will be one which would be laid
14 by the jurisdiction where the snatching occurred,
15 which would be in Vancouver. Would it be open
16 to --

17 A That would be open to a discussion, I would
18 assume, probably between the RCMP and Vancouver
19 Police Department. If they -- if the evidence
20 supported -- supported that, I anticipate that it
21 could be the wording of the information. The RCMP
22 could probably lay the charge at or near
23 Vancouver, the kidnapping. I'm not sure how they
24 would do it.

25 Q Well, that's part of my question. Would it be

1 open to Crown counsel, together with the RCMP, to
2 have charged on these facts kidnapping in a charge
3 laid in Coquitlam?

4 A Yes. I agree.

5 Q Even though the snatching is from another
6 jurisdiction?

7 A If the evidence that the investigators had found
8 and determined that there was a kidnap from
9 another jurisdiction, they could certainly put the
10 investigation forward to the Crown counsel to lay
11 that charge.

12 Q So the thinking that I had that the charge of
13 kidnapping could only be laid in the jurisdiction
14 where the snatching occurred -- a snatching is a
15 term used at street level by police officers for
16 kidnapping?

17 A I've heard that, yes.

18 Q So it would be wrong to think that the only
19 jurisdiction that could lay the kidnapping charge
20 would be Vancouver?

21 A I believe they -- they could still lay the charge
22 in Coquitlam, yes.

23 Q All right. But that leads to another question
24 that relates to the stay. The stay would be of
25 the charges which includes forcible confinement.

1 There's no stay of the potential of a charge for
2 kidnapping?

3 A That's my understanding. There was -- I believe
4 you said there was four charges and they were all
5 stayed.

6 Q Yes.

7 A Certainly attempt murder, sexual assault, unlawful
8 confinement. And I'm not sure what the last one
9 was.

10 Q Did you have any discussion in your interviewing
11 with Corporal Connor on the subject of the
12 potential for a kidnapping charge?

13 A No. I don't believe we did.

14 Q Either for one laid in -- one that was brought in
15 Coquitlam or one brought in Vancouver, either way?

16 A No. I think we just referenced the investigation
17 of the victim and took the details, and it was
18 contained in our report as something to look at.

19 Q But a knowledgeable -- knowledgeable or not,
20 police officers have a duty to investigate crime,
21 right?

22 A That's correct.

23 Q They take an oath to that effect?

24 A Yes, they do.

25 Q The oath is to prevent crime and to investigate

1 crime. Generally speaking that's the way the oath
2 works?

3 A Yes.

4 Q And the Supreme Court of Canada has spoken on more
5 than one occasion that police have a duty to
6 investigate crime?

7 A That's correct.

8 Q And, actually, to put a fine point on it, that
9 means where a crime is suspected?

10 A That's correct.

11 Q That's where the term suspect -- suspect comes
12 from, is a police -- police don't investigate
13 general bad behaviour. They investigate a
14 suspected crime; am I not right?

15 A Yes.

16 Q All right. So let's move ahead a little bit from
17 March 23, 1997. You know from your discussion
18 with Corporal Connor, your interview of him both
19 by yourself and -- I think it's Mr. Simmill, the
20 staff sergeant who worked with you, that in 1998
21 Corporal Connor met with Detective Constable Lori
22 Shenher in -- as a consequence of a contact made
23 after she received the tipster information from
24 Mr. Hiscox. And I'm summarizing here, but I
25 believe they got together and Corporal Connor gave

1 her his file on the 1997 attempt murder/forcible
2 confinement matter, correct?

3 A That's -- yes. I believe so, yes.

4 Q Now, the file, Mr. Williams -- I'm sorry. I'm
5 addressing you as Mr. Williams. I'm being
6 evenhanded here. You're okay with that?

7 A Absolutely.

8 Q Thank you, sir. The file would have contained the
9 witness statement that we're looking at here at
10 page 48?

11 A I believe that if he gave the entire file, then it
12 should be all there, yes.

13 Q Now, this is after the charges have been stayed in
14 Coquitlam that occurred in January, '98. And if I
15 have read the Evans report correctly, she
16 compliments -- or commends is a better word --
17 Corporal Connor for communicating, by getting
18 together with Constable Shenher and assisting in
19 this way?

20 A Yes.

21 Q My question to you is would they not explore
22 potential charges that could be brought? I don't
23 know the correct word I want, but to avoid or
24 circumvent the stay and -- would there not be some
25 obligation to communicate one to the other that

1 there's still a potential charge here that you
2 people can bring?

3 A I wouldn't be able to properly -- properly answer
4 that because I'm not sure that the discussion
5 between Corporal Connor and Detective Shenher --
6 I'm not sure if they would have discussed that or
7 not, but I'm certainly -- I'm certain that -- you
8 know, I'm relying on my experience with Crown
9 prosecutors. Once they have the information and
10 the investigation was completed, it was all sent
11 to Crown and Crown made the determination of what
12 charges to lay. To me to expand further why
13 certain charges weren't laid, I don't have the
14 benefit of -- you know, I'm not familiar enough
15 with the investigation.

16 Q I see. But you are familiar enough with the
17 duties of policing that a police officer is
18 supposed to know the crime that they're
19 investigating, right?

20 A Yes.

21 Q And kidnapping is a well known crime, is it not?
22 It occurs all too frequently in this country?

23 A It occurs frequently, yes.

24 Q Pardon me?

25 A It occurs frequently, yes.

1 Q Yes. And there are three kinds of kidnapping that
2 seems to occur, if I can put it into three
3 categories. There is kidnapping in family custody
4 matters? That's one of them?

5 A Yes, sir.

6 Q Another is for ransom?

7 A Yes.

8 Q And another is by, for want of a better thought,
9 serial killers of children or women?

10 A Yes. That's possible, yes.

11 Q Yes. And when kidnapping occurs -- start again.
12 Police officers are required to know the law of
13 kidnapping; that the intention and the act come
14 together in the snatching of the person from the
15 street?

16 A Yes. If they're snatched from the streets, yes,
17 they're kidnapping.

18 Q Yes. And that the intention is a legal
19 presumption. Police officers are supposed to know
20 that, that one intends the natural and probable
21 consequences of one's act?

22 A Yes, sir.

23 Q That's a duty to know that?

24 A Yes.

25 Q And where there are facts that appear to be a

1 willing giving into one's -- another's custody on
2 a representation which is then violated by some
3 act of violence, the legal presumption the
4 officer's supposed to know is that the act of
5 violence was intended from the outset?

6 A The act of violence, yes. I agree with you. But
7 like I've indicated before, the investigation was
8 completed and the facts of the investigation as
9 they were known by the investigators was forwarded
10 to the report -- in their report to Crown counsel
11 and the determination -- I'm led to believe in
12 this particular province the determination of the
13 final charges would be based on the evidence -- or
14 based on the investigation and the evidence
15 contained within the report, and that would assist
16 the Crown prosecutor in making a determination of
17 what charges to lay.

18 Q I understand that, Mr. Williams. What I'm
19 focusing on is in August of 1998 when Corporal
20 Connor gets together with Lori Shenher, Detective
21 Constable Shenher on the subject of communication,
22 wouldn't there be some expectation that they would
23 communicate and share knowledge as to the
24 potential crimes that emerge from facts which are
25 presented to them?

1 A I would -- I would suggest that the -- that
2 Corporal Connor and Detective Shenher would have
3 discussed their investigation, yes. I'm assuming
4 they would.

5 Q Would you assume that they -- would it also be
6 your assumption that they should be able to look
7 at a set of facts, as we see here on page 48, and
8 be able to recognize on those facts the potential
9 for a crime of kidnapping?

10 A I suppose you could -- you could look at the facts
11 and if there was sufficient evidence based on your
12 discussions with Crown counsel to lay a kidnapping
13 charge, then I'm assuming that Crown counsel -- or
14 the Crown prosecutor would consider laying a
15 kidnapping charge. In this particular instance it
16 appears that the Crown of the day or the report to
17 Crown counsel contains insufficient evidence to
18 lay a kidnapping charge or that there wasn't
19 sufficient evidence to lay a kidnapping charge and
20 they elected to charge with forcible confinement.

21 Q What about simply laying forcible confinement,
22 because that appeared to be the offence in their
23 jurisdiction?

24 A I can't comment on that, whether or not that the
25 Crown prosecutor would have taken that into

1 consideration. That's -- I never spoke with the
2 Crown prosecutor. Certainly that's a possibility,
3 but that's something that the Crown prosecutor
4 would be in a better position to explain.

5 Q All right. But that's certainly a possibility,
6 that these facts supported a crime of forcible
7 confinement which occurred in Coquitlam, which is
8 the jurisdiction of the RCMP for this matter, was
9 it not?

10 A Yes. That's very possible.

11 Q But, on the other hand, when we're now talking
12 about a communication between two police officers
13 later after the charge has been stayed and you're
14 looking at the same set of facts for some other
15 possible crime, forcible confinement is the same
16 thing as kidnapping except it doesn't have the
17 transporting from A to B, that's all?

18 A Basically that's -- that's correct, yes.

19 Q And here these facts show that transportation?

20 A Yes.

21 Q To come back to the beginning, this did not form
22 part of your discussion with Corporal Connor. I
23 understand that.

24 A Not really. We took the information surrounding
25 the previous investigation and the fact that the

1 charges were stayed. We didn't, you know, go into
2 it to any great depth.

3 Q All right. Thank you. I want to turn in your
4 report -- my third point I want to address is
5 touched on at page 10 of 27 and, again, it flows
6 over the next few pages to 14 of 27 of your
7 report. If you would mind going there, please.

8 A Yes. I'm there.

9 Q First, at the middle of page 10, Mr. Williams, I'm
10 troubled only a little bit by the reference to
11 Lynn Anne Ellingsen at the top of what follows
12 from the bottom half of the page, because right
13 underneath that, the first paragraph talks about
14 August of 1998 Detective Lori Shenher calling Mike
15 Connor, et cetera, et cetera. That, of course,
16 has nothing to do with Lynn Anne Ellingsen.
17 Ellingsen doesn't surface until July of 1999. I'm
18 not suggesting you've written a mistake in your
19 report. I have a hunch that what happens here is
20 that these titles simply come off the files that
21 were in Coquitlam's office?

22 A I would have to research that a little bit, sir.
23 The -- the file -- the Lynn Anne Ellingsen file
24 were taking some of the information right off the
25 file, so --

1 Q But in your report -- just turn over the page,
2 please, to 12 of 27. Ellingsen was an unknown
3 informant -- I don't know if that's the right
4 word -- to Caldwell that surfaced in July, 1999.
5 See that in the middle of the page, 12 of 27?

6 A In July of '99?

7 Q Yes.

8 A Yes.

9 Q All right. Well, I'm not concerned right now with
10 July, '99. I'm going back to the previous page,
11 10 of 27. There the subject-matter really is the
12 information from tipster Hiscox which surfaced on
13 the 27th of July, 1998, one tip. And another one
14 was August 6th, 1998. And so if the reference at
15 the top in the subtitle or whatever, Lynn Anne
16 Ellingsen, is meant to reference what is below,
17 that would be a mistake, of course. It had
18 nothing to do with it?

19 A I'd have -- I'm not entirely sure. I'd have to
20 look at the investigation.

21 Q I'm asking you to take it from me that that's so.

22 A I beg your pardon?

23 Q I'm asking you if you will accept my word for it
24 that Lynn Anne Ellingsen has nothing to do with
25 events in 1998?

1 A The entire investigation has been -- if you look
2 above that -- I'm not sure if we're referring to,
3 you know, the -- the whole file and if there is a
4 date, if it is a -- if it is a -- the file on Lynn
5 Anne Ellingsen is dated '98. 33017, that's a
6 Coquitlam file, so I'm just -- I'm only taking --

7 Q Mr. Commissioner, if it's all right for counsel
8 for the Department of Justice, I'm not going to
9 press him on his memory on this.

10 A I don't recall that, if it's August of '98. If
11 it's a typographical and it should have been '97,
12 then I'll concede to that.

13 MR. ROBERTS: I'm not suggesting anything. All I am suggesting
14 is that Ellingsen actually doesn't arise in the
15 circumstances of this case until 1999 and I'm
16 quite content to have the reference to Lynn Anne
17 Ellingsen as it precedes 1998 as some sort of
18 misnomer.

19 MR. BRONGERS: I'm wondering, Mr. Roberts and Mr. Commissioner,
20 perhaps if we can suggest to the witness that
21 perhaps the subheading is the reference to the
22 title that has been given to the file that he was
23 reviewing.

24 MR. ROBERTS:

25 Q I have a hunch that's so.

1 A I think that's fair to say.

2 Q That's fine. But my real substantive point is
3 picked up on page 14 and about the middle of the
4 page. Now, just below the middle of the page it
5 reads:

6 Corporal Connor advised that many discussions
7 were had with the investigative team in
8 relation to obtaining a search warrant for
9 the Pickton property. Based on the fact that
10 there were two instances of dated
11 information, two instances of secondhand
12 information and no identified victim or
13 person that had disappeared from Vancouver's
14 East End during the period of March or April,
15 1999, there were insufficient grounds to
16 obtain a search warrant.

17 I've read that to you correctly?

18 A Yes, sir.

19 Q Now, I'm interested in the two instances of dated
20 information. From your recollection of your
21 investigation, one of those instances was probably
22 the Hiscox information in 1998?

23 A I would assume that could be one of them, yes.

24 Q All right. I just want to explore Corporal
25 Connor's involvement with respect to Hiscox and

1 your understanding of it for the purposes of the
2 report which you wrote. And I think it's best to
3 identify this by going to the -- actually, the
4 next paragraph that I just read, the one after it
5 tells me where I want to go. You say:

6 The grounds for belief are outlined in the
7 attached Appendix J.

8 Stop there. Appendix J was a draft affidavit that
9 Corporal Connor had prepared?

10 A Work in progress is --

11 Q You call it a work in progress?

12 A Yes.

13 MR. ROBERTS: Yes. And you say:

14 You will note that these grounds were a work
15 in progress by Corporal Connor and now form
16 part of the Project Evenhanded investigation
17 as an affidavit Exhibit C prepared by
18 Sergeant Mike Connor.

19 Can I just take you to that work in progress for a
20 second? I believe Mr. Registrar has referred to
21 this as being one of the documents that's under
22 2A, is it, that was referred to yesterday?

23 THE REGISTRAR: Right. That's the Williams documents?

24 MR. ROBERTS:

25 Q Yes.

1 A Yes.

2 Q And that's the work in progress affidavit, but
3 it's more than that. Actually, it appears to have
4 been --

5 A This is the -- this is one of the final
6 affidavits, I believe, so I'm not sure if this is
7 the actual one that we were referring to as the
8 work in progress.

9 Q The one you refer to is a work in progress,
10 because you see at the second line at the top he's
11 got a date on it, which is the date he actually
12 swore the affidavit as Sergeant Connor?

13 A Yes.

14 Q And just for completeness, in that binder which
15 you have in front of you that is now marked as
16 Exhibit H -- remember the documents for
17 cross-examination? It has in it the section of
18 the Criminal Code?

19 A Yes, sir.

20 Q Could you turn to the last tab of that document,
21 please?

22 A Tab 7?

23 Q Yes.

24 A Yes.

25 Q I think you'll find there the actual affidavit

1 sworn by Sergeant Connor, Tab 7?

2 A Yes.

3 Q Let me use that for the questions I'm now going to
4 ask you. Sergeant Connor actually swore this
5 affidavit and provided it for a wider search
6 warrant after the young officer had obtained a
7 search warrant for hand weapons --

8 A Yes.

9 Q -- in 2002?

10 A That's part of it, yes.

11 Q Yes. And you've read this affidavit, of course?

12 A Yes.

13 Q Let me just identify that all of the paragraphs in
14 this affidavit that begin with the bottom of the
15 first page, the tipster information --

16 A Yes.

17 Q -- are with respect to that information on July
18 27, 1998, which later turns out to be from a Mr.
19 Hiscox?

20 A I believe so, yes.

21 Q Pardon me?

22 A I believe so.

23 Q All right. So let me just identify that all of
24 the paragraphs on the next page and on page 3 and
25 on page 4 and on page 5 and 6 down to the end of

1 the paragraph on page 6 just before the two-line
2 paragraph at the very bottom, all of those
3 paragraphs relate to the source information Hiscox
4 provided to Lori Shenher and shared to some extent
5 with Corporal Connor in 1998. Do you accept that?

6 A I accept that, yes.

7 Q And then if you could keep your finger there, also
8 go to the very end of this affidavit, page 26,
9 halfway down the page 26.

10 A Yes.

11 Q The paragraph that begins "That with respect to
12 the information from source A". Source A is Mr.
13 Hiscox, Mr. Williams.

14 A Okay. I'm not familiar with that.

15 Q Will you accept it from me that's who it is?

16 A If you're telling me that, yes.

17 Q

18 This information was received secondhand, but
19 Sergeant Connor believes that reliability
20 that can be attached to it. Source A
21 describes the business owned and operated by
22 Pickton, so on. The source indicates a
23 number of female identification was observed,
24 which is confirmed by Caldwell. Source A
25 described the Pickton residence as a trailer,

1 which it is.

2 And the rest of it goes down and including in the
3 last paragraph on the page. Source A admits that
4 the information through Lisa Yelds. That's where
5 Hiscox got his information.

6 That she is a biker type person. Sergeant
7 Connor has confirmed Yelds' association to
8 Pickton and lifestyle from information from
9 Mrs. Hyacinthe.

10 Earlier Mr. Ward asked you about the Hyacinthe
11 family?

12 A Yes.

13 Q That paragraph and then the paragraph on the top
14 of page 27 also appears to refer to Hiscox. The
15 source A used the term trophies as it related to
16 the victims' articles of identification and
17 clothing and that he then checked out with John
18 Cater of the RCMP that that's the kind of language
19 of a serial killer. My point of my questions to
20 you are these: In your interview of Corporal
21 Connor, did you ask him any questions about why
22 this source information wasn't sought to be
23 developed into a search warrant back in 1998 when
24 it was received?

25 A I believe we covered that off with Corporal Connor

1 in -- I'm not sure to what degree, but we were
2 under the impression, the review team, that they
3 had insufficient evidence to obtain a search
4 warrant.

5 Q You were under the impression which again?

6 A Our impression was that they had insufficient
7 evidence to obtain a search warrant at the time.

8 Q Your impression. Did you ask him whether they had
9 pursued -- there is some discussion in your
10 material that they were thinking of using Hiscox
11 as an undercover person?

12 A I wouldn't say undercover. You're perhaps talking
13 about maybe using him as an agent. There was some
14 discussions. Certainly I think they explored
15 those areas as a result to check to see if he
16 would be a suitable person for an agent, and as
17 well Sergeant Connor, Corporal Connor at the time,
18 felt we were under the impression they didn't have
19 enough to do -- enough evidence to -- to obtain a
20 search warrant.

21 Q Is there anywhere in your interview statement that
22 you can point to that sort of conclusion being
23 drawn?

24 A I'd have to review my statement with Corporal
25 Connor, but --

1 Q Well, I'm not going to pursue it now.

2 A Everything in our review was conducted. We asked
3 Corporal Connor the questions. Everything that's
4 in here is what he supplied us. Certainly if
5 he -- he would have -- you know, there was a
6 number of discussions were held obtaining a search
7 warrant.

8 Q But back at page -- sorry.

9 A In page 14 I think he referenced my report and I'm
10 going to relay to you what was relayed to us by
11 Corporal Connor.

12 Q Yes.

13 A He advised that:

14 Many discussions were had with the
15 investigative team in relation to obtaining a
16 search warrant for the Pickton property.
17 Based on the fact that there were two
18 instances of dated information, two instances
19 of secondhand information and no identified
20 victim or person that had disappeared from
21 Vancouver's East End during the period of
22 March or April, 1999, there were insufficient
23 grounds to obtain a search warrant.

24 Q You don't have to have identified bodies. You can
25 have a search warrant for things that may be found

1 on his property with respect to a suspected
2 murder, can you not, things, anything?

3 A You'd have to have pretty good information to
4 obtain an information to obtain a search warrant
5 for things.

6 Q But Corporal Connor checked out who Lisa Yelds
7 was, confirmed who she was?

8 A I'm not going to argue with you. I'm just saying
9 that he referred to us that there was insufficient
10 grounds to obtain a search warrant. We had no
11 reason to disbelieve him. He's an experienced
12 member and certainly, you know, the grounds were
13 what we thought was a work in progress because
14 he -- the work in progress was basically done
15 after the fact that Mr. Pickton was arrested.

16 Q But your reference to insufficient grounds is with
17 respect to the new information during the period
18 March, April, 1999, not with respect to back in
19 1998?

20 A Well, I obviously don't -- it appears that we
21 didn't cover that particular area that you're
22 talking about. When we interviewed Corporal
23 Connor, based on the information and the
24 investigation that he had done up to the time of
25 our review or prior to the 2002, February, his

1 relation -- relating to us that he had
2 insufficient grounds to obtain a search warrant.
3 That was basically his opinion.

4 Q But the way -- I'm sorry. I beg your pardon for
5 interrupting you. But the way you've written your
6 report, sir, based on the fact that there were two
7 instances of dated information, it seems to
8 suggest that because it's dated, you couldn't use
9 it now in 1999 to obtain a search warrant. Isn't
10 that the way your report reads?

11 A The report -- we're capsulizing the interview of
12 Corporal Connor. That would have been relayed to
13 us in that fashion.

14 Q So my question to you is when is it in your --
15 according to your understanding of Corporal
16 Connor -- and I suppose you might have to wait for
17 him, but I want to ask this one question: When is
18 it that the RCMP through Corporal Connor and
19 others turned their minds to getting a search
20 warrant with respect to the Pickton property?

21 A I'm not in a position to answer that.

22 Q You're not able to answer that?

23 A No, sir.

24 Q All right. And as to whether or not he turned his
25 mind to it in the fall of 1998, I take it you're

1 not able to answer that either?

2 A No. I'm not able to answer that. Corporal Connor
3 would be in a position to answer that.

4 Q All right. Thank you. And one more question
5 though. Is there any -- along this. Is there any
6 connection here to the question of who -- whose
7 source was Hiscox as to whether or not an
8 investigation was pursued with respect to a search
9 warrant?

10 A There was a number of sources. I'm not familiar
11 with Hiscox, who the handler was, whether or not
12 it was Vancouver Police Department or the RCMP,
13 but certainly the way they were working together,
14 I'm indicating -- or I'm going to say that
15 somebody was probably the source handler and that
16 person would be responsible for the source,
17 whether they transferred into the RCMP or vice
18 versa.

19 Q Can I turn to your interview of Sergeant Connor,
20 please, or that of yourself and Sergeant -- Staff
21 Sergeant Kevin Simmill?

22 A Yes.

23 Q And this would be Tab M of Exhibit 2A, would it
24 be, Mr. Registrar?

25 A Yes, sir.

1 Q One thing I sort of like about your interviews,
2 sir, is the questions are set out. Would it be
3 fair that all questions that were asked of
4 Corporal Connor are here in the interview
5 document?

6 A All the questions we would have asked, yes, should
7 be here.

8 Q Because it was a recorded session?

9 A Yes.

10 Q Thank you. If you'd go, please, to page 30 and
11 31.

12 A Yes, sir.

13 Q And I guess 31 will be fine. About almost
14 two-thirds down the page, Sergeant Mike Connor
15 says:

16 Sharing of information with our people, there
17 was an initial problem that we had with
18 Detective Constable Shenher and her partner
19 in our effort to speak with the first
20 individual.

21 Staff Sergeant Kevin Simmill says: "The source?"

22 Sergeant Mike Connor says: "Yes." "|later
23 identified as Hiscox?" "Yes." Can I just stop
24 there? Do you recall that being -- there was --
25 Mike Connor thought there seemed to be a problem

1 that Constable Shenher was reluctant to share
2 information with him initially with respect to
3 source Hiscox?

4 A I guess you could -- you know, I could go along
5 those lines or the fact that Detective Shenher
6 maybe wanted to speak with her source first to
7 ensure that she was comfortable in talking with
8 somebody else. So before you just go and see my
9 source or talk to my source or something, they may
10 want to talk to them, so that could have been the
11 problem. I don't recall -- Mike Connor is a very
12 good police officer, as is Shenher, and I would
13 certainly think that if they had information to
14 share amongst each other, it wouldn't be, no, you
15 can't speak to my source sort of thing. I'm sure
16 they would work something out.

17 Q Okay. Yes. I understand Connor is a very stand
18 up guy. Could you turn, please, to pages 38 and
19 39? And I'll stop here.

20 A Sure.

21 Q And I think I'll take a good part of these two
22 pages. At the top of page 38, Staff Sergeant
23 Kevin Simmill says:

24 I'm just curious. Originally in '98
25 Detective Shenher comes on board with the

1 Vancouver Police Department with his
2 information, but she doesn't become part of
3 your task force or your review team. Is that
4 because she had something else going on?

5 Mike Connor: I knew she wasn't here.

6 Kevin Simmill: No. I'm just curious about
7 that. I mean she seemed to be bringing the
8 information forward and seemed to be the
9 person working on the missing women from the
10 Vancouver Police side.

11 And then Mike Connor says:

12 Well, as I mentioned earlier to you, have
13 listened to that conversation we had on the
14 phone that day with her when we had
15 previously planned to go and interview Hiscox
16 together. That was our plan, and that either
17 something was being stymied or something was
18 said to her that really she sounded quite
19 strange on the phone. I don't know whether
20 she meant it to be that way or whatever, but
21 I really was kind of concerned about it. I
22 don't know really what the hell was going on
23 there. The Vancouver City Police Department
24 is their bailiwick. It wasn't for me to
25 interfere, but I felt the information was

1 important enough. I just didn't want to let
2 it sit.

3 And he goes on to talk about Hiscox. And then can
4 I take you over the page to 39 and 52 where Kevin
5 Simmill's interjection says:

6 Whose source was it? Do you know whose
7 source it was?

8 Mike Connor: Detective Lori Shenher.

9 Kevin Simmill: Oh, it was her source.

10 Connor: Yes. She was -- well, it wasn't
11 derived throughout a Crimestoppers tip. It
12 was her person. One thing I didn't do and I
13 felt that -- and I had contacted Don Adam
14 about it. It really just kind of dawned on
15 me here not too long ago, was a person phoned
16 this tip line.

17 I'm not going to read further. This seems to
18 identify that so far as Mike Connor was concerned,
19 Hiscox was the source of Detective Constable
20 Shenher and always remained such?

21 A It appears that way, yes, sir.

22 Q Yes. All right. And this has been brought out by
23 some questions by your colleague, Mr. Simmill?

24 A Yes, sir.

25 Q Did you have any conversation with Corporal Connor

1 as to whether any effort was made to share in that
2 source or to receive that source from Constable
3 Shenher?

4 A No. I think basically what -- the questions were
5 asked by Staff Sergeant Simmill and the replies by
6 Sergeant Connor kind of covered off -- it appeared
7 that the source was a source of Detective
8 Shenher's and it appears as well that there was
9 some arrangements made to -- to have Detective
10 Shenher and Sergeant Connor interview the source,
11 and for reasons at that particular time
12 unbeknownst to us and/or to Sergeant Connor, it
13 wasn't completed.

14 Q And there was an interview. The day is October 14
15 or 15, 1998. They both interviewed Hiscox
16 together?

17 A I'm sorry? What --

18 Q October 14 or 15, 1998 they interviewed Hiscox?

19 A Okay. So after this.

20 Q All right. Just a couple questions. A source
21 goes with an investigation?

22 A It can, yes.

23 Q A source often ends up being the basis for
24 information which when checked out can be -- can
25 support a search warrant?

1 A Yes.

2 Q Where it meets the test for a search warrant as
3 laid down by the Supreme Court of Canada?

4 A It would have to be very credible information.

5 Q It would have to be credible?

6 A Yes, sir.

7 Q Well, I already pointed out in Constable
8 Corporal -- Sergeant Connor's affidavit he refers
9 to Hiscox as a credible person. The information
10 was credible?

11 A That's his opinion, yes.

12 Q All right. But, in any event, a police
13 investigation goes with a source or vice versa?

14 A The source forms a part of the investigation, yes,
15 sir.

16 Q Yes. All right. Because the source belonged --
17 or was, according to Corporal Connor, Lori
18 Shenher's source, is that any reason why there was
19 no pursuit by Corporal Connor for a search warrant
20 in the fall of 1998, because it wasn't his source?
21 Could that be part of it?

22 A No. The source of information in the
23 information -- or the source would supply the
24 information. If the source supplied the
25 information to the detective, I'm sure Sergeant

1 Connor could still use that information to form
2 part of his search warrant.

3 Q Yes. But each individual officer is responsible
4 for the protection of the source as an informant,
5 right?

6 A That's right. They're the responsible -- the
7 handler of the source, yes.

8 Q In the fall of 1998 there's other evidence that
9 would indicate that Lori Shenher approached that
10 meeting with Corporal Connor and Hiscox intending
11 to transfer the source from herself to the RCMP.
12 Are you aware of that from any discussion with
13 Corporal Connor?

14 A I don't recall that. Without reviewing the file,
15 I don't recall, but that's not uncommon. Their
16 sources are transferred -- not a lot, but they are
17 transferred from person to person.

18 Q But there would have to be discussion about that?

19 A Absolutely.

20 Q And there would have to be an acceptance of the
21 responsibility to protect that source as an
22 informant?

23 A Yes. From both sides as well as you'd have to
24 have the consent of the source.

25 Q Right. You're speaking, of course, from your

1 experience that that has happened, but you're not
2 aware of any discussion --

3 A I'm not aware of any discussions that that
4 actually happened.

5 Q And, of course, not being able to interview Lori
6 Shenher, that did not come up in your
7 consideration of this case?

8 A No, sir.

9 Q Thank you for the opportunity to ask you
10 questions, Mr. Williams.

11 A Thank you.

12 **CROSS-EXAMINATION BY MR. GRATL:**

13 Q Yes. Superintendent Williams, my name is Jason
14 Gratl. I am counsel for Downtown Eastside
15 interests, including, in particular, sex workers
16 and drug users.

17 THE COMMISSIONER: How long is the estimate that you've given?
18 How long's your time commitment?

19 MR. GRATL: One hour.

20 THE COMMISSIONER: Sorry?

21 MR. GRATL:

22 Q One hour. One hour, Mr. Commissioner.

23 I'd like to draw on your experience as a
24 police officer. When peace officers apply for a
25 search warrant, they file with the court a form of

1 document called an information to obtain?

2 A Yes, sir.

3 Q That's sworn under oath?

4 A Yes, sir.

5 Q And there's a duty on the officer swearing the
6 information to obtain to present full, fair, frank
7 disclosure of all information dealing with the
8 investigation?

9 A Yes, sir.

10 Q When and if a search warrant is issued, in
11 addition to a search warrant order, it's customary
12 in almost all cases to apply for a sealing order
13 over the affidavit?

14 A Not all cases, but some cases, yes.

15 Q And the purpose of a sealing order is to ensure
16 that the information found contained in this ITO,
17 information to obtain, is not released to the
18 public?

19 A That's correct.

20 Q It's kept sealed in the court file?

21 A Yes, sir.

22 Q And no members of the public are permitted access
23 to it?

24 A Not that I'm aware of, no.

25 Q All right. And the purpose of that is obvious.

1 You don't want the information to get out into the
2 public because it could compromise the
3 investigation, correct?

4 A That's the purpose of the sealing order. That's
5 what I'd like to believe, yes.

6 Q And in addition to just compromise the
7 investigation, it might even undermine the
8 efficacy of the search warrant itself in that the
9 target of the search warrant might be able to
10 conceal or hide the sought after evidence?

11 A That's possible, yes.

12 Q Similarly, if there's an application for a
13 wiretap, for an authorization to intercept
14 electronic communications, affidavits in support
15 of such applications are also put under seal?

16 A Yes, sir.

17 Q And there might be a succession of wiretap
18 applications and each one of the applications
19 would itself be put under seal?

20 A Normally if one would, the remainder would, yes.

21 Q And, again, that's a matter of common sense. You
22 don't want the information that there's a wiretap
23 out there being in the public eye because then, of
24 course, the targets of the intercept authorization
25 might modify their behaviour?

1 A Yes. That's possible, yes.

2 Q I mean essentially you don't want those
3 individuals to know either the techniques that are
4 being used or even the fact that they're under
5 investigation?

6 A That's correct. Yes.

7 Q And similar with an undercover operation and the
8 whole point -- an undercover operation only really
9 works if there's a level of deception?

10 A Yes.

11 Q I mean officers pretending to be what they're not
12 in order to get information out of a target?

13 A That's normally the way it happens, yes.

14 Q And the fact that there's this deception is
15 ongoing as part of an undercover operation is
16 necessary for -- for the operation to succeed?

17 A To some degree, yes.

18 Q Okay. So there's an intended level of secrecy
19 about the fact that that deception is ongoing?

20 A Depending on the case and the undercover operation
21 and the file, yes. I agree with you.

22 Q And so when it comes to using tools like search
23 warrants, wiretaps and undercover operations, not
24 only the fact that there's a search warrant out
25 there about to be issued and not only the fact

1 that there's a wiretap authorization, not only the
2 fact that there's an undercover operation in
3 effect needs to be concealed, but the entirety --
4 that the reality of the investigation as a whole
5 needs to be concealed generally, correct?

6 A Generally, yes.

7 Q Okay. So when it comes to serious investigations,
8 including Mr. Big operations or drug conspiracy
9 investigations, secrecy is absolutely paramount.
10 You know that from your experience as a major
11 crime investigator?

12 A Yes.

13 Q And as an administrator of major crime
14 investigations?

15 A Yes, sir.

16 Q And so a leak or a breach of that secrecy protocol
17 is exceedingly important from the point of view of
18 management?

19 A Yes. It would be.

20 Q From the point of view of the command triangle?

21 A Yes. It would be.

22 Q And unauthorized breach of secrecy in the case of
23 a major crime investigation would be a serious
24 breach of discipline?

25 A I would suggest it would be, yes.

1 Q Yes. It might even be a firing offence if you
2 leak --

3 A That's going pretty far, but, you know, that's
4 something that would be considered certainly, yes.

5 Q Similarly, informant privilege is -- you're
6 familiar with the use of informants?

7 A Yes.

8 Q Okay. And so the fact that an individual is an
9 informant must be kept secret?

10 A Yes. Normally, yes. There's different types of
11 informants and sources, but the majority are
12 secret.

13 Q Confidential?

14 A Confidential to the handler and to the force they
15 represent.

16 Q Okay. So the identity of the informant,
17 confidential informant, that's a secret?

18 A Yes.

19 Q As is the information -- the specifics of the
20 information that's provided?

21 A It's usually restricted, yes.

22 Q And the reason for that is that the information
23 itself can lead to revelation of the informant's
24 identity?

25 A Could be, yes.

1 Q Okay. And the reason you don't want to reveal the
2 informant's identity is twofold: One, the
3 informant might be placed into danger?

4 A That's correct.

5 Q For being -- I mean snitches are not welcomed in
6 the underworld?

7 A That's correct.

8 Q They could be hurt or killed if it's learned that
9 they're informants?

10 A It's probably happened, yes.

11 Q And then secondly, of course, you don't want to
12 reveal a person's status as an informant because,
13 again, it could compromise the investigation?

14 A That's correct.

15 Q You don't want the target of the investigation to
16 know that there's an informant out there who's
17 informing against them, correct?

18 A Correct.

19 Q So you recognize in your report you had a
20 conversation with -- an interview with Corporal
21 Henley --

22 A Yes, sir.

23 Q -- apparently on the date of his retirement -- the
24 day of his retirement?

25 A I believe -- it seems to me that that was -- he

1 retired right around the time we did the
2 interview, yes.

3 Q Okay. In fact, Inspector Henderson from the --
4 from the Provincial Unsolved Homicide Unit pointed
5 you in the direction of Corporal Henley?

6 A Yes. That's correct.

7 Q Said you better interview that guy if you're doing
8 the type of investigation you're doing?

9 A Yes.

10 Q Did he tell you why?

11 A Because of his experience and his involvement and
12 his knowledge.

13 Q And anything else at all that you recall about
14 why --

15 A I don't recall.

16 Q I mean he'll be taking the stand, so if you don't
17 recall, perhaps he will.

18 A He's a very experienced member.

19 Q Okay. So he nodded in your direction about
20 Corporal Henley?

21 A No. I think he -- I think -- and I mentioned this
22 before. There was some people that we had lined
23 up to interview and certainly when we spoke to
24 some of our people, we give the opportunity to
25 seek others that might have something that would

1 assist the review team. Corporal Henley's name
2 came up, so we interviewed Corporal Henley.

3 Q So in your interview of Corporal Henley, he
4 candidly admitted to you that he decided on his
5 own initiative that he would go to speak with
6 Robert William Pickton at his farm?

7 A He did.

8 Q He said that he decided to do so after Constable
9 Yurkiw told him that the -- or after he spoke with
10 Constable Yurkiw and formed the impression that
11 the investigation of Robert Pickton had already
12 ended; is that right?

13 A I'd have to quickly look at my report here.

14 Q Well, let's take you to the top of page 17 of your
15 report.

16 A What we have indicated here would have been
17 what -- what I've written here is what Corporal
18 Henley relayed to the review team. This was a
19 capsule of his interview.

20 Q So what Corporal Henley told you was that his
21 perception was that the investigation of Pickton
22 ended after his interview?

23 A That was his perception, yes.

24 Q Yes. And indeed he was assigned to assist
25 Corporal Connor of the Port Coquitlam Detachment

1 because his usual -- Henley's usual assignment was
2 with the Provincial Unsolved Homicide Unit?

3 A Yes. Inspector Henderson, I guess, for lack of a
4 better word, gave Port Coquitlam or Coquitlam
5 Detachment a couple of members from the Unsolved
6 Homicide Unit to assist with them.

7 Q Sure. So it's basically E Division, the
8 provincial --

9 A The Provincial Unsolved Homicide Unit, yes. And
10 they had requested -- when they request for
11 assistance or there was a need, I think, in some
12 of the meetings, then they provided a couple
13 members to assist where they could.

14 Q So Henley is seconded from E Division, the
15 provincial RCMP, to Port Coquitlam, a municipal
16 RCMP detachment?

17 A I wouldn't know if he was seconded to the
18 detachment. He would be seconded to assist with
19 the investigation, yes.

20 Q I see. And, of course, Corporal Connor, who has
21 charge of the investigation, is assigned to the
22 Poco Detachment, correct?

23 A Corporal Connor is a part of Coquitlam Detachment,
24 yes.

25 Q So at the time you interviewed Corporal Henley, he

1 had already returned to the Provincial Unsolved
2 Homicide Unit?

3 A Well, I think the Provincial -- I'm not sure
4 that -- that -- the secondments were basically
5 completed and going back and forth and assisting
6 where they could, so it's not as though he packed
7 up his entire office and moved to the Coquitlam
8 Detachment, so he was working -- you know, we
9 second -- I mean people are -- members are often
10 seconded to go and assist other units, so they're
11 back and forth. So he would have -- he and his
12 partner from the Vancouver Police Department went
13 out and did some work for Coquitlam, yes.

14 Q Did you say -- in the course of your interview to
15 Corporal Henley did you say, "Corporal, what do
16 you mean you've had the perception the
17 investigation of Pickton ended after the interview
18 of Pickton? That investigation was ongoing the
19 whole time. It was ongoing up until February 5th,
20 2002." Did you say that to him?

21 A This would -- obviously his perception was
22 somewhere after 2000 because Yurkiw had retired.
23 Her interview -- this would have probably been
24 somewhere in the neighbourhood of 2000, 2001.

25 Q Sure. So -- but what I'm driving at here,

1 superintendent, is that Corporal Henley tells you
2 that his perception was that the Port Coquitlam
3 investigation of Pickton was shut down entirely --

4 A Yes.

5 Q -- after the interview of Pickton?

6 A That's what he relayed to us. That's what we
7 wrote.

8 Q Well, did you go and check into that? Did you ask
9 anybody else about that?

10 A No.

11 Q Well, did you find it odd? Did you find it
12 mistaken?

13 A There's lots of oddities in this investigation, so
14 when -- I mean --

15 Q Well, did you form --

16 A We basically indicated, you know, speaking with
17 Corporal Henley that once he had been interviewed,
18 his perception was the investigation -- that
19 portion of the investigation had ended there.

20 Q In your opinion was Corporal Henley right that the
21 investigation had ended at that time?

22 A No. The investigation hadn't ended.

23 Q Okay. And what investigative steps were taken
24 after the interview of Pickton in relation to the
25 Pickton investigation?

1 A I can't comment on that. Are you asking me what
2 happened after the interview?

3 Q Well, I'm saying in what sense is Corporal Henley
4 wrong? You just said Corporal Henley was wrong
5 that the investigation was over after Pickton's
6 interview. In what sense was he wrong? What was
7 done --

8 A Well, the investigation into Pickton wasn't over.

9 Q In what sense? What was being done? What was
10 done after Pickton was interviewed?

11 A Project Evenhanded was up and running and he was
12 one of the suspects or persons of interest.

13 Q Okay. So aside from Evenhanded, what was being
14 done at the Poco investigative level?

15 A Coquitlam, I assume, was still working on various
16 tasks.

17 Q I'm not asking you to assume. I'm asking whether
18 you know of any investigative steps taken within
19 the Poco investigative file to investigate Pickton
20 after his interview?

21 A After 2000?

22 Q After Pickton's interview.

23 A After January of 2000 is when he was interviewed.
24 Is that what you're asking me?

25 MR. GRATL: I'm asking you after Pickton was interviewed --

1 THE COMMISSIONER: No, but he wants you to specify, so why
2 don't you specify? Is that January, 2000?

3 MR. GRATL:

4 Q Let's just say it's January, 2000.

5 A Then after -- after the interview of Pickton,
6 there was still some -- as far as I'm concerned,
7 there was still a priority for the Coquitlam
8 Detachment. They were working on it and --

9 Q Not my question. What specific investigative
10 steps were taken after that time?

11 A Then I'm not in a position to answer that because
12 I don't -- I can't say.

13 Q So you generally believe that the investigation of
14 Pickton was still on at the Poco Detachment level,
15 but just right now you can't say --

16 A I'm telling you it was on at the detachment level
17 because it was still a priority file and Project
18 Evenhanded had -- was in the process of getting
19 set up and certainly he was one of the persons of
20 interest with Evenhanded.

21 Q Okay. But as you sit here today, you can't refer
22 to a single investigative step?

23 A I'm not an investigator on that, so I can't
24 comment on it. Certainly the Coquitlam Detachment
25 members will be -- including Corporal Henley,

1 would be in a position to tell you exactly what
2 was going on after that.

3 Q Okay. So you're saying Corporal Henley went to
4 speak to Pickton on the mistaken belief --

5 A No. I didn't say that. Corporal Henley told me
6 he went to speak to Pickton.

7 Q Yes. You're saying that in your opinion Corporal
8 Henley went to speak to William Pickton on the
9 mistaken belief -- on the basis of a mistaken
10 belief that the Port Coquitlam investigation was
11 concluded?

12 A If what we -- if what -- I'm relaying that the
13 conversation with Henley, he thought that the
14 perception that he thought was from Yurkiw that
15 the investigation had ended on his -- I would
16 assume you have to ask him -- on his mistaken
17 belief he decided on his own initiative that he
18 would go and speak with Mr. Pickton.

19 Q So in your opinion, then, just for clarity, you're
20 saying Henley acted on a mistaken belief that the
21 investigative file was concluded?

22 A I can't speak for Mr. Henley.

23 Q What's your opinion about the --

24 A My -- I don't know if I would have an opinion on
25 that. I'm suggesting that Corporal Henley felt on

1 his own initiative that there was -- and whether
2 or not -- you know, I find it -- I find it kind of
3 difficult that he would -- that he would be -- his
4 perception of the investigation would have ended,
5 but that was what was relayed to us. He obviously
6 had some reason to -- or some thought process to
7 go out and see Mr. Pickton.

8 Q Maybe I can approach it from another angle. In
9 your opinion, was Corporal Henley's stated belief
10 that the Pickton investigative file at Port
11 Coquitlam Detachment was closed false?

12 A His belief that the --

13 Q It was his stated belief?

14 A I'm not sure I understand your question.

15 Q But did you think Corporal Henley was telling you
16 the truth when he said that --

17 A I have no reason to believe he wasn't telling us
18 the truth, so we recorded what he told us. I'm
19 sure that Corporal Henley will explain in more
20 detail than I'm able to explain on his behalf.

21 Q All right. So you're not going to venture an
22 opinion on whether his actions were based on a
23 mistaken belief?

24 A I don't think I -- I think it would be better that
25 he would explain his reasons to you as opposed to

1 my opinion.

2 Q I understand, I think, the nature of your answer.

3 Now, Corporal Henley admitted to you that he
4 told -- relayed to Willie Pickton what Caldwell
5 and Ellingsen allegedly disclosed about him
6 killing people and doing all sorts of horrible
7 things; is that right?

8 A That's what he said.

9 Q Okay. Now, we've just been over the necessity for
10 secrecy in relation to the investigative tools,
11 search warrants, wiretap and undercover
12 operations, correct?

13 A Yes.

14 Q It seems to me that what Corporal Henley did was
15 potentially undermine the efficacy of search
16 warrants, wiretaps and undercover operations by
17 going down to speak to Mr. Pickton; isn't that
18 right?

19 A He spoke to Mr. Pickton. I don't see any
20 references to undercover operations or wiretaps.
21 Obviously there was some sources involved and I'm
22 not sure if those are, you know, clearly numbered
23 sources or whether they actually are sources. He
24 basically indicated that -- to Mr. Pickton that
25 these two people -- or that he -- he relayed what

1 he was told by -- or information from Caldwell and
2 Ellingsen.

3 Q Well, with respect, superintendent, that doesn't
4 quite answer the question I asked. The question
5 that I asked is: Did Corporal Henley telling
6 Pickton what Caldwell and Ellingsen had disclosed
7 to him about killing people and doing all sorts of
8 horrible things, did that undermine or potentially
9 undermine the efficacy of any potential search
10 warrants, wiretaps or undercover operations in
11 respect of Pickton?

12 A I don't know if I'd be in a position to provide an
13 opinion on that.

14 Q Well --

15 A It may or it may not.

16 Q With respect, superintendent, you do have
17 forty-four and a half years --

18 A Absolutely.

19 Q -- investigative experience?

20 A Yes.

21 Q Certainly you're in a position to provide an
22 opinion on whether or not an officer without
23 permission, without telling anyone else goes to a
24 target or potential target of a murder
25 investigation and tells him some of the

1 information, whether that has the potential to
2 undermine an investigation?

3 A It could.

4 Q Now, in fact, it could have catastrophically
5 negative results for the investigation, couldn't
6 it?

7 A I don't know if I'd be in a position to say. It
8 could have, you know, tremendous results in that
9 manner. It possibly could have some bearing on
10 the investigation.

11 Q Of course, you're familiar with the information
12 provided by Caldwell and Ellingsen about clothes
13 and things like that, women's clothes at the
14 trailer?

15 A Yes.

16 Q Okay. So Pickton, for example, could go and hide
17 those clothes?

18 A I'm not sure there's any reference there from
19 Henley about the clothes. Certainly -- certainly
20 the -- you know, the discussion -- the detailed
21 discussion, I assume, that Henley had with
22 Pickton, we put down there a number of things that
23 are reviewed. The actual conversation that Henley
24 and Pickton -- or that Henley and Pickton had
25 would be -- I'm sure Mr. Henley would be able to

1 explain that in a more detailed manner exactly
2 what he said.

3 Q All right. So you didn't follow up in detail
4 about what Corporal Henley told Pickton?

5 A No. Corporal Henley basically, like -- he was
6 just leaving the force and we quickly had a talk
7 with him and we obtained some of the information
8 and provided it in our report.

9 Q Now, of course, you're preparing a report to the
10 Department of Justice on how to defend this file,
11 correct?

12 A Assist them. Assisting the Department of Justice?
13 Yes.

14 Q Sure. The Department of Justice gets this file
15 and they realize they've got this sprawling
16 Pickton investigation to defend on it and so they
17 effectively find you to give them a factual
18 synopsis about what's -- what they should look
19 forward to in terms of the facts?

20 A In a roundabout way that's it, yes.

21 Q Sure. And so I guess your job is to say, "Well,
22 here's some serious red flags in terms of
23 liability"?

24 A We would put down as much information and supply
25 them as much information as possible to have them

1 to have a better understanding. Some things we
2 could flag. Some things they would flag. I'm
3 sure there's a bank of Department of Justice
4 people that would be looking at the civil
5 litigation aspect of it. And, you know, there's
6 addition -- we could do further investigations if
7 required or further interviews or delve into any
8 particular area that they felt where there was red
9 flags, as you refer to.

10 Q Sure. I mean one of the red flags might be, for
11 example, in terms of negligent information
12 towards -- one of the red flags might be conduct
13 of an individual officer that undermined the
14 investigation?

15 A Could be, yes.

16 Q Okay. And so what I'm suggesting to you is that
17 what we have here with Corporal Henley's admission
18 to you is conduct of an officer which could have
19 undermined the investigation in a serious way?

20 A Some would -- some would -- might say that. Some
21 wouldn't. That would be a decision whether or not
22 there would be what they call a code of conduct or
23 something along those lines and that would be up
24 to an investigator to make that determination and
25 present the facts to senior management if that was

1 the case.

2 Q Okay. Well, I'm suggesting to you that you could
3 have done more to ask questions of Corporal
4 Henley. Am I wrong about that?

5 A I'm not sure -- we weren't really looking at -- I
6 mean his -- he had done this a year and a half
7 prior to us getting there or even longer. I'm not
8 sure what other facts we could have obtained from
9 Corporal Henley. I don't recall him even having
10 any notes with him because I think he was on his
11 way out, so we basically had a conversation with
12 him and tried to cover as much area as we could.

13 Q Okay. So Corporal Henley describes this visit to
14 Pickton as a, quote, "social visit", closed quote?

15 A I think he -- I think it was something along that
16 line. He decided on his own initiative to go and
17 speak with him. I don't know if that's a social
18 visit. That's something Corporal Henley will have
19 to explain to you.

20 Q In some cases --

21 A He might have had an additional reason prior to --
22 other than the fact we indicated he just went out
23 there on his own initiative. I'm not sure whether
24 he had some reason to go out there specifically,
25 but we didn't cover that with him.

1 Q In some cases and some investigations it might be
2 desirable as an investigative technique unto
3 itself to release information to the target of an
4 investigation to let them know that they're
5 actually under investigations?

6 A That's done often, yes.

7 Q In particular, wiretap investigations, you might
8 place some heat on or turn the screws a little bit
9 on a target so that they would get on the
10 telephone and talk to their associates and make
11 some incriminating statements?

12 A I think that's a strategy that's done, yes --

13 Q Okay.

14 A -- on some occasions.

15 Q But, generally speaking, the rule of secrecy is
16 only ever accepted for investigative purposes?

17 A Yes.

18 Q You keep the secret information available for use
19 as a later investigative tool?

20 A I think -- like I think you covered it off, the
21 reason it's kept confidential or secret is to
22 protect the integrity of the investigation or the
23 people involved or the sources or the police
24 investigation and to not to provide advice to the
25 person of interest or suspect.

1 Q Sure. But what I'm suggesting here is that
2 Corporal Henley specifically admits to you that he
3 didn't have an investigative purpose in going down
4 to speak to Mr. Pickton. He went down for a
5 social visit?

6 A It appears that way, yes. Like I said, you'll
7 have to -- Corporal Henley -- you're trying to say
8 it was a social visit. I can't say it was really
9 a social visit. I would assume that he had
10 some -- something in mind when he went to speak
11 with Mr. Pickton and -- and he relayed a few
12 things to Mr. Pickton and more or less was a
13 social visit, trying to get a -- trying to get a
14 handle on what makes him tick sort of thing. So I
15 can't explain. I'm sure Corporal Henley will --
16 he must have had some reason for going.

17 Q Out of a sense of personal curiosity?

18 A That's possible too.

19 Q My point is again that reason would not be a
20 investigative purpose. That would be a personal
21 idiosyncrasy of an officer?

22 A If that was the case, wouldn't be, no, but he
23 might have had something else in mind when he went
24 too.

25 Q All right. So what you're saying is that perhaps

1 you're a little bit sceptical about Corporal
2 Henley's explanation of his reasons for going
3 down --

4 A Well, I don't think there was any real reason to
5 delve into. It's -- I think we covered it off
6 yesterday. It's not something that normally is
7 done, but, unfortunately, I can't speak for
8 Corporal Henley why he went out there on his own
9 initiative and why he went there by himself. It's
10 not something that's a normal practice, but I'm
11 sure he'll explain his reasons for it.

12 Q Were you skeptical of his stated explanation?

13 A No. He's a unique individual, a very experienced
14 member and been around a long time and had a --
15 you know, he's worked the Lower Mainland. He's
16 worked major crimes. He's worked on Unsolved
17 Homicide Unit. Very experienced and capable
18 member.

19 Q He's not the kind of fellow who would be mistaken
20 about the secrecy rules surrounding a major crime
21 investigation?

22 A He could be, but I'm sure that, you know, he would
23 have taken that into consideration.

24 THE COMMISSIONER: We'll stop there.

25 THE REGISTRAR: The hearing is now adjourned until 2:00 p.m.

1 **(PROCEEDINGS ADJOURNED AT 12:32 P.M.)**

2 **(PROCEEDINGS RESUMED AT 1:58 P.M.)**

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

4 MR. GRATL:

5 Q Superintendent, before the break we were
6 discussing informant privilege?

7 A Yes, sir.

8 Q And that a breach of informant privilege or a
9 release of the informant's identity or information
10 tending to reveal the identity of the informant
11 could represent a physical danger, risk of
12 physical danger to the informant?

13 A In certain instances, yes.

14 Q In the case of William Pickton, the Pickton
15 brothers were known to fraternize with members of
16 organized motorcycle gangs, correct?

17 A I understand that, yes.

18 Q Reputation for violence?

19 A Yes.

20 Q And, in particular, a reputation for interference
21 with the administration of justice in the sense of
22 intimidating witnesses or even harming witnesses?

23 A That's possible, yes.

24 Q And even disposing of witnesses?

25 A I assume that's happened, yes.

1 Q All right. So if that's the context, wouldn't a
2 breach of informant privilege be ever more
3 egregious when it's reasonably foreseeable in a
4 very concrete way that the informant's life might
5 be placed at risk?

6 A Yes. Could be.

7 Q And isn't that again an indication of negligence
8 on the part of Corporal Henley?

9 A I suppose it could be, yes.

10 Q Maybe gross negligence?

11 A I'm not sure if it would be gross negligence. It
12 would have to be -- like I indicated, an
13 investigation would have to be completed to make a
14 determination if he violated any of the -- our
15 code of conduct or any parts of the source
16 human -- human source management directions. That
17 would be something that an investigator would be
18 appointed or if there was a complaint made or if
19 an investigation was completed, that they would
20 make that determination.

21 THE COMMISSIONER: Sorry. It would be negligence when?

22 THE WITNESS: It could be construed as negligence, sir, if
23 there was an investigation, if there was a
24 complaint or it was disclosed to the investigator
25 or to the supervisor and he felt that that was

1 a -- a breach of confidentiality or a breach of a
2 code of conduct.

3 THE COMMISSIONER: Oh, I see. If there was a breach?

4 THE WITNESS: If there was a breach. I think rather than say
5 what he did, there would certainly be an
6 investigation.

7 THE COMMISSIONER: All right.

8 MR. GRATL:

9 Q But there would be one of those red flags if --

10 A It could be construed as -- if somebody had, you
11 know -- if there was an indication that there was
12 a problem with what he had perceived to have done,
13 then I would suggest there could be a red flag
14 raised, yes.

15 Q And, in particular, information that would
16 heighten the context of danger or heighten the
17 potential of danger to the informant would be one
18 indication that disclosure of the informant's
19 identity or informant's information would not be
20 permissible for frivolous reasons like conducting
21 a social visit?

22 A If they're informants, yes. I'm not totally sure
23 that Ellingsen and/or Caldwell was a numbered
24 informant. I'm not aware of that.

25 Q Well, why wouldn't you look into that when you

1 were conducting your review?

2 A Again, I can't answer that. It didn't strike the
3 review team as being that important at the time.

4 Q All right. Well, it's indicated in your report
5 that some of these officers apparently knew
6 Ellingsen prior to this incident; is that right?

7 A I believe -- I believe they did, yes. Corporal
8 Henley, I believe, did.

9 Q Oh, so it was Henley actually knew Ellingsen?

10 A I think he had dealt with her on previous matters,
11 yes.

12 Q Did you inquire as to the type of matter in
13 which --

14 A No. I think he relayed -- it was relayed to us
15 that -- in some portion of our review that he
16 apparently knew Ellingsen.

17 Q And, indeed, he seemed to know Caldwell as well,
18 correct?

19 A I can't recall that, but -- I'm not sure of that,
20 if I'm able to answer that.

21 Q I mean in the ordinary course of events, it's
22 consistent with RCMP policy and practice to
23 categorize informants as either being reliable,
24 unreliable or of unknown reliability?

25 A If they're informants, yes.

1 Q That is, if they're informants in the sense that
2 they provided information to the police?

3 A There's different kinds of informants. I mean
4 some are numbered sources. Some are casual
5 sources. Some are straight informants. I'm
6 assuming that Corporal Henley would have had some
7 knowledge of Caldwell and Ellingsen because he
8 relayed their names, so he had to have some
9 information that he would have received to --
10 before he confronted Pickton.

11 Q It's standard RCMP practice to document
12 information provided and whether it was proven to
13 be reliable, corroborated or --

14 A Normally you could submit a report pertaining to
15 your dealing -- or dealing with your source
16 whether it was reliable information or believed
17 reliable or your contact with your source. It can
18 be done.

19 Q And can be done and it's of importance because
20 when it comes to dealing with that source again,
21 if the source provides more information, you could
22 look back at the history of information provided
23 by the source --

24 A That's handled by the Human Source Management
25 Unit, yes.

1 Q But that's standard practice. It's useful to
2 document the history of their reliability?

3 A If it's an RCMP source and if a person is a
4 numbered source per se, I would -- if you're
5 dealing with that person or whatever, it would
6 be -- it's almost a necessity to put in a source
7 debriefing report, I guess is the word that I'm
8 looking for.

9 Q And in addition to that, there's a classification
10 of treacherous. That mostly applies to agents,
11 but it can also apply to informants, correct?

12 A It can, yes.

13 Q And the treacherous designation indicates
14 disloyalty to the RCMP?

15 A Disloyalty perhaps, sometimes not reliable.

16 Q Now, here according to your report, Corporal
17 Henley advised you that based on his previous
18 dealings with Ellingsen and Caldwell, he
19 considered them to be unreliable?

20 A That's what he said, yes.

21 Q And did you ask him what were those previous
22 dealings?

23 A I don't think we went into it in any great deal.
24 He obviously -- when he indicated to us that --
25 his dealings with both Caldwell and Ellingsen, I

1 think he must have had previous dealings with them
2 where he felt that the information they supplied
3 or he was informed about from them was not totally
4 reliable.

5 Q Well, let's imagine for a second that Corporal
6 Henley was mistaken about having dealt with them
7 before or was mistaken about the reliability --
8 the historical reliability of the information
9 provided by them. That would be negligence in
10 this context, wouldn't it?

11 A Well, I guess he's basically relayed to the review
12 team that he felt that both his previous dealings
13 with these two -- these two people were in such a
14 manner that not all the information they supplied
15 was reliable.

16 Q I guess I could ask you you could have gone deeper
17 on this issue, but you didn't?

18 A That's right.

19 Q Okay. Now, here it also appears as though Ms.
20 Ellingsen was deemed to be unreliable because of
21 her mental well-being. It says that at page 13 of
22 your report, just on the second-last paragraph.

23 A Is that "During the aforementioned interview"?

24 Q Sure.

25 A Yes.

1 Q Well, that is to say information --

2 A That's the interview that we completed with
3 Sergeant Connor.

4 Q Sergeant Connor. And so there was -- there was an
5 indication there that Ellingsen's mental
6 well-being was a factor that went to the
7 reliability of the information that she provided
8 either directly or through Caldwell or through
9 Best; is that correct?

10 A Are you relating to one of these paragraphs?

11 Q Sure. There's "The follow-up of this interview
12 surrounded several discussions concerning her
13 mental well-being and her drug-related addictions
14 which perhaps hindered any validity to what she
15 supposedly disclosed to Caldwell and Best."

16 A Yes. That's -- that was relayed to us by Connor
17 in his interview.

18 Q Okay. So mental health issues and drug use played
19 into the determination that she was of lower
20 reliability?

21 A That would certainly -- yes. I would agree to
22 that. It would have a bearing on the
23 information -- on the credibility and the
24 reliability of the information if in fact you had
25 some mental health issues and/or drug abuse, yes.

1 I would think so.

2 Q I mean but there are different types of mental
3 health issues?

4 A Yes.

5 Q Some of which will affect your reliability and
6 some of which will not?

7 A I'm not a doctor, but I'll agree with you to a
8 certain extent, yes.

9 Q Okay. Just on the basis of common knowledge?

10 A Yes.

11 Q And I suppose if you want to know more about the
12 reliability based on mental health issues, you
13 have to both know what mental health issues she
14 was diagnosed with and also what the implications
15 of that are?

16 A Yes. You should consult with a doctor, yes.

17 Q Okay. And I take it you didn't go any deeper
18 into exploring --

19 A No, we did not.

20 Q You didn't go any deeper into exploring that
21 issue?

22 A No, sir.

23 Q Did Corporal Connor go any deeper?

24 A I can't speak for Corporal Connor.

25 Q Okay. And, again, drug-related activity. Now,

1 didn't Corporal Connor tell you that he had gone
2 to check with an RCMP drug expert, who advised him
3 that cocaine wouldn't lead to hallucinations?

4 A I believe that was in -- referenced in his
5 material. I'm not exactly sure, but I'm thinking
6 it was -- I remember recalling something to
7 that -- to that effect, yes.

8 Q I mean Connor was speculating that Ellingsen might
9 have hallucinated a human being being --

10 A I think that was --

11 Q -- cut up by Mr. Pickton?

12 A -- potentially what he was looking towards, yes.

13 Q And to his credit he went to an RCMP drug expert
14 and said, "What about a person who is a chronic
15 crack cocaine user? Would they hallucinate?"

16 A I believe that's correct, yes.

17 Q And, in fact, the RCMP drug expert said no?

18 A If you were -- if you were a hundred percent sure
19 that that person was using cocaine or crack
20 cocaine, as you referred to, and nothing --
21 something else or mixed or something like that,
22 according to the drug people, just straight
23 cocaine wouldn't hallucinate.

24 Q It sure wouldn't sharpen you up?

25 A I'm not sure. I'm not an expert on drugs, so I

1 can't help you there.

2 Q Okay. Fair enough. But the result of Corporal
3 Connor's investigation with the RCMP drug expert
4 was exactly the opposite of what you set down here
5 in the last sentence of the second-last paragraph
6 of page 13. In fact, her drug-related addictions
7 didn't hinder the validity of what she supposedly
8 disclosed to Caldwell and Best; isn't that true?

9 A I'm sorry. Which part are you referring to?

10 Q Her drug-related addictions.

11 A What page are you on, please?

12 Q 13 of 27.

13 A Okay.

14 Q Second-last paragraph.

15 A Yes. "During the aforementioned interview", that
16 one?

17 Q Yes.

18 A Okay.

19 Q Here it says, "Her drug-related addictions perhaps
20 hindered any validity as to what she supposedly
21 disclosed to Caldwell"?

22 A That's our opinion, yes.

23 Q That's your opinion?

24 A Yes.

25 Q But that's not Corporal Connor's opinion or the

1 RCMP drug expert's opinion, is it?

2 A "The follow-up of this interview surrounded
3 several discussions concerning her mental
4 well-being and her drug-related addictions, which
5 perhaps -- perhaps hindered any validity." I'm
6 just saying that her mental capacity and some --
7 her drug-related addictions, not necessarily
8 cocaine, could perhaps hinder any validity.
9 That's what we're trying to say.

10 Q Okay. So I take it that you concede now that that
11 sentence is speculative in respect of mental
12 health issues and contraindicated by the evidence
13 in respect of drug use?

14 A It's -- from my -- from my -- I think from our
15 interview she's obviously -- we were informed that
16 there was some mental well-being -- some mental
17 issue capacities with her and that she had some
18 drug addictions. I'm not saying to what degree
19 mental or what her addictions were. All we
20 indicated -- in normal circumstances normally
21 people that have a mental health capacity or drug
22 addictions may hinder any validity to what she
23 would have disclosed.

24 Q You appreciate how important the dismissal of the
25 Ellingsen information was in the abandonment of

1 the Port Coquitlam investigation?

2 A Well, I think this is all -- and I mentioned
3 before this was a very important step that the
4 sightings that Ellingsen had passed on to other
5 people, certainly it was something that -- I
6 believe I mentioned to Mr. Vertlieb that something
7 that would be extended -- if I was in charge of
8 the investigation, I would have certainly taken
9 other steps to try and verify the information,
10 whether or not it was correct or truthful.

11 Q What I'm suggesting here, Corporal Henley, is that
12 this notion that drug-related addictions perhaps
13 hindered any validity to what Ellingsen said turns
14 on a stereotype of --

15 A Connor --

16 Q -- drug users?

17 A Connor basically -- the review team based on
18 that -- and all we did was basically take what was
19 supplied, that there was some mental well-being
20 problems, there was some drug-related addictions,
21 which perhaps -- I didn't say it totally hindered
22 any validity. I'm saying it could have perhaps
23 hindered validity.

24 Q So you're not an RCMP drug expert?

25 A No, I'm not.

1 Q And the RCMP drug expert in this case said that
2 cocaine use --
3 A Cocaine.
4 Q -- doesn't undermine reliability of Ellingsen's --
5 A Cocaine. That's -- you're saying cocaine. There
6 could be other drugs involved here.
7 Q The RCMP drug -- I mean you went into this with
8 Connor, didn't you?
9 A I don't -- I don't remember going into it. I
10 believe Connor informed us that he had taken those
11 steps.
12 Q Sure. And the result of that step was that the
13 drug use didn't affect the validity of her
14 comments. It wasn't hallucination inducing?
15 A Hallucination --
16 Q It wasn't hallucination inducing, her drug use?
17 A I can't say that.
18 Q All right. The Provincial Unsolved Homicide
19 Unit --
20 A Yes, sir.
21 Q -- didn't take jurisdiction over the missing women
22 cases, correct?
23 A I don't believe so, no. No, they didn't.
24 Q Ought they to have done so based on their mandate?
25 A That's -- that's -- the Provincial Unsolved

1 Homicide Unit reports to a totally different part
2 of the -- you know, under the umbrella of the
3 Major Crime Unit and E Division and I --

4 Q I agree with that.

5 A If you're just asking me whether or not they
6 would -- they should have taken it over, I'm not
7 familiar enough with the -- to say whether or not
8 they would.

9 Q You did ask enough questions to learn that the
10 Provincial Unsolved Homicide Unit takes over
11 murder cases that are long in the tooth, correct?

12 A Historic, yes.

13 Q Yes. And historic means longer than a year?

14 A Definitions of the historic differ across the
15 ways, but I believe most of them are in the
16 neighbourhood of a year, yes.

17 Q And a lot of cases are longer than a year. They
18 were open longer than a year, correct?

19 A Yes.

20 Q Now, what I'm asking you is do you know what
21 mandate the Provincial Unsolved Homicide Unit has
22 in terms of taking jurisdiction for responsibility
23 for --

24 A Do I know that?

25 Q -- for cases?

1 A I don't know that.

2 Q Okay. So you didn't investigate that with
3 Inspector Henderson or anybody else?

4 A No, sir.

5 Q Now, there was some -- in your interview -- this
6 comes out in your interview with Inspector
7 Henderson. He said, well, there were some
8 requests for assistance from VPD, but no formal
9 requests, correct?

10 A That's what he said.

11 Q Now, is there a policy about requests being formal
12 or informal and what's to be done?

13 A I think it's a matter of jurisdiction. Certainly
14 if -- I'm sure the management -- the senior
15 management of E Division, if they felt there was
16 some concerns, they would either offer the
17 assistance or check with the Vancouver Police
18 Department or vice versa to see if they could
19 assist in any way. Formal, informal, normally
20 it's done at a higher level.

21 Q And in writing?

22 A Not necessarily, but in most cases it could be,
23 yes.

24 Q And when you say "higher", you mean higher than --
25 shall we take a break, Mr. Commissioner? We could

1 just stand down briefly. So it's about rank
2 really. The distinction between formal and
3 informal is about rank?

4 A Yes.

5 Q And Sergeant Field is not at a high enough rank to
6 count as a person who is qualified or has the
7 capacity to make a formal request. Did you go to
8 that level?

9 A I can't speak for the Vancouver Police Department,
10 but certainly for the RCMP, if there was some
11 indication, if I'm talking to a sergeant, I would
12 think that sergeant would go to a higher person to
13 make a formal request to another police
14 department. That's fairly standard practice. But
15 certainly Sergeant Field could make a formal
16 request if she wanted to. I don't think there's
17 anybody stopping her. But I doubt if the
18 Vancouver Police Department would want to have
19 that request made without somebody at a higher
20 level having some input.

21 Q That's in part because requests for assistance of
22 that kind involve the deployment of human
23 resources, perhaps the secondment of officers and
24 certain budgetary considerations that have to
25 occur at the more senior management level?

1 A That's correct.

2 Q And you don't know where that point would be
3 within the VPD, but where would that point be for
4 the RCMP?

5 A Well, I take it it would start at the inspector
6 rank or higher.

7 Q So you'd have to ask an inspector for help, an
8 RCMP inspector?

9 A Well, it's just a matter you're dealing with
10 resources, like a sergeant or a corporal talking
11 to another sergeant or corporal saying, "Hey, can
12 you second or could we use half a dozen people?"
13 Obviously you have to get some authority to do
14 this and to -- and I'm not saying there will be
15 any roadblocks because certainly there would be --
16 the working relationship all along was never an
17 issue and -- but I think it's just a matter of
18 courtesy that you would go to the higher ranks so
19 that the management of either the Vancouver Police
20 Department and/or the management of E Division
21 would be aware if there was any secondments going
22 back and forth.

23 Q So a VPD sergeant going to an RCMP corporal or
24 sergeant asking for assistance, that's a
25 nonstarter unless it's for relatively small

1 amounts of assistance?

2 A If it was a relatively -- a day long or two day
3 long, I don't think that would be an issue, but
4 certainly to form a joint force operation or a
5 task force or anything like that, I would think
6 that that would be a start of the request, but
7 certainly it would go up higher than that.

8 Q Sure. But just sergeant to sergeant, sergeant to
9 corporal, that's a nonstarter. It's not going to
10 happen?

11 A I wouldn't say it's not going to happen. It
12 certainly would --

13 Q It's not going to happen at that level?

14 A Well, I've never dealt with the Vancouver Police
15 Department, so I mean I'm looking at areas in
16 where I'm from and if a staff sergeant from the
17 Edmonton police service asked one of my staff
18 sergeants if we could give them a hand for a
19 couple days, he might say to me -- and it's a
20 non-issue, but, you know, if it's going to be for
21 a three-month period or whatever, then I would
22 certainly go up higher to my criminal operations
23 officer and/or the deputy chief and I think they
24 would have to work something out.

25 Q Does that hold for E Division to your knowledge?

1 A I can't comment on that, sir.

2 Q Fair enough. I take it it wasn't part of your
3 mandate to look at discrimination against sex
4 workers or drug users?

5 A No, sir.

6 Q Or sexism?

7 A No, sir.

8 Q Now, what I noticed in your report was that the
9 Port Coquitlam investigation from 1999 is often
10 referred to as the Ellingsen file rather than the
11 Pickton file and sometimes it's referred to, of
12 course, as the Ellingsen/Pickton file, but you
13 often refer to it as the Ellingsen file?

14 A That's the information intelligence file, yes.

15 Q And I take it that's because Port Coquitlam never
16 really sorted out for themselves whether Ellingsen
17 was a target of the investigation or whether she
18 was a potential witness or source of information?

19 A I can't speak. I wouldn't be able to -- that
20 would be something that Coquitlam would have to
21 relay to you. I'm not sure of that. I think --
22 when you mention the Ellingsen file or they were
23 referring to the -- what happened to Ellingsen,
24 that the caption is always we had Lynn Anne
25 Ellingsen intelligence relating to Robert William

1 Pickton.

2 Q All right. But Ellingsen here is said to be
3 somebody who's assisting Pickton in getting women
4 to come to the farm?

5 A I think that was part of -- she had been assisting
6 Pickton.

7 Q Sure. And the New West Police catch her in a car
8 with Pickton driving around the stroll in New
9 West?

10 A I believe that happened, yes.

11 Q And later when she's interviewed, she says that in
12 her dealings with Pickton back in his trailer, he
13 asked both girls, "Which one of you is first?"

14 A Ah. I can't -- I don't recall that, but --

15 Q All right. But even before the interview, none of
16 the documents you reviewed or any of the people
17 you spoke to indicated whether it was ever sorted
18 out whether Ellingsen was being approached to be a
19 witness against Pickton or whether she was being
20 investigated as an accomplice for murder?

21 A In my opinion, she was being -- would have been a
22 witness. That's only my opinion. Now, I can't
23 speak -- to me it's one of those -- it's one of
24 those grey areas because until you get to the
25 bottom of it, you're not sure if she is a witness,

1 but from all accounts I would suggest that the
2 initial intentions of the people that had spoke to
3 Ellingsen was as a witness.

4 Q She might have been both, actually. She could
5 have been an accomplice --

6 A Very much so.

7 Q -- who provided evidence like Karla Homolka?

8 A I guess you wouldn't be able to find out that
9 until you interviewed her and she admitted to
10 whatever she knew or you would have to make a
11 determination at that time. Certainly she could
12 be a witness, she could be a suspect or she could
13 be both.

14 Q And to your mind it wasn't decided which one she
15 was, witness or suspect, before she was
16 interviewed, was she?

17 A To my mind, based on everything, I would
18 suggest -- that's my opinion, of course -- that
19 she was going to be interviewed as a witness.

20 Q All right. It looks towards the end after she's
21 interviewed twice that it's suggested to her that
22 she can undertake a polygraph test, correct?

23 A Yes.

24 Q Now, that's the sort of thing that you offer to --
25 an opportunity you offer to a target as an

1 opportunity to clear their name, correct?

2 A Yes.

3 Q So insofar as she was being approached for a
4 polygraph, that would be a target technique rather
5 than a witness technique?

6 A You could do either.

7 Q Well, in fact, at that point she had disavowed any
8 knowledge of any wrongdoing?

9 A That's right. But you could test her on the
10 validity of the statement that she would provide
11 to the police, whether or not she was telling the
12 police the truth when she says she didn't see
13 anything, or you could test her on the -- on the
14 validity whether or not she was responsible for,
15 say, killing somebody. So you can test witnesses.
16 It's not as common as much as a suspect, but you
17 can test witnesses on the validity of the
18 statement they provide to the police.

19 Q Just considering all the factors, Ellingsen as
20 giving inconsistent statements, she's made
21 implausible assertions to the police officers, the
22 use of the polygraph to your mind, the offering of
23 the polygraph, it's a bit of a confused muddle,
24 isn't it?

25 A Well, I'm not sure. The polygraph is a truth

1 verification instrument. It's an investigative
2 tool.

3 Q Was it misguided or misplaced, the offer to
4 provide her with a polygraph?

5 A I don't think so. I think it was -- it was
6 offered to her and she indicated initially that
7 she was prepared to take the polygraph. And when
8 the time and -- the date and time came, I believe
9 she -- you know, I'd have to check here, but I
10 think she either turned it down or wasn't
11 available or she didn't show up and then they made
12 arrangements, contacted her again. And I think
13 the second time she didn't show or she was
14 contacted and on the advice of her lawyer she
15 declined to take the polygraph. That's my
16 understanding.

17 Q All right. 23 additional missing women were added
18 to the list of missing women on September 5th,
19 2001. Do you remember that?

20 A No, but I'll take your word for it. I don't --
21 I'm not familiar enough with the file for the
22 dates and stuff.

23 Q Some of them, perhaps nine, maybe more, of these
24 women who were added in September of 2001 to the
25 list of missing women had been reported to RCMP

1 municipal detachments; is that right?

2 A Nine?

3 Q Nine.

4 A I believe it was nine, yes.

5 Q All right. They'd been reported missing to
6 municipal detachments, but for whatever reason it
7 hadn't reached Evenhanded until September of 2001?

8 A I don't have the dates of them, but various --
9 from what I can recall, what I remember, there was
10 nine reported to RCMP jurisdiction and I believe
11 they would have made their way to Evenhanded. I'm
12 not sure of the dates when they all went missing
13 and when the files were opened and as such, but at
14 some time there was -- at one point in time there
15 was roughly 1800 people missing in this province,
16 so I'm not sure of the time line how the -- how
17 these files got to Evenhanded.

18 Q I take it that you didn't really conduct a
19 thorough investigation of the reasons why they
20 didn't get added to the list of missing women
21 until September of 2001?

22 A No. I didn't take that into consider -- I didn't
23 check into that one.

24 Q It could have been a problem with RCMP policy
25 about missing people. It could have been a

1 problem with compliance with the policy. It could
2 have been all sorts of things. You're just not
3 sure?

4 A I think -- I think that they were reported
5 missing. They were on CPIC as reported missing,
6 the files that had been opened in various units.
7 It's the matter of whether or not that the
8 Evenhanded would have had access to all the
9 missing persons in RCMP jurisdiction. And I'm not
10 sure how -- when they approached the various
11 detachments to take over those files or have those
12 files transferred into Evenhanded. I can't
13 comment on that. Somebody from Evenhanded would
14 probably be in a better position.

15 Q Sure. But it's potentially a big problem and you
16 didn't look at it?

17 A A big problem?

18 Q In depth?

19 A Because they weren't transferred to Evenhanded?

20 Q Well, yes, because the list of missing women
21 wasn't complete, half the women, until September
22 of 2001?

23 A I'd have to look at --

24 Q Big problem, wasn't it, superintendent? That's a
25 big problem? Or even we could take away the word

1 big. It was a --

2 A No, no. I didn't have a look -- each and every
3 file reported to RCMP jurisdiction we examined. I
4 can't -- I can't say why they weren't sent to
5 Evenhanded and I didn't look into why they weren't
6 sent to Evenhanded if that's what you're saying.
7 I know they're from Burnaby, Surrey. Vancouver PD
8 took over one of the files. Chilliwack had one,
9 Coquitlam, Agassiz, Prince George. Vancouver took
10 over several of the files. I'm assuming that when
11 Evenhanded started, Evenhanded -- one of the areas
12 I'm sure would be -- to do is to look at all
13 missing person files, in particular with the sex
14 trade workers and any other -- or missing sex
15 trade workers. And I'm sure, you know, Inspector
16 Adam at some point in time if he testifies here
17 will kind of give an idea why those nine files
18 weren't -- I can't -- I can't give you any --

19 Q It's really important isn't it, superintendent,
20 because those 23 additional names made it clear
21 that the killer was still at work, was an active
22 killer, and these weren't historical files. It
23 made a massive difference to the operational plan,
24 didn't it?

25 A I can't say for sure on that, no.

1 Q All right. Fair enough. Now, in terms of sex
2 workers, I understand that you described sex
3 workers as prone to violence in your --
4 A It's -- yes. In my experience that's true, yes.
5 Q You mean they're prone to be on the receiving end
6 of violence, victims of violence?
7 A Yes.
8 Q Or are they prone to engaging in violence against
9 others?
10 A Both.
11 Q And you appreciate that there's different sex
12 workers. There are different tracks of sex
13 workers? They have --
14 A Yes. I understand that.
15 Q -- different --
16 A I'm led to believe it's more prevalent here than
17 other places, but I understand the different
18 tracks, yes.
19 Q I take it you didn't do any investigation into sex
20 workers in the Downtown Eastside?
21 A No, I didn't.
22 Q You didn't do any investigation into survival sex
23 workers, correct?
24 A Pardon me?
25 Q Survival sex workers?

1 A No, I didn't.

2 Q And I take it that you appreciate that survival
3 sex workers have fewer choices?

4 A Yes.

5 Q Less money?

6 A Yes.

7 Q They're more dependent on health services?

8 A Yes.

9 Q They're dependent on welfare? They're not
10 independently wealthy like some sex workers?

11 A Yes.

12 Q So they're not more likely to be -- they're less
13 likely to be transient than others?

14 A Well, I base my experience on, I guess,
15 transient -- when you say "transient", some of
16 them had to move here. Some of them had to leave.
17 Some of them stayed. Some are transient in
18 nature. In my experience and in my office in
19 Alberta, I have a proactive team that registers
20 sex trade workers in the city of Edmonton and
21 Calgary and Fort McMurray and Grande Prairie and
22 they've -- in the past seven, eight years they've
23 registered over 1200 from across Canada and as
24 well from Europe. So we consider them to be
25 transient in nature. And I understand the history

1 of the East Side is that some of them always
2 remain there and will never leave.

3 Q What I'm suggesting is that your notion of sex
4 workers as transient is drawn from your
5 experience?

6 A Some of them are transient, not all of them, but
7 I'm saying they're transient --

8 Q Tend to be transient?

9 A Tend to be transient in nature, yes.

10 Q And that generalization is drawn from your
11 experience with sex workers?

12 A Yes.

13 Q In the course of your extensive employment with
14 the RCMP?

15 A Yes.

16 Q And you applied that understanding to your report
17 without looking at -- specifically at whether that
18 understanding was valid for the Downtown Eastside
19 survival sex workers?

20 A If the Downtown Eastside --

21 Q Can I finish the question, please?

22 A Sure.

23 Q Without looking -- without finding out whether
24 that generalization was valid specifically for the
25 survival sex workers from the Downtown Eastside,

1 from which population Pickton drew his victims;
2 isn't that correct?

3 A If -- if the word -- when I put it in here that
4 are quite often prone to violence, quite often
5 transient in nature, if -- if -- if I -- if you
6 feel that that transient word is too strong, then
7 I'll agree with you that the Downtown Eastside
8 people are not transient.

9 Q But I mean part of what you're doing in this
10 historical background is trying to explain to the
11 reader that it's difficult to conduct
12 investigations because sex workers are transient?

13 A That's part of the reason, yes. In my experience
14 it's very difficult.

15 Q It forms part of the alleviation of responsibility
16 for this investigation going south. It didn't
17 work out because these sex workers are hard to
18 investigate because they're transient, correct?

19 A They're transient. They're also very hard to
20 interview. Their memory recollections are very
21 poor because they have no fixed abode, a lot of
22 them. It's very difficult to put time lines to
23 these kind of people to -- it's not infrequent
24 that you would ask a sex trade worker whether or
25 not she had seen someone else and get a reply of

1 two days ago when in actual fact it could be two
2 months ago. Those kind of things. They're very
3 difficult to -- to deal with, very difficult to
4 interview and rely on their credibility as
5 witnesses.

6 MR. GRATL: Okay. That's --

7 THE REGISTRAR: Mr. Gratl, you've reached your time allocation.
8 Thank you.

9 MR. GRATL: Thank you. If I may just finish this line of
10 questioning, Mr. Commissioner.

11 THE COMMISSIONER: Well, you've gone well over your -- how many
12 questions --

13 MR. GRATL: You could just say no. I will sit down.

14 THE COMMISSIONER: I'll give you another question.

15 MR. GRATL:

16 Q All right. Thank you. And, again, all of those
17 generalizations about sex workers are drawn from
18 your experience in Alberta and you're not -- and
19 you've never done any work to ensure --

20 A I've never --

21 Q -- that those generalizations are of application
22 to the survival sex workers in the Downtown
23 Eastside, from which pool Mr. Pickton selected his
24 victims?

25 A I can -- I will remove the transient in nature if

1 that helps. All I'm saying is that I don't for --
2 you know, I think I've answered this several times
3 already -- that I'm sure that some of those sex
4 trade workers that -- the lower tracks are
5 transient in nature. Some don't always stay.
6 There's some maybe move around, maybe not all of
7 them, maybe a small percentage, but there's
8 certainly -- in our experience and my experience
9 over the years, they have a tendency to move
10 around and whether it's for a day or two and come
11 back, so that's why I refer to as transient in
12 nature, but I'm certainly willing to remove the
13 transient part if that's --

14 MR. GRATL: Well, that was my last question. Thank you.

15 THE COMMISSIONER: Thank you. Miss Gervais?

16 MR. GRATL: Thank you for that one question.

17 **CROSS-EXAMINATION BY MS. GERVAIS:**

18 Q Robyn Gervais, counsel for aboriginal interests.
19 And I have a binder that I would like to enter as
20 an exhibit.

21 Mr. Williams, we've established that you have
22 been an RCMP member for approximately forty-four
23 and a half years, correct?

24 A Yes, sir. I'm sorry. Yes, ma'am.

25 Q And in that time you have served throughout the

1 country in Alberta, Saskatchewan, BC, and at the
2 national headquarters in Ottawa; is that correct?

3 A That's correct.

4 Q And you would agree that both Alberta and
5 Saskatchewan have a high population of aboriginal
6 people; is that correct?

7 A Yes, they do.

8 Q And I see from your resume that you have worked in
9 Prince Albert, which I would say has an enormously
10 high population of aboriginal people; is that
11 correct?

12 A Yes.

13 Q And also, according to your resume, you have taken
14 cross cultural training?

15 A I have.

16 Q And did that cross cultural training include an
17 aboriginal component?

18 A Yes, it did.

19 Q And did the training include cultural differences
20 between aboriginal and non-aboriginal people?

21 A Yes, it did.

22 Q And can you just briefly summarize what you learnt
23 about the -- from the aboriginal component of that
24 training?

25 A We're going back a number of years here. It's

1 probably 1979 when I took the training and I took
2 it in Regina, and I'm just trying to think of the
3 instructor, but he had -- certainly he had lived
4 with the aboriginal people, and I'm going to say
5 in the Northwest Territories. And we had various
6 components of cultural -- it was over, I believe,
7 about a one-week period where we went through
8 enormous amounts of his life experiences or his
9 experiences with the aboriginal people and the
10 reason they do things and why they do things and
11 how they do things. And so we learnt -- we learnt
12 quite a bit. That was in Regina. And that's
13 where I -- I learned lots about people. If you
14 look in my employment history, I was also
15 stationed in Punnichy for two years in
16 Saskatchewan, a 10-member unit with approximately
17 four reservations, and my -- probably 90 to 95
18 percent of my dealings with them was the
19 aboriginal people.

20 Q So you had a lot of firsthand knowledge?

21 A Yes. I grew up in Meadow Lake, Saskatchewan as
22 well too, so I have been basically around the
23 aboriginal people for a good portion of my life.

24 Q And I also see from your resume that you were the
25 team commander on the investigation into the

1 conduct of the F Division RCMP members. That's
2 the Stonechild inquiry, correct?

3 A I wasn't -- what I did is -- I believe on my
4 resume -- the Stonechild inquiry there was -- at
5 the inquiry there was a reference to a wrongdoing
6 by a member of the RCMP and when -- when the
7 inquiry shut down, they started an investigation
8 onto the wrongdoing of an RCMP member. That was
9 the part that I was the team commander of, not --
10 of the Stonechild inquiry. The Stonechild inquiry
11 was initiated by the Saskatoon City Police and the
12 provincial government of Saskatchewan.

13 Q And the Stonechild inquiry was about Neil
14 Stonechild, who was a Cree teenager who died of
15 hypothermia and the allegation was that the
16 Saskatoon Police Force had taken him to the corner
17 of the city and left him there in minus 28
18 weather; is that correct?

19 A That's correct.

20 Q And you investigated these allegations?

21 A No. I investigated the allegation -- during the
22 course of the inquiry, there was an allegation by
23 one of the witnesses that an RCMP member had done
24 a similar situation --

25 Q I see.

1 A -- from Spiritwood, north of Spiritwood -- I can't
2 remember the reservation -- where they had given
3 the people a ride out of town to -- a husband and
4 wife, and the RCMP members gave a ride out of
5 town -- and I'm going by memory here -- and
6 dropped them off and subsequently turned around
7 and went back to town and a vehicle came over
8 the -- over the crest of the hill and struck the
9 husband and wife and I believe one was killed,
10 so -- this is -- we investigated that as best as
11 we could.

12 Q Thank you. So given your both work and personal
13 experience, you're then aware that there is
14 historically a relationship of mistrust between
15 aboriginal people and RCMP?

16 A I don't know if I'd go that far. I think we work
17 very well together in a lot of places. Certainly
18 there's -- we have a huge -- well, I wouldn't say
19 huge, but a certain -- a good portion of police
20 officers who are aboriginal. I have four in my
21 area that -- that are there under the Canadian
22 human rights legislation and they're all major
23 crime investigators. I have never really --
24 there's lots of areas that I think we work very
25 well with the aboriginal. Certainly there is

1 dissension in certain areas, but I don't know if I
2 would go as far as to say what you just said.

3 Q You are aware that when the residential school
4 system was in place, the RCMP were the people who
5 came to take children away from their families,
6 correct?

7 A But I don't think they did that -- they did
8 that -- they had to do it as part of the law.

9 Q But they did that, correct?

10 A Apparently, yes. I wasn't there for that one, but
11 yes. I assume that the courts -- the wards or
12 whatever for -- wards of the government -- there
13 would be orders issued for the RCMP to do that.

14 Q Okay. And you could see how this could -- that
15 could build a relationship of mistrust. I'm not
16 talking about today. I'm talking about
17 historically?

18 A Yes.

19 Q Okay. And you're aware that even still today,
20 RCMP members go with social workers to remove
21 children from their families, correct?

22 A And I believe we covered that with Mr. Gratl.
23 That's part of our job. Unfortunately, somebody
24 has to do it and I'm sure that a lot of RCMP
25 members don't necessarily agree with it.

1 THE COMMISSIONER: I don't think counsel is suggesting that
2 you're doing anything illegal. She's just
3 saying -- putting it to you that, in fact, RCMP
4 officers are a part of the process that does that
5 and that sometimes become offensive to aboriginal
6 people.

7 THE WITNESS: Okay. I'll agree with that. We're part of the
8 process.

9 MS. GERVAIS:

10 Q Thank you. And, as you've stated, there have been
11 initiatives, both provincial and federal, to deal
12 with the relationship between aboriginal people
13 and the RCMP, correct?

14 A Yes, ma'am.

15 Q And such things such as hiring aboriginal police
16 officers, correct?

17 A Yes.

18 Q And those initiatives would show that there is a
19 relationship -- or there has been in the past a
20 relationship of mistrust between aboriginal people
21 and the RCMP, correct?

22 A I'm not -- I'm not fully aware of that, but I
23 agree with you, yes.

24 Q Okay. And you would agree, then, that the RCMP
25 views their relationship with aboriginal people as

1 a priority?

2 A It's very important to us, yes.

3 Q Okay. And you're aware that currently there are
4 600 missing and murdered aboriginal women across
5 Canada?

6 A I believe across Canada it's somewhere in that
7 neighbourhood, yes.

8 Q Approximately?

9 A Yes.

10 Q And are you aware that aboriginal women in
11 particular are three times more likely to
12 experience violent victimization than
13 non-aboriginal women?

14 A I'm not aware of that.

15 Q Well, do you have any reason to dispute that?

16 A No, I would not.

17 Q Okay. And would you agree that they are
18 significantly overrepresented as victims of
19 homicide?

20 A I don't have the statistics on that, but it's
21 possible, yes.

22 Q From your experience, from what you've seen on the
23 ground, would you agree with that statement?

24 A To some degree, yes. My experience -- I mean my
25 branch over the past 10 years roughly, I look

1 after anywhere, you know, from 40 to 50 plus
2 murders a year in K Division, in the serious crime
3 branch. Some years are higher than others where
4 there's aboriginal people and some are lower. So
5 are they more prone to violence? In some aspects,
6 yes.

7 Q Okay. And are you aware that the RCMP has created
8 a national registry for missing persons and
9 identified remains so that police can have more
10 comprehensive information on missing persons
11 across Canada?

12 A It's in the process of being set up.

13 Q And are you aware that they have dedicated an
14 experienced aboriginal police officer from the
15 RCMP to --

16 A I'm not familiar with him, but my office is on the
17 leading edge, has been for a number of years, with
18 the Project Kare and the unsolved homicides and
19 missing persons registry, and we man that. In
20 fact, the head -- national headquarters, we've met
21 with them. We're part of the process at setting
22 it up and certainly our best practices have been
23 recognized in this regard and so I am aware of it,
24 yes.

25 Q You would agree, then, that aboriginal people in

1 Canada occupy a distinct and unique part of
2 society?

3 A Yes, ma'am.

4 Q And they are distinct in their separate and unique
5 cultures?

6 A Yes.

7 Q And they are distinct in that they're defined as
8 Indians under the *Indian Act*?

9 A Yes.

10 Q And that some people -- aboriginal people reside
11 on reserve?

12 A Yes.

13 Q And some aboriginal people reside in urban
14 aboriginal communities?

15 A Yes.

16 Q And in an urban setting there are generally urban
17 supports in place for aboriginal people?

18 A I believe so, yes.

19 Q And given that aboriginal people hold this
20 distinct place in Canadian society, you would
21 agree that it makes sense when investigating the
22 missing or murdered aboriginal women that there
23 may be other avenues of investigation to explore,
24 correct?

25 A Yes.

1 Q In your report you indicated that there were nine
2 women reported missing to the RCMP; that's
3 correct?

4 A I believe that was the number, yes.

5 Q Okay. It's on page 21 if you'd like to reference
6 it. What I'm about to tell you wasn't clearly
7 documented in the VPD or RCMP documentation, at
8 least not that I could find, but in my research it
9 appears that four of the nine missing women
10 reported to the RCMP were aboriginal. Would you
11 dispute that number?

12 A I won't dispute that, no.

13 Q And on page 21 and over on page 22, the four
14 aboriginal women as I, to the best of my research,
15 have been able to find were: Kellie Little
16 reported to the Agassiz RCMP, Georgina Papin
17 reported to the Mission RCMP, Taressa Williams
18 reported to the White Rock RCMP, and Jacqueline
19 Murdock reported to the Prince George RCMP?

20 A Yes.

21 Q Would you agree?

22 A Yes.

23 Q And if my calculations are correct, and just to
24 put it another way, that would mean that 44
25 percent of the women reported to the RCMP were

1 aboriginal. Would you agree with that number?

2 A Out of this nine, yes.

3 Q Okay. So you then agree that that is a
4 disproportionate number of women reported
5 missing --

6 A That's high for the nine, yes.

7 Q But you did not point this out in your report,
8 correct?

9 A No, ma'am. I don't differentiate how many -- I
10 appreciate that four out of the nine are
11 aboriginal, but we wouldn't differentiate whether
12 they were aboriginals or what the race culture
13 was. I don't think there was any need to do that.

14 Q But you just said a moment ago that there could be
15 other investigative avenues with respect to
16 aboriginal people, so --

17 A I think -- yes. And it wouldn't make any -- it
18 wouldn't make a big difference in the
19 investigation if we were looking for these people.
20 Obviously if there was aboriginals, then they
21 would go back to -- I mean that's part of it, but
22 it's not -- I don't think it's a big difference to
23 the investigators.

24 Q So you don't think that the overrepresentation of
25 aboriginal people is significant to how the

1 investigations were carried out then? Is that
2 what you're telling me?

3 A Well, there's nine here that were reported to RCMP
4 jurisdiction. I think at the time there was,
5 like, 1800 people missing in this particular
6 division or thereabouts. The nine here -- I mean
7 when you say four out of the nine are aboriginals,
8 that's high, yes.

9 Q Okay.

10 A I'm not going to dispute that.

11 Q But the question I'm trying to get at is whether
12 this knowledge would change the investigation of
13 those particular women?

14 A Of the four or of the nine?

15 Q Of the four aboriginal women given that they have
16 these --

17 A I think what you're trying to say, is there other
18 options because they're aboriginal that we could
19 do, explore?

20 Q Yes. That's my question.

21 A Absolutely.

22 Q Thank you. You testified yesterday that the
23 missing women profiles were incomplete; is that
24 correct?

25 A That the missing -- these files?

1 Q No. The profiles of the women?

2 A Yes. Some of them were missing, yes, incomplete,
3 not fully completed to our -- you know, to the
4 satisfaction.

5 Q And why would it be important to have complete
6 profiles?

7 A Well, I think the more information you have on the
8 missing person, the more intelligence you have and
9 the more you have to work with.

10 Q And one of the things that you cited yesterday
11 that would be necessary to have a complete profile
12 is ancestry; is that correct?

13 A Yes.

14 Q And so you agree that it would have been important
15 to document whether the woman was aboriginal or
16 not, correct?

17 A They pretty much would have to be, I think -- when
18 we put these files in there, it would be white or
19 non-white normally or if there's other -- I'm not
20 exactly -- I don't have a form in front of me, but
21 the forms that are filled out, there is a place
22 for their origin, yes, nationality.

23 Q Okay.

24 A Aboriginal or non-white or -- you know, along
25 those lines, black.

1 Q Okay. Thank you. And if this information
2 being -- if the woman was aboriginal or
3 non-aboriginal was properly documented, the
4 investigators could have contacted the women's
5 aboriginal community, correct?

6 A I would expect they would at some point in time,
7 yes.

8 Q And they could have contacted urban aboriginal
9 support organizations such as --

10 A Well, I can't speak -- I'm sure they would make
11 every effort to do that if that -- if that was
12 known to them and it was available to them, yes.
13 I would expect them to do that, but I can't say
14 whether or not they did it.

15 Q I'm not asking you to. I'm just asking you
16 hypothetically what they could have done if this
17 information was known. They could have contacted
18 the Department of Indian and Northern Affairs?

19 A They could have, yes.

20 Q And they could have contacted political aboriginal
21 organizations such as the Native Women's
22 Association of Canada?

23 A Yes.

24 Q And they could have contacted the Native
25 Courtworkers?

1 A Yes.

2 Q And they could have put up local posters at the
3 local friendship centres?

4 A Yes.

5 Q And they could have liaised with other RCMP
6 aboriginal police services to find out if there
7 was any other information that any other
8 communities had?

9 A They could have, yes.

10 Q For example, Jacqueline Murdock, who was reported
11 missing to the Prince George RCMP but was a member
12 of the Takla Lake First Nation, which is in
13 Northern BC, you would agree that it would have
14 been prudent for the investigators to contact --
15 in Prince George to contact the Takla Lake First
16 Nation RCMP to find out if they had any
17 information, correct?

18 A Yes.

19 Q But I take it from the lack of focus on this in
20 your review, you did not think it was worth
21 finding out if any of these steps had been taken,
22 did you?

23 A We didn't go down that road, no.

24 Q We've already established that nine women were
25 reported missing to the RCMP, correct?

1 A Yes.

2 Q And if you -- if you reference page 21, you'll see
3 that three of those files were passed on to the
4 VPD, correct?

5 A That's what we were told, yes.

6 Q That's what you were told. Okay. And you would
7 agree that the strongest investigative work on
8 these missing women would likely be done at the
9 time when the report was taken given that the
10 information would be fresh, correct?

11 A Yes. Normally that's when it's done, best time to
12 do it.

13 Q And if this file was passed on to another policing
14 service such as the VPD, it would be prudent for
15 the RCMP to retain a copy of that file in case
16 something happened to it, correct?

17 A I would think they would retain a copy of the
18 file, yes.

19 Q Okay. Thank you. I'd now just like to move to
20 the missing persons policies. As part of the
21 research for your report, you reviewed the RCMP
22 missing person policy that was in place at the
23 time of the Pickton investigation, correct?

24 A Yes, ma'am.

25 Q And you also included a draft RCMP missing person

1 policy that had not been approved at that time; is
2 that right?

3 A I don't have that.

4 Q Oh, I'm sorry. It's at Tab 6 of your binder, the
5 one that I gave you.

6 A Yes. Sorry. I have Tab 6.

7 Q And if you can just have a brief look at this.
8 Does this appear to be the draft that you included
9 as an appendix to your --

10 A I believe that the policy was in the draft format
11 and when we received this, if -- we thought we
12 would put it in that they were going to be making
13 changes, and I can't comment further on whether or
14 not this was ever adopted, but this was the draft
15 at the time.

16 Q At the time of your report?

17 A Yes.

18 Q If you can just go down under heading number 2
19 where it says "member"?

20 A Yes.

21 Q And then following that it states, "Upon receiving
22 a missing persons report" and then it starts to
23 list things that should be done?

24 A Yes.

25 Q Number 3, it says:

1 Where appropriate have information on the
2 missing person broadcast to neighbouring
3 detachments, police agencies --

4 And over the page.

5 -- or other agencies.

6 And then in brackets it says:

7 Transit buses, taxi companies, media outlets,
8 municipal public works dispatch, Canada
9 Customs and border crossing points, et
10 cetera.

11 A Yes.

12 Q You would agree with me that nowhere in there in
13 terms of who to contact when a person goes missing
14 is there anything dealing with who to contact
15 within the aboriginal community, correct?

16 A There doesn't appear to be, no.

17 Q And you would agree that communicating with the
18 aboriginal community or organizations is an
19 important step to take when there is a missing
20 aboriginal person?

21 A Yes, ma'am.

22 Q And would you agree that in future missing persons
23 policies with respect to the RCMP, there should be
24 a provision in the policy that there should be
25 specific steps to take to investigate missing

1 aboriginal people?

2 A Yes.

3 Q And would you agree that it would be important to
4 consult with the aboriginal community about what
5 those steps might be as they likely know best how
6 to contact their own people?

7 A I would agree if -- I believe the missing person
8 policy would be -- in general would be subject to
9 criminal operations. Once the missing persons
10 policy is drafted, then certainly there should be
11 input by various interested support groups and
12 criminal operations, which in fact would be part
13 of aboriginal policing or community policing, to
14 try and gather -- to gather as much information as
15 possible. So I agree that there should be some
16 references to -- to missing people as to contact
17 the aboriginal people. My particular office in
18 Edmonton we have -- when we have a missing person
19 or we feel that there's a missing person, whether
20 it's an aboriginal person or a white person or a
21 child or anything like that, we have upwards of a
22 hundred social agencies that we contact by the
23 press of a button and we put out posters to all
24 these detachments across the province as well as
25 the city police, but certainly social agencies are

1 a big part of it, as would be any aboriginal
2 reserve -- or aboriginal, you know, reservation or
3 any of the places that we could contact to try and
4 find the people would be the route to go.

5 Q Thank you. I just have a few more questions.
6 Yesterday -- yesterday you testified that it was
7 difficult to investigate with these types of
8 people because the witnesses are not reliable and
9 the profiles are hard to put together, correct?

10 A Yes.

11 Q What did you mean by "these types of people"?

12 A Well, I think the witnesses that we're dealing
13 with, people that -- we're dealing with people
14 that are at the low track or difficult to -- with
15 no fixed abodes. They're moving around. They're
16 hard to -- they don't have any recollection of
17 time and it's -- they're difficult people to
18 interview. And when you get -- you know, you'll
19 ask questions and some of them are -- you have to
20 be careful when you're speaking to these people
21 because, like I mentioned to Mr. Gratl before,
22 what they might reference happened two days ago
23 and, in fact, it would be two weeks or two months
24 ago, so, you know, they're hard to work with. We
25 do our best to try and, you know, get the most

1 information we can out of them, but a lot of them
2 it's very difficult and trying to find them to go
3 back and re-interview them, it's difficult to find
4 them and so it's -- we kind of get the one stab
5 approach with these kind of people. Like, when
6 you're going to interview them, you want to have
7 everything and try and -- you know, try and get
8 the best possible information you can out of them,
9 and bearing in mind that a lot of them have memory
10 lapses and just don't seem to be with it in a lot
11 of cases, so it's difficult to get the proper
12 information out of them.

13 Q Okay. But as Mr. Gratl -- you've been through
14 with Mr. Gratl, these -- the comments that you're
15 making are based on your experience and not
16 necessarily specifically -- specific to this case,
17 correct?

18 A No. I'm just -- generally speaking it's
19 difficult. I don't think this changes much from
20 one area to another.

21 Q But you didn't --

22 A But I didn't talk to anybody in the Downtown
23 Eastside to verify that, no.

24 Q Okay. Thank you. So it's fair to say, then, that
25 if you're making these assumptions about the

1 people in the Downtown Eastside and the people
2 involved in these investigations, it's fair to
3 say, then, that other RCMP members could have made
4 those same assumptions, correct?

5 A They could have, but I can't comment for them.

6 Q No. But you would agree that it's possible that
7 they could have also made those assumptions?

8 A It's possible, yes.

9 Q Thank you. And just one last area. Mr. Vertlieb
10 went over this with you yesterday, but I just want
11 to be absolutely clear on the position of
12 resources. You testified yesterday that there was
13 a lack of human resources in terms of actual
14 bodies and officers, but there was no lack of
15 financial resources, correct?

16 A There was -- there never -- from what I can gather
17 in speaking with Assistant Commissioner Bass or
18 Chief Superintendent Bass, funding was not an
19 issue, obviously depending on the amount, but
20 certainly to conduct the investigation. Human
21 resources for the most part are always a bit of an
22 issue, but certainly the -- the request to get
23 more resources is always there. Can I say that
24 they had sufficient resources for the entire
25 investigation? I can't really say that and I'm

1 sure that you'll get different opinions in here
2 whether it was enough or not enough or just the
3 right amount. And I'm going to probably go out on
4 a limb here a little bit and say that in most
5 cases most units investigating these type of
6 people would be desirous of having additional
7 resources.

8 Q Okay. Based on that, though, with respect to just
9 specifically the funding issue, if there was to be
10 further -- at the time of the investigation if
11 there was to be further investigation or
12 communication or consultation with aboriginal
13 communities with respect to their missing women,
14 it's likely from what you were told by
15 Commissioner Bass and the other members of the
16 RCMP that the funding would have been available,
17 correct?

18 A I can't speak for Assistant Commissioner Bass, but
19 I would certainly -- and I believe in our
20 interview with him was funding -- you know, the
21 funding is -- I mean it's obviously a concern
22 because you're accountable, but it's -- funding is
23 always available for major crime, major incidents
24 and certainly they'll go that extra mile to get
25 the funding if we need it, yes.

1 MS. GERVAIS: Thank you. Those are my questions.

2 THE COMMISSIONER: Thank you, Miss Gervais. We'll take the
3 break.

4 THE REGISTRAR: We will now recess for 15 minutes.

5 (PROCEEDINGS ADJOURNED AT 3:05 P.M.)

6 (PROCEEDINGS RESUMED AT 3:24 P.M.)

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

8 THE COMMISSIONER: Yes, Mr. Dickson.

9 THE REGISTRAR: Sorry, Mr. Dickson. We just need Miss Gervais
10 just to address an issue here first.

11 MS. GERVAIS: Robyn Gervais, counsel for aboriginal interests.
12 I just quickly wanted to address the binder that I
13 had asked to be marked as an exhibit. If I could
14 just have Tab 3 and 6 marked as the other --

15 THE COMMISSIONER: There's some duplication there?

16 MS. GERVAIS: Yes.

17 THE COMMISSIONER: Yes. I understand.

18 THE REGISTRAR: That's correct. Tab 3 will be marked as
19 Exhibit Number 58. Tab 6 will be marked as
20 Exhibit Number 59.

21 (EXHIBIT 58: TAB 3 - BUNDLE OF DOCUMENTS)

22 (EXHIBIT 59: TAB 6 - BUNDLE OF DOCUMENTS)

23 THE REGISTRAR: Mr. Dickson.

24 **CROSS-EXAMINATION BY MR. DICKSON:**

25 Q Thank you, Mr. Giles. Tim Dickson for the

1 Vancouver Police Department.

2 Superintendent, I want to begin just by
3 clarifying a couple of matters with you that Mr.
4 Vertlieb explored in his examination. And the
5 first is with regard to the formation of the JFO
6 Evenhanded. You wrote in your report -- it's at
7 page 6, but you'll probably remember the
8 passage -- that it is clear from Staff Sergeant
9 Henderson's interview that on his direction and
10 under his guidance, because of his concern, he
11 initiated a review team which ended up becoming a
12 task force and eventually culminated in the arrest
13 of Pickton. You recall that?

14 A Yes, sir.

15 Q And you were asked by Mr. Vertlieb about the
16 statements, and when he asked you whether you
17 stood by the statement that the RCMP initiated the
18 JFO, you said something like, well, they initiated
19 it by asking Don Adam to lead it. Do you remember
20 that?

21 A I don't remember exactly those words, but from the
22 interview we had with Staff Sergeant Henderson, we
23 felt that on his direction and under his guidance
24 he had some concern, so he initiated a review team
25 which ended up becoming a task force. Certainly

1 I'm sure it was initiated with the Vancouver
2 Police Department and I can't say in what capacity
3 other than the fact that we felt that Henderson
4 had some concern and initiated it.

5 Q Okay. And I appreciate you did not interview any
6 VPD members?

7 A That's correct.

8 Q And so you would be unaware of their perspective
9 on the formation of the JFO?

10 A That's correct.

11 Q And if I tell you that their perspective is that
12 the VPD pushed for a long time for the JFO to be
13 formed, I take it you wouldn't disagree with that?

14 A If you're saying that. I can't -- I can't comment
15 on that because I am not aware of that.

16 Q No. You don't have any evidence to give contrary
17 to that?

18 A No, sir.

19 Q The second matter I wish to clarify with you has
20 to do with the statement that you took from Don
21 Adam. You summarize that in your report at page
22 7. And it's to the effect that Evenhanded was
23 aware of the 1997 arrest of Pickton and the 1999
24 investigation into him, but your statement says
25 Pickton's name had not surfaced on any of the

1 material reviewed up to that point?

2 A That's from Don Adam's words, yes.

3 Q Yes. And you had this exchange with Mr. Vertlieb.

4 He asked you whether Evenhanded was aware that
5 Pickton was the number one suspect by the VPD for
6 a long period of time and you said no, it wasn't
7 aware. And he asked you should that fact have
8 been important of Evenhanded, and you said this:

9 Well, if the VPD considered Pickton a top
10 suspect, I would have thought the VPD would
11 have relayed that. I have just recorded what
12 Don Adam relayed to us. He indicated that
13 there were a number of suspects.

14 Those are my notes.

15 A I think that's fair. This was a joint force,
16 Project Evenhanded, so I guess part and parcel of
17 Vancouver Police Department are part of the JFO.
18 And I think I would have -- I'm only -- I'm
19 relaying or capsulizing the interview of Staff
20 Sergeant Adam, but I would have thought that if
21 VPD, who were part of the command triangle and
22 part of the task force and if they felt that Mr.
23 Pickton was a -- certainly a number one suspect, I
24 believe, as you indicated, then I would have
25 thought that that would have been relayed upon the

1 formation of the task force.

2 Q Yes. And are you suggesting that the VPD did not
3 disclose information on Pickton that it should
4 have disclosed?

5 A No, sir.

6 Q Because, of course, your summary goes on on the
7 next page, page 8, and says that the co-operation
8 was excellent and a free flow of investigative
9 data between the departments was of no major
10 concern?

11 A None whatsoever.

12 Q Yes. And, of course, part of that investigative
13 data that the VPD sent to Evenhanded were its
14 files on Pickton?

15 A I assume they would have -- like I indicated, when
16 they came over to form part of the task force, I
17 would have thought that they would have brought
18 those files, yes.

19 Q So you don't dispute that Evenhanded had all of
20 that information from the VPD, do you?

21 A No, I don't.

22 Q Yes. And will you accept that the RCMP E Division
23 was well aware of Pickton as a top suspect in the
24 missing women investigation when Evenhanded was
25 formed?

1 A I'm thinking he was a suspect, but I'm not sure if
2 a top suspect and I don't know if I'd be in a
3 position to answer that. Somebody from Evenhanded
4 certainly would have to be -- would be in a better
5 position than for me to answer that question.

6 Q That's -- that's certainly right, but just because
7 we're on your review and you're conveying the
8 statement from Sergeant Adam in your report, you
9 don't -- you don't dispute, I take it, that the
10 RCMP was well aware of Pickton as a top suspect
11 when Evenhanded was formed?

12 A I'm only relaying what Staff Sergeant Adam relayed
13 to us.

14 Q Let us just go quickly, if we could, into the
15 Evans report. Do you have that handy? It's
16 Exhibit 34.

17 A Yes.

18 Q We're going to go to page 8-127.

19 A Yes.

20 Q And I'm looking over at the entry of March 1st,
21 2000. And this is summarizing a meeting between
22 Staff Sergeant Davidson -- he was an RCMP E
23 Division criminal profiler?

24 A I believe so, yes.

25 Q You're aware of that? And his colleague, Corporal

1 Filer?

2 A I'm not aware of Corporal Filer, but I understand
3 he's --

4 Q Fair enough.

5 A -- a partner with Davidson, yes.

6 Q Fair enough. And Sergeant Paulson -- and
7 obviously he's the commissioner now -- and they
8 met with Chief Superintendent Bass in order to
9 discuss a proposal for a joint force operation
10 about the serial disappearances of missing women.
11 Do you see that?

12 A Yes.

13 Q And I'll just tell you -- I'm not looking for an
14 answer, but I'll just tell you that part of the
15 efforts that the VPD were conducting in respect of
16 forming a JFO was talking to Staff Sergeant
17 Davidson and Corporal Filer and then they were
18 going to RCMP. I'll just leave that with you.
19 But you can see here that Staff Sergeant Davidson
20 wrote a proposal to Chief Superintendent Bass and
21 offered his professional opinion by stating:

22 There is a strong probability of more than 3
23 serial killers being responsible for the
24 outstanding unsolved murders of sex trade
25 workers in BC. The following are three of

1 many violent offenders known to attack

2 prostitutes, capable of murder.

3 And then you can see that Mr. Pickton is number 1
4 on that list?

5 A Yes.

6 Q And then -- and then it goes on. Nothing resulted
7 at that time from that meeting, but a JFO later
8 was formed and Staff Sergeant Davidson, Corporal
9 Filer continued to advocate for one. And so my
10 point here, as you can see quickly, that Chief
11 Superintendent Bass of the RCMP had Pickton being
12 identified to him in the context of forming a JFO.
13 You accept that, don't you?

14 A If this material here from -- from Deputy Evans
15 is -- I have no reason to disregard her --
16 disrepute it, so I'm suggesting this -- I agree
17 with your comments, yes.

18 Q Yes. And you note in your report that I took you
19 to, the comment that I took you to, that Staff
20 Sergeant Henderson of Unsolved Homicide was
21 involved in the initiation of the review team,
22 which became the JFO. And, of course, Staff
23 Sergeant Henderson was aware that Pickton was
24 investigated in a substantial way in respect to
25 the missing women. Do you accept that?

1 A Yes.

2 Q And he -- Staff Sergeant Henderson, of course, was
3 in charge of Provincial Unsolved Homicide and he,
4 in fact, devoted two officers, Corporal Henley and
5 Detective Ballantyne, to the Coquitlam
6 investigation in 1999?

7 A Yes. I believe that's the year, yes.

8 Q And while we're on the topic of Unsolved Homicide,
9 that's an integrated unit comprised of RCMP and
10 VPD members?

11 A I believe so, yes.

12 Q And it's led by the RCMP?

13 A I'm not familiar, but I believe so.

14 Q Well, it's housed in the Major Crime Section of E
15 Division, isn't it?

16 A I'm not sure of that. I think it was housed in
17 Surrey, I believe, that satellite office, but I'm
18 not totally sure there.

19 Q So two members of Provincial Unsolved assisted in
20 the Coquitlam Pickton investigation, Corporal
21 Henley and Detective Ballantyne, as we've
22 discussed?

23 A I think they were sent over there, yes.

24 Q And Corporal Henley is an RCMP member?

25 A Yes, he is.

1 Q And you've referred a number of times to Detective
2 Ballantyne as a VPD officer, but my point here, of
3 course, is he was seconded at that time to
4 Provincial Unsolved Homicide, correct?

5 A Yes.

6 Q And he was under the leadership of RCMP Staff
7 Sergeant Henderson?

8 A Yes.

9 Q And just returning to Evenhanded and its knowledge
10 of Pickton, of course, the Coquitlam RCMP had
11 conducted their investigation into Pickton and you
12 would expect that Evenhanded would have the
13 Coquitlam file?

14 A I would expect that they should have it, yes.

15 Q In your appendices there are minutes from a
16 meeting within the Coquitlam Detachment in April,
17 2001 where the plan is made to pass along the file
18 to Evenhanded?

19 A Yes.

20 Q And, of course, providing that information to
21 Evenhanded is an important step?

22 A Yes.

23 Q And I have heard some suggestion that it wasn't
24 done. If it wasn't done, that would be a serious
25 error?

1 A I'm sorry. It would be a?
2 Q A serious error?
3 A If it wasn't done, then I can't say for sure when
4 it was done or how it was done or if it was done.
5 It would only stand to reason to me that it should
6 have been done, but I can't comment on that.
7 That's something that Evenhanded perhaps would be
8 in a better position to advise when they received
9 it or how they received it.
10 Q As we've heard, in 1998 a source named Hiscox came
11 forward to the VPD with information about Pickton
12 that made him a person of interest in the missing
13 women investigation?
14 A Yes. I believe that was the year, yes.
15 Q And ultimately Lori Shenher of the VPD passed on
16 that information to Corporal Connor of the
17 Coquitlam RCMP and they investigated that
18 information in '98 and the spring of '99?
19 A I believe so, yes.
20 Q And then in the summer of 1999 a source named
21 Caldwell came forward to the VPD and his
22 information was passed on to Coquitlam RCMP and
23 the VPD assisted in the investigation that
24 resulted, correct?
25 A Yes. I believe so.

1 Q And in both these instances the VPD was bringing
2 critical source information with respect to
3 Pickton to the RCMP?

4 A I believe -- yes. That would be a fair
5 assumption, yes.

6 Q And I note that only because on page 26 of your
7 report, you write this:

8 The RCMP ensured that Pickton was brought to
9 the forefront as a suspect to the Vancouver
10 Police Department and other local municipal
11 police agencies.

12 Do you see that? Page 26. I think it's at the
13 top.

14 A Page 26?

15 Q Yes. In the last sentence of the first paragraph.
16 Do you see that?

17 The RCMP ensured that Pickton was brought to
18 the forefront as a suspect to the VPD.

19 A Yes.

20 Q

21 And other local municipal police agencies.

22 A That was part of our comments, yes.

23 Q And -- yes. This is in your comment section. And
24 I suggest to you that that does not accurately
25 reflect the dynamic in 1998 and 1999 when really

1 it was the VPD who was bringing the information
2 about Pickton forward to the RCMP; is that fair?

3 A It could be fair, yes. I'm sure that we would
4 have had some information that Pickton was brought
5 to the forefront. Whether it was to the Vancouver
6 Police Department and other local municipal police
7 agencies, we did print that, but I can't -- I have
8 no reason -- or I can't think of why we did that
9 if we didn't -- if there wasn't some facts behind
10 that. So if you're suggesting that the Vancouver
11 Police Department had all the information on
12 Pickton and gave it to the RCMP, I -- that's
13 something that I have to explore a little bit
14 further. I can't really comment on that.

15 Q Well, you know that the Coquitlam Detachment, of
16 course, had information -- had the file on the
17 1997 attempted murder?

18 A Yes.

19 Q But you also note that -- then with Hiscox and
20 then with Caldwell that information originated
21 with the VPD. It was the VPD who brought it to
22 the attention of RCMP Coquitlam Detachment and
23 worked with them on the investigation?

24 A Yes. They would have brought the information to
25 them and they worked together, yes.

1 Q Now, I want to ask you a little bit about the
2 Coquitlam investigation and including the VPD's
3 role in it. In August of 1999, as we've seen,
4 Coquitlam Detachment seeks assistance from the VPD
5 and Unsolved Homicide to investigate Pickton and,
6 in particular, information coming in from
7 informants about what Lynn Ellingsen said?

8 A I believe that's correct, yes.

9 Q And what Lynn Ellingsen said to Caldwell and also
10 to Best and Menard is having seen Pickton skinning
11 a sex worker in the barn?

12 A Yes.

13 Q And Corporal Connor was the lead investigator in
14 the file, co-ordinator on this investigation, yes?

15 A Yes.

16 Q And, as you've written, the team concluded that
17 they had to interview Ellingsen, and ultimately
18 that was done twice and she denied having seen the
19 barn incident, yes?

20 A That's correct.

21 Q And this caused a road block in the investigation;
22 is that fair?

23 A Yes.

24 Q Because some -- some of the members believed her
25 denials of having seen this incident?

1 A Some believed her and some didn't believe her.

2 Q Well, I agree with you. Some believed her and
3 some didn't believe her. And I want to take you
4 to page 13 of your report if I could. And this is
5 the point I wish to clarify. The last paragraph
6 states this:

7 There were discussions initiated on
8 conducting a profile on Lynn Ellingsen with
9 an eventuality of conducting an undercover
10 operation on her. The consensus of the
11 investigative team felt that this avenue of
12 investigation was not viable and that she was
13 unreliable and her mental stability was
14 questionable.

15 And you use the word "consensus" and I just
16 suggest that there wasn't a consensus?

17 A That is Sergeant Connor's explanation to us.

18 Q Yes.

19 A The consensus of the investigative team would have
20 been Coquitlam.

21 Q Yes. In Coquitlam. And so the members of the
22 investigative team are the two provincial unsolved
23 homicide investigators?

24 A I'm not sure if they were part of the
25 investigative team at that time, but I would

1 suggest that they were assisting in Coquitlam and
2 I'm certainly -- their outlook or prognosis of
3 the -- of the investigation on Ellingsen should
4 have formed a part of the briefing or the
5 consensus, I would assume, yes.

6 Q Yes. Well, I'll show you in a second that indeed
7 it did. And so they are part, as I'll show you,
8 of the investigative team. And, of course,
9 Corporal Connor is the lead investigator and then
10 two VPD detectives, Chernoff and Lepine, are
11 assisting in the investigation really by handling
12 the source Caldwell. Does that --

13 A I believe that's correct. Yes.

14 Q Yes. But I suggest to you when you write the word
15 "consensus" here, that's not quite accurate
16 because the lead investigator, Corporal Connor,
17 along with the VPD investigators, Lepine and
18 Chernoff, they felt that Lynn Ellingsen's
19 information was worth pursuing further and there
20 was still some credibility to it?

21 A The information perhaps would be pursuing -- the
22 undercover operation was of the consensus that
23 they felt that they wouldn't be able to conduct an
24 undercover operation on her.

25 Q Oh, I see. But I read it as the consensus of the

1 investigative team felt that she was unreliable
2 and her mental stability --

3 A This avenue of investigation --

4 Q -- was questionable?

5 A This avenue of investigation by way of an
6 undercover operation was not viable.

7 Q Right. And she was unreliable. You see that?

8 A That's -- that's what Connor relayed to us, yes.

9 Q Okay. Well, I'm just going to take you into your
10 Appendix L. That's the -- I don't know where it
11 is, I'm afraid.

12 A I believe I have this.

13 MR. DICKSON: Okay. And so that's -- that's Appendix L to --

14 THE COMMISSIONER: Fine. Go ahead.

15 MR. DICKSON:

16 Q And, superintendent, this time line was prepared
17 by Corporal Connor. I think it was Sergeant
18 Connor by the time he prepared it?

19 A I believe it was, yes.

20 Q In May of 2002 after Pickton's arrest?

21 A April of -- yes. Okay. May, yes.

22 Q Oh, I see. Yes. Anyway, in the spring of --
23 thank you. April or May, 2002?

24 A Yes.

25 Q And you'll -- and this is setting out the events

1 of the Coquitlam investigation along with other
2 files that the Coquitlam Detachment worked on at
3 the time?

4 A Yes. I believe so.

5 Q And the bolded portions relate to the Pickton
6 investigation, yes?

7 A Yes. I believe so. Yes.

8 Q You noted that in your report. I can show that to
9 you if you are unsure. Page 15 of your report
10 just notes that in the first full paragraph,
11 second-to-last line -- second-to-last sentence?

12 A Yes. That's correct.

13 Q And so if we go over to page 113.

14 A Yes.

15 Q And we look at the italics here. These are
16 Corporal Connor's comments in the italics?

17 A It's his time line, yes.

18 Q It's his time line and these are his -- the
19 italics portion, as I read it, represents --
20 represents his sort of more candid thoughts on the
21 investigation; is that fair?

22 A The italics. Are you referring to the meeting of
23 the unsolved --

24 Q I'm looking at page 113 at the bottom.

25 A Okay. At the very bottom?

1 Q Yes. Well, you see two paragraphs there that are
2 in italics?

3 A Yes.

4 Q And so Corporal Connor there says this:

5 I also discussed the feasibility of doing an
6 undercover operation on Ellingsen. It was
7 suggested by some members that it would be a
8 waste of time and money, that she was crazy,
9 cocaine addicted, and hallucinated and what
10 she saw was actually a pig hanging in the
11 barn and not a human. It was apparent that
12 there was a defined difference in attitude
13 between members from E Division, Major Crime
14 Unsolved Homicide, not including Corporal
15 Justason, and Coquitlam Vancouver Police
16 Department members. There was a definite
17 difference of opinion as to whether the
18 information was reliable enough for the
19 investigation to continue. In an effort to
20 bring all sides together, I undertook time
21 aside from the investigation to determine how
22 crazy Ellingsen was. Could cocaine make one
23 see things and that it was a pig hanging from
24 the rafters, not a human?

25 You see that?

1 A Yes.

2 Q And my simple point there is that there wasn't a
3 consensus. There was actually quite a stark
4 division in the investigation team as to whether
5 an undercover operation was worthy of being
6 pursued and really whether this information from
7 Ellingsen was worthy of continued pursuit; is that
8 fair?

9 A That's what his comments say, yes.

10 Q Yes. And if his comments are true, then that is
11 true, yes?

12 A Yes.

13 Q So the upshot of it is that Corporal Connor went
14 and did more investigation; isn't that right?

15 A I believe he did, yes.

16 Q In one of the unique pieces of information from
17 Ellingsen's -- from what Ellingsen is said to have
18 said was that she didn't know that human fat was
19 yellow. Do you recall that?

20 A Yes.

21 Q And the thought within the investigation team, of
22 course, is that, well, how could she know that if
23 she didn't see what she said she saw in the barn?

24 A That's a fair comment. Yes.

25 Q And so if we go to page 117 in this time line,

1 Corporal Connor goes to a place called Britco
2 Meats in Langley and he talks to them there and
3 he -- he's advised that a pig's fat is white and
4 not yellow?

5 A Yes.

6 Q And so he's following that up. And also he learns
7 another piece of information, which is that the
8 information apparently coming from Ellingsen was
9 that she saw the woman hanging from her neck, but
10 what Corporal Connor learns at Britco is that pigs
11 are slaughtered or butchered by being hung by
12 their legs, from their hind legs, and so they're
13 upside down?

14 A Yes.

15 Q Do you recall that?

16 A I don't recall that, but okay.

17 Q Well, that -- the effect of that was that that
18 further undermined the notion that Ellingsen might
19 have mistaken a pig for a human, correct?

20 A Yes. That's possible.

21 Q That would tend -- that would tend to have that
22 effect, wouldn't it? In your mind, looking at it
23 now, that would tend to make you think, wow. It's
24 less likely that she mistook a pig for a human?

25 A Yes.

1 Q And then if we go to page 118. This is what Mr.
2 Gratl was taking you through. Corporal Connor
3 inquired with the E Division Toxicology Unit
4 whether cocaine might make Ellingsen hallucinate
5 and they said no. Cocaine is not hallucinogenic,
6 correct?

7 A Yes.

8 Q And then over on page 119, Corporal Connor went
9 and spoke with Pat Casanova. And Mr. Casanova was
10 an associate of Pickton. He was often with
11 Pickton on occasions when Pickton butchered pigs.
12 And Casanova confirmed that Pickton would butcher
13 them by raising -- would in fact raise them by
14 their hind legs and butcher them?

15 A That's correct. That's what it says.

16 Q And you know that in August -- on August 20th,
17 1999 Corporal Connor was promoted and transferred
18 to Coquitlam general duty?

19 A I knew that he was transferred. I'm not sure of
20 the dates, but yes.

21 Q If you look over at page 123. It just notes that
22 next to August 20th, 1999. But in the italics he
23 says that -- I'll just summarize -- before leaving
24 Major Crime he spoke with the administrative NCO
25 in an effort to see if he could take the promotion

1 and be seconded back to the investigation. He
2 wanted to stay on the investigation. And he was
3 told that the officer in charge would not approve
4 that. And so right at the bottom of the italics
5 the Pickton investigation was then left in the
6 hands of Coquitlam Major Crime Section, correct?

7 A That's what it says, yes.

8 Q And you don't -- that's what it says and you don't
9 doubt that?

10 A No. I don't doubt that.

11 Q Do you agree that it would have been far better
12 that Corporal Connor stay on the file so that
13 there was continuity?

14 A Yes. Absolutely. And had I anything to do with
15 that kind of transfer, I would have certainly
16 looked into it. And I think in all fairness
17 Corporal Connor, although he talked to the admin
18 and so should have probably made his way to the
19 officer in charge, but he didn't from what it
20 appears.

21 Q And this caused a substantial problem in the
22 Coquitlam investigation?

23 A I would -- I would agree with that, yes, because
24 Corporal Connor is very knowledgeable in this
25 field -- or in this investigation and had taken

1 this file a long ways, and certainly the
2 promotion -- I'm sure if the appropriate personnel
3 would have been contacted that there could have
4 been something for him seconded back for a certain
5 period of time.

6 Q Now, Constable Yurkiw then took over the file,
7 right?

8 A Yes.

9 Q And I'm going to continue taking you through the
10 time line a little bit just to review what happens
11 after this point. So at the bottom of page 123 we
12 can see a bolded portion, and that relates to the
13 second interview of Lynn Ellingsen at Coquitlam
14 Detachment on August 26th?

15 A Yes. I believe that's the second interview, yes.

16 Q And then if we go over to page 124, on August 31st
17 Corporal Henley went to Ellingsen's home and tried
18 to escort her to the polygraph examination, which
19 she had agreed to take in the interview?

20 A Yes.

21 Q And then she refused to take it at that time?

22 A Yes, she did.

23 Q Yes. And then at the bottom of that page,
24 September 1st, 1999, Sergeant Pollock and
25 Constable Yurkiw go to the Pickton farm to

1 interview him, but he wasn't there?

2 A That's what it says, yes.

3 Q And if we go over the page, page 125, on September
4 22nd Pickton is spoken to on the phone and he
5 didn't want to come into the detachment. He
6 wanted them to come to his residence to interview
7 him. Do you see that?

8 A Yes.

9 Q That offer wasn't taken up?

10 A Well, see, I think these are notes that are made
11 by Connor, kind of a time line, because he says
12 he's spoken to by members, s on the end, and then
13 it goes down a little bit further on and Yurkiw,
14 so I'm not sure if there's other people involved
15 and whether Corporal Connor or Sergeant Connor was
16 there at the time or is he just relating and going
17 through various files and kind of putting these
18 things in. So I'm not sure of the accuracy of
19 everything here, but from what is written down
20 here by Connor, I have to agree with you.

21 Q And I mean I'm taking this from one of your
22 appendices in your review. You relied on this
23 time line in reviewing --

24 A Yes.

25 Q Yes. Okay. Now -- and on this day, September

1 22nd, one of the results was that Constable Yurkiw
2 spoke with Dave Pickton and he said, "Well, let's
3 wait for the rainy weather to have the interview"?

4 A Yes. I believe I remember that.

5 Q And Pickton was ultimately interviewed on January,
6 I think, 10th of 2000?

7 A Yes. I believe it was January. Yes. Early
8 January, yes.

9 Q And you said, and I take it it's so, you wouldn't
10 have allowed so much time to pass before
11 interviewing him if you were in charge?

12 A That's correct. But you want to prepare. I mean,
13 you know, in all fairness, I wasn't part of the
14 investigation, but certainly you have to be
15 prepared. You have to plan to do an interview,
16 so --

17 Q Yes. You have to be prepared?

18 A And you should plan.

19 Q And you should plan and --

20 A You should have the right person doing the
21 interview as well too. So in addition to the
22 delay -- and I'm not going to go by the lengthy
23 delay, but certainly these important interviews
24 are something you wouldn't want to rush into
25 without the proper planning.

1 Q Yes. You want to prepare, you want to plan and
2 you want to have the right interviewers, I heard
3 you say?

4 A That's correct. Yes.

5 Q Superintendent, is it fair to say that those were
6 deficient with respect to the interview of Pickton
7 in January?

8 A Well, I'm not -- I can't comment on that. I think
9 I mentioned that yesterday before. Constable
10 Yurkiw had a previous commercial crime background
11 and I believe a general investigation section
12 background, so certainly if the task to do the
13 interview on Mr. Pickton was given to her, then
14 there must have been some -- you know, the
15 supervisor must have had some idea that she would
16 do a proper job or she was capable of doing the
17 job.

18 Q Okay. I have read in your interviews comments
19 from some of your interviewees that Constable
20 Yurkiw was probably not the right person to do the
21 interview, probably didn't have the experience
22 necessary. Do you recall that?

23 A I'm not sure if I recall that. I think there was
24 some -- some indication that perhaps she didn't
25 have the experience, but I don't recall that

1 coming out. And when we spoke to -- to Pollock, I
2 think there was a question as to whether or not
3 she was the best person to do the interview and I
4 think there was some -- some indications that --

5 Q Some doubt?

6 A Some doubt that she wouldn't be the best person to
7 do the interview, yes. I'll agree with that.

8 Q And you know that Constable Cater did the
9 interview with her?

10 A Yes. He was fairly new to the section.

11 Q And he didn't know about the interview until that
12 day?

13 A I believe it was either that day or the day
14 before, but certainly not a long period of time.

15 MR. DICKSON: Okay. I'm in your hands, Mr. Commissioner.

16 THE COMMISSIONER: All right.

17 MR. VERTLIEB: Mr. Commissioner, we've made really good
18 progress. Perhaps your directive is partly a
19 factor. We had planned to have this witness here
20 for the week.

21 THE COMMISSIONER: Yes.

22 MR. VERTLIEB: We will not, obviously, the way it's going, be
23 here a full day tomorrow, so I think we should
24 start tomorrow at 10:00. There's no need to start
25 early.

1 THE COMMISSIONER: All right.

2 MR. VERTLIEB: Based on my discussions, we would be perhaps an
3 hour, hour and a half and then that should
4 conclude for tomorrow. We're still on track,
5 though, to start with Deputy Chief Constable Evans
6 on Monday.

7 THE COMMISSIONER: All right.

8 MR. VERTLIEB: So I think 10:00 a.m. tomorrow works for us, Mr.
9 Commissioner.

10 THE COMMISSIONER: All right. Thank you.

11 THE REGISTRAR: The hearing is now adjourned for the day and
12 will resume at ten o'clock tomorrow morning.

13 (PROCEEDINGS ADJOURNED AT 4:00 P.M.)

14 I hereby certify the foregoing to be
15 a true and accurate transcript of the
16 proceedings transcribed herein to the
17 best of my skill and ability.

18 Kathie Tanaka, Official Reporter
19 UNITED REPORTING SERVICE LTD.

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