

1 **Vancouver, BC**

2 **November 24, 2011**

3 **(PROCEEDINGS RECONVENED AT 10:01 A.M.)**

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

5 THE COMMISSIONER: Mr. Roberts.

6 **DOUGLAS A. LEPARD: Resumed**

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

8 Q Good morning, Mr. Commissioner, Mr. LePard.

9 Mr. LePard, many years ago when I was a
10 young counsel doing jury trials I learned that
11 when a police officer becomes a witness it's
12 quite appropriate to refer to him as "Mr." or
13 "sir," having in mind that perhaps juries might
14 be a little bit overborne by the rank of the
15 officer. In any event, I have carried that
16 practice through my career so I wish to refer to
17 you as "Mr." or "sir" and I assume you're
18 comfortable with that?

19 A Yes.

20 Q I want to start off on the subject of what is the
21 value of your report for this commission of
22 inquiry. That's the subject matter. I always
23 start with first things first so I'd like you to
24 turn to the terms of reference, and I have an
25 extra copy. Everybody else should have their

1 own, but perhaps, Mr. Registrar, you could put
2 this in front of the witness. Thank you very
3 much.

4 You have it in front of you, Mr. LePard?

5 A I do.

6 Q Turn just to the term of reference number -- the
7 first one (a) under number 4, 4(a):

8 The terms of reference of the inquiry to be
9 conducted by the commission are as following:

10 (a) to conduct hearings, in or near the
11 City of Vancouver, to inquire into and
12 make findings of fact respecting the
13 conduct of the missing women
14 investigations.

15 You'll notice that's plural?

16 A Yes.

17 Q If I drop my eyes up, I should say, to
18 definitions you'll see "missing women
19 investigations" means:

20 The investigations conducted between January
21 23, 1997, and February 5, 2002, by police
22 forces in British Columbia respecting women
23 reported missing from the Downtown Eastside
24 of the City of Vancouver.

25 You see that?

1 A Yes.

2 Q We've had in this hearing, and I'm sure you've
3 been here when that area has been described, the
4 Downtown Eastside of Vancouver?

5 A Yes.

6 Q The reference to the plural has been a matter I
7 thought about when I read your report. The start
8 date, January 23, 1997, is perhaps just before
9 the work that was done by Constable Dave Dickson;
10 right?

11 A Yes.

12 Q Relatively just before. The end date is the date
13 the warrant was issued to Constable Nathan Wells
14 of the RCMP in Coquitlam for firearms, hand guns
15 search?

16 A Firearms search, yes.

17 Q What happened then was that was followed very
18 shortly with a wider search and a warrant issued
19 on February 6?

20 A Yes.

21 Q Some part of that warrant has been sealed?

22 A That's my understanding.

23 Q So there's the start date and there's the end
24 date. When one looks at that, it turns out that
25 there are perhaps two and only two investigations

1 into the missing women from the Downtown Eastside
2 of Vancouver within those terms of reference
3 within that beginning date and end date. The
4 first one I'm going to call a general
5 investigation which I think coincides with the
6 language you've used in your report. A general
7 investigation which really got under way in a
8 serious way in July 1998 when Constable Shenher
9 was assigned to the Missing Women Unit with a
10 focus, if I can put it that way, on finding out
11 what happened to the women from the Downtown
12 Eastside?

13 A Mr. Commissioner, I agree with all you say but I
14 believe there were really three distinct
15 investigations during that time.

16 Q All right. Well, the general one -- sorry, there
17 were three investigations, yes. There was one
18 done by Mr. Dickson but even that can be
19 described as a general investigation?

20 A Actually, that's not what I was thinking of. I
21 grouped it as an investigation by the Vancouver
22 Police Department and there are various aspects
23 to it, and an investigation by the Coquitlam
24 RCMP, and in the middle of that because it
25 started in 2001, an investigation by Project

1 Evenhanded.

2 Q I understand that, but the general investigation
3 into the missing women from the Downtown Eastside
4 was a Vancouver investigation?

5 A Yes, I understand that. When you put to me that
6 the terms of reference cover two investigations,
7 it was my understanding that investigations
8 plural refers to the Vancouver Police Department
9 investigation, the Coquitlam RCMP investigation
10 and also the Evenhanded investigation that was
11 distinct from that. That was my understanding or
12 interpretation.

13 Q We're at cross-purposes. Let me be very
14 specific. There were two investigations. One
15 was a general investigation into the missing
16 women from the Downtown Eastside and the other
17 was a specific suspect investigation for Pickton
18 which started with the tip that came in to
19 Constable Shenher on the 27th of July 1998 and
20 that investigation carried on and waxed and waned
21 over the course of four years and ended up with
22 the search warrant of Constable Nathan Wells;
23 isn't that fair?

24 A I think it's fair. That's one way to
25 characterize it. It's not the way that I thought

1 of it.

2 Q Both police forces were involved from time to
3 time into that specific Pickton suspect
4 investigation?

5 A Yes.

6 Q Thank you. Now, in your report, however, you
7 have addressed in what I'm going to call the fact
8 finding report, when you get past your key
9 findings and into the beginning part of your
10 report, I think it starts on page 59. It will be
11 helpful if you turn to the report please and keep
12 it open for just a little bit. Do you have it
13 open at page 59?

14 A I do.

15 Q And the end part of what I'm going to say is the
16 what happened part of your report is page 184?

17 A The end of what happened, yes.

18 Q That section of your report covers both what I
19 have described as, maybe inadequately, the
20 general investigation into the missing women and
21 the specific Pickton suspect investigation; is
22 that fair?

23 A I tried to cover those things but I did not go
24 into any detail at all into the portion that was
25 conducted by Project Evenhanded.

1 Q I haven't asked you how much detail. But in
2 terms of what happened which this commission is
3 interested in fundamentally because of the terms
4 of reference, what happened in the investigations
5 and the conduct of them, both the general
6 investigation and the Pickton suspect
7 investigation are addressed in this part of your
8 report?

9 A Yes.

10 Q The second part of your report, if I can put it
11 this way -- well, it's called the Analysis of the
12 Missing Women Investigation. It's fair to say
13 it's why it happened, isn't it? Let me back up.
14 Don't answer that question. Every investigation
15 -- I suspect every inquiry has three aspects, and
16 certainly this one does. First, what happened?
17 Second, why did it happen? And third, what are
18 we going to do about it? What are the
19 recommendations? Right?

20 A Yes.

21 Q We can put the latter to one side. That's the
22 problem for Mr. Commissioner with our assistance
23 at the end of the day. At this stage of the
24 inquiry we're focusing on what happened and why
25 it happened; is that fair?

1 A Yes.

2 Q Let me stay with the what happened for a moment.
3 In your report you go back and forth between the
4 two investigations, as I've defined them, the
5 general one into the missing women and the
6 specific one as to Pickton as a suspect, keeping
7 in mind your evidence that that involved two
8 police forces at least, but your report sort of
9 goes back and forth in a historical topical way;
10 is that a fair description?

11 A Well, what I tried to do was to create a
12 chronology of all the important facts. So when
13 you say I went back and forth I agree, but it was
14 in the context of describing to the best of my
15 ability what occurred chronologically.

16 Q I like that term. That's fine, chronologically.
17 Let's just identify it please with respect to
18 some specific dates. Turn in your report please
19 to page -- page 61 will do. The subject matter
20 is July 1997, the overall subject matter is July
21 '97 to April 1998, and the first topic is:

22 More women go missing from the Downtown
23 Eastside.

24 That whole page is on the unfortunate information
25 coming in about women going missing from the

1 Downtown Eastside and that carries over on to 62
2 and we get into July 1998 when in the second
3 column towards the bottom the investigation of
4 the missing women begins. Do you see that?

5 A Yes.

6 Q All of those two pages are on what one might say
7 is the general investigation; right?

8 A Yes.

9 Q The next page 63, the same thing, it's part of
10 that general investigation?

11 A Yes.

12 Q Let's skip over the next page, it is the chart of
13 the line of command in the Vancouver Police
14 Department?

15 A Correct.

16 Q And then on the next page, the description of
17 that chart and the general investigation carries
18 on except when we get to the first Pickton tip is
19 received. Do you see that?

20 A Yes.

21 Q Of course that's the start, to the extent that
22 the Vancouver Police Department was involved in
23 the Pickton suspect investigation, it starts with
24 that source tip from Hiscox which Constable
25 Shenher receives; right?

1 A Yes.

2 Q Thank you. Then over the page, we no sooner get
3 that little bit of information about the tip than
4 on page 66 it jumps back to in the first little
5 paragraph to the missing women investigation --
6 well, there's another woman unfortunately
7 reported missing; right?

8 A Yes.

9 Q By the way, while I'm at this, every time I look
10 at this report of yours and I see the redacted
11 name, the blanked-out name of the person, which
12 is proper, what is substituted for it is STW and
13 a number; right?

14 A Yes.

15 Q That means "sex trade worker"?

16 A I am assuming that, but the VPD didn't do these
17 redactions.

18 Q They're demonizing, stigmatizing these missing
19 people with STW.

20 THE COMMISSIONER: I think counsel may be able to help us out.

21 MS. TOBIAS: Mr. Commissioner, Cheryl Tobias for the
22 Government of Canada. I can tell you and tell my
23 friends that the RCMP did the redactions and it
24 was done in with consultation with counsel and
25 commission counsel, and far from being an effort

1 to stigmatize sex trade workers or anyone else,
2 the numbers with the designations are intended
3 to, first of all, use the term that has been
4 commonly used, and secondly, the reason for the
5 number is someone looking at it can tell when the
6 same person is referred to from time to time
7 without revealing that person's identity.

8 MR. ROBERTS: I understand that. The number does that, with
9 all great respect to counsel. In the RCMP report
10 the missing people are called VIC, victim. They
11 don't use STW. Anyway, I'll get off that
12 subject. Let me move on.

13 Q On page 66 we then have the heading, the second
14 Pickton tip is received, that's the one on August
15 6, and there's a very short little paragraph on
16 that. That's the Pickton suspect investigation?

17 A Yes.

18 Q Then it goes back into the general investigation
19 in the next column and the rest of that column;
20 right?

21 A Yes, the chronology continues.

22 Q Then it goes back to this Pickton suspect
23 investigation in the column over, Detective
24 Constable Shenher meets with Corporal Connor and
25 there's a date. That's the Pickton suspect

1 investigation?

2 A Yes.

3 Q Now, there is, therefore, and you correct me if
4 I'm wrong but I don't think I'm wrong, there is
5 no systematic exploration of the Pickton suspect
6 investigation in your what happened section of
7 your report, is there?

8 A Well, Mr. Commissioner, the first part of my
9 report is a chronology so I did my best to
10 describe every significant event in the missing
11 women investigation generally and obviously
12 because as it turned out Pickton was the killer,
13 to describe those events related to him
14 specifically. So it is a chronology. In the
15 analysis portion of my report I discuss the
16 investigation of Pickton specifically.

17 Q Let me make my question a little more
18 understandable and more pointed. Once the
19 Pickton tip came in and when we get to the end of
20 the day, four years later and Pickton is
21 determined to be the murderer of the women from
22 the Downtown Eastside, then for purposes of this
23 inquiry the specific investigation virtually
24 overwhelms the general investigation, does it
25 not?

1 A Well, I think that my purpose, one of my purposes
2 in writing this report was to describe the
3 missing women investigation overall, because
4 although Pickton turned out to be the murderer
5 that wasn't necessarily clear at the time, and as
6 it happens, as I've described, even if the VPD's
7 investigation was focused on catching a killer at
8 the time that I say that it should have been if
9 it was properly resourced and led from that time,
10 the only way that the killer was going to be
11 caught is if there was a better investigation
12 into the Pickton information in Coquitlam, but
13 the purpose of covering all that information in
14 my report is that that wasn't known at the time
15 and the VPD had a duty to conduct a competent
16 investigation of the missing women overall. It
17 might not have been Pickton during that time,
18 that was one suspect.

19 Q With respect, I don't think you've answered my
20 question. Please listen to the question. Once
21 it's determined that Pickton was the murderer of
22 these women and it's known that there was a tip
23 with respect to him on July 27, 1998 and it is
24 known that he was charged with attempted murder
25 once a search was made by Constable Shenher for

1 that matter, he was charged with attempted murder
2 of a woman from the Downtown Eastside on an event
3 on March 23, 1997 and he is the prime suspect on
4 everybody's agenda for the missing and murdered
5 women according to all the evidence we've heard
6 and will see in the documents, the Pickton
7 suspect investigation for this inquiry overwhelms
8 your general investigation, so much so that the
9 public of this province want to know why did it
10 take you so long? Isn't that the question on
11 everybody's mind?

12 A What I would say again --

13 MR. HERN: The phrasing of that question is problematic
14 because the question seems to be, "What is on
15 everybody's mind," and I don't think that's a
16 fair question for the witness.

17 THE COMMISSIONER: That's not really crucial to the question.
18 The real question is, why did it take you so
19 long? That's the question. Are you able to
20 answer that?

21 A That's what I tried to cover in my report, that I
22 hope was useful to the inquiry, to describe all
23 the information around that and not with the
24 benefit of hindsight only focus on that
25 information to understand why Pickton wasn't

1 caught earlier, I think that it's helpful to the
2 inquiry to understand all that was going on
3 around it. Mr. Roberts has characterized the
4 information pointing to Pickton and he was always
5 the prime suspect, and I think that that
6 mischaracterizes my evidence because I've
7 described that yes, he was certainly named as a
8 suspect early on and the information became more
9 and more compelling, but that doesn't mean that
10 there wasn't all kinds of other investigations
11 going on. The investigators had a duty not to
12 get tunnel vision and focus on one suspect to the
13 exclusion of all the other suspects or all other
14 information, so he was one suspect. And when the
15 information became more and more compelling,
16 which was in 1999, then there was very much a
17 focused investigation from there, but I think I
18 would have been doing a disservice not to
19 describe the totality of the investigation into
20 the missing women and only focus on the
21 investigation into Pickton.

22 MR. ROBERTS:

23 Q Mr. LePard, whether or not in your view the
24 Pickton suspect investigation overwhelmed the
25 other, the whole focus of my cross-examination is

1 going on the Pickton suspect investigation. Do
2 you understand? In your report on what happened
3 on the Pickton suspect investigation -- before I
4 finish that thought, let me ask you this: I want
5 to go to the subject of police training. In
6 order to carry out a proper police investigation
7 into a criminal matter, police officers are very
8 highly trained people these days; isn't that
9 right?

10 A Yes, I think that they're highly trained.

11 Q It's a profession and there's ongoing education,
12 there's education to become a constable and
13 ongoing investigation for every attainment of
14 rank?

15 A Yes.

16 Q That education requires a constable to learn a
17 fair amount about the substance, substantive
18 criminal law; isn't that right?

19 A Yes.

20 Q He has to know what the crimes are in order to
21 embark onto an investigation into a particular
22 crime; correct?

23 A Yes.

24 Q He must also know what the procedures are for not
25 only investigating but -- as part of an

1 investigation, to assist in that investigation
2 such as all the warrants that might issue,
3 whether it's a tracking device or whether it's a
4 general search warrant under Section 487 of the
5 Criminal Code, whether it's a wiretap
6 investigation, whether it's an undercover
7 officer, whether it's what's called an agent --
8 and that means wearing a wire, does it?

9 A That's not what that means to me, no.

10 Q All right. Well, all of these procedures have to
11 be learned?

12 A Yes. You've described a lot and certain officers
13 working in certain areas would have to have that
14 information. Not all police officers would know
15 all of those things.

16 Q Here's one thing that all police officers need to
17 know: They need to know how to take notes, do
18 they not? They need to know that the notes they
19 take, whether it's in a log form or a journal, do
20 not belong to them, they belong to the force,
21 they belong to the public, subject to redacting
22 matters for purposes of ongoing investigations
23 and informant privilege and so on, but there's a
24 public duty in taking notes?

25 A Yes.

1 Q And they have to know that those notes may be
2 used for refreshment of memory and in some cases
3 as exceptions to the hearsay rule, such as the
4 business records exception?

5 A Yes.

6 Q You know that to be so, that if something should
7 happen to an officer his notes may be admissible
8 under the common law business records exception;
9 you know that?

10 A Yes, I understand that.

11 Q And so they must keep good notes and they have to
12 make them available for a superior to review at
13 some time?

14 A They might, yes.

15 Q In Constable Shenher's position she would likely
16 to have to make her notes available for her
17 superior, who I understood was Sergeant Field?

18 A She could have, yes.

19 Q That's the normal course, isn't it? Constables
20 on the front line of activity in an investigation
21 normally are directed and strategized with by a
22 superior officer?

23 A Well, front line police officers are supervised
24 by a superior officer, but to the first part of
25 your question that they would be producing their

1 notes to their supervisor to look at, that would
2 be unusual actually.

3 Q Aren't supervisors in the Vancouver Police
4 Department supposed to have the notes of the
5 constables, detective constables, available for
6 their review?

7 A Yes. They certainly would need to have them
8 available should they choose to review them, but
9 a supervisor is far more likely to be read a
10 report that has been submitted by one of their
11 officers rather than checking their notes in the
12 notebook.

13 Q One more aspect of policing. Police officers
14 also have to learn how to work with a source, do
15 they not?

16 A They don't have to. Some --

17 Q Let me rephrase that. I don't want you to make a
18 speech if I can avoid it. Police officers when
19 they do an investigation, when they get a tip,
20 that person is known as a source; right?

21 A Source or informant, yes.

22 Q They're the same thing, aren't they?

23 A Yes. You asked me what they're referred to and
24 I'm telling you they're referred to as a source
25 or an informant.

1 Q That's a particularly delicate matter sometimes
2 because a source is also known as an informant
3 who is entitled to informant privilege, one of
4 the oldest principles known to the law; correct?

5 A Yes.

6 Q The reason for that privilege is to protect the
7 source from any danger that the revelation of his
8 name or details about him might bring him into
9 danger from the person being spoken about, the
10 culprit?

11 A Yes.

12 Q And there's been a fair amount of law on that,
13 including a not so old decision called *Leipert*
14 from the Supreme Court of Canada that I assume
15 you're familiar with?

16 A I don't believe I've read that decision but I
17 don't disagree with what you're saying.

18 Q And the privilege belongs to the source, not the
19 police constable?

20 A Yes.

21 Q And it's the officer's duty to protect the
22 source?

23 A Yes.

24 Q Those are things that have to be learned before a
25 constable can really properly embark upon an

1 investigation using source information?

2 A Yes. It is important to learn about how to
3 properly handle a source if you're going to
4 handle one.

5 Q Well, some of the questions which I believe this
6 commission wants to know can be identified here
7 by going to your report again. Here I'm going to
8 pick it up at page -- where Constable Shenher got
9 the tip, that's page 65 of your report. I'm
10 going to just identify what is written in your
11 report and then I have a couple of questions for
12 you.

13 On July 27, 1998 Constable Shenher was
14 assigned to Missing Women and Crime Stoppers --
15 sorry -- Missing Women Investigation and Crime
16 Stoppers received a tip from a male caller named
17 Willie Hiscox, later identified. It goes to what
18 that description is. I'll shorten this up. That
19 tip eventually came to Officer Detective
20 Constable Shenher; right?

21 A Yes.

22 Q Stop there. Your report doesn't tell us how it
23 got to her, does it?

24 A Well, I think it's clear that --

25 Q I don't want you to think. Does your report tell

1 us how she got the tip, who gave it to her?

2 A She received the tip via Crime Stoppers which is
3 what is described in my report. If you're asking
4 me who handed it to her --

5 Q Isn't the normal course for a tip like this in a
6 serious matter to come to a supervisor who then
7 decides on the appropriate constable to receive
8 that information to work with?

9 A No.

10 Q All right. I'm going to later argue before this
11 commission that it is, but you say no. All
12 right. You don't tell us who she was supposed to
13 interact with in the Vancouver Police Department
14 in using this tip, do you?

15 A I don't describe who she was supposed to interact
16 with. She was the Detective Constable assigned
17 to investigate the missing women and a tip came
18 in about a suspect who might be responsible for
19 the missing women, so the tip logically went to
20 her.

21 Q Here's a series of questions I'm going to pose.
22 The questions I want to know for purposes of this
23 commission is: How did it come to her? We're
24 told she's an inexperienced constable. A tip
25 which involves a suspected murderer, many

1 murders, is where the tip seems to be going and
2 it comes to Constable Shenher. Would that be the
3 normal course? That's another question. Who was
4 she supposed to interact with with respect to
5 this tip? Who was she supposed to strategize
6 with with respect to this tip? There's nothing
7 in your report on those kinds of questions, is
8 there?

9 A Do you just want me to answer the last question?

10 Q Yes. There's nothing in your report on those
11 kinds of issues?

12 A The answer to my question is based on --

13 Q It's my question.

14 A It's a bunch of questions I don't agree with the
15 propositions you've put to me, so it makes it
16 difficult to answer properly "yes" or "no".

17 THE COMMISSIONER: If you don't agree with the suggestions
18 that are put to you by Mr. Roberts just tell him
19 you don't agree with him.

20 MR. ROBERTS: That's fine with me.

21 A I don't agree with your lead-up questions because
22 they imply certain things that I do not believe
23 are correct and you've taken information
24 completely out of context.

25 Q How about this one. In your report, go over to

1 page 66.

2 THE COMMISSIONER: 56 or 66?

3 MR. ROBERTS: 66.

4 Q The next item is there's a second tip coming in
5 on August 6th. It's the one that names Willie
6 Pickton. A question, a series of questions.
7 What happened to the first tip? Did Constable
8 Shenher do anything with the first tip? Did she
9 lose the first tip? Another question that we
10 want to know, at the same time the July 27th tip
11 came in to Crime Stoppers, we understand that a
12 Wayne Leng received information from the same
13 tipster on his telephone. Another question, did
14 Constable Shenher get that the same day or did
15 she not get that until some days later? Another
16 question which flows from the information on your
17 page here, page 66, the next entry after August
18 6th is August 18th when it's noted in your report
19 that Constable Shenher then met with Corporal
20 Connor. More questions, and then I'm going to
21 ask you something -- I haven't put the question
22 to the witness yet so I'd like to put what these
23 various questions are then I want to put an
24 overall question to the witness. Is that
25 acceptable, Mr. Hern?

1 MR. HERN: There usually is a rule about compound questions
2 being a problem. We're at number six. I'll just
3 wait --

4 MR. ROBERTS: This is a prelude. My point is going to be --

5 THE COMMISSIONER: I don't think he's expecting the officer to
6 answer all those questions. I agree, there are a
7 number of questions but he's setting the
8 background for it.

9 MR. ROBERTS:

10 Q From your report it looks like between August 6th
11 and August 18th you have nothing as to the
12 Pickton investigation that was done by Constable
13 Shenher, do you?

14 A I agree with you there.

15 Q Let's take a moment please and go to the Evans
16 report. I wonder if you could put that before
17 the witness, Mr. Registrar. Page 54.

18 A Sorry?

19 Q 854. I'm sorry, I beg your pardon. Do you have
20 the page?

21 A Yes.

22 Q Let's go to the entry for August 6th. The entry
23 for the first tip by Deputy Chief Evans is on
24 page 53 and she describes the tip coming in and
25 the reference to the Wayne Leng tip is in the

1 bottom of that page, by the way, and it went to
2 Detective Howlett in the Missing Women Unit.
3 Then over to page 54, for August 6th we see this:

4 At 11:04 Crime Stoppers received a second
5 tip which was believed to be from the same
6 tipster.

7 I won't read more. The next paragraph says:

8 Detective Constable Shenher noted that the
9 Crime Stoppers tip from July was lost in the
10 overlap between Detective Howlett and
11 herself. As a result she received both tips
12 on the same day.

13 I'll stop there. You don't tell us that in your
14 report, that the tip was lost for six days --
15 more than six days -- nine days. It's not in
16 your report?

17 A Yes, I didn't say that. I put in what I thought
18 were the significant events. I'm not sure if I
19 even knew that.

20 Q I didn't ask you if you thought they were
21 significant. I just want your confirmation
22 please that you didn't put it in your report.

23 A I will confirm that. I was --

24 Q Did you know about it?

25 A I don't recall if I knew. I was about to say

1 that I understood as a witness, having given
2 evidence hundreds of times, that it was
3 appropriate for me in giving my answers to try to
4 provide a full answer and provide context around
5 an answer and it's not my duty to simply say
6 "yes" or "no" to everything you ask me.

7 Q But I'm trying to ask my questions so that you
8 can confine your answers. I have a lot of work
9 to do today. The point of my question is, the
10 tip that was received on the 27th was lost for a
11 period of time and I would have liked to have
12 seen it in your report but it's not there. Let's
13 read the next paragraph. At 119:

14 Constable Shenher conducted a person's CMI
15 query on Willie Pickton with an age of 40
16 years.

17 That was a useful thing for her to do, was it
18 not?

19 A Yes.

20 Q But that also is not in your report?

21 A That's true.

22 Q The next -- I'll skip the next, it refers to the
23 CPIC locating these queries. Go over the page
24 please to page 55. Still on the same day:

25 At 2:30 p.m. on August 6th Detective

1 Constable Shenher telephoned Coquitlam RCMP
2 and left a message for Corporal Connor that
3 Detective Constable Shenher wanted to speak
4 to him about the recent Crime Stoppers tip
5 regarding Pickton.

6 Stop there. That was also a very useful thing
7 for Constable Shenher to do, was it not?

8 A Yes.

9 Q That's also not in your report?

10 A I'd have to check but I'm not disagreeing with
11 you.

12 Q I just showed you. Your report jumps from August
13 6th to August 18th, right?

14 A Yes.

15 Q I should say, August 6th -- it jumps from August
16 6th to August 18th. Next, in the report of --
17 the Evans' report. Page 55, August 7, '98, it
18 says:

19 At 3:00 p.m. Detective Constable Shenher
20 spoke with Corporal Connor who provided
21 him with information about Robert Pickton.
22 Corporal Connor advised of the Pickton
23 family,

24 And the rest it reads about advice he received,
25 and Corporal Connor confirmed the information she

1 was checking on about the March 1997 stabbing
2 incident; right?

3 A Yes.

4 Q I want to stop there. That whole entry for
5 August 7th is not in your report?

6 A That's true.

7 Q These are all good things that Constable Shenher
8 was doing? You're nodding, right?

9 A Yes.

10 Q And they also would help identify in a factual
11 way what it is that you meant when you said --
12 and if you said it once you said it ten times in
13 this hearing report so far -- that Constable
14 Shenher worked very hard, extremely hard?

15 A Yes. So I made choices about what information I
16 put in. I think also I conducted three
17 interviews of Detective Constable Shenher and
18 there's considerably more information in support
19 of the chronology in her statements, for example,
20 about what she was doing. So the information is
21 there and is provided to the inquiry.

22 Q But in terms of wanting to know what she did on a
23 day-to-day basis in the Pickton suspect
24 investigation to the extent she was working with
25 source Hiscox, your report is not reliable

1 because you have stuff missing from it; isn't
2 that correct?

3 A I don't think that my report is not reliable. I
4 believe Deputy Chief Evans focused in more detail
5 on what was going on with the investigation into
6 Pickton and the specific items you have cited,
7 whereas I was trying to provide a chronology of
8 the entire Missing Women Investigation and at
9 that point in the investigation that was some
10 interesting, unusual information that had come in
11 about one suspect. But that's why I said it's
12 important to consider the context, that we get an
13 incredible amount of information, for example,
14 through Crime Stoppers about everything that you
15 can imagine, so it's considered in that context.
16 At that point it was interesting information.
17 I'm happy that Deputy Chief Evans put even more
18 detail because obviously that's an issue that is
19 of more interest now to the inquiry. I was doing
20 the best I could, and never thought I would be
21 perfect, at providing an accurate chronology and
22 making decisions about how detailed I would be in
23 the information. I certainly didn't have an
24 interest in not including useful information,
25 particularly when I was trying to demonstrate

1 that Detective Constable Shenher was working
2 hard, was doing the right things in this
3 investigation.

4 Q Was most of her hard work actually though in the
5 general investigation?

6 A Yes, I would agree with that because she was
7 providing the Pickton information to Coquitlam
8 RCMP Corporal Connor and he was focusing --

9 Q I'm going to stop you right there. You point to
10 anywhere in your report for the months of July,
11 August, September and October where your report
12 says at that time she's assisting Corporal
13 Connor.

14 A Well, I would have to check over and give you the
15 page numbers, but I think the fact that she --

16 Q No, no. I really want to know. If you can't do
17 it now, I'm going to be a little while today, so
18 would you agree to look your report so you can
19 advise Mr. Commissioner where it is in your
20 report you say you have recorded that Constable
21 Shenher was assisting Corporal Connor during that
22 period of time on the Pickton suspect
23 investigation?

24 A Yes, I'd be happy to do that.

25 Q I've read the interviews which you have

1 participated in at the offices of Farris & Co. of
2 the Vancouver Police Department staff members;
3 right? You did participate in those?

4 A Yes.

5 Q I thought I heard you say the other day that you
6 asked questions?

7 A Yes.

8 Q You asked questions, I assume, for the purpose of
9 making sure you got all the information out?

10 A Yes.

11 Q I've got them. I was looking for my brief of
12 interviews. I don't really think you need to
13 take these to confirm what I'm going to ask you.
14 I've read every one of these. It's a book which
15 has been offered to us, Interviews Volume 3, and
16 I can't find in any of these statements where you
17 asked one question, there's no questions set out?

18 A Yes. Mr. Commissioner, as I gave evidence about
19 the way that I conducted my interviews, which is
20 the way I've conducted hundreds of interviews of
21 a certain type of witness, is that I had
22 questions prepared, areas that I wanted to cover,
23 I asked my questions, the witness provided me
24 their information, I recorded their information.
25 My goal was to get an accurate description of

1 what their evidence was, not necessarily as in a
2 taped transcript to record every one of my clever
3 questions. So at the end of that interview
4 there's a statement that the witness can adopt as
5 accurately reflecting their story. I've
6 conducted hundreds of interviews like that in
7 criminal cases, many cases.

8 Q You can confirm that for us, that in all of these
9 interviews, the transcripts we have recorded none
10 of your questions?

11 A That's correct.

12 Q I want to -- on this subject of the value of your
13 report I want to turn to the interview of Geramy
14 Field, Sergeant Field. I don't know, is there a
15 binder that should be put before the witness? Do
16 you have that available for you?

17 A I'm not sure if it's one of these binders or not.

18 Q I'm still going to read it, it's a brief passage,
19 and then ask you a question. I'm looking at the
20 Geramy Field interview at Farris & Co., November
21 15, 2002.

22 Lori worked on the missing women issue
23 specifically. My main job was homicide
24 about 90 to 95 percent of my working day was
25 on homicide and Lori reported to me. Lori

1 was mostly self-directed.

2 Lori, of course, is Constable Shenher?

3 A Yes.

4 Q Lori was mostly self directed. If she had a
5 particular issue she would come to me or Al
6 Howlett who was a senior investigator.

7 One more passage.

8 In the summer of 1998 Lori told me a couple
9 of interesting things, info she received,
10 and I told her go for it, to work it with
11 them .

12 One more passage.

13 I remember Lori telling me about a really
14 good tip and her source in '98. I told her
15 to keep really good notes about her dealings
16 with them but then I left for CLEU.

17 Those passages basically are the sum and
18 substance of the supervisory review of the
19 investigation by Constable Shenher; isn't that
20 correct?

21 A I think that describes the level of supervision
22 that was going on, yes.

23 Q She says her "source". The source Hiscox was
24 Constable Shenher's source?

25 A Originally, yes.

1 Q That's a good point for me to do this --
2 originally. So is it your evidence, Mr. LePard,
3 that the Pickton investigation was the Vancouver
4 Police Department's investigation for an early
5 period of time in 1998 and at some point in 1998
6 there was a transition to the RCMP; is that your
7 evidence?

8 A Yes. That the information -- Detective Constable
9 Shenher began to handle Hiscox when she
10 determined the information was about a murder
11 alleged to have occurred on the Pickton property
12 in Port Coquitlam. Then she brought in, spoke to
13 Corporal Connor and then he took over leadership
14 of that investigation because it was about a
15 crime alleged to have occurred in Port Coquitlam.

16 Q When did he take it over?

17 A Well, I think that as soon as she liaised with
18 him and he started recording in his notes about
19 things that he was doing, assigning and wanted to
20 meet with Hiscox himself and so he did that, and
21 then conducted other investigation out in Port
22 Coquitlam, he started a file in Port Coquitlam,
23 that's when he took over conduct of the
24 information about Pickton.

25 Q I'm going to summarize some events in one overall

1 question and I'm going to ask you if my summary
2 is correct before we get to that date you've just
3 described. When the tip came in it came to
4 Constable Shenher and at that point Hiscox was
5 her source; correct?

6 A Yes.

7 Q She began to work with that source by finding out
8 as much information about Pickton as she could?

9 A Yes.

10 Q By phoning Corporal Connor and then meeting with
11 him on August 18; right?

12 A Yes.

13 Q And at that time she received a file with respect
14 to the vicious stabbing of the victim on March
15 23, 1997 which led to the attempt murder charge
16 and the forcible confinement charge; is that
17 correct?

18 A I don't know if she received the file but I do
19 know she was made aware --

20 Q Can you take it from me she did, it's in Deputy
21 Chief Evans' report?

22 A Yes, I don't disagree with you.

23 Q Thank you. She read that file and shortly after
24 that she went and interviewed the victim of that
25 stabbing who had almost died?

1 A Yes.

2 Q In fact, her heart stopped on the operating table
3 and they had to revive her?

4 A That's my understanding.

5 Q While that was a near awful tragedy, the woman
6 fortunately survived and was able to give a very
7 detailed witness statement which would have been
8 in the file Constable Shenher received, assuming
9 she received the file. Let me stop there. As I
10 understand from the Evans' report, when Corporal
11 Connor came and met with her he delivered the
12 file to her which she read which would have
13 contained that witness statement. Isn't that
14 your understanding?

15 A It sounds right. I don't recall when I knew
16 those specific levels of details but she
17 certainly was informed about it.

18 Q Back to whose source Hiscox was, even at that
19 time the source was still hers, she had not
20 revealed anything about Hiscox's name or details
21 about him at that point to Corporal Connor, had
22 she?

23 A I don't know that.

24 Q You mean you didn't inquire deeply enough into
25 that before you wrote your report?

1 A What I'm saying is you put a proposition to me
2 and I would have to check my interviews and my
3 report to know exactly when she provided the
4 information, but my recollection is she provided
5 that information very early on because Hiscox
6 wanted to meet the source himself and debrief the
7 source himself.

8 Q Sorry, who wanted to --

9 A Sorry, Corporal Connor.

10 Q She interviewed Hiscox on her own first on
11 September 18th; right?

12 A Yes, that sounds right.

13 Q He was still her source then, correct?

14 A Yes.

15 Q She went out to the Surrey Memorial Hospital to
16 interview him, having spoken to him first on the
17 phone on September 2nd, and he had missed a few
18 appointments she had tried to schedule because
19 like lots of sources he had his own problems?

20 A Yes.

21 Q So she meets him and interviews him on the 18th
22 of September and even in that interview her log
23 says she found him credible; correct?

24 A Yes, she did find him credible.

25 Q Paranthetically you yourself have said his

1 information was internally and externally
2 consistent always?

3 A Yes.

4 Q Now, after that meeting with Hiscox, Constable
5 Shenher then had a phone conversation with
6 Corporal Connor, that's factual; right?

7 A Yes.

8 Q In which she discussed the information that she
9 had received from Mr. Hiscox; isn't that correct?

10 A Yes.

11 Q And in the information she revealed to Corporal
12 Connor, she didn't reveal Hiscox's name but she
13 revealed a detail which it turned out Corporal
14 Connor knew about and that was the name Lee?

15 A Yes.

16 Q The name Lee turns out later on to be a person
17 named Lisa Yelds?

18 A Yes.

19 Q It turns out Hiscox was getting his information
20 from Lee about purses, women's identification,
21 jewellery, multiple of these -- at one point the
22 information says 10 -- but anyway, those things,
23 and clothing, women's bloody clothing in a bag.
24 That's the information that Hiscox was passing on
25 and apparently it came from this person named

1 Lee?

2 A Yes.

3 Q Lee happened to be a name in a notebook that
4 Corporal Connor had from the 1997 March 23
5 stabbing incident, it was Pickton's address book?

6 A Yes.

7 Q In that notebook/address book was a name Lee;
8 correct?

9 A Yes, that's my understanding.

10 Q When Constable Shenher made that call she had no
11 idea that that name Lee would be in the book but
12 Corporal Connor confirmed it in that telephone
13 call. "Oh, yes, I've got this address book and
14 there's a name Lee there." That's in your
15 report?

16 A Yes.

17 Q A few days later -- more than a few days --
18 around October 13th, Constable Shenher gets a
19 phone call from the RCMP in Coquitlam wanting to
20 know if they -- if she knows about this person
21 named Lisa Yelds; right? That sounds about
22 right?

23 A It sounds about right.

24 Q They said to her, "We want to go see her. We're
25 going to go with you or without you," right?

1 A Yes, that's my understanding.

2 Q Now, at that point the source still belongs to
3 Constable Shenher?

4 A Yes.

5 Q And, therefore, to the extent that she's
6 investigating the Pickton investigation --
7 involved in the Pickton investigation she's the
8 one that is doing it with that source?

9 A Well, what I would say, Mr. Commissioner, is
10 she's handling the source and it wouldn't be
11 unusual for a police officer to have a source and
12 never relinquish control of that source. A
13 decision might be made that that police officer
14 is going to maintain control over that source
15 even for an investigation being conducted by
16 someone else or another agency. Because they
17 have a bond, the source might only trust that
18 police officer, might only want to work with that
19 police officer, for example. So in this case
20 Detective Constable Shenher did eventually turn
21 over the source to Corporal Connor and they
22 interviewed him together and so on, but it
23 wouldn't have been unusual in some circumstances
24 to say, "I will keep handling this source," in
25 the same way that Detective Chernoff and Lepine

1 maintained at Corporal Connor's request the
2 handling of the source Caldwell.

3 Q I don't believe I asked you all that but that's
4 fine to have that. I want to turn to your
5 report, page 76. My question simply was, at the
6 point of that telephone call the source was still
7 Constable Shenher's and I think you answered that
8 was so?

9 A Yes, I believe so.

10 Q Let's look at your report for the day October 13,
11 1998, it's the second column. It reads:

12 On October 13, 1998, Constable Shenher
13 tracked Hiscox down at the Maple Ridge
14 treatment centre. She advised him the
15 Coquitlam RCMP were aware of Yelds and
16 wanted to contact her but that she advised
17 them it wasn't a good idea. She noted that
18 the RCMP gave her the impression they would
19 talk to her with or without me and Hiscox
20 agreement. In other words, with or without
21 me and therefore without Hiscox's agreement.

22 That is how I'm going to read that.

23 She asked Hiscox if she could bring
24 Corporal Connor to meet with him and Hiscox
25 said he would trust Detective Constable

1 Shenher to do what was best. Detective
2 Constable Shenher advised Hiscox that having
3 Hiscox meet with RCMP would be better than
4 having the RCMP go directly to Yelds.

5 I'll stop there. That's what you have written?

6 A Yes.

7 Q I want to go to Constable Shenher's log. I've
8 misplaced it. Do you have her log?

9 A Yes.

10 Q This has the identification number at the top.
11 Would you go please to page 6, you'll see the
12 date 98 10 13?

13 A Yes.

14 Q I'm going to read the whole of this to you.

15 Shenher writes:

16 Tracks source down in Maple Ridge treatment
17 centre. Left message for him. He returned
18 my call within an hour. I told him
19 Coquitlam RCMP were asking if there was a
20 Lisa Yelds in my info. I had to say yes.
21 I'll stop there. That's very revealing phrase,
22 "I had to say yes." I'll stop there. I suggest
23 what that harkens to is that Constable Shenher
24 realized right then that she had revealed
25 information about Hiscox that could possibly get

1 back to Lisa Yelds and could put her -- Lisa
2 Yelds would then have a conflict as to who she
3 was going to prefer, her biker buddy Pickton or
4 her older foster care friend Hiscox?

5 A I'm not sure that I would characterize it in the
6 same way. I think that Constable Shenher's
7 concern rightly would be that she was revealing
8 information that would identify the informant
9 Hiscox before he had agreed that she could do
10 that.

11 Q Why can't you agree with what I said then? She
12 revealed information without the consent of
13 Hiscox?

14 A Yes, I am agreeing that that would have been her
15 concern.

16 Q And it so happens, if Lisa Yelds had only told
17 Hiscox and the police went to Lisa Yelds, she
18 would know that the only person who revealed this
19 was Hiscox and that could put him in grave
20 danger, and what she did therefore, however
21 inadvertent, was a violation of informer
22 privilege, was it not?

23 A I don't know if it was but I agree that that was
24 a concern.

25 Q All right. That's a concern, I'll take that.

1 Told him they want to contact her but wanted
2 to check with me first. I told them I
3 thought it wasn't a good idea, that I
4 wanted to speak to source first. RCMP gave
5 me the impression they would either talk to
6 her without or without me and source and so
7 had told them I would speak to source and
8 my supervisor and call them back. The
9 source is concerned. Doesn't want us to go
10 to Lisa Yelds.

11 Doesn't that underscore what I just put to you?

12 A Yes.

13 Q Doesn't want us to go to Lisa Yelds and
14 feels he has done enough giving this
15 information to us and doesn't want his name
16 any further involved.

17 That further underscores the concern I just put
18 to you?

19 A At this point, yes.

20 Q I asked him if it was open to me bringing
21 Mike Connor of Coquitlam RCMP out to meet
22 with him and he said he would trust
23 whatever I decided to do and what I thought
24 was best.

25 I'll stop there. A couple times I've seen that

1 about Hiscox. He was very ready to trust
2 Constable Shenher?

3 A Yes.

4 Q So while he didn't want to be involved, he also
5 trusted her, so he was sort of at war with
6 himself as to what to do because he wanted to
7 help?

8 A Yes.

9 Q Now, let's get the next part.

10 I told him I personally felt passing him
11 over to RCMP, passing him over to them was
12 better than them going straight to Lisa
13 Yelds and he agreed. He said he would
14 prefer to be out of this sooner than later.
15 left it that I would call him when we were
16 coming out to see him.

17 You didn't write it up that way, did you, sir?
18 You didn't use the phrase that she in her log
19 said she thought it best to "pass him over".
20 That's a legal concept in the sense that she's
21 going to make them responsible for his protection
22 as a source and that would recover from her
23 mistake?

24 A That wasn't my interpretation of what she was
25 thinking at all.

1 Q It was certainly mine because of an informer
2 privilege. She had violated informer privilege,
3 however innocently, and she had to recover from
4 it. The only way she could think of recovering
5 was to pass him over, I'll make the RCMP
6 responsible for you as their source and,
7 therefore, you will get protected by them?

8 A Mr. Commissioner, that characterization I don't
9 agree with at all. I think that it's clear from
10 the context that Detective Constable Shenher
11 because it was information about this alleged
12 murder in Coquitlam and that they were handling
13 it, that Corporal Connor should deal with Hiscox
14 directly and that is what eventually happened.
15 So I don't know if she would have even put her
16 mind to what you're describing.

17 Q Is this the point of the passing over in your
18 view and in the VPD's view of the Pickton
19 investigation to the RCMP?

20 A Sorry, is it --

21 Q Is this the point of the passing over of the
22 Pickton suspect investigation from the VPD to the
23 RCMP?

24 A I think that at the first time that she notified
25 Corporal Connor about information about a murder

1 alleged to have occurred in Coquitlam, Corporal
2 Connor took responsibility for that and started a
3 file. So I think the turning over the
4 investigation happened right then; the turning
5 over of the informant happened later.

6 Q This is the time of the turning over of the
7 informant; right?

8 A Yes.

9 Q In her mind?

10 A Yes.

11 Q In order to do that though she's obligated to
12 discuss with her source what has happened, is she
13 not?

14 A Yes.

15 Q Do you have any evidence you can put before us
16 that she did that?

17 A I don't know specifically what she discussed with
18 him but she certainly had ongoing discussions
19 with him about --

20 Q Mr. LePard, you know that after the meeting with
21 Corporal Connor and Hiscox and Shenher two days
22 later on October 15th, Constable Shenher had no
23 contact with Hiscox until December 11th and he
24 phoned her?

25 A I would want to check the chronology.

1 Q Let's do it right now.

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

3 THE REGISTRAR: This hearing will now recess for 15 minutes.

4 (PROCEEDINGS ADJOURNED AT 11:09 A.M.)

5 (PROCEEDINGS RESUMED AT 11:29 a.m.)

6 THE REGISTRAR: Order. This hearing is now resumed.

7 THE COMMISSIONER: Mr. Commissioner.

8 MR. ROBERTS: Mr. Commissioner, Darrell Roberts continuing for
9 First Nations interests.

10 Q I want to return briefly to the subject of the
11 passing over of the source, as in Constable
12 Shenher's notes to the RCMP. If you turn in your
13 report to page 80 of your report, Exhibit 1,
14 second column it reads, the headline:

15 Hiscox again makes contact with Detective
16 Shenher. On December 11, 1998 Hiscox called
17 Detective Constable Shenher and advised her
18 he was out of rehab, clean and sober. He
19 said he hadn't seen Yelds since before he
20 went into rehab but he still wanted to help
21 and would get back in touch if police
22 wanted him to. Detective Constable Shenher
23 asked Hiscox to keep in touch with her and
24 advised him that she would contact Corporal
25 Connor to determine where to go from there.

1 You followed while I read that?

2 A Yes.

3 Q There appears at least in your notes -- your
4 report, I should say, and Constable Shenher's
5 notes, after the meeting on October 15th she had
6 no further contact with Hiscox until this phone
7 call. Do you agree with that?

8 A Yes.

9 Q When he made the phone call he made it only to
10 Shenher, I've seen no evidence in Corporal
11 Connor's material that he had any contact with
12 him, and you have read Corporal Connor's
13 material, have you not?

14 A Yes.

15 Q That would be your conclusion, too, that he
16 didn't contact Corporal Connor?

17 A Yes.

18 Q It appears that after this date he had no contact
19 with Corporal Connor right through well into
20 1999; is that right?

21 A That Hiscox had no contact with Corporal Connor?

22 Q Corporal Connor.

23 A Yes, that sounds right.

24 Q Now, let's see if your memory is as good as mine
25 or mine is as good as yours -- it doesn't matter

1 which. It actually happened that ten months
2 after the meeting on the 15th of October that
3 Constable Connor attended with Shenher and her
4 source, Hiscox, ten months afterwards, Corporal
5 Connor went on his own like a lone cowboy to see
6 Lisa Yelds. Forget my "lone cowboy" reference;
7 he went on his own and saw Lisa Yelds?

8 A Yes, I know Corporal Connor visited Lisa Yelds.

9 Q He didn't let the source know he was doing that?

10 A Not to my knowledge.

11 Q And he ignored the source's advice that Lisa
12 Yelds wouldn't talk to the police?

13 A Well, he did go visit her.

14 Q But he ignored that advice. He got that advice
15 from two sources. He got it from Hiscox the
16 source and Corporal Connor also interviewed a
17 lady named Buff or somebody like that --
18 Hyacinth, a woman who worked in the RCMP
19 detachment in Coquitlam who confirmed everything
20 the source had said about Lisa Yelds. She said
21 she's a hard case and won't talk to the police.
22 You saw that in Corporal Connor's notes?

23 A Yes.

24 Q He ignored that advice, too, when he went to see
25 Lisa Yelds without doing anything to protect the

1 source; isn't that correct?

2 A Yes, regarding the source issue I agree.

3 Q So far as Hiscox himself was concerned, the only
4 continuing contact he ever had was with Constable
5 Shenher?

6 A Yes.

7 Q So if I ask these questions -- let me do that
8 again. The proposition is this: That despite
9 what Constable Shenher said in her log on the
10 13th about passing her source off to the RCMP, it
11 appears thereafter that the source continued to
12 regard Constable Shenher as the person he was
13 working with; isn't that true?

14 A Yes, I agree with that. She was the main contact
15 for Hiscox.

16 Q And the turn side of that is Corporal Connor by
17 his actions appears to have conducted himself
18 vis-a-vis that source as if he was nobody, not
19 somebody he had to work with; isn't that true?

20 A Well, I wouldn't want to characterize Corporal
21 Connor's actions in that way because you make him
22 sound like he didn't care. I think that if he
23 hadn't gone to see Lee Yelds we'd probably be
24 listening to criticism why he didn't follow up
25 that avenue of investigation, so I do understand

1 the concerns about the potential for identifying
2 the informant. I don't want to agree that
3 Corporal Connor was going rogue or not being
4 diligent in his investigation.

5 Q I didn't say Corporal Connor was or Constable
6 Shenher was being --

7 A Well, you said "cowboy".

8 Q You used diligence with respect to which person?

9 A Corporal Connor you described as a "cowboy".

10 Q What I mean, when somebody goes off alone like
11 that on their own without thinking about what
12 danger they're going to bring to the source,
13 what's wrong with my reference to being a
14 "cowboy"? That's why she was concerned about him
15 doing it in the first place, that's why she set
16 up the meeting on October 15th; isn't that true?

17 A That was one of the reasons but I just don't want
18 to agree that he didn't put any thought into this
19 issue because I don't know what thought this
20 experienced police officer put into that issue.

21 Q Let me go to one more before I move on to my next
22 overall subject as to the value of your report.
23 At the time of this meeting and soon after the
24 meeting -- I'll start again. The meeting I'm
25 referring to, sir, is the meeting between

1 Shenher, her source Hiscox and Corporal Connor on
2 the 15th.

3 A The 15th of --

4 Q October. I don't want to go into the substance
5 of that, that's for another context. The point
6 of my question is around about this time there
7 was what has been described as a turf war between
8 -- that may not be an apt description -- but a
9 contest of sorts between the two top inspectors,
10 Inspector Biddlecombe and Greer, about the
11 missing women working group or some designation
12 like that and you write up about that a fair
13 amount in your report; is that right?

14 A Yes.

15 Q That's about the same time as this meeting on
16 October 15, 1998; correct?

17 A My recollection is the meetings of the working
18 group were in September and the meeting that
19 you're talking about was in October.

20 Q All right. Shortly after the meeting on October
21 15, shortly by say half a month, there's some
22 events that take place that need to be explored.
23 Page 78 of your report, on the subject of who is
24 assisting who. The subject is November 1998 --
25 I'm going to forget that you've got almost a year

1 in there -- no, two months, not a year -- anyway:
2 Corporal Connor requests aerial surveillance of
3 the Pickton property. Do you see that?

4 A Yes.

5 Q Drop your eyes down to the next subheading: VPD
6 offers financial assistance to advance the
7 Pickton investigation. There's a footnote
8 reference, by the way, to this information and it
9 comes from Staff Sergeant Giles?

10 A Yes.

11 Q It reads:

12 On November 4, 1998 Corporal Connor recorded
13 in his notes that Detective Constable
14 Shenher called him to advise that he has
15 spoken to Staff Sergeant Brock Giles, then
16 the second in command or number two in
17 command of the Major Crime Section.

18 Stop there. Brock Giles would therefore be
19 number two to Inspector Biddlecombe?

20 A Yes.

21 Q About providing resources to the RCMP's
22 investigation of Pickton. She advised
23 Corporal Connor that the VPD was more than
24 willing --

25 Here's he is quoting her, right? Your note is

1 quoting what Shenher said to Corporal Connor?

2 A That's a quote from his notes.

3 Q That's a quote -- I'll start again. It's a quote
4 from his notes of what he was told by Shenher.
5 Okay.

6 The VPD was more than willing to provide
7 monies to advance the investigation.

8 The investigation there is the Pickton suspect
9 investigation, is it not?

10 A Yes.

11 Q In the areas of: 1. UCO.
12 That's undercover operation?

13 A Yes.

14 Q 2. Witness protection of sorts with respect
15 to their source.

16 I want to stop there for a moment. The only
17 source in existence at that time was Hiscox;
18 right?

19 A Yes.

20 Q Corporal Connor is writing these notes?

21 A Yes.

22 Q He uses the phrase "their source"?

23 A Yes. I think that we're in agreement that Lori
24 Shenher was the primary handler of the source.

25 Q You anticipated me. That's fine. "Their" if I

1 read his notes correctly, he's referring to the
2 VPD's source?

3 A Yes.

4 Q To Constable Shenher's source?

5 A Yes.

6 Q Do you have any idea of "protection of sorts"?

7 A Sorry, say that again.

8 Q The phrase "of sorts," S-O-R-T-S, does that mean
9 it would be less than full protection?

10 A I don't know what he was thinking when he wrote
11 those words.

12 Q I don't mean to have fun with you, sir, but it's
13 rather opaque, isn't it?

14 A I found in reading Corporal Connor's notes, which
15 were very thorough, he did use -- his style of
16 writing was a little bit unusual, so I'm not
17 surprised in seeing that phrase. It's quite
18 formal.

19 Q This phone call was made by Constable Shenher on
20 direction from Staff Sergeant Brock Giles, was it
21 not?

22 A I don't know if it was made on direction but it
23 was clear that she was passing on information
24 that she received from Staff Sergeant Giles.

25 Q You don't think she offered all this on her own;

1 it had to come from somebody higher up in the
2 VPD?

3 A I agree with you there. Your question was did
4 she make the phone call on his direction.

5 Q I'm reading between the lines. I'm suggesting to
6 you that Constable Shenher spoke to somebody in
7 command at the VPD about her meeting with
8 Corporal Connor on the 15th of October and what
9 flowed from that was a direction to now offer
10 assistance to the RCMP in the form we see here?

11 A Yes.

12 Q And, therefore, this is the so-called passing
13 over of investigation -- the conduct of
14 investigation into the Pickton suspect matter to
15 the RCMP?

16 A No, I completely disagree. If you look at the
17 record right back to Detective Constable
18 Shenher's first meeting with Corporal Connor and
19 then look at his notes and his file log that you
20 have access to, he immediately initiates an
21 investigation. He places Pickton on CPIC; he
22 sends information to Wade Blizzard of the
23 Provincial Unsolved Homicide Unit notifying that
24 unit about it; he arranges for surveillance. In
25 Deputy Chief Evans' report she identifies as soon

1 as he received the information from Hiscox that
2 he took ownership of the Pickton investigation
3 and initiated an investigation. So I think that
4 you need to read the information in the context
5 of all the information, particularly Corporal
6 Connor's notes when he initiated a file.

7 Q Well, I'm going to leave it -- I'm going to
8 disagree with you later in argument that the
9 notes speak loudly for themselves and they don't
10 support you. I want to go to another subject and
11 that is the writing of your memorandum, with
12 respect to the report that you were going to
13 write and there I would like you to turn in the
14 documents to volume 1, tab 3. It's background
15 documents, tab 3 in volume 1 of the documents.
16 Do you have the document, sir? It's your
17 memorandum to Chief Constable Graham.

18 A Yes.

19 Q This is a memorandum that identifies what you
20 propose to do in your review?

21 A At that time, yes.

22 Q Which became Exhibit 1 in this inquiry?

23 A Yes.

24 Q And in the second paragraph, you say:

25 The purpose of the review. It is my

1 opinion that the review should focus on
2 systemic factors rather than individual
3 failings.

4 Individual failings, another word for failings
5 would be making of mistakes; would that be fair?

6 A Yes.

7 Q I heard from Mr. Commissioner saying that one of
8 the things we need to know is what happened in
9 the conduct of the investigations and what
10 mistakes were made. That is part of our task, is
11 it not?

12 A Yes.

13 Q In the conduct of the Pickton investigation to
14 the extent that the RCMP -- I'll start again. To
15 the extent that the VPD, Vancouver Police
16 Department, were working on the Pickton
17 investigation, whether actively or in assistance
18 to the RCMP, as to what mistakes were made in
19 that assistance there's nothing in your report,
20 is there?

21 A I disagree completely. I think that the whole
22 report is about the failings --

23 Q The Pickton investigation on the street, what was
24 done by the officers, there's nothing in there
25 about what mistakes they made in conducting an

1 investigation?

2 A Well, Mr. Commissioner, I disagree. I think the
3 whole report describes the mistakes that were
4 made in the handling of the investigation.

5 Q Those are the mistakes you identify as systemic
6 factors, right?

7 A I did identify systemic factors but I also
8 identified individual factors where I thought
9 that it was important to do so.

10 Q Where you've pointed fingers at the RCMP. You
11 haven't pointed fingers at anybody in the VPD in
12 terms of their involvement, however slight you
13 think it was, in the investigation of Robert
14 Pickton, isn't that so?

15 A No. I think clearly my report -- most of my
16 report is focused on the failings of the VPD in
17 the investigation in its totality. Whether it
18 was specific to Pickton or it was other areas,
19 most of the report is about the VPD.

20 THE COMMISSIONER: In fairness, I understood his evidence to
21 criticize all the police chiefs that were there
22 except Jamie Graham.

23 MR. ROBERTS: I have that. In terms of inadequate resources
24 that sort of thing.

25 THE COMMISSIONER: Biddlecombe, Unger, so he has, in fairness,

1 criticized them.

2 MR. ROBERTS:

3 Q Then my question is perhaps unfair in that
4 regard. I suppose that criticism of too close an
5 adherence to the convention of no body, no
6 forensic evidence, no crime, and you make that
7 the subject of criticism in your analysis
8 section; right?

9 A I do that, but I criticize in many different
10 areas. The whole report is either explicit or
11 implicit criticism of a number of different
12 people that were involved in the investigation
13 and failed in a number of different ways.

14 Q Let me see if I can finish this off on a precise
15 note. In your evidence which was led by learned
16 commission counsel Mr. Vertlieb, you spoke to a
17 variety of matters about the hard work that
18 people did such as Constable Shenher, you spoke
19 about the different phases of the investigation
20 into Pickton, but when you turn to your report on
21 the issue of was Constable Shenher an appropriate
22 person to be investigating a serious murder
23 suspicion for a number of missing and suspected
24 murdered women from Downtown Vancouver Eastside,
25 did she have the experience to do that and to the

1 extent she did some investigation on that, up to
2 say the end of 1998, is it fair to say that you
3 do not offer any criticism or analysis of the
4 work she did in terms of whether it's done
5 competently or incompetently or whether she's
6 even up to the task; that's not in your report?

7 A I disagree. I say in my analysis section that as
8 a missing persons investigation that there was
9 adequate resources and that various people
10 including Detective Constable Shenher did an
11 excellent job. I specifically point out though
12 that if the premise of the investigation had been
13 to find a serial killer, this constable with
14 seven years' experience, which is not
15 insubstantial but she wasn't a homicide
16 investigator, then in that context that it was
17 inadequate and that she did not have the
18 experience necessary to be a lead investigator in
19 a murder investigation. So I think I say that
20 quite clearly in the analysis of my report.

21 Q Let's turn to the subject of investigative
22 jurisdiction please. I'd like you to turn in
23 your report to page 296. Do you have the page?

24 A Yes.

25 Q In that page you say in the second column -- I

1 need to find it now -- it's towards the bottom of
2 the second column where it says:

3 The RCMP legally had and accepted
4 jurisdictional responsibility for the
5 Pickton investigation.

6 Do you see that?

7 A Yes.

8 Q A couple lines lower I think you say, the last
9 line on that column and over the next page:

10 There was considerable investigation of the
11 Pickton information by the RCMP assisted by
12 the VPD until the investigation was derailed
13 in late 1999.

14 That's another passage on that subject?

15 A Yes.

16 Q Then over on page 299, you say -- if I can find
17 the passage again -- yes, it's the second column
18 half way down the page.

19 Because the crimes were alleged to have
20 occurred in Port Coquitlam the primary
21 responsibility for the investigation of the
22 Pickton information rested with the
23 Coquitlam RCMP. This understanding was
24 common to both VPD and the Coquitlam RCMP.

25 You followed while I read that?

1 A Yes.

2 Q The focus there of course is where a crime was
3 committed; isn't that right? That is to say,
4 where a crime takes place is said to provide a
5 police force with jurisdiction for its
6 investigation; is that right?

7 A Yes.

8 Q It's possible of course to have two separate
9 territorial jurisdictions investigating the same
10 crime, is it not?

11 A Yes. Joint force operations, for example,
12 absolutely.

13 Q My learned colleague Mr. Ward touched on this
14 yesterday, my learned friend -- we all are
15 friends of the bar even though he called me a
16 so-called independent counsel but we have hard
17 skins and I've been called worse than that. He
18 touched on the McMinn investigation which
19 involved you as a commanding officer?

20 A I was not the commanding officer but I was the
21 deputy chief in charge of the investigation
22 division so I did have some oversight
23 responsibility.

24 Q In the final day it refers to you in the command
25 office saying something to the effect, "Today we

1 find McMinn."

2 A I did provide a briefing to members that were
3 involved. I wasn't the team commander and I
4 don't want to take credit for that incredible
5 investigation.

6 Q The investigation involved more than one
7 jurisdiction?

8 A Yes. It was never unclear that the VPD was
9 leading that investigation because that's where
10 McMinn was kidnapped from.

11 Q I believe in answer to some questions from my
12 friend Mr. Vertlieb, you said on November 8th
13 that the Pickton investigation was never theirs,
14 not the VPD's in the first place. Do you
15 remember saying that?

16 A I don't remember those words.

17 Q I've wrote them down but let me move on. You
18 said in oral evidence that the source information
19 that led to murder in Pickton's barn; do you
20 remember saying that?

21 A Yes -- well, that is what I believe.

22 Q Let me turn to the source. It's the documents
23 brief again, I believe it's Phase 3 -- sorry,
24 Phase 2, the first tab. Do you have it?

25 A Yes.

1 Q The source we all know is Hiscox, I'm not going
2 to read the first part of it. I'm going over the
3 page to page 2 to the second full paragraph after
4 identifying what items can be found out there at
5 the farm he says:

6 He has been known to have made comments to
7 other people that he can easily dispose of
8 bodies by putting them through a grinder
9 which he uses to prepare food to feed his
10 hogs. Hiscox also said he had been
11 investigated for cutting the throat of a
12 prostitute.

13 And he goes on to talk about him being a sicko
14 and so on. But the key sentence is using a
15 grinder. Do you notice that?

16 A Yes.

17 Q The only information there is as to disposal of
18 bodies; correct?

19 A In that Crime Stoppers tip?

20 Q In that tip?

21 A Yes.

22 Q In 1998 that's the only thing that Hiscox said
23 about disposal of bodies; isn't that right?

24 A No. I think you're just looking at this brief
25 summary in a Crime Stoppers tip but you're not

1 looking at the entire debriefs that were
2 conducted of Hiscox.

3 Q My first proposition is, and I won't hang on it,
4 I'll move along, is that the only information
5 that came from Hiscox as to what happened to the
6 women in terms of out at Pickton's farm was that
7 he would dispose of their bodies; it didn't say
8 they were murdered there?

9 A I think the whole context of the information is
10 that sex workers frequently visited the Pickton
11 farm and that Pickton -- eventually information
12 became more specific -- had killed one of them in
13 the barn but the whole context of the information
14 was that he was killing some of the sex trade
15 workers that visited his property, not only that
16 he was disposing of bodies there. That was
17 certainly, again, if you look at the context of
18 the information, look at Corporal Connor's notes,
19 that's what he believed right from the first time
20 that he received the information, initiated an
21 investigation, put Pickton on CPIC, notified the
22 unsolved homicide unit, arranged for surveillance
23 and photographs, conducted various pieces of the
24 information, and that continued in his notes when
25 other information came forward and he tasked out

1 other duties. Deputy Chief Evans came to the
2 same conclusion that he took ownership of that
3 investigation right from the beginning.

4 Q That's not the question. That's a bootstrap
5 argument that he took ownership of it. No one
6 knew where the murders were committed at that
7 time. You can't use after-the-fact knowledge to
8 drive an investigation of suspected murders, can
9 you?

10 A What I'm saying is the whole context of the
11 information was that sex trade workers were
12 visiting the Pickton property and were being
13 killed there.

14 Q At the time that this information was coming in,
15 there were people in the Vancouver Police
16 Department who wondered whether or not people
17 were being murdered in Vancouver, women from the
18 Downtown Eastside, and having their bodies
19 disposed of outside Vancouver; isn't that true?

20 A I think that the investigators in Vancouver did
21 know what had happened to them but certainly
22 there was information provided, an analysis, for
23 example, like by Staff Sergeant Davidson is that
24 his profile was that this may be a killer who has
25 a vehicle and is able to transport a sex trade

1 worker out of the city and kill them. There was
2 no specific belief that a sex trade worker was
3 being killed in the city, there wasn't a
4 disbelief of that information, but you're taking
5 the information that was available out of its
6 context, I would respectfully suggest, the
7 context that everybody accepted at the time was
8 that Pickton was killing sex workers on his
9 property and had the capacity to dispose of their
10 bodies, not just the last part.

11 Q Mr. LePard, there was no acceptance in the
12 Vancouver Police Department at the time of the
13 start of the Pickton investigation that there was
14 a serial killer; isn't that correct? There was a
15 big controversy about whether there was a serial
16 killer or not and Inspector Biddlecombe was
17 against pursuing that proposition?

18 A Back in 1998?

19 Q '98. I'm not in '99 yet.

20 A Yes. I agree with you at the management level
21 that there was a disbelief that the reason for
22 the disappearances was a serial killer. However,
23 by this time in Detective Constable Shenher's
24 mind she's already writing memos as I've
25 testified saying, "I think foul play may be

1 involved here. I think we're going to find these
2 cases are linked," and now she's received
3 information about someone who may be responsible
4 for killing more than one or more sex trade
5 workers in Port Coquitlam and she is following up
6 on that information as she should with Corporal
7 Connor who initiated an investigation into that
8 information, so that's the context.

9 Q Mr. LePard, no police force can make a decision
10 whether or not to embark on an investigation for
11 the missing of its citizens on speculating that
12 they might have been killed outside their
13 jurisdiction; isn't that true?

14 A That's why I've given evidence that the VPD had a
15 duty to conduct a competent investigation because
16 Pickton might not have been the suspect. So they
17 had an overall responsibility to pursue
18 vigourously an investigation into the missing
19 women and the information about Pickton was one
20 aspect of that and properly was communicated to
21 the Coquitlam RCMP. But overall, yes, the VPD
22 had a duty to conduct a competent investigation,
23 and as I've written extensively, from a
24 management perspective, they came to the
25 conclusion that the most likely explanation for

1 their disappearances was a serial killer, they
2 came to that conclusion too late. Although by
3 May of 1999 the thinking was certainly evolving.

4 Q Sir, I asked you a very simple question. No
5 police force can decide whether or not to conduct
6 an investigation into a citizen of its city, a
7 missing citizen suspected of disappearing because
8 of foul play, no police force can decide to not
9 embark upon that investigation because they
10 suspect that the foul play is outside their
11 jurisdiction; isn't that correct?

12 A There was a little bit of a double negative. No
13 police department cannot decide?

14 Q I'm sorry about the double negative. A police
15 force can't say: There's no need to investigate,
16 it's possible the killing is outside our
17 jurisdiction. That's not tenable, is it?

18 A Absolutely not. That's why there needed to be an
19 investigation into that specific information and
20 there also needed to be an investigation that
21 continued into the many other possible avenues of
22 investigation and many other possible suspects,
23 that this was highly interesting information and
24 needed to be dealt with but so did many other
25 aspects.

1 Q I'm going to embark on a new subject. I have
2 three binders here and the same information for
3 everybody else but I haven't put everything in
4 binders. I have one for the witness, one for Mr.
5 Commissioner and one for commission counsel.
6 While that's being handed out I'm going to take
7 you to the subject of kidnapping is where I'm
8 going. I assume that won't take you by surprise.
9 All police officers have available to them a
10 codification of Canada's criminal law in one form
11 or another. It might be Martin's Criminal Code
12 or Snow or Tremear's, there's three of them?

13 A Yes.

14 Q Is yours Martin's?

15 A I think mine might be Tremear's. I've had both.

16 Q You won't mind my taking -- you have to consult
17 these things frequently, don't you?

18 A When you're an operational police officer, sure.

19 Q I'm going to ask you to have regard to Martin's
20 for a moment. The excerpt which I have provided
21 you with is from the 1997 Martin's Criminal Code,
22 I made a point of that. Now, I want to see if
23 we're on the same page as to the law of
24 kidnapping so I'm going to take you to some
25 passages in Martin's Criminal Code. The second

1 for kidnapping is set out on the first page of
2 the material I've handed you under the tab.

3 A Yes.

4 Q It provides section 279(1)(a) and I'm going to
5 deal with 1(a):

6 Every person who commits an offence who
7 kidnaps a person with intent.

8 (a) to cause the person to be confined or
9 imprisoned against the person's will.

10 You followed while I read that?

11 A Yes.

12 Q Yes?

13 A Yes.

14 Q And if you'll turn over to the next page under
15 the annotations, under the subheading Kidnapping.

16 To constitute kidnapping there must be a
17 movement or taking of the person from one
18 place to another and not simply placing of
19 the person in an area of confinement.

20 I stop there. So you can have kidnapping, Mr.
21 LePard, within a city from place to place?

22 A Yes.

23 Q You can have kidnapping from one city to another,
24 one territorial jurisdiction to another; correct?

25 A Yes.

1 Q From one province to another?

2 A Yes.

3 Q Within this country the criminal law allows you,
4 an officer, to search from outside his home
5 jurisdiction; right?

6 A If it was in relation to an offence that occurred
7 in its jurisdiction, yes.

8 Q And kidnapping would be one?

9 A Yes.

10 Q If there's some evidence that might be in another
11 jurisdiction, the criminal law is quite
12 accommodating for that, too. It allows you if
13 you have enough information for a search warrant
14 to get the warrant in your own jurisdiction for
15 starters; correct? And then get it endorsed in
16 another jurisdiction by a justice of the peace in
17 the second jurisdiction?

18 A Yes, to get it back in another jurisdiction.

19 Q And that second endorsement, I don't want to say
20 is pro forma but it goes generally speaking as a
21 matter of course, it's a common courtesy thing,
22 isn't it?

23 A I'm not disagreeing with you.

24 Q And there would probably be a courtesy to be
25 extended to the police force in the other

1 jurisdiction so they know you're there?

2 A It's actually required by the *Police Act*.

3 Q They might even assist you in finding the justice
4 of the peace to do that endorsement as required
5 under section 487(2) the Criminal Code?

6 A Yes.

7 Q So again:

8 The crime of kidnapping is the taking of a
9 person from one place to another against his
10 will.

11 The synopsis says:

12 With intent to confine him.

13 Under that annotation section, would you look
14 down please to about two paragraphs from the
15 bottom.

16 False statements by the accused which
17 induced his victim to willingly enter into
18 his custody constitutes kidnapping.

19 That's an Ontario Court of Appeal case, *Regina v.*
20 *Brown*?

21 A Yes.

22 Q Then there's a decision from our Court of Appeal,
23 Chief Justice Nathan Nemetz in *R v. Metcalfe*,
24 1983, where it was held that:

25 Kidnap includes to take and carry away a

1 person against his will by unlawful force or
2 by fraud. Leave to appeal to the Supreme
3 Court of Canada was refused.

4 Have you read this law before?

5 A I don't know if I've read it. If I did it would
6 have been a long time ago.

7 Q I want to be very careful here so I want to refer
8 to the those two cases as well. Just a moment.
9 I don't mean to have as many cases as I would
10 like -- copies I mean. Mr. Registrar, here is
11 one for the witness and one for the commissioner.

12 Mr. Commissioner, what I propose is that the
13 material I use for cross-examination will go in
14 that binder and I'm going to propose at the end
15 of my cross-examination to mark it as an exhibit
16 for identification so it contains all the
17 material in one place I've used for my cross.

18 THE COMMISSIONER: All right.

19 MR. ROBERTS: This is the *Metcalfe* case. Sorry about that.

20 Q You should find a blue flimsy or divider page in
21 the material, Mr. LePard, and behind the first
22 blue divider page is the *Brown* case from Ontario.
23 Have you found it?

24 A Yes.

25 Q Now, *Brown* was a case where the person was

1 enticed into the car by some representation.

2 It's in paragraph 2, I believe.

3 Shortly after eight o'clock in the morning
4 picked up a ten-year-old girl telling her
5 that her father had asked him to pick her up
6 and drive her to school and after she got in
7 the car he told her he had to pay a bill and
8 would drive outside the city for that.

9 purpose but would get her to school in time.

10 Instead, he choked her into insensibility,
11 put her in the trunk of the car and drove
12 further 24 miles to a garbage dump where he
13 threw her body in the dump and covered it.

14 But she wasn't dead, she survived and
15 ultimately at the end of the day he was
16 charged and convicted of kidnapping.

17 In the course of the Reasons for Judgment if you
18 go to page 3 of 3, paragraph 9:

19 We cannot accept this submission because
20 whatever may be said for what occurred from
21 the time he picked the girl up until the
22 time of the choking although we think having
23 regard to his false statements that induced
24 her to enter the car, that that did
25 constitute kidnapping.

1 Then he goes on to say irrespective of what
2 happened later on, was also forcibly confining
3 her and kidnapping.

4 I then go to the decision of our own Court
5 of Appeal. In this province, of course, people
6 have to pay attention in policing to decisions of
7 our Court of Appeal, sir?

8 A Yes.

9 Q This is a case involving a young man named
10 Molnar. He's the victim -- I'm going to
11 summarize it. He's lured into a car by Metcalfe
12 who was a friend to talk about old times and to
13 go from there to the kidnapper's place to have a
14 beer and talk some more for little a while. A
15 companion of Metcalfe was in the back seat and
16 identified by Metcalfe as a friend. After
17 driving to Metcalfe's place they sat around
18 drinking beer and Metcalfe, after leaving to get
19 some drugs and coming back two or three times,
20 attacked Molnar with a knife and threw him to the
21 ground and slashed or kicked Molnar's throat at
22 least four times and threatened to kill him.
23 Those are the facts that are revealed in the
24 case, and on the subject of kidnapping I turn to
25 Chief Justice Nemetz's judgment at the bottom of

1 page 5 of 7. Paragraph 10. You'll see that the
2 *Regina v. Brown* case is referred to that I just
3 mentioned to you?

4 A Yes.

5 Q It's described as a child gone willingly with the
6 accused into a car. It was argued that because
7 she had gone willingly the kidnapping section of
8 the Criminal Code did not apply. The submission
9 was rejected. The court held that since the
10 accused's false statements had induced the girl
11 to enter the car, the crime of kidnapping was
12 constituted. Chief Justice Nemetz then says:

13 I agree with that statement of the law,
14 however, it was submitted here that there
15 was no express inducement of Molnar. I
16 disagree. Whether the inducement was to
17 talk of old times or to provide Molnar with
18 hashish is immaterial. The principal intent
19 from the very outset was to kidnap him and
20 hold him for ransom in that case.

21 Then he talks about the scourge of kidnapping and
22 he accepts a definition Chief Justice Nemetz
23 does, from an American case.

24 Kidnap means the unlawful taking and
25 carrying away of a person by force or fraud

1 against his will.

2 He then says:

3 The learned justice in that case as I do
4 here took the view that to construe the word
5 "kidnap" as applying only to a forcible
6 taking is too narrow a construction. In
7 Canada Parliament found it unnecessary to
8 define kidnapping in the Criminal Code. I
9 cannot say for certain why they did not do
10 so but applying common sense and
11 appreciation to subtle and ingenious methods
12 employed by criminals undertaking this evil
13 is readily apparent and offering sweets to
14 children is not the only stratagem
15 available to induce victims to accompany
16 abductors.

17 Then he goes on further to find what kidnap
18 means.

19 It is to take away a person against his will
20 by unlawful force or by fraud. Further,
21 the fact that the person is not forcibly
22 conveyed by a stratagem of an inducement can
23 make no difference. A crime is complete
24 when the person is picked up and then
25 transported by fraud to his place of

1 confinement.

2 One last thing. There was an argument in that
3 case, Mr. LePard, it's revealed in the last
4 paragraph, that the appellant sought to argue
5 that section 247(3) was in his favour which
6 provides that there has to be for force some
7 evidence that force was applied, I should say,
8 and Chief Justice Nemetz answers that. He says:

9 Without deciding the question of the
10 subsection's constitutionality, it does not
11 apply to situations where fraud, deception,
12 deceit or a stratagem is the basis of the
13 willingness to be transported.

14 So that's a decision of our Court of Appeal and I
15 noted in the -- there's one case that went to the
16 Court of Appeal companion case, if you will, from
17 the McMinn kidnapping which you're probably
18 familiar with and that's Tam Vu I think it is
19 went to the Court of Appeal.

20 A Yes, I am aware it went to the Court of Appeal.

21 Q This law was reviewed by Chief Justice Finch and
22 concurring with. Let me stop for a moment.

23 Kidnapping then is the taking of a person from
24 one place to another against their will and
25 "against their will" includes by force or by

1 fraud, or as Chief Justice Nemetz put it, any
2 stratagem by which their will is not a free will;
3 agreed?

4 A Yes.

5 Q You wanted to talk in evidence in answer to
6 questions by Mr. Vertlieb about where the intent
7 happens and where the act happens using the Latin
8 phrases mens rea and actus reus. But with
9 respect to kidnapping the two requirements of
10 intent in the act come together in the doing of
11 the act?

12 A Yes.

13 Q Applying the presumption that a person intends
14 the reasonable and natural -- not natural but
15 improbable causes of their act?

16 A Yes.

17 Q That's the crime of kidnapping?

18 A Yes.

19 Q When that crime occurs it begins and is located
20 in the place where the person is taken from?

21 A Yes, I agree.

22 Q I now want to turn to Deputy Chief Adams'
23 report. Have you got that handy? Page 848. Mr.
24 Commissioner, it's chapter 8 of the Evans'
25 report. You'll see my purpose in a moment. Page

1 48, sir. The reason for this, Mr. Commissioner,
2 and, Mr. LePard, is here at page 48 is the
3 incident report for what happened to Victim 97,
4 the victim in the vicious stabbing on the 23rd of
5 March 1997; correct?

6 A Yes.

7 Q Before I draw some comparisons, let me read the
8 facts to you, please. Robert Pickton picked up a
9 STW, sex trade worker, referred to as VIC 97 and
10 took her back to his trailer in Port Coquitlam.
11 As a result of a violent altercation Pickton was
12 charged with attempted murder and forcible
13 confinement.

14 I'll stop there for the moment. Forcible
15 confinement is sort of like a companion provision
16 to kidnapping, is it not? It's confinement but
17 it lacks the transporting from one place to
18 another?

19 A Yes, I would agree.

20 Q It would be natural for Coquitlam to focus on
21 forcible confinement because they're simply
22 looking at their jurisdiction, somebody in their
23 jurisdiction who is confined and then attacked,
24 right?

25 A I think that's one of their considerations, yes.

1 Q The next paragraph:

2 Victim 97 provided a statement to RCMP
3 Constable Casson and Constable Strachan and
4 advised that --

5 Here it goes:

6 -- at approximately midnight she was
7 hitch-hiking in the area of Cordova Street
8 and Princess Avenue in the Downtown Eastside
9 of Vancouver when she was picked up by a
10 male who identified himself as Willie. At
11 the time he was driving a 1981 red pick-up
12 truck that she described as a work vehicle.
13 Willie offered Victim 97 \$100 for a blow
14 Job if she agreed to attend his residence in
15 Port Coquitlam. She agreed.

16 So there's the bargain by which she got in the
17 car; right?

18 A Yes.

19 Q On the way to Port Coquitlam she asked
20 Willie to stop at a gas station so she could
21 use the washroom. He ignored her request
22 and drove her on the freeway to get to his
23 trailer. She indicated that she believed he
24 did not stop because he did not want anyone
25 to see her because she wasn't expected to

1 get out of there.

2 That's speculation on her part of course at that
3 time; correct?

4 A Yes.

5 Q This comes from her witness statement of course,
6 doesn't it, what I'm reading from?

7 A Yes, that's my understanding.

8 Q Upon arriving at his trailer Willie
9 immediately went to his answering machine
10 and began listening to his messages. He
11 asked her how about a lay for \$100 and the
12 victim agreed. She produced a condom and
13 asked him for the money. They began arguing
14 over when the money would be paid to her and
15 they eventually agreed that Willie would pay
16 her after the sex. Willie put a quilt down
17 on the floor because he did not have a bed.
18 Victim 97 and Willie engaged in consensual
19 intercourse. Victim 97 attended the
20 washroom and shortly thereafter advised
21 Willie she wanted to leave the trailer. She
22 asked Willie if she could use his phone to
23 call for a ride but he would not allow it.
24 She started looking through a phone book on
25 the desk in the office area. Willie

1 grabbed her hand and pretended he was
2 patting it. He slipped a handcuff on her
3 wrist and said something like, "You little
4 Bitch" or something like that. She
5 immediately started fighting with him and
6 advised she was trying to knock him out.
7 She began hitting him with anything she
8 could find. Willie had a piece of wood in
9 his hands and began striking her with it.
10 She saw a knife on the kitchen table which
11 she was able to pick up and jugged him right
12 across his jugular vein. She advised that
13 he was trying to secure the other side of
14 the handcuff to an object but she continued
15 To fight him. Victim 97 made her way out
16 the door and Willie came after her again.
17 They continued fighting outside where Willie
18 was able to take the knife from her and stab
19 her in the abdomen. In the struggle she
20 stated she was able to take control of the
21 knife from Willie but was unsure if she
22 stabbed him again. Willie eventually lost
23 consciousness. Victim 97 ran down the
24 driveway and out into the roadway where she
25 flagged down a passing motorist who called

1 police. She dropped the knife on the
2 roadway prior to entering the vehicle, told
3 the driver and his passenger that she had
4 been stabbed and sexually assaulted. Victim
5 '97 later told the police that she said this
6 to the motorist and passenger because she
7 did not want to explain she was a sex trade
8 worker. The passing motorist contacted the
9 police and at approximately 1:45 a.m. RCMP
10 Sergeant Burke attended their location.
11 Victim 97 was transported to Royal
12 Columbian Hospital suffering from multiple.
13 stab wounds.

14 I won't read the next paragraphs but I want to
15 read the third paragraph on the next page, sir.

16 Both Pickton and Victim 97 underwent
17 surgery for their injuries. At 3:13 a.m.
18 hospital staff located a handcuff key in the
19 personal effects of Pickton that fit the
20 handcuff that was attached to victim '97's
21 wrist. The handcuff key was seized by RCMP
22 Constable Paradis along with Pickton's
23 clothing and personal effects.

24 I'll stop there. You have said, sir, that women
25 who work in the sex trade are entitled to the

1 same protection of the law as everybody else;
2 isn't that right?

3 A Yes.

4 Q They're entitled therefore to the same protection
5 under the law such as kidnapping law as anyone
6 else?

7 A I agree.

8 Q And this description of the attack, how she got
9 in the car and what happened is classic
10 kidnapping, is it not?

11 A I don't think that I could agree with that
12 because I don't know when he decided to embark on
13 this violent assault as opposed to --

14 Q That doesn't matter.

15 A I'd like to finish.

16 Q I don't have to have your concurrence, sir, with
17 what is the law. If I misstate the law --

18 THE COMMISSIONER: I don't think he's arguing with you about
19 what is the law. Ask the question.

20 MR. ROBERTS: He is arguing about the law, with respect.

21 MR. HERN: He's being asked a question about the law. He's
22 just listened to 20 minutes of legal stuff. He's
23 trying to give his evidence that he disagrees
24 with Mr. Roberts' proposition. I just don't know
25 why he wouldn't be allowed to answer that.

1 THE COMMISSIONER: Why don't you ask the question again.

2 MR. ROBERTS:

3 Q The question was, this was classic kidnapping?

4 THE COMMISSIONER: I think you can ask if it's his

5 understanding that it's classic kidnapping.

6 MR. ROBERTS:

7 Q Is your understanding the same as mine, that this
8 is classic kidnapping?

9 A No, I don't agree.

10 Q Kidnapping by fraud, I should say?

11 A No, I don't agree that this is -- cannot be
12 differentiated from the cases, for example, that
13 you put to me and I note that with the evidence
14 that you describe as classic kidnapping, Crown
15 counsel had all of that and did not approve a
16 charge.

17 Q That's because he wasn't from Vancouver?

18 A That would have absolutely nothing to do with it.

19 Q I see. You earlier told me that forcible
20 confinement is a cousin to kidnapping, right?

21 A I didn't describe it that way but I agree it's a
22 companion.

23 Q That's my word. But it's a sister companion
24 section?

25 A Yes.

1 Q The difference between the two is transporting
2 from one place to the other?

3 A Yes.

4 Q Otherwise, essentially there's no difference, is
5 there?

6 A Similar, yes.

7 Q And kidnapping against a person's will includes
8 by fraud as I have reviewed with you; correct?

9 A Yes.

10 Q It doesn't matter where the conversion takes
11 place, from the stratagem that has brought the
12 person into the custody or control, once they're
13 in their custody or control, as soon as the
14 design turns out to be different than what was
15 represented, then there is kidnapping by fraud,
16 isn't there?

17 A Well, the way the cases that you have put to me,
18 of course the stratagem had to be for an unlawful
19 purpose and we don't know what was in Pickton's
20 mind in terms of getting her out to that
21 property, because as you read out to me, at some
22 point after she arrived there they made a deal
23 for sexual services in exchange for money and
24 that was consummated and then there was an
25 argument about the money. The reason I'm not

1 agreeing with you is that the evidence doesn't
2 seem to me to be one continuous transaction in
3 that his evil motive was apparent at the time
4 that he picked her up.

5 Q What you're suggesting is required to be proved,
6 is not possible, is it, it comes from the
7 accused's mind?

8 A It can come from the evidence and the accused's
9 mind or his statements. There's a number of ways
10 one could infer that intent.

11 THE COMMISSIONER: I really think, Mr. Roberts, with respect,
12 now we're really getting into arguing what the
13 law is. I know where you're going in this but I
14 don't know -- I think you could put it another
15 way as to whether he understands -- whether he as
16 an officer would recommend a charge of kidnapping
17 in these circumstances.

18 MR. ROBERTS:

19 Q I even want to do a lesser position than that,
20 that is, at the time the women went missing --
21 let me put it this way, Mr. Commissioner and Mr.
22 LePard -- at the time the women were missing in
23 the Downtown Eastside in 1998, they were missing
24 in circumstances where they in all probability
25 got into a car the same as the victim in that

1 attempted murder charge in terms of searching for
2 a suspect or investigating a suspect for what
3 happened to the missing women, the likelihood is
4 that they got into a car on some sort of bargain
5 for sex; isn't that correct?

6 A I agree that's one of the ways that the women may
7 have got to the property but there's also -- I'm
8 not trying to in any way minimize the VPD's very
9 important, significant responsibility in this
10 investigation which I've described over and over,
11 but now you're getting very technical and what I
12 will say is what I've said before, that there
13 were a number of ways that the women got out to
14 the property including on their own. 13 women
15 interviewed by Evenhanded had been there for one
16 or more nights up to 40 nights and one victim
17 that they interviewed they made it out there on
18 their own, they made it out there with friends,
19 other people that took them out there, and I
20 don't disagree that some of them may have gone
21 out there who may have even been picked up in a
22 vehicle by Pickton but we don't know which of
23 those that he killed, when he decided to kill who
24 he decided to kill.

25 Q But that doesn't matter. For purposes of

1 investigation you would have to take into account
2 the prospect that they got there for purposes of
3 investigation by kidnapping.

4 A Absolutely, and that's why I've said the VPD had
5 an important responsibility in investigating this
6 case generally and trying to figure out what
7 happened, but what I've talked about is that when
8 there was specific information about a suspect in
9 Coquitlam who was alleged to have killed a woman
10 or women on his property that that was
11 information about a specific crime on his
12 property. It was passed on as it would normally
13 occur and Corporal Connor diligently initiated a
14 file, took responsibility for that investigation,
15 conducted considerable investigation, was
16 assisted by Detective Constable Shenher in
17 handling Hiscox, later on assisted by Detective
18 Lepine and Detective Constable Chernoff in
19 handling Caldwell, but it was always clear from
20 Corporal Connor's own notes, from the statements
21 of the RCMP officers involved right up to the OIC
22 of the Coquitlam RCMP and others that were
23 interviewed, that Coquitlam was in charge of that
24 investigation because it concerned a murder --
25 information about a murder that occurred in

1 Coquitlam and that was never in dispute. So we
2 could argue about where an offence may or may not
3 have occurred in the same way that the women who
4 were killed in the Valley in 1995, Pipe, Olajide
5 and Yonker, as an investigator wrote when
6 Constable Shenher attempted to access the files
7 and it took months to get them, he wrote the only
8 connection with Vancouver is that's where the
9 offender picked up these women in the Downtown
10 Eastside, otherwise it's none of their business,
11 the murder occurred out here and that's why he
12 was reluctant to provide the information.

13 THE COMMISSIONER: You're telling us there's no way you knew
14 how they got into the car?

15 A There was no information about that at that time
16 and there hasn't been to this date.

17 MR. ROBERTS: I'd like to leave this and not come back to it
18 -- with your leave could I ask two questions?

19 THE COMMISSIONER: Yes.

20 MR. ROBERTS:

21 Q You have agreed for the purpose of conducting an
22 investigation, one matter you would have to pay
23 attention to is the prospect that the women, one
24 or more of them, were kidnapped by fraud?

25 A Yes. Absolutely.

1 Q Thank you. That would be for the purposes of
2 conducting an investigation; correct?

3 A Sorry, the question --

4 Q That's because if it's kidnapping by fraud that
5 is quintessential the jurisdiction of the VPD?

6 A Yes, I agree.

7 Q And if there is murder -- if death is caused
8 during that kidnapping that is also within the
9 underlying transaction within the jurisdiction of
10 the VPD?

11 A The convention would probably be where the murder
12 occurred that jurisdiction would take over that
13 investigation, take responsibility for it, but I
14 don't disagree that the VPD would have some
15 jurisdiction because that's where the offence of
16 kidnapping occurred.

17 Q Because the murder is part of the offence of the
18 underlying transaction of kidnapping should that
19 happen?

20 A Well, murder is not an included offence of
21 kidnapping. It would be a separate offence.

22 Q You charge it separately but the underlying means
23 is kidnapping and that makes it under the
24 Criminal Code section 231(5)(f) first degree
25 murder?

1 A Yes, I agree.

2 MR. ROBERTS: Thank you.

3 THE COMMISSIONER: We'll adjourn.

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

5 **(PROCEEDINGS ADJOURNED AT 12:34 P.M.)**

6 **(PROCEEDINGS RESUMED AT 2:01 P.M.)**

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

8 **CROSS-EXAMINATION BY MR. ROBERTS CONTINUED:**

9 Q Mr. Commissioner, Darrell Roberts representing
10 First Nations people, aboriginal people and I'm
11 continuing my cross-examination of Mr. LePard.

12 Mr. LePard, on the last note I finished on
13 the issue of investigative jurisdiction, I'd like
14 to turn to the Evans' report just for a moment.
15 It's page 45. Have you got the page, sir?

16 A Yes.

17 Q I know you were taken to this by Mr. Vertlieb for
18 comment on the Evans' report but I feel obligated
19 to do it too in view of my cross-examination
20 about kidnapping. Deputy Chief Evans writes:

21 There's no doubt that VPD investigators and
22 senior management held the opinion that
23 Pickton could not be pursued by the VPD for
24 a criminal offence conducted outside their
25 geographic police boundaries. They

1 believed it was the responsibility of the
2 jurisdiction where the offence had occurred
3 that ultimately should have carriage of the
4 case. In my experience I believe the
5 offence began in Vancouver.

6 She stops it there but a reader of that with
7 knowledge of the criminal law would have no doubt
8 that in view of the likely fact pattern in this
9 case that what Deputy Chief Evans had in mind was
10 the law of kidnapping, isn't that so?

11 A I don't know what she had in her mind because she
12 didn't provide any analysis so I don't know
13 whether she was speaking legally or generically
14 or whether she had read the evidence in the trial
15 or the 198-page report to Crown that discussed
16 the context of this. So I don't know what was in
17 her mind.

18 Q She did set out the fact pattern in the attempted
19 murder matter, that's right in her report?

20 A Yes.

21 Q Perhaps she was being a little subtle for you,
22 sir, letting you arrive at the conclusion
23 yourself?

24 A I don't think she was doing it for me.

25 Q When I say "you" I mean the VPD, you understand?

1 A Like I said, I don't see any analysis and I do
2 see that passage, but what I also saw in her
3 report -- well, first of all, what she talks
4 about there is who had the right to pursue it,
5 not who had the responsibility. Those are her
6 words.

7 Secondly, she makes it in her report
8 repeatedly clear, she talks about Corporal Connor
9 took ownership of the investigation into the
10 information about Pickton. She makes that clear
11 repeatedly in her interviews with --

12 Q Mr. LePard, that's a confusion of issues, isn't
13 it? One force can have jurisdiction for one
14 reason and another force can have jurisdiction
15 for another reason?

16 A Yes. My evidence before lunch was that I agreed
17 with Mr. Roberts' proposition that generally, as
18 to the theory, the possibility that women were
19 being abducted from the streets of the Downtown
20 Eastside, absolutely the Vancouver Police
21 Department had responsibility to investigate that
22 as one possibility. The separate issue is who
23 had responsibility to investigate this specific
24 information about a murder alleged to have
25 occurred in Coquitlam and possibly other murders

1 and it was never in dispute between the Vancouver
2 Police Department and the RCMP that the RCMP had
3 responsibility for that, took responsibility for
4 that, continually assigned it to an investigator,
5 did not consult with the VPD after the summer of
6 1999 when they were arriving at strategies. For
7 example, in February of 2000 after the interview,
8 in April of 2001 when they said it was a priority
9 and they should provide a package about it to
10 Evenhanded. So there was never any dispute
11 despite the technical arguments being presented
12 here that the RCMP had control of the
13 investigation of Pickton in Port Coquitlam.

14 Q That was not my question. That was not my
15 question.

16 A Some of your questions have confused me so I
17 apologize.

18 Q I was asking about the question of jurisdiction.
19 If it's kidnapping, if there's a suspected
20 offence of kidnapping for any of the missing
21 women, that jurisdiction is Vancouver and all
22 that Deputy Chief Evans was doing was making that
23 subtle suggestion; isn't that right?

24 A Well, I don't know what it was that she was
25 thinking when she wrote that.

1 Q I have a little aide memoire I want to give you,
2 it's a single page. It's my preparation -- I'll
3 wait until Mr. Hern has a copy. This is a simple
4 proposition for you but it starts like this.
5 Wherever there is an investigative obligation, an
6 obligation to investigate a criminal matter, when
7 it's engaged it requires 100 percent effort,
8 doesn't it? You can't do -- can't make a partial
9 effort?

10 A That depends on the nature of the allegation.

11 Q Let's suppose it's murder and it's a serious
12 matter, it's 100 percent effort?

13 A Yes.

14 Q So what does this chart mean? It means this,
15 first of all, to the extent that it was suspected
16 that the murders of the missing women in the
17 Downtown Eastside in 1998 may have been committed
18 in Vancouver and their bodies disposed of somehow
19 and somewhere, that would be the obligation of
20 the Vancouver Police Department to the extent
21 there was such suspicion; isn't that fair?

22 A You're putting a fact pattern to me.

23 Q It's an assumption. To the extent the Vancouver
24 Police Department didn't know where the murders
25 had been committed and there was a potential that

1 they had been committed in Vancouver for people
2 who were resident in Vancouver, the obligation to
3 investigate is Vancouver?

4 A It wouldn't matter where they were resident. I
5 would agree if the information was a crime had
6 been committed in Vancouver, then yes, and it
7 wasn't known so the VPD had responsibility to
8 investigate that.

9 Q So there's 100 per cent. To the extent that it
10 was suspected that the women may have been
11 subject to kidnapping -- by the way, they didn't
12 own cars, the sex trade workers, the women in
13 downtown Vancouver, they were poor, weren't they?

14 A Yes.

15 Q Generally if they got into a car it was a john's
16 car, wasn't it?

17 A I would say most often that would be true.

18 Q So to the extent that it was suspected they had
19 been kidnapped by fraud and then murdered at the
20 place they were taken, then under the law the
21 investigative jurisdiction -- while there may
22 have been investigative jurisdiction too because
23 of where the murder takes place, investigative
24 jurisdiction for kidnapping where murder takes
25 place is also Vancouver; correct?

1 A I would agree that the VPD would have some
2 jurisdiction over the investigation of the
3 offence of kidnapping if it occurred in
4 Vancouver.

5 Q And then the third one is, murder in Port
6 Coquitlam, somehow it's just a question of murder
7 in Port Coquitlam. That would be the
8 responsibility of the RCMP?

9 A Yes.

10 Q So if you regard each responsibility for
11 investigation of murder as a serious matter as
12 requiring 100 per cent effort, then by my little
13 aide memoire it seems to me that Vancouver
14 Police, using a poker term, has a double down
15 responsibility 200 percent to 100 per cent. Is
16 that an unreasonable way of looking at it?

17 A I'm not a poker player so I'll just say that I
18 agree that the VPD had responsibility to
19 investigate allegations or the possibility of
20 women being kidnapped from Vancouver and that was
21 occurring, but when there's information about
22 this discrete crime of murder and there wasn't
23 information about how the victim got to the
24 property, that was information about a murder and
25 the reality is the convention of these things,

1 without getting into the legal technicalities, is
2 that most serious offence of murder, that would
3 end up being the primary investigative agency
4 just like it was for victim 1997 and just like it
5 was for the 1995 Valley murders, despite the fact
6 that it was alleged that the suspects made first
7 contact with the women in the Downtown Eastside.
8 So there was never any suggestion that the VPD
9 come on out here because that's where we think
10 the victims met the suspects. That's just a
11 reality and a convention of policing.

12 Q I will stay with my own reality, if I may, and
13 I'm going to go to the subject of the search
14 warrant. Let me introduce it this way. You have
15 said to learned commission counsel that a general
16 search warrant is a very valuable tool for police
17 investigations?

18 A Yes.

19 Q It's based on credible evidence, often from an
20 informer?

21 A Yes.

22 Q Where the police officer works with the informer
23 to satisfy the test of reasonable and probable
24 grounds?

25 A Yes.

1 Q Where it's searching for items, it's reasonable
2 and probable grounds that the items, things,
3 anything -- I hesitate to use the word evidence
4 -- but anything may be found in a certain place
5 with respect to the suspected crime, right?

6 A I'm sorry, the question was?

7 Q That things will be found in an identified place
8 with respect to the suspected crime, that there
9 is reasonable and probable grounds such will be?

10 A That would be the grounds to get a search warrant
11 approved, yes.

12 Q I need to hand up the last grouping of materials.
13 There's more paper here than I need to deal with
14 but just in case the questioning gets into it
15 then I may have to reference it.

16 The first set of material which I want to
17 deal with is an excerpt from Martin's Criminal
18 Code on search warrants. I know this may be old
19 hat but it's sometimes helpful just to review the
20 law to see that we're on common ground since I'm
21 going to be particularly submitting later on
22 somewhere in this hearing that a search warrant
23 ought to have been employed.

24 Let me just look at Section 487. It simply
25 provides that a justice who is satisfied by

1 information on oath in Form 1 that there are
2 reasonable grounds to believe that there is in a
3 building, receptacle or place, (a) Anything --
4 that's the word "anything" -- on or in respect of
5 which of any offence against this act or any
6 other act of Parliament has been or is suspected
7 to have committed. (b) Anything that there are
8 reasonable grounds to believe will afford
9 evidence with respect to the commission of an
10 offence or will reveal the whereabouts of a
11 person who is believed to have committed an
12 offence against this act. My focus with respect
13 to this will be 487(1)(b): Anything that there
14 are reasonable grounds to believe will afford
15 evidence with respect to the commission of an
16 evidence. That's commonly the basis of that
17 aspect of the act under which a search warrant is
18 sought; correct?

19 A Yes.

20 Q Let's go over to the grounds for issuing. It's a
21 couple pages over. Maybe I'm going too quickly,
22 Mr. Commissioner. Under Synopsis on page 726 it
23 says:

24 This section sets out the procedure that
25 must be followed to obtain a search warrant.

1 Subsection 1 makes it clear that the justice must
2 be satisfied -- justice, by the way, is a justice
3 of the peace, Mr. LePard?

4 A Yes.

5 Q Could I pause for a moment and identify this,
6 these days it's also possible to apply for a
7 search warrant electronically?

8 A There are certain circumstances where a
9 telewarrant can be provided.

10 Q It gets assigned in that manner to an available
11 justice of the peace to address?

12 A Yes.

13 Q But the old traditional way is to actually appear
14 before a justice of the peace?

15 A Yes.

16 Q And sometimes where you want to know, and perhaps
17 there's no reason why you can't make submissions
18 when you appear before the justice of the peace
19 personally?

20 A I'm not sure what you mean by "submissions".

21 Q The informant who takes the application over
22 usually is a police officer?

23 A Yes.

24 Q And is there to answer questions possibly?

25 A Yes, that could be.

1 Q And explain why it is even more than is in the
2 information what their belief is based on?

3 A Generally in my experience if there was
4 conversation it would be in the context of you
5 need to go back and get this information into
6 your ITO.

7 Q But it's good to be there to know that?

8 A Yes.

9 Q Let's go over then please to the page with
10 respect to grounds for issuing and there's one
11 particular passage that I want to focus on.

12 Information supplied by a reliable informer
13 even though it is hearsay may in some
14 circumstances provide the necessary grounds
15 to justify granting a search warrant.

16 Do you see that?

17 However, the mere statement by the informant
18 that he was told by a reliable informer that
19 a certain person is carrying on a criminal
20 activity or that contraband would be found
21 in a certain place would be insufficient.

22 So there has to be far more detail than that?

23 A Yes.

24 Q You're nodding. The underlying circumstances
25 disclosed by the informer for his conclusion must

1 be set out. That's well recognized, isn't it?

2 A Yes.

3 Q If you can drop down a little bit, reasonable
4 probability, after the reference to the *Debot*
5 case?

6 A Yes.

7 Q The court agreed that the appropriate
8 standard to establish reasonable grounds for
9 a search is one of reasonable probability.

10 And that's your understanding, too, of course?

11 A Yes.

12 Q In making this determination the court must
13 have regard to the totality of the
14 circumstances.

15 Stopping there, that's why it's so important to
16 have as much reliable information as possible in
17 that warrant application?

18 A Yes.

19 Q And it's commonly in the form of an affidavit?

20 A Yes.

21 Q The court also held -- this is Supreme Court
22 of Canada in *Debot* that the court must --
23 I've read that -- held that the suspect's
24 criminal record and reputation could be
25 taken into account provided that *inter alia*

1 the reputation is related to the ostensible
2 reasons for the search.

3 Do you see that?

4 A Yes.

5 Q I'm going to take you in a moment to the search
6 warrant application by Nathan Wells where he
7 includes the attempted murder matter in March of
8 1997. Then this, sir:

9 Where the police rely on information from an
10 informer, it is not necessary for the
11 police to confirm each detail in the
12 informer's tip so long as -- here would be
13 my emphasis to have in mind as I take you
14 through some documents -- so long as the
15 sequence of events actually observed
16 conforms sufficiently to the anticipated
17 pattern to remove the possibility of
18 innocent coincidence.

19 I butchered the reading of that.

20 As long as the sequence of events actually
21 observed -- that's on the one hand --
22 conforms sufficiently to the anticipated
23 pattern to remove the possibility of
24 innocent coincidence.

25 Often in cases the anticipated pattern is the

1 information from a source, right?

2 A Yes.

3 Q That's why it's necessary to do as much
4 corroboration of the source's information as
5 possible?

6 A Yes.

7 Q And see if you can find something from your own
8 research that would show the observed pattern,
9 right?

10 A Yes, I understand that.

11 Q You've told us that in your own experience you've
12 never had occasion to apply for a search warrant
13 where it wasn't granted, in other words, you've
14 been successful to have enough information to
15 achieve the granting of the search warrant?

16 A I may have forgotten but that's my recollection.

17 Q I didn't put the form in here, but the form is an
18 adaptable one, too. There's a section of the
19 code that says you can adapt it to the
20 circumstance, Form 1?

21 A I'm not sure what that means.

22 Q It gets rid of problems in dotting of i's
23 crossing of t's, I suppose, but this application
24 procedure is to be capable of being carried out
25 by a peace officer?

1 A Yes.

2 Q Peace officer includes just an ordinary
3 constable?

4 A Yes.

5 Q And coincidentally, Nathan Wells, Constable
6 Nathan Wells of the RCMP was a fairly junior
7 constable?

8 A Yes.

9 Q And he, it would appear from looking at his
10 material, drafted it up on his own?

11 A That's my understanding.

12 Q But he didn't check out some things including
13 talking with other people on his staff. Let's
14 just see how it's done. Turn to the next
15 document, it should be in sequence of the
16 material I handed up. Here is the search warrant
17 of Nathan Wells of the RCMP in Coquitlam, sworn
18 by Mr. Wells on I think it's the 5th day or 4th
19 of February. The warrant is granted on the 5th.
20 I don't know if there is an affirmation oath
21 here. In any event, the 5th or 4th will do. If
22 you go past the first page to his grounds for
23 belief in Appendix A.

24 A Yes.

25 Q Nathan Wells says, first of all, that he's a

1 regular member of the RCMP and he says he's been
2 employed since July of the year 2000. That tells
3 us how junior he was, two years in the force. He
4 speaks about -- three paragraphs down -- the
5 access to the police information retrieval
6 system. The next paragraph:

7 That I and other members of the RCMP have
8 access to the Canadian Police Information
9 Centre, a computerized database repository.
10 He speaks about that. And then there's this and
11 I'll read this more fully.

12 On 2002 02 01 I received and verily believe
13 the following information from a believed
14 reliable, confidential source, the identity
15 of whom cannot be revealed for security
16 reasons who is here and after referred to as
17 Source A. I believe Source A to be
18 reliable.

19 I'll stop there. That's the traditional way in
20 dealing with a source that is entitled to
21 confidentiality and secrecy under informant
22 privilege; right?

23 A Yes.

24 Q This belief is based on the fact that source
25 A has provided information in the past which

1 has been corroborated by other proven and
2 reliable sources, police investigation and
3 surveillance when possible. To wit, source
4 A advised me of three persons involving in.
5 trafficking of cocaine.

6 So this sounds like almost a professional source
7 or at least a repeated source; right? There's
8 more in that section. In other words, he had
9 useful information from this source before?

10 A It sounds like it.

11 Q Then over the page, what does the source give him
12 this time? There is the date.

13 Source A informed me that in 2002 01 30 he
14 observed three firearms in the residence of
15 Robert Willie Pickton located in the
16 residential trailer home at 953 Dominion
17 Avenue in Port Coquitlam.

18 They were described by Source A and it's set out.

19 Source A further stated that there is
20 ammunition for the above firearms.

21 However, it's unknown whether or not the
22 guns were loaded. Firearms are being stored
23 contrary to storage laws and are hidden in
24 the residential trailer home.

25 He goes on to set out some more information about

1 that and the trailer home. In the next
2 paragraph, he speaks about doing a check, a CPIC
3 check on Mr. Pickton and that he has no criminal
4 record and has no licence revealed for his
5 firearms. There's this paragraph and then I'll
6 leave this alone.

7 On 2002 02 01 I conducted a PRIS query which
8 revealed that in 1997 Pickton was charged
9 attempted murder, assault with a weapon,
10 forcible confinement and aggravated assault
11 for an incident that occurred at 953
12 Dominion Avenue. I reviewed the file and it
13 appeared that Pickton attacked a female with
14 a knife, stabbed her several times. She was
15 taken to hospital, however her injuries were
16 not life threatening.

17 I think he's got that wrong; she almost died.

18 A Yes.

19 Q But that's no doubt the victim in that 1997
20 stabbing. The justification for putting that in
21 this warrant, it's not really related to the
22 matter which is the basis for the search, is it?

23 A No. I didn't understand why that was in there.

24 Q The only thing you might perhaps shelter it under
25 is the reputation aspect that the *Debot* case

1 talks about?

2 A Yes.

3 Q Of course that sort of reference, if one were to
4 have a search warrant in the existing case would
5 have far more relevance, wouldn't it?

6 A Yes.

7 Q I would like you to turn to the next tab. I must
8 say, this lectern is the most awkward thing to
9 manage two binders at once. What I'm going to do
10 today -- try to do before I'm done -- is address
11 this proposition: How close were the police
12 forces together to having sufficient information
13 to show reasonable and probable grounds to obtain
14 a search warrant for things in Pickton's trailer
15 in October, particularly October 16, 1998, the
16 day after the meeting with Corporal Connor,
17 Constable Shenher and Hiscox, how close were they
18 to being successful if they had addressed an
19 information and affidavit in support to obtain
20 search warrant? I don't want you to endeavor to
21 try and answer that now but I'm going to take you
22 through some material.

23 I've prepared two aide memoires. One of
24 them, the first is one I prepared from material
25 in your report and in part from the Evans' report

1 and I'll identify it in a moment. The second
2 one, the next material is actually part of an
3 actual affidavit of Mike Connor. The actual
4 affidavit if anyone wants to compare is under the
5 last grouping of material. Corporal Connor
6 became a sergeant in the end of 1999?

7 A I don't know when he became a sergeant.

8 Q At some point he became a sergeant?

9 A Sorry, I do know when he became a sergeant. At
10 the end of August 1999.

11 Q Which is when the Pickton investigation at that
12 point really went off the rails?

13 A Yes.

14 Q But the last set of material -- this is the
15 actual affidavit for a search warrant, the wider
16 search warrant that was issued on February 6,
17 2002. You've read this material?

18 A Sorry, you're saying this is for a search warrant
19 from February 6, 2002?

20 Q Yes. It's Exhibit J to the Williams' report.
21 It's redacted and you'll find it as Exhibit J to
22 the Williams' report and I put it here -- it's
23 actually Exhibit C to the affidavit of Mike
24 Connor. There is a reference to an affidavit of
25 Constable Cater which was sealed. This

1 particular affidavit is Sergeant Connor's.

2 A Okay. My understanding of this document is that
3 this was a draft ITO that --

4 Q There was a draft, you're quite right, a draft in
5 1999, but then he added to it and swore this
6 affidavit for a wider search warrant in 2002,
7 February 6th?

8 A Okay. I will accept that.

9 Q In particular, if you take a moment to look at
10 it, it contains paragraphs of what he knew back
11 in 1998. I'm still looking at the one by
12 Sergeant Mike Connor.

13 A Yes.

14 Q The first paragraph is what he did on August 18
15 in his meeting with Detective Lori Shenher?

16 A Yes.

17 Q And other paragraphs all follow up until the end
18 of page 6 all with respect to what he did in
19 1998. Then at the very end of the affidavit, the
20 paragraph starting at pages 26 and 27, let me
21 identify, half way down the page he has a
22 paragraph that begins:

23 With respect to the information from source
24 A, that is Hiscox, this information was.
25 received secondhand but Sergeant Connor.

1 believes that reliability can be attached to
2 it.

3 Source A is Hiscox. The next one --

4 A Sorry, I'm trying to catch up here and read
5 through this. Can you direct me to the paragraph
6 again?

7 Q Page 26.

8 A Of?

9 Q Sergeant Connor's affidavit. You have to go to
10 the end.

11 A Is this Exhibit C?

12 Q Yes.

13 A Yes, I am on page 26 now.

14 Q Half way down the page.

15 A Yes.

16 Q After the second bullet -- the black hole for the
17 three-hole punch, it says: With respect to the
18 information from Source A.

19 A Yes.

20 Q I'm simply identifying that that paragraph, the
21 next one and the next one and the top one on the
22 next page are with reference to matters in 1998,
23 in particular, the trophies that Hiscox made
24 reference to.

25 A Yes.

1 Q Back to the beginning. Let's go to the draft
2 aide memoire number 2 with respect to Constable
3 L. Shenher. I'm asking you to assume this, that
4 an affidavit is prepared along with an
5 information, the information to seek a search
6 warrant, October 16, 1998, that it comes from
7 Constable Lori Shenher with the information set
8 out here, that would be correct information for
9 her I believe.

10 A Yes.

11 Q Then in the middle paragraph all the names of the
12 women there, if you want to double-check they're
13 in your report --

14 A Yes.

15 Q And more particulars about them are set out on
16 the next page, Appendix A, paragraph 2, who they
17 are, Downtown Eastside, and when they went
18 missing, starting for purposes of in your report
19 with Tanya Holyk reported January 23, '97. I
20 won't read them all. The last one for purposes
21 of this material is Marnie Frey reported missing
22 to the VPD September 4, 1998, all in your report,
23 pages 62 to 71.

24 A Yes.

25 Q So if one were applying on an information these

1 would be the right people to put into the
2 application; you agree with that?

3 A Yes.

4 Q Then it says this: The informant says that -- I
5 went too quickly. After the names of the people,
6 the information is drawn this way:

7 They are missing in circumstances which I
8 believe indicates they have been murdered
9 and in particular the crimes of kidnapping
10 by fraud and first degree murder, Criminal
11 Code section 279(1), 230, 231(2) and (5) are
12 suspected to have been involved in their
13 disappearance,

14 with reference to the two cases I referred to
15 earlier.

16 To the extent that there is a suspicion of
17 kidnapping by fraud there's no harm in making
18 reference to the code sections and case law, is
19 there?

20 A No, I don't think so.

21 Q Next paragraph:

22 The informant says that and I have
23 reasonable grounds to believe that there are
24 purses and women's identification papers and
25 women's bloody clothing at the trailer of

1 Robert William Pickton situated on a pig
2 farm at 953 Dominion Avenue, Port Coquitlam,
3 BC, as well as a large capacity meat
4 grinder, products and pig feed containing
5 meat products in a farm outbuilding at the
6 said property.

7 I also have reasonable grounds to believe
8 that all items of evidence will afford
9 evidence with respect to the commission of
10 the said crimes of kidnapping and murder of.
11 the missing and murdered women.

12 The act in Section 487 says that anything, you
13 can search for anything, so a lot of things can
14 shelter out of that, can they not?

15 A Yes.

16 Q The information as to the purses and women's
17 identification papers and women's bloody clothing
18 came from source Hiscox, of course as we will
19 identify, the source for that was from Lee, but
20 that's the information he passed on to Constable
21 Shenher; correct?

22 A Yes.

23 Q He also passed on information about Pickton being
24 able to grind up bodies, however horrible that
25 sounds, to get rid of them and that he could do

1 so on his farm, at least -- later on we know
2 about him going to a rendering plant but at the
3 time the source tip came in there wasn't any
4 mention of transporting offsite to a rendering
5 plant, was there?

6 A Not to my knowledge.

7 Q Which gave one the idea he might do it right
8 there?

9 A Yes.

10 Q And that he fed the animal products -- I guess
11 one would say human animal products -- to his
12 pigs?

13 A Yes.

14 Q That's the implication from the source?

15 A Yes.

16 Q The informant says that the grounds for
17 belief are set out in Appendix A.

18 Here comes the critical stuff. First paragraph 1
19 sets out that she's a peace officer and how long
20 she's been in the police department, since April
21 18, 1991. 1998 July, transferred to the Missing
22 Person Unit and her supervisor is Sergeant Geramy
23 Field whose primary responsibility is supervision
24 of a squad of Homicide detectives but who also
25 has administrative responsibility for the Missing

1 Persons Unit. All of that is correct, isn't it?

2 A Yes.

3 Q That I have researched the missing women
4 whose names are set out on the information
5 and who were reported missing to the
6 Vancouver Police Department.

7 And there are the names which I have alluded to.
8 Of course this reference to the supporting source
9 information wouldn't be there, it's only here in
10 my aide memoire for our purposes; you understand?

11 A Yes.

12 Q Paragraph 3.

13 That I have investigated the circumstances
14 of the missing women and have found that
15 they have not been in contact with their
16 children living under the care of the
17 ministry or with family or extended family
18 members. They have not picked up their
19 welfare cheques or any mail and have been
20 missing for such lengths of time that foul
21 play, i.e. murder, is suspected in the
22 disappearance of each and every one of them.
23 It must be noted that the missing persons
24 Unit reports to a homicide squad in the
25 Major Crime Section of the Vancouver Police

1 Department as missing persons are most
2 frequently missing because they've been
3 murdered.

4 There's no problem with those statements, is
5 there?

6 A Sorry, can you refer me to that paragraph again?

7 Q Paragraph 3?

8 A On?

9 Q It doesn't have a page number. First page of
10 Appendix A. Let me help. You what are you
11 looking for?

12 A I'm just reading the passage.

13 Q Sorry, I thought you were with me.

14 A I'm reading that line and I see where she's
15 written it but I don't agree with it.

16 Q But she would be entitled to say that?

17 MR. HERN: I think the witness is confused perhaps. He said
18 where "she's" written it.

19 MR. ROBERTS: I didn't hear you, Mr. Hern.

20 MR. HERN: I think the witness may be confused that you're
21 referring to an actual document and it's
22 something you've created, Mr. Roberts.

23 MR. ROBERTS: I made it clear I created this. I thought I
24 made that clear. The first one is absolutely my
25 creation as an aide memoire. The second one

1 which we'll get to in a while is an adaptation of
2 Mr. Connor's affidavit. I haven't touched it
3 other than to change it from sergeant to
4 corporal.

5 A I understand that.

6 Q Paragraph 3, let's assume that this is in the
7 affidavit because she believes that, first of
8 all, foul play generally is a euphemism for death
9 by -- what's the term I want -- at the hands of
10 somebody else, i.e. murder or manslaughter.
11 Isn't that what foul play means?

12 A Yes.

13 Q So she says:

14 While within the Vancouver Police Department
15 the disappearance of these women is a matter
16 of intense discussion.

17 It was, wasn't it?

18 A Yes.

19 Q The focus is not on whether they are victims
20 of murder but on whether or not they are
21 victims of a serial killer.

22 That seems to me to emerge from your report, that
23 was the intensity of the discussion, wasn't it?

24 A It certainly was among some investigators, yes.

25 Q Paragraph 4:

1 From my investigations I believe these
2 missing women have been either murdered in
3 Vancouver and their bodies transported
4 elsewhere or they have kidnapped by fraud,
5 i.e. lured into a vehicle on the
6 understanding of exchanging sex for money at
7 a location outside of Vancouver and they are
8 murdered.

9 Now, clearly I've created that, you know that,
10 but had a paragraph like that based upon the
11 suspicion that we don't know where they're
12 murdered, it's either in Vancouver and their
13 bodies transported elsewhere or it could be well
14 be kidnapping by fraud. All of the women don't
15 have vehicles, they engaged in exchanging sex for
16 money to feed sometimes their addiction to drugs
17 and likely got into vehicles in order to achieve
18 that purpose, exchanging sex for drugs, and
19 somewhere during the course of being transported
20 from Vancouver to outside Vancouver were
21 murdered, not knowing where along that continuum
22 the transportation that might have occurred, that
23 would justify the suspicion of that for setting
24 forth the alternative basis for kidnapping by
25 fraud for purposes of this investigation, would

1 it not?

2 A I agree that there was information that it would
3 be fair for her to be suspicious of that.

4 Q Thank you. Then she sets out the Crime Stoppers
5 tip in paragraph 5 and I'm not going to read that
6 but I've set it out as accurately as I can.

7 A Yes.

8 Q Paragraph 6, it sets out the telephone call by
9 Mr. Hiscox to Wayne Leng and I won't read that
10 but you know he made the same basically tip
11 information to Mr. Leng who was a friend of -- I
12 forget the lady's name.

13 A Sarah de Vries.

14 Q Then paragraph 7 sets out the Crime Stoppers tip
15 that came in on August 6th?

16 A Yes.

17 Q Paragraph 8.

18 That on August 7 I spoke with Corporal
19 Connor of the Coquitlam RCMP to obtain
20 information about Robert Pickton and was
21 advised that the Pickton family was wealthy
22 due to selling off parcels of land.
23 That Robert Pickton had connections to Hells
24 Angels outlaw motorcycle club, he owned a
25 booze can near their residence in Port

1 Coquitlam and was dangerous to sex trade
2 workers. He told me of the stabbing
3 incident which occurred in March 1997 and
4 described the person, herein after referred
5 to as Victim 97, as a Downtown Eastside
6 prostitute.

7 That comes right from the Evans' report, it's not
8 in your report, but I took you to that this
9 morning, remember, Mr. LePard?

10 A I'm getting confused about where this information
11 appears. If it's in her affidavit, draft
12 affidavit or in the Evans' report.

13 Q It's in the Evans' report and I've borrowed it
14 for purposes of this affidavit. Isn't that
15 clear?

16 A I'm getting a bit confused about -- you borrowed
17 it for the purpose of this affidavit?

18 MR. HERN: I don't think the witness understands exactly what
19 has been put in front of him again. The reason I
20 got up before is because he referred to "she".
21 This is a document that Mr. Roberts has drafted;
22 it's Mr. Roberts' creation. Lori Shenher never
23 drafted this document.

24 THE COMMISSIONER: Maybe you should clarify that, Mr. Roberts.
25 There appears to be some confusion in the mind of

1 the deputy chief.

2 MR. ROBERTS:

3 Q I will quite readily and willingly do that. I
4 have drawn this on a hypothetical as an affidavit
5 that ought to have been drawn in October of 1998
6 because there was information sufficient to
7 support an application for a search warrant at
8 least addressing the proposition how close were
9 the police forces to getting a search warrant. I
10 think this commission is entitled to know that.
11 Stop talking about 1999 and 2000. If a search
12 warrant was close, if it could have been granted
13 in the fall of 1998 I believe some 15 or 16
14 women's lives would have been saved, would they
15 not?

16 A If a search warrant had been granted in 1998,
17 yes, I am not sure about the number. I start
18 counting from --

19 Q I'm not sure either --

20 A I did not understand that this was -- I thought
21 that you had inserted your comments in someone
22 else's work. I did not understand that this was
23 entirely of your creation. I get that now.

24 Q I prepared this as a hypothetical affidavit,
25 that's why it's called an aide memoire, to assist

1 me in my cross-examination. I can't expect
2 people to hold all these paragraphs in their head
3 unless I put it on paper. Where I'm going with
4 this is I won't finish this affidavit, I'm then
5 going to couple it with Corporal Connor's
6 affidavit and say this was the time for an
7 application. Are you with me now?

8 A Yes, I understand.

9 Q As to the specific paragraph number 8 in this
10 draft, aide memoire document, it comes right out
11 of the Evans' report which I took you to this
12 morning and read this paragraph to you.

13 A Okay. I understand that now.

14 Q Because yes, of course, it's not in your report?

15 A I was wondering where this information came from
16 but I get it now.

17 Q The next paragraph does come from your report,
18 that on August 18 I met with corporal -- let me
19 back up. Of course, all of this material is
20 quite appropriate for an affidavit application
21 like this, is it not?

22 A I haven't had a chance to read it carefully, just
23 the parts you're pointing out, but I haven't seen
24 anything inappropriate.

25 Q Thank you. I know this may seem unfair. I take

1 it what I'm doing with you now for the target
2 where I'm going right now is not something you
3 have done before. You haven't tried to marshal
4 this evidence into a workable application for a
5 search warrant, you haven't tried to do that
6 before?

7 A No.

8 Q Thank you. Paragraph 9.

9 On August 18 I met with Corporal Connor in
10 Port Coquitlam and discussed the Crime
11 Stoppers tip and the investigation into
12 Sarah de Vries' disappearance. Corporal
13 Connor provided me with a copy of the RCMP
14 file from the March 1997 stabbing incident
15 which I reviewed including the statement of
16 Victim 97 which is set out below in the
17 form of an incident report.

18 That I was informed by Corporal Connor that
19 he was the officer in charge in the matter
20 and arrested Pickton who was charged with
21 attempted murder and forcible confinement
22 but that these charges were subsequently
23 stayed by Crown counsel reportedly because
24 of the female victim's heroin addiction and
25 her unreliability to attend Crown counsel

1 for related interviews.

2 That summary statement is in your report, I
3 believe, isn't it, something like that?

4 A Something like that, yes.

5 Q Pretty much. I'm not going to read the next
6 part, I read it this morning, with respect to the
7 incident sheet. This is the incident sheet in
8 the 1997 stabbing matter which is reproduced also
9 in the Evans' report and I give it over on page 7
10 there is a reference to where you will find that
11 in the Evans' report and there's no reason not to
12 put all this sort of information in this
13 application, is there?

14 A No, there would be no reason not to put it in.

15 Q And there is every reason to put it in because it
16 shows at least a possible pattern or a possible
17 -- what's the term I want -- I don't want to say
18 blueprint in case you're going to say, "I
19 disagree with you." But that was what happened
20 in that case, it got recorded because she lived;
21 right?

22 A Yes.

23 Q She was able to recover enough to make a witness
24 statement?

25 A Yes.

1 Q And the good fortune or the gift this lady
2 provided to the police forces is that they now
3 had a story -- if they believed in her, they had
4 a story they could hold up as a benchmark, if you
5 will, into tipster information, could they not?

6 A Yes, that's one possibility for sure.

7 Q Thank you. So we go to paragraph 10.

8 That the witness statement of Victim 97 was
9 taken by Constable Strachan and Constable
10 Casson of the Coquitlam RCMP and during the
11 Course of their interview Victim 97 there
12 was the following exchange.

13 STRACHAN: Was uh...you talked about the bed
14 that was set up in the...

15 VICTIM 97: He just put a quilt down on the
16 carpet.

17 STRACHAN: Okay. It wasn't already pre-set
18 though?

19 VICTIM 97: No. I know it, I just know
20 there's broods on that property.

21 STRACHAN: What makes you think that?

22 VICTIM 97: I just have a feeling there is.
23 I just have a feeling there's girls on that
24 property somewhere cause there's lots
25 missing from downtown.

1 STRACHAN: People that you know?

2 VICTIM 97: Uh-huh.

3 STRACHAN: Is there any recently and can you
4 Remember any names at all?

5 VICTIM 97: Um I'd have to go look at the
6 sheet at the needle exchange. But I just
7 bet you that you'll at least find one
8 anyways if that place was hunted down. But
9 maybe not now cause he's been released,
10 right. He's probably got rid of it.

11 You know what I mean?

12 That is set out verbatim as you see in the Evans'
13 report. That comes from the file from that
14 victim's incident; right?

15 A Yes.

16 Q I cannot see as a legal counsel if I were to
17 appear and insist on such an application, I can't
18 see any reason to not have that on the
19 application, can you?

20 A Yes, it's very compelling information.

21 Q So it should be there?

22 A I agree.

23 Q Paragraph:

24 On August 18, '98 I interviewed Wayne Leng
25 and discussed the tip received by the police

1 and the telephone call he received and taped
2 on July 27, '98 and he said he'd provide the
3 Tape to me.

4 I move on.

5 On August 19 I received the audio cassette
6 from Wayne Leng which recorded his
7 conversation with the anonymous caller,
8 later identified as Source A, and which said
9 In addition to the tipster information
10 received by Crime Stoppers that Pickton
11 tried to get someone to pick up Victim 97
12 off the street in Vancouver and take her to
13 his farm so he could finish her off. Victim
14 97 is the victim/complainant of the
15 vicious assault on her by Pickton at his
16 trailer on the 23rd of March '97 of which I
17 was informed by Corporal Connor the previous
18 day, all as set out in the paragraph above.

19 There's every reason to put that in this
20 affidavit, too, is there not?

21 A Yes.

22 Q Paragraph.

23 That, on August 21, 1998 I located victim
24 '97, interviewed her at length and found her
25 to be co-operative, quite credible and very

1 afraid of Pickton. I was quite struck with
2 her statement. It was almost verbatim with
3 her statement to the RCMP. She had a great.
4 memory for detail and it was obviously
5 traumatic. She was reliving it. Her
6 biggest concern was in him finding her
7 somehow. I believed her as to the vicious
8 attack on her by Pickton on that March 23,
9 1997 day that gave rise to the attempted
10 murder and forcible confinement charges
11 against him, notwithstanding that they were
12 subsequently stayed by the Crown.

13 I took that partially from your report and I read
14 Constable Shenher's log. I want to give credit
15 where credit is due. Constable Shenher went and
16 located that victim and had that interview with
17 her. That was a very good piece of police work?

18 A I agree.

19 Q Highly laudable that she did that, so she made
20 that information her own because she believed it?

21 A Yes.

22 Q And it certainly belongs in here, doesn't it?

23 A Well, I agree that --

24 Q Her belief and its accuracy?

25 A I'm sorry, I interrupted you.

1 Q Her believability, her finding the person to be
2 credible and believing in her belongs in this
3 application?

4 A Yes, in this hypothetical application.

5 Q Next, paragraph 14.

6 On September 2, 1998 I made contact with
7 Source A at a men's shelter. Source A.
8 repeated that Pickton had told him that "if
9 they ever want to dispose of a body to come
10 to him because he can do it by putting it
11 through a grinder and feeding it to his pigs
12 on his property in Port Coquitlam."
13 Stopping there. That's the second time the
14 source came up with that. The key to that one
15 is, and I remember you saying this in evidence in
16 chief when Mr. Vertlieb was calling your
17 evidence, that Pickton told that to him, told
18 him?

19 A Yes, that's my understanding.

20 Q The source?

21 A Yes.

22 Q I'm just going to stand back for a moment. Of
23 course I find -- it's probably in here -- source
24 Hiscox had a two-month working history for the
25 Picktons, he worked on their pig farm; you know

1 that?

2 A I'm not sure if I did know that.

3 Q I see. Yes, he did. It's in Shenher's notes.

4 A I probably was aware at the time that I read her
5 notes. I just don't recall that.

6 Q He says things about --

7 A I mean, I knew he had been there because I
8 understood that he had made those comments to
9 Hiscox.

10 Q Maybe jump ahead a minute. Let's take paragraph
11 21. Go over to page 10, the bottom of the page.
12 This is an interview -- this comes from the
13 interview of Source A at the Surrey Memorial
14 Hospital, Mr. Hiscox, paragraph 21:

15 In that interview with Source A he said he
16 worked for Pickton and his brother Dave at
17 the P & B Salvage for a couple of months and
18 that he obtained his job through Lee
19 Look at that connection. Lee -- Lisa Yelds.
20 He obtained his job through Lee and had
21 known the Pickton brothers for a number of
22 years and he thought Willie Pickton, Robert
23 Pickton, was a creep. Very quiet, no sense
24 of humour and he did not like being around
25 him. He was aware that Lee and Pickton met

1 through outlaw biker associates and they
2 used to date and still get together every
3 now and then. He learned from Lee that
4 Pickton did not have a girlfriend and uses
5 the services of prostitutes regularly.
6 Source A believed Lee and Pickton to be best
7 friends. Source A said that Lee told him
8 Pickton asked her to get him several
9 syringes -- half clean and half dirty --
10 because Lee is a contact and can get Pickton
11 stuff and Lee said the syringes had
12 something to do with Victim 97 and that
13 Pickton wanted to get her. Lee felt the
14 syringes were going to be used in some way
15 to harm Victim 97.

16 I went ahead a little bit because I wanted to get
17 to the connection between the source and Pickton.
18 There's another reason to be very worried about
19 anything that's revealed about Source A, right?

20 A Sorry, the question is?

21 Q Pickton would know him?

22 A Yes, Pickton knew him.

23 Q All right. Let me go back. I'm at paragraph 14
24 -- 15.

25 In that same telephone call Source A told me

1 he was familiar with the incident of
2 Pickton's attack on Victim 97 and that
3 Pickton was trying to find someone to pick
4 her up so he could finish her off.

5 Paragraph 16.

6 On September 2, 1998 Source A also repeated
7 the information and his tips to Crime
8 Stoppers and to Wayne Leng that there were
9 women's purses, identification papers in
10 Pickton's trailer and that this information
11 came from a woman friend named Lee, later
12 identified as Lisa Yelds?

13 Stopping there. In the real world, of course, in
14 an application her name would be another
15 "source," right? It wouldn't be revealed like
16 this?

17 A Well, she wasn't a source in the first place --

18 Q Or else maybe you'd have to have the application
19 sealed to protect her?

20 A Yes. There would have to be something to
21 identify that she actually wasn't a source, that
22 she was providing information via Hiscox.

23 Q A friend named X or something like that?

24 A Yes.

25 Q Who felt Pickton may be responsible for the

1 current missing women as well as several in
2 the late 1970s and was trying to hire people
3 to find Victim 97, bring her to his trailer
4 so he could finish her off. I told Source A
5 I wanted to speak to Lee and would give him
6 a few days to think about how he would want
7 to approach her.

8 That comes from your report at page 69 where
9 Constable Shenher's notes, referred to as a
10 footnote on your binder. That's information for
11 a hypothetical application such as this?

12 A Yes.

13 Q On September 4, I phoned and left a message
14 for Source A at a new number he had
15 provided wanting to arrange to meet Source A
16 and Lee. On September 5, Source A paged me
17 at home. I returned the call.

18 The rest of it shows some difficulty with him
19 coming down to attend meetings.

20 Now, it would seem to me it's reasonable to
21 put before a justice of the peace not only the
22 good stuff that comes from the source but also
23 any difficulties you're having with the source so
24 the justice of the peace can get a real feel for
25 the reliability; isn't that fair?

1 A Yes.

2 Q Paragraph 18.

3 On September 9 I phoned Corporal Connor and
4 told him of the information from Source A
5 that Pickton was trying to find Victim 97
6 so he could finish her off.

7 Paragraph 19. That was a very sensible thing for
8 Constable Shenher to do? That was a very
9 important thing for her to do?

10 A Yes.

11 Q Make sure you protect that women?

12 A Yes.

13 Q 19.

14 That on September 16, 1998 Source A again
15 failed to attend the arranged meeting with
16 me. However, on September 18 he phoned and
17 apologized for not making the meeting and
18 advised that he was at the Surrey Memorial
19 Hospital.

20 He was under depression at that time as I
21 understand it, so he did have his own problems?

22 A Yes.

23 Q His message also provided more information
24 from Lee, namely that Pickton still wanted
25 to find Victim 97 and that Pickton had

1 women's purses, jewellery -- and I set this
2 out separately -- bloody clothing in bags
3 like he keeps them for trophies and syringes
4 in his trailer.

5 That comes from your own report, that particular
6 passage?

7 A Yes.

8 Q Paragraph 20.

9 That, on September 18, 1999 after receiving
10 the message as set out above I went to the
11 Surrey Memorial Hospital at 9:30 a.m. and
12 found Source A in the psychiatric unit where
13 he is being treated for depression. Source
14 A said to me that he believed Pickton to be
15 a killer and that he could not live with
16 himself if he didn't tell the police what he
17 knew. I confirmed with him he was the Crime
18 Stoppers tipster.

19 So that's the first time she meets him, September
20 18th, and makes this confirmation. I'll move on.

21 And was the person who phoned Wayne Leng.

22 So she confirmed those two things.

23 I interviewed him extensively that day to
24 obtain all the details that came from Lee.
25 I also tried to determine his motivation and

1 credibility and I became satisfied that he
2 was indeed credible. Source A told me that
3 Lee would not cooperate with the police
4 because she doesn't give a crap and was
5 borderline psycho herself.

6 I haven't put the source from your report there
7 but I think those words are in your own report.

8 A I think they're from Detective Constable
9 Shenher's notes which I've replicated.

10 Q I've read paragraph 21, that's him working for
11 two months. One more paragraph.

12 Source A was certain that Lee would not
13 speak directly with me as she was loyal to
14 Pickton and was a long-time biker associate
15 who would not rat out a friend. Source A
16 said Lee was loyal to him because they grew
17 up in foster care together. She said she
18 stuck up for him and protected him.

19 Now, Deputy Chief, I want to ask you a question
20 about the significance of that. Here we have on
21 the information that has been provided and, I've
22 laid it out here as accurately as I can from the
23 sources I found it, here we have this strange
24 phenomenon of Lee, a tough lady, doesn't give a
25 crap, doesn't like the police, repairs her Harley

1 Davidson in her living-room and she hangs out
2 with Pickton and worried about him, yet she's the
3 source of information about what's in his trailer
4 to Hiscox. How could that be, and yet it's here,
5 isn't it? She was loyal because "we grew up in
6 foster care together". So she has a soft side,
7 at least when she's around her old foster care
8 friend. That's very important to the material,
9 isn't it, as explaining why it might be that
10 someone like her would explain these things to
11 perhaps only one person, her old foster care
12 friend?

13 A Yes, why she would confide in this person. I
14 agree.

15 Q And if anyone doubted they were in foster care
16 together, I imagine those records are still
17 retrievable from Social Services in this
18 province, right?

19 A I don't know that. There was no reason to
20 disbelief him.

21 Q There was no reason to disbelieve this, is there?

22 A Not to my knowledge.

23 Q He said she stuck up for him and protected
24 him.

25 Paragraph 23.

1 While Source A provided a telephone number
2 for Lee but said that if they approached Lee
3 casually and did not tell her that I was a
4 police officer Lee would likely disclose a
5 lot of information. I then suggested
6 introducing an uncover officer as a
7 girlfriend of Source A and he was agreeable
8 to that.

9 Now, I'm not going to go into something in my
10 mind, Mr. LePard, one would think -- other than
11 to say this -- one would think that a
12 knowledgeable, experienced police officer would
13 not embark on that kind of a discussion with a
14 source without explaining to him the risks that
15 would entail because he would lose his informant
16 privilege; right?

17 A Yes, if she was familiar with those issues. I
18 agree with you. That is a very significant
19 investigative step to convert someone from being
20 an informant to being an agent.

21 Q Absolutely. And if she didn't engage in those
22 kinds of discussions with him it says something
23 perhaps a little bit about her inexperience?

24 A Yes, I agree she did not have the sort of
25 experience of say a gang or homicide investigator

1 that was familiar with working with informants
2 and agents and so on.

3 Q Thank you. Paragraph 24.

4 That Source A said that Lee had told him
5 with the last week that Pickton had some
6 weird things around the house and that this
7 led Lee to tell him that Pickton had several
8 women's purses, items of jewellery and
9 bloody clothing in bags and that her.
10 impression is he keeps them as trophies.
11 Lee told source A she believed Pickton was a
12 serial killer, and in answer to the question
13 why Lee would hang around a serial killer,
14 Source A said that Lee didn't give a crap
15 you'd have to get know her to understand why
16 she would remain friends with a suspected
17 serial killer, although Source A said Lee
18 was careful around Pickton as she believes
19 he had drugged her on occasion.

20 Perhaps I should stop there. That's right out of
21 Constable Shenher's notes, by the way; you accept
22 that?

23 A Yes, that sounds familiar.

24 MR. ROBERTS: I wonder if the commission would like to have a
25 break.

1 MR. HERN: Could I suggest that given the confusion this
2 witness was under at the very beginning that he
3 perhaps be allowed to review --

4 THE COMMISSIONER: I'll allow you to re-direct if there's any
5 confusion at all.

6 MR. ROBERTS: I don't mind at all.

7 THE REGISTRAR: This hearing will now recess for 15 minutes.

8 (PROCEEDINGS ADJOURNED AT 3:08 P.M.)

9 (PROCEEDINGS RESUMED AT 3:26 P.M.)

10 THE REGISTRAR: Order. This hearing is now resumed.

11 THE COMMISSIONER: Mr. Roberts.

12 MR. ROBERTS: Darrell Roberts, for First Nations interests.

13 Q Let's see if we can finish up the affidavit,
14 draft affidavit as an aide memoire for Constable
15 Shenher. I'm at page 12, Mr. LePard. Paragraph
16 26 is a bit important because it ties in with
17 some work done by Corporal Connor. She says that
18 on -- I should say, the affidavit will say:

19 On September 22 I called Corporal Connor and
20 told him of my meeting with Source A and
21 that Source A was getting his information
22 from a woman biker named Lee (as to the
23 women's purses, clothing and women's
24 identification) that Pickton had asked her
25 to provide him with syringes which he wanted

1 to use against Victim 97 when he found her
2 and that it was at this time that Pickton
3 showed Lee a plastic bag containing bloody
4 women's clothing. Source A said that Lee.
5 told him that Pickton acted as though this.
6 bag of bloody women's clothing was like his.
7 trophy.

8 If you could take a moment, it is manageable to
9 turn to the next affidavit for a moment?

10 A Can I just stop you there? I thought that I was
11 going to get an opportunity to just go back and
12 clarify.

13 Q Of course.

14 A I apologize for being slow on the uptake after
15 lunch but I thought I was looking at an actual
16 affidavit and I was a bit shocked because I
17 didn't recall ever having seen it before and I
18 was surprised by that, but now I understand that
19 this is something that you have created by
20 putting together information, and so I'm not sure
21 exactly what I said in response to various
22 things, but I'll just say how surprised I was to
23 see the information about the kidnapping by
24 fraud, and I accept that you have put that in
25 there and you may have written the search warrant

1 that way if you were applying for one. I just
2 don't think that Detective Constable Shenher
3 would have based on the information that she
4 received from the informant.

5 Q I didn't suggest she would have. The proposition
6 is let's assume it was done that way. Let's
7 assume she was more knowledgeable than perhaps
8 she was. Let's assume this information was put
9 forward this way. I'll have to argue later as to
10 its justification.

11 A Yes, I understand that, but we were not on the
12 same page at the time you were taking me through
13 that.

14 Q You did say though even apart from this draft
15 affidavit that kidnapping by fraud would at least
16 be something that should be suspected for
17 purposes of investigation?

18 A In general in the missing women, absolutely
19 that's something that should have been considered
20 and was considered. In terms of the information
21 received from Hiscox, that's not what the
22 information was about. That's all I'm saying.

23 Q He just -- all the situations with Hiscox -- I'm
24 not going to debate it with you but yes, that's
25 what it is about. The things that are in the

1 trailer, one would say what connection does that
2 have to do with women from downtown Vancouver
3 and, well, if they're carried there by vehicles
4 on sex engagements which might shelter under
5 kidnapping by fraud, that would be the nexus
6 which the law wants for a search warrant between
7 those things way out in Port Coquitlam and the
8 missing women in Vancouver. That's why they're
9 there.

10 A I understand your theory.

11 Q Thank you. Can I go back then to the paragraph
12 where I was?

13 A Point out which paragraph you're at now.

14 Q Page 12, paragraph 26.

15 A Yes.

16 Q I read that, I won't read it again. The "trophy"
17 word has quotes around it in your own report?

18 A Yes. My recollection is that there were quotes
19 in Detective Constable Shenher's notes so I took
20 that to mean that that was Hiscox's actual word.
21 I don't know that for a fact but I believe that's
22 what I inferred.

23 Q What you're saying is Constable Shenher put the
24 quotes around it?

25 A That would be my recollection.

1 Q Would that be indicative of her having a special
2 understanding of that word?

3 A Well, my reading of it was that that was the word
4 he used so that's why she put it in quotes.

5 Q He used lots of words but that's the only one she
6 put in quotes. You're going to have to do better
7 than that.

8 A What's your question about it?

9 Q The word was in quotes you said in her notes.
10 Not all the words were in quotes. As his
11 "trophy". I asked you, is that indicative to you
12 as an experienced policeman of some experience
13 that the word meant something to Shenher?

14 A Yes, that's a fair inference.

15 Q Thank you. That inference has some connection
16 with the language that might be used -- something
17 that a serial killer might do?

18 A Yes.

19 Q Keep some trophy from the victim?

20 A Yes.

21 Q So is it correct -- we're going to hear from
22 Constable Shenher but I take it you took it from
23 her quotes around it that she knew that
24 connection with a serial killer?

25 A I'm not sure of that, whether that's what she

1 knew or she just thought. It was an interesting
2 word that he had used but I wouldn't be surprised
3 if she --

4 Q In context as you read it, bloody women's
5 clothing in a bag like a trophy, your immediate
6 connection is that's serial killer language?

7 A Yes.

8 Q Long known as such?

9 A Yes.

10 Q I've left it with the quotes on it in here,
11 paragraph 27.

12 I also told Corporal Connor that Lee told
13 Source A that she believes Pickton to be a
14 serial killer and that he was responsible
15 for killing street prostitutes. I further
16 told Corporal Connor that Source A told her
17 that Lee did not give a crap and it was
18 doubtful she would co-operate with the
19 police. She associated with bikers, is a
20 bit weird in that she buys her meat from
21 Pickton, and is present on the Pickton farm
22 for the grinding up of the meat, a process
23 she enjoys.

24 That's from your report as well?

25 A I believe so.

1 Q That, in my telephone conversation with
2 Corporal Connor on September 22, 1998
3 Corporal Connor told me that the name Lee,
4 which is the name Source A used for the
5 woman biker who had been to Pickton's
6 trailer and provided information to Source A
7 With respect to women's purses,
8 identification, jewellery, and women's
9 bloody clothing in bags seen in Pickton's
10 trailer, was the same as the name Lee that
11 he found in Pickton's address book that
12 Corporal Connor obtained in the.
13 investigation of the 1997 assault on Victim
14 '97. The name Lee in Pickton's address book
15 had an address and phone number associated
16 with Lisa Yelds.

17 So right away on September 22 -- even back on
18 September 18th as repeated on September 22 to
19 Constable Connor, this person Lee was a real
20 person which was in association with Pickton,
21 with Lisa Yelds, information that source Hiscox
22 provided all confirmed and corroborated about who
23 Lee and Lisa Yelds was?

24 A I agree it was confirmed who Lisa Yelds was.

25 Q And what kind of person she was?

1 A Yes.

2 Q Paragraph 29. This is important.

3 That, on September 22, in conversation with
4 Corporal Connor -- this is in the draft
5 affidavit -- he wondered if the bloody
6 clothing that Lee saw might be the clothing
7 that was returned to Pickton after the 1997
8 charges over the incident with Victim 97.
9 were stayed.

10 I'm going to stop there and go to the sergeant
11 affidavit which is the last document I gave you.
12 I'm sorry to have you go back and forth, Mr.
13 LePard and Mr. Chairman. I'm looking for the
14 paragraph in Sergeant Connor's affidavit, the
15 last document I handed up, page 4. It's the
16 second paragraph just before the bottom of the
17 page in Sergeant Connor's affidavit where he says
18 "that Sergeant Connor initially believed".

19 A I see that.

20 Q That Sergeant Connor initially believed that
21 the clothes referred to by Source A, the
22 clothes that Pickton had shown Lee, could
23 have been the clothes seized during the
24 March 1997 investigation and that they could
25 have been returned to Pickton.

1 Let's stay with Connor's affidavit so we don't go
2 back and forth.

3 That in light of the aforementioned
4 information from Source A, Sergeant Connor
5 contacted -- that's the warning paragraph.
6 Let's get to what he does about the clothing.
7 The middle of page 5.

8 That Sergeant Connor, on the same date at
9 1530 hours, spoke to Constable Paradis.
10 Constable Paradis was the designated exhibit
11 person with respect to the March 1997
12 offence. Constable Paradis advised he did
13 not recall seizing a fanny pack but does
14 recall the syringes on the floor. With
15 respect to the possibility that Pickton was
16 showing a bag of bloody clothes, Constable
17 Paradis agreed that the clothes may have
18 been Pickton's from being from this stabbing
19 incident in March 1997.

20 I'll skip the paragraph about the lady named
21 Hyacinth. The bottom full paragraph on page 5.

22 On the 24th September 1998 at 1200 hours
23 Constable Paradis checked the exhibits
24 seized during the March 1997 investigation
25 and found that they were still retained at

1 the Coquitlam detachment. These exhibits
2 were still being retained in the event Crown
3 counsel reinstated the previous criminal
4 charges against Pickton. Constable Paradis
5 was able to determine that Pickton's
6 clothing seized in March 1997 was still in
7 the detachment exhibit locker. Therefore,
8 the clothing held out to Lee and referred to
9 as trophies could not be the clothing seized
10 during the March, 1997 investigation.
11 Therefore, Sergeant Connor swears and it is
12 verily believed that Pickton's statement of
13 the bloody female clothing shown to Lee and
14 identified as his "trophies" --

15 You see Sergeant Connor puts it in quotes too?

16 A Yes.

17 Q -- has to be taken at face value.

18 I stop there because he goes on to syringes. I
19 have not changed any language of Sergeant Connor
20 in the draft I redrew. He does sometimes use
21 language that is opaque. Do you have an
22 understanding of what the good sergeant meant by
23 "face value"?

24 A Yes.

25 Q Can you share that with us?

1 A Well, what I understood that he meant by that is
2 that there wasn't something to contradict that
3 that's what it was, it is what it is.

4 Q So it's believable?

5 A Yes. He did his due diligence in seeing if there
6 was some other plausible explanation and he
7 didn't find one.

8 Q That's pretty significant. He was initially
9 concerned it could be Pickton's clothing and he
10 did his due diligence and found out it was not?

11 A Yes.

12 Q That's pretty important to know that for the
13 purposes of this hypothetical application; right?

14 A You wouldn't want to leave a loophole for the
15 defence there.

16 Q So back please, finishing up this draft affidavit
17 for Constable Shenher.

18 A Sorry, we're back to the mock Shenher affidavit?

19 Q I don't mind that word "mock". Page 13,
20 paragraph 31.

21 A I just have to find it here.

22 Q At the end of the day I'll help you and Mr. Hern
23 put it together under your tabs.

24 A What page is it?

25 Q 13.

1 A Yes.

2 Q Paragraph 31.

3 A Yes.

4 Q Corporal Connor also told me that with
5 respect to the syringes -- this is
6 important, too -- from his own investigation
7 he believes Pickton does not do drugs but
8 had his own syringes, and allowed Victim 97
9 in the March 1997 incident to use his.
10 syringe, given her blood was identified in
11 one syringe, or injected the syringe into
12 her in an attempt to control her.

13 That is, accept my word for it, straight out of
14 Connor's affidavit, that's where it comes from.

15 A I'll take your word for it.

16 Q Paragraph 32.

17 That, I discussed with Corporal Connor the
18 term "trophy" in the information from source
19 A that came to him from Lee referring to the
20 women's bloody clothing held up by Pickton
21 for Lee to see as the language of a serial
22 serial killer.

23 In this hypothetical it would have been most
24 reasonable if she put the word "trophy" in quotes
25 that she'd want to discuss it with an experienced

1 constable like Connor?

2 A Yes, I believe so.

3 Q So that's a reasonable paragraph for this
4 paragraph, this mock-up, this hypothetical
5 affidavit?

6 A I would want to know whose word it is, whether it
7 was Hiscox quoting Yelds or it was Hiscox's word
8 or it was --

9 Q Hiscox said he was quoting Yelds. That's already
10 clear. He didn't make up anything Lisa Yelds
11 said; he said it came from her.

12 A Then I think it's fair to include that.

13 Q Paragraph 33. I mean, it's in your own notes,
14 everything about the clothing, the purses, the
15 jewellery, the women's identification and the
16 bloody clothing is language -- information that
17 came from Lisa Yelds because she had been in the
18 trailer, she went there to clean it. She was
19 friendly with Pickton in the trailer.

20 A Yes.

21 Q Paragraph 33.

22 That on October 13, 1998 I tracked down
23 Source A and advised him the RCMP was aware
24 of Lee --

25 I'm not going to read it further. This is simply

1 putting it to this affidavit, the activity of
2 Constable Shenher with her source on October 13
3 that I earlier reviewed with you in another
4 context?

5 A Yes.

6 Q That she felt she had to get to a joint meeting
7 with Corporal Connor, right?

8 A She wanted to meet Corporal Connor with Hiscox
9 with her.

10 Q And in part I put it in this mock-up affidavit to
11 explain why she's then working with Connor on
12 this ongoing basis and help explain when we get
13 to it we're going to see Connor's affidavit.

14 A Yes.

15 Q Paragraph 34, this paragraph sets out the
16 debriefing -- not the debriefing but the
17 investigation of the credibility of source Hiscox
18 by Corporal Connor. We know that did take place
19 on the 15th of October?

20 A Yes, yes.

21 Q He reviewed all the information. According to
22 Constable Shenher's notes, it was a very
23 extensive interview and Connor became satisfied
24 as to Hiscox's credibility?

25 A Yes.

1 Q Paragraph 35.

2 That, in the conversation on October 15,
3 Source A also offered to assist in an
4 approach to Lee. He said that Lee is very
5 anti-police and will not likely open the
6 door to the police. Source A was concerned
7 that because Lee did not talk to many people
8 she would know that the information about
9 Pickton would likely have come from him.
10 Nevertheless, Source A was agreeable to
11 introducing an undercover to Lee as he felt
12 Lee would accept anyone that he personally
13 introduced her to.

14 That would be important for this hypothetical
15 affidavit to show the quandary that source Hiscox
16 was in, he wanted to help and yet he was scared?

17 A Yes.

18 Q 36.

19 That, in the same conversation with Source A
20 after discussing introducing an undercover
21 police officer to Lee and how we would
22 prefer to avoid this, we also discussed the
23 possibility of making Source A an agent
24 wearing a wire although we would prefer to
25 avoid this too but he said he is willing to

1 do it.

2 I've put this in here even though I agree with
3 you that's a whole different ball game, isn't it?

4 A Yes, it is.

5 Q At this stage there's lots of doubt as to whether
6 you could ever use Source A in such a capacity?

7 A Yes. There would be some very significant
8 concerns about that.

9 Q But at the same time it's useful for this
10 affidavit to get a search warrant to show that
11 despite the risk and the danger this was a man
12 that wanted to help and was quite genuine?

13 A I agree that that's important information in
14 assessing his credibility. I don't know whether
15 it is the sort of information you'd normally put
16 in an ITO, but I don't disagree with you.

17 Q Paragraph 37.

18 That, in the same conversation with Source A
19 Corporal Connor and I suggested that if we
20 go to Lee with what we've heard she would
21 not be able to tell Pickton because his
22 first question would likely be what is she
23 doing talking about this situation to anyone
24 and her loyalty to him would be an issue for
25 him and their friendship and she would have

1 more to lose by telling Pickton than not, to
2 which Source A said he feels we will have a
3 very difficult time getting Lee to speak to
4 us without him being present.

5 That's accurate as to what's in your report at
6 page 78 as you remember it?

7 A Yes, that sounds right.

8 Q Before I move on though, that also is a very
9 troubling conversation which they had, isn't it?

10 A In what respect?

11 Q The suggestion that they would go to Lee and risk
12 his informant privilege is what's involved in
13 that discussion without telling him what would be
14 involved?

15 A I think that they would absolutely need to do
16 that before they would do that.

17 Q I'm sure, but her notes don't indicate she had
18 any such conversation with him.

19 A Yes, I agree. In fact, it didn't occur so...

20 Q Without that conversation that is a crazy idea,
21 isn't it?

22 A Well, I don't know if it's crazy because, as
23 you've pointed out, Hiscox has said that although
24 he's not keen on it he is willing to, in effect,
25 become an agent, he's willing to introduce an

1 undercover operator, and clearly if he did that
2 there would be a point where his identity -- the
3 fact he had done this for the police would become
4 known to Yelds. It was good to discuss it.

5 Q "Crazy" is the wrong word. But it's very
6 questionable because there's nowhere in the notes
7 or log of Constable Shenher can you find that she
8 actually engaged in a discussion with Hiscox as
9 to what his role was where he would kept safe or
10 what his role would be if he for one moment went
11 into undercover operations and wore a wire, where
12 as I understand the law he loses his informant
13 privilege?

14 A Yes. That certainly would have been important if
15 they had gone beyond the point of discussing it
16 but they didn't.

17 Q All right. So its value here is what? Here is a
18 man, again, who wants to help and is warning them
19 that unless they do use him to get to Lee, if
20 they want to go to Lee they can only do it
21 through him because she won't trust the police?

22 A Yes, that is valid information in that respect.

23 Q But there's a turn side to that, it seems to me,
24 that could be argued on an application for a
25 search warrant -- I'm jumping ahead of the game

1 here but I'll be coming to it at the end
2 anyway -- and that is, if everything can be
3 corroborated, everything possibly can be
4 corroborated and there is a nexus between the
5 crimes concerned about and the things to be
6 sought and all the circumstances are plausible,
7 reasonable and the relationships are probable,
8 there's a reason not to actually go to Lee and
9 that is because of the risk of disclosing the
10 source?

11 A That, and also the risk that she would
12 immediately go to Pickton and tell him.

13 Q Good point. Good point. Paragraph 38.

14 That, it was left with Source A that we,
15 Corporal Connor and myself, will make some.
16 decisions from our end on how to approach
17 Lee, and in the meantime Source A can think
18 about it as well. We told him we'll have to
19 contact Lee one way or another and his
20 Identity will be known sooner or later and
21 Source A seemed okay with this; he said:
22 that's the price he will have to pay to do
23 the right thing.

24 There again is the value in the apparent
25 sincerity of Source A to see that the right thing

1 is done

2 A I agree.

3 Q As to having to approach Lee one way or another,
4 that's questionable actually, isn't it?

5 A Yes. That is going to require a lot of thinking
6 and brain-storming with others because that's an
7 irrevocable step.

8 Q I don't know whether it has a place in this
9 affidavit for a search warrant but at least it's
10 being frank and full?

11 A Yes.

12 Q Paragraph 39.

13 That, from my meetings and discussions with
14 Source A I believe he is very credible and I
15 believe in his honesty and integrity and
16 that he is indeed trying to do the right
17 thing.

18 But from everything I've read in Constable
19 Shenher's notes and in your report it seemed like
20 she was at the same point?

21 A I might have wanted to add the phrase with
22 respect to the information about Pickton myself.

23 Q I kept that. Paragraph 40.

24 That, I have investigated the property at
25 953 Dominion Avenue and noted there is a

1 residential trailer on the property plus a
2 single-family home and there are a number of
3 farm buildings and vehicles on the property.
4 I have confirmed that it is indeed a pig
5 farm and that it is common to feed pigs with
6 ground-up material that includes meat
7 products. I have learned as well from my
8 investigation that Robert Willie Pickton
9 lives in the trailer and that he has a
10 brother who lives in the family home.

11 That might seem mundane, but those are all things
12 that would have been investigated and would have
13 been capable to go in this affidavit?

14 A It's not completely accurate but I agree --

15 Q Where is the --

16 A Well, I know that there's been a number of people
17 who have objected to his property being called a
18 pig farm and him being called a pig farmer
19 because that was not his primary occupation. He
20 raised a few pigs for friends and butchered them
21 himself and that sort of thing, but I accept
22 that's a very minor point.

23 Q I know the point because he actually made his
24 money working elsewhere?

25 A Doing other things.

1 Q Paragraph 41.

2 That, I also believe Source A did not invent
3 any part of the information he has provided
4 to me, that he has been truthful in every
5 respect, that Lee has the connection to
6 Pickton that Source A described and had the
7 means to see and identify items in Pickton's
8 trailer, women's purses, identification
9 papers, jewellery and women's bloody
10 clothing, and that his own relationship with
11 Lee going back to when they were children in
12 Foster care together explains why she would
13 tell him things she would tell no one else.

14 Is that a reasonable paragraph to put in the
15 mock-up affidavit like this?

16 A Yes.

17 Q Paragraph.

18 That I also cannot find a reason for Lee to
19 have invented the information she has.
20 provided to Source A.

21 A I would question that one.

22 Q Why?

23 A Because she's never interviewed -- Lee hasn't
24 been interviewed so there could be many reasons.

25 Q If she's friends with Pickton would she invent

1 something against him? Give me a reason.

2 A I don't know. Maybe she's a big storyteller.

3 Q Isn't it too easy to say things like that? Why
4 would she tell stories and then put herself at
5 risk with her biker friends?

6 A I'm not saying it's wrong. To say I cannot find
7 a reason -- I would have wanted to do more due
8 diligence before making that comment. I don't
9 think taking it out detracts from the ITO.

10 Q I'm going to come back and ask you the same
11 question after I deal with Connor's affidavit.
12 She then says:

13 That, having regard to all of the evidence
14 and circumstances set out herein and in the
15 affidavit of Corporal Connor I verily
16 believe the information provided from Source
17 A to be true and that the test of reasonable
18 and probable grounds to believe that the
19 information is true and has been satisfied
20 on this application.

21 Is it unacceptable or untoward to sort of make a
22 pitch like that at the end of an affidavit or is
23 it acceptable? I can't find any swearing off
24 clause at the end of Sergeant Connor's --

25 A Probably if I was writing it would have ended

1 with a period after the word "true". I don't
2 think it's for a police officer to make that
3 determination but I don't see anything wrong with
4 having a concluding paragraph that like.

5 Q Can we turn now to the much short Corporal Mike
6 Connor affidavit. I'll do a little bit today on
7 that.

8 A This is memoire number 3?

9 Q Yes. So we don't have the same problem, I
10 prepared this. Yes, it's a mock-up but it has
11 only two changes to it. Wherever in the original
12 affidavit Sergeant Connor where his rank of
13 "sergeant" appears I've changed this one to
14 "corporal" because at the time this would have
15 presented he would have been a corporal.

16 A I understand.

17 Q Second, there's one or two places in an affidavit
18 where he's talking about information from Source
19 A, he tries -- not try to, he does add a
20 buttressing phrase affirmed by Caldwell and since
21 Caldwell is 1999 I removed it. So I assure you
22 other than that, this is a repeat of all the
23 information in Sergeant Connor's affidavit which
24 is Exhibit C and as I understand it supported the
25 search warrant application on February 6th, the

1 wider search warrant of 2002.

2 A I understand.

3 Q To be found as Exhibit J in the Williams' report.

4 He starts off by saying:

5 This affidavit is provided by me in support
6 of the information of the Detective
7 Constable Lori Shenher of the Vancouver
8 Police Department.

9 I do have some questions. There's no reason you
10 can't have two affidavits in support of a search
11 warrant application?

12 A No. A search warrant might include an
13 application from another witness or sometimes an
14 expert witness, for example, might provide an
15 affidavit.

16 Q It's in fact desirable, isn't it, because you get
17 two people supporting it and from two different
18 police forces, isn't that desirable?

19 A It wouldn't be unusual to have appendices to an
20 ITO and that's one way to do it, sure.

21 Q It shows two police forces working
22 collaboratively, positively together; isn't that
23 desirable?

24 A Yes.

25 Q I have said here just for purposes of a reminder

1 to how this is prepared:

2 In parentheses the following paragraphs are
3 adopted from the affidavit of Sergeant
4 Connor in support of an information for a
5 general search warrant that was issued on
6 February 6 -- that's misstated -- 2002, with
7 the only change being to the rank of
8 Sergeant Connor, he being at the time in
9 question a corporal.

10 That's not quite true. There were two tiny
11 places I removed the phrase "confirmed by
12 Caldwell."

13 Paragraph 2.

14 On August 18th at 1000 hours Detective Lori
15 Shenher of the Vancouver City Police -
16 Missing Person Unit met with Corporal
17 Connor.

18 He seems to talk about himself in the third
19 person, Mr. LePard. Is that how he spoke to you?

20 A I've never spoken to him.

21 Q In his writing he writes a little different?

22 A Yes, he does have his own style of writing.

23 Q Detective Shenher advised she has been
24 conducting an investigation into the
25 disappearance of one Sarah de Vries.

1 De Vries disappeared in Vancouver, British
2 Columbia 13th day of April 1998 and was a
3 known prostitute who worked the Downtown
4 Eastside of Vancouver. Upon her
5 disappearance her boyfriend posted a number
6 of posters in Vancouver, BC, requesting that
7 if anyone having information with respect to
8 the disappearance to call a 1-800 number he
9 had set up independent of the police
10 Investigations.

11 That's how his affidavit actually proceeded.

12 At one point in time, a male, telephoned the
13 aforementioned telephone number and admitted
14 to being with his friend when the de Vries
15 girl was murdered. The caller did not
16 identify himself. The boyfriend then turned
17 the tape over to the Vancouver City Police
18 who in turn had the television and radio.
19 news media play the conversation.

20 I won't read the rest of that but all of that
21 introduced the second tip to the Wayne Leng
22 connection.

23 A I don't think that that's what that is referring
24 to. I think that information is referring to a
25 hoax caller that was discredited. Can I just say

1 it's de Vries, Sarah de Vries.

2 Q These calls were in relation to a Port Coquitlam
3 resident. That was discredited. So he puts it
4 in his affidavit, in any event. The next one
5 sets out the tip that Constable Shenher received;
6 correct? Paragraph 5 sets out the second tip.
7 Paragraph 6 sets out the confirmation, which I
8 take it means at the meeting on August 18th with
9 the attack on the victim in the March 1997
10 matter; right?

11 A Yes.

12 Q I won't read these paragraphs but Corporal
13 Connor, or Sergeant Connor, had these full
14 paragraphs describing the vicious attack on
15 Victim 97; you see that in paragraphs 7 and 8?

16 A Yes.

17 Q Then paragraph 9 sets out the connection with P &
18 B Used Building Supplies and Pickton. Let's go
19 down to something more important. Paragraph 13
20 sets out his speaking with Terry Stewart about
21 the Coordinated Law Enforcement Unit and that
22 Robert Pickton and his brother are co-owners of P
23 & B and involved in the D & S Bulldozing Limited,
24 and Piggy's Palace Good Times Society. Do you
25 see that, paragraph 13?

1 A Yes.

2 Q Paragraph 14 sets out the advice that Pickton was
3 trying to hire people to find Victim 97 and bring
4 her to him. I didn't change his language but
5 this is how he wrote it:

6 And bring her to the previously referred to
7 March 1997 Coquitlam offence.

8 It's garbled and doesn't make sense but I didn't
9 change it. In the real world it would have been
10 changed?

11 A Yes.

12 Q On the 22nd of September Corporal Connor
13 received a phone call from Detective
14 Shenher. She stated she interviewed the
15 Crime Stoppers tipster referred to as Source
16 A.

17 So there's the call that she places and then that
18 works through the main lead being in the book,
19 Pickton's address book?

20 A Sorry, this, again, is still his writing in
21 paragraph 15?

22 Q Yes. 15 is his own writing.

23 A I'm just curious, he spelled his own name wrong.

24 Q Without the M, that's a typo. This was typed up,
25 it wasn't photocopied.

1 A I understand.

2 Q There's all the information that Detective
3 Constable Shenher reviewed with Connor on that
4 telephone call on the 22nd.

5 In the time available I want to move on now
6 to one thing that is a very interesting thing to
7 have done, and that is the confirmation that is
8 the kind of person that Lisa Yelds was. Would
9 you look at page 6, paragraph 24. What a
10 wonderful resource Corporal Connor had in his own
11 detachment office. Paragraph 24.

12 That at 1630 hours Corporal Connor spoke
13 with Coquitlam detachment telecom operator
14 and long-time Coquitlam detachment employee,
15 Mrs. Bev "Puff" Hyacinth who has also known
16 Pickton for many years. She advised that
17 Lisa Yelds used to live across the street
18 from her. She is a heavily tattooed biker,
19 who fixes her Harley Davidson motorcycle in
20 her front room. She is considered wild and
21 known to buy her meat from Pickton. Puff
22 stated that Yelds is a very hard case and
23 will not reveal to authorities what she
24 knows about Pickton. For certain if she's
25 approached she would tell Pickton very soon

1 after meeting with the police and,
2 therefore, tipping the investigator's hand.
3 to Pickton.

4 I'll stop there. That is pretty solid
5 confirmation about this woman that came from
6 Source A; right?

7 A Yes.

8 Q And he had this remarkable resource right in his
9 own office?

10 A Yes.

11 Q The detachment office?

12 A Yes.

13 MR. ROBERTS: Mr. Commissioner, I had hoped to finish today
14 but it's not in my hands.

15 THE COMMISSIONER: How much longer are you going to be?

16 MR. ROBERTS: I think I will be close to half a day on Monday.
17 I have another area to cover after this and then
18 I'll be done.

19 THE COMMISSIONER: We will adjourn.

20 THE REGISTRAR: This hearing is now adjourned until Monday at
21 ten o'clock.

22 (PROCEEDINGS ADJOURNED AT 4:06 P.M.)

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I hereby certify the foregoing to
be a true and accurate transcript
of the proceedings transcribed to
the best of my skill and ability.

Margaret M. Wills
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