

Vancouver, BC

January 16, 2012

(PROCEEDINGS RECONVENED AT 9:30 A.M.)

THE REGISTRAR: Order. The hearing is now resumed.

MR. VERTLIEB: Mr. Commissioner, before we begin with the next witness there are some introductions that I think need to be made. Perhaps Mr. Peck could just -- and we have some new counsel that would like to introduce themselves.

THE COMMISSIONER: Okay.

MR. PECK: Mr. Commissioner.

THE COMMISSIONER: Yes.

MR. PECK: Rick Peck. I appear on behalf of Mr. Gary Bass.

I'm here to participate on his behalf as his interests may be affected by the testimony and report of the next witness, and I'll have more to say about that shortly.

THE COMMISSIONER: All right. Thank you.

MR. BUTCHER: Mr. Commissioner, my name is David Butcher. I am here to represent the interests of Mr. Brock Giles.

THE COMMISSIONER: Okay. Thank you.

MR. BUTCHER: I join Mr. Peck in saying that my client has interests in this matter, and I would add that I am not going to be ready to cross-examine this

1 witness should that be necessary this week.

2 THE COMMISSIONER: That can be ready when?

3 MR. BUTCHER: That I do not know.

4 THE COMMISSIONER: Well, that doesn't help me much.

5 MR. BUTCHER: No, and I'm sorry for that, but I want to hear
6 the witness's evidence first.

7 THE COMMISSIONER: Okay. Thank you. Yes.

8 MR. HENDERSON: Mr. Commissioner, Rick Henderson appearing for
9 the interests of Gary Greer who has standing. I
10 have nothing else to say other than my
11 representation.

12 THE COMMISSIONER: Thank you.

13 MR. HIRA: Mr. Commissioner, my name is Ravi Hira, which is
14 spelled R-a-v-i H-i-r-a. I appear for Mr. Eric
15 Moulton, and I appear on the same basis as
16 Mr. Peck, and somewhat adopt, except for the date,
17 Mr. Butcher's submissions.

18 MR. JACKSON: Mr. Commissioner, my name is Matthew Jackson.
19 I'm appearing for Constable Fell and Constable
20 Wolthers. I'm assisting Kevin Woodall and Claire
21 Hatcher in this matter.

22 THE COMMISSIONER: All right. Thank you.

23 MR. WARD: Mr. Commissioner, if I may, Cameron Ward on behalf
24 of the families of 25 murdered and missing women.
25 I had no inkling until just now that Messrs.

1 Butcher, Henderson and Hira were appearing for the
2 people they identified. It's another surprise.
3 And I don't know if they plan to cross-examine
4 this witness, obviously if they do there will be
5 additional time required, and you've told us
6 repeatedly how tight timing is. All I'm
7 suggesting now is that there are procedures for
8 seeking standing and the like, and rules on who
9 may or may not cross-examine, and I expect I will
10 need some time to address this issue of new
11 counsel showing up today. As I say I had no
12 inkling until just now that these individuals were
13 coming, and I'm surprised by that.

14 THE COMMISSIONER: Well, why should you have had an inkling?
15 Should they have given you notice that they were
16 going to appear?

17 MR. WARD: Someone should have if it was known before today.

18 THE COMMISSIONER: Why?

19 MR. WARD: So that I could assess this development on behalf of
20 my clients and respond to it.

21 THE COMMISSIONER: How does their participation affect your
22 clients?

23 MR. WARD: Well, if it cuts the time that is required for our
24 clients to endeavour to --

25 THE COMMISSIONER: Well, I'm not going to deal --

1 MR. WARD: -- cross-examine witnesses.

2 THE COMMISSIONER: I'm not going to deal with anything that's
3 speculative as to how much time, if any time, they
4 will need. We'll deal with that when the time
5 comes.

6 MR. WARD: Thank you.

7 THE COMMISSIONER: Mr. Vertlieb.

8 MR. VERTLIEB: Now, the next witness is Deputy Chief Jennifer
9 Evans.

10 THE COMMISSIONER: Okay. Thank you.

11 MR. VERTLIEB: I'm going to ask that she take the witness box,
12 please.

13 THE COMMISSIONER: All right. Thank you.

14 MR. VERTLIEB: Now, a colleague of ours from Ontario, Linda
15 Bordeleau, who is the counsel to the Peel Regional
16 Police is here, and she would like a moment of
17 your time just to address her concerns, and I
18 think it's appropriate that she have that
19 courtesy.

20 THE COMMISSIONER: Okay. Thank you.

21 MS. BORDELEAU: Thank you very much, Mr. Commissioner, for the
22 opportunity to address you. I am corporate
23 counsel for the Peel Regional Police, and I appear
24 on behalf of the Peel Regional Police and Deputy
25 Chief Evans as well as Chief Metcalf. I'm seeking

1 your direction as to my participation in this
 2 inquiry during the evidence of Deputy Chief Evans.
 3 I understand that the police service itself does
 4 not have standing, and that you have not been
 5 granting counsel for witnesses to date in this
 6 proceeding, but the participation of Deputy Chief
 7 Evans in this inquiry in a review capacity is very
 8 unique and is of great importance to the Peel
 9 Regional Police. The Peel Regional Police is
 10 committed to developing excellence in policing
 11 standards whether it's at the local, provincial or
 12 national level. The police service has a history
 13 of sharing its resources and its experience with
 14 its policing partners to develop best practices in
 15 policing. Chief Metcalf and its board, the
 16 services board agreed to the participation of
 17 Deputy Chief Evans in this commission in
 18 recognition of the importance of your mandate and
 19 its potential significance to policing in Canada.
 20 We have been monitoring the proceedings and have
 21 taken note of the length of evidence of various of
 22 the witnesses and the manner in which
 23 cross-examination has taken place on occasion.
 24 Now, I do note that you have issued a practice
 25 direction to address procedural issues with

witnesses. The Peel Regional Police would like to clarify prior to the evidence of the deputy that she was not provided with a scenario at the outset with a list of questions to answer in terms of her review role, nor was she to undertake an investigation that would lead to disciplinary measures against any officer. Her real role was as a reviewer for you to assist you in making your findings on the ultimate issues set out within your terms of reference. So we'd like to ensure that the evidence of Deputy Chief Evans is received in that light, and would appreciate your direction in terms of our participation in that regard.

THE COMMISSIONER: Thank you for appearing. Thank you. Yes, Mr. Vertlieb.

MR. VERTLIEB: Thank you. And as a courtesy to our colleague from Ontario I would be happy if she could sit in the forward body of the courtroom.

THE COMMISSIONER: Yes.

MR. VERTLIEB: Thank you. Will the deputy please be --

MR. WARD: Sorry, sorry. Cameron Ward, counsel for the families of 25 murdered women. Before any direction is made with respect to whether Ms. Bordeleau can participate in these hearings by

1 asking questions I seek on behalf of my clients
2 the opportunity to make submissions on the point.

3 THE COMMISSIONER: Nobody is --

4 MR. WARD: Once again -- may I finish? Once again I had no
5 idea that this lawyer would be appearing this
6 morning. Nobody told me that. I wish to consider
7 my position, and I wish to have on behalf of my
8 clients the opportunity to be heard before a
9 direction or ruling is made in accordance with the
10 principles of fairness and natural justice, and I
11 wish to consider my position having just heard of
12 this development this very moment and decide
13 whether at a later time those submissions will be
14 appropriate. Thank you.

15 MR. VERTLIEB: If it is of any assistance, Ms. Bordeleau has no
16 interest in asking any questions at all. Her
17 concern was as expressed that she refer to your
18 directive which speaks to the way witnesses should
19 be treated, and she's very comfortable with the
20 opportunity she's had to speak to you this
21 morning.

22 THE COMMISSIONER: The way witnesses are treated.

23 MR. VERTLIEB: Yes, that was her concern, and she referred to
24 your directive and she's comfortable with that.

25 THE COMMISSIONER: All right. Thank you.

1 MR. VERTLIEB: Thank you. May the witness please be sworn.

2 THE REGISTRAR: Good morning. Would you put on your
3 microphone, please. Thank you.

4 **JENNIFER EVANS: Sworn**

5 THE REGISTRAR: Would you state your name, please.

6 THE WITNESS: Jennifer Evans.

7 THE REGISTRAR: Thank you. Counsel.

8 MR. VERTLIEB: Thank you, Mr. Giles. Deputy, your résumé is
9 attached to the report, and your report has been
10 marked and is Exhibit 34. I just want to flag for
11 my colleagues, and most importantly for the
12 commissioner, that your CV is Appendix A in that
13 report. And, Mr. Commissioner, because it's put
14 before you in full detail I will not take the
15 deputy through it. I just want to cover some very
16 brief background with her. As well in the
17 exhibits at Exhibit C is Ms. Evans' timeline and
18 we'll seek to have that introduced as part of her
19 exhibit.

20 **EXAMINATION IN CHIEF BY MR. VERTLIEB:**

21 Q Now, Ms. Evans, would you please in the highlight
22 way tell us about how you became involved with
23 Peel police and going back to when you first
24 commenced work with them?

25 A I joined Peel Regional Police in 1983 as a cadet.

1 I was a cadet for approximately 11 months before I
2 became a first class -- a fourth class constable
3 and went to the Ontario Police College for
4 training, and I've been with the Peel Regional
5 Police since 1983.

6 Q And your present position today and what those
7 duties involve?

8 A I'm currently the deputy chief, I'm one of three
9 deputy chiefs with Peel Regional Police, and I'm
10 in charge of Field Operations Command which is the
11 four uniform divisions, as well as the staff
12 services including the training bureau, and as
13 well as the airport division at Pearson
14 International Airport.

15 Q And Peel Regional Police has how many officers?

16 A We have approximately 1900 officers and around 700
17 civilian employees.

18 Q That would make it approximately 50 percent larger
19 than the Vancouver Police Department?

20 A I'll trust your math on that, yes.

21 Q Where is Peel in terms of regional police forces
22 in Canada in size?

23 A I believe Peel is the third largest municipal
24 police service in Canada.

25 Q I want to in your experience discuss your work

1 with the late Mr. Justice Archie Campbell and the
2 review that he performed respecting the crimes of
3 Paul Bernardo. You participated in that review.
4 Did you work closely with the late justice in
5 terms of the fact finding and gathering
6 information and the recommendations?

7 A Yes, I did. That was in January 1996. There were
8 two investigators, police investigators assigned
9 to that.

10 Q How long did you work with Mr. Justice Campbell on
11 the Bernardo file?

12 A I believe we commenced our review in January of
13 1996. Justice Campbell's report came out in June.

14 Q And during that time was it full-time work for
15 you?

16 A Yes, it was. It was night and day.

17 Q What did you do?

18 A I was a sexual assault investigator working in the
19 Youth Crime Bureau at the time, and I was a -- I
20 interviewed for that position. The interview
21 review team was led by Superintendent Ron Bain
22 from Peel Regional Police, and I was selected to
23 be part of the review team. So there was two
24 police officers, and we conducted a review of all
25 the documents involving the investigation into

1 Paul Bernardo spanning the five year time frame
2 from 1987 to 1992.

3 Q Prior to doing that work did you have experience
4 as a homicide detective?

5 A No, I did not.

6 Q Did you have experience in serial offenses?

7 A Yes. I was involved in -- as I worked in the
8 Youth Crime Bureau I became involved in two serial
9 sexual offense investigations. One I was just an
10 investigator, and in 1992 I believe I was the
11 primary investigator on a serial sexual assault
12 investigation where a serial rapist was later
13 convicted, identified and convicted, and I had 11
14 victims at that time.

15 Q Since that work with Mr. Justice Campbell you have
16 worked as a homicide detective?

17 A That's correct.

18 Q Now, in the Campbell review, and it's before the
19 commissioner, he states the following about
20 Bernardo. He says:

21 Between May 1987 and December 1992 Paul
22 Bernardo raped or sexually assaulted at least
23 eighteen women in Scarborough, Peel and
24 St. Catharines, and killed three women in St.
25 Catharines and Burlington.

1 The question is this. As a result of your review
2 for Commissioner Oppal did you find similarities
3 between the Bernardo and the Pickton case?

4 A Yes.

5 Q In what ways?

6 A I found systematically there were similarities in
7 there were breakdowns in communications. Bernardo
8 is a multi-jurisdictional offender who travelled
9 across multi jurisdictions committing his crimes.
10 That led to issues that we identified or Justice
11 Campbell identified with regards to a breakdown in
12 communication between the police services. There
13 was also a breakdown in major case management,
14 that there was no way to track tips at that time
15 on Bernardo. People were phoning in tips but
16 there was no way or mechanism in place at that
17 time for police to track and maintain the
18 information that they were receiving with regards
19 to Bernardo. From my memory I also remember that
20 when the rapes stopped in one jurisdiction it
21 became a lower priority for police because other
22 priorities took over. There was no system in
23 place for follow-ups by supervisors at that time,
24 so it brought in our major case management
25 philosophy.

1 Q Thank you. Now, I want to discuss a bit more
2 about the Campbell review and similarities to
3 Pickton in terms of police conduct. I want to
4 read to you what I've already read to the
5 commissioner and he's heard before.

6 The Bernardo case like every similar
7 investigation had its share of human error.
8 But this is not a story of human error or
9 lack of dedication or investigative skill, it
10 is a story of systemic failure. It is easy
11 knowing now that Bernardo was the rapist and
12 the killer to ask why he was not identified
13 earlier for what he was, but the same
14 question and the same problems have arisen in
15 so many other similar tragedies in other
16 countries.

17 You're familiar with that quote of Mr. Justice
18 Campbell?

19 A Yes.

20 Q Did you find this to be the same case as with the
21 Pickton investigation?

22 A Yes, there appear to be some similarities.

23 Q So to deal with this area of your evidence, did
24 you find any police officers actions that in your
25 opinion would be criminal in nature?

1 A No.

2 Q Did you find any police actions that in your
3 opinion their action or for that matter inaction
4 would be considered by you as a police officer to
5 be professional misconduct?

6 A No.

7 Q Did you find any action or inaction that may have
8 been an error that you concluded was wilful?

9 A No.

10 Q You're familiar with the *Police Act* and the
11 various types of conduct that police can be
12 disciplined for in the *Police Act*?

13 A In Ontario, yes.

14 Q Yes. Let me just take you here to disciplinary
15 faults as outlined in our regulations under our
16 *Police Act*. Did you find any evidence at all to
17 suggest there had been discreditable conduct by
18 any of the police you considered?

19 A No.

20 Q Did you find any evidence of neglect of duty?

21 A No.

22 Q Any indication at all of deceit by any of the
23 police?

24 A No.

25 Q Did you find any indication of corrupt practice?

1 A No.

2 Q Improper disclosure of information?

3 A No.

4 Q Abuse of authority?

5 A No.

6 Q Any improper use in care of firearms?

7 A No.

8 Q Damage to police property?

9 A No.

10 Q No issues around improper use of liquor or drugs

11 in any way prejudicial to duty?

12 A No.

13 Q In short, did you find any evidence suggestive of

14 conduct that would constitute an offence to you?

15 A No. Nor was I given any direction that I would be

16 seeking -- that I would be looking for that, but

17 no, I didn't come across anything.

18 Q But had you seen that you would have commented on

19 that?

20 A Yes.

21 Q So in a similar way having considered the action

22 of the various police that you review in detail in

23 your report do you see similarities between our

24 police here in British Columbia and the way police

25 conducted themselves in Bernardo in Ontario?

1 A Yes, there is some similarities.

2 Q You mentioned the word systemic. You've outlined
3 in your report the areas where you feel there were
4 errors of judgment by a number of police, it's
5 clear in your report that's outlined?

6 A Yes.

7 Q If you were considering in your own department
8 perhaps as many as fifteen or even twenty police
9 who'd made mistakes, errors of judgment not
10 amounting to misconduct as we just discussed, what
11 would that suggest to you as a person in charge of
12 a police department?

13 A I would have to look at that we have wrong things,
14 wrong systems and processes in place and we have
15 to fix them. It depends on what the issues were,
16 of course.

17 Q Let's continue with Mr. Justice Campbell's
18 comment. He quotes, and I quote:

19 Because of the systemic weaknesses in the
20 inability of the different law enforcement
21 agencies to pool their information and
22 co-operate effectively Bernardo fell through
23 the cracks.

24 You're familiar with that comment?

25 A I am.

1 Q As a result of your review for Commissioner Oppal
2 did you find similarities between Bernardo and
3 Pickton with respect to interagency information
4 sharing breakdowns?

5 A Yes.

6 Q The quote that I've just read to you, would that
7 apply at least in part if you substituted the word
8 Pickton for Bernardo?

9 A Could I ask you to read the quote again for me?

10 Q Because of systemic weaknesses in the
11 inability of different law enforcement
12 agencies to pool their information and
13 co-operate effectively Bernardo fell through
14 the cracks.

15 A Yes.

16 Q I want to continue with Campbell quoting.

17 Some of the systemic weaknesses have been
18 identified and corrected in Ontario through
19 changes in investigative procedures and
20 advances in the application of forensic
21 science. Other systemic weaknesses urgently
22 require correction in order to guard against
23 a tragic repetition of the problems that
24 arose in the Bernardo investigations.

25 Now, here Commissioner Oppal has heard evidence of

1 systemic problems existing, and you've dealt with
2 that as well. If you substituted British Columbia
3 for Ontario and the quote that I just read to you,
4 would that quote apply based on your knowledge of
5 what happened in Pickton?

6 A Yes, I would agree.

7 Q Are you familiar as well that Olson, the Olson
8 serial murder case in British Columbia that took
9 place here in the early '80s?

10 A I am familiar with it.

11 Q And that's another case of systemic breakdown?

12 A I was not involved in that review, but yes, I'm
13 aware of that case.

14 Q I want to talk for a moment, please, about
15 supervision as it related to findings by
16 Mr. Justice Campbell in the Campbell review, and
17 he says as follows, and I'm going to ask you the
18 same question about supervision as it relates to
19 British Columbia and what you saw in the Pickton
20 case.

21 Conspicuous by its absence was any system
22 whereby senior officers monitored and
23 followed up the investigation and set
24 timelines and ensured follow-up.

25 You see that comment of his about supervision?

1 A Yes.

2 Q Based on your review of Pickton is that a comment
3 that could be made here?

4 A Yeah, I would agree that was an issue here as
5 well.

6 Q Having set that reference point of the Campbell
7 report and your involvement, I'd like to deal with
8 some of the comments that you've made before
9 Commissioner Oppal in your report which he has
10 before him. I want to be clear, Deputy, that
11 individual comments are made and we don't need to
12 go through those, your words are clear and we can
13 all understand your commentary about mistakes and
14 errors of judgment. The concern that I want you
15 to always keep in mind is concerning the systemic
16 breakdown, because that's the most important way
17 to help Commissioner Oppal develop recommendations
18 going forward so this doesn't happen again.

19 A Okay.

20 Q You understand the importance of that work?

21 A I do.

22 Q And you understand why I'd like you to always keep
23 that in mind?

24 A Yes.

25 Q So let's just start. The first comment I want to

1 ask you about was the Missing Person Unit. You
2 cover this at 7-2 of your report. Now, you made a
3 comment in your report, Deputy, that you don't
4 believe civilian members of a police department
5 should be responsible for determining the
6 suspiciousness of a missing person report?

7 A That's correct.

8 Q Just tell us very briefly why you make that
9 comment?

10 A Well, I saw no evidence that the civilian member
11 of the Missing Persons Unit received any training
12 or any training whatever that she would have the
13 ability to determine the suspiciousness of a
14 missing person case.

15 Q You mentioned as well that you support assigning a
16 highly motivated person to deal with these types
17 of investigations. You're familiar with your
18 comments about that area?

19 A Yes. It was found in a memo that one of the
20 sergeants was recommending that, and I agree with
21 that, and she was very highly motivated to work in
22 that area.

23 Q What do you see as a challenge that faces a
24 Missing Person Unit in British Columbia given the
25 state of our law?

1 A I found that one of the biggest challenges when
2 reviewing the missing persons files was that there
3 was no judicial authority for the officers to
4 obtain information with regards to missing
5 persons. Because there was no criminal offence
6 the officers seemed to be having difficulty
7 obtaining some information with regards to the
8 missing persons.

9 Q You understand that in Alberta and Manitoba there
10 is legislation that would allow for a court, court
11 involvement where there's a suspected missing
12 person?

13 A Yes.

14 Q Now, I just want to touch briefly on Ms. Cameron.
15 We've heard about her involvement. You've
16 commented on her, but not in any great extent,
17 about her conduct that clearly could be considered
18 inappropriate and unprofessional by some people.
19 Did you -- just tell us why you didn't dwell in
20 your report at any length on her conduct?

21 A I found some letters of complaint about
22 Ms. Cameron's behaviour that I felt that the
23 allegations that if true, were found to be true
24 were inappropriate, unprofessional. I didn't
25 dwell on it in this report because I wasn't

1 looking or focusing on areas of misconduct with
2 regards to the overall investigation. I also
3 found that when I interviewed numerous people I
4 found that they were observed behaviour by
5 Ms. Cameron but nobody ever took steps to correct
6 it, so I was concerned more with the supervision
7 or lack of supervision that allowed this behaviour
8 to continue, this unnecessary and inappropriate
9 behaviour to continue.

10 Q Did you find any positive aspect to her duties
11 incidentally while we're on her?

12 A There was numerous documents that showed that
13 Ms. Cameron was -- I mean she was involved in the
14 Missing Persons Unit from the 1970s. She prepared
15 the annual missing persons reports. That wasn't
16 prepared by a detective or an officer, that was
17 prepared by Ms. Cameron that went to the Police
18 Services Board. She was actually the first one I
19 understand in 1998 who brought the concern of the
20 increasing number of missing women in the Downtown
21 Eastside to Inspector Biddlecombe. And there was
22 numerous documents throughout that also that when
23 she addressed issues with the personnel in the
24 communications bureau, that they weren't taking
25 reports, that she was following up with that as

1 well, so.

2 Q Thank you. Now, you talked about a stall in the
3 investigation, and this is at 7-16 of your report.
4 You said -- this is on the subject of wind down of
5 the Missing Women Review Team. You know this
6 general issue?

7 A Yes.

8 Q Your comments, third paragraph from the bottom,
9 7-16.

10 A Yes.

11 Q Your words:

12 I found it unusual that a wind down...

13 And that's in quotes:

14 ... of the Missing Women Review Team had been
15 considered at this time. I accept that the
16 incidents of Missing Women had apparently
17 decreased or stopped, but it had not been
18 explained. There were still suspects whose
19 investigations had not been completed.

20 Why did you find it unusual?

21 A Well, I think I probably would have to refer to
22 the memo that Sergeant Field made reference to
23 that would probably help me with my answer. I was
24 concerned with the words wind down that was used
25 in the memo because there was still 27 missing

1 women so I was -- and in the memo from what I
2 recall it mentioned the fact that there were still
3 suspects to be eliminated and they had yet to find
4 the women, so I was concerned that the police
5 department was winding down the investigation when
6 they had yet to come up with a reason for the
7 missing women.

8 Q What would you have expected to occur?

9 A I would have expected to occur -- I would have
10 thought that there would have been more resources
11 dedicated to look for the missing women.

12 Q Now, you then at the bottom of page 7-18, third
13 paragraph from the bottom, you say:

14 It's unclear what is meant by the note

15 "re-open the Pickton file."

16 Do you see that reference?

17 A I do.

18 Q In my opinion, neither the RCMP nor the
19 VPD had ever taken the investigation of
20 Pickton to a point where it should have been
21 closed.

22 Just help us understand why you make that comment?

23 A Oh, this comment is referenced to a -- I think it
24 was a board report that Deputy Chief McGuinness
25 presented to the Vancouver Police Board on

1 February 14th, 2000. From my memory the document
2 was prepared by Acting Inspector Dureau, and
3 Deputy Chief McGuinness was addressing the board
4 providing an update on the missing women
5 investigation, and I cut an excerpt from this
6 board report, so the re-open the Pickton file it
7 was referencing that the deputy chief in Vancouver
8 was advising the police board that they were --
9 his officers had recently had a meeting with Staff
10 Sergeant Keith Davidson, a criminal profiler with
11 the RCMP, and that they were seeking to submit a
12 proposal to their boss, at the time Chief
13 Superintendent Bass, and asking for funding and
14 resources for the following, and to attempt to
15 profile the suspect or suspects and to re-open the
16 Pickton file. So my comment when I say it was
17 unclear what was meant to re-open the Pickton file
18 was simply as I said, I saw no evidence in any of
19 the documents that the file had ever been closed
20 so I wasn't sure why they were going to try to
21 re-open it.

22 Q Thank you. Now, I want to turn to page 7-24, and
23 the second paragraph from the bottom. And the
24 time frame is referred to as September 2001 in the
25 paragraph above; correct?

1 A That's correct.

2 Q So you said that DCC Unger acknowledged it was a
3 Vancouver Police Department case, you agreed with
4 him, but you questioned why it took so long to get
5 to that point. Tell us what you mean?

6 A Well, I think this was the first time,
7 Mr. Commissioner, that I actually saw something
8 from the executive acknowledging that there was a
9 missing women case and it was their
10 responsibility, so I think this is what I meant by
11 that. Where they assigned -- Detective Constable
12 Shenher was assigned to look at the missing women
13 investigation in July of 1998 and this memo is
14 September 10th, 2001, over three years later, and
15 this is the first time I saw something in the
16 documents that talked about the investigation.

17 Q Let's move to Detective Constable Lori Shenher.
18 You discuss her in section 8. Turn, please, to
19 8-3, the first main paragraph:

20 It is my opinion that Detective Constable
21 Shenher worked extremely hard on the missing
22 women investigations. She worked tirelessly,
23 with little supervision or guidance and tried
24 to advocate the issues to others within the
25 police department.

1 The question I wanted to ask you is at the stage
2 that she was working on the missing women
3 investigations do you believe that she had the
4 experience to do that kind of police
5 investigation?

6 A Yes. My memory is she had seven years on the job
7 at the time, she had come out of the Strike Force
8 Unit, she had some investigative background, and
9 she was asked to review the missing women
10 investigations, and I think she was highly
11 motivated, as I said earlier which is so important
12 in these type of investigations, and yes, I think
13 she had the capacity to do this investigation.

14 Q Now, do you distinguish that from investigating a
15 potential serial killer?

16 A Yes.

17 Q Tell the commissioner, please, why you make that
18 comment?

19 A Well, I think in order to investigate a serial
20 killer I think Lori Shenher would have required
21 more training, and she didn't have training at
22 that time or sufficient investigative background
23 to run a material investigation involving a serial
24 predator is a much bigger priority and higher --
25 there's a lot more involved in the investigation.

1 And I think when they originally brought her in,
2 from what I understand, is they asked her to
3 review and provide comment on the missing women
4 investigation because at that time the Vancouver
5 Police Department weren't really sure what was
6 going on with the increasing number of missing
7 women.

8 Q Now, still discussing Ms. Shenher, the next
9 paragraph:

10 Unfortunately, she lacked the support from
11 senior management that she needed to get the
12 proper resources and attention to the missing
13 women issue. She described how she attempted
14 to manage the situation by saying in her
15 interview: "And I was trying, and I was
16 trying to walk that line between being
17 dismissed and advocating for what I thought
18 was going on."

19 Just a procedural point for the commissioner. You
20 interviewed many of the police involved?

21 A Yes, I did.

22 Q And these were your own independent interviews?

23 A Yes.

24 Q Conducted for the most part in Vancouver?

25 A Yes.

1 Q At the Missing Women Inquiry office?

2 A Yes. And there was another boardroom that we used
3 at one point, but yes.

4 Q Is this comment an example again of systemic
5 concern?

6 A Lori Shenher's comments?

7 Q The fact that your opinion is that she lacked the
8 support from senior management?

9 A Yes.

10 Q How should she have been supported?

11 A Well, I saw evidence that she submitted memos and
12 reports, and she made numerous requests for
13 additional resources at various times. Sometimes
14 they were granted and other times they weren't.
15 And I saw evidence that there was -- she was
16 transferred in July of 1998. In August of 1998
17 she submitted her first memorandum to Acting
18 Inspector Dureau on the missing women
19 investigation on her opinions, and then in
20 September 1998 we saw that her direct supervisor,
21 Sergeant Geramy Field, was transferred to the
22 Combined Co-Ordinated Law Enforcement Unit for six
23 months. So her direct supervisor was transferred,
24 so I worried about the lack of systems or process
25 in place that would have provided Lori Shenher

1 with a route to get more resources.

2 Q Is this the concern that would be also existent in
3 the Bernardo case where issues like this would be
4 seen with less experienced police officers not
5 being supported by the system?

6 A In the Bernardo case there was a lot of
7 communication breakdowns because Bernardo was
8 actively working in moving around with his
9 offenses. There were officers, numerous officers
10 involved that weren't communicating with each
11 other and they were unaware that Paul Bernardo was
12 committing similar crimes in their area. So it
13 was a little different at this stage.

14 Q Sorry. Thank you. At the next page in discussing
15 Detectives Lepine and Chernoff, the last paragraph
16 on their discussion, this is at 8-4.

17 A Yes.

18 Q You said the investigation in August of '99 when
19 Lepine and Chernoff were dealing with Caldwell was
20 a critical time for both VPD and Coquitlam RCMP.
21 Do you see that comment?

22 A I do.

23 Q That's your comment?

24 A Yes, it is.

25 Q Why do you say that?

1 A Well, it was critical in August of 1999 because
2 that is when they had the information coming in.
3 In 1998 the information came in from source A,
4 which we now know is Hiscox, and Lori Shenher had
5 been dealing with Corporal Connor from August of
6 1998 on and off till 1999. And then 1999, July of
7 1999 is when the Vancouver Police Department
8 become aware of source B which is known as
9 Caldwell, and he's providing similar information
10 to Pickton being a serial murderer. Numerous
11 interviews were going on at that time and they
12 were receiving the information. They also
13 received information from Ron Menard as well as
14 Leah Best came in at the same time. So I referred
15 to August of 1999 as a critical time because it
16 seemed to be the time when both Vancouver and RCMP
17 were working together and were receiving the most
18 information at that time of regarding Pickton.

19 Q On the same subject about the supervision and
20 systemic breakdown, in your report you mentioned,
21 and it's 8-71 for reference, but I won't take
22 everyone to it, you said in your report,
23 Corporal Connor noted that Detective Constable
24 Shenher was inclined to think that Pickton did not
25 frequent the Downtown Eastside. Do you remember

1 making that comment?

2 A Yes.

3 Q You brought in a discussion about off-line CPIC.

4 Tell us about off-line CPIC as you thought it
5 might relate to what you were referring to?

6 A Sorry, Mr. Vertlieb, can you just tell me the
7 source of when I said that?

8 Q 8-71 is where I read the comment Corporal Connor
9 noted that Detective Constable Shenher was
10 inclined to think Pickton did not frequent the
11 Downtown Eastside.

12 A I don't really see that.

13 Q Paragraph one and two.

14 MR. DICKSON: Page 8-71.

15 THE WITNESS: Oh, 71. Sorry.

16 MR. VERTLIEB:

17 Q Last sentence. Here's where I wanted to go with
18 the concern about the way this whole investigation
19 was being run. Take that comment as given by
20 Connor. Would an off-line CPIC perhaps have
21 helped get more information about what Pickton was
22 doing in the Downtown Eastside?

23 A Yes. And I think Corporal Connor and Constable
24 Shenher both recognized the significance and the
25 importance as an investigative tool and they both

1 utilized that. I'm just trying to find -- can you
2 direct me to where that quote was.

3 Q 8-71.

4 A Yes.

5 Q It's the second paragraph.

6 A Oh, yes. First paragraph.

7 Q First paragraph.

8 A Last line:

9 Corporal Connor also noted that Detective
10 Constable Shenher was inclined to think
11 Pickton did not frequent the Downtown
12 Eastside.

13 When I was referring to this this was the 24th of
14 February 1999, there was a strategy in place at
15 that time, because this is when Detective
16 Constable Shenher and Corporal Connor were
17 communicating with each other and they were trying
18 to identify ways to demonstrate that Pickton was
19 visiting the Downtown Eastside, so they came up
20 with the strategy that they would show sex trade
21 workers in the Downtown Eastside photographs of
22 Pickton hoping that women would identify Pickton
23 as a person that they were familiar with from
24 visiting the Downtown Eastside. So from what I
25 understand from that weekend, they did a weekend

1 blitz if you could call it that, and the officers
2 went down and showed Pickton's photo, and of the
3 140 women that were shown Pickton's photo he was
4 not identified. So Connor had it written in his
5 notes that Detective Constable Shenher was
6 inclined to think that Pickton did not frequent
7 the Downtown Eastside, and this is based on her
8 citing the weekend in the Downtown Eastside
9 showing Pickton's photo and no one identified him.

10 Q The concern that I wanted to ask you about if you
11 recall is that in her interview with you did
12 Detective Constable Shenher tell you that she did
13 not recall getting information that would help her
14 conclude that Pickton was actually frequenting the
15 Downtown Eastside at that time frame?

16 A Yeah, I do recall, I believe, that from her
17 interview that I asked her about the off-line CPIC
18 service, because I recognize that as a great
19 investigative tool for police, and she couldn't
20 recall at that time during the interview receiving
21 any off-line CPIC hits that would prompt her then
22 to contact the officer. What would happen is she
23 would then contact the officer, I would think, and
24 ask the officer why would you conduct a CPIC query
25 on Pickton at this time.

1 Q And the point is had she been supervised in a
2 better way that might have been a suggestion put
3 to her so she could follow up with these other
4 officers?

5 A I think if there are processes in place and she
6 had processes in place to be tracking that
7 information coming in that would have assisted
8 her.

9 Q I want to move to Fell and Wolthers. You know
10 their names from their report?

11 A Yes.

12 Q And you comment about those two officers in
13 section 8. I've got the note page 129. I wanted
14 to ask you in terms of a process comment and
15 briefing, is there an issue that you saw
16 systematically about the way Fell and Wolthers
17 worked and whether their work was properly
18 debriefed by those above them?

19 A I went through the notebooks of Officers Fell and
20 Wolthers, and on April 5th and April 12th it would
21 appear that they were showing photographs to sex
22 trade workers in the Downtown Eastside and that
23 Pickton's photograph was identified, and my
24 understanding is that Detective Constable Shenher
25 was never made aware of the information at the

1 time. And I comment that it was evident from the
2 identification in their notes that they knew
3 Pickton's name and it was unfortunate that the
4 information was not shared, and I said I cannot
5 comment further as to whether this would have
6 altered the outcome. It's difficult to say
7 whether if they had come forward that day and said
8 to Detective Constable Shenher that Pickton's
9 photo was identified in the Downtown Eastside
10 whether that would have impacted or brought more
11 resources.

12 What I found was I didn't notice anything
13 when I was reviewing the notes that there was a
14 mechanism in place or a process in place that
15 normally in major case management cases they
16 parcel you with giving out tasks, so if Lori
17 Shenher gives out the task to these officers to
18 say I would like you to show Pickton's photograph
19 in the Downtown Eastside, at the end of the day
20 normally there's a briefing and they would come
21 back in and then they would tell her what they had
22 done during the daytime. So I didn't see any
23 mechanism in their notes that would indicate that
24 they went to a briefing and they didn't provide
25 the information. I didn't see any indication that

1 there was a briefing, so that's why I didn't
2 really comment further on that.

3 Q How serious did you consider that fact?

4 A Well, I always think it's so critical that teams,
5 investigative teams share information. So when
6 you have team members that aren't sharing
7 information, I mean the team is not as strong, so.
8 But I didn't see anything that would imply that
9 they did this purposely, they knew Pickton was out
10 there and so --

11 Q You already told the commissioner about your
12 concern for the supervision of those people when
13 that assignment's been made?

14 A Yeah.

15 Q Did you see any evidence that there was a meeting
16 to follow up on what was --

17 A No, I didn't, and I didn't see any evidence that
18 they were provided direction to say that okay, if
19 Pickton's photograph is selected then I need you
20 to come back and tell me immediately. I didn't
21 see any directions that were given when the photos
22 were given out.

23 Q Now, I wanted to ask you about Hiscox. You
24 discussed that informant in your report at page
25 8-62.

1 A Yes.

2 Q And the question about Hiscox, do you believe
3 there were opportunities to deal with Hiscox as an
4 informant that were not fully explored?

5 A I would say that Hiscox was providing information
6 as an informant, but what I didn't see when I
7 reviewed the notes in the source log was that
8 there was any information in the notes that would
9 indicate to me that Detective Constable Shenher
10 had a conversation with him regarding his status
11 as an informant versus an agent. I know at one
12 point he was offering to introduce her or someone
13 to Lisa Yelds, and that would have changed his
14 status from informant to an agent, and I didn't
15 see any documentation that would have addressed
16 that.

17 Q Is that an area where again supervision would come
18 into play to follow up with Shenher on that
19 subject?

20 A I think that's very important. And I didn't see
21 any evidence -- I mean she was dealing with Hiscox
22 in August, September, October 1998, and I think
23 it's important to remember this is the time that
24 Geramy Field, her sergeant, had been transferred
25 to a new unit. And I didn't see, nor did I hear

1 during interviews that there was confirmation that
2 I was satisfied that who really was her supervisor
3 at that time. So it would have helped if she had
4 had a supervisor to go to as a constant source or
5 someone that was monitoring her behaviour. That
6 would also provide her an opportunity to discuss
7 investigative strategies.

8 Q So you've led into discussion about the supervisor
9 of Ms. Shenher, and that would be Sergeant Field?

10 A Yes.

11 Q You dealt with her at 8 page 5, section 8-5.

12 A Okay.

13 Q And I want to take you to the top paragraph. Do
14 you have the reference?

15 A 8-5, yes.

16 Q While I believe Sergeant Field recognizes
17 the seriousness of the disappearances and
18 felt more had to be done, I noted that she
19 did not take ownership when Detective Lepine
20 and Detective Constable Chernoff returned
21 from Coquitlam discouraged by the
22 investigation into Pickton.

23 I wanted to ask you about the word ownership
24 because you use it more than once in your report.
25 When you use that word what do you mean by that?

1 A Ownership I felt was important to talk about in
2 this report when I did the review because I felt
3 that ownership means that someone's taking
4 responsibility for and that they're holding
5 themselves accountable for the investigation. So
6 when I made this reference this is in reference to
7 Sergeant Field not taking ownership of the issue
8 of Coquitlam in August of 1999. I believe
9 Sergeant Field took ownership of this issue
10 throughout numerous times over the years that she
11 had access to this information in this
12 investigation, but when I made that comment here
13 that was specifically with regards to when
14 Detective Lepine and Chernoff came back from
15 Coquitlam.

16 Q Without focusing on that criticism let's talk
17 about responsibility and accountability. This is
18 important to you as a deputy chief?

19 A Absolutely, yes.

20 Q Does it go to the core of how policing needs to be
21 conducted to do this job properly?

22 A Yes.

23 Q So let's just talk about responsibility. Who
24 ultimately needs to be responsible when you have
25 an investigation of a potential serial killer?

1 A The chief of police.

2 Q And accountability, what does that mean to you as
3 a police officer going up the line?

4 A Well, I think when it's important that police
5 leaders are accountable not only to their
6 officers, but more importantly to the community
7 that they serve, so.

8 Q Does that help understand why you have more
9 concern about the systemic investigation
10 indicators than the individual conduct?

11 A Yes.

12 Q I won't deal with any more detail with Sergeant
13 Field, you've covered your opinion about her work
14 in your report. I did want to ask you one thing
15 about the issue around what police were being told
16 about Pickton and a disconnect between the
17 investigation and the West Coast Reduction events.
18 You're familiar with the indications that Pickton
19 was able to dispose of bodies and that barrels
20 were being used and a reduction plant was being
21 used?

22 A Yes.

23 Q Did you look at that area quite carefully to see
24 how that was handled?

25 A Yes, I did.

1 Q Did you see a concern about a disconnect in the
2 investigation between what one group of police
3 were looking at and what surveillance was doing?

4 A I think there was no -- I didn't see any glaring
5 errors with regards to the surveillance. What
6 happened was in August of 1999 they receive
7 information, Mr. Commissioner, from the source
8 saying that Pickton may be disposing of humans
9 through grinding them up and putting their -- the
10 remnants in these barrels. And I know on August
11 4th, 1999 Pickton was -- there was surveillance
12 that followed Pickton to the West Coast Reduction
13 plant, but at that point they hadn't received the
14 information. The investigators on August 4th
15 didn't receive that information. I believe it
16 wasn't until, I have to check my notes here, I
17 think it was August 10th when they received the
18 information that Pickton is using the barrels and
19 transporting -- using the truck and going to a
20 reduction plant. So two days later the
21 surveillance teams follow Pickton down to the West
22 Coast Reduction plant. So I would have expected
23 there would have been some sort of follow up. And
24 I know that Corporal Connor, and I explored this
25 with him when I interviewed him, he wasn't getting

1 live updates. And I think that's normal in
2 policing, that if you are running a big
3 investigation and you have surveillance teams out,
4 sometimes depending on where you are and what
5 you're dealing with you might not be getting live
6 updates as to what's going on. They're going to
7 keep you up to date, so he would have probably
8 known that date. I was surprised that there was
9 no follow-up following the information that, you
10 know, they received the information on August 10th
11 and then on the August 12th the surveillance teams
12 followed him, and that didn't occur.

13 Q You talk about Staff Sergeant Giles in your report
14 and you state that his lack of ownership and
15 recognition would have impacted on Sergeant Field
16 and the detective constable's efforts. You
17 considered his work as well and made those
18 comments?

19 A Yes.

20 Q But then you moved up the line to Dureau. He was
21 acting inspector. So would he be to your
22 understanding a supervisor for Staff Sergeant
23 Brock Giles?

24 A Yes.

25 Q And in your report you refer to, as it relates to

1 Dureau, a passive management style won't work in a
2 case like this. Do you remember using that term
3 passive management style?

4 A I do.

5 Q This is 8-9 for my colleagues.

6 A Sorry, 8-9?

7 Q That's right. The question I want to ask you is
8 this. Did you see any indications that Dureau's
9 performance was obvious to his superiors?

10 A No, I did not. I didn't see any documents that
11 would indicate that somebody was watching his
12 performance at all when he was the acting
13 inspector.

14 Q Does that speak to systemic concern again?

15 A Yes, because I was told that, you know, the
16 Vancouver Police Department held morning
17 briefings, so I would have expected conversations
18 or documents that would have revealed updates on
19 the missing women investigation. Because it was
20 such a priority to the community I would have felt
21 that I would have seen more documents from the
22 senior officers.

23 Q Senior officers meaning?

24 A Inspector above. So when Inspector Biddlecombe
25 was absent, Acting Inspector Dureau, he was a

1 staff sergeant but he assumed the role of acting
2 inspector, that he would be the one, he would be
3 communicating to the senior officers and the
4 executive commander in the organization. Brock
5 Giles was the staff sergeant, so he was made the 2
6 in charge. The second in charge, they call it a
7 2 IC in the Major Crime Section.

8 Q So you've mentioned Biddlecombe. In your report
9 you covered Biddlecombe and the issue around
10 notifying the community in some way, warning the
11 community. Do you recall this being part of the
12 facts that you considered for Commissioner Oppal?

13 A I do.

14 Q And there was documents showing that Inspector
15 Biddlecombe did not want to warn the community
16 when others thought that should be done. Are you
17 familiar with that?

18 A I don't think it came out that he didn't want to
19 warn the community. I thought he felt it was
20 premature to say there was a serial killer. If
21 you can direct me to the passage then I can speak
22 to it.

23 Q It's 8-11.

24 A Yeah, there was a draft media release that he felt
25 was unacceptable, and he felt that it would cause

1 panic within the Downtown Eastside so he objected
2 to having it released.

3 Q And you saw that as an error of judgment at most
4 on his part?

5 A Well, I thought that some sort of warning could go
6 out. I know that when I interviewed Constable
7 Shenher she agreed that in September of 1998 she
8 too thought it was premature. She was the one who
9 was conducting the investigation or the review
10 into the missing women investigations and had yet
11 to complete her investigation. But I thought with
12 Inspector Biddlecombe some sort of warning should
13 have gone out even to suggest, to tell the
14 community that the Vancouver Police Department
15 were now reviewing, conducting a review and an
16 investigation into the missing women and they
17 would report back to the community. They didn't
18 do that.

19 Q And who would he be responsible to answer to in
20 the chain of command?

21 A Inspector Biddlecombe was a direct report to
22 Deputy Chief McGuinness at the time.

23 Q Did you see any evidence to suggest that
24 Biddlecombe and McGuinness discussed this issue so
25 the senior people at the top knew the decision was

1 being made and had a chance to question it?

2 A There was a memo that he sent to Inspector Greer
3 who was the District 2 commander which the
4 Downtown Eastside community was housed in. There
5 was also a meeting on September 22nd, 1998 in
6 which the RCMP were involved in a meeting, and I
7 believe at that time Inspector Biddlecombe
8 discussed the media. I also learned information
9 from the media relations officer Anne Drennan who
10 spoke to me about who she was getting her
11 information from with regard to what messages she
12 was to give to the community.

13 Q Now, still on the subject of Biddlecombe, at 8-11
14 you stated:

15 I found his conduct unprofessional as
16 described by various participants at the
17 meeting...

18 Do you remember that comment?

19 A Yes.

20 Q When you say unprofessional what do you mean?

21 A Well, by his own admission he went into a meeting
22 when there was officers of a junior rank to him
23 and he began chastising a fellow senior officer
24 within the organization. There was also members
25 present from the RCMP. I think it's

1 unprofessional in the fact that if you're having a
2 disagreement with somebody of equal rank and you
3 want to have that discussion and you have negative
4 views on it, I think you should be doing that in
5 private, I don't think you should be airing that
6 type of behaviour in a public forum when you've
7 invited people in for a meeting to discuss
8 something.

9 Q The way you describe it here to the commissioner,
10 could one say it would be rude to do it?

11 A Yes.

12 Q Now, we discussed Biddlecombe. You state, and I
13 want to come to the reference, 'cause I know
14 you'll ask, 8-38. You state that -- this is on
15 the subject of Biddlecombe and Rossmo. You know
16 there was conflict there?

17 A I understand that, yes, from my interviews.

18 Q And is conflict something that just happens
19 whenever people with strong personalities all are
20 working in the same organization in policing?

21 A I don't know if it was strong personalities that
22 caused this conflict, but I understand there was a
23 conflict, and Sergeant Field called it friction.
24 There was definitely personality differences
25 between these two men.

1 Q You've seen that in your own police force?

2 A Yes.

3 Q So that leads us to a discussion about how the
4 executive should handle that kind of situation
5 which just comes up in the course of human
6 endeavour. You said in your report:

7 I do not accept that Inspector Biddlecombe's
8 refusal...

9 And this again is relating to the theory of serial
10 killer:

11 ... should have dictated how the VPD
12 executive members formulated their opinions
13 or beliefs in the serial killer theory.

14 A Yes.

15 Q Why do you not accept this? You say you don't
16 accept that that refusal should have dictated.
17 Why do you not accept that?

18 A Well, if you look at my report actually I'm saying
19 -- I say this because it was stated to me from
20 Detective Inspector Rossmo that he was implying
21 that Inspector Biddlecombe's dominant personality
22 prevented the senior management, and it's my view
23 as a police leader that one person's dominant
24 personality should not dictate how the senior
25 management of the organization deals with things,

1 so that's what I was trying to get at with that
2 point.

3 Q In other words one person shouldn't have that kind
4 of power at that level?

5 A At that level, yes.

6 Q Tell us about the importance of an area commander?
7 You discuss that in your report as it relates to
8 Mr. Greer.

9 A Inspector Greer was in charge of the District 2
10 from my memory and my interview with him, and I
11 know that he was receiving correspondence from
12 Constable Dickson who was his community officer,
13 so I felt that as the leader of District 2, the
14 commander, it was his responsibility, he owed it
15 to his community to be alive to all the issues
16 that were ongoing in his community, and the
17 missing women issue was in his community.

18 Q Did you see a culture where he was being
19 encouraged to stand up for his community?

20 A I saw that he was attending community meetings,
21 and I know that he called in Detective Inspector
22 Rossmo with Staff Sergeant McKay then to look at
23 the missing women cases and provide input. So I
24 know in September of 1998 when the working group
25 was established he was trying to become involved

1 in looking at the situation to better understand
2 it. Following the meeting in September 1998 when
3 Inspector Biddlecombe asserted his authority over
4 the missing persons investigation I believe
5 Inspector Greer backed away.

6 Q In a force that's functioning with the kind of
7 communication and supervision that you would
8 envision would that unfold the same way?

9 A Oh, I think it's important for police leaders, and
10 at the inspector level they are a police leader,
11 that they put their personalities aside and they
12 focus on the issues of the community. I mean I
13 was disappointed to see that the two senior
14 officers in the division weren't communicating
15 better to discuss the issues.

16 Q Now, I wanted to discuss just a bit about
17 McGuinness again. You mentioned him earlier. You
18 read the memos that related to McGuinness's
19 involvement in this case. He was a deputy chief
20 constable during the time that was of interest to
21 you?

22 A He was.

23 Q How should McGuinness as deputy chief been
24 informed earlier about what was going on? You
25 expressed a concern that it wasn't until February

1 of '99 when he was prompted by an e-mail from
2 Rossmo that he began to question whether they were
3 doing enough to address the problem?

4 A Well, I know that in September 1998 there was
5 evidence that he announced the formation of the
6 Missing Women Working Group which was comprised of
7 Inspector Greer from District 2, Detective
8 Inspector Rossmo and Detective Constable Shenher.
9 So he made the announcement that there was going
10 to be a formation of a working group and he sent
11 the information down to the Major Crime Section,
12 and I believe Acting Inspector Dureau was acting
13 for Inspector Biddlecombe at the time who received
14 the memo and forwarded it to Sergeant Field for
15 her attention. So Deputy Chief McGuinness was
16 aware at that time.

17 When following the meeting on September 22nd
18 when there was a disagreement on who was going to
19 look after the missing women investigation and
20 review I did not see any indication from documents
21 that revealed to me that Deputy Chief McGuinness
22 was still following or keeping abreast of what was
23 going on with the missing women investigation. He
24 informed me during his interview that there were
25 daily briefings at the executive level, and he

1 also advised that he was the type that would walk
2 about and would go down to the Major Crime Section
3 to just speak to officers directly to find out
4 what was going on.

5 In February of 1999 Detective Constable
6 Shenher attended the Downtown Eastside and
7 presented a -- she did a presentation to the
8 community and she talked about how since 1995
9 there was 24 missing women, and following that
10 presentation I saw documents that indicated that
11 the deputy chief was being alerted to the
12 presentation that Detective Constable Shenher had
13 done, and at that time it prompted memos and
14 e-mails. So when reviewing the documents I was --
15 I got the impression that it would appear that
16 this was just the first time that they were
17 recognizing that there was such an increasing
18 number and that they were inquiring as to what
19 should happen as a result of that.

20 Q So just to discuss this concern let's look at page
21 8 of 149 under the subject leadership.

22 A Yes.

23 Q So you say:

24 In my opinion the leadership and oversight
25 displayed by members of the VPD senior

1 management during the initial investigation
2 into the missing women was inexcusable.
3 And you go on to comment. You say in the next
4 paragraph:

5 There was no leadership by senior management
6 within the Missing Person Unit.

7 A Yes.

8 Q You continue on the discussion of leadership. In
9 the fifth paragraph you talk about this February
10 '99 fact setting, and you just told the
11 commissioner about that where McGuinness seems to
12 become concerned about what had been happening.
13 And then you state in the next paragraph:

14 DCC McGuinness had ownership of the MCS.
15 Major Crime Section which included the Missing
16 Persons Unit:

17 While there were documents that demonstrated
18 he was kept informed of the investigation, I
19 saw no evidence of proactive steps on his
20 part to move this investigation forward.
21 This was an enormous investigation that
22 required regular executive attention.

23 A Yes.

24 Q Now, when you talk about executive attention, what
25 is the executive?

1 A The executive would be the chief and the deputy
2 chiefs.

3 Q Should there be systems in place to ensure that at
4 the executive level these men and women know
5 what's going on in the department, is that asking
6 too much?

7 A No, it's not.

8 Q Why do you say that to the commission?

9 A Because the chief is accountable to what's going
10 on to the community. So when there are big
11 investigations or issues that concern the
12 community the chief should be kept appraised, so
13 there should be mechanisms in place for him to get
14 that information, have that information available
15 to him. Following Detective Constable Shenher's
16 presentation at that community meeting the chief
17 of the day, Chief Chambers, actually requested
18 information and subsequently received a memo from
19 Detective Constable Shenher providing an update to
20 him at that time in February of 1999.

21 Q So you've mentioned the Chief Chambers, and I want
22 to turn you back to 8-17.

23 A Yes.

24 Q Second paragraph from the bottom. Can you read
25 that to yourself and then I'm going to ask you

1 about it.

2 A Yes.

3 Q You say it was his job to keep informed as this
4 was an urgent issue within the Downtown Eastside?

5 A Yes, it was.

6 Q Is that asking in your view too much of a chief to
7 keep his or her finger on all these types of
8 issues?

9 A No, not in my opinion it's not. This is a big
10 issue.

11 Q What should he have done if the systems are
12 working as you believe they need to be, what could
13 the chief then have done?

14 A Well, if this was the first time that the chief
15 has been made aware of it I would have expected to
16 see memos or action or proactive steps that he
17 would have given direction to say have a meeting
18 and then give out or say we need to dedicate more
19 resources, and I didn't see any evidence of that,
20 any documents that provided information with
21 regards to that.

22 Q Just relate the proactive steps to a police
23 service where there's multiple jurisdictions.
24 You're aware from your work here that we had
25 multiple jurisdictions that were involved in

1 Pickton?

2 A Yes.

3 Q So tell us how in a system that's working the way
4 it needs to be to catch these people sooner, how
5 should things have gone? What should have been in
6 place so that we didn't have these breakdowns in
7 communication that you talked about?

8 A Well, I think the chief if he was kept informed
9 and recognized that his officers needed
10 assistance, and if he felt that it was
11 multi-jurisdictional, and at this time in February
12 of 1999 I'm not sure he would have -- I'd have to
13 look at the memo to find out what Detective
14 Constable Shenher talked about with regards to
15 this update before I answer fully on this one,
16 Mr. Vertlieb. I -- but systems are in place that
17 the chief of the day should be picking up the
18 phone to talk to his neighbouring chiefs. I mean
19 that happens all the time now. In fact the chiefs
20 should be familiar with each other so you have
21 partnerships with fellow chiefs in neighbouring
22 jurisdictions in case issues arise, because often,
23 you know, criminals are not limited to committing
24 crimes within your own jurisdiction. There are
25 multi-jurisdictional cases so it's important to

1 develop these partnerships so you can pick up the
2 phone at any time and discuss any issues.

3 Q Peel is a regional police service?

4 A Yes, it is.

5 Q So that's an amalgamation of a number of
6 pre-existing services?

7 A Yes.

8 Q Just while we're on that subject just tell us what
9 that involved. What services came together to
10 make the regional police?

11 A You're going to test me here, Mr. Vertlieb. I'm
12 not sure, it was 1974, so it was pre my time. It
13 was five police services. Streetsville, Brampton,
14 Port Credit, Mississauga and Chinguacousy.

15 Q And they came together to form a regional police
16 under the direction of one police chief?

17 A That's correct. We have two cities, the City of
18 Brampton and the City of Mississauga.

19 Q Now, even though you're regionalized you still
20 communicate, for example, the Toronto police
21 chief?

22 A Yes, we do.

23 Q So even though you're regionalized it still
24 recognizes that there would be other police
25 services that you would need to work with?

1 A Yes.

2 Q And that does work? The communication that you
3 believe should have happened here, you've seen it
4 work in reality and it is effective?

5 A Yes. And I saw the officers communicate here.
6 Like -- and I think it's important to remember too
7 that when Lori Shenher first got Pickton's name
8 and realized he lived in Coquitlam the first thing
9 she did was she contacted Coquitlam RCMP and
10 contacted Corporal Connor, so that was going on at
11 that level.

12 Q Just on that. You looked at what the police at
13 the ground level were doing, and they seemed in
14 your view to be working and communicating one with
15 the other?

16 A The investigators were communicating to a certain
17 degree, to a certain point.

18 Q Did you see the communication in the same way at
19 the upper levels as it moved up the line?

20 A No, I did not.

21 Q You discuss Deputy Chief Constable Terry Blythe
22 who then became the chief?

23 A Yes.

24 Q At 8-18 you say that he first became aware of the
25 missing women issue when he was the DCC in

1 operations?

2 A That's correct, in 1997.

3 Q Although he suggested that McGuinness did not
4 provide much information I believe it was his
5 responsibility to pursue that information and
6 remain informed. I believe he failed to take
7 ownership...

8 Again that comment of ownership, meaning
9 responsibility and accountability?

10 A That's correct.

11 Q Is this another example of the systemic failure
12 that you've discussed a number of times here to
13 the commissioner?

14 A I mean I found that there was no communication
15 within the executive at that point. When DCC
16 Blythe was saying that DC McGuinness was keeping
17 everything confidential, I mean there shouldn't be
18 confidential issues between two deputy chiefs
19 within the police service, because they're both
20 leaders within the police service, and if it's
21 impacting on the community they should be
22 communicating with each other.

23 MR. VERTLIEB: I want to discuss dealings now with the RCMP and
24 your review of some of the individual officers.
25 Perhaps this is a good time now, Mr. Commissioner,

1 to take the morning break because we'll shift to
2 the RCMP.

3 THE COMMISSIONER: All right. Thank you.

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

5 **(PROCEEDINGS ADJOURNED AT 10:47 A.M.)**

6 **(PROCEEDINGS RESUMED AT 11:02 A.M.)**

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

8 MR. VERTLIEB:

9 Q I just wanted to deal with this evidence you gave
10 the commissioner just before the break about the
11 interaction with Blythe and McGuinness.

12 A Yes.

13 Q And you talked about the McGuinness involvement in
14 1999. Now, Mr. Giles, can you get Exhibit 41 for
15 the deputy. And this is documents relating to
16 Deputy LePard. So it's Exhibit 41, it's Volume 1.
17 This is, just to tell you while Mr. Giles is
18 getting that, it's a memo from Brian McGuinness
19 February 13, '99. And I'll just read the memo,
20 'cause I think you've seen all these, and it's a
21 memo to Biddlecombe, Dureau and Giles with a copy
22 to Lori Shenher.

23 A Sorry, Mr. Vertlieb, what tab am I supposed to
24 look at?

25 Q It is Volume 1, tab 5, Phase 3. It's a very brief

1 memo. Do you see this, February 13?

2 A It's an e-mail?

3 Q Yes.

4 A Yes.

5 Q So please ensure that you are familiar with
6 information before our meeting of the 24th of
7 February. What kind of problem do we have?
8 We need to discuss the implications of this
9 increase in missing females on the Downtown
10 Eastside. Do we have a problem that we are
11 not addressing...

12 Et cetera. Now, that's McGuinness.

13 A Yes.

14 Q So he obviously cares now. He's caring about
15 what's happening, he's worrying?

16 A Yes.

17 Q Okay. Now, what I wanted to do is discuss
18 McGuinness who is a deputy chief, just below the
19 chief, with Deputy Chief Blythe, because you
20 interviewed Deputy Chief Blythe who became the
21 chief; right?

22 A Yes.

23 Q And did you see communication between those two
24 people, both of whom are now deputy chiefs of the
25 Vancouver Police Department, did you see them

1 talking to each other about the missing women
2 problem in the Downtown Eastside?

3 A Yes, there was. It's not in this e-mail.

4 Q I know.

5 A There was -- I did see evidence of it in
6 documents.

7 Q And tell us what was happening with the
8 communication, because I want to then discuss the
9 culture that would allow that communication to be
10 the way it was as between McGuinness and Blythe.
11 Did you have a concern about those two individuals
12 almost at the very top were working together?

13 A Well, I would prefer to, if I can refer to the
14 timeline, there was a -- this wouldn't be the
15 document that I would speak to with regards to
16 this because Deputy Chief Blythe is not involved
17 in the e-mail trail of this.

18 Q Yes.

19 A There is another e-mail, and I believe it was in
20 April before they went to the Attorney General,
21 April of 1999, that spoke to the communication
22 whereas Deputy Chief Blythe's assistant, Leah
23 Kelsey, sent an e-mail saying are we safe saying
24 such a thing. And when I interviewed former Chief
25 Blythe, 'cause I didn't see a result from that

1 e-mail, he talked about how things were kept
2 confidential, and he had said that he spoke to DCC
3 McGuinness with regards to that e-mail. So this
4 wouldn't be the e-mail that I would rely on to
5 comment on that.

6 Q No, I understand, but I want to introduce that.
7 Now, how would something be confidential between
8 two deputy chiefs of police, is that a good way
9 for things to be running?

10 A No.

11 Q Does that suggest to you concerns about the
12 culture of the way this force was operating in the
13 context of this investigation?

14 A Well, it suggested to me that there was a
15 breakdown in communication at the leadership
16 level, which is not good for the organization.

17 Q Thank you. All right. I want to discuss some of
18 the RCMP individuals all keeping in mind that the
19 focus will be on the great -- the bigger picture
20 and what it suggests to you. Now, it's clear, and
21 we've heard from others, that Mike Connor was on
22 the case, did lots of work and then was
23 transferred out?

24 A That's correct.

25 Q I'm not going to take you through that, the

1 commissioner's heard all about it. Transfers of
2 police officers must be a common event in the
3 policing community?

4 A They are.

5 Q So what should have happened that you did not see
6 happening when Connor was transferred?

7 A I would have -- well, Constable Yurkiw was
8 reassigned the investigation. It didn't occur
9 from the documents, I mean I think she took over
10 the carriage of the investigation in August of
11 1999 'cause she did the interview of Ellingsen,
12 and you don't see a document that talks about
13 officially she's been assigned as the officer in
14 charge of the file till September. But I would
15 have liked to have seen the fact that the transfer
16 of information, that she would have spent time
17 with Corporal Connor to sit down and get briefed
18 on and, you know, up to speed as to what
19 investigation had gone on prior to her coming to
20 the unit. I also would have expected that
21 Sergeant Pollock, who was the constant supervisor
22 over Corporal Connor and then over Constable
23 Yurkiw during the Pickton investigation, that he
24 would have become -- he would have had a briefing
25 and then he would have been more involved with the

1 decisions on how this file should move forward.

2 Q You did conclude that Connor's promotion and
3 immediate transfer to a new assignment had a
4 devastating impact on the investigation. You
5 said:

6 I believe it was the responsibility of his
7 supervisor and senior management to ensure
8 the investigation continued and did not
9 suffer as a result of his promotion.

10 Pollock is involved in the discussion you just
11 mentioned?

12 A Yeah. I struggled with how to write that up only
13 because I didn't want to blame Corporal Connor for
14 getting promoted. I mean that's the highlight of
15 a police officer's career to, you know, get a
16 promotion to the next rank, and to his credit I
17 understand that he went to the administrative
18 staff sergeant or sergeant in Coquitlam saying can
19 I take my promotion and still remain on this file,
20 and that didn't occur. So it was difficult to
21 word that in the fact that I don't think it was
22 his promotion, it was the fact that he was no
23 longer leading the investigation. I think that's
24 where the breakdown was as opposed to I didn't
25 want to blame his promotion, which was a

1 compliment to Corporal Connor I believe.

2 Q I want to discuss Henley and the polygraph
3 discussion about Ellingsen, and I'm not going to
4 have you take the commissioner to the facts, he's
5 heard a lot about that, and everyone understands
6 there was a concern about the way Ellingsen was
7 handled. You shared that concern, it's in your
8 report?

9 A Yes.

10 Q But what did emerge in your report is a reference
11 to Sergeant Hunter and his view about Ellingsen.
12 You referred at 8-113 to the polygraph that had
13 been arranged and a continuation report authored
14 by Sergeant Hunter. Do you know the area that I'm
15 just asking about?

16 A I do, yes.

17 Q In your report you talk about Hunter having a view
18 that Ellingsen was as much a suspect as a witness.
19 Did I state that correctly?

20 A Yes.

21 Q Hunter is a senior polygrapher to your
22 understanding?

23 A I'm not sure how senior he was as a polygraph
24 officer, but I know he was a polygraph officer.

25 Q Talking page 8-113, and this is dated August 31,

1 1999. The continuation report is dated August 31,
2 '99, and this should be before you,
3 Mr. Commissioner, just for ease. Thanks.

4 A Thank you.

5 Q See the third paragraph, this is from Hunter:

6 It is my opinion that based on her admissions
7 to other people that she is a suspect in a
8 murder just as much as she could be a
9 potential witness. Henley advises that it
10 took some time before she warmed up...

11 Et cetera. Now, the fact that there was a
12 sergeant commenting that she was as much a suspect
13 as a witness was noted by you. Did this suggest a
14 supervisory breakdown in the system in place when
15 he recognized -- when he suggests getting her in,
16 perhaps even arresting her?

17 A I found that their process broke down with regards
18 to this because when I did some interviews I don't
19 think people were aware, whether it was their
20 memory or not, they weren't aware that Sergeant
21 Hunter held this view that if she didn't show up
22 for the polygraph then it was his recommendation
23 that they seek her out and arrest her and
24 interview her.

25 Q In fact he said that in his memo. This is Hunter

1 speaking:

2 I suggested that based on the info they have
3 she should be arrested and interrogated about
4 this story.

5 A Yes.

6 Q And you just told the commissioner that the people
7 involved around this time didn't seem to be aware
8 of that opinion or advice of Hunter?

9 A Yes, this document was located, from what I
10 recall, under the documents disclosed from the
11 Provincial Unsolved Homicide Unit which is where
12 Corporal Henley and Detective Ballantyne came. So
13 it wasn't -- so I didn't see a process on the
14 document that indicated that Constable Yurkiw who
15 was the officer in charge of the Coquitlam
16 investigation into Pickton at the time received
17 this document.

18 Q And you would have expected it in a system that's
19 working properly that that would happen?

20 A Yes.

21 Q Would then there be discussion amongst the various
22 police officers, junior and senior, about whether
23 Ellingsen should have been arrested and brought
24 in?

25 A Well, I found that after she didn't show up for

1 the polygraph and refused to take the polygraph,
2 which was upon consent, there was no plan in place
3 to deal with the fact that she didn't show up for
4 the polygraph, and then you've got the polygraph
5 officer saying she should be arrested and
6 interviewed and that didn't occur, so here was a
7 breakdown there.

8 Q Now, you mentioned in your report about Yurkiw,
9 that she was new to the office and new to the
10 Pickton file and discussed the fact that Sergeant
11 Pollock should have prepared for the interview.
12 Tell us about Yurkiw relative to the supervision
13 she might have needed with the experience she had
14 given this was a potential serial killer
15 investigation?

16 A Well, I think she was brand new to the office, and
17 from what I recall from her interview she had
18 previous investigative background, so she wasn't
19 new in conducting investigations. But I'm not
20 convinced she would have been given a full
21 briefing by Sergeant Pollock when I didn't receive
22 the information that she received a full briefing
23 from Corporal Connor, and to all the information
24 with regards to Pickton. I know she conducted the
25 interview of Ellingsen. I worried that when I

1 asked Sergeant Pollock when Constable Yurkiw and
2 Sergeant Pollock attended Pickton's farm, I
3 believe it was on the 1st of September, I asked
4 Sergeant Pollock how he prepared for the
5 interview. I mean you're here to interview
6 somebody for possibly one murder, possible
7 multiple murders I would have expected to see a
8 plan in place and was surprised that he said he
9 didn't prepare because Constable Yurkiw was doing
10 the interview.

11 Q You interviewed in the course of doing the work
12 for this commission the retired officer Yurkiw?

13 A Yes, I did.

14 Q And she was critical of herself in that interview?

15 A Yes.

16 Q That interview just so you know has been
17 distributed to all of the participants, so they
18 have seen that. You don't seem to be as critical
19 of Yurkiw as she is of herself?

20 A Yes, I agree.

21 Q Why is that?

22 A Well, I think she was new to the file. I think I
23 was critical in the fact that I comment she didn't
24 prepare. I'd actually like to be directed at what
25 point I spoke about her.

1 Q 8-125.

2 A Thank you. And I can refresh my memory before I
3 answer.

4 Q No, go ahead. This is the interview between her
5 and Pickton with Gina Houston sitting there in the
6 room.

7 A Yeah. Well, I think I wasn't as critical on
8 Constable Yurkiw because I think during the
9 interview she'd actually said that she was
10 supposed to do the interview with Sergeant
11 Pollock, but for some reason she couldn't recall
12 Sergeant Pollock wasn't available that day so, and
13 the reason she'd given very quick notice to
14 Constable Cater, and it was his second day in the
15 Serious Crime Unit, who was definitely not
16 prepared for this interview, and that was quite
17 obvious when I interviewed him. So I wasn't as
18 critical on Constable Yurkiw because I mean I
19 always look to the supervisors to remain vigilant
20 with their investigators and to make sure that
21 they have the proper time to prepare and the
22 proper tools they need to do the job, so.

23 Q What would a supervisor do after that interview
24 have taken place? We've heard about the interview
25 with Houston sitting there and we've already heard

1 from Deputy LePard, and even Superintendent
2 Williams of the RCMP that that wasn't the way to
3 do things. So let's assume this happened, it
4 wasn't proper supervision going in, that's already
5 happened, it's over and done with. Now, that that
6 did occur what role would a supervisor play in
7 reviewing what had occurred?

8 A I think this would have been a great opportunity
9 for Sergeant Pollock or for then Staff Sergeant
10 Zalys to sit down and review the tape with
11 Constable Yurkiw and Constable Cater and a
12 polygraph officer or someone who is a skilled
13 interrogator and they would look at the interview
14 and look at things that Pickton said that should
15 have been pursued or followed up on.

16 Q Is this in the police profession often referred to
17 as debriefing?

18 A Yes.

19 Q Tell us about that?

20 A Well, I mean I think you're not always going to
21 get -- you're not always going to be successful
22 every time you conduct an interview, and we've
23 seen in other serial cases where serial predators
24 are often interviewed multiple times by police.
25 But I think it's important to remember that we

1 should be analyzing the things the serial
2 predators say or witnesses say and what they don't
3 say, and then if we're looking for avenues to
4 further either confirm or deny what they're saying
5 during the interview. Sometimes we need help with
6 that, so why not bring about the team approach,
7 get in as many people in the room as you can, sit
8 down and watch the video and look for comments or
9 behavioural cues that someone can look at and say
10 hey, let's look at this. I mean I believe that
11 Constable Yurkiw and Corporal Connor I believe
12 watched part of the interview, I mean they felt he
13 was being deceptive, but I didn't see any
14 indication that followed that interview that they
15 pursued that and did the follow-ups with regards
16 to that.

17 Q I want to ask you about the return of two officers
18 to the Unsolved Homicide Unit. This is when
19 Henley and Ballantyne were sent back to unsolved
20 homicide. You're familiar that that happened?

21 A Yes.

22 Q Did you ever explain to yourself in your review
23 why those two were sent back when there was at the
24 same time an indication about the lack of -- about
25 resource allocation and needing resources? Did

1 that ever come together for you in your analysis?

2 A August 1999, I mean following Ellingsen's

3 interview where they felt -- some felt she was

4 being deceptive and some felt that she wasn't, and

5 then her failure to consent to the polygraph

6 examination, there was clearly from interviewing

7 Corporal Connor a difference of opinion within the

8 team. Corporal Henley and Detective Ballantyne,

9 and Corporal Nash from the Major Crime Unit, held

10 a different view on the source information of

11 Caldwell that he was relaying than Corporal Connor

12 had. And Sergeant Pollock was the supervisor at

13 the time, and during his interview he talked about

14 the fact that Corporal Connor was a senior

15 investigator to him, had much more experience as

16 an investigator in criminal matters, but you as

17 the supervisor, I think Sergeant Pollock should

18 have maintained control over that. Even though he

19 lacked the investigative experience that Corporal

20 Connor had, I don't think he -- he should have

21 held that unit together, so there was a breakdown

22 in the fact that in August of 1999 they were

23 getting so much information at the time about

24 Pickton, there was a differences of opinion, but

25 there was still a lot of work to be done. And in

1 my view Sergeant Pollock should have held on to
2 the resources of the members of the Provincial
3 Homicide Unit. So Corporal Henley and Detective
4 Ballantyne went back, and I think they went back
5 because there was such a strong personality
6 difference in that Sergeant Pollock felt that the
7 Coquitlam investigators would be better served
8 doing the investigation on their own. So that's
9 why Corporal Henley and Detective Ballantyne
10 returned to their own unit, the Unsolved Homicide
11 Unit.

12 Q So now please turn to 8-130, and this is April 25
13 of 2000.

14 A Yes.

15 Q Now, there's a bolded notation. Is that in your
16 report?

17 A Yes.

18 Q Is this directly from the notes as you saw them?

19 A Yes, it is.

20 Q What did you -- just read that to us as you
21 understood it to mean?

22 A Also discussed Pickton again.

23 And there was an arrow.

24 Q What is the arrow? What did you take that to
25 mean?

1 A It was just like they're making a new point.

2 If he turned out to be responsible...

3 Then there was an arrow:

4 Inquiry! Deal with that if the time comes.

5 Now, this notation was found in Staff Sergeant
6 Zalys's notebook. Unfortunately I didn't have the
7 disclosure of this notebook when I interviewed
8 Inspector Moulton so I was unable to speak to him
9 with regards to that, so that's why I commented on
10 that in my report.

11 Q Did you find that comment troubling, if Pickton's
12 responsible there would be an inquiry, deal with
13 it then?

14 A Well, I asked Staff Sergeant Zalys why would he
15 have written that, and I mean this is in April of
16 2000, so this is well before Pickton was
17 identified and charged, and this is where he
18 informed me that he had just recently completed
19 the major case management course and learned about
20 major case investigations and the importance and
21 the significance of conducting proper
22 investigations. So this is how -- I looked at the
23 note and I thought it was interesting that he had
24 written about an inquiry when at that point it was
25 still so early.

1 Q Let's move to McCartney. This is a comment that
2 he made I want to discuss with you using the term
3 "elephant in the room."
4 A Yes.
5 Q Now, McCartney's discussion is 8-28. You
6 interviewed McCartney?
7 A I did.
8 Q He's no longer with the RCMP?
9 A No, he's not.
10 Q Second paragraph from the bottom.
11 In his interview McCartney used the term
12 "elephant in the room."
13 Is that the interview with you?
14 A Yes, it is.
15 Q What was the elephant in the room?
16 A Pickton. Now, he wasn't saying that to be -- to
17 be smart or disrespectful in any way, he was
18 equating it to that it was a big issue in the
19 Coquitlam serious crime unit that they knew they
20 had to deal with.
21 Q But?
22 A But it didn't get dealt with.
23 Q Does that suggest a systemic issue about how this
24 investigation is being conducted?
25 A Well, yes, because the investigators were

1 recognizing that if the Pickton file was an
2 elephant in the room their supervisors were aware
3 of it, so the systemic issue is that it -- I mean
4 if there was such an issue to the investigators
5 and was brought to the attention from what I
6 understand to the, you know, the senior officer at
7 the Coquitlam detachment that there was no process
8 in place to say, okay, if this is such an elephant
9 in the room or a big file that has to be followed
10 up on what can we do and what resources can we put
11 to it to conclude it.

12 Q Is this an example of your view that senior people
13 weren't taking ownership of the investigation?

14 A Yes.

15 Q Were you aware that when this was going on in
16 Coquitlam the police department in Vancouver was
17 getting community pressure?

18 A Yes.

19 Q Were you seeing any community pressure in
20 Coquitlam?

21 A With regards to the missing women?

22 Q Yes.

23 A No.

24 Q Had there been a unified command could one police
25 chief have then said well, we do have this

1 problem, it may not be as big in Coquitlam as it
2 is over in this section of our police agency, but
3 we need to focus on it, is that an example where a
4 unified structure would assist?

5 A Yes, 'cause I think then the missing women issue
6 and the location where the offender resided was
7 all under the same command.

8 Q How would you describe at the time frame that
9 McCartney was relating to how Pickton was actually
10 being investigated, was he being investigated
11 aggressively or when they could get around to it,
12 or how would you describe it?

13 A I'm trying to remember when he referred to it as
14 Pickton the elephant in the room. In February,
15 and so the interview of Robert Pickton was January
16 19th, 2000 by Constable Yurkiw and Constable Cater
17 in the Coquitlam detachment, and in February
18 officers from the Coquitlam detachment held
19 several meetings to discuss various investigative
20 strategies they could do to further the
21 investigation into Pickton. And they created a
22 task list of duties that they were going to do,
23 and I saw that evidenced in the documents, but I
24 didn't see any follow-up. There were some. Like
25 one of the tasks was to interview a Lorna

1 Humphries, who was civilian RCMP member, and I
2 believe that was done. They also suggested they
3 were going to take further aerial photographs of
4 the Pickton farm, and I believe that was done.
5 They were also going to contact Staff Sergeant
6 Davidson regarding a criminal profile, and I know
7 there was a meeting in February of 2000 that
8 occurred. So they were setting things in place,
9 but I don't believe they had the opportunity or
10 they didn't pursue the investigative strategies,
11 all of the ones they had set out in their task
12 list.

13 Q So you refer to that event in your report at
14 8-126, you talk about the February 14th, 2000
15 meeting.

16 A Yes.

17 Q And so, for example, some of the things outlined
18 were done, you just told the commissioner about
19 that.

20 A Yeah.

21 Q But, for example, an idea about checking the
22 handcuffs, what did you think of that idea?

23 A I thought that was an excellent investigative
24 strategy.

25 Q Was it followed up?

1 A No, it wasn't.

2 Q People make mistakes?

3 A Yes.

4 Q Should there be a system in place to go back and
5 make sure that what we talked about doing was in
6 fact done?

7 A Yes.

8 Q Is that perfect policing or is what you expect to
9 see in a properly run organization?

10 A Well, I think that's what the philosophy behind
11 major case management, that's why it was brought
12 out, the fact that it helps officers, it provides
13 them mechanisms and processes in place so they can
14 do this.

15 Q Is that another reason why you're not critical in
16 a significant way about the individual police but
17 rather focus on the systemic?

18 A Yes.

19 Q Now, you say in your report at page 126 there was
20 a breakdown in communication between VPD and
21 Coquitlam RCMP. That's paragraph, looks like, six
22 in my note. Do you see that?

23 At this point in the investigation there was
24 a breakdown in communication...

25 A Yes.

1 Q ... between VPD and Coquitlam which is
2 evidenced because various officers from VPD
3 and RCMP were meeting with RCMP profilers,
4 yet they were not communicating with each
5 other.

6 In a unified structure would you have expected
7 that kind of a breakdown to remain as a breakdown?

8 A No, because the officers would have been
9 communicating and working together.

10 Q Moulton, you discuss Inspector Moulton?

11 A Yes.

12 Q Inspector at the time. He's still apparently in
13 the RCMP and his rank is --

14 A No, I believe he's retired.

15 Q Okay. He made tough decisions?

16 A Yes, he did.

17 Q You're not critical of him for that?

18 A No.

19 Q But what about the fact that that decision was not
20 conveyed to the Vancouver Police Department in
21 terms of the priority that was being given on a
22 continuous basis to the Pickton file?

23 A Well, I wasn't critical in the fact that he
24 recognized that decisions had to be made and he
25 made them. He talked about many elephants in the

1 room and talked about priorities. I would be
2 critical that he didn't reach out and phone
3 Vancouver to say we understand Pickton is a
4 priority for your missing women investigation, but
5 we don't have time to investigate him right now or
6 the resources. I didn't see evidence that
7 Vancouver were reaching out to Coquitlam or that
8 Coquitlam RCMP were reaching into Vancouver Police
9 Department saying, you know, we need resources to
10 work on this. So I would be critical in that
11 area.

12 Q Would a unified structure eliminate that failure
13 to communicate?

14 A Well, unless dedicated people had been dedicated
15 to -- a group of dedicated people to solely work
16 on the Pickton file under one leader that would
17 have assisted.

18 Q You said at 8-31 you made comments about the
19 officer in charge Hall?

20 A Yes.

21 Q Second paragraph from the bottom. You interviewed
22 him?

23 A Yes, I did.

24 Q Quoting your report:

25 In my opinion, he...

1 Meaning Hall:

2 ... should have followed up with his own
3 investigators and sought out their thoughts
4 on the investigation.

5 A And I said that, I mean I know Superintendent Hall
6 was the divisional commander and not necessarily
7 would have all the intimate details of the
8 criminal investigation, but I was aware that he
9 was present at a meeting, and I believe it was
10 Corporal Henley in his interview commented that he
11 thought Superintendent Hall, you know, was
12 providing direction at the meeting. I didn't get
13 that impression when I interviewed Superintendent
14 Hall. And when Superintendent Hall was
15 interviewed he talked about the fact that he was
16 unaware there was such a dividing opinion on the
17 Caldwell information and Lynn Ellingsen, and he
18 had spoken to Corporal Henley and was of the
19 belief that there was a -- you know, there was
20 nothing to it, that's why Corporal Henley and
21 Detective Ballantyne would be returning to the
22 Unsolved Homicide Unit. So I was critical of the
23 fact that Superintendent Hall was involved, was a
24 commander and didn't find out what his own -- like
25 what Corporal Connor thought of the investigation.

1 Q Now, I wanted to ask you about Mr. Bass, and maybe
2 I misheard last week when Mr. Brongers, who is a
3 lawyer for the Department of Justice, tried to
4 correct a comment of yours about his being Bass's
5 standing. It's in your report at 8-33.

6 A Yes.

7 Q Now, it's the fifth paragraph. You called him
8 Chief Superintendent Bass, and I'm not sure
9 whether there was a -- Mr. Brongers was saying
10 that you had the wrong title for him, but I just
11 want to be clear. You did inquire as part of your
12 work about the member's ranks and positions and
13 their various promotion dates?

14 A Yes, I did.

15 Q You were given a memo October 28, 2011 from
16 Sergeant Ron Palta?

17 A Yes.

18 Q And he informed you that Gary Bass was promoted to
19 chief superintendent May 7, 1999?

20 A Well, I would have referred to that document when
21 I was making the comment that on March 1st, 2000
22 Chief Superintendent Bass was actually a chief
23 superintendent, yes.

24 Q Yes, and that's the basis upon which you made your
25 report?

1 A Yes.

2 Q Now, there may be misapprehension that he was not
3 the officer in charge of "E" Division, he may have
4 been the officer in charge of Major Crime?

5 A Yes, and I believe that was -- I don't believe he
6 was officer in charge of the entire "E" Division,
7 so I believe that was incorrect in my report.

8 Q That's fine. But if so, let's assume that he was
9 Major Crime and not the overall "E" Division, what
10 does that mean to you in the context of the
11 Pickton investigation?

12 A Well, I felt that as the chief superintendent in
13 charge of "E" Division, if he's in charge of Major
14 Crime if I'm correct in that now, he would
15 actually be closer to the situation and be aware
16 and have the ability to redeploy resources when
17 Staff Sergeant Davidson and Sergeant Paulson and
18 Corporal Filer came to him with this proposal.

19 Q You said in your report that there was no
20 indication that Chief Superintendent Bass assumed
21 ownership over the Pickton investigation as that
22 remained in Coquitlam RCMP. Do you remember that
23 comment?

24 A Yes.

25 Q Did you view that as another piece of the puzzle

1 in terms of the systemic breakdowns that you've
2 discussed?

3 A From my interviews with the officers in Coquitlam,
4 and because Coquitlam RCMP was such a big
5 detachment they were responsible for the Pickton
6 investigation. I know that Chief Superintendent
7 Bass was aware of the investigation, so he didn't
8 take ownership. I think my comments with regards
9 to this meeting was the fact is that Staff
10 Sergeant Davidson was outlining very serious
11 concerns that at least serial killers are believed
12 to be operating in BC at the time, and that's
13 where my comments were with regard to Chief
14 Superintendent Bass.

15 Q So it's in the same context as the other comments
16 you made about other police, individual mistakes,
17 human error, but speaking to the systemic way in
18 which this whole event was being organized?

19 A Yes.

20 Q I wanted to ask you about Evenhanded. You're
21 familiar with that project?

22 A I am.

23 Q We've heard from two other police officers, LePard
24 and Williams, it doesn't it appear that they
25 believe Evenhanded were responsible for catching

1 Pickton?

2 A I would agree.

3 Q It appears that it was Nathan Wells of less than
4 two years in the force did the firearms warrant
5 that got him?

6 A I would agree.

7 Q Do you agree with that?

8 A Yeah.

9 Q Just so it's clear tell us, and tell the
10 commissioner most importantly, how Evenhanded was
11 working relative to the Pickton investigation?

12 A The Pickton investigation being conducted by
13 Coquitlam RCMP was more a suspect-focused
14 investigation as they were doing proactive
15 measures to try to locate and identify information
16 that would connect Robert Pickton to a homicide or
17 to the missing women investigation. Part of
18 Evenhanded was a historical review trying to
19 identify forensic evidence, the DNA, that would
20 link an offender from historical crimes to the
21 unsolved homicides, the three homicides in
22 Agassiz.

23 Q So you did interview Adam?

24 A Don Adam?

25 Q Yes.

1 A Yes, I did.

2 Q And you cover some of his involvement at 7-25, the
3 bottom paragraph.

4 A Yes.

5 Q Now at the last sentence he meaning?

6 A Staff Sergeant Don Adam.

7 Q Thank you.

8 He also advised that they can't redeploy
9 personnel from historical review team as it
10 would have...

11 And this is in quotes:

12 ... "a crippling effect on the integrity of
13 overall investigation."

14 That's a strong word.

15 A Yes.

16 Q You saw that document that you're discussing here?

17 A Yes, I did.

18 Q So what did that tell you when you saw Adam
19 talking about to redeploy personnel would have a
20 crippling effect, what did that tell you?

21 A Well, in the same memo he was saying that:

22 All evidence indicates that one or more
23 serial killers are going into the Downtown
24 Eastside to select women. Based on the fact
25 that the area of disappearance is fairly

1 small, the investigative strategy is obvious.
2 So he was looking for more resources at that time
3 for Evenhanded. This is at October 31st, 2001.
4 And then he talked about the crippling effect it
5 would have if he redeployed his resources from the
6 historical review over to a more proactive
7 approach in the Downtown Eastside. I was
8 critical, concerned only because I felt that if
9 they have now identified that there is a
10 likelihood of an active serial killer I would have
11 thought that the resources would have been all
12 redeployed to the active serial killer
13 investigation.

14 Q What date is this crippling effect memo?

15 A October 31st, 2001.

16 Q Is that why you then say at the top of the next
17 page:

18 In my opinion, this memorandum should have
19 prompted urgent attention and resources
20 should have been provided sooner than January
21 2002.

22 A Yes.

23 Q And, again, does that speak to the systemic
24 concerns you've discussed so many times this
25 morning?

1 A Yes. He's putting in writing that he needs more
2 resources, that there's a potential for a serial
3 killer, if the additional resources didn't arrive
4 till January, mid January 2002.

5 Q Now, help us as a police officer understand how
6 quickly resources could have, meaning people and
7 equipment, how quickly could that have happened?
8 If you had seen this how quickly could you have
9 said here, I'll get you more people and we'll get
10 you the equipment you need?

11 A Oh, I think often in major cases, and homicides
12 especially, if a homicide occurs today that people
13 are redeployed immediately that day. And I would
14 suggest that if you opened up a garage and you
15 located multiple victims deceased and victims of a
16 homicide officers would be redeployed immediately.

17 Q So it's not as though a matter of months would be
18 needed to deal with this --

19 A No.

20 Q -- in the police industry?

21 A No.

22 Q Thank you. Let's discuss Brian Oger. Page 8-35,
23 Mr. Commissioner.

24 A Can we get a copy of his report?

25 Q Of course you may. It's marked as an exhibit, and

1 Ms. McKeachie will help us. It's in Exhibit 41C,
2 which is Deputy LePard documents, and it may be
3 tab 28.

4 THE COMMISSIONER: I've got it. I've got it.

5 THE WITNESS: Yes, I have it.

6 THE COMMISSIONER: Did you say Exhibit 41?

7 MR. VERTLIEB: 41.

8 THE WITNESS: 41C as in Charlie.

9 MR. VERTLIEB:

10 Q Deputy Evans, the commissioner has seen this
11 before and we've discussed it so we don't need to
12 go through in it in the detail that we would if it
13 was the first time it was discussed.

14 A I understand.

15 Q But I wanted to ask you, you had interesting
16 comment about this at 8-35, the paragraph
17 starting:

18 The document prepared by Mr. Oger, was one of
19 the most compelling documents reviewed. It
20 is my opinion that it was well intentioned
21 and written, not as a criticism of the
22 ongoing work within Project Evenhanded, but
23 to "raise awareness of the magnitude of the
24 problem we are facing, and stimulate action
25 on the part of the police department and the

1 government to appropriately respond to this
2 enormous problem."

3 I want to ask you about your word, and it is your
4 word, compelling when you talk about it was one of
5 the most compelling documents reviewed. Tell the
6 commissioner why you used that language?

7 A I found it compelling because it was a 15 page
8 report, an essay I think I called it, written by
9 -- and he speaks to it within his document saying
10 that, you know, he's a 22 year old summer student
11 who has been reading and absorbing all the
12 information in the file, and he has no police
13 background, and that he observed what police
14 leaders and police investigators were not. That's
15 why I found it compelling.

16 THE COMMISSIONER: So you say it's compelling because a 22 year
17 old summer student came to the conclusion there's
18 a serial killer before any of the police did?

19 THE WITNESS: Yes. It appeared so obvious to him. He laid it
20 out, he was so articulate, it was well written.
21 He wasn't critical of the investigation or the
22 investigators with whom he was working with, he
23 was concerned so he wrote this paper. I
24 interviewed him, Mr. Oger, as well.

25 MR. VERTLIEB:

1 Q And did it appear from your review that the police
2 were unwilling to accept his opinion or his
3 proposition?

4 A What I found was concerning was the date of this
5 essay was August 23rd, 2001, and I'm familiar from
6 reading the documents that Staff Sergeant Adam
7 briefed the executive of both the Vancouver Police
8 Department and the RCMP on August 30th, and
9 following that briefing -- sorry. In that
10 briefing I didn't see any comments or reference to
11 Mr. Oger's essay, and I'm aware either following
12 or before that meeting Staff Sergeant Adam
13 followed up with Keith Davidson the criminal
14 profiler, the staff sergeant in the RCMP Criminal
15 Profiling Unit, to confirm the statistical
16 analysis that Mr. Oger cited in his report. So
17 Don Adam was aware of the report and followed up
18 on it to say, you know, is it accurate, and he was
19 told by Staff Sergeant Davidson that it was
20 accurate. So I was concerned about that.

21 Q Do you know why the police would not have given
22 that report the attention you believed it
23 deserved?

24 A No, I don't.

25 Q Just speaking about him, and we've discussed the

1 polygraph with Ellingsen or the fact one didn't
2 take place?

3 A Yes.

4 Q Let's discuss Mr. Oger and polygraph. Did you
5 learn anything about Mr. Oger and polygraph?

6 A It was December, from what I can recall, of 2001
7 there was a media leak of a document of an
8 operational plan from Project Evenhanded that had
9 been leaked to one of the media, and from what I
10 understand from my interviews Mr. Oger was the
11 suspect, if I can use that term. The police
12 within the team of Evenhanded believed that he was
13 responsible and they brought it back to the
14 comment that he wrote in his report, and I sourced
15 on page 8-35, when he speaks of -- he makes one
16 comment:

17 It is my hope that this report will not be
18 ignored and lost in the mass of paperwork
19 associated with this project. It will not go
20 to the media or the Attorney General until
21 such time as the appropriate people within
22 the project and the police department are
23 informed of the gravity of the situation.

24 So I think what happened in December when there
25 was a media leak of the operational plan of

1 Evenhanded they remembered back to this quote in
2 Mr. Oger's essay and they called him in to
3 question him with regards to it. And from what I
4 recall from my interview with Mr. Oger he was very
5 candid, he does not work for the police
6 departments right now, he volunteered to take a
7 polygraph to prove his innocence 'cause he was so
8 devastated by the fact that he was being accused
9 of this. And he took the polygraph and did pass.

10 Q So the only polygraph from the RCMP perspective as
11 it relates to Pickton was with Mr. Oger and no one
12 else to your knowledge?

13 A Evenhanded did a polygraph of one suspect in late
14 2001, of a suspect in a sex assault investigation,
15 and at that time when he was arrested for sexual
16 assault which occurred in August of 2001 he was
17 being -- this suspect, person of interest was
18 being investigated by the Vancouver Police
19 Department Sex Assault Squad, and later on in the
20 investigation he was cleared by a polygraph in
21 relation to the missing women. That was the very
22 first time I saw a person of interest being
23 excluded by way of a polygraph. Now, I see that
24 Mr. Oger when he reviewed Pickton's file he
25 actually mentions a polygraph, and I would have to

1 have the notes in front of me, but Mr. Oger was
2 the very first time I saw polygraph in relation to
3 Pickton, because he did the review of the Pickton
4 file as well.

5 Q Thank you. In your report you discuss the issues
6 around jurisdiction, 8-42.

7 A Yes.

8 Q You state:

9 Multiple policing jurisdictions enable serial
10 offenders to commit crimes in a variety of
11 geographical locations and go unnoticed
12 relying upon the assumption that police
13 agencies will not communicate effectively or
14 co-operate with each other. It is important
15 to remember that when considering policing
16 jurisdictions the issues are not limited to
17 geography, but may include different records
18 management systems, policies, training,
19 demographics, culture and leadership. All of
20 these are critical especially when dealing
21 with an offender who is committing offenses
22 in multiple jurisdictions.

23 In multi-jurisdictional cases investigators
24 are often disadvantaged due to the difficulty
25 in assessing who has authority over the case.

1 I believe this was a significant factor and
2 was more than evident with the Pickton
3 investigation. Jurisdiction played one of
4 the most significant factors in how this
5 entire case was managed. While there was
6 ample evidence of co-operation and
7 communication between various police
8 agencies, breakdowns began when the case
9 became formidable.

10 Now, this speaks to what we discussed at the
11 beginning of your evidence relating to your work
12 with the late Mr. Justice Campbell in Bernardo.
13 Is that a fair summary of how Bernardo fits to
14 these comments you made here?

15 A Yes.

16 Q Why does this happen?

17 A That's a good question. My opinion?

18 Q Yes.

19 A I think it happens because people don't
20 communicate the way they should. They should be
21 looking for how can we work together to solve this
22 problem, and sometimes that doesn't occur. But I
23 think that comes down to leadership. It all comes
24 down to leadership. We need the right leaders in
25 place to say hey, we have a problem here, let's

1 work together and solve this.

2 THE COMMISSIONER: Did you find in your experience that -- I
3 mean you've outlined in your report the failure of
4 police agencies here to co-operate with one
5 another and to share information. Is there a
6 problem with taking ownership of something and
7 keeping it to yourself? I mean this issue that
8 you raise now is not new. We've read about it in
9 Ted Bundy, we've read it about in the Green River
10 killer, we read about it in the Manson case in
11 1969 where competing agencies worked across the
12 hall from one another and didn't give information.
13 So is there a kind of professional ownership that
14 breeds a type of jealousy or envy, does that enter
15 into it at all?

16 THE WITNESS: Well, no, 'cause I think that there was such a
17 level of co-operation by investigators. Like you
18 saw Corporal Connor and you saw Shenher
19 communicate a lot. I mean that's why I talk about
20 when it becomes formal. When it became difficult,
21 that's when processes -- that's when the
22 supervisors and the leaders of the organizations
23 should have got together. So it was -- there was
24 a breakdown there. When Evenhanded formed that
25 was a demonstration where you had officers from

1 Vancouver working with RCMP officers working
2 together, but there was still issues 'cause they
3 weren't communicating back with the Vancouver
4 people because the officers from Vancouver were
5 then working with the RCMP over in Surrey. So
6 it's a difficult question to answer because
7 there's a multitude of reasons why people don't
8 communicate.

9 THE COMMISSIONER: Yeah, obviously at the end of the day we're
10 going to have to make recommendations particularly
11 on this issue because you've referred to it
12 frequently in your --

13 THE WITNESS: Yes.

14 THE COMMISSIONER: -- report, and so we're going to have to
15 give some advice to all the people concerned as to
16 whether or not a regional police force would have
17 addressed these concerns and the weaknesses that
18 you have referred to. And I might add that Deputy
19 Chief LePard when he testified made similar
20 comments and he was critical of this regional
21 system.

22 THE WITNESS: What I saw was, and when I talked about
23 jurisdiction became such a big issue here was
24 because the missing women were from Vancouver, and
25 Coquitlam when we mentioned it earlier when I was

1 talking that they didn't feel the pressure from
2 the missing women. They had Pickton living in
3 their area, but they weren't feeling the community
4 pressure from the missing women, so that's where
5 jurisdiction became a major part in this
6 investigation I found.

7 THE COMMISSIONER: So is it your view that had the community in
8 Coquitlam been involved in the way the community
9 in the Downtown Eastside here was involved that
10 there may have been a different result?

11 THE WITNESS: Yes. Yeah, I believe so. I think then, you
12 know, the divisional commander in Coquitlam would
13 have felt the community pressure and they may have
14 been asking more questions.

15 THE COMMISSIONER: Thank you.

16 MR. VERTLIEB:

17 Q And the discussion you just had with the
18 commissioner, does that also speak then to
19 ultimately the word accountability that you
20 mentioned earlier?

21 A Yes.

22 Q And the structure in which you believe policing
23 needs to be done in the modern era, is there
24 accountability as between the police chief and the
25 community?

1 A Absolutely.

2 MR. VERTLIEB: Thank you, Deputy.

3 THE COMMISSIONER: You're done?

4 MR. VERTLIEB: Yes, thank you.

5 THE COMMISSIONER: All right. Ms. Tobias.

6 MR. VERTLIEB: I should say, Mr. Commissioner, that Ms. Tobias
7 spoke with me on Friday afternoon having regard to
8 your comments, and we discussed Ms. Tobias
9 conducting a cross-examination out of turn and it
10 seemed a very reasonable approach, and other
11 colleagues have agreed to let her do that, so I'm
12 confident we'll be able to accommodate her.

13 THE COMMISSIONER: All right.

14 MS. TOBIAS: Mr. Commissioner, Cheryl Tobias for the Government
15 of Canada. I must confess that I'm somewhat
16 surprised because I received an e-mail late
17 yesterday that my learned friend would be up on
18 his feet all day, and confirmation from one of his
19 colleagues this morning, so I have documents and
20 preparation and things like that that I don't have
21 here with me right now. I don't want to waste the
22 time.

23 THE COMMISSIONER: Well, I'm in your hands. We're trying to
24 accommodate you, so --

25 MS. TOBIAS: No, fair enough.

1 THE COMMISSIONER: So do you want to stand down now and come
2 back at 1:30 or --

3 MS. TOBIAS: Yes. And I don't know if any of the other counsel
4 who plan to cross-examine for a short period if
5 they want to go ahead that's fine too, but I need
6 some time to gather up, as it were.

7 THE COMMISSIONER: All right.

8 MS. TOBIAS: And if nobody wants to start I would still ask
9 your indulgence and start.

10 THE COMMISSIONER: Is any other counsel here prepared to
11 cross-examine for half an hour and then stand
12 down?

13 MR. WARD: Yes, I would ordinarily be next, and I had a
14 discussion with my friend Ms. Tobias, and my
15 friend Mr. Vertlieb agreed to let Ms. Tobias go
16 ahead, but I'd prepared to go for half an hour and
17 then have my cross-examination interrupted.

18 THE COMMISSIONER: Okay. All right.

19 MR. WARD: Thank you.

20 MS. TOBIAS: Or even longer than half an hour is fine.

21 MR. GRATL: I should say, Mr. Commissioner, Jason Gratl for
22 Downtown Eastside interests.

23 THE COMMISSIONER: Yes.

24 MR. GRATL: I share the same problem Ms. Tobias has in respect
25 of scheduling, and I'm due at the Supreme Court of

1 Canada Wednesday and Thursday of this week as
2 well, and I wonder if it might be possible that I
3 might be able to go ahead this afternoon. I'm
4 scheduled to cross-examine for two hours.

5 THE COMMISSIONER: Well, we -- well, if you are unable to work
6 it out with Ms. Tobias. Ms. Tobias has other
7 commitments later on in the week in Ottawa and
8 that's why we're trying to accommodate her.

9 MR. GRATL: As I say, Mr. Commissioner, I'm on the same case.

10 THE COMMISSIONER: Oh, okay. Well, I'm in your hands.

11 Whatever is --

12 MS. TOBIAS: Mr. Commissioner, I'm perfectly content if
13 Mr. Gratl does his cross-examination this
14 afternoon and that way we use up all the time and
15 I'll be on my feet first thing -- I understand
16 we're to start at nine o'clock tomorrow morning.

17 THE COMMISSIONER: Okay. All right.

18 **CROSS-EXAMINATION BY MR. WARD:**

19 Q Deputy Chief Evans, you are aware that you have
20 been, as I understand it at least, engaged by this
21 commission to prepare a report in the nature of an
22 expert report for the use of this commission in
23 performing its mandate as identified in the terms
24 of reference; is that right?

25 A I believe so, yes.

1 Q And I understand your engagement started in or
2 about the end of November 2010, you started
3 reviewing documents at that time, learned that
4 there was going to be a significant volume of
5 material and you had three of your colleagues
6 assist you from that point on; is that right?

7 A Yes. I don't believe we started receiving
8 documents until January, but I obtained the
9 services of two detectives within Peel Regional
10 Police, and later on when I was doing my report in
11 September I asked an inspector from Peel Regional
12 Police to assist me as well.

13 Q And once you got started on your assignment you
14 opened some sort of file and made notes and kept
15 records of the work you were doing; right?

16 A I created a timeline. I started creating the
17 timeline as one of the appendixes to try and track
18 the information in a manner that I could do that,
19 yes.

20 Q But my point is you created some sort of a working
21 file for your own use as you conducted your work.
22 You made notes, you must have made notes of what
23 you were going to do, you planned interviews,
24 things like that?

25 A Yes.

1 Q All right. And since you're appearing here today
2 as an expert, and since your working file wasn't
3 provided to me earlier, I'd ask that it be
4 produced to me now.

5 MR. VERTLIEB: Well, I've -- we've asked at the request of
6 Mr. Ward that the deputy bring it. I'm not sure
7 he's shown any reason he needs it, and just to say
8 produce it now I don't know that he -- why that
9 needs to happen. But I don't mind if at the end
10 of the day he wants to look through it, he's happy
11 to do it.

12 THE COMMISSIONER: All right.

13 MR. VERTLIEB: It just doesn't -- I mean her report is so
14 comprehensive I don't why he'd need it.

15 MR. WARD: Mr. Commissioner, I'm just following the
16 well-established practice certainly in the courts,
17 in my submission I'm sure it would apply with
18 equal force here, that once an expert witness
19 takes the stand counsel who is cross-examining
20 that witness is entitled to review the witness's
21 file.

22 THE COMMISSIONER: Well, Mr. Vertlieb said he will provide that
23 for you.

24 MR. WARD: I'd like to get it at lunch if that's convenient.
25 Thank you.

1 Q Now, you mentioned in the course of your evidence
2 that you worked on Justice Archie Campbell's
3 review of the Bernardo case; correct?

4 A That's correct.

5 Q And in a similar sort of capacity, I gather, you
6 reviewed the police investigations of that series
7 of killings and sexual assaults, correct, after
8 the fact?

9 A To a certain degree. I was in a different
10 position in the fact that I was the junior
11 detective on the team that was being led by the
12 superintendent at the time, whereas in this review
13 I was the lead. But, yes, I was interviewing
14 officers, coroners, members of the Centre For
15 Forensic Science and families.

16 Q And we all know of course by now that Paul
17 Bernardo and his wife Karla Homolka killed three
18 young women, Tammy Homolka, Karla's sister, Leslie
19 Mahaffy and Kristen French; correct?

20 A That's correct.

21 Q You said in your report in this case that Robert
22 William Pickton was responsible for at least six
23 women's murders, and perhaps as many as 49;
24 correct? I believe it appears early in your
25 report.

1 A Can you direct me to the source?

2 Q Page 6-2 under the heading Robert Pickton. The
3 exact words, I'll just read it to you. I think
4 these are your words.

5 Pickton was responsible for at the very least
6 the murders he was convicted of and perhaps
7 as many as 49.

8 A Yes.

9 Q And you know, of course, he was convicted of six,
10 he was charged with 20 more counts which were
11 ultimately stayed, and he is suspected of having
12 killed 49 women?

13 A That's correct.

14 Q In your opinion as a senior police officer were
15 the 49 women that Robert William Pickton probably
16 was responsible for killing equally valuable as
17 human beings as Tammy Homolka, Leslie Mahaffy and
18 Kristen French?

19 A Yes.

20 Q You talk a great deal in your report about the
21 problems with senior management of the VPD and the
22 RCMP failing to take ownership of the
23 investigations?

24 A That's correct.

25 Q Without exception senior management of those two

1 police forces were male persons; correct?

2 A Yes.

3 Q I suggest to you based on your year long review of
4 the files that the real problem in this case was
5 that the male senior management of the Vancouver
6 Police Department and the RCMP considered that the
7 dozens of women who had gone missing from the
8 Downtown Eastside of Vancouver, the same women who
9 are subsequently found to have been murdered by
10 Robert William Pickton, were considered
11 throwaways, objects without any value. Do you
12 agree?

13 A No.

14 Q I suggest to you that that's the reason that they
15 didn't take ownership of the investigations of
16 these cases, that to them these women were "only
17 hookers." Agreed?

18 A No, I saw no evidence of that.

19 Q Do you agree based on your prior work that a
20 common thread in the serial killings of sex trade
21 workers or prostitutes and the failure of police
22 forces to respond is indifference towards such
23 women?

24 A No, I would disagree with that.

25 Q All right. I'll come back to these issues a

1 little later. Paul Bernardo was, of course, aided
2 and abetted by a woman, in that case it was his
3 wife; correct?

4 A That's correct.

5 Q And you saw in the course of your review of these
6 investigations that Robert William Pickton was
7 aided and abetted by several women, wasn't he?

8 A Yes, he was.

9 Q In reviewing the quality of the investigations,
10 which I gather was your mandate; correct?

11 A It was.

12 Q What was your conclusion as to why the several
13 women who aided and abetted Robert William Pickton
14 as his accomplices were not charged with any
15 crimes?

16 A I did not review documents that were post
17 Pickton's arrest, so I didn't have a real good
18 grasp of the information that was obtained with
19 regards to the women following Pickton's arrest in
20 February of 2002, so I can't really answer that.

21 Q All right. Clearly Pickton didn't act alone based
22 on your review of the investigative materials;
23 correct?

24 A Correct.

25 Q Now, you and commission counsel have both made it

1 very clear this morning that you did not criticize
2 the actions of individual police officers in your
3 report; right?

4 MR. VERTLIEB: That's not correct.

5 THE COMMISSIONER: I don't think she said that at all, and
6 neither did commission counsel.

7 MR. WARD: I think commission counsel, I'm referring to
8 commission counsel, he said, and I quote, in the
9 preface to one of his questions:

10 Is that another reason why you were not
11 critical of individual police officers but
12 focused on the systemic?

13 The focus --

14 THE COMMISSIONER: Excuse me.

15 MR. WARD: Let me rephrase my question.

16 MR. VERTLIEB: That's not really the tenor of what was being
17 asked, nor is it in her report. She is critical,
18 but she lays it at the foot of the systemic
19 issues. That would be apparent to anyone who has
20 been in this room the last few hours.

21 THE COMMISSIONER: I heard all types of criticism.

22 MR. WARD: Let me put it another way.

23 THE COMMISSIONER: All right.

24 MR. WARD: I didn't mean to misspeak.

25 Q Let me put it this way. My friend Mr. Vertlieb

1 went through a list of things that you did not
2 find evidence of with respect to the actions of
3 police officers. You did not find any criminal
4 conduct you said, you did you not find any
5 professional misconduct, you did not find any
6 wilful defaults, any neglect of duty, any
7 discreditable conduct, deceit, improper care of
8 firearms and so on. Do you remember that list?

9 A I do.

10 Q Now, to be clear you were not looking for any of
11 those things, were you?

12 A I wasn't tasked to look at misconduct issues, but
13 nor did I see any.

14 Q And help me with this, if you would, please. What
15 were you tasked to do, and by whom?

16 A I was asked to do a review of the police
17 investigations into the missing women and provide
18 an opinion on the investigations.

19 Q And --

20 A Sorry, and the investigation into Robert Pickton.

21 Q All right. And you took as the parameters
22 relating to that task this commission's terms of
23 reference?

24 A That's correct.

25 Q Was your task or your instructions committed

1 somewhere to writing?

2 A I believe so.

3 Q Could I see those, please? Are they available?

4 A I don't have them here with me.

5 Q They're not part of your report?

6 A No, they're not.

7 Q Could I -- could I review --

8 A I can endeavour to get a copy of that during the
9 lunch break.

10 Q Thank you. Now, I suggest, Deputy Chief Evans,
11 that in the course of your review of the documents
12 you looked at you found ample evidence leading to
13 the conclusion that police officers and police
14 forces were careless or negligent in their
15 investigation of Pickton and that that negligence
16 caused dozens of women to die. Do you agree?

17 A No, I do not.

18 Q All right. Let me give you one example. By
19 August of 1998 both Detective Constable Lori
20 Shenher of the Vancouver Police Department and
21 Corporal Cooper --

22 A Connor.

23 Q Oh, sorry, Corporal Connor of the RCMP were in
24 possession of information from Bill Hiscox that
25 they considered reliable identifying Robert

1 William Pickton as the likely perpetrator of
2 murders of Sarah de Vries and the other women who
3 had gone missing in the Downtown Eastside;
4 correct?

5 A They were in possession of a tip with secondhand
6 information, information that they were then
7 following up on.

8 Q And the information was -- regardless of its
9 directness, the information was that Robert
10 William Pickton, a man who lived in Port
11 Coquitlam, had likely murdered Sarah de Vries and
12 was likely responsible for the murders of other
13 disappeared Vancouver women; correct?

14 A He was a suspect, yes.

15 Q And further the informant Hiscox went on to say
16 how this man had the ability to dispose of women's
17 bodies on his Port Coquitlam property; correct?

18 A Yes. I would have to check whether that came out
19 in August, I would have to check my documents to
20 find out when that information was, but they did
21 receive that information sometime.

22 Q In August of '98 when this information comes to
23 those two police officers in those two police
24 forces, you would agree they had a duty, a
25 professional duty to the public, to the families

1 of the women who had gone missing, to either
2 confirm that Pickton was the person responsible or
3 to rule him out as a suspect; correct?

4 A They had the duty to follow up on the tip, I would
5 agree.

6 Q Well, the duty went further, I suggest. They had
7 the duty to follow up on the tip and determine
8 either that there was no validity to it or that
9 there was evidence to support that this man was
10 indeed responsible; correct?

11 A That's a difficult task. It's not as easy as it
12 sounds that they were able to do that, whether
13 confirm or deny, that's why I would said that they
14 had a duty to follow up.

15 Q They had a duty to follow up, and whatever they
16 did to discharge that duty by February the 5th,
17 2002 they, Shenher, Connor, and their respective
18 departments, had made no progress towards
19 apprehending and prosecuting Mr. Pickton; correct?

20 A They had made progress in their investigation, but
21 not enough to provide any information that they
22 could have laid charges. They had done certain
23 work, but it did not progress to the extent that
24 they were in a position to lay criminal charges or
25 to confirm or refute him as a suspect in the

1 missing women investigations.

2 Q All right. And you must agree that given the
3 nature of the tip from Hiscox and the seriousness
4 of the issue of the missing women, which was the
5 subject of intense media scrutiny starting in
6 1997, that it took far too long for any progress
7 to be made in identifying or confirming that
8 Pickton was responsible from August '98 to
9 February of 2002; fair?

10 A Yes.

11 Q Now, I put it to you, deputy chief -- let me start
12 again. You're an active senior police officer in
13 one of Canada's largest police forces?

14 A I am.

15 Q I put it to you that your report, being a report
16 by a police officer reviewing the actions of other
17 police officers, ignores some major issues that go
18 to the very heart of this commission's mandate.
19 I'm going to list those to you. Number one, I
20 suggest that you failed to look into why police
21 and prosecutors let Mr. Pickton off the hook for
22 his March 1997 attempted murder of the woman known
23 as Anderson, why they stayed those charges.
24 That's the first deficiency I suggest. You didn't
25 look into that issue at all; correct?

1 A I was actually asked not to look into that issue.

2 Q You were asked not to?

3 A I was advised that others would be looking into
4 that issue.

5 Q Who gave you instructions not to look into it?

6 A Commission counsel.

7 Q Okay. I suggest that a second deficiency in your
8 report was that you failed to address the role
9 that a culture of sexism and misogyny within the
10 Vancouver Police Department and the RCMP played in
11 the handling of the missing women cases?

12 A I saw no evidence of that.

13 Q All right. Just stop there for a moment. You
14 relied on documents that were volunteered to you
15 by the police forces in question; correct?

16 A That's correct.

17 Q And I suggest to you based on your vast experience
18 in policing that there were obvious types of
19 documents missing?

20 MR. HERN: Sorry, there's just a --

21 THE COMMISSIONER: Well, let him finish his question.

22 MR. HERN: Sorry, I just want to clarify for the record on
23 that, because if this line of questioning proceeds
24 on that basis it's an incorrect basis. The
25 documents are produced by the police agencies to

1 the commission, and the commission made whatever
2 it saw fit to be available to this expert witness
3 that it retained. So I do not want the impression
4 be left here that there's a relationship directly
5 between this witness and the police agencies in
6 respect of providing these documents.

7 THE COMMISSIONER: Oh, I see. All right.

8 THE REGISTRAR: For the record that was Mr. Hern.

9 MR. VERTLIEB: I'd like to intervene, Mr. Commissioner, and add
10 that we're grateful that she had unfettered access
11 to the documents she wanted, and the police
12 co-operated as to the best of their ability with
13 Ms. Evans' requests, and we appreciated that.
14 There was never a suggestion that the police were
15 holding things back from Ms. Evans. There was
16 never any need for us to take that up. I think
17 that's a fair appreciation of the role of the
18 police.

19 THE WITNESS: And I apologize if I made that -- I agree with
20 Mr. Hern's comments that all documents I received
21 went through commission counsel and I received
22 them from commission counsel.

23 THE COMMISSIONER: Go ahead, Mr. Ward.

24 MR. WARD: Thank you.

25 Q And of course you must have, like the lawyers

1 here, had to sign a confidentiality agreement when
2 the documents were made available to you?

3 A Yes, I did.

4 Q And what date was that, do you know?

5 A I don't have the date in my head. It was in -- I
6 believe it was November. Actually it may have
7 been October. My apologies. I can get that over
8 the lunch break and tell you.

9 Q Would you, please. I'm going to come back to
10 these issues when I resume my cross-examination,
11 in particular the role of what I suggest is
12 evidence of sexism and misogyny, and what I
13 suggest was your failure to probe that, look into
14 that and see if it was a factor. All right. But
15 I'm going to move to the next point, which is
16 this. I suggest that you didn't probe or dig into
17 the level of dysfunction within the Vancouver
18 Police Department that may have caused
19 indifference at an institutional level to the
20 disappearances of the women. Is that fair?

21 A I saw no documents or evidence from statements in
22 my interviews that indicated that, that's why it
23 wasn't commented on in my report.

24 Q All right. The next deficiency I suggest in your
25 report is that I suggest you failed to dig into or

1 probe the failure of the RCMP in Coquitlam to act
2 on their long-standing knowledge of the Pickton
3 brothers' history of illegal activities and
4 association with known criminal elements. Is that
5 fair?

6 A No, I don't agree with that.

7 Q Well, just on that point, David Pickton lived on
8 the same property as Robert William Pickton which
9 was the property upon which the remains and DNA of
10 my clients were found; correct?

11 A That's correct.

12 Q And they had been living together throughout the
13 entire period under review?

14 A I believe so, yes.

15 Q And the files revealed that the Pickton brothers
16 were co-owners of another property called Piggy's
17 Palace on Burns Road?

18 A That's correct.

19 Q And you must have seen lots of evidence that a
20 criminal underworld organization frequented the
21 Piggy's Palace location, and that David Pickton in
22 particular was associated with members of it?

23 A Your question was that I saw lots of evidence of
24 that. No, I would disagree with that. I was
25 aware through some of the documents that there was

1 a lot of motorcycle members associated to Piggy's
2 Palace, but I didn't see a lot of documents that
3 would provide ample evidence to suggest that, no.

4 Q All right. Just on that point, all these women,
5 at least the 49 who were killed, and who knows how
6 many more who went to the Pickton properties and
7 were not killed, they were being moved somehow
8 from downtown Vancouver where they plied their
9 trade as sex trade workers on the so-called low
10 track to this suburb in the Vancouver area, Port
11 Coquitlam, where they performed sexual services
12 for someone; right?

13 A I believe so, yes.

14 Q Does that amount to human trafficking if that were
15 the case that these women normally resident in and
16 performing sex services in downtown Vancouver are
17 being moved for the purposes of prostitution to
18 another jurisdiction like Port Coquitlam?

19 A I saw no documents that would reveal that.

20 Q Your department has successfully prosecuted four
21 cases in Canada for human trafficking, hasn't it?

22 A Yes, we have.

23 THE COMMISSIONER: We'll stop there.

24 MR. WARD: Thank you.

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

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

2 **(PROCEEDINGS RESUMED AT 2:00 P.M.)**

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

4 THE COMMISSIONER: Yes.

5 MR. WARD: Thank you. Mr. Commissioner, Cameron Ward, counsel
6 for the families of 25 murdered women. Counsel
7 have discussed the time and the scheduling of the
8 various cross-examinations and it has been agreed
9 that I will stand my cross-examination down in a
10 moment, that Mr. Gratl will conduct his
11 cross-examination this afternoon followed by
12 Ms. Tobias, and then I will resume after that.

13 THE COMMISSIONER: All right. Thank you.

14 MR. WARD: And I just have just a couple of questions about
15 these notes before I turn over the podium.

16 Q First, Deputy Chief, thank you for making your
17 notes of your work on the investigation available
18 to us. I take it that you don't have any
19 objection to my photocopying portions of your
20 notes relating to your review of the missing women
21 cases, do you?

22 A No, I do not.

23 Q Thank you. And just one other matter. I've
24 noticed that according to your notes that you seem
25 to have experienced some frustration with the pace

1 of disclosure of relevant documents to yourself
2 from the various police sources. Is that fair?

3 A During certain points, yes, that's very fair.

4 Q And you were dealing with Deputy Chief LePard on
5 the issue of disclosure of VPD documents and with
6 one or more people in the RCMP with respect to
7 RCMP documents?

8 A No, I was making my requests, although I think
9 initially it started that the DC LePard would be
10 involved, it switched very quickly to
11 Superintendent Jeff Sim on the Vancouver Police
12 Department, and my requests would go to
13 Superintendent Sim with always a copy to the
14 commission and then it would come back to me via
15 the commission.

16 Q And those were requests that you made by e-mail?

17 A That's correct.

18 MR. WARD: Now, I just want to leave this request with you,
19 please. Could you, please, make the necessary
20 arrangements to provide me with all of your
21 e-mails, either received by you or sent by you,
22 relating to your preparation of your report, the
23 conduct of your review and the preparation of your
24 report. I'm asking for that to be made available.
25 And, Mr. Commissioner, if necessary I'll make a

1 formal application, but any privilege over that
2 material is gone once the witness takes the stand,
3 as she has, and it's very much a live issue in
4 this hearing in my submission.

5 THE COMMISSIONER: Yes.

6 MR. HERN: While I agree there's no privilege over it, but I
7 don't know what the relevance of it is.

8 THE COMMISSIONER: I don't know either.

9 MR. HERN: And my concern is that if Mr. Ward's looking for,
10 you know, specific items and finds things that he
11 considers to be of interest to him we're going to
12 have to look at the whole context of the
13 disclosure, and the backdrop to the VPD's
14 providing Deputy Chief Evans with documents is all
15 tangled up with the backdrop --

16 THE COMMISSIONER: You know what, I don't --

17 MR. HERN: -- with the disclosures to the commission, so all of
18 that is going to have to come in, and I don't
19 think it's relevant.

20 THE COMMISSIONER: It may not be, but you know relevance is an
21 old fashioned concept in our system now, and so,
22 you know, it's an inquiry, let's get on with it.
23 You're next.

24 MR. GRATL: Yes. Thank you, Mr. Commissioner. And thank you
25 to counsel who agreed to let me go first to

1 accommodate my schedule. Deputy Chief Evans, my
2 name is Jason Gratl. I am counsel for Downtown
3 Eastside communities, including in particular sex
4 workers and drug users.

5 THE WITNESS: Good afternoon.

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

7 Q In your direct examination it was repeatedly
8 stressed that you focused on systemic issues,
9 especially managerial issues, rather than findings
10 of individual fault; is that correct?

11 A That's not the way I understood my evidence. I
12 thought my report spoke to certain individuals,
13 but I believe behind it all is there's systemic
14 issues.

15 Q Okay. And those systemic issues were a focus of
16 your review, were they?

17 A I don't think I understand that question. Sorry,
18 can you --

19 Q Well, you were looking at systemic breakdowns at
20 the managerial or administrative or investigative
21 level to try to point out what went wrong to
22 ensure that those problems don't get repeated?

23 A That's correct.

24 Q On the theory that these systemic problems,
25 administrative, managerial and investigative,

1 resulted in either a delay or a failure to capture
2 Mr. Pickton until February the 5th, 2002?

3 A Yes.

4 Q But absent those systemic issues he might have
5 been caught earlier?

6 A That's correct.

7 Q That's what you were looking for?

8 A Yes.

9 Q Now, one type of systemic breakdown that you can
10 have at the investigative or managerial or a
11 supervisory level would be systemic discrimination
12 or systemic bias; isn't that right?

13 A Yes.

14 Q And what definition of systemic bias did you use
15 when approaching the material you reviewed?

16 A I saw no evidence of systemic bias.

17 Q Well, that's not quite my question though, Deputy.
18 My question was what definition of systemic bias
19 did you use when approaching your review of these
20 materials?

21 A I don't think I had a definition in mind when I
22 approached this review.

23 THE COMMISSIONER: Isn't the term self explanatory? What does
24 it matter what definition she used.

25 MR. GRATL: It's important if she's testified she hasn't seen

1 anything like that, and it's important that we
2 understand what she means by the term systemic
3 bias.

4 THE COMMISSIONER: Well, systemic bias means what it says. All
5 right. Go ahead.

6 MR. GRATL:

7 Q So you didn't have a particular definition in
8 mind?

9 A No. I saw no evidence that would have brought my
10 mind around to that topic.

11 Q Okay. I mean there are different types of
12 definitions of systemic bias. Are you familiar
13 with any of them?

14 A I'm familiar with bias and the fact if it's
15 systemic means the organization as a whole has
16 that bias against certain individuals or groups.

17 Q Okay. You appreciate that bias can be manifested
18 by negative effects on certain groups?

19 A Yes.

20 Q And so the negative effects can themselves be
21 evidence of systemic bias?

22 A I hadn't put my mind to that.

23 Q You weren't aware of that?

24 A No, I hadn't really saw anything that would have
25 put my mind to that when I was doing my review.

1 Q And what rank did you hold in 2006?
2 A 2006?
3 Q Yes.
4 A I was a superintendent.
5 Q You're familiar with an Ontario Court of Appeal
6 case dealing with the Peel Regional Police from
7 2006?
8 A I am.
9 Q That dealt with racial discrimination in the form
10 of --
11 A The Ontario Human Rights Commission versus Peel
12 Regional Police?
13 Q Yes.
14 A The Nissiah matter?
15 Q Pardon me?
16 A The Nissiah matter, is that the one you're
17 referring to?
18 Q Well, it's the one about driving while black.
19 It's about racial profiling. Are you familiar
20 with that case?
21 A Yes.
22 Q You've read that case?
23 A Quite some time ago, yes.
24 Q Okay. And so you absorbed some of the language of
25 that case, I take it?

1 A Yes.

2 Q That bias doesn't need to be overt, doesn't have
3 to be in the mind of an individual, it could be
4 subconscious?

5 A Yes.

6 Q It doesn't have to be overt in the sense of
7 spoken, it could be manifest in action?

8 A Correct.

9 Q Okay. And you appreciate that in addition to the
10 racial profiling in the criminal context there are
11 human rights standards?

12 A Yes.

13 Q Did you conduct any review or consult with any
14 experts about what standard of systemic bias might
15 be appropriate in the course of your review?

16 A With regards to this review, no, I did not.

17 Q Okay. And before starting, of course, you were
18 well aware that part of what your review was to
19 attend to was concerns expressed in the community
20 about racism, sexism and bias and discrimination
21 against sex workers and drug users?

22 A No, I didn't see that as part of my review. I was
23 asked to conduct a review of the police
24 investigation.

25 Q Did you volunteer for the task? Did you approach

1 the commission or did the commission approach you?

2 A The Peel Regional Police Board I believe
3 approached the commission to volunteer services of
4 a Peel regional police officer.

5 Q Why would that be?

6 A Because they felt that the commission was doing
7 very good work, it was very interested, and they
8 thought that we could assist. And did I
9 volunteer? I was approached by my chief and asked
10 if I would take on this job.

11 Q All right. Now, did you conduct any background
12 research into the big picture of the Downtown
13 Eastside sex workers and so forth before you
14 started your document review?

15 A No. I was escorted on a tour of the Downtown
16 Eastside upon one of my initial visits to
17 Vancouver.

18 Q And who gave you that tour?

19 A Constable Toby Hinton. Sorry, my apologies.
20 Sergeant Toby Hinton of the Vancouver Police
21 Department.

22 Q All right. And I suppose you read Inspector
23 LePard's report?

24 A I did.

25 Q Okay. Now, Inspector LePard's report contains a

1 number of references to various forms of
2 inappropriate behaviour; correct?

3 A I would have to be directed to those certain
4 points, but I'm not disagreeing with you.

5 Q All right. So you ultimately didn't consult any
6 experts or conduct any research yourself into what
7 standard of systemic bias or discrimination to use
8 when conducting your review?

9 A No, I did not.

10 Q And I notice in your report it doesn't set out any
11 standard for systemic bias?

12 A No.

13 Q And I take it that you are acknowledging that
14 systemic bias is one of the potential systemic
15 factors that could result in a breakdown of the
16 investigation?

17 A Yes.

18 Q But you didn't specifically look to that in the
19 course of conducting your review, did you?

20 A I didn't see -- I didn't observe anything that
21 would have drawn my attention to that, no.

22 Q Not a stitch, not a single document dealing with
23 bias of any kind?

24 A Well, there was literally thousands and thousands
25 of documents I reviewed, so I wouldn't want to say

1 today that I didn't see a stitch in one of the
2 documents. If you're referring me to a document I
3 would look at it now and I could say, but no,
4 right now in my memory I have no recollection of
5 that being coming out in my review.

6 Q All right. Let me put a finer point on it. Not
7 an inkling of a document dealing with racism?

8 A You know, if you show me the document that will
9 probably assist.

10 Q You can't recall at this time any document dealing
11 with racism?

12 A With racism, no, I cannot. Can you show me the
13 document?

14 Q Well, I'll take you to a number of documents as
15 soon as I'm finished asking these preliminary
16 questions.

17 A Okay.

18 Q What about documents dealing with sexism, did you
19 find any of those to your recollection?

20 A Not that I can think of right now, no.

21 Q Okay. How about documents that deal with -- and
22 you'll appreciate that the use of stereotypes can
23 be one aspect of systemic discrimination?

24 A Yes.

25 Q Did you find any documents dealing with the issue

1 of stereotypes?

2 A I think you would have to give me an example of a
3 stereotype. Yeah, there were certain documents of
4 stereotypes.

5 Q What comes to mind when I ask you what stereotypes
6 might have come into play that might have affected
7 the investigation?

8 A I think there were stereotypes when they refer to
9 certain officers, and there were stereotypes
10 referring to in the missing women files with
11 regards to individuals. But, you know, I would
12 prefer to --

13 Q All right. Let's deal with the officers first.
14 Which officers are you referring to?

15 A Well, I think there was a stereotype or I mean a
16 connotation that certain officers were cowboys,
17 and I think that would be a stereotype that would
18 be thrown out there.

19 Q Okay. And I take it you're referring to Fell and
20 Wolthers, are you?

21 A That's correct.

22 Q Okay. And is that the only set of stereotypes
23 with the language of cowboys that you can think
24 of?

25 A At this time, yeah.

1 Q Okay. How about any stereotypes dealing with sex
2 workers?

3 A Well, I saw them referred to as drug addicted sex
4 trade workers, and I saw other names that referred
5 to the sex trade workers.

6 Q Like pejorative slang; correct?

7 A Yes.

8 Q And I take it lots of it. You'll agree with me
9 that there was lots of pejorative slang about sex
10 workers?

11 A There was.

12 Q Like ranging from attempts at humour to what
13 seemed to be quite caustic, critical, denigrating
14 language?

15 A Yes.

16 Q Aside from the language were there any other types
17 of stereotypes about sex workers being deployed
18 that might have affected the investigation?

19 A The stereotypes that they were transient. I'm not
20 sure if that's what you're getting at. I'm not
21 really sure I understand what point you're trying
22 to make or what stereotype you're looking for, so.

23 Q Okay. Well, I'm asking for any stereotypes,
24 discriminatory stereotypes that might have
25 affected the investigation. So you agree with me

1 that characterizing sex workers as transient, that
2 characterization might have affected the
3 investigation?

4 A Yes.

5 Q And that stereotype might be a false
6 overgeneralization?

7 A Yes.

8 Q Okay. And stereotyping is a type of systemic
9 discrimination, isn't it?

10 A Yes, it could be.

11 Q So you did see a number of documents then dealing
12 with this notion of transients?

13 A Yes.

14 Q How about stereotypes dealing with drug users?

15 A I saw within the missing women original file, the
16 original report that talks about their drug use,
17 their drug addictions, so yes, in the language
18 being used.

19 Q Okay. But what was the language in particular
20 that you saw?

21 A Well, I think it was depending on who took the
22 report it would say drug addict versus addicted to
23 drugs. I mean there were different ways the way
24 the language was used.

25 Q Certain language dealing with intravenous drug

1 users?

2 A Yes.

3 Q And what kind of language would that be?

4 A I have to look at the missing women files to cite
5 examples that --

6 Q But these are pejorative slang terms used in
7 reference to drug users?

8 A Yes. Termed that way, yes.

9 Q In addition to that would you agree with me that
10 it appears from your review that certain officers
11 from time to time would make assumptions about the
12 reliability of the recollection or judgment or
13 honesty of an informant's information on the basis
14 of whether or not they used illicit substances?

15 A On the informants, yes, I would agree with that.

16 Q So if they did have a drug habit then they were --
17 irrespective of which drug was involved and the
18 level of use they were judged to be unreliable?

19 A I'm not sure I saw them as unreliable. Not
20 everyone saw them as unreliable specifically in
21 relation to their drug use. Like I think Hiscox,
22 I think Constable Shenher was aware that he was
23 self admitted that he used drugs, so I think it
24 was just something else that was kept in mind.

25 Q Okay. Some of the officers wouldn't draw too many

1 assumptions from the use of illicit substances,
2 but other officers would draw negative inferences
3 from those facts?

4 A Yeah, I'm trying to -- I'm hesitant -- I'm not
5 hesitating, I'm trying to think of examples where
6 I saw that as you're suggesting. Like I know
7 Constable Shenher made notes but then talked about
8 the credibility and the reliability, she talked
9 about how he -- with Hiscox how he was consistent
10 and reliable and she believed him. So I'm
11 thinking about Caldwell as well who was the other
12 informant.

13 Q And Ellingsen as well?

14 A Yeah. I'm just trying to go through my mind of
15 all the statements in the officers whether I saw
16 documents that would indicate that they were
17 dismissing them.

18 Q Well, there were different camps, weren't there?

19 A With regards to the officers?

20 Q Well, with regards to the officers and the
21 reliability of those individuals?

22 A Whether they believed -- yes, whether they
23 believed the informants, yes, definitely there
24 was.

25 Q And on one side there appeared to be Vancouver

1 Police Department officers, Shenher and two other
2 detectives, who didn't automatically dismiss the
3 information?

4 A That's correct.

5 Q And then there were the Port Coquitlam constables,
6 some of whom were seconded from the Unsolved
7 Homicide Unit, who certainly appeared to take drug
8 use into account in assessing reliability?

9 A Yeah, I think they did take it as an additional
10 factor. I think Corporal Nash had previous
11 contact with Caldwell, that's why he was using
12 that as well. But I would say that there was a
13 difference of opinion as to the reliability of the
14 source.

15 Q And what I'm thinking of in particular, I don't
16 know if you recall this incident, but Corporal
17 Connor went to speak to an RCMP drug expert --

18 A Yes.

19 Q -- about the use of cocaine and whether cocaine
20 would have hallucinogenic qualities?

21 A Yes, that's correct.

22 Q And the answer came back no?

23 A That's correct.

24 Q But even after Connor conducted that
25 investigation, despite that answer Ellingsen's

1 drug use still factored into her reliability for
2 some of the other officers there?

3 A For some of the officers, that's correct.

4 Q So contrary -- I mean they were hanging on to that
5 stereotype contrary to what their own expert from
6 the RCMP was telling them?

7 A That's correct, but I saw no -- I mean I agree
8 with you, Corporal Connor sought out the
9 information which I thought was a very good
10 investigative tool, he was unsure and he went and
11 sought out the information. I didn't see anything
12 that he would have then brought that information
13 back to Henley and Ballantyne and Nash, who were
14 the dissenters in the Caldwell -- who didn't
15 believe Caldwell's reliability. So --

16 Q All right?

17 A -- just to be fair to them I --

18 Q So it's possible there might have been a breakdown
19 in communication between Connor and subsequent
20 investigators?

21 A That's quite possible.

22 Q So that Connor might not have -- even though he
23 was being taken off the file by his superiors he
24 might not have written to them, to the new
25 investigators to tell them well, I have conducted

1 an assessment into Ellingsen's reliability in the
2 sense of her drug use and it turns out drug use
3 isn't relevant?

4 A Well, I know he documented it in his -- the form
5 is called a 1624, I believe he documented it.

6 Q The continuation report?

7 A Continuation report, yes.

8 Q He did document it, but you think it's possible
9 that the new investigators didn't read the
10 continuation report before continuing the --

11 A No, Constable Yurkiw was a new investigator. What
12 I was saying was I wasn't sure I didn't see any
13 documents to suggest that Henley and Ballantyne
14 and Corporal Nash from Major Crimes would have
15 seen that follow-up.

16 Q But you'll agree with me that the -- and
17 ultimately if there was a contest between these
18 two factions, the VPD and the RCMP faction,
19 dealing with these informants who were users of
20 illicit drugs, it's the RCMP, the Port Coquitlam
21 Provincial Unsolved Homicide Unit side of that
22 contest that won out?

23 A I'm not sure anyone won out. I don't think that
24 happened at all. I think what happened was the
25 officers from Vancouver, Lepine and Chernoff, who

1 were dealing with Caldwell believed him to be
2 reliable, and I believe Constable Connor and
3 officers within Coquitlam's Serious Crime Unit
4 believed the reliability of the information. I
5 believe the people who didn't believe the
6 information was Corporal Henley, RCMP, as well as
7 Detective Ballantyne, Vancouver Police Department.

8 Q Yes, and with them?

9 A Corporal Nash as well.

10 Q Yes, and?

11 A Sergeant Pollock was unsure.

12 Q Okay.

13 A I'm not sure Constable Yurkiw didn't
14 necessarily -- I don't recall seeing anything that
15 she doubted the reliability based on the drug use
16 by Caldwell.

17 Q Yeah, and I'm not saying it's entirely consensus
18 either within Port Coquitlam, but the
19 preponderance of belief there was that Ellingsen
20 and Caldwell were unreliable?

21 A There was a difference of opinion on the
22 reliability from what I recall on the reliability
23 of the information. Some believed that Ellingsen
24 was not telling the truth and wanted to pursue it
25 and others dismissed her that she saw anything at

1 all.

2 Q And ultimately though she wasn't pursued?

3 A I agree.

4 Q Okay. So that stereotype about drug use might
5 have fed into that decision not to pursue
6 Ellingsen?

7 A Well, I'm not convinced it was basically all based
8 on the fact because she was an illicit drug user.
9 I didn't see anything that said we're not going to
10 believe her because she uses drugs. I don't
11 recall seeing anything like that specifically.
12 Unless you can direct me to that I don't recall
13 seeing that.

14 Q If there was such a document that would be an
15 indication to you that the stereotype about drug
16 users could have affected the investigation in
17 that way?

18 A Yes. I know that generally police will be very
19 cautious when dealing with witnesses and
20 informants, so they would make notes as to -- if
21 they had concerns about the reliability they would
22 make a note of it, so.

23 Q Okay. Some of these civilian informants also had
24 mental health issues?

25 A I understand that, yes.

1 Q And I take it that you'll agree with me that
2 sometimes the presence of mental health issues
3 might have fed into their assessment of their
4 reliability of the information?

5 A I agree with you.

6 Q And that would have been true with respect to
7 Hiscox?

8 A Yes.

9 Q And it was true with respect to Ellingsen as well?

10 A Yes.

11 Q Were there any other informants to whom that
12 applied?

13 A No, I don't believe so.

14 Q All right. So ultimately it sounds like there
15 were a number of different types of stereotypes
16 that might have applied in these contexts that
17 were in fact false generalizations,
18 overgeneralizations, and they might have affected
19 the conduct of the investigation to the detriment
20 of the investigation. Is that a fair synopsis?

21 A I'm not sure I would agree that they were
22 overgeneralizations. I think they were just --
23 officers were writing out an assessment of their
24 reliability as a witness and made notes of it.
25 Whether it was an over-generalization with regards

1 to their unreliability, I don't think I would
2 agree that that's necessarily so.

3 Q Even in the face of Connor's investigation with
4 the RCMP drug expert?

5 A No, I think Connor was trying to -- I think it
6 would be best to get the answer from Connor, but I
7 think Connor was just trying to satisfy himself
8 that is it possible that Ellingsen would mistake a
9 woman hanging in a barn versus a pig.

10 Q M'hm. Yes, whether that might have been
11 hallucinogen induced by cocaine?

12 A Right.

13 Q And the RCMP drug expert kiboshed that idea;
14 correct?

15 A That's correct.

16 Q But even so some of the officers continued to
17 think that Ellingsen's use of cocaine was a factor
18 contributing to her unreliability of her
19 information?

20 A Certain officers did, yes.

21 Q Okay. Well, that's an example of a false
22 overgeneralization, isn't it?

23 A Well, no, what I'm saying is -- I'm not trying to
24 banter this back and forth. What I was saying is
25 I don't think it was the sole reason why they

1 discounted her.

2 Q There were the mental health issues as well?

3 A I think that added to it as well.

4 Q Okay. Now, did you conduct any investigation into
5 Ellingsen's mental health issues?

6 A No, I did not.

7 Q Okay. So it's impossible for you to say whether
8 or not the mental health issues would be of a type
9 to affect her reliability as an informant?

10 A Yes.

11 Q It could be any number of mental health issues?

12 A Yes.

13 Q Or they could have even been around about mental
14 health issues?

15 A That's correct.

16 Q It could have been like a police diagnosis, if I
17 can put it that way?

18 A I saw no evidence of police diagnosis of mental
19 health issues. I didn't see any document that
20 indicated that.

21 Q Okay. So you weren't really in a position to
22 verify whether the reference to mental health
23 issues on Ellingsen's part or Hiscox's part would
24 be fair to use?

25 A Well, I think there is documents that revealed

1 that -- you know, the documents would show that
2 Lori Shenher interviewed Hiscox at one point when
3 he was in a hospital, so I think she documented
4 that. Accordingly this is where she conducted her
5 interview of him, so that's how we have that
6 information.

7 Q Maybe I should rephrase the question.

8 A Okay.

9 Q What I had in mind to find out was whether or not
10 you had conducted any investigation into what
11 different types of mental health conditions might
12 influence the reliability of a witness?

13 A No, I did not.

14 Q Okay. And I take it that means that you're not in
15 a position to assess whether or not mental health
16 as used by officers to determine that witnesses
17 were unreliable, whether that use of that
18 condition for that purpose would be reasonable?

19 A No, I'm not in that position to give that opinion.

20 Q Okay. That's just not something you investigated?

21 A No.

22 Q Now, the use of or widespread use of derisive
23 language, especially slang, can be an indication
24 of systemic discrimination as well; correct?

25 A Correct.

1 Q And to be fair what you found in your review of
2 the documents is there was widespread use of
3 derisive language to describe sex workers and drug
4 users?

5 A There was.

6 Q So that would be more evidence of systemic
7 discrimination; is that right?

8 A I not necessarily would agree with that.

9 Q No, why not?

10 A I would say that I saw evidence of language being
11 used certain times with regards to certain people,
12 but I didn't think it impacted on the way they
13 conducted the investigation.

14 Q How were you able to draw a line between the
15 language that they'd used, how were you able to
16 conclude that the language they used didn't create
17 an environment that expressed certain values that
18 had an overall effect on decisions made, how were
19 you able to conclude that?

20 A The language I saw I -- 'cause I still saw a lot
21 of work being done on certain areas when I saw the
22 language being used.

23 Q I mean one type of systemic discrimination can
24 involve this type of derisive language, because
25 derisive language especially when it's widespread

1 is indicative of deeply entrenched widely held
2 beliefs; isn't that correct?

3 A I would agree with that, yes.

4 Q How did you go about exploring whether or not this
5 widespread use of derisive terms for sex workers
6 and drug users was or wasn't an aspect of deeply
7 entrenched beliefs?

8 A I didn't go into that.

9 Q Okay. It's a possibility you say, but you didn't
10 follow up on that possibility?

11 A That's correct.

12 Q Now, Sandy Cameron, you read the -- I guess one of
13 your starting points for your review would have
14 been to review the LePard report?

15 A Yes, I did.

16 Q And then you reviewed the transcripts of the
17 LePard interviews?

18 A Yes.

19 Q And LePard's set of binders that he collected of
20 VPD documents?

21 A Yes.

22 Q Okay. Basically 'cause those were already
23 organized, and the RCMP documents when you
24 received them weren't organized?

25 A I received everything electronically, so in a PDF

1 format.

2 Q The VPD made it easy, I think my question is,
3 because they had things organized. And the RCMP,
4 I don't say they threw everything down the stairs
5 before they delivered it, but it certainly wasn't
6 organized like the VPD material was. Isn't that
7 fair?

8 A I'm not sure I would say that some were more
9 organized than others.

10 Q So within the LePard transcripts you found, I
11 think you'll agree with me, a great deal of -- I'm
12 not going to take you to all of the transcripts,
13 of course, but you found a great deal of
14 suggestion that the civilian employee Sandra
15 Cameron used racist language and biased language
16 against sex workers?

17 A Yes, I saw evidence of that.

18 Q And not only that, but complaints by various
19 officers that her conduct was so bad that some of
20 them had to leave the room?

21 A Yes.

22 Q And also that it would appear that she made
23 express statements that her office, and her in
24 particular wouldn't -- they wouldn't look for sex
25 workers who were missing?

1 A Yes, I saw evidence of that.

2 Q I mean as a general rule they just wouldn't treat
3 sex workers as missing in the same way as they
4 would treat other members of the public as
5 missing?

6 A I saw evidence of that. But I also saw that, but
7 I also saw -- I also know that she was the one who
8 brought to the attention of Inspector Biddlecombe
9 that there was an increasing number of sex trade
10 workers being reported missing, so I know that
11 obviously reports were being taken, 'cause she was
12 the one who actually brought it to the attention
13 of Major Crimes, so I saw that as well.

14 Q So I'm not saying that in every case she failed to
15 do a good job. I'm saying that what was reported
16 to Inspector LePard in his interviews, which you
17 read, was the civilian employee Sandra Cameron to
18 the knowledge of these police officers would
19 refuse to treat sex workers as missing persons
20 from time to time?

21 A From time to time I would say would be safer to
22 say, yes.

23 Q Now, really I don't know if there's a clearer
24 example of discrimination on the basis of a sex
25 worker's status. I mean here's sex workers just

1 not being treated like other members of the
2 public. Isn't that fair?

3 A Well, I also saw evidence that there were reports
4 in that Sandy Cameron was making inquiries with
5 the communications bureau when she found there was
6 a breakdown, so I saw both sides of that with
7 regards to her actions.

8 Q Okay. So you did see some discrimination. It
9 wasn't always discriminatory conduct, but on some
10 occasions it was discriminatory?

11 A I saw in Deputy Chief LePard's report and through
12 some of the interviews I conducted that people
13 said there were inappropriate comments being made,
14 yes.

15 Q Okay. That wasn't my question. I'm asking
16 whether in your assessment that's discrimination
17 if Sandra Cameron says -- expressly to members of
18 the public says we don't treat sex workers as
19 missing persons, we don't look for sex workers?

20 A Yes, that's discrimination in my mind.

21 Q Okay. Now, especially when that kind of language
22 is coupled with the kinds of derisive slang that
23 you and I were discussing a moment ago, that would
24 be an indication of not only adverse effect, but
25 expressing conscious discrimination; correct?

1 A I would agree.

2 Q Coupled perhaps with deeply entrenched

3 discriminatory attitudes?

4 A By Sandy Cameron?

5 Q Yes.

6 A Yes.

7 Q Okay. Now, you appreciate that in your

8 investigation you saw that she wasn't removed from

9 her job?

10 A That's correct.

11 Q Okay. Did you inquire about why she wasn't

12 removed from her position there?

13 A I asked several people what they did about the

14 actions, if they were aware that she was behaving

15 in such a manner why wasn't something documented,

16 why wasn't she removed, why wasn't she

17 disciplined, and I saw no evidence that they were,

18 you know, doing a performance management review on

19 her actions like they should have in my mind.

20 Q Okay. So when a person is overtly discriminating

21 and seems to be manifesting deeply entrenched

22 discriminatory attitude they should be removed

23 from their position?

24 A I agree.

25 Q And if they're not removed from their position

1 it's as though management is condoning that
2 conduct, isn't it?

3 A Yes.

4 Q And condoning that kind of conduct is itself
5 discriminatory and revelatory of discriminatory
6 attitudes, isn't it?

7 A Yeah, I would agree with that.

8 Q There were also complaints about negative language
9 used by a couple of investigators, Fell and
10 Wolthers?

11 A Yes.

12 Q And suggestions that they were sexist in their
13 treatment of Field and Shenher?

14 A Yes.

15 Q Nothing was done about that potential sexism, was
16 there?

17 A I'm trying to recall in the interviews whether
18 they were spoken to by Sergeant Field. I believe
19 at one point she had them in and spoke to them
20 about their conduct. Whether -- I can't recall
21 right now what the conduct was that she spoke to
22 them about.

23 Q Okay. One of the things I just note in your
24 report is that you don't mention Sandra
25 Cunningham's conduct as being discriminatory?

1 A Sandra Cameron?

2 Q Cameron's conduct as being discriminatory?

3 A No, I did not.

4 Q And you didn't even interview Fell and Wolthers?

5 A No, I made attempts at certain points during the

6 summer, but I was unable to connect to interview

7 them.

8 Q They're pretty important witnesses, the key

9 investigators; correct?

10 A I agree.

11 Q And there are allegations there that they are

12 engaged in inappropriate sexist behaviour and that

13 they used discriminatory language; correct?

14 A Yes.

15 Q And indeed it goes even further than that, it says

16 that their behaviour and that language that they

17 used negatively affected the investigation?

18 A Yes.

19 Q Surely it would have been important to you if you

20 were interested in systemic failings to interview

21 these two officers?

22 A Yeah, I did not interview those two officers.

23 Q Did they refuse or just didn't get back to you or

24 what happened there?

25 A I was unable to connect with them. I made several

1 attempts. One of the officers was out of the
2 country during the time I was trying to make
3 connections with him to conduct an interview.

4 Q You just had e-mail exchanges back and forth?

5 A Not with the officers themselves, with counsel.

6 Q Okay. They had, as they say, lawyered up at that
7 point?

8 A That's correct.

9 Q So that was one aspect of discrimination that you
10 never had a chance to explore in conducting your
11 review?

12 A I didn't look at that. No, I did not.

13 Q I take it that's reflected in the results of your
14 review, you don't have a section on discriminatory
15 attitudes --

16 A No, I do not.

17 Q -- by those two officers?

18 A No.

19 Q There were also reports that you ran across that
20 dealt with discriminatory conduct by the 9-1-1
21 officers, E-COMM operators?

22 A That's correct.

23 Q And that doesn't enter into your assessment of
24 what occurred?

25 A I believe it's -- I mentioned it with regards

1 to -- I'm trying to remember what I would have
2 mentioned it with. Either it was in the timeline
3 that Sandy Cameron brought it to the attention I
4 think numerous times to suggest that they were not
5 taking reports when they should have, so she had
6 sent memos up the chain of command to try to deal
7 with that.

8 Q Sure, and that's to her credit, of course?

9 A Yes.

10 Q Just to show you that people weren't always simple
11 and there's lots of sides to every story and
12 person. But E-COMM had a similar problem that was
13 repeatedly referred to by Ms. Cameron; correct?

14 A That's correct.

15 Q And I take it she had to refer to it because the
16 problem wasn't fixed?

17 A That's correct.

18 Q Okay. So somewhere along the line there was a
19 discriminatory conduct and attitude displayed that
20 management knew about but didn't fix?

21 A I think the breakdown in communication was that
22 there was a change in the rule on whether they
23 would take a report within a 24 hour period and
24 there were people working in E-COMM who were not
25 current with the new directive and Sandy Cameron

1 had to continually remind them of that.

2 Q Okay. Now, the discriminatory language used in
3 reference to sex workers and drug users wasn't
4 just a VPD phenomenon, that also carried through
5 to the Port Coquitlam detachment?

6 A I can't recall.

7 Q Okay. How about Project Evenhanded then?

8 A I know Project Evenhanded that I saw one document
9 that would indicate that.

10 Q And which document was that?

11 A At one point when Project Evenhanded started up
12 they were calling it the hooker task force.

13 Q Problematic to your mind?

14 A I thought it was inappropriate.

15 Q Okay. And, again, potentially, not necessarily,
16 but potentially emblematic of deeply engrained
17 biases?

18 A I think -- you know, I mean I looked at that
19 document and saw that, and I know in today's
20 standard I looked and I tried to put myself back
21 into the time of 11 years ago, 'cause that's what
22 I looked at, and when I saw hooker task force and
23 I looked at that and thought that's such an
24 inappropriate name to call this task force.

25 Q Sure, you might go into the south like 200 hundred

1 years ago and see whether or not it's appropriate
2 to use the "N" word to do that same kind of
3 exercise?

4 A I would agree.

5 Q We're certainly agreed that today the use of
6 derisive words to refer to sex workers is not
7 permitted; is that right?

8 A No, it's not.

9 Q Okay. And that what were the results of your
10 investigation, and who did you consult about
11 whether or not it was standard practice or
12 accepted?

13 A I didn't consult or -- I'm just reflecting on my
14 own career and looking back at the time, and I saw
15 the word hooker in a few documents, so. And I
16 note someone had brought it to the attention, and
17 I'm trying to recall who brought it to the
18 attention, I believe it was a VPD officer brought
19 to the attention of the RCMP saying it was an
20 inappropriate use of the task force, the name was
21 inappropriate and it was changed.

22 Q Okay. So there were some indications that it was
23 in fact inappropriate to use that language at that
24 time?

25 A Yes.

1 Q Okay. But even if it had been in common currency
2 that wouldn't excuse it, it would just say
3 historically situated; is that right?

4 A I'm sorry, could you repeat the question?

5 Q I just say for example if you go back in time 200
6 years you see the "N" word in common currency, but
7 we wouldn't say that doesn't mean it wasn't racist
8 200 hundred years ago, would we. So even if it
9 was -- even if derisive language was in common
10 currency back in 1997 --

11 A That doesn't make it right.

12 Q -- that doesn't make it right. You agree with me?

13 A I agree with you.

14 Q Now, on September 5th, 2001 23 additional women
15 were added to the list of missing women; is that
16 right?

17 A Let me check my timeline. I don't doubt what
18 you're saying, yes, I believe that's correct.

19 Q Okay. Did you ever conduct any review into the
20 question of how it was possible that 23 missing
21 women could have escaped the notice of the
22 Vancouver Police Department, the Provincial
23 Unsolved Homicide Unit, and Project Evenhanded,
24 and the Port Coquitlam police for that long?

25 A I believe I made inquiries during my interviews

1 with Don Adam and Wayne Clary, members of Project
2 Evenhanded.

3 Q And what were the results of your inquiry? How
4 did they go missing? How did these missing women
5 go missing from the missing women list?

6 A I think the numbers were revealed through CPIC
7 when they were doing checks and these -- I don't
8 have the date. You say it was the 23rd of
9 September, 2001?

10 Q No, 23 additional women added September 5th, 2001.

11 A Okay. Thank you. I think what Evenhanded started
12 up, from what I understand, what Evenhanded was
13 the -- when women would come in to be reported
14 missing to the originating police agencies, so
15 Vancouver, the RCMP and the other jurisdictional
16 police departments would be investigating missing
17 persons occurrences as they always did and then
18 Project Evenhanded would then make contact with
19 them and to find out once they were confirmed as
20 missing, that's what terminology I was told. So I
21 think that's how 23 women were added on that
22 certain day.

23 Q But how were they not added for so long? What was
24 the reasons for the delay?

25 A I didn't understand that myself. I didn't

1 understand why there was such a delay.

2 Q Okay. That wasn't something that you were able
3 to --

4 A No, I tried to determine why it took so long for
5 them to realize that women were continuing to go
6 missing.

7 Q Well, the list of missing women before September
8 25th had 27 women on it; is that right?

9 A That's correct.

10 Q And then 23 more women brought the total up to 50.
11 That's a big jump. That's about half, a little
12 less than half of the total number of missing
13 women. So you looked into that issue, but you
14 weren't able to get to the bottom of that?

15 A I thought the list was 27 original missing women
16 and then there was 18 added in November, and then
17 five added in January 2002 were the numbers that I
18 have in my head. I'm still trying to refer to
19 the --

20 Q Yeah, it's hard really to make sense of that,
21 because it's not clear which list is the official
22 list and which particular administrative activity
23 added women to the list, but in that time it could
24 be 18, it could be 23 women added to the list, but
25 you weren't able to get to the bottom of why they

1 weren't added for so long?

2 A Well, they were added -- they were being
3 investigated by their own police departments from
4 what I understand.

5 Q And by own police department you mean municipal
6 detachments?

7 A Or Vancouver or the RCMP were investigating a
8 missing person. They would continue to do that
9 investigation, initial investigation until they
10 confirmed that they could not locate the person
11 and at that time from what I understand they were
12 notifying Evenhanded.

13 Q Okay. Now, I had understood that some of those 23
14 or 18 missing women arose from reports of missing
15 women made to municipal RCMP detachments that were
16 not passed along outside of those municipal
17 attachments?

18 A Yes. I believe there were some of those, yes.

19 Q Okay. And then others were actually located
20 within the Vancouver Police Department's Missing
21 Persons Unit but somehow weren't forwarded to
22 Evenhanded?

23 A Yes.

24 Q So somehow even while the Vancouver Police
25 Department's review team is still active they're

1 missing new reports of missing women. The reports
2 of missing women are not making it throughout that
3 intake, the Missing Persons Unit intake to the
4 Vancouver Police Department review team?

5 A No, I didn't see that. I saw that the Missing
6 Persons Unit in Vancouver were taking and
7 following up. Constable Dickhout was following up
8 on the missing persons investigations, and then at
9 some point he sat down with the primary
10 investigator of Evenhanded, who was also a
11 Vancouver officer, Jim McKnight, and at that time
12 they transferred over the responsibility to
13 Evenhanded.

14 Q How many files were transferred, and when was that
15 transfer completed?

16 A From what I recall it was August 28th, 2001 is
17 when Jim McKnight sat down with members of the
18 Missing Persons Unit, and the transfer didn't
19 occur -- but the responsibility of the
20 investigation didn't occur until November.

21 Q That started after Oger has released his report to
22 the joint task force?

23 A Yes.

24 Q Okay. So I take it that's in response to Oger's
25 report?

1 A No, I didn't see any indication there was any
2 action or any -- nothing changed in Evenhanded
3 that I saw as a result of Oger's report.

4 Q Well, I'm just saying the sequence is August, mid
5 August Oger's report comes out?

6 A August 23rd.

7 Q And then we have McKnight going to, who was it,
8 Dickhout?

9 A Yes.

10 Q And saying hey, do you have any other missing
11 women, because Oger says we've got an active
12 serial killer here, and then in fact it turns out
13 Dickhout transfers files over to Evenhanded. Am I
14 getting the sequence right?

15 A I believe so, yes.

16 Q And then people conclude from these 23 additional
17 women or 18 additional women that gee, maybe we've
18 been taking the wrong approach, maybe we've been
19 taking inappropriately a historical approach,
20 let's take an approach more consistent with an
21 active serial killer. Isn't that what happened?

22 A Yes.

23 Q Okay. And that was all triggered by Oger?

24 A No, I don't believe it was. That's why I couldn't
25 understand.

1 Q I mean people have used the metaphor elephant in
2 the room, but isn't it a little bit more like the
3 emperor has no clothes story where everybody is
4 sitting around saying how wonderful it is the
5 emperor's clothes are so shiny and beautiful and
6 so much energy is being devoted into making them
7 fabulous until a child points out that the emperor
8 is naked, isn't that more like what happened here?

9 A But what I didn't see when I did my review was I
10 saw Oger's report August 23rd and I knew that
11 members of Evenhanded saw it, but I didn't see
12 Evenhanded change the course of their review into
13 a suspect-focused investigation at that time in
14 August or September.

15 Q Oh, in October though they seemed to take that
16 information into account. One month after the 23
17 additional women are added they start writing
18 potential operational plans for proactive
19 investigations?

20 A Yes. I believe that was following their meeting
21 with the officers from the Spokane serial
22 investigation down in the States.

23 Q Sure. And then in December the operational plan
24 is finalized and a dozen or so officers are
25 assigned to begin proactive investigations in the

1 Downtown Eastside and they conducted their work in
2 January?

3 A Mid January, yes.

4 Q But all of that is triggered by the recognition
5 that the serial killer is active?

6 A That's correct.

7 Q And that is in part triggered by the recognition
8 that there are 23 additional missing women;
9 correct?

10 A I had it as 18, but yes.

11 Q Okay. And the two streams for the missing women
12 are the Vancouver Police Department Dickhout who
13 has been hanging on to files, and RCMP municipal
14 detachments that haven't been in contact with
15 Evenhanded?

16 A That's correct.

17 Q Okay. But did you ever ask Dickhout why he held
18 on to those files, why those files weren't
19 transferred to Evenhanded right away?

20 A No, I saw documents. I didn't interview Constable
21 Dickhout. I saw documents that talked about that
22 he was unable to -- when he was unable to confirm
23 and he was unable to get out and do, I think he
24 used the term leg work, he was asking for
25 assistance from Don Adam and members from Project

1 Evenhanded. And that was in October, I believe.

2 Q In October of?

3 A 2001.

4 Q He was asking for more human resources?

5 A Yes, he was asking for assistance. I mean I'd
6 have to find the document I did see. Just bear
7 with me for a moment and I'll see if I can find
8 the date.

9 Q Sure.

10 A I think it's outlined in Project Evenhanded's
11 daily log, which is Appendix E, and how Don Adam
12 talks about the fact that he met with Constable
13 Dickhout and that he was able to keep up. I can't
14 find the date here.

15 Q So it looks like even in October of 2001 the
16 Missing Persons Unit is understaffed?

17 A Yeah, they're unable to keep up with the missing
18 person files.

19 Q And the lack of staff even in October 2001 led to
20 the failure to transfer files to Evenhanded?

21 A Yes, I didn't see much --

22 Q I know you didn't interview Dickhout, and I'm not
23 asking you to guess or speculate.

24 A No, I'm saying -- what I was going to say was I
25 didn't see documents that -- I didn't see a

1 process in place between Evenhanded and the
2 Vancouver Police Department or Evenhanded and the
3 municipal RCMP detachments that would prompt them
4 to exchange information, and that would have been
5 nice.

6 Q Now, I take it you'll agree with me that if a
7 province-wide missing person service had been in
8 place that would have been of assistance, a
9 clearing house for missing person reports?

10 A Is this -- are you saying that everyone in the
11 province of BC could phone into this one area?
12 I'm not sure what you're saying.

13 Q Like a 1-800 line, 1-800 missing.

14 A It might have assisted, yes.

15 MR. GRATL: Okay. Mr. Commissioner, I'm going to be moving on
16 to a new topic now. Is this a good time for a
17 short break?

18 THE COMMISSIONER: No, let's keep going.

19 MR. GRATL:

20 Q One of the phenomenon that you discovered in your
21 review was that the Vancouver Police Department
22 stuck until the very end to this public line that
23 there was no evidence of a serial killer, isn't
24 that true?

25 A Throughout my interviews I was hearing the theme

1 of no body, there is no evidence, no crime, yes.

2 Q And I mean particularly in statements made to the
3 public through the media?

4 A That's correct.

5 Q All right. And even Project Evenhanded maintained
6 a conspicuous silence on that issue of whether or
7 not there was a serial killer that they were
8 investigating?

9 A That's correct, they were doing a historical
10 review.

11 Q And even after they shifted in about between
12 September and October to doing an investigation of
13 an active killer they didn't tell the public that
14 they were shifting?

15 A Yeah, I can't recall whether they did a press
16 release when they switched focus.

17 Q And when they put a dozen or so semi-covert
18 officers into the Downtown Eastside they didn't
19 announce that to the public?

20 A I know that the media person came on in December
21 of 2001, so I can't recall right now, I'd have to
22 look at the timeline to see whether, but I recall
23 that.

24 Q While the officers are described as semi covert it
25 sure couldn't have been of assistance to announce

1 their presence in the Downtown Eastside. I take
2 it you didn't see any documents that announced
3 their presence?

4 A I know there was a bulletin that was announced
5 what they were going to be doing, but I'm not sure
6 if that was just an internal bulletin to the
7 police department announcing that these officers
8 are downtown working. I'd have to look at the
9 bulletin again.

10 Q Were you in attendance or were you watching the
11 examination, my cross-examination of
12 Superintendent Williams?

13 A No. I saw some of the evidence last week, but no,
14 I wasn't watching all the evidence, no.

15 Q I had asked him a number of questions about
16 Corporal Henley's attendance on the Pickton farm,
17 his very last attendance when he informed Pickton
18 that Pickton was a suspect of a serial killer
19 investigation or words to that effect.

20 A Okay.

21 Q You appreciate that secrecy is a very important
22 aspect of any investigation, especially a homicide
23 investigation?

24 A I agree.

25 Q And that Henley's advising Pickton of the fact

1 that he was under investigation could have
2 adversely impacted the investigation, in
3 particular covert strategies like undercover
4 officers, wiretap or the execution of search
5 warrants?

6 A Henley's actions going out to the Coquitlam farm
7 and speaking to Pickton, when he did that he was
8 unaware if there was any investigation. I'm aware
9 during my review there was no investigation at the
10 time, but he was unaware. And I asked him during
11 his interview who did he make contact with prior
12 to going out to visit Pickton. Did he contact
13 Coquitlam or did he contact Vancouver to say hey,
14 is there anything that I may be interfering with
15 before I go out there, and he did not do that.

16 Q All right. So where did he get the idea that
17 there was no active investigation?

18 A From my recall from my interview with him he said
19 that he had heard rumblings. I think that was the
20 quote, he used that word.

21 Q Surely given the need for secrecy in
22 investigations rumblings are not a sufficient
23 basis to pierce the veil of secrecy there, are
24 they?

25 A I agree.

1 Q And revealing that to a target of investigation
2 that they're under investigation, and the type of
3 information available against them is particularly
4 egregious, isn't it?

5 A It's troubling.

6 Q I mean that's worthy of a disciplinary infraction
7 of some kind at least, isn't it?

8 A Well, I spoke to Staff Sergeant Henderson, who was
9 his boss at the time, and asked if he was aware
10 that Corporal Henley had paid that visit, because
11 I was trying to determine if this is normal
12 practice, and Staff Sergeant Henderson, and
13 Corporal Henley even in his interview said that he
14 was using it as an investigative strategy to see
15 if, you know, a surprise visit would garner any
16 information.

17 Q Isn't that inconsistent with what he said about
18 the investigation not being open?

19 A Well, he is saying that he had heard rumblings
20 that there was no investigation going on so he
21 took it upon himself to go and pay a visit to
22 Pickton himself.

23 Q So did you accept the explanation that he is
24 conducting what amounts on your version of events
25 to be his own investigation?

1 A Well, I asked him then --

2 Q Maybe we can call it the Henley investigation.

3 A I asked him after he did that in the interview did
4 he then phone Vancouver and tell Vancouver the
5 results of his inquiries with Mr. Pickton, and he
6 did not. And I asked if he then contacted
7 Coquitlam RCMP to share the information that he
8 had paid a visit to Pickton, and he said he did
9 not.

10 Q Was his manner preceding consistent with
11 investigative strategy?

12 A No.

13 Q Did he take notes?

14 A Yes, he did.

15 Q He opened a file?

16 A I don't know about a file, but I saw notes in the
17 documents that I reviewed.

18 Q Do you accept his version that it was an
19 investigative strategy to go down to talk to
20 Mr. Pickton to tell him that he was under
21 investigation?

22 A I accept that he went and tried to see if he could
23 garner any information from Mr. Pickton and he
24 documented it, I accept that.

25 Q Okay. Do you accept that as an appropriate

1 strategy?

2 A No, I do not.

3 Q You think that's totally inappropriate, don't you?

4 A I do.

5 Q And it would appear that he also revealed the name
6 of informants to Mr. Pickton; isn't that correct?

7 A I would have to be -- can I look at the document
8 in his notes?

9 THE COMMISSIONER: Yes.

10 THE WITNESS: And then I can answer that.

11 MR. GRATL: Sure.

12 THE COMMISSIONER: All right. Well, we'll take the break here
13 then.

14 THE WITNESS: Thank you.

15 THE REGISTRAR: The hearing will recess for ten minutes.

16 **(PROCEEDINGS ADJOURNED AT 3:01 P.M.)**

17 **(PROCEEDINGS RESUMED AT 3:13 P.M.)**

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

19 MR. GRATL:

20 Q Deputy Chief, did you have a chance to review your
21 notes of your interview with Corporal Henley?

22 A No, I did not. I was looking for the notes taken
23 by Corporal Henley at the time when he spoke to
24 Pickton --

25 Q Oh, I see.

1 A -- to answer your question.

2 Q And you had a chance to review those?

3 A Yes.

4 Q Do they indicate that the names of informants were
5 revealed to Mr. Pickton?

6 A In his notes he references Lynn Ellingsen and Ross
7 when he speaks to Pickton.

8 Q I wonder if you could read that passage out?

9 A It is the 30th of March '01, 1030 hours, so 10:30
10 in the morning:

11 Attended at Willie Pickton's residence next
12 to some golf course, and spoke with him at
13 length. Advised him that he is still a
14 person of interest in the murders of several
15 prostitutes. States that he has never done
16 anything to hurt anyone.

17 And then there's a word I don't understand. And
18 then it says:

19 Incident with the prostitute at the trailer
20 was self-defense. She stabbed him two or
21 three times before he finally retaliated.
22 He says he has spoken to Darryl Pollock and
23 Ruth Yurkiw who told him they will get back
24 to him if need be. He said that Lynn
25 Ellingsen and Ross just used him and took

1 advantage of his generosity. Willie figures
2 he got Hep C from Ross when Ross was living
3 with him for a while. Says he's willing to
4 do whatever it takes to clear his name.

5 Q So it's kind of ambiguous that note, it's not
6 clear whether Henley told Pickton that it was
7 Ellingsen and Ross Caldwell who provided the
8 information, but in any event at some point in the
9 conversation it became clear that Pickton knew
10 those names?

11 A That's correct. And that is March 2001, so at
12 that point Lynn Ellingsen had been interviewed by
13 police, so she really wasn't an informant. And
14 Ross Caldwell had been interviewed at the police
15 station, so I don't believe he had informant
16 status either because he was a witness, he
17 provided a witness statement. But I don't know
18 who provided what names to --

19 Q At that point according to your view you've got a
20 number of different open files still that the
21 Vancouver Police Department review team has not
22 yet shut down; is that right?

23 A I agree.

24 Q And the Port Coquitlam investigation into Pickton
25 hasn't been formally closed?

1 A Yes, I agree.

2 Q It looks dormant, it's just --

3 MR. HERN: Excuse me. March 2001 the Missing Women Review Team
4 is not shut down. I just don't want to get off on
5 a completely wrong footing and then have a whole
6 foundation that isn't quite right, but perhaps you
7 could just give some thought to that because
8 January 2001 is when Evenhanded start up.

9 MR. GRATL: You'll have your chance, Mr. Hern.

10 MR. HERN: I know, but I -- it's not an objection, I'm sorry,
11 if there's a fundamental fact like that I just
12 don't want us all to be taking off on some weird
13 place.

14 THE COMMISSIONER: All right.

15 MR. GRATL:

16 Q All right. So the Project Evenhanded has already
17 started?

18 A Correct.

19 Q And what do you take to be the start date for
20 Project Evenhanded?

21 A It was -- in my belief it was in January 2001.

22 Q The Port Coquitlam investigation is still -- it
23 hasn't been closed, but it appears dormant?

24 A That's my belief, yes.

25 Q Okay. And really nothing happens on the Port

1 Coquitlam investigation after Corporal Henley's
2 attendance at the Pickton farm in March of 2001?

3 A In the fall Constable Sherstone is assigned by
4 Corporal or Sergeant Connor at that time and she's
5 making inquiries, but for the most part I would
6 say the Pickton investigation was dormant from
7 Coquitlam.

8 Q Now, the Provincial Unsolved Homicide Unit, aside
9 from seconding a couple of officers to Port
10 Coquitlam they never opened a file themselves
11 within their own office?

12 A No, from what I understand they -- when Staff
13 Sergeant Henderson in 1999 received information
14 with regards to Pickton and a police report never
15 was generated on their PIRS system, I think that's
16 the system they use, but no, I don't believe the
17 Provincial Unsolved Homicide Unit had a file per
18 se on the Pickton investigation, I believe that
19 rested with the Coquitlam RCMP.

20 Q But the Provincial Unsolved Homicide Unit often
21 has representatives at various high level
22 meetings; isn't that right?

23 A Can you be more specific as to what meetings
24 you're referring to? With regards to the Pickton
25 investigation are you --

1 Q Even back in 1998 when they're starting to open up
2 Project Orion, then it was ultimately shut down by
3 Biddlecombe, the Provincial Unsolved Homicide Unit
4 was there; isn't that right?

5 A Project Orion, I'm not familiar with that one I
6 don't believe.

7 Q Okay. Well, that was the proto task force it
8 started -- Ralph Small was on it and Dickson was
9 on it. Do you know what I'm referring to?

10 A No, I do not.

11 Q Within the Vancouver Police Department?

12 A No. I know they were all on the Missing Women
13 Working Group.

14 Q Sure, the working group.

15 A Okay. And, yes, the RCMP attended that meeting,
16 but it wasn't someone from the original Unsolved
17 Homicide, it was Constable McLeod who I believe
18 was from the southwest district Major Crime Unit
19 who attended that meeting on the 22nd of
20 September, 1998.

21 Q Okay. And that's "E" Division, is it?

22 A That's RCMP.

23 Q But "E" Division rather than a municipal
24 detachment?

25 A I'm not sure. I wouldn't -- I wouldn't be -- want

1 to guess on that. I know he works in the
2 southwest district Major Crime Unit, 'cause that's
3 what it said on his card when he attended the
4 meeting, so.

5 Q Okay. And representatives of the Provincial
6 Unsolved Homicide Unit show up at meetings with
7 the Attorney General?

8 A Yes, they did.

9 Q Okay. All I'm getting at is that the
10 provincial -- they're not strangers to all these
11 happenings?

12 A No.

13 Q This "E" Division unit. And they have a mandate
14 to investigate historical homicides?

15 A That's correct.

16 Q For a good deal of time the missing women
17 phenomenon, if I can put it that way, is
18 understood to be a set of historical homicides?

19 A No. I think the issue was that they were still
20 looking at the missing women investigations as
21 missing women investigations and the Provincial
22 Unsolved Homicide Unit were saying show me that
23 it's a homicide and then we can become involved.

24 Q Okay. So they were adhering to notions of
25 transients as well within the Provincial Unsolved

1 Homicide Unit?

2 A No, I think they were -- that was under the theme
3 of no body no evidence of a crime, show me
4 evidence of a crime and then we can become
5 involved.

6 Q But, of course, you're aware as an experienced
7 investigator that there are often crimes in which
8 the body is missing?

9 A I agree.

10 Q You have a missing person, you have somebody else
11 who says that they were killed, and that's enough
12 to kick in an investigation?

13 A Yes, I agree.

14 Q And the investigation only concludes perhaps with
15 finding the body; correct?

16 A I agree.

17 Q I mean that's happened a number of times with
18 Mr. Big investigations that the success in the
19 investigation is that the target leads the
20 investigators to the body?

21 A Yes.

22 Q So you don't need to have a body in order to
23 start?

24 A I agree.

25 Q And the Provincial Unsolved Homicide Unit people

1 either would have or should have known that fact?

2 A Yeah, I would say they know that fact. Yes.

3 Q So why did they adhere to this no body no evidence
4 notion and no body no homicide notion when it came
5 to sex workers?

6 A I think you're going to have ask somebody from the
7 Provincial Unsolved Homicide Unit that. I didn't
8 get an answer to that.

9 Q And I'm not saying there's enough there to
10 conclude that they were necessarily discriminatory
11 in their application of the no body no homicide
12 rule, but it's certainly consistent with that,
13 isn't it, that no body no homicide applies to sex
14 workers?

15 A In my interview with Staff Sergeant Henderson who
16 was in charge of the Provincial Unsolved Homicide
17 Unit I think his response was, and I think I may
18 have mentioned it in my report, that they were
19 dealing with 600 unsolved homicides at the time
20 and that's what they were focusing on.

21 Q Yes, some other homicides?

22 A Sorry?

23 Q They were focused on other homicides?

24 A Yes.

25 Q They didn't want this file?

1 A They weren't working on the missing women file
2 except in August of 1999.

3 Q And they didn't want it?

4 A I saw no evidence through documents that said they
5 didn't want the file, they just said there was one
6 meeting with Sergeant Honeybourn from the Unsolved
7 Homicide Unit and Sergeant Honeybourn was actually
8 a Vancouver officer attached to the Provincial
9 Unsolved Homicide Unit who says there's no
10 evidence of a homicide, until you show us that
11 then we won't become involved.

12 Q They said we won't become involved unless we have
13 a body; isn't that right?

14 A Something similar to that, yes.

15 Q Okay. Did you ever explore with them their
16 mandate to see whether there's always they only
17 get involved if there's a body and it's a dated
18 homicide file?

19 A No, I didn't ask them whether they had experience
20 with investigating other cases where there was no
21 body.

22 Q Okay. So you can't say whether or not there was
23 -- that was discriminatory against sex workers or
24 a rule that only applied to sex workers?

25 A No, I cannot.

1 Q Now, earlier I had asked you about the no evidence
2 of a serial killer public talking point, the media
3 talking point. You reviewed the media file, the
4 VPD and Evenhanded media files?

5 A I'm not sure I read all the media articles, no. I
6 spoke to Anne Drennan who is the media liaison
7 officer.

8 Q Okay. And she repeatedly advised the media there
9 was no evidence of a serial killer?

10 A I understand that.

11 Q And I think that you'll agree with that that's
12 inaccurate, that there was evidence of a serial
13 killer?

14 A Yes.

15 Q And that evidence arose very quickly after
16 Detective Constable Shenher was assigned to the
17 Missing Persons Unit, she got a tip?

18 A From Hiscox.

19 Q From Hiscox. She got two tips in fact; isn't that
20 right?

21 A She was unable to confirm that that was evidence.
22 She received secondhand information with regards
23 to Pickton as a suspect.

24 Q Okay. And then there were other forms of
25 information that came through on Pickton as a

1 potential --

2 A In 1999, yes.

3 Q And so Drennan only got involved after 1999; isn't
4 that right?

5 A No, I believe Anne Drennan was involved in -- I'd
6 have to look at her statement. I believe she was
7 involved earlier, 'cause she was dealing with
8 Inspector Biddlecombe and Deputy Chief McGuinness
9 with regards to Detective Inspector Rossmo's draft
10 media release that he wanted to issue, and she was
11 involved at that point being directed.

12 Q Now, Ms. Drennan told you that she was
13 uncomfortable with that talking point no evidence
14 of a serial killer, because she said Shenher
15 didn't hold that view and neither did Dickson at
16 the time she was instructed to give that line to
17 the media?

18 A I'd have to have her statement in front of me, but
19 from what I recall from her interview she said
20 that the message became more and more difficult as
21 time went on to say to the public that there was
22 no evidence of a serial killer.

23 Q And by difficult she meant personally difficult to
24 her to propagate this story when in fact it wasn't
25 true?

1 A I believe so, yes.

2 Q And, of course, she had numerous sources for
3 information within the department about whether or
4 not it was true?

5 A She had numerous sources of information telling
6 her their belief.

7 Q Okay. And she followed rank, I take it, in this
8 context?

9 A Yes.

10 Q In continuing with a line even though in her words
11 she was uncomfortable with it?

12 A Yes, I believe so.

13 Q Now, I take it that at some point if she believed
14 that it was untrue and she was still putting that
15 out to the public that would be a form of
16 deception?

17 A Well, I don't think there was any evidence that
18 she had that would have solidified that thought in
19 her head that there was evidence of a serial
20 killer.

21 Q Okay. But if she had been personally of the view
22 that there was some evidence of a serial killer
23 then the no evidence line would have been
24 knowingly false?

25 A No, I don't think -- she wouldn't have the

1 intimate knowledge of the investigation as the
2 media liaison officer, and I don't think because
3 she has a personal view on something I don't think
4 it's necessarily deceptive if she's a giving a
5 message that she doesn't necessarily agree with.
6 I think often media officers might have to give
7 messages they don't necessarily have a personal
8 view about, but that doesn't necessarily mean it's
9 deceptive. No, I never got that from Anne
10 Drennan.

11 Q But sometimes deception of the public is an
12 ordinary part of police practice, isn't it?

13 A I would disagree with that.

14 Q But sometimes, for example in the case of murder
15 investigations, hold back information is withheld
16 from the public?

17 A That's different than being deceptive to the
18 community. Holding back information because it's
19 critical to the investigation, and I mean I would
20 say would be different than being deceptive.

21 Q Or saying that there's no information about issue
22 X when in fact there is information about issue X?

23 A No. Well, I think if the media liaison are saying
24 there's no information as opposed to there is
25 information, we're just not going to disclose that

1 to the media or to the public.

2 Q And officers, police officers are allowed to lie
3 in the course of interrogations in order to move
4 an investigation along; isn't that right?

5 A No, I wouldn't necessarily agree with that either.
6 I think sometimes there's investigative strategies
7 that officers undertake to elicit confessions, but
8 I wouldn't say that they do normally a practice of
9 lying. No, I would disagree with that.

10 Q Well, undercover operations are essentially a form
11 of deception?

12 A Undercover operations are strategies that police
13 use to elicit confessions.

14 Q And using deception. I'm not saying there's
15 anything nefarious about it. It serves the public
16 interest; isn't that right?

17 A Yes, it serves the public interest.

18 Q Sometimes deception is permissible for police
19 officers?

20 A Yes.

21 Q But the general rule is that deception is not
22 viewed to be appropriate unless it serves some
23 investigative purpose?

24 A I would agree.

25 Q Okay. Now, what investigative purpose might have

1 been served by propagating the idea that there was
2 no evidence of a serial killer even though the
3 fact might have indicated to the contrary?

4 A I saw no reason why they wouldn't put out a public
5 warning to the community.

6 Q Okay. So you're saying you don't see an
7 investigative purpose that might have been served?

8 A No.

9 Q And putting out a warning to the community that
10 there might be a serial killer could have changed
11 people's behaviour to enhance their safety and
12 perhaps not?

13 A I agree.

14 Q And in addition putting out the message that there
15 might be a serial killer might have prompted
16 witnesses to come forward?

17 A It's possible, yes.

18 Q Did you review the memo written by Detective
19 Constable Shenher to the Attorney General dated
20 April 9th, 1999?

21 A Yes, I believe I did.

22 Q Now, she indicates in her memo that there's no
23 evidence of a person or persons preying on sex
24 workers?

25 A Can I have that document presented so I can just

1 review it again, please?

2 Q Sure. Do you have Exhibit J in front of you?

3 A Thank you. Yes.

4 Q Now, if you turn to page 140 you'll see the
5 memorandum cover page --

6 A Yes.

7 Q -- identifying it as an April 9, 1999 memo from
8 Detective Constable Lori Shenher to the Attorney
9 General Ujjal Dosanjh?

10 A Yes, I have that.

11 Q And so if you turn the page over you'll see in the
12 third paragraph "as I write this report." It
13 says:

14 As I write this report, there is no evidence
15 of a person or persons preying on these
16 women.

17 A Yes.

18 Q Well, that's not quite true, is it, at that time,
19 April 9th, 1999?

20 A I would disagree with you on that. I'm just
21 trying to think what evidence Detective Constable
22 Shenher would have had at that point when she had
23 the absence of so many women. I think so when
24 she's saying there's no evidence, you know, I took
25 it to believe there was no physical evidence. And

1 I think this is down to the theme of there was no
2 body, there was no crime, there was no evidence.
3 I think that's what she meant by that.

4 Q If we carry on the paragraph with the third full
5 sentence it says:

6 We cannot investigate a murder without a
7 body, witnesses, time of crime, scene of
8 crime or suspect and we have none of these
9 things.

10 It's true that they had a suspect at that time,
11 isn't it?

12 A Yes, they did. I think they had a few they were
13 looking at. And I actually thought she made a
14 comment, if not in this memo other memos, about
15 suspects. I'd just like to look at the memo here.

16 Q Take your time and review the memo, of course.

17 A M'hm. Yeah, I don't see evidence or any
18 indication that she's talking about any suspects
19 at this point.

20 Q So that aspect of her memo is not accurate; isn't
21 that right? I mean they do have a suspect.

22 A Yes, she did.

23 Q And she knew about that suspect?

24 A Yes.

25 Q And so her -- I just find it hard to draw a

1 conclusion other than that she knowingly
2 misinformed the Attorney General of the existence
3 of a suspect. Am I wrong about that? Is there
4 some reason not to --

5 A Yeah, I didn't get that impression just from
6 reading this.

7 Q All right. And if you turn over to page 143
8 there's a memo from Geramy Field, Sergeant Field.

9 A Yes.

10 Q To the Vancouver Police Board, it's dated April
11 22nd, 1999.

12 A Yes, I have that.

13 Q Now, this is a background briefing memo. Do you
14 recall reading this?

15 A Can I take a moment just to quickly read it again?
16 I believe I read this, yes.

17 Q At page -- this is a memo dealing with a reward,
18 whether the police board should issue a reward?

19 A Yes.

20 Q At page 146 in the third full paragraph Sergeant
21 Field advises the police board that the police
22 department or Crime Stoppers have not received a
23 single tip to date.

24 A Yes, I see that.

25 Q Of course that's not accurate to your knowledge?

1 A No, it's not.

2 Q And Sergeant Field would have known about the
3 existence of a number of tips to Crime Stoppers at
4 that point?

5 A Sergeant Field was gone from September to March,
6 but I'm sure in April, you would probably have to
7 ask her, but I'm sure she would have been brought
8 up to speed in the investigation when she was
9 writing this report.

10 Q I don't think she would have drafted a report like
11 this to the Vancouver Police Board without taking
12 a review of the file?

13 A I agree.

14 Q And discussing the investigation with Detective
15 Constable Shenher?

16 A I agree.

17 Q Probably having Detective Constable Shenher review
18 the memo before it's sent to ensure that it's
19 accurate?

20 A I agree.

21 Q But obviously the suggestion that not a single tip
22 has been received is false?

23 A Inaccurate, yes.

24 Q And it would be a very serious dereliction of duty
25 to misinform the police board about the status of

1 an investigation?

2 A If it was proven that it was wilful. I mean I
3 never got the impression from any of the documents
4 I reviewed written by Sergeant Field that that was
5 occurring, so.

6 Q Now, did you interview Chief Chambers and Chief
7 Blythe?

8 A Yes, I did.

9 Q Both of them told you that they weren't aware of
10 any evidence of a serial killer?

11 A That's correct. I believe so, yeah. I'd have to
12 look at their statements again.

13 Q Is there any reason to doubt those statements?

14 A No. If you're suggesting it to me, no.

15 Q That is to say there's a memo somewhere that says
16 Dear Chief Chambers or Dear Chief Blythe, we have
17 evidence of a serial killer?

18 A I don't recall ever seeing that, no.

19 Q Okay. It would have been incumbent, I mean the
20 presence of a serial killer in the territorial
21 jurisdiction of a police detachment like the
22 Vancouver Police Department is something that the
23 chief ought to be informed about?

24 A Yes.

25 Q And even if there is, if I can put it this way, a

1 scintilla of evidence suggesting that there might
2 be a serial killer the chief should know about it
3 right away?

4 A Yes.

5 Q It has potential, massive -- aside from the deaths
6 of course, and the torture killings, and so forth,
7 sexual assaults that might arise from a serial
8 killer on the victims, it has a tremendous impact
9 on the community?

10 A I agree.

11 Q And it should be -- a matter like that must be
12 dealt with at the highest levels?

13 A Yes.

14 Q So it would have been appropriate to bring the
15 police board in, be appropriate to bring the chief
16 in, appropriate to bring the Attorney General in?

17 A Yes.

18 Q I mean it could be a provincial policing matter?

19 A Yes.

20 Q There's no reason to think that a serial killer
21 would be territorially confined?

22 A No.

23 Q And no reason to think that any given municipal
24 detachment wouldn't be able to deal with a serial
25 killer?

1 A I agree.

2 Q It seems more like a provincial policing matter?

3 A Well, I'd say it entails a lot of resources, so
4 whether it involves the provincial police in the
5 matter.

6 Q All right. So if Chief Chambers and Chief Blythe
7 weren't told about evidence of a serial killer,
8 that would be a problem somewhere down the ladder,
9 somebody would try and chase responsibility down
10 the ladder and ask their subordinates whether they
11 knew and in turn go to the next level of
12 subordinates, that's how you would track down why
13 they didn't find out?

14 A Yes.

15 Q Is that something that you did in the course of
16 your review?

17 A That I saw evidence of?

18 Q Something that you did in the course of your
19 review by questioning the individual officers to
20 just say well, how come the chief didn't know
21 about it, and if the deputy chiefs didn't know
22 about it how come the deputy chiefs didn't know
23 about it and sort of trace that line of
24 communication?

25 A When I spoke to Chief Blythe and Chief Chambers it

1 was with regard to the missing women, the 27
2 missing women. I spoke earlier about a community
3 meeting that Detective Constable Shenher attended
4 and after that that created a lot of internal
5 correspondence between the senior command of
6 Vancouver Police Department, and when I spoke to
7 Chief Chambers about that it would appear at that
8 point that was almost like that was the first time
9 that he was hearing that there was an issue at
10 that time, and at that time he requested a memo
11 from Detective Constable Shenher and that was in
12 February of 1999.

13 Q Okay. And then in -- if I understand correctly it
14 was after that that the memo went to the Attorney
15 General and the Vancouver Police Board?

16 A Yes.

17 Q So that the chief might have been aware of
18 evidence or potential evidence of a serial killer
19 at the time that this information went to the
20 police board and the Attorney General?

21 A At that time I believe the correspondence was with
22 regard to the large number of missing women, and I
23 don't believe the document -- and I can look at
24 the document, but I don't believe the document
25 talked about a serial killer, the existence of a

1 serial killer.

2 Q Okay. If you turn to page -- if you turn to page
3 149 of Exhibit J.

4 A Yeah.

5 Q You'll see a further memo dated May 17th to
6 Inspector Spencer from Sergeant Field?

7 A Yes.

8 Q Are you there?

9 A Yes, I am.

10 Q And if you turn to the third page of that memo it
11 has 141 stamped on the right hand --

12 A 151.

13 Q Sorry, 151.

14 A Yes.

15 Q This is a memo dealing with Fell and Wolthers and
16 their misconduct generally, that's the topic of
17 this memo.

18 A Yes.

19 Q But you'll see at the first paragraph of 151
20 starting at the fifth line from the bottom
21 speaking of a suspect who was caught for serial
22 torture sex crimes:

23 Never would I have imagined that they...

24 Meaning Fell and Wolthers:

25 ... would attempt to interview him for any

1 serial killings since this had never been
2 discussed as a strategy with the team. He
3 was still a person of interest along with
4 many others. At any rate, this was still a
5 missing persons investigation and not a
6 serial killer investigation as they allude to
7 constantly. We still have no evidence of
8 such, only speculation.

9 A Yes, I make mention of that in my report.

10 Q This is another example of a memo originating from
11 Sergeant Field where she says that there's no
12 evidence, uses the phrase no evidence of a serial
13 killer?

14 A And this is what I talked about in my report, I
15 talked about the fact that throughout the
16 documents and in my interviews it was apparent
17 that the officers were looking for evidence of a
18 body or crime scene before they would come to the
19 conclusion that there was a serial murderer. And,
20 yes, and that's why I spoke to in my report that I
21 was not surprised that these two officers would
22 speak to this subject with regards to the missing
23 women because that was their task on the Missing
24 Women Review Team, so that didn't surprise me.

25 Q Okay. So Fell and Wolthers were two investigators

1 that adhered to the view that there was a serial
2 killer?

3 A Yes.

4 Q And that the serial killer should be investigated
5 actively?

6 A Yes.

7 Q And they were sidelined off the Missing Women
8 Review Team?

9 A They were removed from the Missing Women Review
10 Team, yes.

11 Q They were removed. Now, Detective Inspector
12 Rossmo adhered to the theory that there might well
13 be a serial killer?

14 A Yes. He wrote a case assessment in May of 1999.

15 Q And he was removed from the working group?

16 A He was -- the working group was dissolved in
17 September 1998.

18 Q Okay. Now, are you aware that Detective McKnight
19 was threatened with discipline?

20 A I saw an indication of that, but when I questioned
21 him with regards to that he did not admit to that.

22 Q All right. And then the practicum student
23 Mr. Oger.

24 A Yes.

25 Q He was sidelined for saying that there might be a

1 serial killer?

2 A I believe he was treated differently, yes, for
3 suggesting there was a serial killer.

4 Q So generalizing the tendency seemed to be to
5 sideline or discipline or marginalize individuals
6 within the organization that suggested that there
7 was or might be a serial killer?

8 A Well, that's in my report I talk about the
9 acceptance of the serial killer theory and the
10 fact that the executive didn't accept it as a
11 theory.

12 Q I know, but I would go a little further in asking
13 whether you agree that it wasn't just a question
14 of not accepting it, it was a question of active
15 suppression of it in the form of marginalizing or
16 removing anyone who adhered to that theory from
17 the investigative teams?

18 A I believe Fell and Wolthers were removed for other
19 reasons, and I don't believe it had anything to do
20 with their belief that there was a serial killer
21 and they were actively investigating it, but I
22 would agree with you with regard to Detective
23 Inspector Rossmo. Detective Inspector Rossmo when
24 he first came out with this strategic blueprint in
25 September 1998, at that point he was just saying I

1 would like to do an analysis to determine what is
2 going on with the missing women.

3 Q And even that appeared to be enough?

4 A And that was enough to dissolve it. And then he
5 put in a draft media release which was suppressed.
6 When he came out with a case assessment in May, I
7 mean a statistical in May of 1999 he suggested the
8 likelihood of a serial predator, serial killer out
9 there. At that time he was not involved in the
10 investigation, but I know he was keeping in very
11 close contact with Constable Dickson and Detective
12 Constable Shenher.

13 Q Okay. And then in respect of Oger he -- is it
14 Oger?

15 A I think it's Oger.

16 Q Oger?

17 A Oger.

18 Q In respect of Mr. Oger, after his memo was
19 released in August of 2001 he was treated
20 differently you say?

21 A Yes, I believe he was treated differently.

22 Q And then when there was a leak of an ops plan, an
23 operational plan in December of 2001 --

24 A They believed it was him.

25 Q -- they believed it was him, and he was, I don't

1 say there was a witch hunt, but, boy, he was
2 investigated rather thoroughly?

3 A Yes, he was.

4 Q And ostracized in the interim?

5 A Yeah, I never saw evidence of that that he was
6 ostracized, but I know he was investigated in
7 December.

8 Q The nub of the mischief of the release of that
9 operational plan was that it contained words to
10 the effect that there might be an active serial
11 killer?

12 A Yes.

13 Q That was the problem that that information was out
14 in the public eye, wasn't it?

15 A Well, I think it was also because of the
16 confidential document. Operational plans normally
17 aren't released to the public, so assuming it's
18 policing practice we don't release those.

19 Q Because they could compromise investigations?

20 A Absolutely.

21 Q Okay. But when Corporal Henley compromised the
22 investigation in a similar way, perhaps even more
23 dramatic way he was never investigated?

24 A I'm not sure anyone knew that Corporal Henley went
25 and paid this visit until post Pickton's arrest.

1 Q Okay. But even post Pickton's arrest it seems to
2 be a serious problem?

3 A I never saw any documents or evidence that would
4 indicate that he was called to task on that.

5 Q It would be problematic, wouldn't it?

6 A I questioned his behaviour.

7 Q Okay. Part of the reason he wasn't disciplined is
8 because he retired on the day that he revealed
9 that he went to talk to Pickton?

10 A I didn't realized that.

11 Q All right. But that would preclude any
12 discipline?

13 A Yes, it would.

14 Q But it wouldn't preclude recognition by yourself
15 that there was a serious problem in his going to
16 talk to Pickton?

17 A That's correct.

18 Q Now, you stated earlier that -- didn't Fell and
19 Wolthers when they were removed from the review
20 team, didn't they complain bitterly that their
21 work wasn't done?

22 A I'm sorry, that their work wasn't done?

23 Q Yes, they have undertaken an investigative path
24 that involved determining who the suspects were of
25 serious serial sex assaults of sex workers and

1 gathering evidence of those serious sexual
2 assaults?

3 A From what I understand they were focused on one
4 suspect.

5 Q And when they were done with that suspect they had
6 locked him in for prosecution?

7 A That suspect was charged and I believe the
8 investigation was handed over to members of the
9 Sexual Assault Squad.

10 Q Sure, when they packaged the fellow up for the
11 Sexual Assault Squad they wanted to go and start
12 on the next suspect; isn't that right?

13 A I'm not sure that it was packaged in an
14 appropriate manner that they were going to be
15 moving on to their next target. I never got that
16 impression from reading the documents.

17 Q Well, he was convicted, that fellow was convicted?

18 A I understand he was, yes.

19 Q And he got a double digit jail sentence for it?

20 A He was a very bad man.

21 Q It was a pretty good call, wasn't it?

22 A It was a very good call in the fact their
23 investigation revealed and arrested him.

24 Absolutely they did good work there with regards
25 to bringing a violent offender off the streets,

1 yes.

2 Q Absolutely. And what they wanted to do was
3 continue and do it again with one of the many
4 persons of interest that they had who were active
5 within a very small geographic region where
6 survival sex workers were being --

7 A I think there was also indications from my
8 interviews with regard to these two officers that
9 they weren't following up on tasks or
10 communicating to the team members, and Lori
11 Shenher assigned tasks that when they were removed
12 from the remove team that the tasks that they had
13 been assigned had not been followed up because
14 they were so focused on this one target.

15 Q Okay. But it wasn't just that they were focused
16 on the one target, they weren't really involved in
17 the Missing Persons Review Team, they weren't
18 working with Shenher in any meaningful sense in
19 your opinion; right?

20 A Well, I know they were assigned to work on the
21 team and when they were assigned they were called
22 in and said okay, this is what you'll be doing and
23 you'll be assigned tasks to do that, and I am not
24 convinced from reading the documents that they
25 abided by all those rules. When Constable Shenher

1 assigned them tasks I don't believe they followed
2 through with all of them.

3 Q Well, they wrote to Chief Constable Blythe on May
4 the 12th, 2000?

5 A Yes.

6 Q And they gave him a detailed critique of the
7 Missing Women Review Team?

8 A Yes.

9 Q They said, among other things, that there doesn't
10 appear to be any serious attempt at apprehending
11 anyone responsible for the missing sex trade
12 workers until the arrest of the person that they
13 had arrested, the Missing Persons Review Team has
14 not even generated a single arrest on a single
15 assault?

16 A I didn't get the impression that that was the task
17 of the Missing Women Review Team. The Missing
18 Women Review Team were looking to locate the
19 missing women or locate offenders responsible for
20 the missing women.

21 Q All right. So you had a sense that the task of
22 the Missing Women Review Team wasn't to
23 investigate any offenders?

24 A No, they were investigating offenders in my view.
25 So their task was to -- I believe Fell and

1 Wolthers were focused on their suspect because
2 they believed he was responsible for the missing
3 women.

4 Q All right.

5 A What I was getting at was he wasn't charged with
6 anything in relation to the missing women, he was
7 charged with offenses against other victims in the
8 Downtown Eastside.

9 Q But what Fell and Wolthers had to say was there
10 are a ton of potential offenders out there, we
11 want to continue to try to catch them; isn't that
12 right?

13 A Yeah, I'm unaware if they said that.

14 Q Okay. I'm just suggesting that if I had they
15 wouldn't have been able to do so after they were
16 removed from the review team?

17 A I agree.

18 Q And was there anybody assigned to go after this
19 list of persons of interest to your knowledge?

20 A No. The Vancouver Missing Women Review Team began
21 to wind down as I saw in the documents.

22 Q Well, did they send the list over to the Sexual
23 Offence Squad, for example, saying here are the
24 ten people we have been unable to investigate,
25 would you please catch these serial sex offenders?

1 A Yeah, I'm not aware if they did that.

2 Q You didn't find any document to that effect?

3 A No, I did not.

4 Q On page 176 of Exhibit J.

5 A Yes.

6 Q Fell and Wolthers in a May 5th, 2000 letter to
7 Sergeant Field, just at the bottom have a long
8 list of things that ought to be done to further
9 the Missing Women Review Team's work. They said,
10 Sergeant, you should know these things need to be
11 done to ensure complete investigation by the
12 Missing Persons Review Team and then they have a
13 bulletin of nine points, including establishing a
14 police procedure for handling DEYAS bad date
15 information, review information generated through
16 the tip line, follow up on the computer generated
17 information, showing offenders photos to sex
18 workers.

19 A Round two, yes, I see that.

20 Q Do you agree that that work listed by Fell and
21 Wolthers would need to be done?

22 A I saw evidence that they were doing that.

23 Q Did it ever get completed?

24 A No, I don't believe so. I don't see anywhere in
25 this memo that they -- it's interesting that they

1 talk about continuation of the showing of
2 offenders photos to the STWs, round two, but I
3 don't believe they mention in this memo that how
4 many photos they did show or if any offenders or
5 persons of interest were selected, and that would
6 bring me back to Pickton's photo being selected in
7 April, I don't believe they included that in this
8 memo to Geramy Field either.

9 Q Well, what I'm driving at is that they refer to a
10 number of investigative steps that in the view of
11 Fell and Wolthers had yet to be accomplished. Do
12 you agree that those steps ought to have been
13 accomplished before the file was wound down?

14 A Yes, but from what I gather from reading the
15 documents these two officers weren't following up
16 on the tips they were being assigned.

17 Q So somebody else should have been assigned to
18 follow up on those tips?

19 A Yes.

20 Q And I take it that was never done?

21 A I don't think at that time in May of 1999 I
22 believe that Lepine and Chernoff had returned.

23 MR. DICKSON: May of 2000.

24 THE WITNESS: Sorry, 2000?

25 MR. DICKSON: M'hm.

1 THE WITNESS: Thank you. No, I don't think there were officers
2 working on that at all. Alex Clarke was working
3 on the indigent burials and Detective Constable
4 Shenher was the file manager on this.

5 MR. GRATL:

6 Q Now, on page 196 there's a memo to Sergeant Geramy
7 Field from Detective Constable Lori Shenher dated
8 May 17th, 2000. This is a memo responsive to Fell
9 and Wolthers' accusations about the inadequacy of
10 the Missing Persons Review Team investigation.

11 A Yes.

12 Q Over on page 198, which is the third page of the
13 memo.

14 A M'hm. Yes.

15 Q In the middle of the page there in the middle of
16 that paragraph, the second full paragraph which
17 begins in response to --

18 A In response to paragraph 3, yes.

19 Q It says, and I'll just read this:

20 The Missing Persons Review Team has the names
21 of hundreds of men fitting this arrestee's
22 lifestyle, and if we had the luxury to
23 investigate each one of them for one entire
24 year, I am sure we would likely uncover some
25 criminal activity on their parts as well.

1 Had Fell and Wolthers pursued each of those
2 with the same vigilance, it is likely other
3 offenses would have been uncovered.

4 Is that correct?

5 A That's correct.

6 Q I take it what she's saying there is if more
7 resources were devoted to the issue of catching
8 men like this serial sex predator they'd be likely
9 to be caught?

10 A Yeah, I also infer from this that she was -- that
11 Fell and Wolthers were so focused on their own
12 suspect and they'd dedicated all their time to
13 this one person.

14 Q She calls that a luxury.

15 A Yes.

16 Q That the investigation of serial sexual predators
17 of sex workers is described as a luxury.

18 A Yeah, I took this to believe that these two
19 officers seemed to be unaccountable to anyone, so
20 she was suggesting they had the luxury to work on
21 whatever they deemed appropriate because they
22 weren't following up on her tasks. That was the
23 impression I got from reading this. So that's
24 what she's saying if they had pursued other
25 suspects with the same vigilance maybe other

1 crimes would have been uncovered.

2 Q Sure, roughly speaking if we assigned more people
3 to investigate these serial sex predators that we
4 know about we'd catch a bunch of them?

5 A I agree.

6 Q But that was never done to your knowledge?

7 A No. Not at this point, no.

8 Q Okay.

9 A Other than officers working, I would say, in the
10 Sexual Assault Squad.

11 Q You were aware that then Sergeant LePard was
12 assigned in 1996 to look at the Bernardo
13 investigation review prepared by
14 Mr. Justice Campbell?

15 A No, I don't recall seeing that. Is it on the
16 documents here?

17 Q Yes, it's at page 218.

18 A Thank you. This doesn't look familiar to me.

19 Q All right. Then I'll just move on. At page
20 234 --

21 A Yes.

22 Q -- is a memo from Sergeant Field to Inspector
23 Spencer.

24 A Yes, I have that.

25 Q You've seen this before?

1 A I believe so, yes.

2 Q At page 236 under the heading Summary Sergeant
3 Field sets out that it has become apparent that
4 the section is suffering from the lack of adequate
5 management at the sergeants level.

6 A Yes.

7 Q That's her level?

8 A Yes, it is.

9 Q She's saying I can't do this?

10 A Yes.

11 Q I can't do my job, I've got too much on my plate?

12 A Yes.

13 Q And the missing women investigation is a year
14 behind because I'm not -- because I'm not able to
15 do my job properly?

16 A From what I understand she was being pulled into
17 the homicide, and she had an eight person homicide
18 team as well she was supervising.

19 Q She also says:

20 We also may have a killer out there that has
21 gone undetected for a year longer.

22 A Yes.

23 Q Did you ask her how long that state of affairs had
24 prevailed that she was unable to do her job?

25 A Yeah, I would have to look at the --

1 Q It's dated November of 2000, but it must have
2 prevailed for some time before that?

3 A I would have to look at her -- I spent a day with
4 Sergeant Field, that was a long interview. I
5 would have to look. I don't recall specifically,
6 but it wouldn't mean that I didn't necessarily
7 discuss that.

8 THE COMMISSIONER: You're almost done?

9 MR. GRATL: I'm very close to being done.

10 THE COMMISSIONER: What does that mean?

11 MR. GRATL: I'm just reviewing my notes to make sure.

12 THE COMMISSIONER: Sorry?

13 MR. GRATL: I'm just reviewing my notes to make sure I've
14 covered everything.

15 THE COMMISSIONER: All right.

16 MR. GRATL: There was one thing that I forgot to ask about.

17 Q The Crime Stoppers tip from July the 27th was lost
18 for a period of approximately ten days. Do you
19 recall that?

20 A It was misplaced, yeah, or I'm not sure if it was
21 lost or Sergeant Howlett had it and then Detective
22 Constable Shenher was unaware of it. Sorry, can
23 you refer me to the --

24 Q It's at 8-54 of your report, the third paragraph
25 from the bottom beginning Detective Constable

1 Shenher.

2 A Yes, it was from July 27th, and it refers to being
3 lost in the overlap. Sorry, you're right.

4 Q I was just confused about the wording there. What
5 does that mean lost in the overlap between
6 Detective Howlett and --

7 A I was unclear when I reviewed the documents
8 whether Detective Howlett received the information
9 and had not communicated with Detective Constable
10 Shenher, so that's why I was saying it was lost in
11 the overlap between the two officers themselves.
12 It was difficult to determine when the tip came in
13 and when it was actually discussed.

14 Q So it might have gone to Howlett or it might have
15 gone to Shenher, but you're not sure which?

16 A Yeah, I believe it didn't go to Shenher
17 immediately until -- she didn't know about it till
18 August 6 it went to Howlett, but I wasn't sure at
19 what point it became known to Howlett.

20 Q Okay. So it might have just generally got lost
21 and never made it Howlett or Shenher?

22 A No, it did, it was received, it's just that's when
23 Detective Constable Shenher really became aware of
24 it on August 6th, so that's why I wrote it up the
25 way I did.

1 Q And I'm just puzzled because it seems like a quite
2 important tip.

3 A Yes.

4 Q And losing it for ten days, I'm not saying anybody
5 lost their life because of it, but it's the kind
6 of egregious administrative error that --

7 A Yes, shouldn't have happened.

8 Q -- if repeated over time could certainly result in
9 an investigation being undone.

10 A Well, normally when these Crime Stoppers tips
11 generally occur, that if it's a tip that's of some
12 urgency the Crime Stoppers co-ordinator would
13 phone the office and say I've received this Crime
14 Stoppers tip and I'm sending it down to you, but I
15 was unsure if any of that occurred. But that's
16 the common practice with Crime Stoppers and then
17 they would send it down, because then the officer
18 would be waiting for it or they would have the
19 information and they would get the information
20 immediately.

21 MR. GRATL: All right. Well, thank you for your assistance.

22 Those are my questions.

23 MR. VERTLIEB: Perhaps we could start at nine a.m. tomorrow to
24 accommodate Ms. Tobias.

25 THE COMMISSIONER: All right. How are we doing time-wise?

1 MR. VERTLIEB: We've had a bit of a struggle, but before I
2 think you need to make an order on
3 cross-examination I'd like to spend a bit more
4 time seeing how things unfold. I have in mind
5 your directive that the lawyers will not cover
6 areas already covered in cross-examination, and so
7 long as that's adhered to by everyone then we may
8 be able to get the progress that we wanted, I'm
9 just not sure yet.

10 THE COMMISSIONER: We have to finish this witness by Friday at
11 1:30.

12 MR. DEL BIGIO: Mr. Commissioner, my name is Greg Del Bigio, I
13 act for a client in relation to this inquiry. I
14 realize it's the end of the day, I will be brief.
15 Mr. Butcher this morning made remarks to the
16 commission with respect to cross-examination and
17 timing, and I join in those remarks that he made.
18 Thank you.

19 THE COMMISSIONER: All right. Thank you. We'll adjourn until
20 nine a.m.

21 THE REGISTRAR: Hearing is now adjourned until nine a.m.
22 tomorrow.

1 **(PROCEEDINGS ADJOURNED AT 4:07 P.M.)**

2

3 I hereby certify the foregoing to be a

4 true and accurate transcript of the

5 proceedings transcribed herein to the

6 best of my skill and ability.

7

8

9 Peri McHale

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