

1 **Vancouver, BC**

2 **November 29, 2011**

3 **(PROCEEDINGS RECONVENED AT 10:00 A.M.)**

4 THE REGISTRAR: The hearing is now resumed.

5 THE COMMISSIONER: Mr. Roberts.

6 MR. ROBERTS: Good morning, Mr. Commissioner. Darryl Roberts
7 for aboriginal interests. Mr. Commissioner, I
8 want to address a very brief submission to the
9 memorandum of evidence of Mr. LePard that is being
10 offered in, as I understand it, as part of his
11 answer to my question yesterday about how close we
12 were to a search warrant as prepared in the aide
13 memoire material, how close that was to achieving
14 the issuance or granting of a certain warrant.
15 Might I back up for a moment.

16 It will be remembered that I -- at the end of
17 Wednesday last week I advised the court that I
18 intended to take one day in my cross-examination
19 of Mr. LePard. I began on Thursday morning for
20 that one day and I went immediately to the subject
21 of the jurisdiction of the Vancouver Police
22 Department to investigate the crimes of kidnapping
23 by fraud. I started that by referring to the
24 Criminal Code provisions in that regard, to the
25 Court of Appeal cases in *Brown* and *Metcalfe* and to

1 a statement by Victim 97. I had hoped to finish
 2 that relatively early in the morning, but as we
 3 got towards the noon time I realized that was not
 4 going to happen. Had I done so I would have had a
 5 better chance of finishing the cross-examination
 6 on the aide memoire material. As it happened I
 7 began that at two o'clock in the afternoon and I
 8 got through it all to the point of dealing with
 9 syringes at the end of the Connor part of that
 10 material.

11 During the course of my cross-examination of
 12 Mr. LePard it may be remembered that Mr. LePard
 13 seemed to have a little difficulty more than once
 14 in understanding what the nature was of the
 15 Shenher document of the first part, the
 16 information and the affidavit in support. At
 17 least I got the impression that he didn't know
 18 whether it was a document actually prepared at the
 19 time in draft form, or as I had tried to point
 20 out, obviously inadequately, that it was in fact
 21 an aide memoire of counsel to assist in my
 22 cross-examination. So what happened at the end of
 23 the day I didn't finish, and so what took place
 24 yesterday would normally not have happened, and by
 25 the way I interrupted him in the course of

1 evidence yesterday, and counsel doesn't do that, I
 2 know that, and that was reprehensible on my part,
 3 but understandable in these circumstances. At the
 4 end of Thursday my memory is that I was approached
 5 by counsel to see whether or not Mr. LePard could
 6 look at the aide memoire document, in particular
 7 the Shenher affidavit. And in the interests of
 8 being fair to the witness, 'cause when I got to
 9 the issue of asking him how close we were I wanted
 10 to make sure I had been fair to the witness, and
 11 because he'd had that misunderstanding or apparent
 12 misunderstanding I wasn't sure that was going to
 13 be the case. So my memory is I was asked by
 14 counsel, and I cast no blame on counsel, probably
 15 on myself for mishearing him, but I thought I was
 16 being asked to have the witness look at the
 17 document to understand what it was. No more than
 18 that. What happened is, as I understand it,
 19 Mr. LePard took the aide memoire material home.
 20 Over the course of four days he has prepared what
 21 is a typed up memorandum in the form really of a
 22 rebuttal to a question I hadn't yet asked. So
 23 that's the fact of the matter. I'm perhaps a
 24 victim of my not paying attention in my own
 25 attempt to be fair to the witness and not paying

1 attention as to what he really wanted. It may
 2 well be that Mr. Hern will say I asked if he could
 3 take it home, but I certainly don't remember that,
 4 and I would never have agreed to it. I'm in the
 5 middle of cross-examination, and I wanted that
 6 cross-examination to flow in the ordinary and
 7 normal course so we could get his observations and
 8 evidence on it without being reflecting on it and
 9 realizing his status here as a witness speaking
 10 for the Vancouver Police Department.

11 So with all that behind me, and I think I've
 12 been fair and accurate as to what happened, I'm
 13 not unhappy with the document being received by
 14 the commission, but I would like to have a note
 15 attached to it. I'd like that note to say
 16 something like this, Mr. Chairman. Memorandum of
 17 evidence prepared by Mr. LePard over a pause in
 18 his cross-examination by me which was ended, the
 19 pause, Thursday, November 24 at four p.m. to
 20 Monday 28th at ten a.m. having the aide memoire
 21 document number 2 and 3 in his possession for
 22 review. I think that's only fair.

23 THE COMMISSIONER: Well, you could do that or you could just
 24 make that argument at the end of the day. Do you
 25 have any comments about that?

1 MR. HERN: Yeah, I'd just like to respond with two points.
 2 First, what I asked Mr. Roberts was specifically
 3 whether that document could be provided to DC
 4 LePard over the weekend so he could review it.
 5 Because it was a lengthy document, it was seeking
 6 his opinion, and you know, seeking an opinion sort
 7 of by surprise in cross-examination is a little
 8 unusual, and for him to provide a fulsome and
 9 informative response to you about that opinion it
 10 seemed to me appropriate that he would have time
 11 to look at the document and reflect on it,
 12 particularly because there was that
 13 misunderstanding. And so it's unfortunate that
 14 that was not perhaps understood by Mr. Roberts. I
 15 know our conversation was in fact recorded because
 16 we left the microphone on while we were talking
 17 and Mr. Giles came over and suggested that that
 18 wasn't a good idea. But I -- you know, so that's
 19 unfortunate, but that's what was done. I
 20 certainly am aware that it's not appropriate to
 21 provide the witness with documents without asking
 22 counsel. And, for example, I asked Mr. Gratl
 23 yesterday whether he wished Mr. LePard or Deputy
 24 Chief LePard to review Exhibit J that's been put
 25 before him today and Mr. Gratl advised that he

1 didn't, so obviously the deputy chief doesn't have
2 those documents or hasn't reviewed those.

3 THE COMMISSIONER: So we know what's happened. What's your --

4 MR. HERN: With respect to the caveat placed on the document I
5 think that's fine, I don't have any problem with
6 that, but it is the second half of his answer and
7 I think that it should go in.

8 THE COMMISSIONER: Okay. Well, why don't you agree as to what
9 caveat should be put on it and we'll proceed in
10 that fashion.

11 MR. HERN: Mr. Roberts can just write it on by hand if that
12 works.

13 MR. ROBERTS: I'm content with that, Mr. Commissioner, but I
14 have to tell you I feel sandbagged because I
15 didn't get the cross-examination that I intended
16 to have, and I certainly would never have agreed
17 to having him to have the document to prepare
18 rebuttal over the course of four days. That in my
19 mind should never happen in a cross-examination.
20 So there it is. I'm a victim of my own attempt to
21 be fair to the witness. I must say, however, that
22 in a commission of inquiry like this with all
23 other counsel I would have thought that all
24 counsel would have a say in that matter, not just
25 me, and it should have been a matter for the order

1 of the court, not just me. And that's part of the
2 reasons why I never, and I don't believe anybody
3 else participated in that request, and I was tired
4 at the end of my cross-examination and all I heard
5 was he would like to look at this document, and
6 all I could think of yes, he had a problem
7 understanding what it was.

8 THE COMMISSIONER: Okay. All right. Anyway, it's happened.

9 MR. HERN: Perhaps you could give some direction on -- in my
10 view the person who decides on whether a witness
11 is permitted to review a document is the cross
12 examiner and not at large, but it would perhaps be
13 helpful --

14 THE COMMISSIONER: Well, something happened here, it's
15 inadvertent I'm satisfied, and perhaps that will
16 go to the weight of the evidence at the end of the
17 day and we'll deal with it in that fashion. All
18 right. Okay.

19 **DOUGLAS ALAN LEPARD: Resumed**

20 **CROSS-EXAMINATION BY MR. GRATL CONTINUED:**

21 Q Deputy chief, when we left off cross-examination
22 yesterday we were on the subject of the senior
23 management team's failure to remove Ms. Cameron
24 for the period 1995 to late 2001. Ms. Cameron --
25 Ms. Cameron's conduct, her racist, bigoted

1 conduct, interfered with the working environment
2 that made Detective Howlett uncomfortable; isn't
3 that correct?

4 A I remember Detective Shenher being uncomfortable.
5 I'll take your word for it if Detective Howlett
6 said that as well.

7 Q Well, somebody had to walk out of the room because
8 of her comments?

9 A Yes, I recall that.

10 Q So you'll agree with me that generally she created
11 a work environment which was unfavourable and made
12 work difficult?

13 A Yes.

14 Q All right. So she interfered with the team
15 dynamics through her racist conduct?

16 A Her conduct made people uncomfortable, and that
17 was part of it, yes.

18 Q So you'll agree with me that interferes with the
19 investigation; is that right?

20 A Yes.

21 Q All right. So that's one way in which her conduct
22 interfered with the investigation, it's just by
23 making the work environment difficult for her
24 colleagues?

25 A Yes.

1 Q All right. And I take it that the senior
2 management team has an obligation to ensure that
3 the workplace is free from that type of conduct?

4 A They do generally and her manager specifically.

5 Q All right. And that senior management team, of
6 course, if they know about it they have that
7 obligation as well; correct?

8 A Well, I think their expectation is that her
9 manager would deal with it.

10 Q All right. So but if the chief constable and the
11 entire senior management team, including both the
12 deputy chief constables, all know about it
13 presumably they each have an obligation to take
14 care of that too; correct?

15 A Ultimately the buck stops at the chief's office.
16 I think that the chief and deputy chief would
17 reasonably expect her manager to deal with it, but
18 it wouldn't be unusual if they did not think that
19 there was a problem that was being dealt with for
20 them to ask those questions.

21 Q That's not my question. Here we've got Cameron
22 behaving in a racist and bigoted manner; correct?

23 A Yes.

24 Q All of her colleagues in the Missing Persons Unit
25 know about that?

1 A Yes, but that information wasn't known at that
2 time to my knowledge. It came out when I did my
3 interviews which was after she had left.

4 Q Okay. But Shenher knows about this racist and
5 bigoted conduct while she's there. Upon her
6 arrival she realizes that happens?

7 A Yes.

8 Q Okay. And that's true of everybody else who
9 worked there, as soon as they arrived or shortly
10 thereafter they arrived they knew that she was a
11 problem?

12 A Yes. I'm only saying that I don't know what
13 managers knew at that time about it, because I
14 don't know that, for example, Detective Shenher
15 reported that to her management.

16 Q Okay. Howlett takes Shenher to breakfast or lunch
17 and warns Shenher that Cameron's a problem in this
18 way; correct?

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

21 Q I read it out yesterday. Do you want me to take
22 you back to Shenher's statement?

23 A No, I'm not disagreeing with you.

24 Q Okay. So this is obviously a problem people find
25 out upon their arrival there?

1 A Yes.

2 Q And the deputy chief or the chief constable says
3 that he knew from complaints from aboriginal
4 organizations about Cameron's conduct; correct?

5 A Yes, I do recall reading that, I just don't know
6 what the timing is.

7 Q Okay. What I'm suggesting is each and every one
8 of those managers is personally responsible and
9 had personal knowledge but didn't do anything
10 about it, and they ought to have because there's a
11 policy requiring them to keep a workplace free
12 from that type of conduct, racist and bigoted
13 conduct?

14 A Yes, I agree. But I know that there were actions
15 taken to try to deal with it, clearly they weren't
16 successful, but there was some actions taken. I
17 know at one point, for example, Inspector Boyd in
18 charge of Major Crimes assigned Sergeant Carl
19 Hetherington to investigate the complaints that
20 they'd heard from the meeting of the missing women
21 families to put the allegations to her, asked the
22 family members if they would like to make an
23 official complaint so that that could be
24 investigated and so on, so it's not like nothing
25 was done about it.

1 Q Oh, yes, exactly, this formal investigation by
2 Hetherington into Cameron's conduct, you mentioned
3 that in your report.

4 A Yes.

5 Q At page 177 you say it commenced on October 24th,
6 2001.

7 A Yes.

8 Q And shortly after that investigation begins
9 Cameron leaves the unit; correct?

10 A That's correct.

11 Q And she leaves because it began that
12 investigation?

13 A I don't know the actual circumstances of her
14 leaving, only that it occurred.

15 Q Okay. So what I'm asking about is that period
16 from 1995 to October 24th, 2001 nothing was done
17 to -- I mean, she wasn't in fact removed?

18 A It is true that she was not in fact removed. It's
19 not true that nothing was done.

20 Q Okay. I'm not suggesting nothing was done. I'm
21 saying she wasn't removed; correct?

22 A Yes.

23 Q And she wasn't formally disciplined; correct?

24 A Correct.

25 Q And, no, she wasn't forced to undergo sensitivity

1 training?

2 A Not to my knowledge.

3 Q And her conduct continued?

4 A Apparently.

5 Q All right. So she was permitted, in effect, to
6 disrupt the workings of the Missing Persons Unit
7 and the Missing Women's Review Team for that
8 entire period?

9 A Not the Missing Women's Review Team, 'cause the
10 damage had already been done because she was not
11 involved in it, but pre Missing Women's Review
12 Team, I agree.

13 Q And what I'm suggesting is that, and I just want
14 to return to this 'cause I don't have a straight
15 answer from you yet, deputy chief, it was the
16 responsibility of each and every officer up the
17 management chain to ensure that the working
18 environment was free from this kind of
19 discriminatory behaviour, wasn't it?

20 A All of the managers had a responsibility to do
21 their part in creating a workplace free of
22 harassment, I agree. I think that the degree of
23 responsibility is different between them in that
24 her actual manager has the primary responsibility.
25 Others that find out about it might want to ask

1 the question what are you doing about this.

2 Q And what I'm suggesting, deputy chief, is that
3 each and every one of those managers failed in
4 their duty to ensure that the workplace was free
5 from this kind of discriminatory behaviour. Is
6 that correct?

7 A Well, I agree that they have a responsibility, I'm
8 just not sure what those managers knew during that
9 time, because what I learned was after the fact,
10 and so I'm not sure what information was brought
11 to the attention of an individual manager as
12 opposed to what they learned later, for example,
13 hearing from family members of the missing women,
14 you know, in the meetings that occurred much
15 later.

16 Q And that's because you didn't investigate the
17 failings of management to ensure that the
18 workplace was free from discrimination?

19 A No, I was not investigating that.

20 Q All right. Now, it's part of the Professional
21 Standards Code of Ethics of the Vancouver Police
22 Department that each member of the Vancouver
23 Police Department will faithfully discharge their
24 duties in a just, impartial and reasonable manner
25 preserving the equality, rights and privileges of

1 all persons; is that correct?

2 A Yes.

3 Q I take it that you'll agree that Ms. Cameron's
4 continued presence from 1995 to late 2001 was
5 incompatible with that discharge of those duties;
6 isn't that correct?

7 A Yes. Just a point of clarification. I think that
8 what you're referring to is something that sworn
9 members, police officers are bound by, so I agree
10 that she has a duty as well, I'm just not sure if
11 that was intended for civilian employees as well.

12 Q No, no, I was just asking about members. Members
13 of the VPD, police officers.

14 A Yes.

15 Q They all have those duties?

16 A Yes.

17 Q And those duties weren't discharged in the case of
18 Ms. Cameron?

19 A Well, certainly not adequately to resolve the
20 problem.

21 Q But are you introducing some kind of
22 qualification?

23 A Well, again, I just don't know what the people who
24 had a duty to deal with it knew at that time, so
25 that's why I'm qualifying my answer. I agree that

1 anybody that knew of the information when it came
2 out had a duty to deal with it, people in a
3 management role.

4 Q All right. In terms of civilians.

5 A Yes.

6 Q There is no policy that governs discriminatory
7 conduct by civilian employees at the Vancouver
8 Police Department, is there?

9 A I don't know that.

10 Q Well, you were in charge of the policy section for
11 what period of time?

12 A I was in charge in 2000 to 2003.

13 Q That wasn't immediately after your promotion to
14 inspector after the Home Invasion Task Force, was
15 it?

16 A It wasn't immediately after the Home Invasion Task
17 Force, no. I was promoted to the Domestic
18 Violence and Criminal Harassment Unit.

19 Q All right. And so what month in 2000 did you take
20 over the Policy Unit?

21 A I believe that it was April of 2000.

22 Q And what month in 2003 did you leave it?

23 A I believe it was April of 2003.

24 Q And when did you start this, the investigation
25 dealing with missing women, your review?

1 A I started doing the reading for it in about
2 October of 2002.

3 Q And when were you assigned to do it?

4 A September of 2002.

5 Q When did you request to do it?

6 A Pardon me?

7 Q When did you request to do it?

8 A I never requested this assignment I can assure
9 you.

10 Q You sent a memo though?

11 A I was asked to provide a memo after I was asked to
12 take on the assignment suggesting what should be
13 covered.

14 Q So after being asked you wrote a memo dated
15 September 9th, 2002?

16 A That sounds right.

17 Q At that time you were in the policy section?

18 A Planning and Research section, yes.

19 Q Planning and Research section, which has
20 responsibility for policy?

21 A Yes.

22 Q And so you must have known in that capacity as the
23 person in charge of policy for the Vancouver
24 Police Department that there was no general policy
25 or policy of general application within the

1 Vancouver Police Department about racism and
2 discrimination?

3 A That there was no policy?

4 Q Yes, no policy of general application.

5 A Well, most of our work, almost all of it, was
6 around policy for sworn members, and sworn members
7 swear an oath that addresses that issue that
8 you're raising, to conduct themselves impartially
9 without favour or malice towards anyone and so on,
10 so the oath that a police officer swears covers
11 that.

12 Q You're referring to the police oath?

13 A Yes.

14 Q And that's under the *Police Act* they have to swear
15 that *Police Act* oath in order to become a peace
16 officer; correct?

17 A Yes.

18 Q And swearing that oath invests them with all the
19 powers of a peace officer under the Criminal Code
20 and common law; is that right?

21 A Yes.

22 Q Okay. So what's the exact wording of that oath, I
23 just want to get it precise because it's a real
24 question about whether or not it covers racism and
25 discrimination?

1 A I would have to have it in front of me and read it
2 to you, I don't have that memorized.

3 Q Okay. Well, I'll pull the regulation during the
4 break and then we can go through the exact
5 language. But aside from the *Police Act* oath
6 there's no policy of general application to the
7 entire Vancouver Police Department dealing with
8 discrimination and racism, is there?

9 A I think that there are a number of policies like
10 our workplace harassment policy that does touch
11 upon those issues. So I think there is a
12 combination of different things like the oath,
13 like our workplace harassment policy and so on
14 that speak to those questions.

15 Q Okay. So there's a workplace harassment policy,
16 and that is found at 4.1.11 of the policy manual;
17 is that right?

18 A I don't know that, but I trust you.

19 Q Okay. What I'm suggesting to you is that the
20 workplace harassment policy just deals with
21 providing a work environment that's supportive of
22 the dignity and self-esteem of employees; is that
23 correct?

24 A That's what it's focused on, yes.

25 Q And it's not focused on dealings with members of

1 the public?

2 A Yes.

3 Q So that would capture Cameron's racist, bigoted
4 conduct insofar as it affected the environment,
5 insofar as it affected Howlett and Shenher and
6 Steinbach; correct?

7 A Yes.

8 Q But it wouldn't deal with Cameron's conduct
9 insofar as it affected the families that were the
10 targets of this racist and bigoted conduct?

11 A I agree.

12 Q Right. And it wouldn't, of course, do anything to
13 assist the women who were missing about whose
14 reports were attempted to be made to Cameron and
15 that Cameron would reject?

16 A No, that policy wouldn't apply to that.

17 Q All right. And, in fact, there is no such policy
18 that would protect the families or the interests
19 of the missing women at the VPD level then or now;
20 isn't that correct?

21 A I don't know. I would want to check that. I
22 think that there are many different policies and
23 guidelines that guide the work of police officers
24 and civilians including the *Police Act*, including
25 the oath of office, including provincial human

1 rights legislation, including the Charter. I
2 mean, these are all things that police officers
3 are aware of and know that they're bound by.

4 Q I'm suggesting that you've got policies internal
5 to the Vancouver Police Department; correct?

6 A We do.

7 Q Some of them deal with discrimination like this
8 workplace harassment policy; correct?

9 A Yes.

10 Q But there's no harassment of the public policies,
11 if I can put it that way, that are the counterpart
12 of the workplace harassment policies, are there?

13 A Well, one of the things that we do is try not to
14 replicate things that already exist, so we also
15 don't have -- you know, when we describe how to
16 conduct an investigation in our policy manual we
17 don't replicate provisions in the Criminal Code
18 because those already appear somewhere else, so
19 they're meant to complement other policies, laws,
20 legislation that we're bound by.

21 Q Okay. Well, I'm just looking at this workplace
22 harassment policy, it seems to make reference to
23 the prohibitive grounds of discrimination of the
24 BC Human Rights Code.

25 A Yes.

1 Q There's no concern about replication there?

2 A Well, I don't think it replicates it, it refers to
3 it.

4 Q And with respect, deputy chief, here you are
5 assigned to investigate your own department in the
6 face of very public criticism that the force is
7 biased and discriminatory; isn't that right?

8 A Yes.

9 Q And yesterday when Mr. Roberts asked you about the
10 standards for obtaining a search warrant you said
11 that you're a very careful researcher and that you
12 like to review the law before you make any
13 statements about the law; isn't that right?

14 A It's certainly my preference.

15 Q Okay. Are you saying that you didn't go and have
16 a look at what policies were of general
17 application in respect of discrimination and
18 racism when you started your investigation into
19 the police force?

20 A No.

21 Q You didn't go?

22 A I did not.

23 Q I take it that's inconsistent with what you told
24 Mr. Roberts about how careful you were about
25 researching the law before venturing opinions

1 about matters?

2 A No, because I wasn't researching that issue. It
3 was put to me as a specific issue around the
4 sufficiency of this mocked up ITO so I carefully
5 reviewed it, but I didn't do that for my report
6 around the issue of what I was investigating. My
7 role in the -- doing the review of the missing
8 women investigation was, number one, do as
9 detailed a chronology as I could to find out what
10 happened, to put that in some context, and then to
11 make recommendations about how we could do better
12 going forward, how we can fix things that were not
13 working well.

14 Q I mean, you were the policy director for the
15 Vancouver Police Department in your role as
16 inspector in charge of the Policy and Research
17 Department?

18 A I was up until April of 2003, yes.

19 Q Yet when you started your review you're the
20 director of policy, why wouldn't you start with a
21 review of your own policies?

22 A Well, my focus was on finding out what happened,
23 and that was a pretty big job, so my first focus
24 was reading, I don't know, 15 or 20,000 pages of
25 documents and trying to determine what happened,

1 trying to provide a document that would be useful
2 in the future to show the chronology of what
3 occurred and provide some context for it, and then
4 make recommendations about how to do better, and
5 so --

6 Q All right. I'll read to you from your own -- from
7 your own memo dated September 9th, 2002:

8 Purpose of review. It is my opinion that the
9 review should focus on systemic factors
10 rather than individual failings. For
11 example, we should examine how decisions are
12 reached in terms of activating an
13 investigation, applicable policies,
14 resourcing, et cetera.

15 A Yes.

16 Q Okay. So here in your inaugural memo you say
17 looking at -- we should examine applicable
18 policies; correct?

19 A Yes.

20 Q And you're saying you never did that?

21 A Well, I did look at the policies of those things
22 that were applicable to what I was focusing on,
23 which was the conduct of the actual criminal
24 investigation. It doesn't mean that there weren't
25 many other things that are appropriate to look at,

1 and that's why the VPD supported a public inquiry,
2 and did early on. We realized that no one
3 department or investigator was going to cover all
4 the issues that are worthy of examination, that
5 there wasn't going to be gaps in my report, and so
6 that's why I was one of the ones that supported a
7 public inquiry early on. In terms of the issues
8 in the Missing Persons Unit specifically, for
9 example, I did deal with those things to the best
10 of my ability, I did recommend that there needed
11 to be full-time supervision --

12 Q Policy, policy, please. If you could confine your
13 answer to policy.

14 A Yes.

15 Q I just asked you whether you looked at applicable
16 policies and now you're off on some diatribe. I
17 don't mean to be rude.

18 THE COMMISSIONER: No. You know what, you need to use proper
19 language in a courtroom. You know, if it's a
20 diatribe, I'll decide if it's a diatribe. It's
21 none of your business to tell a witness that he's
22 engaged in a diatribe. You treat witnesses with
23 respect here.

24 MR. GRATL: Thank you, Mr. Commissioner.

25 Q The question was really confined to this issue. I

1 apologize, deputy chief. I don't mean any
2 disrespect.

3 A I know.

4 Q You didn't look at the applicable policies?

5 A And so I'll just try and confine myself to that,
6 is that I did look at policies that I thought were
7 important to the conduct of the investigation and
8 try to deal with as many different issues as I
9 could, but -- so I did look at policies around
10 conducting an investigation into this sort of
11 case, this unique case.

12 THE COMMISSIONER: I think he's answered the question. We're
13 sort of beating this to death now, are you not?

14 MR. GRATL:

15 Q All right. So we've been through one of the
16 results of Ms. Cameron's conduct was to create a
17 workplace environment that wasn't conducive to
18 conducting an investigation. You've agreed with
19 that?

20 A Yes.

21 Q All right. In addition, Ms. Cameron's conduct
22 interfered with her ability to take reports from
23 people who were trying to report women missing;
24 correct?

25 A Yes. Although can I just try a tiny little bit of

1 context. Ms. Cameron was not the one in most
2 cases taking a report in the first instance,
3 that's not how the process worked. But she could
4 receive reports, and she certainly would be
5 dealing with people on a follow-up basis.

6 THE COMMISSIONER: So who would receive most of the complaints?

7 THE WITNESS: So the normal course of events is that a missing
8 persons report was taken over the phone by a 9-1-1
9 operator in our communications centre, or later
10 E-COMM, and they would fill in a report and it
11 would be forwarded to the Missing Persons Unit for
12 follow-up unless there was a need for
13 investigation to occur right then, in which case
14 it would be dispatched to a patrol officer and
15 they would conduct the initial investigation and
16 then if it needed to be it might go to the Missing
17 Persons Unit after that.

18 MR. GRATL:

19 Q Okay. So I'd like to take you to page 9 of
20 Exhibit J. I went over this yesterday, but it
21 might be of assistance to go through it again.
22 This is page 4 of Detective Constable Shenher's
23 statement. She says:

24 Every time a new missing person came in it
25 came to Sandy. The call came in to the Comm

1 Centre, was forwarded to our office, and
2 Sandy would be the first person to see the
3 report. In the past she was really
4 protective of the new reports and she would
5 assess if she dealt with it or it went to a
6 detective. I would say that wasn't
7 appropriate, that it should go to a detective
8 in the first instance. In the end, we agreed
9 we would look at the new reports together and
10 we would agree on how the reports would be
11 distributed. She didn't love it but she
12 accepted it.

13 A Yes.

14 Q Okay. And you don't have any reason to think
15 that's false?

16 A No, that does describe the process.

17 Q Okay. So up until Detective Constable Shenher
18 starts reviewing those reports with Ms. Cameron,
19 Cameron's doing it on her own?

20 A Yes.

21 Q Okay. And we can ask Detective Constable Shenher
22 when that time period exactly was that this
23 sharing started, but prior to the sharing it was
24 just Ms. Cameron?

25 A Yes, she would receive the initial report that

1 came from the communication centre.

2 Q All right. And what Detective Constable Shenher
3 says is that sometimes she would decide on who she
4 was going to deal with on a racially motivated
5 basis; is that correct?

6 A That is what Detective Constable Shenher told me,
7 yes.

8 Q Okay. So that means Cameron would have rejected
9 or delayed the acceptance of some reports of
10 missing women on the basis of racism and bigotry;
11 is that right?

12 A Not the acceptance of, but might -- a reasonable
13 inference that she might have prioritized them
14 differently in terms of when there was going to be
15 follow-up or what kind of follow-up.

16 Q Well, didn't families say that she just outright
17 rejected complaints or reports of missing women?

18 A Well, the report would already be taken by the
19 communication centre, so the report would already
20 exist, so it might have just been a
21 misunderstanding of how the process worked.

22 Q My question was really you don't know, do you, how
23 many reports Ms. Cameron outright rejected?

24 A No, if a -- for example, if a family member called
25 her directly and said I want to make a report to

1 you.

2 Q I'm not just saying the families we know about,
3 I'm saying the families that we don't know about.
4 We don't know how many families we don't know
5 about, do we?

6 A Well, I would just say again that the normal --
7 THE COMMISSIONER: How would anybody know?

8 MR. GRATL: Well, I mean I agree, but this witness seems to
9 be --

10 THE COMMISSIONER: Well, no, you have to ask questions that are
11 reasonable. I mean it's like asking a witness how
12 much he's forgotten. I don't mean to be --

13 MR. GRATL: Mr. Commissioner, what I'm flagging here is a
14 problem that --

15 THE COMMISSIONER: No, no, I have your point.

16 MR. GRATL: -- Ms. Cameron on the basis of racial prejudices
17 and other prejudices refused to take reports.

18 THE COMMISSIONER: Yeah.

19 MR. GRATL: And I'm just asking this witness whether he agrees
20 with that proposition, and whether the results of
21 that is that we don't really know the extent of
22 the problem --

23 THE COMMISSIONER: Well, you're --

24 MR. GRATL: -- with the ultimate investigation.

25 THE COMMISSIONER: Yeah, I know. My point is this. How does

1 he know how many people -- how would he know how
2 many complaints weren't dealt with? I think
3 you're free to argue at the end of the day that in
4 view of the evidence that we have heard thus far
5 regarding Cameron's conduct that it's open for you
6 to say well, there probably were numerous other
7 ones that were never ever received, that she
8 discouraged people from coming forward, she
9 discouraged marginal people from coming forward
10 and laying a complaint or filing a complaint,
11 that's something you can argue at the end of the
12 day, but it's impossible for a witness to know or
13 give an answer to the question that you asked.

14 MR. GRATL: With respect, Mr. Commissioner, I asked this
15 witness whether there was a problem with
16 Ms. Cameron rejecting reports, and the witness
17 said there might have been some misunderstanding.
18 I didn't know what that meant and so I was just
19 following up and saying --

20 THE COMMISSIONER: Well, I think he's made it clear that her
21 attitude of her racist comments, the offhanded
22 comments that she made, and all of those things
23 that she did impacted negatively on members of the
24 public coming in and laying complaints. I think
25 he's made that clear, and so have the other

1 witnesses according to the documentary evidence at
2 least that has been filed. So I don't know how
3 much further we need to go in that.

4 MR. GRATL: Well, it's really important, Mr. Commissioner, and
5 for this reason, that in Deputy Chief LePard's
6 report he says that it was difficult to
7 investigate missing sex workers because some women
8 were reported missing long after they went
9 missing. And the key here is to identify that
10 probably Ms. Cameron's attitude, Ms. Cameron's
11 biases and the biases exemplified by 9-1-1 and the
12 public information counter caused those delays, or
13 some of them, and so it's ultimately that
14 difficulty investigating the missing women's
15 disappearances were in fact can be traced to the
16 root of racism and discrimination.

17 THE COMMISSIONER: You can argue that at the end of the day
18 based on the evidence that you've heard. He's
19 already said that he doesn't know, and how would
20 he know, who failed the call, who was discouraged
21 from coming forward by Ms. Cameron's attitude.

22 MR. GRATL: Well, this witness is being put forward to speak to
23 the Vancouver Police --

24 THE COMMISSIONER: All right. Go ahead.

25 MR. GRATL: Thank you, Mr. Commissioner.

1 Q All right. So Ms. Cameron's attitude may have
2 caused delays in receiving information about the
3 missing women?

4 A Yes. I was only just trying to make clear when I
5 said about people not understanding the process is
6 that the report before Sandy sees it has already
7 been made because it's been made generally by the
8 communication centre. A report, there is a hard
9 copy report that is forwarded to the Missing
10 Persons Unit, and that I did not disagree with you
11 that her decisions around prioritizing how that
12 would be handled could impact on the case, and
13 certainly deal in a follow-up way with family
14 members.

15 Q So what you're saying is Ms. Cameron's discretion
16 was limited to prioritizing, is that right, and
17 she didn't interfere with the flow of information
18 to the Missing Persons Unit?

19 A No, she would have no way of interfering with a
20 9-1-1 operator taking a report, and in fact --

21 Q I'm sorry, I don't mean to interrupt, but --

22 THE COMMISSIONER: Well, you are interrupting. Let him finish.

23 MR. GRATL:

24 Q Go ahead.

25 A In fairness to Ms. Cameron it's also in various

1 documentary evidence that she would argue with
2 supervisors in the communications centre asking
3 them to take a report when they were reluctant.
4 And so Ms. Cameron certainly had some issues, but
5 I don't think that -- she did do a lot of good
6 work too, and that's pointed out, for example, in
7 Deputy Chief Evans' report. And that it was not
8 all about her being a barrier to reporting. I
9 think that there are many barriers to reporting
10 marginalized women missing, and I've written about
11 those issues subsequently and trying to improve
12 that situation, but I think there are many
13 barriers.

14 Q Okay. So you agree then with Ms. Cameron's remark
15 that sometimes 9-1-1 operators wouldn't take
16 reports?

17 A Yes, I agree that there was some frustration it
18 seemed that the policy in the communication centre
19 was not in sync with the policy overall of the
20 police department, there was a lag.

21 Q And in particular 9-1-1 operators wouldn't take
22 reports of missing women?

23 A That there were occasions to my understanding that
24 they would say, you know, we're not taking a
25 report until the person has been missing for 24

1 hours, and I also recall reading information about
2 not being willing to take a report from someone
3 who is not a family member, and that was something
4 that Sergeant Cooper wrote a report about saying
5 there needs to be an examination of our policy to
6 remove that barrier.

7 Q Okay. So sometimes 9-1-1 wouldn't take reports,
8 and sometimes Ms. Cameron wouldn't take reports?

9 A Well, again, Ms. Cameron wouldn't be in the
10 situation of taking the first report, only in
11 following up on it, because the reports start in
12 the communications centre or at E-COMM.

13 Q Isn't the flow of things like this is sometimes
14 9-1-1 didn't take a report, they punted it -- they
15 punted the report to Cameron, Cameron doesn't take
16 a report, she gets mad at 9-1-1 for not taking a
17 report, and then at the end of the day no one
18 takes the report?

19 A That's a possibility I'm not aware of, but my
20 understanding is that sometimes that she would
21 because of the unwillingness of the communication
22 centre to take a report, I'm trying to recall that
23 from memory. Clearly there were some barriers is
24 your point, I think, and I agree with you.

25 Q Okay. And so if Cameron's conduct alienates

1 families and friends of missing women that means
2 those friends and family members can't provide
3 information to the Missing Persons Unit; correct?

4 A I think that's going to be a barrier to it, yes.

5 Q And that interferes with the investigation as
6 well?

7 A Yes.

8 MR. GRATL: All right. I'd like to move away from Sandra
9 Cameron at this point, but not before just
10 remarking that of course she'll be here to speak
11 for herself and to defend her own conduct, and it
12 will be good to hear from her before forming any
13 final --

14 THE COMMISSIONER: We know that. You don't have to
15 editorialize about that, we know that apparently
16 she's going to be called. The answer is yes, so
17 she's going to be called.

18 MR. GRATL: I'm just trying to be fair in my -- I've been very
19 vigorously attacking her for being racist and --

20 THE COMMISSIONER: I'm sorry?

21 MR. GRATL: I've been very vigorously attacking her for being
22 racist and bigoted and I'm just remarking that I'm
23 bearing in mind that she --

24 THE COMMISSIONER: We know that. Apparently she will be called
25 as a witness so you'll have an opportunity to

1 cross-examine her.

2 MR. GRATL:

3 Q So aside from Ms. Cameron and the problems at the
4 communication centre, 9-1-1 centre, and the
5 problems at the public information desk, there
6 were also problems with Detective Constables Fell
7 and Wolthers?

8 A Yes.

9 Q And I've excerpted a number of interesting
10 documents beginning at page 24 of Exhibit J. I'd
11 like to take you through some of them. At page 24
12 is the first page of a memo from Sergeant -- or to
13 Sergeant Field from Detective Constable Shenher
14 dated May 17, 2000?

15 A Yes.

16 Q This is a memo that is responsive to a letter sent
17 by Detective Constables Wolthers and Fell to the
18 chief constable of the day; is that correct?

19 A Yes.

20 Q Is that correct?

21 A I'm sorry, I missed the last word that you said.

22 Q To the chief constable of the day; is that
23 correct?

24 A Yes.

25 Q I'd like to turn to page 3 of that memo, and I'll

1 be getting to the letter sent by Fell and Wolthers
2 later, but here in Detective Constable Shenher's
3 response to the letter she says:

4 In paragraph two, Detective Constables Fell
5 and Wolthers discussed their interest in the
6 sex trade workers of the Downtown Eastside.
7 In reality, I have had to defend them to sex
8 trade workers I have dealt with because they
9 are clearly not the friends to the working
10 women they pretend to be. Every member of
11 the Missing Women's Review Team has heard
12 Detective Constables Fell and Wolthers refer
13 to our victims as "whores" and "fucking
14 whores" in the past year.

15 Isn't that correct?

16 A Yes.

17 Q And then at page 8 of the memo, which is on page
18 31 of Exhibit J, in the second last paragraph, the
19 last sentence there refers to Detective Constables
20 Fell and Wolthers lack of compassion for the
21 missing women and their families, their repeated
22 bigoted comments, and their inability to take
23 direction from Detective Constable Shenher and
24 Sergeant Field; isn't that correct?

25 A Yes.

1 MR. WOODALL: Mr. Commissioner.

2 THE COMMISSIONER: Yes.

3 MR. WOODALL: I'm just concerned that the questions that are
4 being asked about whether it is correct, whether
5 Mr. Gratl could make it clear that all he's asking
6 this witness to do is confirm that the printed
7 words say what the printed words say.

8 THE COMMISSIONER: I fully agree with you, Mr. Woodall, and I'm
9 wondering about the utility of that type of
10 evidence. You're right it's in the report, and
11 this was his finding, and he's merely agreeing
12 with what the words are.

13 MR. WOODALL: And this is a report that was given to him about
14 something that someone said and further removed.
15 I acknowledge that it is appropriate to ask this
16 witness what he did upon this information being
17 brought to his attention, but I dispute that it's
18 appropriate to ask this witness questions that
19 imply that he knows whether these things are true
20 given how many removed they are from the actual
21 hands.

22 THE COMMISSIONER: I agree with you, and that's something that
23 you can argue it has very limited value,
24 evidentiary value, and you're in that position
25 where you can argue that the best place where this

1 evidence can come from is Fell and Wolthers. Are
2 they being called?

3 MR. VERTLIEB: Yes. And just so you know, Mr. Commissioner,
4 the witness list has been distributed to all
5 counsel, so there will be no surprise about the
6 extent of the police witnesses.

7 THE COMMISSIONER: Okay. Thank you.

8 MR. WOODALL: I would just prefer it if Mr. Gratl could make
9 sure when he's asking the questions it's clear on
10 the record at this point that all he's asking this
11 witness to do is to confirm that the words on the
12 page are the words on the page and not ask
13 questions like is that true which may imply that
14 this witness can or could have a deeper opinion.

15 THE COMMISSIONER: All right.

16 MR. GRATL: Yes, Mr. Commissioner, Mr. Woodall's comments are
17 fair. The difficulty that I have is at this
18 juncture the commission has chosen to proceed by
19 having Deputy Chief LePard and Superintendent
20 Williams and Deputy Chief Evans provide their
21 opinions without having the factual foundation for
22 those opinions laid, and so we're proceeding on a
23 hearsay basis. A lot of hearsay has already been
24 admitted into the record in the form of the Evans
25 report, in the form of the Williams report, in the

1 form of the LePard report, and inevitably there's
2 going to be a little slippage between what is
3 proven hearsay and what is being used for
4 informational purposes to come to an opinion. And
5 that's regrettable, and I'm looking forward to the
6 opportunity to --

7 THE COMMISSIONER: Well, as I understand it the reason this
8 procedure was chosen, and my understanding from
9 what I've been told here, is that everybody agreed
10 that this would be the procedure that would be
11 used so as to set up background. That doesn't
12 necessarily mean that all of those things that the
13 witness has said are factually accurate. Is that
14 so, Mr. Vertlieb?

15 MR. VERTLIEB: You're exactly correct, Mr. Commissioner. And
16 when I hear my learned friend Mr. Gratl say what
17 he's just said, if he had said that to us when we
18 were in the phase of telling our colleagues at the
19 bar, and non-colleagues who were there, what we
20 wanted to do, and if there had been a group view
21 that it was wrong it would have been helpful to
22 hear. But clearly the evidence was called with a
23 view of giving an outline to you, because it's
24 really all about what you need to fulfill your
25 mandate, it's not what Mr. Gratl needs or anybody

1 else, it's what you need for your terms of
2 reference, and so it was to give you an overall
3 sense of the investigation, to give you a flavour
4 for what had happened over many years. And also,
5 as I've said to you more than once, it was hoped
6 that this would allow us to minimize the calling
7 of witnesses who would not really be necessary.
8 Keep in mind that when we were in the stage of
9 planning the evidence there were upwards of 75
10 potential police witnesses who could be called.
11 We have been able by using this approach to
12 determine that we don't need to call that number
13 of police witnesses, and the witness list has been
14 sent out is approximately 45 or so depending on
15 some variables that we can easily deal with. So
16 that was the reason for it, and it seemed to make
17 sense to my colleague Ms. Brooks and myself, and
18 when we discussed it there was no ground swell of
19 disagreement. I must say to you listening to this
20 that it's really all about what you need from us
21 to help you meet your terms of reference in the
22 mandate that you've given, and I'm hopeful that
23 the time we're spending on Deputy LePard has been
24 helpful to help you in your job.

25 THE COMMISSIONER: I quite agree with you, and I think

1 sometimes it gets lost in this process, and that
2 is that I've been asked to conduct the
3 investigation, to make certain findings of fact
4 and from those findings of fact make
5 recommendations. Obviously I need the assistance
6 of counsel in coming to those conclusions, those
7 findings and the recommendations at the end of the
8 day. But it's important to note that this is not
9 a trial, therefore some of the rules regarding
10 hearsay are relaxed, but at the same time where
11 you have serious issues regarding misconduct then
12 I would expect that I would need to hear more firm
13 evidence. Now, we've heard about the attitude of
14 Ms. Cameron and Fell and Wolthers, and commission
15 counsel has said that we will be hearing evidence
16 from those people, and that would be a better
17 process for making some findings of fact. And a
18 lot of this is secondhand, because of -- from the
19 investigation and a review more appropriately
20 conducted by the deputy chief and by
21 Superintendent Williams, so this is a background.
22 So, in any event, go ahead.

23 MR. VERTLIEB: May I say just on that point though just before
24 Mr. Gratl keeps moving on, we intentionally spent
25 a lot of time with Deputy Chief Constable LePard

1 because we introduced a large volume of documents
2 through him. That was apparent in the way he was
3 taken through all those documents. Just to give
4 you a sense of it, for example, with
5 Superintendent Williams we will be less than half
6 a day because so much of the groundwork has been
7 laid already with this witness. The plan is going
8 forward with the other individual witnesses that
9 we as commission counsel will be very brief with
10 them because we believe so much of the setting has
11 now been placed before you. But I just keep in
12 mind that I've always viewed my task as your
13 counsel, and along with Ms. Brooks as your
14 associate counsel, is to make sure that we're fair
15 to the commission and the commissioner in laying
16 out the evidence we feel you need. And I know you
17 a number of times talked about fairness, and I
18 quite agree it's fairness, but it's ultimately
19 fairness as it were to you in your job to make the
20 findings of fact that you need to make. And so I
21 think you've been very respectful of my colleagues
22 as they have gone through the facts of the case
23 and allowing them ample time. I'm hoping that
24 once we start in January everyone will realize
25 it's a much more -- it's a much different

1 environment and the questioning should be much
2 more rigorous and disciplined whereas it's been
3 somewhat far reaching. And I understand you
4 wanted everyone to have a great deal of latitude
5 with Deputy LePard.

6 MR. GRATL: Lest I be misunderstood, Mr. Commissioner, I wish
7 to put on the record that I was never asked to,
8 nor did I consent to this mode of proceeding
9 having the LePard, Evans and Williams report
10 proceed as substantive direct witnesses. I just
11 didn't consent to that.

12 THE COMMISSIONER: Well, it's not your role to consent.

13 MR. GRATL: I appreciate that.

14 THE COMMISSIONER: Wait a minute. Commission counsel has a
15 duty and a role to conduct the hearing as he or
16 she sees fit in a fair way. And similarly in a
17 trial the Crown decides what witnesses they are
18 going to call. It's not up to the defence to have
19 a role in or a say in what witnesses will be
20 called. Similarly the conduct of this hearing is
21 largely in the hands of commission counsel, they
22 call the witnesses, and this is what's happened
23 here. So the fact that you weren't consulted
24 really is irrelevant, and it doesn't really matter
25 if you weren't or not. I say that with respect,

1 but at the end of the day we have to achieve
2 fairness in that you have a fair opportunity to
3 question, to cross-examine the witnesses, and to
4 elicit all the evidence that you think is
5 necessary in order for me to make valid findings
6 of fact and recommendations at the end of the day.

7 MR. GRATL: I understand that, Mr. Commissioner, I don't
8 control the process, but you had said earlier that
9 I had consented to this sequence of witnesses and
10 I was just putting on the record that --

11 THE COMMISSIONER: All right. I understand.

12 MR. GRATL: -- I hadn't consented. The difficulty that I have
13 right now, Mr. Commissioner, is we have a witness
14 representing the Vancouver Police Department who
15 has testified to the effect, and has provided
16 comprehensive or what's purported to be a
17 comprehensive exhibit concluding that there's no
18 problem with systemic bias or discrimination at
19 the Vancouver Police Department, and I don't know
20 how to get to this systemic discrimination without
21 starting at the individual acts of discrimination.
22 That's the difficulty that I have. And I
23 appreciate where Mr. Woodall is coming from
24 because he's got to defend his client, and there
25 are -- people are saying things about his client,

1 his client is not on the stand. But if I could
2 just go through some of these documents that
3 were --

4 THE COMMISSIONER: Yes.

5 MR. GRATL:

6 Q And of course this document, detective -- deputy
7 chief, this document, this Shenher memo, you knew
8 about that document when you prepared your report?

9 A Yes.

10 Q And indeed you relied on it?

11 A One of the many documents that I reviewed and
12 considered.

13 Q This document is described by you in your report
14 as -- how did you describe it, do you remember?

15 A I think I used the words impressive rebuttal.

16 Q Impressive rebuttal, I think that's exactly the
17 words. And I take it you regarded this as a high
18 credibility document?

19 A Yes.

20 Q Now, there's a statement of Lori Shenher further
21 excerpted at page 32 of Exhibit J, and there
22 Detective Constable Shenher over the page at page
23 13 of her statement, and page 33 of Exhibit J,
24 says at the bottom paragraph:

25 So the people that were in the office the

1 most were "two stupid women" with these guys
2 who thought they knew everything and didn't
3 do anything to help.

4 I take it that two stupid women in quotes referred
5 to by Detective Constable Shenher were Shenher and
6 Sergeant Field?

7 A One of them was Shenher for sure. I'm not sure
8 who the second one she was referring to now.

9 Q Who could the candidates be there?

10 A Sergeant Field, although she didn't normally work
11 in that office, and Ms. Cameron.

12 Q All right. And then the next sentence says:

13 They...

14 Referring to Fell and Wolthers.

15 A Sorry, can I just correct myself there for a
16 minute, 'cause I'm not sure where -- where in the
17 timeline this is occurring, so if they're there
18 that's fairly late in the day. So it could be,
19 for example, Detective Constable Alex Clarke, she
20 was another woman that worked in there, and she
21 was actually more likely to be in the office.

22 Q Sentence two says:

23 They...

24 Meaning Fell and Wolthers:

25 ... were racist, sexist, calling the sex

1 trade workers "fucking whores," everything.

2 A Yes.

3 Q That's an allegation. And then over the page at
4 -- over the page to page 35 is a statement of an
5 excerpt of a statement from -- sorry, I'll just
6 skip Detective Constable Chernoff and go straight
7 to Alex Clarke at page 37. It's an interview of
8 Alex Clarke by yourself on November 19th, 2003?

9 A Yes.

10 Q And this is her statement. She's confirmed its
11 accuracy with you?

12 A Yes.

13 Q Over the page on page 3 of her statement, and 38
14 of Exhibit J, is Detective Constable's -- sorry,
15 she's a constable; right?

16 A She's a detective constable.

17 Q Detective constable?

18 A Yes.

19 Q Clark's assessment of Wolthers and Fell, she says
20 that:

21 The next thing was the arrival of Mark
22 Wolthers and Doug Fell. Within a couple of
23 weeks, I was shocked. I knew of their
24 reputation when I was in patrol. They were
25 on the renegade side... They were well known

1 in the Hastings North area, really active in
2 the drug scene, and lots of the girls
3 complained about them to me. Doug and his
4 old partner Ron Brown they called Laurel and
5 Hardy because they were funny, but really
6 intrusive.

7 And then skipping down a couple of sentences:

8 Lots of women didn't like them, called them
9 assholes, "they treat me like shit." They
10 used the term whores, which they didn't like.
11 So when I came in, I was a bit shocked. They
12 were definitely verbally abusive to the sex
13 trade workers historically.

14 That's what it says, isn't it?

15 A Yes, that's accurate.

16 Q Okay. This is largely agreeing with Detective
17 Constable Shenher's assessment?

18 A Yes.

19 Q Over the page, page 4, there's a little bit more
20 discussion on the same matters:

21 They would call them whores. They were so
22 disruptive. I talked about them with Dave
23 Dickson and he didn't want them there. Mark
24 and Ron who were assigned from homicide to
25 Amelia, but still had homicide files, they

1 were at the point where they didn't even want
2 to be in the room. Chris Fielding, a
3 detective in homicide would come and slam the
4 door closed because they were so loud and
5 disruptive.

6 So there we have the same allegation that not only
7 is there a problem with discriminatory language
8 used, but also the discriminatory language used
9 among other conduct is disrupting the work of the
10 investigative team?

11 A Yes, I agree.

12 Q All right. So, again, that's a workplace
13 discrimination issue; correct?

14 A Yes, I agree.

15 Q But it's of such intensity that it's affecting the
16 conduct of the investigation?

17 A Yes.

18 Q At page 40, and this is page 9 of Detective
19 Constable Clarke's report, second last sentence of
20 the first paragraph:

21 They didn't have anything to add at the
22 meeting because they didn't share anything so
23 Lori was like in the dark which she shouldn't
24 have been. They...

25 Meaning Fell and Wolthers:

1 ... didn't respect her...

2 Meaning Shenher:

3 ... as an investigator because she was junior
4 to them, a female, I think they thought both
5 of us were incompetent idiots.

6 Correct?

7 A Yes, that's what she said.

8 Q Okay. There's some members of the investigative
9 team not sharing information with the detective
10 constable in charge of the team because they're
11 sexist; correct?

12 A I think they were not sharing it for a number of
13 reasons, and that certainly might have been one of
14 them.

15 Q Well, that's how Detective Constable Clarke
16 attributes it; correct?

17 A Yes.

18 Q And that's consistent with Detective Constable
19 Shenher's assessment of the situation?

20 A Yes. I only say that because there were male
21 police officers that complained about their
22 unwillingness to share information as well.

23 Q Over the page is Inspector Spencer's interview.
24 This is at page 42. On page 3 of that statement,
25 page 43 of Exhibit J, there's a discussion of

1 Sergeant Field:

2 Geramy may have been in charge, but I think I
3 put her in charge to deal with the problems.
4 I think she was working on this off the side
5 of her desk, trying to work on this, and
6 having difficulty working with Fell and
7 Wolthers. I eventually interviewed both Fell
8 and Wolthers and they argued about
9 everything, yelling and carrying on.

10 Is that correct?

11 A Yes, that's -- you're reading it correctly.

12 Q Again --

13 THE COMMISSIONER: I think we'll stop there for the morning
14 break.

15 MR. GRATL: Thank you.

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

17 **(PROCEEDINGS ADJOURNED AT 11:09 A.M.)**

18 **(PROCEEDINGS RESUMED AT 11:34 A.M.)**

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

20 MR. WOODALL: Mr. Commissioner.

21 THE COMMISSIONER: Yes.

22 MR. WOODALL: I'd just like to repeat my request to Mr. Gratl
23 to be careful in the way he's asking questions.
24 Deputy Chief LePard has been careful in his
25 answers, but I just ask the question be framed

1 carefully as well. One of the issues in a public
2 hearing is that it is not just the evidence at the
3 end of the day that is important to the public,
4 but how the evidence is reported in the media as
5 we go along. And that's why I think it's
6 important the questions be asked carefully and
7 limited to what the witness can in fact answer.
8 Mr. Gratl asked twice again is that so or is that
9 true when referring to things that had been read
10 out of a report that this witness did not prepare
11 based on circumstances in which even the report
12 writer was not present, so it's second or third
13 hand. The proper way to ask that question, in my
14 submission, is simply to read it and then say to
15 the witness have I read that correctly as opposed
16 to is it true, and I just ask Mr. Gratl again to
17 be careful in asking those questions.

18 THE COMMISSIONER: Well, I understand the difference, and I
19 have to make the findings at end of the day.

20 MR. WOODALL: What I'm concerned though, Mr. Commissioner, is
21 that these proceedings are being reported in the
22 media, that members of the public will draw part
23 of their conclusions about what occurred from your
24 report, but they're also drawing conclusions as
25 they're going along and it is important that the

1 evidence that is being presented to the public be
2 presented in a fair way and in an accurate way.

3 THE COMMISSIONER: That's true, but most of -- you know, I
4 think I've followed most of the media and they're
5 -- his opinions are important, and most of his --
6 most of the deputy chief's evidence really
7 concerns opinions that he has -- he has as a
8 result of his review.

9 MR. WOODALL: I agree, but I simply ask Mr. Gratl --

10 THE COMMISSIONER: No, your point is well taken. All right.

11 MR. WOODALL: Thank you.

12 MR. GRATL:

13 Q At page 45 of Exhibit J --

14 THE COMMISSIONER: Page 45 of?

15 MR. GRATL: Exhibit J.

16 Q Is what appears to me to be a draft statement of
17 Doug Fell made to you at the Farris offices on
18 March 23rd, 2004?

19 A Yes.

20 Q And if you'll turn over to page 49 you'll see
21 what's described as an amended statement of Doug
22 Fell again dated March 23, 2004?

23 A Yes.

24 Q I take it what happened here with Detective
25 Constable Fell is you sent him a draft of your

1 notes, a draft typed statement, and he made some
2 changes and corrections and sent it back to you?

3 A He sent it back with some additional information,
4 yes.

5 Q So I'll just go through straight to the amended
6 version and then we can compare and see what we
7 come up with. Starting with -- starting at page
8 50 it seems based on my review of the notes, and
9 you can correct me if I'm wrong about this, it
10 seems that you had asked Detective Constable Fell
11 about making comments about lesbians. Do you
12 remember that?

13 A I'm sure I did.

14 Q Okay. And I take it the reason you put those
15 questions to him is because other witnesses who
16 were interviewed before Detective Constable Fell
17 had mentioned something to that effect?

18 A Yes.

19 Q And who were those witnesses?

20 A I believe Detective Constable Clarke told me that,
21 and I believe Detective Constable Shenher made
22 some comments about that. I would have to check
23 over their statements, but --

24 Q And the reason I'm asking is I didn't actually see
25 any reference in their statements to comments

1 about lesbians. Is that something they told you
2 outside of their statements?

3 A Either that or it came up in someone else's
4 statement. I certainly became aware of it. It
5 might have been someone else that reported that
6 the witness didn't themselves report.

7 Q All right. So if we can go to the first -- the
8 unamended version is found on page 48, the fourth
9 paragraph of your unamended version of Detective
10 Constable Fell's statement says:

11 I deny making any comments about lesbians.
12 I'm loud at work, I know that. But if I was
13 offensive, and someone told me, I'd take heed
14 of their advice. But I can't believe I
15 offended anyone about the lifestyle they may
16 choose.

17 That was your paragraph unamended sent to
18 Detective Constable Fell; correct?

19 A Yes.

20 Q And what he sent you back is found at page 50.
21 His amended version with his notes say this:

22 (I deny making any comments about lesbians)

23 And then in bold it says:

24 Remove. You had asked me a specific question
25 with regard to a Halloween costume which I

1 denied making I can't remember exactly what
2 it was.

3 Is that correct, is that what it says?

4 A Yes.

5 Q Okay. So I take it at that point he's asking for
6 you to remove from his statement his denial that
7 he made any comments about lesbians?

8 A That's what it looks like.

9 Q He's saying I can't remember exactly the comment I
10 made, it might have been about lesbians in effect.
11 All right. How did you interpret that?

12 A Well, that he seemed less sure than I was that I
13 had recorded his statement accurately in the first
14 place.

15 Q All right. Over the page on page 51. In the
16 amended version of Detective Constable Fell's
17 statement Detective Constable Fell writes:

18 I don't recall being foul mouthed about the
19 prostitutes, but it's a strong possibility I
20 used "whore."

21 A Yes, you've read that correctly.

22 Q That's what it says. And I take it that is
23 consistent with what was told to you by other
24 interviewees?

25 A Yes.

1 Q So in effect when asked whether he used the word
2 whore, Detective Constable Fell's response is it's
3 a strong possibility that I used that term?

4 A That is what his response was.

5 Q All right. And to be fair to Detective Constable
6 Fell, then it goes on to say:

7 When it came to dealing with all the
8 potential victims, I don't think we've dealt
9 with any of them in an unprofessional manner.

10 He does say that?

11 A He does say that.

12 Q All right. At page 52 is Detective Constable
13 Wolthers' statement. You sent it to him and he
14 sent it back to you?

15 A Yes.

16 Q This is the statement he sent back to you; is that
17 correct?

18 A I'm actually not sure. I would have to check my
19 actual records to know which one that you've
20 reproduced here.

21 Q I'll ask you to do that, and in particular in
22 respect of the comment at page 54, page 8 of
23 Detective Constable Wolthers' statement, the
24 second paragraph there, the first full paragraph.

25 A Yes.

1 Q I'll read it.

2 Regarding us saying things like fucking
3 whores, I'm not going to get into that. They
4 should be looking at our work. Not petty
5 things like that. I could say things too. I
6 don't think lashing out is the way to go.
7 Maybe we aggravated certain situations, maybe
8 we can be the cause of our own misfortune
9 too.

10 A Yes, you've read that correctly.

11 Q That's what he said. So again he confirms what
12 all the other witnesses told you that in fact --
13 or he doesn't deny it, put it that way?

14 A Yes, I agree.

15 Q He refuses to deal with the language that he used
16 and the implications of his language in his
17 statement to you?

18 A Yes, I agree.

19 Q And, indeed, he describes the concern itself as a
20 petty one?

21 A Yes.

22 Q And there's a confirmation that the situation was
23 aggravated by this language use?

24 A I don't think he says exactly that, but --

25 Q He says maybe we aggravated certain situations?

1 A Yes.

2 Q All right. But he's not denying that the
3 situations might have been aggravated, which is
4 again consistent with what the other interviewees
5 said to you?

6 A Yes.

7 Q And I take it from this -- from your review of all
8 of these interviews about the language used by
9 Fell and Wolthers you concluded that there was a
10 significant problem of discriminatory language
11 used?

12 A With those two police officers, yes.

13 Q Okay. So now I want to first refer to your
14 discussion of Fell and Wolthers in your report,
15 which begins at page 263. Sorry, begins at page
16 262 in the left-hand column, and heading "Lack of
17 Personal Control: Problems with Detective
18 Constables Fell and Wolthers." And that section
19 carries on to page 268; is that correct?

20 A Yes. Personnel control, not personal control.

21 Q Yes. And you set out a number of difficulties
22 with Detective Constables Fell and Wolthers, that
23 they didn't share information, that they were
24 arrogant, that they had blinders on with respect
25 to a certain individual who is eventually

1 convicted of a number of sex tortures in British
2 Columbia, Alberta and Saskatchewan; correct?

3 A The case that they were investigating involved
4 sexual assaults in Vancouver. I don't know about
5 those other offenses or the characterization of
6 torture.

7 Q They engaged in an investigation of a certain
8 individual, they were convinced that that was the
9 individual, they didn't share information about
10 that individual, neglected to investigate other
11 suspects including Pickton, and they were
12 abrasive, brash and cowboys, and disregarded the
13 Charter and screwed up an interrogation of a
14 suspect. You say all of those things about Fell
15 and Wolthers?

16 A Yes.

17 Q In those pages?

18 A Yes.

19 Q What you don't say though in your report is that
20 Detective Constables Fell and Wolthers exhibited
21 discriminatory attitudes towards sex workers. You
22 don't say that in your report at all?

23 A Well, I might not have said those words in the
24 report, but it was certainly clear in the report
25 in the statements that I took which were provided

1 that those were assertions that were made by
2 several witnesses.

3 Q But you don't say that in your report that they
4 used abusive language about sex workers like
5 whores and fucking whores, do you?

6 A No.

7 Q And you don't say anything about sexist language
8 used in respect of two women investigators, two
9 female investigators including Detective Constable
10 Shenher?

11 A That's true.

12 Q And you don't say anything about abusive treatment
13 of sex workers by Fell and Wolthers, do you?

14 A I don't believe I do, no.

15 Q Now, what I want to take you to is page 212 of
16 your report -- sorry, 211 of your report, your
17 discussion of "The Issue of Bias Against Sex Trade
18 Workers." In your discussion of Ms. Cameron's
19 conduct you say -- you say this after discussing
20 Ms. Cameron's conduct that it resulted in
21 inappropriate conduct towards the families of
22 marginalized persons and others. And that those
23 Cameron incidents were regrettable and
24 unacceptable. You say this two paragraphs down:

25 In fact, isolated incidents aside, on the

1 whole the record is clear that the VPD has
2 taken crimes against sex trade workers very
3 seriously.

4 Isn't that what you say?

5 A Yes.

6 Q But, in fact, the Cameron conduct is not isolated,
7 is it?

8 A Well, it is -- I think it was isolated to that
9 employee in terms of not being representative of
10 the VPD as a whole. That's -- if you look at all
11 the statements of the witnesses they were outraged
12 by it, and certainly didn't accept that as a norm
13 or conduct that VPD ought to be engaging in.

14 Q Okay. So the misconduct in the form of abusive
15 language and treatment wasn't isolated to
16 Ms. Cameron, was it?

17 A No, there were two police officers that I would
18 make the same comments about.

19 Q All right. And just like Ms. Cameron's conduct
20 those two police officers, their conduct, their
21 biased conduct interfered with the investigative
22 team's cohesion and integrity and their ability to
23 do their work, didn't it?

24 A Yes, I agree with that.

25 Q Okay. So when you say -- when you describe here

1 at page 211 Ms. Cameron's conduct as an isolated
2 incident, that's not accurate though, is it?

3 A Well, I don't think I said it was an isolated
4 incident.

5 Q You say:

6 ... isolated incidents aside, on the whole
7 the record is clear that the VPD has taken
8 crimes against sex trade workers very
9 seriously.

10 Aren't you in fact suggesting that Ms. Cameron's
11 conduct is isolated?

12 A Well, I'm suggesting that she was one employee who
13 displayed conduct that was unacceptable and it was
14 not representative of the VPD as a whole or its
15 work around sex workers, offenses against sex
16 workers, and neither was the work of Wolthers and
17 Fell, and the point was that they had outraged
18 other people by their conduct, the majority of
19 right thinking police officers were outraged by
20 it.

21 Q I just want to read the full -- I'm going to
22 approach this from another angle if you'll allow
23 me. The very next sentence says:

24 This chapter will discuss the allegations of
25 prejudice against sex trade workers and their

1 families.

2 And that's -- this is the chapter that you set
3 aside to deal with those allegations of bias
4 against sex trade workers; isn't that correct?

5 A Yes.

6 Q Now, Fell and Wolthers' behaviour isn't mentioned
7 in this chapter?

8 A Well, I do discuss it at length elsewhere though.

9 Q Not the use of the term whore or fucking whore or
10 any of those types of behaviours --

11 A Yes.

12 Q -- that had any implications on the investigation,
13 you don't discuss that anywhere in your report, do
14 you?

15 A I think that's probably true.

16 Q Okay. And in particular you don't discuss it in
17 the chapter you set aside to deal with the issue
18 of bias against sex trade workers, Fell and
19 Wolthers' conduct is nowhere to be seen in that
20 chapter?

21 A Yes, that's true. If I can provide a little bit
22 of context. What I was focused on was, and I
23 think that I say that in my report, I think that
24 you characterized it a little bit differently, is
25 that when there was a known offence, a serious

1 offence, an assault, a murder of a sex trade
2 worker that the VPD responded very well to it and
3 had a very good success rate of solving those
4 crimes. With respect to your broader comments, I
5 agree with you the conduct was appalling, and it
6 is included in the statements, and again I made
7 choices about what I was going to include, and I
8 know that I was not perfect and no doubt there are
9 other things that I could have spent more time on
10 or less time on as well.

11 Q You're saying that aside from Cameron, Fell and
12 Wolthers there were other allegations of bias
13 against sex workers that you just decided not to
14 deal with in your report; is that correct?

15 A No, I didn't say that.

16 Q That's what I had understood you to say. But I
17 take it from the inclusion of an entire chapter
18 about the issue of bias against sex workers, that
19 was something that you were assigned to
20 investigate; correct?

21 A Well, I decided myself what I thought the issues
22 were that I should be looking at, yes.

23 Q And here are two key team members, police officers
24 at the rank of detective constable who were
25 engaged in activity that you today admit exemplify

1 bias against sex trade workers?

2 A Yes, that's true. I'm not disagreeing with
3 anything you're saying. The irony of it is even
4 though their energies were misguided they were
5 totally focused on catching a serial killer. They
6 wanted badly to solve the case.

7 Q I agree with that, and we'll get to that in a
8 moment. But they were on the Missing Women's
9 Review Team for a period stretching from August of
10 1999 to late May of 2000; correct?

11 A Yes.

12 Q And they engaged in that discriminatory behaviour
13 the entire time; correct?

14 A I don't know if they engaged in it the entire
15 time, but certainly they engaged in it.

16 Q They weren't disciplined by anyone?

17 A Not during that time, no.

18 Q They were never disciplined for any of this
19 behaviour notwithstanding serious allegations by
20 other police officers of sexism, homophobia and
21 bias against sex workers that interfered with a
22 serious investigation?

23 A There was some investigation of them during that
24 time and a report that was prepared by Inspector
25 Stewart on a part of the allegations against them,

1 and I can assure you that once I became aware of
2 this information, which of course is years after
3 it occurred, I made considerable inquiries about
4 how I should deal with it.

5 Q Now, the investigation by Inspector Stewart didn't
6 deal with this discriminatory behaviour, did it?

7 A No, because it wasn't known to him to my
8 knowledge.

9 Q No, it dealt with allegations that Detective
10 Constables Fell and Wolthers had, in effect,
11 stolen a car and searched it without a warrant;
12 correct?

13 A I actually don't remember that part.

14 Q Okay. And it dealt with breaching the chain of
15 command as Detective Constables Fell and Wolthers
16 went to the chief constable to complain about
17 being removed from the Missing Women's Review Team
18 'cause they wanted to continue to investigate
19 'cause they thought that there with some live
20 suspects and they thought they were getting closer
21 to catching a serial killer; correct?

22 A I believe that was part of it, yes.

23 Q That was the real nub of it was that they went
24 straight to the chief constable to say we think
25 there's still a serial killer out there and we

1 want to catch him, please don't remove us from
2 this team?

3 A My recollection, which could be wrong, I haven't
4 looked at those documents for years, but that one
5 of the things that Inspector Stewart was
6 investigating was their conduct involving the
7 interview of their suspect and things related to
8 that.

9 Q Okay. So you don't remember whether it was their
10 letter to the chief constable that was the --

11 A I do remember that.

12 Q Okay. So that was an aspect of it, their letter
13 to the chief constable was a breach of the chain
14 of command?

15 A I'm not disagreeing with you. I haven't looked at
16 those documents for years so I would have to
17 refresh my memory.

18 Q Okay. Well, all I'm saying is that you don't
19 recall Inspector Stewart looking at this
20 discriminatory language and attitude that
21 interfered with the investigation issue?

22 A No, that's correct.

23 Q And then in fact your report doesn't do anything
24 about it either; correct?

25 A Well, I think that my report did something about

1 it by the fact that we're talking about it here
2 today and that my report exists, but I can tell
3 you that long before today I took action in
4 response to what I learned during my review.

5 Q You learned about Fell and Wolthers on November
6 12th, 2002 when you spoke to Detective Constable
7 Shenher; correct?

8 A Well, that was the first time then, so that was
9 one of the very early interviews. I was still
10 doing interviews several years after that.

11 Q All right. So did you initiate any conduct
12 complaint against Detective Constables Fell and
13 Wolthers for their sexism, bias against sex
14 workers and homophobic attitudes as complained
15 about by Detective Constable Shenher, Detective
16 Constable Clarke, Inspector Spencer, did you do
17 anything about that?

18 A Yes.

19 Q And if so what did you do?

20 A Mr. Commissioner, several things. First of all, I
21 didn't run off once I received the first
22 statement, I thought it was important to hear from
23 other people as well and look for corroboration
24 and that sort of thing. When I did get farther
25 down the road there were a number of things that I

1 did. I was very concerned about it and what our
2 obligations were. I sought legal advice about it,
3 because of course there was a challenge in that it
4 was several years after the events in question,
5 and so there are challenges with dealing with
6 discipline matters when it's years after the
7 events in question. Secondly, I spoke to people
8 in charge of our human resources area to let them
9 know my concerns about the need for them to be
10 very carefully supervised because of what I
11 learned.

12 Q May I ask who you spoke with?

13 A I probably spoke to the deputy chief at the time,
14 I don't have an independent recollection of that
15 at the time, but it was something that I shared
16 with the executive at the time which included the
17 deputy chief.

18 Q At one of these senior management meetings?

19 A Pardon me?

20 Q At one of these senior management team meetings?

21 A It wouldn't have been at a senior management team
22 meeting, because that includes quite a broad
23 assortment of people, it would have been in a more
24 senior level than that.

25 Q And who would that have been? Which deputy chief

1 would that have been?

2 A Well, the deputy chief at the time --

3 Q Maybe you can look at that over the break.

4 A Yeah, I would have to check. I think that it was

5 probably Deputy Chief Rowles, but there was

6 transition of deputies during that time. The

7 other person that I consulted with was the police

8 complaint commissioner about what would be the

9 appropriate way to handle certain information that

10 was in my report.

11 Q And that would have been Don Morrison?

12 A No, it was Mr. Ryneveld.

13 Q Mr. Ryneveld by then. And what did Mr. Ryneveld

14 say about that? Did you write to Mr. Ryneveld or

15 did you just speak to him in person or on the

16 phone?

17 A I actually provided him a copy of my report at his

18 request.

19 Q I don't have a copy of that, but he requested it?

20 A Yes, he did.

21 Q Which report would that be?

22 A It was a draft report that was ready in -- I think

23 this was occurring in 2005.

24 Q It was a draft of this report?

25 A Yes.

1 Q The one that's marked as Exhibit 1?
2 A Yes.
3 Q And that draft contained reference to Fell and
4 Wolthers' discriminatory language and biased
5 attitudes, did it?
6 A It did. It was quite similar to the final draft.
7 There were additions that I made.
8 Q Why did you then take those matters out of your
9 report?
10 A I did not take them out of my report.
11 Q Okay. Well, I had understood my question to be
12 what did you do about the biased language and
13 discriminatory attitudes and you said you went to
14 Ryneveld and Ryneveld asked you for a copy of the
15 report and you sent him a copy of the report?
16 A Yes.
17 Q But your report doesn't deal with the biased
18 language and discriminatory attitude, so how would
19 that help Mr. Ryneveld?
20 A Well, there was quite a bit of information about
21 them in that. I agree with you that I didn't deal
22 specifically with those issues.
23 Q Okay. So you didn't deal with Ryneveld about this
24 discriminatory language and biased attitude?
25 A I spoke to Mr. Ryneveld about what was in my

1 report, which is substantially what's here today.
2 So if you're saying that I have not, then I agree
3 with you.

4 Q Okay. So it's just Deputy Chief Rowles, it might
5 have been Rowles, it might have been another
6 deputy chief?

7 A Yeah. I know that there were a number of
8 discussions about my concerns and the need for
9 them to be properly supervised because of those
10 concerns, and we discussed at a very high level
11 what our obligations -- what we could do about
12 something that's coming to our attention then that
13 had occurred several years before.

14 Q You've used sort of vague language in your answer
15 referring to having discussed your concerns.

16 A Yes.

17 Q I want to confine the discussion here specifically
18 to discriminatory language and attitudes, the
19 whores and fucking whores, the jokes about
20 lesbians --

21 A Yes.

22 Q -- and that stuff, and how it interfered with the
23 investigation. Are you saying you discussed those
24 issues in particular with Deputy Chief Rowles or
25 another deputy chief?

1 A I know that they were part of the discussions
2 because I remember talking about their abusive
3 language towards -- that was apparently directed
4 towards Detective Constable Shenher, for example.

5 Q All right. Did you write anything down?

6 A I don't know. I would have to check my notes to
7 see that if I did, but I do know that we -- we did
8 have discussions about it, we had lawyers in the
9 room talking about what we were able to do.

10 Q Now, I just say it's totally the conduct of -- the
11 alleged conduct of Detective Constables Fell and
12 Wolthers is completely incompatible with the
13 workplace harassment policy at the Vancouver
14 Police Department, isn't it?

15 A I agree.

16 Q And it also appears to be on the face of it a
17 human rights violation to be abusive to sex
18 workers, doesn't it?

19 A I'm not an expert on that. I think it was
20 appalling behaviour what was alleged.

21 Q All right. So I'm asking what was done to
22 ameliorate the situation or to discipline Fell and
23 Wolthers for their use of language? And I'm
24 specifically just saying -- I'm starting with you,
25 Deputy Chief LePard, I'm asking what did you do

1 about that issue?

2 A What I did was, number one, got legal advice,
3 number two, discussed it with my colleagues about
4 the reality was that several years after the
5 actions occurred it was going to be extremely
6 difficult to engage in discipline, and so what was
7 left available was to ensure that consideration
8 was given if there was any applications for
9 transfer or different work assignments, that sort
10 of thing, that this information needed -- that
11 would have to be considered in the context of that
12 information, and also the need for there to be
13 close supervision.

14 Q Now, if we opened up the employment records or the
15 discipline records of Detective Constables Fell
16 and Wolthers, would we find any reference to the
17 use of discriminatory language?

18 A I don't know what else is in their records. With
19 respect to what I learned there wasn't any
20 discipline around that issue.

21 Q Did anyone you speak to tell you that they had
22 done something about this issue? I hate to go
23 over this in detail, but it's important to ensure
24 that there are some levels of accountability for
25 bias and discriminatory actions within the

1 Vancouver Police Department and I'm wondering what
2 was available to you. You found out about these
3 serious allegations. What was available to you to
4 remedy the situation? And so far, if I understand
5 your evidence correctly, you didn't do anything
6 formal, nothing formal was done. Discussions were
7 had at high levels making sure that future
8 assignments and dealings with these two officers
9 would be dealt with in an appropriate manner; is
10 that right?

11 A Yes.

12 Q But nothing formal was done?

13 A I don't know whether our human resources area did
14 anything more than that that might conceivably
15 have been appropriate, like workplace harassment
16 training or something like that, I just don't know
17 the answer to that. I know that at the time that
18 I learned of the information I was dealing with
19 some things as I was learning of them and that
20 would have been the place that I passed that on to
21 is the human resources area to deal with, and I
22 don't know what action, if any, that they took.

23 Q Okay. Now, I want to put to you that this
24 discriminatory language and attitudes exemplified
25 by Detective Constables Fell and Wolthers had in

1 your mind passed between beyond mere allegations
2 and you had drawn some conclusions from everything
3 that you heard; correct?

4 A Yes, I thought there was some credibility.

5 Q Okay. So you thought it was established, I don't
6 say beyond a reasonable doubt or on a balance of
7 probabilities or anything, but to your mind it was
8 established as a finding of fact, not written down
9 anywhere, but in your mind, that Fell and Wolthers
10 had these discriminatory attitudes and used this
11 discriminatory language?

12 A Certainly in those areas that they corroborated
13 themselves I was satisfied that it was accurate.

14 Q All right. And isn't that relevant to the issue
15 of bias against sex workers?

16 A Yes, I agree that those individuals were, but I
17 don't think that the behaviour of a couple of
18 individuals that was appalling to all the other
19 police officers that I talked to was evidence of
20 systemic bias against sex trade workers in the
21 Vancouver Police Department, I thought that the
22 evidence was to the contrary.

23 Q All right. So I don't want to ask that, I'm just
24 asking whether you thought it was relevant to the
25 issue of bias against sex workers?

1 A I agree with you that it is generally, but what I
2 was focused on was when there is a report of a
3 serious offence against a sex trade worker does
4 bias impact on the resources or the quality of the
5 investigation that results, and my conclusion was
6 that that was not true, that this was very bad
7 behaviour, it did, as you've pointed out, have a
8 negative impact on the investigation, but I did
9 not think that it sustained an inference of
10 systemic bias in the VPD at large.

11 Q Okay. But I'm not asking about an inference of
12 systemic bias. What I want to do is I want to
13 line up all the instances of bias and then ask you
14 about systemic bias. But first I want to make
15 sure that we've got this established. Detective
16 Constable Fell and Wolthers' attitudes and
17 language were evidence of bias?

18 A Yes.

19 Q But it's not in your report dealing with evidence
20 of bias?

21 A That's true.

22 Q All right. Now, I take it --

23 A It was evidence of bias by those two individuals I
24 should clarify.

25 Q Sure, and systemic bias is made up of instances of

1 bias, is that correct, in your mind?

2 A Well, if there was a prevailing attitude that was
3 demonstrated, if it was an organizational
4 attitude, if it was part of the organizational
5 culture then I would agree with you. I don't
6 think that that was the case here, and I think
7 that the actions of the many other police officers
8 involved was the evidence of that, and also how
9 historically serious offenses against sex trade
10 workers had been dealt with in a very diligent
11 manner.

12 Q All right. I think I've accomplished what I can
13 on the topic of Fell and Wolthers for the moment.
14 I'd like to now address the issue of the use of
15 the word hooker by the Vancouver Police Department
16 and the RCMP. What I've done here is I've
17 excerpted materials that address the use of the
18 word hooker. I'd like to begin by taking you to
19 what I consider to be a very telling document.
20 It's found at page 120 of Exhibit J. This is a
21 nine page -- are you there? This is a nine page
22 what's described as a continuation report?

23 A Yes.

24 Q Is that correct?

25 A Yes.

1 Q It's a document form called a 1624, it's a
2 standard RCMP continuation report?

3 A Yes.

4 Q This sets out -- continuation reports are used by
5 the RCMP to set to writing what happened in the
6 investigation, what meetings occurred, what the
7 developments are, and sometimes even operational
8 outlines are set out in continuation reports; is
9 that correct?

10 A That's my understanding.

11 Q All right. So it's a pretty standard
12 investigative document and forms part of the
13 investigative file?

14 A Yes.

15 Q Isn't that right? Major case management engaged
16 in -- major case managed files by the RCMP
17 continuation reports, they're the standard form
18 used to compile information; correct?

19 A For documenting the progress of an investigation,
20 I would say that that's my understanding.

21 Q And what we have here is a continuation report,
22 it's a nine page report prepared by Don Adam; is
23 that correct?

24 A Yes.

25 Q Sergeant Don Adam?

1 A Yes.

2 Q Okay. He was in charge of the joint task force?

3 A Yes.

4 Q And the joint task force had on it some VPD
5 members and some RCMP members?

6 A Correct.

7 Q The first entry on this continuation report is
8 dated January 31st, 2001; correct?

9 A Yes.

10 Q And the -- and the report seems to be dated
11 February 5th, 2001?

12 A Yes.

13 Q So it sets out approximately a week's worth of
14 work on the joint task force?

15 A Yes.

16 Q What came to be called Project Evenhanded?

17 A Correct.

18 Q The title of the continuation, the re line of the
19 continuation report is Hooker Task Force; isn't
20 that correct?

21 A Yes.

22 Q And this continuation report was circulated, would
23 have been circulated amongst the investigators; is
24 that correct?

25 A I don't know where it was circulated to.

1 Q All right. So there's the sergeant in charge of
2 what is publicly described as Project Evenhanded?

3 A Yes.

4 Q Referring to Project Evenhanded as the hooker task
5 force?

6 A Yes.

7 Q Now, the word hooker task force, this description
8 of the investigative body, the joint task force,
9 that wasn't a name that was publicized?

10 A My understanding is that in the early days when
11 this name was used it was immediately brought to
12 -- eventually to Sergeant, then Sergeant Adam's
13 attention that that was not an appropriate term to
14 use, so it was changed. So it wasn't like that
15 there was a dual, you know, one description for
16 the public and one in private. My understanding
17 is that in private it also changed as well, and
18 that while I think that we would all agree in here
19 is that has a pejorative connotation to it, I
20 think language does evolve too and what might have
21 been common then and not meant with disrespect
22 might not be viewed in the same way now.

23 Q You're saying -- and when exactly did the joint
24 task force stop being called the hooker task
25 force?

1 A I don't know.

2 Q You don't know. It could have been a week, a
3 month?

4 A I don't know. I just remember interviewing
5 someone who said -- as soon as I saw documentation
6 that said that I immediately raised it and said
7 that's an inappropriate term to use.

8 Q Okay. So I'll take you to that interview, it's
9 found at page 106 of Exhibit J. This is the
10 interview of then retired Deputy Chief John Unger?

11 A Yes.

12 Q And, again, this is a situation where you've got
13 an unamended and then an amended version of the
14 statement. The statement is dated February 11th,
15 2004?

16 A Yes.

17 Q And the report that you picked, that this is the
18 unamended report, was based on your interview
19 notes; is this correct?

20 A Yes.

21 Q So it's not necessarily what the interviewee is
22 agreeing to, but what you thought you heard?

23 A Correct.

24 Q Were these interviews recorded?

25 A No.

1 Q You have your notes though of these interviews?

2 A These are my notes of the interviews. I took them
3 on the laptop as they were occurring.

4 Q Okay. So at page 109 of Exhibit J, at page 5, we
5 have a reference to the hooker task force?

6 A Sorry, the page number again?

7 Q It's 109, page 5 of DCC Unger's statement as
8 recorded by you. Here's what you recorded and
9 sent to DCC Unger:

10 Regarding the January 31, 2001 notes from
11 Adams. What I recall was being really ticked
12 about him heading it the "hooker task force."
13 He's supposed to be a professional guy and I
14 think is a good homicide investigator, but he
15 doesn't know much about public relations
16 calling them hookers. I remember phoning
17 Larry Killaly about that saying don't send us
18 memos with that kind of language.

19 That's what your note of what DCC Unger told you;
20 correct?

21 A Yes.

22 Q And who would be -- who is Larry Killaly?

23 A I believe that Larry Killaly was the
24 superintendent in charge of Serious Crime for E
25 Division RCMP. That's my recollection.

1 Q You were asking DCC Unger about this because you
2 recognized that it reflected an attitudinal bias
3 against sex workers; correct?

4 A That's why I was asking him?

5 Q Yes.

6 A I don't recall how the issue came up.

7 Q Okay. The amended version of that statement from
8 DCC Unger begins at page 110. And there at page
9 5, which is found at page 112, DCC Unger has
10 apparently revised that passage saying:

11 Regarding the January 31, 2001 notes from
12 Adams. What I recall was being really
13 dismayed about him heading it the "hooker
14 task force." He's supposed to be a
15 professional investigator and I think is a
16 good homicide investigator, but his choice of
17 words could have been better. I remember
18 phoning Larry Killaly about that saying don't
19 send us any more memos with that type of
20 insensitive language.

21 Everything is the same except for DCC Unger has
22 changed your note of he doesn't know much about
23 public relations to a note saying his choice of
24 words could have been better; correct?

25 A Yes.

1 Q Okay. I take it you agree that referring to the
2 joint forces operation as a hooker task force, it
3 goes beyond a public relations problem, doesn't
4 it?

5 A That's one of the issues, but I agree it was
6 inappropriate language.

7 Q It was inappropriate language reflective of a bias
8 against sex workers?

9 A I have no idea whether that it was reflective of a
10 bias or whether it was simply a generational
11 thing, that that was a word that was much more
12 commonly used in an earlier time and this was a
13 very senior police officer, I don't know that he
14 had any bias towards sex trade workers.

15 Q All right. Well, I'll put it to you that the VPD
16 tried to adhere to the language of sex trade
17 worker for all its public statements about sex
18 trade workers; is that right?

19 A At what time?

20 Q Throughout the entirety of the missing women
21 investigation.

22 A I think that there were other terms used as well
23 during that time, but I would agree that sex trade
24 worker was the most common term used.

25 Q Nobody said hookers in public to members of the

1 public or to the media?

2 A Not to my knowledge.

3 Q All right. So the public face of the Vancouver
4 Police Department doesn't use the word hookers, it
5 uses sex trade workers or prostitutes; correct?

6 A Yes.

7 Q And prostitutes is the Criminal Code term of it;
8 correct?

9 A Yes.

10 Q And sex trade workers is a description which
11 differs from the word hooker because it doesn't
12 have a derisive quality to it; isn't that correct?

13 A I think that's fair.

14 Q Okay. So the word hooker has a derisive quality
15 to it?

16 A It does now.

17 Q Oh, you're saying it didn't in 2001?

18 A No, I think it did then as well.

19 Q Okay.

20 A That it did have a derisive quality.

21 Q I mean DCC Unger is saying it's, to use your
22 language, a PR problem, and to use his preferred
23 language --

24 MR. HERN: To be fair, that wasn't DC LePard's language. As
25 you took him through earlier it was what he had

1 noted Deputy Chief Unger to have said and Deputy
2 Chief Unger corrected that. So it's not language
3 that can be attributed to Deputy Chief LePard.

4 THE COMMISSIONER: I agree with that.

5 MR. GRATL: No, and I tried to imply that, but I guess I didn't
6 succeed.

7 Q Yeah, I'm not saying that you just considered
8 hookers to be a PR problem. You're not saying the
9 use of the word hookers is limited to a public
10 relations problem?

11 A No.

12 Q You recognize that -- Deputy Chief LePard, you
13 recognize that the use of the word hookers is
14 derisive?

15 A I think that -- I agree that it could be
16 interpreted that way and so it should not be used
17 that way, that it's disrespectful language, and
18 even though that might not be intended by every
19 user, but it would certainly be interpreted that
20 way by many, so that's not a term that we would
21 support.

22 Q Would ever use publicly?

23 A Well, it's not a term I ever use period.

24 Q It's a term that the least you can say about it is
25 that it can convey disrespect?

1 A Yes, I agree with you.

2 Q In some cases does convey disrespect; correct?

3 A Yes, depending on how it is delivered, like many
4 words.

5 Q I wouldn't say it's always used intentionally to
6 convey disrespect, but the disrespect can often be
7 accidental; correct?

8 A Yes.

9 Q And it could be reflective of an unconscious bias
10 if the person doesn't realize that they harbour
11 discriminatory attitudes and they just use the
12 word in a way that it isn't considered by them to
13 be a manifestation of their personal values?

14 A You lost me a little bit, but I agree with you
15 that people can have unconscious biases, and
16 people come cloaked with their own experiences and
17 their gender and culture and age and all those
18 things. I can remember seeing the book on the
19 checkout stand, you know, when I was a kid *The*
20 *Happy Hooker*, so it was a term that was -- I think
21 the author was a sex worker. So different things
22 influence peoples choice of vocabulary, and I
23 agree that it can be -- it could be reflective of
24 dismissive attitudes or it could be reflective of
25 other things, but I do agree that it can easily be

1 interpreted as disrespectful language.

2 Q M'hm. And within a culture of the policing
3 community within the joint forces operation no
4 individual member of that operation would
5 necessarily know at any given point how the word
6 hooker was being used. It could be reflective of
7 disrespect or it could be neutral or could be a
8 subconscious bias in each and every case of the
9 use of the word; is that right?

10 MR. HERN: I'm just going to object to that, 'cause that's a
11 very vague question. I don't think anybody can
12 answer that in speaking for how every officer in
13 Evenhanded may have used a word at some point
14 during the investigation. I just don't think this
15 witness can answer.

16 THE COMMISSIONER: Well, I think he's already said that in his
17 view it's inappropriate, so I don't know where you
18 want to go.

19 MR. GRATL:

20 Q Well, I want to point out that it's Sergeant Don
21 Adam, he's in charge of the investigation, he's
22 using the word hooker task force from the outset;
23 correct?

24 A Well, based on that document.

25 Q Which may have conveyed to everybody in the joint

1 task force an attitude of disrespect; correct?

2 A I don't know that.

3 Q And it was pointed out by DCC Unger who talked to
4 Killaly who presumably talked to -- talked to
5 Sergeant Don Adam about the issue; correct?

6 A That's an inference I drew.

7 Q Okay. But I take it there was no memo ever
8 circulated by Sergeant Adam taking away the
9 potential effect of his use of the word hooker
10 saying don't use hooker, I didn't mean it to
11 convey disrespect, I don't want anybody else to
12 have disrespect for sex workers, he didn't do
13 that, did he, to your knowledge?

14 A As I said I didn't -- I really looked at
15 Evenhanded in the most superficial way, and more
16 in the progress of the creation of the JFO, so I
17 don't know whether a memo like that might exist
18 and I wouldn't know.

19 Q Okay. In your review of the documents, the VPD
20 documents and the RCMP documents, you found that
21 the documents were replete with the use of the
22 word hooker; isn't that correct?

23 A No, I don't know that.

24 MR. GRATL: Okay. Well, I'll take you to some of the documents
25 then to refresh your recollection. Maybe we can

1 start with that after the lunch break,
2 Mr. Commissioner.

3 THE REGISTRAR: The hearing will now adjourn to two p.m.

4 **(PROCEEDINGS ADJOURNED AT 12:30 P.M.)**

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

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

7 MR. GRATL: Thank you. Mr. Commissioner, I'm resuming at page
8 68 of Exhibit J.

9 THE COMMISSIONER: You're what?

10 MR. GRATL: I'm resuming at page 68 of Exhibit J.

11 THE COMMISSIONER: Thank you.

12 MR. GRATL:

13 Q Deputy chief, page 68 is an example of a missing
14 persons report?

15 A Yes.

16 Q For Kerry Lynn Koski?

17 A Yes.

18 Q Taken on July 29th, 1998?

19 A Yes.

20 Q And under the -- under the heading personal habits
21 it says heroin addict, heroin in brackets, and
22 under missing person's occupation or school it
23 says unemployed/welfare/hooker.

24 A I'm sure you're right, I can't see it myself, and
25 can you just point me to that place on the form?

1 Q Sure. It's about three-quarters of the way down
2 the page. You see where it says --

3 A Yes, I see it now.

4 Q Where it says long cream coloured coat?

5 A Yes.

6 Q Above that for personal habits it says heroin
7 addict (heroin)?

8 A Yes.

9 Q And for missing person's occupation or school it
10 says unemployed/welfare/hooker?

11 A Yes.

12 Q You've seen these types of reports before?

13 A I'm sure I have.

14 Q A lot of the missing women reports used the word
15 hooker to describe the occupation of the missing
16 women; isn't that correct?

17 A I would not be surprised.

18 Q I take it you didn't count them?

19 A No.

20 Q But it's common to your recollection?

21 A I think that that was probably a description that
22 was commonly used then, yes.

23 Q And on these forms, these missing person reports?

24 A I don't know that for a fact, but it doesn't
25 surprise me.

1 Q Okay. Well, over the page on page 69 is a missing
2 person report. These documents are commonly
3 referred to as five-six-fives, are they?
4 A I believe that's the form number, yes.
5 Q Okay. So it's a form filled out in 1995 for Diana
6 Melnick?
7 A Yes.
8 Q And under the remark section it says she is a
9 hooker in Victoria Street area?
10 A Yes.
11 Q And then again going down to the personal habit
12 section it says coke addict? Under the personal
13 habit section.
14 A Yes.
15 Q And then it says hooker for occupation or school?
16 A Yes.
17 Q Flipping over a few pages to page 72 is a 1995
18 missing person report for Catherine Knight, and
19 again it describes her as an IV drug user and
20 hooker?
21 A Yes.
22 Q So, of course, I didn't print out all of these
23 forms, but you'll agree with me that those aren't
24 the only examples of the use of the word hooker on
25 these forms?

1 A I'm sure they're not.

2 Q Okay. Over the page there's an e-mail, this is
3 page 73 of Exhibit J, from Sandra Cameron to Lori
4 Shenher sent June 30th, 1999?

5 A Yes.

6 Q It's a very short e-mail. It says:

7 See incident 142011, tried to call the
8 reportee, he just made report at 0030 hours
9 today, number not in service! Hooker, oops,
10 sorry, SEX TRADE WORKER missing since June
11 28th, downtown eastside...come and see me or
12 I'll come and see you, whatever.....see ya
13 chickypoo.

14 And then it's signed with the electronic signature
15 of Sandra Cameron?

16 A Yes.

17 Q So in that e-mail it indicates that Ms. Cameron
18 uses the word hooker?

19 A Yes.

20 Q And it also shows that in the exchange between
21 Ms. Cameron and Detective Constable Shenher there
22 was some concern raised, bantered about in the
23 form of humour here, regarding the use of the term
24 hooker and whether that was appropriate?

25 A That seems to be a reasonable inference.

1 Q All right. But notwithstanding that banter,
2 Ms. Cameron's comfortable enough joking about that
3 use of the term hooker with Detective Constable
4 Shenher?

5 A Yes.

6 Q Now, over the page I've included Peel interview
7 transcripts dealing with Ms. Cameron, but
8 obviously those interviews hadn't been conducted
9 by the time you concluded your report, so I won't
10 deal with those for the moment, and instead I'll
11 turn to page 77, which is a memo from Detective
12 Steinbach to Acting Inspector McClellan dated
13 November 30th, 1995?

14 A Yes.

15 Q This is the same Detective Steinbach that reported
16 that he had to leave the room because
17 Ms. Cameron's conduct was so atrocious?

18 A I said that I thought that that was the case, that
19 was my recollection, but I think I said that I
20 wasn't sure if he was the one that had told me
21 that, but someone who worked there did.

22 Q All right. If you could review your notes then
23 over this evening to confirm who that might have
24 been that would be very helpful, please.
25 Returning to the memo then of November 30th, 1995.

1 MR. HERN: Just give him a moment.

2 MR. GRATL:

3 Q Returning to the memo dated November 30th, 1995
4 you'll see missing person cases, number 3 is
5 Catherine Knight, described as a missing hooker,
6 and number 4 is Dorothy Spence, described as a
7 missing hooker, and number 5 is Mary Lidguerre,
8 described as a missing hooker.

9 A Yes.

10 Q Is that correct?

11 A Yes.

12 Q Over to page 80. This appears to be a memo from
13 Dave Aitken to Lori Shenher; is that correct?

14 A I would have to read it. It is addressed to Lori,
15 and I'm going to assume -- I think that's a
16 reasonable inference that it's to Lori Shenher. I
17 don't recall ever seeing this document before.

18 Q Okay. And who would be Dave Aitken, who would
19 that be?

20 A Well, he was a VPD detective, and I think that he
21 was in homicide at -- is there a date on here
22 somewhere? He was in homicide in the '90s, I
23 believe.

24 Q They seem to be on good terms, Lori and David
25 Aitken, is that right, judging by their --

1 A The e-mail, yes.

2 Q -- colloquialisms in the e-mail?

3 A Yes.

4 Q I just call your attention to the content of the
5 e-mail. The fourth line up it says that -- it
6 refers to some religious people who:

7 ... have a rape van and grab people off the
8 street and do bad things to them in the name
9 of religion. Gotta love it.

10 Says Detective Aitken. And then he carries on to
11 say:

12 I'm just thinking hookers ya know.

13 Putting in brackets:

14 (sex trade ho's to you).

15 A Yes.

16 Q And ho, to your knowledge, is also a shortened
17 version of the word hooker, isn't it?

18 A It is a reference to a prostitute, yes. I don't
19 know whether it's a shortened word of hooker.

20 Q All right. Over the page, page 81, is a statement
21 of Constable Dickhout dated April 5th, 2004. This
22 is in his interview with you?

23 A Yes.

24 Q On the following page, which is page 4 of his
25 written statement, the second full paragraph it

1 reads:

2 Right from the get go when the Missing
3 Women's Review Team was started up, the big
4 push was to find the women, they weren't
5 murdered, they were just missing, like we
6 know addicted hookers will do, so we spent a
7 lot of time checking the death records across
8 the country.

9 That's what it says there?

10 A Yes.

11 Q Of course, it's not clear whether the words "like
12 we know addicted hookers will do" is meant
13 facetiously or sarcastically, or it's meant to be
14 implicitly critical, it's just not clear from the
15 context there, is it, to your mind?

16 A Well, I don't know if it's clear from the context.
17 I think that my recollection is that he was
18 describing his belief about addicted sex trade
19 workers, that they do go missing. I don't think
20 that he was intending to be facetious is my
21 recollection.

22 Q Okay. So that's an example of Constable Dickhout
23 then using the word hooker?

24 A Yes.

25 Q Candidly in an interview with you?

1 A Yes.

2 Q I mean he felt comfortable using that word with
3 you while you were investigating this
4 investigation?

5 MR. HERN: Well, I don't think he can answer how Mr. Dickhout
6 felt. The words speak for themselves.

7 THE COMMISSIONER: I think you're right.

8 MR. GRATL:

9 Q Over the page at page 83 is a lead sheet report.
10 These are -- these are typed out reports of what
11 was done to investigate a lead; isn't that
12 correct?

13 A Yes.

14 Q And it often indicates the type of tip, the
15 comments about the tip, the follow-up required on
16 the tip?

17 A Yes.

18 Q And how it was resolved and dealt with?

19 A Yes.

20 Q This is a lead sheet report dated August 13th,
21 1999?

22 A Yes.

23 Q The investigator there is Detective Constable Lori
24 Shenher?

25 A Yes.

1 Q And the task she describes -- I take it she's the
2 author of this document then?

3 A I don't know that.

4 Q All right. The task is described there:

5 Need to do background on the subject.

6 Information that he picks up hookers and is
7 violent towards them.

8 And then there's a person of interest named. Is
9 that correct?

10 A Correct.

11 Q So Shenher also -- if Shenher filled out this form
12 then she also used the word hooker; is that right?

13 A If she did.

14 Q But it would have certainly been a police officer,
15 a member of the VPD who filled this out?

16 A Yes, a member of the VPD. I don't know if it was
17 a police officer.

18 Q Almost certainly a member of the investigative
19 team, the review team?

20 A Yes, or the clerical person that was entering
21 information into SIUSS, which I think is what this
22 is.

23 Q All right. Over the page we have a 1990
24 investigative memo prepared by Inspector Canuel
25 who later became a chief; is that correct?

1 A No, it's to him, not from him.

2 Q Oh, it's to him. From Detective Crook?

3 A Yes.

4 Q And it refers to Vancouver hooker homicides?

5 A Yes.

6 Q Because in 1990, of course, there was a serious
7 problem with 26 or so unsolved homicides of sex
8 workers?

9 A I don't remember the number, but I know that there
10 was a multi-jurisdictional investigation into the
11 murders of sex trade workers.

12 Q That investigation you're referring to that took
13 place in 1992 was called Project Eclipse; is that
14 correct?

15 A Correct.

16 Q And that project concluded that four of the
17 homicides had sufficient similarity that it could
18 be concluded that they were the work of one
19 individual; isn't that true?

20 A That sounds consistent with my recollection, yes.

21 Q And they occurred on separate instances so that
22 the individual met the definition of serial
23 killer; correct?

24 A Yes.

25 Q And so the 1992 Project Eclipse gathering or

1 conference concluded that there was a serial
2 killer who was active in and around Vancouver?

3 A Vancouver, and three of the cases were in
4 Vancouver and even one at UBC.

5 Q All right. Over the page is an interview with
6 Detective Lepine and that's an interview with
7 Deputy Chief Evans, so I'm not going to go into
8 that for the moment. But over the page again is
9 an e-mail from Gerry Wickstead to Ann Drennan, and
10 at the time Ann Drennan was the spokesperson for
11 the Vancouver Police Department; correct?

12 A Yes.

13 Q What was her rank at the time?

14 A Constable.

15 Q And how about Gerry Wickstead?

16 A Constable.

17 Q And this is in reference -- the e-mail is dated
18 May 17th, 1999 and it's in reference to missing
19 women on visiting freighters. I'll just read this
20 to you:

21 Hi Ann, you are well aware that there has
22 been a lot of publicity about the missing
23 prostitutes. Last Thursday I was talking to
24 a worker at WISH which is a place where the
25 hookers go to get free food every night at

1 First United Church 300 East Hastings.

2 That's what it says, isn't it?

3 A Yes.

4 Q Over the page.

5 A Can I just stop and provide a little bit of
6 information there, because I know that we talked
7 earlier about, you know, context and how the word
8 is used and how it can be perceived and all that?
9 But here is a perfect example of a constable who
10 was very, very concerned about the missing sex
11 trade workers to the point where he put this
12 information in, he created a poster, he went
13 personally down himself to the Downtown Eastside
14 and posted it in about a dozen different places,
15 including like WISH. He was trying to contribute
16 his solution to the problem. So, yes, I agree the
17 word can be perceived that way. I think we have
18 to look at the time and the person and the context
19 and that sort of thing, but here is an example
20 where I would say it is that I don't think he
21 displayed bias, I think that he displayed real
22 diligence in wanting to do something about this
23 issue, and he was someone that was going and
24 receiving this sort of information and pushing for
25 to make sure that it was being dealt with

1 properly.

2 Q All right. And over the page you'll see another
3 example of a -- of a -- and this is Cheryl
4 Leggett?

5 A Yes.

6 Q Who I take it is an officer?

7 A Yes.

8 Q Of what rank?

9 A Constable.

10 Q And this is an e-mail to Nancy Joyce. And Nancy
11 Joyce is also a member?

12 A I don't know who that is.

13 Q All right. And the subject line is Georgina
14 Pappin?

15 A Yes.

16 Q And the date is July 27th, 2001. There Cheryl
17 writes:

18 Hi Nancy. I distributed about 100 of the
19 posters for you and one of the hookers down
20 here told Dave Dickson that she is probably
21 back in Edmonton where she has other family.
22 FYI. Cheryl.

23 A Yes.

24 Q Okay. And I'm not saying that it was bad of
25 Constable Leggett to distribute the hundred

1 posters, but there you've got another example of
2 the word hooker?

3 A Yes, I agree with you that it was used often.

4 Q Often throughout the documents that you saw?

5 A Yes, I agree that it was used in a number of the
6 documents that I saw, and in references to it in
7 interviews and so on that it was at that time a
8 word that was in fairly common usage.

9 Q Common currency?

10 A Yes, I think so.

11 Q All right. And I just have a few more examples
12 here, and I only want to go through them because
13 they involve Sergeant Field, and of course
14 Sergeant Field is an important member of this
15 team.

16 A Yes.

17 Q Effectively in a supervisory capacity?

18 A Yes.

19 Q All right. So at page 88 in notes to file,
20 February 27, 2001, there's a note of a meeting in
21 Mission with Don Adam, Paul McCarl, Jim and Phil.
22 And Jim would be Jim McKnight?

23 A I believe so.

24 Q And who would Phil be?

25 A I believe that would be Detective Phil Little.

1 Q And then there's a note:

2 The DNA issue for both agencies will carry
3 on. All female hitchhikers and hooker
4 homicides and then the sexual assaults on
5 hookers.

6 A Yes.

7 Q Over the page. And, of course, this isn't signed
8 by Sergeant Field?

9 A I'm sorry?

10 Q This document's not signed by Sergeant Field?

11 A No, but I understand it to be her notes. And,
12 again, I agree with you that that word was
13 obviously being commonly used. I also know that
14 Sergeant Field was a very compassionate and cared
15 very much about this investigation, and spent five
16 years of her career in charge of sex offences
17 where violence against women was a -- that was the
18 reason they were there, and including violence
19 against sex trade workers. So I'm just not
20 drawing an inference that she had a bias against
21 sex trade workers from the use of the word, which
22 as you describe was common currency. It doesn't
23 necessarily connote a pejorative.

24 Q It doesn't necessarily, but it can certainly
25 connote pejorative meanings?

1 A Can, yes.

2 Q It can be a sign of disrespect?

3 A It can be, I agree with you.

4 Q It can be very derisive?

5 A Yes, I agree with you.

6 Q All right. And so that means if a word like that
7 is in common currency people feel comfortable
8 using it; is that right?

9 A Yes.

10 Q I mean especially if the people in charge like
11 Sergeant Field or Don Adam are using the word
12 hooker, everybody else involved in the team could
13 get the message maybe they're wrong, that it's
14 okay to show disrespect to sex workers?

15 A Well, I'm just not agreeing that by doing that
16 that they were showing disrespect. I think that
17 there are other explanations for people that use
18 certain terminology.

19 Q And, of course, hooker is not the only word that's
20 used, there's also hos?

21 A Yes, I saw that once anyway.

22 Q And whores?

23 A Yes.

24 Q And fucking whores?

25 A And that was always unacceptable from anyone in

1 any context.

2 Q But you could see how an investigator could get
3 the message from -- if their superior used the
4 word hooker or hooker task force you could see a
5 subordinate could get the message that it's okay
6 to use fucking whores?

7 A No, I completely disagree with you on that one.

8 Q Did anything happen to Fell and Wolthers as a
9 result of using the term fucking whores?

10 A Well, you asked me earlier about were they
11 disciplined or anything like that, and I explained
12 that by the time that we knew about this it was a
13 number of years after the fact, so I did get
14 advice on that because it was of great concern,
15 and I think that in terms of discipline one of the
16 things that was considered is that whatever we
17 might try to do to them then years after the
18 offence was nothing compared to what's happening
19 to them right at this moment.

20 Q All right. So they were never expressly sent the
21 message in writing that the use of that kind of
22 language is not appropriate?

23 A I don't know that.

24 Q Okay. And so nobody else on that team got the
25 message that their use, Fell and Wolthers' use of

1 that language was inappropriate?

2 A Oh, no, I disagree completely there because I know
3 that their behaviour was brought up at several
4 times, and Sergeant Field tried to deal with them
5 several times, and I write about that in my report
6 is about the issues they were causing in the
7 office with their disrespectful language and other
8 unacceptable behaviour. And so that was being
9 brought to the sergeant's attention at the time
10 and she was bringing it to their attention. I
11 can't say what specifically occurred in the
12 conversations with them, but certainly their
13 behaviour was causing problems in the
14 investigation.

15 Q All right. So your missing women investigative
16 review, in addition to going out to the public,
17 circulates within the force itself?

18 A Well, at some point it was made available, not
19 back then.

20 Q Well, it's available to the force now?

21 A Yes.

22 Q And it has been for more than a year?

23 A After the Supreme Court of Canada's decision came
24 out, yes, in a redacted form it was available to
25 anyone.

1 Q You didn't use the occasion of your report to
2 distribute the message to the entirety of the VPD
3 and all its members that the use of that type of
4 language is inappropriate, did you?

5 A I think that we're far beyond that in that well
6 before this report was released our expectations
7 around language and reference to sex trade workers
8 had been dealt with long before that. We had been
9 bringing in, for example, Ms. Sandrelli from PACE
10 to talk to our recruits right from day one in the
11 police department, we had done a number of things
12 around orienting our police officers, our
13 frontline police officers to the very difficult
14 lives that are faced by sex workers, particularly
15 in the survival sex trade in the Downtown
16 Eastside, so we didn't need to wait for this
17 report to come out to deal with those issues.

18 Q So you're saying no, I didn't use my report as an
19 occasion to educate the members of the force about
20 what language is appropriate?

21 A Well, I didn't use it as a specific tool in going
22 out and, you know, briefing people with it. It
23 was certainly available for people to read. And,
24 in addition, before it became available to all
25 members in the department all of our people at the

1 inspector level and above were instructed to sign
2 out a copy and read it for the lessons that it
3 taught.

4 Q Sure, it was an educational tool among other
5 things?

6 A For management people, yes.

7 Q All right. And you didn't -- you missed the
8 opportunity to include education about
9 disrespectful language or potentially
10 disrespectful language in your report?

11 A To write that in the report, is that what you're
12 asking me?

13 Q Yeah, you could have written in your report there
14 was a lot of use of the word hooker and whore and
15 fucking whore, and that kind of language might
16 propagate an environment and attitude of
17 disrespect, it might make people feel
18 uncomfortable, it's bad for workplace policy
19 reasons, and it's bad because it's simply
20 disrespectful and it might affect investigations.
21 You didn't put that in your report, you could
22 have, it was a missed opportunity?

23 A All of those were the points, but I would say is
24 that even then that conduct was so outrageous and
25 unacceptable that it was not seen as something

1 that the vast majority of our police officers
2 would need to be told not to be abusive and
3 disrespectful and so on, that they were outliers,
4 that they had offended everybody that they exposed
5 that sort of behaviour to.

6 Q You could have made an example for the remainder
7 of the force, but what I'm saying is you just
8 decided to forego that opportunity?

9 A Well, yes, I suppose that's true, except that what
10 the focus of my report was, it was not a
11 discipline investigation, it was not a *Police Act*
12 investigation, it wasn't an investigation into any
13 particular member, it was an investigation into
14 the conduct of the investigation, and so I was
15 trying to keep it at a fairly high level. But I
16 certainly made recommendations about things that
17 would impact on the department broadly. I'm sure
18 that we could identify many things that I could
19 have done this or I could have done that or I
20 could have addressed, and I suppose that that is
21 the value of this inquiry is that I always knew
22 that my report wasn't going to be the answer to
23 all the questions around this. I did the best
24 that I could to do with what I thought was of
25 value, which was to do a very detailed report

1 about what actually happened and make
2 recommendations for how we could do better in the
3 future.

4 Q Okay. So if I get the overall picture right,
5 inside the force the use of the word hooker is
6 common currency, but outside in dealings with
7 members of the public and the media the word
8 hooker is not used, instead the word sex trade
9 worker or prostitute is used?

10 A Well, I don't think that the word hooker is used
11 at all now either, is that language does evolve
12 and that we're dealing with a certain time and a
13 certain generation of police officers, and a
14 certain -- language does evolve. Words that were
15 -- have been acceptable or unacceptable at one
16 point, that changes, and so obviously as you've
17 pointed out that that was a word that was in more
18 common usage in the mid 1990s. I don't believe
19 that it's in common usage at all now.

20 Q Well, those e-mails that I took you to, they're
21 not the older generation who have now retired,
22 these are constables who are still on active duty,
23 aren't they? Constable Leggett?

24 A Yes, they're people that, I agree with you, that
25 used it. It was a term that was used much more

1 commonly. But again what I would say is knowing
2 those people, I mean some of those people are the
3 ones that cared the most, and so I don't draw any
4 inference other than that that was a word that has
5 become a word that is seen as derisive, and it's
6 therefore unacceptable and that's not the way that
7 we talk about people if it's going to be commonly
8 interpreted to be derisive or condescending or
9 dismissive or any of those things, but that was
10 also 14 years ago.

11 Q All right. So at page 90 we've got other notes
12 from Sergeant Field. There Tanya Holyk is
13 referred to as a -- is described as a hooker, on
14 drugs. Over the page we have, if I can put it
15 this way, a mysteriously edited name, obviously of
16 a missing woman, who is described as a hooker,
17 drug user, alcoholic. And then sex trade worker
18 31. And then sex trade worker 119, also edited
19 for reasons that are hard to understand, drug
20 user, hooker is the reference. Over the page
21 Diane Melnick referred to as a hooker. All of
22 those references are the case, aren't they?

23 A Yes.

24 Q Sergeant Field -- and then over the page, page 93,
25 November 21, 2000, a memo from Sergeant Field to

1 Acting Deputy Chief Spencer. On the third page of
2 that document at the bottom there's a reference by
3 Sergeant Field:

4 Another presentation from the Courtenay RCMP
5 Detachment, concerned another prostitute
6 homicide that fit the same profile. She had
7 been a hooker in the Vancouver area, but was
8 most recently working in Nanaimo. However,
9 she was found dead under very similar
10 circumstances to the Agassiz victims. I was
11 also advised that Saanich was investigating
12 three hooker homicides.

13 A I'm sure you're reading that correctly, but I
14 didn't follow you. What page are you on?

15 Q It's at the bottom there at page 95.

16 A I thought you said page 3.

17 Q Page 5 of the memo, but page 95 of Exhibit J.

18 A I think it's page 4 of the memo is why I was
19 confused.

20 Q You might be right about that. Page 4.

21 A I'm sure it was unintentional.

22 Q In fact you are right about that.

23 A So I see the paragraph that you're talking about
24 at the bottom.

25 Q And I read it accurately?

1 A Yes.

2 Q Over the page, page 97, the investigator is listed
3 as Geramy Field. It's Geramy Field on some lead
4 sheets. And then there are more references of the
5 same type.

6 A Yes.

7 Q And I don't think we need to go into all of these
8 Field documents, but perhaps overnight you can
9 read pages 99 to 103. Those are more e-mails and
10 reports from Sergeant Field.

11 MR. HERN: I just want to note that the document at 99 is the
12 same memo as at 93. One's produced by the VPD,
13 one is produced by Evenhanded.

14 MR. GRATL: My friend's right about that.

15 Q But at page 100 there's another reference that I
16 missed. And then at page 102 there's a memo from
17 Field to Boyd. It refers to 52 unsolved hooker
18 homicides. And then --

19 A I'm sorry, I don't see that. I see 52 solved
20 prostitute.

21 Q This is in subparagraph 3 at the bottom.

22 A Yes. Yes, I see it now.

23 Q I don't think it's necessary for me to go over all
24 of these documents, you've already admitted that
25 the word hooker was common currency by the lead

1 investigator of the Missing Women's Review Team.

2 MR. CROSSIN: Well, he didn't say that.

3 THE WITNESS: I didn't say that. I did acknowledge that in one
4 at least example that you showed me from Detective
5 Constable Shenher that she used that word, but I
6 would say that my recollection is she did not
7 generally use that word.

8 MR. GRATL:

9 Q It was Sergeant Field who very commonly used this?

10 A Yes, Sergeant Field used it more commonly.

11 Q And Sergeant Field was the senior officer --

12 A She was the supervisor, yes.

13 Q -- in charge of the review team?

14 A Yes.

15 Q I mean, she'd only had a fraction of her time to
16 devote to the review team, didn't she?

17 A Correct.

18 Q Because she was burdened with many other
19 investigations?

20 A Correct.

21 Q But it's obvious from a review -- from your review
22 of documents she authored that she used the word
23 hooker a lot?

24 A She used it commonly, yes.

25 Q At page 106 is the interview of John Unger that

1 I've already referred to, the first unamended
2 interview. And we've already been through Deputy
3 Chief Unger's correction that the use of the word
4 hooker isn't just a public relations issue?

5 A Sorry, we've been --

6 Q It's not just a public relations issue?

7 A Correct.

8 Q It's not just -- we shouldn't just be concerned of
9 the use of the word hooker because it's bad
10 optics?

11 A Well, I agree. I'm sure that he was concerned
12 that people would find it disrespectful.

13 Q And when we mean disrespectful we mean devaluing
14 the people who are so described?

15 A That's certainly one concern.

16 Q All right. Now, aside from -- aside from Sergeant
17 Adam there was also widespread use of the word
18 hooker within the joint forces operation?

19 A I don't know that.

20 Q All right. What was Project Elderberry?

21 A I don't know that.

22 Q Could you turn to page 114, please. The subject
23 of this document which appears to be a transit
24 slip dated October -- August the 18th from
25 somebody named Glenys to a person noted as

1 France/Robbie, is the Project Elderberry (Hooker
2 Murders). Do you know what that means?

3 A No, I don't know anything about this project or
4 this memo.

5 Q Okay. The memo was copied to Sergeant MacEwen,
6 Sergeant Purney, Sergeant Davis.

7 A I don't know any of those people. I don't believe
8 any of them are VPD members.

9 Q So you're saying this might have just slipped in,
10 you don't know this to be related to the joint
11 forces of --

12 A I just have no idea what it is.

13 Q -- Project Evenhanded? Over the page at 115, I
14 suppose you don't know what that is either, that's
15 a very similar transit slip on Project Elderberry
16 (Hooker Murders)?

17 A Yes, I'm not familiar with this memo.

18 Q All right. Over the page at 116 are notes of
19 Constable Yurkiw?

20 A I see that name at the top. I don't know that
21 personally.

22 Q I think that was written in by my student Seth
23 Cooper. You don't know whose notes these are?

24 A No, I don't know who they are -- whose notes these
25 are?

1 Q All right. It says March 21st, 1999:

2 New West Police Department reports or checks
3 Pickton prowling 12th Street for hookers.

4 A Yes, I'm generally familiar with what the notes
5 are about, and at the risk of commenting on gender
6 it looks like women's writing to me, and so it
7 wouldn't surprise me if it was Constable Yurkiw's,
8 but I don't know that, and what I do know is that
9 on March of 1999 that Corporal Mike Connor was
10 still in charge of the file, but perhaps she was
11 assisting him at this time.

12 Q All right. I'm at page 117. We have a further
13 reference that:

14 Team 4: Agency advises that Robert William
15 Pickton told a hooker that he was HIV
16 positive.

17 A Yes, I see that.

18 Q That's April 30th, 1999?

19 A Yes.

20 THE COMMISSIONER: So how many more instances do we have to
21 refer to this? I mean I think we've got the
22 picture that --

23 MR. GRATL: Only --

24 THE COMMISSIONER: Just a minute. I think we have the picture
25 that the term hooker was in widespread use at the

1 time this investigation was going on, so I have
2 that picture.

3 MR. GRATL: All right. Thank you. I can move on then.

4 Q At page 135 is a memo dated October 19th, 1998
5 from Constable Mitchell to Inspector Greer?

6 A Yes.

7 Q This is in response to a BC Civil Liberties
8 Association position paper on a DISC program?

9 A Yes.

10 Q Within that position paper BCCLA Kay Stockholder
11 takes the view that we aren't doing enough to
12 protect sex workers.

13 A Sorry, we --

14 Q We are not doing enough to protect sex workers.
15 That's how she speaks of it. And I'll ask you to
16 turn to page 137 for Constable Mitchell's
17 response. I'll read what's set out in this memo:

18 Protection of prostitutes - the BCCLA is
19 concerned about the dismal record we have of
20 protecting sex workers. I agree that they
21 deserve no less protection than any other
22 citizen; the question is whether they deserve
23 more? There's a legal doctrine known as
24 *volenti non fit injuria*, also known as
25 'assumption of risk.' Though it is a civil

1 doctrine generally applying to lawsuits
2 arising out of personal injury, it is
3 somewhat apropos here. Should society be
4 held liable to provide enhanced protection to
5 those who voluntarily assume such obvious
6 personal dangers (an underlying question of
7 course is whether, or how many, prostitutes
8 (juvenile or adult) assume this risk
9 voluntarily?)

10 Constable Mitchell appears to be of the view in
11 this memo that protection of prostitutes involves
12 the question of whether they deserve more
13 protection than other citizens.

14 A Yes, that's what he says.

15 Q He seems to subscribe to the view that they do not
16 deserve more protection because they put
17 themselves in harm's way by engaging in sex work.

18 A I agree that that's what he says.

19 Q And that's just an attitude of one individual.
20 You've seen this document, have you?

21 A Yes, I have.

22 Q All right. But that's just one individual's
23 opinion?

24 A Yes, that's true.

25 Q All right. But it's sent to Inspector Greer?

1 A Yes.

2 Q And have you seen a response to this memo?

3 A Not to my recollection.

4 Q It's somewhat important because Constable Russ
5 Mitchell is, he's the constable in charge of the
6 Hastings neighbourhood patrol?

7 A The Crime Prevention Office, yes, I think that's
8 what his assignment was.

9 Q And that Crime Prevention Office at that time in
10 1988 had a lot of dealings with sex workers?

11 A Yes.

12 Q Now, sometimes they have all been arresting sex
13 workers, sometimes involving displacing sex
14 workers?

15 A Yes.

16 Q Dealing with complaints from merchant associations
17 and neighbourhood associations about sex work?

18 A Yes.

19 Q And Constable Mitchell refers to sex workers as a
20 public nuisance in many other memos that you've
21 read; correct?

22 A He certainly does re -- I think that what I'm
23 recalling is him quoting the courts as saying that
24 the courts treat prostitution as a nuisance
25 offence.

1 Q And that would be certainly accurate. And you're
2 aware of that as well; correct?

3 A Yes.

4 Q The prostitution reference says that that's what
5 the communication law is about?

6 A Yes.

7 Q But Constable Mitchell goes a little further than
8 that. In his language he describes sex work and
9 sex workers as a plague on neighbourhoods. You've
10 read that?

11 A I'm sure that you've got that accurately. I don't
12 recall him using that word, but he certainly did
13 describe at some length the problems generated in
14 communities with the sex industry.

15 Q All right. And then when it comes to protection
16 of these -- these women who he describes as a
17 plague, he says they put themselves in harm's way
18 and they don't deserve more protection?

19 A Well, I agree with the second point you made. On
20 the first point I don't think that he refers to
21 the women as a plague. I think that my
22 recollection is, and I could be wrong, is that he
23 refers to the plague of prostitution in the
24 neighbourhood in terms of bringing extra traffic,
25 drug paraphernalia, sex paraphernalia, threatening

1 of people in the neighbourhood, people feeling
2 threatened. So he described it in broader terms
3 than saying the sex workers themselves were a
4 plague. That's my recollection of reading this
5 memo or reading memos from him. There was more
6 than one.

7 Q Well, sex workers are part of the phenomenon of
8 sex work?

9 A Yes. So are the customers and other things that
10 come with the sex trade.

11 Q So what he was really saying is the whole thing is
12 a plague, including the sex workers and the johns
13 and all the other derivatives that come with that?

14 A Yes, I think that that is a fair description.

15 Q All right. But when it comes to protecting sex
16 workers he says they don't deserve extra
17 protection.

18 THE COMMISSIONER: Yes.

19 MR. HERN: In fairness to the author of the memo, which is a
20 fairly lengthy memo.

21 THE COMMISSIONER: Yes.

22 MR. HERN: I find this manner of just summarizing someone
23 else's memo that Deputy Chief LePard hasn't even
24 had a chance to read because this exhibit was not
25 left with him overnight, so this manner of

1 proceeding with these kind of snippet questions on
2 complicated memos on complicated issues concerns
3 me in that we may be simplifying issues that
4 Constable Mitchell -- he's not on the witness
5 list, but he may, you know, wish to come and speak
6 to the kind of language or opinions that are being
7 allocated to him. That's my concern.

8 THE COMMISSIONER: I don't know -- yes.

9 MR. GRATL: Actually I have to respond, because in fact Deputy
10 Chief LePard did have an opportunity to review it
11 overnight because it's included in Exhibit A which
12 I did say it was okay for the deputy chief to
13 review over the night.

14 THE COMMISSIONER: No, the point -- the real point is whether
15 it's unfair that there are other parts or portions
16 of that memo that qualify what you say. That's
17 the real concern.

18 MR. GRATL: All right. Well, maybe we can deal with it this
19 way, Mr. Commissioner. We'll leave it to the
20 witness to review that memo overnight and if he
21 has any concerns about unfair characterization we
22 could deal with it --

23 THE COMMISSIONER: Well, aren't you going to finish with him
24 today?

25 MR. GRATL: Pardon me?

1 THE COMMISSIONER: Aren't you finishing with him today?

2 MR. GRATL: Well, I still have a number of questions.

3 THE COMMISSIONER: No, no, you didn't answer my question. Are
4 you going to finish with him today?

5 MR. GRATL: It's unlikely.

6 THE COMMISSIONER: It's what?

7 MR. GRATL: Unlikely that I'll finish.

8 THE COMMISSIONER: I thought you said you needed a day.

9 MR. GRATL: I did say that. I woefully underestimated.

10 THE COMMISSIONER: Time estimate is an old fashioned concept
11 anyway, I guess.

12 MR. GRATL: Yes.

13 THE COMMISSIONER: So you're telling me that you're not going
14 to finish today?

15 MR. GRATL: I think I'm following in a long tradition of
16 lawyers who underestimate the length of
17 cross-examination.

18 THE COMMISSIONER: Yeah, that's not such a good tradition
19 either. Maybe that's what's wrong with our
20 system. So you're telling me that you're not
21 going to finish with him today. Tell me how long
22 you're going to be.

23 MR. GRATL: I expect to be another two hours, two and a half
24 hours.

25 THE COMMISSIONER: Okay. Well, maybe it might help if you --

1 if we don't go over some of the same material. If
2 we don't repeat it might help. Just a suggestion.

3 MR. GRATL: Yeah, I know. I appreciate that, Mr. Commissioner.
4 I probably took a little too long with the number
5 of documents, the volume of documents that used
6 the word hooker.

7 THE COMMISSIONER: Yeah. Well, I think you beat that to death
8 a bit.

9 MR. GRATL: I think I did. And I don't propose to tread on
10 that territory again.

11 THE COMMISSIONER: All right.

12 MR. GRATL:

13 Q When did Scott Driemel become the Vancouver Police
14 Department spokesperson for the joint task force?

15 A I don't know exactly.

16 Q It was before the arrest of Robert William
17 Pickton?

18 A Yes.

19 Q All right. And after the arrest of Robert William
20 Pickton Constable Driemel was resigned because he
21 made inappropriate jokes at a speech at the
22 Justice Institute before executive level police
23 officers?

24 A Yes, that's my understanding.

25 Q You didn't interview Scott Driemel with respect to

1 his language use?

2 A No.

3 Q Do you know what the language use was?

4 A My understanding is that he told a joke about golf
5 that made a play on words with the word hooker or
6 hook.

7 Q Okay. And as a result of that joke and other
8 comments made about women and sex workers he
9 resigned in November of 2002?

10 A I don't know about the other comments, but I do
11 know that as a result of that incident that there
12 was a complaint from police officers in the
13 audience, that he had to write apologies to all of
14 them and he resigned his position as spokesperson.

15 Q We don't have copies of the apology letter. Have
16 you seen a copy of the apology letter?

17 A Not to my recollection.

18 Q All right. I take it in his apology letter though
19 he acknowledged that his jokes were inappropriate?

20 A Were?

21 Q Were not appropriate.

22 A Yes, that's my understanding.

23 Q And he didn't want to be taken as having a bias
24 against sex workers?

25 A I don't know exactly what he said.

1 Q All right. Now, notwithstanding his resignation,
2 Driemel's resignation, the chief constable, the
3 chief constable of the day, Jamie Graham,
4 supported Constable Driemel saying in effect that
5 the resignation shouldn't have been necessary
6 because the jokes were taken out of context?

7 A I don't know what he said about that.

8 THE COMMISSIONER: Well, you know, in fairness I don't know if
9 Chief Constable Graham is going to be called or
10 not, but I think that -- I think you should have
11 the direct quote if you are attributing something
12 of that nature to him.

13 MR. GRATL: I do have it in my materials.

14 THE COMMISSIONER: Is he being called?

15 MR. VERTLIEB: The answer is no, he's not on our list.

16 THE COMMISSIONER: Okay.

17 MR. GRATL: And I couldn't find it in the materials, I just
18 found it on line a reference to the retirement.
19 It's at page 61 of Exhibit J. Sixty-one has an
20 on-line report of a CTV.ca article, that there was
21 an off-colour joke made and a disparaging comment
22 about women by Constable Driemel, and I don't know
23 what that comment was, but it seems to have been
24 of sufficient gravity to result in Constable
25 Driemel's removal from that position, and as such

1 just represents another instance of these kinds of
2 disparaging remarks made about sex workers. That
3 just goes to the systemic bias and discrimination
4 issue.

5 Q Deputy chief, you didn't look into that, did you?

6 A No, I was aware of it, I knew that someone had
7 complained about it, and it was dealt with and he
8 lost his position.

9 Q It was high profile?

10 A Yes.

11 Q It was obviously upsetting to the families?

12 A I'm sure it would have been.

13 Q All right.

14 A And the complaint was from a police officer.

15 Q Oh, and I appreciate that. I think there's some
16 details set out there in this article about the
17 complaint being made on behalf of -- it's
18 described as the Vancouver Police Association, but
19 I think it would have been the Vancouver Police
20 Union?

21 A No, my recollection is it was someone at a
22 management level and they are represented by the
23 Vancouver Police Association.

24 Q All right.

25 A Police Officers Association.

1 Q So there was an official complaint made about
2 Constable Driemel's remarks?

3 A That's my understanding.

4 Q And did you locate that official complaint made
5 about Constable Driemel?

6 A No.

7 Q Wouldn't that have been a comment made by the
8 senior members of the Vancouver Police Department
9 management about an individual who was working on
10 the joint forces team, Project Evenhanded?

11 A I'm sorry, what was the question again?

12 Q Well, wasn't Driemel working on Project Evenhanded
13 at the time?

14 A He was one of the two media liaison media
15 representatives, one from the RCMP, one from the
16 VPD that would speak on behalf of Project
17 Evenhanded, yes.

18 Q Wouldn't it have been relevant to include that
19 type of information in your review?

20 A Well, I wasn't reviewing Evenhanded. I think it
21 was a discrete incident, it was dealt with, it was
22 quite public. I'm not sure what there was more
23 for me to learn.

24 Q Your review deals extensively with Evenhanded?

25 A No, I don't think it does deal extensively with

1 Evenhanded. I've given in my evidence that it
2 dealt fairly superficially with Evenhanded, that I
3 really was not looking into it except for the
4 mechanics of its creation and its mandate and so
5 on, and I did not look into their investigation.

6 Q All right. But as a Vancouver Police Department
7 officer?

8 A I'm sorry?

9 Q A Vancouver Police Department officer.

10 A Detective Driemel, yes.

11 Q Engages in misconduct that could be interpreted as
12 discriminatory?

13 A It was a terrible choice of words making an
14 off-colour joke like that in all the
15 circumstances, yes.

16 Q But you know what the joke was?

17 A I've said my understanding is it was a play on the
18 word hook or hooker, a golf joke.

19 Q I'd like to ask this witness through his counsel
20 to obtain the letter written by the Vancouver
21 Police Association, and any documents arising out
22 of Detective Driemel's remarks.

23 Now, I take it from all of this, the Cameron
24 comments and attitudes and conduct that affected
25 the investigation, the Fell and Wolthers comments

1 and conduct that affected the investigation, the
2 numerous references to hooker, including the
3 reference to the entire Project Evenhanded as a
4 hooker task force, and inappropriate jokes made
5 that resulted in the resignation of a senior
6 spokesperson for the Vancouver Police Department,
7 I take it that your conclusion that Cameron's
8 conduct is isolated has to be wrong?

9 A Well, relative to what, to the more than 1,000
10 police officers that were in the VPD at the time
11 who didn't conduct themselves that way?

12 Q No. You conclude that there's no -- that
13 Cameron's conduct was isolated. I'm saying no, it
14 wasn't isolated, there's Fell, there's Driemel,
15 and then these references to hooker all over the
16 place. Cameron's conduct wasn't isolated, was it?

17 A Well, first of all, on the reference to the word
18 hooker I did not at any point draw an inference
19 that that was an example of bias. I've given in
20 my evidence that I think that there are other
21 reasons for the choice of that word in that it was
22 a common word and not meant to insult or to be
23 insulting by many of the members that used it. On
24 the other behaviour, I agree with you that there
25 was -- I still would suggest it was isolated in

1 that it was so outrageous and it was outrageous to
2 the majority -- well, to all the other police
3 officers involved in that they were outliers in
4 the department in conducting themselves that way.

5 Q You're saying bad apples, they're bad apples?

6 A Yes, I am.

7 Q All right. You don't mention many of these
8 instances in your report though. What you say in
9 your report is that the Cameron conduct is
10 isolated?

11 A I do say that.

12 Q And that's wrong, isn't it? I'm asking you to
13 admit that it's wrong to say that Cameron's
14 conduct was isolated.

15 A Well, I would say that in a general way that that
16 sort of conduct was an isolated circumstance. I
17 agree with you that there was more than just her
18 conduct. There are other examples of poor
19 behaviour, for example, those two constables.

20 Q So then you admit that the way you framed your
21 report to say that Cameron's conduct was isolated
22 is inaccurate?

23 MR. HERN: Well, I'm going to object, is that the report
24 doesn't actually say that. It's just become a bit
25 twisted over the time here from when my friend

1 read it to --

2 THE COMMISSIONER: Yeah, I didn't see the word isolated in
3 there.

4 MR. HERN: Well, there is the word isolated, but it's tied to
5 the word incident. So the actual quote is on page
6 211 and it says:

7 In fact, isolated incidents aside, on the
8 whole the record is clear...

9 And so it's not just simply Ms. Cameron's conduct
10 is isolated. And this witness has tried to
11 clarify that on several occasions earlier, but it
12 seems to have been overlooked by Mr. Gratl.

13 THE COMMISSIONER: Mr. Crossin, you are standing.

14 MR. CROSSIN: Well, I would -- if I may say, this is the
15 problem of lifting a line from a large document,
16 then attempting to characterize it and then
17 pressing the witness to accept a characterization
18 where the whole flavour is not before you.

19 THE COMMISSIONER: Yes.

20 MR. CROSSIN: And then six months from now asking you to draw
21 certain inferences from this evidence. And I'm
22 not sure how helpful it is, but in the end you
23 will determine that. But on this particular issue
24 this is what the report says:

25 The review has, however, noted that there

1 were incidents where alleged prejudice on the
2 part of certain individual staff members of
3 the VPD, most notably Ms. Sandy Cameron,
4 resulted in inappropriate conduct...

5 Et cetera. So this witness is saying it wasn't
6 just Cameron, there were others simply most
7 notably Ms. Cameron. And so the paragraph that my
8 friend keeps going back to in fact says this:

9 In fact, isolated incidents aside...

10 Referencing back to the incidents aside and apart
11 from Ms. Cameron, and so we've been hearing this
12 characterization for an hour now and it's wrong.

13 THE COMMISSIONER: Mr. Gratl.

14 MR. GRATL: Well, I thank my friend Mr. Crossin for bringing
15 attention to that paragraph, because it certainly
16 says individual staff members.

17 THE COMMISSIONER: So your question is really unfair to the
18 deputy chief to suggest to him that only Ms.
19 Cameron and when he says in his report in fact
20 there were a number of these incidents, and he's
21 admitted that.

22 MR. GRATL: He didn't admit that in his report.

23 THE COMMISSIONER: Well, you know, you need to be fair in your
24 cross-examination. And Mr. Crossin here has
25 pointed out the unfairness in the question that

1 you asked. So tell me what you think of
2 Mr. Crossin's submission here?

3 MR. GRATL: Well, the specific paragraph he referred to says:
4 The review has, however, noted that there
5 were incidents where alleged prejudice on the
6 part of certain individual staff members of
7 the VPD, most notably Ms. Sandy Cameron,
8 resulted in inappropriate conduct towards the
9 families of marginalized persons and others.

10 THE COMMISSIONER: So it was more than just Ms. Cameron.

11 MR. GRATL: May I go on?

12 THE COMMISSIONER: Yes, go on. Sorry.

13 MR. GRATL: The first thing to note is that we've already
14 dispensed with this notion of alleged.

15 THE COMMISSIONER: Sorry?

16 MR. GRATL: We've dispensed with this notion of alleged
17 prejudice. So the witness has already agreed that
18 alleged is wrong and has agreed to take that out.
19 And then when it comes to inappropriate conduct
20 the witness has agreed that the word inappropriate
21 could easily be substituted with the word racist,
22 but he's used the word inappropriate again. And
23 then when it comes to certain individual staff
24 members of the VPD, obviously that doesn't refer
25 to the members of the VPD, it says staff members,

1 civilian employees not police members. That's
2 what staff members means.

3 THE COMMISSIONER: Well, he's also referred to Fell and
4 Wolthers.

5 MR. GRATL: Not in his report.

6 THE COMMISSIONER: Well, he's referred to it here.

7 MR. GRATL: But the report matters. It's entered as an
8 exhibit, Mr. Commissioner.

9 THE COMMISSIONER: No, but the point is your cross-examination
10 of him, and I say this with respect, I say this
11 with great respect is not fair when you suggest to
12 him that it was only Ms. Cameron that said that,
13 and that isn't what he said. So you just need to
14 be fair to the witness. We need to be fair to
15 witnesses who come in and testify regardless of
16 what side they're testifying for. Anyway we'll
17 take the afternoon break.

18 MR. GRATL: Okay, Mr. Commissioner.

19 THE REGISTRAR: We'll recess for 15 minutes.

20 **(PROCEEDINGS ADJOURNED AT 3:08 P.M.)**

21 **(PROCEEDINGS RESUMED AT 3:25 P.M.)**

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

23 THE COMMISSIONER: Mr. Gratl.

24 THE WITNESS: Mr. Commissioner, could I just have a minute just
25 to make a couple of points. I'll try to be very

1 brief and not take too much time, but there's a
2 couple of things that have been put to me that I
3 wouldn't want the inquiry to be misinformed by.
4 So just a couple of things, is number one I
5 appreciate the opportunity from Mr. Gratl to read
6 the documents that he was putting to me last
7 night, including the memos from Constable
8 Mitchell, and he's selected certain lines from
9 them and I agree that some of those comments could
10 be misinterpreted, but I also would like to note
11 that if you read the whole memo this is a pretty
12 intelligent guy and he's made some very thoughtful
13 comments in his analysis in trying to deal with a
14 very vexing problem in a neighbourhood, and so I
15 wouldn't like the impression to be left that he
16 was some cold hearted person that didn't have any
17 understanding or sympathy for the issues. I think
18 that any reasonable reading of his memos would
19 show, and there's a number of them, that he's
20 quite thoughtful about it notwithstanding the
21 issues that you pointed out.

22 Secondly, you implied or suggested that staff
23 members only meant civilians. That's just wrong.
24 When I said staff members I meant any employee of
25 the VPD. If I'd wanted to limit myself to

1 civilian members I would have said civilian
2 members or I would have said sworn members. So I
3 was talking about any members of the VPD.

4 And then just the last thing I'd like to
5 quickly say is because I agree that I was fairly
6 limited in my focus on bias, but I did say that
7 right from the beginning, and what I said in my
8 report was:

9 Bias against sex trade workers by the
10 investigative team was not the cause of the
11 deficiencies in the investigation. In other
12 words, this review has not found that the
13 investigation into the missing women was
14 deficient because the VPD viewed the missing
15 women as just prostitutes whose murders did
16 not warrant full investigation.

17 And so in the context of my review what I've said
18 is, not excluding points that you've brought up,
19 was that it wasn't deficient because VPD members
20 didn't believe that the murders of sex workers
21 weren't deserving of a full and proper
22 investigation. The point I made was -- I've given
23 evidence about why there were deficiencies and why
24 the leap wasn't made to believing there were
25 murders soon enough and everything, but also made

1 the point is that when it is clear that a sex
2 trade worker has been murdered, for example, with
3 all the frailties and warts in the VPD, still they
4 did an extraordinary job and were very successful
5 in investigating murders of sex workers. So
6 that's what I limited myself to, is to the issue
7 of broader systemic bias issues in the police
8 department or in society itself. I agree that
9 those are worthy issues for examination, but I did
10 not do that in my report.

11 THE COMMISSIONER: Okay.

12 MR. GRATL:

13 Q All right. Then I'll carry on. I'd like to turn
14 now to the issue of public statements that there's
15 no evidence of a serial killer. Obviously you set
16 out in your report that at some point it should
17 have been clear there was evidence of a serial
18 killer?

19 A Yes.

20 Q In August of 2008 there's the Hiscox
21 information --

22 A Yes.

23 Q -- comes to Shenher's attention? Ah, 1998. And
24 then there's the March 1997 victim information?

25 A Yes.

1 Q And then in April of 1999 Detective Constable
2 Shenher learns about Poughkeepsie, New York?

3 A Poughkeepsie, yes.

4 Q Okay. Then Poughkeepsie, New York was a situation
5 where there were eight missing sex workers before
6 a serial killer was caught?

7 A Yes.

8 Q The bodies were concealed in the serial killer's
9 house?

10 A That's my understanding.

11 Q And Shenher learns about that investigation and
12 its successes in April of 1999?

13 A Yes.

14 Q Okay. So the whole business about missing women,
15 then a serial killer emerges is not unique to
16 Vancouver, British Columbia, it's also
17 Poughkeepsie, New York had the same type of
18 situation?

19 A It is not unique to Vancouver, but it was pretty
20 unique in that my recollection is that that was
21 the only similar case that she could find where it
22 turned out that it was a serial killer, but that
23 there had been no bodies found, no evidence, no
24 witness, that sort of thing. So it was similar,
25 so two cases in North America that she was aware

1 of.

2 Q In Spokane, Washington the Spokane police started
3 a murder investigation when they only had two
4 missing sex workers, didn't they?

5 A I don't know about that.

6 Q Okay.

7 A Or what the circumstances were.

8 Q You don't know whether Detective Constable Shenher
9 went down to Spokane and asked them about that?

10 A If you're talking about the Robert Lee Yates
11 investigation, is that what you're talking about?

12 Q Oh, yes, I'm saying it was started while there
13 were two missing sex workers.

14 A I don't know what the evidence was at that time
15 that led them to start an investigation.

16 Q Okay. So there's a memo from Detective Constable
17 Shenher dated April 9th, 1999 to the attorney
18 general of British Columbia?

19 A Yes.

20 Q The attorney general of British Columbia to ask
21 for a briefing and a meeting; is that right?

22 A I'm not sure who asked for what, but I agree that
23 there was a memo and a meeting.

24 Q All right. I'll just take you to page 144 of this
25 Exhibit J. I'm sorry, page 140 of Exhibit J.

1 Now, this is a memo from Detective Constable
2 Shenher to the attorney general?

3 A Yes.

4 Q Ujjal Dosanjh?

5 A Yes.

6 Q And the memo, among other things, says we have no
7 information that a murder has taken place; isn't
8 that correct?

9 A Can you just point me out to that?

10 Q This is the third paragraph on the second page.

11 A Yes.

12 Q As I write this report, there is no evidence
13 of a person or persons preying on these
14 women.

15 A Yes, I think that you have to read the next line,
16 and you have to read paragraph 2 in the memo to
17 consider those remarks in context.

18 Q Okay. Well, let's read the next line. It says:

19 As I write this report...

20 Meaning as of this day, April 9th, 1999:

21 ... there's no evidence of a person or
22 persons preying on these woman. That does
23 not mean we do not think it is a possibility,
24 only that we have to weigh this with all the
25 other possibilities. We cannot investigate a

1 murder without a body, witnesses, time of
2 crime, scene of crime or suspect and we have
3 none of these things.

4 But there it is, it says there's no evidence of a
5 person or persons preying on these women. Isn't
6 that inaccurate?

7 A Well, it is inaccurate.

8 Q Shenher would have known that it was inaccurate
9 because she in fact had the Hiscox tip at that
10 time?

11 A Well, I think that you have to understand in the
12 context of it is that what she was saying was that
13 there wasn't any physical evidence. It would have
14 been better for her to clarify that we don't have
15 a witness, a crime scene, physical evidence, and
16 so on.

17 Q Well, it says we don't have a suspect too, doesn't
18 it? No suspect, same paragraph.

19 A Yes, she does say that.

20 Q That's false too, isn't it?

21 A That is inaccurate.

22 Q All right. And you can see that in part what this
23 memo is doing is it's saying we're not
24 investigating these cases any less strenuously
25 because they involve women, nor are they taken

1 less seriously because they are poor, but we hear
2 these criticisms daily. And then she goes on to
3 say:

4 Yes, the fact that they are lacking address
5 books, known schedules, reliable routines and
6 homes for us to search for clues does not
7 make this more difficult, but in no way
8 does...

9 A Does make this more difficult.

10 Q ... does make this more difficult, but in no
11 way does it mean we value them less or
12 consider them throwaways. I truly believe we
13 have done and are doing everything that we
14 can to find them in light of the information
15 and evidence available to us.

16 And then the next sentence says:

17 As I write this report, there's no evidence
18 of a person or persons preying on these
19 women.

20 Isn't that correct?

21 A It says that.

22 Q Okay. And I think it says Detective Constable
23 Shenher is not going to be communicating directly
24 to Attorney General Dosanjh without the
25 intervention of more serious officers casting

1 their eyes on this document?

2 A More senior?

3 Q More senior, yes.

4 A Yes.

5 Q So was she -- do you know, did you ask her about
6 whether she was provided any direction in putting
7 this memo forward?

8 A My recollection is that she was asked to write
9 this memo for the purposes of Deputy Chief
10 McGuinness taking it to the meeting with the
11 attorney general.

12 Q All right. Do you know if she was influenced in
13 writing this memo or the contents of this memo
14 were influenced by anybody other than Shenher?

15 A I don't know that.

16 Q Because on the face of it it's false where it says
17 no suspect and no evidence?

18 A Well, my understanding again is that when she's
19 referring to no evidence that she's talking about
20 no physical evidence, not for example more
21 abstract evidence like the absence of the women
22 being evidence in itself. I do not know why she
23 did not refer to the Hiscox information other than
24 maybe it's semantics. It's that I don't think
25 that at that point he necessarily would have been

1 described as a suspect, he was certainly a person
2 of interest based on the information that had been
3 provided to that point.

4 Q Now, you say in your report at page 235 that after
5 this meeting the attorney general did not want to
6 throw any money in except for the reward?

7 A I think that I'm referring to Deputy Chief
8 McGuinness's statement in those words, but I would
9 need to look at the reference.

10 Q You see it says there on April 9th, 1999, Shenher,
11 McGuinness and Boyd met with the attorney general
12 and other public officials.

13 A Yes.

14 Q Deputy Chief Constable McGuinness recalled
15 that:

16 The purpose of that meeting was to try
17 to get the Provincial Unsolved Homicide
18 Unit involved in the case. It was very
19 shortly before the attorney general got
20 involved in offering the increased
21 reward. The RCMP didn't want to get
22 involved because they said it wasn't
23 historical, and there's no evidence of
24 a homicide. Everyone was looking and
25 saying this would be so intensive and no

1 one would have the resources.

2 The attorney general didn't want to

3 throw any money in except for the

4 reward.

5 A Yes, those are Deputy Chief McGuinness's words.

6 Q All right. And I take it that you don't have any
7 information to the contrary?

8 A About?

9 Q That the --

10 A Contrary to what?

11 Q That the attorney general didn't want to throw in
12 any money except for the reward.

13 A I don't have information to the contrary.

14 Q Okay. What it appears to be on the face of the
15 information provided to you by Deputy Chief
16 McGuinness is that the meeting was about the
17 deployment of resources?

18 A That was it partly, yes.

19 Q And at this meeting where deployment of resources
20 was at stake, Deputy Constable Shenher tells the
21 attorney general there are no suspects.

22 A She says that in her memo, yes.

23 Q All right. And then following -- I mean, we can't
24 draw a cause and link, of course, without hearing
25 from Shenher and participants at the meeting with

1 the attorney general, but after the meeting the
2 attorney general decides no money will be thrown
3 in from the attorney general's budget?

4 A Yes, that's true. That's the outcome.

5 Q Okay. So then there's a police board meeting on
6 April the 28th, 1999, and I'll just refer you to
7 page 143 of the Exhibit J. This is -- at page 143
8 it's a memo dated April 22nd, 1999?

9 A Yes.

10 Q From Sergeant Geramy Field to the Vancouver Police
11 Board?

12 A Yes.

13 Q And the report was prepared by Sergeant Field at
14 the direction of Deputy Chief Constable Blythe,
15 Chief Constable Chambers, Ken Hardy, Deputy Chief
16 McGuinness according to your report; is that
17 right?

18 A She was asked to provide a report to the police
19 board, yes.

20 Q Okay. So on page 2 at the bottom paragraph you
21 can see what Sergeant Field tells the police board
22 is that:

23 With the current cases we are looking at all
24 are disappearances. There is no crime scene
25 or victim with which to start. However, in

1 all of the current cases, the disappearances
2 have been approached and subsequently
3 investigated in the same manner.

4 Referring to the same manner as a homicide; is
5 that right?

6 A Well, I don't think she's saying that. She's
7 saying in the same manner.

8 Q As a homicide, you don't think so?

9 A I don't think -- I'm just not going to attribute
10 words to her.

11 Q Okay.

12 A I'm taking it literally.

13 Q I'll refer you to the paragraph above. It says:
14 A crucial delineation between the nature of
15 the two types of investigation needs to be
16 commented on as well.

17 And then she refers to homicide and then missing
18 persons investigation.

19 A Yes.

20 Q In the first cases I discussed we were
21 investigating and dealing with homicides. In
22 a homicide investigation the initial step in
23 the investigation is the discovery of a body
24 and a subsequent examination of the crime
25 scene. All other investigation emanates from

1 this starting point.

2 A Yes.

3 Q And then she goes on:

4 With the current cases we are looking at all
5 are disappearances. There is no crime scene
6 or victim with which to start. However, in
7 all the current cases the disappearances have
8 been approached and subsequently investigated
9 in the same manner.

10 Presumably the same manner refers to the same
11 manner as a homicide investigation?

12 A That's a fair inference.

13 Q Now, the next sentence is of interest.

14 The primary difference that there is
15 virtually no evidence with which to proceed.
16 That's the description of the investigation,
17 virtually no evidence, given by Field to the
18 Vancouver Police Board?

19 A Yes.

20 Q The Vancouver Police Board is obviously in charge
21 of governance?

22 A Yes.

23 Q It has asked for a briefing into the missing women
24 situation?

25 A Yes.

1 Q Because it's become high profile and in the public
2 interest?

3 A Yes.

4 Q And what Sergeant Field tells the police board is
5 there's virtually no evidence?

6 A Yes, I think that she's fairly accurate in the
7 context of what she has just talked about in terms
8 of a body, crime scene, witness, physical evidence
9 and so on, so at that point they had some
10 informant information.

11 Q Okay. Then at page 4 of that memo, at page 146 of
12 Exhibit J, there's a discussion of whether a
13 reward should be offered. And this -- of course
14 this memo is arguing the reasons why a reward
15 should not be offered?

16 A Yes.

17 Q Okay. And so here's what Field says at the third
18 paragraph, and I'll just read this out:

19 There has been an extensive amount of media
20 coverage surrounding this issue already and
21 to date neither the police department or
22 Crimestoppers has received a single tip.

23 Now, that's false, isn't it?

24 A Yeah, it's completely inaccurate.

25 Q All right. And that's, of course, because there

1 had been numerous tips?

2 A No. There was two tips by the same party via
3 Crimestoppers.

4 Q All right. So Field would have known about those
5 tips?

6 A You would absolutely think so, yes. I'm not sure
7 why she wrote that.

8 Q All right. She wrote that though, told the police
9 board there hadn't been a single tip?

10 A Yes, that's my understanding is that she wrote
11 this memo.

12 Q Okay. So we've got commitment to the no evidence
13 theory by Shenher to the attorney general;
14 correct?

15 A Yes.

16 Q And by Field to the police board; correct?

17 A Yes.

18 Q Now, the attorney general has some oversight of
19 the Vancouver Police Department?

20 A No.

21 Q Not officially, but obviously --

22 A Not unofficially either.

23 Q Not unofficially. But the attorney general could
24 have offered assistance to the Vancouver Police
25 Department?

1 A Yes. In respect of the provincial police in BC,
2 which is the RCMP, report to now it is the
3 solicitor general, but I think it was a joint
4 ministry there, so do report to the attorney
5 general and he could certainly influence the
6 provincial police.

7 Q Sure, if the attorney general says tell me what's
8 happening in the missing and murdered women
9 investigation of it, the then Missing Women's
10 Review Team, Shenher says we have yet to -- we
11 have no suspects and no evidence of a person or
12 persons preying on these women, that's not
13 accurate?

14 A Yes, I don't think that it's accurate. But I
15 don't think that she chose her words as carefully
16 as she should have in the memo, and maybe there
17 are reasons for that, but I also look at the
18 context of what Deputy Chief McGuinness said about
19 wanting to get the provincial police involved, and
20 so I'm assuming that there was -- there was
21 actually a discussion about what this information
22 meant. Maybe I'm assuming too much, but I do
23 assume that.

24 Q Okay. And then we've got a misleading memo from
25 Sergeant Field to the police board?

1 A Well, it is true that it doesn't contain the
2 information about the Crimestoppers, the two
3 Crimestoppers tips from Hiscox, and I'm not sure
4 why she didn't mention it at least just very
5 vaguely, I don't know.

6 Q I don't know if it goes far enough to say she
7 didn't mention it. It actually denies the receipt
8 of those tips?

9 A Yes, I don't know what she was thinking about
10 that.

11 Q Okay. But that's misleading information provided
12 to the police board?

13 A Yes, the net effect of it was that was misleading.

14 Q All right. Now, there's also reference to the
15 Project Eclipse results?

16 A Can you just point me to the page? I just say, I
17 mean, I can't speak for what she was thinking, and
18 I don't recall if I asked those questions, but it
19 would not be a surprise to me for someone to write
20 a memo and be concerned about putting information
21 in a memo that might get to places that they don't
22 want it to get, but provide the information in a
23 verbal briefing, supplementary information, but I
24 don't know that.

25 Q All right. Now Chief Chambers was under the

1 impression that there was no evidence as well, no
2 evidence of a serial killer or homicide?

3 A Yes, he said that.

4 Q He did. He said so in an interview which can be
5 found at Exhibit J of page 157. This is an
6 interview that occurred on April 13th, 2004?

7 A Yes.

8 Q At the Farris office?

9 A Yes.

10 Q On page 2 he says this:

11 There was never evidence to suggest a serial
12 killer or foul play. Suspicious, yes. I
13 know I did and others held the view that if a
14 killer was a likelihood, we should have some
15 indication that something was going on, a
16 body being found, an attack where someone
17 escaped. In my 31 years of policing at the
18 time, these were the things that drove an
19 investigation or an investigative course of
20 action. My recollection was that there was
21 nothing like that other than a volume of
22 missing persons.

23 A Yes, you're reading that correctly.

24 Q That's the chief at the time?

25 A Yes.

1 Q He had obviously not been told about the tip from
2 Hiscox?

3 A I don't know that.

4 Q And he hadn't been told about the 1997 victim?

5 A I don't know that either. He certainly had been
6 provided the Rossmo report of May 27th, 1999 yet
7 still came to that conclusion.

8 Q He says -- but he says specifically didn't know
9 about an attack where someone escaped. He didn't
10 hear about the '97 victim.

11 A Yes, that's a fair conclusion.

12 Q All right. So the chief constable at the time was
13 misinformed about the state of the investigation?

14 A Again, that had occurred in -- that investigation
15 was in Coquitlam in 1997, and so I don't know
16 whether he would have received that degree of
17 briefing, and the connection I don't know.

18 Q Chief Constable Blythe also was under the
19 impression that they didn't have evidence of a
20 serial killer; correct?

21 A Can you refer me to --

22 Q This is in your report at page 230.

23 A Yes, I will say generally, and I gave that
24 evidence earlier, is that there were quite a few
25 people in significant positions, senior management

1 positions who never did come to the conclusion
2 that the reason that the women had gone missing
3 was because of a serial killer, that there were
4 suspicions about it but never made that conceptual
5 leap until later on. Some of them didn't come to
6 that leap, that understanding while they were in
7 the VPD, and others didn't come into it until
8 later when Project Evenhanded was created, and
9 then that was the whole premise for that JFO was
10 that they were looking for a serial killer, so by
11 then they had clearly come to that conclusion.

12 Q All right. But Chief Constable Blythe, his
13 recollection is that resources weren't devoted to
14 the serial killer investigation 'cause he didn't
15 think that they had enough evidence of a serial
16 killer to start an investigation?

17 THE COMMISSIONER: He said that. He said that.

18 MR. GRATL: All right.

19 THE COMMISSIONER: You don't need to ask it again.

20 MR. GRATL: Thank you.

21 Q All right. Then in a memo -- I'll just ask you to
22 turn to page 149 of Exhibit J. This is a memo
23 from Sergeant Field to Inspector Spencer dated May
24 17th, 2000. It concerns Detective Constables
25 Wolthers and Fell. And it's critical of Wolthers

1 and Fell in many ways, but it deals with a no
2 evidence issue as well. There there's a little
3 dispute about whether Wolthers and Fell had told
4 Field before they went to Lethbridge to interview
5 that torture -- torture sex assault perpetrator,
6 whether they had told Field that they were going
7 to interview that individual?

8 A Whether they told Field that they were going to
9 interview that individual about the missing women
10 case.

11 Q About the missing women case. And so there's a
12 discussion there, and I'll just begin to read at
13 the sixth line down:

14 I had requested a written report on the
15 pending trip to Lethbridge, but did not
16 receive this until the afternoon prior to
17 their departure. It was very brief and did
18 include a line regarding interview of that
19 individual. I assumed any interview would of
20 course be done properly and would relate to
21 the charges they were arresting him for.
22 Never would I have imagined they would
23 attempt to interview him for any serial
24 killings since this had never been discussed
25 as a strategy with the team. He was still a

1 person of interest along with many others.
2 At any rate this was still a missing persons
3 investigation and not a serial killer
4 investigation as they allude to constantly.
5 We still have no evidence of such, only
6 speculation.

7 So there's Sergeant Field committing to writing to
8 her supervising officer, Inspector Spencer, that
9 there's still no evidence of a serial killer, only
10 speculation; isn't that right?

11 A Yes. I actually wasn't able to follow along
12 because I didn't see where you'd started, but I
13 remember those words. And this is the time that I
14 gave evidence about earlier in which I said it was
15 really not until that time period in mid May that
16 people started making the leap that this was more
17 than that, so right -- no, sorry, I'm mistaken,
18 that was May of 1999.

19 Q This is --

20 A You're right, she's writing something about that I
21 actually don't understand why she's writing that
22 at that point in 2000.

23 Q It's hard to understand in part because it's so
24 wrong, isn't it?

25 A It was certainly by May of 1999 with the receipt

1 of Detective Inspector Rossmo's report and the
2 other information that had been received it was
3 much more compelling information, and in fact
4 there was a suspect focused in the investigation,
5 they were looking at different suspects, including
6 the one that is partially the subject of this
7 report.

8 Q This comment by Sergeant Field is as hard to
9 understand as her report the previous year on
10 April 22nd to the police board that there hasn't
11 been a single Crimestoppers tip?

12 A Yes, I don't understand myself.

13 Q Now, in addition to commitments to Inspector
14 Spencer, the problems with the chief constables
15 knowing the state of the investigation,
16 misinformation provided to the police board and
17 misrepresentations to the attorney general, there
18 were also numerous representations of no evidence
19 to the media; is that correct?

20 A Yes, a number of times media spokespersons stated
21 that there was no evidence of a serial killer.

22 Q And that carried on through the life of the
23 investigation up until a month or two before
24 Robert William Pickton was arrested?

25 A I think that it was ebb and flow in the nature of

1 the comments and willingness to admit going from
2 we agree there's a possibility, but there's no
3 evidence of that, and from that I took them to
4 mean that there's no physical evidence of that, to
5 saying look, this many women just don't go missing
6 on their own and referring it to as more of a
7 likelihood.

8 Q Okay. I'll just go through some of these
9 references, because I think you're fair in saying
10 that the references sometimes are attenuated a
11 little bit.

12 A Yes.

13 Q And that no evidence leans into a suspicion that
14 there might be something, but most of the
15 references are primarily no evidence references to
16 the media, aren't they?

17 A What I wrote in my report was that there was a
18 pattern of the possibility of a serial killer,
19 while being acknowledged, being minimized.

20 Q I mean the media were coming to -- they were
21 coming to VPD spokespeople and saying there are
22 all these missing women, isn't there a serial
23 killer, shouldn't you be doing an investigation,
24 why are only ten people devoted to this and the
25 notion of no evidence was a response to those

1 questions; isn't that correct?

2 A Yes. I write in my report about how media liaison
3 officers were receiving instructions basically to
4 minimize the possibility of a serial killer
5 despite the fact that it was becoming more and
6 more compelling. Also though I should say that
7 Detective Constable Shenher was going on talk
8 shows and that sort of thing at the time, one that
9 I recall with -- she went on with Sarah De Vries'
10 sister Maggie De Vries and saying foul play is
11 involved, and wondering why the media was giving
12 so much credit to what misinformed media liaison
13 officers were saying and not more to what
14 the investigator was saying.

15 MR. GRATL: I'd like to go -- Mr. Commissioner, it's two
16 minutes to four.

17 THE COMMISSIONER: Yeah.

18 MR. GRATL: And I have probably ten minutes of questions on
19 this theme of telling the media that there's no
20 evidence and what that means in terms of deploying
21 resources. Do you want me to start now or should
22 we wait till tomorrow morning?

23 THE COMMISSIONER: Why don't you keep going until four o'clock.

24 MR. GRATL: All right.

25 Q According to your report at page 276 you say that

1 Detective Constable Drennan says that by June of
2 1999 she was aware that Shenher and Dickson
3 believed there was a serial killer and she was
4 unsettled by that, but she was taking her talking
5 points from Inspector Biddlecombe?

6 A Yes.

7 Q So there she's getting mixed messages from the
8 different investigators. Shenher and Dickson say
9 we think there's a serial killer, Biddlecombe says
10 tell them that there's no evidence. Tell the
11 media there's no evidence.

12 A It's a little bit more complicated than that, but
13 generally yes, is that you had the investigators
14 who had one view is that that's what they were
15 looking at, and you had people that were in
16 positions of management who had not accepted that
17 and were operating under what I believe were
18 misconceptions about what the impact of just
19 saying look, we do think that it's a possibility
20 or more than a possibility as time wore on that
21 we're very concerned about it.

22 Q At page 276 you go on to say that Inspector
23 Biddlecombe gave a statement saying that in effect
24 he didn't want to say that there was evidence of a
25 serial killer because:

1 They'd be crawling up our backside wanting to
2 know what's going on and it would cause all
3 kinds of problems...

4 And then another quote just at the bottom of that
5 excerpt says:

6 I wasn't going to put that out there and have
7 the media drive our investigation.

8 Isn't that right?

9 A Yes, that's what he said.

10 Q 'Cause that's what sometimes can happen if there's
11 public outcry is so huge an officer can be forced
12 to deploy resources into an investigation?

13 A Well, I don't think that that's what he was
14 saying, is that he was talking about not being
15 very cautious about what he provided to the media.
16 That's not unusual in an investigation to be very
17 careful and be strategic about it, and he was
18 someone who self admitted that he didn't trust the
19 media, so that was influencing him. And he was
20 also someone that he also conceded that he was
21 very sceptical about the validity of the
22 information, so that was clear.

23 Q Biddlecombe perceived a link between having the
24 notion of serial killer out there and having to
25 devote a lot of resources to an investigation;

1 isn't that correct?

2 A I don't know if that's the link that he drew.

3 Q Did anyone draw that link?

4 A I don't know -- I don't know that. Like I say
5 when you decide on the size of an investigative
6 response you do it based on what there is to
7 investigate. You could have a very serious crime
8 that involves very few police officers or a less
9 serious crime but because the nature of it
10 requires a lot of police officers. So it wouldn't
11 just be driven by what the media is saying, it
12 would be driven by what the understanding is of
13 the offence and the evidence and what the
14 strategies are that are needed to successfully
15 resolve it, which in this case of course was
16 uniquely challenging in that there was a lot of
17 frustration with not knowing really how to
18 investigate it.

19 Q Don't you say in your own report at page 223 that
20 the Home Invasion Task Force was in part a
21 response to public media pressure? It's in the
22 left column, second to bottom paragraph:

23 So we set up a task force to deal with the
24 home invasions because we were dealing with
25 massive public pressure regarding old people

1 being brutalized and they were set up out of
2 Robbery/Homicide.

3 A Yes, those are Deputy Chief McGuinness's words,
4 and certainly that would be something being
5 considered about what the public demand is, but in
6 this case -- in that case without public demand it
7 was appropriate based on the nature of the crimes
8 and the investigative avenues available and so on
9 to provide a proper response whether or not the
10 public was clamoring for it or not.

11 Q I'm suggesting, deputy chief, that the media was
12 coming to you saying isn't it true that there
13 might be a serial killer, and doesn't that justify
14 the deployment of greater resources, and the
15 response they received from VPD spokespeople was
16 that there was no evidence and the reason they
17 received that response is because they didn't want
18 to deploy resources?

19 A They didn't come to me about that, but the media
20 was -- there was increasing media attention, and
21 not just media attention from the public and
22 people like Ms. De Vries, Maggie De Vries, and
23 that sort of thing. And as to the issue of well,
24 that would have meant that we'd have to put
25 resources, I just don't buy that. I never did. I

1 think that the reason was because they didn't
2 accept what the nature of the problem was, and I
3 think that if they had come to that conclusion the
4 people that were in authority at the time, there
5 absolutely is no question in my mind that they
6 would have responded with the resources necessary
7 and moved resources in the organization to deal
8 with it. The problem wasn't that oh, the media is
9 putting pressure on us and that will mean we will
10 have to put more resources, the problem was that
11 they didn't accept what the nature of the problem
12 was completely, and also didn't know how to
13 respond.

14 Q Didn't -- didn't Detective Constable Shenher and
15 Sergeant Field receive advice from other police
16 forces to put more resources into the
17 investigation?

18 A Yes, when they consulted with some other agencies
19 I think that was sort of a typical comment they
20 came back with is that the agency said you're
21 doing a great job, but the only thing we can
22 recommend is you put more resources into it.

23 Q Spokane said that?

24 A I don't recall if it was Spokane, but I don't
25 disagree with you.

1 Q That's in your report at page 104. And then plus
2 a Poughkeepsie investigator suggested that more
3 resources be added in May of 1999; isn't that
4 true?

5 A Yes, that sounds right.

6 Q That advice was not heeded; is that correct?

7 A Well, I do think that Sergeant Field made a number
8 of attempts, for example, and so did Detective
9 Constable Shenher to get more resources, and
10 Sergeant Field a number of times recommended that
11 a full time sergeant be assigned, that it needed
12 that level of supervision and direction and to try
13 to drive the investigation forward, and she was
14 unsuccessful in making that case.

15 Q At page 39 of your report you described the no
16 evidence talking point as a public relations
17 strategy as opposed to an investigative strategy?

18 A Sorry, I'm just having a little trouble hearing
19 you.

20 Q Sorry, at page 39 of your report.

21 A Yes.

22 Q You described the no evidence talking point as a
23 public relations strategy?

24 A Can you just point me to where you're --

25 Q In the left-hand column it says:

1 The media strategy should have flowed from an
2 investigative strategy, rather than a public
3 relations strategy...

4 A Yes.

5 Q ... but the lack of clarity as to the purpose
6 of the investigation made a focused media
7 strategy difficult.

8 A Yes.

9 Q Why do you describe the no evidence talking point
10 as a public relations strategy?

11 A Well, I didn't say those words that it was the no
12 evidence talking point in there, that's not what
13 the line says that you read, but if you look at
14 the context and Inspector Biddlecombe's statement,
15 and there were others, and I think they were
16 misinformed comments saying we didn't want to
17 create panic in the Downtown Eastside by saying
18 that there was a serial killer out there. So
19 that's what I was referring to by a public
20 relations strategy is they were considering those
21 things rather than using the media as an
22 investigative strategy in a way that could assist
23 the investigation, that there was a disconnect.

24 Q Isn't it true, Deputy Chief LePard, that the no
25 evidence talking point was a public relations

1 strategy in the sense that it brought the
2 deployment of resources into proportion with the
3 evidence available? Do you understand the
4 question?

5 A I think so.

6 Q You're saying no evidence because you effectively
7 have very little investigative deployment?

8 A Well, at one point there was a reasonably
9 significant amount of investigative resources and
10 a lot of work done after May of 1999, but I agree
11 that the way that the problem was framed did
12 dictate the response. And so the way it was
13 framed was for the most part, at least until May
14 1999, and then only for an insufficient time
15 period, it was framed as a missing persons
16 investigation rather than an investigation of a
17 serial -- a serial killer, for example.

18 Q That was the public framing, and it was done and
19 justified by suggesting falsely to the public that
20 there was no evidence of homicide?

21 A Well, I don't think that that's fair to say that,
22 because I think in the context what they were
23 saying, and they did qualify that, was to say
24 there hasn't been a witness, we have not found a
25 body, there had been no crime scene and so on. So

1 in fairness I believe that that was the context of
2 the reference to no evidence.

3 Q And, in fact, the reason why the Vancouver Police
4 Department was so heavily criticized after Robert
5 William Pickton was arrested was because up until
6 the very day before he was arrested you maintained
7 that no evidence of a serial killer line and so
8 people in Vancouver were shocked to find out there
9 was a serial killer, isn't that the case?

10 A No, I don't think that that's the case at all.
11 For example, Ann Drennan I think in November of
12 1999 said that was a likelihood. There was a huge
13 profile around the fact that homicide
14 investigators had been assigned to the Missing
15 Women Review Team in May or into the summer of
16 1999. So there was a fair amount of profile
17 around the possibility that there was a serial
18 killer. There were people like Judy McGuire in
19 DEYAS that said look, the whole profile of the
20 investigation was a warning that there was a
21 serial killer. John Turvey made comments about
22 the profile of the VPD investigation. So I agree
23 with you, I know what you're referring to is that
24 a misinformed media liaison officer still made
25 comments minimizing the possibility of a serial

1 killer, but some of that was in support of
2 Evenhanded's wish to keep a low profile, and the
3 fact is that we were engaged by --

4 Q That was September 23rd, 2001, Constable Sarah
5 Bloor tells the province we just don't have any
6 concrete fact to suggest that a serial killer is
7 running loose?

8 A Yes, and for whatever reason she was misinformed,
9 because by that time we were well into a JFO with
10 the RCMP, Project Evenhanded, and the whole
11 premise of that investigation was to hunt for a
12 serial killer. It's right in their mandate.

13 Q You say for whatever reason?

14 A Well, I say I don't know whether she was asked to
15 downplay it or she was simply misinformed, because
16 it contradicted earlier comments that people like
17 Ann Drennan had made like in November of 1999 in
18 an *Elm Street* article in which she was quite open
19 about, you know, that that seemed to be a
20 likelihood.

21 MR. GRATL: This is a good time to stop for the day.

22 THE COMMISSIONER: I'm happy to carry on. How much longer are
23 you going to be?

24 MR. GRATL: I still have a great deal of information to go
25 over.

1 THE COMMISSIONER: No, no, no. How long are you going to be?

2 MR. GRATL: At least half the morning.

3 THE COMMISSIONER: So you said you were going to be two hours,
4 that was a little after -- around 2:30 you said.

5 MR. GRATL: Did I not say two and a half?

6 THE COMMISSIONER: All right. Okay. We'll adjourn.

7 THE REGISTRAR: The hearing is now adjourned for the day and
8 will resume at ten o'clock tomorrow morning.

9 **(PROCEEDINGS ADJOURNED AT 4:13 P.M.)**

10

11 I hereby certify the foregoing to be a
12 true and accurate transcript of the
13 proceedings herein transcribed to the
14 best of my skill and ability.

15

16

17 Peri McHale

18 Official Reporter

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