


*Exhibit # 39*

**MISSING WOMEN'S COMMISSION OF INQUIRY**  
**IN THE MATTER OF THE CROSS-EXAMINATION OF MR. DOUGLAS LEPARD**  
**BY DARRELL W. ROBERTS, Q.C.**

Memorandum of Evidence prepared by Mr. Douglas LePard over the course of a pause in his cross-examination by D.W. Roberts, Q.C. from Thursday, November 24, 2011 at 4:00 p.m. to Monday, November 28, 2011 at 10:00 a.m., Mr. LePard having *Aide Memoire* documents No. 2 and No. 3 in his possession for review.

See MWCI transcript for  
November 29, 2011 at 10:00 a.m.

<b>Missing Women Commission of Inquiry</b>	
<b>EXHIBIT</b> No: <i>39</i>	
Date:	<i>November 30, 2011</i>
	Registrar

## Analysis of the D. Roberts mocked-up ITO by DC LePard

### Introduction

This mocked up ITO is insufficient in many ways. More seriously, it makes false claims and omits important information, all of which would combine to mislead the JP and would be fatal to the search warrant in court. I would not allow this ITO to be viewed by a JP because I could not be a party to misleading the JP. Also, if the warrant was approved, it would not survive in court and could result in the evidence being excluded and an acquittal.

### Comments

1. Paragraph 3 of Appendix A makes an assertion that is false, is a key basis for believing the women have been murdered, and would mislead the Justice of the Peace.
2. Specifically, it is asserted that "missing persons are most frequently missing because they have been murdered." This is completely false. At the time, the VPD received over 3,000 missing persons reports per year and even at the height of the MW case, almost all of them were found. They may have been short-term runaways, hiding from the law, hiding from problems in their lives such as drug debts, gone on a drug/alcohol binge, lost in the outdoors, wanderers with Alzheimer's, etc.
3. A really important aspect to preparing an ITO is to provide a source for every fact asserted, e.g., citing a witness's statement. In asserting "missing persons are most frequently missing because they have been murdered," it would have been important to provide the statistical basis for this statement. Of course, there isn't one because it wasn't true.

4. When missing persons are not found, reasons often include bridge suicides (where the body may not be found for a lengthy period if ever), fishing/boating accidents, etc. Sometimes only their disarticulated feet float to the surface in running shoes. In the MW case, there were women who were found to have died in non-suspicious circumstances, to have changed identity and even gender, to have moved to another province, and to be in an American hospital.
5. It is a very serious error to assert that missing persons are most frequently missing because they have been murdered. Without that assertion, the inference the Justice of the Peace is being asked to infer from the circumstances is considerably weakened.
6. Paragraph 42 alleges that the investigator cannot find a reason for Yelds to have invented the information she provided the source. This cannot be supported. There are other explanations for her making the statements. One plausible one is that she was angry at Pickton for drugging her to have intercourse with her on several occasions. The fact that Pickton had sexually assaulted her is a very plausible motive. It was unacceptable to make the claim that there was no reason to fabricate the information and leave out of the ITO the information that Pickton had sexually assaulted her. It is in Shenher's notes of Sept 2, 1998.
7. Paragraph 2 of Appendix A reveals that most of the women had gone missing fairly recently. Paragraph 3 states that "murder is suspected in the disappearance of each and every one of them." That is an exaggeration as murder was suspected in "some" of them, but at this time there was still a belief that some or most of the women could be found or accounted for, as was the case with the previous list of 71. To suggest otherwise contradicts the extensive efforts made to find them as missing

persons, that did locate one of the women on this list (Prevost) as well as accounting for others (Perkins, Coombes, Smith, et al) not listed here.

8. Further, paragraph 3 asserts that there is only a debate regarding murder vs serial killer, not whether they had been killed. That is false. The Appendix claims that information is in my report and in Shenher's Aug 27, 1998 memo. That information is not found in Shenher's report, and is certainly not supported by the contents of my report, as implied. There were many in the VPD who sincerely believed that foul play was not involved and that given time, the women could be found. In October 1998, this was still the predominant view. Extensive investigation was occurring to find missing women.
9. There were other plausible explanations at this early point in the investigation and this information would mislead the Justice of the Peace. The belief that they were simply "missing" prevailed until May 1999 when the suspect focused investigation began and Rossmo's report was received. As of February 1999, Rossmo did not dispute the possibility that Biddlecombe's "lag time" theory could be right.
10. Paragraph 20, the ITO notes Shenher found Source A credible. The fact that he is believable is not in itself sufficient. First, re his credibility, he was not a "previously reliable" informant. In addition, with respect to the purses and ID, he is reporting hearsay. That he believes the information he has received does not make the information credible.
11. This circumstance demands attempts to verify the Yelds information, such as interviewing her, conducting an undercover operation, or putting a wiretap on her phone and then stimulating conversation between her and Pickton (perhaps preceded by a DNR to establish contact).

12. The result of the interview was that she denied the information. That would be a serious problem, because she is the one alleged to have made the direct observations. (And regarding "improperly" violating informer privilege re Hiscox/Yelds, it is not clear that it was ever engaged. If it was, it was likely waived as soon as Hiscox agreed to be an agent and wear a wire or make an introduction to Yelds.)
  
13. In paragraph 2 of the cover memo, it is asserted that the women "are missing in circumstances which I believe indicates they have been kidnapped by fraud and murdered." The evidence to support this assertion is not presented here, and is completely insufficient in the appendix, which I discuss elsewhere. There is no mention of a direct witness, a crime scene, or physical evidence supporting this assertion. (I note that the 100 million dollar Evenhanded investigation did not reveal evidence for Crown to approve a single count of kidnapping by fraud in relation to a single victim.)
  
14. It was only when more extensive investigative efforts had occurred, and when the analysis provided by Det/Insp. Rossmo was provided in May of 1999, that that inference could be strongly drawn.
  
15. There must be a nexus between the "things" sought and the crimes alleged and there is no evidence linking the things sought with any of the identified victims here or in the appendices.
  
16. Paragraph 16 and elsewhere, the information about the women's purses and identification papers comes from Yelds, so it is hearsay. Hearsay cannot be given as much weight as direct observations. It must be investigated to exhaust any opportunities to corroborate it. In addition, there is no unique information given about the purses or ID such that they

can be linked to any of the victims. This lessens its value, as there are other plausible explanations for having women's purses and identification.

17. Paragraph 24 of the Appendix, Source A has "told him within the past week" about the things of interest. But information about when SHE last alleges she saw these things is not included, only when she told Source A. The recency of the observations is extremely important. (I note this information is included in Connor's affidavit. It should have been included in the main appendix.)

18. I note that even with the much more compelling information from Caldwell and Best in 1999, Connor was still apparently unable to get a search warrant.

## **Conclusion**

There are false and unreliable assertions about the cause of the women's disappearances.

There is false and omitted information regarding a lack of a potential motive for Yelds to fabricate the information about Pickton.

There is zero information about any offence occurring on the Pickton property, such as when Caldwell came forward.

What would have been compelling was if Ellingsen had told the truth originally, or further investigation had occurred to substantiate the information from Caldwell, Best and Menard. What WAS compelling was when Cst. Wells' colleagues found items that could be directly linked to two of the Missing Women, e.g., Serena Abbotsway's inhaler and another victim's identification.

Based on my knowledge and experience, this mock ITO is insufficient, contains false information, would mislead a JP, and could not support a lawful search warrant.

Deputy Chief Doug LePard  
November 27, 2011