

1 **Vancouver, BC**

2 **January 13, 2012**

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

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

5 Mr. Commissioner, before we start, yesterday  
6 we marked Exhibit 59. We have found that that is  
7 already an exhibit under Appendix U of Exhibit 2A.  
8 Therefore, Exhibit 59 will be rescinded.

9 THE COMMISSIONER: All right.

10 THE REGISTRAR: Thank you.

11 THE COMMISSIONER: Thank you. Yes, Mr. Dickson.

12 MR. DICKSON: Mr. Commissioner, Tim Dickson for the Vancouver  
13 Police Department continuing.

14 THE COMMISSIONER: Yes.

15 **ROBERT JOHN WILLIAMS, resumed:**

16 **CONTINUED CROSS-EXAMINATION BY MR. DICKSON:**

17 Q Superintendent, yesterday I was taking you through  
18 the timeline of the Coquitlam RCMP investigation  
19 after the summer of 1999. Do you recall that?

20 A Yes, sir.

21 Q And that timeline was written by Corporal Connor  
22 in 2002, April and May of 2002, after Pickton's  
23 arrest and you relied on it in preparing your  
24 review and it's at Appendix L?

25 A Yes, sir, we would have taken -- looked at it and

1 we would have -- in addition to his statement,  
2 yes.

3 Q And, and as we discussed yesterday, it's the  
4 bolded portions in this timeline that relate to  
5 the Pickton investigation and the portions that  
6 aren't bolded are other investigations; is that  
7 correct?

8 A Yes, sir.

9 Q So, I started to take you through the events on  
10 the Coquitlam investigation following Corporal  
11 Connor's transfer off the file, and one of those  
12 events was the interview of Pickton in January of  
13 2002, and as we have discussed, Pickton should not  
14 have been allowed to put off that interview from  
15 September of 2001 to January of 2001 (sic), and I  
16 am not going to go into that anymore.

17 But you stated yesterday that it was very  
18 important to prepare and plan for such an  
19 important interview and to have the right  
20 interrogator and, and you agreed, as I heard you,  
21 that there was, there is certainly some doubt that  
22 that, that there was enough planning for that  
23 interview, and that Constable Yurkiw was the right  
24 interrogator; do you recall that?

25 A Yes, sir.

1 Q And I am just going to touch on one more aspect of  
2 this interview, which is that, as part of your  
3 preparation for such an important interview, if  
4 you were doing it, Superintendent, you would have  
5 been sure to read the whole file?

6 A Could be -- I would certainly look at the fire --  
7 file, yes.

8 Q You would want to know all of the information and  
9 all of the context that was available, correct?

10 A Yes. And pertaining to the questions, based on  
11 the questions that I would have planned, I would  
12 certainly inspect the file or go through the  
13 entire file to prepare myself for that interview,  
14 yes.

15 Q And part of getting all of that information and  
16 all of that context would be speaking with the key  
17 investigators on the file?

18 A Yes, sir.

19 Q And you would have spoken with Corporal Connor  
20 before doing the interview, wouldn't you have?

21 A Yes, sir.

22 Q And, and you would also have spoken, I suggest,  
23 with the VPD investigators who were involved in  
24 investigating Pickton, such as Detectives  
25 Chernoff, Lepine and Shenher?

1           A    If I was doing the interview, I would have spoke  
2                    to everyone that I -- regardless of whether  
3                    they're our members or Vancouver Police  
4                    Department. I certainly would have had a good  
5                    understanding of their knowledge of the  
6                    investigation, or I would look at that. I would  
7                    even want someone present to monitor the  
8                    interview.

9           Q    Yes. You -- and right here my point is, you  
10                    certainly would have been interacting with the VPD  
11                    in the lead-up to this interview?

12          A    If I was doing the interview, yes.

13          Q    And are you aware that the VPD only learned of the  
14                    Pickton interview months after it happened?

15          A    No, I am not aware of that.

16          Q    If that's true, if you will just assume that fact  
17                    for a moment, you would agree that that's a real  
18                    failure of communication, right?

19          A    Uh, I would suggest if there was no contact made  
20                    with VPD, yes, that would be a communication  
21                    error, yes.

22          Q    I would like to take you into the timeline,  
23                    Corporal Connor's timeline, which is Appendix L to  
24                    your review, and I am going to go to page 131.

25          A    Yes, sir.

1 Q And I am just going to wait one moment to make  
2 sure the commissioner has it.

3 THE REGISTRAR: 2A?

4 MR. DICKSON: It's, yes, I suppose it is, and it's Tab L, Mr.  
5 Registrar.

6 THE REGISTRAR: Tab L?

7 THE COMMISSIONER: All right.

8 MR. DICKSON: And page 131.

9 Q And so, as you can see, there are three bolded  
10 entries on this page and, and those bolded  
11 entries, of course, are relating to the Pickton  
12 investigation, and the one at the top is dated  
13 February 9th, 2000. Do you see that?

14 A I do see it, yes.

15 Q And just the first sentence there says -- sorry,  
16 let me back up. This is, this is following the  
17 Pickton interview?

18 A Yes, sir.

19 Q About a month later?

20 A Yes, sir.

21 Q And the first line there says:

22 Members of the Major Crime Section [of  
23 Coquitlam Detachment, right] held a general  
24 meeting to discuss the direction of the  
25 Pickton investigation.

1 A Yes, sir.

2 Q Do you see that?

3 A And then, and then it goes on and says:

4 In that meeting, members agreed to  
5 reinterview Ellingsen, identify Val LNU, --  
6 And I think that's "last name unknown"?

7 A That's usually what it means, yes.

8 Q -- timeline the investigation to date,  
9 arrange for EDCAS to detail the file, further  
10 aerial photographs of the Pickton farm, re-  
11 contact ViCLAS to assist, contact then  
12 Sergeant Keith Davidson --

13 And that's that, that's that criminal profiler,  
14 right, with VPD?

15 A I believe he was a criminal profiler attached to  
16 ViCLAS at that time, yes.

17 Q And the commissioner is going to see that Sergeant  
18 Davidson was, was quite involved in the Pickton  
19 investigation in the sense that VPD were liaising  
20 with him a bunch and --

21 A Yes, he is a profiler through -- with ViCLAS, yes.

22 Q Yes, so:

23 -- contact then Sergeant Keith Davidson and  
24 ascertain if he could assist by way of a  
25 criminal geographic profile and interview a

1 woman [there at the bottom].

2 A Yes.

3 Q Uhm, very well. Now, Mr. Registrar, I have handed  
4 you up a one-page document yesterday. Perhaps you  
5 could give that to the witness. Yes. And,  
6 Superintendent, have you seen this document  
7 before?

8 A I don't believe I have. Not to my recollection,  
9 no.

10 Q Okay. It's a, it's a document dated May 7th,  
11 2002, from David McCartney of the Department of  
12 Audit and Investigation?

13 A Yes, sir.

14 Q And that's with the RCMP?

15 A I am not aware of a Department of Audit and  
16 Investigation but, uh, that's, that's a term that  
17 I haven't -- we have auditors and -- but I am not  
18 aware of that type of department with -- certainly  
19 it could be within the "E" Division but I wouldn't  
20 be aware of it, but. . .

21 Q Okay. And it's written to Sergeant Mike Connor  
22 in, as I say, May of 2002, around about the time  
23 he was putting together this, this timeline?

24 A Yes, sir. That's near the dates, yes.

25 Q And I am going to suggest that what is set out in

1           this letter seems to relate to what is on page  
2           131. And you can see that the, that the tasks,  
3           the game plan, that are, they're not bullet  
4           points, but they are sort of, because they're no  
5           bullets, but they are just little, one-line points  
6           there in the middle of the letter?

7           A    Yes.

8           Q    And those are relating to what we just went  
9           through in February 9th, 2000; correct?

10          A    Uh, yes. Close, yes.

11          Q    Yes. And then, and then -- so, if we look at the  
12          bottom of that tab -- of that list of tasks, in  
13          the middle, you can see he says:

14                    I was to prepare the affidavit for the  
15                    intercept on his phones.

16          And then the next is:

17                    Check the feasibility and prepare an ITO for  
18                    a general warrant for a camera in the pig  
19                    barn.

20          Do you see that?

21          A    Yes, sir.

22          Q    And then February 10th, we assign tasks.

23                    Cater to profile Pickton for Davidson.  
24                    Yurkiw to arrange for the helicopter for the  
25                    photos. Yurkiw to start the timeline ...



1           And I was to start the affidavit.

2           A    Yes, sir.

3           Q    Right.  So, they're, they're identifying steps  
4           that could be taken at this time, and then they're  
5           actually going and, and assigning tasks to members  
6           of the investigative team?

7           A    That's what it appears to be, yes.

8           Q    Yes.  If we go back to the timeline, February  
9           10th, 2000, it says:

10                   Major Crime Section members met to discuss  
11                   the Pickton investigation further.  Constable  
12                   Cater was assigned to gather information on  
13                   Pickton to assist the criminal profiler.  
14                   Constable Yurkiw was assigned the  
15                   responsibility of having the Pickton property  
16                   rephotographed, as well as to initiate the  
17                   timeline.  Corporal McCartney was assigned to  
18                   start an affidavit.

19           So, that, that seems consistent, yes?

20           A    Yes, sir.

21           Q    Okay.  And then, and then in the timeline, let's  
22           go down to February 14th, and it says:

23                   Major Crime Section members met with Corporal  
24                   Filer and Sergeant Davidson, criminal  
25                   profilers; Constable St. Mars and Corporal

1 Kingsbury from ViCLAS. Various scenarios  
2 were discussed [and these, these words I  
3 think are important] with the intent of a  
4 major push to investigate this matter when,  
5 on February the 19th, another serious and  
6 complex homicide was undertaken into another  
7 matter.

8 Do you see that?

9 A I see that.

10 Q If we go back to the letter, and the large  
11 paragraph at the bottom, second-to-last paragraph:

12 We then had a meeting in the boardroom on  
13 February 14th with [the people we just  
14 discussed].

15 A Yes.

16 Q And it says:

17 We went through various scenarios and were  
18 just getting ready to put the push on the  
19 file. Of course, February 19th, a man was  
20 murdered at the Hi Max and everything went  
21 into the dripper.

22 That's sort of a more casual language.

23 From here on out, we had a string of  
24 attempted murders and another homicide until  
25 I left in September.

1 Do you see that?

2 A Yes, sir.

3 Q Yes, okay. So, let me, let me see if I could  
4 summarize the information that was known. On  
5 February 9th, 2000, when the members of the Major  
6 Crime Section of Coquitlam RCMP were holding this  
7 meeting to discuss the direction of the Pickton  
8 investigation, so, let, let me see if you will  
9 agree to what was known to them at that time.

10 First, they knew about the 1997 stabbing  
11 incident involving a Downtown Eastside sex worker?

12 A Yes, sir. I would believe they would, yes.

13 Q Sorry, and I should say stabbing by, by Pickton  
14 of, of course.

15 And they also knew the 1998 Hiscox  
16 information apparently coming from Lisa Yelds to  
17 the effect that there was bloody women's clothing  
18 in the Pickton trailer?

19 A Yes, sir.

20 Q And, and Yelds also apparently told Hiscox that  
21 she thought Pickton was a serial killer?

22 A I believe that, that we had that information, yes.

23 Q And then there was information from both Hiscox  
24 and Caldwell that Pickton told them he could  
25 dispose of bodies.

1 A There was a conversation I believe, yes, to that  
2 effect.

3 Q And of course, he could dispose of bodies on his  
4 farm, or at West Coast Reduction, and indeed,  
5 there was information from informants that  
6 suggested that he was disposing of bodies at West  
7 Coast Reduction?

8 A I believe there was informant information that  
9 suggested that, yes.

10 Q And then there was the Ellingsen information about  
11 the barn incident and, and she apparently told  
12 that to three different people independently:  
13 Caldwell, Best and Menard. Yes?

14 A I believe she did, yes.

15 Q And, and each of them came forward to the police  
16 independently?

17 A Yes.

18 Q And within that barn incident information, I  
19 suggest that there were some very unique and  
20 compelling aspects. One was the colour of the fat  
21 as described, apparently, by Ms. Ellingsen?

22 A Yes.

23 Q The second was that the woman she saw was hanging  
24 by her neck, whereas, when pigs are butchered,  
25 they are hanging from their hind legs?

1 A Yes.

2 Q And the third was the fact that Ellingsen denied  
3 telling anyone about the incident when, clearly,  
4 she had told three people?

5 A She denied to the investigators on several  
6 occasions, yes.

7 Q Yes. And then a further piece of information that  
8 was known in February of 2000 was Caldwell's  
9 observations of seeing a rifle and handcuffs in  
10 Pickton's trailer along with his belief that he  
11 had been served human meat by Pickton?

12 A I think there is a reference to that, yes.

13 Q And then, and then there is Pickton's interview,  
14 which Corporal Connor observed?

15 A Partially.

16 Q And he, he believed that Pickton was lying and was  
17 being evasive in that interview?

18 A That was his opinion, yes.

19 Q And then, of course, there was just the fact that  
20 dozens of sex workers were missing from the Lower  
21 Mainland?

22 A Yes, sir.

23 Q And Pickton had been sighted on the New  
24 Westminster strolls?

25 A Yes, I believe he was. Yes.

1 Q Okay. So, taking that totality of information,  
2 which was available and known in February of 2000,  
3 do you agree that this evidence, on the whole, as  
4 a whole, was sufficiently compelling to require a  
5 continued and substantial investigation of  
6 Pickton?

7 A Yes, with the totality, I would suggest that the  
8 investigation was compelling, yes.

9 Q And, and that being the case, it was incumbent  
10 upon the Coquitlam Detachment to investigate this  
11 information and either corroborate it or disprove  
12 the allegations?

13 A I believe that was the intent, yes.

14 Q And, and, and that was the duty?

15 A Yes.

16 Q Okay. So, as of February 19th -- sorry. As of,  
17 as of February 14th, we went through the timeline  
18 on page 131. There were meetings between February  
19 9th and February 14th where Major Crime Section of  
20 Coquitlam were setting out tasks that they needed  
21 to do and, and assigning tasks to various members.  
22 There were, as of that time, there were a number  
23 of steps that should have been taken on the  
24 Pickton investigation; is that --

25 A There were a number of tasks assigned.

1 Q Yes.

2 A I will agree with that. I, I am not in a position  
3 to say when they were assigned and who they were  
4 assigned to and why they weren't completed,  
5 obviously. So, they were, they were assigned and  
6 there was a number of tasks outstanding, yes.

7 Q And, and you know that those tasks were not, in  
8 fact, completed?

9 A Uh, I, I'm -- not all of them. Some of them were  
10 completed, but I'm not sure if all of them were  
11 completed.

12 Q Do you know which were completed?

13 A No. I'm just -- like, I know there was some  
14 photography that was taken; and there was, I am  
15 sure that the profiler had done some work, but I  
16 can't say for sure which, which tasks were  
17 completed or which were started or which were not  
18 done.

19 Q Okay. Well, we'll continue to go through the  
20 timeline a little bit. But, but let me ask you  
21 this. If you were in charge of the investigation,  
22 you would have made sure all of those tasks were  
23 completed, wouldn't you?

24 A I would have, I would have, you know, based on the  
25 priorities of the, the unit and, and what they

1           were tasked with, I certainly would have pushed,  
2           pushed the investigation as, as much as possible,  
3           yes.

4           Q   Yes.  But, but -- and, and in terms of priorities,  
5           I, I think you've agreed, and I think you have to  
6           agree, that, that this is a highly serious matter  
7           and there was information that was sufficiently  
8           compelling that Coquitlam Detachment had to make  
9           this a priority?

10          A   I, I don't think there was -- I am not disputing  
11          the fact that this was a priority file, but there  
12          was a number of other priority files ongoing in  
13          Coquitlam.  I don't have the exact timeline here,  
14          but there were, I know there was a number of  
15          murder investigations that were coming, and I  
16          believe there was one just mentioned by McCartney  
17          that, at the time, Richard Yung -- Jung or Yung --  
18          was murdered and everything went. . .

19                        So, I, I could only assume that, that  
20          Coquitlam Detachment had other priorities and  
21          Major Crime Section obviously were faced with  
22          other priorities at the time and, and certainly  
23          this would probably go down the queue a bit.

24          Q   Well, it does appear that, that Coquitlam  
25          Detachment had other priorities, and we will see



1 that in a moment. But if you were in charge, you  
2 would have made sure, I suggest, that this  
3 remained a priority and that it was adequately  
4 resourced so that this information could be  
5 investigated and the allegations either  
6 corroborated or disproved?

7 A Yes, I think this file remained a priority with  
8 Coquitlam, as did a number of other files in the  
9 timeline, and I, I don't have it in front of me  
10 here. But in the unit meeting, they went through,  
11 Coquitlam Serious Crime Unit and Major Crime  
12 Section went through all of their files and  
13 prioritized them.

14 The Pickton file, I understand from the  
15 meetings that they had, and I am not exactly sure  
16 of the date, but it's in the review, there were a  
17 number of files, there were a number of homicides  
18 that were, that were ongoing, fresh homicides as  
19 we've referred to them, but the Pickton file  
20 remained. If I was in charge of the  
21 investigation, I would certainly, as time and  
22 priorities were established, I would certainly,  
23 would have put a lot of effort into this  
24 investigation.

25 Q Yes. And, and the difficulty is, I think as we

1 will see in the timeline, that very little is done  
2 after this time.

3 A Based on -- I'm not sure that I can, that I can  
4 speak for the Coquitlam Detachment, what their  
5 priorities and, and as such, but the supervisors,  
6 the investigators and supervisors, that they had  
7 several meetings regarding this, and I'm under the  
8 impression they were doing all they could based on  
9 the priorities that, that existed to the section.

10 Q Okay. There were a few meetings, and we'll see  
11 those in, in just a second. And I am just going  
12 to flag that, really, what I'm asking about,  
13 Superintendent, is, is what was actually done,  
14 what actual investigative steps were taken, what  
15 tasks were completed. That's what I'm going to be  
16 asking about as we go through the timeline a  
17 little bit more. Okay?

18 So, let me, let me just, before we do that,  
19 let me suggest a few other steps that could have  
20 been taken as well, in addition to the ones we saw  
21 that Coquitlam itself identified. One is that a  
22 follow-up interview of Pickton could have been  
23 done with a skilled interrogator like Don Adam; do  
24 you agree?

25 A A follow-up -- I would suggest another interview

1 should have been done, could have been done, yes.

2 Q Yes.

3 A Yes. With a, not necessarily a -- well, with a  
4 skilled interviewer, but certainly with a, a team  
5 to put together. You know, to, to do an interview  
6 of, of a potential serial killer, you should have  
7 all of your resources that you need.

8 Q And, and the RC --

9 A I don't think there would be any limit to the, to  
10 the resources that you could acquire to get -- to  
11 do a proper interview.

12 Q Right. And the RCMP, indeed, has a specialized  
13 interrogation team?

14 A They do. I am not entirely sure whether that was  
15 up and running, and I think it, if it was, it was  
16 in its infancy stages. But certainly the ad hoc  
17 people as we, as I am more experienced with, is,  
18 is the interview assistance team is prevalent in  
19 the Lower Mainland and, and they are, they are  
20 skilled interviewers.

21 Q Yes. And, and, and even if a follow-up interview,  
22 even if that couldn't have been arranged with  
23 Pickton, although that wasn't pursued, uhm, the  
24 video and transcript of the interview of him and  
25 Gina Houston, that could have been submitted to,

1 to, to a skilled interrogator for review?

2 A Yes, they would, they would certainly look at  
3 that, yes.

4 Q And, and there could have been a proposal put  
5 forward to "E" Division for an undercover  
6 operation on Yelds or Ellingsen or both?

7 A I believe that there was discussions with the  
8 undercover coordinator on a number of areas, and  
9 I'm not sure about Yelds, but certainly with  
10 Ellingsen, and it was -- I know there was  
11 discussions held. I believe Sergeant Pollock had  
12 some discussions with -- relative to undercover  
13 operations on, on Ellingsen, and I believe  
14 Pickton, and it was determined that they weren't  
15 viable at that time.

16 Q Yes. And --

17 A You can -- I mean, I grant that what you say is  
18 you can put in an operational plan or discuss it  
19 and send it into, to Criminal Operations, to  
20 Covert Operations with a plan, and they would,  
21 they would certainly review it and make a  
22 determination if there was any viability or, or if  
23 an undercover operation or such could be, could be  
24 brought forth.

25 Q And, and I suggest that in early 2000, really, the

1 investigation, as we will see, just, just sort of  
2 stops moving, and, and at that time, one thing  
3 that could have been done is to, is to reapproach  
4 that issue of an undercover operation and at least  
5 take that step. Do you agree?

6 A I believe that there was considerations and I  
7 would have to refer to the interview with Sergeant  
8 Pollock. I believe he, he covered off, and I am  
9 not exactly sure of the dates, but I know that he  
10 had discussions with the Undercover Unit.

11 Q And a third step that could have been taken is  
12 polygraphing Caldwell and Best, just to further  
13 bolster the credibility that they were truly  
14 telling the police what they were told by  
15 Ellingsen?

16 A You could, you could polygraph them to, to verify.  
17 A Truth Verification Unit, as we would call it,  
18 could, could polygraph those witnesses, yes.

19 Q And that step was not taken?

20 A Not to my knowledge, no.

21 Q Okay. If we turn to page 133 in this timeline,  
22 this is the next, this is the next date in the  
23 Pickton investigation. This is the next time it  
24 comes up in the, in the investigation. You see,  
25 April 14th there, at the top of 133 there, further

1           aerial photographs were taken of the Pickton farm  
2           and property. And you will recall that that was  
3           one of the tasks that was identified back in  
4           February, and that was taken, but, but I believe  
5           that's the only one. I will just flag that.

6           Now, if we go down to April 18th, uhm, you  
7           can see here is another meeting with regards to  
8           this investigation.

9           Coquitlam plainclothes commander Staff  
10          Sergeant Zalys, who had recently spoken with  
11          operations support officer, Inspector Earl  
12          Moulton, met with Constable Yurkiw with  
13          respect to the status of the Pickton  
14          investigation. Constable Yurkiw stated that  
15          she wasn't able to do anything on the file  
16          given the recent homicide and its ongoing  
17          investigation. Sergeant Pollock was also  
18          spoken to with regard to the status of the  
19          investigation and said the same thing as  
20          Constable Yurkiw, as in he can't work on it.  
21          Staff Sergeant Zalys advised both members  
22          that after speaking with Inspector Moulton,  
23          Inspector Moulton still considered the  
24          Pickton file a priority, however, there would  
25          be no additional resources to assist and unit

1                   would have to investigate when time permitted  
2                   and to do the best we can when we can.

3                   Do you see that?

4           A    Yes, sir.

5           Q    And Mr. Vertlieb referred to those words in his  
6                examination of you, "to do the best when we can."

7           A    Yes, sir.

8           Q    Sorry, "do the best we can when we can."

9                   And, and, and so the, the clear fact here, I  
10                  suggest, is that there were steps that Coquitlam  
11                  Detachment identified should be taken but, but  
12                  they can't be taken because there just aren't  
13                  enough resources and, and more resources aren't  
14                  going to be assigned to this investigation?

15          A    I think that the -- there was a number of ongoing  
16                investigations, homicide investigations that  
17                obviously precluded the -- Coquitlam from, from --  
18                Detachment or Major Crime Unit from working on  
19                Pickton.

20                  I'm not sure when these -- who made these  
21                notes, and I don't, I don't know if Corporal  
22                Connor was at this meeting or was just informed by  
23                Staff Sergeant Zalys that he had spoken with  
24                Inspector Moulton, but it appears that it was  
25                still considered a priority. There wasn't any

1 additional resources to assist the unit, and they  
2 would continue to work on it as time permitted and  
3 "to do the best we can." I'm not sure whose words  
4 those were, "the best we can."

5 Q Right. And, and that's fine, because we're going  
6 to be hearing from, from the investigators who  
7 were actually on it. But, but this, but this  
8 timeline, of course, was prepared by Corporal  
9 Connor and you relied on it in your review?

10 A Yes, we took, we took, took some areas of this for  
11 our review.

12 Q Yes.

13 A We looked at his statement. He also has a 1624,  
14 which is very detailed, and goes through  
15 everything, in addition to this timeline.

16 Q Well, let's just, let's just, let's just work with  
17 this timeline for now and let's -- and, and the  
18 statements in here can be tested later on, but  
19 let's just, let's just assume right now that these  
20 are correct. And, and, and on the basis of this  
21 statement, Constable Yurkiw is saying, "Well, I  
22 can't work on it because of the recent homicide  
23 and its ongoing investigation," and Sergeant  
24 Pollock is saying, the same, they can't work on  
25 it, he can't work on it. And, and, and the fact



1 is, there just aren't enough resources to work on  
2 the Pickton file; isn't that right?

3 A That, it appears that she wasn't able to do  
4 anything, given the recent homicide. So, she is  
5 obviously involved with the other homicide.  
6 Pollock, I am led to believe, was in charge of the  
7 Major Crime Section there. And when he was  
8 questioned by, I'm not sure whoever, by this  
9 timeline here, he said that they, that they, that,  
10 you know, they were basically tied up with their  
11 other homicide so they weren't able to do  
12 anything.

13 Q Right. They just, they just didn't have enough  
14 time. They didn't have enough resources to, to  
15 work this thing?

16 A Time and resources, yes.

17 Q Yes.

18 A Yes, it appears that way.

19 Q But, but, but this investigation needed to be  
20 worked on?

21 A As did many others in Coquitlam Detachment.

22 Q Indeed. But just sticking with the Pickton  
23 investigation, it did need to be worked on?

24 A There had to be additional tasks completed, yes.

25 Q And there needed to be additional resources

1 assigned to complete those tasks?

2 A Well, I can't speak for Coquitlam Detachment but  
3 it appears that they didn't really say that they  
4 were short of resources, or pardon me, Yurkiw  
5 basically said that, based on the other homicide.  
6 So, if you are, if you are assuming that Yurkiw  
7 and Pollock can't work and there is not enough  
8 people in, I can -- I would indicate that more  
9 resources would be required.

10 Q Right. I, I think that's clear. So --

11 A That would be, you know, going back to that, I  
12 mean, that would be at the top of the 18th of  
13 April, the plainclothes commander Zalys, --

14 Q Yes?

15 A -- that was in charge of the whole thing. So,  
16 he's asking these members and the members are  
17 saying then -- it would be my experience that  
18 Staff Sergeant Zalys would speak with Inspector  
19 Moulton, and certainly when he did speak with  
20 Inspector Moulton, Moulton considered the file to  
21 be a priority, but there was no additional  
22 resources to assist.

23 I'm not sure what steps that Inspector  
24 Moulton, at that time, would have taken, whether  
25 or not to try and get additional resources or, or

1 seek out additional resources or whatever. So, I  
2 am not, you know, I am not -- that's something  
3 that Inspector Moulton, and certainly Staff  
4 Sergeant Zalys would be in a better position.

5 Q That's right, and they're going to come and I am  
6 sure they will be asked about this. Uhm, but in  
7 any event, just looking at this here, which you  
8 had when you were doing your review, clearly, it  
9 seems that, if this is correct, that Inspector  
10 Moulton is not going to assign more resources?

11 A He -- it, from what I can see here, he said there  
12 would be no, no more additional resources if --

13 Q Right.

14 A -- if this is here.

15 Q Right. And, and if you were in charge, I suggest,  
16 you would have assigned more resources because  
17 they -- because this was a very important  
18 investigation and there were tasks that had to be  
19 completed?

20 A It's, it's an important investigation, but you  
21 have to understand that you only have so many  
22 people, you have only so many resources.

23 Q Which is why you need more?

24 A That's right. And sometimes there is not a place  
25 to get additional resources. Certainly I would

1           make every effort. If I was in charge of the  
2           investigation, I would make every effort to seek  
3           out additional resources by whatever means  
4           possible.

5           Q    Okay. Now --

6           A    That doesn't, that doesn't necessarily mean I  
7           would get a whole pile of additional resources  
8           but --

9           Q    But you would ask?

10          A    I would certainly ask, yes.

11          Q    Yes. You would have pursued that vigorously, I  
12          would suggest.

13                    Let me take you to page 26 of your report, if  
14                    I could. It's the fifth full paragraph that I  
15                    would like to go into.

16          A    Yes, sir.

17    THE COMMISSIONER: Yes, go ahead.

18    MR. DICKSON: Mr. Commissioner, I can advise I have about five  
19                    more minutes.

20    THE COMMISSIONER: All right, thank you.

21    MR. DICKSON:

22                    Q    So, page 26 of 27, I am going into the fifth full  
23                    paragraph, the one that begins:

24                                The Lynn Anne Ellingsen case is probably the  
25                                most contentious area of this review.

1 Do you see that?

2 A Yes, sir.

3 Q And this is in your comment section.

4 A That's our, that's the review team's comments.  
5 That's our comments and our opinions, yes.

6 Q Right. Okay. And, and in the rest of the  
7 paragraph you say this:

8 Adequate resources were committed for the  
9 majority of this investigation.

10 A Yes, sir.

11 Q However, it is the opinion of the review team  
12 that the delay in action on the Pickton file  
13 was caused by many other high-profile  
14 investigations as previously outlined. It  
15 was unfortunate that Coquitlam Detachment's  
16 priority pressures precluded this file from  
17 receiving continuous, unlimited resources and  
18 commitment.

19 A Yes, sir. Yes.

20 Q And so you're saying that adequate resources were  
21 committed for the majority of the investigation,  
22 but I, I can take it from that, can I, that it's  
23 your opinion that adequate resources were not  
24 committed to the investigation after Pickton's  
25 interview in January of 2000?

1           A    I, I think when I say "majority of the  
2                    investigation," they were investigating and then  
3                    they would stop, and they would, you know, go onto  
4                    another priority and they would stop, come back to  
5                    the Pickton. They would go onto another priority  
6                    and stop. And, and I think, for the most part,  
7                    the resources I think were, were -- there was  
8                    sufficient resources. However, as I indicated  
9                    here, the other high-profile investigations  
10                  would -- precluded them from working full time or  
11                  continuing on in a, in a, in a full manner on the  
12                  Pickton file.

13                         So, Coquitlam Detachment, at that period,  
14                         there was, you know, there was a number of  
15                         homicides, high-priority files, and that's  
16                         probably the reason why we put in here that the  
17                         file didn't receive the continuous, unlimited  
18                         resources.

19           Q    Right. But as we've just discussed, you would  
20                  have sought more resources if you were in charge?

21           A    If I was in charge, I would make every effort to  
22                  seek out resources if I felt that I required them,  
23                  yes.

24           Q    But you would have done that here, I think you  
25                  just agreed, you would have done that, because

1           they were required?

2           A    If, if, if, if I felt there was a need for  
3           additional resources, the command triangle, the  
4           team commander in the investigation should be  
5           coming forward and seeking out from his line  
6           officer, operations officer to -- with, with  
7           either a business case or an operational plan to  
8           seek out additional resources, look for assistance  
9           from, from "E" Division, whether it's from the  
10          Unsolved Homicide Unit, or whatever, or Major  
11          Crime Sections. I would certainly, I would go for  
12          as many resources as I possibly could.

13          Q    Right. And, and, and you said "if" and I just  
14          want to, I just want to square this away a little  
15          bit. It's not an "if" situation, because they  
16          were needed. There were tasks that needed to be  
17          completed on this very important, high-priority  
18          investigation. Those tasks were not being  
19          completed because there were too many other  
20          priorities. You would have sought out more  
21          resources?

22          A    I would have sought resources from, from wherever.

23          Q    Yes.

24          A    Including the Vancouver Police Department,  
25          including, you know, anybody that could help on --

1 from my level as the team commander or perhaps  
2 inspector. But I would certainly, if I felt there  
3 was a need for additional resources to, on a high,  
4 very high-profile investigation, I would certainly  
5 seek out additional resources.

6 Q Right. And, and "E" Division could have been  
7 asked for more resources, as you mentioned?

8 A It would be to the officer in charge of Coquitlam  
9 Detachment. I think he could have made the  
10 representation to "E" Division in some capacity.

11 Q Right. And that wasn't done?

12 A Not that I'm aware of, no.

13 Q But you have reviewed the file and you know that  
14 wasn't done?

15 A I -- in, in reviewing the file and in speaking  
16 with Inspector Moulton or interviewing Inspector  
17 Moulton, I don't believe there was any formal  
18 request made to "E" Division other than I think  
19 there was some requests made to the Unsolved  
20 Homicide Unit for assistance earlier on.

21 Q Earlier on?

22 A Yes.

23 Q But, but, but what we are saying is in 2000 and  
24 on, no requests for additional resources were  
25 made, you know that?



1 A I, I, I can't, I can't give you a, a definitive  
2 answer on that. I don't, I don't recall if there  
3 was any, any request, but -- there, there could  
4 have been, but not to my knowledge.

5 Q Let me take you to page, to the next event in this  
6 timeline that relates to the Pickton  
7 investigation, and you can flip through the pages,  
8 if you wish, to see whether there's bolding, but I  
9 can advise you the next event from page 133, the  
10 next event is page 140, and that's November 21st,  
11 2000.

12 A Yes, sir.

13 Q And, and, and so just to make that point a little  
14 bit more stark, we're going from April 18th, 2000,  
15 to the next event, being November 21st, 2000.  
16 Agreed?

17 A That's what the timeline says, yes.

18 Q And that's the day that, that the JFO is formally  
19 agreed to, right?

20 A I believe it was around that area, yes.

21 Q Okay. And it says:

22 Constable Dave Strachan and members of his  
23 detachment spoke with Southwest District  
24 Major Crime investigators with reference to  
25 three homicides of prostitutes that they were

1                   investigating. It was proposed that any  
2                   unknown DNA from their crime scenes be  
3                   compared to that of Pickton. It was agreed  
4                   that we would coordinate and Pickton's DNA  
5                   would be sent to the lab. Ultimately, his  
6                   DNA did not match their unknown DNA samples.

7                   Yes?

8                   A    Yes, sir.

9                   Q    And so, and so what that is saying, essentially,  
10                  is he's eliminated from the Valley murders --

11                  A    He's --

12                  Q    -- as a suspect?

13                  A    He's eliminated as a serial killer from the Valley  
14                  murders, yes, sir.

15                  Q    Right. In relation to the Valley murders?

16                  A    Yes, sir.

17                  Q    Okay. And then the next entry is five pages over,  
18                  page 145, and that's April 11th, 2001.

19                  A    Yes, sir.

20                  Q    And so now we've gone from November 21st, 2000, to  
21                  April 11th, 2001, and, and here it's down at the  
22                  bottom of the page, as you can see.

23                               Members of Major Crime Section met with -- to  
24                               review all outstanding major files. The  
25                               Pickton file was one issue that was reviewed

1 and that the priority was set as high.

2 Constable Yurkiw would continue with the  
3 investigation.

4 Correct?

5 A I believe that was a unit meeting, yes, sir.

6 Q Okay. And, and -- but yes, this was a meeting,  
7 and, and it's that day that Coquitlam decides to  
8 present a package to Don Adam at Evenhanded.

9 Remember we discussed that briefly yesterday?

10 A Yes, Evenhanded was in the process of --

11 Q Yes.

12 A -- starting up.

13 Q Yes. And the minutes of that meeting are in an  
14 appendix. I don't think I need to take you to  
15 them. But they resolved to present this package  
16 to Don Adam because he's investigating --

17 A Yes. Yes, sir.

18 Q And, and there is some suggestion that that was  
19 not done. We, we touched on that yesterday?

20 A I, I, I believe, I don't believe it was done at  
21 that particular time, but I, I'm not sure exactly  
22 when it was done, the date.

23 Q You are not aware of it being done at any time?

24 A No.

25 Q And -- but, but leaving that point aside for a

1 second, the investigation of Pickton was never  
2 transferred to -- from Coquitlam Detachment to  
3 Evenhanded, correct?

4 A I'm not sure of the -- in the investigation, but  
5 certainly Pickton was a part of the Evenhanded  
6 investigation. I'm not sure exactly what, what  
7 files were transferred, or whether the entire file  
8 was transferred, or whether excerpts from the  
9 investigation were transferred. Uh, probably  
10 somebody from Evenhanded would be in a better  
11 position to answer that.

12 Q Right. You, you don't know of any time when  
13 Coquitlam Detachment sort of, in a formal way,  
14 says to Evenhanded, "Okay, you have the Pickton  
15 investigation"?

16 A I don't know that; no, sir.

17 Q Okay. And indeed, this, if this note is correct,  
18 on April 11th, 2001, that Constable Yurkiw would  
19 continue with the investigation, it certainly  
20 seems at this time that Coquitlam still has the  
21 investigation, correct?

22 A Certain portions of it, and she was tasked out on  
23 whatever -- to continue with the investigation. I  
24 am assuming there were still some tasks that are  
25 remaining on the investigation that she was

1 responsible for, yes.

2 Q Well, the Pickton file is, is a high priority --

3 A Yes.

4 Q -- it says. And, and she's going to continue with  
5 that investigation?

6 A Yeah. They, they reviewed all outstanding major  
7 files and then this one is, Pickton was still  
8 considered to be a high priority.

9 Q Okay. Well, let's go to the next event in the  
10 Pickton timeline, and that's, and that's nine  
11 pages further, November 6th, 2001 now, and page  
12 154. And, and I believe Constable Yurkiw retired  
13 in August of 2001 and Constable Sherstone took  
14 over the file?

15 A I believe that's correct, yes.

16 Q It says -- and this is, this is the activity, this  
17 is the next activity that this timeline is  
18 reporting.

19 Constable Sherstone approached Sergeant  
20 Connor and stated she had located Lynn  
21 Ellingsen of the Pickton file and asked if it  
22 would be all right for her to contact  
23 Ellingsen and interview her again. She was  
24 encouraged to do that. Constable Sherstone  
25 at a later date stated she had made a couple

1                   of attempts to interview her at the women's  
2                   shelter but she was unsuccessful. The staff  
3                   stated that they would not allow Constable  
4                   Sherstone into the facility.

5           A    Yes, sir, that's what it says.

6           Q    Right. So, that's, that's, that's what's going on  
7                at this time. There was an attempt to interview  
8                Ellingsen but that didn't work out?

9           A    It appears that's what it says, yes.

10          Q    Okay. And then the next entry is January 15th,  
11                2002, and that's on Page 157, and obviously, this  
12                is getting very close to when Pickton is actually  
13                arrested. Uhm, and it says there:

14                        Given transfers of other -- of resources,  
15                        another unit meeting was held and confirmed  
16                        that Constable Sherstone had conduct of the  
17                        Pickton file. She was encouraged to follow  
18                        up with the investigation -- with the  
19                        information.

20          A    Yes, sir.

21          Q    Do you see that?

22          A    Yes, sir.

23          Q    And so it certainly seems like the Pickton file  
24                has not been transferred to Evenhanded. It  
25                remains in Coquitlam Detachment. Do you see that?

1 A Yes, sir.

2 Q You agree?

3 A Yes, sir.

4 Q And, and, and I suggest that, really, not much is  
5 going on here. Is that fair enough?

6 A But -- it appears from this timeline that not much  
7 is going on, but, but this is the timeline of, of  
8 Corporal Connor. So, I'm not sure what the other  
9 members, whether they had been doing anything else  
10 or, or --

11 Q Right. And it seems like Corporal Connor is  
12 trying to report on all, all of the activities of  
13 the investigator --

14 A He's --

15 Q -- on the file --

16 A He's reporting on all the activities of the unit,  
17 from what I can gather.

18 Q Exactly.

19 A He was going through -- I've never seen "member  
20 required." This is kind of his running tally, I  
21 believe, of his, his involvement and his, his --

22 Q Of his involvement? Well, not --

23 A Well, his, his knowledge, because, I mean, a lot  
24 of, a lot of things are referenced to him. Like,  
25 "member required." If you go down page, middle of

1 page 157, "member required for court, member  
2 required for court." I am assuming that's him.

3 Q Okay. I don't, I don't read it that way, but we  
4 will ask him.

5 A But I'm not sure, when you say "mem" -- if he's  
6 doing a timeline, "member required for court,"  
7 does that mean him or does that mean someone else?

8 Q Right.

9 A I am suggesting it would mean him.

10 Q Okay. So, let me -- just, just stay with me on  
11 this. If, if it is the case that the bolded  
12 entries substantially encapsulate the activity on  
13 the Pickton file, you would agree with me, I  
14 think, that, that after the Pickton interview in  
15 January of 2000, very little is being done on this  
16 file?

17 A Based on the timeline from Corporal Connor, I  
18 would have to agree with you on that. But without  
19 having the luxury of looking at the entire file, I  
20 don't know if I would be in a position to say that  
21 very little was done other than the fact that what  
22 Corporal Connor reports on.

23 Q Right. We're basing this on, on Corporal Connor's  
24 timeline, and if we do that, then you agree very  
25 little is done after the Pickton interview?



1 A As a result of Corporal Connor's timeline, it  
2 appears that way, yes.

3 Q All right. So, let me just try and summarize  
4 right here again. You agree that, as of September  
5 of 1999, and certainly as of January of 1999, the  
6 totality of the evidence pointing to Pickton was  
7 sufficiently compelling and the allegations were  
8 so serious that they had to be vigorously  
9 investigated to either corroborate or disprove  
10 them, yes?

11 A There was, there was a lot of information, yes.

12 Q And, and as --

13 A Both, both which were surfaced by the Vancouver  
14 Police Department and, and by Coquitlam.

15 Q Right. And as of February of 2000, as we have  
16 seen, there are a number of steps that could have  
17 been taken and should have been taken to advance  
18 the investigation?

19 A A number of steps that, that, that should have  
20 been taken and that obviously, after, after 2000,  
21 after the interview, I think there was a number of  
22 steps that -- tasks which were outlined, and that  
23 would have been beneficial to the, to the results  
24 of the investigation or to, to further the  
25 investigation by completing some of the tasks,

1           yes, I agree with that.

2           Q   And many of those steps, in fact, most of those  
3           steps, and indeed, almost all of those steps were  
4           not taken?

5           A   Uh, I, I can't say for sure based on -- whether or  
6           not all of them, not to my knowledge. I'm not in  
7           a position to actually say how many were  
8           completed, partially completed or were not  
9           completed at all.

10          Q   Well, to the best of your knowledge, as we've just  
11          seen in the timeline, to the best of your  
12          knowledge, many of those steps were not taken?

13          A   Uh, well, if, if you look, I'm sure the, the  
14          interview with Lynn, there was an interview  
15          completed with Lynn Ellingsen, two or three  
16          interviews completed with Lynn.

17          Q   No, no, I am speaking of the tasks that were  
18          outlined in February of 2000 to be taken starting  
19          at that time and going forward.

20          A   Yes.

21          Q   The interviews with Lynn Ellingsen occurred in  
22          1999, as I believe.

23          A   Okay. So, a reinterview --

24          Q   Could have been taken, but was not taken?

25          A   Uh, it appears that way. It appears that

1 Constable Sherstone attempted to interview her  
2 without success, yes.

3 Q Right. And, and, and -- yes. And as we -- okay.  
4 And -- but let's, let's just, let's just back up,  
5 because I feel like we've spent quite a lot of  
6 time showing the steps that could have been taken  
7 and we went through the timeline, and I think it's  
8 clear that they were not taken, and will you agree  
9 that, that many of those steps that were outlined  
10 in February of 2000 were not taken?

11 A I will agree based on the, based on the bold  
12 points raised from Corporal Connor's timeline,  
13 that some of the -- that there was often delays.  
14 But I -- in all fairness, there was a number of  
15 investigators and Constable Yurkiw, I believe  
16 Constable Cater, Constable Sherstone, that might  
17 have had, had additional notes or additional file  
18 entries that wouldn't be part of this timeline.

19 Q Right. But you don't, but you don't know any of  
20 those facts, and so let me just ask you, on the  
21 basis of your knowledge --

22 A Based on, based on this document, it appears that  
23 there was delays and some of the tasks weren't  
24 completed.

25 Q Yes. And, and in this, you write in your report

1 at page 26, at the top, that there is little doubt  
2 that the RCMP attempted to exhaust all  
3 investigative avenues relative to the suspect,  
4 Robert William Pickton. And, and, and in further  
5 hindsight is where we stand now, in 2012, not in  
6 2002, with all that we know now, uhm, that's not  
7 accurate, is it?

8 A Well, I think they, you know, that they attempted  
9 -- they did, they did a lot of work on this file  
10 and certainly hindsight is 20/20. I think it's  
11 difficult, you know, it was difficult for the  
12 investigators, both with the RCMP and Vancouver  
13 Police Department. They were, there was a number  
14 of areas and, and certainly the bottom line is  
15 that, unless you have got the person after the  
16 first person was murdered, there is always going  
17 to be errors and, and missed, missed investigative  
18 steps and avenues.

19 We felt that the, you know, based on, based  
20 on the totality of everything, that, that they,  
21 that they attempted to exhaust all investigative  
22 abilities. Now, whether or not all of them were  
23 completed in a, in a relevant time or there was  
24 some tasks that, that couldn't be completed, and  
25 that -- I don't think there was any negligence on

1 the part. There was certainly priorities, and I  
2 think I have expressed to you a number of times  
3 here that the Coquitlam Detachment was extremely  
4 busy. The priorities were determined by the  
5 management of that detachment, and certainly when  
6 -- they worked on them when, when they could.

7 Q Yeah -- yes. And I just have two more questions.  
8 And, as you say, the reason these steps appear not  
9 to have been taken is that Coquitlam had many  
10 other priorities, but as you have agreed, they,  
11 they never asked for more resources from RCMP "E"  
12 Division and, and that could have been done?

13 A Not that I'm aware of.

14 Q Yes.

15 A I mean, when Chief Superintendent Moulton comes,  
16 if he testifies in front of the inquiry, I am  
17 certain when we asked him in his interview, I  
18 don't recall, and I'm -- I don't recall that he  
19 made any representation to, to "E" Division for  
20 additional resources.

21 Q No. And so, and so based on your knowledge then,  
22 and not just, not speculating, just based on your  
23 knowledge, your, your summary of Inspector  
24 Moulton's statement on page 19 of your report, and  
25 it's the fifth full paragraph, first sentence, it

1           says:

2                   Despite a number of high-profile  
3                   investigations, including other murders,  
4                   Inspector Moulton ensured that appropriate  
5                   numbers of resources were dedicated to the  
6                   Pickton investigation.

7           And again, just in hindsight, where we are now,  
8           2012, that's not quite right. There needed to be  
9           more personnel, more resources devoted to this  
10          investigation; isn't that right?

11         A   Well, I'm, I'm only relaying what -- the interview  
12             of Inspector Moulton. He is the operations  
13             officer of Coquitlam. When he informed the review  
14             team that he felt that there was appropriate  
15             numbers dedicated to the Pickton investigation,  
16             there was no reason for us to question it further.

17         Q   Right.

18         A   Now --

19         Q   But as you stand here, sit here now, looking back,  
20             with what you know now, you would agree with me  
21             that not all appropriate resources were dedicated?  
22             There needed to be more personnel assigned to this  
23             investigation?

24         A   Uh, I will agree with you that regardless of, of  
25             any major crime investigations, certainly you

1           could use additional resources. And from what it  
2           appears, based on certain areas of the  
3           investigation, I would assume that if any  
4           additional resources would have been available or  
5           been requested and assisted Coquitlam, then  
6           certainly some of these tasks would have received  
7           favourable attention.

8   MR. DICKSON: Those are my questions, Mr. Commissioner.

9   THE COMMISSIONER: Thank you.

10   MR. DICKSON: I do appreciate the indulgence.

11   THE COMMISSIONER: Thank you. All right.

12   THE REGISTRAR: Mr. Dickson, did you wish that document to be  
13           marked?

14   MR. DICKSON: I think we could mark it perhaps for  
15           identification, but I think, to have it marked as  
16           an exhibit proper, we should wait until we hear  
17           from Corporal Connor.

18   THE REGISTRAR: Perhaps leave it till later then.

19   MR. DICKSON: Yes.

20   MR. VERTLIEB: I'm just not sure why it couldn't be marked as  
21           an exhibit now. What do we need Connor for?

22   MR. DICKSON: Well, I'm happy doing that, Mr. Vertlieb.

23   MR. VERTLIEB: Because I am just concerned about all these  
24           identification markings and I don't want us to  
25           lose track of them.

1 THE COMMISSIONER: I don't understand that either, but you know  
2 better than I do.

3 MR. DICKSON: Well, I am happy marking it as an exhibit then.

4 THE COMMISSIONER: Yes, all right.

5 THE REGISTRAR: That will become Exhibit 59.

6 (EXHIBIT NO. 59-NR: NON-REDACTED (RESTRICTED)  
7 One-page letter to Sergeant Mike Connor from David  
8 McCartney dated May 7, 2002 - VPD-001-012353)

9 THE COMMISSIONER: Yes, go ahead.

10 MS. WINTERINGHAM: Mr. Commissioner, Janet Winteringham  
11 appearing as counsel for Don Adam.

12 THE COMMISSIONER: Yes.

13 MS. WINTERINGHAM:

14 Q Superintendent Williams, --

15 MR. CHANTLER: Mr. Commissioner, if I may register an objection  
16 before Ms. Winteringham begins.

17 THE COMMISSIONER: Yes.

18 MR. CHANTLER: We understand that prospective RCMP witness,  
19 Sergeant Don Adam, has retained Ms. Winteringham  
20 and she's here today to cross-examine the witness  
21 in the stand, Superintendent Williams.

22 THE COMMISSIONER: Yes.

23 MR. CHANTLER: Our clients object to this for two reasons:  
24 that, firstly, Sergeant Adam has not been granted  
25 participant status, and in accordance with the



1 practice and procedure directives of this  
2 commission, it is only parties with participant  
3 status who have a right to cross-examine. I am  
4 not aware of an order being made and we were only  
5 given notice yesterday that she would be  
6 appearing.

7 THE COMMISSIONER: All right.

8 MR. CHANTLER: Secondly, in the context of the time constraints  
9 that we are facing, and being mindful of the  
10 directive that you issued earlier this week, our  
11 clients are very concerned about the prospect of  
12 the 42 witnesses who are on the commission's  
13 current list having, in fairness, a corresponding  
14 right to retain their own counsel, appear before  
15 any witness and cross-examine any witnesses going  
16 forward. We're very concerned about that in the  
17 current time constraints.

18 We are aware of your authority to manage this  
19 proceeding, but I urge you to exercise your  
20 discretion and not allow Sergeant Adam to cross-  
21 examine this witness.

22 THE COMMISSIONER: Okay. Mr. Vertlieb?

23 MR. VERTLIEB: There are good and sufficient reasons why --

24 THE COMMISSIONER: Sorry?

25 MR. VERTLIEB: There are good reasons why Ms. Winteringham

1           should be able to ask questions, and I am not  
2           going to go into more detail. There is  
3           absolutely, there is absolutely no basis for the  
4           concern that is expressed by Mr. Chantler. Ms.  
5           Winteringham is here for good and sufficient  
6           reason.

7   MR. CHANTLER: Well, Mr. Commissioner, there certainly is a  
8           basis for a concern. I disagree with commission  
9           counsel. There has been much said about the time  
10          constraints that we are facing.

11   THE COMMISSIONER: No, I've heard all of that.

12   MR. CHANTLER: Sergeant Adam doesn't appear to be in any  
13           particularly important position with respect to  
14           this witness, any more so than any of the other  
15           police officers --

16   THE COMMISSIONER: Yes.

17   MR. CHANTLER: -- to whom this witness has spoken about, and I  
18           urge you to exercise your discretion otherwise.

19   THE COMMISSIONER: Well, has, has there been notice of  
20           misconduct served on Adams?

21   MR. VERTLIEB: Well, the issues around any such discussion are  
22           always confidential, and anyway, --

23   THE COMMISSIONER: Oh.

24   MR. VERTLIEB: -- we just can't have any discussion. That's  
25           really not, not the concern. I can again say to

1                   you that Ms. Winteringham has a --

2   THE COMMISSIONER:   Okay.  Well, I will hear from Ms.

3                   Winteringham.

4   MS. WINTERINGHAM:  Mr. Commissioner, I can advise you that I am

5                   here for good and legitimate reason.  I have had

6                   discussion with Mr. Vertlieb about, about the

7                   nature of this cross-examination and the length

8                   that we will be.  I anticipate approximately 15

9                   minutes, and with your leave, I would ask that I

10                  be permitted to carry on with the investigation of

11                  Superintendent Williams.

12   THE COMMISSIONER:  Okay.  But you haven't addressed the

13                  concerns here that Mr. Chantler has raised.

14   MS. WINTERINGHAM:  The concerns that are raised,

15                  Mr. Commissioner, can only be addressed in a

16                  particular way.  Mr. Vertlieb has addressed them,

17                  in my respectful submission, in the appropriate

18                  manner and I am simply --

19   THE COMMISSIONER:  But all I have been told is there are good

20                  and legitimate reasons for you to be here, but

21                  that doesn't really answer the concern that

22                  counsel has raised.  I mean, what are the good and

23                  legitimate reasons?

24   MR. VERTLIEB:  Perhaps we should just stand down and I can

25                  speak to Mr. Chantler.

1 THE COMMISSIONER: All right.

2 MR. VERTLIEB: Okay.

3 THE COMMISSIONER: We will take the morning break.

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

5 **(PROCEEDINGS ADJOURNED AT 11:02 A.M.)**

6 **(PROCEEDINGS RESUMED AT 11:29 A.M.)**

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

8 THE COMMISSIONER: All right.

9 MR. VERTLIEB: Thank you, Mr. Commissioner. The simple fact is  
10 that evidence has been given here that's been  
11 critical of Don Adam and there's been -- that  
12 evidence is before everyone. We've heard it. And  
13 it's my view that procedural fairness requires  
14 that if he wishes to have counsel to deal with  
15 some of those concerns, that he should be able to  
16 do so.

17 THE COMMISSIONER: Okay.

18 MR. VERTLIEB: And that's why I have said to you earlier, I  
19 believe there was a good reason for doing it.  
20 Now, I'm not sure that's good enough for Mr.  
21 Chantler and I respect his, his view, but that's  
22 my view --

23 THE COMMISSIONER: Okay.

24 MR. VERTLIEB: -- as counsel.

25 THE COMMISSIONER: Okay. Anything more, Mr. Chantler?

1 MR. CHANTLER: No.

2 THE COMMISSIONER: No, I understand that, now that counsel has  
3 advised me that the reason for counsel appearing  
4 is to respond to some of the allegations that are  
5 made against Adam. So, I have no difficulty in  
6 allowing the application. Go ahead, Ms.  
7 Winteringham.

8 MS. WINTERINGHAM: Thank you, Mr. Commissioner.

9 **CROSS-EXAMINATION BY MS. WINTERINGHAM:**

10 Q Superintendent Williams, how many murder  
11 investigations have you conducted?

12 A Uh, like, as a, as an investigator or interviewer?

13 Q As an investigator, as an interviewer, how many  
14 have you been involved in?

15 A As a supervisor?

16 Q Yes.

17 A Hundreds.

18 Q Okay. And can you distinguish between those that  
19 you actually investigated and those that you  
20 supervised?

21 A The investigation part I have to go back a number  
22 of years. Probably 15 to 20 that I have  
23 investigated as an investigator or part of an  
24 investigative team. And in my current capacity as  
25 the officer in charge, and prior to that as the

1 operations officer, and prior to that as the  
2 officer in charge of Major Crimes, and prior to  
3 that as the officer in charge of Major Crimes  
4 North, probably 3 to 400, in, in, in some, some  
5 area of that. We average roughly 40 to 50 a year,  
6 and in my current capacity, I am the overall  
7 supervisor for the branch. So, I monitor and  
8 provide guidance and, and certainly keep a close  
9 tab on all the murder and homicide investigations  
10 in the Province of Alberta. So, it's, it's quite  
11 a number.

12 Q And I take it, in your role as a supervisor of  
13 these sorts of homicide investigations, that, that  
14 other investigators seek advice from you?

15 A Yes, they do.

16 Q And that's as a result of the many, many years of  
17 experience that you have?

18 A Yes, I attend -- where possible, I certainly  
19 provide advice and direction, guidance, and I  
20 attend briefings on various cases, and I like to  
21 keep up to speed on all, all high-profile  
22 investigations at my branches, or my members under  
23 my command are investigating.

24 Q And as a result of that experience, you are  
25 familiar then with the nuances of particular

1 murder investigations?

2 A Yes, I am.

3 Q And trying to develop particular strategies in  
4 order to advance an investigation?

5 A Yes. I have a good idea of a number of  
6 strategies, yes.

7 Q Now, if I could ask you please to turn to page 4  
8 of your report.

9 A Yes.

10 Q And I'm looking at the third full paragraph, and  
11 in that paragraph, what you're doing is  
12 referencing a meeting that you were told about  
13 that took place between the Attorney General, then  
14 Attorney General Ujjal Dosanjh, Henderson, Bass  
15 and some Vancouver Police Department  
16 representatives.

17 A Yes, ma'am.

18 Q And I take it that, based on what you have learned  
19 during the course of your review, that the purpose  
20 of this particular meeting with the then Attorney  
21 General was to gain information from the Vancouver  
22 Police Department about the status of the missing  
23 women investigation?

24 A That, that's my understanding, yes, ma'am.

25 Q And you were able to learn, during the course of

1           your review, that the RCMP, through Bass and  
2           Henderson, offered assistance to the Vancouver  
3           Police Department regarding the missing women  
4           investigation?

5           A    I believe the assistance, there was some  
6           assistance that they would provide and, and in  
7           particular, in the infancy stages, to review some  
8           of the files.

9           Q    And it was your understanding that initially the  
10          Vancouver Police Department did not take them up  
11          on their offer of assistance; is that fair?

12         A    I think that's fair, yes.

13         Q    And you also learned, and this is at the bottom of  
14          page 4 of your report, that during the course of  
15          your review, that Henderson had been contacted by  
16          Field from the Vancouver Police Department, and a  
17          request was made that the review be carried out?

18         A    Yeah, I think that Sergeant Field had, had spoken  
19          with Henderson at some point in time during that  
20          period, and the request was to have someone else  
21          look at and review the files, and that request was  
22          made to Henderson and he, he or somebody under his  
23          command, would have probably had an opportunity to  
24          look at those files, yes.

25         Q    Was it your understanding, based on the review



1           that your -- that you were doing, that Henderson  
2           was having difficulty getting access to the file?

3           A    Uhm, I'm not sure if I would say he was having  
4           difficulty. I'm un -- my recollection was that  
5           the, the files were -- may have had a different  
6           electronic major case management system in  
7           Vancouver, and I think there was some problems  
8           with getting access to those -- to that. And I'm  
9           not sure, I think the files perhaps weren't --  
10          proper maintenance hadn't been done on the files  
11          and that they weren't ready to, at that particular  
12          time that Henderson inquired, they weren't ready  
13          for the review stage.

14          Q    And was it your understanding that Henderson had  
15          sort of left the ball in the Vancouver Police  
16          Department's court, "When the file is ready, let  
17          me know"?

18          A    Yes, I believe that, that his -- when Sergeant  
19          Field or members of the Vancouver Police  
20          Department advised that the files weren't  
21          available for his review, or his, his team's  
22          review, then he, he left -- I was under the  
23          impression he left the Vancouver Police  
24          Department, Sergeant Field, when they were ready,  
25          to get ahold -- to contact him I guess.

1 Q And if I could ask you please to look at page 5 of  
2 your report.

3 A Yes, ma'am.

4 Q And during this portion of your report, you were  
5 describing the early stages of Project  
6 Evenhanded's investigation, and in particular, you  
7 noted that Henderson had assigned Adam to develop  
8 a plan on the difficult situation surrounding the  
9 missing women, and this is in the middle of your  
10 page. And you include a description of the  
11 investigation being unique, correct?

12 A Yes, ma'am.

13 Q And you also learned from your, your interview of  
14 Henderson and of Adam, that they had a belief that  
15 there was more than one serial killer working in  
16 the Vancouver area; is that right?

17 A Yes.

18 Q And in particular, the last full paragraph on page  
19 5, you write:

20 Adam, in his initial reviewing stages,  
21 proposed a multi-pronged attack, which was  
22 afforded in principle by senior management at  
23 both "E" Division and the Vancouver Police  
24 Department. Funding and resources were made  
25 available as requested, and as Adam's global

1 vision expanded, so did resourcing and  
2 financial obligations, to which there was  
3 never an issue.

4 A That's what I was led to believe from our  
5 review -- from my interviews of Inspector  
6 Henderson, yes, ma'am.

7 Q And during the course of your interview of Adam,  
8 you were advised about this four-stage approach,  
9 and you have summarized it on the next page, on  
10 page 6.

11 A Yes, ma'am.

12 Q And what, what, what he did, what Adam did when he  
13 met with you, is he described the four phases  
14 initially of the approach that was going to be  
15 taken by Project Evenhanded?

16 A That's correct.

17 Q And one of the things that, that Adam told you  
18 was, one of the challenges was the large suspect  
19 pool.

20 A That's correct.

21 Q And in particular, in his interview, he says to  
22 you, the large pool of very bad males in the  
23 Vancouver area.

24 A That's correct.

25 Q Now, based on your experience as a homicide

1 investigator, was it reasonable for the team  
2 commander of Project Evenhanded to, when he comes  
3 into the file, to assess the suspect pool?

4 A Uh, I would think that he would have to assess the  
5 suspect pool, but that, that's, depending on the  
6 size, and in this particular case I think we just  
7 alluded to, there was a number of suspects. So,  
8 you would have to assess each suspect.

9 Q Now, during the course of your interview with  
10 Adam, you are advised that there were initially 30  
11 suspects and that that number later grew?

12 A I believe it, it grew to somewhere in the range of  
13 60, as, as we would call number 1 or persons of  
14 interest who, who would fit in the number 1  
15 category.

16 Q Now, based on your experience as a homicide  
17 investigator, what sort of challenges does that  
18 cause an investigative team when you're dealing  
19 with that number of suspects?

20 A Well, it would be a massive undertaking to, to --  
21 I guess to eliminate each, each suspect, you would  
22 have to do a full review and, and an investigation  
23 and a profile of each suspect to, to determine  
24 whether or not that they could be responsible, may  
25 be responsible, and it would be a massive

1                   undertaking. It would be a huge undertaking, in  
2                   fact.

3                   Q    Would it be reasonable, in those circumstances, to  
4                   draw on the expertise of profilers?

5                   A    Profilers would certainly be an investigative  
6                   tool, amongst other things, but they would be -- a  
7                   geographic profiler or a profiler would certainly  
8                   assist you, yes.

9                   Q    And would it be reasonable for a team commander in  
10                  the circumstances that Adam was in, to have drawn  
11                  on the expertise of a profiler?

12                 A    Yes. Normally a team commander in any situation  
13                  and, you know, based on his command triangle and  
14                  based on the advice that he receives from his  
15                  command triangle and, and relevant investigators,  
16                  to seek out any type of resource that, that's  
17                  available to him.

18                 Q    Now, in terms of identifying potential suspects,  
19                  is it reasonable then for a team commander to  
20                  attempt to prioritize or rank the suspects?

21                 A    It's reasonable. You could, yes.

22                 Q    Now, one of the things that you alluded to during  
23                  the course of your testimony on Wednesday was  
24                  tunnel vision.

25                 A    Yes.

1 Q And can you comment please on the role that tunnel  
2 vision can sometimes play in an investigation such  
3 as that facing Project Evenhanded?

4 A Well, tunnel vision, I mean, you are, you are  
5 relying specifically on, on one suspect and you  
6 are putting your resources in your investigative  
7 teams and, and all your investigators looking at  
8 one particular individual based on, in a lot of  
9 cases, it's, it's, it's done on certain areas  
10 without the -- prior, before you had a major, a  
11 major case management triangle or a team commander  
12 triangle. So, it's, it's a dangerous, ah, I would  
13 say it's very dangerous now.

14 And part of the reason why we have a command  
15 triangle is so that, there's the team commander is  
16 talking to the primary and the file coordinator,  
17 to avoid such things as tunnel vision, because you  
18 have a tendency to go off on a direction and if  
19 it's, if it's the wrong direction, then you have  
20 to start all over again. So, it's, it's something  
21 that we try to avoid.

22 If, if we have the -- if we follow the  
23 evidence, I think I mentioned that before, and if  
24 the evidence leads us down on some path, then we  
25 should be very careful and we have to do it in

1 conjunction with the team, the team, or pardon me,  
2 the command triangle, and they would have to be  
3 all in agreement that that would be the area we  
4 would go. Tunnel vision is basically something  
5 that we try and avoid as much as possible in major  
6 investigations.

7 Q So, in terms of spending time reviewing known  
8 suspects, potential suspects in this  
9 investigation, would you agree that that's a  
10 reasonable step toward the investigative steps  
11 taken?

12 A Yes, to, to review the files, analyze, have the,  
13 you know, analytical files and look at all  
14 aspects, geographic profile, ViCLAS submissions,  
15 anything along those lines, that you should look  
16 at each suspect individually, yes.

17 Q Now, you had an opportunity during the course of  
18 your review to look at the four-phased approach,  
19 as described by Adam?

20 A We, we, we, we received the four-phased approach  
21 and then -- by Staff Sergeant Adam at the time and  
22 he explained it to us, yes.

23 Q And in reviewing that four-stage, or sorry, four-  
24 phase approach, did you appear, did it appear to  
25 be reasonable to you at the time?

1           A    Yes.  I, I would have no objections to any -- to  
2                    that approach.

3           Q    Now, DNA evidence clearly factors prominently in a  
4                    homicide investigation?

5           A    It certainly does, yes.

6           Q    And in the four-phase approach, as suggested by  
7                    Adam, DNA certainly plays a significant part of  
8                    the approach?

9           A    Yes, ma'am.

10          Q    And in light of what you know about DNA and the  
11                   role that it can play in investigating a case, was  
12                   it reasonable to include the DNA component in this  
13                   four-phased approach?

14          A    Absolutely.

15          Q    Was it reasonable, in the circumstances, to go  
16                   back and look at files that had involved the  
17                   murders and sexual assaults of sex trade workers?

18          A    Well, when you are starting from ground zero in a  
19                   lot of these cases, that's something you can't  
20                   avoid.  I mean, this particular division, you  
21                   know, probably had numerous sex trade workers,  
22                   some that were solved, some that weren't solved.  
23                   So, they would have to look at -- that, that's,  
24                   that's one step that you would go back and analyze  
25                   all major investigations that involve, say, the



1 murder of sex trade workers and then you would be  
2 able to review each and every file as for the  
3 suspects, and if there were, if there were people  
4 charged, whether or not they were out or still on  
5 the streets or anything along those lines. So,  
6 it's not unusual to go back and interview, or not  
7 interview, but review these files from front to  
8 back.

9 Q And so that would be a reasonable investigative  
10 step for Project Evenhanded to obtain them?

11 A Yes, ma'am.

12 Q Now, you came to learn, during the course of your  
13 review, that there was not a missing person DNA  
14 databank in this province?

15 A I believe that was the case at the time, yes.

16 Q And would you agree that having DNA profiles of  
17 the missing would be necessary in order to compare  
18 those profiles to any crime scenes or to any found  
19 body parts, for example?

20 A That would certainly be of benefit, yes.

21 Q So, you would want to be able to have access to an  
22 existing profile from the DNA databank in order to  
23 compare crime scene?

24 A Yes.

25 Q And is it -- was it a reasonable step to attempt

1 to compile DNA from missing persons in the  
2 investigation facing Project Evenhanded?

3 A Yes.

4 Q Now, during the course of an investigation,  
5 operational plans, would you agree, can evolve and  
6 change?

7 A Can involve?

8 Q Can evolve?

9 A Yes.

10 Q And would you expect a team commander, as  
11 information is coming in during the course of an  
12 investigation, to assess the state of the  
13 particular operational plan?

14 A Yes. He, he, he would be, obviously, reviewing it  
15 because he would be the one that's probably  
16 assigned a portion of the ops plan for furtherance  
17 to a division or depending on what the ops plan  
18 was for.

19 Q Now, if I could ask you please to turn to page 9  
20 of your report and --

21 A Yes.

22 Q Thank you. And then during, during your interview  
23 of Bass, there was a concern described from the  
24 Vancouver Police Department about resourcing, and  
25 in particular, that is at the bottom of page 8,

1 over to page 9.

2 A That's what this says, Commissioner Bass informed  
3 us, yes.

4 Q And as a result of what Bass had advised, you  
5 learned that further resources were sought?

6 A Yes, I believe they were, yes.

7 Q And also, that they were provided?

8 A To Evenhanded?

9 Q Yes.

10 A Yes, they were.

11 Q Now, you came to learn, as a result of your  
12 review, that there was this belief by, by  
13 Henderson and by Adam, and perhaps others, that  
14 there was more than one serial killer involved  
15 with respect to the missing women in the Lower  
16 Mainland area?

17 A Yes, I believe in my discussions with those two  
18 gentlemen, that there was at least, they felt that  
19 there was at least two serial killers operating in  
20 the, the Lower Mainland.

21 Q And based on what you know about the  
22 investigation, and, and the review you conducted,  
23 was that belief reasonable?

24 A Yes.

25 MS. WINTERINGHAM: Thank you, Mr. Commissioner. Those are my

1 questions.

2 THE COMMISSIONER: All right. Thank you, Ms. Winteringham.

3 Yes?

4 MR. VERTLIEB: I do have some re-examination please.

5 THE COMMISSIONER: Okay.

6 **RE-EXAMINATION BY MR. VERTLIEB:**

7 Q Many times since we asked you questions, the word  
8 "priorities" has come out in your evidence.

9 A Yes, sir.

10 Q Many times. And you have talked about other  
11 priorities, other incidents, in your evidence with  
12 many of the lawyers here?

13 A Yes, sir.

14 Q Can you think of a greater priority than a  
15 possible serial killer who is still killing?

16 A No, that would be a priority. Yes, a top  
17 priority.

18 Q Thank you. Not a priority. That would be a top  
19 priority?

20 A That would be a top priority, in my opinion, yes.

21 Q Of course. You could think of perhaps no greater  
22 priority?

23 A If you had -- if -- there would be no greater  
24 priority that I could think of, no.

25 Q Right. That's the point. So, I just wanted to be

1 clear when my colleagues are asking you about  
2 priorities and other priorities, you are not, for  
3 a moment, trying to suggest that a serial killer  
4 still on the loose and killing would not be a top  
5 priority?

6 A No, I would -- the priorities of the respective  
7 detachment or units, if a serial killer was --  
8 they had a serial killer investigation in their  
9 detachment, or a unit, I would suggest that would  
10 be a priority, yes.

11 Q Hold on now, I'm sorry. A priority or the top  
12 priority?

13 A Top priority.

14 Q Thank you. The top priority?

15 A Yes.

16 Q Thank you. In British Columbia, and I know this  
17 is not your home jurisdiction, we have an *Apology*  
18 *Act*.

19 A Yes, sir.

20 Q And I'm not sure if you have heard of it or have  
21 any familiarity with what we have in this  
22 province.

23 A No, sir, I am not familiar with it.

24 Q That's fine, I didn't, I wouldn't expect you to  
25 be, unless someone prepared you for that in the

1 course of coming to be with us.

2 A No, sir.

3 Q So, it's an act that was assented to on May 18th  
4 of 2006. I am going to read the definition of an  
5 apology, and I will read it slowly enough that you  
6 can follow along, and if you have any trouble with  
7 hearing me, I will give you a copy. Well, I'll  
8 tell you what. Because this is new to you, let me  
9 just pass you a copy.

10 A Okay.

11 Q So, apology is defined. It means:

12 -- an expression of sympathy or [and here's  
13 the important word] regret, a statement that  
14 one is sorry or any other words or actions  
15 indicating contrition or commiseration,  
16 whether or not the words or actions admit or  
17 imply an admission of fault in connection  
18 with the matter to which the words or actions  
19 relate;

20 Okay? Do you see that?

21 A Yes, sir.

22 Q And I want you to look at the effect, because  
23 what's important is that it doesn't have any legal  
24 effect in subsequent cases. Look at 2(1):

25 An apology made by or on behalf of a person

1 in connection with any matter

2 (a) does not constitute an express or  
3 implied admission of fault or liability  
4 by the person in connection with that  
5 matter,

6 Do you see that?

7 A Yes, sir.

8 Q (d) must not be taken into account in  
9 any determination of fault or liability  
10 in connection with that matter.

11 A Yes, sir.

12 Q And then the second section:

13 (2) Despite any other enactment, evidence of  
14 an apology made by or on behalf of a person  
15 in connection with any matter is not  
16 admissible in any court as evidence of the  
17 fault or liability of the person in  
18 connection with that matter.

19 A Yes, sir.

20 Q Now, you have been here a few days and I respect  
21 the fact that, we all respect Mr. Brongers taking  
22 you through the position that you were brought in  
23 to help the lawyers defend the case, and there  
24 seems to be this, these comments that you are not  
25 here on behalf of the RCMP. We've heard all that.

1 A Yes, sir.

2 Q But you realize that there's been some concern  
3 expressed in the media about the failure of the  
4 RCMP to express any regret or apology or admission  
5 of error? You are aware of that?

6 A I'm aware of that, yes.

7 Q And I'm sure you are reading the newspapers even  
8 while you're here in Vancouver giving evidence?

9 A I haven't, but I, I will take your word for it.

10 Q You know it's a live issue?

11 A Yes, sir.

12 Q And you know the VPD has more than once  
13 apologized?

14 A I'm not -- I believe I've indicated I heard that,  
15 yes.

16 Q Months ago, Mr. LePard did, and here he's done  
17 that and lawyers have done that.

18 Now, if the top brass of the RCMP wanted to  
19 get in touch with you, knowing that you are here  
20 giving evidence to Commissioner Oppal, they would  
21 know where to find you?

22 A I believe they would, yes.

23 Q And there is no reason the top brass, if, say, Mr.  
24 Paulson wanted to talk to you and said, "Look it,  
25 I want you to go tell the commissioner we're sorry



1                   about this," you have been around to be consulted  
2                   and instructed?

3                   A    Yes.

4                   Q    Right?

5                   A    I am sure he would, but he didn't, so.

6                   Q    Yes, I understand that.

7                   A    Okay.

8                   Q    That's where I am going.

9                   A    Okay.

10                  Q    Can you understand why people, both families and  
11                   non-families, might find it upsetting that the  
12                   Vancouver Police have given an apology and none  
13                   forthcoming from the RCMP?

14                  MR. BRONGERS:  Mr. --

15                  THE COMMISSIONER:  Yes?

16                  MR. BRONGERS:  Mr. Commissioner, I, I have been waiting for a  
17                   question to be directed to the witness before  
18                   standing up.  One statement that Mr. Vertlieb made  
19                   does trouble me.  The RCMP, has indeed, expressed  
20                   its sincere regret that this has occurred.

21                                I'm, I'm -- the witness was already asked  
22                   yesterday whether he was going to be giving a  
23                   formal apology on behalf of the RCMP.  The  
24                   question was asked and answered.  Superintendent  
25                   Williams explained that it was not his place to do

1                   that, in his, in his position.

2   THE COMMISSIONER:  Yes.

3   JAN BRONGERS:  And in accordance with your direction yesterday,  
4                   I understood that counsel were not to be asking  
5                   questions of witnesses that have already been  
6                   answered.  So, I am just wondering where this is  
7                   going with Mr. Vertlieb.

8   THE COMMISSIONER:  Well, in fairness, I agree with your last  
9                   comment, but in fairness, what's happened here is  
10                  the *Apology Act* is being put to him for the first  
11                  time.  And, and much has been made of the fact  
12                  that whether or not -- of the fact that apologies  
13                  have been rendered by some parties and not by  
14                  others.  And I am sure, from the perspective of  
15                  the families, it, it is important, and from the  
16                  perspective of the public.  And I don't think the  
17                  question is unfair, so go ahead and ask it.

18  MR. VERTLIEB:  Thank you.

19                  Q   Has anybody contacted you with a view to  
20                      discussing this subject?  By "anybody" I mean the  
21                      top brass of the RCMP.

22                  A   Ah, no.

23                  Q   And that's the position, as it stands, when you  
24                      finish your evidence in the next couple of  
25                      minutes?

1 JAN BRONGERS: Mr. Commissioner, if the question is, what is  
2 the position of the RCMP, --

3 THE COMMISSIONER: Yes.

4 JAN BRONGERS: -- the answer to that of course is it will be  
5 provided at the time of closing submissions, once  
6 all the evidence has been presented. It is not  
7 going to be provided today.

8 THE COMMISSIONER: Well, what does that mean? I mean, I mean,  
9 he's a member of the RCMP. He can either say he  
10 doesn't know what the position of, the official  
11 position of the RCMP is, or he can give an opinion  
12 or give an answer to, to the question.

13 JAN BRONGERS: I didn't understand that to be the question,  
14 Mr. Commissioner.

15 THE COMMISSIONER: Okay.

16 THE WITNESS: In answer to your last question, I believe  
17 probably in the first part of December, I was  
18 contacted by Chief Superintendent Rideout that  
19 indicated that they were going to be making some  
20 submission but -- along the lines of an apology,  
21 but that's as far as it got. I think it was just  
22 a, an indication that there would be discussions  
23 with senior management of "E" Division and the  
24 commissioner's office, and as such, to do  
25 something along those lines, but that was the only



1           As we all know, Deputy Chief Evans is  
 2 starting her evidence on Monday. Uhm, I expect  
 3 that she will be some time, but of course she is a  
 4 very key witness in this inquiry, and it is my  
 5 duty to cross-examine her as lead counsel on my  
 6 team.

7           Now, I have been, for some time, obligated to  
 8 be in the Supreme Court of Canada next week for a  
 9 hearing on Thursday and in a matter in which the  
 10 Attorney General of Canada is the appellant and a  
 11 matter on which I have been counsel for some  
 12 years. Of course, the scheduling of witnesses in  
 13 this inquiry, as is always the case, is something  
 14 that is fluid. But between myself and Mr.  
 15 Brongers, we have done our best to balance out our  
 16 obligations to this file and, and to others.

17           I advised commission counsel of my position,  
 18 my situation, by letter on the 23rd of December  
 19 shortly after it became clear that this was going  
 20 to be the plan for Deputy Chief Evans' evidence  
 21 and, and based on our experience with Deputy Chief  
 22 LePard in particular, you will recall that he  
 23 testified for probably three weeks. Uhm, I  
 24 anticipated that his evidence would take some  
 25 time.

1 I did take the step of consulting counsel who  
 2 follow me in the order of things, that being Mr.  
 3 Crossin, Mr. Woodall and Mr. Skwarok, to ask if  
 4 they would be kind enough to go ahead of me if  
 5 that came about, and they were all willing to do  
 6 that, although Mr. Woodall has to balance some  
 7 trial obligations of his own.

8 So, I'm on my feet to ask leave to ensure  
 9 that I can conduct the cross-examination the week  
 10 of the 23rd, and not next week, because, as I  
 11 said, the hearing is on Thursday and I will not be  
 12 in a position to be before you before that.

13 I understand that witnesses need to be not  
 14 inconvenienced, where that is avoidable, but  
 15 sometimes it's not. For example, Superintendent  
 16 Williams was here for two days in December because  
 17 it was thought that perhaps his evidence would be  
 18 required and it wasn't. So, he had to come back.

19 So, I am asking for your leave to conduct my  
 20 cross-examination not before the week of the 23rd.

21 THE COMMISSIONER: Okay.

22 MR. VERTLIEB: As much as we try to accommodate counsel, we  
 23 just cannot agree to the request.

24 The, the hope that we had was that Ms. Evans  
 25 would give evidence in December, and we've

1 interrupted her schedule more than once. I could  
 2 commit to being with the deputy -- the chief  
 3 constable one day. You, of course, have the power  
 4 to order the cross-examination sequence. Ms.  
 5 Tobias could start, would commit that she could  
 6 start Tuesday morning. She could have the entire  
 7 day with Ms. Evans, if she needs, which is a lot  
 8 of time, and she would still be able to do her  
 9 case in Ottawa on Thursday.

10 I have heard of this for some time and  
 11 suggested that perhaps someone else could do the  
 12 questioning of Ms. Evans. It's not a trial. It's  
 13 an inquiry. And I respect her decision made that  
 14 it would not be somebody else, but that was an  
 15 option and I know there have been numerous counsel  
 16 for DoJ.

17 But it's not just as simple as, as Ms.  
 18 Tobias's problem on Thursday. We have, following  
 19 Ms. Evans, Dr. Rossmo, and his lawyer has been  
 20 insistent that his time is very restricted, and  
 21 we've scheduled Dr. Rossmo in a very tight  
 22 timeframe to accommodate his schedule, because he  
 23 has obligations in the United States and  
 24 elsewhere. He's scheduled for the following week  
 25 and we can't change that. That's been in place

1 and those commitments have been made.

2 So, the collateral problems that arise from  
3 Ms. Tobias's request are just very serious, and if  
4 we start to lose the schedule, we'll fall more  
5 behind than I believe we are now, and that's my  
6 concern. So, if she can start, if Ms. Tobias can  
7 start Tuesday with Ms. Evans, she can have all  
8 day. She can still do her case in Ottawa if their  
9 decision is that only Ms. Tobias will do that.

10 THE COMMISSIONER: All right. Is there anything wrong with  
11 that proposal?

12 MS. TOBIAS: Uhm, well, yes, Mr. Commissioner, yes, there is.  
13 Uhm, I, in the letter that I referred to, I  
14 advised my friend that I would be a couple of days  
15 with Deputy Chief Evans, which I realize is a  
16 lengthy period of time, but she is a key witness  
17 and there is a lot to cover with her. And, for  
18 example, my learned friend, Mr. Dickson, took  
19 quite a lot of time today to deal with  
20 Superintendent Williams and his report is very  
21 small, in comparison.

22 So, I, I, I did actually consider that, but I  
23 cannot complete my cross-examination before I have  
24 to leave for Ottawa and, uhm, --

25 THE COMMISSIONER: How much time do you need to cross-examine



1 her?

2 MS. TOBIAS: Two days.

3 THE COMMISSIONER: Okay. Well, why --

4 MS. TOBIAS: I need two days for it.

5 THE COMMISSIONER: Why can't you do it Tuesday and Wednesday?

6 MS. TOBIAS: Because, well, because I am on my feet first thing  
7 in the Supreme Court of Canada on Thursday morning  
8 and I really need Wednesday for some meetings and  
9 other work that I have to do in Ottawa.

10 THE COMMISSIONER: Well, you know, I want to accommodate the  
11 lawyers, we want to accommodate the witnesses and  
12 we've tried to do that, and we have tried to do  
13 that to a fault here, and the fact is now we are  
14 behind.

15 MS. TOBIAS: Well, I realize that and we have done our best to  
16 accommodate, for example, as I said, bringing  
17 Superintendent Williams here. I had not known,  
18 until my friend just stood up, and I am advised by  
19 my colleagues that we had not been told that Dr.  
20 Rossmo was testifying the following week. This is  
21 the first I have heard of it.

22 Uhm, I anticipate as well that I would be  
23 very surprised if, if between -- well, I should  
24 say, I don't know what other counsel's estimates  
25 of their cross-examination is going to be. I

1 would expect that my learned friends, who  
 2 represent the Vancouver Police Department, are  
 3 going to have some considerable cross-examination  
 4 as well, and there are only five days in the week.  
 5 With respect, I am as alive as anyone else in this  
 6 room to the necessity to get on with it and, uhm,  
 7 on our side of the table, we have always done our  
 8 very best. But it is not, with respect, uhm,  
 9 particularly -- I -- let me put it this way. I  
 10 cannot see that we can say, with any confidence,  
 11 that everyone doing their very best wouldn't  
 12 possibly finish with Deputy Chief Evans by -- in  
 13 one week, judging by the length of time it's taken  
 14 Williams. Deputy Chief LePard was on the stand  
 15 for three weeks almost, so.

16 THE COMMISSIONER: We are not, I can tell you now, that we're  
 17 not going to, we are not going to use the time in  
 18 the future the way we did in the past. And I, and  
 19 I regret that perhaps I made a mistake in allowing  
 20 lawyers to go on and on when the Deputy Chief  
 21 LePard was, was examined, and I have said that  
 22 we're going to have tight timelines. And  
 23 commission counsel has indicated that the Deputy  
 24 Chief Evans will be done in a week and she will be  
 25 done in a week.

1           And I, I just want the lawyers to give me  
2 times, and I gave a directive the other day that  
3 if they're not able to give me times, I will set  
4 them. And I, I am sorry to be that firm and that  
5 harsh, but we have commitments and we need to get  
6 this inquiry done. And these inquiries often have  
7 lives of their own, and I can assure you that we  
8 need to control the process and ensure that it  
9 gets done in time.

10           Now, I know that in our courts, and I have  
11 said this many times before, in our courts, time  
12 estimates are, are out there somewhere and nobody  
13 really seems to comply with them, but we're going  
14 to do it in this inquiry.

15           So, is it one -- how long is, is the deputy  
16 expected to be here?

17 MR. VERTLIEB: She is going to be finished, provided we have  
18 your direction, in one week, which is what we've  
19 told her. We have said, "You come Monday and you  
20 will be finished Friday."

21 THE COMMISSIONER: Okay. What are the estimates that you have  
22 been given so far?

23 MR. VERTLIEB: Well, one of the problems is, is my colleagues  
24 have not all provided estimates. So, I can't  
25 even, I am not in a position to say we've agreed,

1 as we did with Mr. Williams. If we can't get an  
2 agreement that works for those five days, then you  
3 will need to make an order. And so we sent -- we  
4 were sending another e-mail out this morning  
5 saying, "You had better get your estimates in."

6 THE COMMISSIONER: Who hasn't given estimates?

7 MR. VERTLIEB: A number of people. I will, I will just leave  
8 it at that for now.

9 But we have assured Ms. Evans, and her police  
10 force is very concerned about the time, and they  
11 have been more than cooperative. They have gone  
12 out of their way for our scheduling purposes. I  
13 have assured her that she will be finished within  
14 five days, and of course subject to your ultimate  
15 control of the process. So, I support what you  
16 have been saying. I don't yet need you to make an  
17 order on cross-examination until I see the  
18 estimates, but it's critical she's finished by  
19 next Friday.

20 THE COMMISSIONER: All right. Okay, well, I am going to wait  
21 until Monday, and I do want to accommodate you,  
22 but at the same time, we have, we, we have a  
23 schedule here. And perhaps your associate can  
24 complete the cross-examination. I don't know.  
25 That's just a suggestion, and far be it for me to

1 suggest how you run your case. But, I mean, are  
2 you the only one who can cross-examine the deputy  
3 chief?

4 MS. TOBIAS: Well --

5 THE COMMISSIONER: You don't have to answer that.

6 MS. TOBIAS: Anyone --

7 THE COMMISSIONER: I know that you have prepared --

8 MS. TOBIAS: Anyone can do anything, but the point,  
9 Mr. Commissioner, is that the deputy chief is a  
10 key witness --

11 THE COMMISSIONER: Yes.

12 MS. TOBIAS: -- and, as you know, I am the lead counsel on the  
13 team and there are reasons that I am not entirely  
14 comfortable in going into, but I can assure you,  
15 as an officer of the court, that there are good  
16 reasons why I am the person who is in charge of  
17 this particular task.

18 THE COMMISSIONER: All right. Thank you. I'll, I'll give a  
19 decision on Monday. Is there any --

20 MR. VERTLIEB: And that's -- sorry, Mr. Giles has a concern?

21 THE REGISTRAR: Sorry, just one administrative thing that I  
22 wish to mention. Exhibits 58 and 59 that were  
23 marked earlier, should be marked as non-redacted.  
24 Thank you.

25 THE COMMISSIONER: All right.

1 MR. VERTLIEB: And so I, just before we do break, I need  
2 everyone to give us the estimates for Ms. Evans.  
3 We need that this afternoon please. And that's,  
4 that's the conclusion for today then,  
5 Mr. Commissioner.

6 THE COMMISSIONER: All right, thank you.

7 MR. VERTLIEB: And we should perhaps start 9:30 on Monday  
8 morning with Ms. Evans.

9 THE COMMISSIONER: Okay, thank you.

10 THE REGISTRAR: This hearing is now adjourned until Monday at  
11 9:30.

12 **(PROCEEDINGS ADJOURNED AT 12:10 P.M.)**

13 I hereby certify the foregoing  
14 to be a true and accurate  
15 transcription of the proceedings  
16 herein to the best of my skill  
17 and ability.

18  
19  
20  
21 Gabriele Heise, RPR  
22 Official Reporter, BCSRA No. 399  
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**EXHIBITS**

<b>NO.</b>	<b>DESCRIPTION</b>	<b>PAGE NO.</b>
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