

April 27, 2012

Vancouver, BC.

(PROCEEDINGS RECONVENED AT 11:05 A.M.)

BRIAN MCGUINNESS: Previously affirmed

JOHN UNGER: Previously affirmed

THE REGISTRAR: Order. The hearing is now resumed.

THE COMMISSIONER: Mr. Ward.

CROSS-EXAMINATION BY MR. WARD (Cont):

Q Thank you, Mr. Commissioner. Cameron Ward,
counsel for the families of 25 murdered women. I
understand from discussion with Mr. Registrar I
have 50, 5-0, minutes remaining in my
cross-examination. I may not use all of that.
We'll see.

Mr. McGuinness, the first series of questions
I have this morning are for you. And yesterday
your counsel, Mr. DelBigio, elicited evidence from
you to the effect that there were a huge number of
suspects and that it would be negligent or
inappropriate to focus on one and to fall victim
to the trap of tunnel vision. Do you remember
that testimony?

MR. MCGUINNESS: Yes.

Q Now, in July of 1999, you as deputy chief were
supervising the conduct of VPD members Shenher,

1 Field, Chernoff, Lepine, Fell, Wolthers, the
2 civilian Dorothy Alford, Fred Biddlecombe and Alex
3 Clarke, correct?

4 MR. McGUINNESS: They weren't a direct report to me, no.

5 Q But you were in a supervisory position to them and
6 they were working on the missing women's case,
7 right?

8 MR. McGUINNESS: I said they weren't a direct report to me, no.

9 Q All right. They were subordinate to you and were
10 working on the missing women's case?

11 MR. McGUINNESS: That's correct.

12 Q We've heard evidence from Miss Field, now Powell,
13 the other day that in late July she, Biddlecombe,
14 Chernoff, Lepine, Shenher, Clarke, Dorothy Alford,
15 Fell and Wolthers were meeting and were discussing
16 Pickton's role as a suspect in the disappearances
17 of the women from the Downtown Eastside. Is it
18 your evidence you were unaware of their focus --
19 the focus of their attention on Pickton then?

20 MR. McGUINNESS: That's correct.

21 Q Now, just to summarize some of the evidence we've
22 heard, I believe it can be fairly summarized that
23 they and Shenher and Field, in particular, were
24 focusing on Pickton July of 1999 and were
25 considering him a suspect because they knew,

1 first, he had gotten away with the attempted
2 murder of a Downtown Eastside sex trade worker
3 named Anderson in March of 1997 and, secondly,
4 they had by then received four separate unrelated
5 tips from informants suggesting that this was a
6 man who brought Downtown Eastside sex trade
7 workers to his place in Port Coquitlam, that he
8 could dispose of bodies readily, that he was
9 probably responsible for the disappearances of the
10 women and that a woman named Ellingsen had
11 reported seeing this man Pickton skinning a woman
12 in the barn. That's a summary of the evidence
13 we've heard. And you would agree that by any
14 measure in July of 1999 it would appear that to
15 those members of the VPD Mr. Pickton was a pretty
16 compelling suspect in the disappearance --

17 MR. MCGUINNESS: Yes. From what you've just said, correct.

18 Q All right. But, again, you didn't know this at
19 the time?

20 MR. MCGUINNESS: No, I did not.

21 Q Now, with respect to the huge number of suspects
22 you testified about yesterday, without --

23 MR. MCGUINNESS: I don't think I used the word huge.

24 Q Well, that's the word I heard.

25 MR. MCGUINNESS: I said many.

1 Q I heard the word huge.

2 MR. McGUINNESS: Okay. I guess we'd have to go back to the
3 transcripts.

4 Q Sure. I heard the word huge and the transcript
5 will --

6 MR. McGUINNESS: I think in my testimony I said I received a
7 report from Sergeant Field in October of 1999 and
8 there were 13 persons of interest, not suspects.

9 Q Well, I -- I don't want to argue the point with
10 you, but I understood your counsel to put to you
11 that there were a huge number of suspects.

12 MR. McGUINNESS: Well, I'm correcting it now if you have a
13 misunderstanding.

14 THE COMMISSIONER: What does it matter huge, many, lots, more
15 than five?

16 Q Well, without naming names, because there's an
17 aversion to naming names of suspects in this
18 proceeding, can you give me a list of the top five
19 compelling suspects back in July, 1999 besides
20 Pickton?

21 MR. McGUINNESS: No. The only name that I saw that wasn't
22 redacted on the report that I was shown was
23 Pickton. And I can't recall any of the other
24 names.

25 Q I think you misunderstood my question. Putting

1 yourself back in time to July of 1999, given your
2 evidence yesterday that there were many suspects,
3 can you tell me, based on your state of knowledge
4 then as a deputy chief, your understanding of
5 who -- again, without naming names, but just
6 general identification, where they lived, why they
7 were suspects, who were the top five --

8 MR. MCGUINNESS: I had none of that information.

9 Q I see. Well, the fact of the matter is there was
10 nobody nearly as compelling as Pickton as a
11 suspect in the disappearance of these women,
12 right?

13 MR. MCGUINNESS: I don't know.

14 Q You don't know?

15 MR. MCGUINNESS: I don't know, no.

16 Q You've had 10 years, sir, since February of 2002
17 to prepare for your testimony here, right?

18 MR. MCGUINNESS: I still don't know.

19 Q But you said, "There were many suspects. We
20 couldn't focus" --

21 MR. MCGUINNESS: I didn't say suspects. I said persons of
22 interest, and I told you there was a list that I
23 was given of 13 names.

24 Q So you're relying on this list that you've seen?

25 MR. MCGUINNESS: That's correct. That's all I have.

1 Q You have no personal knowledge, no personal
2 recollection?

3 MR. MCGUINNESS: No.

4 Q All right. And Pickton's name, you've agreed, was
5 at the top of the list and this list was prepared,
6 I think, by McKnight; is that right?

7 MR. MCGUINNESS: That's correct.

8 Q Okay. And nothing in the records you've reviewed
9 in the last 10 years to prepare yourself for
10 testifying today, I suggest, makes any of the
11 persons of interest nearly as compelling as Robert
12 William Pickton, agree?

13 MR. MCGUINNESS: I didn't see any other information on the
14 other suspects --

15 Q So do you agree with my proposition?

16 MR. MCGUINNESS: -- in my review of the material.

17 Q Given what the material discloses about Pickton,
18 attempted murder of the Downtown Eastside worker
19 97, four separate independent tips from people who
20 knew him to the effect he was probably
21 responsible, he had been seen skinning a woman in
22 his barn, he was frequently bringing Downtown
23 Eastside sex workers back to his place, clearly,
24 based on everything you looked at in the last 10
25 years prior to testifying, he was the most

1 compelling suspect in the VPD's eyes?

2 MR. McGUINNESS: All I heard is just what you've just told me.

3 I don't have anything on the other persons of
4 interest.

5 Q Fair enough. Yesterday I was questioning both of
6 you gentlemen about who -- who was heading up the
7 Missing Persons Unit after Field left, who was the
8 sergeant in charge, and I made reference to this
9 man John Dragani. And, as I understood your
10 evidence, you both queried whether in fact he had
11 headed up the missing women --

12 MR. McGUINNESS: Well, to clarify it for you, Mr. Commissioner,
13 when Geramy Field left, I was no longer with the
14 Vancouver Police Department, so I couldn't give
15 you that information.

16 Q All right. Both of you, Mr. McGuinness and Mr.
17 Unger, after retirement maintained your ties to
18 the Vancouver Police Department and --

19 MR. McGUINNESS: I did not.

20 Q May I finish my question, please? You continued
21 to stay in contact with your former colleagues
22 within the Vancouver Police Department and be
23 generally apprised of Vancouver Police matters,
24 right?

25 MR. McGUINNESS: Not correct.

1 Q All right. And the question is for you, Mr.
2 Unger. And please wait for it. I understood you
3 to query whether John Dragani led the Missing
4 Persons Unit. I've pulled up a couple of
5 newspaper articles from the local Vancouver
6 papers, so I'll just read you sentences from each.
7 The first one is the media coverage of his being
8 charged and the second one is of his conviction
9 and sentence.

10 Dragani, the former head of --
11 And this is June, 2006, *Vancouver Province*.

12 Dragani, the former head of the Department's
13 Missing Persons Unit, was suspended in April
14 of 2005 until reaching retirement age.
15 And that's the report of his being charged with
16 possession of child pornography. And then the
17 *Vancouver Province* of July 26th, 2007 publishing
18 the fact that he got one year for possessing child
19 pornography:

20 John Dragani, the former head of the Missing
21 Persons Unit, accessed thousands of images of
22 child porn between October, 1999 and
23 February, 2005.

24 Based on those reports, it appears that at some
25 point John Dragani, 30-year veteran of the VPD,

1 former vice-president of the union, headed up the
2 Missing Persons Unit after Field, right?

3 MR. UNGER: I don't know that.

4 Q All right. Do you have any reason to dispute the
5 public statements that at least --

6 MR. HERN: Can I just --

7 THE COMMISSIONER: Don't answer it. Yes?

8 MR. HERN: First of all, we established yesterday that this
9 wasn't relevant. Second of all, if it's of
10 assistance to my friend, it was Sergeant Carl
11 Hetherington who replaced Sergeant Field as the
12 Homicide sergeant under whose umbrella Missing
13 Persons Unit came. So if that's of assistance to
14 my friend, there it is. But I maintain that this
15 line of questioning is totally irrelevant.

16 MR. WARD: My friend shouldn't be giving evidence or
17 interrupting my cross-examination, with the
18 greatest of respect.

19 THE COMMISSIONER: Well, he can interrupt your
20 cross-examination if it isn't fair.

21 MR. WARD: It's fair.

22 THE COMMISSIONER: Well, I decide that. What he said is that
23 Dragani -- there's no evidence that Dragani was
24 there at the time. Is that what --

25 MR. HERN: No. My friend has established now clearly on two

1 occasions that these two witnesses don't know who
2 the sergeant who replaced Geramy Field was after
3 she left in May of 2001, and rather than belabour
4 it and have him go over and over the charges
5 against Dragani in 2004, I thought it would be
6 useful if we just set the record straight and say
7 it was Carl Hetherington who's the sergeant.

8 MR. WARD: I don't accept statements of counsel as evidence
9 and, Mr. Commissioner, I respectfully submit you
10 shouldn't either.

11 THE COMMISSIONER: Well, I'm not, but tell me how Dragani --
12 how is that relevant here if he was there in 2004?

13 MR. WARD: Because by 2004 it ought to have been apparent to
14 the Vancouver Police Department that the Missing
15 Persons Unit was dysfunctional. Deputy Chief
16 LePard referred --

17 THE COMMISSIONER: Well --

18 MR. WARD: -- to the missing -- may I finish? Deputy Chief
19 LePard referred in Exhibit 1 and in his testimony
20 to the notion that the Missing Persons Unit had
21 been a repository for broken toys, officers near
22 the end of their career who were ineffective and
23 were just put there. Dragani seems to exemplify
24 the broken toy syndrome. He was nearing
25 retirement. He was -- and I'll put it to these

1 members based on their own personal knowledge --
2 an ineffective police officer and clearly, given
3 the media accounts, he was preoccupied with other
4 issues. The point is -- and the Vancouver Police,
5 I'm sure, will have much to say about how they've
6 improved things since the missing women's
7 investigations, even after the investigations were
8 so -- were handled the way they were. They put a
9 broken toy in charge of Missing Persons. I don't
10 know when and I'd like some witness who knows
11 something about the workings of the Vancouver
12 Police Department to tell us and to tell us, more
13 importantly, why they put this man who was
14 convicted of serious and disgraceful criminal
15 offences in charge of Missing Persons after it had
16 been found to be so ineffective.

17 THE COMMISSIONER: Okay. Well, first of all, there's ample
18 evidence here from which I may draw the inference
19 at the end of the day that -- as to the priorities
20 that the Missing Persons Unit has. And I'm sure
21 you have a lot of fodder in your argument at the
22 end of the day as to how seriously the VPD took
23 the Missing Persons Unit. There's all kinds of
24 evidence of that, if I make appropriate findings
25 of fact according to you, so you don't need that

1 type of evidence. Secondly, both these officers
2 left. They have no knowledge of what happened
3 after them, so you're really asking them to
4 speculate. So --

5 MR. WARD: Well, we're running out of witnesses, Mr.
6 Commissioner, and I'm trying to address an
7 anticipated argument from counsel for the
8 Vancouver Police Department. They have alluded to
9 it in the past. And I know my friend Mr. Hern,
10 given his considerable abilities, will make this
11 argument. It'll be we learned our lesson. We
12 fixed it right away. Well, if they put this man
13 in charge of the Missing Persons Unit at any time
14 after 2002, they learned nothing.

15 THE COMMISSIONER: Well, that -- you can make that argument.
16 The fact is I don't want to hear any evidence as
17 to what happened in 2004. I think you've made
18 your point with respect to the -- the
19 functionality or otherwise of the Missing Persons
20 Unit. And it's unfair for -- for these witnesses
21 to be asked what happened after they left.

22 MR. WARD:

23 Q All right. Thank you. I'll move now to another
24 point that came up yesterday. And, as I
25 understood your evidence, gentlemen, both of

1 you -- correct me if I'm wrong, but I understood
2 you to deny that sexism was present within the
3 Vancouver Police Department in the mid-1990s and,
4 in particular, to deny that it played any role in
5 the handling of the missing women's
6 investigations. Do I understand your evidence
7 correctly?

8 MR. MCGUINNESS: In my case, I never saw any evidence of sexism
9 and I certainly don't think sexism was involved on
10 how the missing women were handled.

11 Q Thank you. You, Mr. Unger?

12 MR. UNGER: I never saw it either. I never saw any evidence of
13 sexism. And, in fact, I think the Vancouver
14 Police Department generally did an outstanding
15 job, going right back to the mid-seventies, when
16 female police officers first began to come on the
17 road. I certainly worked with many female
18 officers over the years and, in fact, many of the
19 serious areas where I worked, many being JFOs, we
20 always wanted female officers on there because it
21 was extremely important for doing inside coverage
22 in surveillance.

23 Q Now, I'd like to test this evidence because some
24 of the women who have appeared here, notably Lori
25 Shenher, Sandy Cameron, Rae-Lynn Dicks, have

1 testified, as I understood their evidence, that
2 there was an old boys culture of sexism within the
3 Vancouver Police Department; that, in fact, it
4 affected the integrity of the missing women's
5 investigations. Are you aware of their testimony
6 generally?

7 MR. UNGER: Yes. I'm aware of it.

8 Q All right. Sexism -- I've got a dictionary
9 definition here. I wonder if you agree with it.

10 Prejudice or discrimination based on sex,
11 especially discrimination against women.
12 Subsidiary definition. Behaviour, conditions
13 or attitudes that foster stereotypes of
14 social roles based on sex.

15 Both of you accept that's a working definition of
16 sexism?

17 MR. MCGUINNESS: Correct.

18 MR. UNGER: I accept that.

19 Q All right. I want to read a passage from an
20 editorial that appeared in the *Vancouver Sun* in
21 1995 about the culture within the VPD.

22 MR. MCGUINNESS: Who wrote this?

23 Q *Vancouver Sun*.

24 MR. MCGUINNESS: Who?

25 Q An editorial in the editorial page.

1 MR. MCGUINNESS: Yes, but who wrote it?

2 Q Editorials.

3 THE COMMISSIONER: It doesn't matter who.

4 Q Your Media Unit will tell you editor -- and I'm
5 not here to answer questions.

6 THE COMMISSIONER: Just a minute. Let me just help. It
7 doesn't matter who wrote it, Mr. McGuinness. Just
8 keep -- counsel's entitled to put to you the
9 contents of the editorial and if you disagree with
10 it, you can disagree with it, you can agree with
11 it, whatever you want.

12 MR. MCGUINNESS: Thank you. And the date again? I'm sorry.

13 Q January 21st, 1995, *Vancouver Sun*. And I've got a
14 sheaf of articles from that time period.

15 MR. MCGUINNESS: Thank you.

16 Q All right. I'm just going to read a part of a
17 sentence that appears in this editorial.

18 A grandiosely named gentlemen's regimental
19 dinner held to raise money for the Vancouver
20 Police pipe band turns out to be little more
21 than a stag party featuring the usual racist
22 and sexist jokes that pass for wit at such
23 affairs. The growing number of women police
24 work should have made such all male affairs a
25 relic of the past, but they are still with

1 us.

2 And I'm ending my reading of the quote there. Let
3 me just point out that the other articles reveal
4 that -- again, from '95 -- that this was an annual
5 event. Up to about 320 male -- males attended
6 these events and women were excluded. Now, sirs,
7 each of you, did you go to these events?

8 MR. MCGUINNESS: I did, yes.

9 Q And, Mr. Unger, did you?

10 MR. UNGER: I did, but it wasn't a regimental dinner as such.
11 We didn't have a regimental dinner. And I believe
12 it's already been brought out here before in
13 evidence that we had a mess dinner. The mess
14 dinner was for officers, which were inspector and
15 above, and that included women. It also included
16 female members of the police board. So that --
17 that comment is not valid.

18 Q All right. Well, I've got a big batch of articles
19 from '95 stating clearly the Vancouver Police
20 Department had annual all male events described as
21 the gentlemen's regimental dinner to raise money
22 for the Vancouver Police pipe band. I've looked
23 and I've found no statement from the Vancouver
24 Police Department, perhaps from their Media Unit,
25 correcting any misapprehension that appeared in

1 the press, all right? So I've taken what the
2 newspapers have said about this event at face
3 value. Are you with me?

4 MR. MCGUINNESS: Well, I don't think you should because a lot
5 of times what the press report isn't correct.

6 Q Now, you would agree with me that if in fact the
7 Vancouver Police Department held these all male
8 affairs, excluded women members from attending
9 simply because they were women --

10 MR. MCGUINNESS: That's not correct.

11 Q May I finish my question, sir?

12 MR. MCGUINNESS: Certainly.

13 Q Thank you. You would agree -- and I'm going to
14 ask Mr. Unger because you keep interrupting me,
15 sir. Mr. Unger, I'm going to ask you this
16 question: You would agree that if these newspaper
17 accounts are right and in the 1990s the Vancouver
18 Police Department held well attended, all male
19 events for their male members, to which women were
20 not invited and at which people made racist and
21 sexist comments, that would be sexism?

22 MR. UNGER: The key word there is if.

23 Q Yes. If the newspaper accounts are correct.

24 MR. UNGER: Those are not correct. They're not correct.

25 Q Did you go to these events?

1 MR. UNGER: To some. To many.

2 Q Now, one of them, as I say, reports there were 320
3 people there and that these were all male affairs.
4 Is that right?

5 MR. UNGER: In the 1990s? I don't think you would have found
6 one of those where there wouldn't have been some
7 women present. I doubt very much whether there
8 was one single of those dinners in that 10-year
9 period where there wouldn't have been women
10 present. I'd be very surprised.

11 Q Do you remember any women being present when you
12 attended?

13 MR. UNGER: Yes, I do.

14 Q Okay. Who?

15 MR. UNGER: The one that comes to mind certainly is Carolyn
16 Daley.

17 Q Deputy chief?

18 MR. UNGER: Yes. Deputy chief, a close colleague of mine and
19 on the executive committee with me. And if you
20 brought her here, she would tell an entirely
21 different story.

22 Q Oh, I'm sure she would. Do you remember any other
23 women in the company of the 320 besides Carolyn
24 Daley? Can you give me one more name? Just one.

25 MR. UNGER: I could -- I will give you some. I'm just

1 thinking.

2 Q All right.

3 MR. UNGER: Adua Porteous. She's an inspector with the
4 Vancouver Police.

5 Q Okay. We've got two.

6 MR. MCGUINNESS: If I could be allowed --

7 Q No. I'm asking Mr. Unger. You'll have your turn,
8 sir, either when I ask questions or other counsel.
9 Wouldn't you agree, sir, that if in the mid-1990s,
10 the period immediately preceding the terms -- the
11 scope of the terms of reference in this inquiry,
12 that women members of the Vancouver Police
13 Department -- we're talking the mid-1990s here.
14 We're not talking back in the forties. The
15 mid-1990s, if women members, constables,
16 sergeants, felt that they were excluded from these
17 annual affairs because of their gender, that would
18 have sexist ramifications within the workplace,
19 right?

20 MR. UNGER: The key word is if.

21 Q All right.

22 MR. UNGER: And I disagree with what you're saying.

23 Q All right. And let me put to you, again, if the
24 newspaper accounts are right and if, in fact, in
25 the 320 people present at these affairs -- in the

1 ranks of 320 people present only one or two were
2 women, let me put this proposition to you: That
3 would be evidence of a culture within the
4 Vancouver Police Department that would adversely
5 affect its investigations into the disappearances
6 of female sex trade workers from the Downtown
7 Eastside in two material respects. I'll give you
8 the first one. The disappearances were being
9 investigated, according to the evidence, by two
10 female members of the department: Field and
11 Shenher. If they felt that they were not equal to
12 the men in the department by virtue of being
13 excluded from annual social affairs like this,
14 then that would affect their ability to do their
15 work, right?

16 THE COMMISSIONER: Yes, Miss Christie?

17 MS. CHRISTIE: Good morning, Mr. Commissioner. Vanessa
18 Christie on behalf of Terry Blythe and John Unger.
19 The question has now been asked several times in
20 just very slightly different ways. And I
21 appreciate this is cross-examination and I don't
22 like to rise during it, frankly, and I appreciate
23 my friend has a job to do, but the if questions to
24 me, in my respectful submission, are not very
25 helpful when we have Mr. Unger giving direct

1 evidence about his experience at those dinners,
2 what he saw, who he saw, whether there were women
3 there and, frankly, then trying to stretch this
4 into if that happened at the dinners, then it
5 affected the investigation somehow a few years
6 later. I'm not sure how it helps the commission
7 in any respect. The other thing --

8 THE COMMISSIONER: Okay. I think -- I don't want to stop your
9 cross-examination, Mr. Ward, and I think I have
10 your point and I don't know if these witnesses can
11 help any more than they already have at this
12 stage, well, if that happened, and why don't you
13 get on to other areas here? And I'm interested in
14 the rest of your cross-examination. I'm well
15 aware of what Shenher said and the other witnesses
16 said, so -- all right.

17 Q Thank you. Thank you. If I may, Mr.
18 Commissioner, just a couple last questions that --
19 that I think are appropriate given the exchange.
20 If you read Exhibit BB, Lori Shenher's first
21 person written account of her work as a whole --
22 I'm not asking you to do it now, but if you read
23 it, it suggests to me that she encountered
24 problems in doing her work that arose simply from
25 the fact that she was a woman. Do you -- did you

1 see, either of you, any evidence that Lori
2 Shenher's gender as a woman created difficulties
3 in her getting the resources she needed to conduct
4 the investigation?

5 MR. MCGUINNESS: No, I did not.

6 Q All right. Mr. Unger?

7 MR. UNGER: No, I didn't.

8 Q Ms. Shenher also made statements and wrote in her
9 book -- it's been marked as Exhibit BB -- that
10 male members had an attitude that these women that
11 she was trying to investigate the disappearances
12 of were just hookers and that resources shouldn't
13 be devoted to following through with the case.
14 Did either of you see any evidence that that was
15 the case?

16 MR. MCGUINNESS: No, I did not and if I had, I would have dealt
17 with it.

18 MR. UNGER: No, I did not.

19 Q Now, moving on to my last subject given the time
20 allotted. You both testified to the effect
21 that -- and please correct me if I've got this
22 wrong -- that while you were in your positions in
23 senior management within the Vancouver Police
24 Department, you did not -- you were not aware of
25 the work that Shenher, Field, Chernoff, Lepine,

1 Alex Clarke, Dorothy Alford were doing in July of
2 '99 focused on Pickton, right?

3 MR. MCGUINNESS: That's correct.

4 Q Mr. Unger?

5 MR. UNGER: July of '99?

6 Q By 1999. By July, 1999?

7 MR. UNGER: No. I didn't know.

8 Q Mr. Unger, I didn't fully understand the evidence
9 you gave yesterday about your role in America's
10 Most Wanted and that may be my inattention. Can
11 you explain that again to me, please?

12 MR. UNGER: My role was very short. I appeared there as a
13 request from Deputy Chief McGuinness, who was
14 scheduled to go but had a medical situation, so he
15 asked me to go on his behalf as a favour to him.

16 Q Where did you go and when?

17 MR. UNGER: I believe it was just outside the media office on
18 that date in '99.

19 Q Mid-1999?

20 MR. UNGER: Whenever the date was. You have it there. If you
21 want to refer me to a document, I can tell you.

22 Q All right. I'm just trying to get where it was
23 you -- you participated in the broadcast. It was
24 in Vancouver?

25 MR. UNGER: Yes.

1 Q And it was at the time that they were collecting
2 the footage that was later aired?

3 MR. UNGER: Yes. It was in the media room.

4 Q Now, for you to appear on a television show that
5 was going to be aired throughout North America on
6 NBC television -- or no. Pardon me. I don't even
7 know if it was NBC. Anyway, John Walsh's
8 America's Most Wanted.

9 MR. UNGER: Yes.

10 Q You had to familiarize yourself with the file,
11 right?

12 MR. UNGER: I didn't look at any documents. I didn't look at
13 any file in particular. What I did is I had a
14 briefing from Brian McGuinness just prior to that
15 on the telephone, just a very brief statement as
16 to what he was going to say at the event.

17 Q You were called in by McGuinness to go on camera
18 on a show that would be broadcast across North
19 America relating to the missing -- Vancouver's
20 missing women investigation issue, correct?

21 MR. UNGER: I wasn't called in.

22 Q You were asked to participate on camera on a
23 widely disseminated American television show,
24 America's Most Wanted hosted by John Walsh, right?

25 MR. UNGER: Yes.

1 Q And you didn't want to look silly on national
2 American TV, of course, right?

3 MR. UNGER: That's true.

4 Q So you had to, I suggest, have gone to someone and
5 said, "Now, where did we stand on this?" It's
6 mid-1999 now. "Where do we stand on this? Have
7 we got any leads? Have we got any suspects?
8 What's the state of the file", right?

9 MR. UNGER: I had a telephone briefing from Brian McGuinness.

10 Q There's no notes?

11 MR. UNGER: No notes.

12 Q No notes. Mr. Rossmo testified at a civil trial
13 that you took notes of everything and -- and we
14 heard that from other witnesses here, but you have
15 no notes of that?

16 MR. UNGER: I have no notes of that.

17 Q And you've produced a few pages of notes, but you
18 have no notes showing that you made inquiries of
19 the investigators into the disappearances of the
20 missing women as to whether they had any leads or
21 suspects?

22 MR. UNGER: No. I didn't do that.

23 Q It wasn't important for your purposes in -- in
24 going on this television show?

25 MR. UNGER: It may have been important. Time was an issue. I

1 just received my information over the telephone
2 the morning of the event.

3 Q Now, you see, America's Most Wanted, I think,
4 aired at the end of July, 1999, early August, and
5 we heard from Miss Field, based on her notes, her
6 own notes entered as part of Exhibit 152, that on
7 the 3rd of August, 1999, she, Lori Shenher, Fred
8 Biddlecombe, Ron Lepine, Mark Chernoff, all of the
9 VPD, Mike Connor, Earl Moulton, Kathy Robertson,
10 Don Rinn, Doug Henderson and Nels Justason, all of
11 the RCMP, met for the sole purpose of discussing
12 how they were going to work on pursuing the
13 suspect Robert William Pickton. That's the
14 evidence we've heard. Fair? You understand that,
15 both of you? That's what we've heard?

16 MR. MCGUINNESS: Yes.

17 Q Are you both telling us that as of August the 3rd,
18 1999, you were unaware of your department's
19 members' interactions with the RCMP that were
20 focused on pursuing Robert William Pickton as the
21 suspect in the disappearances of the Downtown
22 Eastside sex trade workers?

23 MR. UNGER: I was in another division at that time. I had no
24 knowledge.

25 Q You were in another division, so you were unaware

1 what they were doing; is that it?

2 MR. UNGER: Yes.

3 Q All right. And you, Mr. --

4 MR. McGUINNESS: And I had no knowledge of Mr. Pickton.

5 Q All right. I put it to you again that you both
6 knew of your department's members' interest in
7 Robert William Pickton in July of 1999 and that
8 you have, in order to save face and save your own
9 reputations, disavowed that knowledge in your
10 testimony here today, agree?

11 MR. McGUINNESS: That's not correct.

12 MR. UNGER: I disagree with you.

13 Q All right. I'm going to take you to Exhibit -- or
14 Tab -- pardon me.

15 MR. McGUINNESS: I'm sorry. Could you repeat that?

16 Q Yes, I will.

17 MR. McGUINNESS: Thank you.

18 Q I ask the questions.

19 MR. McGUINNESS: You're taking me to a tab. I didn't hear
20 which tab.

21 Q I haven't got to it yet.

22 THE COMMISSIONER: He just wants to know where you're going
23 with the exhibit so he can familiarize himself.

24 MR. WARD: I'm certainly going to provide it. He's -- anyway,
25 I'm not going to comment on his demeanour.

1 Exhibit 1 --

2 MR. DELBIGIO: That's uncalled for. That kind of a remark is
3 uncalled for by Mr. Ward.

4 THE COMMISSIONER: I agree.

5 MR. WARD: I'll comment on demeanour in my final submissions.

6 THE COMMISSIONER: Exhibit?

7 MR. WARD: 158 NR, Tab 59. I believe that exhibit is in front
8 of you. Mr. Registrar, Exhibit 158 NR, Tab 59.

9 MR. MCGUINNESS: Thank you.

10 Q And this is for you, Mr. Unger. This was brought
11 to your attention by your counsel yesterday and I
12 have a few follow-up questions on it. This is
13 your -- a copy of your memorandum to Inspector
14 Beach of April 3rd, 2002 after the Pickton farm
15 had been searched, after you realized, as set out
16 in this memorandum, that there would be an
17 inevitable review of your police department's
18 actions on the file. Are you with me? Do you
19 agree?

20 MR. UNGER: Yes.

21 Q All right. You said that a number of things
22 should be preserved and you provided a specific
23 list of things over on page 2. Do you see that?

24 MR. UNGER: Yes.

25 Q And ultimately you know that Doug LePard was

1 tasked with producing an internal report
2 explaining how the department handled the file,
3 right?

4 MR. UNGER: Yes.

5 Q And he engaged the assistance of Constable -- or
6 Sergeant -- I forget which -- Darcy Sarra to
7 accumulate the documents required for his report
8 that would explain the department's actions,
9 right?

10 MR. UNGER: I didn't know who he engaged.

11 Q All right. In any event, you listed eight things
12 that -- that should be secured, right?

13 MR. UNGER: Yes.

14 Q Now, I'm going to suggest that notable by their
15 absence on your list in this memo of April, 2002
16 are collecting the e-mails, internal office
17 e-mails that would then have been in existence
18 respecting the investigations and, in particular,
19 Lori Shenher's regular e-mail updates to all
20 members telling them the progress she was making
21 in the investigation. Agree? No reference to
22 e-mails?

23 MR. UNGER: What's the question?

24 Q I agree -- or okay. I'll start it again. It's my
25 fault. I worded it poorly. You didn't ask Beach

1 to ensure that e-mails were preserved in this
2 list, agree?

3 THE COMMISSIONER: Don't answer that. Yes? What's the
4 objection?

5 MS. CHRISTIE: Mr. Commissioner, if you look at the letter,
6 this April 3rd -- sorry. Not letter -- memo, in
7 fairness to Mr. Unger, the line right before the
8 list of items on the previous page says: "These
9 steps should include but not be restricted to."
10 So this is not necessarily a -- we're just reading
11 the document. I mean obviously Mr. Unger can
12 answer for himself with respect to what he meant
13 by it, but I just point out that that is on the
14 document right before this list.

15 THE COMMISSIONER: All right. That's a fair --

16 MS. CHRISTIE: Thank you.

17 MR. WARD:

18 Q Certainly. And my point here is, sir, in your
19 list of eight specific items, aside from the
20 generality of the preambles, you did not include
21 e-mails?

22 MR. UNGER: No. I think that's indicative of the technology
23 that was available to us at that particular time
24 because e-mails -- not everyone had access to that
25 on a regular basis. It wasn't used anywhere near

1 like it is today and many people, including
2 myself, were not that computer savvy at that time.

3 Q Sir, I only have three minutes left. I could --
4 if I had more time, I could take you to the
5 records here and show you interdepartmental
6 e-mails going back to '99. We have some.

7 MR. UNGER: Yes. There's some.

8 Q All right. But you didn't -- my point simply is
9 you didn't specifically request that e-mails be
10 preserved in your memo of April, 2002, did you?

11 MR. UNGER: No.

12 Q Thank you. And you didn't specifically request
13 that the communications back and forth between the
14 Media Unit and the chief constable's office
15 respecting all those media articles that I drew
16 your attention to yesterday be preserved, did you?
17 Now, in fairness, you said that the chief
18 constable's files should be preserved, but you
19 didn't make reference to the Media Unit's work,
20 did you?

21 MR. UNGER: Well, the media documents are not factual
22 information and, in fact, often there's no basis
23 for -- or very little basis for what's written in
24 there, so I wouldn't have included that. But,
25 secondly, if you look at number 3, it says:

1 Any reports and documents related to these
2 time lines be located and preserved.

3 Certainly that would include e-mails or any other
4 documents that you could think of.

5 Q Well, here's the question: You were responsible
6 for this memo. I've been reviewing hundreds of
7 thousands of pages of documents. Yesterday you
8 agreed that in the ordinary course, someone in the
9 Media Relations Unit, employed full time there
10 with a substantial budget would have gleaned from
11 the daily news coverage items of interest in the
12 department, passed them to the office, perhaps
13 with the chief constable's office, perhaps with
14 comments and perhaps receive direction back,
15 correct?

16 MR. UNGER: Usually those conferences, as I've mentioned
17 before, usually they were done face to face and
18 there was no correspondence back and forth between
19 the media and the chief's office.

20 Q All right. Well, the transcript shows what you
21 said yesterday. My point is this: Only Hardie
22 can tell us what became -- Hardie or Drennan can
23 tell us what became of the communications in
24 writing, if any, that went back and forth between
25 the Media Unit and the chief constable's office

1 respecting all those newspaper articles about the
2 missing women case, fair? You can't explain?

3 MR. UNGER: Sorry. What's the question? I don't know what the
4 question is.

5 Q Someone in the Media Relations Unit like Hardie or
6 Drennan could explain the nature of the
7 communications respecting all those front page and
8 other news stories that I referred to yesterday?

9 MR. UNGER: Yes.

10 Q And could explain what became of any written
11 communications respecting those matters, right?

12 MR. UNGER: Yes. I believe so.

13 Q The bottom line here, sir, is, I suggest, you and
14 your senior management colleagues, including
15 LePard, had about nine years to come up with a
16 strategy for the inevitable public review and your
17 strategy in part was to distance yourselves as
18 senior managers from the knowledge members of your
19 department had of Pickton's likely role as the
20 perpetrator of the crimes, agree?

21 MR. UNGER: No. I disagree. And I can only speak for myself,
22 but I think this memo is proof that I did the
23 exact opposite of what you're suggesting, Mr.
24 Ward.

25 Q I suggest -- I want to give you an opportunity to

1 address this. I suggest that you through your
2 direction and LePard and Sarra, with your
3 knowledge, collected only those documents that
4 would support your defence as managers that you
5 knew nothing about the members' focus on Pickton
6 as a suspect in the relevant time. Do you agree?

7 MR. UNGER: No. I disagree.

8 Q All right. I suggest that you senior managers,
9 including LePard, wanted to preserve your
10 reputations, save -- save face, cover yourselves,
11 and you spent the nine-year period leading up to
12 this inquiry making sure that there was no paper
13 trail that would connect you with knowledge of the
14 Pickton investigation, agree?

15 MR. UNGER: No. I disagree.

16 Q All right. I suggest to you that your strategy
17 included leaving two female members of the
18 department, Shenher and Field, the principal
19 investigators who worked so hard on Pickton, who
20 have testified they shouted loudly for help and
21 support, out to dry, agree?

22 MR. UNGER: No. I disagree.

23 Q Thank you. Those are my questions.

24 THE COMMISSIONER: Thank you.

25 MR. DELBIGIO: Mr. Commissioner, DelBigio for Brian McGuinness.

1 I'm going to -- my submission is that I'm going to
2 invite the commission to request that Mr. Ward
3 apologize to my client for incivility. My client
4 wears hearing aids. Mr. Ward knows that. My
5 client thought that Mr. Ward had asked him a
6 question and my client asked for clarification of
7 that. Mr. Ward's response was: "I ask the
8 questions." It was perfectly clear that my
9 client, who wears hearing aids, simply did not
10 hear and Mr. Ward's response was simply
11 disrespectful and not part of the
12 cross-examination, and I submit this is a
13 circumstance where he should simply apologize.

14 THE COMMISSIONER: I'm not going to order anybody to apologize,
15 but I have your point. I understand the quandary
16 that Mr. McGuinness was in and that was that he
17 simply didn't hear the question and I -- and I
18 think that this could have been handled
19 differently.

20 MR. WARD: Mr. Commissioner, I actually didn't -- I didn't
21 notice, until my friend Mr. DelBigio mentioned it,
22 that his client had any hearing impairment. I --
23 I do apologize for not recognizing that fact and
24 for perhaps misinterpreting the exchange we had,
25 but there were several occasions when the witness

1 asked me questions and I was getting a little bit
2 concerned about that. And I may have in my
3 enthusiasm made a comment that I shouldn't have
4 and I apologize for that.

5 THE COMMISSIONER: I just want to remind counsel that, you
6 know, we are, of course, examining the -- perhaps
7 the worst criminal tragedy in Canadian history --
8 well, we are, not perhaps -- and horrific crimes
9 taking place and that necessarily means that we're
10 examining issues here that are volatile, driven by
11 emotion. That's understandable. They're horrific
12 tragedies that took place here. And I've let
13 counsel vigorously cross-examine witnesses who
14 have come here, but at the same time every witness
15 who comes here needs to be treated with respect.
16 And I believe that all witnesses who come here
17 have done their best. It may be that -- you know,
18 that at the end of the day I might have to draw
19 some adverse inferences, but that's a part of the
20 process that we -- we go through. And I -- I just
21 want people to know that we -- we need to treat
22 everybody with respect. We're all -- you know, I
23 allow lawyers to be professionals and I expect
24 everybody to treat people with courtesy.

25 MR. DELBIGIO: I do thank my friend. I thought that he was

1 aware that my client wore hearings aids. Thank
2 you.

3 THE COMMISSIONER: Thank you. Mr. Hern?

4 MR. HERN: Just before we go on, I wanted to make a comment
5 about Sergeant Dragani. Mr. Ward asked a
6 question -- neither of these witnesses had any
7 information about this, but he asked a question
8 that was posed as to whether Mr. Dragani joined
9 the Missing Persons Unit in October, '99 and he
10 referenced a newspaper article to that effect, and
11 my understanding is that -- is that that's not
12 correct and that Dragani came in as a sergeant.
13 He came out of Financial Crime, came in as a
14 sergeant in 2003, and so if commission counsel or
15 Mr. Ward want evidence about that -- and he was
16 saying, well, I don't have a chance to ask any VPD
17 officers. I'm certainly happy to facilitate
18 getting that evidence before the commission if you
19 think it's relevant.

20 THE COMMISSIONER: All right. Thank you. Mr. Roberts?

21 MR. ROBERTS: Thank you, Mr. Commissioner. On a quite separate
22 matter, while Mr. Ward is still here, I wanted to
23 take just one moment of your time to address the
24 schedule which is coming up next week with respect
25 to Mr. Hiscox because I understand that my learned

1 friend Mr. Ward is not pressing any further to
2 have the Hiscox affidavit filed. And I'm relieved
3 about that because otherwise I had a submission
4 that it shouldn't be received. It's 14 years
5 since the officers were dealing with Mr. Hiscox
6 and I think it's potentially prejudicial to have a
7 look at the issue of the credibility of Hiscox 14
8 years later. That's not what the essence of this
9 inquiry is all about. And so I'm -- and I think
10 I'm supported in this by commission counsel. I'm
11 asking that that affidavit not be filed. It's now
12 filed, I think, as an exhibit for identification
13 and in my submission it's not sufficiently
14 relevant to form part of the record here.

15 THE COMMISSIONER: All right. Thank you.

16 MR. VERTLIEB: I understand from Mr. Roberts that Mr. Ward and
17 Mr. Gratl share his view and do not want the
18 evidence called and from my discussions with
19 others there's no objection to that.

20 THE COMMISSIONER: All right. Thank you.

21 MR. VERTLIEB: I take it from what -- from the silence now on
22 the point that that document then will not be
23 proceeded with and we will not be attempting to
24 have that marked as an exhibit.

25 THE COMMISSIONER: All right.

1 MR. VERTLIEB: Thank you, Mr. Roberts, for that clarification.

2 THE COMMISSIONER: Mr. Gratl.

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

4 Q Yes, Mr. Commissioner. Witnesses, my name is
5 Jason Gratl. I am independent counsel for
6 Downtown Eastside interests, especially the
7 interests of sex workers and drug users. I am
8 attempting to represent their interests and
9 perspectives at this inquiry.

10 Mr. Commissioner, I propose to refer to
11 Exhibits 145 and 146.

12 THE COMMISSIONER: All right. Thank you.

13 MR. GRATL: I have transcripts of previous interviews with
14 these witnesses to provide to them and with your
15 leave I'll approach them to drop those documents
16 off. And I have two packages of documents, one
17 package for Mr. McGuinness and one for Mr. Unger.

18 THE COMMISSIONER: All right.

19 MR. GRATL: And I'll just --

20 MR. MCGUINNESS: Thank you, sir.

21 MR. UNGER: Thank you.

22 MR. GRATL:

23 Q Now, my first set of questions is for Mr.
24 McGuinness. And I'm going to be asking, unless I
25 say otherwise, that just Mr. McGuinness respond to

1 these questions. Unless I say otherwise, I'm
2 asking that just Mr. McGuinness respond to these
3 questions and then, Mr. Unger, I'll ask a series
4 of questions for you later.

5 MR. UNGER: Okay.

6 Q The first set of questions -- and I wonder, Mr.
7 Giles, if the witness could be presented with
8 Exhibit 145.

9 THE REGISTRAR: They have it.

10 MR. MCGUINNESS: I have it here.

11 Q Now, what I can advise is that the documents in
12 Exhibit 145 -- we've canvassed this with other
13 witnesses and I don't want to go through them in
14 too much detail, but they contain records of other
15 programs run by the Vancouver Police Department
16 dealing with sex workers and drug users. The
17 reason I'm putting them to you is to establish
18 that the Vancouver Police Department had a lot of
19 resources to dispose of and they disposed of them
20 by policing -- that is in various different ways
21 policing sex workers and drug users. And I'll
22 just go through some of the programs with you to
23 see if you recall those programs. Is that all
24 right, Mr. McGuinness?

25 MR. MCGUINNESS: That's fine.

1 Q And I'm happy to take you to the documents to
2 refresh your recollection if need be, but I'm
3 hoping not to have to. Okay. So here are these
4 programs. I take it you remember that there was a
5 petition with 3,000 signatures dealing with sex
6 workers?

7 MR. MCGUINNESS: I don't have any real recall of that, no.

8 Q Do you remember there was a lot of community
9 pressure?

10 MR. MCGUINNESS: I know there was a lot of community pressure
11 regarding street workers.

12 Q That is -- these were merchants groups and
13 neighbourhood groups didn't want sex workers
14 around them?

15 MR. MCGUINNESS: That's correct.

16 Q And even the industrial property owners didn't
17 want sex workers working during the day?

18 MR. MCGUINNESS: That's correct.

19 Q And, of course, the Vancouver Police Department
20 was responsive to those community concerns?

21 MR. MCGUINNESS: That's correct.

22 Q And I'll just go through a number of ways in which
23 the department was responsive. Traffic
24 enforcement was used --

25 MR. MCGUINNESS: Yes.

1 Q -- to address sex workers, Dear John letters?

2 MR. McGUINNESS: That's correct.

3 Q Now, there was an extended safety program put into
4 place for a time?

5 MR. McGUINNESS: Yes.

6 Q There were checks of sex workers, asking them
7 questions about their HIV status and whether they
8 used intravenous drugs?

9 MR. McGUINNESS: I can't -- possibly, yes.

10 Q Okay. And so there were citizen patrols --

11 MR. McGUINNESS: Yes.

12 Q -- that were supported and trained in part by the
13 Vancouver Police Department?

14 MR. McGUINNESS: To deal specifically with street workers?

15 Q Yes. Correct.

16 MR. McGUINNESS: Not to my knowledge, no.

17 Q All right. There were police patrols?

18 MR. McGUINNESS: Police patrols, yes.

19 Q There was a DISC program which --

20 MR. McGUINNESS: Yes.

21 Q That included taking photographs of sex workers?

22 MR. McGUINNESS: I believe so, yes.

23 Q All right. And there was a Court Watch program
24 where citizens were encouraged to take note of
25 what happened in courtrooms?

1 MR. McGUINNESS: That wasn't driven by the police department.

2 Q All right. I'm asking you to turn to page 73 of
3 Exhibit 145.

4 MR. McGUINNESS: Yes.

5 Q You'll see it's a City of Vancouver *Backgrounder*
6 and at the bottom you can see a notation "Court
7 Watch".

8 Residents can attend the court dates of pimps
9 or johns to ensure our community presence in
10 the courtroom and remind judges of the impact
11 prostitution has on the community.

12 MR. McGUINNESS: Yes. I see that.

13 Q All right. Then there was a Provincial
14 Prostitution Unit with dedicated officers?

15 MR. McGUINNESS: That's correct. But that -- that initiative,
16 the Court Watch initiative, was driven by
17 community policing offices through their own
18 initiatives.

19 Q Sure. And part of what the community policing
20 office did was they were supported by volunteers?

21 MR. McGUINNESS: That's correct.

22 Q And they were also structured by the Vancouver
23 Police Department?

24 MR. McGUINNESS: They would say no. They would say they ran
25 themselves.

1 Q Okay. The officers were appointed to liaise
2 with --

3 MR. McGUINNESS: To liaise with them, yes.

4 Q And funding was provided by the Vancouver Police?

5 MR. McGUINNESS: By the City of Vancouver, I believe.

6 Q Vancouver Police produced literature to assist
7 those officers and gave them advice?

8 MR. McGUINNESS: That's correct.

9 Q But the Provincial Prostitution Unit was staffed
10 in part by Vancouver Police officers?

11 MR. McGUINNESS: Yes. I believe there were VPD members.

12 Q Now, there was also the use of no go area
13 restrictions for conditions of release and bail
14 conditions?

15 MR. McGUINNESS: I believe so, yes.

16 Q And then there was a Downtown Eastside
17 Extraordinary Policing program?

18 MR. McGUINNESS: Yes.

19 Q That was targeted at street disorder generally?

20 MR. McGUINNESS: Yes.

21 Q Which would have primarily included drug users and
22 drug transactions and drug dealers, especially if
23 open --

24 MR. McGUINNESS: Yes. And all sorts of open street disorder,
25 drunkenness, fights.

1 Q And, of course, sex work, public sex work?

2 MR. McGUINNESS: That's correct.

3 Q Okay. And now there were 40 officers dedicated to
4 the extraordinary policing program?

5 MR. McGUINNESS: Yes. I believe so.

6 Q It ran for a period of three years with a budget
7 of \$3.154 million?

8 MR. McGUINNESS: I'm not sure what the budget -- I believe that
9 it was referred to as DEEP and the Downtown
10 Eastside Extraordinary Policing Team and that came
11 under the Operations Division, but I'm not sure
12 what the budget was.

13 Q All right. I'll just ask you to turn to page 146
14 of Exhibit 146.

15 THE COMMISSIONER: What page?

16 Q 146 of Exhibit 146. You see the total budget
17 3.154 million?

18 MR. McGUINNESS: Yes.

19 Q Does that refresh your recollection or you're
20 just -- you're not disagreeing with that document?

21 MR. McGUINNESS: I'm not disagreeing with it, no.

22 Q Now, do you recall that in 1999 there was a
23 surplus of \$172,000 for that program?

24 MR. McGUINNESS: No, I'm not.

25 Q Okay. And how about you, Mr. Unger? Do you

1 remember there was a surplus of \$173,000?

2 MR. UNGER: I don't have any knowledge of that. I'm sorry. If
3 I could look at the document here.

4 Q All right. If we can then turn to page 185 of the
5 same exhibit. And you'll see there it's a
6 conclusion of a report for 1999.

7 We have just been able to determine that our
8 1999 budget surplus for DEEP is \$172,000.

9 MR. UNGER: Yes. It appears that way, yes.

10 Q And you can see that it's signed there by a number
11 of people, including yourself, Mr. Unger?

12 MR. UNGER: Yes.

13 Q Then to return to -- and in the year 2000 there
14 was a surplus as well. Do you recall that?

15 MR. UNGER: I don't recall. You'd have to point me to --

16 Q At page 197. You see that first line:

17 DEEP budget surplus salary funds in the 2000
18 operating budget which will be carried into
19 2001. Some of the surplus has been used for
20 undercover drug operations and high
21 visibility policing focused on enforcement in
22 public order restoration of the Downtown
23 Eastside.

24 You see that, Mr. Unger?

25 MR. UNGER: Yes. I don't think I've seen this particular one

1 before.

2 Q It's a document signed by Ken Doern, then
3 Inspector Doern?

4 MR. UNGER: Yes.

5 Q But I take it you don't have any information to
6 disagree with that, the fact that they made a
7 surplus in 2000 for DEEP --

8 MR. UNGER: No. There may have been.

9 Q Pardon me?

10 MR. UNGER: There may have been, yes.

11 Q There may have been a surplus?

12 MR. UNGER: Yes.

13 Q And you'll agree with me that most of the people
14 who were arrested under this DEEP program were
15 addicts?

16 MR. UNGER: I don't recall that.

17 Q All right. If you could turn to 194, please, of
18 the same document. This is page 3 of that same
19 year 2004. It says:

20 Many of the traffickers that the police
21 encounter are addict traffickers. We have
22 few options available for arrested addicts.
23 There's definitely a large gap in the range
24 of support or treatment options.

25 MR. MCGUINNESS: Yes. I see that.

1 Q And then it goes on to say:

2 Since January of 2007 over 700 charges of
3 trafficking in heroin and cocaine in the
4 Downtown Eastside have been investigated and
5 processed in the courts by police.

6 Correct?

7 MR. MCGUINNESS: Yes.

8 Q The majority of those, according to the previous
9 paragraph, were in respect of people who were
10 addicted to these substances?

11 MR. UNGER: Very likely.

12 Q Well, that's what it says?

13 MR. MCGUINNESS: Yes. I see that.

14 Q Okay. I heard evidence from both of you
15 yesterday, Mr. McGuinness, that there were very
16 few resources available for missing persons
17 investigations and serial killer investigations?

18 MR. MCGUINNESS: That's correct.

19 Q I'm putting it to you that there were available
20 resources, but that the resources were deployed
21 elsewhere, including in the programs we just
22 enumerated?

23 MR. MCGUINNESS: But that's the case in policing. There's
24 multiple things that we're responsible for and we
25 have to address.

1 Q Sure. But what I'm suggesting is that you were
2 faced with a choice where you could either
3 prosecute drug addicted people and sex workers or
4 you could spend the same resources protecting them
5 from a potential serial killer and you made your
6 choices?

7 MR. McGUINNESS: I'm sorry. I don't understand. How did we
8 not protect them? Because we didn't find them
9 or -- I'm sorry.

10 Q I'm asking you about the devotion of resources.

11 MR. McGUINNESS: That is correct. Yes.

12 Q You had a choice between devoting the resources to
13 prosecuting drug addicted people and sex workers
14 and, alternatively, devoting money to catching
15 predators who were preying on those very same
16 people and you made your choices?

17 MR. McGUINNESS: We had people dedicated to trying to find out
18 what happened to the missing women and at the time
19 we didn't have anything to direct the resources
20 at.

21 Q Do you accept that you made responsibility for
22 these choices?

23 MR. McGUINNESS: Myself personally?

24 Q Yes. That you were responsible. You contributed
25 to these choices?

1 MR. MCGUINNESS: I had nothing to do with the Downtown Eastside
2 Enforcement Team.

3 Q Did you have anything to do with any of these
4 programs?

5 MR. MCGUINNESS: I had something to do with the Provincial
6 Prostitution program and the DISC program.

7 Q You were part of the senior management team during
8 these years when these programs were in effect?

9 MR. MCGUINNESS: That's correct.

10 Q And you were part of the senior management team
11 when the resources or the lack of resources were
12 devoted to missing persons?

13 MR. MCGUINNESS: That's correct.

14 Q And you accept responsibility for the choices made
15 by the senior management team?

16 MR. MCGUINNESS: Yes. I'll have to. I was a senior manager.

17 Q You contributed to those?

18 MR. MCGUINNESS: That's correct.

19 Q And you accept responsibility for the --

20 MR. MCGUINNESS: Yes, I do. Yes.

21 Q -- for the fallout of those decisions?

22 MR. MCGUINNESS: I'm not sure what you're wanting me to accept.
23 You know, I'm devastated that the missing women
24 weren't found. I'm devastated that Willie Pickton
25 wasn't arrested, so -- before he killed women or

1 killed more women. And, you know, the decisions
2 that were made in those days were based on what
3 was happening at that time.

4 Q What I'm getting at, what I'm driving at, Mr.
5 McGuinness, is that a lot of resources went into
6 attacks on sex workers and drug users. Don't you
7 agree in hindsight?

8 MR. MCGUINNESS: I don't know if you mean attacks. At that
9 time -- you know, our mandate at that time was to
10 deal with street prostitution, soliciting.

11 Q And by deal with you mean arrest the women, use
12 traffic bylaws to jam them up?

13 MR. MCGUINNESS: That was the strategies, yes.

14 Q Use patrol cars to make their lives more
15 difficult?

16 MR. MCGUINNESS: That's correct.

17 Q Move them to industrial areas? You knew about all
18 of these things happening?

19 MR. MCGUINNESS: That's what was happening in that day, yes.

20 Q So the resources went into making their lives more
21 difficult and marginalizing them out of the places
22 where more legitimate forms of community --

23 MR. MCGUINNESS: Some of those resources did, yes.

24 Q All right. So what I'm suggesting to you is there
25 were resources available to devote to missing

1 persons and to the safety of sex workers --

2 MR. McGUINNESS: The Missing Persons Task Force was resource.

3 Q I'm suggesting there were more resources than were
4 devoted --

5 MR. McGUINNESS: If they needed more resources --

6 Q Please let --

7 MR. McGUINNESS: If they needed more resources, they would have
8 got them. Any time they needed help, they would
9 get help from the Major Crime Section, the
10 detectives in the Homicide Unit, from the Strike
11 Force Units, from anybody that they needed that
12 help. They weren't denied that help.

13 Q I'm just asking you if you could, sir, please
14 listen to the conclusion of the question.

15 MR. McGUINNESS: Sorry.

16 Q I'm saying there were more resources than actually
17 were devoted, could have been made available.
18 They were just devoted elsewhere?

19 MR. McGUINNESS: If it was an identified need, yes. If they
20 had identified what they needed over and above
21 what they were getting, yes.

22 Q All right. Now, turning, then, to a different
23 topic. I take it that you were described as a
24 micro manager by various people?

25 MR. McGUINNESS: That is correct, yes.

1 Q While you were deputy chief, you would walk around
2 the detachment?

3 MR. McGUINNESS: We don't call them the detachment, but I'd
4 walk around the office. That's correct.

5 Q You'd walk around the office talking to people?

6 MR. McGUINNESS: Correct.

7 Q Talking to investigators?

8 MR. McGUINNESS: I'm sorry?

9 Q Talking to investigators?

10 MR. McGUINNESS: Yes. Correct.

11 Q You would go into the Missing Persons room?

12 MR. McGUINNESS: Yes.

13 Q This windowless office?

14 MR. McGUINNESS: Yes.

15 Q And you'd talk to the people who were there?

16 MR. McGUINNESS: That's correct.

17 Q Including, of course, Ms. Shenher?

18 MR. McGUINNESS: Yes. Correct.

19 Q Detective Constable Shenher. And you'd ask how
20 she was doing and ask how things were going?

21 MR. McGUINNESS: That's correct.

22 Q Now, aside from that, you would have been briefed
23 every single day of your working week?

24 MR. McGUINNESS: That's correct.

25 Q By people who reported to you?

1 MR. MCGUINNESS: Correct.

2 Q Okay. So you had multiple sources of information.
3 You had the chain of command, but you -- and this
4 is, I think, what was meant by micro manager. You
5 also abridged the chain of command by talking
6 directly to frontline investigators on an ongoing
7 basis?

8 MR. MCGUINNESS: I don't think I was abridging command. I was
9 just talking to people in my division. I wasn't
10 making any decision or giving them any direction.

11 Q You were obtaining information, correct?

12 MR. MCGUINNESS: That's correct.

13 Q And that information could be -- you were
14 obtaining information directly from frontline
15 officers?

16 MR. MCGUINNESS: And if I ever obtained information that had to
17 do with their chain of command or direction, I
18 would speak to their managers and to them about
19 that information. I wouldn't give the direction
20 directly myself.

21 Q Fair enough. Fair enough. And I'm not suggesting
22 that you did. What I'm suggesting is that you
23 used the information in your decision-making
24 process?

25 MR. MCGUINNESS: Sometimes, yes.

1 Q So usually in the chain of command the ranks are a
2 form of filter of information so that only the
3 more important information is brought to a higher
4 rank?

5 MR. McGUINNESS: Sometimes, yes.

6 Q But you had better access than that usual chain of
7 command because you would go to the frontline
8 workers and find out some details about what was
9 happening in various investigations, including the
10 missing persons investigation?

11 MR. McGUINNESS: Sometimes I would get information, yes.

12 Q Including the missing persons investigation?

13 MR. McGUINNESS: Yes.

14 Q And, in particular, you spoke to Lori Shenher and
15 you formed the opinion that she had her teeth in
16 the investigation?

17 MR. McGUINNESS: That she had what?

18 Q Her teeth in the investigation?

19 MR. McGUINNESS: That's correct, yes.

20 Q She told you that she had driven out to Coquitlam,
21 to the farm, and didn't see anything?

22 MR. McGUINNESS: Yes. That's correct.

23 Q And she thought that the -- that the Port
24 Coquitlam target was a very good target?

25 MR. McGUINNESS: She didn't mention a name. She just talked

1 about the farm.

2 Q Okay. But this -- the farm target was a very good
3 target in her view?

4 MR. McGUINNESS: In her view, yes.

5 Q And she had received information about a meat
6 grinder?

7 MR. McGUINNESS: About a -- yes. That's correct. Yes.

8 Q And you knew that at or around the time that she
9 had gone out to the farm?

10 MR. McGUINNESS: That's correct. Yes.

11 Q That was as a result of your information obtained
12 outside of the chain of command?

13 MR. McGUINNESS: And then I did speak to her subsequent to that
14 and she said that nothing panned out in regards to
15 the information she had.

16 Q Okay. And then there was also a Project Amelia
17 that was --

18 MR. McGUINNESS: I had no information about Project Amelia.

19 Q Okay. But I guess everybody knew about the
20 missing persons investigation, correct?

21 MR. McGUINNESS: I'm sure, yes.

22 Q I mean you -- you'll agree that if anybody didn't
23 know about the missing persons investigation, they
24 would have had to have their head in the sand?

25 MR. McGUINNESS: That's correct.

1 Q I think that's a term you've used previously?

2 MR. McGUINNESS: Yes.

3 Q Now, shortly after Ms. -- Detective Constable
4 Shenher went to the Missing Person group, she
5 liaised with Inspector -- Detective Inspector
6 Rossmo?

7 MR. McGUINNESS: She could have, yes.

8 Q You knew that because Rossmo came to you for
9 support for his working group idea?

10 MR. McGUINNESS: Yes, he did. Yes.

11 Q And you supported initially Rossmo's working group
12 idea?

13 MR. McGUINNESS: That's correct.

14 Q And the working group idea was this
15 interdisciplinary group --

16 MR. McGUINNESS: Correct.

17 Q -- with frontline investigators, some senior
18 managers, some RCMP profilers and, of course, the
19 Geographic Profiling Section?

20 MR. McGUINNESS: Correct.

21 Q The purpose was to ascertain whether there was a
22 serial killer?

23 MR. McGUINNESS: I can't recall what the exact outline or the
24 purpose was.

25 Q Okay. I take it that you -- that you wrote a memo

1 to Mr. Biddlecombe, to Inspector Biddlecomb; is
2 that correct?

3 MR. McGUINNESS: In -- on what topic?

4 Q On the topic of the working group.

5 MR. McGUINNESS: Can you direct me to the memo, please?

6 Q I can. And so I'll ask you to go to the
7 transcript of your interview with Deputy Chief
8 Evans at page 13.

9 MR. McGUINNESS: Page? I'm sorry.

10 Q 13, 1-3.

11 MR. McGUINNESS: I have that page, yes.

12 Q There you indicate that you felt that Mr. Rossmo
13 felt that he wasn't getting support for his
14 opinions about the missing women?

15 MR. McGUINNESS: Yes. I believe I got an e-mail from Detective
16 Inspector Rossmo saying that he had asked for some
17 information so that he could do his profiling and
18 he hadn't received it. And I believe I sent an
19 e-mail then to Inspector Fred Biddlecombe and told
20 him to get the information that Detective
21 Inspector Rossmo needed as soon as possible.

22 Q All right. What I'm suggesting is there was an
23 earlier e-mail or an earlier memo written by you
24 to Fred Biddlecombe, Inspector Biddlecombe,
25 indicating that he will use Detective Inspector

1 Rossmo in the Geographic Profiling Section --

2 MR. McGUINNESS: That's correct.

3 Q -- in the investigation of the missing women?

4 MR. McGUINNESS: That's correct.

5 Q That is in the context of a working group?

6 MR. McGUINNESS: That is correct.

7 Q Okay. Now, I take it you'll agree that the
8 dissolution of the working group went beyond
9 personalities and dealt with other factors. It
10 wasn't just Rossmo and Biddlecombe don't get
11 along?

12 MR. McGUINNESS: What I was -- the reason I was told the
13 working group was broken up is by Fred
14 Biddlecombe. He told me that at the meeting they
15 had decided that District 2, where a lot of the
16 women were missing from, would do their work and
17 forward it to the Major Crime Squad and the Major
18 Crime Squad under Fred Biddlecombe would work on
19 their side of it. That was the reason I was told
20 the working group wasn't going ahead.

21 Q Okay. Do you agree with me that -- that the
22 working group dissolved because of the historical
23 nature of policing?

24 MR. McGUINNESS: In what regard?

25 Q Well, for lack of a better word the old boys

1 network?

2 MR. McGUINNESS: I can't give you any evidence in regards to
3 that.

4 Q All right. Well, I'll ask you to turn to page 21
5 of your interview with Deputy Chief Evans, please.
6 At line 21 Deputy Chief Evans asks you:

7 Okay. There seems to be quite a personality
8 issue going on with Inspector Rossmo that I
9 see. Did you feel that that impacted on the
10 way investigations were conducted?

11 And you say:

12 Personally, yes.

13 MR. McGUINNESS: Yes. That's correct.

14 Q And then over the page you say -- Deputy Chief
15 Evans asked you:

16 And did you ever have the opportunity as the
17 DC to sit down with these gentlemen to try to
18 resolve these personality issues?

19 And your response is:

20 I believe that I tried to reason with the
21 individuals, but I believe that -- and,
22 again, you will have to ask the
23 individuals what was the bee in your bonnet,
24 but I believe that -- that it was -- it went
25 beyond the fact of personalities.

1 And I'll stop there and I'll ask -- I'll ask you
2 now, was that accurate what you told Detective --
3 MR. McGUINNESS: When I said it went beyond the fact of
4 personalities, I think there was some animosity in
5 the department over Detective Inspector Rossmo
6 obtaining the position of inspector without going
7 through the system.

8 Q Yes. Fair enough. All right. So you've got two
9 of your subordinates, people who answer to you,
10 with a personality conflict?

11 MR. McGUINNESS: That's correct.

12 Q Making it difficult for them to work together?

13 MR. McGUINNESS: That's correct.

14 Q Now, did you sit down with Deputy -- Detective
15 Inspector Rossmo and Inspector Biddlecomb and try
16 to get them to put their differences aside for the
17 good of the working group?

18 MR. McGUINNESS: I can't remember.

19 Q You can't recall doing that?

20 MR. McGUINNESS: No. I can't recall.

21 Q Okay. Now, I take it that would have been your
22 responsibility to do that?

23 MR. McGUINNESS: That's correct.

24 Q To manage and sort out these personality conflicts
25 as they arise?

1 MR. MCGUINNESS: The best as I could, yes.

2 Q In particular, not let them interfere with
3 investigations that ought to go ahead?

4 MR. MCGUINNESS: The best as I could, yes.

5 Q And I take it by your support of the working group
6 you believed that the working group was something
7 that ought to go ahead?

8 MR. MCGUINNESS: That's correct.

9 Q All right. Now, if we go on, then, in the
10 interview with Deputy Chief Evans, you say:

11 I believe that it went beyond the fact of
12 personalities.

13 But you go on to answer:

14 It went -- it dealt into the historical
15 nature of policing and, um, for a lack of a
16 better word the old boys network.

17 And I'll just stop there. You describe an old
18 boys network. I take it you agree there was an
19 old boys network?

20 MR. MCGUINNESS: As I was trying to tell you before, I think
21 the animosity towards Detective Inspector Rossmo
22 is that he attained a rank of inspector without
23 going through the network that was developed; that
24 you had to come up through the ranks.

25 Q Fair enough. And that's described as -- the

1 product of that network is described as the old
2 boys --

3 MR. McGUINNESS: Some people described it as that, yes.

4 Q But you use that term?

5 MR. McGUINNESS: Yes.

6 Q All right. So you agree with the use of that
7 term?

8 MR. McGUINNESS: Yes.

9 Q And how reasonable people would interpret that
10 term?

11 MR. McGUINNESS: Yes.

12 Q And I take it that involves -- an old boys network
13 involves a number of senior men who are in
14 positions of responsibility and hold close
15 collectively the reins of influence?

16 MR. McGUINNESS: That's correct.

17 Q And there was such a network at the Vancouver
18 Police Department during your time there?

19 MR. McGUINNESS: I'm not sure what you're trying to get me to
20 say. I don't think -- I'm sorry. I just can't
21 see what you're trying to get me to say.

22 THE COMMISSIONER: He's not trying to get you to say anything
23 other than -- just listen to the question and
24 truthfully answer it to the best you can.

25 MR. McGUINNESS: I don't think an old boys network influenced

1 decisions that were made on given crimes and the
2 way we did things, no.

3 Q Didn't you just tell Deputy Chief Evans that you
4 thought the old boys network influenced the
5 dissolution of the working group?

6 MR. MCGUINNESS: Yes. And that was probably incorrect.

7 Q You're taking that back now?

8 MR. MCGUINNESS: I guess.

9 Q All right. Now, I want to walk you -- and you're
10 saying the old boys network had no effect?

11 MR. MCGUINNESS: I think the animosity about Kim Rossmo
12 becoming an inspector the way he did had an effect
13 on how he was accepted by other people in the
14 department.

15 Q All right. Because you had to put in your time?

16 MR. MCGUINNESS: That's correct.

17 Q And he didn't put in his time, so he wasn't really
18 allowed in the club?

19 MR. MCGUINNESS: I believe that's the way some people felt.

20 Q Sure. And the club is composed of --

21 MR. MCGUINNESS: You'd have to ask them because I didn't feel
22 that way.

23 Q All right. So I'll just go on to the next
24 response. You say:

25 It dealt with the historical nature of

1 policing and, for lack of a better word, the
2 old boys network.

3 And Deputy Chief Evans says:

4 Yes?

5 And then you carry on to say:

6 The old girls network, women's network.

7 Why did you add that extra little bit about the
8 old girls network and the women's network? What
9 does that mean?

10 MR. McGUINNESS: I don't know why I said that. I can't even
11 get a context out of it here.

12 Q Isn't it the case that when you answered Deputy
13 Chief Evans, you thought to yourself, "Boy, that
14 sounds bad. I'll try to make it gender neutral"?

15 MR. McGUINNESS: No.

16 Q And so you said women's network and all girls
17 network and that didn't sound right and so you
18 added women's network?

19 MR. McGUINNESS: I don't know why I said that.

20 Q Well, the reason I'm putting it to you is because
21 you yourself feel a level of discomfort about
22 gender issues and characterization of gender
23 issues within these proceedings and during your
24 interview with Deputy Chief Evans?

25 MR. McGUINNESS: I disagree.

1 Q You'd disagree. I mean you yourself went through
2 that exact old boys network. You matriculated
3 through that system?

4 MR. McGUINNESS: In what respect? What do you mean?

5 Q Well, you went through a policing system that
6 historically was all male.

7 THE COMMISSIONER: You've got to put it in the form of a
8 question because I know he's having problems with
9 it. Why don't you ask him -- I don't want to tell
10 you how to put it, but ask him how he feels about
11 it, if he agrees with that.

12 Q Do you agree with this proposition: That you
13 started as a police officer at a time when
14 policing was a male-dominated profession?

15 MR. McGUINNESS: Yes, I do.

16 Q And almost everybody that you dealt with that was
17 a sworn member of the Vancouver Police Department
18 was a male?

19 MR. McGUINNESS: In those -- in 1970, yes.

20 Q Sure. You had a basically almost black line
21 gender division between the sworn members and the
22 civilians. So all the civilians almost were
23 female and the sworn members were male?

24 MR. McGUINNESS: In the seventies, yes.

25 Q Okay. And they sort of -- they had different

1 roles and they had different -- I mean we're just
2 talking about a gender division of labour?

3 MR. MCGUINNESS: Right.

4 Q And at the time when you started, it was a very
5 good gender division of labour and less so now?

6 MR. MCGUINNESS: Less so now. And that was the same in any
7 industry or job in the seventies.

8 Q And I'm not disagreeing with you. I'm just
9 suggesting that there are lot of -- as you move
10 out of that type of gender division of labour,
11 there's a lot of friction, gender role friction
12 and confusion about how to describe things, about
13 what appropriate levels of locker room talk are
14 and so forth?

15 MR. MCGUINNESS: That's correct.

16 Q Right? There are things that within the old way
17 of doing things could be said within a group of
18 men that couldn't be said if a woman were present?

19 MR. MCGUINNESS: That's correct.

20 THE COMMISSIONER: I'm going to stop you there, Mr. Gratl.

21 THE REGISTRAR: The hearing is now adjourned for lunch and will
22 resume at 1:45.

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

24 **(PROCEEDINGS RESUMED AT 1:52 P.M.)**

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

1 MR. GRATL:

2 Q Mr. Biddlecombe, I take it that the old boys
3 network such as it was at Vancouver Police
4 Department --

5 MR. MCGUINNESS: You mean McGuinness, right?

6 Q Sorry. Did I --

7 MR. MCGUINNESS: You called me Mr. Biddlecombe.

8 Q Sorry about that. I have Mr. Biddlecombe on my
9 mind as it happens. Mr. McGuinness, I take it the
10 old boys network such as it was at Vancouver
11 Police Department did not have any aboriginal
12 persons in it?

13 MR. MCGUINNESS: I don't believe -- well, again, what's the old
14 boy network? What are you talking about?

15 Q Well, I just mean the collection of -- I don't
16 mean there are any formal rules for membership.
17 You don't get a club card. But I mean they're
18 sort of powerful influential people at that top
19 of a hierarchy?

20 MR. MCGUINNESS: I can't comment on that.

21 Q There weren't any aboriginal men or aboriginal
22 women at the top of the hierarchy at the Vancouver
23 Police Department during your tenure there?

24 MR. MCGUINNESS: No.

25 Q And, indeed, there were very few aboriginal

1 officers?

2 MR. McGUINNESS: In the department?

3 Q Yes.

4 MR. McGUINNESS: Yes. That's correct.

5 Q And there weren't any aboriginal women officers at
6 all?

7 MR. McGUINNESS: Yes, there was.

8 Q How many?

9 MR. McGUINNESS: I think there were two.

10 Q Okay. While you were the --

11 MR. McGUINNESS: That's correct.

12 Q -- Deputy chief?

13 MR. McGUINNESS: That's correct.

14 Q And do you remember their rank?

15 MR. McGUINNESS: Constables.

16 Q Okay. So they were at the lowest level in the
17 hierarchy?

18 MR. McGUINNESS: The most important cog of the hierarchy, the
19 constable level, yes. They were constables.

20 Q They were constables. Okay. And so the least
21 influential cog in the hierarchy?

22 MR. McGUINNESS: Correct. That's correct.

23 Q So I take it just as there would be some discourse
24 that would be possible if it were just all men in
25 the room, that wouldn't be possible if a woman

1 joined the room?

2 MR. McGUINNESS: Not in my presence.

3 Q Okay. What I'm suggesting to you is that in terms
4 of gender -- during your entire period at the
5 Vancouver Police Department, there was a cultural
6 evolution in terms of gender and gender roles and
7 gender discourse; isn't that right?

8 MR. McGUINNESS: Can you give me an example?

9 Q I could go through hundreds of examples, but I'm
10 just asking you to agree with the general
11 proposition that there was an overall evolution in
12 your time at Vancouver Police Department in gender
13 roles and gender relations?

14 MR. McGUINNESS: Yes. I can agree with that.

15 Q There was a shift and some people -- and I have no
16 reason to doubt that you were one of them -- were
17 supportive of that shift and allowed that shift to
18 occur; isn't that right?

19 MR. McGUINNESS: That's correct.

20 Q And then other people, other individuals within
21 the organization would be resistant to those
22 changes in a variety of ways?

23 MR. McGUINNESS: That's correct.

24 Q That's correct?

25 MR. McGUINNESS: That's correct.

1 Q And so the same would be true of racial relations;
2 that gradually there would be an increasing
3 acceptance of diversity, racial diversity?

4 MR. McGUINNESS: That's correct. We spent a lot of time
5 training people in diversity relations.

6 Q Okay.

7 MR. McGUINNESS: As it evolved from the early days of when I
8 started in the department.

9 Q Sure. But in the same way -- and, again, I have
10 no reason to doubt that you're one of these
11 people -- there were some officers who were
12 supportive of that evolution; isn't that right?

13 MR. McGUINNESS: That's correct.

14 Q And then others who were resistant to the
15 evolution?

16 MR. McGUINNESS: That's correct. And no different in our
17 society, unfortunately.

18 Q Okay. Well, different. I just want to put the
19 rest of the society to one side at the moment
20 because we're talking about an organization
21 paramilitary in structure that is composed
22 predominantly of white males and controlled by
23 white males, correct?

24 MR. McGUINNESS: Correct.

25 Q Okay. So let's put aside the rest of society

1 because I mean we can debate about whether the
2 entirety of society is like that. Let's just look
3 at the Vancouver Police Department. So they're
4 very -- there are evolutions, and I take it the
5 evolution wasn't complete?

6 MR. McGUINNESS: Yes.

7 Q By the time you left the organization there was
8 still some work to be done?

9 MR. McGUINNESS: Yes.

10 Q There were still pockets of resistance in terms of
11 acceptance of gender diversity, racial diversity,
12 correct?

13 MR. McGUINNESS: I can't answer for sure, no.

14 Q You're saying the evolution was complete, that
15 acceptance of diversity was complete?

16 MR. McGUINNESS: No. I don't think it'll -- I think it's
17 always an ongoing work in progress.

18 Q Okay. But there was certainly some progress to be
19 made by the time you left?

20 MR. McGUINNESS: I'm sure.

21 Q Okay. And the same thing holds for sexual
22 orientation?

23 MR. McGUINNESS: Correct.

24 Q So there would be an adjustment in terms of
25 accepting different social -- sexual orientations?

1 MR. MCGUINNESS: Yes.

2 Q So, of course, in your experience of the type of
3 resistance to those changes, you would have seen
4 manifestations of that resistance?

5 MR. MCGUINNESS: I'm sure I did, yes.

6 Q Okay. And those -- those manifestations,
7 resistance to acceptance of diversity, those would
8 be what could be considered to be discrimination
9 on the basis of sex, gender, race, ancestry,
10 ethnicity, sexual orientation. You've seen those
11 things?

12 MR. MCGUINNESS: Right.

13 Q Obviously Vancouver Police Department is not
14 immune to those influences?

15 MR. MCGUINNESS: That's correct.

16 Q So I take it, taking you back just to the gender
17 issue, then, that you did yourself see some sexism
18 at the Vancouver Police Department?

19 MR. MCGUINNESS: Over my 32 years in the department, yes.

20 Q Sure. It's a long way of getting to that answer,
21 but we weren't there before, so you'll appreciate
22 that it's a good idea to go through the exercise
23 to remind yourself that, in fact, that was an
24 ongoing phenomenon?

25 MR. MCGUINNESS: That's correct.

1 Q And, of course, the people who had been at the
2 Vancouver Police Department the longest were those
3 who were most steeped in the culture that was
4 resistant to diversity?

5 MR. MCGUINNESS: That would be an assumption on my part.

6 Q Is that a fair assumption?

7 MR. MCGUINNESS: I can't say for sure.

8 Q Okay. I just say that because they would have
9 been most likely to grow up in the old culture
10 before that shift had happened?

11 MR. MCGUINNESS: All depends where they came from, what their
12 background -- it's hard to paint them all with one
13 brush, Mr. Commissioner.

14 Q And I'm not trying to do that. I'm just trying to
15 paint a picture of a tendency, a cultural tendency
16 within the department.

17 MR. MCGUINNESS: I'm trying to be as clear as I can as well.

18 Q All right. So -- and I take it in your answer, to
19 return to your interview with Detective -- with
20 Deputy Chief Evans, that when you said there was
21 an old boys network and then you revert to an old
22 girls network and then you said a women's network,
23 that was a manifestation of your own --

24 MR. MCGUINNESS: My own transition from as I grew in my career,
25 yes.

1 Q Sure. And for yourself, you knew what was right
2 and wrong by that point, but it wasn't a hundred
3 percent familiar to you, the new language and new
4 way of thinking?

5 MR. MCGUINNESS: It was a hundred percent familiar to me. It's
6 just that I had a brain slip.

7 Q Okay. And I'm not trying to be critical. I'm
8 just trying to get your perspective on where the
9 department was at the time that you left. Now,
10 the working group then dissolved at the end of
11 September of 1998?

12 MR. MCGUINNESS: Okay.

13 Q You recall that?

14 MR. MCGUINNESS: I can't recall the exact dates.

15 Q You would have been in a good position because all
16 the people who were involved in disputes were
17 under your command?

18 MR. MCGUINNESS: I don't think Kim was under my direct report
19 at that time. I think he was still in the
20 Operations Division.

21 Q Okay. Greer reported to you?

22 MR. MCGUINNESS: Yes. I'm sorry?

23 Q Greer?

24 MR. MCGUINNESS: No. Greer didn't report to me.

25 Q Okay. But Inspector Biddlecomb reported to you?

1 MR. MCGUINNESS: That's correct.

2 Q And so if Mr. -- if Inspector Biddlecomb was
3 resistant to the idea of a working group, you
4 could have commanded him to allow the working
5 group to happen?

6 MR. MCGUINNESS: Yes.

7 Q You just didn't do so?

8 MR. MCGUINNESS: I didn't see the need because I was told it
9 was -- I wasn't told there was this conflict in
10 the working group.

11 Q I had understood from your interview there you
12 said the dissolution of the working group went
13 beyond personalities and dealt with the historical
14 nature of policing and, for lack of a better word,
15 old boys network?

16 MR. MCGUINNESS: Well, I gained that through reading some
17 information that there had been this conflict at
18 the meeting. I didn't know about that conflict at
19 the meeting.

20 Q So you thought the working group was happening?

21 MR. MCGUINNESS: No. I thought it had disbanded, but on an
22 agreeable term that District 2 would work on the
23 missing women in their area and that the Missing
24 Women's Task Force -- or Working Group would work
25 it on their area and they'd share information.

1 Q So there was still a working group under the Major
2 Crime Squad?

3 MR. McGUINNESS: Yes.

4 Q And that consisted, of course, of Lori Shenher
5 only?

6 MR. McGUINNESS: No, no. Lori Shenher, Alex Clarke, Geramy
7 Field.

8 Q We're talking as of September, 1998.

9 MR. McGUINNESS: I can't remember the exact dates. I'm sorry.

10 Q Okay. So the working group you're thinking of, I
11 think, was formed in May or June of 1999?

12 MR. McGUINNESS: It could have been, yes.

13 Q So I take it that whatever happened, you were down
14 at the Missing Persons office talking to Lori
15 Shenher on an ongoing basis throughout the months
16 of October, November, December and January of 1998
17 and 1999?

18 MR. McGUINNESS: I don't know how often I was down there, but I
19 would have been down there sometimes, yes.

20 Q Okay. You found out more or less accidentally
21 about a spike in the number of missings in 1998.
22 You found that out accidentally in February of
23 1999?

24 MR. McGUINNESS: I don't know when I found out or how I found
25 out.

1 Q Do you recall this sequence of events: That you
2 got an e-mail from Deputy -- or Detective
3 Inspector Rossmo, who said that he had attended a
4 Carnegie Centre presentation put on --

5 MR. MCGUINNESS: Yes. I do recall that memo, yes. Was that --
6 if that information was in there, I got it at that
7 time, yes.

8 Q Sure. That's the way it came to you, which is
9 accidental and outside of the usual chain of
10 command?

11 MR. MCGUINNESS: Yes. Well, it came from -- if it was in that
12 memo, it came from Detective Inspector Rossmo.

13 Q Right. And Rossmo's not under your command?

14 MR. MCGUINNESS: Right.

15 Q Doesn't report to you?

16 MR. MCGUINNESS: To the best of my recollection. I can't
17 remember if he was in my division at that time or
18 not. I'd have to go back and check.

19 Q All right. And I'm also putting it to you that it
20 came out of the usual way that you got information
21 from frontline investigators, which was to go down
22 and talk to them?

23 MR. MCGUINNESS: I don't know.

24 Q Like, it didn't come to you directly from Lori
25 Shenher on one of your trips down to the Missing

1 Persons office?

2 MR. McGUINNESS: I can't tell you.

3 Q But you recall that the way you got that
4 information was from --

5 MR. McGUINNESS: I'm sorry?

6 Q The way you got that information about the 1998
7 spike in missing women --

8 MR. McGUINNESS: I can't recall, no.

9 Q That came through Detective Inspector Rossmo by
10 e-mail?

11 MR. McGUINNESS: If I can see the report. Do you have it
12 there?

13 Q I can take it to you momentarily.

14 THE COMMISSIONER: Well, I think he wants to see the report in
15 order to answer the question. Is there a report
16 there?

17 MR. GRATL: There is a report and so --

18 THE COMMISSIONER: Or are you finished with the question on
19 that -- on that area?

20 MR. GRATL: You know what, Mr. Commissioner? The witness
21 doesn't have an independent recollection, so I
22 don't think it's going to --

23 THE COMMISSIONER: Oh, I see. Okay. All right.

24 MR. GRATL: What I was driving at was he didn't get it from
25 Shenher at the Missing Person's office --

1 THE COMMISSIONER: No. I understand.

2 MR. GRATL:

3 Q And he plainly doesn't remember that, so that was
4 the nub of it.

5 I take it, though, you found out in February
6 of 1999 that there was a spike in missing women in
7 1998?

8 MR. MCGUINNESS: I can't recall.

9 Q Okay. During your time as the Deputy Chief, you
10 didn't do anything to improve the missing person
11 reporting system?

12 MR. MCGUINNESS: No.

13 Q When it came to the community clamoring for a
14 hundred-thousand-dollar reward for information
15 leading -- information dealing with the missing
16 women, you didn't support that reward, did you?

17 MR. MCGUINNESS: On the feelings of my people in Major Crime I
18 didn't, no.

19 Q And not supporting it included lobbying with the
20 Vancouver Police Board not to put a reward into
21 place?

22 MR. MCGUINNESS: Not lobbying, just giving them the reasons why
23 Major Crime didn't think it was a good idea, not
24 lobbying.

25 Q Okay. And by lobbying I mean outside of the

1 official police board meeting context?

2 MR. MCGUINNESS: No. Never.

3 Q Okay.

4 MR. MCGUINNESS: That's one thing I did not do.

5 Q So within the police board meeting, though --

6 MR. MCGUINNESS: Any time I dealt with police board members,
7 unless it was a direct result as a request from
8 them or whatever, it was always at the police
9 board meeting.

10 Q All right. So can I take you to Exhibit 146,
11 please, at page 140?

12 MR. MCGUINNESS: Just sec. I've got to find it here. Page?

13 Q 140.

14 MR. MCGUINNESS: Yes.

15 Q You saw this memorandum from Lori Shenher to the
16 Attorney General Dosanjh --

17 MR. MCGUINNESS: Yes.

18 Q -- before it was handed to the Attorney General,
19 correct?

20 MR. MCGUINNESS: Correct.

21 Q You said -- on page 2 there's a reference there in
22 the third paragraph. It says at page 141 --

23 MR. MCGUINNESS: Right.

24 Q -- of Exhibit 146.

25 As I write this report, there is no evidence

1 of a person or persons preying on these
2 women.

3 You see where it says that?

4 MR. McGUINNESS: Yes.

5 Q In fact, there was a report from Hiscox
6 corroborated by the Victim '97 information,
7 correct?

8 MR. McGUINNESS: I never saw that.

9 Q You never heard from Lori Shenher that she had
10 gone to the farm?

11 MR. McGUINNESS: No. You mean -- I had heard that she was
12 going to go to the farm, yes, but then she told me
13 later that she hadn't.

14 Q She hadn't been able to get onto the property, but
15 she had driven down to the farm?

16 MR. McGUINNESS: I can't remember.

17 Q On the basis of information provided by -- from a
18 tipster?

19 MR. McGUINNESS: She said a tipster, but she never mentioned
20 the gentleman's name.

21 Q All right. Then if we can go back to -- to the
22 statement you made to Inspector LePard. We've
23 referred to this already, but apparently we should
24 go back to it. On page 5 of your statement you
25 say:

1 My recollection, I was talking to Lori. She
2 really had her teeth into this. She said she
3 had info about a guy in Coquitlam and she had
4 driven out there, but couldn't see anything
5 and couldn't get on the property.

6 MR. MCGUINNESS: That's right.

7 Q All right. And then over on page 6 you refer to
8 the same -- it looks like the same business in the
9 second full paragraph:

10 I wasn't aware of the investigation really
11 into Pickton. I think the information was
12 being driven by Vancouver. Lori thought this
13 guy was a really good target, so there was a
14 huge disappointment. I think there was info
15 about a meat grinder and he was grinding them
16 up with it, was the info.

17 MR. MCGUINNESS: Right.

18 Q So that was information that you received from
19 Lori Shenher before the memo went to the police
20 board, isn't it?

21 MR. MCGUINNESS: That's correct.

22 Q Okay. So what is said in the memo at page 141 of
23 Exhibit 146, namely that there's no evidence of a
24 person or persons preying on these women --

25 MR. MCGUINNESS: Right.

1 Q -- that's not really accurate, is it, now?

2 MR. McGUINNESS: Well, Lori was writing the report. You'd have
3 to ask her.

4 Q Okay. But you read it?

5 MR. McGUINNESS: Yes.

6 Q You're not going to allow a detective constable to
7 mislead the Attorney General of the province, are
8 you?

9 MR. McGUINNESS: Well, I didn't know she was misleading him.

10 Q Is this inaccurate?

11 MR. McGUINNESS: Well, I don't know if it's inaccurate or not.
12 She could have in her mind ruled him out or
13 whatever. That was my thought at the time.

14 Q I see. All right. And then over at the third
15 sentence in that same paragraph:

16 We cannot investigate a murder without a
17 body, witnesses, time of crime, scene of
18 crime or suspect and we have none of these
19 things.

20 That wasn't accurate to your mind, was it?

21 MR. McGUINNESS: I'm sorry?

22 Q That wasn't accurate, was it, to your mind?

23 MR. McGUINNESS: Well, yes, it was.

24 Q Indeed, it was so troubling to you that you wrote
25 an e-mail asking if we were safe saying such

1 things?

2 MR. McGUINNESS: That wasn't me.

3 Q All right. You're saying you had no information
4 to doubt the accuracy of these --

5 MR. McGUINNESS: That's correct.

6 Q -- is that correct?

7 MR. McGUINNESS: Yes.

8 Q But you saw this before it went out?

9 MR. McGUINNESS: That's correct.

10 Q And I take it at the time that this went out you
11 were engaged in the exercise of advocating against
12 a hundred-thousand-dollar reward; isn't that
13 right?

14 MR. McGUINNESS: No. Not at that time.

15 Q Okay. If you turn to page 143, you'll find
16 another memo from Sergeant Geramy Field to the
17 Vancouver Police Board dated April 22nd, 1999. At
18 page 146 of that memo, in the third paragraph
19 you'll see the statement:

20 There has been an extensive amount of media
21 coverage surrounding this issue already and
22 to date neither the police department nor
23 Crimestoppers has received a single tip.

24 Have I read that correctly?

25 MR. McGUINNESS: Yes.

1 Q You saw this memorandum before it went out to the
2 Vancouver Police Board?

3 MR. McGUINNESS: I'm not sure. I don't see my initials on
4 this. Yes. Most possibly I did, yes.

5 Q You spoke to this issue to the Vancouver Police
6 Board at the Vancouver Police Board meeting,
7 didn't you, Mr. McGuinness?

8 MR. McGUINNESS: I believe so, yes.

9 Q Yes? And you presented this memo to the Vancouver
10 Police Board?

11 MR. McGUINNESS: Yes.

12 Q In support of your resistance?

13 MR. McGUINNESS: No. This was in support of the reward, this
14 memo.

15 Q That memo was to support the reward?

16 MR. McGUINNESS: That's correct.

17 Q I don't see anywhere in the memo where it says
18 it's a good idea to have a reward.

19 MR. McGUINNESS: I think the reward came out right after that.
20 I think that was right around the time we had the
21 meeting with the AG. I can't recall for sure.

22 Q All right. You spoke, though, to the police
23 board?

24 MR. McGUINNESS: I'm sorry?

25 Q When you spoke to the Vancouver Police Board in

1 late April of 1999, you were opposed to the
2 reward, correct?

3 MR. McGUINNESS: I can't recall.

4 Q Okay. And what was being asked for was a reward,
5 but also a task force, correct?

6 MR. McGUINNESS: Who was asking for a task force?

7 Q Well, the people who wanted the reward, the same
8 people, the public?

9 MR. McGUINNESS: That's correct, yes.

10 Q Yes. And you were opposed to both ideas, either a
11 reward or a task force, to look into missing
12 women?

13 MR. McGUINNESS: No. I wasn't opposed to a task force, but at
14 that time we didn't have anything to put the task
15 force on. We didn't know what was happening to
16 the missing women and the Major Crime Squad,
17 Homicide people, weren't in support of a reward
18 because they had nothing -- no hold-back evidence,
19 no information of bodies or crime scenes or
20 anything that they could use to help vet any
21 information that they got.

22 Q All right. Do you have your interview with Deputy
23 Chief Evans before you?

24 MR. McGUINNESS: Yes.

25 Q At page 49 of that interview, at line 19 you

1 acknowledge that you saw the May 27th, 1999
2 memorandum from Kim Rossmo, which outlined the
3 fact that Detective Inspector Rossmo believed that
4 there could be a serial killer involved in the
5 missing women, correct?

6 MR. MCGUINNESS: Yes.

7 Q You remember that? It was a statistical analysis,
8 it said?

9 MR. MCGUINNESS: No. It wasn't a statistical analysis. It was
10 just a one page or two-page report.

11 Q All right. So you read that report?

12 MR. MCGUINNESS: Yes.

13 Q And I take it you believed it?

14 MR. MCGUINNESS: Pardon me?

15 Q You believed the report?

16 MR. MCGUINNESS: I didn't -- I was thinking commonsensely that,
17 yes, there could be a serial killer.

18 Q Okay. You thought it was a scientific
19 articulation of a common sense proposition?

20 MR. MCGUINNESS: No. It wasn't as scientific. It was -- as
21 Kim said in his memo, he wasn't -- geographical
22 profiling was spacial analysis of criminal
23 occurrences. And as he said in his memo, he was
24 unable to do any spacial analysis because he
25 didn't have any information of where these women

1 might have gone missing, what happened to them,
2 where a crime took place. It was his feeling that
3 there could be one serial killer or two serial
4 killers involved.

5 Q Even after you received that report, there were
6 many suggestions publicly taken by the Vancouver
7 Police Department that there was no evidence of a
8 serial killer?

9 MR. MCGUINNESS: That there was no evidence?

10 Q Yes. Essentially --

11 MR. MCGUINNESS: There wasn't no evidence.

12 Q -- resisting or refuting the idea that it was
13 worth investigating a serial killer?

14 MR. MCGUINNESS: No. There was no evidence of a serial killer.

15 Q Do you understand what I'm saying is that the --
16 that there were a number of organizations within
17 the community saying that a serial killer was on
18 the loose?

19 MR. MCGUINNESS: Yes. And if there had been evidence of a
20 serial killer that we could investigate, we would
21 have investigated it wholeheartedly and diligently
22 and possibly at that time put Mr. Pickton in jail
23 so no one else died, but we didn't have any
24 evidence. We didn't have any place to start. We
25 were trying to find out what happened to the

1 missing women.

2 Q You knew that there was a spike in the number of
3 missing women?

4 MR. MCGUINNESS: Yes.

5 Q And you knew that members of the community, Sarah
6 de Vries, Wayne Leng, Jamie Lee Hamilton, amongst
7 others, were saying it was attributable to a
8 serial killer and the Vancouver Police Department
9 should investigate that possibility?

10 MR. MCGUINNESS: And we were investigating that possibility.
11 That's what people don't seem to understand, is
12 that we were trying to find out if there was a
13 serial killer. We had no bodies. We didn't know
14 what had happened to these missing women.
15 Obviously we knew something was happening to them
16 because they just weren't there.

17 Q All right. So by that time, April, late April of
18 1999, to your knowledge Lori Shenher had been
19 doing what she was doing since July of 1999?

20 MR. MCGUINNESS: She was -- she was -- I'm sorry.

21 Q For nine months she was engaged in what you
22 describe as figuring out whether there was a
23 serial killer?

24 MR. MCGUINNESS: Trying to find out what happened to the women,
25 yes.

1 Q Was she figuring out whether there was a serial
2 killer or not?

3 MR. McGUINNESS: Certainly that would be part of her
4 deliberations, trying to identify if there was a
5 serial killer.

6 Q Now, I had understood that she had been assigned
7 just to locate missing women?

8 MR. McGUINNESS: I think it all fell out throughout her entire
9 duties to try and find -- let's be commonsensical
10 here. If she found evidence that there was a
11 serial killer, we would certainly have dealt with
12 that, the same way it was dealt with when it was
13 identified there was a serial killer. And we
14 would have gone after it, you know, with
15 everything we had, but we didn't have that.

16 Q All right. Mr. McGuinness, I'm putting it to you
17 that the task that was assigned to Lori Shenher,
18 to your knowledge, was to eliminate all the other
19 possibilities? That was the only --

20 MR. McGUINNESS: No. The task was to find out what was
21 happening to the missing women.

22 Q May I finish my question, please?

23 MR. McGUINNESS: Certainly. I thought you had finished. I'm
24 sorry.

25 Q Was to eliminate all the other possibilities,

1 leaving only the conclusion that there would be a
2 serial killer?

3 MR. MCGUINNESS: No.

4 Q All right. And that -- and I'm putting it to you
5 that perfunctory investigation by Lori Shenher in
6 each given case would have revealed that the women
7 were unlikely to be found? That is to say, once
8 it was known they were drug addicted and sex
9 workers living in the Downtown Eastside on a
10 survival basis, the fact that they weren't picking
11 up their welfare cheques and the fact that nobody
12 who -- their families didn't have contact with
13 them, it would be sufficient to conclude that they
14 would unlikely be located?

15 MR. MCGUINNESS: Correct.

16 Q And that doesn't take very long to figure out in
17 the case of each individual?

18 MR. MCGUINNESS: No, it doesn't, but it sure takes a long time
19 to find out what's happening to them. It took
20 right till 2002.

21 Q All right. So Project Amelia, the project put
22 together under your direction, I'm putting it to
23 you that the Patrol Division was anxious to get
24 rid of Fell and Wolthers because they were rogues?

25 MR. MCGUINNESS: I don't agree with you. I don't think even --

1 I don't think Wolthers was in the Patrol Division
2 at that time.

3 Q All right. I'd like to take you to page 10 of
4 your interview with Doug LePard, third paragraph.
5 I'll just read this.

6 Regarding Wolthers and Fell, they did come
7 and see me. They were smooth operators,
8 glad-handers, you're the greatest boss, et
9 cetera. At that time if someone walked in on
10 crutches I'd take them. And I think patrol
11 was probably anxious to get rid of them
12 because they were rogues.

13 That's what you told Inspector LePard, isn't it?

14 MR. MCGUINNESS: And obviously I was incorrect because Wolthers
15 wasn't in patrol.

16 Q All right. But Fell was?

17 MR. MCGUINNESS: I believe so, yes.

18 Q But what you told Inspector LePard at the time is
19 what you believed to be true?

20 MR. MCGUINNESS: Correct.

21 Q And I take it that your phrase "I'd take" -- "If
22 someone walked in on crutches I'd take them" was
23 in a reference to Fell and Wolthers not being
24 perhaps the best persons suited for the job?

25 MR. MCGUINNESS: I think that was more my frustration of just

1 not having any resources available to put
2 anywhere.

3 Q Okay. You were desperate?

4 MR. MCGUINNESS: I was desperate to get any help in my
5 division. I was down 40 people. I had shut down
6 a Strike Force Squad. I was desperate to get
7 help, yes.

8 Q Yes. And what I'm suggesting is that appointing
9 Fell and Wolthers was a --

10 MR. MCGUINNESS: I did not appoint them. As I --

11 Q May I please finish my question? Appointing Fell
12 and Wolthers was a desperate measure?

13 MR. MCGUINNESS: No.

14 Q All right. Now, Detective Lepine and Chernoff
15 when they were -- when they joined the team, they
16 were still carrying files for the Homicide branch;
17 isn't that correct?

18 MR. MCGUINNESS: I believe so.

19 Q All right. And they were not directly doing
20 day-to-day stuff with Missing Persons; isn't that
21 correct?

22 MR. MCGUINNESS: I believe so.

23 Q All right. Lepine was routinely pulled away from
24 this project on other tasks not related to Missing
25 Persons; isn't that right?

1 MR. McGUINNESS: I couldn't tell you.

2 Q All right. I'll take you to Exhibit 146 at page
3 191, please.

4 MR. McGUINNESS: I'm sorry. Again, page?

5 Q 191. Now, this is a memo from Sergeant Stewart to
6 Deputy Chief Unger dated March 20th, 2001. At 191
7 in the second-last paragraph it says:

8 Detective Lepine was put in charge as an
9 acting sergeant to help address some of these
10 concerns. However, the situation did not
11 last very long as he was routinely pulled
12 away and assigned to new Homicide
13 investigations.

14 Was that true to your knowledge?

15 MR. McGUINNESS: I'm not sure what time period this was
16 referring to because I wasn't with the department
17 when this memo was written.

18 Q Fair enough. But was that true to your knowledge?

19 MR. McGUINNESS: I couldn't tell you.

20 Q You don't have any knowledge. You can't say one
21 way or another?

22 MR. McGUINNESS: No.

23 Q Now, Alex Clarke was occupied doing manual
24 searches of indigent burial records at Glenhaven.
25 Do you remember that

1 MR. MCGUINNESS: I couldn't tell you.

2 Q You don't remember Alex Clarke?

3 MR. MCGUINNESS: I remember Alex Clarke. I don't know
4 exactly -- what exactly she was doing.

5 Q Okay. I take it that's because when you went on
6 your forays to the Missing Person's office, Alex
7 Clarke wasn't there for you to talk to?

8 MR. MCGUINNESS: I can't remember.

9 Q Okay. I take it you agree that the missing
10 persons investigation could have used someone of
11 Doug LePard's experience or Inspector McCluskie's
12 experience?

13 MR. MCGUINNESS: Yes. At the time Doug LePard was the only
14 individual who had major case management training.

15 Q Sure. He also had more experience, very organized
16 and capable investigator?

17 MR. MCGUINNESS: I had lots of very capable investigators.
18 Doug LePard was the one that had major case
19 management training.

20 Q Okay. And McCluskie didn't, though, correct?

21 MR. MCGUINNESS: That's correct.

22 Q But you still said that the investigation could
23 have used somebody of McCluskie's experience,
24 correct?

25 MR. MCGUINNESS: I don't recall that.

1 Q All right. At page 12 of the LePard interview.

2 THE REGISTRAR: Mr. Gratl, I need to advise you that you are
3 now just over your allotted time.

4 MR. GRATL: Thank you, Mr. Giles. Mr. Commissioner, counsel
5 for aboriginal interests went under time yesterday
6 and has kindly agreed to allow me to use the extra
7 20 minutes.

8 THE COMMISSIONER: All right. Everybody's agreeable to that.

9 I just want to make sure that everybody else who's
10 left has appropriate time to examine the witness.

11 MR. HERN: I'll be under time as well from my estimate.

12 THE COMMISSIONER: Okay. Go ahead, Mr. Gratl.

13 MR. GRATL:

14 Q This is the last paragraph of your interview notes
15 with Inspector LePard:

16 Having a review of -- regarding having a
17 review of the investigation and whether we
18 should have used you like we did with the
19 Home Invasion Task Force, I think we really
20 should have a File Review Team with a guy of
21 your experience or a guy like McCluskie even
22 from the outside.

23 MR. MCGUINNESS: Yes. In hindsight that would have been a good
24 thing to do.

25 Q If there had been a file review, you say, from

1 someone outside looking in, there might have been
2 more avenues opened up to attack the problem?

3 MR. McGUINNESS: That's correct.

4 Q And you agree with that at the moment?

5 MR. McGUINNESS: Yes.

6 Q It just wasn't done as something that in hindsight
7 you wish you had done?

8 MR. McGUINNESS: That's right. In hindsight, yes.

9 Q Okay. At Exhibit 146 at page 212 is a memo from
10 yourself to the chair of the police board and its
11 members. Do you see that?

12 MR. McGUINNESS: Yes.

13 Q And on page 213, over the page, you'll see there's
14 a report and it says at the fourth paragraph:

15 We are almost finished our manual search of
16 the files at Glenhaven Funeral Home.

17 You see where it says that?

18 MR. McGUINNESS: Yes.

19 Q And that report is dated February 14th?

20 MR. McGUINNESS: That's correct.

21 Q -- 2000, nine months after the review team starts
22 its work.

23 MR. McGUINNESS: Okay.

24 Q And it takes even nine months into the work of the
25 review team the Borhaven Funeral record manual

1 search is still ongoing?

2 MR. McGUINNESS: It appears so, yes.

3 Q All right. The next paragraph indicates:

4 Almost 10 new missing women were reported to
5 the Missing Persons Review Team in 1999. All
6 of them were located within two weeks of the
7 initial police report. We believe this is
8 due to quick reporting by the public and the
9 temporarily improved resources of the police.
10 We had no new missing women to add to the
11 original list since January of 1999.

12 MR. McGUINNESS: Right. And keep in mind I never authored this
13 report.

14 Q Okay. Who authored the report?

15 MR. McGUINNESS: Dan Dureau.

16 Q Dan Dureau authored the report.

17 MR. McGUINNESS: It's on the back page, "Authored". Page 217.

18 Q I see that. Yes.

19 MR. McGUINNESS: Okay.

20 Q So you're familiar with this report. You read it
21 in preparation to give evidence today?

22 MR. McGUINNESS: Right. And, you know, I -- this is not my
23 handwriting on this report here, so it's possible
24 that Inspector Dureau wrote this report and this
25 is the handwriting of Inspector Ken Doern in that

1 he vetted the report before it went forward to the
2 board.

3 Q You're saying that a report was submitted to the
4 police board under your name without your
5 approval?

6 MR. McGUINNESS: That's correct. That happened quite often.

7 Q You didn't have a chance to review it?

8 MR. McGUINNESS: I can't recall, no.

9 Q You might have reviewed it for accuracy --

10 MR. McGUINNESS: I could have, yes.

11 Q Please wait for the end of the question.

12 MR. McGUINNESS: Oh, sorry. I apologize, okay?

13 Q That's okay. You might have reviewed it for
14 accuracy before it went to the police board?

15 MR. McGUINNESS: I can't recall. Like I said, the handwriting
16 on this report is not mine, which leads me to
17 believe that I didn't vet this before it went to
18 the police board.

19 Q All right. I take it you don't have any
20 recollection of doing anything to confirm the
21 accuracy of the contents of the report before it
22 was given to the police board?

23 MR. McGUINNESS: That's correct.

24 Q Now, I'd like to turn to Mr. Unger. Mr. Unger,
25 you were Acting Deputy Chief Constable in

1 operations for September, 1998 to April, 1999?

2 MR. UNGER: Yes. For most of the time during that period of
3 time. There would have been some duty officer
4 work that I had to do as well during that time.

5 Q That's a nine-month period roughly?

6 MR. UNGER: Yes.

7 Q And I take it that when you're acting, it has a
8 huge impact on your ability to do that role?

9 MR. UNGER: You -- you have the authority of the rank. You
10 don't often use the authority of the rank.

11 Q There's a bit of a hands-off attitude, don't
12 change the course attitude?

13 MR. UNGER: No. No. I wouldn't say that. It's just you
14 wouldn't push the envelope quite as hard.

15 Q All right. I have you saying in your interview to
16 Deputy Chief Evans that acting, being in an acting
17 status, has a huge impact?

18 MR. UNGER: Well, it does generally and I think -- I think I
19 was speaking to her generally about acting. It --
20 it's not the same as being in the substantive
21 rank.

22 Q All right. You shortly -- shortly after taking
23 over non-acting, full command as deputy chief on
24 April 4th, 2000, you had to deal with the Fell and
25 Wolthers situation?

1 MR. UNGER: Yes.

2 MR. GRATL: It was -- it was a noteworthy or remarkable
3 circumstance because there you had two detectives
4 who -- who communicated directly with the chief
5 constable circumventing the entire chain of
6 command?

7 MR. UNGER: Yes.

8 Q And in that sense there was special treatment for
9 the situation?

10 MR. UNGER: I don't know what you mean by special treatment.

11 Q Well, let me put it this way: What Fell and
12 Wolthers communicated to the chief constable was
13 that the Missing Persons Unit was dysfunctional
14 because it wasn't investigating suspects. Do you
15 remember that?

16 MR. UNGER: I remember a report from them saying something like
17 that, yes.

18 Q All right. They said that there were three key
19 suspects: Pickton, Niedermeyer and a fellow from
20 a wealthy family that lived on Southwest Marine
21 Drive. Do you remember that?

22 MR. UNGER: You'd have to -- if you're referring to their
23 report, could you direct me to it, please? I'd
24 like to look at it.

25 Q Well, I'd like to exhaust your memory on the

1 circumstances.

2 MR. UNGER: My memory is exhausted on that at this point.

3 Q All right. Now, you appreciate that Fell and
4 Wolthers had just finished eliminating Niedermeyer
5 from the suspect list?

6 MR. UNGER: No. I don't believe that's true.

7 Q Okay. Because that was the nature of the
8 controversy that gave rise to all this letter
9 writing, was the Niedermeyer investigation. All
10 right. So you're saying you don't recall that
11 memo, the three key suspects business?

12 MR. UNGER: No. I'd like to see the memo before -- if I'm
13 being asked to comment on it, I'd like to see it.

14 THE COMMISSIONER: I think that's fair. If you've got the memo
15 and you're going to cross-examine him on it, show
16 it to him.

17 Q I'm just finding it. There's a sea of documents
18 here and so I'm reluctant to go into it. It's at
19 179 of Exhibit 146.

20 MR. UNGER: That was page 179?

21 Q Yes.

22 MR. UNGER: Okay.

23 Q That's the beginning of -- you saw that upon --
24 shortly after being appointed as deputy chief
25 constable operations in April of 2000. Do you

1 recall reading that?

2 MR. UNGER: Yes, I do.

3 Q All right. You recognize that the tenor of what
4 Fell and Wolthers were saying there was that
5 they -- I'll ask you to turn to page 185. At the
6 bottom there it says:

7 There appear to be no serious attempts at
8 apprehending anyone responsible for the
9 missing sex trade workers until the arrest of
10 POI 390 by Detective Constables Wolthers and
11 Doug Fell.

12 MR. UNGER: Where do you see that? I'm sorry. I don't see it.

13 Q Page 185.

14 MR. UNGER: Yes. I'm at 185.

15 Q Of Exhibit 146?

16 MR. UNGER: Yes.

17 Q It's the last full paragraph beginning with "While
18 these follow-ups are necessary."

19 MR. UNGER: Okay. Yes.

20 Q Okay. Then go to the second sentence:

21 In addition, there appear to be no serious
22 attempts at apprehending anyone responsible
23 for the missing sex trade workers.

24 You saw that?

25 MR. UNGER: Yes.

1 Q Okay. So here are the two constables -- detective
2 constables involved in the investigation telling
3 you there'd been no serious efforts to apprehend
4 anyone responsible. You understand that?

5 MR. UNGER: Well, if that's what they're writing, I don't agree
6 with that.

7 Q What steps did you take to ascertain whether it
8 was accurate or not?

9 MR. UNGER: We weren't at the point where we were starting to
10 look at the whole list of suspects. They were
11 following up this particular --

12 Q I asked you a specific question. What steps did
13 you take to ascertain whether this statement
14 "There appear to be no serious attempts at
15 apprehending anyone responsible for the missing
16 sex trade workers" was true or false?

17 MR. UNGER: None.

18 Q All right. Now, over the page at 186.

19 MR. UNGER: Yes.

20 Q You'll see the last paragraph says:
21 It's unconscionable to think that personality
22 conflicts could cause the transfer of
23 Detective Constables Wolthers and Fell at
24 such a crucial time when the Vancouver Police
25 Department's review team are narrowing in on

1 persons responsible for the missing Downtown
2 Eastside women.

3 You see that?

4 MR. UNGER: Yes.

5 Q All right. They plainly want to keep looking for
6 suspects? They want to investigate suspects?

7 MR. UNGER: Yes.

8 Q They're saying the review team isn't investigating
9 the suspects. We're the ones investigating
10 suspects. We want to carry on with that task?

11 MR. UNGER: They're being critical of the review team. I
12 disagree with their point of view.

13 Q The question was, they're being -- they want to
14 carry on investigating suspects, correct?

15 MR. UNGER: Yes.

16 Q And they tell you no one else is investigating
17 suspects. We want to investigate?

18 MR. UNGER: It appears that way.

19 Q All right. And notwithstanding that, they're
20 removed ultimately from the review team?

21 MR. UNGER: Yes.

22 Q They're not replaced?

23 MR. UNGER: Well, I believe they were replaced.

24 Q By whom?

25 MR. UNGER: I couldn't tell you offhand.

1 Q All right. But you believe they were replaced?

2 MR. UNGER: I believe so, yes.

3 Q What leads you to believe that they were replaced?

4 MR. UNGER: I don't have that here in front of me.

5 Q All right. Well, I'll ask you to -- I take it you
6 have some documents that you took with you upon
7 your retirement?

8 MR. UNGER: Only my personal notes.

9 Q All right. Anything other than your personal
10 notes?

11 MR. UNGER: A few -- a few personal documents, that's all.

12 Q Anything pertaining to the missing women's
13 investigations?

14 MR. UNGER: There may have been a few documents there, yes.

15 Q All right. I take it you weren't issued a
16 subpoena to come here today?

17 MR. UNGER: No, I was not.

18 Q All right. And you provided all the documents in
19 your possession --

20 MR. UNGER: Yes.

21 Q -- that are relevant to the missing persons
22 investigation. Have you provided those to
23 commission counsel?

24 MR. UNGER: Yes, I did.

25 Q Now, at a meeting that you had with RCMP Assistant

1 Commissioner Bev Busson on February 19th, 2002,
2 the missing persons investigation was discussed;
3 isn't that correct?

4 MR. UNGER: I believe we did have a meeting like that.

5 Q And what -- what you did was that you laid your
6 cards on the table with Bev Busson that you were
7 starting your own review at VPD; isn't that right?

8 MR. UNGER: I explained that we were going to do a review of
9 our own, yes.

10 Q All right. And what I have here is a note that
11 the -- the Earl Moulton name came up.

12 MR. UNGER: Could you refer me to the note, please?

13 THE COMMISSIONER: Don't answer the question.

14 Q Don't answer the question, but I'll refer you to
15 the -- and you made two statements to Inspector
16 LePard and there are two versions of this comment.
17 One of them is at page 8 of your statement to
18 LePard, your first one, and one of them is at page
19 9 of your second statement.

20 THE COMMISSIONER: All right.

21 MR. HIRA: For the record, it's Ravi Hira and I represent
22 Retired Assistant Commissioner Moulton. As I read
23 the comment that my friend is about to put to this
24 witness, it is an opinion that this witness has
25 rather than evidence that arises from what he did

1 or from any admissions that he received from Mr.

2 Moulton. His opinion is not admissible.

3 THE COMMISSIONER: Wait a minute. Opinion about what?

4 MR. GRATL: Perhaps I can assist by reading --

5 THE COMMISSIONER: I don't know where you're going.

6 MR. GRATL: I'll frame the whole question that deals with this
7 passage that -- in Mr. Unger's statement to LePard
8 it says:

9 The Earl Moulton thing came up that he was
10 the ops officer in Coquitlam who would have
11 been in charge of the person in charge of
12 that file and that he might be too close.

13 So that's one phrasing. And there's another
14 phrasing --

15 THE COMMISSIONER: Might be too close?

16 MR. GRATL: Might be too close. And so I wanted to ask this
17 witness what's that about? What is it? What does
18 it mean to say Earl Moulton's too close? What is
19 the Earl Moulton thing? There's another phrasing
20 of that same --

21 THE COMMISSIONER: Okay. Let's deal with that one first.

22 What's wrong with that?

23 MR. HIRA: Well --

24 THE COMMISSIONER: I don't know if it's worth anything at the
25 end of the day, but --

1 MR. HIRA: Well, I will let the question be asked. If this
2 witness has any direct knowledge of it other than
3 an opinion, then obviously I don't have an
4 objection, but if all this witness is going to do
5 is provide some sort of opinion, then in my view
6 it's -- it's basically worthless and inadmissible.

7 THE COMMISSIONER: Well, it's not exactly worthless. I mean
8 he's a senior officer at the deputy chief rank and
9 he's giving an opinion to another officer who's
10 questioning him about what his role was and I
11 think you hit it on the head when you said it's an
12 opinion. And it may well just go to the limited
13 weight that -- I mean I don't know what it means,
14 he might be too close.

15 MR. HIRA: Well, why don't we just wait for this to develop a
16 bit further.

17 THE COMMISSIONER: All right.

18 MR. HIRA: Obviously if he has some knowledge about the
19 Coquitlam investigation and is giving an opinion
20 based upon his knowledge --

21 THE COMMISSIONER: I'm going to let Mr. Gratl ask the question.
22 Go ahead.

23 MR. GRATL:

24 Q It stuck out and so I just read that to you. I
25 read it accurately, did I?

1 MR. UNGER: Well, I would like to see the document if I could,
2 please.

3 Q Sure. It's your statement to Inspector LePard.
4 That's the first one. You have that before you, I
5 think, in the black binder.

6 MR. UNGER: This one? And what page?

7 Q Page 8 of the first statement. This is the
8 unamended version that I think Inspector LePard
9 sent to you to verify the accuracy.

10 MR. UNGER: This is in the unmarked black binder?

11 Q Yes. It says at the top:

12 Missing Women Investigation Review Interview
13 Forum. Name: John Unger. Date: February
14 11, 2004.

15 Do you have that?

16 MR. UNGER: Page 8.

17 Q Page 8, yes.

18 MR. UNGER: Okay.

19 Q Okay. You see the paragraph starting "Regarding
20 Beach's February 19th, 2002 memo"? You see that?

21 MR. UNGER: Yes. Just let me read it, please.

22 Q Yes. All right. I'll just read it to you.

23 We laid our cards on the table that we were
24 starting our own review and I think the Earl
25 Moulton thing came up that he was the ops

1 officer in Coquitlam who would have been in
2 charge of the person in charge of that file
3 and that he might be too close.

4 Do you see that?

5 MR. UNGER: Yes.

6 Q I've read that accurately?

7 MR. UNGER: Yes.

8 Q And then if you go to your second statement.

9 MR. UNGER: Also on page 8?

10 Q No. It's on page 9, but I just want to point out
11 that on the first page of the second statement
12 it's still dated February 11th, 2004, but it says
13 "John Unger amended". Do you see that?

14 MR. UNGER: Yes.

15 Q And I take it it's amended because you've had a
16 chance to go through and verify the accuracy of
17 Inspector LePard's notes?

18 MR. UNGER: Yes. I didn't agree with what he had put in the
19 initial statement.

20 Q Sure. So you changed some of the language and
21 that's why I'm just going to page 9 for the
22 different language, just to the bottom of the
23 first paragraph there. Now, it says after you've
24 had a chance to amend it:

25 We laid our cards on the table that we were

1 starting our own review. I think the Earl
2 Moulton thing came up. He was formerly the
3 ops officer in Coquitlam who would have been
4 in charge of the investigator in charge of
5 that file and that for appearance sake he
6 might have been too close.

7 Do you see that? You've changed the language a
8 little bit, but -- and I wanted to put both of
9 those to you in fairness, but what I wanted to ask
10 you about was what was the Earl Moulton thing to
11 your mind that you were referring to in both of
12 those statements?

13 MR. UNGER: No. What I meant by that was I think his name came
14 up as a person who might do a possible review for
15 them, and my suggestion was that he was in charge
16 of the operations side of the Coquitlam Detachment
17 at the time when the February the 5th search took
18 place and that perhaps he might be too close. And
19 I was thinking of a conflict of interest, that's
20 all.

21 Q Okay. So why would that -- why would you describe
22 it as "I think the Earl Moulton thing came up"?
23 What does that mean? Why would you phrase it as
24 "the Earl Moulton thing"?

25 MR. UNGER: I don't recall that. I don't know why I said that

1 in that -- in that light. There was nothing
2 nefarious in that that I recall.

3 Q Okay.

4 MR. HIRA: I want to withdraw my objection and encourage my
5 friend to keep asking questions.

6 THE COMMISSIONER: All right.

7 MR. GRATL: They say never ask a question that your friend
8 doesn't know the answer to.

9 THE COMMISSIONER: Sometimes you have to fish in uncharted
10 waters --

11 MR. GRATL: That's exactly right.

12 THE COMMISSIONER: -- in cross-examinations.

13 MR. GRATL:

14 Q All right. I take it, though, Mr. Unger, that you
15 heard the word "hooker" bandied about a lot? It
16 was a common currency?

17 MR. UNGER: I wouldn't say a lot. In the earlier years, yes,
18 but at my level, in the senior management level,
19 not very much, no.

20 Q Okay. Don Adam used it?

21 MR. UNGER: Well, the very first time that I saw him use it, I
22 actually took some action because I -- my
23 understanding of the use of that word is that it's
24 not really a derogatory term in the minds of most
25 police officers. However, we had determined in

1 about 1994 that it was insensitive with certain
2 groups to use that language, so we had adopted the
3 use of STW instead.

4 Q All right. I take it, though, the word "hooker"
5 hung around for a long time after 1994?

6 MR. UNGER: Maybe did, at the street level perhaps.

7 Q All right. And I just have -- I have already made
8 reference to a number of documents contained in
9 this exhibit, Exhibit 146, that contain
10 reference -- at least a hundred pages of documents
11 containing the word "hooker" and "hooker
12 homicide". I take it that you understand that the
13 word -- there was a special term for a homicide of
14 a sex worker, which was a hooker homicide. Maybe
15 the alliteration was attractive, but --

16 MR. UNGER: No. We didn't use that in Major Crime as a general
17 rule, you know, in any -- certainly in any written
18 correspondence. We just didn't use that term.

19 Q I'll just take you to 102 of Exhibit 146 as an
20 example. 102. This is a memo dated March 6th,
21 2001 from Sergeant Field to Acting Inspector Al
22 Boyd?

23 MR. UNGER: Yes.

24 Q And there you can see at point 3 it says:
25 ViCLAS is also doing a comprehensive review

1 about 52 solved hooker homicides.

2 Do you see that?

3 MR. UNGER: Yes.

4 Q That's official correspondence?

5 MR. UNGER: It is.

6 Q It's from a more junior sergeant to a more senior
7 acting inspector?

8 MR. UNGER: Yes.

9 Q I put it to you that there were lots of examples
10 of that type of language used?

11 MR. UNGER: No. I'd say there's very few in written form.

12 Like I say, those that -- that I came across,
13 including the one that you referred to from Don
14 Adam, on that particular case I phoned his
15 immediate boss, which was Superintendent Killaly
16 in the RCMP, and just asked him not to use that
17 type of language because some people that read
18 these reports might find it offensive.

19 Q Sure, but not three months after you did that your
20 own Sergeant Field is using the exact same
21 language again?

22 MR. UNGER: Yes. Well, I don't agree with her using that, but
23 I think from time to time people tend to shorten
24 what they're doing somewhat. It's wrong for her
25 to do that. I disagreed with it.

1 Q And I have it that you corrected an RCMP -- was he
2 an inspector, corporal?

3 MR. UNGER: He was an inspector, Don Adam.

4 Q So you did put yourself out there and that's
5 something, to my mind, commendable. But
6 notwithstanding those efforts, the language kept
7 cropping in?

8 MR. UNGER: Yes. I think -- I think the instances would be
9 minimal concerning the -- if you were to compare
10 the total number of reports, it might slip through
11 a few times, but not as a general rule.

12 Q In your interview with Deputy Chief Evans you
13 describe it as -- the word "hooker" as an old
14 habit that tends to die slowly?

15 MR. UNGER: Yes. Probably.

16 Q And I take it just as old language use tends to
17 die slowly, old attitudes would tend to die slowly
18 as well?

19 MR. UNGER: As a general rule perhaps in some cases.

20 Q And I take it as well that you -- you've heard
21 evidence from Mr. McGuinness about old tendencies
22 towards resistance to change on the gender front,
23 on the racial front, and on the sexual orientation
24 front. I take it in those areas there are habits
25 that tend to die slowly as well?

1 MR. UNGER: I think you'd have to take those things
2 individually. I wouldn't lump all those issues
3 together. I would take them separately because in
4 the case of sexism, I think the Vancouver Police
5 Department was way ahead of most organizations and
6 I just did not see the sexism going way back to
7 the time when we first started hiring female
8 police officers for the road. And that's -- they
9 were very well accepted and I think if there were
10 some sexism issues at that time, I think that they
11 were put to rest fairly quickly.

12 Q Could you turn to page 208 of Exhibit 146, please?

13 MR. UNGER: Yes.

14 Q This is a document entitled "Police Board
15 Meeting"?

16 MR. UNGER: Yes.

17 Q From May the 15th, 2002?

18 MR. UNGER: Yes.

19 Q That's your handwriting at the top right-hand
20 corner, isn't it?

21 MR. UNGER: It is.

22 Q So you directed that this document be filed. Do
23 you remember who the author of this document is?

24 MR. UNGER: Well, it's a police board meeting. I guess it
25 would be the secretary to the police board.

1 Q All right. You say it's the secretary to the
2 police board. I mean it's written in the first
3 person. Do you see how in the second paragraph it
4 says:

5 I want to provide you with some context and
6 some insight into the persons that are
7 constantly relied upon by the media in their
8 various reports in order to put some concerns
9 you might have to rest.

10 Do you see that?

11 MR. UNGER: Yes. I see that.

12 Q Who is the speaker there speaking in the first
13 person? Is that you? Are you the author of this
14 report?

15 MR. UNGER: No.

16 Q Do you know who is the author of the report?

17 MR. UNGER: I believe it was Inspector Beach.

18 Q Now --

19 MR. UNGER: I'm not a hundred percent sure, but I believe it
20 was Inspector Beach.

21 MR. GRATL: All right. Thank you. Mr. Commissioner, I'm in a
22 bit of a tight situation because I have yet to go
23 through some of the police operational documents,
24 the two packages of documents that I passed
25 forward.

1 THE COMMISSIONER: So -- so tell me where you're going in all
2 of that. I don't want anybody else here being
3 deprived of --

4 MR. GRATL: And I understand that. And what I've got is --
5 what I've passed forward is two sets of documents
6 dealing with each of these -- one with each of
7 these witnesses. The first set is marked "IC",
8 for independent counsel, "Downtown
9 Eastside/Unger".

10 THE COMMISSIONER: Yes.

11 MR. GRATL: And there are -- there are a total of 49 documents
12 there.

13 THE COMMISSIONER: So tell me where -- tell me what the
14 documents say and what you -- you know, what your
15 line of cross-examination is. A lot of times I
16 hear cross-examination where -- where we've gone
17 over some of the things. And I'm not suggesting
18 for a minute that you're repeating anything that
19 isn't necessary, but I just -- if you give me an
20 idea of what you -- what you hope to put to the
21 witnesses and where you're going, what your theory
22 is, it might help.

23 MR. GRATL: Well, there are a couple of really important areas.
24 One of them is inaction, which is hard to prove at
25 the best of times, so the documents generally tend

1 to --

2 THE COMMISSIONER: Inaction, that you're going to say that you
3 had all this evidence before and you didn't do
4 anything?

5 MR. GRATL: That's exactly right. That's the nub of it. We've
6 heard a lot of that type of evidence.

7 THE COMMISSIONER: Don't you think I've heard a lot of that
8 already through Mr. Ward?

9 MR. GRATL: We've heard a lot, but these documents put a finer
10 point on it. And I don't know what to do. I'm in
11 your hands because I think they're really
12 important -- they're key documents in terms of
13 understanding the exact contours of what happened,
14 but on the other hand you'll be familiar with a
15 number of these documents from the evidence of
16 previous witnesses.

17 THE COMMISSIONER: Okay. Let's play it by ear. Why don't you
18 file the documents and you can deal with them and
19 leave your argument for -- I mean --

20 MR. GRATL: That would be my preference.

21 THE COMMISSIONER: You've been here all the time. You've
22 heard -- there are all kinds of allegations made
23 against both officers that they didn't do what
24 they should have done in light of what the four
25 informants had said and in light of the lack of

1 resources that the different officers from Shenher
2 to Field to Chernoff and -- you know, we've heard
3 a lot of that. Again, I don't want to deprive you
4 of your right to cross-examine, but I've heard so
5 much of that already. And they've given their
6 perspective on this as to where they were in the
7 hierarchy.

8 MR. GRATL: And my only difficulty with it is a sort of *Brown*
9 and *Dunn* type problem where I want to have -- in
10 fairness, I want to have these witnesses have a
11 fair opportunity to deny that they saw documents
12 or say that they had no idea that a document meant
13 something or other.

14 THE COMMISSIONER: Well, basically that's been their position
15 so far, is that operationally they're upper
16 management and they left this to the -- I don't
17 want to use the lower ranks, but the people who
18 did the investigation. Is that basically it? I
19 don't want to put words -- Mr. Unger?

20 MR. UNGER: Yes. I think that's a fair comment. In the case
21 of the inspector in charge of the Major Crime, he
22 was the point person for Project Evenhanded if
23 that's what you're referring to, Mr. Commissioner.

24 MR. GRATL: Maybe I can ask a couple of open-ended questions
25 that capture the relevant areas.

1 THE COMMISSIONER: All right.

2 MR. GRATL:

3 Q Firstly, Mr. McGuinness, you'll appreciate the
4 Vancouver Police Department put out a no evidence
5 line to the public?

6 MR. MCGUINNESS: Correct.

7 Q I'm suggesting to you that you knew that there was
8 some evidence to support a serial killer theory?

9 MR. MCGUINNESS: No.

10 Q And how about you, Mr. Unger? You knew there was
11 some evidence to support a serial killer theory
12 and you didn't do anything to correct that media
13 line?

14 MR. UNGER: What time frame are we talking about?

15 Q For almost the entire duration of all the
16 investigations?

17 MR. UNGER: During that time frame -- I mean if you're talking
18 about the whole five years, there was a point in
19 time when -- when I felt that -- not that we had
20 evidence, but that this was -- had become a
21 suspect-based investigation and that we had to go
22 to a JFO.

23 Q I'm just saying it never went out in the public
24 that you were starting a serial killer
25 investigation?

1 MR. UNGER: Well, I think it did when we said we were expanding
2 it. You mean as far as a media -- something out
3 to the media?

4 Q What I'm saying is you never went out there and
5 said, "We want the public to know that we believe
6 there is likely a serial killer and we're
7 investigating it to the fullest extent of our
8 abilities"?

9 MR. UNGER: I didn't do that.

10 Q That was never done, correct?

11 MR. UNGER: I'm not sure if Evenhanded did that. They may
12 have. I'm not sure.

13 THE COMMISSIONER: I think -- excuse me for interrupting.
14 Someone correct me if I'm wrong, but hasn't that
15 been the evidence so far, the uncontradicted
16 evidence from a number of different sources
17 starting at Rossmo on down the line, that there
18 was -- there was no general consensus amongst the
19 Vancouver Police that there was a serial killer
20 and Rossmo had put forward that theory and then he
21 said that Biddlecombe specifically disagreed with
22 that because he felt there wasn't enough evidence
23 to justify it? And then I think it was Deputy
24 Chief LePard who said there was a feeling amongst
25 some people that if you alluded to the fact that

1 there's a serial killer, that the public would get
2 upset about that and there's a political fall out
3 from some of that. That's my recollection of the
4 evidence over the last five months. Now, if I'm
5 wrong, someone correct me on that.

6 MR. GRATL: Well, I would put a finer point on it and say --

7 THE COMMISSIONER: Look, I've glossed over it.

8 MR. GRATL: The line was that there's no evidence of a serial
9 killer, which was demonstrably false.

10 THE COMMISSIONER: Well, incorrect in -- yes. Subsequently
11 obviously there was a serial killer.

12 MR. GRATL: No, no. There's no evidence of a serial killer was
13 demonstrably false at the time that it was said
14 and it was known to the people saying it and
15 responsible for it being said.

16 THE COMMISSIONER: I know --

17 MR. GRATL: That's how far I would go.

18 THE COMMISSIONER: No. I know. I know what you're going to
19 tell me.

20 MR. GRATL: Not a negligent misrepresentation. It's something
21 more troubling, especially in light of the duty to
22 warn.

23 THE COMMISSIONER: I know that.

24 MR. GRATL: It's the opposite of fulfilling the duty to warn.

25 THE COMMISSIONER: I know you're going to argue that at the end

1 of the day and I'm going to have to listen to you
2 on that. I know that. And Mr. Hern's going to
3 tell me something else at the end of the day; is
4 that right?

5 MR. HERN: Yes. There's a broader scope of evidence. Mr.
6 Gratl's correct that there were some instances
7 late in the day in 2000 where there was
8 conflicting statements being issued, but there
9 were statements as early as in 1999 acknowledging
10 the possibility of a serial killer and then there
11 were many statements subsequently that this is
12 what the Missing Women's Review Team and certainly
13 Evenhanded was doing. So Mr. Gratl and I will end
14 up arguing about that and pointing you to the
15 different evidence on that subject, but I don't
16 think it can be dealt with just by a broad brush
17 with these two witnesses and largely it's
18 contained in documentation.

19 THE COMMISSIONER: I think I have a pretty good idea of what
20 these witnesses are going to say on that.

21 MR. GRATL: Yes. In which case may I have these two bundles of
22 documents marked as the next exhibits?

23 THE COMMISSIONER: Yes. No one has any objection to that?

24 Okay. All right. Before we adjourn, can someone
25 tell me where we are in terms of timing here? Mr.

1 Hern?

2 MR. HERN: I understand the Department of Justice has 15
3 minutes. I'm down to about 10 just based on the
4 different questions that have been asked. I'm not
5 sure if there's anybody else who's asked --

6 THE COMMISSIONER: I don't think anybody else has.

7 MR. HIRA: I have probably about 10 minutes.

8 THE COMMISSIONER: Okay. Well, we'll come back. We'll take
9 the break. Thank you.

10 THE REGISTRAR: The two documents to be marked will be the
11 McGuinness document will be 161 NR. The documents
12 related to Mr. Unger will be 162. The hearing
13 will now recess for 10 minutes.

14 **(EXHIBIT 161 NR: Bundle of documents)**

15 **(EXHIBIT 162 NR: Bundle of documents)**

16 **(PROCEEDINGS ADJOURNED AT 3:06 P.M.)**

17 **(PROCEEDINGS RESUMED AT 3:20 P.M.)**

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

19 THE COMMISSIONER: Mr. DelBigio.

20 MR. DELBIGIO: Yes. Thank you. Mr. Commissioner, I
21 understand -- I did not object to those materials
22 being filed for Mr. Gratl, but I do need to read
23 them and --

24 THE COMMISSIONER: All right.

25 MR. DELBIGIO: -- Mr. Gratl's original concern about fairness,

1 requiring that the witness have a look, was a
2 reasonable issue, so I will read them and perhaps
3 in the future want to make some comment about
4 them. Thank you.

5 THE COMMISSIONER: No. I understand that. Mr. Hern.

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

7 Q Thank you. Sean Hern on behalf of the Vancouver
8 Police Department and Board. Gentlemen, I've got
9 a few questions for you. And the first is for Mr.
10 McGuinness. And it relates to a question that Mr.
11 Ward asked you and I wanted to ensure that the
12 record is accurate on this point. Mr. Ward asked
13 you about receiving information from a sergeant as
14 to information about 13 potential persons of
15 interest?

16 MR. MCGUINNESS: Yes.

17 Q And that, as I understand it, was from October,
18 1999?

19 MR. MCGUINNESS: October 29th, 1999.

20 Q Okay. And in Mr. Ward's question, which you
21 agreed with, he had characterized that as coming
22 from Mr. McKnight. And do you have a recollection
23 as to whether that's correct?

24 MR. MCGUINNESS: No. That came from Sergeant Field, Geramy
25 Field, that report.

1 Q Thank you. The second question is for Mr. Unger.
2 You gave some evidence about female inspectors
3 coming up through the ranks. And is it -- does it
4 correspond to your recollection that Miss Daley
5 became an inspector as of about 1993?

6 MR. UNGER: I'm not sure of that, but it could have been.

7 Q All right. And promoted to deputy chief March,
8 2000?

9 MR. UNGER: Yes.

10 Q And that was -- and sat on the executive team with
11 yourself under Chief Blythe?

12 MR. UNGER: That's correct.

13 Q And another woman who was an inspector was
14 Inspector Barb Morris?

15 MR. UNGER: Yes.

16 Q And she was promoted to inspector in April, 2000?

17 MR. UNGER: I believe so.

18 Q And another was Val Harrison, who I understand was
19 promoted to inspector as of June, 2001?

20 MR. UNGER: Yes.

21 Q Does that accord with your recollection?

22 MR. UNGER: Yes.

23 Q All right. Now -- and further to that for your
24 comments about the officer's mess, all three of
25 those women by the time they become part of the

1 inspector rank would be entitled to attend that
2 event?

3 MR. UNGER: Yes.

4 Q And that event also includes guests from Crown
5 prosecutors' offices?

6 MR. UNGER: It does.

7 Q And guests from other police agencies, including
8 the RCMP and various municipal detachments?

9 MR. UNGER: Yes.

10 Q And at times guests from the military?

11 MR. UNGER: Yes.

12 Q And those guests could be both men or women?

13 MR. UNGER: Yes.

14 Q Now, Mr. McGuinness, I want to ask you a question
15 about the Home Invasion Task Force, which was in
16 operation at the time you were deputy chief of
17 Major Crime, the Investigations Division.

18 MR. MCGUINNESS: I'm sorry?

19 Q That was ongoing while you were --

20 MR. MCGUINNESS: Yes. Correct. Yes.

21 Q -- deputy chief of Investigations?

22 MR. MCGUINNESS: Yes.

23 Q And that related to a series of crimes being
24 committed against primarily elderly people in
25 various parts of Vancouver?

1 MR. MCGUINNESS: Yes. And I've heard them characterized as a B
2 and E Task Force or garage robberies. That's not
3 the way it was. What was happening is these homes
4 were being invaded while the elderly people were
5 there and they were being beaten, and in one case
6 two of them were murdered.

7 Q That Home Invasion Task Force was started when?

8 MR. MCGUINNESS: I can't recall. I believe it was up and
9 running when I actually went into the section in
10 '98.

11 Q All right. And you recall that in 1999 then
12 Sergeant LePard reviewed that investigation and
13 wrote a report, essentially a business case, for
14 how the investigation needed to be improved and
15 for further resources to be added to it?

16 MR. MCGUINNESS: That's correct.

17 Q And that report ended up on your desk?

18 MR. MCGUINNESS: Correct.

19 Q And following reading it, you assigned to that
20 task force more resources in accordance with those
21 recommendations?

22 MR. MCGUINNESS: Right, because in my recollection the report
23 was a detailed operational plan on how to deal
24 with these crimes, who they had as possible
25 suspects, how they were going to work on them and

1 what they needed to do that.

2 Q So is one of the reasons that the Home Invasion
3 Task Force got more resources than the missing
4 women's investigation at that time that it was a
5 known series of crimes as opposed to a question
6 mark as to whether crimes were being committed in
7 your mind with respect to the missing women?

8 MR. McGUINNESS: That's correct.

9 Q And is it -- looking back now in hindsight, do you
10 think that another reason that the Home Invasion
11 Task Force received more resources was that
12 Sergeant LePard had put forward a more forceful
13 business case for more resources and how they
14 would be utilized within that ongoing
15 investigation?

16 MR. McGUINNESS: That's correct.

17 Q Now, Deputy Chief McGuinness, you gave some
18 evidence in answer to the questions for Mr. Gratl
19 as to there being -- I think his term was, quote,
20 "pockets of resistance", which I heard you to
21 agree with. And there were pockets of resistance
22 to increasing diversity in the department, both
23 gender and racial. Do you recall that exchange?

24 MR. McGUINNESS: Yes.

25 Q And when you spoke of pockets of resistance or

1 perhaps adopted that term from Mr. Gratl, were you
2 referring to individual isolated episodes where
3 that type of behaviour, racist or prejudice
4 behaviour, would manifest?

5 MR. MCGUINNESS: No.

6 Q All right. What were you referring to?

7 MR. MCGUINNESS: Just a general overview, just from anecdotal
8 things I would see or people -- things people
9 might say in a conversation that was corrected
10 immediately when they would say it, things like
11 that.

12 Q So an attitudinal issue on the part of some
13 members?

14 MR. MCGUINNESS: Yes. Attitudinal issues is a very good way of
15 putting it.

16 Q All right. And when in use of the term "pockets
17 of resistance" do you mean that there was any sort
18 of organized or systemic kind of resistance to
19 attitudinal change or were these incidents that
20 occurred and were dealt with in -- when they
21 arose?

22 MR. MCGUINNESS: No. There's no central group that showed that
23 or demonstrated that. It would just be individual
24 personalities that would be demonstrating
25 behaviour like that, who if I saw it would deal

1 with it or heard of it would deal with it.

2 Q And would others on your executive team do the
3 same?

4 MR. MCGUINNESS: Yes. Absolutely.

5 Q All right. And, Mr. Unger, do you have a comment
6 on those issues?

7 MR. UNGER: I would agree. I think there was some immaturity
8 on the part of some individuals and that's usually
9 where it would show up. But it was infrequent and
10 it certainly did not convey the attitude of the
11 rank and file in general.

12 Q All right. And, of course, you've got a -- when
13 you've got an organization of some 1200 sworn
14 members and a number of civilian -- some hundreds
15 of civilian employees, you're going to have
16 incidents where people behave improperly or
17 manifest their own personal prejudices and biases,
18 right?

19 MR. UNGER: Yes.

20 Q And that's just going to happen in an
21 organization. Is that consistent with your
22 experience as managers?

23 MR. UNGER: Yes, it is.

24 Q All right. And when those instances were reported
25 while you two were in the offices of deputy chief

1 and even below, were they addressed, in your view,
2 through management and disciplinary actions?

3 MR. MCGUINNESS: Yes, they were.

4 MR. UNGER: Yes.

5 Q And were they addressed to your satisfaction?

6 MR. UNGER: Yes.

7 Q Looking at the management group as a whole around
8 you, were you satisfied that other managers were
9 adequately dealing with those instances as well?

10 MR. MCGUINNESS: Myself personally, I never had to deal with a
11 manager for not dealing with issues like that, so
12 my -- I would say, yes, they were dealing with
13 them the way they should be handled and handled in
14 a proper manner.

15 Q Mr. Unger?

16 MR. UNGER: I agree as well.

17 MR. HERN: Those are my questions. Thank you.

18 THE COMMISSIONER: All right. Thank you.

19 **CROSS-EXAMINATION BY MS. HOFFMAN:**

20 Q Judy Hoffman for the Government of Canada. And
21 I've let Mr. Registrar know that I will be
22 referring to the document brief that the
23 Department of Justice put together for this panel,
24 which was Exhibit 157, and I have one other
25 document which I'll be handing up. So my first

1 question is just -- I have a couple of
2 clarification questions arising from the testimony
3 that you've given already, and my first question
4 is for Mr. Unger. My friend Mr. DelBigio asked
5 you yesterday about whether at the time that you
6 were working towards establishing the JFO whether
7 you were at the stage where you could exclude any
8 of the suspects. Do you recall that?

9 MR. UNGER: Yes, I do.

10 Q And I believe -- and please correct me if I noted
11 down your answer incorrectly, but I believe you
12 answered that it would be very dangerous to
13 exclude someone right away and that even we fell
14 into the trap where the focus was on one or two
15 suspects. Do you recall --

16 MR. UNGER: That's correct.

17 Q Can you just explain what you mean by the last
18 comments about falling into a trap? What
19 specifically were you referring to there?

20 MR. UNGER: I was referring specifically to the Fell and
21 Wolthers case where we had two perhaps overly
22 exuberant police officers who for no other reason
23 than they had a very strong suspicion of a
24 particular individual followed up leads on that
25 individual and focused themselves on that

1 individual and he -- he was an excellent suspect.
2 In fact, at the time he was probably the very best
3 suspect. And I think they did it for all the
4 right reasons. However, I think it's dangerous
5 any time you do that because what you do is you
6 narrow your focus on someone who you happen to
7 know a little bit more about. What you have to do
8 is cast a much wider net and you have to try and
9 make links with known information, and that's --
10 that's what we were doing leading up to the JFO.

11 Q Thank you very much. Now, this question is in
12 response to my friend Mr. Hern's questions to you,
13 Mr. McGuinness. Sorry. I'll speak up a bit. I'm
14 not close enough to the mike.

15 MR. MCGUINNESS: I have a problem with the vent behind me here.
16 It overrides my hearing aid, so --

17 Q Okay. Can you hear me now?

18 MR. MCGUINNESS: Yes. There's a commercial like that.

19 Q Yes. Mr. Hern asked you about the operational
20 plan that Doug LePard had put forward with respect
21 to the garage robberies, the Home Invasion Task
22 Force and he asked you if you had had such an --
23 sorry. I'll back up. I was just wondering
24 whether such an operational plan had ever been put
25 forward to you from the missing women

1 investigation?

2 MR. McGUINNESS: No. There had not been.

3 Q Now, I want to move now to talk about your
4 relationship, both of you, working with the RCMP.
5 And I'll start with you, Mr. McGuinness. When you
6 were interviewed by DC LePard back in December of
7 2003, you spoke about the effort that you've made
8 during your career to cultivate relationships with
9 other police agencies. Do you recall that?

10 MR. McGUINNESS: Yes, I do.

11 Q And so I understand that you had a very positive
12 working relationship with the RCMP?

13 MR. McGUINNESS: I did with their senior managers and I
14 maintain that relationship today.

15 Q Okay. And can you tell us who your counterparts
16 would be at the RCMP during the terms of
17 reference?

18 MR. McGUINNESS: Most of my dealings were with Assistant
19 Commissioner Murray Johnson, who was commanding
20 "E" Division at the time. And I also would have
21 dealings with Deputy Commissioner Larry Proke, who
22 was commanding the Pacific Region at that time.

23 Q And what about Gary Bass in his position as the
24 officer in charge of Major Crime?

25 MR. McGUINNESS: Yes. I had a good relationship with Gary

1 Bass, even to conferring with creating a joint
2 robbery squad because of the way robberies are
3 committed in the Lower Mainland. I had a good
4 relationship with Gary.

5 Q And I imagine that there would have been times
6 when the RCMP would call upon you for assistance
7 in their cases?

8 MR. McGUINNESS: There would be, yes. Very infrequently
9 because they were far better resourced than we
10 were.

11 Q But that certainly occurred?

12 MR. McGUINNESS: That's right. The relationship was encouraged
13 because we're all in the business of doing the
14 same thing.

15 Q And did you ever have any communication problems
16 with the RCMP that you're aware of?

17 MR. McGUINNESS: No. And I think I gave an example when I
18 spoke to both Doug LePard and Deputy Chief Evans,
19 is that at the time the only people capable of
20 conducting wire surveillance in the province were
21 the RCMP. We did not have our own wire service,
22 which we do, to my understanding, today. And
23 there would be times when our Homicide Squad would
24 try and contact the wire people and to see if we
25 could get a file up and running and they would be

1 told, "I'm sorry. You're 10th in line." And I
2 would make a call to Murray Johnson and he would
3 accommodate us.

4 Q And, Mr. Unger, what was your experience in
5 dealing with the RCMP?

6 MR. UNGER: I dealt with the RCMP just about my whole career
7 because I spent about almost half my career in
8 different forms of JFOs and task forces in one
9 form or another.

10 Q And if you needed assistance from the RCMP, who
11 would your counterparts be that you would contact
12 during the terms of reference?

13 MR. UNGER: The main person I dealt with was Gary Bass. He was
14 on the same level as myself at that time. He was
15 assistant commissioner and -- but I had known Gary
16 Bass since about 1994. At that time I was
17 inspector in charge of VIIU, which is the
18 Vancouver Integrated Intelligence Unit, which is a
19 joint unit with the RCMP. Gary Bass at that time
20 was the inspector in charge of Homicide, in charge
21 of their Serious Crimes Unit, I guess it was
22 called at that time. So we had lots of dealings
23 with him going way back then.

24 Q Now, Mr. McGuinness, you attended a meeting in
25 April of 1999 with the Attorney General and I want

1 to ask you some questions about that now. From
2 your evidence yesterday, it is clear to me that
3 you had indicated a number of times, but that at
4 the time that meeting was held, the VPD had not
5 arrived at any determination that a serial killer
6 was at work in the Downtown Eastside?

7 MR. McGUINNESS: That's correct.

8 Q In fact, you had not even come to the
9 determination that the women were victims of
10 homicides, correct?

11 MR. McGUINNESS: That's correct. And that's reflected in the
12 memo that Lori Shenher wrote for me to present to
13 the Attorney General.

14 Q Yes. And Mr. Gratl took you to that memo today.
15 You will recall that not only Gary Bass was at
16 that meeting, but Staff Sergeant Henderson was at
17 that meeting as well, correct?

18 MR. McGUINNESS: I'll just tell you how the meetings went,
19 okay? First of all, we had a meeting with myself,
20 Lori Shenher, Staff Sergeant Doug Henderson, Gary
21 Bass and Chief Bruce Chambers. And we had that
22 meeting before we met with the Attorney. Then for
23 the meeting with the Attorney, it was myself,
24 Chief Chambers, Gary Bass, the Attorney, Stephen
25 Stackhouse, who was the deputy minister, and Kevin

1 Begg, who was the director of Police Services.
2 Staff Sergeant Henderson and Constable Shenher
3 waited outside.

4 Q Thank you for that clarification. So I understand
5 that when you spoke to DC Evans, you indicated
6 that one of the reasons that you wanted members of
7 the Provincial Unsolved Homicide Unit there is
8 because you were interested in perhaps getting
9 their involvement in the file, correct?

10 MR. McGUINNESS: That's correct.

11 Q And I just want to back up and ask you a little
12 bit about the Provincial Unsolved Homicide Unit at
13 the time. And you understand that was established
14 in 1997?

15 MR. McGUINNESS: That's correct.

16 Q And I have a document here that I'm going to hand
17 up. If counsel want a copy, my colleague can
18 provide you with one. Now, this is a memorandum
19 of understanding with respect to the Unsolved
20 Homicide Unit, which was entered into in 1997,
21 you'll see on the last page. And I just want to
22 refer you to the whereas clauses which indicate
23 the reasons for setting out -- or establishing the
24 Unsolved Homicide Unit, and particularly paragraph
25 B, which says that:

1 Statistics indicate there are in excess of
2 500 unsolved homicides in the province and
3 that suspects are known in approximately 200
4 of the cases. The existing police
5 investigators are generally consumed with
6 current investigations leaving limits on time
7 available for old homicides.

8 So then it goes on to indicate that there's a need
9 for additional resources to resolve these
10 outstanding homicides?

11 MR. MCGUINNESS: That's correct.

12 Q So that accords with your understanding?

13 MR. MCGUINNESS: Yes.

14 Q So at the time when you were meeting in 1999, the
15 Provincial Unsolved Homicide Unit was working
16 through quite a large caseload of these
17 outstanding files, correct?

18 MR. MCGUINNESS: Yes. I believe Staff Sergeant Henderson said
19 they had 600 outstanding files they were currently
20 working on.

21 Q And, as I understand it, they prioritized those by
22 working on the cases where they had known suspects
23 first. Was that your understanding?

24 MR. MCGUINNESS: Yes, it was.

25 Q So at the meeting I understand from your

1 discussion with DC Evans that the Provincial
2 Unsolved Homicide Unit indicated to you that they
3 weren't in a position to take over the missing
4 women investigation; is that correct?

5 MR. MCGUINNESS: That's correct. And they made the point that
6 we didn't -- we didn't know what we had, whether
7 we had a homicide or not.

8 Q And did that seem to be a reasonable response to
9 you given the caseload that they were operating
10 with and the finite resources they had to deal
11 with that large caseload?

12 MR. MCGUINNESS: Yes.

13 Q But I understand that Staff Sergeant Henderson
14 offered to review the file and provide any
15 guidance in terms of additional investigative
16 avenues at that meeting, correct?

17 MR. MCGUINNESS: Yes. He was very gracious with that.

18 Q Now, Mr. Unger, you testified yesterday that
19 sometime in early May just after you got into your
20 position and you had put Inspector Spencer in
21 place to oversee the Major Crime Section that you
22 met with him and he recommended to you that a JFO
23 should be entered into; is that correct?

24 MR. UNGER: That's right.

25 Q So you indicated that thereafter you had some

1 discussions with Gary Bass on that?

2 MR. UNGER: I did. We actually had discussions at all levels
3 of the organization with the RCMP, at all levels,
4 because we were making a concerted effort at that
5 time to joint forces and deal with this issue.

6 Q Now, you indicated yesterday that JFOs aren't
7 established overnight and it takes some time to
8 put into place, correct?

9 MR. UNGER: Yes. And it depends on the size of the JFO and, of
10 course, the type of crime that you're looking at,
11 but certainly this would be at the top of the list
12 in terms of how long it would take you to
13 establish that. And I say that because we had a
14 huge amount of background material.

15 Q Okay. And sorry. And one of the issues was
16 actually organizing that background material and
17 getting the file in shape for the RCMP to review
18 it, correct?

19 MR. UNGER: That would have been the first step.

20 Q Okay. So I'd just like to take you through a few
21 documents in Exhibit 157, which is the binder in
22 front of you, which provide us with a bit of
23 background on that. So if you can first turn to
24 Tab 39, please.

25 MR. UNGER: Yes.

1 Q Now, this is a letter to Acting Inspector
2 Henderson from Inspector Spencer dated August
3 10th, 2000?

4 MR. UNGER: Yes.

5 Q And you'll see from the first paragraph that
6 reference is made to the missing women
7 investigation, that it has progressed steadily and
8 it's now at a point where a review by an outside
9 agency would possibly prove helpful. You see
10 that?

11 MR. UNGER: Yes.

12 Q And so second paragraph:

13 I am requesting your assistance in this
14 matter by way of a complete review of all the
15 data collected, suspects profiled and
16 interviewed and suggestions regarding any
17 further viable avenues of investigation that
18 could be pursued.

19 MR. UNGER: Yes.

20 Q So this is the first formal -- although there had
21 been discussions, this was put into writing to the
22 RCMP?

23 MR. UNGER: Yes. This is -- this is actually a follow-up
24 document to verbal conversations we'd had at many
25 different levels to get this moving. So this is

1 the first sort of formal approach to that.

2 Q Okay. So if we can turn now to Tab 23.

3 MR. UNGER: Sorry. 23?

4 Q 23, yes. So this is a memo dated September 29th,
5 2000. And I'm just wondering if your handwriting
6 is the handwriting we see on the top of the
7 document?

8 MR. UNGER: Yes, it is.

9 Q So this was from Sergeant Field to Inspector
10 Spencer, who passed it along to you. In the first
11 paragraph it says:

12 As you are aware we have suffered a setback
13 in our plans to have the RCMP assist us with
14 the Missing Persons Review Team
15 investigation. The major problem has been a
16 lack of manpower, both from the investigative
17 side of things and from the availability of
18 trained SIUSS data entry and analysis
19 personnel.

20 MR. UNGER: Yes.

21 Q And you recall those difficulties that you had in
22 getting the file in order?

23 MR. UNGER: Yes, I do.

24 Q So the note at the bottom indicates -- the tenor
25 of this memo is in essence that Sergeant Field is

1 looking for a full-time SIUSS data entry person
2 and one was identified, Sue Jarvis?

3 MR. UNGER: Yes.

4 Q And she was working at the Organized Crime Agency
5 and you assisted in getting her services for the
6 Missing Women Review Team?

7 MR. UNGER: I did.

8 Q And then if we can flip over to Tab 25. As -- as
9 these things happen, sometimes plans don't always
10 go as you expect, and there's a memo here from
11 October 17th, 2000 and Constable Jarvis, who was
12 going to work on the file, was no longer able to
13 due to illness and so Sergeant Field was left with
14 no one who was trained to do the basic SIUSS data
15 entry. Were you familiar with that issue?

16 MR. UNGER: Yes.

17 Q And if we can finally turn to Tab 27. This is a
18 memo from Inspector Spencer to yourself dated
19 November 28th, 2000, and just the first
20 paragraph -- or first sentence:

21 As you know, the Missing Persons Review Team
22 has been working for the past several weeks
23 preparing the file for a complete review by
24 the Provincial Unsolved Homicide Unit. The
25 RCMP have been helpful, but have asked that

1 all avenues of investigation and case
2 preparation be exhausted prior to them taking
3 on the review. That work has now been
4 completed.

5 Now, with respect to that request from the RCMP,
6 was that reasonable, that that work should be done
7 before the RCMP took it over?

8 MR. UNGER: Yes, it was. And what they were referring to there
9 is tips and leads that we'd already started on.
10 They wanted those completed. I believe there
11 was -- there was a -- a very large number of
12 persons of interest that we gave them where there
13 hadn't been any work on them.

14 Q Thank you. Now, as I understand it, the actual
15 files weren't transferred to Evenhanded until
16 April of 2001 when Jim McKnight and Phil Little
17 actually transferred out to the Surrey office. I
18 think they were working on them perhaps prior to
19 that when they were assigned in February. Does
20 that accord with your recollection?

21 MR. UNGER: Yes. There was a period of time when they were
22 being worked on, I think, in both locations, I
23 think, so they may not have all got out there
24 right away.

25 Q Okay. I'd like to just go to Tab 28. I'm just

1 moving on to a bit of a different topic. Tab 28
2 is a memo from Inspector Spencer to Geramy Field,
3 but I think if we look at the last page it will
4 indicate that it was sent to you by Inspector
5 Spencer?

6 MR. UNGER: Yes.

7 Q Okay. I won't take the time to read from this
8 document, but what it is is essentially reporting
9 to you what the operational plan would be that was
10 shaping up, that was being developed in
11 consultation with Sergeant Field, how that
12 operational plan was going to go forward, and that
13 it was going to focus on reviewing files and
14 identifying suspect DNA from files. Do you recall
15 that?

16 MR. UNGER: Yes. It was an update on the project. It was well
17 under way by that time.

18 Q And just generally speaking with respect to -- are
19 you familiar with the elements of the Evenhanded
20 operational plan, what they were generally?

21 MR. UNGER: Yes. I think so generally, yes.

22 Q I can take you to a document that perhaps might
23 assist. It's Tab 3. This is a PowerPoint
24 presentation.

25 MR. UNGER: Yes.

1 Q Now, I understand that Geramy Field made this
2 presentation to senior members of the VPD
3 executive in May of 2001. Were you at that
4 presentation?

5 MR. UNGER: I believe I was, yes.

6 Q If we can turn to Tabs -- sorry -- page 7. She
7 summarizes in this slide the status of the Project
8 Amelia investigation or where the investigation
9 was at this point. She indicated there that there
10 were hundreds of suspects and many other things
11 that -- to be considered. And then turning over
12 the next couple pages, it sets out what the
13 investigative strategies would be, the
14 investigative theory, and then if we can go to
15 page 10, which is the investigative plan. And
16 that indicates that there was going to be a review
17 of sex trade worker murders for crime scene DNA, a
18 review of all major sexual assaults, and that the
19 goal was to build a comprehensive bank of unknown
20 suspect DNA for later comparison against known
21 suspects, and that part of the plan would also be
22 to review and prioritize current VPD and RCMP
23 suspect lists. Do you see that?

24 MR. UNGER: Yes.

25 Q And with respect to the DNA aspect, did you see

1 that as being a viable and reasonable way to go
2 forward in solving -- in an attempt to solve this
3 case?

4 MR. UNGER: I think it would be absolutely essential and it
5 turned out to be that it was.

6 Q What do you mean by that?

7 MR. UNGER: Well, I think much of the case against Mr. Pickton
8 was based on DNA, so I mean that was essential to
9 the case. It was -- we recognized that from the
10 outset.

11 Q And with respect to the review and prioritization
12 of suspects, given your comment earlier that there
13 were many suspects that had never been worked on,
14 would you agree that that was something that
15 necessarily had to be done before any suspect
16 could be targeted?

17 MR. UNGER: Yes.

18 MS. HOFFMAN: Thank you. Those are my questions.

19 THE COMMISSIONER: All right. Thank you, Miss Hoffman.

20 MR. HERN: Mr. Commissioner, could I ask a question arising
21 from that exchange just briefly?

22 THE COMMISSIONER: Yes. Absolutely.

23 **CROSS-EXAMINATION BY MR. HERN (Cont'd):**

24 Q Thank you. And it's just I noticed we have former
25 Attorney General Dosanjh coming in a couple of

1 weeks and I just heard Mr. McGuinness's testimony
2 about the Attorney General's -- the meeting at the
3 Attorney General's office and I thought that for
4 the benefit of Mr. Ward, who's not here, it would
5 be helpful to have Mr. McGuinness on record just
6 exhaust his memory about that. I don't know if
7 you've already done that in answer to Miss
8 Hoffman's question, but could you tell us about
9 the meeting with the Attorney General?

10 MR. McGUINNESS: The Attorney General had asked to meet with us
11 because the Attorney General's office was getting
12 letters of concern from the community as well and
13 from the families in regards to the missing women
14 and he wanted an overview of what was happening
15 and how -- if anything the Attorney's office could
16 do to assist us at that time. And the meeting we
17 had beforehand with Gary Bass and Doug Henderson,
18 because they were provincial resources, was laying
19 out to them what we did or did not have. And when
20 we went in to see the Attorney, obviously Gary
21 Bass was acting on behalf of the provincial police
22 and we all explained to the Attorney we didn't
23 have anything hard that we could dedicate
24 resources to or money to at that time, no --
25 nothing -- nowhere to go. So in the term he says,

1 "Well, you know, possibly we can help with a --
2 supporting a fund for the reward", and that's
3 where the \$70,000 came from.

4 Q About how long do you think the meeting lasted?

5 MR. McGUINNESS: Half an hour.

6 Q And to your recollection who was in attendance?

7 MR. McGUINNESS: Yes. It was myself, the Attorney, Ujjal
8 Dosanjh, Bruce Chambers, Gary Bass, Stephen
9 Stackhouse, who was the deputy minister, and I
10 believe Kevin Begg, the director of policing, was
11 there as well.

12 Q All right. And there is an absence of notes from
13 that meeting in the production to this inquiry.
14 Do you recall any of those individuals or anyone
15 else taking notes of that meeting?

16 MR. McGUINNESS: I cannot recall. I think maybe Stephen
17 Stackhouse was writing some things, but I'm not
18 sure exactly what he was doing. I took no notes.
19 It wasn't my meeting.

20 Q All right. Thank you. I think that's everything.

21 THE COMMISSIONER: I'm not -- I should say just parenthetically
22 I'm not surprised that the meeting was half an
23 hour. The assistants make sure that the Attorney
24 General only gives a half hour to anybody. That's
25 the way -- that's the way it works over there.

1 The assistants will run your life for you in the
2 Attorney Generals.

3 MS. HOFFMAN: Mr. Registrar, I apologize. I forgot to ask that
4 document to be marked an exhibit, the memorandum
5 of understanding regarding the Unsolved Homicide
6 Unit.

7 THE REGISTRAR: Is that going to be an NR document?

8 MS. HOFFMAN: It should be. I regret I didn't find out, but
9 I'll --

10 THE REGISTRAR: It will be marked as 163 NR.

11 **(EXHIBIT 163 NR: Document entitled "Memorandum of**
12 **Understanding Between The Ministry of the Attorney**
13 **General and The Vancouver Police Department and**
14 **The Royal Canadian Mounted Police, "E" Division")**

15 THE COMMISSIONER: Mr. Skwarok?

16 **CROSS-EXAMINATION BY MR. SKWAROK:**

17 Q Mr. Registrar, if you'd be kind enough to provide
18 this binder, Exhibit 149.

19 Gentlemen, my name's Mark Skwarok and I am
20 counsel for Dr. -- as he is now, Dr. Kim Rossmo.
21 If you have trouble hearing --

22 MR. MCGUINNESS: I'm fine now that the fan's been turned off
23 here.

24 Q I sometimes have selective hearing.

25 MR. MCGUINNESS: That's what my wife says about me.

1 Q Sir, you testified, I believe, Mr. McGuinness,
2 that you did not think that Mr. Rossmo directly
3 reported to you. Did I understand your evidence
4 correctly?

5 MR. MCGUINNESS: I can't remember if at that time he was in my
6 division or in the Operations Division. I know at
7 one time he was in the Operations Division. I
8 can't recall.

9 Q His evidence was that when he was a detective
10 inspector, he reported directly to you. And I
11 believe that DCC LePard was of the same mind.

12 MR. MCGUINNESS: Okay. I have no reason to doubt that.

13 Q Chief Blythe when he was testifying stated words
14 to the effect of if he was certain that there had
15 been a serial killer on the loose, he would have
16 found whatever necessary resources there were to
17 conduct a suspect-based investigation. He says
18 that would have included trying to recruit
19 ex-members. Is that a proposition with which you
20 agree?

21 MR. MCGUINNESS: Yes.

22 Q And the impediment really was that there wasn't a
23 conviction, a clear belief in May of 1999, say,
24 that there was a serial killer on the loose?

25 MR. MCGUINNESS: I'm not sure if you would say a belief. There

1 just wasn't anything there to show us what we had.

2 Q Well, put it in different words. You weren't sure
3 that there was a serial killer?

4 MR. McGUINNESS: That's correct.

5 Q But if you were sure, you would have done what you
6 could to get all the necessary resources to
7 capture the person responsible?

8 MR. McGUINNESS: Yes.

9 Q And you need a lot more resources to do a
10 suspect-based investigation than to conduct a
11 missing women investigation, correct?

12 MR. McGUINNESS: Yes, because it would involve a lot more
13 detailed investigation, wiretap, surveillance.

14 Q DNA bases --

15 MR. McGUINNESS: But, you know, take you back to what you said.
16 If we had a suspect or if we knew that there were
17 homicides, that wouldn't have been a problem. It
18 would have happened.

19 Q I understand you, sir, but I think that what
20 you've testified, since you weren't sure that
21 there had been serial murderers, there was no need
22 to drag in all of these resources?

23 MR. McGUINNESS: Well, there was nowhere for them to go. There
24 was nowhere for them to -- I never got an
25 operational plan that laid out how those types of

1 resources would be used.

2 Q Let me try it again.

3 MR. McGUINNESS: Okay.

4 Q If you were sure in May of 1999 that there was a
5 serial murderer responsible for the absences of
6 dozens of women, you would have supported the idea
7 of devoting whatever resources were available to
8 find that person, correct?

9 MR. McGUINNESS: Correct.

10 Q And you would devote far more resources in that
11 endeavour than you would in the absence of being
12 sure that there was a serial murderer?

13 MR. McGUINNESS: In the absence of any evidence that a crime
14 had been committed, yes.

15 Q I'd like it if you stayed with my words. If you
16 weren't sure that there was a serial killer, you
17 wouldn't have seen the need to have these -- all
18 of these resources necessary to conduct a
19 suspect-based investigation?

20 MR. McGUINNESS: Well, I guess it's not an easy yes or no
21 answer to your question and that's the problem.
22 If evidence had come up that there was kidnapping,
23 abduction, forcible confinement involving these
24 women in any way, yes, resources would have been
25 placed on them, but we weren't getting anything

1 like that.

2 Q I'm just asking you hypothetically if you're sure
3 there was a serial murderer, you would have found
4 additional resources --

5 MR. MCGUINNESS: So if you're -- hypothetically you're saying
6 we have a suspect. We know he's done -- we
7 suspect he's done something. We would do
8 something. That's correct.

9 Q Well, I'm asking you to assume, sir, that you may
10 not have a suspect, but yet you're certain that
11 there's a serial murderer?

12 MR. MCGUINNESS: Yes. If we were certain people had been
13 murdered, yes, we would put those resources.

14 Q All right. That's all I ask of you. Thank you.
15 And you'll agree with me, sir, that the mere fact
16 that there weren't any bodies found does not show
17 that there was not a serial murderer, correct?

18 MR. MCGUINNESS: Correct.

19 Q And, indeed, that's the modus operandi of serial
20 murderers frequently, Clifford Olson. They'll
21 likely hide their bodies?

22 MR. MCGUINNESS: Correct.

23 Q Now, if I could take you, please, to Exhibit 149,
24 Tab 16. And that is the case assessment report of
25 May the 25th, 1999 prepared by Dr. Rossmo. And

1 this is the document you didn't read?

2 MR. McGUINNESS: I didn't see this. I was away from the 1st of
3 May till the middle of June.

4 Q Right. In this document, amongst other things, he
5 states that:

6 The likelihood of the spike in missing women
7 in '98 and '99 occurring by chance was less
8 than one percent.

9 MR. McGUINNESS: Right.

10 Q Were you aware of that statistic in May of 1999?

11 MR. McGUINNESS: I can't recall.

12 Q If you were, do you think that might have had a
13 significant impact on you?

14 MR. McGUINNESS: I think it would have all been taken into
15 consideration, but there still was nowhere to put
16 those resources to work on.

17 Q If I could take you to Tab 17, please. This is
18 the very next document. And this is a memo of May
19 the 27th addressed to you and others. And I
20 believe this is the memo you gave evidence about
21 and you did see this document.

22 MR. McGUINNESS: Yes. Not till I came back in the middle of
23 June.

24 Q But, in any event, in mid-June you saw this
25 two-page memo?

1 MR. McGUINNESS: Yes.

2 Q And you read it?

3 MR. McGUINNESS: Yes.

4 Q At the time?

5 MR. McGUINNESS: Not at the time. When I came back in the
6 middle of June.

7 Q When you came back from wherever it was you were
8 in mid-June --

9 MR. McGUINNESS: Yes. I read it.

10 Q And so you would have read this by no later than
11 the end of June, correct, 1999?

12 MR. McGUINNESS: Correct.

13 Q The first line reads:

14 Please find attached a copy of our report in
15 the Downtown Eastside missing persons matter.

16 Do you see that?

17 MR. McGUINNESS: Yes.

18 Q Obviously this is a reference to the tab I just
19 took you to?

20 MR. McGUINNESS: Right. But I didn't see that other report.
21 Either it wasn't attached to this when I read it
22 or I didn't go and look for it.

23 Q Why wouldn't you ask for it?

24 MR. McGUINNESS: Pardon me?

25 Q Why did you not ask for it?

1 MR. MCGUINNESS: I don't know. I can't recall.

2 Q All right. If you go down to the bottom of the
3 page, it's stated:

4 While it's not possible with available
5 information to determine with certainty the
6 cause of these disappearances --

7 And he's referring, obviously, to the Downtown
8 Eastside women.

9 -- the most likely explanation for the
10 majority of them is a single murderer or
11 partner murderers.

12 You see that?

13 MR. MCGUINNESS: Correct.

14 Q How certain do you have to be before you'd devote
15 the resources to try and get suspects?

16 MR. MCGUINNESS: Where would we devote the resources to?

17 Q Have surveillance, pick up johns, talk to
18 community workers and get a list of --

19 MR. MCGUINNESS: We were doing that.

20 Q But you only had five or so people --

21 MR. MCGUINNESS: No. We had all the people in the Patrol
22 Division, all the uniform people that had been
23 briefed by Lori Shenher and Sergeant Field to do
24 that, to provide field reports. We had Dave
25 Dickson, who was liaising with the community and

1 the street workers on a constant basis. It wasn't
2 just the people in the Missing Women's Task Force
3 or Working Group. It was everyone who was out on
4 the street was asked to be the eyes and ears for
5 them.

6 Q If in the middle of June of 1999 you had been
7 aware that a body had been found, would more
8 resources have been devoted?

9 MR. MCGUINNESS: Yes.

10 MR. SKWAROK: Those are my questions. Thank you.

11 MR. MCGUINNESS: Thank you.

12 THE COMMISSIONER: Thank you, Mr. Skwarok.

13 **CROSS-EXAMINATION BY MR. HIRA:**

14 Q Mr. Commissioner, it's Ravi Hira and my client is
15 Retired Assistant Commissioner Earl Moulton, who
16 at the relevant time was an inspector in
17 Coquitlam. And I'm grateful to my friend Mr.
18 Gratl, who has prepared a booklet of statements
19 and interviews that these witnesses had. If I
20 could ask Mr. Registrar to put it before them, I
21 will read some excerpts and make things a lot
22 quicker.

23 THE COMMISSIONER: All right.

24 Q Deputy Chief Constable Unger, if I could start
25 with you first, please. You don't have to go to

1 that book yet. I will refer you to it as I need
2 your assistance. But let's deal with something
3 right off the bat. You told Deputy Chief Evans
4 when you were interviewed with her -- by her on
5 August 26th, 2011 that your understanding was that
6 the Missing Women Review Team had about 125
7 suspects which had been narrowed to 26 suspects,
8 but there were insufficient resources to go
9 forward and that's why you worked towards getting
10 the joint forces operation?

11 MR. UNGER: That was one of the reasons, one of the reasons.
12 There was several other reasons why we needed a
13 JFO at that point, and that was because we needed
14 to widen the net in terms of the geographical look
15 for suspects, and also we needed to have a look
16 and see if there were missing women from other
17 areas around -- in and around Vancouver. And
18 there hadn't been at that time a comprehensive
19 look at all the other women. And I'm talking
20 about the other strolls that we were aware of,
21 which included Burnaby, Surrey, New Westminster in
22 particular, because we knew that some of the sex
23 trade workers in Vancouver also frequented those
24 strolls from time to time.

25 Q Thank you. Let's move to another topic. And

1 resources. You also told Deputy Chief Evans that
2 this period of time, 1998, 1999, 2000, was a time
3 that the department was strapped for resources.
4 Never in the whole history of the department had
5 you seen morale so low. Nobody wanted to work.
6 There were huge equipment problems and huge
7 community problems. Do you recall telling her
8 words to that effect?

9 MR. UNGER: Yes.

10 Q Those are true?

11 MR. UNGER: Yes.

12 Q And you and Chief Constable Blythe moved to turn
13 that around?

14 MR. UNGER: Yes, we did.

15 Q You also --

16 MR. UNGER: Tried to.

17 Q You also had at the same time as this
18 investigation quite a spike in gang activity,
19 homicides, shootings rather than stabbings, which
20 was your normal homicide; is that correct?

21 MR. UNGER: Yes. There was an inordinate number of gang-type
22 shootings.

23 Q And those were consuming resources and time?

24 MR. UNGER: Very time-consuming.

25 Q And I'd like to refer you to and read into the

1 record an excerpt from the Evans interview of you.
2 You'll find that at Tab A, A3, page 39. Are you
3 at page 39? I believe I put a yellow sticky
4 there.

5 MR. UNGER: I think so. Is this the report from November 14th?

6 Q It should be an August 26th, 2011 interview.

7 MR. MCGUINNESS: I think he's talking about your interview.

8 Q If I may approach the witness.

9 MR. UNGER: Tab 3?

10 Q Please.

11 MR. UNGER: Okay. Page 39. Okay. Okay.

12 Q You're at the yellow sticky?

13 MR. UNGER: Yes.

14 Q And I want to consider the aspect of interviewing
15 your investigational bias here. You were asked
16 this question starting at line 13:

17 Okay. Were you ever -- did you ever
18 become -- of information that was coming out
19 from confidential sources in 1998? I mean
20 probably seven days after Lori Shenher got to
21 the office she gets a tip from somebody,
22 leads her to become aware of Pickton, Robert
23 Pickton out in Coquitlam and the fact that he
24 may have been killing the women and the
25 suspicions that he was grinding up the women

1 and feeding them to his pigs. Did you ever
2 become aware of this in 1998 or 1999?

3 Do you remember being asked that question?

4 MR. UNGER: Yes.

5 Q And were you aware of that?

6 MR. UNGER: No.

7 Q And in terms of the name Pickton as a prime
8 suspect, when did you first become aware of
9 Pickton as a prime suspect of Miss Shenher's
10 investigation?

11 MR. UNGER: In refreshing my memory from my notes, I believe it
12 was May 16th, 2000. That's the first time I heard
13 that name.

14 Q Thank you. Now, dealing with the RCMP, you've
15 told my friend Miss Hoffman that you had good
16 relationships with the RCMP and communications
17 were not a problem. Dealing with the Coquitlam
18 RCMP in particular, did you have any difficulties
19 with that RCMP detachment?

20 MR. UNGER: I didn't really have any direct dealings with
21 Coquitlam, but I wouldn't have had. Certainly I
22 knew some of the people there. I knew them quite
23 well. I knew Mr. Hall -- Superintendent Hall out
24 there and --

25 Q Did you know Inspector Moulton?

1 MR. UNGER: I did.

2 Q And they were easy to reach, easy to contact?

3 MR. UNGER: Yes, they were.

4 Q And you were accessible to them?

5 MR. UNGER: Yes.

6 Q No communication difficulties?

7 MR. UNGER: No.

8 Q Thank you. Now, you got Inspector Gord Spencer --
9 you made -- you made Gord Spencer the inspector in
10 charge of the Major Crime Unit and you asked him
11 to take a good, hard look at what was going on
12 with the missing women file, to either fold it,
13 expand it, not just let it languish; is that
14 correct?

15 MR. UNGER: That's correct.

16 Q And the reason was that there didn't seem to be
17 any true direction as to where it was headed; is
18 that fair to say?

19 MR. UNGER: Yes. That may be a bit of an over-exaggeration,
20 but I think at that particular point in time they
21 had exhausted a lot of the avenues that they were
22 looking at in terms of where the women had gone,
23 so it was time to have a really good look at that
24 file. In addition to that, Lori Shenher herself
25 was getting burnt out. I kept hearing different

1 things from the task force that -- and this is
2 within my first month in there -- that it
3 certainly needed us to have a good look at it.

4 Q Thank you. Now, I'd like to read to you from page
5 4 of the statement that you provided to Inspector
6 LePard. That you will find at Tab A, document --
7 sorry -- Tab A, Tab 2, so A2. Again, I should --
8 you should have a yellow sticky there.

9 MR. UNGER: Okay. Page 4?

10 Q Please. And I'd like to know whether you agree
11 with this statement. I'm reading the first full
12 paragraph.

13 Regarding the November 23, 2000 report --
14 And that's the report where Ms. Shenher summarizes
15 her work to that point in time with the missing
16 women file --

17 -- from Shenher summarizing the investigation
18 to date, including the Pickton investigation,
19 I didn't receive any specific briefing about
20 Pickton. I recall reading a report where
21 there were a large number of suspects and it
22 was narrowed down to a smaller group and
23 Pickton and POI 390 were in that group. I
24 remember discussions about Pickton, that he
25 lived on a pig farm. I recall there was some

1 work being done on that and that some of the
2 people involved didn't think he was a prime
3 suspect, that he was low IQ. But I do
4 remember investigators took out photos,
5 showed them in the Downtown Eastside, and not
6 one of the sex trade workers identified him
7 as being a john who picked up prostitutes. I
8 remember there was surveillance done out at
9 the farm and I think it was Strike Force that
10 did the surveillance, but there was nothing
11 really, outside of some stories floating
12 around in the Downtown Eastside, about this
13 individual. But I recall hearing that there
14 was nothing pointing to him directly. We
15 still do not have any direct evidence of a
16 crime.

17 You said that to LePard?

18 MR. UNGER: I did.

19 Q And was it true at the time?

20 MR. UNGER: Yes.

21 Q And it's true today?

22 MR. UNGER: Yes.

23 Q Thank you. And one more excerpt if I may. And if
24 you'd turn to page 7 at the very bottom. And this
25 deals with resources and efforts by you and chief

1 constable of the day, Chief Constable Blythe. And
2 I'm reading from the last paragraph. Are you
3 there, sir?

4 MR. UNGER: Yes. That's page 7?

5 Q Correct.

6 Regarding my correspondence with Judy about
7 funding in November of 2001, there was lots
8 of discussion --

9 Let me go back. That's Judy Rogers; is that
10 correct?

11 MR. UNGER: Yes, it is.

12 Q The city chief manager?

13 MR. UNGER: City manager.

14 Q Sorry.

15 There's lots of discussion with the Board and
16 the City about us being under-resourced and I
17 had a number of discussions with Judy and
18 Brent.

19 And who's Brent?

20 MR. UNGER: Brent MacGregor. He was the deputy city manager.

21 Q Thank you.

22 About discretionary funding. They said that
23 if we had specific cases where we needed
24 funding, they'd provide it. So calling their
25 bluff. This was an attempt by us to show

1 them what we had, what we needed and to give
2 them an indication of what we need to
3 properly staff the task force. By our memo
4 back to us it was proof to me that they had
5 no intentions of giving us additional
6 resources. It was all smoke and mirrors. It
7 was very unusual to give a report about an
8 investigation to a City manager. Terry and
9 I --

10 And that's Chief Constable Blythe; is that
11 correct?

12 MR. UNGER: Yes, it is.

13 Q

14 -- went to talk to her in her office and laid
15 it out for her personally and thought she was
16 going to help. Two weeks later I get this
17 terse memo -- sorry -- I get back this terse
18 memo. My memo to Terry regarding proceeding
19 as per the plan reflected my intention to
20 exceed our budget and do it anyway unless
21 Terry said no. So we did it anyway. We got
22 chewed out by the mayor for it a year later,
23 but the plan in the memo is what we did.

24 First of all, you told that to Officer LePard; is
25 that correct?

1 MR. UNGER: I did.

2 Q It was true then?

3 MR. UNGER: It certainly was.

4 Q It's true now?

5 MR. UNGER: It is.

6 Q And it's about what period in time, sir?

7 MR. UNGER: That would have been in the -- it was in the fall
8 of 2001.

9 Q Thank you. And that's resources for the joint
10 forces investigation?

11 MR. UNGER: Yes. Project Evenhanded.

12 Q Thank you. Now, if I may turn my attention to
13 you, Deputy Chief Constable McGuinness. Is it
14 fair to say that you first heard about Pickton
15 when you read about his arrest in the papers; that
16 you had not been told -- given his name by Ms.
17 Shenher; is that correct?

18 MR. MCGUINNESS: I thought it was until I reviewed all the
19 documents and I saw in a memo from Sergeant Field
20 on October 29th, 1999 in a list of persons of
21 interest Pickton's name was there.

22 Q And it was a long list of persons of interest?

23 MR. MCGUINNESS: That's right. 13 names.

24 Q Thank you. Otherwise the only other recollection
25 is hearing about it -- hearing his name at the

1 time that he was arrested?

2 MR. MCGUINNESS: That's correct.

3 Q Thank you. Now, dealing with information for a
4 moment. And I wonder whether I could ask you to
5 turn to that binder of documents. Your documents
6 are at Tab B.

7 MR. MCGUINNESS: Tab 8?

8 Q B. Beg your pardon. English is a third language.

9 MR. MCGUINNESS: Yes.

10 Q And if you'd go to your interview with LePard,
11 which is at Tab 2. I think there's a yellow
12 sticky at page 6 of Tab 2.

13 MR. MCGUINNESS: After B comes 4, 5, 6. And there's a sticky
14 here, but -- what page is it?

15 Q Page 6.

16 MR. MCGUINNESS: Page 6. Yes. Page 6.

17 Q Of your interview with Mr. LePard or Officer
18 LePard?

19 MR. MCGUINNESS: No. This is with Jennifer Evans. Just a sec.
20 Sorry about this.

21 Q No. It's my fault.

22 MR. MCGUINNESS: It's getting late in the day.

23 Q Go to the yellow sticky, the previous tab.

24 MR. MCGUINNESS: Okay. Deputy LePard, page 6. Yes. I have it
25 now.

1 Q Thank you. And I'm looking at the first full
2 paragraph. I'd like to read a couple of sentences
3 to you:

4 In policing there's an inherent problem of
5 people keeping things to themselves and that
6 goes from the constable on the street and
7 across jurisdictions. Everyone wants to make
8 the capture themselves and I think that
9 that's a systemic problem around the sharing
10 of information.

11 You said that to Officer LePard; is that correct?

12 MR. MCGUINNESS: That's correct.

13 Q It was true then?

14 MR. MCGUINNESS: Yes.

15 Q It's true now?

16 MR. MCGUINNESS: I don't know. I've been out of policing since
17 2000.

18 Q Fair enough.

19 MR. MCGUINNESS: But knowing people, I would assume that it's
20 still happening.

21 Q Right. And one of the problems, I'm going to
22 suggest to you, in the missing file is that
23 Officer Shenher wasn't sharing her information in
24 an efficient manner. Would you agree with me?

25 MR. MCGUINNESS: I can't agree with that, no. I don't know.

1 Q You don't know?

2 MR. McGUINNESS: I didn't get information on Pickton. I don't
3 know who else did.

4 Q Fair enough. There is -- there is -- there are a
5 couple of questions that I do wish to put to you
6 about the meeting with the Attorney General.
7 First, you've exhausted your memory regarding the
8 meeting; is that correct?

9 MR. McGUINNESS: Correct.

10 Q Do you recall at all whether Ms. Maureen Maloney,
11 QC, the Deputy Attorney General, was in
12 attendance?

13 MR. McGUINNESS: I don't believe so.

14 Q All right. Were there any other ministers in
15 attendance?

16 MR. McGUINNESS: No.

17 Q And you'll agree with me that there were no names
18 of any suspects mentioned in the meeting?

19 MR. McGUINNESS: That's correct.

20 Q And certainly Mr. Pickton's name was never
21 mentioned in the meeting?

22 MR. McGUINNESS: That's correct.

23 Q And the meeting was called because Attorney
24 General Dosanjh was truly concerned about what was
25 happening with respect to the missing file,

1 correct?

2 MR. McGUINNESS: I would assume, yes.

3 Q And he wanted a report from the police as to what
4 they were doing on the missing file?

5 MR. McGUINNESS: Yes.

6 Q And he was prepared to provide whatever support
7 the police needed from his ministry provided it
8 did not interfere with any ongoing investigations?

9 MR. McGUINNESS: I don't know.

10 Q He certainly provided the reward?

11 MR. McGUINNESS: They indicated they would support \$70,000 of
12 the reward, yes. He didn't put up any money at
13 that time.

14 Q Right. Provided that the reward didn't interfere
15 with any policing operations? In other words,
16 provided that you were -- you wanted the reward
17 provided --

18 MR. McGUINNESS: Yes.

19 Q In other words, they weren't --

20 MR. McGUINNESS: Insisting that we do it.

21 Q Right. They wanted to make sure that if it worked
22 for you, they were prepared to do it?

23 MR. McGUINNESS: That's correct.

24 Q Thank you. Now, I'd like to, in ending, read to
25 you a passage from pages 60 and 61 of your

1 interview with Deputy Chief Evans. Again, there
2 should be a yellow tab.

3 MR. McGUINNESS: Yes. I have that.

4 Q And this is your July 12th, 2011 interview with
5 her. And it's a long passage. I'm going to start
6 at line 17 of page 16. You say:

7 You know, I've thought about this over and
8 over again because the loss of a life,
9 regardless of who it is, is a tragic thing to
10 happen. Unfortunately, if -- if it was
11 yesterday and it was the same set of
12 circumstances and we had the same lack of
13 resources, the lack of information, the lack
14 of a -- of proof that a criminal offence had
15 occurred, there probably -- there would have
16 been -- you know, there may have been no
17 difference. Surrounding this whole issue
18 were home invasions that were going on at the
19 time, the homicides that were going on at the
20 time. I -- I can't -- you know, hindsight.
21 It's just like -- it's just like this -- it's
22 like this inquiry. It's easy to sit back and
23 look at something in the past and say, oh, I
24 would have done this, we would have done
25 that, but unless there is -- unless you're

1 on -- unless you're there on the ground
2 dealing with resources you have at the time
3 and the funding that you have at the time,
4 it's easy to sit back and say, oh, I would
5 have done this, but if you had been there and
6 tried to implement what you say you would
7 have done then, you may have found a
8 different story. It's -- it's tragic that
9 this thing happened. Do I think it will
10 happen again? Well, absolutely. I think it
11 could happen in this province. I think it
12 could be happening in this province already
13 and I am not involved with it -- sorry -- not
14 involved in it, but the Highway of Tears with
15 all the missing women that haven't been found
16 there, um, I think it's happening. And
17 serial killers throughout society are popping
18 up every day. It's just amazing what we do
19 to each other.

20 Sir, you believed that when you spoke to Ms.
21 Evans?

22 MR. McGUINNESS: Yes.

23 Q And you adopt it today?

24 MR. McGUINNESS: Yes.

25 Q And would you adopt that as well, Deputy Chief

1 Unger?

2 MR. UNGER: Yes, I would.

3 Q Thank you.

4 MR. UNGER: Yes, I would.

5 MR. HIRA: Those are my questions, gentlemen.

6 THE COMMISSIONER: All right. Thank you, Mr. Hira. I guess
7 we're done. All right. Do you have anything, Mr.
8 DelBigio?

9 MR. DELBIGIO: Just one question for my client.

10 THE COMMISSIONER: Yes.

11 **CROSS-EXAMINATION BY MR. DELBIGIO (Cont'd):**

12 Q Mr. McGuinness, you've been asked questions for
13 two days now. Is there anything else that you
14 wish to say?

15 MR. MCGUINNESS: If I could take a moment, Mr. Commissioner.

16 THE COMMISSIONER: Yes.

17 MR. MCGUINNESS: I would like to, like many members of the
18 Vancouver Police Department have done before me,
19 apologize to the families of the missing women,
20 missing and murdered women. I'm sorry that I or
21 our organization didn't or couldn't do more than
22 we did at the time that would have arrested Willie
23 Pickton before he was able to kill all the women
24 that he killed. And I -- and this has weighed on
25 me, obviously, along with a lot of other members

1 for a long time. Thank you.

2 **CROSS-EXAMINATION BY MS. CHRISTIE (Cont'd):**

3 Q Thank you, Mr. Commissioner. Vanessa Christie on
4 behalf of Terry Blithe and John Unger. Just a
5 couple -- and I do mean two -- re-examination-type
6 questions for both of you. You were shown a
7 number of media articles yesterday by Mr. Ward,
8 articles I believe, if I had it right, dated
9 between around '97 and '99. Do you know -- do
10 either of you know if, in fact, any of those
11 articles were shown to the chief at the time?

12 MR. MCGUINNESS: I can't speak for the chief. I don't know if
13 he saw those articles or not.

14 MR. UNGER: I wouldn't know.

15 Q And just to be clear, the chief at that time -- I
16 don't think this is contentious, but that was
17 Chief Chambers at the time?

18 MR. MCGUINNESS: That's correct.

19 MR. UNGER: Yes.

20 Q And one other question. There was a number of
21 suggestions put to you about the frenzy, if I can
22 call it that, that was happening after the search
23 of the Pickton farm, particularly to you, Mr.
24 Unger, and you wrote that memo that we saw --
25 we've looked at in April -- April 3rd, 2002 about

1 documentation that you wanted preserved and you
2 felt should be preserved.

3 MR. UNGER: Yes.

4 Q Are you aware of anyone -- you were there for
5 almost -- well, a number of months throughout
6 2002. Are you aware of anyone at the Vancouver
7 Police Department destroying documents throughout
8 the rest of the time that you were there?

9 MR. UNGER: No.

10 Q Or hiding documents?

11 MR. UNGER: No.

12 Q And I know you're a bit earlier in the time frame,
13 Deputy Chief McGuinness. What about you? Are you
14 aware of anyone hiding or destroying documents in
15 the department?

16 MR. MCGUINNESS: No. And I find that very unlikely that that
17 would happen.

18 Q And I'll offer you the same opportunity, Mr.
19 Unger, if there's anything you'd like to say in
20 closing remarks to the commissioner.

21 MR. UNGER: Yes. I would like to say a couple of things.
22 Firstly, Mr. Commissioner, I've followed this
23 inquiry right from the beginning and I've been
24 looking at documents now for almost a year. I
25 know a lot more about this case now than I did

1 then and I would just like to say that I think
2 overall this case is a real tragedy. I mean we
3 know it's a tragedy, but it's a tragedy not only
4 for the victims when I see all the pictures of the
5 women there, and I feel in some ways the police
6 failed them by not finding this killer soon
7 enough. In addition to that, I think it's a
8 tragedy for the families of the victims. They've
9 had to go through horrendous things and it's a
10 real tragedy that that happened; in particular,
11 the families of the aboriginal people and the
12 aboriginal people have suffered, as we know, more
13 than the average person in this province and this
14 is just one more thing to drag them down. But I
15 just want to say it's also a tragedy for the
16 police members who worked so hard on this
17 throughout many years. And, in fact, this
18 Evenhanded project is still ongoing. We knew then
19 when we went into this that we were probably
20 looking at -- could have been anywhere up to four
21 serial murderers, and I still believe that there's
22 a couple out there that we don't have. We don't
23 really know how many people Robert Pickton killed
24 and I think that's a tragedy too. It's also a
25 tragedy that the neighbours and friends and

1 relatives of Robert Pickton didn't tell the
2 Coquitlam RCMP what they knew and what they saw at
3 the time. But in regards to the tragedy of the
4 police members who worked so hard on this and then
5 see their work bad mouthed in the press, I
6 think -- I think that's a real tragedy that the
7 families of those police officers have to live
8 with. And I -- I just want to close, say I thank
9 you for allowing us to come and tell our story
10 here because it is an important part of this
11 entire fiasco.

12 THE COMMISSIONER: All right.

13 MR. UNGER: Thank you.

14 MS. CHRISTIE: Thank you, Mr. Unger.

15 THE COMMISSIONER: In closing, I want to thank -- I want to
16 thank all the witnesses who have come forward.
17 And I know that at times the cross-examination has
18 been more than vigorous here, but this is a
19 difficult exercise and at the end of the day
20 regardless of how uncomfortable the
21 cross-examination may be or how uncomfortable this
22 has been for all of us -- and all of us in this
23 room. This inquiry has taken a toll on all of us,
24 but that pales in comparison to what the families
25 have gone through, the -- the fact that they have

1 loved ones who have forever disappeared and
2 they'll never ever see them again. So that's why
3 we're here. We are here to -- to ensure that the
4 circumstances that existed at that time that
5 allowed innocent people to be killed, innocent
6 women, defenceless, vulnerable women to be killed,
7 that's our tragedy and we must ensure that that
8 doesn't happen again. And as was pointed out a
9 moment ago in cross-examination, this serial
10 killing could very well be going on right now on
11 the Highway of Tears because those deaths are
12 still unaccounted for. And while there is an
13 ongoing investigation going on, the fact is that
14 many young women have disappeared. Few bodies
15 have been found. And so we as a society must do
16 something to prevent these ongoing tragedies. In
17 this province we've had the Olson killings from
18 1981. Ontario experienced the Bernardo killings.
19 And, of course, in the south of us there was Ted
20 Bundy and the Green River Killer and a number of
21 other similar types. We -- so, in any event, I
22 just want to say that this is a difficult exercise
23 for all of us and -- but we must work towards the
24 healing that the -- towards the families, who have
25 been here diligently listening to this and wanting

1 some answers, and that's the least we can do, is
2 to provide some answers for them. So I want to
3 thank each of you for coming here. I want to
4 thank all counsel for bearing with us for the six
5 months or so that we've been here. And, of
6 course, we're not done yet.

7 Just before we adjourn, I've been asked to
8 make an announcement and it's a press release and
9 it reads as follows. It says:

10 Butterflies in Spirit. On April 30th at noon
11 at the intersection of Georgia and Granville
12 Street Butterflies In Spirit, a dance troupe,
13 will come together to raise awareness to the
14 fact that an alarmingly high rate of violence
15 continues against young aboriginal women
16 across Canada. And to highlight the missing
17 and murdered women here in our province, for
18 15 minutes Butterflies In Spirit will have
19 Vancouver listen to our message in the hopes
20 that our words are heard. If you care for
21 your mothers and daughters and sisters, then
22 show up on April 30th at noon.

23 This is an announcement well worth making and it's
24 an event that's well worth attending. So thank
25 you and we'll adjourn.

1 MR. HERN: Just perhaps for the record, we should note that
2 we're not in this room next week and that there's
3 an event being held on Monday, the 30th and then
4 policy forums begin on Tuesday next week. I think
5 that's at the public library. And then there's
6 another session on Thursday, also at the public
7 library, and then the policy forums the following
8 week after that move to the Wosk Centre, I
9 understand, so that nothing will be in this
10 building.

11 THE COMMISSIONER: All right. We'll adjourn.

12 THE REGISTRAR: This phase of the hearing will adjourn until
13 Wednesday, May the 9th at 9:30 a.m.

14 **(PROCEEDINGS ADJOURNED AT 4:39 P.M.)**

15
16 I hereby certify the foregoing to be
17 a true and accurate transcript of the
18 proceedings transcribed herein to the
19 best of my skill and ability.

20 Kathie Tanaka, Official Reporter
21 UNITED REPORTING SERVICE LTD.
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