

Vancouver, BC

April 04, 2012

(PROCEEDINGS RECONVENED AT 9:39 A.M.)

THE REGISTRAR: Order. This hearing is now resumed.

MR. VERTLIEB: Mr. Commissioner, yesterday was helpful. Ms.

Brooks and I met with Mr. Ward and Ms. Tobias and I think it was helpful to hear the reason that there's a belief that the affidavit evidence is an efficient way to put evidence before you, and perhaps someone from the DoJ will explain why they believe it's relevant.

What we have planned, subject to your ruling, is Mr. Dammann, Dwight Dammann this morning, for his convenience, and then we have Dr. Horley and then Corporal Hall. We have this afternoon Detective Constable Shenher, and that will be the afternoon.

THE COMMISSIONER: All right.

MR. VERTLIEB: So, perhaps we could hear on the relevance.

THE COMMISSIONER: Yes.

MR. MAJAWA: Yes, Mr. Commissioner, Andrew Majawa for the Government of Canada. Just before I begin, I hand up the letter that was sent to all participants addressed to Mr. Vertlieb with respect to these affidavits.

1 Now, Mr. Commissioner, the way that I
2 understand Mr. Ward's issue with these affidavits
3 is he has issue with --

4 THE COMMISSIONER: Okay, tell, tell me, what are the affidavits
5 going to say? I haven't seen them.

6 MR. MAJAWA: There is, there is three affidavits that I
7 understand Mr. Ward has issue with.

8 THE COMMISSIONER: Yes.

9 MR. MAJAWA: One is of Staff Sergeant Retired Dwight Dammann,
10 the other Corporal Mike Hall, --

11 THE COMMISSIONER: Yes.

12 MR. MAJAWA: -- and the third, excuse me, sorry, Murray Lunn,
13 Staff Sergeant Murray Lunn.

14 THE COMMISSIONER: Okay.

15 MR. MAJAWA: The reasons for their affidavits are set out in
16 this letter and I will briefly go through why,
17 what their, their evidence summarizes. But
18 briefly, their, their relevance is predicated upon
19 the fact that, that evidence was led and is before
20 you from three family members that directly
21 addresses the integrity of certain RCMP
22 investigations into some of the missing women from
23 the Downtown Eastside.

24 THE COMMISSIONER: Yes.

25 MR. MAJAWA: That evidence was accepted. It is before you. It

1 is open to Mr. Ward now to make argument at the
2 end of the day that, that that version of facts
3 should be accepted. Our clients have a markedly
4 different recollection of the events.

5 And considering that that evidence is before
6 you, was not, it was not objected to, it was led
7 by Mr. Ward, presumably he thought it was
8 relevant, or perhaps Mr. Chantler, it was not
9 objected to by commission counsel, presumably
10 that, that evidence is relevant and certainly then
11 the response to that evidence must be relevant.
12 And it would be only fair to permit the affiants
13 to provide their side of the story so that the
14 full picture is before you in order for you to, to
15 make appropriate findings as required under your
16 mandate.

17 So, the first, the first affidavit is that of
18 Dwight Dammann. He's, he's prepared to testify.
19 He's come in from Campbell River. His affidavit
20 was distributed on March 26th, 2012, along with
21 this, with this letter. This letter was, as I
22 mentioned, sent to all participants.

23 His affidavit is in direct response to
24 testimony that was provided by Lynn Frey on
25 October the 24th, 2011. And during her testimony,

Ms. Frey gave evidence that Staff Sergeant Dammann was responsible for a three-month delay in the initiation of the investigation into Marnie Frey's disappearance. However, as explained by Staff Sergeant Dammann in his affidavit, his first recollection in speaking with Ms. Frey was shortly before Christmas in 1997, and shortly thereafter, he opened, on December 29th, 1997, a missing person file and completed numerous investigative steps. He worked extensively on that file, in my submission.

And Ms. Frey also testified that Staff Sergeant Dammann did not keep her informed about the investigation and the steps that the RCMP had taken. And as Staff Sergeant Dammann testifies to in his affidavit, that is markedly different from his recollection and from, from his --

THE COMMISSIONER: So, there is a conflict in the evidence Ms.

Frey said. I do, I know her evidence. I know what she said. And so the response of the RCMP is that that is not accurate and they want to put in their version and you want to put it in through affidavit; is that right?

MR. MAJAWA: That's correct.

THE COMMISSIONER: Okay. All right. Why do you want to do --

1 put in an affidavit?

2 MR. MAJAWA: Well, to, to give you a little bit of background,
3 and it's actually, some of that background is set
4 out in this letter. When the witnesses were first
5 identified by the parties, and then there was
6 negotiations back and forth and discussions back
7 and forth, in early December, we had noted that we
8 had wanted to have Staff Sergeant Dammann and
9 Staff Sergeant Lunn testify before the commission
10 in the normal course, and then we had suggested
11 them as witnesses.

12 We then had discussions with commission
13 counsel and, and suggested that perhaps the more
14 efficient way, considering the time constraints
15 that are, the commission is faced with, is to go
16 by way of affidavit and, of course, have them
17 available for cross-examination, should that be
18 necessary.

19 So, on December, I believe it was December
20 13th, and this is reflected in page 4 of the, of
21 the letter, the witness list, as it stood at that
22 time, was, was presented to the commission. It
23 was presented to the participants. And on that
24 list, Staff Sergeant Dammann and Staff Sergeant
25 Murray Lunn were listed as witnesses who would

1 give their evidence by way of affidavit. That
2 list was discussed in, in the courtroom and there
3 was no objections made at that point in time to
4 that, to that process being followed.

5 Sergeant Vanoverbeek was also on that list,
6 although I understand that Mr. Ward takes no issue
7 with Sergeant Vanoverbeek appearing, because he
8 wanted Sergeant Vanoverbeek as well.

9 With respect to Corporal Mike Hall, he wasn't
10 on the list at the time, but we have since had,
11 have been engaged in discussions with your staff
12 about the necessity of this evidence, and again,
13 discussions yesterday afternoon as well about the
14 relevance of their evidence.

15 And the, the goal here is to assist the
16 commission in completing this in an efficient
17 manner so that, so that it may have the evidence
18 that it needs to complete the, the mandate under
19 the terms of reference in terms of what actually
20 happened during the investigations. And that was,
21 that was our goal and our intent and suggestion
22 that we proceed in, in this way. They're open for
23 cross-examination and they're available for that.

24 THE COMMISSIONER: So, when was -- are you saying there was a
25 general agreement that the response, affidavit and

1 the response evidence would be, would be filed by
2 way of affidavit? Was there agreement on that?

3 MR. MAJAWA: I wouldn't go so far as to say there was an, an
4 explicit agreement. There -- the two of the
5 witnesses appeared on the commission's witness
6 list as giving evidence by way of affidavit.

7 THE COMMISSIONER: When would that take place?

8 MR. MAJAWA: That was in December, --

9 THE COMMISSIONER: December?

10 MR. MAJAWA: -- December 2011. Those, Sergeant Lunn, Staff
11 Sergeant Lunn and Staff Sergeant Dammann were on
12 the list as giving evidence by way of affidavit.
13 That was December the 13th, listed December 13th,
14 and that was discussed, that list was discussed on
15 December 14th in the, in the, in the hearings.

16 THE COMMISSIONER: Okay.

17 MR. MAJAWA: I wouldn't go so far as to necessarily say it was
18 an agreement, but our understanding was that it
19 was accepted that that would be the way that those
20 two witnesses, including Vanoverbeek, would
21 proceed, based on that list. Of course, there
22 have been many changes since then, but that was
23 our understanding.

24 THE COMMISSIONER: So, both of those witnesses fall under the
25 same category; is that right?

1 MR. MAJAWA: Which category?

2 THE COMMISSIONER: Is that right?

3 MR. MAJAWA: Which category are you --

4 THE COMMISSIONER: Well, the, the one you were just talking
5 about, that is, that it was thought that, in order
6 to be expeditious, --

7 MR. MAJAWA: Yes.

8 THE COMMISSIONER: -- we would deal with their evidence by way
9 of affidavit.

10 MR. MAJAWA: Yes. Although we had, and I should point out, we
11 had originally wanted Sergeant Vanoverbeek to
12 testify in the normal course as well, --

13 THE COMMISSIONER: Okay.

14 MR. MAJAWA: -- and that was not, not agreed to by commission
15 counsel.

16 THE COMMISSIONER: All right.

17 MR. MAJAWA: So, the other two witnesses that Mr. Ward I
18 believe had issue with proceeding in this manner
19 is Staff Sergeant Murray Lunn, who is now retired,
20 and Corporal Mike Hall, and I will briefly just
21 give you what their evidence in, in their
22 affidavits is, is addressed at.

23 Staff Sergeant Murray Lunn's affidavit was
24 also distributed with the March 26th letter that's
25 before you. It's a very brief affidavit and it is

solely in response to Lori-Ann Ellis's testimony with respect to what steps she said Staff Sergeant Lunn told her in the summer of 2004. She testified that he told her that he had found a 1998 missing person report that she had made to the VPD and she said that he said he had found it in a filing drawer, and that the report had never been actioned.

THE COMMISSIONER: All right.

MR. MAJAWA: Staff Sergeant Lunn testifies in his affidavit that although he does certainly recall the, the meeting in Calgary with, with Ms. Ellis, he did not have a conversation with her with respect to an alleged 1998 report, and he has no knowledge of any such report. Staff Sergeant Lunn is -- he says he's never seen any such report. He was a family liaison officer and, and not an investigator. It wouldn't have been in his role to have seen that report. So, his, his affidavit testifies to, to that solely.

With respect to Corporal Mike Hall, his affidavit was distributed a few days after this letter. It was distributed on March the 30th. Although what we anticipated his affidavit to say was, was summarized in this March 26th letter.

1 And he's responding to allegations made by
2 Margaret Green during her testimony on October the
3 26th, 2011. And you, I am sure you recall
4 Margaret Green is the legal guardian of Angela
5 Williams' children. Corporal Hall has had conduct
6 of the ongoing Angela Williams investigation since
7 May 2008.

8 And in her testimony, Margaret Green made
9 several allegations against the Surrey RCMP, but
10 foremost, she alleged that Ms. Williams' death
11 was not immediately treated as suspicious and that
12 some investigators had presumed that she had died
13 of a drug overdose. And she also testified that
14 the Surrey RCMP investigators had not contacted
15 her about the investigation --

16 THE COMMISSIONER: Yes, I know the evidence.

17 MR. MAJAWA: -- for quite some time. So, Corporal Hall's
18 affidavit addresses many of the investigative
19 steps that were taken by members of the Surrey
20 RCMP detachment. And, and specifically Corporal
21 Hall's affidavit clarifies that Ms. Williams'
22 death was always treated as suspicious, and that
23 there was no second toxicology or autopsy report
24 ordered, as was indicated by, by Ms. Green's
25 testimony. And it also, his affidavit further

1 sets out the contact that she, that Surrey RCMP
2 had with Ms. Green and the reasons for why that
3 contact proceeded in the way that it, that it did.

4 I should point out, before I conclude on, on
5 the summaries, is that Staff Sergeant Dammann's
6 affidavit is also in response to testimony given
7 by Detective Lori Shenher who, on February the
8 1st, 2012, suggested that the Campbell River RCMP
9 had taken no steps in investigating the
10 disappearance of, of Marnie Frey, and this
11 affidavit sets out all the investigative steps --

12 THE COMMISSIONER: All right.

13 MR. MAJAWA: -- which are quite extensive.

14 THE COMMISSIONER: All right.

15 MR. MAJAWA: So, there are quite a few reasons as to, as to why
16 these affidavits are, are relevant to, to, to your
17 mandate and to the facts that should be before
18 you.

19 THE COMMISSIONER: Okay. Thank you.

20 MR. VERTLIEB: So, just to summarize, and I appreciate that
21 review for you. The rules do -- our rules do
22 allow for affidavit evidence. It's Rule 46(b),
23 just so you know, and that's why there's been
24 discussion before about affidavit evidence. It
25 says:

1 The commissioner may receive and accept
2 a witness's evidence by affidavit or written
3 statement [et cetera].

4 What struck us about this approach is the
5 efficiency, but also, so long as Mr. Ward has an
6 opportunity to fully cross-examine. That was our
7 concern, that any issues Mr. Ward has, he have an
8 opportunity to cross-examine, because he -- I
9 think that's only fair, and that's been arranged.
10 These witnesses are here to be cross-examined --

11 THE COMMISSIONER: Yes --

12 MR. VERTLIEB: -- and, for that matter, anybody else who wishes
13 to cross-examine.

14 THE COMMISSIONER: Yes, I don't, I don't understand that -- is
15 there anything wrong with you filing the affidavit
16 and Mr. Ward -- I will hear from Mr. Ward. I want
17 to make sure you have the opportunity to test that
18 evidence.

19 MR. WARD: Yes, thank you. And given that, commission counsel
20 has advised me that they feel this evidence is
21 relevant and that I have the opportunity to cross-
22 examine, --

23 THE COMMISSIONER: Right.

24 MR. WARD: -- I am in agreement now with proceeding that way.

25 THE COMMISSIONER: Yes.

1 MR. WARD: But my consistent position throughout, on behalf of
2 my clients, the families of the 25 missing and
3 murdered women, has been that evidence should not
4 be received by affidavit form, but rather viva
5 voce. My clients do not agree that this
6 commission's search for the truth should be
7 sacrificed on the alter of efficiency or should
8 give way to efficiency.

9 And as I have indicated many times, my
10 clients do not agree that this commission will be
11 able to fulfill its mandate by the end of June.
12 There are simply too many witnesses left to be
13 called. And we are adamant that there be more
14 time allotted to this commission to do its work.

15 THE COMMISSIONER: Okay. Well, that's a separate issue.

16 MR. WARD: I agree with that. But I wanted to address the
17 efficiency point.

18 THE COMMISSIONER: Okay.

19 MR. WARD: And just before I sit down, Mr. Commissioner, there
20 is now an elephant in the room in the form of a
21 news media article that was published this morning
22 in the *National Post*, and my clients are, are
23 shocked and appalled by its contents, and they
24 wish to express, through me, the desire that the
25 allegations made in the article be fully and

1 thoroughly and independently investigated, because
2 they are very concerning, allegations that there
3 has been sexism and inappropriate conduct within
4 the commission counsel's staff, and that
5 apparently threats have been made against the
6 five, one or more of the five individuals who, who
7 have reported these serious matters. This is a
8 most serious matter --

9 THE COMMISSIONER: Well, I --

10 MR WARD: -- that needs to be addressed.

11 THE COMMISSIONER: Well, it's a -- I'm appalled by it as well
12 and I made a statement this morning. We have
13 appointed an independent investigator to examine
14 those.

15 MR. WARD: Thank you. I wasn't aware of that or of the
16 statement this morning, but I appreciate hearing
17 that.

18 THE COMMISSIONER: The other thing is, you will have the right
19 to cross-examine those witnesses.

20 MR. WARD: Thank you.

21 THE COMMISSIONER: All right. Yes?

22 MR. HERN: Sean Hern, counsel for the VPD.

23 I just want to speak to the affidavit issue.
24 I don't have any position on whether you consider
25 it more efficient to have them by affidavits or

1 not and, and cross-examination. That's, in my
2 view, respectfully, up to you with respect to
3 these affidavits.

4 But what I would like to have is some clarity
5 as to who is calling these witnesses, because
6 that's important as to who has the right to call
7 evidence in this inquiry. And the normal process
8 is that commission counsel calls forward the
9 evidence. So, in my submission, I would like to
10 know that these affidavits are being tendered by
11 commission counsel and the witnesses put up for
12 cross-examination.

13 THE COMMISSIONER: You can answer that, Mr. Vertlieb.

14 MR. VERTLIEB: Yes, that's correct. That's what we are doing.

15 THE COMMISSIONER: Yes. That's normally what we've done here.

16 MR. VERTLIEB: Yes. Thank you.

17 THE COMMISSIONER: All right.

18 MR. HERN: All right. And the second, the second point I would
19 like to address is that I think it should be a
20 right of any participant to require cross-
21 examination on an affidavit that's tendered in
22 this matter as opposed to just Mr. Ward.

23 THE COMMISSIONER: Well, those are the rules. Thank you.

24 Okay.

25 MR. VERTLIEB: So, the first witness is Dwight Dammann and I

1 have copies for you, the original and two.

2 THE REGISTRAR: Thank you.

3 MR. VERTLIEB: Just from a timing perspective, Mr. Ward, the
4 estimate of time that we had was 30 minutes, but
5 that may -- is that more or less correct?

6 MR. WARD: I believe that to be --

7 THE COMMISSIONER: All right, thank you.

8 MR. WARD: -- about right. And I propose, unless there is any
9 comment otherwise, to proceed first.

10 THE COMMISSIONER: Yes.

11 THE REGISTRAR: Do you wish the witness to be affirmed?

12 MR. WARD: It's commission counsel's witness and my position is
13 that the witness should be sworn or affirmed
14 before I embark on cross-examination.

15 THE COMMISSIONER: Yes.

16 **DWIGHT ORVILLE DAMMANN, affirmed:**

17 THE REGISTRAR: Would you state your name please?

18 THE WITNESS: Dwight Orville Dammann.

19 THE REGISTRAR: Thank you. Counsel.

20 MR. WARD: Thank you. Again, it's Cameron Ward, counsel for
21 the families of 25 missing and murdered women.

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

23 Q Sir, I understand you are retired?

24 A That's correct.

25 Q And you understand that I represent Mar -- or

1 pardon me, Rick and Lynn Frey, parents of Marnie
2 Frey, deceased?

3 A Marnie Frey, yes, that's correct.

4 Q And sir, you swore this affidavit about, a little
5 over a month ago, at the end of February, correct?

6 A That's correct.

7 Q I want to take you to paragraph 10, or actually,
8 we will start in the preceding paragraph, 9, where
9 you indicate that you had known Lynn and Rick Frey
10 for a number of years before 1997, and that you
11 had met their daughter, Marnie, on a few occasions
12 when she was in Campbell River. That's true?

13 A That's true.

14 Q And I suggest that you have made an error of fact
15 in, or someone has made an error of fact in the
16 material appended to your affidavit, that you knew
17 Rick Frey to be the natural father of Marnie Frey
18 and Lynn to be her stepmother; isn't that right?

19 A I believe that's correct, yes.

20 Q Okay. And if you would turn to page 28, it's
21 actually the third page of, of appendix B, which
22 is marked with a "28". You will see that someone
23 else has been indicated in the RCMP records to be
24 the natural father of Marnie Frey. Do you have
25 that document?

1 A Just bear with me for one second please. Okay.
2 Can you refer me to that page again please?
3 Q It's third page in at appendix B, or tab B,
4 attached to the affidavit.
5 A Okay.
6 Q It's got a "28" in the right-hand corner and --
7 A Right.
8 Q -- it appears to be an RCMP continuation report
9 form, or some sort of report form. Do you see --
10 do you have it?
11 A Yes, it's a missing, missing person's report.
12 Q Right. And there's, there's a male person's name
13 at the top of the page who is indicated to be the
14 natural father of Marnie Frey. And then about
15 three entries down, you see an entry for Rick
16 Frey, Senior, described as the stepfather. That
17 information is, in fact, wrong, isn't it?
18 A Uhm, I don't really know. I, I couldn't really
19 say.
20 Q All right. Now, sir, turning back to the body of
21 the affidavit, paragraph 10, here you're
22 testifying in this affidavit format of events that
23 had happened a little over 14 years before you
24 swore the affidavit, correct? Back in 1997?
25 A That's correct.

1 Q All right. And you say, you have deposed:

2 My first recollection of speaking with Lynn
3 about her concerns regarding Marnie's
4 whereabouts was shortly before Christmas
5 in 1997.

6 Why haven't you put a specific date there?

7 A Uhm, all I can say, answer to that,
8 Mr. Commissioner, is that it was a casual
9 conversation and I didn't have it in my notebook
10 at the time.

11 Q All right. Well, I am going to put it to you,
12 sir, that you're, you're mistaken. That Lynn
13 contacted you shortly after Marnie's birthday,
14 which was August the 30th of that year, 1997, for
15 the first time about the disappearance. That's
16 entirely possible, isn't it?

17 A No, that's not possible. I have to say one thing,
18 Mr. Commissioner, is that when I first became
19 aware of this commission and the testimony that
20 Lynn Frey gave, it's bothered me since October
21 until this very day, to get my recollection
22 correct. And the reason that I know that my
23 testimony in here is correct is the fact that when
24 Lynn Frey told me about Marnie Frey, her not, her
25 and Rick not having heard from Marnie Frey since

1 August of 1997, was that Marnie always called her
2 on her birthday on November 5th, and that
3 triggered my memory. So, I realized then that it
4 was after November 5th. And I knew it was shortly
5 before Christmas, that's my best recollection,
6 that she first brought the information to me.

7 Q Well, all right. Let's test your recollection of
8 that first contact from Lynn, which you have
9 deposed to in paragraph 10. Did she contact you
10 by telephone or face to face?

11 A I can't recall.

12 Q All right. What were the words she used when she
13 contacted you?

14 A She contacted me, as I've said, and told me that
15 Marnie always called her on her birthday on
16 November 5th, but she had not done so this year.
17 She said that Rick and herself had not heard from
18 Marnie since August of 1997. I asked Lynn if
19 Marnie normally called at Christmastime. She
20 said, yes, she did. I said, "If she doesn't phone
21 at Christmas, contact me and I will initiate a
22 file immediately."

23 Q I put it to you, sir, that in the first contact
24 Lynn Frey made with you, she said, "Marnie always
25 calls me on her birthday." Do you accept that to

1 be right?

2 A I don't recall that.

3 Q Well, it's entirely possible that that's what she
4 said, words to that effect?

5 A It's possible, but it's not my recollection.

6 Q You said just now:

7 Lynn told me she, she hadn't heard from
8 Marnie since August of 1997.

9 She wouldn't have used those words, would
10 she?

11 I haven't heard from Marnie since August of
12 '97?

13 A To the best of my recollection, that's what she
14 told me.

15 Q That makes no sense, sir, for someone to call you
16 just before Christmas and say, Christmas of 1997,
17 and say, "I haven't heard from my daughter since
18 August of 1997." People don't speak that way, do
19 they?

20 A Well, to the best of my recollection, that's what
21 was said to me.

22 Q Well, the fact of the matter, sir, is you really
23 don't have any recollection of what was said to
24 you, do you?

25 A Yes, I do.

1 Q All right. The fact of the matter, sir, is you
2 took no notes of the initial contact that Lynn
3 Frey made with you, correct?

4 A No, I didn't.

5 Q Now, it is a requirement of your job and a policy
6 of the RCMP to keep notes, correct?

7 A Correct.

8 Q And you didn't on this occasion, whenever it was,
9 did you?

10 A On this particular occasion, I didn't.

11 Q And, in fact, what happened here, sir, is that
12 Lynn Frey, Lynn Frey, pardon me, Lynn Frey called
13 you, explained to you that they had sent gifts to
14 Marnie for her birthday, that she always heard
15 from Marnie on her birthday, and that she was very
16 concerned because her birthday had come and gone
17 without them hearing from her. Isn't that what
18 happened?

19 A It's quite possible.

20 Q All right. And we know from the documents that
21 Marnie's birthday was August the 30th, 1997. I
22 can take you to the records, if you want to see
23 that.

24 A No, that's correct.

25 Q All right. And so it's quite possible, sir, that

1 Lynn Frey reported Marnie's absence to you shortly
2 after the end of August, that you essentially
3 dismissed it and said, "let's wait a while," and
4 that nothing further happened from your end until
5 December 29th, 1997?

6 A That's incorrect.

7 Q Well, it is the case that the first written record
8 is December 29th, 1997, and your affidavit refers
9 to it at paragraph 11. Do you see that?

10 A Yes, I do.

11 Q Now, I put it to you, sir -- well, where did you
12 get the information from to swear this statement?

13 A I got it from my original file.

14 Q All right. Wasn't it the case that Lynn came into
15 the detachment personally on that day, following
16 up on her previous contacts with you, --

17 A Uhm --

18 Q -- to see what was going on with respect to the
19 matter?

20 A I believe on the 29th of December '97, she called
21 me to report that Marnie had not called home for
22 Christmas. I opened up a file for Marnie's
23 missing person investigation and I carried on from
24 there.

25 Q I am going to take you, sir, back to Exhibit B,

1 which is I guess your file; is that right? Is
2 Exhibit B a copy of your file?

3 A Yes, that's correct.

4 Q Okay. I'll take you back to that and I would like
5 you to leaf through it to a page -- well, the
6 easiest way to do this is, if you go three pages
7 from the end, there's a page with a number 67 on
8 it.

9 A Yes.

10 Q Do you have it?

11 A Yeah, I do.

12 Q All right. And this is a document, a copy of a
13 fax prepared by yourself and signed by yourself
14 and sent off to the RCMP in Fort Nelson, correct?

15 A That's correct.

16 Q And the first line of it, after referencing Marnie
17 Frey and her birth date, states this:

18 Lynn Frey attended our detachment on
19 '97/12/30 and reported her stepdaughter
20 Marnie as a missing person.

21 Do you see that?

22 A That's correct.

23 Q Okay. So, she did come in?

24 A Yes.

25 Q And filled in some documents?

1 A That's correct.

2 Q I have been trying to identify in your file, and
3 maybe you can help me with this, where the phone
4 call is that you deposed to in paragraph 11, where
5 the record of that phone call is.

6 A It's on page 63.

7 Q Thank you. And was this prepared by yourself?

8 A That's correct.

9 Q And it confirms that Marnie Frey's natural father
10 was Rick; is that correct?

11 A Yes.

12 Q So, this is the first formal record of the
13 contact, and it was followed up with Lynn coming
14 in the next day and filling out some documents
15 including an authorization for medical records?

16 A That's correct.

17 Q All right. Could I take you please to a document
18 with page number 26 on it. It's about -- these
19 aren't in order, for whatever reason, at least not
20 on my copy.

21 A Yes.

22 Q Have you got it?

23 A Yes.

24 Q It's about, Mr. Commissioner, it's about, oh, 10
25 pages in I think.

1 THE COMMISSIONER: Ten pages in from?

2 MR. WARD: From the beginning of Exhibit B.

3 THE COMMISSIONER: Oh, I see.

4 MR WARD: Roughly.

5 THE WITNESS: It's marked number 26.

6 MR WARD: It's marked number 26 in the upper right.

7 THE COMMISSIONER: Okay.

8 MR. WARD:

9 Q And this is later on. I take it from the records
10 that your office in Campbell River and the
11 Vancouver Police Department Missing Persons Unit
12 had communications over a number of months about
13 Marnie Frey?

14 A Correct.

15 Q And they're documented in this file, correct?

16 A Yes.

17 Q And this document, number 26, a memorandum
18 addressed to the Chief Constable of the Vancouver
19 Police Department, attention Detective Lori
20 Shenher, from an Inspector Stright and a Corporal
21 Miskow of the Campbell River RCMP, refers to a
22 Detective Sandra Cameron of the Vancouver section.
23 Do you see that?

24 A Yes.

25 Q All right. You understood, during your dealings

1 with the Vancouver Police Department, that the
2 member at the other end of the phone or the fax
3 machine named Sandy Cameron described herself as a
4 detective in that unit?

5 A She never described herself as a detective, but I
6 assumed that I was sending documentation to the
7 Missing Persons Unit and that, in fact, that she
8 was a, a regular member of the Vancouver Police
9 Department. I didn't find out until sometime
10 later that she wasn't.

11 Q So, while you were dealing with her, you had the
12 clear impression that she was a police officer?

13 A That's correct.

14 Q And while you were dealing with her from, let's
15 say December 29th, 1997, to the date of this
16 memorandum, August 6th, 1998, can you advise what
17 your understanding was of what the Vancouver
18 Police Department was doing to investigate Marnie
19 Frey's disappearance?

20 A Well, as I mentioned in the outset to Lynn Frey,
21 when she reported it, I told her that I would do
22 everything I could do for her at my end and -- but
23 since it was a person missing from the Downtown
24 Eastside in Vancouver, it was basically their
25 file. In my assumption, they were doing a missing

1 persons investigation as well.

2 Q But specifically what?

3 A I have no idea.

4 Q You have no -- you obtained no idea from them in
5 the eight or so months between the end of December
6 1997 and August 6th, 1998, of what they were
7 actually doing to find this woman, correct?

8 A I think in my affidavit, it says that, at one
9 point, Sandra Cameron contacted me and told me
10 that they had had no contact with Marnie Frey
11 since either early 1997 -- initially, she said
12 initially in '98, and then corrected herself and
13 said, "No, it was early in '97."

14 I also received information from a Detective
15 Howlett, I believe, who also provided me with
16 similar information.

17 Q I just want to take you now, because your
18 affidavit and the attachments set out a
19 documentary record of what was occurring at the
20 time, I want to take you to the end of your
21 affidavit please, paragraph 65, and the timeline
22 in your affidavit ends on August 6th, 1998. Do
23 you see that?

24 A Yes.

25 Q And that date coincides roughly with the time,

1 according to the evidence we have heard in this
2 commission, that Lori Shenher received the first
3 informant's tip that a pig farmer in Port
4 Coquitlam might be responsible for the
5 disappearances of Sarah de Vries and the other
6 missing women from Vancouver, and that she relayed
7 that information to Corporal Mike Connor of the
8 Coquitlam RCMP, and together they started working
9 on that aspect of the file. Do you understand
10 that this commission has received evidence to that
11 effect?

12 A Yes, I read, I have read the daily summaries, yes.

13 Q So, I gather from your affidavit, and the way it
14 ends here, that the Campbell River RCMP, who had
15 been dealing with Marnie's parents, received no
16 information from the Coquitlam RCMP, who was
17 investigating Robert William Pickton as the
18 suspect in the disappearances of the Vancouver sex
19 trade workers, correct?

20 A That's correct.

21 Q Is there some reason you are aware of why, given
22 the significance of the investigation at the
23 Coquitlam Detachment of the RCMP, some information
24 wouldn't have been communicated back to Campbell
25 River, the source of the initial missing person

1 report?

2 A I have no idea.

3 Q Thank you, sir. Those are my questions.

4 THE COMMISSIONER: No questions? Any questions?

5 MR. VERTLIEB: Thank you, sir.

6 THE COMMISSIONER: All right. Thank you, sir. Thank you for
7 coming.

8 THE WITNESS: Thank you, Mr. Commissioner. May I be excused?

9 THE COMMISSIONER: Yes.

10 THE WITNESS: Thank you.

11 **(WITNESS EXCUSED)**

12 MR. VERTLIEB: Now, the next witness is Dr. Horley, and we also
13 thought the same approach would be effective. I
14 should tell you that we did consider, when we
15 interviewed Dr. Horley, the issue, just so you
16 won't hear the issue, because it's really
17 technical, and I'm just waiting, I know the
18 document -- the original document was filed some
19 time ago with the commissioner and Mr. Ward had
20 some concerns about its admissibility and I just
21 don't know where that is.

22 MR. MAJAWA: The original document, I'm just not sure of the
23 date that it was filed, but it has been marked as
24 Exhibit Z for Identification.

25 MR. VERTLIEB: Thank you.

1 MR. MAJAWA: Sorry, before we go on, with respect to the
2 affidavit of Dwight Dammann, that should be marked
3 as an exhibit NR. The public version will be
4 available shortly.

5 THE COMMISSIONER: All right.

6 MR. VERTLIEB: Thank you.

7 THE REGISTRAR: The for identification document marked as Z for
8 Identification will now become Exhibit Number
9 126(NR).

10 **(EXHIBIT NO. 126(NR): Affidavit #1 of Dr.**
11 **Kathleen Horley, affirmed January 31, 2012 -**
12 **formerly marked Exhibit Z for Identification)**

13 MR. VERTLIEB: And that's Dr. Horley's, Mr. Giles?

14 THE REGISTRAR: That's correct.

15 MR. VERTLIEB: Thank you. So, just to refresh, when this was
16 first raised, Mr. Ward had concerns and they were
17 -- and it was agreed then that it would not be
18 argued -- it would not be dealt with as an
19 exhibit. I just want to give you the sense of
20 this, because this is all new to you. You will
21 recall that clothing of the -- from Pickton --

22 THE COMMISSIONER: Seized in '97.

23 MR. VERTLIEB: Exactly.

24 THE COMMISSIONER: Yes.

25 MR. VERTLIEB: So, the one question that people had is, if that

1 clothing had been examined for DNA, would it have
2 shown any of the DNA --

3 THE COMMISSIONER: DNA of the missing women.

4 MR. VERTLIEB: Exactly.

5 THE COMMISSIONER: All right.

6 MR. VERTLIEB: And it's a question that commission staff had,
7 and one as well that Mr. Ward had, a totally
8 understandable question. And as I understand it,
9 and it is really complicated, but I think it
10 distills down to this. At that time, the science
11 would not have shown that it was unidentified
12 female DNA. It would show unidentified human DNA
13 but not suggesting that it was then, therefore,
14 female, which then the question is whether that
15 should have been pursued or not. Frankly, we
16 don't know. But that was the context in which
17 this came up.

18 So, it's somewhat complicated and DNA, as we
19 all know, is a difficult area. So, I am hoping
20 that we can handle it in a way that it helps you,
21 as a commissioner, on just this point. Should
22 something, in terms of the factual matrix of what
23 happened, if it had been done at that time, it
24 wouldn't have made any significant difference.

25 THE COMMISSIONER: All right. Thank you.

1 MR. VERTLIEB: So that's the purpose of it.

2 And what I understand, in terms of cross-
3 examination on it, Mr. Ward has indicated -- just
4 bear with me a second. I know Mr. Hira wants to
5 cover this and he's here this morning, and that's
6 why I arranged it this way. Mr. Hira said 10
7 minutes, and I am just missing, I'm just not
8 having Mr. Ward's estimate, if we can just get
9 that, Mr. Ward.

10 THE COMMISSIONER: Well, why don't we just ask him?

11 MR. VERTLIEB: Just for your convenience.

12 MR. WARD: It will be about a half an hour I think.

13 THE COMMISSIONER: Okay. All right.

14 MR. VERTLIEB: And that's all we are informed about, Mr. Hira
15 and Mr. Ward.

16 THE COMMISSIONER: All right.

17 MR. VERTLIEB: Thank you.

18 THE COMMISSIONER: You are going to be 10 minutes, Mr. Hira?

19 MR. HIRA: Yes.

20 THE COMMISSIONER: All right.

21 MR HIRA: I am happy to go first. It may assist Mr. Ward, or
22 not.

23 THE COMMISSIONER: Okay. Well, why don't we get the witness
24 here.

25 MR. VERTLIEB: Has she -- Dr. Horley is here.

1 MR. HIRA: Right in back.

2 THE COMMISSIONER: Okay.

3 MR. VERTLIEB: Dr. Horley, just briefly for the benefit of the
4 commissioner, --

5 THE COMMISSIONER: Wait a minute. Better have her sworn.

6 MR. VERTLIEB: I'm sorry.

7 THE REGISTRAR: Good morning. Can you just turn the microphone
8 on please? Thank you.

9 **KATHLEEN HORLEY, affirmed:**

10 THE REGISTRAR: Would you state your name please?

11 THE WITNESS: Kathleen Horley.

12 THE REGISTRAR: Thank you. Counsel.

13 MR. VERTLIEB: Thank you, Mr. Giles.

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

15 Q Because of the technical nature of your work and
16 your evidence, just tell the commissioner about
17 your education and then your job training and what
18 you do for a living please.

19 A I received my bachelor of science in cell biology
20 from the University of British Columbia in 1985.
21 I then went on and did a Ph.D. at UBC as well.
22 This was in the Department of Microbiology and
23 Immunology. Uhm, my thesis work was completed at
24 the Terry Fox Laboratory, which is down on Heather
25 Street.

1 After completing my Ph.D. I worked in two
2 research laboratories as a postdoctoral fellow
3 doing research. I was hired with the RCMP in the
4 National Forensic Services in March of 1998. I
5 was hired as a biology analyst, who was the person
6 who processes samples from exhibits to obtain DNA,
7 to recover any DNA from those samples and generate
8 a DNA profile. I worked as an analyst for about a
9 year, processing samples.

10 And then I went on into training as a
11 reporting scientist, which is the person who takes
12 the raw data from the biology analyst, compares
13 profiles from question samples, which are unknown
14 from the crime scene, to those of known samples
15 from a known source, such as a suspect or a
16 complainant, declares any matches, if there are
17 any, and writes the report. The training for a
18 reporting scientist is approximately one year and
19 I started as a reporting scientist in October of
20 2000.

21 Uhm, I worked on cases for approximately a
22 year, and when the Missing Women Task Force and
23 Project Evenhanded came to the forensic
24 laboratory, I became involved in aiding in the
25 file review, historical file review, to review any

1 profiles that were obtained from other cases,
2 homicides and sex assaults, as well as
3 coordinating the development of profiles for the
4 missing women, and still today I am a reporting
5 scientist. I also have managed the Analytical
6 Unit for the last three years as the Analytical
7 Unit manager.

8 Q Thank you. Now, just to assist the commissioner,
9 ultimately, you were able to generate a DNA
10 profile for three of the missing women:
11 Jacqueline Murdock, Andrea Borhaven and Cara
12 Ellis?

13 A Yes, we did obtain either direct known samples,
14 such as a PAP smear, or family samples for those
15 women.

16 Q And when did you have that information to make
17 that determination, what year?

18 A When did we obtain the profiles?

19 Q Yes.

20 A I am going to refer to the affidavit. On tab B of
21 the affidavit, there is a table which lists out
22 the lists of the missing women, and in particular,
23 for those women, the dates for Jacqueline Murdock.
24 We had obtained a, a PAP smear for her and a
25 profile was obtained and that was on December 16th

1 I believe, 2001. For Andrea Borhaven, we had the
2 parents in February of 2002, February 17th, and
3 then at a later date, we had a known blood sample
4 from her from a sexual assault kit, and that was
5 processed in May of 2003. And for Cara Ellis, we
6 also had a PAP smear, and that was developed and
7 the profile was obtained in March of 2003.

8 Q And with that information, you were able to link
9 those three deceased persons to clothing from
10 Pickton or item from Pickton, a condom, boot and a
11 jacket?

12 A There were condom packages where I linked
13 Jacqueline Murdock to the outside of the condom
14 packages. And the other exhibits were a jacket
15 from Mr. Pickton, as well as boots, and Andrea
16 Borhaven was linked to the boots and Cara Ellis
17 was linked to the jacket.

18 Q Okay. Now, just focusing on Ms. Murdock and Ms.
19 Ellis, just help if this is correct, that the
20 technology was available in 1998 to generate a DNA
21 profile, but until their DNA was received, you
22 could not match?

23 A That's correct. For the condom packages, if they
24 had been searched in the '98/'99 period, they
25 would have been swabbed for the presence of skin

1 cells or contact DNA. The DNA technology was such
2 at that time that DNA would have been obtained.
3 It was a very small amount of DNA that was
4 obtained, but a profile could have been generated
5 in that period. And if a known sample for
6 Jacqueline Murdock had also been available at that
7 same time, the two could have been compared and a
8 link would have been found.

9 Q The match did occur in May '01 and February '03,
10 May '01 for Ms. Murdock and February '03 for Ms.
11 Ellis?

12 A No, those were the dates that we had a profile
13 available for the missing women. The actual date
14 that the match was declared was I believe in 2005
15 was the date of my report, because the exhibits
16 came into the laboratory in 2004.

17 Q All right. Thank you. Now, as it relates to Ms.
18 Borhaven, there was a technology known as
19 gridding?

20 A I wouldn't classify it as a technology. This is a
21 search technique that was used extensively on
22 large exhibits from the Pickton site, and it was a
23 technique where you have a large surface area that
24 needs to be searched. Uhm, normally an exhibit is
25 searched for the presence of stains or

1 discolouration as a way to identify any type of
2 body fluid, such as blood or semen, and they are
3 also examined for the presence of hair that may be
4 suitable to have cellular material for DNA.

5 In the Pickton site, there were several large
6 exhibits, and as a way of doing a very extensive
7 search, several exhibits were gridded. Gridding
8 means that the large surface area was divided into
9 smaller squares, half an inch, 1 inch or 2 inch in
10 size, and then each square grid would have been
11 swabbed with a swab to pick up any DNA from each
12 square grid. Then each sample would have been
13 analyzed for the presence of DNA and the DNA would
14 have, possibly a DNA profile would have been
15 generated.

16 Q And was that gridding known or used as a standard
17 practice in the years 1998 to 2002?

18 A No, it would not have been a standard practice.
19 In fact, we only really started the gridding
20 procedure to, how to search an exhibit, when
21 dealing with exhibits from the Pickton site, which
22 was in 2002 onward.

23 Exhibits at that time period, from 1998,
24 1999, would have been visually examined for the
25 presence of stains, and then any stains that were

1 possibly identified would be tested, and then some
2 of the stains or all of the stains would have been
3 analyzed for DNA. Gridding technique of items in
4 that time period would not have been used.

5 Q Now, you understand the concerns or the issues
6 around the fact that clothing of Pickton was in
7 the possession of the police from the 1997
8 incident?

9 A Yes. To my knowledge, it was seized from him in
10 1997 after the 1997 alleged assault.

11 Q Had that been examined for DNA, could individual
12 victims, women, have been identified in that
13 timeframe?

14 A In my opinion, the boots would not have been --
15 they were searched for the presence of stains, but
16 they were also gridded in the 2004/2005 period.
17 But in the 1998/1999 period, they would not have
18 been gridded, so I do not believe that the
19 particular one sample that did show a mixture in
20 2004, would have been even sampled at all during
21 1998/1999. So, that particular square grid would
22 not have been sampled, and that's the DNA profile
23 linked to Andrea Borhaven in 2005, would not have
24 been found.

25 THE COMMISSIONER: Is that because the science wasn't available

1 at that time?

2 THE WITNESS: No. The, if the, if that square grid, that
3 square grid would have been sampled, then there
4 was technology that it could have been generated,
5 the DNA profile. But it's my opinion that the
6 boots would not have been searched in that manner,
7 would not have been gridded, and because there was
8 no stain on that particular square grid, it would
9 not have been sampled.

10 As for the jacket, it was examined in the
11 2004/2005 period. If it was examined in the
12 1998/1999 period, it would have been searched in
13 the same manner as it was in 2004/2005, meaning it
14 would have been looked at for the presence of
15 stains, those stains would have been tested for
16 the presence of blood, and then those stains would
17 have been analyzed. The technology was such in
18 that period that if the jacket had been examined
19 in 1998/1999, uh, the stains that were identified
20 in the later report would have been identified and
21 would have been tested.

22 MR. VERTLIEB:

23 Q Given the questions I have asked, in an effort to
24 assist the commissioner and everyone else, you
25 have the scientific knowledge, is there any other

1 comment you want to make to the commissioner to
2 help him understand the state of the knowledge at
3 that time and what it would have shown?

4 A In the '97 period, when the initial exhibits came
5 in for the '97 assault, it was an older technology
6 that was used. In, in the summer of 1998 and
7 onward, the forensic laboratory here in Vancouver,
8 as well as the other laboratories across the
9 country, were using a new technology called
10 "polymerase chain reaction." And in the summer of
11 1998, we were using a -- one reaction to generate
12 profiles over nine different regions that would be
13 looked at in, in, in a person's DNA profile.

14 That is why most of the questions in the
15 affidavit, or relating to my evidence, deal with
16 this polymerase chain technology. So, if the
17 boots, by chance, which I don't believe gridding
18 would have been used, they would not have been
19 sampled at all. However, the jacket would have
20 been sampled and possibly a mixed, and the mixed
21 DNA profiles that were found in 2004, would have
22 been found in 1998. However, without having a
23 known sample or family samples for the missing
24 women, then no link would have been made
25 connecting the missing women to the clothing or

1 the boots, as well as the condom packages.

2 Q Thank you.

3 THE COMMISSIONER: Cross-examination.

4 **CROSS-EXAMINATION BY MR. HIRA:**

5 Q For the record, it's Ravi Hira representing
6 retired Assistant Commissioner Earl Moulton, who,
7 at the relevant time, was an inspector in
8 Coquitlam.

9 First, I would like to thank commission
10 counsel and Ms. Tobias for, and Dr. Horley, for
11 accommodating my schedule.

12 Next, I only wish commission counsel had told
13 me that he was going to ask the questions that I
14 was proposing to ask. So, I will be even shorter.

15 THE COMMISSIONER: Always nice to hear that you are going to be
16 shorter, Mr. Hira.

17 MR. HIRA: Well, I haven't taken a lot of your time,
18 Mr. Commissioner.

19 Q Dr. Horley, let's deal with the condoms first. As
20 I understand it, if they had been looked at in '98
21 or '99 and swabbed, DNA would be found on the
22 condoms, correct?

23 A That's correct. But I will just correct you.
24 It's condom packages. There were five condom
25 packages that were unopened, and then there was

1 also one condom itself that made up the exhibit.

2 Q Thank you. But without the DNA profile, we would
3 not have been able, that is, the DNA profile of
4 the victim in this case, I'm sorry, Ms. Murdock,
5 we would not have been able to link her at all to
6 the package?

7 A That's correct. If the condom packages had been
8 swabbed in the '98/'99 period, the conclusion
9 would have read, "The DNA profile obtained from
10 Exhibit X condom packages is that of an unknown
11 individual. This profile has been personally
12 designated as Female Number 1," and that's the end
13 of the conclusion. There would be no link to
14 Jacqueline Murdock if there was no known sample to
15 compare the Female 1 to.

16 Q Great. Let's deal next with the jacket and come
17 back to the boots. Similarly, with the jacket, as
18 with the condom package, if tested in '98 or '99,
19 because of the stain on there, the DNA of Ms.
20 Borhaven would have been found, correct?

21 A Sorry, the link was made to Cara Ellis --

22 Q I'm sorry, I beg your pardon.

23 A -- on the jacket.

24 Q I apologize. Thank you for correcting me.

25 A The jacket, there were three areas on the jacket

1 that were sampled. Uhm, the jacket was first
2 examined, and 17 samples were taken from all
3 different areas of the jacket. Out of the 17
4 areas, one of them showed a mixed profile of two
5 people. Uhm, when I was interpreting that
6 profile, I, I saw something of interest in that it
7 was a mixture and I could partially dissect out
8 the second profile in that mixture, if I assumed
9 that Robert Pickton was also a donor of the
10 mixture.

11 So, I asked the search technologist to go
12 back and re-examine the jacket again. Twelve more
13 areas were taken, and two of those areas, so a
14 total of three areas, all of them showed mixed
15 profiles, consistent with coming from two people.

16 Robert Pickton's profile is visible within
17 that mixed profile, and he is also found on other
18 areas of the jacket as a single source. So, I
19 made the assumption that it's possible that he is
20 in that mixed profile. And when I take away the
21 markers that are equivalent to his and look at the
22 genetic markers that are left, a partial profile
23 can be dissected out. And if this had been found
24 in the '98/1999 period, it would have been
25 identified as a partial profile from Individual A.

1 There would be no gender associated with this
2 partial profile because that cannot be determined
3 because of the nature of the mixed profile.

4 Q Great. And Individual A and --

5 A And again, without the known sample for Cara
6 Ellis, then there would be no link to connect that
7 missing woman to Individual A or the fact that
8 they matched Individual A.

9 Q Thank you. And, of course, both the samples on
10 the condom packages and on the jacket were just
11 DNA samples? In other words, it could come about
12 by somebody sneezing on the jacket or the condom
13 package?

14 A The condom packages had no stains that were
15 visible. So, when they were swabbed, they were
16 strictly swabbed for what we call contact DNA or
17 skin cells that may have been left by the person
18 who was handling the exhibit.

19 On the jacket, there were specific stains
20 that were identified and tested for the presence
21 of blood. Going back to the fact that I said
22 there were three areas where, on the jacket, where
23 I see a mixed DNA profile, two of the areas have
24 blood identified, and one, the third area is only
25 a screening test positive for blood, but it's not

1 confirmed as blood.

2 I'm sorry, your question again?

3 Q That's okay, you have helped out a lot. To
4 summarize, the condom package was surface contact
5 DNA. The jacket had the possibility of blood?

6 A Yes. However, I will qualify that by saying the
7 tests that we use to confirm blood, as well as for
8 screening blood, they are not human specific.
9 They only look for components in blood, and that
10 could be human blood or animal blood. So, the
11 fact that two of the areas were confirmed as blood
12 on the jacket, that doesn't necessarily mean that
13 they were human blood.

14 Q Right. So, sorry, have you finished or am I
15 cutting you off?

16 A That's fine. My only other statement would be, so
17 the DNA profile obtained from those two
18 bloodstains, as well as the screening positive
19 third stain, give mixed profiles consistent with
20 two people. But I cannot say whether one person
21 is the donor of the blood, or both people are the
22 donor of the blood, or neither persons in the
23 mixture that I see are actually associated with
24 the blood identification.

25 Q Thank you. So, in other words, you can't tell

1 whether it's Pickton's blood, the victim's blood
2 or neither person's blood?

3 A That's correct, I cannot.

4 Q So --

5 THE COMMISSIONER: You can say it's human blood?

6 THE WITNESS: I can say that there is human DNA from those
7 areas.

8 THE COMMISSIONER: Oh, yes.

9 THE WITNESS: But we cannot connect the human blood -- the
10 blood identification with the human DNA. If you
11 had a scenario where you had a clean white T-shirt
12 and you had a blood stain on that T-shirt, and
13 lots of DNA was obtained from that stain, and then
14 that profile gave a profile consistent with coming
15 from one person, then it is much more likely that
16 the DNA in the profile is from the blood stain on
17 the T-shirt. But when you have a mixed profile on
18 a jacket such as this, and a person who is known
19 to deal with animals and possibly have animal DNA
20 on the jacket, there can't be a determination or
21 an association between the DNA profile with the
22 blood identification.

23 MR HIRA:

24 Q Thank you. So, now moving to the boots. There
25 was no apparent stain on the boots; is that fair

1 to say?

2 A That's correct. There was one square grid that
3 was on the left sole of the left boot, the sole of
4 that boot. And because of the gridding process
5 that was -- the gridding screening process that
6 was used in the 2004/2005 period, that's where a
7 grid was swabbed. But there was no actual stain
8 on that part of the sole of the boot.

9 Q So, is it your opinion that, had the boot come in
10 in '98 or '99, given that there was no apparent
11 stain, it is unlikely to have been examined for
12 DNA?

13 A It's my opinion that that area of the boot would
14 not have been swabbed, and thus, that DNA profile
15 would not have been seen in the '98/'99 period.

16 Q And of course, there was, at that point in time,
17 no DNA profile for Ms. Borhaven to compare it to?

18 A That's correct, there was no profile for Ms.
19 Borhaven available in that time period.

20 Q So, is it fair to say that if the testing had been
21 done in '98 or '99, there is the possibility that
22 you would be eliminating Mr. Pickton as being
23 involved with the missing women?

24 A There would be no direct link between any missing
25 women to his jacket or boots or the condom

1 packages because of the fact that we did not have
2 family samples or a direct reference sample for
3 the missing women in that period.

4 Q Thank you, Mr. Commissioner. Thank you, Doctor.

5 THE COMMISSIONER: Thank you. Mr. Ward?

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

7 MR. WARD: Cameron Ward, counsel for the families of 25 missing
8 and murdered women.

9 Q Dr. Horley, just to summarize the factual
10 foundation of your affidavit, I understand that,
11 as you have indicated in the affidavit, there was
12 an incident in March of 1997, after which the RCMP
13 seized a number of exhibits in relation to the
14 altercation between Mr. Pickton and the woman we
15 call Anderson, correct?

16 A That's my understanding, yes.

17 Q The RCMP retained all of those exhibits, but
18 tested only the knife and the bandages at the time
19 in furtherance of the attempted murder and other
20 charges that they were prosecuting Mr. Pickton
21 for, correct?

22 A The National Forensic Services does forensic
23 analysis for investigators, as well as Crown, as
24 clients. So, it is up to the investigators to
25 bring to the laboratory or request that their case

1 be analyzed, and they prioritize which exhibits
2 that they want to be examined.

3 To my knowledge, the first submission of this
4 1997 assault, alleged assault, was a knife, some
5 medical bandages, uhm, a syringe, as well as a
6 condom; and then also a known sample from the
7 complainant, Ms. Anderson, was also processed.

8 These exhibits were brought into the lab I
9 believe in May of 1997, and they were brought into
10 the Vancouver forensic lab, however, at that time,
11 we were training for the new polymerase chain
12 technology, and the exhibits were sent to the
13 Halifax lab, and they were processed by the older
14 DNA technology, by the restricted fragment length
15 polymorphism, or RFLP technology. The first
16 report for this case was released I believe in
17 December of 1997.

18 Q And as you have deposed, that report linked the
19 accused and the complainant?

20 A That's correct. The only links on those exhibits
21 were to Mr. Pickton as well as Ms. Anderson.

22 Q So, from an evidentiary point of view, the report
23 of December 1997 strengthened the Crown's case
24 against the accused, Mr. Pickton, because there
25 was a match on the knife, the weapon, with the

1 victim's blood?

2 A The forensic lab processes exhibits and writes
3 reports on the scientific evidence that is found.
4 It is up to the investigator and the Crown as to
5 whether or not this strengthens or decreases a
6 particular case -- the terms of an investigative
7 area, so I can't comment on that.

8 Q Fair enough. So --

9 A Do you want to go through the results of that
10 report in terms of what was found on the knife
11 versus the syringe?

12 Q I don't need to. Thank you.

13 What I wish to ask you about next is the
14 other items that remained in the possession of the
15 RCMP, as I understand it, in an evidence locker,
16 remained there and were not tested for the
17 presence of blood or DNA until sometime in 2004,
18 correct?

19 A That's correct. It would have been up to the
20 detachment, the Coquitlam Detachment to properly
21 store the exhibits, and then at a later date,
22 through Project Evenhanded, the exhibits were then
23 brought into the laboratory.

24 Q And in terms of your own work, I have noted that
25 you became a civilian member of the RCMP in 1998

1 and have continued as a civilian member ever
2 since?

3 A Correct. I am still a civilian member.

4 Q And you worked on Project Evenhanded?

5 A Yes, I became involved in Project Evenhanded in
6 May of 2001.

7 Q Do you have an explanation why more than two years
8 elapsed from the initial search of Robert William
9 Pickton's property and the test results performed
10 on the exhibits that had been seized from him in
11 1997? In other words, can you explain -- let me
12 restate the question. Can you explain, from your
13 perspective as a civilian member, doing the work
14 that you did for Project Evenhanded, why those
15 Pickton-related exhibits that had been seized in
16 1997, were not tested after February 5, 2002,
17 anytime in 2003, until sometime in 2004?

18 A I don't believe I am qualified to answer that
19 question. I can't comment on it. I -- the
20 laboratory, we receive a request for analysis from
21 the investigator. And even on the first request
22 for analysis, not all exhibits were listed that
23 were seized at the time in the '97 assault. The
24 only exhibits that were listed were the ones that
25 were, in fact, accepted and analyzed in the lab.

1 I don't feel I am qualified to answer why the
2 exhibits were not examined until 2004.

3 Q All right, thank you. I would ask you to turn to
4 paragraph 12 of your affidavit please. And you
5 depose here that, last May, in order to assist
6 this commission, you created the spreadsheet that
7 you've attached as Exhibit B. Do you see that?

8 A Yes.

9 Q What was the nature of your assistance to the
10 Missing Women Commission of Inquiry? Did someone
11 ask you for assistance?

12 A No, I worked with Project Evenhanded investigator
13 Sergeant Marg Kingsbury from the beginning.
14 During this time period of 2011, we were preparing
15 information as a way of summary of data. I wasn't
16 specifically asked by someone in the commission to
17 prepare this document. It was really more or less
18 a work product that I had summarized as a way to
19 show when we had DNA profiles available for each
20 of the missing women. I had a running spreadsheet
21 that I had been keeping since 2001, so I just
22 revised the spreadsheet a little bit and put in
23 some dates when they were actually entered into
24 our combined DNA index system or the CODA system
25 so that they could be kept in the database.

1 Q All right. And then Exhibit B itself is your
2 revised spreadsheet setting out, by my count, by
3 case number and name, 65 missing women; is that
4 right?

5 A Yes, that's correct.

6 Q And can you just explain please, for my benefit
7 and the commission's, in the event it's relevant,
8 what these columns represent after the case number
9 and name on Exhibit B?

10 A The case number is the lab file number in the
11 first column. Whenever a case comes into the lab,
12 we give it our own lab file number.

13 The second column is the name of the missing
14 person.

15 The third column is whether or not there was
16 a PAP smear available for that missing person.
17 And in that column, I have denoted how many
18 genetic -- how much genetic information was
19 derived from the PAP smear. So, some of them say
20 eight loci, others say seven loci. A loci, or a
21 locus, is how many -- is the number of regions
22 that were available for that, that PAP smear.

23 The, the fourth column is whether or not it
24 was entered, the DNA profile was entered into the
25 Local Investigative Index, which is our CODA

1 system that we house in the Vancouver library.

2 And the fifth column is the date that the
3 profile was entered into that local index.

4 And the next two columns -- the next column
5 is if another sample came in such as the -- after
6 we already had a PAP smear, if a, a family sample
7 came in, such as the mother or father, I have
8 listed the nature of that exhibit, whether it's
9 from the biological mother or father or child, and
10 then the date that that was put into the local.

11 Q All right.

12 A Some of the missing women we did not get profiles
13 from the PAP smears or we did not have a PAP smear
14 available. So, family samples were used to
15 represent them, instead of a PAP smear.

16 Q In the context of this case, if you're, if you
17 were involved in an investigation of whether these
18 women who were listed as missing, were possibly
19 killed or disposed of on the Pickton property, you
20 would be looking at the results of DNA -- whether
21 there were DNA matches for these women from the
22 evidence obtained from the property, correct?

23 A That's correct. If we obtained a female, a female
24 profile from the Pickton site, then it was
25 compared to the profiles of the missing women.

1 Q And, and the preference, from a scientific point
2 of view, is to compare the DNA profile from the
3 site with a known sample of DNA from the missing
4 subject?

5 A That's correct. That's easiest, because it's a
6 direct comparison and, and if the genetic
7 information in both the site profile or the crime
8 scene profile matched that of the known, then it
9 is a direct comparison and it's, and it's quite
10 straightforward to do.

11 Q And is it fair to say that it's, it's less
12 preferable, but still useful from a scientific
13 point of view, to compare the DNA profile from the
14 site with a familial sample?

15 A Yes, I would agree it's less preferable, but if
16 all you have available is the mother or the father
17 or the biological child of the missing person,
18 that also can be used to compare to the crime
19 scene sample, however, it may not be as
20 informative.

21 There are only so many genetic types that are
22 available, and some people share DNA types, just
23 by coincidence. So, if, for example, I only have
24 the mother of the missing person available and I
25 compared it to a crime scene sample, if that crime

1 scene sample was not the biological child of the
2 mother, then the exclusion would be
3 straightforward and simple. However, if that
4 crime scene profile could possibly be the
5 biological child of the mother, in other words, an
6 inclusion, that inclusion would not necessarily
7 mean that that crime scene profile was from her
8 biological child. It may just be that they are
9 sharing alleles and the profile looks like it's
10 related to the mother, but actually isn't.

11 So that is why, when dealing with family
12 samples, it is much better to have both the mother
13 and the father, or the child of the missing person
14 as well as the father of the child of the missing
15 person, so that you have a triad or a trio that's
16 formed.

17 Q Now, would you agree, based on your own experience
18 and education in this area, and particularly your
19 experience with the RCMP over the last 14 years,
20 that when a person goes missing and is suspected
21 to be a possible victim of foul play, it's
22 standard police practice to seek either the
23 personal DNA of the missing person or familial DNA
24 at a very early stage in the investigation?

25 A Yes. Usually it, it, just by simply -- it's much

1 easier when a person is reported missing, if
2 samples are collected at that time, then you may
3 have more available to you, whereas if you wait a
4 period of time and then you go looking for
5 personal effects, or even family members, and if
6 they're older they may have passed away, it
7 sometimes is more difficult to obtain samples.

8 Q And so, for instance, you would know that when a
9 person is reported missing from, say, an affluent
10 area of Vancouver, police investigator -- or an
11 affluent area of the Lower Mainland, police
12 investigators invariably obtain DNA samples right
13 away, correct?

14 A I would hope that they would, yes. Uhm, to be
15 honest, I am not a regular police officer and I am
16 not out on the streets, so I don't know what the
17 procedures are.

18 Q But from your point of view, doing the work that
19 you do, that's certainly your hope, and indeed,
20 expectation to further an investigation?

21 A Correct. It would logically make sense to me that
22 samples be collected as soon as possible to
23 represent that missing person.

24 Q All right. Now, just before I leave Exhibit B,
25 can you tell us how many of these 65 women were

1 matched by DNA profiling to evidence obtained from
2 the site?

3 A For nuclear DNA analysis, there were 32 missing
4 persons that were linked to the Pickton crime
5 scene. I believe there was also mitochondrial DNA
6 analysis, which we did not perform at the RCMP
7 lab, it was sent to a private lab, and another
8 person was possibly linked through mitochondrial.

9 Q So, 32 or 33, depending?

10 A Correct. Thirty-two by nuclear, and if you
11 include the mitochondrial, then 33 were linked to
12 the Pickton site.

13 Q And based on the work that you did and the
14 analysis that you did, can you tell us --

15 A May I just qualify that?

16 THE COMMISSIONER: Yes.

17 THE WITNESS: The 32 that we have linked to the site, I believe
18 probably in that number, I am counting Jane Doe.
19 So, Jane Doe is not on this list because she is
20 still unidentified.

21 MR. WARD:

22 Q And can you tell us how many other individuals'
23 DNA was found on the site?

24 A I would have to refer to my notes for that, which
25 I don't have here. We did find a rough estimate.

1 It's very difficult to put an estimate on that,
2 because we also obtained samples, known samples
3 from police investigators who were on the site, as
4 well as laboratory medical staff who dealt with
5 the exhibits. We also had process -- known
6 samples from what we call elimination samples.
7 Certain persons were -- came forward and said, "I
8 have been to the, the crime scene and here's my
9 DNA sample." We collected over 800 samples from
10 those type of elimination samples.

11 Therefore, as we were processing profiles
12 from the Pickton site, we may have made a match to
13 an investigator or an elimination person, and that
14 would not necessarily have been counted in my
15 total.

16 Uhm, I do have a rough count back at the
17 laboratory. I believe we, at this present state
18 and age, I think we have approximately 30
19 unidentified missing women still approximate --
20 unidentified profiles from, from the site, as well
21 as over 50 unidentified male profiles.

22 Q So --

23 A That is a very rough estimate.

24 Q All right. And, and many of these were obtained
25 from the exhaustive search that involved sifting

1 the soil of, of the land itself, correct?

2 A Sifting the soil was part of the search, but it
3 certainly wasn't the whole search. Uhm, again, I
4 wouldn't want to comment on where the particular
5 female profiles or male profiles would come. I
6 would make an educated guess that a lot of them
7 actually did not come from the soil. They came
8 from other types of exhibits that were found on
9 the site. Perhaps they were just other exhibits
10 on the site, whether it was, uhm, I don't know,
11 just a grid on a wall or a cigarette butt or a
12 swab of a drinking container. Uhm, it's very
13 difficult to, to quantitate that.

14 Q Fair enough. But did you, in your work, come to
15 any conclusion with respect to these 80
16 unidentified profiles, roughly, 30 female and 50
17 male, how many of them would likely be homicide
18 victims?

19 A I can't comment on that. A lot of these profiles
20 are coming from contact DNA or swabs. They're not
21 necessarily associated to bloodstains. So, I
22 can't answer that.

23 Q All right. Now, I just want to ask you about
24 some, some timing issues or confirm with you some
25 timing of some steps based on your affidavit, and

1 this is really a summary of what you have deposed
2 over the --

3 THE COMMISSIONER: I think what we will do is stop there.

4 MR. WARD: Okay, thank you.

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

6 **(PROCEEDINGS ADJOURNED AT 11:04 A.M.)**

7 **(PROCEEDINGS RESUMED AT 11:24 A.M.)**

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

9 THE COMMISSIONER: Yes.

10 MR. MAJAWA: Mr. Commissioner, Andrew Majawa for the Government
11 of Canada. I have been asked to clarify the
12 marking of an exhibit that was, that was made
13 prior.

14 I had intended that, or to suggest that
15 Dwight Dammann's affidavit be marked as the next
16 exhibit (NR). Instead, mistakenly, Kathy Horley's
17 Exhibit Z was then turned into 126(NR). I am
18 content with that, as long as commission counsel
19 is content with that. But in addition, Staff
20 Sergeant Dammann's affidavit should be marked as
21 the next exhibit (NR).

22 THE COMMISSIONER: All right.

23 THE REGISTRAR: Staff Sergeant Dammann's affidavit will be
24 marked as 127(NR).

25

**(EXHIBIT NO. 127(NR): Affidavit #1 of Dwight
Dammann sworn February 27, 2012)**

MR. WARD:

Q Now, Dr. Horley, I was about to move to another area, and this is really to summarize what I understand to be the main focus of your affidavit, and my friend, Mr. Hira, has already covered much of this, so I will be quite brief.

But, in summary, as a result of either personal or familial DNA samples the lab received, and as a result of the testing of some of the 1997 Pickton exhibits in 2004, you were able to ascertain that Jacqueline Murdock's DNA was found on a condom wrapper, that Andrea Borhaven's DNA was found on the sole of one of Mr. Pickton's boots, and that Cara Ellis's DNA was found in what appeared, what seemed to be blood on Mr. Pickton's jacket. Is that a fair summary?

A I would say that the profiles obtained from those items, the crime scene profiles from those items match the DNA profiles representing the missing women. As a forensic scientist, we never say that they are from that person, because there is the remote possibility that another person in the world may have a matching profile as well. That

1 is why, when we attend court, we give a statistic
2 related to that match to give weight to the Court.

3 Q Understood. And then you've actually identified
4 the probability that a certain match is actually
5 from the person?

6 A That's correct. In the reports that are connected
7 with the affidavit, the actual conclusions are
8 there with the, the statistic.

9 Q And in terms of timing, this is, this is also,
10 this is a summary of what you have said in various
11 paragraphs of your report, and I would just like
12 you to confirm it. In respect of Jacqueline
13 Murdock, you had information that she was reported
14 missing August 14, 1997. Paragraph 27.

15 A Thank you. Yes.

16 Q And the preceding paragraph 26, the lab, the
17 forensic lab received a DNA sample for her on May
18 29th, 2001. It was analyzed and entered into the
19 local index on December 18th, 2001; correct?

20 A Yes.

21 Q For Andrea Borhaven, she was reported missing
22 December 14th, 1998? Paragraph 36.

23 A Yes, that's correct.

24 Q And paragraph 34, a familial DNA sample was
25 provided to the forensic lab on February 12th,

1 2002, analyzed and entered into the local index
2 five days later, February 17th, 2002?

3 A That's correct.

4 Q For Cara Ellis, the third of the women, you have
5 deposed that she was reported missing October 9th,
6 2002, and I will just stop there for a moment.
7 Her sister-in-law has testified that, in fact, she
8 reported her missing in 1998, but you didn't have
9 access to that information?

10 A That's correct, I don't have knowledge of that.

11 Q All right. So you fixed the date as October 9,
12 2002, which was, in fact, months after Pickton was
13 arrested and charged, right?

14 A Yes.

15 Q In Cara Ellis's case, DNA was received by the lab
16 February 14th, 2003, and entered in a local index
17 March 20th, 2003?

18 A Correct.

19 Q So, I take from that summary, that ordinarily, the
20 DNA sample provided in respect of the missing
21 person, or from the family, can be analyzed and
22 reported on and entered into the local index
23 usually within a matter of, of weeks, depending on
24 I suppose priorities and the like; is that fair?

25 A Yes, you are trying to get an indication of how

1 long it takes to process a sample?

2 Q Yes.

3 A Yes. Generally, a known sample only takes a day
4 to actually prep. You're basically just cutting a
5 sample. These are PAP smears, so they take a
6 couple of more days. The actual processing by an
7 analyst takes four to five days, and then the
8 profile itself and the -- so, approximately two
9 weeks.

10 Q In the ordinary course?

11 A Yes, just for a known sample.

12 Q All right. Now, I want to take you now please to
13 paragraph 17 of your affidavit, and I will just
14 read the first couple of sentences.

15 Because the Forensic Lab made a forensic link
16 between Pickton and Ms. Anderson based on the
17 initial exhibits sent for analysis (that is,
18 the knife and the bandage) sending any
19 additional exhibits, such as the handcuffs,
20 six condoms, boots and jacket, for analysis
21 in 1997 or 1998 would have required
22 additional justification.

23 And you go on to say that they, they, the
24 lab, would have required some, some direction as
25 to what they would be looking for. Right?

1 A Yes.

2 Q So, some direction from investigators?

3 A That's correct.

4 Q Now, if you accept for a moment that, that these
5 women, these three women -- Jacqueline Murdock,
6 Andrea Borhaven, Cara Ellis -- their DNA profiles
7 match for samples from the Pickton's farm, and
8 that -- from the Pickton farm, and that they were
9 reported missing in 1997 or 1998, uh, if standard
10 or best police practices were followed, samples of
11 their DNA or familial DNA could have been provided
12 to the lab in those years, right? 1997 or 1998?

13 A Yes. The samples probably could have been
14 collected and possibly brought to the lab. I am
15 unsure of the lab policy at that point, on whether
16 or not the missing person cases would have been
17 accepted. That depends on policy at the time.

18 Normally, the forensic lab services, we
19 process cases that have to do with a criminal
20 offence, and usually these are primary or
21 secondary offences outlined in the *Criminal Code*
22 *of Canada*. We don't normally process missing
23 person cases per se unless they are connected to a
24 criminal offence.

25 Q We've heard evidence in this inquiry that

1 Detective Constable Lori Shenher of the VPD and
2 Corporal Mike Connor of the RCMP received
3 information that pointed to Robert William Pickton
4 as a suspect in the disappearances and probable
5 murders of the missing women as early as August
6 1998, and that those two investigators worked on
7 that file for months thereafter. Are you aware of
8 that evidence?

9 A No.

10 Q All right. With respect to what you have said in
11 paragraph 17, if an investigator said to the
12 forensic lab in, say, late 1998, or early 1999,
13 "We believe Pickton, Robert William Pickton, may
14 be responsible for murders of women who have gone
15 missing from the Downtown Eastside, would you
16 search the 1997 exhibits for female DNA," that
17 would have been ample justification, from the
18 lab's point of view, to undergo that task,
19 correct?

20 A Yes. That's a different direction compared to the
21 1997 assault relating to Mr. Pickton and Ms.
22 Anderson.

23 Q And if -- let's look at Jacqueline Murdock and
24 Andrea Borhaven, because the dates of their
25 missing reports are clear. Andrea Borhaven's was

1 -- Andrea Borhaven was reported missing by
2 December 14th, 1998, and Jacqueline Murdock August
3 of the previous year, 1997.

4 So, if police investigators had obtained
5 samples of their DNA, for familial DNA, in a
6 timely manner, say, by mid-January 1999, and if
7 investigators had then gone to the lab and say,
8 "We suspect Robert William Pickton might be
9 responsible; would you analyze the '97 exhibits
10 and compare anything you find to these two women's
11 DNA profile," that task could have been done,
12 right?

13 A Yes. If given that direction, the lab would have
14 done that analysis.

15 Q And I suggest with -- in that scenario, you then
16 would have found in, within weeks of 1999, of
17 January 1999, given that scenario, that
18 Jacqueline's Murdock's DNA was on the condom
19 package seized from Pickton in March 1997, and
20 Andrea Borhaven, another missing woman's DNA was
21 on the sole of one of Mr. Robert Pickton's rubber
22 boots?

23 A I would agree with the match with Jacqueline
24 Murdock being found on the condom packages. That
25 link would have been made. However, the boots

1 would not have been sampled because they would not
2 have been gridded in that time period. So, that
3 particular square grid would not have been even
4 sampled or analyzed, therefore, there would be no
5 match or link to Andrea Borhaven.

6 Q All right. Now, moving then to the jacket. If
7 Lori-Ann Ellis's evidence is correct, and she
8 reported Cara Ellis missing in 1998, if
9 investigators had obtained a sample of Cara
10 Ellis's DNA, or familial DNA then, and the same
11 direction had been made to the forensic lab, say,
12 January 15th, 1999, the test performed would have
13 indicated that there was a match to Cara Ellis's
14 DNA on the blood on Mr. Pickton's jacket, correct?

15 A Yes. If the laboratory had had a known sample
16 from Cara Ellis, it could have been linked to the
17 partial profile in the mixed DNA profile from the
18 three areas on the jacket. Again, I cannot say
19 whether it was blood that was associated to the
20 DNA, just that the blood identification was on the
21 same area on the jacket, but it could have been
22 animal blood, not necessarily human blood.

23 Q And if I understand your evidence correctly, both
24 in the affidavit and in your oral testimony, the
25 science surrounding DNA testing and profiling did

1 not change in any appreciable way between, say,
2 January of 1999 and June 2004, when the testing
3 was actually done, but rather, there was an
4 evolution in testing insofar as the gridding of
5 the boots was concerned; do I have that right?

6 A Yes. I would say there is a combination of,
7 there's an evolution of how we searched exhibits,
8 especially having, dealing with the Pickton site,
9 where almost everything was gridded, which
10 generated over 120,000 samples to be analyzed by
11 the lab; as well as, there were some smaller
12 changes with the DNA technology. However, the DNA
13 technology was such in the 1998 to 1999 period,
14 that DNA, if it had been sampled from these
15 exhibits, it would have been enough, and DNA
16 profiles would have been obtained.

17 Q Now, just to further summarize and hopefully
18 clarify my understanding of your evidence on this
19 point, the matter I have been asking about since
20 the break. If police investigators looking into
21 the disappearance of Jacqueline Murdock and Cara
22 Ellis in 1998, reported to them in 1997 and 1998,
23 had, by the end of 1998, obtained DNA samples from
24 them or their families, and if the investigators
25 had thought to have Robert Pickton's belongings

1 that were seized from him as a result of the 1997
2 attempted murder of Anderson tested and analyzed,
3 then, at that time, end of '98, early '99, the lab
4 would have found a match between Jacqueline
5 Murdock's DNA on the condom packages and Cara
6 Ellis's DNA on the jacket, right?

7 A Yes, the link would have been made.

8 Q Thank you.

9 THE COMMISSIONER: All right. Any other cross-examination?

10 Thank you, Mr. Ward. Thank you, Doctor. I
11 appreciate you attending.

12 MS. TOBIAS: Mr. Commissioner, Cheryl Tobias for the Government
13 of Canada. I have one question in re-examination
14 or redirect.

15 THE COMMISSIONER: Oh, all right.

16 **CROSS-EXAMINATION BY MS. TOBIAS:**

17 Q Dr. Horley, you have testified that you worked for
18 the RCMP lab, and this is a follow-up to the
19 questions Mr. Ward was just asking you. But did
20 you accept samples from, analyses from forces
21 other than the RCMP?

22 A Yes. We processed samples from police
23 departments, as well as the RCMP, and sometimes
24 when Crown or the Court asked us to analyze
25 samples.

1 Q Thank you.

2 THE COMMISSIONER: Thank you. Do you have any -- you don't
3 have any questions, all right. Thank you.

4 (WITNESS EXCUSED)

5 MR. VERTLIEB: The next evidence is from Corporal Mike Hall and
6 he's here and maybe he could work his way forward
7 please.

8 THE COMMISSIONER: All right.

9 MR. VERTLIEB: I have the original -- now, you will see that
10 much of this material is outside of the terms of
11 reference and it's -- there is a number of
12 different topics. But we thought it would be
13 quicker to deal with it this way and let the
14 cross-examination go, rather than enter into a
15 discussion about some of the dates being out of
16 the terms of reference. I thought we would spend
17 more time discussing whether you should hear this
18 evidence than we should spend hearing it.

19 THE COMMISSIONER: Oh.

20 MR. VERTLIEB: So, I think this is the best way to go, all
21 things considered. But we have his affidavit
22 evidence for you.

23 THE COMMISSIONER: All right.

24 MR. VERTLIEB: And my understanding is that Mr. Ward is the
25 only cross-examiner for 30 minutes.

1 THE COMMISSIONER: All right.

2 MR. WARD: And I don't expect to use nearly that much time. I
3 only have a few questions.

4 THE REGISTRAR: Mr. Ward, I need to --

5 MR. WARD: Sorry.

6 THE REGISTRAR: Yes, would you turn on the microphone please?
7 Thank you. Good morning.

8 **MICHAEL EDWARD HALL, affirmed:**

9 THE REGISTRAR: Would you state your name please?

10 THE WITNESS: Michael Edward Hall.

11 THE REGISTRAR: Thank you. Counsel.

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

13 MR WARD: Yes, Mr. Commissioner, Cameron Ward, counsel for the
14 families of 25 missing and murdered women.

15 Q Sir, I just have a couple of questions for you
16 about the very end of your affidavit, where you
17 address statements made by one of my clients, or
18 by one of my clients, Margaret Green. At
19 paragraph 59 of your affidavit, and the actual
20 transcript reference is attached as Exhibit F to
21 your affidavit, you address some testimony that
22 Ms. Green gave before this commission. Do you see
23 that?

24 A That is correct.

25 Q And just so that I understand this, the gist of

1 your testimony is that you looked at the file.
2 You were able to ascertain that Corporal Boudreau
3 and another RCMP officer who you cannot identify,
4 was with Ms. Green on the occasion in question
5 that Ms. Green testified about, and that Corporal
6 Boudreau has told you that he did not say the
7 words Ms. Green attributed to one of the RCMP
8 members. Is that a fair summary of what
9 paragraphs 59 and 60 say?

10 A Yes, that is a fair summary.

11 Q So, you are not able to say that Ms. Green is
12 wrong in her testimony, just that Corporal
13 Boudreau has advised you that he didn't recall, he
14 doesn't recall telling Ms. Green those words?

15 A That is correct.

16 Q And you would agree, based on your dealings with,
17 with people, particularly next of kin who are
18 informed about serious matters like the death of a
19 loved one, that when they receive information like
20 that, it tends to resonate with them? They, they
21 clearly react to it; fair enough?

22 A That is correct.

23 Q And I see that you swore your affidavit on March
24 30th, 2012. When Corporal Boudreau spoke to you
25 about this issue, that was fairly recent, was it?

1 A That would have been a few months ago when I spoke
2 to him about it.

3 Q All right. And so it seemed when you, when he
4 told you this, that he was going on his own
5 recollection of events that occurred some four
6 years previously?

7 A That is correct. And I also took steps to try and
8 figure out who that other police officer was who
9 was there with Corporal Boudreau at the time.

10 Q And you weren't able to establish the identity of
11 that person?

12 A I believe I know who was there, but I can't --
13 when I spoke to that individual, they don't recall
14 it and they have no notes in regards to it.

15 Q And this case, the Angela Williams case, does that
16 remain unsolved?

17 A Yes, it is still an open investigation.

18 Q It's still under investigation?

19 A That is correct, yes.

20 Q And should the family seek and require updates
21 from the investigators, is that something that can
22 be arranged?

23 A Uh, Mr. Commissioner, after I learned of Margaret
24 Green's testimony, I contacted her via telephone.
25 We discussed her testimony and arranged a

1 schedule. So, once a year, I will be contacting
2 her regardless of if there is any update on the
3 investigation.

4 Q Thank you, sir. Those are my questions.

5 THE COMMISSIONER: Thank you, Corporal Hall. Thank you.

6 (WITNESS EXCUSED)

7 MR. VERTLIEB: Thank you. So, that takes us -- we've covered a
8 lot of ground this morning. This afternoon we
9 have Detective Constable Shenher. I think Mr.
10 Hira has arranged with Mr. Ward to go first so Mr.
11 Hira can meet other obligations.

12 MR. HIRA: I don't know if that arrangement needs --

13 MR. VERTLIEB: Okay.

14 MR HIRA: -- be in place.

15 MR. VERTLIEB: Okay.

16 MR HIRA: I don't have other obligations.

17 THE COMMISSIONER: All right.

18 MR. VERTLIEB: Okay. Well, we will worry about that, but we
19 have Detective Constable Shenher, and she will
20 definitely be the afternoon. Now, I just want to
21 say that because of timing issues of counsel, I am
22 going to ask that we sit as late as we need to sit
23 today to finish that evidence of Ms. Shenher.

24 Just so you know, Mr. Commissioner, tomorrow
25 morning will be only then Mr. Vanoverbeek, which I

1 understand will be one hour for Mr. Ward; and Mr.
2 Lunn will be half an hour for Mr. Ward, Murray
3 Lunn. Just on that point, I think we should start
4 tomorrow at 10 a.m. which would give ample time.

5 THE COMMISSIONER: Okay.

6 MR. VERTLIEB: The normal lunch break would be fine, Mr.
7 Commissioner.

8 THE COMMISSIONER: All right.

9 MR. MAJAWA: Perhaps before we break -- Andrew Majawa for the
10 Government of Canada -- we could mark the Mike
11 Hall affidavit as the next exhibit (NR).

12 MR. VERTLIEB: Of course. Thank you.

13 THE COMMISSIONER: All right.

14 THE REGISTRAR: The Mike Hall affidavit will be marked as
15 Exhibit Number 128 (NR).

16 **(EXHIBIT NO. 128(NR): Affidavit #1 of Corporal**
17 **Mike Hall, affirmed March 30, 2012)**

18 MR. DICKSON: Mr. Commissioner, Tim Dickson for the VPD.

19 THE COMMISSIONER: Yes.

20 MR. DICKSON: I just want to advise that we will also have some
21 cross-examination for Mr. Vanoverbeek tomorrow,
22 say, half-an-hour to 45 minutes.

23 THE COMMISSIONER: All right. We will adjourn.

24 THE REGISTRAR: This hearing is now adjourned until 1:45.

25 **(PROCEEDINGS ADJOURNED AT 11:49 A.M.)**

(PROCEEDINGS RESUMED AT 1:50 P.M.)

THE REGISTRAR: Order. This hearing is now resumed.

MR. VERTLIEB: So, I understand that Mr. Ward is going to lead off, and then Mr. Hira has some questions, and I believe, uhm, there is one other questioner, DoJ has some questions.

THE COMMISSIONER: All right.

MR. VERTLIEB: And as I mentioned earlier, it would be really helpful if we could sit as late as we need to, to finish this witness, so we are on track.

THE COMMISSIONER: Do I have -- do we have estimates?

MR. VERTLIEB: Yes. Mr. Ward, Mr. Ward, do you want to just confirm? Two hours I understand.

MR. WARD: (Nod)

MR. VERTLIEB: Thank you, Mr. Ward.

THE COMMISSIONER: All right.

MR. VERTLIEB: Mr. Hira?

MR. HIRA: I had estimated 40 minutes, but I have taken the time and effort today to give Mr. Ward my leading questions so he can be less time, and thus, me use less time.

THE COMMISSIONER: All right.

MR. VERTLIEB: Mr. Ward sat with -- Mr. Ward and Mr. Hira discussed the questions, so there may be an opportunity.

1 THE COMMISSIONER: All right.

2 MR. VERTLIEB: And then DoJ and Ms. Narbonne. I know Ms.

3 Narbonne has some questions, but she won't be

4 long, and DoJ won't be very long. But we could

5 have a long afternoon.

6 THE COMMISSIONER: Okay.

7 MR. HERN: I may, I may want 10 minutes or so.

8 THE COMMISSIONER: Okay. All right, thank you, Mr. Hern.

9 MR. VERTLIEB: Thank you, Mr. Commissioner.

10 THE COMMISSIONER: All right.

11 MR. VERTLIEB: But I think if we're going to do that, we should

12 just take as many breaks as we need through the

13 afternoon.

14 THE COMMISSIONER: All right.

15 MR. VERTLIEB: Thank you.

16 THE COMMISSIONER: Thank you. Mr. Ward.

17 MR. WARD: Thank you, and it's Cameron Ward, counsel for the

18 families of 25 missing and murdered women.

19 **LORI SHENHER, recalled:**

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

21 Q Detective Constable Shenher, I am showing you, or

22 I am giving you a bound copy of the redacted

23 version of your book manuscript, with two extra

24 copies available for the commission's purposes.

25 Could you please just take a look at that and

1 confirm that that is a copy of your typewritten
2 manuscript running 289 pages?

3 A Yes, I believe so.

4 Q And can you tell me please when you wrote this
5 book about your experience with the missing women
6 investigations?

7 A I believe I began it in about mid-2002 and
8 finished it in about the early period of 2003.

9 Q And you wrote it then to describe your experience
10 with the missing women case, with the intention of
11 telling your story to the world; correct?

12 A Well, I wrote it with the intention of telling
13 this story for publication, because I believed it
14 needed to be told.

15 Q And you, in fact, entered into a contract for
16 publication of the manuscript with the Canadian
17 publisher, McClelland & Stewart, correct?

18 MR. CROSSIN: I'm --

19 THE REGISTRAR: Name please.

20 MR. CROSSIN: Crossin for the union.

21 I think my friend should get to the contents.
22 You gave him leave to cross-examine on new matters
23 arising from this document. I don't know what
24 he's setting the groundwork for now in terms of
25 the contractual relationships and what her

1 intention was, but in my view, he should just get
2 to it.

3 THE COMMISSIONER: All right, Mr. Ward.

4 MR. WARD: My friend, Mr. Crossin, as experienced counsel,
5 knows that cross-examiners are entitled to circle
6 the citadel to construct their cross-examination
7 with a view to eliciting the truth from a witness
8 free from interruption unless it's patently
9 objectionable. That last question was not, in my
10 respectful submission, and I would urge my friend
11 to cease his interruptions.

12 THE COMMISSIONER: Well, --

13 MR. CROSSIN: Well, I can say this.

14 THE COMMISSIONER: -- wait a minute.

15 You can call an objection an interruption. I
16 guess it's in the eyes of the beholder. But I
17 think the objection, as I understand it, was that
18 she's been called back to cross-examine on a
19 limited purpose and -- but Mr. Crossin's point
20 here is that, of what relevance is her contractual
21 arrangements with, with the publisher? That's
22 all. And I am not interested in it. I can tell
23 you that. I don't, I don't care what contractual
24 relation she had with anyone. I am interested to
25 know what your cross-examination is going to be on

1 the manuscript. I am interested in that.

2 MR. CROSSIN: And I can assure my friend, in terms of his
3 remark about when I should rise or not rise, that
4 I am going to do my duty as I see fit, unless you
5 tell me otherwise and no one else.

6 THE COMMISSIONER: Thank you.

7 MR. WARD:

8 Q News broke in the media that you had written the
9 book and your superiors ordered you not to publish
10 it, correct?

11 A No, that's not correct. I --

12 Q Go ahead.

13 A I decided not to publish it at that time for a
14 couple of reasons. The first was that there was
15 some indication in the media that the families
16 were upset, and that was the last thing that I had
17 intended by writing this document. The second
18 reason was that, as time was unfolding and the
19 Pickton investigation was unfolding, many of the
20 investigative things in this document were
21 starting to come to the surface to, to such a
22 degree that I felt that they would be addressed in
23 the trial, and therefore, would be in the public
24 domain, which was also my intent when I wrote it,
25 was that these things would reach the public

1 domain. So that was why I decided not to publish
2 this.

3 And the VPD really had no, they had no
4 knowledge that I had written it, they had no, they
5 had nothing to do with, with the decisions around
6 it at all. I wasn't in any way pressured by them.

7 Q After the news broke in the media, you were asked
8 whether you had written the book, correct?

9 A Yes, I was.

10 Q And according to the *Province*, April 24th, 2003,
11 Anne Drennan, the VPD spokesperson, denied that
12 you were writing a book and this quote was
13 attributed to her.

14 "I spoke to Lori this morning and she is
15 adamant that she is not writing a book," said
16 Drennan, adding, "Shenher is on maternity
17 leave until February."

18 You are aware of that --

19 A I am.

20 Q -- remark being published in the media?

21 A Yes, and I would like to speak to that, because it
22 was erroneous then and it's obviously still
23 erroneous now.

24 What, what happened was Anne -- there was, I
25 believe, some kind of a leak in a *Globe and Mail*

1 story that I had written the book, and that, that
2 it was for publication. So, when that came out,
3 Anne asked me, "What's going on with this book?"
4 So, I told her I was -- I said, "I had written a
5 book. I was going to publish it. I have since
6 changed my mind. I am not going to publish it.
7 There is not going to be -- this book is not going
8 to be published." And so she -- I can't speak for
9 her, you would have to ask her, but my
10 understanding of her comments was that there is
11 not going to be a book, not that, not that this
12 manuscript didn't exist at some point.

13 Q Well, when I read this -- well, let me, let me put
14 it this way. Uhm, her quote was:

15 "I spoke to Lori this morning and she is
16 adamant that she is not writing a book," said
17 Drennan.

18 In fact, your evidence is you told her you
19 had written or were writing the book and the
20 statement attributed to her in the *Province*
21 newspaper is false, right?

22 A No, I think it's a matter of semantics. I just
23 think she said -- I think her intent was, "there
24 is not going to be a published book as it stands
25 right now, and that's, and that's what Lori has

1 told me and that's what happening." But she chose
2 her own words and those are what they were.

3 Q You agree that you or your employer, the Vancouver
4 Police Department, suppressed or covered up the
5 existence of this book from April 2003 until
6 January 31st, 2012, when I asked you about it,
7 correct?

8 A Mr. Commissioner, I think Mr. Ward gives us far
9 too much credit. I don't think there was any
10 thought of this book at all, ever. No one ever
11 talked to me about it. I didn't talk about it. I
12 think everyone just forgot about it, and that was
13 my thought when I was even asked about it in this
14 inquiry, is it didn't even occur to me that those
15 would form my notes. And so once they were,
16 obviously, we've been forthcoming with it.

17 But that -- there is no -- I know you are
18 looking for a smoking gun, but there is no, there
19 is no, there is nothing untoward around this. It
20 just, it just died a death is what happened.

21 Q Well, you wrote it. You spent many months writing
22 the book, right?

23 A Uh, I don't, I don't even know if it took me many
24 months, but I wrote it, yes.

25 Q All right. You put considerable effort into it?

1 A I would say so, sure.

2 Q Clearly, anybody reading the newspaper, *The Globe*
3 *and Mail* and the *Province* back in April of 2003,
4 within the VPD, knew the book existed, or knew the
5 book, the book had been reported about?

6 A Assuming they would have read that, yes.

7 Q All right. And when you completed the manuscript,
8 you believed that your career as a police officer
9 within the VPD was over, right?

10 A Yes.

11 Q So, you wrote things in the book that you now wish
12 you hadn't, right?

13 A Uhm, no. I stand by most of what I wrote, for the
14 most part. There are a couple of things that,
15 that I have come to, you know, in the fullness of
16 time, have come to understand a little bit
17 differently, or I have had more information
18 provided to me, which has changed my view. But I
19 think the overall tenor of the book I would stand
20 by.

21 Q All right. I am going to suggest to you that the
22 book, taken as a whole -- and I can direct you to
23 the, and I will, if I have time, direct you to the
24 specific passages -- reveals a major systemic flaw
25 within the Vancouver Police Department that

1 directly contributed to the failure of the
2 Vancouver Police to apprehend Mr. Pickton sooner
3 than he was, and that was the notion of a police
4 culture?

5 A Well, I think that that's actually a little bit
6 incorrect, because what I intended to convey was
7 that there was certainly a culture that I have
8 spoken to already in my evidence, uhm, at the VPD,
9 and I think in answer to one of your questions,
10 also, you know, in all the systems in all the
11 organizations around the world, I think. I don't
12 think the VPD was any worse or better.

13 But I don't believe that the conclusions I
14 drew in that book, it certainly wasn't my
15 intention, were to show that that systemic failure
16 led to the failure of Pickton, because, as I also
17 said in evidence, the key point for me that still
18 remains to be answered, is what happened in August
19 1999 when the Pickton information from the VPD was
20 forwarded onto the Coquitlam RCMP.

21 Q All right. Let me just stop on police culture for
22 a moment, as it was within the VPD, during the
23 period you were tasked with the investigation. I
24 suggest that your book indicates, in several
25 places, that there was a culture of sexism and a

1 culture of rampant absenteeism that both had an
2 effect on the adequacy of the investigation;
3 agreed?

4 A No. Uhm, you know, as far as the sexism, I think
5 I spoke to that in the book. I had a couple of
6 individual incidents personally where, after some
7 analysis, I thought that maybe it was sexism at
8 work but I wasn't certain. You know, I think I
9 spoke to some of the old Vice Squad attitudes
10 around the sex trade and -- I am just trying to
11 remember the second thing that you'd said but --

12 Q Absenteeism.

13 A Thank you. Certainly I make mention at various
14 points in the book of different people who are off
15 with illness, but I, I don't believe I ever said
16 anything in the book, nor do I believe, that we
17 had a rampant absenteeism problem.

18 Q Well, let me put that to you a little more
19 specifically. You have mentioned Biddlecombe, for
20 example, and he's one of many examples of officers
21 nearing their retirement date who would book off
22 sick for the balance of their tenure, sometimes as
23 many as years, draw their salaries, paid for by
24 the taxpayer, on the pretext of being ill, and
25 then reach their pension date. Isn't that what

1 was happening?

2 A Mr. Commissioner, I don't think I can speak to --
3 if someone books off sick, I certainly was not in
4 a position to know whether they were actually sick
5 or not sick or whatever you're implying, but I
6 can't speak to any of that.

7 Q As far as sexism goes, you made specific mentions
8 in the book of the difficulties you encountered as
9 a woman operating or trying to operate within a
10 male culture, didn't you?

11 A I don't -- and I am not, and I am not trying to
12 minimize a problem if there were one. I just, I'm
13 a little reluctant to say that the problems I
14 encountered were, were of a sexist nature and not
15 more of a, of a cultural nature in terms of a
16 police culture and a, and a world that I was just
17 getting to know. I mean, it's a difficult
18 culture, there is no question. What -- if it --
19 is it rampantly sexist? I don't really believe it
20 is. I actually think, in my experiences and in
21 talking with colleagues of mine that work at other
22 police departments and detachments, I actually
23 think the VPD is not that bad. I just think that
24 we have -- I think the police culture, in general,
25 is what I struggled with personally, and I think

1 that's what I, what I chronicle in the document.

2 Q All right. Part of that culture, you would agree,
3 and I think it's referred to in the book, is that
4 police officers frown upon persons within their
5 ranks blowing the whistle on misconduct, right?

6 A I don't think it's something that's going to
7 elevate your career necessarily, no.

8 Q All right. And you remain a police officer
9 employed by the VPD today?

10 A I do.

11 Q Deputy Chief LePard brought you back into the fold
12 when you were on the verge of leaving, right?

13 A Yes.

14 Q I am going to suggest that the book, taken as a
15 whole, reveals that knowledge of Mr. Pickton, as a
16 prime suspect in your investigation of the
17 disappearances of the women, was widespread within
18 the management of the VPD throughout 1998 and
19 1999; agreed?

20 A Well, again, widespread, I can't say. I know that
21 my supervisor knew of him. I knew her supervisor
22 knew of him.

23 Q Okay. The names of -- Geramy Field and?

24 A Geramy Field, Fred Biddlecombe.

25 Q Yes?

1 A I think, Deputy McGuinness I think became aware of
2 him. Uhm, and then various, you know, the
3 different other people that might have filled in
4 for them, would have been aware. You know,
5 widespread, I don't know if I could really say
6 that.

7 Q Well, you also said in the book that police
8 officers speak freely amongst each other, right?

9 A Yes.

10 Q And that's something -- that's an aspect of police
11 culture you are familiar with?

12 A It is. I just -- I am not really familiar with a
13 lot of watercooler Pickton conversations, that's
14 all.

15 Q But you would agree, it would be inconceivable to
16 you, based on your knowledge of the police
17 culture, coupled with your own experiences with
18 this investigation, that inspectors, deputy
19 chiefs, senior personnel within the VPD, did not
20 know of your efforts directed towards Robert
21 William Pickton in 1998 and 1999, right?

22 A Well, again, you have to appreciate this culture.
23 And, you know, I have, I've worked in other fields
24 prior to policing where I think there was better
25 communication and, and more knowledge of, of the

1 different people's activities. I -- it's kind of
2 along the same vein of people not knowing that I
3 wrote a book. They're just -- there's -- I don't
4 know how to really characterize it other than it's
5 surprising the things that people are not aware of
6 and it's surprising the things sometimes that
7 people are not that switched onto.

8 Q But you, Detective Constable, were telling all
9 sorts of people about Pickton, including people
10 outside the police force, right?

11 A I had spoken to some of the people in my life
12 about it, yes.

13 Q For instance, a year or so before Pickton was
14 arrested, you spoke to Chris Haddock, who was the
15 producer of the *Da Vinci's Inquest* series you were
16 working on, about Pickton and his -- and your
17 experience with pursuing him as a suspect, didn't
18 you?

19 A I believe so. I believe that was my evidence as
20 well.

21 Q You spoke to your parents? You spoke to your,
22 your partner?

23 A Yes.

24 Q And you spoke to anyone within the VPD who would
25 listen?

1 THE COMMISSIONER: Yes?

2 MR. CROSSIN: I have an objection to this.

3 THE COMMISSIONER: Yes.

4 MR. CROSSIN: This is old ground.

5 THE COMMISSIONER: It is.

6 MR. CROSSIN: This is not an invitation for my friend to go
7 back and till that. This, this is about new
8 matters arising from the documents.

9 THE COMMISSIONER: Yes. Mr. Ward, the point is well-taken
10 because I, I know from my notes that all this has
11 been asked before, so. So, I would ask you to, to
12 confine yourself to new ground. That's why we
13 brought her back, not to rehash what she's already
14 said.

15 MR. WARD: Now, I propose to go to specific -- thank you --
16 specific references in the book and I would ask
17 that it be marked as an exhibit please.

18 THE REGISTRAR: I take it that will be as --

19 THE COMMISSIONER: Just a minute.

20 MR. CROSSIN: I object.

21 THE COMMISSIONER: Sorry, you wanted to mark the book as an
22 exhibit?

23 MR. WARD: Yes.

24 THE COMMISSIONER: Why?

25 MR. WARD: Well, it's this witness's report on the missing

1 women investigation.

2 THE COMMISSIONER: No, I know that. But merely because she's
3 referring to something does not necessarily mean
4 that it should be marked as an exhibit. I mean,
5 it's a, it's -- you know, counsel sometimes think
6 that because some document has been referred to,
7 it, therefore, becomes an exhibit. Prior
8 consistent statements, inconsistent statements,
9 they're often referred to, but they don't -- that
10 doesn't necessarily make it admissible.

11 MR. WARD: Oh, I appreciate that, but as you have pointed out
12 repeatedly, --

13 THE COMMISSIONER: One person is speaking.

14 MR. GRATL: Yes. Absolutely.

15 THE COMMISSIONER: Are you objecting?

16 MR. GRATL: I am not objecting. I am just waiting my turn.

17 THE COMMISSIONER: Well, you can have a seat and wait your
18 turn. That's normally how it's done.

19 MR. GRATL: I take your --

20 THE COMMISSIONER: Yes?

21 MR. WARD: Mr. Commissioner, as you have pointed out
22 repeatedly, the rules of evidence in this
23 proceeding have been relaxed because it's a public
24 inquiry, not a trial.

25 THE COMMISSIONER: Yes.

1 MR. WARD: And may I remind you that on the first morning of
2 this inquiry, --

3 THE COMMISSIONER: Yes.

4 MR WARD: -- commission counsel tendered and marked as an
5 exhibit Doug LePard's report.

6 This document is a similar document in that
7 it is this witness's report of the investigation
8 from her perspective written -- and it's better
9 evidence, in my submission, than LePard's, because
10 it was much more contemporaneous. It was written
11 in 2002, --

12 THE COMMISSIONER: Well --

13 MR WARD: -- 2003, whereas -- may I finish, please -- whereas
14 LePard's report was written in 2010. His report
15 was compiled, not from firsthand knowledge, but on
16 hearsay. This witness's is based on firsthand
17 knowledge. It is the best evidence, in my
18 submission, much better evidence than LePard's
19 report, about how the Vancouver Police Department
20 in general and this witness, in particular, as the
21 lead investigator on the case, handled the
22 investigations that are the subject of this
23 commission's mandate.

24 THE COMMISSIONER: Okay. Well, I am not at all convinced at
25 this stage that I need it in order to, to prepare

1 my report and make my recommendations, and I have
2 to decide what I need. That's the governing
3 factor.

4 MR. WARD: With the greatest of respect, that is incorrect.

5 THE COMMISSIONER: Well, --

6 MR. WARD: The test is not what you need. The test is --

7 THE COMMISSIONER: -- I have made my decision. You go on, and
8 if, later on, you can convince me after more
9 cross-examination that it ought to be marked as an
10 exhibit, I will listen to you. But at this stage,
11 I have told you it's not going to be marked as an
12 exhibit.

13 MR. WARD: Thank you. That decision, which I certainly
14 respect, means that my cross-examination will be
15 much longer than my original estimate, because I
16 will need to put specific passages of the document
17 to the witness to have her adopt them. I am just
18 telling you that.

19 THE COMMISSIONER: Well, the fact that it's going to be longer
20 doesn't change my view.

21 MR. WARD: I wasn't saying that to, to urge you to change your
22 view, but rather, to say that I am going to need
23 more time as a consequence of the ruling.

24 THE COMMISSIONER: That's fine, Mr. Ward.

25 MR. WARD: Thank you.

1 Q I would like to direct your attention please to
2 page 3 of the manuscript. I am going to ask you
3 whether you today adopt this statement that you
4 wrote in 2002/2003, middle of the page, third
5 line, second paragraph. I will read it out.

6 I left in what I saw as a protest move.
7 You're talking about leaving the position as lead
8 investigator in November 2000. I will start
9 again.

10 I left in what I saw as a protest move -- I
11 was protesting the lack of commitment to the
12 case by VPD management, the lack of resources
13 to do the job properly, the mishandling of
14 the investigation, and the lack of action in
15 the Pickton investigation. I felt an
16 obligation to the families and friends of
17 these women and when it became apparent to
18 me I was not successful in demanding that the
19 right things be done, I asked for a transfer
20 thinking that this would force them to deal
21 with the future of this investigation,
22 whether they wanted to or not. I felt that
23 as long as I was there, management would feel
24 the case was in good hands and being dealt
25 with by someone who could continue to put a

1 good spin on it and assure the public and the
2 families we were doing all we could. We
3 weren't.

4 You wrote that back in 2002, 2003?

5 A Yes.

6 Q And is that description true?

7 A Yes.

8 Q So, you had demanded of your superiors action,
9 that they take action with respect to the Pickton
10 investigation?

11 A Well, again, I think through my memos, and through
12 the requests that I have made, I thought I had
13 done that.

14 Q And through your day-to-day involvement in a
15 police force that was a fairly close-knit and -- a
16 close-knit community of people who spoke to each
17 other, right?

18 A For the most part, yes.

19 Q It was no secret, Detective Constable Shenher,
20 that from, from August of 1998, while you were
21 going out to meet with Connor, while you were
22 going out to the Burnaby Correctional Centre to
23 meet with Anderson, while you were following leads
24 leading to Pickton, that your colleagues within
25 the VPD knew that, was it?

1 A I know the people within our team or within the
2 Missing Persons office knew what I was doing, yes.

3 Q All right. Can I take you to page 5? Again,
4 referring to your application for a transfer, you
5 said this, and I will quote, the second -- the
6 first full paragraph:

7 Once I applied for a transfer, the scramble
8 began. One by one, managers and
9 investigators sat me down and implored me to
10 stay, to see it through, to not give up.

11 Do you see that?

12 A Yes, I do.

13 Q Can you list the names of those managers and
14 investigators who, one by one, implored you to
15 stay on the case?

16 A I can't remember them all, otherwise, I would have
17 listed them. I know Sergeant Field implored me to
18 stay. Uhm, I know that some of the various
19 homicide detectives that I had worked with over
20 the years had implored me to stay.

21 Uhm, as far as managers, I don't -- it may
22 have been Gord Spencer, but I don't remember for
23 sure. He was quite new. I'm not sure if that's
24 when he came or not. But I found him to be an
25 excellent inspector, actually, and quite

1 committed. Uhm, he was the one that had come in
2 and was going to help us transfer the file to the
3 RCMP. So, I think it was him, when I have
4 mentioned managers, but I am just not certain.

5 And just different people that I had worked
6 with in -- on different aspects of the file. I
7 can't name any more of them.

8 Q And then you write, and I quote:

9 Again and again, I said no because I could
10 see in their eyes that this was not about me,
11 it was about them and their abject fear of
12 having to take over the management of this
13 file. No one wanted it.

14 A Yes.

15 Q Was that true?

16 A That was my sense, yes.

17 Q Your sense was that managers and investigators
18 within the VPD wanted nothing to do with the
19 investigation you had been trying to handle,
20 right?

21 A That was my sense, and I came to that mainly by
22 comparison. I think I spoke to this a little in
23 my evidence earlier. But, you know, in
24 comparison, our two rooms, our two project rooms,
25 the Home Invasion Task Force and the Missing Women

1 project room were side by side. And just by
2 virtue of the steady stream of people that would
3 come and go from the home invasion room, young
4 investigators going there, you know, seeming that
5 they wanted to work there, there was a lot of
6 enthusiasm around that, and we didn't have that
7 same enthusiasm. We didn't have that same
8 interest.

9 It was very difficult for me to try to, I
10 don't know if this is a good word, but almost
11 advertise, if you will, to the rest of the
12 department and to the Patrol Division what we were
13 working on, so that people would come to us with
14 information. Those were some of the kinds of
15 things that I struggled with during my time there.
16 So, to see that comparison, you know, from one
17 room to the next, is, is where I got that
18 perception.

19 Q And, in fact, you wrote later in the book, and I
20 will direct your attention to the passage, that:

21 Detectives who wanted to join the Home
22 Invasion Task Force, the well-funded
23 operation looking into break-ins in and
24 around Vancouver, avoided the Missing Persons
25 Review Team like the plague [in your words]

1 being uninterested in searching for a bunch
2 of missing [as they called them] "whores".
3 Right?

4 A Yes.

5 Q The attitude of the detectives in the Vancouver
6 Police Department, when you needed help, was that
7 they weren't interested in helping you look for
8 whores, they would much rather be investigating
9 break-ins elsewhere in Vancouver?

10 A Well, let me just -- I just want to be clear
11 before I answer --

12 Q That's page 101, by the way.

13 A Thank you. No, I remember writing it.

14 Uhm, that wasn't exactly my, what I meant.
15 What I meant was, as an organization, I don't
16 think there was the interest in our file that
17 there was in the home invasion file. That was not
18 to say, had I ever asked anybody for assistance,
19 I, I think pretty much unequivocally got, you
20 know, on a case-by-case basis. So, if there were
21 some detectives somewhere that I needed a little
22 help from, I certainly got that in an informal
23 way. But what I am talking about is,
24 institutionally, I don't think there was a
25 commitment the way that there was a commitment to

1 the Home Invasion Task Force.

2 Q In coming back to the police culture for a moment,
3 you wrote in this book intended for publication,
4 originally, to anyone out there in the world who
5 might want to read your story, you wrote in this
6 document that:

7 Deputy Chief John Unger was a man who
8 referred to the victims as "fucking whores"
9 in a meeting of senior officers discussing
10 the case.

11 Right?

12 A Again, I think that's in my evidence and I think
13 that I clarified that that was hearsay that I had
14 heard other detectives refer to.

15 THE COMMISSIONER: Yes?

16 MR. CROSSIN: Why does my friend keep doing this and asking the
17 same questions he asked when she was here
18 previously?

19 THE COMMISSIONER: Yes. You know, I reread my notes, Mr. Ward,
20 and, and there is nothing new here that you are --
21 with the exception of a few, a few items of
22 evidence here and there. But by and large, you
23 are ask -- you are going over the same cross-
24 examination that I heard when she was here the
25 first time. And, you know, I -- you know, she's

1 been brought back here for the benefit of all
2 counsel who want to cross-examine her, and that's
3 fair. But I don't need to hear the same evidence
4 over again.

5 MR. WARD: Well, I want it on the record what the witness wrote
6 in 2002 about Deputy Chief John Unger. It's at
7 page 187. I would like to read it to you please.

8 THE COMMISSIONER: But the point is though, I heard all of that
9 before about what her views are about Unger.

10 So --

11 MR. WARD: This is new, sir.

12 THE COMMISSIONER: Well --

13 MR. WARD:

14 Q Page 187, first full paragraph. All right, you
15 say, and I quote:

16 We were leaderless, guided by people who
17 wanted nothing more than the status quo, and
18 encouraged me to stay our already flawed,
19 misguided course. Management was in a state
20 of flux with new inspectors rising up and old
21 ones retiring. McGuinness was long gone,
22 leaving shortly after the Chambers coup, and
23 he was replaced by Deputy Chief John Unger, a
24 man who referred to our victims as "fucking
25 whores" in a meeting of senior officers

1 discussing the case.

2 You wrote that in 2002, 2003?

3 A Yes, I did.

4 Q And what's this Chambers coup? You are referring
5 there to an uprising by management personnel
6 within the VPD deposing then Chief Bruce Chambers,
7 are you?

8 A Yes. And before I fully answer that, I just want
9 to, I just want to be clear on something. When,
10 when I wrote this, this is, this is the very, this
11 is the only and the very first draft. This is
12 me -- you know, it's the literary equivalent of an
13 outline. And I am not trying to distance myself
14 from any comments. I just -- much of -- this was
15 not even, had not even been seen by an editor, had
16 not been seen by lawyers. There was discussion
17 with my publisher about whether we were going to
18 use names, name names, change names, all that sort
19 of thing. And so, the fact that this is even in a
20 public forum now, when it wasn't my intent for it
21 to be, nor was it at a point that it would have
22 been presentable for public consumption, causes me
23 some concern. And I understand a copy of this has
24 been leaked to media, and that causes me concern.

25 So, just to continue with that. My

1 understanding, and I think that probably Dr.
2 Rossmo, and I know I spoke a little bit about the
3 climate around Chief Chamber's reign, but there
4 was, I don't think you would find anyone at that
5 time in the VPD who wouldn't agree that there was
6 massive and pervasive unhappiness with Chief
7 Chambers. And it was -- you know, that's the kind
8 of thing that was being discussed around the
9 watercooler, was what's -- how are we going to get
10 this guy out of here. Nobody liked him as a
11 chief. So, I think for me to characterize it as a
12 coup is not incorrect.

13 And again, I think I have addressed this,
14 this Deputy Unger thing. This -- I already
15 clarified my evidence. This was, this was
16 something I had heard other people refer to, who
17 had been in a meeting with him when he'd referred
18 to the women as "fucking whores".

19 Q That doesn't -- it doesn't say that in what you
20 have written, does it?

21 A I think these are --

22 Q That other people told this to you?

23 A I think that I would like to reiterate what I just
24 said, which is, this is a very -- this is a first
25 draft. This is, this is something that's going to

1 be seen by errors and omissions lawyers, it's
2 going to be worked through with me and an editor.
3 All those kinds of things, had I decided to
4 publish this, this document, would have occurred
5 before it would have ever been in the public
6 domain.

7 Q All right.

8 A So, you know, I just caution you not to treat it
9 as though this is something that I was about to
10 publish and didn't. This was in a very, very
11 preliminary stage.

12 Q I would like to draw your attention to the
13 italicized sentence towards the end of that
14 paragraph that I was reading from. Regardless of
15 Deputy Chief Unger's words, he exemplified an
16 attitude within senior management that was, "We
17 don't want -- we're not interested in
18 investigating these cases." And then you have
19 written in italics:

20 -- what was taking place here. *We gave it a*
21 *shot, time to golf it to the people who*
22 *would likely find the bodies, anyway -- the*
23 RCMP.

24 Right?

25 A That was my perception at the time. It wasn't

1 anything that I had heard or anything. It was
2 just my impression.

3 Q So, your impression was VPD management, try as you
4 might, was uninterested in investigating the
5 disappearances of the disadvantaged women from the
6 Downtown Eastside, and after your work, it was
7 time to golf it or kick it over to the RCMP who
8 would be the ones who would likely find the bodies
9 anyway. That's what you wrote, right?

10 A Well, yes. And again, Mr. Commissioner, you know,
11 I can't speak to what any individual senior
12 manager was thinking, but in my view, as this
13 lowly detective constable, new to Major Crime,
14 working on this thing that didn't seem to be
15 ramping up in any appreciable way, that was the
16 conclusion that I drew, was that there wasn't an
17 interest.

18 Q And the reason you wrote that the RCMP would be
19 the ones who would likely find the bodies, is
20 because you knew, based on all your work, as you,
21 in fact, wrote in the book, it was always Pickton.
22 The bodies were going to be found on Pickton's
23 farm. You knew that in your heart, didn't you?

24 A I did, and I think that was my evidence earlier as
25 well.

1 Q And just to be clear, you knew, you knew in
2 '98/'99, that bodies were going to be found on the
3 Pickton property, ultimately?

4 A I don't think I would be able to say that with any
5 certainty. I had my suspicions, as I testified.
6 I, I had some gut feelings, but I had no concrete,
7 no concrete reason to believe that at the time,
8 no.

9 Q Pages 6 and 7 of the manuscript are blacked out in
10 large measure. Can someone please tell me why?

11 THE COMMISSIONER: What, what page?

12 MR. WARD: Pages 6 and 7. They're blacked out and there is no
13 indication --

14 THE COMMISSIONER: Okay, Mr. Crossin is going to.

15 MR. CROSSIN: That's not an appropriate question for this
16 witness. If my friend wants to ask questions
17 about why things were blacked out, he should
18 finish with this witness and then deal with it
19 with the commission. Not in the middle of his
20 cross-examination.

21 THE COMMISSIONER: Okay. So, what, what you are saying is this
22 was done without her knowledge? Is that what
23 you're saying?

24 MR. CROSSIN: No, I am just saying they were blacked out. You
25 have released the document. He has it --

1 THE COMMISSIONER: Oh.

2 MR. CROSSIN: -- and he is supposed to be cross-examining on
3 it.

4 THE COMMISSIONER: All right.

5 MR. WARD: Well, I am.

6 Q Witness, can you tell me why these passages were
7 blacked out?

8 MR. CROSSIN: It's not relevant.

9 THE COMMISSIONER: Presumably they were blacked out because it
10 wasn't relevant. Is that not -- Mr. Vertlieb,
11 were you there when this was blacked out?

12 MR. VERTLIEB: This was all part of the discussion about
13 protecting privacy interests --

14 THE COMMISSIONER: Yes.

15 MR. VERTLIEB: -- because there were some comments in there
16 that were clearly private. And so that was how we
17 came to this, and every, everybody was informed
18 that these were redactions made and people had
19 that document. There has been no discussion about
20 going behind redactions.

21 THE COMMISSIONER: I see. But what's -- was everybody -- you
22 are telling me that everybody was informed about
23 that, all counsel?

24 MR. VERTLIEB: Yes, the redacted version went to all counsel.

25 THE COMMISSIONER: I see. Okay.

1 MR. VERTLIEB: Mr. Crossin has always talked about privacy
2 concerns. He raised that with you, and in your
3 ruling, of course, you made the ruling that it
4 should be produced, subject to privacy concerns.

5 THE COMMISSIONER: Well, that's, that's the general ruling that
6 I made, yes.

7 MR. VERTLIEB: Yes, that's right.

8 MR. WARD: All right, thank you.

9 Q Page 8 please, Detective. Here you refer to Mark
10 Chernoff and Ron Lepine. And in the third line
11 down, you say, in reference to this time period
12 May 1999, that Chernoff, and I quote:

13 -- and his partner Detective Ron Lepine had
14 done extensive work on Robert Pickton only to
15 be thwarted by jurisdictional issues, bad
16 decisions and even worse police work on the
17 parts of some of the people we were forced to
18 deal with.

19 Can you please identify who you were
20 referring to by "some of the people we were forced
21 to deal with"?

22 A Well, first, I want to kind of put that in
23 context. I'm talking, when I say that they were
24 part of a team that was formed in May 1999, and
25 then talking about the events of late July and

1 August of '99 with respect to the Caldwell tip
2 about Lynn Ellingsen and all that information,
3 which I think I've testified quite extensively to.

4 So, when I am talking about "jurisdictional
5 issues, bad decisions and even worse police work
6 on the parts of the people we were forced to deal
7 with," I am talking about some of the conflict
8 that arose when Detective Lepine and Detective
9 Constable Chernoff tried to convince those RCMP
10 officers in Coquitlam, and more specifically in
11 the Provincial Unsolved Homicide Unit, that this
12 Ellingsen information was, was legitimate, and
13 that these interviews that were conducted in
14 August '99 perhaps were dismissive of that
15 information when they shouldn't have been.

16 So, I think, you know, I am talking about
17 Detective Henley or Detective Bruce Ballantyne.
18 And again, this is just information that's given
19 to me by, by Detective Lepine and Detective
20 Constable Chernoff on their experiences with where
21 they thought the ball may have been dropped in, in
22 that portion of the investigation.

23 Q At the bottom of that page you describe your
24 emotions as learning -- on learning, pardon me, on
25 learning that Pickton's farm was being searched in

1 February of 2002, and you say, you write:

2 Elation, shock, dread, excitement, sorrow,
3 grief -- it was all there.

4 And that is something you adopt today? That
5 is how you felt?

6 A Yes.

7 Q And the last few words on that page, you write,
8 after, after you write this. Sorry, I'll, I'll
9 start at the last line.

10 But in the stark reality of morning, I had
11 known they wouldn't be alive. And here it
12 was; the police were searching the property
13 of the man I had always considered our number
14 one suspect and they were finding evidence.
15 You had always considered Pickton your number one
16 suspect?

17 A Yes.

18 Q I am going to come to your interview with Anderson
19 in a, in a bit, because it's a little later, uhm,
20 but why, when you considered Pickton the Number 1
21 suspect in '98, and you and Connor from Coquitlam
22 decided to pursue the investigation of him, you
23 met with Anderson and found her credible, why in
24 the world didn't you seek to have the '97 charges
25 reinstated?

1 THE COMMISSIONER: Don't answer that please.

2 MR. CROSSIN: I don't want to do this, but it's apparent my
3 friend is just paying no heed to any parameters on
4 this and is just barging through it, so I rise
5 again. These are matters that this witness has
6 testified to. These are areas that have been gone
7 over. My friend asked questions on it. And if he
8 didn't ask questions then, this leave doesn't
9 grant him a right to do it now. This is about new
10 matters. And, and I am going to keep getting up
11 until my friend does it properly, in my view.

12 THE COMMISSIONER: You see, the reason she's been brought back,
13 and I thought we were all clear on it, is that --
14 is so you can cross-examine on matters that are in
15 the manuscript. But all of these matters that you
16 have been cross-examining on, I already know. I
17 know that from your prior cross-examination and
18 the prior evidence that I've heard in this
19 hearing. So, I don't need to hear it again. So,
20 you're free to cross-examine. That's why we
21 brought her back, because you wanted her back.
22 But I don't need to hear the same stuff over
23 again.

24 MR. WARD: Well, let me, let me try something new that I know
25 one of my clients, who has been present from Day

1 1, has been very concerned about.

2 Q Witness, could you please turn to page 214? Last
3 paragraph, starting with the word "again," I am
4 going to read it to you.

5 Again, I heard from investigators close to
6 the case --

7 This is after Pickton's arrest.

8 -- I heard from investigators close to the
9 case that they had witness testimony
10 indicating the women were used as sport for
11 Pickton's pigs -- thrown into the pen still
12 alive and savaged and chased by the pigs
13 until they died. Some were apparently shot
14 after a time, others were mercilessly left
15 to the pigs.

16 You wrote that in 2002, 2003?

17 A Yes.

18 Q You believed it to be true?

19 A I did, yes.

20 Q And who were the investigators close to the case
21 who had told you those -- gave you that
22 information?

23 A I can't remember.

24 Q In your book, and I can take you to the passage --
25 hopefully my friend, Mr. Crossin, won't object to

1 this -- but in your book, you ask the question
2 rhetorically or to yourself, "Why weren't others
3 charged?" Do you recall writing --

4 A Well, I believe there is a section where I discuss
5 my thoughts around that. I don't know if I
6 actually pose that as an actual question. I think
7 there is more discussion than that to it.

8 Q Were you ever able to answer that? Clearly,
9 clearly, based on your work, Pickton didn't act
10 alone. Your book --

11 MR. CROSSIN: Excuse me.

12 MR. WARD:

13 Q -- says as much.

14 MR. CROSSIN: Excuse me. Is this part of your mandate, why
15 others weren't charged?

16 THE COMMISSIONER: Tell, tell me where we're going with this.

17 MR. WARD: Well, my clients are here seeking some measure of
18 justice and accountability --

19 THE COMMISSIONER: I know that.

20 MR. WARD: -- and seeking the facts around, surrounding the
21 investigations of the losses of their loved ones.

22 THE COMMISSIONER: Yes.

23 MR. WARD: The facts are what I am after right now. The truth.
24 My clients, as I indicated at the outset, among
25 the things they seek to have answered in this

1 process is -- are answers to questions like: who
2 was responsible, who else was responsible for the
3 deaths of their loved ones, circumstances they
4 died in, the facts surrounding their
5 disappearances and deaths. It's hard for them to
6 hear, no doubt, but it's essential for them to
7 hear. Twenty of them didn't get a criminal trial
8 of Pickton in respect to charges of first degree
9 murder. That's unheard of.

10 THE COMMISSIONER: Well, it's not unheard of.

11 MR. WARD: Well --

12 THE COMMISSIONER: But I mean, you know --

13 MR. WARD: It's unheard of, a stay of 20 charges of first
14 degree murder in this country. I can't think of
15 another case where that's happened.

16 THE COMMISSIONER: Well, you know, look, we are not here to
17 re-examine whatever the Crown did at the time.
18 The fact is, we are here -- and we're not here to
19 reinvestigate the case. I appreciate that your,
20 your, your clients may want to know a lot of these
21 things. But our job here is, and you know this,
22 from Day 1, is to look at the police
23 investigation, to find out whether or not the
24 police investigation was wanting, and what can be
25 done to improve the police investigation. That's

1 why we're here, and so I have to uphold the
2 objection.

3 MR. WARD: Okay.

4 Q I would like to move on then, if I may, page 11.
5 Again, referring to your reaction to the, the
6 search of the Pickton property, you write:

7 All I could say was this should have happened
8 three years ago. My mind spun, trying to
9 calculate the number of women who had gone
10 missing in the time since we received
11 compelling information about Robert Pickton
12 back in 1999.

13 You wrote that in 2002, 2003?

14 A Yes, I did.

15 Q And you adopt it today?

16 A Yes. I believe it was my evidence in my impact
17 statement as well.

18 Q And then you ask at the end of that paragraph:

19 How many more [presumably women] might have
20 been saved had he [Pickton] been in jail on
21 an Attempt Murder conviction?

22 A Yes. Again, that was my evidence in speaking to
23 the Anderson issue.

24 Q And then at page 12, you, you, you write, on
25 learning of the search, you hoped, prayed and

1 willed that it would not be Pickton, whose
2 property was being searched, but it was. And then
3 you write:

4 It had always been Pickton.

5 A In my mind, yes.

6 Q Now, the next passage entitled "A Letter to
7 Anderson," describes your interview of her at the
8 Burnaby Correctional Centre For Women, correct?

9 A Yes.

10 Q And I just want to read a couple of passages from
11 your description of your meeting with Anderson,
12 the victim of Pickton's March '97 attack, at page
13 14. After describing her, "she was a small
14 woman," and right in the middle:

15 You were smaller than I remembered you to be,
16 almost mouse-like. Half-aboriginal, half-
17 white with wild, curly, dark hair and a
18 small shy smile --

19 Do you see that?

20 A Yes.

21 Q That's an accurate description of, of her?

22 A Yes.

23 Q And after she agrees to speak to you, you write,
24 in your recount of this interview:

25 You said you were -- you said [it should be

1 you]. You said you were pissed, you
2 couldn't understand why that prick wasn't in
3 jail. I asked you what you thought the
4 reason for that was. You said the Crown said
5 you weren't credible. On account of your
6 drug addiction, you explained. As if that
7 was typical.

8 That's an accurate description of her
9 statement to you then, as to why the prosecution
10 wasn't proceeded with?

11 A Yes, and I believe that was my evidence as well.

12 Q And you told her --

13 MR. CROSSIN: You know, this is becoming preposterous.

14 THE COMMISSIONER: Sorry?

15 MR. CROSSIN: This is becoming preposterous. The last three
16 questions my friend has covered in his previous
17 direct, this witness has testified she's testified
18 to before. I, I am going to ask that you bring
19 this to a halt. This is an absolute abuse of this
20 process.

21 THE COMMISSIONER: You know, Mr. Ward --

22 MR. WARD: May I respond please before, before I hear from --

23 THE COMMISSIONER: Yes.

24 MR. WARD: I agree it's preposterous. I wouldn't have to do
25 this if I could mark this as an exhibit for this

1 process and then refer to it later in argument.
2 The reason I have to do this, putting passages to
3 this witness, is to get the evidence into the
4 record.

5 You, and you alone, not my friend, Mr.
6 Crossin, are charged with the responsibility of
7 weighing the evidence. In my respectful
8 submission, an experienced lawyer like my friend,
9 Mr. Crossin, will know that some evidence is
10 better than others.

11 It will be my position in argument that this
12 witness's personal account written in 2002, 2003
13 should receive more weight than, say, Doug
14 LePard's evidence coming along in 2010 and giving
15 the Vancouver Police Department's explanation of
16 the facts. This is, in my respectful submission,
17 the best evidence available. It's better than
18 this witness's interviews in 2010 and '11. It was
19 written way back then. It's the best evidence
20 available, confirmed by her under oath, if need
21 be, and need must -- it must happen, because I
22 can't get this marked, at least for the moment,
23 and so that is why I seek to have it adduced. And
24 I disagree, in the strongest possible terms, with
25 the suggestion that the course I am embarking on

1 is preposterous. It's the only option I have been
2 left with.

3 THE COMMISSIONER: Well, no. That's not the point. The point
4 he is making is that she's given this evidence
5 before of how she believed Anderson, how, how
6 Anderson's evidence was credible, and she was
7 upset with the Crown's decision to stay the
8 charges. That's the point that Mr. Crossin is
9 making, not what you have gone off on.

10 And, and merely because I have decided that
11 this document is not admissible at this stage
12 doesn't give you carte blanche to go into a
13 cross-examination that isn't relevant. That's the
14 point here. So get on with the cross-examination.

15 MR. WARD: Thank you.

16 THE COMMISSIONER: And as a matter of fact, the more I am
17 hearing in your cross-examination, the greater
18 comfort I am taking in not marking this as an
19 exhibit because she is resiling from a lot of the
20 things that she said in that document. I mean,
21 you want it marked as an exhibit, and then she
22 said, "Well, that isn't my impression, that was"
23 -- you know, and then she's resiling from some of
24 that. So, tell me how that becomes evidence, if
25 you put a document to someone and the document --

1 and the witness doesn't agree with the document,
2 how does that become admissible?

3 In any event, go ahead in your cross-
4 examination.

5 MR. WARD: As a prior inconsistent statement, Mr. Commissioner.

6 THE COMMISSIONER: Prior inconsistent statements --

7 MR. WARD: Yes.

8 THE COMMISSIONER: -- do not become evidence, unless the
9 witness adopts it as true. You need to look at
10 the *Canada Evidence Act*.

11 MR. WARD: Oh, I have seen it, Mr. Commissioner.

12 THE COMMISSIONER: Well --

13 MR. WARD:

14 Q Page 15, you write this, witness. After -- while
15 speaking with Anderson, you write:

16 I was reminded again of all the ways that
17 poor, drug-addicted women are dismissed.
18 Do you adopt that?

19 A Yes, absolutely.

20 Q And what you were saying there, I suggest, is
21 that, based on your experience as a police officer
22 to that point, with seven years under your belt,
23 poor, drug-addicted women and their problems were
24 dismissed by the justice system, dismissed by
25 police investigators and dismissed by Crown

1 prosecutors; fair?

2 A I, I would expand on that and I would say,
3 dismissed by government, by society, by everybody.

4 Q Page 23, and I am sure this is new, second full
5 paragraph:

6 The Strike Force is the Vancouver Police
7 Department's answer to Lord of the Flies; a
8 place where a reputation as a team player is
9 the number one quality needed for admission,
10 but once you're in, it quickly becomes every
11 man for himself and every woman's
12 waking nightmare.

13 Do you see that?

14 A Yes.

15 Q Do you adopt that?

16 A Yes.

17 Q And what you're saying there is, for a woman, in
18 the Vancouver Police Department, trying to operate
19 in that Strike Force environment, was a nightmare,
20 right?

21 A Nightmare might be a little hyperbolic, but I
22 think that that was my experience. I, I had what
23 I would actually characterize as a good experience
24 in Strike Force in terms of, you know, I was there
25 over two years and, and successful, but it was

1 challenging. Usually the squad only has one woman
2 and you, you have to, I don't want to say submit,
3 but you have to learn, as with the police
4 department I think in general, but you have to
5 learn how to get along in a predominantly male
6 culture.

7 And I have seen -- I was fortunate. I didn't
8 have a negative experience. I had, I had some
9 individual isolated experiences that, that I
10 would, I would characterize as negative, that I
11 felt were sexist. But for the most part, I had a
12 fairly good experience.

13 But I knew a lot of other female colleagues
14 who were not so fortunate and had had some very
15 negative experiences in there, and I knew a lot of
16 men who had some very, very negative experiences
17 in there. I know there are some men that I know
18 today, who are managers in the VPD, who will cry
19 if you ask them about the Strike Force and their
20 experiences there. So, it, it's a very difficult
21 place to work.

22 Q Page 27, you have made some comments about Al
23 Howlett that are new. I don't know whether he's
24 going to be appearing as a witness or not, so let
25 me ask you about what you have written about his

1 experiences within the VPD. Page 27, large
2 paragraph, halfway down, third line:

3 Al's frustration lay in the realization that
4 even after he would prove a case against a
5 dirty or negligent member of the VPD, there
6 was often little or no enforcement action
7 taken and that person would be right back out
8 there working in the community before the ink
9 had dried on Al's report.

10 True?

11 A That's certainly what I have written, yes. And,
12 and just in the explanation around that, I think
13 that that was something that Al intimated to me.
14 And also, Al was 23 years senior to me, and so I
15 really believe that a lot of his experiences were
16 even more deeply rooted in an old, an older, old-
17 boy, if you will, policing culture, where I think
18 to investigate other police for wrongdoing was,
19 was an extremely, extremely difficult position to
20 be in. I think it continues to be difficult work,
21 but I don't think there is the same stigma around
22 the people that have to work in that section that
23 existed when Al, when Al Howlett had those
24 experiences.

25 Q Page 32, I would like to direct your attention to

1 what you wrote about VPD management, and again, I
2 think this is new. In the first full paragraph,
3 you wrote:

4 At this time --

5 And this is in your, you are in your tenure at
6 Missing Persons with Al Howlett.

7 At this time, beleaguered former Chief
8 Constable Bruce Chambers was running the VPD.
9 Between trying to manage a highly
10 dysfunctional organization and sniffing out
11 snakes in his own Senior Management Team, he
12 was busy and not particularly interested in a
13 bunch of missing hookers and drug addicts.

14 Uhm, that is something you adopt as an
15 accurate statement of Chambers' position at the
16 time?

17 A I, yeah, I would say it was accurate. And I think
18 that he, I just don't think it would be something,
19 and it may not be something any chief would
20 particularly engage in, but I just don't, my sense
21 was it wouldn't be something he would even have
22 been aware of or have had the time or energy to
23 engage in, because he had a lot of other things
24 organizationally going on.

25 And, you know, I wanted to comment too on my

1 characterization as the organization being highly
2 dysfunctional. I think, at that time, I stand by
3 that, and I think that -- I had come to the VPD
4 after -- I had worked in some, in a variety of
5 organizations, non-police-related organizations
6 and, you know, we are talking 20 years ago, 25
7 years ago now, and I, I was continually surprised
8 when I first came to the VPD, that the way things
9 operated and, and it was fairly stark contrast to
10 some of my other work experiences with, with other
11 companies that I had worked with. And so that's,
12 that's where my impression came from, because in
13 going into Major Crime, I had expected that, as I
14 came to learn the organization, that I would, I
15 would sort of see how things operated, and when I
16 did come to see how things operated, I wasn't
17 particularly impressed.

18 Q You make some further comments about senior
19 management personnel and I am going to read those
20 to you, further on page 32.

21 Brian McGuinness personified VPD upper
22 management at that time -- relatively
23 uneducated, arrogant and a walking example of
24 the Peter Principle, he had seemingly
25 exceeded his abilities even in the Corporal

1 rank and just kept moving up, despite poor
2 people skills, long-forgotten policing
3 ability and little visible common sense in
4 my opinion. His nickname was the Purple
5 Onion -- a term used to describe his face
6 whenever he became particularly incensed in a
7 meeting. His support of Chambers would prove
8 to be his undoing -- an incredibly
9 shortsighted backing of a man seen as an
10 outsider whose days were numbered long before
11 he even set foot in VPD headquarters at 2120
12 Cambie Street.

13 Do you adopt that?

14 A Yes.

15 Q And then you write:

16 McGuinness was no match for the Teflon-coated
17 future-Chief Constable Terry Blythe, who laid
18 the groundwork for Chambers' demise and took
19 scalps of people like McGuinness when his
20 chance came.

21 Do you adopt that?

22 A Uhm, as far as laying the groundwork for Chambers'
23 demise, I have no, I have no reason, other than my
24 own perception, that that was the case. And I
25 certainly don't want to give the impression that I

1 thought that Chief Blythe had done anything
2 untoward around that. I just don't, I don't have
3 that information. That's probably a, a poor
4 characterization on my part.

5 Q Why did you characterize Chief Constable Blythe as
6 Teflon-coated?

7 A Because I think that the, my perception of him and
8 I think, you know, when I came to work with him,
9 uhm, more closely, when I was in the Diversity
10 Relations Section, but sort of anecdotally around
11 the Department, that people called him "Teflon
12 Terry," that was a nickname, and he just seemed to
13 be able to -- uhm, he was a very social person,
14 and a, had a, very much an open-door policy, and I
15 think that he was just a lot more probably
16 politically astute than Chief Chambers. And he,
17 and he certainly would have been, because he had
18 been in the organization his whole career, and
19 Chief Chambers had come in as an outsider, like,
20 as I said, and so I -- that's where that
21 characterization comes from. It wasn't something
22 I, I made up.

23 Q Over on the next page, page 33, you describe
24 Biddlecombe, and you say this. You write this:

25 Fred Biddlecombe was of the same era as

1 McGuinness. A rather dour man, his
2 management style was one of total
3 indifference to women and mere tolerance of
4 most men.

5 You adopt that? That's accurate?

6 A Uh, well, I wrote it, but I don't know, in
7 retrospect, how fair that, that is. I think, with
8 some time and reflection and maybe some maturity
9 on my part, --

10 MR. CROSSIN: Yes, Mr. Commissioner, --

11 THE COMMISSIONER: Yes.

12 MR. CROSSIN: -- I rise to make this observation. I appreciate
13 that my friend wants to read some of this into the
14 record. It's rather titillating, this witness's
15 personal views of people. But at some point, I
16 think we have to distinguish between facts and
17 impressions and opinions, and at some point, I
18 think you have to decide how helpful it is to hear
19 this witness's views that Mr. Biddlecombe was a
20 dour man, et cetera. And, and I just raise that
21 for you.

22 Sorry, were you saying something?

23 MR. GRATL: Oh, yes, I was just standing --

24 MR. CROSSIN: Well, please don't say --

25 MR. GRATL: -- the indifference to women --

1 MR. CROSSIN: Please, please do not speak --

2 THE COMMISSIONER: Sorry?

3 MR CROSSIN: -- until I finish speaking. So, that's my
4 submission.

5 THE COMMISSIONER: All right, thank you.

6 MR. CROSSIN: At some point, you have to, I think, draw a line.

7 THE COMMISSIONER: No, I understand that. I have got a series
8 of objections here. Yes, Mr. Gratl?

9 MR. GRATL: I, I am just rising here to object to the ongoing
10 objections by Mr. Crossin. Here we have a witness
11 who is testifying about management indifference to
12 women and he sees fit to, to rise to object to
13 that sort of testimony. It's totally
14 inappropriate and he's interfering with Mr. Ward's
15 cross-examination.

16 THE COMMISSIONER: Okay. Well, look, I think Mr. Ward can look
17 after himself, thanks. You know, you don't -- Mr.
18 Ward is capable of looking after himself. I don't
19 know if he needs a seconder. But the point that's
20 being made here is this, that whether someone was
21 a dour man, whether McGuinness' nickname was
22 "purple onion" or any of that stuff, doesn't
23 really help me. I mean, you know, it's
24 interesting. You can, we can all sort of laugh at
25 it, but tell me how that helps when I have to

1 prepare a report and make some recommendations on
2 what went wrong in the Pickton investigation?

3 MR. WARD: I would like to address that.

4 THE COMMISSIONER: Yes. You know, I think Mr. Ward can do
5 this.

6 MR. GRATL: Okay.

7 MR. WARD: Let me just explain how this helps, --

8 THE COMMISSIONER: Yes.

9 MR WARD: -- if I may, and I am happy to have the witness --

10 THE COMMISSIONER: I get it, I get it that these people were
11 fighting with, with one another, that the
12 Vancouver Police Department was not, not exactly
13 functional, was not exactly harmonious, and that
14 probably had a negative effect on what they were
15 supposed to do here, and that is, investigate
16 missing women. I take it -- I get it that that's
17 going to be your argument.

18 But I don't need to know about all these
19 little personality quirks of all of the people.
20 That's, that's the point, that -- you know, I, I
21 want you to cross-examine so as to help me, Mr.
22 Ward, because I have to make some difficult
23 decisions at the end of the day. It doesn't help
24 me to know that, that Biddlecombe was dour. Well,
25 you know, there are lots of dour people around,

1 but how does that help me?

2 MR. WARD: Well, I would have been criticized if I read only
3 part of that sentence. I wasn't concerned about
4 his dourness, more about his management style was
5 one of total indifference to women, --

6 THE COMMISSIONER: Yes.

7 MR WARD: -- is how that helps you.

8 THE COMMISSIONER: That helps me. Obviously it does.

9 MR. WARD: Well, here is -- if I may respond to your query and
10 why I'm, why I'm taking my time with this.

11 THE COMMISSIONER: Yes.

12 MR WARD: And I want to make it clear, as clear as I possibly
13 can. It is my position that the existence of this
14 document was suppressed, concealed or covered up
15 until January 31st, 2012, earlier this year when I
16 asked the witness about it, despite my asking all
17 counsel and commission counsel to produce
18 documents relating to the book last year. Here is
19 my chance to cross-examine on its contents. I am,
20 I am taking as much time as I am because I was
21 unsuccessful in getting the book itself marked
22 as --

23 THE COMMISSIONER: I have heard you on that.

24 MR. WARD: But here, here is the reason why it's important.

25 THE COMMISSIONER: Yes.

1 MR. WARD: This witness's inside description of how
2 dysfunctional the Vancouver Police Department was,
3 how objectionable the conduct of the senior
4 managers was, --

5 THE COMMISSIONER: Yes.

6 MR. WARD: -- goes to the issue that my clients are primarily
7 concerned about, which is this. How in the world
8 did their sisters and daughters and mothers die
9 over a four-year period when the Vancouver Police
10 Department investigators, using public taxpayer
11 money, knew that Pickton was the Number 1 suspect
12 and didn't respond?

13 THE COMMISSIONER: We --

14 MR. WARD: Why didn't they act --

15 THE COMMISSIONER: Okay.

16 MR WARD: Well, this tells us why, because they appear to have
17 been completely incompetent, disinterested,
18 indifferent to women and the like. And I need to
19 lay out this evidence, as sensitive and as
20 disheartening as it might be to my friend, Mr.
21 Crossin, and perhaps others, but this evidence
22 needs to be in the public record.

23 THE COMMISSIONER: Yes. You know, it's already in the public
24 record. That's the point that's made here, and
25 that is that I -- I heard this before. I know

1 that, that there was infighting going on in the
2 Vancouver Police Department. We heard that
3 volumes when, when Dr. Rossmo was testifying. We
4 know about a lot of this. I don't know how many
5 more times I have to hear it.

6 I agree with you, Mr. Ward, that it is
7 important to know why Pickton wasn't caught
8 earlier, and part of the reason may be, according
9 to you, and I will have to decide at the end of
10 the day, is that the dysfunctional nature, that's
11 the word that's been used here, of the internal
12 workings of the Vancouver Police Department. But
13 I don't need to hear it over and over again.
14 That's the point.

15 MR. WARD: Well --

16 THE COMMISSIONER: We are going to adjourn.

17 MR. WARD: Thank you.

18 THE REGISTRAR: This hearing will now recess for 10 minutes.

19 **(PROCEEDINGS ADJOURNED AT 3:06 P.M.)**

20 **(PROCEEDINGS RESUMED AT 3:25 P.M.)**

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

22 THE COMMISSIONER: Yes.

23 MR. WOODALL: Mr. Commissioner, I would like to have a moment
24 to make a couple of comments on how this
25 cross-examination has been unfolding, because I am

1 concerned about where it may be leading on matters
2 that touch my client directly.

3 As I understand the process Mr. Ward is
4 engaged in, he is asking this witness questions
5 about the manuscript for the purpose of seeing
6 whether statements made in the manuscript could
7 become evidence in this hearing for you to
8 consider on your final, in your final
9 deliberations.

10 And so I understand that there's a legitimate
11 purpose in identifying new facts and asking this
12 witness whether she adopts those new facts as
13 fact. That has two considerations: one is, are
14 the facts that are being put to this witness, in
15 fact, new; and is the information that is being
16 put to this witness capable of being characterized
17 as a fact. If that is the process that is being
18 followed, it is, it is entirely appropriate and
19 legitimate and I understand why Mr. Ward would
20 want to follow it.

21 But what I'm concerned about is that another
22 goal is being pursued, which is less
23 understandable and less acceptable, and that is
24 the goal of reading things into the transcript
25 simply because they will not become part of the

1 paper record because this document has not been
2 tendered. That goal, in my submission, if it is
3 being pursued, and I don't say that it is, but if
4 it is a goal that is pursued, in my submission,
5 would be a less appropriate and less acceptable
6 goal.

7 So, the test then, in my submission, is this.
8 When a proposition is being put to a witness by
9 any counsel, there has to be a good-faith
10 assessment of two points: first, whether the
11 information that is being put to the witness could
12 reasonably be said to be new, and that, by that I
13 don't just mean an additional gloss on facts that
14 we're already aware of, but something genuinely
15 new; and second, is the statement that is being
16 put to the witness capable in any sense of being
17 considered a fact.

18 And my concern with what has happened to this
19 point is that many of the statements, the majority
20 of the statements, don't meet either aspect of the
21 test. They're neither new, in the sense of being
22 genuinely new, rather than just a gloss on
23 something that's been said, but as importantly,
24 many of the statements that have been put could
25 never be considered factual, even on the loose

1 basis that this commission is entitled to consider
2 when considering information that would not be
3 considered evidence in a court of law. And I will
4 give three examples that, that, that leap to me
5 immediately to mind.

6 This witness was asked to adopt as if it is
7 something that she could provide evidence on, the
8 statement of a witness who was in jail who told
9 the witness in the witness stand what the person
10 in jail had said about what Crown counsel had said
11 to her about why charges were laid. That's
12 several degrees of separation. It could never be
13 a fact that this commission could ever take into
14 account. And in my submission, if one is, is
15 examining the test, as I suggest, it could never
16 be the basis of a good-faith question of this
17 witness, because it is never anything that she
18 could, she could establish.

19 The second example is the witness was asked
20 what Chief Chambers' reasons were for giving less
21 attention to this very serious issue than perhaps
22 he ought to have. This witness obviously could
23 never tell this commission what Chief Chambers'
24 reasons were or were not were, or were or were not
25 for his attention or lack of attention to these

1 issues.

2 The third example that leaps immediately to
3 mind is the witness's opinions about Inspector
4 Biddlecombe. She described him as being dour and
5 someone who had, to her view of matters, certain
6 biases and prejudices. But she also said, and
7 it's on the face of the transcript (sic), that she
8 had barely ever had a conversation with him. It
9 is evident from that, on the face of the document,
10 that her impression, however valid it might be for
11 a proposed author of a book of this nature, could
12 never be of the level of reliability that you
13 could take that into account and give it any
14 weight.

15 And so, in my submission, if people are going
16 to be -- or sorry, counsel are going to be asking
17 questions about this transcript (sic), they
18 shouldn't do so unless they have a good-faith
19 reason to for believing the statements are new, in
20 the sense that I have described; and a good-faith
21 reason for believing that the statements have the
22 possibility of having the level of reliability
23 that you could place any weight on it.

24 I am not at all critical of this witness for
25 the statements that she's made in the book. Books

1 of this kind, for publication, as opposed to
2 evidence, usually have intermixed elements of the
3 personal experience and opinions of a person, as
4 well as fact, and it's usually impossible to
5 separate them out, the personal impressions from
6 the fact, and it's not the job of an author of a
7 book for public -- for publication to do so. Much
8 less is it the job of an author who has written a
9 first draft of such a book, to separate out
10 opinion, hearsay, speculation and her personal
11 experience from what is fact.

12 But it is the duty, in my submission, of
13 counsel who are asking questions with the
14 intention that those questions will become part of
15 the record, to be careful and put into the public
16 record what is only -- only what is suitable for
17 the public record. Thank you.

18 THE COMMISSIONER: Thank you, Mr. Woodall. It fairly sets out
19 the law in *Wigmore* --

20 MR WARD: Well, --

21 THE COMMISSIONER: Yes, go ahead, Mr. Ward.

22 MR. WARD: -- that took up some of the time allotted to my
23 cross-examination.

24 THE COMMISSIONER: Well, yeah, it may well have, but I think
25 sometimes it's, it's worth looking at what the law

1 is with respect to the admissibility of evidence.
2 And if you were to look at *Wigmore*, I think that
3 Mr. Woodall has said it fairly succinctly. Having
4 said that, we are also in a, you know, for
5 instance, the statement that the -- made by him
6 relating to the intentions of Chief Chambers,
7 that's a legitimate concern.

8 However, on the other side is, that we are an
9 inquiry and we have treated the rules of evidence
10 with some degree of, of liberal thought. And so I
11 have let you, I've let you get on with that and so
12 that we can, we can -- so, so you can further
13 pursue your case, and I've done that and -- but at
14 the same time, there has to be some kind of
15 barrier put on what we're, where we're going.
16 That's my only concern.

17 I mean, and just before the break, I, you
18 know, and I mentioned to you as to what I think is
19 helpful. I mean, the most helpful part in her, in
20 her evidence, or one of the most helpful parts,
21 from my perspective, is, I think it's on page 52,
22 where she says, and I'm paraphrasing here, that
23 the Vancouver Police had no real plan to, to
24 pursue the issue of missing women. They were
25 getting these complaints and they didn't, they

1 didn't have any plan. And that's, to me, is more
2 relevant, as far as my task is at the end of the
3 day. So --

4 MR. WARD: Well, I was getting, getting to that. I have it
5 highlighted. I am on page 33 at the moment. But
6 one never knows, in counsel's position, what
7 portions of the evidence may be relied upon or
8 accepted by the trier of fact, and I'm, I don't
9 have a case to make. All I am trying to do is
10 assist this commission with its fact-finding
11 mission with respect to the matters set out in the
12 terms of reference.

13 THE COMMISSIONER: Yes, I know you are. Yes.

14 MR. WARD: And the book suggests that, as I read it anyway, and
15 that's why I am spending some time with it, is
16 that this witness's candid account of the
17 Vancouver Police Department's attention to this
18 case will be helpful to you in, in making findings
19 of fact.

20 You may recall at the beginning of, the very
21 beginning, in my opening, I suggested that there
22 must have been police indifference or
23 incompetence. Well, the book suggests, from the
24 perspective of this insider, that there was both
25 on the part of the Vancouver Police Department,

1 and that's what I will be urging you to find at
2 the end of the day. But in order for me to urge
3 those propositions on you, I have to ensure that
4 there is an ample evidentiary record.

5 THE COMMISSIONER: The point being made here, and let's get on
6 with this now, is, is that none of that's new.
7 We've heard all of that evidence before how, how
8 they didn't share information, how they left
9 Detective Constable Shenher to her own devices.
10 She didn't even have a computer. She received no
11 guidance. That's the real gravamen of her
12 evidence. She was left in a very difficult and
13 unfortunate position. That's what I get from her
14 evidence.

15 So, in any event, go ahead.

16 MR. WARD: Thank you.

17 Q On page 33, you make some statements about
18 Biddlecombe, and I will just read partway down
19 this statement in your book. You, you write:
20 Biddlecombe was embroiled in the Murray
21 Phillips investigation -- the VPD member
22 accused of consorting with prostitutes and
23 doing cocaine while working on a major
24 investigation involving several U.S. police
25 agencies -- and had overseen months of office

1 wiretapping and attempts to manage Phillips
2 while the Internal Investigation Section
3 tried to make its case.

4 I take it from that, that it was your
5 perception that Biddlecombe was preoccupied during
6 much of the time you were working on the
7 investigation and couldn't devote his attention to
8 it; is that right?

9 A No, I think I was more, it was more my impression
10 that that was just another thing that he had to
11 deal with. He was very busy.

12 Q All right. At page 39, we get to the part of the
13 book that Mr. Commissioner just addressed. This
14 is at the conclusion of what seems to be one of
15 the chapters, and I will quote:

16 There was no real plan to find these women.
17 I was given no specific direction other than
18 deal with these files, which I took to
19 mean *find these women*. Looking back, I see
20 now that dealing with these files meant
21 manage them, manage the families and do what
22 I could with few resources, even less
23 support and no realistic hope of more, even
24 when the number of missing grew almost by the
25 month.

1 And you go on to say:

2 I see now that I was merely a figurehead, a
3 sacrificial lamb thrown into an investigation
4 the VPD management was convinced would never
5 amount to anything and would never grow into
6 the tragedy it has become. An investigation
7 they could care less about.

8 You wrote this in 2002 and 2003?

9 A Yes, I did, Mr. Commissioner. I just -- and I
10 stand by those comments. I just, you know, all I
11 can really speak to is what I experienced at the
12 time, which is, you know, all this document really
13 is, and that was my perception because, based on
14 the fact that no one told me otherwise. No one
15 came up to me and said, "Well, hang on a second.
16 You're really not doing enough here. We really
17 want you to be doing more" or "We want you to be
18 doing this or that." And that's where these
19 impressions have come from, because this was my
20 experience, and there was no one to tell me that
21 -- no one came and told me that it should be
22 otherwise.

23 Q Now, if I could direct your attention to page 55
24 please, and this is another reference to the
25 Anderson file, the case of the, the woman who was

1 attacked by Pickton in March of 1997. By the way,
2 I understand she will be testifying here on
3 Tuesday.

4 A Hm-hmm.

5 Q You write in the second paragraph, first full
6 paragraph, page 55, and this, this relates to your
7 dealings with the investigator on that file,
8 Corporal Mike Connor of Coquitlam RCMP. You
9 write:

10 I asked why the charges had been stayed and
11 Mike wasn't clear. He was obviously
12 frustrated and said it was his impression
13 Crown Counsel hadn't felt confident of a
14 conviction, due to Anderson's drug use and
15 unreliability. I recall him telling me he
16 was exploring ways to try to have that case
17 reopened.

18 And is that true?

19 A That's correct. And when I, when I said he wasn't
20 clear, what I -- I didn't mean he wasn't clear
21 with me. I meant he wasn't clear on the reasons.

22 MR. CROSSIN: Excuse me.

23 THE COMMISSIONER: Yes.

24 MR. CROSSIN: This violates I think your direction that we
25 should stick to matters that have not been

1 covered.

2 THE COMMISSIONER: I know that, but I'm going to allow it in
3 this case because it's something that's crucial
4 and lays a groundwork for what's happening here
5 next week.

6 MR. WARD:

7 Q And my question for you is, can you tell -- given
8 that statement in your book, "I recall him
9 [Connor] telling me he was exploring ways to try
10 to have that case [the '97 charges against
11 Pickton] reopened," what did he say about that?

12 A I, I wouldn't be able to say verbatim. I just
13 remember that, that I had said, "Well, what did
14 they tell you?" Because normally, when you have a
15 case that's stayed, there is usually some
16 discussion between Crown and the investigators as
17 to the reasons behind that, so -- and I am
18 learning as I go. And so I said to him, "Well,
19 how does that work? How does that" -- I figured
20 there must have been something, uh, bigger and
21 more interesting than what appears. You know, I
22 don't know what happened, or what appears to have
23 happened, but -- so I said, "Well, how does this
24 happen? What happened?"

25 And then Corporal Connor said to me, "Well,

1 I'm not sure. I am trying to find that out
2 myself." And that was the gist of the
3 conversation. But, you know, we -- so, we spoke
4 about that in that sort of context.

5 Q All right. I'll ask you next please to turn to
6 page 58, and again, this relates to the Anderson
7 issue and to anticipate an objection from my
8 friend, Mr. Crossin, I want to read the whole
9 passage, even though some of it is not new, but
10 the latter part of it is new, and I want to focus
11 on that, but I want to put it in context. Uhm,
12 paragraph -- or page 58, middle paragraph, you,
13 you say about your meeting with Anderson at BC
14 Corrections Centre for Women, that you and she
15 talked for nearly two hours, and she told you her
16 story about that incident. And you write:

17 It was compelling and from her retelling, I
18 had no doubt she was telling the truth and
19 that she had been in a fight for her life.
20 Her recollection of the events mirrored her
21 statement of a year and a half ago
22 perfectly -- typical for someone who has been
23 through significant trauma and is telling the
24 truth. Listening to her, I couldn't help
25 questioning why anyone would not find her

1 story credible -- she would have made an
2 excellent witness in court, [and this is the
3 new part, as I perceive it] all that would
4 have been needed was for someone to baby-sit
5 her and ensure she wasn't using drugs the
6 days of her testimony.

7 Do you adopt that?

8 A I do, and I stand to be corrected, but I think
9 there was some discussion in my evidence around
10 how you would manage a witness in this way.

11 Q And that's something that, especially with the
12 types of people who go through the system, police
13 are familiar with doing all the time, isn't it?
14 Managing witnesses, as you put it, baby-sitting
15 witnesses and ensuring they're off drugs when
16 they're called to testify?

17 A Sure, and, you know, ensuring that they're going
18 to come to their meetings, come, come to testify,
19 that kind of thing, yes.

20 Q Page 80 -- well, I'll skip it. I'll move to
21 something else, I'm sorry. I'm at page 112 now.
22 You write in here, and, and it's, it's earlier,
23 but you write, in effect, and I'm paraphrasing,
24 that somehow Sandy Cameron had managed to keep her
25 job in the, in the Missing Persons Unit despite

1 all the obvious problems?

2 A Yes.

3 Q And Sandy Cameron was, and her role in the Missing
4 Persons Unit, was a barrier, I suggest, to proper
5 investigation of the disappearances of the women
6 from the Downtown Eastside. Is that fair?

7 A Well, --

8 Q Or a hurdle?

9 A -- it's difficult for me to say because, at the
10 time, I didn't -- I think I testified words to the
11 effect that I didn't know what I wouldn't know.
12 And so, again, my testimony with respect to, say,
13 for the Cara Ellis file, I don't know why that
14 wouldn't have come to me at that time. I don't
15 know if it's through some negligence on Miss
16 Cameron's part that that didn't come to me. I
17 just, I can't speak to those things.

18 Q At the bottom of page 112, you wrote:

19 Once, with more than a touch of seriousness,
20 I asked her [Sandy Cameron] who she had
21 "blown" to manage to retain her job all of
22 these years. She just laughed, perhaps
23 thinking I was kidding. I wasn't.

24 Now, what you are referring to there is that
25 you believe that she owed her tenure in Missing

1 Persons to an internal office relationship?

2 A Well, again, I would have to harken back to what I
3 said earlier about where I had come from to come
4 to work at the VPD. And in the organizations I
5 had been with in the past, I don't think someone
6 with the kinds of suggestions of, of negligence
7 or, or whatever we want to call these things with
8 Sandy Cameron, I just, it would be inconceivable
9 to me that they would have a job. So, that was,
10 again, my naivete I guess at the time, thinking
11 how -- and as I said, I was being a little bit
12 facetious, but I was really wondering that.

13 Because in my experience, if somebody has
14 this many complaints against them where they're
15 required to have two phone lines and a recorded
16 phone line, that maybe that's, that's not somebody
17 that should be employed by that organization. So,
18 that's, that's where that came from for me.

19 Q Was she having a relationship with a VPD
20 inspector?

21 A I don't believe so. Certainly not at the time
22 that I was working with her. I believe she was
23 happily married at that time.

24 Q At page 113, you describe the meeting you had with
25 Tanya Holyk's mother, Dorothy Purcell. You

1 describe it in these terms at the bottom of page
2 113:

3 I guided her [this is Ms. Purcell] into an
4 interview room --

5 Well, let me, let me back up. You describe
6 her meeting Sandra Cameron in the office, and say
7 in the sentence preceding that paragraph:

8 Dorothy looked as though she had seen a ghost
9 and practically ran to the door.

10 I guided her [Dorothy Purcell] into an
11 interview room and she began to cry. She
12 told me meeting Sandra brought back the
13 memories of months of looking for Tanya and
14 phoning Sandra, imploring her to take on
15 Tanya's case and putting up with Sandra's
16 racist diatribes and rants about how if
17 Dorothy had been a good mother, her daughter
18 wouldn't be a junkie hooker. She explained
19 how Sandra told her the police didn't look
20 for missing drug addicts and hookers because
21 they weren't reliable and always turned up.
22 Dorothy told me she finally gave up
23 calling the Missing Persons office because
24 the experience was too abusive and painful.
25 I was horrified, offering a lame apology and

1 doing what I could to assure her I would look
2 for Tanya and I would entertain calls from
3 Dorothy anytime.

4 And then you say at the end of that
5 paragraph:

6 Others had similar stories.

7 So, with respect to Sandra Cameron, your view
8 was that she was abusive and racist towards the
9 people who were trying to follow up on their loved
10 ones' disappearances, right?

11 A I believe that was in my evidence and I, I
12 obviously wrote it here as well.

13 Q And you adopt that passage I read you from the
14 manuscript --

15 A Yes.

16 Q -- as true?

17 A Yes.

18 Q I take you right ahead to page 184, and in doing
19 so, I'm leaving things to my friend, Mr. Hira, and
20 I, I, I will try to deal with a few things that
21 are of particular concern to, to my clients. At
22 page 184, you write this:

23 Unfortunately, under Dan Dickhout's care,
24 several of the more recent missing women
25 files -- Sereena Abotsway, Brenda Wolfe,

1 Jennifer Furminger -- that would end up
2 becoming the first seven murder victims
3 Pickton was charged with were not
4 investigated any faster than our original
5 twenty-seven had been and this time, there
6 really was no excuse.

7 Do you adopt that?

8 A Uhm, well, I think that's one of the things where
9 I have a little bit of a different feeling on now.
10 I think I am a little bit unfair to Dan. But I
11 would say that there was definitely, and I think,
12 I think I even expressed this later, there was
13 definitely a lack of an effective reporting
14 structure, even at that point, which I had
15 thought, and I take some responsibility for that
16 as well, because I had thought that that had been
17 something that I and Sergeant Field had worked
18 quite hard to, to ensure was going to be happening
19 in the future. Because we really recognized that
20 identifying new missing women as quickly as
21 possible and being able to jump on them to, to
22 investigate them in, in a much more immediate way
23 than we had with our first 25 or 30, was very, was
24 very important. Uhm, so, I was quite dismayed to
25 find that out later.

1 I really, when I say I am unfair to Dan, it's
2 -- these things, in my understanding, were in his
3 care after I left. But I really, because I was
4 gone, I really can't speak to who had care or
5 custody of those files or what may have happened
6 in each individual basis to, to have them not have
7 been perhaps treated with the seriousness that
8 they should have been or, or hadn't been
9 recognized as part of our victim group. I just
10 don't know what happened.

11 Q And what you are writing about here is that, with
12 respect to these cases, the first seven murder
13 charges, there was timely reporting of the
14 disappearances due to increased awareness, and,
15 and even though these files were fresh, in the
16 sense that the women had just disappeared, uh, you
17 write this.

18 However, once these files made it to the VPD
19 Missing Persons Section, they sat,
20 investigated with seemingly little urgency.
21 Again, lack of will, incompetence, improper
22 training and no clear policy for the handling
23 of these cases were to blame.

24 MR. HERN: Mr. Commissioner, I think the witness has just
25 confirmed she doesn't have direct evidence about

1 that, and so trying to get her now to adopt
2 hearsay that is further impressionistic, I don't
3 think that is helpful.

4 THE COMMISSIONER: Mr. Ward?

5 MR. WARD: Well, I am doing my best with what's available. I
6 don't know if, if Dickhout is coming anymore. I
7 don't know who the witnesses we're going to hear
8 from are --

9 THE COMMISSIONER: All right.

10 MR WARD: -- and this is what she wrote.

11 THE COMMISSIONER: Go ahead and ask your question. I think she
12 said this in various forms already in her, in her
13 chief, evidence in chief.

14 THE WITNESS: These, these files were past my time. I'll, I'll
15 help you out. I just -- they're past my time. I
16 don't know. I can't speak to it. I can speak to
17 it, as Mr. Woodall said, in the context of a book
18 I am writing. I don't feel confident, in terms of
19 an evidentiary setting, to be able to say, "Hey,
20 this is fact." It's, it's not. These are my
21 perceptions.

22 MR WARD:

23 Q All right. At page 185, you say that you and your
24 supervisor, Geramy Field, faced -- I will just --
25 you write that you faced some frustrations, and

1 I'll read what you wrote.

2 Simply --

3 This is the middle paragraph.

4 Simply put, she [Geramy Field] was me, but
5 one rank higher -- facing all the same
6 frustrations, sexism, and disbelief these
7 women had met with foul play perpetuated by
8 policeman determined to stay rooted in
9 ignorance and bureaucracy rather than face
10 the overwhelming evidence we had presented
11 that these women were not off working in
12 Hawaii, had not found religion, nor had they
13 left the life to marry some logger in
14 Spuzzum. They were dead, we had a strong
15 suspect and still, VPD management put their
16 collective hands over their ears, loudly
17 sang la la la and pretended we didn't have a
18 responsibility to find these women.

19 Do you adopt that?

20 A Well, I certainly wrote it and I, to some degree,
21 I agree with the sentiments expressed there. I
22 think that it's -- you know, I was certainly very
23 bitter at the time that I wrote this. But part
24 of -- you know, I wrote this in hindsight after,
25 after Mr. Pickton had been arrested.

1 And so in looking back on our investigation,
2 again, as I said earlier, it's difficult for me to
3 explain the lack of a forceful prodding, if you
4 will, or consultation with Coquitlam or the
5 Unsolved Homicide Section from the VPD to try to
6 push the Pickton information forward when
7 obviously it wasn't pushed, and obviously, with
8 the benefit of hindsight, it should have been.
9 So, that's, that's where I was coming from when I
10 wrote that.

11 Q It said here you had presented overwhelming
12 evidence and that, presumably, you had advised
13 management that the women were dead and you had a
14 strong suspect. That's, that's what I infer from
15 what, from this passage, yet they refused to hear
16 you.

17 A Well, I think that's in reference to many things.
18 I think it's in reference -- when I say
19 "presented," what I am speaking to there is, uhm,
20 the kinds of things we uncovered in our
21 investigation such as these women weren't talking
22 to their families when they normally would have.
23 These women weren't picking up their Welfare
24 cheques. These women weren't, if they were on a
25 methadone program, were not picking up their

1 methadone. These were all what I consider to be
2 part of the evidence, if you will, that they were
3 probably not somewhere where, where they wanted to
4 be, or where they could be reached. I felt that
5 this was, these things were further indication
6 that they were probably dead and probably victims
7 of crime.

8 So, that's, that's what I am talking about
9 when I say "presented". I am talking in general
10 terms as far as the investigation went.

11 Q Well, let me reread the last sentence.

12 A Sure.

13 Q They were dead, we had a strong suspect and
14 still, VPD management put their collective
15 hands over their ears, loudly sang la la la
16 and pretended we didn't have a responsibility
17 to find these women.

18 The only reasonable construction of that
19 sentence is that you and Sergeant Field were
20 telling VPD management, as clearly as you possibly
21 could, that the women who had gone missing from
22 the streets were dead and you had a suspect, not a
23 constellation of suspects, and you needed help to
24 bring him, Pickton, to justice. That's what you
25 were doing, weren't you?

1 A Well, it is, and I think that, that, uhm, part of
2 where this falls down is that both myself and
3 Sergeant Field were doing what we felt we were
4 supposed to do within the constraints of the
5 context of chain of command, the system within the
6 VPD. Uhm, I am sure, I am sure when Sergeant
7 Field is here, she will say she wished she had
8 done and said more, and I can certainly say for
9 myself, I wish I had been able to say and do more
10 within that, within those constraints. But that's
11 what I am talking about here. Now, again, with
12 the benefit of hindsight, as we've got, we've got
13 Mr. Pickton locked up in jail, to look back and
14 say, "Yeah, this is what was going on."

15 And again, for me, this presumption comes
16 from the absence of anything, any, any direction
17 that I ever got from, from anyone above Sergeant
18 Field to -- that what we were doing wasn't
19 adequate or that, or that there was more that
20 could be done in terms of, in terms of advocating
21 the Coquitlam RCMP and the Provincial Unsolved
22 Homicide Unit to, to take further action on the
23 information that we brought out there. That was
24 really, you know, I think it's probably pretty
25 clear, that's my view of when everything fell

1 down. So that's what I am talking about here.

2 Q Well, what you are talking about there, as I read
3 this, this sentence I just read to you, is that
4 you were telling management, the missing women
5 were, in fact, dead and you had a strong suspect.
6 You were asking for help, in terms of resources,
7 guidance, training, something, to bring your
8 suspect to justice, right?

9 A Well, yeah, again, that's, that was my hope in the
10 context of, uhm, the system that we functioned in.
11 And I think that, I think both Sergeant Field and
12 I felt like what we were doing and saying was, was
13 adequate, but obviously it wasn't. And, and
14 that's, that's the difficulty I have with this,
15 is, is I made presumptions at the time that the
16 way things were happening, and clearly they
17 weren't.

18 Q All right. Page 186, you talk about, or you write
19 about your frustrations there, and then you write:

20 At the time, I thought I was interested in
21 continuing my career at the VPD and rocking
22 the boat is frowned upon.

23 That's a true statement, right?

24 A Yes.

25 Q Further down that page, in the spring of 2000, you

1 write:

2 Fred Biddlecombe was on extended sick leave
3 and would not be returning prior to
4 retirement.

5 That was the case?

6 A That was my understanding.

7 Q Okay. Page 189, you write again about things that
8 happened once the Pickton property was searched,
9 and I will just read you a passage at the foot of
10 that page. After describing your emotions
11 again -- wait a minute. Let me, let me go to the
12 top of the -- the top paragraph. You write this
13 in the top paragraph.

14 The first few days following the execution on
15 the search warrant remain a blur. I went to
16 work the following two days, then asked to
17 take the next week off. The buzz of
18 excitement around the office, the constant
19 barrage of questions from curious cops and
20 others who knew I had worked on this
21 investigation, the pig jokes -- it was all
22 too much and I needed to step away and
23 process this latest development.

24 Just stopping there. Your colleagues in the
25 Vancouver Police Department were cracking jokes

1 about the revelation that the missing women's
2 effects and remains were being found on Robert
3 William Pickton's pig farm?

4 A The vast majority of people that I dealt with were
5 sympathetic and compassionate, but there were some
6 that did make jokes, yes.

7 Q Then you go on to write:

8 Even those people who offered support, who
9 came to me saying *that's your guy, that's*
10 *that farmer you told me about* left me feeling
11 overcome with sadness and face to face with
12 my own sense of ineptitude.

13 And that's true?

14 A Yes.

15 Q And that part in italics I read you, "*that's your*
16 *guy, that's that farmer you told me about,*" that
17 suggests that you had told many, many colleagues
18 within the Department, the Vancouver Police
19 Department, about your efforts to investigate
20 Robert William Pickton back in 1998 and 1999, and
21 your belief that he was the prime suspect and the
22 person responsible for the disappearances, didn't
23 you?

24 A Yes, but I, I really wasn't talking about Mr.
25 Pickton to people outside of our, outside of the

1 Major Crime Section until after I left. And when
2 I left and I was so frustrated with the way that
3 everything had gone in '99, then I did, I did
4 start telling that story, yes.

5 Q So, again, it was no secret within the Department,
6 as far as you could tell, that Pickton was your
7 man?

8 A No.

9 Q Long before --

10 A Not to the people I spoke with, no.

11 Q Long before the search?

12 A Yes.

13 Q And then you talk about, write about rather, in
14 the next paragraph, your meeting with Mark
15 Chernoff of that day, February 6th, and your
16 emotions. And then you write, about five lines
17 from the bottom:

18 This was the beginning of the bandwagon
19 jumping. Those who prior to this search
20 could not distance themselves from this file
21 far enough, were now scrambling to get
22 seconded out to Surrey to work on it. This
23 would grow to become so distasteful, I would
24 barely cope with being in the VPD building.

25 True?

1 A Yes.

2 Q So, what you're saying, if I may summarize, is
3 that, while you were investigating the
4 disappearances of my clients' relatives, you
5 couldn't get any help from within the Department,
6 and now that there was a big splashy, high-profile
7 search of this enormous potential serial murder,
8 everybody seemed to be, seemed to want to be
9 involved, so much so that they wanted to get
10 dispatched out to Surrey, out of the Vancouver
11 jurisdiction, to work on the investigation?

12 A Yes.

13 Q You say on page 190, I don't need to read this,
14 but you say that Steve Pranzl was a friend of
15 yours, a VPD homicide detective, who had become a
16 major player in the Pickton investigation. And
17 the reason I raise this is I haven't seen much, if
18 anything, about Steve Pranzl before in the
19 documents I have looked at. What was his role as
20 a major player in the investigation, in a
21 nutshell?

22 A Well, I think that's all, obviously, post terms of
23 reference. So, he was one of the VPD members
24 that, that was seconded out there once, once the
25 investigation began. But he's not -- he had no

1 involvement. Earlier than that, he was just a
2 colleague of mine in the Homicide Section.

3 Q At page 191, you write about some dealings with
4 Inspector Beach. Middle of the large paragraph at
5 the bottom of the page, you write:

6 I asked Beach what support -- emotional and
7 practical -- there would be for those of us
8 -- sworn and civilian members -- who were so
9 hard hit by this latest development with
10 Pickton's property. He hemmed and hawed and
11 said words to the effect that I needn't
12 worry, we would be supported. That was the
13 extent of his support -- from that day
14 onward, this man who had hired me and spoken
15 easily with me in the hallways at work would
16 ignore me, running in the opposite direction
17 whenever he saw me coming or in the meetings
18 in Surrey, which he regularly attended.

19 That's true?

20 A It is, yes. And I was, you know, I think I was
21 quite hurt. Chris Beach, as I say, he hired me.
22 I have a lot of time for him. He's a good person.
23 And I was, uhm, you know, I was concerned about,
24 not only myself, but the members of our team, when
25 this news broke, because, you know, I knew, I knew

1 how Mark Chernoff and I were dealing with it, and
2 it wasn't good, and that we were having a very
3 difficult time emotionally and we were feeling
4 very unsupported by the organization.

5 And so I had hoped that Inspector Beach might
6 have been able to assist in some way, other than
7 just saying, "Don't worry and you will be fine and
8 we will take care of you," because I didn't really
9 see a lot of tangible taking care after that. And
10 so I think a lot of my feelings around that were
11 hurt because, even then, I don't think he could
12 really even face me or talk to me, and that was
13 difficult.

14 Q And no such support was forthcoming to you?

15 A There was. Uhm, I, I won't, I can't say exactly
16 when, but when I went on my first stress leave, so
17 after the Pickton -- after I had spent the time
18 out at the Pickton investigation for the three
19 weeks, I booked off, and I think the civilian
20 members also booked off with stress or had earlier
21 booked off with stress.

22 And my sense was, at that time, that the
23 Human Resources Section felt like they had to do
24 something. And so this critical incident
25 debriefing was, was put together and, and we were

1 told, "Oh, this is what you need to do. You need
2 to go to this critical incident debriefing." And
3 I just, I, I was so mad and so bitter and I was
4 just furious with this because I felt like it was
5 really a day late and a dollar short, and I didn't
6 really know what was going to come of that.

7 I didn't want to take part. And I know that
8 Sergeant Field encouraged me to go, and she and
9 Detective Lepine went. I'm not sure who else. My
10 counsellor at the time said, "Do whatever you feel
11 best," and I said, "I am not going," and I didn't
12 go.

13 So, they certainly made that offer. Uhm, I,
14 at the time, I think I was so suspicious and so
15 bitter that I just, I thought that this was just a
16 sort of a stopgap measure to be able to say they
17 had done something for us, and I, I didn't want
18 any part of it. So, I really can't say whether it
19 would have been helpful or not, but that was my
20 feeling around it.

21 But really, until Deputy LePard started to
22 offer, uhm, some reassurance to me that we were
23 going to look at what had happened, I really
24 didn't feel very supported.

25 Q At page 192, you refer to Mark and Detective Bruce

1 "Waldo" Wahl. I take it that's Mark Lepine?

2 A Sorry, that's Detective Constable Chernoff.

3 Q Oh, Chernoff, pardon me. Chernoff. And you say:

4 They were given the unenviable assignment of

5 babysitting David Pickton, Robert's

6 Neanderthal younger brother.

7 Why did you characterize Dave Pickton as a

8 Neanderthal?

9 A Uhm, probably a poor characterization, but that
10 was my sense from some of the investigators that

11 had been dealing with him, that, that he was a

12 little unpolished, I guess. I don't know. But it

13 probably a little bit unfair.

14 Q And you say, they, Chernoff and, and Wahl, as a

15 result of, of the works of activity they were

16 engaged in, obtained what, what you have described

17 as:

18 -- a glimpse into the twisted and

19 dysfunctional world of the Picktons as they

20 worked fifteen and sixteen hour days to

21 befriend David and feed him information

22 designed to initiate conversation between him

23 and Robert on behalf of the masterminds

24 leading the investigation and listening to

25 wiretap.

1 That's true?

2 A Yes.

3 Q Page 193, I am going to ask you about a passage
4 that appears in the middle of the large paragraph
5 where Steve Pranzl refers to your work on Lisa
6 Yelds. It's in the middle, about nine lines down,
7 where you write:

8 He [Pranzl] said he had discovered afterwards
9 that I had done extensive research on her but
10 no one could find it prior to the interview.

11 He's referring there to an interview with
12 Lisa Yelds. What was the nature of your extensive
13 research on Lisa Yelds and where would one find
14 it?

15 A Well, that would have been in the tip log
16 information that, that I spoke of in my testimony.
17 There was a, there would have been a tip file for
18 Lisa Yelds. And I collected quite a bit of
19 background information on her, and some notes
20 about things that I knew about, you know, things
21 that Mike Connor had told me about her personal
22 life; things that, that Bill Hiscox had told me;
23 things that I thought would be useful in
24 preparation for an interview.

25 And, and I should say at this point, too,

1 that this was really the beginning of when I
2 started to feel like I had a sense, a sense that
3 there were things out in Surrey where the
4 investigation was centered, that there were
5 investigators that weren't accessing the, the
6 Project Amelia material. Because I was getting,
7 even before Steve Pranzl called me, I had got, I
8 had received more than, more than four or five
9 phone calls from investigators asking me, "Well,
10 what do you think about this, what do you think
11 about that," and "Do you know anything about so
12 and so?" And I'd say -- my answer was always the
13 same. I said, "It's all out there in our
14 information and it would have gone out there with
15 the file," and nobody could find any of our
16 material. And that went on. I, I received a call
17 last year from someone working still out in
18 Project Evenhanded asking about something I had
19 worked on, and a cassette tape and some
20 photographs and things that had all, I, in my
21 understanding, been all sent out to this
22 investigation. So, you know, that was the
23 beginning of where I had a sense that there, there
24 was not, there was information that was not being
25 accessed.

1 Q Did, to your knowledge, did your research files on
2 Lisa Yelds turn up? Did you see them before you
3 testified here the first time?

4 A No.

5 Q And your research disclosed to you that Ms. Yelds
6 was connected to the biker world and was a, a
7 former partner of a very notorious biker named
8 David Black, right?

9 A Yes.

10 Q And your research was into all those motorcycle
11 bike gang connections that she had?

12 A Well, it wasn't so much my research. It was just
13 the information that, that Corporal Connor had
14 provided me about Lisa Yelds, and then also Mr.
15 Hiscox had also provided me. And I essentially
16 just put it together as, you know, background on
17 her, because I expected, you know, again, earlier
18 in my testimony, I had expected at some point,
19 either we were potentially going to conduct an
20 undercover operation around Ms. Yelds or we were
21 going to be interviewing her. So, I, I had that
22 information and it was documented and then I never
23 saw it again.

24 Q And to this day, you don't know where it is?

25 A I have no idea.

1 Q Another person you told, you told of your belief
2 that Pickton was the prime suspect was Maggie de
3 Vries along the way?

4 A I wouldn't say that I would have ever
5 characterized it like that to her. I did ask her,
6 because of, because of the information from Mr.
7 Hiscox around the potential that, that Sarah de
8 Vries had been involved with, with Mr. Pickton, I
9 had asked Maggie if she was aware of Sarah ever
10 having gone to a farm in Coquitlam and I, you
11 know, gave her a very superficial description of
12 the farm and just asked her that, and she'd said
13 "no" at the time.

14 Q Now, you considered in '98 and '99 Lynn Ellingsen
15 to be a key person, potential witness, with
16 respect to the investigation?

17 A I wasn't aware of her at all in '98.

18 Q Right.

19 A But in '99, when the Caldwell information came
20 forward, I was, and yes, I did consider her very
21 key.

22 Q And then at page 210, you write of, in part here,
23 of, of the investigators' dealings with her after
24 the farm was searched, and you write this at page
25 210. Don Adam tells you that:

1 -- Lynn Ellingsen had been approached on the
2 weekend and was being dealt with by the
3 Forensic Interview Team. Apparently, she
4 had been interviewed and began to tell a
5 story of what she had seen in the barn that
6 night, but had to stop because she was
7 overcome with emotion and vomited at the
8 recollection. Now, people were beginning to
9 believe her. I listened to this, filled with
10 both disgust and relief.

11 That's a true account?

12 A It is, except for, just, just in the way you read
13 it, it sounded like he told that to me directly.
14 He didn't. He told that to the team in a team
15 update. And I don't know if you are going to
16 discuss my -- the efforts I had to make to bring
17 Lynn Ellingsen forward.

18 Q I wanted to ask you about that, if you could
19 just --

20 A All right.

21 Q -- summarize those. You write about it here,
22 that you were trying, as I, as I read your
23 account, you were trying to get investigators, in
24 the post-search days, to acknowledge the
25 importance of Ellingsen as a witness?

1 A Yes.

2 Q And can you just summarize that please?

3 A Sure. So, what happened there was in, I think
4 about the second or third day that I was seconded
5 out to Project Evenhanded, uhm, to work there for
6 three weeks with Sergeant Field, there were
7 regular meetings, morning and night, of the team,
8 and there were, I can't even count how many
9 investigators around, around this very large room,
10 40, 50 investigators.

11 And in the, a couple of days in, Inspector
12 Adam at some point said, as he was, he'd basically
13 would go around the table and each person would
14 give their update on what they were working on.
15 And I think some, a couple of investigators said,
16 "Oh, we're still trying to find Lynn Ellingsen,
17 but we haven't been able to find her yet." And
18 then Inspector Adam said, "Well, you know, we just
19 need to know, we just need talk to her and kind of
20 rule her in or out. We just need to do that."
21 And I looked at Geramy and I looked at Mark
22 Chernoff beside us and I thought, holy cow, they
23 still don't think that her information is
24 important or, or that it's, that it's legitimate
25 or, or relevant or, I don't know what.

1 But there was definitely a, a -- it didn't,
2 my impression and, and, and Sergeant Field's and
3 Detective Constable Chernoff's impression in that
4 meeting was not that this was someone everyone was
5 really hot to find. It was more like a, we just
6 have to basically tick that box and move on. And
7 I had a concern around that, obviously, because I
8 had always felt her information needed to be
9 pursued.

10 So, I spoke with Detective Pranzl afterwards,
11 because he was, he was kind of inner circle with
12 Inspector Adam in terms of the investigation and
13 he was doing all the most important interviews and
14 assisting their interview team with other
15 important interviews. So, I, I just pulled Steve
16 aside, and I said, "Look, Steve, I, you know, I'm
17 kind of a nobody out here, but, but you have got
18 to talk to Don and get, and get them to, to
19 reconsider the seriousness of Lynn Ellingsen's
20 information, because I think that what she saw in
21 the barn was -- really needs to be explored."

22 And so Steve did. And he spoke, my
23 understanding was he spoke to Don Adam. And a few
24 days, maybe a week later, this, what I
25 characterized here about that she had, they had

1 located her, she was interviewed and now this
2 information about what she'd seen in the barn was
3 finally starting to be elicited.

4 Q And as it turned out, if I am not mistaken, it, it
5 was adduced at the trial of Pickton?

6 A I'm sorry, I can't -- I have no idea what was said
7 in the trial at all.

8 Q Page 243, please, if I could get you to turn
9 there. You touch on or -- well, you discuss in
10 this account Project Evenhanded's work, and I just
11 want to ask you about a comment that appears at
12 the bottom of page 243, where you write:

13 Several times, they [Project Evenhanded] told
14 the media they had discovered Pickton as a
15 suspect after reviewing VPD files and
16 elevated him to the top of the suspect
17 list -- there had never been any
18 acknowledgement of the RCMP's involvement
19 with Pickton in anything but the most
20 peripheral way prior to February 5, 2002,
21 and this is terribly misleading.

22 That's true?

23 A That's certainly my, my impression. I -- and what
24 I am referring to, to there specifically is, is
25 some comments that I think of Corporal Galliford's

1 to *Dateline* around, uhm -- I wouldn't be able to
2 quote, but I would paraphrase, but something to
3 the effect that the RCMP basically saved the file
4 from VPD incompetence. And, you know, I certainly
5 made a lot of mistakes. I know we certainly, we
6 certainly have a lot of things we could have done
7 better, but I felt like that was very unfair.

8 And so that's, I felt that it was misleading
9 because, again, you know, not to be a broken
10 record, but I was harkening back to, to August
11 1999 and just wondering how that ball was dropped,
12 because I, I still haven't heard anything, even in
13 this commission, to, to really answer that
14 question for me. So, that, at that time, that's
15 what I was talking about and I felt that that was
16 misleading to say, "Oh, yeah, we've come in and
17 taken this over and we're, we're going to start
18 investigating Mr. Pickton."

19 Q Sorry, Mr. Commissioner, I just noticed the time
20 and we've been going quite a while without a,
21 without a break. What is the intent?

22 MR. VERTLIEB: I'm just not sure of Mr. Crossin's availability.

23 I knew there was a concern.

24 THE COMMISSIONER: How much longer are you going to be?

25 MR. WARD: I'm, I'm guesstimating about 10 to 15 minutes.

1 THE COMMISSIONER: Well, we are not going to get done today,
2 are we?

3 MR. VERTLIEB: I knew there was an issue with one of counsel's
4 ability to be here, but I am just not sure. I
5 don't want to presume that that works for
6 everybody.

7 MR. CROSSIN: Well, naturally, I want to do everything possible
8 to accommodate my learned friend, Mr. Ward. Uhm,
9 I cannot move something that I have tomorrow
10 afternoon, but I could shuffle things around
11 tomorrow morning. The suggestion is we come back
12 tomorrow morning; is that the idea?

13 MR. VERTLIEB: No, I was just canvassing. I knew that you -- I
14 thought you had some problems tomorrow attending.
15 That's what I thought.

16 MR. CROSSIN: Yes.

17 MR. VERTLIEB: I think it's in the commissioner's hands. By
18 our estimate, there is probably, with Mr. Ward, 10
19 minutes or so, there's probably -- well, maybe we
20 should just reconfirm the timing, because Mr. Hira
21 thought he might be less time. Perhaps we could
22 just go around the room again on that please.

23 MR. HIRA: I will need 10 or 15 minutes at this stage.

24 MR. VERTLIEB: Thank you. That's helpful, because that's down
25 from 40, Mr. Commissioner.

1 MR. HIRA: Mr. Ward has done just a fabulous job.

2 MR. VERTLIEB: So, we have 10 or 15 for Mr. Hira, and VPD for

3 about 10?

4 MR. HERN: About that.

5 MR. VERTLIEB: And DoJ was 15?

6 MR. MAJAWA: Approximately 20 minutes.

7 MR. VERTLIEB: Twenty? Thank you. And then Ms. Narbonne.

8 MS. NARBONNE: Fifteen to 20 minutes.

9 MR. VERTLIEB: So, we don't have that much left. I'm sorry?

10 THE COMMISSIONER: Yes, Ms. Christie.

11 MR. VERTLIEB: I'm sorry.

12 MS. CHRISTIE: Good afternoon, Mr. Commissioner. Vanessa

13 Christie on behalf of Terry Blythe and John Unger.

14 I had indicated to Ms. Brooks that I may need

15 about 15 minutes.

16 THE COMMISSIONER: Fifteen minutes?

17 MS. CHRISTIE: Yes, in cross-examination.

18 THE COMMISSIONER: All right. Mr. Woodall?

19 MR. WOODALL: At the moment, there will be no questions, but

20 something may arise from what other people ask.

21 THE COMMISSIONER: Yes. All right.

22 MS. CUNDARI: Yes, counsel to Fred Biddlecombe. I will be

23 about five minutes.

24 THE COMMISSIONER: Okay. Thank you.

25 MR. VERTLIEB: So, just as a -- I don't know. We are in your

1 hands. We had planned to start tomorrow at 10:00.
2 I am just wondering, it's totally up to you,
3 Mr. Commissioner, whether you want to take a break
4 now. It seems as though this would be finished in
5 an hour on these estimates.

6 THE COMMISSIONER: Well, I don't want to keep the reporter here
7 much longer. I mean, she's been here --

8 MR. VERTLIEB: Then just tomorrow at 10 a.m. and it seems as
9 that would -- and we should be finished by an
10 hour.

11 THE COMMISSIONER: All right.

12 MR. VERTLIEB: And then we have a couple of other witnesses
13 that should be relatively straightforward, to
14 finish up tomorrow.

15 THE COMMISSIONER: All right.

16 MR. VERTLIEB: So, it's sounding as though we should just
17 adjourn at this point then, Mr. Commissioner.

18 THE COMMISSIONER: So, the reporter has agreed to stay longer.
19 So, why don't we finish off? If you are going to
20 be 10 to 15 minutes, why don't we finish off your
21 cross-examination now?

22 MR. WARD: Okay. Thank you, and I am content with that. If
23 it's all right with Madam Reporter, it's all right
24 with me.

25 Q So, Detective Constable, I am on page 243, and you

1 concluded that passage of your book with this
2 statement:

3 While I am thankful Project Evenhanded
4 exists, I am also dismayed at their refusal
5 to accept their share of the blame for
6 allowing Pickton to operate unscathed for so
7 long and at the cost of so many lives.

8 And that is something you adopt today, is it?

9 A It is, but I think to call it, to, to lay it on
10 the shoulders of Project Evenhanded is probably a
11 little bit unfair. There may be some people
12 involved in that, and I am certainly not
13 suggesting that it's individuals. It's just, to
14 me, at the time, and continues to be my belief,
15 that there were some, there was some mismanagement
16 on the RCMP end, and that that is what I am
17 speaking to, with respect, again, to the August
18 '99 information.

19 Q At page 247, you write in a new chapter about some
20 of the discussions you had had after Pickton's
21 apprehension with women who had attended the
22 premises. And at page 247, middle paragraph, you
23 write:

24 Each had a harrowing story of being present
25 for parties on the Burns Road property where

1 several guests would split away from the rest
2 of the party to play sex games and do drugs
3 back at the Dominion Road property until the
4 wee hours of the [presumably morning].

5 Is that right?

6 A I believe so, yes.

7 Q And you --

8 A Sorry, I just want to be clear. I am not -- I am
9 agreeing with the wee hours of the morning. I am
10 not agreeing that I had conversations with these
11 women. I learned of these from another, from
12 another police officer, --

13 Q Oh, I see.

14 A -- who, who was in contact with these women.

15 Q All right. And who was that?

16 A Dave Dickson. And that he, I believe, brought
17 their information forward to, to Project
18 Evenhanded and arranged or tried to facilitate
19 having them interviewed.

20 Q And after referring to some of it, including a
21 description of, of how aggressive the pigs were,
22 which one of the women spoke about, at page 248,
23 last sentence, middle paragraph, you wrote:

24 When you add up all the information pointing
25 to that scruffy little man and his urban

1 wasteland of a farm, it is astounding he
2 wasn't stopped sooner.

3 That's true?

4 A That's my belief, yes.

5 Q Page 249, bottom paragraph, you have written:

6 It would be interesting to know the thought
7 processes behind the decisions not to charge
8 these women [referred earlier as Ellingsen,
9 Yelds and Dinah Taylor] as accessories to
10 murder or parties to the offence.

11 You still -- is it true that you expressed
12 that view then and do you know today why they were
13 not charged?

14 A I don't know if I expressed that view. Again,
15 when I, when I was seconded out to Project
16 Evenhanded, I was, you know, I had what I thought
17 was a specific role. I certainly didn't have any
18 sort of, uhm -- as I said, I wasn't inner circle.
19 I wasn't in the investigation per se. I was only
20 out there as a resource person based on the
21 knowledge I had of Project Amelia.

22 But these were things, and you have to
23 appreciate too, and I'm, you know I'm certainly
24 not very experienced, even at that point, I have
25 never been a homicide investigator, but these were

1 things that I thought, sitting there, seeing the
2 directions and, and, and talking to some of the
3 investigators about the way -- where things were
4 going, these were just things that I thought, uh,
5 warranted some, some discussion. And it could
6 well be that they were discussed. I am sure they
7 probably were. These were just my thoughts
8 around, uhm, it just seemed to me that this was an
9 area that could be explored, and it may well have
10 been explored and they decided, Don Adam's team
11 decided to dismiss that as a, as a tactic. I just
12 don't know.

13 Q I want to direct your attention next to the
14 chapter you wrote about policing the Downtown
15 Eastside. It starts at page 277. And as I, as I
16 read the whole of the chapter, you were
17 acknowledging that the policing of the Eastside by
18 the Department was much different than policing
19 the West Side. Is that fair?

20 A In practice, it seemed that way, yes.

21 Q Page 278, bottom of the page, you wrote:

22 The Downtown Eastside was another world and
23 we policed it as such. If a door wouldn't
24 open, we kicked it in. If a suspect wouldn't
25 cooperate, we gave them a shove or knee

1 strike in the thigh. I saw policemen ream
2 out drug dealers' mouths with the claw end of
3 a handcuff to dislodge hidden flaps of coke
4 or heroin stuffed in their cheeks. If
5 someone was deemed a problem, they were taken
6 into a lane for a chat.

7 That was your experience in the early days of
8 your policing career on the Downtown Eastside; is
9 that right?

10 A Well, yes, but I want to -- you stopped a little
11 soon. And, you know, I think what, what I say
12 after that is that these were incidents that very
13 much characterized my first year or two on the
14 job. So, we are talking late 1991, late, you
15 know, 1992. And, you know, I'm, I'm happy to
16 report this change, and I think that the change
17 happened for a variety of reasons, and some of
18 them were, were the advent of videotape, some were
19 the Rodney King investigation, uhm, made a lot of
20 people change their ways and, and sort of wake up
21 to the reality that we were accountable to the
22 public and, and to the people we dealt with. And
23 I think that Commissioner Oppal's report, that I
24 think was '94, or around that time, too. A lot of
25 things were changing. I came into the police

1 department I think at a time of a lot of change
2 and, and many of these old attitudes, thankfully,
3 seemed to fall by the wayside. But that was, that
4 was, definitely was the climate when I came on.

5 Q At page -- I, I agree, and I wasn't going to stop
6 there, but I was going to confirm with you that
7 that was your initial experience.

8 A Hm-hmm.

9 Q At page 282, you seem to be writing in the present
10 tense when you write in the last paragraph:

11 The Downtown Eastside is viewed as a war zone
12 and policed as such. The nation's poorest
13 postal code also boasts its highest murder
14 rate per capita and the Patrol police
15 officer's function ends up being three part
16 shepherd and babysitter to every one part
17 enforcing the law. Police deal with citizens
18 down there differently, thinking nothing of
19 arresting someone for breach of the peace and
20 driving them to another part of town and
21 dropping them off to find their way home -- a
22 practice done with far less frequency on the
23 West Side or South Slope. Doors are knocked
24 down on the Downtown Eastside when no one
25 would try it on the West Side with the same

1 grounds. People are spoken to differently.

2 All of that, all of those statements were
3 true at the time you wrote this manuscript in 2002
4 to 2003?

5 A Uh, I would, I would say that the first sort of
6 half of what you read was true, and then I
7 couldn't really speak to doors -- I probably
8 should have changed it to past tense, as far as
9 doors being knocked down on the Downtown Eastside,
10 only because I, I was no longer working down there
11 and I really couldn't say. But that had been my
12 experience in the early '90s certainly. But I
13 don't think that -- you know, if it still
14 continues to be the nation's poorest postal code
15 and, you know, I think a lot of those things are
16 still true.

17 Q What you are saying, in short, is that there is a
18 lack of respect by those Vancouver Police
19 Department members policing the Downtown Eastside
20 towards the members of the community, compared to
21 the respect they show to citizens in other parts
22 of the city?

23 A No, I would, I would disagree with that. I think
24 that, uhm, it's, it's not so much a lack of
25 respect, because I think you can very much see,

1 you know, high police respect in the Downtown
2 Eastside. Our Beat Enforcement Team, I think a
3 lot of those people who work down there do an
4 incredible job and are very respectful. And
5 actually, you know, they're part social workers,
6 they're part mental health workers, and they're
7 part police, and they work extremely hard.

8 The flip side of that is you could have a
9 very disrespectful police officer, you know, out
10 in Shaughnessy. And so I think, and I probably
11 didn't articulate this as well as I could have in
12 the document, but I think more what I'm, what I'm
13 alluding to is that, you know, I don't know if
14 people are familiar with, with the NYPD's broken
15 windows theory to, to community policing.

16 But I think that in the Downtown Eastside, I
17 know for myself, you know, you'd be in a
18 roominghouse and you would see half the doors on,
19 on a, on a floor would be off their hinges. And
20 so I think that for police to come and give a
21 door, that's already off its hinges, a shove to
22 have it, to have it fall in, to see if anyone is
23 in there, that might happen, and it may be a lack
24 of respect because, because the place is already a
25 dump, more so than a lack of a police respect.

1 So, I guess, you know, I don't know all the
2 reasons around that, but I don't think it's a lack
3 of respect. I think it's just recognizing that
4 it's a, it's a very different community.

5 Q Would you concede there is a lack of respect by
6 the police in the Downtown Eastside for people's
7 constitutional rights? For example, police in the
8 Downtown Eastside, even today, will stop people
9 and ask for their IDs, right?

10 A You know, I haven't worked down there for a long
11 time, but, you know, certainly in my experience,
12 there was, there was some difference there I
13 think, that, you know, that -- but I know in, in
14 some of the training that I have done recently,
15 uhm, there was a lot of discussion around the
16 legal training, for exactly those types of
17 searches that you are speaking of, to make sure
18 that everyone is aware, that no matter where you
19 are, unless you have got grounds to do those kinds
20 of things, you can't do them. So, we are
21 certainly trying to, to, to educate people about
22 what's okay and what's not.

23 Q And also on this, this distinction between the
24 Eastside and the West Side, at page 283, after
25 that passage I just read to you ending with,

1 "people are spoken to differently," you write:

2 No one consciously thinks about the inability
3 of the poorer Downtown Eastside residents to
4 sue or voice their concerns versus the clout
5 West Side residents hold -- these things are
6 simply done because they can be.

7 What you're writing there is based on your
8 experience, at the time you wrote this, police
9 deal with Eastside residents differently because
10 they can, right?

11 A I think I am just speaking to the fact that, you
12 know, a lack of advocacy, a lack of, a lack of
13 tools. And, you know, I don't think it's any sort
14 of conscious dismissal of rights, but, you know,
15 it's -- certainly the end product is that, you
16 know.

17 Q And then the next sentence you wrote:

18 And yes, when people go missing from the
19 Downtown Eastside, their cases are treated
20 differently.

21 Right?

22 A Yes.

23 Q And what you mean there, quite clearly, is
24 differently than if some resident of the affluent
25 West Side suddenly went missing, the police

1 response would be very different?

2 A Well, again, I think I can only speak to my
3 experiences working on this investigation. And I
4 just know, if you look at tools that the police
5 have to try to find people, there certainly seem
6 to be, and again, we are generalizing. As you
7 know, Mr. Ward, you know, there are a lot of
8 different people in the Downtown Eastside and
9 some, you know, probably have BlackBerries and
10 daytimers and different things that we could use
11 and, and some of the women in the sex trade
12 standing on the corner might not have that.

13 So, I think that, for me, it comes down to
14 the tools that are used. I think if you had -- I
15 think there are greater challenges sometimes to
16 trying to find drug-addicted people, and the
17 preponderance of those drug-addicted people seem
18 to live in the Downtown Eastside, and that's I
19 think what I am speaking to.

20 Q And at the bottom of that page, you, you express
21 the view that:

22 Policing is a notoriously reactive business
23 and organizations have been painfully slow to
24 adopt change, but it is happening gradually.
25 It has to.

1 And that was your strong opinion at the time
2 you wrote this?

3 A Yes.

4 Q And if I may just perhaps, with leave, ask you for
5 your view on, on how that change, that necessary
6 change that you touch on here, can be accelerated?
7 Do you have any, uhm, views that this commission
8 might consider in terms of making recommendations?

9 A Well, I think I, and I think I spoke to --

10 Q I may have asked you something about this last
11 time, but --

12 A Well, yeah, and I think the commissioner also did,
13 and I think I spoke to that. You know, again,
14 it's, it's education. It's a continual having to
15 remind people that, that these are human beings
16 that we are dealing with and that, you know, you
17 would think we wouldn't have to do that but maybe
18 there are times we do. And I think that, you
19 know, aside from that, you know, all, all the, all
20 the recommendations that I suggested, you know, I
21 stand by those.

22 Q All right. And I just have one last passage to
23 draw to your attention and ask you about, and it's
24 the very last passage on page 289, which is a
25 chapter entitled, "To All the Women -- a Letter."

1 And I take it that you, you wrote -- well, let me
2 back up.

3 Sprinkled throughout the manuscript are
4 letters directed to some of the specific missing
5 women where you express your thoughts about them
6 and your experiences with them, correct?

7 A Yes.

8 Q And at the very end here, you have, you have
9 written a letter addressed to all the missing
10 women, right?

11 A Yes.

12 Q And I just want to read you the very last passage
13 after the redactions, which is on page 289, and
14 ask you about that. You write:

15 I don't know if some of you knew that or felt
16 it, especially in your darkest times. People
17 searched for you, advocated for you, loved
18 you. Some did more than others -- but all
19 did the best they could. Maybe we'd just
20 talk about that.

21 And I take it that what you were expressing
22 there is affirmation that these women had families
23 who cared about them, families who pressured the
24 authorities, families who expressed to you their
25 love for their lost loved ones, and that they did

1 their best to try to ensure that they were found;
2 is that right?

3 A Yes. You know, I think that just, you know, you
4 ask me why I decided not to publish it, but I
5 wrote this book for the families and I felt like
6 they needed this. And that was partly why I was
7 so, you know, as soon as I found that they were
8 upset by this book, that I wasn't, I wasn't going
9 to further victimize them at all.

10 Q And the upset that was reported, at least in one
11 case, Sandra Gagnon, was a concern that you might
12 be, in effect, profiting or making a personal
13 profit from the sales; isn't that a concern?

14 A I don't know. I don't think I ever heard specific
15 concerns.

16 Q And is it your evidence that your decision not to
17 publish was not influenced by the Department's
18 concern that the book might come out and
19 compromise the criminal trial?

20 MR CROSSIN: I object to --

21 THE COMMISSIONER: Don't answer that yet.

22 MR. CROSSIN: -- that. It's not relevant and I simply object
23 to that question.

24 THE COMMISSIONER: I think you're right.

25 MR. WARD: All right. Thank you, those are my questions.

1 THE COMMISSIONER: All right. Thank you.

2 MR. VERTLIEB: I want to thank Mr. Ward for concluding the way
3 he indicated. I appreciate him taking that time.
4 And I thank the reporter. I know you will too,
5 Mr. Commissioner.

6 So, we have an hour tomorrow to finish with
7 this, with Ms. Shenher, and then the other
8 evidence that was outlined.

9 THE COMMISSIONER: All right.

10 MR. VERTLIEB: Ten o'clock please, Mr. Commissioner.

11 THE REGISTRAR: This hearing is now adjourned for the day and
12 will resume at 10 o'clock tomorrow morning.

13 **(PROCEEDINGS ADJOURNED AT 4:45 P.M.)**

14 I hereby certify the foregoing
15 to be a true and accurate
16 transcription of the proceedings
17 herein to the best of my skill
18 and ability.

19
20
21
22 Gabriele Heise, RPR
23 Official Reporter, BCSRA No. 399
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