

Vancouver, BC

May 11, 2012

(PROCEEDINGS RECONVENED AT 9:35 A.M.)

THE REGISTRAR: Order. The hearing is now resumed.

THE COMMISSIONER: Good morning.

MR. GRATL: Good morning, Mr. Commissioner. Jason Gratl for
Downtown Eastside interests.

THE COMMISSIONER: Yes.

MR. GRATL: I have prepared a binder of materials dealing with
the application to have the Shenher manuscript
adduced into evidence, and I appreciate you
indicated you wanted written material, and you
didn't say anything about oral argument, so what I
did is I prepared an application to be heard on
Wednesday, it was returnable Wednesday, and we
didn't get a chance to deal with it on Wednesday.

THE COMMISSIONER: Okay.

MR. GRATL: Now, leaving aside I'd like to get through these
witnesses if we can, but in the interim I'd like
to file a package of materials containing the
applications, the one by aboriginal interests
counsel and Downtown Eastside counsel, all the
responses and the supporting affidavits.

THE COMMISSIONER: Okay. Is this in addition to the written
material that's already been filed?

1 MR. GRATL: No, it is the written material that has been filed,
2 but I'd like to have it entered into the record as
3 the next exhibit.

4 THE COMMISSIONER: Okay. Is there any objection to that?

5 MS. NARBONNE: No.

6 THE COMMISSIONER: Any concern anywhere?

7 THE REGISTRAR: You wish that to be marked as an exhibit or for
8 identification?

9 MR. GRATL: As an exhibit.

10 THE COMMISSIONER: All right.

11 THE REGISTRAR: As an exhibit. I suspect that's NR as well?

12 MR. GRATL: It's not NR, no, it's all public documents.

13 THE COMMISSIONER: It needs to be for identification at this
14 stage; right?

15 MR. GRATL: No, it doesn't. There's nothing secretive about
16 it, it's written argument from counsel.

17 THE COMMISSIONER: Oh, I see.

18 MR. HERN: I'm just not sure what principle we're proceeding on
19 here filing arguments and applications as
20 exhibits.

21 THE COMMISSIONER: Well, I don't know either.

22 MR. HERN: We haven't done that in the past, so I'm just
23 wondering why Mr. Gratl wants to put this one in.

24 MR. VERTLIEB: I don't see -- normally in the courtroom even
25 with the more stringent rules written argument is

1 never an exhibit.

2 THE COMMISSIONER: Yeah, written arguments are never ever filed
3 as such in court. I mean even closing arguments
4 in civil or criminal cases are seldom ever filed,
5 they're there given to the judge. But, in any
6 event, why don't all of you think about that and
7 I'll deal with it.

8 MR. GRATL: Well, it would be my submission that these
9 documents ought to form part of the public record
10 and the public ought to have access to them.

11 THE COMMISSIONER: Well, that's not really good enough. I mean
12 to say that part of the public record, but
13 obviously other people object to them being a part
14 of the public record. What they're going to say
15 to me is that you're trying to get into the front
16 door or you're trying to get into the back door
17 what you can't get into the front door. In other
18 words, you set out written arguments that form a
19 part of the record, and if they're not admissible
20 per se then what's the point of dealing with the
21 ultimate decision about whether or not the
22 documents are admissible.

23 MR. GRATL: Oh, I think it's just important, Mr. Commissioner,
24 to have as part of the public record the positions
25 that the various participants have taken, and

1 commission counsel has not taken, on the
2 admissibility of the Shenher book into evidence.

3 THE COMMISSIONER: Well, I can't believe the amount of time
4 we've spent on that Shenher document, but in any
5 event you people have made it contentious so I
6 have to deal with it in that fashion, but the fact
7 is, you know, if there's an objection to it, and
8 none of the lawyers seem to have seen that, I'm
9 not going to let it in at this time. And it is
10 unusual to have written argument filed as an
11 exhibit in any event. I mean, I've never seen
12 written arguments filed as exhibits. And exhibits
13 are part of the evidence, and they form a part of
14 a record and a part of the evidence. For
15 instance, if we had a jury here there's no way in
16 the world you'd ever file a written argument for a
17 jury to consider. It just isn't done.

18 MR. GRATL: Well, the alternative would be, Mr. Commissioner,
19 for you to relieve me of my undertaking to keep
20 those documents -- to not publicize those
21 documents. I wouldn't mind scanning them and just
22 posting them to my own website if this avenue of
23 publicizing material isn't available.

24 THE COMMISSIONER: Well, I know, but the fact is that there's
25 absolutely no authority anywhere to file written

1 argument as an exhibit so it forms a factual part
2 of the evidentiary record. I mean, that's
3 evidence.

4 MR. GRATL: It just presents a difficulty because it would
5 appear that unless these written arguments are
6 publicized in some way or we have oral argument or
7 I'm relieved of my undertaking and permitted to
8 post this material to the website it'll just look
9 like there's a secret application.

10 THE COMMISSIONER: Well, it's not a secret. You know, the word
11 secret gets thrown around here recklessly. This
12 is an open courtroom so there's nothing secret
13 about it. The fact is in a courtroom there is
14 certain evidence admissible, some evidence is
15 inadmissible. The fact that evidence is
16 inadmissible doesn't make it secret.

17 MR. GRATL: I'm saying the arguments that the participants have
18 presented to you will end up effectively being
19 made out of the public eye, and in the context
20 where we have a number of participants claiming
21 that they're openly participating and they want a
22 fulsome, factual record and they want to be held
23 to account, this would seem to be contrasting with
24 that, with those positions.

25 THE COMMISSIONER: Well, there's nothing inconsistent. I'm not

1 going to file it at this stage. Talk to your
2 friends during a break and we'll deal with it.
3 All right.

4 THE REGISTRAR: Thank you, Mr. Gratl.

5 THE COMMISSIONER: Yes, Ms. Brooks.

6 MS. BROOKS: This morning you have Mark Chernoff before you and
7 Mr. Ron Lepine.

8 THE COMMISSIONER: Okay. So I've been given time estimates for
9 cross-examination, so I've considered the whole of
10 what -- of these two witnesses and I've set the
11 following allocations. They obviously aren't what
12 counsel have asked for. Mr. Ward will have 40
13 minutes, Mr. Roberts 15, Mr. Gratl 30, Ms.
14 Narbonne 30, Mr. Hern and Dickson 10, Ms. Tobias
15 30, Mr. Crossin 5, Mr. Woodall 10 and Mr. Hira 10.
16 All right. Yes, go ahead.

17 MS. BROOKS: Mr. Giles, do you want to affirm the witnesses,
18 please.

19 THE REGISTRAR: Good morning, gentlemen. Would you just turn
20 on your microphones, please. Thank you.

21 **RONALD HONORE LEPINE: Affirmed**

22 **MARK CHERNOFF: Affirmed**

23 MR. LEPINE: I do.

24 THE REGISTRAR: Would you state your name, please?

25 MR. LEPINE: My name is Ronald Honore Lepine.

1 THE REGISTRAR: Thank you.

2 MR. CHERNOFF: I do, and it's Mark Chernoff.

3 THE REGISTRAR: Thank you. Counsel.

4 MS. BROOKS: Mr. Commissioner, just before I begin with my
5 examination I thought I would just tell you very
6 briefly what I anticipate the evidence of these
7 witnesses to be.

8 THE COMMISSIONER: That would help.

9 MS. BROOKS: Okay. They both were involved in the Missing
10 Women Review Team, they were assigned as
11 investigators to that team in May of 1999, and
12 then they were assigned a Pickton tip. And the
13 focus of my examination is going to be on the work
14 that they did on that tip, and you'll know because
15 you're familiar with the chronology here that they
16 worked with Coquitlam and members of UHU in the
17 summer of 1999 to investigate the information they
18 were receiving from various sources, including
19 Ross Caldwell, and both Mr. Lepine and Mr.
20 Chernoff were assigned to do the handling of
21 Mr. Caldwell. So I expect that you will hear from
22 them about how during the course of that summer at
23 the beginning of the investigation there was good
24 communication between the agencies, there was good
25 information sharing, there was a momentum to the

1 investigation, there was lots of discussion around
2 investigative strategies that they were going to
3 consider and carry out. Management was engaged,
4 management was attending the meetings. And then I
5 expect you'll hear from them that certain things
6 started happening that caused a level of
7 disengagement from management, less meetings, less
8 information sharing, and so the perspective they
9 can offer you, and it's a very important one, is
10 what was happening there and why was that
11 occurring.

12 THE COMMISSIONER: Are they going to tell us that the -- are
13 they critical of the senior management of the
14 Vancouver Police?

15 MS. BROOKS: Well, I think it's probably not completely black
16 and white for them, but they're definitely going
17 to tell you that they had returned from the
18 investigation in Coquitlam, that they were
19 frustrated with where things were at, they were
20 concerned about the direction it was taking, and
21 that they expressed those concerns to management
22 and they were sort of in the dark about what was
23 happening.

24 THE COMMISSIONER: Okay. All right.

1 **EXAMINATION IN CHIEF BY MS. BROOKS:**

2 Q So, Mr. Lepine and Mr. Chernoff, if you could just
3 turn to the brief of documents that I'll ask
4 Mr. Giles to put before you. If you could turn to
5 tab 22, Mr. Chernoff, and 23, Mr. Lepine, and
6 you'll see a copy of your service record with the
7 Vancouver Police Department, and I'll ask for you
8 to just briefly describe for the commissioner the
9 different positions that you held at the
10 department when you were sworn in and when you
11 were retired. And, Mr. Lepine, can we start with
12 you, please?

13 MR. LEPINE: Yes, this is an accurate account of my service
14 with the police department from 19 -- well, yeah,
15 it appears to be accurate.

16 Q Okay. And so you were sworn in in 1971?

17 MR. LEPINE: That's correct.

18 Q And you retired in 2000?

19 MR. LEPINE: Yes.

20 Q How many years did you spend in homicide?

21 THE COMMISSIONER: Why don't you lead in all of this.

22 MS. BROOKS: Pardon me?

23 THE COMMISSIONER: Why don't you lead in all of this.

24 MS. BROOKS: Oh, I actually don't know the number of years that
25 he spent in homicide.

1 Q But I think it was about half of your career; is
2 that right?

3 MR. LEPINE: I was in the Major Crime Section, I spent probably
4 eight and a half years in the Sexual Offence Squad
5 which was part of the Major Crime Section, another
6 part of it is homicide. I believe four, five
7 years, in that range.

8 Q Okay. Thanks. And, Mr. Chernoff, is this an
9 accurate reflection of your service with the
10 department?

11 MR. CHERNOFF: Yes, I joined in February of 1984. Prior to
12 that I worked for the Co-Ordinated Law Enforcement
13 Unit from 1979 to 1984. The rest of this is
14 accurate with the exception of the fact that after
15 I left homicide in 2006 I worked for about four
16 years in the Vice Section, so investigating vice
17 related matters.

18 Q And when you joined Project Amelia in May of 1999
19 you had spent about nine months in homicide?

20 MR. CHERNOFF: That is correct, yes.

21 Q And you and Mr. Lepine were partners, were you?

22 MR. CHERNOFF: Yes, eventually. Not right off the bat. I had
23 a different partner, but Ron and I ended up
24 working on some files together, some homicide
25 files and eventually that just turned into a

1 partnership.

2 Q Okay. And how is it that you both came to be
3 involved with Project Amelia? Mr. Chernoff, we'll
4 start with you.

5 MR. CHERNOFF: I was asked by Sergeant Field to participate as
6 a detective from homicide along with Ron to work
7 as homicide investigators to look at potential
8 suspects in any of the missing women related
9 matters.

10 Q Okay. And was it your understanding then when you
11 joined the team, and perhaps, Mr. Lepine, you can
12 answer this question, that it was going to be a
13 suspect based investigation?

14 MR. LEPINE: Difficult question. I mean all our cases are
15 evidence led investigations, we follow the
16 evidence. To say suspect to me is strange. But,
17 yeah, obviously our job was -- part of that
18 process was to look at potential suspects and, you
19 know, try to deal with either eliminate them or
20 put them on a short list, that type of thing.
21 But, yes, it was a suspect related investigation,
22 but more evidence related.

23 Q So just so I'm clear, so your role then when you
24 joined the team was you were going to identify
25 suspects and prioritize them and then seek to

1 eliminate them or prove the case against them?

2 MR. LEPINE: At this stage it was we really didn't know the
3 scope of what we were dealing with, whether it was
4 one, ten, a hundred, so it's difficult to -- you
5 know, I mean from that perspective we don't know
6 what we're looking for, if we're looking for one
7 suspect, ten suspects. It's sort of a very open
8 ended beginning is what we had and we tried to
9 narrow that if possible, but it became extremely
10 difficult to do that.

11 Q And you're talking about the suspects themselves
12 right now or are you talking about the different
13 theories to explain the disappearance of the
14 women?

15 MR. LEPINE: Well, I mean we had to kind of surmise the type of
16 person that may do such a thing. If this were
17 true, if they were -- all the missing women were
18 killed, who might be the person to do that sort of
19 thing, so we were looking at anybody who has
20 showed or demonstrated serious violence towards
21 prostitutes. And that list was very long, and it
22 was difficult to eliminate them because of the
23 time frame issue. We didn't know exactly when the
24 women went missing. Time frame is hard to put
25 somebody what were you doing on whatever day when

1 you don't even know the time frame.

2 Q And we're talking about identifying suspects here
3 and how to prioritize them. Was it your
4 understanding then when you joined the team that a
5 probable explanation for the disappearance of
6 these women was that they were killed?

7 MR. LEPINE: Certainly.

8 Q And Mr. Chernoff?

9 MR. CHERNOFF: Without question.

10 Q So I want to turn now to the Pickton tip and the
11 Caldwell information, and how I'd like to move
12 through this evidence is by referring you to a
13 chronology that I prepared which just describes
14 key events in the Pickton timeline, and the
15 references on the chronology relate to the brief
16 of documents that are before you. And you should
17 have a copy of that in front of you. Do you?

18 MR. CHERNOFF: Yes.

19 MS. BROOKS: And, Mr. Commissioner, do you have a copy of the
20 chronology as well?

21 THE COMMISSIONER: Thank you.

22 MS. BROOKS:

23 Q And it might be helpful if you both turn to
24 Mr. Chernoff's log which is found at tab 2 of the
25 brief of documents. And I understand that in

1 terms of recordkeeping, Mr. Chernoff, you kept the
2 notes for your partnership?

3 MR. CHERNOFF: Yes, the majority of the notes I kept on a daily
4 log.

5 Q So I'd like to start then, I'm just going to -- as
6 I say I'm going to run through some of these key
7 events and ask you some questions about what was
8 going on at that time. So starting then at July
9 16th, at this point Sergeant Field receives the
10 Caldwell tip and she assigns it to you,
11 Mr. Chernoff, and that's correct, is it?

12 MR. CHERNOFF: If you could just give me a moment.

13 Q So this is at -- if you want to turn to your log
14 if you see in the bottom left corner of the pages
15 there are page numbers and if you go to page 26 --

16 MR. CHERNOFF: Yes.

17 Q -- you'll see the July 19th entry and that's the
18 first time that you met with Caldwell for the
19 debrief. Do you see that?

20 MR. CHERNOFF: Actually I don't. On page 26 here it --

21 Q There's a number of different pages numbers
22 unfortunately. If you look at the left corner of
23 the page you'll see page 26 out of 351.

24 MR. CHERNOFF: I see. I was looking at the other page 26.

25 Q So it's page 16 for the numbers that you were

1 referring to.

2 MR. CHERNOFF: Okay.

3 Q Okay. So you'll see there that you have had your
4 first debrief with the source. Is that right? Do
5 you have the page, Mr. Chernoff?

6 MR. CHERNOFF: No, I don't. Maybe someone can just assist me
7 here because this is not accurate. I have it here
8 now, Mr. Commissioner.

9 Q Okay. So tell us about Caldwell, tell us about
10 who he was, about what some of the issues that you
11 had with him in terms of dealing with him as an
12 informant. Just tell us about his personal
13 circumstances, what was he like, who was he, how
14 did you assess his credibility, things like that?

15 MR. CHERNOFF: When I first met him he was in custody on
16 another matter, and when I went to speak to him he
17 seemed to me to be very honest. It was apparent
18 to me that he had -- and I think he explained to
19 me at some point that he had a history of drug
20 use. He had somewhat a criminal background. He
21 started describing the events regarding
22 Mr. Pickton. I would -- actually if I'm going to
23 go through that I'd like to actually have that
24 document with the information that he provided
25 with me that day, but I took him to be a person

1 who truly wanted to do the right thing. I thought
2 of him as being honest, and I truly believed that
3 the information that he told me with respect to
4 Mr. Pickton and any of those other events that he
5 believed were true. So in terms of credibility I
6 actually gave him quite a bit of credibility at
7 that time. After my first meeting with him, which
8 was probably about an hour, an hour and a half, I
9 left there believing that -- that Mr. Caldwell
10 believed that what he told me was accurate,
11 therefore that information to me seemed rather
12 credible, and as a result of that I thought some
13 action had to be taken very quickly with respect
14 to the information and I therefore started making
15 phone calls. Ron was on holidays at that time and
16 I phoned him from the island he was on and I told
17 him about the information. I said, "Look, this
18 seems to me to be exactly the type of information
19 that we're looking for." I phoned Lori and told
20 her the same thing. And Ron did not need any
21 convincing. Once I read him the information he --
22 I think he had been on holidays for a day or two,
23 and he said, "I'll be there tomorrow," and we
24 started working on that information I think the
25 following day.

1 Q And let me just ask you this because I understand
2 at some point there's an interview with him and
3 his mental and physical state impacts the quality
4 of the information he's able to provide. At that
5 point in time did you have any concerns about his
6 drug use and whether that would affect your
7 dealings with him as an informant?

8 MR. CHERNOFF: Well, it was somewhat of an evolution. When he
9 was in custody he was lucid, you know, he --
10 obviously he not being on drugs at that time made
11 him look more credible. As time went on and once
12 he was out of custody and on his own he obviously
13 slipped into a pattern of drug use again
14 unfortunately. And, you know, later when we
15 conducted a major interview with him at the
16 Coquitlam RCMP detachment, it's a taped -- a
17 videotaped/audio taped interview with a lot of
18 members of the RCMP in attendance, unfortunately
19 that night he had stayed up all night, I think he
20 used drugs most of the night, and when we picked
21 him up that next morning or that morning he was
22 not in very good shape at all, and that translated
23 directly into the interview that we conducted with
24 him. We tried to do everything that we could to
25 sober him up or keep him awake from going for

1 walks to coffees to getting him to go into the
2 washroom and splash water on his face, slap
3 himself awake. It just didn't seem to make any
4 difference, he was essentially falling asleep and
5 forgetting where he was during our questioning of
6 him. It was really quite a bad incident, and one
7 that probably led to the downfall of a lot of the
8 RCMP members really having much credibility or
9 looking at him with much credibility. Which was a
10 huge frustration for us, because I knew in my
11 heart of hearts that what he was telling us was
12 likely true, coupled with the fact that he
13 actually lived on the property in Pickton's
14 trailer, spoke directly with Lynn Ellingsen who
15 was also living in the trailer and made countless
16 observations of things that he described which
17 were rather bizarre. That was a frustrating thing
18 for us as investigators. There was so much
19 information and yet I think him being in that
20 state really detracted from his credibility, and I
21 guess to some degree our credibility as well
22 'cause we were essentially trying to float him as
23 a very important person or a piece of the puzzle
24 in the Pickton investigation.

25 Q I'm going to return to that and that meeting

1 shortly, because I want to really sort of drill
2 down on the extent to which the drug use and the
3 drug issue that surfaced in that meeting did
4 impact on his credibility and the reliability of
5 the information, but I just want to get through
6 this in somewhat of a chronological form. So
7 after you have your first meeting with Ross
8 Caldwell, and we know the information he provides
9 to you because we have copies of the debrief so I
10 won't take you through that, but on the next day
11 you're contacted by Corporal Connor. And you can
12 see that on your log, it's at page 27 of 351 half
13 way down the page.

14 MR. CHERNOFF: Yes.

15 Q And this is your first conversation with Corporal
16 Connor about the information that you had learned
17 from Caldwell, and he shares with you some
18 information that he knows about in his prior
19 dealings with Pickton. And you see that there in
20 your log, do you?

21 MR. CHERNOFF: Yes, I do.

22 Q Okay. And he tells you about what we're calling
23 the Anderson assault?

24 MR. CHERNOFF: Yes.

25 Q And he tells you about the separate source that

1 Detective Constable Shenher is dealing with which
2 was the Hiscox tip?

3 MR. CHERNOFF: Yes, we had discussions about that.

4 Q And he also tells you that recently Pickton was
5 checked in the New West stroll?

6 MR. CHERNOFF: Yes, that's correct.

7 Q And so the information that you're learning from
8 Corporal Connor is supporting the information that
9 you've just recently learned from Caldwell?

10 MR. CHERNOFF: That is correct, and also I think I spoke to
11 Lori and she sort of made me get up to speed in
12 terms of other information that had come to her
13 through another source, a Mr. Hiscox.

14 Q And Detective Constable Shenher when she gave
15 evidence told the commissioner that when she first
16 received the Hiscox tip days after she was
17 assigned to the Missing Person Unit to investigate
18 the disappearance of the women and also learned of
19 the Anderson assault she felt bingo, this is going
20 to be really easy, and she very enthusiastic about
21 Pickton as a viable suspect for the
22 investigations. Did you have a similar response
23 when you received all this information?

24 MR. CHERNOFF: Well, yes, I didn't really know a whole lot
25 about Mr. Pickton prior to this. I mean, I had

1 heard his name, I heard a few things, but when the
2 information from Mr. Caldwell surfaced and the
3 detail which he provided coupled with the
4 information that Lori Shenher provided me with
5 respect to Mr. Hiscox it seemed to me to be a
6 very, very important piece of information.

7 Q And you felt that Pickton was a very strong
8 suspect based on the information that you were
9 learning?

10 MR. CHERNOFF: Based on the information and the lay of the
11 land, the geography, the -- you know, his history,
12 and especially the Anderson incident in 1997 I
13 just -- I thought, you know, just using common
14 sense, I guess, it all seemed to make sense that
15 this should be a person that we focus on very
16 clearly.

17 Q There's a note in your log where you state:

18 As Pickton's residence is within Connor's
19 district, I assured him that he would be kept
20 informed as to the progress or further
21 information received by the source.

22 What was the arrangement that you had with him
23 about pursuing the Pickton investigation at this
24 time?

25 MR. CHERNOFF: With Mr. Connors?

1 Q Yes.

2 MR. CHERNOFF: That I would continue to speak to Mr. Caldwell,
3 that we would be pursuing whatever information
4 that we had, we'd be sharing it with him, and that
5 we would eventually have a meeting to discuss
6 where this investigation was going to go with the
7 Coquitlam RCMP.

8 Q And at this time though there was no formal
9 arrangement about who would be taking the lead on
10 any investigative stuff that needed to be pursued
11 as a result of the information you were learning?

12 MR. CHERNOFF: I don't remember when that was decided, but it
13 wasn't very far after this that it was very clear
14 to me that we would be handling Mr. Caldwell and
15 his information, and that the Coquitlam RCMP would
16 be conducting any investigation into any possible
17 homicide that may have occurred at the Pickton
18 property.

19 Q So if we just move --

20 MR. CHERNOFF: And that was the limit of our investigative
21 avenue was to deal with Mr. Caldwell.

22 Q And if we just move forward then in time in July
23 26, and I'm looking at the key events of
24 chronology now, you had a second interview with
25 Caldwell, and that's in your log at page 29.

1 MR. CHERNOFF: Yeah.

2 Q And then after you meet with Caldwell twice and
3 have that discussion with Connor, you'll see that
4 on the top of the following page, page 30, you
5 contact Sergeant Field and you tell her about the
6 source and you request a meeting with Field,
7 Lepine and Biddlecombe to discuss the information,
8 and that meeting occurs two days later. Why did
9 you have want to have a meeting with those people?

10 MR. CHERNOFF: Well, we're not autonomous as investigators, we
11 have people to report to and there is a chain of
12 command, and certainly we can't be making great
13 decisions for the Vancouver Police Department
14 without including people such as our sergeants and
15 our inspectors. They're the ones that ultimately
16 have the responsibility of determining what
17 happens with this information and where it goes
18 exactly. Myself as an investigator my
19 responsibility really is to investigate, obtain as
20 much evidence or information as possible, share
21 that with the group of people that I'm working
22 with, and then bring my bosses that information,
23 ensure that they're aware of what's going on, and
24 ultimately their responsibility is to make a
25 decision as to where we go from there.

1 Q And your note, it's the July 28th entry, says that
2 the source -- discuss source debrief. Do you
3 recall what the response was by Inspector
4 Biddlecombe and Sergeant Field about the kind of
5 information you were sharing with them in terms of
6 how the investigation here should be carried out?

7 MR. CHERNOFF: Yes, I do. I remember that -- I think Inspector
8 Biddlecombe was a little bit taken aback by it. I
9 don't know how much information he had previous to
10 this with respect to Mr. Pickton. The information
11 was rather quite bizarre, although it was
12 consistent. I know that Lori Shenher and Geramy
13 Field were quite excited, if I could use that
14 word, just because the information was so
15 consistent with previous information that had come
16 through Mr. Hiscox, and we were all thinking that
17 we gotta get on this right away. So there was
18 definitely some positive sort of feedback that I
19 was getting from them that this was something that
20 we should delve into rather quickly. And
21 Inspector Biddlecombe was on board with that as
22 well, but I remember him being kind of startled, I
23 think, somewhat by the information.

24 THE COMMISSIONER: Did you know about the Hiscox information
25 before you met --

1 MR. CHERNOFF: Sorry?

2 THE COMMISSIONER: Before you met Caldwell?

3 MR. CHERNOFF: No, I didn't.

4 THE COMMISSIONER: I see. But now you had Hiscox and Caldwell
5 telling you the same thing?

6 MR. CHERNOFF: Essentially that's correct, yes.

7 THE COMMISSIONER: That Pickton had killed a prostitute and was
8 capable of getting rid of the body?

9 MR. CHERNOFF: Well, I don't know if I'd say exactly that, but
10 the information -- I mean I'd have to go through
11 it again, but the information that came from
12 Caldwell, it was information that he received from
13 someone else.

14 THE COMMISSIONER: From a girlfriend.

15 MR. CHERNOFF: That she had witnessed this person hanging up in
16 the barn, being skinned, and made some comment as
17 to colour of her fat and things of that nature.
18 As well, and again Mr. Caldwell having lived on
19 that property, some of the other information to me
20 seemed extremely relevant because he wasn't
21 someone that just heard something from other
22 people that had dealt with Mr. Pickton, but he was
23 actually there and he made some of his own
24 observations which I thought were rather startling
25 and I took them to be very credible pieces of

1 information. But coupled with the Hiscox
2 information, yes, this was -- it just seemed to be
3 flowing in exactly the same direction and to me it
4 just lent even more credibility to the information
5 that Mr. Caldwell was providing exclusively.

6 MS. BROOKS:

7 Q And then on July 29th, if you turn to page 31 of
8 351, you'll see that in the morning there is a
9 meeting in the work room, and I assume that's the
10 review team work room, and Inspector Biddlecombe
11 is there, Field, Detective Lepine, you're there,
12 Shenher, Clarke, Wolthers and Fell to discuss the
13 Pickton file. Was the Pickton file being
14 discussed at team meetings?

15 MR. CHERNOFF: Well, I'm certain it would have been whatever
16 information we had at that time about --
17 specifically at this meeting I can't say exactly
18 what was discussed, but I would say 95 percent
19 that I'm sure that we discussed whatever
20 information we had on Mr. Pickton at this meeting.

21 Q We heard from Mr. Fell and Wolthers earlier this
22 week that they didn't believe that information was
23 being shared with them about the Pickton
24 investigation. Were you intentionally or were you
25 withholding information from them about the

1 Pickton investigation?

2 MR. CHERNOFF: No, that's ludicrous. They at any time could
3 have looked at any file. I mean the files were
4 not kept in lockers, we all worked in the same
5 room per se as a group.

6 Q What did the file look like?

7 MR. CHERNOFF: Geographically Ron and I had our desks perhaps
8 20 yards away from where this meeting room was
9 where the review team met, so quite often we
10 wouldn't actually stay in the room, we would just
11 go back to our desks and work on our file and that
12 sort of thing. But, no, any information that they
13 wanted they had access to it. No one was holding
14 or withholding anything from them.

15 Q Later that day, two hours later after that meeting
16 in the work room, you attend at the Coquitlam
17 detachment and, Detective Lepine, you're there.
18 Perhaps, Mr. Lepine, you can jump in here and tell
19 us about this meeting. As I understand it from
20 the log it's the first interjurisdictional meeting
21 that's held, there's members of Coquitlam RCMP
22 management there, Inspector Moulton is there, and
23 Sergeant Pollock. Can you tell us what was agreed
24 to and what your understanding was after this
25 meeting about how the Pickton investigation was

1 going to be carried out? And I'll refer you to a
2 note in the log, if you could go there, half down
3 the page. You'll see that Mr. Chernoff has
4 written --

5 MR. LEPINE: What page are we at?

6 Q Page 31.

7 MR. LEPINE: Okay.

8 Q You'll see half way down he states:

9 We discussed possible strategies to implement
10 as part of a joint investigation. Coquitlam
11 RCMP would be responsible for the "Homicide"
12 investigation at the Pickton residence if the
13 information was accurate and could be
14 verified.

15 So just explain for the commissioner what the
16 understanding was then about how Caldwell would be
17 handled and how the investigation would be carried
18 out by your respective jurisdictions?

19 MR. LEPINE: At this juncture when this meeting takes place
20 Mr. Caldwell is a source. Now, normally a source
21 is only known to the handlers of the source. In
22 this case they knew who our source was so it
23 wasn't a secret. So the meeting occurred and
24 basically they're gleaning whatever information
25 that we have to add to whatever it is that they've

1 had in the past. So we're kind of like joining
2 the party a little late down the line kind of
3 thing, but still they wanted to know what
4 information that we had and how it pertains to
5 their investigation. We were very open about
6 that, told them our feelings of our dealing with
7 our source at that time, and what had transpired,
8 the information we received. I mean we do this in
9 these kind of meetings, and personally I didn't
10 know half the people in that meeting, but they --
11 you know, this was an investigation that was
12 underway and we -- it was agreed upon that our
13 contribution would be to be the handlers of
14 Caldwell, or the source at the time, with the
15 intention that ultimately this information, you
16 know, would be important enough at, you know, a
17 later trial that we would like to try to get him
18 to go from being the source to being a witness and
19 that he would agree to have his identification,
20 you know, his name released, you know, officially
21 and that he would be willing to give evidence. So
22 we discussed this issue of his involvement trying
23 to get him to -- you know, to become a witness,
24 and because it's very risky in that environment
25 that Caldwell and that criminal element issue, a

1 person who willingly goes to the police and tells
2 them, you know, whatever happened anywhere else is
3 seen as a good citizen, but in that group he's
4 seen as a rat.

5 Q And I'm just going to just stop you there, because
6 turning Caldwell into an agent is an investigative
7 strategy that's considered a bit later?

8 MR. LEPINE: Not an agent, a witness.

9 Q I think the language agent is used, but I could be
10 wrong.

11 MR. LEPINE: Well, I think we may have explored potentially
12 making him an agent, meaning an extension of us
13 type of thing, but there are big issues with that.
14 I don't know if we discussed it at that time.

15 Q Right.

16 MR. LEPINE: I can't remember. To be quite honest with you
17 this is 12 years ago so I can't really remember.

18 Q And what I'm interested in knowing here is just
19 what is meant by a joint investigation. Is there
20 going to be a lead agency involved that makes the
21 decisions, and why this matters for us is of
22 course later when the Vancouver Police Department
23 seems concerned and unhappy about the
24 prioritization that Coquitlam is giving the
25 investigation, what arrangement was made about who

1 could assume conduct in those cases?

2 MR. LEPINE: I think the word joint investigation is a little
3 deceiving in this case. It was clearly a
4 Coquitlam case, they had control of the file. We
5 were -- they welcomed us to be a part of it, but
6 it wasn't a fifty-fifty relationship. I wouldn't
7 call it a joint investigation. At that time we
8 were simply, as I say, invited guests and we
9 didn't have control of the file.

10 Q And was that direction that was given to you by
11 the management of the VPD as well, that is
12 Inspector Biddlecombe and Sergeant Field, was
13 there any discussions between them and you about
14 Coquitlam taking a lead and the department taking
15 an assisting role?

16 MR. LEPINE: No, this is standard protocol. If they have
17 jurisdiction clear lines have been established. I
18 don't know how it is now, but back then if one
19 department has jurisdiction over the file, has
20 control of the file and then other departments
21 join in, you know, it's their file, they control
22 the file.

23 Q And why was it such a given in this case that it
24 would be their file?

25 MR. LEPINE: Because all the evidence that we had indicated

1 that the offence had occurred in their territory
2 in Coquitlam.

3 Q If you could turn to page 34 of 351, this is the
4 third Caldwell debrief and I understand,
5 Mr. Lepine, that you also attended this. And
6 you'll see at 13:15 hours the source is picked up
7 in Surrey. On this occasion he gives you a tour
8 of Pickton's property and points out Lynn
9 Ellingsen's residence and he provides a diagram
10 and more details, and the end of the meeting with
11 him is at 21:00 hours, and that's at page 36. So
12 you've spent just under eight hours with him.
13 Mr. Lepine, tell us about your view about him as
14 an informant and his credibility and what your
15 impressions were of him?

16 MR. LEPINE: We interviewed him numerous times. We had to --
17 like when he -- as Mark has said, when he's in
18 custody he's in a controlled environment and he
19 was probably quite an easy person to speak to.
20 Unfortunately as he returned out on the street,
21 and he was under the methadone program, but I
22 think he was cheating, and you try and pick and
23 choose your times with him. Most of the times we
24 spoke with him -- he was a very difficult person
25 to get a hold of. We couldn't go anywhere near

1 his residence for fear that we'd disclose his
2 willingness to working with the police, so we
3 always had to make arrangements to meet him at a
4 bus stop three or four blocks away, and that was a
5 difficult thing for him to do, you know, he had to
6 live with the moment and go wherever. So
7 ultimately when we do talk to him several times he
8 was difficult. You know, he was under the
9 influence of drugs. We had to take him to
10 restaurants, feed him food and coffee and kind of
11 get his brain back kind of back in focus with even
12 to what we talked about. What we did find is
13 every time that we spoke to him and he would -- we
14 would glean more and more information. It wasn't
15 like sit down and tell me everything you know, we
16 got bits and pieces and started putting them
17 together, but we would go back and crisscross to
18 check his memory of incidents, and I must say he
19 was consistent.

20 Q And you dealt as a detective with many informants
21 who have drug addiction problems, I'm sure.

22 MR. LEPINE: Yes, yes.

23 Q And so you know that your assessment of the
24 reliability of the information they're providing
25 shouldn't be unduly influenced by the fact that

1 they have drug addictions?

2 MR. LEPINE: Yeah, that's a given for them they're always under
3 the influence of drugs.

4 Q And so as a detective it's important to separate
5 the information from the person?

6 MR. LEPINE: Credibility is a big issue. It's everything in
7 court. I mean, it makes or breaks cases a
8 person's credibility, and so everything that he
9 says has to be verified. And one of the nice
10 things about Caldwell and Hiscox is that they each
11 verified each other. You know, they were
12 consistent with each other, so again that gave
13 both of them more credibility than getting it from
14 two different sources.

15 Q And that's just right, my point is simply that as
16 a detective you know that you need to untangle the
17 fact that the person may not be showing up for
18 meetings or may be under the influence of drugs
19 from time to time with the reliability of the
20 information that they're providing, you can't be
21 influenced necessarily by one or the other?

22 MR. LEPINE: Yes.

23 Q Now, the next -- I'd like to just sort of narrate
24 the next few meetings here, so if you go to page
25 37 of 351 you'll see that there's a meeting on

1 July 31st, and this is a meeting at Coquitlam RCMP
2 and, Mr. Chernoff, you're there, Mr. Lepine,
3 you're there, Connor's there, and Justasen is
4 there, and you're discussing possible tactics.
5 Where is Corporal Justasen from, is he Coquitlam
6 RCMP or is he with "E" Division Serious Crime,
7 UHU, do you recall?

8 MR. CHERNOFF: I don't recall.

9 Q So the investigators are meeting. And then if you
10 turn to the August 3rd entry, which is just down
11 the page, you'll see that there's another meeting
12 in Coquitlam, and here we have 11 officers by my
13 count in attendance, and it's including
14 investigators and management members from
15 different divisions, and I see that Henderson is
16 there, and he's from UHU, is he not?

17 MR. CHERNOFF: Yes, I believe he was.

18 Q Okay. And again more investigative plans and
19 strategies are discussed at that meeting. And
20 then again on August 4th there's another meeting
21 at Coquitlam RCMP, and again there's ten
22 investigators at this meeting, and Ballantyne is
23 there, and he's a member of UHU, and further
24 investigative tactics are discussed. And so I
25 just want to highlight these meetings to show that

1 at this point there seems to be good
2 co-ordination?

3 MR. LEPINE: Right.

4 Q Good information sharing. We have members of
5 management team engaged and attending the
6 meetings, and you're working together; is that
7 right?

8 MR. CHERNOFF: That's correct. I just want to say one thing
9 though. Like I remember it was either in the
10 first or the second meeting when I discussed the
11 information that was provided by Caldwell, and I
12 think I photocopied the synopsis of the
13 information and provided a copy to everybody,
14 there was a lot of people sitting around kind of
15 in disbelief. Everyone was co-operative, and I
16 would never say that they weren't, but I think
17 from the get go it was my impression that some
18 people looked at this as just being extremely
19 bizarre and weird information and being in
20 somewhat disbelief, you know, which I suppose as
21 anyone would reading this information for the
22 first time you'd probably shake your head and
23 wonder, you know, could this possibly be true.
24 But even as police officers I remember sitting
25 around the table and some people I just felt they

1 weren't kind of buying into it. That was my
2 impression, and that was from pretty early on.
3 Everyone was co-operative, everyone had ideas,
4 everyone, you know, was working together to try
5 and find an avenue in which to take this, and
6 talked about different investigative strategies
7 and what could we possibly do, but I think -- I
8 think just based on the information there seemed
9 to be skepticism that this could possibly be going
10 on. That was my personal impression.

11 Q And so there was a skepticism, but what I also
12 hear you saying is that at this stage anyway in
13 the investigation it wasn't influencing anyone's
14 motivation --

15 MR. CHERNOFF: No, it wasn't.

16 Q -- into drilling down on the information?

17 MR. LEPINE: I think another issue that was raised was
18 Caldwell's motivation for providing this
19 information. Literally he's risking his life by
20 doing that.

21 Q Right.

22 MR. LEPINE: And certainly the more he's involved the more
23 chances there are that his fellow criminals would
24 hear about it and he'd be deemed a rat, and that
25 would be, you know, extremely difficult for him.

1 But also the question is what's the motivation,
2 why would he be doing this. Now, he told us, you
3 know, he's doing it because it's the right thing
4 to do. And under normal circumstances, you know,
5 you would highly respect him for that, but in
6 reality from a policeman's point of view most
7 people who provide information from that segment
8 of society the reason their motivation is normally
9 they want money or they want the charges dropped
10 or some reason for it. And for us to say, you
11 know, wow, he's doing it because it's the right
12 thing to do it's hard to prove that. It was an
13 unusual thing for a person to be doing what he was
14 doing. And, you know, personally we quite liked
15 him, we respected him for what he was doing.

16 Q And just on that point, Mr. Lepine, on August 4th,
17 if you turn to page 38 at the bottom at 15:00
18 hours, you'll see that there's -- we're now at the
19 fourth Caldwell debrief, and if you flip over the
20 page to 16:00 hours you'll see that he's presented
21 with the possibility of considering a police agent
22 role, he's indicated if he's an agent it would
23 prevent any further deaths or solving a murder of
24 any woman, it would be a reasonable option, he
25 didn't mention any compensation for undertaking

1 the role of an agent. And I think this
2 illustrates two things in terms of what you've
3 just been saying, first, that you obviously
4 considered him to be credible because you were
5 considering elevating him to this very important
6 relationship role with the police, and secondly,
7 your point about him not wanting any compensation,
8 that's a point that stacks in favour of him in
9 terms of his credibility. Is that fair?

10 MR. LEPINE: Yeah, except that everybody is sort of waiting,
11 okay, sooner or later he's going to say I want
12 something. I think they sort of felt that that
13 was a temporary thing.

14 Q Did he ever ask for money?

15 MR. LEPINE: No. Later on he had a problem with his car, we
16 ended up taking -- going out and getting his car
17 out of hock. We got him a pager 'cause he was
18 impossible to get a hold of, so -- but he didn't
19 -- you know, he really didn't ask, you know,
20 because there was nothing hinging on that, it's
21 just that we're making his life that -- making it
22 so that he's more accessible, and hopefully that
23 he doesn't do anything stupid and end up back in
24 jail or something. So we were his handlers and so
25 we were doing what handlers have to do, we have to

1 maybe baby-sit them a little bit.

2 Q And that wouldn't be held against him in terms of
3 his credibility?

4 MR. LEPINE: No, considering his lifestyle that's consistent.

5 Q And, Mr. Chernoff, the next day on August 4th
6 there's -- you'll see the entry there at the
7 bottom of page 39 there's a meeting at Coquitlam
8 detachment, and there's a number of people present
9 for this meeting, which I think you'll see that on
10 my chronology, and that the members must come from
11 Connor -- Connor's log, but there's quite a mix of
12 management and investigators present at this
13 meeting, but there's a discussion about getting a
14 taped statement from Caldwell. And later in the
15 day that's attempted, and that's at the entry
16 15:13 hours, and this was the interview that you
17 were referring to earlier in your evidence where
18 his physical condition as you've stated in your
19 log was a problem; is that right?

20 MR. CHERNOFF: Yeah, that's correct. I just want to correct
21 you. I think on this synopsis sheet you have
22 August the 4th and in my log it's August the 5th.

23 Q Yeah, I have August 4th on the chronology.

24 MR. CHERNOFF: So the actual interview was conducted with
25 Mr. Caldwell in Coquitlam on August the 5th.

1 Q Right. And again and is that -- this is what you
2 understand to be the critical interview where he
3 came and he didn't perform very well; is that
4 right?

5 MR. CHERNOFF: Yes, he did not perform very well. This is
6 probably one of the most critical junctures in
7 this whole investigation from my point of view.

8 Q Why?

9 MR. CHERNOFF: Well, you know, when you have a collected group
10 of investigators and detectives and, you know,
11 people that have a lot of experience who are
12 talking about using Caldwell as an agent, you have
13 to understand the importance of using someone as
14 an agent is, you know, their credibility cannot be
15 really questioned. You know, you're putting them
16 in a position where there's a huge amount of
17 responsibility. They have to be aware of that.
18 They have to be lucid, they have to be
19 trustworthy, they have to be so many different
20 things. And, you know, when this whole topic
21 about the agent thing came up I remember, you
22 know, saying to Ron at the time I'm not sure, I'm
23 not sure he could pull that off, but, you know
24 what, it's up to him to impress all these other
25 investigators and people that are involved in this

1 that he was a responsible person. And when he
2 came in and we conducted this interview it became
3 quite apparent quite quickly that that was not the
4 case. And it's so unfortunate, but in my own
5 heart of hearts I think this is probably one of
6 the biggest issues and stumbling blocks that this
7 investigation took. It took a left turn and it
8 never came back. You know, according to what some
9 of the RCMP members were saying they thought he
10 was a flake, he wasn't credible now, the
11 information was probably made up. Like there's
12 all kinds of speculation, 'cause he fell on his
13 face and it was -- yeah, it was not a good
14 situation.

15 MR. LEPINE: Can I just add that that particular meeting was in
16 the juncture of where he was determined, and he
17 agreed, that he would become a witness and that
18 his identity could be made public so to speak. So
19 it was a crucial point, not just another
20 interview, this was a point where it was his kind
21 of coming out party sort of thing, and so it was
22 important for that part and he would be reviewed
23 and looked at, you know, by these people. Up
24 until that point he was a source and we just
25 provide information about the source, but this is

1 a crucial point.

2 Q And as I understand what you're saying though is
3 that in addition to him being assessed in terms of
4 whether he could act as an agent and his
5 performance in this interview adversely affected
6 that view by the detectives, but I also hear you
7 saying that they also questioned the reliability
8 of his information based on the fact that he
9 seemed to be under the influence or was high at --

10 MR. LEPINE: By this time Lynn Ellingsen was being interviewed,
11 and clearly she was denying adamantly that she had
12 ever said this. So now we're stuck, you know,
13 with people saying they heard somebody say
14 something and that person saying I didn't and it
15 never happened, so it created this stonewall, and
16 we hit a wall here, and so now we're looking at
17 credibility, who is credible, our witness or her.

18 Q Well, interestingly just to make sure that we're
19 clear about the record in terms of how these
20 events unfolded, this interview occurs on August
21 5th and then two days later Leah Best comes
22 forward and she provides information that's
23 similar to Caldwell's information, that Lynn
24 Ellingsen also told her the same kind of
25 information. Did that restore Caldwell's

1 credibility in the view of these investigators who
2 had discounted him earlier? Do you know?

3 MR. LEPINE: Certainly with us we never had a doubt personally,
4 Mike Connors never had a doubt, but the handlers
5 of Lynn Ellingsen they had a doubt and they
6 believed their witness.

7 Q And, Mr. Chernoff, do you recall having any
8 discussions with any of the investigators who were
9 preferring later Lynn Ellingsen's information,
10 which just so we know that interview occurred on
11 August 10th, but do you recall any discussions
12 with the investigators about how all of this
13 information lent its support to Caldwell?

14 MR. CHERNOFF: Well, I thought it was a huge piece of
15 information that another person comes forward that
16 is not aligned with Caldwell, you know, as far as
17 I knew didn't really know anyone else in this
18 whole affair with the exception of Lynn Ellingsen
19 who provided almost the identical information, it
20 was -- I thought it was just really remarkable.
21 Like, you know, like when you look at the actual
22 information in detail, people just don't make this
23 stuff up. Like it's -- to read it, and when
24 Caldwell was describing it, it's so horrifying
25 that to me it just makes no sense that someone

1 would ever come up with this type of a story if it
2 were not true. I mean, there's so many things
3 that just ring true with it. And then to have
4 another person that's not associated with Caldwell
5 as far as we knew, and I'm certain that was the
6 case, that comes forward provides that type of
7 information I just thought it was extremely
8 important.

9 Q And I just want to pause for a moment, because
10 it's around this time when it appears, at least
11 from reading the log, that there starts to be a
12 disengagement from management, and the
13 co-operation and information sharing appears to
14 start unravelling here. And if I could just take
15 you to this August 11th meeting where the
16 Ellingsen information was discussed and the
17 information from the other sources, and at this
18 meeting which is in Coquitlam at the RCMP there
19 are 12 different officers, both investigators and
20 management, and it appears from your log that the
21 information from the sources is discussed.
22 Mr. Lepine, your point is reflected in these notes
23 as well at page 44 where Mr. Chernoff has written:
24 The historical investigators thought that
25 Lynn sounded credible and that it is possible

1 she had seen a pig hanging in the barn and
2 not a human body. It was thought possible
3 that Ellingsen had concocted the homicide
4 story while in a state of alcohol/drug
5 influence and told various people.

6 And then what appears to happen -- well, actually
7 first let me stop there. Do you recall after this
8 meeting having any discussions with members of
9 your management team that it looked like there was
10 a very significant disagreement about the quality
11 of the evidence?

12 MR. CHERNOFF: If I could just say one thing. I remember
13 specifically at this point saying okay, you know,
14 there's a reason why she may not be telling the
15 truth. The fact that she provided information to
16 Caldwell that she was with Pickton and assisted
17 him in bringing the girl back to the property, and
18 later the other information that this same woman
19 was later hung in the barn being slaughtered by
20 Pickton, to me why would she volunteer that
21 information. She's essentially a party to the
22 offence, so it only made sense to me that she's
23 not going to tell the truth. Why would she?
24 She'd be pointing the finger at herself. And I
25 remembered saying that to these guys, these other

1 investigators who I really, you know, respect,
2 this is nothing against them, but I just couldn't
3 quite understand how they would think that she was
4 believable when she could tell such detailed
5 information to several different people who in
6 turn came to the police, and that she actually
7 could be held responsible for at least, you know,
8 being a party to the offence of this one homicide.
9 So that was one thing. The second thing that I
10 remember saying is well, even if Caldwell is a
11 flake, even if you don't believe any of his
12 information or you only believe some of his
13 information, the fact of the matter is that in
14 1997 another woman was on the Pickton property,
15 Ms. Anderson, who was almost murdered under the
16 same type of circumstances with handcuffs and all
17 that. So, you know, people could come to their
18 own conclusions about whether she was telling the
19 truth or not. With myself and Ron and what I told
20 Geramy and what I told Lori Shenher was that this
21 did not make sense. It did not make sense to
22 believe that Ms. Ellingsen could be telling the
23 truth, it just didn't seem possible, why would
24 she.

25 Q And so what I'm interested in knowing, because as

1 I go through your log, Mr. Chernoff, it's apparent
2 that there is less and less shared -- there's less
3 and less engagement from the different agencies,
4 in fact it seems as though this is the last
5 significant joint meeting that's held. There's a
6 later interview again with Ms. Ellingsen that,
7 Mr. Lepine, you're involved in, and at that time
8 Henley and Ballantyne take Ms. Ellingsen to the
9 station and then the interview is conducted and
10 then they return, but after that it doesn't look
11 like there's any more engagement.

12 MR. CHERNOFF: The investigation lost its momentum, absolutely.

13 Q And there's another contributing factor, I
14 understand, and that's on August 24th you'll see
15 that, Mr. Chernoff, you contact Sergeant Pollock
16 and he advises that Corporal Connor would no
17 longer be working on the Pickton case. And did
18 that also contribute to the loss of momentum, and
19 how so?

20 MR. CHERNOFF: Personally I was almost shocked when I found out
21 that Mike Connor, who was a fantastic
22 investigator, he did so much work on this and he'd
23 had, like I say, a finger on the pulse of
24 everything that was going on with respect to
25 Pickton, he had done an extensive amount of work,

1 and he believed, as we believed, that the
2 information from Mr. Caldwell was very relevant
3 and honest, and coupled with all the other things
4 that had gone on at the Pickton property with all
5 this information coming from all these different
6 people that this investigation should have been
7 furthered. The fact that he was removed or
8 promoted at that time, we were happy for the fact
9 that he was promoted, but quite honestly shocked
10 about how he could be taken away from such an
11 important file at probably the most critical time.
12 And I can't tell you or describe enough how
13 disappointing it was and how that actually
14 culminated in the end of this investigation. It
15 took everything out of it. When he was gone there
16 was nothing really left. And the only person that
17 really could have driven this investigation
18 further, and the only person that really probably
19 could have convinced his bosses that this should
20 be, you know, continued to be pursued was Mike
21 Connor, and he was removed and that was it.

22 MR. LEPINE: We just thought it was a total knockout punch. He
23 was a, if you want to call it, ally in the RCMP
24 and we were working with him, and suddenly to have
25 that removed our access to the file and the case

1 was removed. And, you know, Yurkiw came along and
2 they kind of dumped that on her. He had some
3 dealings with her further on, but it just wasn't
4 the same. There was a massive file dropped on a
5 new kid on block and it just wasn't realistic.

6 Q There's three more topics I want to cover with
7 you. And picking up, Mr. Lepine, on the point
8 that you just made the log shows that you did --
9 that, Mr. Lepine, and, Mr. Chernoff, you were
10 dealing with Sergeant Pollock and Yurkiw in the
11 next couple of weeks at the end of August here and
12 that there's discussions around trying to get on
13 Pickton's property and interviewing Pickton. And
14 so that's sort of where we're left in terms of
15 investigative strategies despite all of the other
16 tactics and strategies that were being considered
17 earlier when you had the co-ordination of the
18 other members, and the documents speak for
19 themselves on that point, but I want to take you
20 to tab 14. These are notes by Constable Yurkiw
21 that were made on September 16th, and my
22 understanding is that you attended a homicide
23 conference in Vancouver, and Sergeant Field was
24 there and Constable Yurkiw and both of you. Do
25 you recall attending a homicide conference in

1 Vancouver in mid-September of '99?

2 MR. CHERNOFF: Yes, I do.

3 MR. LEPINE: I sort of do.

4 Q Okay. Well, there's a note here that she makes
5 and I wanted to ask if you had any information or
6 could tell us anything about it. She states:

7 Geramy Field, Mark Chernoff and Ron Lepine
8 VPD - stated there's no reason why they
9 couldn't go out and interview Pickton person
10 of interest.

11 So do you recall any having any discussions with
12 Constable Yurkiw about the VPD, if that's in fact
13 what she's meaning there, interviewing Pickton?

14 MR. CHERNOFF: This is the first I've seen of this, and I don't
15 remember this.

16 MR. LEPINE: I don't remember.

17 MR. CHERNOFF: What I do remember is they were going to go out
18 and interview him at his residence or bring him in
19 and conduct an interview.

20 THE COMMISSIONER: Who was going to do that?

21 MR. CHERNOFF: Yurkiw and Pollock, or they were going to make
22 arrangements for Mr. Pickton to be interviewed.

23 MS. BROOKS:

24 Q Now, the second last topic I want to address is
25 your return to the Project Amelia team and the

1 discussions you were with having with Sergeant
2 Field at the time and Inspector Biddlecombe about
3 your concerns around what was happening in
4 Coquitlam with the Pickton investigation. We
5 heard from Detective Constable Shenher that the
6 team at that point, this is in the fall of '99,
7 felt demoralized, was frustrated, that these were
8 concerns that you were raising at the meeting.
9 Can you tell us your perspective about what
10 conversations and discussions were happening in
11 September and October of '99 with your managers
12 about what was happening with the Pickton
13 investigation?

14 MR. LEPINE: I must say that it's difficult for me personally
15 to isolate the Pickton file from the rest of the
16 file, that it was a -- we had a massive amount of
17 information that we had to go through and follow
18 up on and check, and I'd say the Pickton file took
19 maybe two percent of that -- of all of the stuff
20 that we had to do, so the frustration that we had
21 was we were simply overwhelmed. The manpower, the
22 resources we have isn't close to what is required
23 to carry on with this investigation, and the
24 Pickton file is an important part of that, but
25 that that had to be pursued.

1 Q And he was a top suspect for the missing women
2 investigation?

3 MR. LEPINE: There were some very nasty people on that list
4 that probably were even more violent than he was.

5 Q In you mind was there any other suspect --

6 MR. LEPINE: Oh, there's lots of them.

7 Q -- that would be higher than Pickton in terms of
8 the viability of --

9 MR. LEPINE: I mean, you know, anybody -- there are some
10 extremely violent people how have --

11 MS. TOBIAS: Mr. Commissioner, Cheryl Tobias for the Government
12 of Canada.

13 THE COMMISSIONER: Yes.

14 MS. TOBIAS: I know that my learned friend Ms. Brooks is trying
15 to be as expeditious as she can, but she's
16 interrupted the witness several times on an
17 important point.

18 THE COMMISSIONER: No, I --

19 MS. TOBIAS: I would ask her not to do that.

20 THE COMMISSIONER: All right.

21 MS. BROOKS: Yes, I apologize.

22 THE REGISTRAR: Ms. Brooks, I also need to advise you you're 15
23 minutes over your time.

24 MS. BROOKS: Okay. Thanks.

25 MR. LEPINE: No, I'm just saying that Mr. Pickton was certainly

1 right at the top of the list, but there are very,
2 you know, extremely violent people that were on
3 that list who had killed prostitutes before. What
4 made Pickton unusual or significant was his
5 ability to, you know, get rid of bodies, but in
6 reality anybody who has access to a backhoe could
7 do the same thing. So we can't just ignore all
8 that and just focus on one person, we have to keep
9 it broad and narrower, so we're busy trying to do
10 that. Coquitlam is in charge of that
11 investigation. Clearly we have no say in how they
12 investigate. We were extremely frustrated, no
13 question, but we're also frustrated with the fact
14 that it's a massive amount of work that we had to
15 do, we just didn't have the facilities, resources,
16 you know.

17 MR. CHERNOFF: If I could just say I think you come to a point
18 where you realize that, you know, there are other,
19 you know, terrible people out there and other
20 suspects that we had, but in my mind the
21 information that we had on Mr. Pickton was just so
22 far ahead of everything else that, you know, as
23 Ron said earlier you have to take the evidence and
24 go with the evidence or information or whatever it
25 is that comes your way and you have to work on

1 that. With the amount of information that we had
2 on Mr. Pickton, with the surveillance, you know,
3 that was conducted when he was lost down on the
4 Downtown Eastside during this time and, you know,
5 going to the reduction plant, and all of that
6 stuff which was so consistent, there were so many
7 things that were consistent then he in my mind
8 goes right to the top of the people that you have
9 to investigate. I agree with Ron there were other
10 terrible people out there, but with the
11 information that we had that was a direction that
12 we in my mind had to go, and one way or another we
13 had to eliminate him as a suspect or further the
14 investigation and charge him with the murder or
15 murders, whatever came up. And that was my
16 frustration. It was like this didn't end. It
17 just was well, people didn't believe that they
18 should continue with the investigation because,
19 you know, maybe Caldwell wasn't credible, maybe
20 other parts of the information were not credible,
21 and so they made a decision, or someone made a
22 decision somewhere to not pursue this the way that
23 we thought it should have been pursued. In my
24 mind it should have gone to a joint forces
25 operation. In my personal mind that's where I

1 thought it should have gone. One way or another
2 it was eliminate him or he's the guy. And that
3 wasn't done and that was my frustration. When we
4 went back to our police department that's what I
5 voiced. That's what I personally, you know,
6 believed that we had to do something further.
7 And, you know, we had the assurance from Coquitlam
8 that they were going to be following it up and
9 interviewing Pickton and perhaps taking Ellingsen
10 and, you know, doing a polygraph and all this
11 other stuff. Well, you know, that's great. I
12 guess in hindsight now when did that really happen
13 and what exactly happened. You know, that's
14 obviously the question here. You know, but I
15 don't think it ever should have really lost
16 momentum even though some of these things did
17 occur. You know, we didn't have a crystal ball,
18 we didn't know, but --

19 Q And when --

20 MR. CHERNOFF: That was the frustration, and that's the
21 frustration that I voiced with the people in
22 Vancouver.

23 Q And one of the things that we're trying to
24 understand is the information sharing within the
25 department and what appears to be a disconnect

1 between what the investigators were telling
2 management and what was getting then translated up
3 the chain, and so just so I'm clear when you did
4 return to the department it is your evidence that
5 you were telling -- expressing those very concerns
6 you had to your members of the team and Sergeant
7 Field?

8 MR. CHERNOFF: Yes.

9 MR. LEPINE: Yes.

10 Q So I just want to take you then to a memo that
11 Sergeant Field wrote, it's at tab 16, and this is
12 a memo that she wrote to DCC McGuinness on October
13 22nd, 1999, and I can tell you that this was after
14 two meetings that were held with the review team
15 on September 29th and October 5th where Pickton is
16 mentioned as an agenda item, and certainly the
17 September 29th memo lists some of the concerns
18 that were being raised there about the state of
19 things in Coquitlam. And if you turn to page 93
20 of 459, so that's at the bottom left corner,
21 you'll see that she's setting out the persons of
22 interest to the team, she discusses active
23 investigations, and half way down the page she
24 states this about Pickton:

25 The majority of our efforts have so far

1 concentrated on Pickton who is being looked
2 at for a possible homicide in Port Coquitlam.
3 Coquitlam RCMP have utilized the services of
4 our Strike Force Unit, liaised with PUHU and
5 are currently working in conjunction with
6 Detective Lepine and Detective Constable
7 Chernoff to develop further plans for
8 targeting Pickton.

9 And this seems to suggest that things are under
10 control. Does this accurately reflect what you
11 were telling her about your concerns around the
12 investigation?

13 MR. CHERNOFF: Not me personally. That's not how I felt at
14 this time. You know, Strike Force was utilized,
15 but it was very early on in the investigation. I
16 think that was probably in July. I don't know.
17 This is dated October. I think maybe Strike Force
18 worked with them for a couple of days. I don't
19 think it was anything more than that, I mean if my
20 memory serves me correctly. It doesn't completely
21 and accurately detail my personal feeling on this
22 at all, and I don't have any explanation really.

23 MR. LEPINE: I think -- I guess, you know, it was her -- I mean
24 obviously there was many, many issues, pages and
25 pages of issues that were discussed and that was

1 right near the end. I can only surmise that was
2 her summarizations surmising of how the
3 conversation went. That's her perception of it.
4 I don't know if she sensed our frustration with
5 the file. But, you know, I think she can't say
6 well, we're just going to walk away. I think in
7 her mind we probably still -- if something does
8 come up, if they had a meeting with Pickton or
9 whatever, that we could get right back into the
10 game.

11 Q And, in fact, and this is just my final question
12 for you, that this was written in October 22nd and
13 we know that you were transferred out of the team
14 and assigned to work on the Wall Street homicide
15 at the beginning of November, so was there any
16 further liaising that you did on the Pickton
17 investigation?

18 MR. CHERNOFF: I don't know if you could even say that we were
19 transferred out. It was kind of a weird set of
20 circumstances. I think the unit was essentially
21 still intact. Ron and I were at our desks doing
22 something. I mean we also had other homicide
23 investigations that were ongoing. I probably
24 assisted in at least a dozen, you know, active
25 homicides in the nine months that I -- that I came

1 to the Homicide Squad, and I was a pretty new
2 member. So there was a lot of stuff going on. I
3 just remember that morning being at our desks and
4 there was no one else around and this, you know,
5 horrific murder occurred on Wall Street. And I
6 think there was a bit of frustration in our squad,
7 because now our squad of eight investigators was
8 down to six. Ron and I hadn't been on call with
9 homicide because we were assigned to this unit,
10 and I remember at the time saying to Geramy, or
11 Sergeant Field, you know, it's going to be
12 difficult for us to actually work with this unit
13 and be on call and take other homicides. Like
14 there's only so much we can do. So we were taken
15 out of the group or the mix. There was
16 frustration in our squad 'cause there was only six
17 people. They were continually on call all through
18 the summer. So, yeah, it placed a huge amount of
19 stress on the Homicide Squad that we came from.
20 So we were there, the call came through, for
21 whatever reason there was no one else there, and
22 that was it.

23 Q Did you do any other work on Pickton?

24 MR. CHERNOFF: Yeah, I think there are some notes that we
25 continued to work on tips later. If I could just

1 refer maybe to --

2 Q Sure. And then the question really is just did
3 you do any further work on the Pickton
4 investigation or any further liaising with
5 Coquitlam?

6 MR. LEPINE: I personally can't recall anything after that. We
7 were overwhelmed by the file that came up with the
8 Wall Street case.

9 MR. CHERNOFF: I don't believe so either. And, again, I think
10 once Connor left we -- I didn't really have a
11 relationship with Yurkiw, I had met her a couple
12 of times, and she was a very nice lady, and they
13 told us that they were going to be doing these
14 things. And as Ron said we were overwhelmed with
15 a lot of stuff. I think personally I just left it
16 in their hands.

17 Q Was the Pickton tip and the review team ever
18 reassigned any other team member?

19 MR. LEPINE: At that stage of the game I think everybody
20 realized that this has got to be taken to a new
21 level, what we had to work with wasn't going to
22 work, and that, you know, we had to move it up to
23 the next level and that's beyond our abilities,
24 you know, to put together what the next level is,
25 but it's certainly bigger than what we had, and it

1 could be a joint force or whatever.

2 Q To your understanding was the Pickton tip ever
3 reassigned formally to any other team members?

4 MR. CHERNOFF: No, I know that it ended up going out to Surrey
5 later. I don't know exactly how much later. Our
6 day-to-day status in terms of being in this review
7 team was almost nonexistent. We just had too much
8 other stuff. We had two murders that happened
9 within a ten day period on Wall Street involving
10 elderly women, and there was undercover operations
11 and everything else going on, and it's just one of
12 those unfortunate things. You know, we were taken
13 out of the mix and -- and -- you know, there was
14 never a real huge structure for this unit. As Ron
15 said we probably could have used another at least
16 ten experienced investigators and probably another
17 dozen people that could have just followed up
18 other random tips and things that should have been
19 done. So just in answer to your question we
20 didn't really go back.

21 MS. BROOKS: Mr. Commissioner, I have no further questions.

22 THE COMMISSIONER: All right.

23 THE REGISTRAR: Ms. Brooks, did you want your documents marked?

24 MS. BROOKS: Oh, yes. Can I have the brief and the chronology
25 marked as an exhibit, please, and the chronology

1 can just be marked. The brief should be marked
2 with the NR.

3 THE REGISTRAR: And both of them NR?

4 MS. BROOKS: No, not the chronology.

5 THE REGISTRAR: Right. Okay.

6 THE COMMISSIONER: Mr. Ward, do you want to start now or do you
7 want to take the break?

8 MR. WARD: Certainly.

9 THE REGISTRAR: Before you start can I just finish getting this
10 marked, please. Thank you. The book of documents
11 will be marked as 176 NR and the chronology will
12 be Exhibit 177. Thank you.

13 **(EXHIBIT 176 NR: Document entitled: Project**
14 **Amelia Panel #2 Document Brief)**

15 **(EXHIBIT 177: Document entitled: Key Events**
16 **Chronology)**

17 MR. WARD: And, Mr. Commissioner, let me just say at the
18 outset, I understand you've directed that I have
19 45 minutes to cross-examine these two witnesses.
20 These two men are very critical witnesses, being
21 the link between the Vancouver investigations on
22 the one hand and the Coquitlam RCMP investigations
23 on the other, which latter investigation of course
24 as you've heard stalled or ended inconclusively.
25 You've accused me of using rhetoric in the past,

1 and this is not rhetoric, it is impossible for me
2 to discharge my duty to my clients to conduct an
3 effective cross-examination of these two witnesses
4 with 22 and a half minutes for each of these
5 investigators allotted to me. It is impossible.
6 I cannot do it.

7 THE COMMISSIONER: Okay. Well, one of the factors to consider
8 here, Mr. Ward, is that a lot of your work has
9 been done by them because of the criticism that
10 they've had. It's pretty flagrant criticism they
11 have of their own police department and the RCMP.
12 So from my perspective the real work of someone
13 who perhaps need to deal with these witnesses more
14 is Ms. Tobias and rather than -- they've really --
15 they really support your theory in chief, that is
16 that the investigation fell apart by
17 mismanagement, perhaps on both forces. So it's a
18 question of what I need, but I have your point.
19 Go ahead.

20 MR. WARD: Thank you. With the greatest of respect I differ,
21 and I submit that being given only 22 and a half
22 minutes for each of these gentlemen constitutes
23 procedural unfairness that deprives my clients,
24 the families of the murdered women, of a fair
25 hearing in this matter. That is my position.

1 THE COMMISSIONER: Well, they're getting a fair hearing, I can
2 assure of you that. Let's get on with it.

3 MR. WARD: Thank you.

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

5 Q I didn't catch whether you gentlemen are employed
6 by the VPD today.

7 MR. CHERNOFF: No, I'm not. I retired two years ago.

8 MR. LEPINE: I retired 12 years ago.

9 Q Thank you. Are you working for any other law
10 enforcement agencies currently?

11 MR. CHERNOFF: Absolutely not.

12 MR. LEPINE: No.

13 Q I'll call you mister then. Mr. Chernoff, today
14 many years later do you know why, do you have an
15 understanding of why the Coquitlam RCMP
16 investigation into Robert William Pickton as the
17 prime suspect in the murders of the women from the
18 Downtown Eastside collapsed or stalled?

19 MR. CHERNOFF: Well, I thought I tried to explain it earlier.

20 I don't know what else to really say. I think --
21 I mean I could only speculate because obviously
22 things went on behind closed doors that I have no
23 idea of. I could only speculate that --

24 MR. HIRA: If I may.

25 MR. WARD: Excuse me, this is the middle of the witness's

1 answer. The question was proper.

2 THE COMMISSIONER: Just calm down. I want to hear what the
3 objection is.

4 MR. HIRA: It's Ravi Hira for the record. If he's only
5 speculating it's just not admissible. We can all
6 speculate. If he's got some actual evidence --

7 THE COMMISSIONER: Yeah, I understand that. The question here
8 is, Mr. Chernoff, do you know why the
9 investigation failed, that's what Mr. Ward wants
10 to know, given the serious nature of what was
11 happening without speculating.

12 MR. CHERNOFF: Other than what I have told you I don't know.

13 MR. WARD:

14 Q Let's zero in on that for a moment. From your
15 perspective, I'm speaking to you, Mr. Chernoff,
16 and, Mr. Lepine, I'll give you an opportunity if
17 you have more to add. From your perspective, sir,
18 armed with the information you had which is
19 described in the documents, Caldwell's information
20 about what Ellingsen told him while he, Caldwell,
21 was living on the property, the corroborative
22 earlier information from Bill Hiscox that he had
23 provided Lori Shenher and Geramy Field, plus the
24 fact that Robert William Pickton had in March of
25 1997 almost murdered not just a woman, but a sex

1 trade worker from the mean streets of the Downtown
2 Eastside of Vancouver, armed with all that
3 information, and given the events you've described
4 already this morning, I believe your testimony was
5 it made no sense to you as a seasoned homicide
6 investigator that the Coquitlam RCMP investigators
7 failed to pursue Pickton further; correct? Do I
8 have that right?

9 MR. CHERNOFF: Well, sort of. Firstly, I was only a homicide
10 detective for nine months. I did not have any
11 other formal detective experience. It was a
12 rarity for me to probably be there in all honesty.
13 Having said that, no, I couldn't believe, I truly
14 thought that this should be forwarded and
15 Mr. Pickton should be pursued to either determine
16 if he was involved or if he could be excluded as a
17 suspect. One way or another I thought it reached
18 that stage where it had to go either way and
19 something should have been done.

20 Q So let me put this proposition to you, and going
21 back to the point in time you described this
22 morning, late '99, it was unbelievable from your
23 point of view that the Coquitlam RCMP
24 investigators failed to pursue Pickton and rule
25 him out as a suspect, and secondly, that it was

1 shocking to you that Mike Connors was taken off
2 the case; correct?

3 MR. CHERNOFF: It's not unbelievable that -- I understand when
4 they looked at Caldwell and they looked at the
5 information or if they looked at the way in which
6 he conducted himself in that interview, I realized
7 at that time that they lost whatever credibility
8 they may have thought he had and I think it
9 stumbled in a great manner at that point. Now, is
10 it unbelievable that they decided, you know, this
11 did not justify furthering this investigation? I
12 don't know that you would say that's the right
13 word unbelievable. To me can I say it was
14 shocking? No, I can't say it was shocking. Was I
15 disappointed and was I upset about it?
16 Absolutely. But, you know, to use words like
17 that, I just thought that something else should
18 have been done, the investigation should have been
19 furthered. When I came to homicide I knew one
20 thing, and that is if you had credible
21 information, and maybe that's the keyword
22 credible, you take it as far as it can go, and you
23 either eliminate someone or you determine that
24 they were involved, and if you eliminate them you
25 go on from there. And that's what I thought

1 should have been done in this case.

2 Q And that's a fundamental proposition with respect
3 to police investigations of suspects, particularly
4 in a serious case like a multiple homicide, right,
5 you either rule the person out as a suspect or get
6 the evidence that provides sufficient basis for
7 laying a charge?

8 MR. CHERNOFF: Or I guess the in between scenario where you do
9 your best to do either and you cannot succeed
10 either way, at which point you put them on the
11 back burner and if any additional information
12 comes up, any additional evidence comes up then
13 you add that to the pile and continue to pursue it
14 one way or the other.

15 Q Now, Mr. Lepine, I'm using the French
16 pronunciation; is that correct?

17 MR. LEPINE: Yes.

18 Q Okay. You described it as a knockout blow to the
19 investigation when Mike Connors was taken off the
20 case?

21 MR. LEPINE: Yes.

22 Q You testified that you, your partner Mr. Chernoff,
23 and Mike Connors, your ally in Coquitlam, were
24 convinced that the information about Pickton's
25 likely culpability as responsible for at least one

1 murder was compelling and credible; right?

2 MR. LEPINE: Correct.

3 Q All that's true. And, Mr. Chernoff, a moment ago
4 you said that you didn't know what went on behind
5 closed doors, and I suggest what you meant by that
6 statement was neither you nor your partner
7 Mr. Lepine knew what the managers of the RCMP
8 either in Coquitlam or at higher levels were
9 thinking when they removed Connors from the file;
10 right?

11 MR. CHERNOFF: Well, when you say removed him from the file
12 I --

13 Q Transferred him, promoted him.

14 MR. CHERNOFF: Well, that's a different thing though. Removing
15 someone from a file because they're not competent
16 or, you know, they haven't done a good job or
17 something like that, that's one thing. That
18 wasn't the case. Mr. Connors was, I thought, an
19 excellent investigator, very experienced and he
20 was doing a very good job in the co-ordination of
21 this file, and as I said he had the finger on the
22 pulse of everything that occurred there. So it's
23 clear like he was promoted, and I realize in --
24 you know, in police departments when a person is
25 promoted they're often taken out of what they're

1 doing at that time and assigned a different role.
2 And that's obviously what happened. Now, was it
3 just bad luck that -- you know, bad luck for us,
4 good luck for him that he was promoted? But all I
5 can say is that the timing of this was terrible,
6 and it couldn't have been at a more critical time
7 as far as I'm concerned. Do I think there's some
8 conspiracy? No. I think he was just promoted and
9 he was taken out, and I know that this is a common
10 occurrence with the RCMP and the Vancouver Police
11 Department, whatever position, you know, you were
12 in doing, whatever you were working on sometimes
13 just gets left to someone else who will come in
14 and backfill and do their best to continue that
15 work. And in all likelihood that's what happened,
16 he got promoted and he was out.

17 Q Well, let me -- I want to zero in on this with
18 you, and let me first indicate to you why this is
19 important from my perspective as the lawyer trying
20 to represent the interests of 25 families who lost
21 their loved ones. So you've got Barry Bottomley
22 who has been sitting in the back of this room
23 every single day since October of 2011. He lost
24 his daughter Heather Bottomley, she disappeared
25 from the streets of Vancouver in 2001. And I've

1 got Lillian Beaudoin sitting here in the front
2 row. She's been here every single day as well.
3 She lost her sister Dianne Rock who disappeared
4 from the streets of downtown Vancouver in October
5 of 2001. 2001, of course, the latter part of that
6 year is two years after you and your partner and
7 Mike Connors had William Pickton squarely in your
8 sights; right?

9 MR. CHERNOFF: You're right.

10 Q And they need to know, and that's why they've been
11 sitting here every day --

12 MR. CHERNOFF: But I understand.

13 Q -- why that Coquitlam RCMP investigation sputtered
14 out.

15 MR. CHERNOFF: I completely understand, and I sympathize, I
16 really do.

17 Q Okay. So let me focus --

18 MR. CHERNOFF: And I totally understood when I was called into
19 the office in 2002 and told that Mr. Pickton was
20 arrested and would be charged with these murders.
21 I was devastated I'll tell you. I know exactly,
22 exactly, but I can't -- I can't tell you what
23 happened. I don't know. All I can say is that at
24 the time it didn't make a lot of sense to me and I
25 thought it should have been pursued. What

1 happened I don't know.

2 Q I'm going to suggest some things to you because
3 you dealt with a number of Coquitlam RCMP members,
4 their names appear in the chronology in the log,
5 you've seen those names and you know those people;
6 correct?

7 MR. CHERNOFF: Some of them I know. Some of them I noted their
8 names.

9 Q Darryl Pollock, do you know him?

10 MR. CHERNOFF: Yes, I mean I've met him. I don't really know
11 him.

12 Q All right. You didn't know him beforehand?

13 MR. CHERNOFF: No.

14 Q Do you know his nickname?

15 MR. CHERNOFF: I have no idea.

16 Q Jim Brown, the fellow who brought Caldwell forward
17 as the source?

18 MR. CHERNOFF: I don't know him.

19 Q You met him though, didn't you?

20 MR. CHERNOFF: I could have.

21 Q Did you learn --

22 MR. CHERNOFF: I don't remember, it was a long time ago, and a
23 lot of these people I met for the first time and I
24 saw them sporadically here and there and then that
25 was it.

1 Q You learned in the course of your meetings with
2 Coquitlam RCMP members that they were well aware
3 that the Pickton brothers had been engaged for
4 years in unsavory and criminal activities;
5 correct?

6 MR. CHERNOFF: Yes. I became aware of that, yes.

7 Q For example, you became aware in your meetings
8 with Coquitlam RCMP members that the brothers
9 co-owned an establishment known as Piggy's Palace
10 which was frequented by members of the Hells
11 Angels Motorcycle Club, which was a venue for drug
12 dealing and drug consumption, and was attended by
13 parties involving sex trade workers from the
14 Downtown Eastside of Vancouver; right?

15 MR. CHERNOFF: Yes. I did not know that until I was informed
16 somewhere in this process. I did not know that
17 was the case, but I learned that later, yes.

18 Q You learned when you met with the Coquitlam
19 members in 1999 that the Picktons, particularly
20 David, was associated with Hells Angels members?

21 MR. CHERNOFF: I learned it somewhere, I don't know exactly
22 when, but I did learn that in 1999 at some point
23 during this investigation.

24 Q And subsequently after Pickton was finally
25 arrested in 2002 you spent an awful lot of time

1 with David Pickton and interviewed him literally
2 dozens of times, didn't you?

3 MR. CHERNOFF: Yes, I spent a long time with him. After the --
4 after I was called into the inspector's office and
5 advised that Mr. Pickton was now going to be
6 charged with these murders he asked me if I would
7 assist with Project Evenhanded for a short period
8 of time. I think he wanted me to go out there for
9 a couple of weeks and just assist them in whatever
10 way I could just based on some of my past dealings
11 with respect to, you know, this issue in 1999.

12 Q The way Lori Shenher put it in her book
13 manuscript, Exhibit BB, is that you were tasked
14 with baby-sitting Dave Pickton, Willie Pickton's
15 brother?

16 MR. CHERNOFF: No, actually it wasn't baby-sitting. I was
17 given the responsibility. My partner Bruce Wall
18 and I were -- we were given the responsibility of
19 liaising with Dave Pickton for the purposes of
20 assisting him with some of the day-to-day
21 activities that were going on at the property, the
22 excavation by the Mounties, and all the other, you
23 know, the evidence collecting and so on and so
24 forth. Dave Pickton was concerned because he had
25 a large number of tractors and other heavy duty

1 equipment, and so one of the things I was asked to
2 do was to talk to Dave, liaise with him, get a
3 sense about what he knew, any knowledge that I
4 could glean from him that would assist this
5 investigation, and I believe lastly determine if I
6 believed that he could have been a part of any of
7 these murders or involved in any way. And
8 therefore over the course of I think this two week
9 period extended into probably closer to a month
10 and a half or so, I spent a long time with David
11 Pickton.

12 Q I've got the records here. You interviewed him
13 repeatedly and at length; right?

14 MR. CHERNOFF: Interviewed him? I spent a lot of time with him
15 and those conversations were recorded.

16 THE COMMISSIONER: I think we'll take the break here, Mr. Ward.

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

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

19 **(PROCEEDINGS RESUMED AT 11:33 A.M.)**

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

21 THE COMMISSIONER: Yes.

22 MR. WARD:

23 Q Just before the break, sir, we were canvassing
24 your dealings with David Pickton, and you
25 indicated that you, as I recall your evidence,

1 were asked to consider whether he was involved in
2 the crimes; is that right?

3 MR. CHERNOFF: That's correct, yes.

4 Q And you concluded that he knew a lot more than he
5 was telling you and he must have had knowledge of
6 them; is that fair?

7 MR. CHERNOFF: No, that's not fair.

8 Q All right. Well, we've heard that -- when the
9 massive search of the property that the Pickton
10 brothers resided on was conducted, with all the
11 archeology students and the like, DNA evidence
12 from 32 of the missing Downtown Eastside Vancouver
13 women was found, as well as 80 other samples of
14 unidentified DNA, which suggests that somewhere
15 between 32 and 112 people were killed or disposed
16 of on the property. Throughout the '90s, the
17 period in question, the two Pickton brothers lived
18 on the same piece of property, right, that was
19 your understanding?

20 MR. CHERNOFF: Yes, they lived on the same piece of property.
21 It was an extremely large piece of property, and
22 one of the houses was situated right at the front
23 of the property on Dominion, and the trailer
24 obviously was situated a far distance back of the
25 property, and in between there was several

1 outbuildings and, you know, the slaughter, and
2 other buildings such as that. So there's a great
3 distance in between the two places.

4 Q So you think it's plausible as an investigator
5 that somewhere between 32 and 112 people were
6 killed on that land, disposed of without the
7 knowledge of the other occupant David Pickton?

8 MR. CHERNOFF: Well, it was David Pickton, his family, he had a
9 son, a daughter, a wife at the time, and then they
10 moved from that property at some point and
11 purchased another piece of land on Burns Road. I
12 don't know when that was. It's not my personal
13 opinion, I didn't conduct a full investigation
14 into David Pickton, I cannot say if he was
15 involved or wasn't involved. My belief in the
16 amount of time that I spent with him and the cause
17 of his concerns were squarely on his demolition
18 business, his family, the effect that this would
19 have on his business. He was a workaholic. He
20 worked probably 16 hours a day seven days a week.
21 And from the time I spent with him I knew that he
22 didn't like his brother, he wanted nothing to do
23 with the piggery, and he lived a different life.
24 He was completely different. Now, that was my
25 impression. Could I be wrong? Sure I could be

1 wrong. But that was my impression that he did not
2 have the knowledge.

3 Q You outlined a list of his concerns and absent
4 from it was any concern for the fate of all the
5 women that his brother was accused of killing?

6 MR. CHERNOFF: Oh, yeah --

7 Q Correct?

8 MR. CHERNOFF: Oh, no, he had concern. He cried in the back of
9 my car. At least twice he broke down and he said
10 that he couldn't believe that this could be true.
11 And, you know, there's a thread of honesty to it,
12 but again I can't -- I can't say assuredly, but my
13 impression was that he was very concerned, he was
14 very shocked and he was demoralized about it.

15 Q Did you learn he had picked up one or more women
16 for his brother and that one of them was never
17 seen again?

18 MR. CHERNOFF: I don't know that.

19 Q Okay. Now, you attended the farm property on July
20 30th, 1999 with Caldwell and your partner Lepine;
21 correct?

22 MR. CHERNOFF: Sorry, I attended where?

23 Q What we're calling the farm.

24 MR. CHERNOFF: Okay.

25 Q The place where the Pickton brothers lived.

1 MR. CHERNOFF: Well, we didn't attend it, we drove by it and
2 Caldwell pointed to the house, I think, or --
3 actually I think he was sort of laying in the back
4 seat, he didn't want to be seen, but he drove us
5 specifically, and I think I even noted the route
6 that he took to get there, and directed us to a
7 house and a property and then we drove by it, and
8 then we drove around I think Burns Road, and my
9 recollection is we drove to the back of it where
10 existing townhouses had once been the Pickton
11 property. He kind of just showed us the lay of
12 the land. And, you know, again one of the reasons
13 we wanted him to do this was, you know, for
14 credibility purposes so that he could point
15 certain things out or tell us certain things that
16 we did not know.

17 Q I want to ask your former partner just a couple of
18 questions about that trip. Mr. Lepine, when you
19 and Mr. Chernoff went with Caldwell to the
20 Dominion Avenue/Burns Road properties he pointed
21 out both the Pickton brothers' premises and the
22 after hours club known as Piggy's Palace; right?

23 MR. LEPINE: I believe that, yes.

24 Q And the place where the brothers lived was a mess,
25 wasn't it, it was all just abandoned vehicles and

1 junk everywhere?

2 MR. LEPINE: Well, as being viewed from the street, yeah. We
3 didn't go on the property. There was a gate, a
4 locked gate there and all that, so we couldn't
5 enter the property, but just driving down. But
6 then again we had to be kind of careful not just
7 to slow down and stare there, so we had to kind of
8 give it a casual glance as we're driving by like
9 any normal vehicle might do.

10 Q And you were present, Mr. Lepine, with meetings,
11 for instance the meeting of August 11, 1999 at the
12 Coquitlam RCMP detachment with both of you, Mike
13 Connor, Wayne Clary, Henley, Ballantyne, Pollock,
14 Hall, Nash, Andrews, Pridday, Justason, all those
15 members?

16 MR. LEPINE: Several people. I didn't really know who they all
17 were, but yeah.

18 Q And it must have been apparent to you based on
19 your discussions with all these Coquitlam RCMP
20 members that they were well aware of the
21 activities of the Pickton brothers, especially at
22 Piggy's Palace, the so-called after hours club,
23 was it?

24 MR. LEPINE: You know, I really -- nothing like that stands out
25 in my mind. It was -- like I say that was 12

1 years ago. But what I'd remember, I'm not saying
2 I forget it, but it just doesn't stand out in my
3 mind that we had that much discussion about
4 Piggy's Palace.

5 Q Did they tell you that the City of Port Coquitlam
6 had been trying for two years or more to shut down
7 the Piggy's Palace operation?

8 MR. LEPINE: No, I think most of the information we had --
9 Caldwell I think made mention of Piggy's Palace,
10 what it was about, and the activities that
11 happened on the farm, but I really haven't -- I
12 really don't remember much about the Piggy's
13 Palace thing.

14 Q Fair enough.

15 MR. LEPINE: Or piggy's barn or whatever you call it.

16 Q Caldwell did tell you about criminal activities
17 occurring on the farm, in particular cockfights
18 every weekend, didn't he?

19 MR. LEPINE: Yes.

20 Q Given that this is criminal activity, and serious
21 criminal activity from a law enforcement
22 perspective, was there discussion with the RCMP
23 members in Coquitlam about stopping that criminal
24 activity?

25 MR. LEPINE: I don't think cockfighting came as a very high

1 priority in the case.

2 Q Well, what did, sir? And the reason I ask is
3 this, based on what we've seen Robert William
4 Pickton got away with attempted murder, he wasn't
5 prosecuted for the offence of attempted murder,
6 The drug dealing activities at Piggy's Palace
7 apparently were ignored, the Ellingsen information
8 about a woman being skinned in the barn wasn't
9 followed through to a conclusion, the cockfighting
10 activities apparently were ignored. Why weren't
11 the RCMP, based on the meetings you had with them
12 and the conversations you had about Robert William
13 Pickton and his brother, why weren't they
14 enforcing the law against these people?

15 MR. LEPINE: Well, you know what, I was there as a homicide
16 investigator and, you know, cockfighting and
17 alcohol and, you know, all that kind of stuff, I
18 suppose that's what they -- you know, I'm not
19 going to tell them what they should do. That's
20 their call. We were there as homicide
21 investigators, and that's what we're there to
22 investigate is homicides.

23 Q You knew of the Hells Angels connection to the
24 Picktons?

25 MR. LEPINE: You know what, I know of tons of Hells Angel

1 connections. They've infiltrated a large part of
2 society. Am I shocked? No.

3 Q I'm not asking if you're shocked, I'm asking you
4 if in your meetings with the Coquitlam RCMP
5 members the subject of the Hells Angels
6 connections with the Picktons was the topic of
7 discussion?

8 MR. LEPINE: I don't -- okay. I personally don't remember any
9 conversation about that.

10 Q What about you, Mr. Chernoff?

11 MR. CHERNOFF: I think perhaps Caldwell may have mentioned that
12 at some point, and I do remember vague
13 conversations about Piggy's Palace and parties.
14 Specifics? I wasn't really that concerned about
15 it, that wasn't the priority at the time, so the
16 specifics I don't recall. All I knew was that
17 there was historic events occurring there. How
18 often they were occurring, in what magnitude, who
19 attended I have no idea, and nor did I really --
20 that was not a concern of mine.

21 Q Historic events, what are you referring to?

22 MR. CHERNOFF: Well, historic events there in Piggy's Palace.
23 You know, whatever events. I didn't know how
24 often or --

25 Q Parties involved where there are gang members and

1 drug dealing and prostitutes?

2 MR. CHERNOFF: I vaguely remember hearing some discussion about
3 Piggy's Palace, I remember hearing about it, but I
4 don't know any of the details regarding Piggy's
5 Palace at all.

6 Q And as an experienced member of law enforcement
7 you would expect that a law enforcement
8 organization, probably CLEU or its successor
9 Organized Crime Agency of British Columbia, was
10 keeping tabs on the activities of the Hells Angels
11 in the community of Port Coquitlam, wouldn't you?

12 MR. CHERNOFF: They may have been doing so. I don't know.

13 Q It wasn't shared with you?

14 MR. CHERNOFF: These things are often not shared at all.

15 Q Okay.

16 MR. CHERNOFF: They're sensitive investigations, and it's the
17 same old thing, the fewer people that know even in
18 the police community the better, and it's just the
19 way of the standard procedure. There are homicide
20 investigations that I was involved in that even
21 some of the other investigators in the room did
22 not know, and that was just -- if you didn't have
23 to know and you weren't a part of it then it's
24 better that you not know. So that's a standard
25 way of police procedure.

1 Q All right. Now, Pollock and Brown, Brown produces
2 Caldwell to Shenher. It's apparent in the
3 documents. You both had numerous meetings and
4 conversations with Pollock. Do you accept that?
5 That's what the chronology tells us.

6 MR. CHERNOFF: I wish I had a better memory of it. Now, I know
7 I met him and we talked probably a handful of
8 times, but it seemed to me that like my biggest
9 recollections of meetings were with Mike Connor.
10 I remember Mr. Pollock, but I don't remember a lot
11 of the details involving any discussions that we
12 may have had.

13 Q Well, let me ask you about one, I suggest you must
14 remember one discussion, and that's the one you
15 had with him on August the 24th, 1999 and you
16 phoned him and he told you that Connors was no
17 longer on the Pickton case. The reference in the
18 chronology, Exhibit 177, is on the second page
19 towards the bottom, and the reference in the
20 documents is page 48 of tab 2.

21 MR. CHERNOFF: I don't have any of these documents.

22 Q Oh, I'm sorry, I thought you did.

23 MR. CHERNOFF: Well, we did, but they're no longer here.

24 THE REGISTRAR: Which document?

25 MR. WARD: 176 and 177, please.

1 Q Sorry about that, I thought the binder was there.
2 It's tab 2, page 48 of 351. And I understand this
3 to be your note, Mr. Chernoff; is that correct?

4 MR. CHERNOFF: That is correct.

5 Q I know it's a long time ago, but here you were
6 following up with the Coquitlam RCMP on this
7 information pointing to this man Robert William
8 Pickton as the possible perpetrator of at least
9 one and perhaps more murders, you've got an ally
10 in Connors, and you phone out and you find out all
11 of a sudden he's off the case, something which
12 today you said, one or both of you said was
13 shocking and/or disappointing. Do you remember
14 that?

15 MR. CHERNOFF: Yes, I remember that.

16 Q Did you say why, what's the reason?

17 MR. CHERNOFF: That he was transferred?

18 Q Yeah. And why now?

19 MR. CHERNOFF: 'Cause he had been promoted.

20 Q But did you probe further? Did you say who's
21 going to help us, how are we --

22 MR. CHERNOFF: I wasn't investigating his promotion and
23 transfer. This was not my -- he was transferred
24 and what am I supposed to do about it? He's gone.

25 Q He's your liaison on this investigation when

1 you're trying to catch a serial killer; right?

2 MR. CHERNOFF: But, with respect, he's in a different police
3 department, he has different supervisors, and
4 we're not aligned. You know, this is a completely
5 different entity, and so why would I question him
6 being promoted and transferred?

7 Q I just asked if you asked him why and why now?

8 MR. CHERNOFF: All I knew was that he had been promoted and
9 that prior to going to whatever new detail he was
10 going on he was given some annual leave, and
11 that's all I know, and no one said anything
12 different.

13 Q And it was just after that that from your
14 perspective the investigation into Pickton fizzled
15 out. Is that a fair characterization?

16 MR. CHERNOFF: Yes.

17 Q I wanted to come back to Brown, Jim Brown of the
18 Coquitlam RCMP, the fellow who produced Caldwell.
19 Did you learn in working with Caldwell, this
20 second source who claimed that Ellingsen had told
21 him she saw a woman being skinned in the barn,
22 that the association between Brown and his source
23 Caldwell arose from their joint acquaintance at
24 the Piggy's Palace club, did you learn that from
25 Caldwell?

1 MR. CHERNOFF: No, this is the first I've heard of that.

2 Q Did you learn throughout the course of dealing
3 with this matter in the summer of 1990 anything
4 about Brown's nickname?

5 MR. CHERNOFF: I have no idea what Brown's nickname is.

6 Q Did you hear him referred to by anyone as the
7 kilted knight?

8 MR. CHERNOFF: I've never heard that description or name.

9 Q All right. Did you learn from Pollock in the
10 course of meeting with him and discussing the
11 missing women at issue and the Pickton possible
12 involvement in it anything about his prior work
13 with NSIS?

14 MR. CHERNOFF: I didn't hear anything. This is the first I've
15 heard of that.

16 Q He didn't disclose anything about his prior NSIS
17 career to you?

18 MR. CHERNOFF: Nothing whatsoever.

19 Q Okay. It was crystal clear to you that the
20 resistance to pursuing Pickton further after the
21 fall of 1999 at the RCMP end was coming from
22 management of the RCMP, wasn't it?

23 MR. CHERNOFF: Well, that's what I said before I could only
24 speculate, but I really don't know. I knew that
25 some of the detectives from the Unsolved Homicide

1 Unit likely had some part in not believing
2 Mr. Caldwell, and they had some part in believing
3 that he could be utilized in any way. I
4 personally don't believe that they really believed
5 his information, and I think that there were
6 credibility issues with him as far as they were
7 concerned. There could have been some historic
8 involvement with Mr. Caldwell with respect to
9 other incidents or other information that he may
10 have provided the police at some point, I recall
11 there being something about some historic event,
12 and I recall them not believing, or from the
13 reports that they read with respect to this other
14 information that he had once provided that he was
15 a person that should be believed, and I think that
16 may have, you know, assisted them in their
17 determination that he wasn't credible. Whatever
18 it was that wasn't my position. They may have had
19 other things and other documents and other reasons
20 for believing that.

21 Q By the fall of 1999 you were in possession while
22 you were still involved in this case with
23 knowledge of the 1997 attempted murder attempt by
24 Robert William Pickton on his property of Downtown
25 Eastside sex trade workers, plus Hiscox's

1 information, Caldwell's corroborative independent
2 information, Leah Best's independent corroborative
3 independent information, and Ron Menard's
4 information; right?

5 MR. CHERNOFF: I was aware of all of those.

6 Q And all of those pieces, and especially the
7 independence of them and of the people, pointed in
8 a compelling way to Pickton being the perpetrator;
9 correct?

10 MR. CHERNOFF: You're not going to get any disagreement with me
11 on any of these things.

12 Q All right.

13 MR. CHERNOFF: I have said I looked at everything collectively
14 and concluded the same thing, that this case
15 should have been forwarded in a manner to
16 determine if he had any involvement or if he could
17 be excluded as a possible suspect.

18 Q Is it fair to sum up this point this way. From
19 your perspective working with the Coquitlam RCMP
20 after late 1999 they dropped the ball on the
21 Pickton investigation?

22 MR. HIRA: Well, if I may.

23 MR. WARD:

24 Q That's what happened, isn't it?

25 THE COMMISSIONER: Why can't he answer that question?

1 MR. HIRA: Well, he can't answer that question for the
2 following reasons. These detectives have told us,
3 one, they were no longer involved with the
4 Coquitlam RCMP investigation sometime around
5 August 31, the record shows September 1, two, that
6 they are involved, and Detective Chernoff has
7 fairly twice said he's speculating, so what's
8 their factual foundation for their opinion?

9 THE COMMISSIONER: Well, I don't -- I think it's admissible and
10 may go to very limited weight. He's just giving
11 his own opinion. He's an experienced
12 investigator. And I don't know what to make of it
13 at the end of the day, but he can say what
14 happened, I mean what in his view, his opinion of
15 what happened. And, you know, there may be no
16 basis for it in fact, but he's entitled to the
17 opinion. All right.

18 MR. HIRA: Thank you. You've stated my objection quite well at
19 the end and I'm grateful.

20 THE COMMISSIONER: No, you can argue at the end of the day that
21 all it is is his opinion and that's all it is. Go
22 ahead.

23 MR. CHERNOFF: All I can say is I've quite literally spent ten
24 years thinking about this since the day that this
25 came to my attention, and there probably hasn't

1 been a week or a day that, you know, this has not
2 gone through my head about what happened, and it's
3 a difficult thing to try and come to a conclusion
4 about, because on the one hand common sense tells
5 me that this should have been forwarded, something
6 else should have happened there. On the other
7 hand it didn't, and I'm not exactly sure why. But
8 the question still remains, and I can't sit here
9 and tell you what happened because I really don't
10 know. All I know is that there were certain
11 circumstances, and I told you about two of
12 probably the main factors that I think contributed
13 to the downfall of this investigation, and it's
14 tragic. And like I say ten years later I wish I
15 could give you an answer, but I can't.

16 MR. WARD: Thank you.

17 Q Mr. Lepine, do you have anything to add to that?

18 MR. LEPINE: Again it's -- I mean I'm no different than anybody
19 else, you've been here two years to determine --
20 to answer the question you're asking us. I mean,
21 we can -- I can, you know, speculate also, but
22 it's clear it didn't continue and, you know, we
23 felt it should be continued. We weren't party to
24 the management meetings, the management
25 perceptions. You know, that's what managers do,

1 they look at their resources, they distribute
2 resources and accumulate resources, and that's
3 what they get paid to do. And we're
4 investigators, we can do what we can do as
5 investigators. But to comment on senior
6 management, how they do their job, I don't really
7 feel in a position to be able to do that.

8 Q All right. Well, they can -- some of them anyway
9 can speak for themselves next week. I want to
10 move to one other area. I see from the
11 chronology, which is Exhibit 177, that your first
12 day on the Missing Women Review Team was May the
13 25th, 1999. And that's the single page document
14 which has been shown to you, the chronology.

15 MR. LEPINE: Yeah.

16 Q Do you see that?

17 MR. LEPINE: Yeah.

18 Q And other evidence this hearing has received
19 indicates that that was 12 days following a
20 brainstorming session at Vancouver Police
21 headquarters about the case. And I know neither
22 of you were at that brainstorming session, but
23 were you aware of it when you joined the Missing
24 Women Review Team or were you aware it had
25 happened?

1 MR. CHERNOFF: I have absolutely no recollection of that or
2 ever being told about it.

3 Q Okay. And you set up your desks in the office,
4 and your office was right next to the Home
5 Invasion Task Force offices; correct?

6 MR. LEPINE: That's right.

7 Q And for the period between May and October you
8 worked out of those offices on the case as you've
9 outlined today, and you must have interacted with
10 members of the Home Investigation Task Force from
11 time to time in the halls or whatever?

12 MR. LEPINE: Well, I'm not sure what his rank was at the time,
13 but he was probably a detective, Detective
14 McCluskie was running that investigation. I must
15 admit he did a phenomenal job on it, but yes, he
16 would meander in and out. Our offices were right
17 beside each other.

18 Q What about Doug LePard, was he someone you saw and
19 chatted with?

20 MR. LEPINE: Doug LePard, I worked with Doug LePard. In my
21 opinion he's the best policeman I've ever met in
22 my life. By best policeman meaning the best
23 investigator, best supervisor, best administrator.
24 But, yes, very involved. I know Mr. LePard very,
25 very well.

1 Q And for those five months you shared with him the
2 fact that you had a pretty good suspect in mind on
3 the missing women case; right?

4 MR. LEPINE: I don't remember that. We're always -- we're
5 constantly talking back and forth. I mean you're
6 referring to meetings and all that where there's
7 written down, you know, minutes of the meeting and
8 all that, that gives me some hope, but day-to-day
9 conversations I can't remember. Twelve years ago
10 I honestly cannot remember when and how we had
11 conversations.

12 Q Fair enough. Mr. Chernoff, in Lori Shenher's
13 book, Exhibit BB, or at least the manuscript of
14 it, she says, and I'm paraphrasing, I can turn it
15 up if I need to.

16 MR. CHERNOFF: I've never seen this book.

17 Q Fair enough. She says that you in particular
18 shouted hard, long and hard, loudly about the help
19 you needed on the file?

20 MR. CHERNOFF: I was pretty vocal. I don't know if I would
21 describe myself as being the type of person that
22 would just stand up and shout it out. But there
23 was certainly -- I made my opinion clear to other
24 investigators that I worked with in homicide, Lori
25 knew, Sergeant Field knew.

1 Q Yeah, and I don't think she meant it literally,
2 what she meant was that you were pressing others
3 with influence. As I understood from a reading of
4 the manuscript you were pressing for some more
5 help on the investigation. Is that a fair
6 characterization?

7 MR. CHERNOFF: Well, I wanted to see this go further. That was
8 the frustration. I just wanted to see this
9 resolved in some way, shape or form. It wasn't so
10 much about requesting or needing a whole bunch of
11 other people, it was more that look, at that
12 level, at that point it's out of my hands, it's --
13 you know, there's a structure in the police
14 department, and it's a paramilitary organization
15 with rank and, you know, there's dos and don'ts.
16 You don't go past your boss to the next boss, you
17 don't go three rungs up the chain and speak to
18 that person, you do everything through the people
19 that you are accountable to and that is your
20 direct boss. So, yes, I brought it to the
21 attention of people, but, you know, I wish almost
22 in hindsight I would have done things somewhat
23 differently and maybe gone somewhere where maybe I
24 could have gotten in some trouble over it. But,
25 you know what, when I think back to it, you know,

1 reasonableness -- I was a new kid on the block, I
2 had been there -- there was detectives that were
3 there for years and years, very, very experienced
4 people. It was almost intimidated for me to be
5 there. I was learning so much so quickly. And
6 there are rules, and I knew what would have
7 happened had I usurped those rules. I know that I
8 would have either found myself out of there
9 perhaps working somewhere else or I would have got
10 myself into trouble. So, you know, I knew what
11 the protocol was, and that's all I can say. I did
12 -- I was verbal and vocal about it, perhaps not
13 enough.

14 Q Okay. Just one last follow-up in light of the
15 time I've been given for both of you on that
16 point. Let's start with you, Mr. Chernoff. Can
17 you tell me as you sit here today which higher
18 ranking members of the Vancouver Police Department
19 you spoke to and disclosed your view that this guy
20 out in Port Coquitlam, Pickton, was a compelling
21 suspect in this high profile missing women's case?

22 MR. CHERNOFF: Well, I know for sure that Biddlecombe,
23 Inspector Biddlecombe was apprised, and I know
24 that I spoke to him about it. I know that Geramy
25 spoke to him about it too. I didn't directly go

1 to Deputy Chief McGuinness, but that was at a time
2 when you just, you know, didn't do that, and I
3 didn't. I spoke to Geramy, I spoke to my team
4 members, I spoke to Ron about it at length, and
5 certainly Inspector Biddlecombe knew. Apart from
6 that I can't recall.

7 Q Okay. And, Mr. Lepine, same question?

8 MR. LEPINE: I would say Inspector Biddlecombe, meaning we
9 didn't sneak around the back door and go into his
10 office and tell all, I mean it would have been a
11 meeting situation where our supervisor Geramy
12 Field was present, so we're just sort of
13 expressing -- it's one of those occasions where,
14 you know, you express your opinion and all that,
15 not that your opinion means much, but at least you
16 can express your opinion in the meeting kind of
17 atmosphere.

18 Q And are both of you of the view that you made it
19 very clear to your supervising officers, the ones
20 you've mentioned, that you considered Robert
21 William Pickton, this Port Coquitlam suspect, to
22 be a very compelling, possible perpetrator of
23 these crimes?

24 MR. LEPINE: I think that's fair.

25 MR. CHERNOFF: I would say we made it clear. Obviously it

1 wasn't clear enough. I mean in hindsight. Having
2 said that it seemed that we were doing what we
3 were supposed to do, investigate, come to
4 conclusions, decide somewhat of a -- you know, of
5 an investigative strategy and pursue it. And
6 that's what we both -- I know when I speak for
7 Ron, we both wanted to pursue it. And I know that
8 Lori wanted us to pursue it. I think Geramy
9 wanted us to pursue it, I just don't -- from there
10 I don't know who made the decisions either to not
11 pursue it any further or if it was just going to
12 be left in the RCMP court to deal with the things
13 that they said that they would deal with. And it
14 could have been one of those situations where
15 something got lost in the translation. And I
16 think that's one of the problems. You have the
17 Vancouver Police Department, they have separate
18 managers, it's a separate organization entirely
19 than the RCMP. We very seldom communicate with
20 them in any way, shape or form unless there's an
21 investigation or something crosses our path. And
22 I think one of the biggest difficulties is that
23 you're dealing with two entirely separate
24 organizations that have different agendas,
25 different budgets, different politics, different

1 everything. And it's unfortunate, but I think
2 that's a huge part of the reality of this is that,
3 you know, and I could only speculate again about
4 this, but I think had we all been one big family
5 this probably would have gone somewhere. I think
6 it would have been further. And that's again my
7 opinion, but I strongly believe that.

8 Q All right. And just if I can summarize what you
9 just said so it's clear at least to me, that the
10 fragmentation of the two police organizations,
11 Vancouver on the one hand, Coquitlam RCMP on the
12 other, was in your view based on your own personal
13 experience a major contributing factor to the
14 Pickton lead not being followed to a conclusion.
15 Is that a fair summary?

16 MR. CHERNOFF: Yeah. I think the only thing that I'd add to
17 that is that I think if you bring in other people
18 from another group, like the Unsolved Homicide
19 Unit, and you ask them to do an assessment and so
20 they come, you know, not really knowing anything,
21 I mean obviously knowing bits and pieces of the
22 investigation, but now you're bringing in another
23 entity, so it even convolutes or confuses it a bit
24 more, because now you have a third entity who's
25 trying to determine, you know, the validity of

1 that information, and whether or not, you know,
2 it's credible. And so you have Coquitlam RCMP,
3 you have unsolved homicide guys, you have
4 Vancouver Police guys. You know, and I hate to
5 say it, but of course egos get in the way and
6 people think they know and, you know, they have
7 beliefs, and those beliefs get communicated. It's
8 one of those rampant things, you know, where
9 things could -- there could be a question and a
10 question just escalates and before you know it
11 someone's convinced everyone else that there's
12 nothing to this. It's confusing. I've given it a
13 lot of thought, but I think that is another
14 reason. I think it was a lot of people from a lot
15 of different areas coming together and trying to
16 -- trying to actually agree on the same thing and
17 it's -- it doesn't -- it doesn't happen very
18 often. Sometimes the less people that you have
19 involved in something the easier it is to make a
20 determination and go forward with it. The more
21 people you involve sometimes the more convoluted
22 it gets and greater the reason for things to go
23 sideways. That's been my experience, and I could
24 relate to other homicides that I've investigated
25 and other organizations that, you know, we've

1 worked with. So I just wanted to add that.

2 Q As you were giving that answer another thing
3 occurred to me that I wanted to ask you about, and
4 you mentioned that when you left the Missing
5 Person's Review Team you were immediately engaged
6 with the Wall Street murders. And I take it both
7 of you were working together as partners?

8 MR. LEPINE: Yeah.

9 Q And as I understood your evidence that involved
10 the introduction of undercover operatives and/or
11 agents; is that right?

12 MR. LEPINE: Yes.

13 MR. CHERNOFF: That's correct.

14 Q And was that a very immediate step taken in that
15 investigation?

16 MR. CHERNOFF: Yes, it was. Once a suspect had been identified
17 an undercover operation was pursued quite quickly.

18 Q Now, just contrasting that with your experience on
19 the Pickton lead, can you explain why in light of
20 these four separate pieces of information an
21 undercover operative approach was not pursued?

22 MR. CHERNOFF: I actually have thought about that as well, and
23 I think one thing that perhaps, you know,
24 shouldn't have been done in hindsight is there was
25 a question as to what to do and how quickly to

1 move forward with this, and I think my
2 recollection is that there were a lot of manpower
3 issues. It was the summer, I remember a lot of
4 people saying there wasn't many detectives and
5 around, like everyone was on holidays and everyone
6 was short staffed. I know they wanted to pursue
7 this quickly and try and get down to the nuts and
8 bolts as to whether or not this has any weight,
9 Caldwell's information, so at some point it was
10 decided that Lynn Ellingsen should be interviewed.
11 And it was supposed to have been soft an
12 interview, and they were to bring her in and ask
13 her basic questions and all this. I remember
14 thinking at the time, and I know that interview
15 went a little bit sideways in the fact that a soft
16 interview, which is not supposed to be intrusive
17 and talk about specifics of your investigation,
18 ended up sort of turning into not so soft an
19 interview, and I think certain things came out.
20 In hindsight I think probably the better tactic
21 would have been to implement an undercover
22 operation on Lynn Ellingsen before she was brought
23 in, before she knew that Coquitlam RCMP were
24 asking questions about Pickton. Of course who's
25 she going to run to? In my mind it was well,

1 what's going to be ramification of this? And that
2 was that she was going to probably either to talk
3 to Menard about it or go back to Pickton directly
4 or maybe even in fact talk to Caldwell. In any
5 event, once that occurs and suspicion arises in a
6 person who is the subject of an investigation in
7 all likelihood they are going to seek either
8 counsel or talk to other people who will probably
9 at some point let them know that there's a
10 potential for one of these undercover operations.
11 I mean these things have now been publicized and
12 everyone knows about them. So I think by her
13 knowing that she was now involved in this
14 investigation and potentially a suspect, or she
15 may have felt that way about it, I think it kind
16 of ruined the possibility for a quick bump and an
17 undercover operation to be implemented, and I
18 think that was -- it turned out to be probably
19 quite a bad strategy that she was brought in and
20 interviewed in the first place.

21 Q Just on this point, both of you, you're homicide
22 investigators, and armed with the information you
23 had then in the summer of 1999 I suggest that
24 given the circumstances extant at the Pickton
25 property, and William Pickton's habit of taking

1 people in who are down on their luck, like
2 Caldwell, introducing an undercover operative
3 would have been very easy from a police
4 investigative standpoint?

5 MR. LEPINE: I don't know about easy. It has a lot of logistic
6 problems. But I totally agree that an avenue that
7 probably should have been explored more is
8 Caldwell was not suitable as an agent given his
9 sort of flakiness, whatever you want to call it,
10 but I think he could have been used to do an
11 introduction for a UC.

12 Q And, Mr. Chernoff, again given the spectrum of
13 difficulty in introducing an undercover operative
14 to anybody, given the Pickton situation, all the
15 people coming and going, Willie Pickton's
16 propensity to take folks in, male and female, this
17 was a situation that virtually cried out for the
18 introduction of a UCO, didn't it?

19 MR. CHERNOFF: It's probably not as simple as you would think
20 it is, and these things have to be analyzed and
21 you have to determine who it is that you're going
22 to involve in an undercover operation. Having
23 said that I believe now that it would have been
24 the best scenario for us, and probably the
25 greatest likelihood of getting the information

1 from the horse's mouth, if I can use that term,
2 directly to a member so that there would be no
3 speculation, there would be no doubt, and that the
4 credibility, you know, of Caldwell because it came
5 into question would not even be an issue.

6 THE REGISTRAR: Mr. Ward, I have to tell you you're well over
7 your time. Thank you.

8 MR. WARD: Thank you.

9 MS. BROOKS: Mr. Commissioner, Ms. Narbonne is going to go next
10 because she has a scheduling issue in the
11 afternoon, and she'll be fifteen minutes.

12 THE COMMISSIONER: All right.

13 MS. BROOKS: And then I suggest we only take an hour for lunch
14 today.

15 THE COMMISSIONER: All right. Yes, Ms. Narbonne.

16 MS. NARBONNE: Thank you. I'm Suzette Narbonne, counsel for
17 the aboriginal interest.

18 **CROSS-EXAMINATION BY MS. NARBONNE:**

19 Q I'm going to touch on some of the things you've
20 talked about and then I'm going to take you
21 somewhere completely different. But starting with
22 the comments about the investigation and where you
23 would have liked to see it go, I think both of you
24 have spoken a number of times about you've got
25 this lead, you run it down and either eliminate

1 the person as a suspect or arrest them; right?

2 MR. CHERNOFF: Yes.

3 Q So what were you envisioning before Connor left?

4 MR. CHERNOFF: Personally I was hoping that that would actually
5 occur, that one way or another even if Caldwell
6 had been discredited, if they didn't want to use
7 his information, whatever the case may be, the
8 fact that we had another person come forward, Leah
9 Best, and in light of all the other circumstances
10 collectively of -- you know, this wasn't like a
11 jigsaw puzzle, it wasn't all there, but there were
12 certain pieces that seemed to fit together, and
13 there was a ring of truth in my estimation that
14 necessitated this being brought forward.

15 Q Do you agree with that?

16 MR. LEPINE: I have difficulty hearing you.

17 Q Sorry, do you agree with what he said there?

18 MR. LEPINE: To be honest with you I never heard the question.

19 Q Oh, okay. Where did you envision this
20 investigation going prior to Connor leaving? I'm
21 asking about following down the tip and excluding
22 or concluding, what were you envisioning prior to
23 Connor leaving?

24 MR. LEPINE: I was envisioning our goal was to get on the
25 property legally and make sure we're not tempted

1 by the fact, you know, of trying to skirt the law
2 and, you know, find things out. So we had to do
3 it legally is my main priority. We knew this was
4 going to be a major, major case and we don't want
5 to do things that are stupid that are going to
6 jeopardize the case. It had to be done properly
7 and professionally. I saw it going ultimately to
8 get on that property and doing whatever we had to
9 do to that.

10 Q Okay. And does that make sense to you as well?

11 MR. CHERNOFF: Absolutely. That was obviously the goal was to
12 get on that property.

13 Q And you both have said that when you came on to
14 this team up weren't aware of the Hiscox tip, that
15 wasn't something you found out about till after
16 you spoke to Caldwell; right?

17 MR. CHERNOFF: I don't remember specifically the time frame.

18 Q Okay.

19 MR. CHERNOFF: I may have known about it just previously. I
20 can't answer that a hundred percent, I'm not quite
21 sure which came first.

22 Q Do you recall?

23 MR. LEPINE: No.

24 Q Okay. I guess the reason I ask is you come on
25 this team, wouldn't you have known at the first

1 meeting this is where we are right now? I mean I
2 don't know how police work, but don't you sit down
3 and say, okay, this is what we've got?

4 MR. CHERNOFF: Well, it would seem that way in hindsight, and
5 if I had a crystal ball I would go back and
6 probably yes, but at the time we're walking into
7 these meetings discussing -- it could be we may
8 have had 50 different issues, and until I went out
9 and interviewed Caldwell I probably didn't even
10 know who Mr. Pickton was, other than the fact that
11 yeah, he was a guy who owned the pig farm out in
12 Coquitlam and he was on the radar for something,
13 but I knew very little. So from the get go there
14 was a lot of information, there was a lot of
15 things discussed, and until Caldwell's name came
16 up and I had the opportunity to speak to him
17 that's really when I became knowledgeable about
18 Mr. Pickton and Hiscox and I think Piggy's Palace
19 and all those other things at that time.

20 Q Why were the two of you assigned to this team in
21 the first place, what were you told?

22 MR. LEPINE: I think -- I mean you probably have to ask Geramy
23 or whatever, but I mean we were assigned probably
24 because we were homicide detectives.

25 Q Okay.

1 MR. LEPINE: Why we were chosen I have no idea.

2 Q What were you told about the assignment in terms
3 of we need people or what?

4 MR. LEPINE: Yeah, that we were dealing with kind of a great
5 unknown situation. It was made clear to us that
6 this is a review team to determine the scope of
7 what we are dealing with.

8 Q Yes.

9 MR. LEPINE: We had no idea how many women were involved in
10 this, what their circumstances were. Our job is
11 -- Lori's job was to determine how many women are
12 involved and are they all in fact missing, if we
13 can find some of them, have they died or whatever,
14 and then try to determine a list of how many
15 people we're dealing with. Our job clearly was as
16 homicide detectives is to try to determine
17 potential suspects.

18 Q Okay.

19 MR. LEPINE: And unfortunately we got too good at it and we
20 just ended up with a massive list of suspects.

21 Q We've heard that it was an investigation into
22 missings rather than necessarily murdered; right?

23 MR. LEPINE: They were --

24 Q But you both said when you walked into this you
25 were looking for murdered --

1 MR. CHERNOFF: Well, if I can answer.

2 Q Either of you.

3 MR. CHERNOFF: Yeah, I think -- I remember being told, you
4 know, have an open mind, there's -- we don't know
5 exactly what's happened, but in the back of my
6 head I realized that something untoward was going
7 on.

8 Q Right.

9 MR. CHERNOFF: How many people were involved, if it were two
10 suspects working together or could it have been,
11 you know, two or three separate individuals that
12 may have been responsible. The fact that the
13 bodies weren't found to me was completely amazing.
14 All the work that Lori had done to try and
15 determine what had happened to these women, why
16 their cheques weren't picked up, why their
17 families weren't called by them, you know, it was
18 totally unusual and so you could only kind of
19 speculate in my mind, I guess, that something
20 untoward was going on.

21 Q Okay.

22 MR. CHERNOFF: Now, I remember going out to Agassiz and there
23 was another investigation that the RCMP were
24 conducting out there where the bodies of three
25 women were found up the mountain or in two

1 different sort of mountain ranges and logging
2 roads, and so it appeared that one individual was
3 likely because of the MO responsible for those
4 three women. And I mean I know the names of those
5 women, and I know they came from the Downtown
6 Eastside. Now, you know at the time I remember
7 thinking is it possible that there's 25 other
8 women --

9 Q Of course.

10 MR. CHERNOFF: -- that could be out there somewhere.

11 Q Of course.

12 MR. CHERNOFF: And I mean we started logistically trying to
13 figure out how we were going to utilize planes and
14 electronic devices and everything to see if maybe
15 other bodies had been dumped over the embankments.

16 Q Right.

17 MR. CHERNOFF: But it was a massive, massive amount of land.
18 You don't realize until you're there how much
19 you're dealing with. And so these were things
20 that we -- and this is why I say you had to have
21 an open mind because you just didn't know. You
22 know the information about Pickton even before
23 Caldwell and all that, yeah, it was very thought
24 provoking, there's no doubt about it. But even
25 this up in Agassiz was extremely interesting, and

1 if they weren't found those three women would have
2 been on the Willie Pickton list of missing women,
3 because they went missing during that time frame,
4 they were from the Downtown Eastside. So I guess
5 what I'm saying is, you know, we obviously wanted
6 to go in certain directions and we had certain
7 beliefs, but you had to keep an open mind. There
8 was a woman that I found, she had been
9 unidentified for years, and I remember going
10 through the list and saying well, how about this
11 person here, and so DNA was done and sure enough
12 this is a woman that was found in a washroom off a
13 Commercial Drive bowling alley and she was on that
14 list. So, you know, at what point do you just go
15 okay, you know, one person is responsible for all
16 of these or no.

17 Q Fair enough, but I think what the two of you have
18 said you tried to do is you get a lead, it's
19 compelling, there's certain things about it that
20 meet what you're looking for so you follow that,
21 you should chase that down, but you needed lots of
22 people because there were lots of things to be
23 chased down and investigated?

24 MR. CHERNOFF: You're right.

25 THE COMMISSIONER: I think I'll just stop you there now.

1 THE REGISTRAR: The hearing is now adjourned until 1:30.

2 (PROCEEDINGS ADJOURNED AT 12:30 P.M.)

3 (PROCEEDINGS RESUMED AT 1:30 P.M.)

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

5 MR. GRATL: Yes, Mr. Commissioner, Jason Gratl for Downtown
6 Eastside interests. I just wanted to -- I
7 promised my friends for all the participants that
8 I would express briefly the Shenher manuscript
9 application materials first thing after the --

10 THE COMMISSIONER: Are you obsessed with this? You don't have
11 to answer that. I mean is it that important that
12 this Shenher document keeps coming up? I can tell
13 you it's not going to form the cornerstone of the
14 report. I mean at some stage you may deal with
15 it, but it's a manuscript.

16 MR. GRATL: I thought as the first order of business,
17 Mr. Commissioner, to clarify whether the
18 undertaking or implied undertaking captures the
19 Shenher manuscript so that I'm prevented by that
20 undertaking from distributing the application
21 materials to the public?

22 THE COMMISSIONER: Yes. Yes. You can't -- people haven't had
23 an opportunity to even argue this, so I'm not
24 going to let you just -- you know, I haven't ruled
25 it admissible and I think that before I do that --

1 before you do what you say you want to do, is
2 there an appetite out in the public that people
3 want to see this?

4 MR. GRATL: Well, Mr. Commissioner, I'll just --

5 THE COMMISSIONER: No, no. You know what, we have other things
6 to do here. I don't want to get sidetracked.

7 MR. GRATL: I don't think it's necessary to belittle me,
8 Mr. Commissioner.

9 THE COMMISSIONER: No, I wasn't. I'm sorry, I didn't mean to
10 belittle you at all, if I did I apologize, but I
11 mean I just think that to interrupt this
12 cross-examination to get into the Shenher document
13 is perhaps not the best use of time. I mean it's
14 something that we've argued about and written
15 argument's been filed and I'll give some reasons,
16 but I mean --

17 MR. GRATL: Well, if I understand your ruling,
18 Mr. Commissioner, what you're saying is that I'm
19 prevented by the undertaking from distributing the
20 application materials filed by the participants
21 with the commission to the public so that I cannot
22 even distribute the notices of application filed
23 by independent counsel and supporting affidavit to
24 the public.

25 THE COMMISSIONER: My understanding is there's serious

1 objection here to you doing that, and I want to
2 hear argument before I authorize you to do that.
3 That's the only concern that I have.

4 MR. GRATL: All right. When will that argument be heard then?

5 THE COMMISSIONER: Well, you know, we've got other things here
6 to do. This is not on the my list of priorities,
7 but why don't you get the other lawyers together,
8 whoever else has an interest in it, and I'll hear
9 you next week sometime.

10 MR. GRATL: I'm just saying, Mr. Commissioner, that it appears
11 as though there's a level of secrecy that is
12 attending the Shenher manuscript, the application
13 to have the Shenher manuscript adduced into
14 evidence.

15 THE COMMISSIONER: You know, you keep throwing words around
16 like secrecy. There's no secrecy involved at all.
17 The fact is there are some documents that are
18 admissible and others aren't and by law. I mean
19 you know that, and if there's an objection to its
20 admissibility then we'll deal with it. Nothing
21 secret about it. We've referred to it at length
22 in this courtroom, but I just question whether or
23 not we have to keep doing all this.

24 MR. GRATL: I just find it stunning that otherwise public
25 documents like notices of application which should

1 form part of the record I'm prevented by my
2 undertaking from distributing that stuff.

3 THE COMMISSIONER: Because some of your learned friends are
4 opposed to it, that's my only concern, and I'll --
5 you know it may well be that after we argue
6 this -- did you want to say something,
7 Mr. Woodall?

8 MR. WOODALL: Yes, Mr. Commissioner, Kevin Woodall. I
9 circulated a process proposal to counsel. It has
10 two parts. One is that this application ought to
11 be brought after you have made your decision on
12 the manuscript, because it may be that you will
13 apply the same principles to the manuscript as a
14 whole that you would apply to excerpts from the
15 manuscript, so you may be assisted by having
16 considered whether the manuscript as a whole
17 should go in. If you decide that it should go in
18 then Mr. Gratl's application will disappear. The
19 second part of the proposal is that because
20 there's so little time Mr. Gratl should his
21 application in writing, his argument in writing
22 after you have ruled on the manuscript as a whole.
23 We're all very concerned to preserve court time as
24 much as we can.

25 THE COMMISSIONER: Yeah.

1 MR. GRATL: Mr. Commissioner, what I'm suggesting is what
2 Mr. Woodall is proposing on behalf of his clients,
3 Mr. Fell and Wolthers, is that the application
4 even dealing with whether the manuscript should be
5 kept secret, the application dealing with whether
6 the application material should be kept secret,
7 that will effectively be done in camera, that's
8 what Mr. Woodall is suggesting to you and that's
9 what I'm finding to be so antagonistic to the open
10 courtroom principle here. The rule is that
11 matters are kept open unless -- unless it's
12 determined otherwise, and here what the process
13 you're undertaking, Mr. Commissioner, with respect
14 it runs contrary to that principle.

15 THE COMMISSIONER: Well, we'll deal with it in due course. All
16 right. Thank you. Mr. Roberts.

17 MR. ROBERTS: Yes, may it please the commission,
18 Mr. Commissioner, and gentlemen, Detective Lepine
19 and Detective Chernoff, my name is Darrell
20 Roberts, I represent Marion Bryce who lost a
21 daughter to Pickton. And I have 15 minutes and I
22 will try -- I will not only try, I'll stay within
23 my 15 minutes. And, Mr. Giles, my watch now says
24 about 20 minutes to two.

1 **CROSS-EXAMINATION BY MR. ROBERTS:**

2 Q I may seem in one or more questions to appear to
3 be critical, gentlemen, but it's not my intention.
4 My intention is to strictly to try and get at the
5 facts on the issues which I'm going to address. I
6 understand both of you, Detective Lepine and
7 Detective Chernoff, are trained investigators and
8 trained in homicide?

9 MR. CHERNOFF: Yes.

10 Q Both of you are nodding. I'll take that as a yes.
11 And when I read the interviews that were conducted
12 of you by Mr. LePard and others back years ago now
13 you both enjoyed your careers and desired to do
14 what you were doing?

15 MR. LEPINE: That sounds fair.

16 Q Is fair, Mr. Lepine?

17 MR. LEPINE: Yes.

18 Q And yourself, Detective Lepine, you worked for a
19 number of years in the Sexual Offences Squad?

20 MR. LEPINE: Correct.

21 Q And you were sort of the senior chap, so to speak,
22 in what became the team between the two of you?

23 MR. LEPINE: Yes.

24 Q You worked a lot together?

25 MR. LEPINE: Yes.

1 Q Including on this particular matter?

2 MR. LEPINE: That's correct.

3 Q And in all matters in your career you endeavoured
4 to be honest and forthright and to the best you
5 could?

6 MR. LEPINE: That sounds like me, yes.

7 Q Detective Chernoff?

8 MR. CHERNOFF: Yes, that's the case.

9 Q And those interviews which you gave to Mr. LePard,
10 of course they were truthful interviews; correct?

11 MR. LEPINE: To the best of our ability.

12 Q Debriefing yourself on what you recalled happened?

13 MR. CHERNOFF: Yes.

14 MR. LEPINE: What we could recall, yes.

15 Q All right. Now, there's four days in what I call
16 the Caldwell source matter that I want to cover.
17 Four days. They're in July. And I wonder if you
18 would be good enough to open before you, I think
19 it's tab 2 in the material. Detective Chernoff, I
20 believe it's your log, and the pages are 30 of 351
21 and 31. You can open it up as a double page
22 spread, if you will.

23 MR. LEPINE: Which -- we have two binders here. Which binder
24 are we talking about?

25 Q Do you have it open?

1 THE REGISTRAR: The one I just gave you, 150.

2 MR. CHERNOFF: I think that's a different binder.

3 MR. LEPINE: Is this the one we referred to?

4 MR. ROBERTS: Do they only have one binder?

5 THE REGISTRAR: Yes, one for the --

6 MR. ROBERTS:

7 Q Maybe you could just move it over and share it.

8 If you have 150NR you can put that to one side for
9 a moment.

10 MR. LEPINE: 150NR. That's it.

11 Q Put that to one side for a moment. Thank you.

12 Could you open the main binder between both of
13 you, Detective Chernoff. All right. Now, the
14 four days are the 26th of July, 1999. You see
15 that on page 30 of 351?

16 MR. CHERNOFF: Yes.

17 Q Then there's some information noted there. Then
18 there's July 27, July 28 and part way down the
19 page July 29 which goes on for quite a bit and
20 finishes over on page 23. I'm not going to go
21 that far. I call this four days in July 1999 not
22 because I'm trying to name a movie, but these four
23 days seem to capture what happened with respect to
24 Caldwell in this sense. First of all, Detective
25 Chernoff, you were first on the source information

1 from Mr. Caldwell as I understand your evidence;
2 right?

3 MR. CHERNOFF: That's correct.

4 Q And when I look at your log you first saw him on
5 the 19th of July?

6 MR. CHERNOFF: I'll take that that's correct.

7 Q But it was a brief time?

8 MR. CHERNOFF: Are you referring to the first day that I met
9 him when he was in custody?

10 Q Yes.

11 MR. CHERNOFF: Yes, I saw him on that day, and I can't remember
12 exactly how long, but probably not for more than
13 an hour and a half or so.

14 Q But then on the 26th you met with him in Burnaby
15 and spent considerably longer with him. If you
16 back up to just one page.

17 MR. CHERNOFF: Yes, that's correct.

18 Q To page 29 you see --

19 MR. CHERNOFF: Yes, I do.

20 Q -- at 12:30 hours met with source in Burnaby.
21 Now, how long was that interview, lengthy?

22 MR. CHERNOFF: I don't have a notation in these notes as to the
23 length of that meeting so I cannot tell you.

24 Q Well, let me do it this way, maybe I can do it
25 short form. As a result of that interview a

1 number of things happened. One is you phoned your
2 colleague here Detective Lepine, who was on
3 holidays, and said you had some pretty what you
4 thought compelling information and would he
5 consider coming back?

6 MR. CHERNOFF: Yes, I did do that.

7 Q Yes. And then you also had a meeting at 6:30 in
8 the evening with Sergeant Field?

9 MR. CHERNOFF: Yes.

10 Q And as your note reads you provided details of the
11 source debrief that you had done earlier that day?

12 MR. CHERNOFF: Yes, I did.

13 Q And you requested a meeting with Sergeant Field
14 and your colleague Detective Lepine with and
15 Inspector Biddlecombe. And I take it that was
16 agreed and so you then -- Detective Lepine was
17 notified if he would come back?

18 MR. CHERNOFF: That's correct.

19 Q All right. Then we have the day of the 27th of
20 July, and the only entry for the 27th is at four
21 o'clock, 16:00 hours advised by Sergeant Field
22 that a meeting was set for the 28th at 12:30
23 hours. Do you see that?

24 MR. CHERNOFF: That's what I have in my notes, yes.

25 Q All right. Now, I'm going to come back to the

1 27th of July just in a moment. And then there's a
2 meeting on the 28th at 12:30 as had been scheduled
3 at 312 Main Street, and attending there are
4 Sergeant Field, and Detective Lepine is back,
5 Detective Shenher and Inspector Biddlecombe are at
6 that meeting?

7 MR. CHERNOFF: Yes, that's correct.

8 Q And the upshot of that meeting is that a larger
9 meeting, including members of the RCMP, is then
10 scheduled for the next day. Fair?

11 MR. CHERNOFF: Yes, that's correct.

12 Q And that meeting is at ten o'clock in the morning
13 on the 29th and you see that referred to at the
14 top of the next page; right?

15 MR. CHERNOFF: Yes. At twelve o'clock, yes.

16 Q All right. And present are a few more people,
17 both of yourself and Detective Lepine, Detective
18 Constable Shenher, Clark, Wolthers, Fell, and the
19 RCMP are in attendance at twelve o'clock, and that
20 includes Inspector Moulton, Corporal Connors,
21 Sergeant Robertson and Corporal Justason and
22 Sergeant Pollock, they're all in attendance?

23 MR. CHERNOFF: Okay. Let me just clarify this. The ten
24 o'clock meeting occurred at 312 Main Street and
25 that meeting was attended to by Inspector

1 Biddlecombe, Sergeant Field, Detective Lepine.

2 Q Yes.

3 MR. CHERNOFF: Detective Shenher, Clarke, Wolthers and Fell.

4 Q Yes.

5 MR. CHERNOFF: Now, that was our meeting exclusively amongst
6 the missing women --

7 Q That's exclusively amongst the VPD?

8 MR. CHERNOFF: That's right.

9 Q I misunderstood. Thank you.

10 MR. CHERNOFF: So the next meeting was at twelve o'clock, and
11 that meeting occurred in Coquitlam with those
12 people that I've indicated in my notes.

13 Q Which are yourself and Detective Lepine?

14 MR. CHERNOFF: Myself, Detective Lepine, discussed source
15 information related to Pickton. So Inspector
16 Moulton, Corporal Connors, Sergeant Robertson,
17 Corporal Justason, Sergeant Pollock. Now, those
18 people were in attendance, there may have been
19 others that I may have not known their names, but
20 I've noted that at least these people, including
21 myself, were at this meeting.

22 Q I'm keen to know the only people from the
23 Vancouver Police Department who attend are
24 yourselves and Detective Lepine to the twelve
25 o'clock meeting Coquitlam?

1 MR. CHERNOFF: That could very well be. I don't have any note
2 here that Sergeant Field was there, but that
3 doesn't mean that she wasn't. I can't recall.

4 Q All right. And then this is a meeting at which
5 some basic strategy is set; correct?

6 We discussed possible strategies...
7 Just below half way down the page:
8 ... to implement as part of a joint
9 investigation.

10 MR. CHERNOFF: Yes, that's correct.

11 Q Now, let me read the next paragraph.

12 The Coquitlam RCMP would be responsible for
13 the homicide investigation at the Pickton
14 residence if the information was accurate and
15 could be verified. Inspector Moulton agreed
16 to initiate the investigation and to contact
17 Special "O" to provide surveillance. Other
18 resources were also considered...

19 That is to say or:

20 ... i.e. tracking devices and video of the
21 Pickton property. It was also agreed that I
22 would...

23 And I take it that's you, sir, Detective Chernoff?

24 MR. CHERNOFF: Yes, that's correct.

25 Q ... would continue to handle the source and

1 re-interview on the 30th of July.

2 MR. CHERNOFF: Yes, and when I say obviously I meant as well as
3 Detective Lepine as we were partners.

4 Q All right. Now, would you open up the binder
5 before you that you have there, 150, to the second
6 tab. Exhibit 150 at tab 2 is the missing women
7 poster. I said four days in July. If you note
8 this missing women poster is signed by the
9 attorney general and by the chief constable of
10 Vancouver Police, and as I read Exhibit 1, the
11 LePard report, it says:

12 On July 27 the 1999 Vancouver Police
13 Department poster was released with photos of
14 31 women who had gone missing from the
15 Downtown Eastside since 1978.

16 Were you familiar with this poster, Mr. Chernoff?

17 MR. CHERNOFF: When was the poster produced?

18 Q It was released to the public on July 27, 1999,
19 right in the heart of your --

20 MR. CHERNOFF: Well, then I would have certainly -- I mean I
21 have definitely seen this poster. I'm not sure
22 exactly what date I saw it, if I saw it the first
23 date it was actually published or not, but I do
24 know the poster, yes.

25 Q Did you know it then?

1 MR. CHERNOFF: When you say then?

2 Q July 27 in the heart of your Caldwell inquiry.

3 MR. CHERNOFF: I imagine I did, but I'm not certain.

4 Q Detective Lepine, you were on holiday then?

5 MR. LEPINE: I guess that rules me out. I didn't see it then.

6 Q Did you know that on April 28th, 1999 the
7 Vancouver Police Department authorized \$30,000 of
8 Vancouver's money to go with \$70,000 from the
9 province to the investigate Vancouver's crimes for
10 the missing women?

11 MR. LEPINE: Did we know?

12 Q Did you know, Detective Lepine?

13 MR. LEPINE: I don't know. I'm not sure I knew then or when I
14 knew.

15 MR. CHERNOFF: I knew there was a poster was going to be
16 produced and that there was going to be a reward.
17 When specifically I first found out I don't know.

18 Q Well, the reward is specific. It's for
19 information leading to the arrest and conviction
20 of the person or persons responsible for unlawful
21 confinement, kidnapping or murder of the missing
22 women. Now, it's been addressed that those are
23 Vancouver's crimes to investigate. Did you know
24 those were Vancouver's crimes to be investigated
25 at the time?

1 MR. CHERNOFF: Well, we were conducting an investigation into
2 the missing women. Now, did I read that poster or
3 did I know about the poster at that particular
4 moment? I knew that one was being produced or had
5 been produced. I can't say that I read the actual
6 poster word for word. But of course we were
7 investigating the missing women, and that included
8 any offences with respect to that.

9 Q What discussion did you have on July 26th or 28th
10 or 29th with Sergeant Field about investigating
11 Vancouver's crimes of kidnapping or death caused
12 during kidnapping which is first degree murder,
13 what discussion did you have?

14 MR. LEPINE: I don't -- we were talking -- discussing potential
15 homicides. We had no idea at that time the
16 circumstances of how the women went missing.
17 That's what we were doing trying to investigate to
18 draw a conclusion at that early stage, and say
19 they were being kidnapped, that's a bit of a
20 quantum leap. Just because it's written here
21 doesn't mean that's our investigation.

22 Q My question is quite specific. You have a
23 meeting, first of all Chernoff, you do, sir, on
24 the 26th with Sergeant Field. Did she raise the
25 subject of what she was going to be posting the

1 next day as Vancouver's crimes to investigate?

2 MR. CHERNOFF: I can't remember what was specifically said at
3 that meeting.

4 Q Pardon?

5 MR. CHERNOFF: I cannot specifically remember what was said at
6 that meeting.

7 Q All right. How about on the 29th -- 28th, I
8 should say, the day after it was released into
9 Vancouver Downtown Eastside, that's a meeting when
10 Detective Lepine attends and Shenher, did the
11 subject come up?

12 MR. CHERNOFF: I don't know.

13 MR. LEPINE: The missing women came up if you want to -- if you
14 want to zero in on the word kidnapping I think
15 that's a quantum leap, because we were in no
16 position to determine kidnapping or anything at
17 that particular point. Just because it's written
18 here it has no bearing on our investigation.

19 Q It had no bearing on your investigation. But you
20 told us earlier that in answer to questions by
21 commission counsel that you were helping the RCMP
22 because the evidence was that the crime occurred
23 in Coquitlam, murder occurred in Coquitlam?

24 MR. LEPINE: The evidence that had been gathered, yes,
25 indicated the incident they were investigating had

1 occurred in Coquitlam, that's correct.

2 Q But if the women had been snatched off the street
3 in a kidnapping, kidnapping would be Vancouver's
4 crime as in that poster; right?

5 MR. LEPINE: If there was evidence to indicate that, yes.

6 Q And kidnapping again would be Vancouver's crime?

7 MR. LEPINE: If there was evidence, which I have yet to hear to
8 this day.

9 Q I see.

10 MR. LEPINE: But if there was evidence to a kidnapping, yes,
11 that would be a Vancouver crime.

12 Q And if murder -- if death is caused during
13 kidnapping that too would be Vancouver's crime?

14 MR. LEPINE: If it were proven or evidence shown that it was a
15 kidnapping and a murder occurs, yes, it would be.
16 But that wasn't the case.

17 Q You were about to say proven. You mean if there
18 was a suspicion that would cause you to
19 investigate kidnapping, would it not?

20 MR. LEPINE: Evidence to indicate that.

21 Q The police investigate suspected crime, do they
22 not? That's their duty.

23 MR. LEPINE: I really don't know what -- could you clarify what
24 suspected crimes is?

25 Q Well, in your interviews of Caldwell were you not

1 told by Caldwell that Pickton might be responsible
2 for the missing women, that he had a wig, a blond
3 wig, a red or brown wig, he went downtown on
4 disguises and picked up women to bring them back
5 to his property, and that he had a hate on for sex
6 trade workers, weren't you told that in your
7 interviews of Caldwell?

8 MR. CHERNOFF: Some of those things did come up in the
9 interviews with Caldwell, yes.

10 Q And that he picked up women on the basis of paying
11 large amounts of money for sex or providing them
12 with drugs of their choice so that they would get
13 into his car and take them out to his property in
14 Coquitlam, weren't you told that?

15 MR. CHERNOFF: I think if Caldwell had been with Pickton when
16 Pickton was doing that then that would be entirely
17 different.

18 Q No, with respect, answer my question. Were you
19 told that?

20 MR. CHERNOFF: I'm trying to answer your question. The
21 information came from someone who told Caldwell
22 who told us.

23 Q Of course it did.

24 MR. CHERNOFF: Yes.

25 Q But Caldwell also told you he saw the wigs, he saw

1 the handcuffs in Pickton's property, right, he
2 stayed there for some seven to ten days in the
3 trailer?

4 MR. CHERNOFF: He did stay in the trailer and he did make
5 observations of certain things, yes.

6 Q And also this business about being able to dispose
7 of a body by grinding it up, he told you that
8 Pickton told him that, it didn't come from
9 Ellingsen?

10 MR. CHERNOFF: That he had a way of disposing of people by
11 utilizing the grinder, yes.

12 MR. LEPINE: Yes.

13 MR. CHERNOFF: He did mention that.

14 Q Yes, that came from Pickton?

15 MR. CHERNOFF: That came from Pickton to Caldwell.

16 Q To Caldwell. And he also told Caldwell, Pickton
17 did, about his going downtown and it was getting
18 more difficult to pick up women?

19 MR. CHERNOFF: I can't remember who he mentioned that to. I'm
20 not sure if that was Caldwell or someone else.

21 Q In any event, in your interviews or discussions
22 with Sergeant Field the subject of Vancouver's
23 crime of kidnapping did not come up, is that your
24 evidence?

25 MR. CHERNOFF: I don't ever recall that coming up, no.

1 Q And in the strategy session which occurred on the
2 29th the subject of Vancouver's crime of
3 kidnapping or the three crimes that are in that
4 poster did not come up for discussion, am I right?

5 MR. CHERNOFF: I think you would be right. I don't recall that
6 ever coming up.

7 Q And in the resources to or the strategies to be
8 pursued, they're called resources, one is called a
9 tracking device and a video. That would be
10 getting authority to place a video camera inside
11 Pickton's property, is that what that was about?

12 MR. CHERNOFF: There was some discussion as to where that
13 camera would be placed.

14 MR. LEPINE: Given the location of his trailer well within the
15 property it was impractical to approach the
16 trailer, so.

17 THE REGISTRAR: Your time is up, Mr. Roberts.

18 MR. ROBERTS: Okay. A couple more questions. Thank you,
19 Mr. Giles.

20 MR. CHERNOFF: There was some discussion about different
21 methods that we could go about in keeping tabs on
22 Mr. Pickton, and one would have been a tracking
23 device, and the other would have been a camera
24 which could be used remotely so that we could keep
25 tabs on his movements at certain times of the day

1 or night.

2 Q Can you confirm or advise us as to whether or not
3 there was any discussion about seeking a plain old
4 fashioned search warrant with the things that you
5 had been told would be found in Pickton's trailer
6 in relation to Vancouver's crime of kidnapping?

7 MR. CHERNOFF: Well, I recall having a discussion with Corporal
8 Connor at the time, and he was actually preparing
9 affidavits or Part VIs, yeah, specifically for a
10 search warrant.

11 Q Go ahead.

12 MR. LEPINE: Sorry, I don't understand where you got the word
13 Vancouver's kidnappings, like that's your word.

14 Q How about just a search warrant period?

15 MR. CHERNOFF: I know that Mike Connor had been constructing an
16 affidavit for information, right, and he had been
17 in discussion with Crown counsel with respect to
18 whether or not a search warrant could be obtained
19 with the information that we had supplied and
20 other information which were in his documents in
21 his affidavit, right, to obtain a search warrant.
22 I know that that occurred.

23 Q In relation to what crime?

24 MR. CHERNOFF: I don't know.

25 Q He was investigating murder simpliciter in

1 Coquitlam, and Coquitlam did not have missing
2 women, did they?

3 MR. CHERNOFF: Coquitlam did not have missing women as far as I
4 knew.

5 Q And his jurisdiction was murder in Coquitlam, not
6 kidnapping and murder by reason of death caused in
7 a kidnapping, was it, that's your jurisdiction?

8 MR. CHERNOFF: I don't know how to respond to that.

9 Q He had no nexus for the things that would be found
10 in the trailer, but you chaps did, Vancouver did
11 for your crimes?

12 MR. LEPINE: Just I'm -- you know, we're kind of puzzled here
13 because you're suggesting that we had evidence in
14 relation to kidnapping and I'm just not quite sure
15 exactly what evidence you're --

16 Q I'm actually asking Detective Lepine. Did you
17 consider -- I take it your answer is you did not
18 consider a search warrant in relation to
19 Vancouver's crimes?

20 MR. LEPINE: If we had evidence towards it that we would have,
21 yeah, but we didn't so I think --

22 Q Before I sit down, with leave of the commissioner,
23 I want to ask you something about your work in the
24 past, Mr. Lepine.

25 THE COMMISSIONER: Yes.

1 MR. ROBERTS:

2 Q You worked on a project called Project Hope at one
3 time in Vancouver?

4 MR. LEPINE: That's correct.

5 Q That was a kidnapping of a bipolar woman by a
6 deceit, a pretext to take her down to Stanley Park
7 and look at the sunrise; right?

8 MR. LEPINE: Correct, correct.

9 Q And when down in Stanley Park she was attacked and
10 probably almost left for dead, and she survived
11 and that crime was investigated. The two chaps
12 were involved and charged in that crime --

13 MR. LEPINE: Yes.

14 Q -- were they charged with kidnapping?

15 MR. LEPINE: Probably, because -- I can't remember.

16 Q And was it a kidnapping on a pretext?

17 MR. LEPINE: It probably was a kidnapping and of course a
18 sexual assault and a --

19 Q I can't quite hear you.

20 MR. LEPINE: I just say it was a -- I mean this is going back a
21 ways, but I mean obviously I think there was -- I
22 mean there was a string of charges and I suspect
23 kidnapping, the fact that they did take her down
24 there. You know, they dumped her and left her for
25 dead. I mean there was a string of charges and,

1 you know, kidnap was all part of that.

2 Q But you saw it as a kidnapping by a pretext by
3 fraud, did you not?

4 MR. LEPINE: That was part of it.

5 Q That was part of it. Well, I saw you refer to it
6 in your interview with Mr. LePard. I don't want
7 to put that in front of you unless I have to, but
8 you saw it as a pretext kidnapping, did you not?

9 MR. LEPINE: Well, you know, we had pretty good evidence of
10 that.

11 Q Thank you. But you didn't think of kidnapping
12 with respect of Pickton going up and picking up
13 women in downtown Vancouver?

14 MR. LEPINE: That's repeating yourself. If I had evidence
15 towards that I would certainly do that. I didn't.

16 Q You surely assume that he didn't tell the women
17 I'm also going to attack you or and try and kill
18 you. The pretext was drug or sex?

19 MR. LEPINE: I can --

20 Q Money or drugs for sex?

21 MR. LEPINE: I can draw that. I mean I worked in the Vice
22 Squad, I picked up hundreds and hundreds of
23 prostitutes. I know the game, I know how it goes
24 and, you know, you're carrying out this
25 transaction in the car. I do know for a

1 prostitute to leave her familiar territory and to
2 go out of the city would require something to make
3 it worth their while, probably I suspect drugs or
4 alcohol.

5 Q Or a little more money than usual?

6 MR. LEPINE: Well, enough money to cover the time. In other
7 words, they could be back out on the street in 20
8 minutes.

9 Q Can you tell us why that's not a pretext for -- to
10 get confinement?

11 MR. LEPINE: I'm just saying that that is a possibility of how
12 -- you know, how he would get them out to the
13 property. I don't know if he's killed every woman
14 he ever brought out to the property or every woman
15 he's ever been in contact with. I really don't
16 know. There's no evidence to indicate that to
17 this date.

18 MR. ROBERTS: Thank you, gentlemen. Mr. Commissioner, those
19 are my questions.

20 THE COMMISSIONER: Thank you, Mr. Roberts. Mr. Gratl.

21 MR. GRATL: Thank you, Mr. Commissioner. My name is Jason
22 Gratl, independent counsel for affected
23 individuals and organizations within the Downtown
24 Eastside, and particularly to represent the
25 interests of sex workers and drug users.

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

2 Q I'll start, Mr. Lepine, with you. When you were
3 assigned to the review team you understood that
4 its designation as a review team rather than a
5 task force meant that the team didn't need any
6 more bodies or equipment; isn't that correct?

7 MR. LEPINE: A review team it's an unusual step, I've never
8 been on a review team before, but then I've never
9 been involved in anything where there was no crime
10 scenes, no starting point so to speak, so we had
11 to --

12 Q The question was whether the phrase review team as
13 opposed to task force meant that the review team
14 didn't need more bodies or equipment; isn't that
15 right?

16 MR. LEPINE: It means we don't know what we're dealing with and
17 we start to pursue that. If circumstances -- you
18 know, if circumstances change then it could be
19 converted to a task force.

20 Q Okay. So I'll ask the question again and I'll ask
21 you to listen just to the question. The phrase
22 review team means it didn't any more bodies or
23 equipment; isn't that right?

24 MR. LEPINE: That's a bit of a twist of words. Didn't need any
25 more bodies? I mean it obviously did, because we

1 used as many bodies as possible. As many
2 resources as possible. You know, I wasn't in
3 charge of determining resources, all I know is I'm
4 one of them. But to say they didn't need them, I
5 can't agree with that.

6 Q All right. You gave a statement to Inspector
7 LePard, didn't you?

8 MR. LEPINE: Yes.

9 Q On November 5th, 2003?

10 MR. LEPINE: Yes.

11 Q Do you recall telling him:

12 If you ever said the word task force you got
13 smacked. We were told it was a review team
14 which meant it didn't need more bodies or
15 equipment.

16 MR. LEPINE: Right.

17 Q Which would only occur if we came up with
18 enough info to justify an actual task
19 force.

20 Do you remember using those words?

21 MR. LEPINE: Not really, but --

22 Q Sorry?

23 MR. LEPINE: I don't recall saying it, but Superintendent
24 Deputy LePard is very diligent with his notes, so
25 I would suspect if that was said it's true.

1 Q Okay. Well, I'm suggesting to you that he would
2 take a note of his interview with you and sent you
3 for a copy of it by e-mail so you can review for
4 accuracy. Do you remember that happening?

5 MR. LEPINE: I expect yes.

6 Q Sorry?

7 MR. LEPINE: Did I get a copy of the notes, is that what you're
8 saying?

9 Q Yeah, did you review his notes for accuracy?

10 MR. LEPINE: It's a long time ago. I can't remember.

11 Q Okay. So you're not denying that you said you
12 were told it was a review team which meant it
13 didn't need more bodies and equipment?

14 MR. LEPINE: If I said that I'd be venting a little bit, but I
15 didn't mean it in the sense we didn't need more
16 bodies. It just meant that there is a task force
17 going on next door with the home invasions, and
18 that was a task force where they had, you know,
19 various resources, vehicles, radios, bodies and
20 all that. We didn't have any of that. We were
21 just trying to determine the scope of the problem
22 we were dealing with, and then the result of that
23 could easily end up turning into a task force.

24 Q Now, do you remember saying that if you ever said
25 the word task force you got smacked?

1 MR. LEPINE: Sorry.

2 Q So you do remember saying that?

3 MR. LEPINE: No, he said we were using the word task force, and
4 we weren't. I mean we weren't a task force. So,
5 you know, we would be corrected to know we're a
6 review team, I mean, that's what we are.

7 Q I'm asked about smacked.

8 MR. LEPINE: Yeah, that sounds like a word I would say, but
9 it's -- you know, it's reminded that we're not at
10 that task force level yet, we're at a review, and
11 believe me this is the first situation I've ever
12 been involved in or know of where we went to the
13 review team way and then ultimately task force.

14 Q So you do remember and you agree with that
15 assessment that if you ever used the word task
16 force you got smacked; is that right?

17 MR. LEPINE: You mean hit over the head or something? Just
18 reminded, no, you know, we're a review team.

19 Q Who would have smacked up?

20 MR. LEPINE: Maybe my sergeant.

21 Q Okay. And who would that be?

22 Mr. Lepine: Sergeant Field.

23 Q Okay. So you say if the word task force was used
24 you would have been smacked by Sergeant Field?

25 MR. LEPINE: I guess it's the correct term would have been

1 review team. That's what the -- I mean it's
2 called Project Amelia, but we never used that
3 phrase as far as I can ever recall, we called it
4 Amelia.

5 Q It would have been a mild form of discipline?

6 MR. LEPINE: No, no discipline.

7 Q Just chastisement?

8 MR. LEPINE: Correcting to no, we're not a task force, we are a
9 review team, and for me to go and tell people that
10 we're a task force when we weren't at that stage.
11 Logistically we weren't a true task force, we were
12 a review team. You know, this is like a new --
13 it's an untried thing as far as I know. I never
14 knew there to be a review team. So it was quite
15 common for us at any time there is some bodies
16 that were being dragged in that we're called a
17 task force, this wasn't a task force.

18 Q All right. So Fell and Wolthers when they were
19 assigned you considered them to be disruptive, is
20 that correct, Mr. Lepine?

21 MR. LEPINE: They're a distraction.

22 Q Did you -- were you very upset when they were
23 assigned to the review team?

24 MR. LEPINE: Surprised.

25 Q Were you upset?

1 MR. LEPINE: It takes a lot to upset me. I was a little
2 surprised that we're waiting -- you know, we were
3 looking for any help we can get, and Fell and
4 Wolthers arrive, and I'm a little surprised that
5 they would be chosen.

6 Q All right. I'm reading from page 8 of your
7 interview with -- with Inspector LePard. There it
8 says:

9 They did...

10 Referring to Wolthers and Fell:

11 ... they did an end run around everyone to
12 DCC McGuinness and convinced him that they
13 were on to someone with Niedermier. He sent
14 them to us and we were very upset about it.
15 He said if you don't take them you don't get
16 anybody. He really did think they were
17 hotshots. It stuck a knife in the heart of
18 the review team.

19 You used those words with Inspector LePard, didn't
20 you?

21 MR. LEPINE: I was being very dramatic that day, but, yeah, it
22 made it -- I was a little --

23 Q More than surprised?

24 MR. LEPINE: Okay. A little more than surprised.

25 Q Upset?

1 MR. LEPINE: Not quite upset.

2 Q Having a knife stuck in the heart of the team
3 you're working on is not upset?

4 MR. LEPINE: No, that's just a phrase that I might use to
5 describe a surprise.

6 Q You know you're under oath, Mr. Lepine?

7 MR. LEPINE: Yes, absolutely.

8 THE COMMISSIONER: You don't need to remind anybody they're
9 under oath.

10 MR. GRATL: Well, I just --

11 THE COMMISSIONER: You know what, it's not done. It's just not
12 done. They know they're under oath.

13 MR. GRATL:

14 Q You appreciated that in your mind the assignment
15 of Fell and Wolthers to the review team meant that
16 the review team itself wasn't considered important
17 by the higher ups; is that correct?

18 MR. LEPINE: I thought they could have done better. I realize
19 the restrictions we have of bodies. I mean
20 everybody is short of bodies and everybody wants
21 them. Bodies meaning police officers. I was just
22 hoping for somebody a little more experienced.

23 Q The feeling was that the review team wasn't
24 important because of who they had sent you in Fell
25 and Wolthers; isn't that right?

1 MR. LEPINE: Well, it kind of gave us that impression at our
2 level. I've never heard that, I never said that,
3 that's maybe an impression that I have.

4 Q All right. And I'm just reading from your
5 interview that you gave to Inspector LePard. You
6 say -- the words you use:

7 The feeling was we weren't important because
8 of who they'd sent us.

9 Do you recall using those words?

10 MR. LEPINE: I don't recall using that words, but it sounds
11 like I could say that, sure.

12 Q It sounds accurate to you, doesn't it?

13 MR. LEPINE: I mean I don't know how the -- I can't remember
14 how the conversation was going at the time, and
15 we're sort of cherry picking here pulling a
16 comment out of a conversation. But, yeah, I guess
17 you can draw whatever conclusions you want to, but
18 I'm just saying --

19 Q Well, I don't want to be accused of taking it out
20 context.

21 MR. LEPINE: I'm just saying, and I can't be clearer than this,
22 I was hoping that we needed -- we definitely
23 needed more resources, we needed help, and, you
24 know, I was certainly hoping that we would get
25 more, you know, experienced investigators. I was

1 also concerned that they were very focused on one
2 suspect and weren't open to all the possibilities,
3 and so they were looking for the magic bullet.

4 Q But even before finding out what their
5 investigative style was you were upset just
6 because of their assignment; isn't that right?

7 MR. LEPINE: Surprised.

8 Q You had an idea of who they were before they
9 started?

10 MR. LEPINE: Yeah, I had never met them before.

11 Q But you had an idea nonetheless?

12 MR. LEPINE: I've heard that -- I suppose the reason they were
13 being sent to us the fact that they were going
14 after Niedermier from the deputies. You know, we
15 needed somebody with a very open mind that would
16 look at the big picture and not just focus on --
17 which everybody wants to think we should do with
18 Pickton, just blank everybody else out and just
19 look at one person. You just can't do that.
20 That's what they're doing.

21 Q You shared office space with Sandra Cameron;
22 correct?

23 MR. LEPINE: Through the years.

24 Q All right. You in your interview with Deputy
25 Chief Evans described her as a sarcastic person

1 with zero compassion; is that fair?

2 MR. LEPINE: Pretty fair, yes.

3 Q And that's your opinion to this day?

4 MR. LEPINE: Yes.

5 Q All right. Now, Mr. Chernoff, you in fact wanted
6 out of the Missing Women Review Team; isn't that
7 correct?

8 MR. CHERNOFF: No.

9 Q All right. You don't recall telling Inspector
10 LePard that you wanted out of the review team,
11 that you would have left if you could have?

12 MR. CHERNOFF: Well, we weren't there for very long, and when
13 we were there we were extremely busy, so I don't
14 recall ever saying that. I mean there are times
15 when, you know, out of frustration -- and as I
16 said before one of the things that actually I
17 quite liked was the fact that this team unit space
18 that we occupied was directly beside the Homicide
19 Squad where I had my desk, so there were times
20 when I didn't want to be in that room I would go
21 back to my desk and work from there.

22 Q Didn't you tell Inspector LePard that it was very
23 difficult to work in the review team environment
24 and you would have run out of there the moment you
25 got the chance?

1 MR. CHERNOFF: Yeah, I did.

2 Q Despite liking the work and working with Ron?

3 MR. CHERNOFF: Yes, but when I said run out of there I
4 physically didn't want to be in that office when I
5 didn't have to be so I was at my desk.

6 Q All right. I take it those difficulties
7 undermined the integrity of the review team;
8 correct?

9 MR. CHERNOFF: No.

10 Q Isn't it -- isn't it the case that you considered
11 that the review team wasn't a full blown project,
12 that it was half assed, that it was the bare
13 minimum?

14 MR. CHERNOFF: Yes, that's actually how I felt.

15 Q Okay.

16 MR. CHERNOFF: I felt that a lot of other people should have
17 been brought in and that we could have effectively
18 utilized a number of different experienced people.

19 Q Okay. So all those characterizations --

20 MR. CHERNOFF: Well, it was -- in my opinion it was somewhat
21 half assed.

22 Q All right.

23 MR. CHERNOFF: I didn't think it was manned appropriately. I
24 think Lori had an extremely large mandate, and
25 that other resources could have been added.

1 Q All right.

2 MR. CHERNOFF: That's what I meant by that.

3 Q Fair enough. And, Mr. Lepine, you weren't really
4 assigned full time to the missing review team?

5 MR. LEPINE: We were I guess I should say seconded to the
6 missing review team.

7 Q Okay.

8 MR. LEPINE: But the reality is if you're investigating a
9 homicide, and we had several homicides that we
10 were investigating at all various stages,
11 beginning, middle, end, you know, preparing for
12 court, you just can't walk away. If you've got --
13 and as is the case, if you've got somebody on a
14 CPIC, you're looking for a person to advance your
15 case, and that person is found then he needs to be
16 interviewed no matter what time of the day or
17 night you'd have to jump off and go interview
18 that, and whatever transpires from that
19 information carries on. So it's just you can't
20 walk away from a homicide and just send some other
21 guy who doesn't know anything about it to carry on
22 your investigation. It doesn't work that way.

23 Q Sergeant Field wanted you to be the acting
24 sergeant for the review team --

25 MR. LEPINE: Yes.

1 Q -- but you declined to do that, you wanted to stay
2 in a detective role?

3 MR. LEPINE: Yes. I was also in the process of retiring and I
4 knew this was going to be a long haul.

5 Q So you expected the review team's work to be a
6 long haul?

7 MR. LEPINE: This case was a massive file, and if I'm going to
8 retire in a year or whatever I'm not the guy to,
9 you know, be heading this.

10 Q As I understand it you started on the review team
11 in June; is that right?

12 MR. CHERNOFF: May.

13 MR. LEPINE: May.

14 Q May. And then your work concluded entirely or
15 almost entirely by November; isn't that correct?

16 MR. LEPINE: Okay.

17 Q Yes or no, mostly?

18 MR. LEPINE: I could look it up, but if you say that, yeah,
19 I'll accept that.

20 Q Okay. And I take it that must have surprised you
21 then because you were expecting the review team to
22 be a long haul and that seems like a short haul to
23 me.

24 MR. LEPINE: Well, we're here at 12 years later. That's a long
25 haul.

1 Q You must have understood the question that the
2 review team didn't end up being a long haul?

3 MR. LEPINE: Who knows. At this time when you're in this hook
4 called a review team you have no idea, you know,
5 how if this could be over in a week or two, but
6 this is pretty clear that if there are that many
7 women are missing and there's a lot of work to do,
8 and this case is -- any case laid today doesn't
9 come to court for two years later you don't have
10 to be a mathematician to figure that one out that
11 I wouldn't be around had I headed this up or I
12 wouldn't be around when this all came to court or
13 whatever. I spent my retirement in a courthouse.

14 Q You were anticipating your pending retirement and
15 you didn't want to get deeply involved in a
16 massive investigation?

17 MR. LEPINE: Okay. That sounds okay.

18 Q That's accurate?

19 MR. LEPINE: Sure.

20 Q And then I take it you were frustrated as well
21 that the review team itself had no plain goal or
22 game plan?

23 MR. LEPINE: We were -- there's no question because we didn't
24 know what we were dealing with, didn't know the
25 scope of what we were dealing with, it's pretty

1 hard to make plans when you don't know. That's
2 why we're there to figure it out, and then
3 whatever information we have you can draw your
4 conclusions and make your plans. But I think at
5 the very, very beginning we sort of -- you know,
6 you try to determine who would constitute a
7 suspect, that kind of thing, and you go in those
8 avenues. But, you know, we were really at a very,
9 very basic beginning stages of a massive file.

10 Q Okay. Now, I take it you had about ten solid
11 suspects?

12 MR. LEPINE: Well, we had a lot.

13 Q Well --

14 MR. LEPINE: Ten better than -- you know, ten better than the
15 other 90 or something.

16 Q I just say it would appear from your interview
17 with Inspector LePard that you had about ten
18 really solid suspects who looked like they could
19 have done something like this; is that correct?

20 MR. LEPINE: That sounds good. That sounds good. I don't know
21 about the number ten, but certainly a short list
22 if you want to call it that.

23 Q Sure. It's not 300 solid suspects, it's ten solid
24 suspects?

25 Mr. Lepine: Well, because you have ten solid suspects that

1 doesn't mean you ignore the other whatever there
2 are and put them in a pile. You know, you can
3 look at -- you can sort of if you want a short
4 list to make it workable, you might be able to do
5 that, but at any time somebody could move into the
6 list or move out of the list.

7 Q All right. When you got the new fresh Pickton
8 information from Caldwell, that information came
9 in as a result of the poster; isn't that correct?

10 MR. LEPINE: I wasn't there at the time.

11 Q You're not sure about that?

12 MR. LEPINE: I don't know what the circumstances were.

13 Q Okay. And then I take it after you got that
14 Caldwell information that list of ten suspects
15 from your point of view, from the point of view of
16 the work you were doing, narrowed down to one
17 because you started working on Pickton 100 percent
18 of the time?

19 MR. LEPINE: No.

20 Q Not the case?

21 MR. LEPINE: No.

22 Q All right. Now, you started attending daily RCMP
23 briefings; correct?

24 MR. LEPINE: Correct.

25 Q And those occurred in Port Coquitlam; correct?

1 MR. LEPINE: Yes, that's correct.

2 Q Now, initially it was only RCMP members who were
3 there, or Port Coquitlam detachment members who
4 were there, but gradually members from the
5 Unsolved Homicide Unit started showing up;
6 correct?

7 MR. LEPINE: Yes.

8 Q And that would include Doug Henderson; correct?

9 MR. LEPINE: Right.

10 Q And Ballantyne and Henley?

11 MR. LEPINE: Yes.

12 Q Henley ended up being a bit of a -- you described
13 him as a stumble bear in your interview with
14 Deputy Chief Evans; is that right?

15 MR. LEPINE: Yes.

16 Q It seemed he had a lot of pull with the other RCMP
17 members?

18 MR. LEPINE: Seemed to.

19 Q And he was antagonistic to the information
20 provided by Caldwell?

21 MR. LEPINE: I don't know antagonistic, but he's -- he was -- I
22 mean, you know, you're dealing with a group of --
23 you know, everybody in the room is an A type
24 personality, they let their opinions be known, and
25 his opinion seemed to carry more weight than some

1 others.

2 Q Well, then that would make him the A type and the
3 other people that went along with him --

4 MR. LEPINE: No, they're all A.

5 Q He's A minus?

6 MR. LEPINE: He's double A, yes.

7 Q Inspector Moulton was at these meetings; correct?

8 MR. LEPINE: I'm not sure of the RCMP members that were there,
9 but my thorough partner here, he wrote the names
10 down.

11 Q I suggest to you that you told Inspector LePard
12 that there was an Inspector Moulton at the morning
13 briefings with the RCMP most of the time?

14 MR. LEPINE: I'm surprised I would say that, because I didn't
15 know his name.

16 Q I'll just read it out to you. Here's what you
17 told Inspector LePard:

18 Every morning once we got going on Pickton we
19 went to a morning briefing with the RCMP with
20 seven or eight RCMP members. It was unusual
21 because they wouldn't always say who they
22 were. There was an inspector there, Moulton,
23 most of the time. I honestly don't know who
24 they all were. It wasn't a well run meeting.
25 It was in the July and August period.

1 Do you remember that?

2 MR. LEPINE: I remember that. Like I suspect if I knew his
3 name that I probably had briefed myself with some,
4 you know, information prior to the interview and
5 then quickly forgot it.

6 Q Okay. So your recollection was probably more
7 fresh back in --

8 MR. LEPINE: Yes, shortly.

9 Q Was more fresh when you talked to Inspector
10 LePard?

11 MR. LEPINE: I suspect I would have refreshed my memory. I
12 don't remember the inspector's name in the RCMP.

13 Q Okay. And you recall Hiscox was on methadone,
14 correct, but he would sometimes cheat?

15 MR. LEPINE: Hiscox or Caldwell?

16 Q Sorry. Caldwell was on methadone?

17 MR. LEPINE: Yes, Caldwell.

18 Q And he would sometimes cheat, that is to say he
19 would take heroin?

20 MR. LEPINE: I would think that, yes. He's a heroin addict.

21 Q All right. But you say in your interview with
22 Inspector LePard even stoned his recall was pretty
23 good?

24 MR. LEPINE: Yeah.

25 Q That was your assessment. Now, you told Inspector

1 LePard that you started working Pickton 100
2 percent of the time because of the Caldwell
3 information, didn't you?

4 MR. LEPINE: I can't imagine -- I don't know how that
5 conversation came about, what we were talking
6 about. The 100 percent, no, that's not true. We
7 were doing all kinds of things.

8 Q All right. So if you told that to Inspector
9 LePard that would be inaccurate?

10 MR. LEPINE: If I told that to Inspector LePard I was quite
11 inaccurate on that one.

12 Q All right. Do you have your interview with
13 Inspector LePard with you?

14 MR. LEPINE: No.

15 Q All right. Did you have a chance to read it
16 before giving evidence today?

17 MR. LEPINE: No.

18 Q Now, aside from the Port Coquitlam detachment
19 officers there were also the Unsolved Homicide
20 Unit officers; right?

21 MR. LEPINE: Henley and Ballantyne.

22 Q Henley and Ballantyne and Henderson; correct?

23 MR. LEPINE: I don't remember Henderson that well, no.

24 Q Okay. And then you recall as well that there were
25 some Major Crime Squad people from "E" Division?

1 MR. LEPINE: No, I didn't know the people in the meeting, and
2 they didn't exactly shut the meeting down and
3 introduce themselves, which is surprising because
4 the RCMP normally do that, so I wasn't quite aware
5 of all the people who were in the meeting.

6 Q All right. Caldwell was an informant known to the
7 Unsolved Homicide Unit investigators; isn't that
8 right?

9 MR. LEPINE: I believe that, yeah.

10 Q That is to say he had done paid work from the
11 Unsolved Homicide Unit investigators before you
12 had ever encountered him?

13 MR. LEPINE: We had information that he'd some previous
14 dealings. They didn't give us specifics, but they
15 were aware of him, aware of some issues that he
16 was involved in. It was very sensitive
17 information, they don't give it out.

18 Q Whatever role he had had was a paid role; correct?

19 MR. LEPINE: I suspect possibly. You know, I don't know.
20 That's pretty sensitive material.

21 Q All right. And I'm just putting it to you that
22 you told Inspector LePard:

23 Then we found out through the Provincial
24 Unsolved Homicide Unit that he had been an
25 informant before, that he got a relatively

1 large amount of money before, but he wasn't
2 asking for help, asking for it now, but he
3 was always getting himself into trouble and
4 needing help.

5 Isn't that right?

6 MR. LEPINE: Yeah.

7 Q That's one of the things you found attractive
8 about Caldwell is he didn't want money up front;
9 correct?

10 MR. LEPINE: Yes.

11 Q And you found out later though that he had a
12 history with the RCMP unsolved homicide
13 investigators?

14 MR. LEPINE: Yeah. I don't know the details of what that was,
15 but yes, he had I think an informant police
16 situation.

17 Q You appreciate that the RCMP classifies their
18 informants as reliable, unreliable, unknown
19 reliability or treacherous?

20 MR. LEPINE: Right.

21 Q Those are the four classifications they have?

22 MR. LEPINE: Right.

23 Q Did you ask what classification Caldwell had?

24 MR. LEPINE: I can't -- I honestly cannot remember the
25 classification other than the fact there was some

1 hesitancy on their part.

2 Q Of course you appreciate an informant's history of
3 providing reliable information is one of the
4 indications that they're currently providing
5 reliable information?

6 MR. LEPINE: You know, that is the assessment that is made.
7 They do an extensive assessment on a person if
8 they are going to be used as, you know, an agent
9 or whatever, there's quite an extensive background
10 investigation conducted to assess them. It takes
11 more than just a comment from the RCMP saying he
12 was used in a previous incident and not knowing
13 all the circumstances.

14 Q That's just one of the factors?

15 MR. LEPINE: It's a factor, but not -- not the one that's going
16 to carry the day.

17 Q So whose informant was Caldwell, which
18 investigator, Henderson?

19 MR. LEPINE: Caldwell?

20 Q Henley?

21 MR. LEPINE: Us.

22 Q Which of the RCMP Unsolved Homicide Unit members
23 had been the handler for Caldwell in the past?

24 MR. LEPINE: I have no idea.

25 Q Was that Henley?

1 MR. LEPINE: I don't no.

2 Q Was it Ballantyne?

3 MR. LEPINE: I just said I have no idea. Prior to our
4 involvement with him are you talking about?

5 Q Sorry?

6 MR. LEPINE: Are you talking about prior to our involvement
7 with him who was his handler?

8 Q Yes, sure, you must have been told at one of these
9 RCMP meetings that --

10 MR. CHERNOFF: Can I clarify?

11 Q Yes, please do if you've got an answer.

12 MR. CHERNOFF: I think what happened is the RCMP --

13 MS. TOBIAS: Mr. Commissioner, if I may.

14 THE COMMISSIONER: Yes.

15 MS. TOBIAS: I apologize for interrupting. Cheryl Tobias for
16 the Government of Canada. Two points. The one is
17 that the witness has said he had no idea, and
18 second of all, I hear that we're starting to go
19 down a road that informant privilege is going to
20 come into play here, because these gentlemen have
21 talked about hints that they were given, but when
22 it comes down to it a question of whether someone
23 is or is not an informant on an unrelated matter
24 is really well within the privilege and not
25 something that should be aired in this room.

1 THE COMMISSIONER: Well, I agree with the first part and that
2 is Mr. Lepine has already said he has no idea, but
3 now Mr. Chernoff said that he may be able to help.
4 But I mean the fact that someone was an informant
5 14 years ago or something like that doesn't --
6 shouldn't really preclude counsel from asking
7 about that now. I agree that the normal rule is
8 that there's a principle, if you will, of
9 informant privilege, but here -- I don't know
10 where we're going with this in any event, but --
11 yes.

12 MR. HIRA: I don't -- with respect I don't think that's the
13 law. It's a privilege that lasts forever,
14 certainly in the lifetime of the informant. I
15 mean I have no interest in this, I just think it's
16 very dangerous to go down that route.

17 THE COMMISSIONER: Except --

18 MR. HIRA: Unless it's been waived by the informant himself.

19 THE COMMISSIONER: I agree with that, you're quite correct as
20 far as the law is concerned, but here we already
21 know what Caldwell's role was, don't we?

22 MR. HIRA: We do in this investigation.

23 THE COMMISSIONER: Yeah.

24 MR. HIRA: The concern is we're now going into whether or not
25 he was an informant on other matters, so to draw

1 out that Caldwell was an informant on other
2 matters is, in my respectful submission, a
3 prohibited area.

4 THE COMMISSIONER: Okay. No, I appreciate that, and you're
5 right, except that I didn't think that Mr. Gratl
6 was going into other areas. You're only concerned
7 about this case.

8 MR. GRATL: I just want to know if he was considered to be a
9 reliable informant or if he was considered to be
10 an unreliable informant by the RCMP members and
11 who the RCMP members might be.

12 MS. TOBIAS: With respect, I understood my friend to be
13 referring to based on his past record as an
14 informant, if any, with the RCMP in other matters.
15 That, in my submission, is not appropriate, it's a
16 violation of privilege if in fact he was an
17 informant, he can't be asked one way or another.

18 THE COMMISSIONER: Okay. Now, I have your point, but we
19 already know that he was an informant in this
20 case, and every witness who's come here and
21 testified to Caldwell has said that he is
22 reliable.

23 MS. TOBIAS: Oh, absolutely with respect to the purview of this
24 case. My objection is solely with respect to the
25 extent to which, if at all, my friend is asking

1 about Mr. Caldwell's performance, reliability,
2 otherwise status as an informant or otherwise in
3 other cases, not this one.

4 THE COMMISSIONER: Okay. I have your point about otherwise. I
5 don't think that's what Mr. Gratl was getting at.
6 You're not concerned about his other activities?

7 MR. GRATL: No.

8 THE COMMISSIONER: No. Okay.

9 MR. GRATL: But if I can just carry on.

10 Q I want to try and put a finer point, Mr. Lepine,
11 on who within the RCMP was opposing the
12 investigation ongoing. Obviously Sergeant Connor
13 was or Corporal Connor was very keen; correct?

14 MR. LEPINE: Yes.

15 Q He was gearing up for a wiretap application?

16 MR. LEPINE: You know, he was the lead investigator would be
17 his role I guess.

18 Q Okay. He was drafting an application in support
19 of a wiretap?

20 MR. LEPINE: He would be the best guy to talk to, but that
21 would be his role as lead investigator.

22 Q You knew about that obviously?

23 MR. LEPINE: I knew there was something in the works.

24 Q You knew that there was a wiretap application in
25 the works in particular?

1 MR. LEPINE: I didn't know whether it was a wiretap, whether it
2 was going to be a search warrants or whatever. I
3 think he was approaching Crown. I'm not sure, and
4 I'm guessing at that, you know, he was approaching
5 Crown to try to -- I don't know what wiretap, but
6 I'd be guessing.

7 Q All right. How about you, Mr. Chernoff, did you
8 know there was a wiretap application afoot?

9 MR. CHERNOFF: Not specifically a wiretap application, I knew
10 that he was constructing an affidavit.

11 THE REGISTRAR: Mr. Gratl, you've reached your 30 minutes.

12 MR. GRATL: Ms. Narbonne indicated to me that I could use up
13 her time. I think she had six minutes.

14 THE REGISTRAR: If that's the case you have a further 21
15 minutes.

16 MR. GRATL:

17 Q Mr. Chernoff, you told Inspector LePard that you
18 knew Connor spent the entire weekend writing a
19 Part VI application; isn't that correct?

20 MR. CHERNOFF: That could be what I said.

21 Q All right. And so that would be accurate then if
22 you told Inspector LePard that, you wouldn't have
23 any reason to --

24 MR. CHERNOFF: You know, I may have just forgotten that. If I
25 told him it it's probably correct that he was

1 constructing a Part VI. I thought it was an
2 affidavit, but it could have been a Part VI, and
3 if I told him that then it probably was.

4 Q Well, there's an affidavit as part of a Part VI
5 application, you know that?

6 MR. CHERNOFF: Yeah, I just meant in general an affidavit.

7 Q Okay. But you're not denying what you told
8 Mr. LePard, are you?

9 MR. CHERNOFF: No, I'm not at all. I'm saying that it's very
10 possible that I did say that, yes.

11 Q Okay. And if you told that to Inspector LePard
12 that would be accurate then, would it?

13 MR. CHERNOFF: That's what I just said, yes.

14 Q Okay. And you're familiar with RCMP policy in
15 order to initiate a wiretap application you need
16 to fill out some paperwork?

17 MR. CHERNOFF: I don't know what the RCMP policy is, but of
18 course I know that Part VIs require a lot of work.

19 Q It's a big deal, it's a budget item?

20 THE COMMISSIONER: I don't think it's RCMP policy, it's the
21 law. An enormous part of paperwork is involved in
22 Part VI applications.

23 MR. CHERNOFF: I've drafted Part VIs myself so I know what's
24 involved.

25 MR. GRATL: Great.

1 Q It's an awful lot of work for the investors and
2 for Crown counsel; correct?

3 MR. CHERNOFF: Yes, it is.

4 Q It brings the judiciary into bear, not just
5 justices of the peace but Supreme Court justices?

6 MR. CHERNOFF: Yes.

7 Q And it involves a big budget for civilians to take
8 logs and everything that's overheard?

9 MR. CHERNOFF: You mean once a wiretap is granted?

10 Q Yes.

11 MR. CHERNOFF: Part VI is granted. Yes, of course.

12 Q Yes, you have to record all the conversations that
13 are intercepted electronically?

14 MR. CHERNOFF: That is correct, yes.

15 Q And they have to be logged by civilians. It's a
16 big ticket item?

17 MR. CHERNOFF: Yes. It's a big budget for them, yes.

18 Q So obviously the Hiscox information or the
19 Caldwell information together with all the other
20 corroborating information was being taken very
21 seriously at one point?

22 MR. CHERNOFF: Yes, it was.

23 Q Okay. Now, what I'm asking here is whether
24 Inspector Moulton or anybody else within the Port
25 Coquitlam detachment structure was involved in

1 diminishing the enthusiasm?

2 MR. CHERNOFF: I have no idea.

3 Q Okay. But you were at the RCMP meetings?

4 MR. CHERNOFF: Yes, I was.

5 Q Who in particular was arguing against the wiretap
6 application?

7 MR. CHERNOFF: Nobody as far as I can recall. Like arguing
8 against it?

9 Q Well, somebody had to be saying let's not do this,
10 let's not do a wiretap?

11 MR. CHERNOFF: That's why I said earlier I could only speculate
12 as to what may have gone on behind closed doors, I
13 don't know, but no one ever mentioned that or that
14 discussion never came up in any of the meetings
15 that we were at.

16 Q Okay. You appreciate that there were some
17 investigators, yourself included, who were gearing
18 towards ramping up a big investigation including
19 wire?

20 MR. CHERNOFF: That is correct, yes.

21 Q And then there must have been other investigators
22 who were opposed to that devotion of resources,
23 and I'm asking who are they?

24 MR. CHERNOFF: You know, I don't think a lot of them said
25 anything to us personally. In these meetings

1 it -- I mean there was some scepticism, and I knew
2 that from the very beginning based on the
3 information that we obtained from Caldwell, it was
4 remarkable information and there was some
5 skepticism. Right from the get go there were
6 people saying well, maybe it wasn't a body hanging
7 up there, maybe it was a pig. There was all kinds
8 of questions and -- well, when it came to the
9 potential of a Part VI I don't recall there being
10 any discussion about there should not be a Part
11 VI. And no one came face to face with me and ever
12 said that -- and said that this investigation
13 shouldn't go forward, but I knew that something
14 was going on and certain people weren't buying
15 into either the information or Mr. Caldwell or a
16 variety of other things that had come up in the
17 past.

18 Q Didn't you tell Inspector LePard that it went high
19 in the RCMP and to Henderson who was a big shot
20 and they make the decisions, not us, referring to
21 the VPD?

22 MR. CHERNOFF: Well, of course they do make the decisions.

23 Now, what was said, and I have no idea, I wasn't
24 privy to any of those discussions or meetings.

25 Q Well, then how did you know it went high in the

1 RCMP to Henderson?

2 MR. CHERNOFF: Because it goes high in every police department.

3 He's -- any of these discussions or any of these
4 decisions that are made on Part VIs and other
5 things are not specifically made, they're not made
6 by the investigators. We as investigators would
7 like to see a Part VI done, that doesn't mean it's
8 going to be done. When I was in the homicide
9 section and filled out all these different forms
10 and documents that they went up the chain of
11 command to the deputy chief. Now, the discussion
12 once up at that level I have no idea if people are
13 buying into it or not. And I think that's what I
14 meant there. Just knowing that these things --
15 these decisions aren't made at the detective
16 level, they're not made at the sergeant level.

17 Q Sure. When you tell Inspector LePard that it goes
18 high up in the RCMP, you're saying it's not Yurkiw
19 who's making the decision, it's not Pollock that's
20 making the decision?

21 MR. CHERNOFF: No.

22 Q And then you specifically name Doug Henderson from
23 the Unsolved Homicide Unit?

24 MR. CHERNOFF: He's probably the only guy that I actually knew
25 the name of like in terms of like a sergeant or

1 someone who had any type of rank, but, you know,
2 certainly those matters go up higher than that.

3 Q Okay. When you use the name Henderson you're just
4 sort of guessing or speculating?

5 MR. CHERNOFF: Exactly.

6 Q You're saying some big shot somewhere within the
7 RCMP pulled the rug out from under this
8 investigation, you don't who, but it's somebody
9 high up?

10 MR. CHERNOFF: Well, again you're speculating when you say some
11 big shot pulled the rug out. Those aren't my
12 words. I'm saying at some point someone made a
13 decision. Where that decision was made I don't
14 know, but I could only speculate.

15 Q All right. Now, I want to get back to the time
16 immediately after you find out that the RCMP is
17 pulling away from the Pickton investigation, that
18 they're no longer planning on doing a Part VI.
19 When did you find that out?

20 MR. CHERNOFF: The specific day I don't know. It probably
21 would have been sometime just before Mike Connors
22 ended up being transferred or promoted and
23 transferred out.

24 Q Okay. That was at the tail-end of August then,
25 1999?

1 MR. CHERNOFF: It would have been sometime around there. Right
2 when specifically I don't recall.

3 Q Right. He was the wind in the sails of this
4 investigation within the RCMP?

5 MR. CHERNOFF: As far as I was concerned, yes.

6 Q All right. And then there was a big sea change
7 and then there was no more support after that sea
8 change?

9 MR. CHERNOFF: That seemed to be the timing of it, yes.

10 Q Okay. So you went back then to report all of that
11 to the review team within the Vancouver Police
12 Department; correct?

13 MR. CHERNOFF: Yes, there was some discussion amongst all of
14 the review team members about the fact that this
15 seemed to be going south, and the discussion
16 including -- that included our opinions as to why
17 this didn't happen and if it -- if Connors would
18 have stayed or -- you know, there was a bunch of
19 things that we discussed, but certainly we were
20 very disappointed that he was transferred out and
21 that this investigation really stopped at that
22 stage.

23 Q All right. So Vancouver Police Department has a
24 process for doing Part VI wiretaps?

25 MR. CHERNOFF: Yes.

1 Q And did at the time in 1999?

2 MR. CHERNOFF: Of course.

3 Q There'd be a process for engaging that and some
4 forms that had that to be filled out?

5 MR. CHERNOFF: Yes.

6 Q And it would be the lead investigators who would
7 fill out those forms?

8 MR. CHERNOFF: Yes.

9 Q And in the context of Pickton, on which you'd been
10 spending most of your time, you and your partner
11 Mr. Lepine would have been the people to fill out
12 those forms?

13 MR. CHERNOFF: Are you suggesting that we should have applied
14 for a Part VI?

15 Q I'm just asking you the questions and then I'm
16 trying to -- of course this is cross-examination,
17 I'm trying to trap you by stages and give an
18 answer I want. So I'm just asking you about your
19 role that you would have been the people to fill
20 out these forms applying for a Part VI if anybody
21 was to do it?

22 MR. CHERNOFF: If I was assigned a homicide investigation and
23 we had a suspect and there was evidence, and I had
24 enough evidence to write a Part VI and obtain
25 wiretap or any other method or any other tool that

1 we use as an investigative aid it would have been
2 my responsibility if I was assigned a homicide in
3 my jurisdiction and I was actively investigating
4 it, yes.

5 Q And you knew already there was a draft affidavit
6 out there for a Part VI application, a lot of the
7 work had already been done, and if VPD had picked
8 up that Part VI momentum that draft affidavit
9 could have been used?

10 MR. CHERNOFF: No one ever suggested that -- that's why another
11 officer was assigned to the Pickton file out in
12 Coquitlam. I'm not an RCMP member, they just
13 won't hand over binders full of information to me.
14 That affidavit was constructed by Corporal Connor,
15 and ultimately he would have completed that Part
16 VI application if he were still there. That's
17 what obviously we were upset about. But, no, I'm
18 just not going to go take his Part VI, it's based
19 on his information.

20 Q Well, I'm just saying that here we have an RCMP
21 who is no longer enthusiastic, doesn't want to do
22 a big investigation, Vancouver Police Department
23 has the apparatus in place to do a similar kind of
24 investigation --

25 MR. CHERNOFF: That was never discussed amongst my bosses or

1 anyone in my unit or my squad. There was never
2 any conversation or any thought given to writing
3 up a Part VI application for that offence. As it
4 occurred in Coquitlam it was their case, they were
5 in charge of it, and we left it there, it was
6 going to be followed up, and any subsequent Part
7 VI or other affidavit that was obtained would be
8 obtained in Coquitlam per the information with
9 respect to that woman that was told to be hanging
10 up in the barn.

11 Q Here's what I'm suggesting to you, Mr. Chernoff.
12 At some point you find out that the RCMP doesn't
13 want to do the Part VI investigation any longer,
14 you could have gone back to your superiors and
15 asked them if the Vancouver Police Department
16 would devote those resources to that scale of
17 investigation, couldn't you have?

18 MR. CHERNOFF: It certainly wouldn't be protocol, and I'd
19 probably be told to get back on my desk and work
20 on something else. Like that just didn't happen.
21 It's just not in the environment of a police
22 department to discuss those matters involving
23 investigations that are major crime investigations
24 in another jurisdiction.

25 THE REGISTRAR: Mr. Gratl, you've reached the time.

1 MR. GRATL:

2 Q I put it to you that you didn't raise it because
3 you knew you would have likely been smacked if you
4 had asked for more resources?

5 THE COMMISSIONER: Likely being what?

6 MR. CHERNOFF: Smacked.

7 THE COMMISSIONER: Likely being what?

8 MR. GRATL: Smacked. This is a term used by Mr. Lepine in his
9 interview with Inspector LePard that if the --

10 THE COMMISSIONER: I just didn't know what term you were using.

11 MR. GRATL: Pardon me?

12 THE COMMISSIONER: I just didn't know what term you were using.

13 MR. GRATL: Smacked.

14 THE COMMISSIONER: Oh, smacked.

15 MR. GRATL:

16 Q You would have been smacked if you had asked for
17 more resources, and you knew it and that's why you
18 didn't have the courage of your convictions there
19 to ask for more resources?

20 MR. CHERNOFF: No. No, that's not correct at all. I was not
21 concerned about being smacked or, you know, given
22 any heat over it whatsoever. We're police
23 officers, we get smacked all the time and, you
24 know, it's like water off a duck's back. That's
25 not why I didn't pursue this. This was not a

1 reason whatsoever. It was a different
2 jurisdiction. It never came up in any of the
3 discussions that we should take this case over. I
4 think if you look at the hierarchy of police
5 departments, including ours, it's just not
6 protocol to step on to another jurisdiction and
7 tell them what to do or start completing their
8 tasks, just as it wouldn't be if I was
9 investigating someone for an incident here of a
10 major crime nature and someone from another
11 jurisdiction coming in and telling me what to do.
12 It's just not done.

13 Q So if it doesn't come up within the VPD I take it
14 didn't come up in your dealings with the other
15 RCMP members asking them if it would be treading
16 on their toes to do the wiretap that they no
17 longer intended?

18 MR. CHERNOFF: It wasn't a consideration. I've never thought
19 about that ever.

20 Q So it wasn't even broached with the RCMP?

21 MR. CHERNOFF: No, it wasn't.

22 MR. GRATL: Okay. And, Mr. Commissioner, I just have one
23 series of questions that Ms. Narbonne asked me to
24 ask Mr. Lepine, and that is about the
25 characterization of what he understood Mr. Pickton

1 to be like based on the Caldwell information.

2 THE COMMISSIONER: All right. Go ahead.

3 MR. GRATL:

4 Q One of the important considerations in your
5 understanding of Mr. Pickton was that he
6 slaughtered pigs even though he didn't need to;
7 isn't that correct?

8 MR. LEPINE: That's my understanding, correct.

9 Q He didn't need the food for himself?

10 MR. LEPINE: Correct.

11 Q And it wasn't he was even giving the food away
12 after slaughtering the pigs?

13 MR. LEPINE: That's what was I advised, yes.

14 Q So he wasn't doing it for money either?

15 MR. LEPINE: No.

16 Q And you inferred from that that his real
17 motivation for killing the pigs was because he
18 enjoyed killing, in your words that he was a
19 recreational killer?

20 MR. LEPINE: That sounds pretty accurate.

21 Q And that to your mind meant that he was exactly
22 the kind of person who might enjoy killing humans
23 as well?

24 MR. LEPINE: Sorry, what was the second part?

25 Q He might be -- on the basis of his recreational

1 killing of pigs he might be exactly the kind of
2 person who might enjoy killing humans as well?

3 MR. LEPINE: Probably.

4 Q All right. And I take it that you understood the
5 social milieu at the Pickton farm to be -- to
6 consist of a number of people who were less
7 fortunate, had serious social problems, drug
8 problems, they were, to use your words, the dregs
9 of society?

10 MR. LEPINE: Correct.

11 Q And they were crowding around Pickton, that is
12 Robert Pickton, to try to get money or stuff from
13 him on an ongoing basis?

14 MR. LEPINE: Correct. That was my assumption after speaking to
15 Caldwell.

16 Q And although the people who hung around Pickton
17 trying to get stuff from him had serious drug and
18 alcohol problems, Mr. Pickton wouldn't himself use
19 drugs or alcohol?

20 MR. LEPINE: That's correct.

21 Q And so he'd surround himself with a number of
22 desperate people who were vulnerable?

23 MR. LEPINE: I don't know if he surrounded himself or they
24 surrounded him, I'm not sure, but they certainly
25 were hanging around the farm together.

1 Q And then to close out the picture, he was the type
2 of picture who was -- he was a workaholic, but he
3 was so abrasive and obnoxious that he was unable
4 to charm sex workers himself?

5 MR. LEPINE: That's what we understood, yes.

6 Q All right. So we get a picture of a recreational
7 killer who's antisocial, who surrounds himself
8 with vulnerable people and takes steps to ensure
9 the he is not equally vulnerable at the time that
10 he's dealing with them?

11 MR. LEPINE: You lost me on that one.

12 Q That he's a teetotaler and abstains from drugs
13 while surrounding himself with alcoholics and drug
14 users?

15 MR. LEPINE: Right.

16 Q All right. And that overall, I take it to your
17 understanding, was the picture of an extremely
18 dangerous man who was engaged in recreational
19 killing?

20 MR. LEPINE: He had to be pretty dangerous, yes.

21 MR. GRATL: Those are Ms. Narbonne's questions.

22 THE COMMISSIONER: Thank you, Mr. Gratl. Mr. Hern.

23 MR. HERN: Sean Hern for the VPD. Gentlemen, I've just got a
24 couple of questions.

25 **CROSS-EXAMINATION BY MR. HERN:**

1 Q Going back to the fall of 1999 I want to ask you a
2 couple of questions about your perceptions of what
3 was going to be happening in the Pickton
4 investigation, and so as you sit here today, and
5 particularly I take it you, Mr. Chernoff, given
6 your subsequent involvement in the Evenhanded
7 work, you know that not a great deal of work was
8 done on the Pickton investigation after September
9 1999; right?

10 MR. CHERNOFF: Yes, I came to learn that later.

11 MR. HIRA: Well, that again is a conclusion without a factual
12 foundation. There's a whole different
13 perspective. So if my friend wants to set up the
14 factual foundation, fair enough, but what's the
15 value of that comment?

16 THE COMMISSIONER: Yeah, I think that --

17 MR. HERN: Let me just rephrase it.

18 THE COMMISSIONER: I think more to the point it really --
19 there's a lot of speculation in there.

20 MR. HERN: Well, let me rephrase it. If my friend wants to
21 argue what happened in Coquitlam after September
22 '99 was a whole lot of work on the Pickton
23 investigation I'll be interested to hear that.

24 Q But all I was asking these gentlemen was is that
25 your understanding today as you sit here that not

1 a lot of work was done on the Pickton --

2 MR. CHERNOFF: That's what I understand now, yes.

3 Q And I wanted to ask that. Is that your
4 understanding as well, Mr. Lepine, that not a lot
5 of work was done on the Pickton investigation
6 after September '99? As you sit here today is
7 that your understanding?

8 MR. LEPINE: I don't know. I'm not privy to everything that
9 was done after that period of time. I retired
10 2000. And, you know, when I was working back in
11 homicide we were not updated on what was happening
12 or not happening.

13 Q Okay.

14 MR. LEPINE: So I really -- you know, I'd have a difficulty to
15 really answer that, I don't know.

16 Q So let me then just take you back then to
17 September, end of August, early September 1999,
18 Mike Connor has transferred out; right?

19 MR. LEPINE: Right.

20 Q And you don't have much of a relationship with
21 Constable Yurkiw who has taken over as the primary
22 investigator?

23 MR. LEPINE: Yeah, she just showed up, so.

24 Q And that's correct as well, Mr. Chernoff?

25 MR. CHERNOFF: That's correct.

1 Q All right. And so at that juncture is it correct
2 that your perception of what was going on in the
3 Pickton investigation was that they were going to
4 be working on it in Port Coquitlam, and what steps
5 specifically they were going to take you didn't
6 know?

7 MR. CHERNOFF: If I could, I remember I think the last day we
8 met with Detective Yurkiw and Sergeant Pollock or
9 Detective Pollock, I can't remember what he was at
10 the time, but that they had made some attempt to
11 try and contact Pickton by attending his property
12 and talking to him with the intention of either
13 bringing him into the police station or talking to
14 him on his property to glean whatever information
15 they could from him and ultimately set up a real
16 constructive interview with him. I know that they
17 were doing that, in fact I think even that day or
18 the day before they had gone out there in attempts
19 to find him. And when we discussed on the last
20 day that I remembered meeting with them out there
21 their intention was to pursue him, talk to him,
22 and interview him, and that was their intent, and
23 that's what they said they would be doing.

24 Q So your perspective and hope then was that
25 notwithstanding the failure of the development of

1 the Caldwell and Ellingsen information that
2 something new would come up as that investigation
3 was actively worked on that would trigger
4 hopefully either the elimination or the
5 confirmation of him as the suspect?

6 MR. CHERNOFF: Yes, that's correct.

7 Q All right. And so the lack of engagement you had
8 with the Port Coquitlam investigation at that
9 point, was that because your role as the handlers
10 of Caldwell was at an end?

11 MR. CHERNOFF: Yes, it pretty much came to an abrupt end at
12 that time. And I remember Mr. Caldwell was
13 actually very disappointed as we were.

14 Q I want to switch to a completely different topic.
15 Mr. Lepine, you worked in the Sex Offense Squad
16 for many years?

17 MR. LEPINE: Yes, I did.

18 Q And then worked in homicide for many years?

19 MR. LEPINE: Correct.

20 Q And you, Mr. Chernoff, worked in homicide for many
21 years as well?

22 MR. CHERNOFF: Yes.

23 Q And in the course of your collective investigative
24 experience you would have investigated or
25 participated in investigations which involved sex

1 trade workers being the victim of offences?

2 MR. CHERNOFF: Yes.

3 MR. LEPINE: Yes, many times.

4 Q Many times. All right. And was it your
5 experience -- reflecting back on all of your
6 investigative experience with the VPD was it your
7 experience that investigations where the victim or
8 victims were sex trade workers that those
9 investigations were pursued any less seriously or
10 vigorously than other investigations?

11 MR. LEPINE: No. I mean it never made any difference at all
12 whether it was social -- no, social status or
13 whatever. Homicides were treated with equal
14 importance.

15 Q Mr. Chernoff?

16 MR. CHERNOFF: When I left the homicide section I actually -- I
17 went to the Vice Section and became involved in
18 all kinds of different investigations relating
19 specifically to prostitution from street level
20 workers to people working inside of houses, body
21 houses to massage parlours. Human trafficking, we
22 investigated those files. With human trafficking
23 files I went to Malaysia, Kuala Lumpur
24 investigating them, and they were taken as
25 seriously and with the intention of trying to get

1 women out of that industry, because it's a very
2 dangerous industry to be involved in. And so it
3 was really important to me, you know, partially
4 because of, you know, the experiences that we had
5 in the Pickton investigation and seeing, you know,
6 where some of these women ended up. And every
7 investigation in vice, and any investigation that
8 I've ever been involved in with respect to anyone
9 who is a street sex trade worker was handled in
10 the same manner that any other incident would have
11 been handled.

12 Q And, Mr. Lepine, so that in your experience then
13 is the distinction between what was occurring in
14 the missing women's investigation and what was
15 occurring or occurred in these other
16 investigations you participated in where the
17 victim was a sex worker, is there a distinction in
18 your mind that the crime against the sex worker
19 was a known crime and you had evidence to work
20 with and that then led toward the fuller
21 investigation; is that fair?

22 MR. LEPINE: You know, I'm having -- there's a fan right behind
23 me and I'm having trouble.

24 Q We've had that with other witnesses. You spoke
25 about investigations being evidence led from your

1 perspective?

2 MR. LEPINE: Right.

3 Q And so what I was asking is the distinction as you
4 reflect back on the investigations where the
5 victims were sex workers and the investigations
6 were very thoroughly worked upon is the
7 distinction in your mind between those
8 investigations and the missing women investigation
9 the fact that evidence was available in those
10 other investigations that a crime had been
11 committed and investigative leads could be
12 pursued?

13 MR. LEPINE: Yes, the same. You know, actually I appreciated
14 having the sex trade worker as a witness as
15 they're often victims, I found her to be, you
16 know, very perceptive. They stand on the street
17 corner and they see a lot of things, they're quite
18 informative. They have a true -- you know, I mean
19 they have a street sense and all that, they're
20 somebody who knows what's going on, they've been
21 around the block, I found them to be very, very
22 good to work with the sex trade workers, but in
23 this case -- I mean certainly this case is no
24 different than any other, it's just that you have
25 to go with what you have and that was a problem.

1 We didn't have -- our biggest problem here we just
2 didn't have a starting point as we would in normal
3 investigations. The fact that they are
4 prostitutes has no bearing at all. And truly that
5 is the absolute truth, it has no bearing at all
6 upon how much emphasis or resources or whatever
7 you put into an investigation.

8 MR. HERN: Thank you.

9 THE COMMISSIONER: Thank you. We'll take the break here.

10 THE REGISTRAR: The hearing will now recess for ten minutes.

11 **(PROCEEDINGS ADJOURNED AT 3:02 P.M.)**

12 **(PROCEEDINGS RESUMED AT 3:13 P.M.)**

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

14 THE COMMISSIONER: Yes, Ms. Tobias.

15 MS. TOBIAS: Yes, Mr. Commissioner, Cheryl Tobias appearing for
16 the Government of Canada. There are a couple of
17 binders, Mr. Commissioner, I'd like the witnesses
18 to have, please, Mr. Chernoff and Mr. Lepine. The
19 first is Exhibit 176NR which is the binder of
20 documents that Ms. Brooks introduced this morning.
21 The second is I have documents that my assistant
22 has handed up.

23 THE REGISTRAR: I'm sorry, which one's that, the second one?

24 MS. TOBIAS: The second is the binder of documents that we
25 handed up during the break, Mr. Giles.

1 THE REGISTRAR: They have them.

2 MS. TOBIAS: Thank you. And, Mr. Commissioner, I trust that
3 you have those as well.

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

5 Q Now, sirs, I'm going to ask you first of all to
6 turn up in the binder of commission documents at
7 tab 5, please. Do you have those, sir?

8 MR. CHERNOFF: Yes, I have that.

9 Q Just before I refer you to a specific page in that
10 document I want to confirm with you, as I
11 understand the situation, once you joined
12 Constable Shenher on the team she took on
13 something of a file co-ordinator role and doing
14 some investigation and really your role to begin
15 with was to look at possible suspects, persons of
16 interest; is that right?

17 MR. CHERNOFF: That's correct, yes.

18 Q And so if you will refer to this document, please,
19 at tab 5. It's a memo dated June the 22nd to
20 Sergeant Field from Constable Shenher, and in this
21 third paragraph she outlines first of all:

22 We have found a link between prostitute
23 homicides in outside jurisdictions of women
24 from the Downtown Eastside and our missing
25 women.

1 So I think you talked about this earlier, but this
2 was a feeling in your team that there was a
3 connection between the missing women that you were
4 looking for and women who had been found murdered
5 in the valley, for example?

6 MR. CHERNOFF: I recall there was three -- there were three
7 homicides of women that were located in the
8 mountain ranges in Agassiz.

9 THE COMMISSIONER: Are those the valley murders?

10 MR. CHERNOFF: There was Olajide, Pipe and Younker was the
11 other one.

12 THE COMMISSIONER: Yes.

13 MS. TOBIAS: The valley murders.

14 Q And that's because they are also Downtown Eastside
15 sex trade workers who had disappeared and been
16 murdered?

17 MR. CHERNOFF: That's correct, yes.

18 Q And also there was a murder being investigated in
19 North Vancouver of a woman from the Downtown
20 Eastside as well, Lidguerre?

21 MR. CHERNOFF: Lidguerre.

22 Q And so your first duty on the team, your first big
23 duty if I can put it that way, as set out in the
24 same paragraph of the memo is to investigate those
25 leads?

1 MR. CHERNOFF: That is correct, yes.

2 Q And in fact this then was something that you
3 followed up, you followed -- you spent a good deal
4 of time with the investigators in the valley, you
5 went out to the crime scenes, you went to various
6 meetings with them?

7 MR. CHERNOFF: Yes, that is correct.

8 Q You reviewed at least parts of their file?

9 MR. CHERNOFF: Yes. There was a detective or Corporal McCarl,
10 Paul McCarl, I believe.

11 Q And in fact work with the investigators in the
12 valley continued the entire time that you were
13 with team, is that not so?

14 MR. CHERNOFF: It went on for quite some time. I think it took
15 a bit of a back seat to the Pickton information
16 once the Pickton information came up and the
17 source Caldwell was spoken to by me and statements
18 were obtained. I think at that point we kind of
19 shifted a little bit. The RCMP were still
20 conducting our investigation of those three
21 homicides, and although we were still part of it
22 because there was only the two of us, and the
23 Pickton incident now became a priority, we kind of
24 stepped back from that to some degree at that
25 time.

1 Q And then you returned in October of 1999?

2 MR. CHERNOFF: Yes, I recall reading recently that we I think
3 met with McCarl again and maybe a criminal
4 profiler or something like that, I'm not really
5 specific, but we did broach that subject again
6 about the person that they had as a potential
7 suspect in those homicide investigations in
8 Agassiz.

9 Q And I'm not going to take you to it specifically,
10 but you do have involvement in your log set out as
11 to your continuing involvement on that matter.

12 MR. CHERNOFF: Yes.

13 Q And as well you liaised with the North Vancouver
14 police, North Vancouver RCMP with respect to the
15 Lidguerre matter?

16 MR. CHERNOFF: That is correct, yes.

17 Q And you have said several times in your evidence
18 today, talked about the importance of looking at
19 all the different persons of interest, and so what
20 I'd like to ask you is how the persons of interest
21 were developed on the file. You had a number of
22 them. How did those emerge? You had a tip line,
23 some from the tip line?

24 MR. CHERNOFF: Yes. Most of this work would have been done
25 preliminarily by Detective Shenher. When both Ron

1 and I came to the missing women's unit we were
2 really relying on everything that Lori had
3 constructed over the course of the previous two
4 years or somewhere in that time frame, and so we
5 basically took a back seat to what she was telling
6 us, and we followed up the tips that she had
7 somewhat prioritized for us, and of course one of
8 those tips being the Agassiz murders and the
9 information from a constable or Detective McCarl.

10 Q And in fact one of the suspects you worked on --
11 let me back up a little bit. In September and
12 October of 1999 you were working on you said some
13 other homicide files, but you were also working on
14 other tips on the Amelia file or the Missing
15 Women's Review Team?

16 MR. CHERNOFF: Yes, I remember seeing in my notes that I made
17 just brief notations about what tip we were
18 working on, and Ron and I did do some work in
19 various areas of the Lower Mainland on tips that
20 were given to us by Lori Shenher.

21 Q And again I'm not going to take you to it because
22 of the time, but you logged work on tip number 128
23 which relates to a person that's been referred to
24 as POI 11093. So I would like you to look at the
25 binder of documents that we've handed up, the

1 Attorney General of Canada documents at tab 3,
2 please.

3 MR. CHERNOFF: Is that my homicide investigative log?

4 Q Yes.

5 MR. CHERNOFF: Okay.

6 Q That's your handwriting, you recognize it, sir?

7 MR. CHERNOFF: That's mine.

8 Q And the log details work that was done by yourself
9 and Mr. Lepine between September the 28th and, it
10 goes on for several pages to October the 20th?

11 MR. CHERNOFF: Yes, that's correct.

12 Q And if you look at the last page in that tab it's
13 a memorandum to Sergeant Grummisch dated June of
14 1999 about this individual, and in the first new
15 paragraph --

16 MR. CHERNOFF: Could you just -- I'm losing you here. I don't
17 have any memorandum.

18 Q It's the last page in that tab after the blue
19 sheet.

20 MR. CHERNOFF: After the blue sheet? Okay.

21 Q Do you see that?

22 MR. CHERNOFF: You'd have to give me a minute to read this,
23 because I have no idea what this is.

24 Q Well --

25 MR. CHERNOFF: I'm going to have to just review what you're

1 asking me.

2 Q Okay. But I would like to take you to a page and
3 the first part of that page. Okay. Turn the
4 page.

5 MR. CHERNOFF: Okay.

6 Q And you see it's from PC Fredericks?

7 MR. CHERNOFF: Yes.

8 Q And it's with respect to this 11093 and he's
9 described as a dangerous sex offender. Do you see
10 that?

11 ... preferred targets are young prostitutes,
12 many from the Downtown Eastside... he often
13 lures the women into his vehicle by promises
14 of trading drugs for sex.

15 Do you see that?

16 MR. CHERNOFF: Yes.

17 Q And in the second last paragraph, the last
18 sentence:

19 He should be considered as a person of
20 extreme interest to the Missing Persons Unit
21 in its investigation of the missing women
22 from the Downtown Eastside.

23 MR. CHERNOFF: Yes.

24 Q You see that. So this I assume then would be one
25 of the individuals that you described earlier in

1 your evidence as one of the people you were
2 looking into with the history of extreme violence
3 or information that they were extremely violent
4 towards Downtown Eastside prostitutes?

5 MR. CHERNOFF: I suppose you're right, but again I don't even
6 know who this refers to. Who does this refer to?

7 Q Well, the names are blocked out, sir, to protect
8 the privacy of the person, but it's the same
9 person that you referred to in your log from tip
10 number 128.

11 MR. CHERNOFF: I can only take your word for it, because I
12 don't know who that person is.

13 Q But you recognize the writing as yours in the
14 first part of that tab?

15 MR. CHERNOFF: I recognize the writing here, but again I don't
16 even know what it relates to because I haven't
17 read it.

18 Q Okay. Now, I want to go back to your role with
19 respect to Ross Caldwell, and you described the
20 job facing the police on your receipt of this
21 information as being to either discount Pickton as
22 a suspect or get evidence to charge him or exhaust
23 your investigative avenues in trying to do that.
24 Is that fair?

25 MR. CHERNOFF: You're asking me? Yes, that's fair.

1 Q Okay. And so you get this information about the
2 event and you don't simply pass it on to the
3 people in Coquitlam on the basis that it's about
4 something that happened in Coquitlam?

5 MR. CHERNOFF: With respect to Mr. Caldwell's information?

6 Q Yes.

7 MR. CHERNOFF: Well, this is where it gets a bit confusing.

8 Someone earlier mentioned that Mr. Caldwell had
9 actually gone to Coquitlam and that Coquitlam sent
10 him to Vancouver, and then we took his information
11 back to Coquitlam, and I don't quite know why that
12 happened unless it could have been because the
13 information that Mr. Caldwell had could have been
14 with respect to a missing person from the Downtown
15 Eastside.

16 Q Okay. But your initial response was that you
17 would continue to meet with him and you would keep
18 Mr. Connor informed as a matter of courtesy, and
19 then of course you went and the two groups,
20 yourselves and the people in Coquitlam,
21 participated in trying to investigate whether or
22 not this information was reliable?

23 MR. CHERNOFF: Yes, his information coupled with all the other
24 information that was out there.

25 Q All right. And your task really was to convert

1 this information into evidence that could be used
2 either as a basis for a charge or more likely as a
3 basis to obtain a search warrant, a wiretap, that
4 sort of judicial authorization?

5 MR. CHERNOFF: Yeah, to do whatever we could do to get on the
6 property or just whatever we could do to further
7 the investigation.

8 Q Okay. And so what you -- where you were in July
9 of 1999 was at kind of a preliminary stage just as
10 with any of the other tips you had received, is
11 there anything to this, does it warrant us, what
12 does it warrant us pursuing, we need to run it
13 down?

14 MR. CHERNOFF: Yes and no. By saying that I think you're kind
15 of minimizing the value of it, because it wasn't
16 -- this was additional information from another
17 source that supported information, a lot of
18 information from other people.

19 Q Sir, I'm sorry, I think you misunderstand my
20 question. I don't mean to interrupt you, but I
21 don't mean to minimize the information, I'm simply
22 saying your first task is the preliminary one to
23 start looking at the information to see if you can
24 support it so you can turn this information into
25 evidence?

1 MR. CHERNOFF: Yes.

2 Q And so your first try at doing that in terms of
3 bringing Caldwell in and taking statements from
4 him, you've told us that he didn't give a very
5 good statement and then there was a debate about
6 whether or not he was reliable, and among your
7 group of investigators there were different views?
8 You've told us that.

9 MR. CHERNOFF: Well, what I said is that we interviewed him a
10 number of times. My belief is that he was
11 credible and that the information was likely
12 accurate. And then when we brought him back for
13 the interview, for the big interview where we
14 would be tape recording it, videotaping it and
15 such, yes, there was a problem with that one, and
16 so the discussion afterwards really surrounded his
17 reliability, and things of that nature, and
18 whether or not he could be trusted and whether or
19 not his information was accurate or made up.

20 Q And your -- you had no previous experience with
21 him, but it may be that some other members of the
22 team did?

23 MR. CHERNOFF: I did not have any previous experience with him.
24 It seemed to me that -- I know that Mike Connors
25 knew him or knew of him, I don't know to what

1 degree, and again I know that in other
2 conversations that came up his name had come up in
3 the past.

4 Q Okay. You have in front of you the commission
5 documents, 176NR, and I'd like you to turn to tab
6 2, which is your log.

7 MR. CHERNOFF: Tab which? Sorry.

8 Q Tab 2, which is your log.

9 MR. CHERNOFF: Yeah.

10 Q And page 21. Now, I'm looking at your log page 21
11 as opposed to the number in the bottom left-hand
12 corner.

13 MR. CHERNOFF: Yes.

14 Q The entry for July the 29th, you see the date is
15 actually on the previous page?

16 MR. CHERNOFF: Yes.

17 Q And if you look on page 21 in the bottom third of
18 the page beginning the Coquitlam RCMP would be
19 responsible?

20 MR. CHERNOFF: Yes.

21 Q ... would be responsible for the homicide
22 investigation at the Pickton residence if the
23 information was accurate and could be
24 verified.

25 MR. CHERNOFF: Yes.

1 Q So what you're all trying to do now is determine
2 tat the information is accurate and could be
3 verified. So after the Caldwell statement the
4 question is where do you go next. And what
5 happens next is to go to Ellingsen, because she's
6 the source of the information. And so would you
7 agree with me, sir, both of you, that there may
8 have been varying opinions about Caldwell's
9 reliability, but the real question was whether or
10 not the story that Ellingsen told him was true?
11 And you're nodding, Mr. Lepine?

12 MR. LEPINE: Right.

13 Q So, you know, you believed Ross Caldwell, but you
14 still had to figure out if that information, if
15 the story he had been told by Ellingsen was true?

16 MR. CHERNOFF: Yes, that's right.

17 MR. LEPINE: Yes.

18 Q And the way you go about that is the most obvious
19 way, to ask Ellingsen?

20 MR. CHERNOFF: Well, it depends on your investigative strategy.
21 One strategy is to ask her, but then by doing that
22 if she doesn't provide any information she's
23 tipped off to the fact that she potentially is a
24 suspect or that the police are now starting to
25 question people with respect to Pickton. So

1 that's always a bit of a roll of the dice. But
2 that's what was decided in this case to do.

3 Q Fair enough. But if Ellingsen had said yes, I saw
4 that, that would be evidence?

5 MR. CHERNOFF: Yes.

6 Q But if you were going to go and get a search
7 warrant you'd still have to corroborate it to give
8 the justice of the peace some basis to conclude
9 that that story was reliable and provided
10 reasonable grounds to believe that that offence
11 had occurred?

12 MR. CHERNOFF: Yeah, there probably would have had to -- well,
13 I'd have to really think about that. I mean if
14 she said that she saw a person hanging from a hook
15 in the barn I'm quite certain that we would get a
16 warrant just based on that information.

17 Q But now when you're in a position of verifying the
18 story, aside from having her agreement that that's
19 what happened, the normal route to go is to try
20 and confirm the important elements of this story
21 independently, and that's why the surveillance was
22 done to see if Pickton went to the Downtown
23 Eastside or had anything to do with prostitutes
24 there?

25 MR. CHERNOFF: Yes, that's one of the reasons. And also we

1 wanted to ensure that while we were conducting
2 this investigation that if Mr. Pickton went
3 anywhere and picked anyone up then we would be
4 aware of it and we would, you know, circumvent any
5 occurrence that may happen.

6 Q Because you were worried about other people
7 getting hurt?

8 MR. CHERNOFF: Well, of course.

9 Q Of course. So in terms of whether Pickton was
10 going down to the Downtown Eastside and picking up
11 prostitutes you weren't successful in
12 surveillance, but in terms of the people who would
13 have that information, first of all there would be
14 sex trade workers, and you tried to get that
15 information from them and that was unsuccessful?
16 There was a --

17 MR. CHERNOFF: I think that's the case. But having said that,
18 I mean I spoke to Sergeant Burrows in New
19 Westminster and they had a report that Pickton was
20 with Ellingsen when they attempted to pick up a
21 prostitute in New Westminster. So I mean we did
22 have information.

23 Q But you remember that there had been attempts to
24 speak to sex trade workers that were unsuccessful,
25 but if you're talking about the people who would

1 have that information they would be the sex trade
2 workers themselves; yes?

3 MR. CHERNOFF: Certainly.

4 Q Perhaps some of the community agencies who were
5 down there?

6 MR. CHERNOFF: We could speculate. I don't know. Maybe.

7 Q Maybe. The other people who might be useful
8 people to keep their eyes open might be the police
9 who were routinely down there, the various
10 Vancouver City Police such as the Vice Squad
11 District 2, so on and so forth?

12 MR. CHERNOFF: Yes, you'd utilize police to keep an eye out for
13 him.

14 Q So that might have been a useful thing to do as
15 well?

16 MR. CHERNOFF: Certainly.

17 Q And we understand from Constable Shenher that that
18 kind of investigation was not done?

19 MR. CHERNOFF: I can take your word for it, I don't know.

20 Q Okay. The other part of the account that's very
21 important is that there was a sex trade worker
22 from the Downtown Eastside who was the subject of
23 this brutal act in Coquitlam. So one other
24 question would be has anyone gone missing from the
25 Downtown Eastside at approximately the time that

1 Caldwell told you?

2 MR. CHERNOFF: I think that was looked at actually.

3 Q Okay. And it's my understanding from
4 Mr. Caldwell's interview on August the 5th, I
5 believe it was, that he told you that this
6 incident probably happened in early 1999?

7 MR. CHERNOFF: Yes, I believe he said February, perhaps March.

8 Q And so of course your unit is the unit that's in
9 the best position to know what the reports are,
10 who's being reported missing during that period of
11 time?

12 MR. CHERNOFF: That is correct, yes.

13 Q And you say you looked into it. I understand from
14 Detective Connor or Mike Connor's evidence that he
15 and one of you went and looked at the poster to
16 see if anyone had disappeared at that time. Is
17 that the extent of the investigation that you did
18 to see who the victim might have been?

19 MR. CHERNOFF: I don't have any recollection. I don't know.

20 Q Now, there's various reports by Sergeant Field and
21 Detective Shenher later in '99 and 2000 to the
22 effect though that no women had disappeared in
23 terms of unexplained disappearances since January
24 16th, 1999?

25 MR. CHERNOFF: Yeah, I remember hearing that some time

1 afterwards.

2 Q But that -- well, sometimes though women aren't
3 reported missing for quite some time?

4 MR. CHERNOFF: I know that to be the fact. With quite a few of
5 the missing women in this case I think some went
6 unreported for extended periods of time.

7 Q And you did not undertake any extensive
8 investigation with everything else you had to do,
9 I guess, to see if there was a woman who someone
10 had noticed or if anyone noticed one of the sex
11 trade workers gone missing during that period of
12 time in the absence of a report?

13 MR. CHERNOFF: I'm sure we did, I just can't remember. What I
14 know is that Lori Shenher was taking all the
15 missing person reports, and I know she would have
16 known the time frame that Caldwell said that this
17 person was brought back to the farm, and I know
18 Lori would have known about it, I just -- I can't
19 remember specifically what was discussed about it
20 or if she had done any further investigation to
21 try and determine who that person was.

22 Q But neither of you did that?

23 MR. CHERNOFF: Well, no, I'm not saying that we didn't. I'm
24 saying it's very possible that we did, I just
25 can't remember.

1 Q Well, I mean I don't see any reference to that in
2 your logs.

3 MR. CHERNOFF: Well, there's a lot of things that I haven't
4 referenced in my log.

5 Q And so how would we know if you had made some
6 concerted attempt to find a victim?

7 MR. CHERNOFF: I'm sure we likely did because I know that's
8 something that would not be overlooked. Having
9 said that I would think that Lori Shenher would
10 probably recollect that, and I'm sure she would
11 have been brought up to speed as to the time frame
12 this would have occurred. I'm quite confident
13 that we would not have just not looked at that.

14 Q Mr. Lepine, do you have any specific recollection
15 of making any specific attempts to find a victim
16 who could fit the description in Ross Caldwell's
17 account?

18 MR. LEPINE: You know, we were dealing with the suspect end of
19 it and Lori was dealing with the victim end of it
20 and dealing with the families and whatnot. In the
21 back of my mind I remember that there was some
22 guess as to whoever that might be. I can't
23 remember the circumstances of how that might have
24 happened.

25 Q One of the other things that Ross Caldwell told

1 you that you noted, he told you on August the 10th
2 that Pickton took the remains of the body to a
3 recycling plant in 45 gallon drums. Do you
4 remember that?

5 MR. LEPINE: Yes.

6 Q And you also came to learn that Pickton had been
7 surveilled to West Coast Reduction on August the
8 4th?

9 MR. LEPINE: Yes.

10 Q And West Coast Reduction is in Vancouver?

11 MR. LEPINE: Yes.

12 Q But you didn't go there?

13 MR. LEPINE: We learned that after the fact.

14 Q Right, but you didn't at any point go there?

15 MR. LEPINE: We weren't involved in the surveillance.

16 Q But after the surveillance no one from your
17 section went there to make any inquiries about
18 Pickton or his activities?

19 MR. LEPINE: You know, by that time it was, you know, whatever
20 has happened happened. And I can't recall how
21 shortly thereafter we found out, you know, what
22 the surveillance was. Certainly in our mind it
23 did corroborate what -- you know, what Caldwell is
24 saying, you know, he did go to the reduction
25 plant. So from that point of view it was, you

1 know, further corroboration for us to believe that
2 Caldwell was telling us this pretty accurately. I
3 can't remember when and how long after, what the
4 circumstances were at this time, but I seem to
5 recall it was after the fact.

6 Q Okay. Now, could you please look at your log
7 again, I should say Mr. Chernoff's log for
8 September the 1st, which is towards the end of it.
9 Actually just above that. It's on page 42 of your
10 log, sir.

11 MR. LEPINE: Yes.

12 Q And so you'll see the heading 99-09-01, and before
13 that is a record of your meeting at 16:30 hours
14 with Pollock and Yurkiw. You see that?

15 MR. CHERNOFF: Yes.

16 Q And so now you discussed the file and
17 investigational tactics?

18 MR. CHERNOFF: Yes.

19 Q And so then the heading says:

20 We concluded that Pickton is to be
21 interviewed asap.

22 MR. CHERNOFF: That is correct.

23 Q So that implies a joint decision by all of you
24 that that would be the next step?

25 MR. CHERNOFF: Yes.

1 Q So I think you were asked earlier this afternoon
2 about what was going on in September and October
3 and you said well, you thought that they had
4 decided to do that. Does this refresh your memory
5 of being involved in that discussion?

6 MR. CHERNOFF: Well, the discussion was whether -- you know,
7 what tactics were going to be used, and it was
8 determined that they were going to pick up Pickton
9 or attend his residence and interview him, bring
10 him back to the police station and conduct an
11 interview.

12 Q The next line, sir, is:
13 Undersigned and Lepine to accompany above
14 mentioned investigators to Pickton's
15 residence 99-09-01.

16 MR. CHERNOFF: Yes.

17 Q You were going to participate in that?

18 MR. CHERNOFF: We were going to attend with them, yes.

19 Q Okay. But that didn't happen?

20 MR. CHERNOFF: No, it didn't.

21 Q And so you --

22 MR. CHERNOFF: And I can't remember why that didn't happen.
23 I'm not sure if they went on their own or what the
24 circumstances were, but we never went to the
25 Pickton property.

1 Q You according to your log then pursued other tips?

2 You were involved with the rest of the --

3 MR. CHERNOFF: Also there at nine o'clock I made a notation
4 that Pollock and Yurkiw will continue to attempt
5 to locate Pickton and will advise upon doing so,
6 and then we worked on various other tips after
7 that.

8 Q Right. So, sir, is your evidence that -- let me
9 back up a bit. Given the importance that you've
10 attributed to the Pickton tip, I'm surprised that
11 you didn't follow up with the investigators in
12 Coquitlam after this point to kind of keep track
13 of where it was going or perhaps provide them with
14 some of the benefit of your experience and your
15 thoughts as to how things could be pursued. Is
16 that because you were just really, really becoming
17 overwhelmed with your other homicide duties?

18 MR. CHERNOFF: No, not so much. It was a point that I think,
19 you know, we had concluded together that they were
20 going to interview Pickton, bring him in and
21 conduct a full interview of him, and that's how it
22 was left and we never heard back from it. As far
23 as I know I can't recall hearing back from them
24 about when they were going -- you know, what
25 conclusion they came to or if it was ever done.

1 Q And when you had that meeting with them on the day
2 before, I guess August 31st, there's a discussion
3 about interviewing him, but there isn't a
4 discussion about what other -- or there isn't
5 anything in your notes about what other avenues
6 were open aside -- at that point aside from the
7 interview?

8 MR. CHERNOFF: I don't -- yeah, no, I didn't make a note of any
9 other avenues that we -- I'm sure there probably
10 was other things that we discussed, I didn't make
11 a note of them. I think the big thing was that
12 Pickton was going to be contacted and interviewed,
13 and that was the main focus. I don't know what
14 else we could have done at that point.

15 Q I'd like to suggest to you that it would have been
16 a logical step to continue to canvass the sex
17 trade workers in the Downtown Eastside to see if
18 he had been back, to see if he had been seen, to
19 see if Ellingsen had been seen.

20 MR. CHERNOFF: Yeah, of course that's logical. It may have
21 been done, I don't know. I don't know if that was
22 done or not.

23 MS. TOBIAS: Okay. Those are my questions.

24 THE COMMISSIONER: All right. Thank you. Yes, Mr. Woodall.

25 MR. WOODALL: My name is Kevin Woodall.

1 **CROSS-EXAMINATION BY MR. WOODALL:**

2 Q Mr. Lepine or Mr. Chernoff, either of you can
3 answer the first few questions and then I have a
4 couple I'll direct to you individually. I'd like
5 to ask you some questions about the physical file
6 that you kept. You kept -- well, first of all,
7 was it a -- how big in volume was this file that
8 you kept?

9 MR. LEPINE: The file of the Pickton log?

10 Q The physical file that you kept regarding your
11 investigation?

12 MR. LEPINE: Of Pickton or of the --

13 Q Okay. I'm sorry. Of the Pickton tip.

14 MR. LEPINE: Well, the file was being kept -- so to speak the
15 full file was being kept in the Coquitlam RCMP.
16 Our involvement would be part of our --

17 Q I meant your part of -- you had your own physical
18 file for recording what you were personally doing
19 on the Pickton tip?

20 MR. LEPINE: Yes.

21 Q Okay. And can you describe that to me, what was
22 it physically?

23 MR. CHERNOFF: I can't remember. It was probably the size of a
24 big binder I would think.

25 Q Okay. And that binder kept your notes regarding

1 Caldwell as well as other aspects of the Pickton
2 tip that you were involved in?

3 MR. CHERNOFF: Yes.

4 Q And the Caldwell aspects I take it were things
5 that you'd be quite careful to keep confidential
6 because of his status as confidential informant?

7 MR. CHERNOFF: Yes, that's correct. But his status as a
8 confidential informant didn't last very long. It
9 was soon after that, you know, that everyone knew
10 who he was and he was actually volunteering to
11 just be a witness, so the confidentiality issue
12 was not really a factor. At the time it was, yes,
13 for the first few days, after that it wasn't an
14 issue.

15 Q But that information contained in the binder
16 concerning him is information that would be
17 disclosed to other people only on a very strict
18 need to know basis?

19 MR. CHERNOFF: Yeah, the information that he provided, that was
20 originally anonymous, yes.

21 Q But even after other people became aware of him
22 that was information that you kept confidential on
23 a strict need to know basis regarding other police
24 officers?

25 MR. CHERNOFF: Well, yes, I suppose. I mean in all cases where

1 you have confidential information there's only
2 certain people that you give that information to.
3 The fact of the matter was that there was already
4 a number of people that knew that it was
5 Mr. Caldwell that we were speaking to just by the
6 mere fact they he had gone to Coquitlam first then
7 to Vancouver, and in my discussion with Corporal
8 Connor the following day he knew that it was --
9 that it was him that we were dealing with. So the
10 cat was kind out of the bag right off the bat.

11 Q Okay. Now, this file was kept on your -- the
12 binder, rather, was kept on your desk in the
13 homicide office typically?

14 MR. CHERNOFF: Well, it was either in the review room, the
15 missing persons review room or it was in our desk
16 or on our desk.

17 Q And your desk was in the homicide office though;
18 correct?

19 MR. CHERNOFF: Yes.

20 Q That was a physically separate room from the
21 Missing Women Review Team room?

22 MR. CHERNOFF: A separate room. It would be like if -- like if
23 you walked through that door that would be the
24 missing review room, if you stepped out of it
25 you'd be right here in homicide, right. And there

1 was really only one way out of it, and that was
2 through that door. So regardless you had to walk
3 through the Homicide Section to get in or out.

4 Q Okay. And was there a label on the binder
5 indicating that it was your Pickton tip binder?

6 MR. CHERNOFF: I don't think so. It could have been. I mean
7 I'm sure we had a label that had Pickton on it,
8 and it may have had our names on it too, but I
9 don't recall specifically.

10 Q All right. And in answer to a question from
11 commission counsel when you were asked about
12 whether you were keeping Fell and Wolthers advised
13 about what you were doing, your answer,
14 Mr. Chernoff, was that they could have consulted
15 the binder. You said the file, but I take it you
16 were referring to the binder?

17 MR. CHERNOFF: Well, they could have consulted me or they could
18 have looked at the binder or could have done
19 whatever they wanted.

20 Q Okay. But your answer to commission counsel was
21 they could have looked at the binder; correct?

22 MR. CHERNOFF: They could have looked at the binder, yes.

23 Q But you yourself didn't take any proactive steps
24 to advise them of what you were doing?

25 MR. CHERNOFF: Well, in every one of our meetings and

1 discussions that we had as a group collectively we
2 discussed where we were with our files. They were
3 extremely busy with their file, I don't know if I
4 can mention that name, but --

5 Q Yes, Niedermier.

6 MR. CHERNOFF: Niedermier. I mean that was their focus and
7 that was clear. I don't even know if they ever
8 asked to look at my binder. I don't ever remember
9 them taking any real interest in the Pickton
10 thing. They had real interest in the Niedermier
11 file, we had real interest in the Pickton one, and
12 which is not really uncommon. When I worked in
13 homicide you could have two people sitting across
14 from you at another desk that are working on a
15 file that the only time you hear anything about it
16 is in a file review which occurred once a month,
17 because everyone's just too busy to know everyone
18 else's business and, you know, all the intricacies
19 of the case and that sort of thing. But it
20 doesn't preclude you from asking questions or
21 inquiring, and certainly they just being
22 participants in that room, attending meetings
23 would know and would be kept up to date just as we
24 were of the Niedermier case.

25 Q And so if they wished to know -- as I understand

1 your reasoning if they wished to another more
2 about the Pickton case -- sorry, wished to know
3 more about what you were doing on the Pickton case
4 the onus essentially was on them to ask you if
5 they were interested in knowing what you were
6 doing?

7 MR. CHERNOFF: Well, yeah, pretty much. I mean, you know, we
8 were busy, we didn't have time to go and tell
9 everyone what was going on. I mean we had a lot
10 going on ourselves, and they had a lot going on
11 and that's just the way it was.

12 Q All right. And similarly if anyone was interested
13 in knowing what they were doing on their Pickton
14 tips or on other matters the onus would be on the
15 person who wanted to know to go to them and ask
16 them?

17 MR. CHERNOFF: That's usually the way it would be.

18 MR. WOODALL: Thank you.

19 THE REGISTRAR: Ms. Tobias, did you wish your book of documents
20 to be marked?

21 MS. TOBIAS: Yes, thank you, Mr. Giles. Cheryl Tobias for the
22 Government of Canada. I neglected to ask that be
23 marked as the next exhibit NR, please.

24 THE COMMISSIONER: Okay.

25 THE REGISTRAR: That will be Exhibit 178NR.

**(EXHIBIT 178NR: Document entitled: Project
Amelia Panel # 2 Document Brief - AGC Documents)**

THE COMMISSIONER: All right. Mr. Hira.

MR. HIRA: Mr. Commissioner, witnesses, for the record my name
is Ravi Hira. I appear for retired Assistant
Commissioner Earl Moulton, who at the relevant
time was an inspector in Coquitlam.

CROSS-EXAMINATION BY MR. HIRA:

Q Now, I'm going to refer to you as officers, if I
may. As I understand it your role in the
Coquitlam investigation as to whether or not a
murder had occurred in Coquitlam was that of
handling the source Mr. Caldwell?

MR. LEPINE: That's correct.

Q You'll agree with me that you had seven meetings
with Mr. Caldwell?

MR. LEPINE: That's sounds correct.

Q You'll also agree with me that on August -- sorry,
on July the 30th you paid Mr. Caldwell \$50 for his
time?

MR. LEPINE: His time?

Q If you have any issues with respect to that you
should have Exhibit 176 in front of you, that is
the book of documents compiled by commission
counsel. If you'd go to tab 2 in that book.

1 THE REGISTRAR: You have it in front of you.

2 MR. CHERNOFF: I'm just asking did I indicate that in my notes
3 that we paid him \$50?

4 Q Yes, you did.

5 MR. CHERNOFF: Well, then I suppose I did.

6 Q Thank you. Do you want to confirm that by going
7 to --

8 MR. LEPINE: I'm sorry, what -- what tab are we talking about?

9 THE COMMISSIONER: Well, they have agreed with you.

10 MR. HIRA: That's fine.

11 Q Just as the witness has asked, and for the
12 completeness of the record, Mr. Commissioner, it
13 is page 26 of your --

14 MR. CHERNOFF: Of my pages?

15 Q Of your pages at the bottom 16:15 hours.

16 MR. CHERNOFF: Yes, that's correct.

17 Q Thank you. You also paid him on August the 4th
18 \$350 for his car problems?

19 MR. LEPINE: Right.

20 MR. CHERNOFF: Yeah. We thought it would be easier from -- if
21 he had a car.

22 MR. LEPINE: Up until now I forgot about the \$50 thing, but
23 that's part of the handling thing.

24 Q All right. I'm just trying to understand. It was
25 on August 5, 1999 after a meeting at Coquitlam

1 with the entire investigative team that you were
2 requested to conduct a taped interview of being
3 Mr. Caldwell; is that correct?

4 MR. LEPINE: After the failed interview, yes.

5 Q Well, no. Let's take you to your log again at
6 page -- sorry. Let's deal with this another way.
7 You were -- sorry. Let's go to page 29 of your
8 log. Do you see that?

9 MR. LEPINE: Yes.

10 Q That's the entry for August 5; is that correct?

11 MR. LEPINE: Correct.

12 MR. CHERNOFF: Yeah.

13 Q And you'll agree with me that it was at that time,
14 August 5, that for the first time you conducted a
15 taped interview of Mr. Caldwell?

16 MR. LEPINE: As a witness, yes.

17 Q Thank you. And this was the fifth time you were
18 meeting with him?

19 MR. LEPINE: I guess so. Maybe. Yeah.

20 Q All right. Is there any reason why you wouldn't
21 have taped your prior meetings?

22 MR. LEPINE: 'Cause he was a source.

23 Q Okay. And you'll agree with me that the reason
24 why there was a -- the reason why you recorded
25 that meeting was all the investigators

1 collectively decided that it would be a good idea
2 to get a recorded statement from Mr. Caldwell?

3 MR. LEPINE: Mr. Caldwell agreed to be a named witness and
4 therefore, you know, we wanted to get as proper
5 statement as possible.

6 Q Okay. Now, in terms of this team that was
7 assembled to deal with the investigation, would
8 you agree with me that there was 11 and up to 13
9 investigators from various agencies?

10 MR. LEPINE: Of the RCMP?

11 Q And the VPD.

12 MR. LEPINE: I guess, yeah.

13 MR. CHERNOFF: Yeah, that's correct.

14 Q All right. And would you also agree with me for a
15 two week period at least there was joint -- there
16 was 24 hour surveillance part of which was handled
17 by your Strike Force?

18 MR. LEPINE: Correct.

19 Q So it was a major operation?

20 MR. CHERNOFF: Yeah, it was a major operation. I don't know if
21 two weeks of straight surveillance is actually
22 accurate, but if you say it is I'll take your word
23 for it, but it didn't seem to me that it was two
24 weeks solid surveillance.

25 Q I think it started on July 30 and continued to

1 August 12th. Pretty close to two weeks.

2 MR. CHERNOFF: Okay.

3 Q Now --

4 MR. LEPINE: And is that continuously? I don't recall that.

5 Q I think it was. But you don't remember; is that
6 correct?

7 MR. LEPINE: Not that specifically I don't.

8 Q Now, dealing with the August 5 interview, and I'm
9 looking at your interview, Detective Lepine, with
10 Deputy Chief Constable Evans, the interview that
11 occurred on August 22, 2011 at pages 42 and 43,
12 it's fair to say that he was falling asleep half
13 way through his sentence, and the whole air -- all
14 of the air out of your entire investigation you
15 felt was let out at the Caldwell taped interview
16 of August 5?

17 MR. LEPINE: It was not a good day, right.

18 Q No. You felt like you were walking out with your
19 tail between your legs?

20 MR. LEPINE: It was embarrassing.

21 Q Yes. So now you had to come up with another
22 strategy, what do we do now, because Caldwell
23 isn't coming through for us. Isn't that fair to
24 say?

25 MR. LEPINE: Well, the strategy is to interview him when he's

1 in a better condition.

2 Q Right. And another thing to do was to now start
3 to pursue Ellingsen and see what we could do to
4 get direct information from Ellingsen; correct?

5 MR. LEPINE: I'm just trying to think that the process was
6 Ellingsen. We didn't -- we weren't the decision
7 makers on Ellingsen, but there's -- you know, put
8 it this way, what we're hearing, you know, Hiscox,
9 say, what Caldwell is saying and, you know,
10 they're all consistently saying that she said
11 certain things.

12 Q Right.

13 MR. LEPINE: I think you have to go, you know, the next -- one
14 of the obvious things we had to do is confirm that
15 information of what she says because I can think
16 about a hundred questions to ask her about what
17 she had told these guys, you know, starting with
18 her mental condition, drug use, blah, blah, blah,
19 what she actually saw, the whole nine yards. So
20 there's a lot of information missing. Certainly
21 people heard her say things that we had a lot of
22 clarifying to do of what exactly she saw.

23 Q And it was a reasonable investigative strategy to
24 go and interview with her. Would you agree with
25 me, Detective Lepine?

1 MR. LEPINE: Well, we had hoped it would be a soft interview
2 and then she might provide the information that we
3 hoped for.

4 Q Okay. And would you also agree with me that by
5 August 4, and I'm going to come back to this,
6 August 4, August 5 you knew that Connor had gone
7 to see regional Crown counsel Peter Gulbransen,
8 presented the file, and he was told that he didn't
9 have sufficient grounds for a warrant, which of
10 course meant he didn't have sufficient grounds for
11 a Part VI; correct?

12 MR. LEPINE: I think you're right.

13 Q Thank you.

14 MR. CHERNOFF: I actually -- I'm not sure that that is correct,
15 and it may be. I thought he went to discuss the
16 case with a Crown counsel member. I don't know if
17 he actually took an affidavit prepared in its
18 entirety and gave it to him and asked him whether
19 or not we could obtain a warrant based on that
20 information. I was under the understanding that
21 it was a conversation that he went to discuss with
22 Crown and was told you likely don't have enough.
23 That was my understanding of it. Now --

24 Q That may be your understanding. Constable
25 Connor's evidence, and it's noted at tab 1 of

1 Exhibit 176, page 44 of 148 if you need to see it,
2 was that he met with Peter Gulbransen around 10:15
3 on the morning of the 4th, left his entire file
4 with him to determine whether he could get a
5 warrant and was told he didn't have sufficient
6 information?

7 MR. LEPINE: Yes, that's --

8 Q Does that refresh your memory?

9 MR. CHERNOFF: Well, no, actually it doesn't. I thought he had
10 actually gone to speak to Mr. Gulbransen or a
11 member of Crown counsel about the file. So if you
12 say that that is what Mr. Connor's evidence is
13 then I'll accept that.

14 Q All right. So here we are now, it's August 5, the
15 interview with Caldwell hasn't gone well, you
16 can't get a warrant, the decision is made to do a
17 soft interview with Ellingsen, correct, and that
18 goes nowhere. Isn't that fair to say?

19 MR. CHERNOFF: Yes.

20 MR. LEPINE: Yes.

21 Q Okay. So what's the next part in terms of the
22 investigational strategy?

23 MR. LEPINE: Get on the property.

24 Q All right. But you can't get on the property
25 'cause you can't get a warrant; correct?

1 MR. CHERNOFF: Well, are you asking us what we did next or what
2 are you exactly asking?

3 Q You were part of these meetings in Coquitlam.

4 MR. CHERNOFF: Well, there was a discussion about whether or
5 not she should be brought in and be polygraphed.

6 Q Right.

7 MR. CHERNOFF: There was another discussion about bringing her
8 in again and doing another interview with her,
9 which was done. So there was two interviews
10 conducted, and then a polygraph examination was
11 going to be conducted. And what else we were
12 pursuing at the time? There was something else in
13 there too, I just can't remember at the time.

14 MR. LEPINE: Yeah, we interviewed her. I mean she had already
15 had the original interview. They end up bringing
16 her into the Coquitlam RCMP, this is when Connors
17 is gone. Ruth Yurkiw was going to interview her,
18 second opinion so to speak, and I accompanied her
19 with that interview.

20 Q And that happened on August the 26th, you and Ruth
21 Yurkiw did a follow-up interview with
22 Ms. Ellingsen; correct?

23 MR. LEPINE: Correct.

24 Q And what happened in the course of that interview
25 after about half an hour you, Detective Lepine,

1 raised the issue of your investigation and you
2 referred to your investigation being an
3 investigation into the missing women; correct?

4 MR. LEPINE: Right.

5 Q And she became quite agitated?

6 MR. LEPINE: Very.

7 Q And it was decided that it would be better off for
8 you to leave the room; correct?

9 MR. LEPINE: Yes.

10 Q And that's when Officer Henley came into the room
11 and you were able to -- the team was able to get
12 her to agree to a polygraph?

13 MR. LEPINE: Calm her down.

14 Q Right. Unfortunately she didn't show up for the
15 polygraph, did she?

16 MR. LEPINE: No. I don't -- no, she didn't as far as I know,
17 but I couldn't give you the details or
18 circumstances.

19 Q Well, she was supposed to show up on August the
20 31st; correct?

21 MR. LEPINE: I don't know.

22 THE COMMISSIONER: Is there enough evidence to conclude that
23 she didn't show up?

24 MR. HIRA: Yes, but I do need to take them to the next step and
25 that's why I'm connecting this together in this

1 fashion.

2 THE COMMISSIONER: All right. But what I'm saying is that I
3 thought that was the uncontradicted evidence.

4 MR. HIRA: It is, it is, but I do need to go to the next
5 investigational step.

6 Q And the best way to do is to ask you to turn to
7 page 42 of your investigational log, which is tab
8 2. You've been taken there by my learned friend
9 Ms. Tobias. You'll notice the entry at one
10 o'clock you learn that she has declined an
11 interview; correct? The actual page 42.

12 MR. CHERNOFF: Yes.

13 THE REGISTRAR: I hate to use the time-card, Mr. Hira.

14 MR. HIRA: I'll be five minutes.

15 MR. LEPINE: Contacted a lawyer, okay.

16 MR. HIRA:

17 Q So now that you can't get her in it's decided
18 well, let's go and try to interview Mr. Pickton;
19 correct?

20 MR. LEPINE: That would be the next step, yes.

21 MR. CHERNOFF: I think there was also Mr. Menard that was
22 approached as well. Now, I don't know exactly
23 when that was in relation to this, but he was also
24 spoken to.

25 Q That had all occurred prior to August 31. And at

1 4:30 you're there at the Coquitlam RCMP discussing
2 the file investigational tactics as the Ellingsen
3 polygraph isn't going ahead?

4 MR. LEPINE: Right.

5 MR. CHERNOFF: Correct.

6 MR. WARD: Cameron Ward, counsel for the families of murdered
7 women.

8 THE COMMISSIONER: Yes.

9 MR. WARD: My friend Mr. Hira has been advised his time is up,
10 and I'm sure the rules apply equally to all
11 whether --

12 THE COMMISSIONER: I agree.

13 MR. WARD: -- they're representing families or police officers.

14 THE COMMISSIONER: Yeah.

15 MR. WARD: Thank you.

16 THE COMMISSIONER: Well, actually you went a lot longer than
17 the time allotted today, but I understand what
18 you're saying.

19 MR. WARD: I sat down as soon as I was told to.

20 THE COMMISSIONER: Sorry?

21 MR. WARD: I sat down as soon as Mr. Registrar told me my time
22 was up.

23 THE COMMISSIONER: Well, I know, but we let you -- he let you
24 go a lot longer.

25 THE REGISTRAR: Twenty-three minutes longer.

1 THE COMMISSIONER: I always allow for the courtesy if they're
2 finishing a particular phase of questions.

3 MR. HIRA: I have just three areas which I'll get done
4 hopefully in four minutes.

5 THE COMMISSIONER: Okay. As a matter of fact everybody has
6 gone over today. Go ahead.

7 MR. HIRA:

8 Q The next phase to interview Pickton; correct?

9 MR. LEPINE: That would be sort of the next logical step.

10 Q Right. And you arrive, if you look at your notes,
11 at 7:15 in the morning to help with the Pickton
12 interview; correct?

13 MR. LEPINE: Correct.

14 Q There's no way to compel him to attend an
15 interview, is there?

16 MR. LEPINE: That's correct.

17 Q So you need his co-operation; correct?

18 MR. CHERNOFF: Well, completely, yeah, I think we need his
19 co-operation.

20 MR. LEPINE: But that depends on how the conversation goes.

21 Q You need his co-operation?

22 MR. CHERNOFF: Yes.

23 Q All right. And so you're there on September the
24 1st and Coquitlam is unable to interview him
25 because they can't get on the farm?

1 MR. CHERNOFF: They can't find him.

2 Q Right. And were you aware that steps were taken
3 throughout September, part of October through
4 January to arrange an interview with Mr. Pickton?

5 MR. CHERNOFF: No.

6 MR. LEPINE: We were not advised of that.

7 Q All right. So let's get down to why this thing in
8 your view failed. And perhaps the best way to
9 deal with it is to put this proposition to you,
10 Officer Lepine, and I'm reading from page 78 of
11 your interview with Deputy Chief Evans. Starting
12 at line 3 Evans says:

13 Okay.

14 And you say starting at line 4:

15 And it was taking because if we couldn't get
16 search warrants and we couldn't get the Part
17 VI then we were at -- we kind of hit a wall
18 like what do you do.

19 Do you recall giving that answer to her?

20 MR. LEPINE: That sounds possible, yes.

21 Q It was true then on August the 22nd, 2011, the
22 date of your interview?

23 MR. LEPINE: True then.

24 Q It was true then, it was true in September of
25 1999, and it's true today; correct?

1 MR. LEPINE: I suspect it's accurate, yes.

2 Q Thank you. Would you adopt your fellow officer's
3 position, Detective Chernoff?

4 MR. CHERNOFF: That we hit a wall?

5 Q Yes.

6 MR. CHERNOFF: Certainly we hit a wall. But I'm going to say
7 this, you always hit a wall when you work on
8 cases, and there's always if there's a will to
9 persevere through these things you could always
10 find a way. And that was a frustrating part we
11 did hit a wall. There's no question this thing
12 fell flat. But based on all the information that
13 we had I believed, and this is me, I, not
14 particularly Ron perhaps, but there was a way
15 around it, but it needed to be done in some kind
16 of a joint fashion and it actually had to be
17 scheduled. It wasn't one of these things well,
18 we'll go and see if he's around next week and try
19 and interview him. It needed the impetus of
20 management and people to drive it, and that
21 stopped, and that's the frustrating part.

22 Q Perhaps I should be dangerous and ask you the what
23 question. What other investigational technique
24 were you proposing?

25 MR. CHERNOFF: You know what, we would have come up with

1 something and that is assured. We would have come
2 up with something. Whether or not we would have
3 then done a bump, an undercover operation perhaps
4 with someone else. There are always -- we had a
5 lot of information. When Mr. Caldwell was on that
6 property and he was going back, yes, maybe perhaps
7 three months when he had actually lived on that
8 property there was things that he saw, hidden
9 compartment, guns in the wall, things of that
10 nature, I think we could have pursued, but what we
11 needed was a will. We actually needed people and
12 we needed a concerted effort by a group to instead
13 of finding reasons not to do it finding the
14 reasons to do it. Now, I have to say that,
15 because this just wasn't well we hit a dead end
16 that was the end of it and we were never going to
17 go back on the property and --

18 Q Sir, your evidence in chief was that you pursue a
19 suspect until you either get him, eliminate him or
20 put him on the shelf waiting for another
21 opportunity. Do you still stick to your evidence
22 in chief, sir?

23 MR. CHERNOFF: Well, I stick to my evidence in chief, but
24 having said that, and I do believe that, I think
25 there was so much information out there that it

1 could not be ignored. Like something had to be
2 done. Whatever that was, however it was going to
3 be done it had to. And I'm not being
4 philosophical about, you know, what happened 12
5 years ago. I truly believe if there was a will it
6 would have happened. And that we, the Vancouver
7 Police Department and the Mounties, should have
8 worked probably better hand in hand to solve this,
9 and I think it really could have been solved.

10 Q I understand your position, and I still leave it
11 out there, is there an investigative technique
12 that you think should have been put into place
13 that reasonably could have been put into place at
14 that point given that you had no grounds for a
15 warrant, and also given that to do an undercover
16 operation you need a plan and quite often a Part
17 VI?

18 MR. CHERNOFF: That is correct. We would need a plan and a
19 Part VI. I think we probably could have come up
20 collectively with a plan. I think we still could
21 have done some form of an undercover operation.
22 And that's just my opinion I think we could have
23 done something, because I truly believe at the
24 time, and that's why it's so frustrating, more
25 could have been done.

1 MR. HIRA: Thank you, Officers.

2 THE COMMISSIONER: Thank you. Yes.

3 MS. BROOKS: So there are no more questions for these
4 witnesses.

5 THE COMMISSIONER: All right. I want to thank each of you for
6 coming. I know it's been a long hard day, and
7 you're no longer involved in policing, I know
8 that, but we needed the evidence and I thank each
9 of you for coming. Thank you.

10 **(WITNESSES EXCUSED)**

11 MS. BROOKS: We do have another panel of witnesses, so perhaps
12 we could just take a few minutes.

13 THE REGISTRAR: Order. The hearing will now recess for ten
14 minutes.

15 **(PROCEEDINGS ADJOURNED AT 4:20 P.M.)**

16 **(PROCEEDINGS RESUMED AT 4:31 P.M.)**

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

18 MR. HERN: Do you want to introduce this or do you want me to?

19 MS. BROOKS: So, Mr. Commissioner, before you there are four
20 witnesses. There is retired VPD Sergeant Ted
21 Yeomans --

22 MR. WARD: Mr. Commissioner, Cameron Ward, counsel for the
23 families of 25 missing and subsequently murdered
24 women. I'm objecting to this panel being called
25 at this time for the following reasons.

1 Firstly --

2 THE COMMISSIONER: For what reason?

3 MR. WARD: The following reasons.

4 THE COMMISSIONER: Oh.

5 MR. WARD: Firstly, their evidence so far as I can understand
6 from the brief will say statements I've been
7 provided with is of dubious or perhaps marginal
8 relevance to the subject matter of this inquiry,
9 certainly in the case of two of the four people
10 present. Secondly, it's 4:35 on a Friday
11 afternoon, it's too late in the day to be
12 embarking on hearing from four new witnesses, in
13 my respectful submission. The related point on
14 that is that, in my respectful submission, too
15 often the effects of proceedings on the court
16 reporter goes overlooked. It is most difficult I
17 know for a court reporter to attempt to take down
18 the evidence of four witnesses who are appearing
19 in the witness box simultaneously, and to impose
20 the added burden of having the court reporter sit
21 at this late hour and to try to do that difficult
22 task is, in my respectful submission, too onerous.
23 So my understanding is these witnesses were never
24 on the commission's witness list, and as far as I
25 can tell, and I don't know much because I'm not

1 privy to the discussion, but as far as I can tell
 2 this panel is here because counsel for the
 3 Vancouver Police Department asked that they come
 4 or brought them here. You know of course that
 5 when I as counsel for the families of the murdered
 6 women sought to have a number of witnesses testify
 7 on matters of real substance I had to go through a
 8 series of hoops, including making oral and written
 9 submissions, before most of my requests were
 10 dismissed. It appears that there is a very
 11 different set of practice rules in place when on
 12 the other hand Vancouver Police Department seeks
 13 witnesses they merely have to bring them here and
 14 seat them. And that, in my respectful submission,
 15 is yet another example of what I called on day one
 16 the lack of a level playing field in this
 17 proceeding, and it is another example of a lack of
 18 procedural fairness that has been exhibited
 19 throughout the process regrettably. Those are my
 20 submissions.

21 THE COMMISSIONER: All right. I'll deal with your concern
 22 about the court reporter. I've been concerned
 23 about the reporter as well, and I've been keeping
 24 in contact with her to ensure that she's not
 25 adversely affected. I know it's difficult for

1 her.

2 Your last comment is totally wrong, unfair,
 3 and you've been making the allegation since day
 4 one. The fact is you have the easiest job in this
 5 courtroom. You are acting for the families who
 6 everybody has sympathy for the families. They are
 7 the real victims. You make it sound like your
 8 clients are being charged with crimes. They're
 9 not, Mr. Ward. They are people that everybody
 10 here has a genuine concern about, and I can tell
 11 you that I have a genuine concern about them --
 12 let me finish. So there's nothing unfair about
 13 it. Some of the witnesses that you asked for and
 14 haven't been called, and I understand that the
 15 list is still there, you haven't even bothered
 16 giving will say statements as to what they'll say.
 17 One particular witness you wanted called earlier
 18 on was Robert Pickton. You wanted David Pickton
 19 called. You wanted Peter Ritchie called.

20 MR. WARD: Absolutely.

21 THE COMMISSIONER: Yeah, and there's no --

22 MR. WARD: Absolutely. I still do.

23 THE COMMISSIONER: Would you let me finish?

24 MR. WARD: Absolutely.

25 THE COMMISSIONER: I don't interrupt you so why are you

1 interrupting me? Do you not know anything about
2 civility? You have a tendency to jump up at will
3 and --

4 MR. WARD: Where would you like me, sir? Would you like me
5 sitting or standing?

6 THE COMMISSIONER: The thing is I'm speaking, and you have a
7 seat and you'll have an opportunity to reply.

8 MR. WARD: I just want to be sure, would you like me seated or
9 standing?

10 THE COMMISSIONER: You know what, you can do whatever you want,
11 Mr. Ward. The fact is that you make more noise
12 and you have less issues to be concerned with. A
13 while ago you jumped up because Mr. Hira went over
14 three minutes. Well, you went over by 23 minutes,
15 and I heard such gems as what a good guy Dave
16 Pickton was, and all about his demolition
17 business. Those things don't count for anything.
18 But, you know, I heard that evidence from you, so
19 I politely listened while you led that evidence.
20 Now suddenly as though Dave Pickton had any
21 relevance at all, now we know that he was an
22 honest person, he wasn't involved in crimes. You
23 brought that evidence out. I don't know why
24 that's relevant. We're here to find out what
25 happened, you know, why was Pickton allowed to go

on killing innocent people, not about Dave Pickton's demolition business. So that's the concern that I have. And as far as these witnesses are concerned I share your concern, I don't know why they're being called except I am told, and Mr. Hern will clarify this, that there are serious allegations made against them by one of the earlier witnesses, or two of the earlier witnesses concerning some of the comments they made. If that's the case they have a right to reply to those. You know, we allow for fairness. If an allegation is made against somebody they're allowed to come here and defend themselves. I mean you complained at one time that there were too many police lawyers in the room. Well, you know, Mr. Ward, the police lawyers have a participant status because allegations against the police have been made, so we need to hear from them. That's why. Okay. Thank you.

MR. WARD: Thank you.

THE COMMISSIONER: I can assure you I want to finish the day off like everyone else. Yes, go ahead, Mr. Hern.

MR. HERN: I just simply want to note the comment that these witnesses are of marginal relevance. I objected to Rae-Lynne Dicks's evidence that Mr. Ward and

1 Mr. Gratl wanted heard so much, her comments about
2 the VPD culture and so on, she testified for a day
3 and a half and Mr. Ward cross-examined her at
4 length, and so to suggest now that a reply to that
5 is of marginal relevance is quite unfair.

6 THE COMMISSIONER: Okay. Well, we'll deal with it at the end
7 of the day. You're entitled to call them. Yes,
8 Mr. Gratl.

9 MR. GRATL: Just leave me out of this one.

10 THE COMMISSIONER: Sorry.

11 MR. GRATL: I didn't call for Ms. Dicks to testify.

12 THE COMMISSIONER: All right. Okay.

13 MR. WARD: Nor did I.

14 THE COMMISSIONER: Okay. Go ahead.

15 MR. HERN: All right. So this panel is here because Rae-Lynne
16 Dicks's testimony was quite extraordinary. She
17 spoke about things about the VPD culture in
18 general, and she made specific allegations of
19 Mr. Yeomans and Mr. Joyce who are here in front of
20 you. And, Mr. Registrar, have they been sworn,
21 the witnesses?

22 THE REGISTRAR: Not yet, no.

23 MR. HERN: So just by introduction we have Ms. Bonnie Theile is
24 closest to you, Mr. Commissioner, Donna
25 Marshall-Cope is next to her, former Sergeant Ron

1 Joyce is next to Ms. Marshall-Cope and at the end
2 is Mr. Yeomans, former Sergeant Yeomans.

3 THE COMMISSIONER: Thank you.

4 MR. HERN: If they could be sworn, please.

5 **BONNIE THEILE: Affirmed**

6 **DONNA MARSHALL-COPE: Affirmed**

7 **RONALD JAMES JOYCE: Affirmed**

8 **FREDERICK YEOMANS: Affirmed**

9 MS. THEILE: I do.

10 THE REGISTRAR: And your name, please?

11 MS. THEILE: Bonnie Theile.

12 THE REGISTRAR: Thank you. How do you respond?

13 MS. MARSHALL-COPE: I do. Donna Marshall-Cope.

14 THE REGISTRAR: Thank you.

15 MR. JOYCE: I do. Ronald James Joyce.

16 THE REGISTRAR: Thank you.

17 MR. YEOMANS: I do. Frederick George Yeomans.

18 **EXAMINATION IN CHIEF BY MR. HERN:**

19 Q Now, Ms. Theile, you started with the Vancouver
20 Police Department in 1962?

21 MS. THEILE: That's correct.

22 Q And if you could just move the microphone over to
23 yourself. You spent from 1962 to 1976 in the
24 report centre, which I understand was where calls
25 from the public looking for police services would

1 come into?

2 MS. THIELE: That's correct.

3 Q And then from the report centre calls would be
4 dispatched to the officers as well?

5 MS. THIELE: Correct.

6 Q All right. Serving the same purpose as the
7 communications centre which followed it?

8 MS. THIELE: That's right.

9 Q And the communications centre came into being in
10 1976 with the 9-1-1 service?

11 MS. THIELE: That's correct.

12 Q And you then worked as a communications centre
13 operator there until 1986 when you retired?

14 MS. THIELE: That's correct.

15 Q And when you retired you then came back and
16 contracted back on a temporary or auxiliary basis,
17 but worked mostly full time in the communications
18 centre for another ten years until 1996?

19 MS. THIELE: That's correct.

20 Q Now, by my count that's 34 years of work as a
21 communications operator in the Vancouver Police
22 Department?

23 MS. THIELE: That's correct.

24 Q All right. With respect to your work,
25 Ms. Marshall-Cope, just your background, you were

1 also employed with the Vancouver Police Department
2 as of -- in the communications centre; correct?

3 MS. MARSHALL-COPE: That's correct.

4 Q And you began working for the department in 1982,
5 and then began in the communications centre in
6 1986 and stayed there until 1999 when it moved
7 over to E-Comm?

8 MS. MARSHALL-COPE: That's correct.

9 Q And when it went to E-Comm you went there as a
10 manager for a period of time, and then returned
11 back to the department as a civilian employee and
12 you remain there today?

13 MS. MARSHALL-COPE: That's correct.

14 Q All right. And with respect to Mr. Joyce, you
15 were sworn as a Vancouver Police Department member
16 in 1972 and worked in a variety of capacities
17 within the department?

18 MR. JOYCE: That's correct.

19 Q And you need to turn on your microphone, sir. And
20 part of that work when you were promoted to
21 sergeant in 1995 you were posted to the regional
22 control centre or the communications centre?

23 MR. JOYCE: That's correct.

24 Q And worked there in a supervisory capacity?

25 MR. JOYCE: That's correct.

1 Q All right. And that's where you knew the witness
2 we've heard here previously Rae-Lynne Dicks; is
3 that right?

4 MR. JOYCE: I knew of her, yes.

5 Q All right. And you retired from the service in
6 March 2001?

7 MR. JOYCE: That's correct.

8 Q Now, Mr. Yeomans, you commenced service with the
9 Vancouver Police Department in September 1975, and
10 also worked in a variety of capacities before
11 retiring in 2003?

12 MR. YEOMANS: Yes, I did.

13 Q And in the years 1995 to '97 you were a corporal
14 and chief dispatcher, and then also a sergeant in
15 the communications centre?

16 MR. YEOMANS: That's correct.

17 Q So the common element here then is all of you are
18 familiar with the communications centre, and it's
19 evidence about that that was led by or introduced
20 by Rae-Lynne Dicks that is the reason you are
21 here. So if we could return now to Ms. Theile.
22 In testimony before this commission Ms. Dicks said
23 that she had spoken with Sergeant Yeomans and
24 she -- just let me back up. Ms. Dicks testified
25 that she was a communications operator and was in

1 the comm centre for two and a half to three years.

2 Did you know Ms. Dicks?

3 MS. THIELE: No, I didn't, although there was two years when we
4 would have both been there, but never worked
5 together.

6 Q Never worked together?

7 MS. THIELE: Not to my knowledge.

8 Q Okay. But you did -- you did work with Sergeant
9 Ted Yeomans?

10 MS. THIELE: Yes, briefly.

11 Q And did you work with Sergeant Joyce?

12 MS. THIELE: Yes, I did.

13 Q All right. And I take it then given your years of
14 service you in fact worked with many, many
15 sergeants within the Vancouver Police Department?

16 MS. THIELE: That's correct.

17 Q Now, Ms. Dicks said that she spoke with Sergeant
18 Yeomans about the manner in which the
19 communications centre was taking reports, and
20 reports of assaults against sex trade workers or
21 missing persons reports about sex trade workers,
22 and that Mr. Yeomans responded by saying "they're
23 just hookers" and "when scum of the earth goes
24 missing we're not going to spend valuable time and
25 energy trying to find them." She said she heard

1 Mr. Yeomans say this on more than one occasion,
2 perhaps not those exact words each time, but words
3 to that effect. Now, I take it you would regard
4 comments like that made by a sergeant to be
5 demeaning or disparaging of sex trade workers? If
6 you had heard words like that you in your mind
7 would know those were demeaning statements. You
8 agree with that?

9 MS. THIELE: Well, definitely, yes. I never did hear
10 statements like that.

11 Q And because of that if such a comment was made in
12 your presence like that would you expect that you
13 would remember it?

14 MS. THIELE: I would definitely.

15 Q Did you ever hear Sergeant Yeomans say such a
16 thing or any kind of comment like that?

17 MS. THIELE: No, I did not.

18 Q And, Ms. Marshall-Cope, did you?

19 MS. MARSHALL-COPE: No, I did not.

20 Q And knowing Mr. Yeomans, Ms. Theile, from your
21 familiarity with him can you imagine him making
22 such a remark or something like that?

23 MS. THIELE: No, I could not.

24 MR. GRATL: I just rise to object.

25 THE COMMISSIONER: Yes.

1 MR. GRATL: This introduction of character evidence here it
2 amounts to oath helping, and I think it goes a
3 little further than evidence of this kind ought
4 to.

5 THE COMMISSIONER: Well, it's not oath helping at all. That
6 isn't what oath helping is. I'm not so sure it's
7 character evidence either. It's evidence for what
8 it's worth is in reply to the other evidence that
9 was given, and that's what it is. I mean there
10 was evidence about allegations that were made and
11 I don't think there's anything more than that. I
12 don't take from this evidence that this evidence
13 relates to good character or anything of that
14 sort.

15 MR. GRATL: All right. Thank you, Mr. Commissioner.

16 MR. HERN:

17 Q Ms. Marshall-Cope, with respect to the statements
18 made -- sorry, alleged to have been made by
19 Sergeant Yeomans did you ever hear Sergeant
20 Yeomans say anything like that?

21 MS. MARSHALL-COPE: Absolutely not.

22 Q All right. And you worked directly for him from
23 time to time?

24 MS. MARSHALL-COPE: He was the corporal of my team.

25 Q All right. And so you had opportunity to speak

1 with him and work with him on many occasions then?

2 MS. MARSHALL-COPE: Yes, I believe it was at least for two
3 years.

4 Q All right. And have you heard of anybody else on
5 your team suggest that Mr. Yeomans had made a
6 statement like that?

7 MS. MARSHALL-COPE: No.

8 Q Now, with respect to Mr. Joyce, Rae-Lynne Dicks
9 testified that Mr. Joyce -- that she also
10 approached him when he was a sergeant and raised
11 concerns about the way that missing person reports
12 for sex trade workers were being taken, and she
13 said that Mr. Joyce responded by saying "who
14 cares, it's just another hooker." Is that
15 something, Ms. Marshall-Cope, that you have ever
16 heard Mr. Joyce say?

17 MS. MARSHALL-COPE: No.

18 Q Have you ever heard him say anything like that?

19 MS. MARSHALL-COPE: Absolutely not.

20 Q All right. Ms. Thiele?

21 MS. THIELE: No, I haven't.

22 Q Now, Mr. Joyce, let's turn to you yourself.
23 You've I know heard and read about Ms. Dicks'
24 testimony as to your conduct and the things that
25 you have been alleged to have said within the

1 communications centre, and what is your response
2 to that? I know you have some things you wanted
3 to tell the commissioner.

4 MR. JOYCE: The first, Mr. Commissioner, is that this happened
5 fifteen to sixteen years ago. I don't recall any
6 conversation with Ms. Dicks, and certainly nothing
7 along the lines of what was alleged that I had
8 said. Those comments are completely inconsistent
9 with my career and the conduct of my career before
10 and after I was working in the communications
11 centre, and I was deeply offended that anyone
12 would say a thing like that about me. I did not
13 say that to her.

14 Q All right. Mr. Yeomans, what is your response or
15 your reply to the allegations that Ms. Dicks has
16 made about the things she says you said to her?

17 MR. YEOMANS: Your honour, I was present in the courtroom when
18 she made those statements, I was shocked and taken
19 aback totally. Not only have I never made
20 statements like that, allegations and insinuations
21 of that kind, there's never been an NCO or a
22 police constable in the communications centre to
23 my knowledge or my presence that's ever made a
24 remark like that to a comm op or given a direction
25 like that to a comm op under any circumstances.

1 Q Now, Mr. Yeomans, Ms. Dicks' evidence with regard
2 to your comments, statements and conduct went a
3 little bit farther because she also said that she
4 specifically remembered you pretending to be a
5 drunk aboriginal woman and making jokes about how
6 they speak or talk or those sorts of things was
7 her language. Now, what is your response to that
8 evidence of Ms. Dicks?

9 MR. GRATL: I just rise again.

10 THE COMMISSIONER: Yes.

11 MR. GRATL: I think it's a convention in cross-examination
12 technique for counsel not to ask witnesses to
13 comment on the evidence of other witnesses, that
14 is just ask a factual question and not say well,
15 what do you have to say about that.

16 THE COMMISSIONER: No, no, no, that's not true. It's perfectly
17 permissible to put the opposing testimony to a
18 witness. What is improper is to comment on the
19 truthfulness of someone else's evidence. That's
20 Markoduis(phonetic) in the Supreme Court of Canada
21 is the authority for that. You always have to put
22 the opposing theory to your own witness.

23 MR. GRATL: I think it goes a little bit beyond that and it's
24 asking for comment on the witness's testimony,
25 which is inviting a comment about truthfulness

1 about a witness.

2 THE COMMISSIONER: You know, I'm glad you raised the point, and
3 that's something if he does bring something about
4 the truthfulness of the witness that's clearly
5 inadmissible, I recognize that. Thank you.

6 MR. GRATL: Thank you.

7 MR. HERN:

8 Q I'm not asking for a comment about Ms. Dicks,
9 Mr. Yeomans, I'm asking whether her suggestion
10 that you made that type of joke is accurate to
11 your memory?

12 MR. YEOMANS: No, it is not accurate. And, again, neither I
13 nor any other NCO or constable in the
14 communications centre did I ever witness or see
15 such a remark or action take place in the context
16 of the communications centre.

17 Q Now, the joke that she alleges you made was about
18 an aboriginal woman, and you're in fact I
19 understand married to an aboriginal women?

20 MR. YEOMANS: I've been married to an aboriginal female for 24
21 years in August. She also happens to be a retired
22 civilian member of the Vancouver Police
23 Department.

24 Q So you were married in 1988 to your wife, and this
25 allegation is made somewhere in the mid-1990s, so

1 it would be while you were married to her you're
2 alleged to have made this disparaging joke against
3 aboriginal women?

4 MR. YEOMANS: That's correct, while I was married to an
5 aboriginal female who is still my wife.

6 Q All right. Now, I want to turn more broadly to
7 the allegations of Ms. Dicks with respect to the
8 police department culture as a whole, and this
9 included some other statements that were made by
10 another civilian witness. And the evidence was
11 that comments similar to the ones alleged to have
12 been made by Mr. Yeomans and Mr. Joyce were
13 typical of other sergeants in the communications
14 centre, and that these statements were heard more
15 than once with respect to more than one file, and
16 that the view that sex trade workers were not
17 worthy of concern was common. The evidence went
18 further than that and suggested that the VPD
19 officers generally were racist and sexist,
20 demeaning towards women, other races and the less
21 fortunate. And one civilian witness testified
22 that throughout the department people said that
23 sex trade workers were just a waste of space.
24 Ms. Thiele, can you comment on whether that is
25 consistent in any way with your experience in the

1 department over more than 30 years working there?

2 MS. THIELE: It definitely is inconsistent. My only connection
3 with this is that when I read and saw the comments
4 knowing so many fine policemen, and taking the
5 whole force as a whole being -- I'd say character
6 assassination, this is why I was extremely upset
7 and in contact with the press.

8 Q All right. When you refer to contacting the
9 press, in front of you are the two letters that
10 you wrote, one to *The Vancouver Sun*, one to the
11 *Province*. Do you have those in front of you?

12 MS. THIELE: Yes, I do.

13 Q Can you confirm that those are what they are?

14 MS. THIELE: Yes, they are.

15 Q All right. Mr. Commissioner, you have those in
16 front of you as well. And in the letter to *The*
17 *Vancouver Sun* you said:

18 Probably 99 percent of these men treated...
19 And I take that's referring to Vancouver Police
20 Department officers who are male.

21 ... treated the public including prostitutes
22 and aboriginals with equal integrity, respect
23 and compassion.

24 MS. THIELE: That is correct.

25 Q And that was your experience?

1 MS. THIELE: Absolutely.

2 Q So what has been described by these other civilian
3 witnesses is simply unknown to you?

4 MS. THIELE: Exactly.

5 Q All right. Ms. Marshall-Cope, what is your view
6 as to whether the Vancouver Police Department
7 sergeants in the mid-1990s were widely racist,
8 sexist and demeaning towards women and the less
9 fortunate?

10 MS. MARSHALL-COPE: I am, and was at the time, still proud of
11 the work that's done by the communications staff,
12 that includes my civilian colleagues and the sworn
13 members which would be all ranks. We had
14 constables, corporals and sergeants in the
15 communications centre. We had set protocols and
16 policy and there was no double standard.
17 Irregardless of your walk of life, your race,
18 sexual preference you were treated the same, and I
19 never heard anyone asked to manage a call
20 differently based on a bias criteria.

21 Q All right. And with respect to the department
22 generally did you hear other conversations, have
23 any sense of a culture that considered sex trade
24 workers a waste of space or anything like that?

25 MS. MARSHALL-COPE: I would describe all of the people that

1 were in the communication centre as professional
2 and compassionate. We were all interested in
3 helping the public catching the bad guy.

4 Q All right. But beyond that your interactions with
5 the department as a whole?

6 MS. MARSHALL-COPE: Very positive, the same.

7 Q All right.

8 MS. MARSHALL-COPE: Consistent with being fair and professional
9 and compassionate.

10 Q Mr. Joyce, do you have a comment to make about
11 that? In terms of your experience you worked both
12 in the Downtown Eastside in patrol I understand
13 for periods of time and all other areas of the
14 department. Reflecting on that experience as a
15 whole what do you have to say about Ms. Dicks' and
16 Ms. Cameron's testimony as to the culture of
17 racism and sexism in the department?

18 MR. JOYCE: My only comment would be irrespective of who said
19 it was that there was no culture of racism, sexism
20 or homophobia, as it was mentioned in the
21 transcript, present in the communications centre
22 when I was assigned there. I'd like to point out
23 that I was surrounded by women mostly in that
24 centre, all of them professional, all of them
25 strong willed, and all of them quite forceful in

1 their opinions about certain issues over fairness.
2 If I or any other member of the police in there,
3 or even indeed a civilian were to make any
4 comments that could be considered as racist,
5 sexist, homophobic, I would expect to hear about
6 it. If I were the person responsible for it I
7 would expect to hear about it from somebody, they
8 would mention it to me. In my entire time that I
9 was assigned to the communications centre no one
10 brought an issue like that to me, no senior
11 officer in the communications centre brought that
12 issue to me, and no commander ever mentioned to me
13 any conduct of that kind either by me or anyone
14 under my supervision in the communications centre.
15 Those were acts that were intolerable, and in the
16 early '90s when I was there most of the
17 supervisors that went through there had already
18 been through at least two programs concerning
19 those issues, and we're very sensitive about them.
20 As such I repeat that atmosphere, that culture
21 that was alleged to have been there was not
22 apparent in the communications centre.

23 Q Okay. And, Mr. Yeomans, what is your perspective
24 on that?

25 MR. YEOMANS: I spent 28 years with the Vancouver Police

1 Department, about half, 14 years of those years of
2 service in the Downtown Eastside area of Vancouver
3 that's under question here today. During those
4 period of time I dealt with a tremendous
5 cross-section of individuals from sex trade
6 workers to drug addicts to mentally ill people,
7 alcoholics, people of all race and creeds under a
8 variety of circumstances. Seventeen years later
9 Ms. Dicks is the only person I've ever heard to
10 make allegations to myself or to anybody else
11 against me of racism or sexism or any allegations
12 of those kind. There's no other complaints on my
13 record or none of these incidents brought to my
14 attention other than Ms. Dicks coming forth 17
15 years later on this platform with whatever agenda
16 she came forward with to put forward these facts
17 which I categorically deny.

18 MR. HERN: All right. Now, before you, Mr. Commissioner, are
19 the will says of these individuals. They go on to
20 talk a little bit about some other issues such as
21 the application of policies. Given the time what
22 I would proposal to do is mark them -- if the
23 witnesses can confirm their accuracy and mark them
24 as exhibits, you know, statements that they have
25 adopted. I don't know if that's an issue with my

1 friends, but it seems more expedient than --

2 THE COMMISSIONER: Well, normally these statements are not
3 marked as exhibits. Anybody have any comments
4 about this?

5 MR. GRATL: It seems to me that prior consistent statements can
6 be marked from time to time.

7 THE COMMISSIONER: Sorry.

8 MR. GRATL: Prior consistent statements can be marked from time
9 to time as exhibits at inquiries.

10 THE COMMISSIONER: Not really, but I mean if nobody -- if it's
11 consensual, you know, I don't have any hard
12 feelings or strong feelings one way or the other.

13 MR. JOYCE: Mr. Commissioner, there's one paragraph attributed
14 to me in here that I'd like to correct. It is the
15 last paragraph that says that the publication of
16 these allegations had an adverse effect on my
17 reputation in the community in which I live. I've
18 had an opportunity to speak to several people in
19 my community and I am pretty satisfied that it has
20 not had any adverse effect on me.

21 MR. HERN:

22 Q And the initial statement arose because some
23 people had asked you about the news in the paper?

24 MR. JOYCE: Yes, I had been questioned about it by people in
25 the community, but those people that know me have

1 attributed the remarks that they are what they
2 are.

3 MR. HERN: All right. So with respect to that I just propose
4 that we cross that out, that you initial it on
5 your will say, and then those four will says and
6 the newspaper letters -- letters to the editor
7 from Ms. Thiele be marked as exhibits. I suggest
8 they all go in as one exhibit.

9 THE COMMISSIONER: All right.

10 THE REGISTRAR: You wish the news articles and the will says as
11 one exhibit or the will says and the news --

12 MR. HERN: Sorry, Mr. Giles, your concern is correct. Let's
13 put the will says all as one exhibit and the
14 newspaper articles as a separate exhibit.

15 THE REGISTRAR: They're all straight exhibits. Okay. Your
16 will says will be Exhibit 179 and your newspaper
17 articles will be Exhibit 180.

18 **(EXHIBIT 179: Will say statements of Bonne**
19 **Thiele, Donna Marshall-Cope, Ronald Joyce and**
20 **Fredericks Yeomans)**

21 **(EXHIBIT 180: Copies of news articles from The**
22 **Vancouver Sun and Province)**

23 MR. HERN:

24 Q And, Mr. Joyce, have you crossed out that
25 statement that you wanted to correct?

1 MR. JOYCE: I have.

2 Q And put an initial beside it?

3 MR. JOYCE: I have.

4 MR. HERN: All right. So, Mr. Giles, if you could use his
5 copy. That's all I have, Mr. Commissioner, and
6 you can answer the questions of my friends.

7 MR. GRATL: If everyone is agreeable, Mr. Commissioner, I
8 wouldn't mind going first.

9 THE COMMISSIONER: Okay.

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

11 Q Now, Mr. Yeomans, you agree there was generally a
12 24 hour requirement, that a person needed to be
13 missing for 24 hours before the report of them
14 being missing would be taken?

15 MR. YEOMANS: That policy changed. I'm not an expert on VPD
16 communication policy. As I recall back at that
17 time period for an adult with no extenuating
18 circumstances that there was a 24 hour waiting
19 period before a missing person report would be
20 taken.

21 Q All right. And you appreciate that there was a
22 next of kin requirement, a next of kin would have
23 to report the person missing?

24 MR. YEOMANS: I have no knowledge of that requirement or
25 recollection.

1 Q That friends were not permitted to report people
2 missing, that it had to be a family member?

3 MR. YEOMANS: I have no knowledge or recollection of that
4 requirement.

5 Q You never remember that ever being applied?

6 MR. YEOMANS: I never took a missing person report, and I'm not
7 an expert in missing person policy, so I don't
8 have a recollection or familiarity at this time
9 with those requirements.

10 Q During your time I thought you were NCO in charge
11 of dispatch for a time. Am I wrong about that?

12 MR. YEOMANS: I was in charge of dispatch for one year and the
13 comm centre for a second year, that's correct.

14 Q Okay. So while you were in charge of dispatch and
15 comm centre you don't have any recollection of
16 whether or not there was such a policy?

17 MR. YEOMANS: I'd have to review if this is 17 years ago what
18 the exact policy was. I remember the gist and the
19 general rules of the policy. Those specific
20 questions you're putting to me about the policy I
21 don't recall, I'd have to review the policy manual
22 at the time.

23 Q Okay. How about the residency requirement, that a
24 person had to be a resident of Vancouver in order
25 to have a report made about them, do you remember

1 that policy?

2 MR. YEOMANS: I don't have a recollection of that particular
3 aspect of the policy, no.

4 Q Okay. Well, how about persons of no fixed
5 address, they wouldn't be counted as residents
6 under the resident requirement. Do you recall
7 that?

8 MR. YEOMANS: No, same answer. It was not brought to my
9 attention or was not something I had to make a
10 decision about. If that was the existing policy
11 at the time that's the policy the operators
12 followed.

13 Q All right. Turning then to Mr. Joyce. Let's
14 trace through these. Do you have a better
15 recollection than Mr. Yeomans?

16 MR. JOYCE: The only criteria that I was aware of is where they
17 were missing from. It wasn't an issue of where
18 they were resident, 'cause that wasn't a
19 requirement.

20 Q You can't recall any of that?

21 MR. JOYCE: It's not that I don't recall it, the only criterion
22 was whether they were missing from the City of
23 Vancouver.

24 Q What about the 24 hour requirement?

25 MR. JOYCE: There was a 24 hour requirement in cases where --

1 except in cases where they were very young, very
2 old or there was extenuating circumstances, for
3 example, they were of either physical or mental
4 impairment, or there was other conditions
5 attributed to the missing situation which called
6 upon the police to investigate it. Suspicious
7 circumstances.

8 Q Sure, vulnerable people in particular, people with
9 disabilities, that not only would a report be --
10 the 24 hour requirement be waived, but a field
11 investigator would be dispatched right away?

12 MR. JOYCE: Ordinarily it could be a field unit, it could be
13 posted up as a call and the supervisor in the
14 field would authorize a police unit to attend in
15 those cases, yes.

16 Q Sure, and persons with drug addictions will be
17 considered vulnerable people under that policy; is
18 that right?

19 MR. JOYCE: I would say not in a blanket case, no. It had been
20 our experience that in a great many cases people
21 with such addiction problems show up within the 24
22 hour period, and it was just simply a matter of
23 the resources being available.

24 Q All right. And what about the residency
25 requirement, do you remember that?

1 MR. JOYCE: There was no residency requirement. It didn't
2 matter.

3 Q And about the no fixed address requirement?

4 MR. JOYCE: No.

5 Q Okay.

6 MR. JOYCE: It was where they were last seen was the most --
7 and the reason for that was if you didn't have
8 that in there it was quite possible that a person
9 could be resident in another area, a friend
10 reporting in a second area and the person missing
11 in a third, and you would have three uncoordinated
12 cases being investigated all for the same person
13 with a different set of criteria for what they
14 were looking for.

15 Q And so a next of kin requirement or a family
16 requirement that only family --

17 MR. JOYCE: At that time, no, that wasn't a -- we would prefer
18 it because that would avoid multiple complaints
19 from friends and different members of the family,
20 we would prefer it, but it wasn't one that was
21 absolutely required.

22 Q So what about this business about people trying to
23 report being bounced back and forth from E-Comm
24 dispatch to the missing persons unit and from
25 missing persons unit back to E-Comm and dispatch?

1 MR. JOYCE: I was unaware of any of that until I had read the
2 transcript of the events on the 23 and 24th of
3 April. I was unaware of any difficulty at all of
4 reporting anybody missing during my tenure in the
5 communications centre. I don't recall any
6 management meeting where it was discussed and I
7 don't remember anybody from missing persons coming
8 down and discussing it with any individual team
9 supervisors.

10 Q I'm trying to understand then, did you have a
11 sense that there might have been anything amiss at
12 all with the missing persons report acceptance
13 policy?

14 MR. JOYCE: Not at the time I was there.

15 Q If that was there you were oblivious to it is what
16 you're saying?

17 MR. JOYCE: If it were there I was never made aware of it.
18 Remember I wasn't there when a majority of this
19 was happening, I was only there in '95 and '96 and
20 a small portion of '97.

21 Q All right.

22 MR. JOYCE: And nobody ever -- I had never been made aware of
23 the concept of the missing women case or people
24 missing off the street in a co-ordinated thing,
25 no, that was never brought to my attention.

1 Q And you never heard complaints made in the media
2 or through the media from family members of people
3 -- about family members trying to report sex
4 workers missing and the reports not being taken?

5 MR. JOYCE: No, I can't recall that at all.

6 Q Never heard any complaints coming through the
7 Native Liaison Society about racist attitudes
8 and --

9 MR. JOYCE: I never spoke to anyone from the Native Liaison
10 ever.

11 Q Ever heard about Sergeant Cooper being concerned
12 about the missing person policy at E-Comm or --

13 MR. JOYCE: No, not E-Comm.

14 Q -- at dispatch?

15 MR. JOYCE: I was never associated to E-Comm.

16 Q All right. You never heard of any of that
17 problem?

18 MR. JOYCE: No.

19 Q Okay. And how about you, Mr. Yeomans, did you
20 hear about any problems at all with the missing
21 persons to that policy, the policy in terms of
22 report intakes?

23 MR. YEOMANS: I have to concur with Sergeant Joyce. No, I
24 never heard anything about that. We had monthly
25 NCO meetings with comm centre management, that

1 type of topic would have been brought up at one or
2 more meetings directly. I have no recollection of
3 it being discussed at the comm centre meetings, so
4 I have to concur with everything that Sergeant
5 Joyce said.

6 Q So as far as you were concerned then while E-Comm
7 and dispatch were under your command everything
8 was just whirring along tickety-boo as far as the
9 policy for missing persons intakes were concerned?

10 MR. YEOMANS: We had no feedback to my knowledge of any
11 problems with taking missing person reports. Our
12 job started and ended with taking the report and
13 either putting it out for dispatch or forwarding
14 it to the missing person unit, but there was no
15 critique about that. Ms. Cameron did testify that
16 she sometimes called back to the comm centre and
17 insisted missing persons reports be taken on her
18 say so which was done. Those requests from
19 Ms. Cameron did not come through myself or to my
20 knowledge any other NCO.

21 Q I mean Ms. Cameron wrote memos to dispatch and
22 E-Comm saying that there are serious problems and
23 she did so on a repeated basis. Do you recall
24 reading any of those?

25 MR. YEOMANS: I don't recall her saying that she wrote memos.

1 I do recall her saying that she telephoned there
2 and talked specifically to 9-1-1 operators. If
3 she did write memos I was not aware of them.

4 Q Okay. So you didn't receive any memos or any
5 information that would suggest there's anything
6 wrong with missing persons at all?

7 MR. YEOMANS: Correct.

8 Q Or that as a result of the policy implementation
9 at E-Comm or at dispatch that there was anything
10 like an adverse effect on sex workers or drug
11 users?

12 MR. YEOMANS: Not specifically in relation to the duties and
13 functions of the communications centre. Once
14 those reports left the centre I have no idea what
15 happened in those sections or where they went to,
16 but in the communications centre I do not recall
17 any sort of issues being discussed or brought to
18 our attention of reports were or were not being
19 taken for whatever reason.

20 Q And, Mr. Yeomans, you were around of course when
21 it was identified the missing persons problem was
22 identified as a serious issue, weren't you?

23 MR. YEOMANS: I was in the communications centre in '95, 1996
24 roughly. If it was identified during that time
25 period then I was in the communications centre at

1 that time.

2 Q Okay. So you weren't around in '99, 2000, 2001?

3 MR. YEOMANS: I was transferred from the communications centre
4 to the patrol team in District 2 Downtown
5 Eastside, so I would have been in a patrol
6 supervisory position at that time.

7 Q And how about you, Mr. Joyce?

8 MR. JOYCE: I was transferred from the communications centre in
9 1997 in about May, I think about May the 17th, and
10 I was transferred to a patrol division in District
11 4 which is the southeast corner. I notice you've
12 mentioned a couple of times E-Comm. I was never
13 associated with E-Comm, that came after I left.

14 Q All right. So you must have heard family members
15 testifying about the difficulties they had
16 reporting people missing?

17 MR. JOYCE: I have not heard any testimony from anybody here.

18 Q But you'd never heard of that ever, any complaints
19 at all about the intake of missing persons, you
20 just absolutely never heard of that?

21 MR. JOYCE: The only thing I heard was when I read the
22 transcript from Ms. Cameron, that was the first
23 time I ever became aware of it. But when I was
24 working there, no, I never heard anything like
25 that. It may have happened after I left, but it

1 certainly wasn't going on when I was there.

2 Q Right. Now I'd like to turn to Ms. Thiele. Is it
3 Theile or Theile?

4 MS. THIELE: Theile or Theile, it doesn't matter.

5 Q So you were a civilian member of the RCMP?

6 MS. THIELE: No.

7 Q Or you were a civilian employed by the RCMP; is
8 that right?

9 MS. THIELE: No, no. Vancouver Police Department.

10 Q Okay. But a civilian employee of the Vancouver
11 Police Department.

12 MS. THIELE: Civilian communications operator, right.

13 Q Were you aware of any problems at all with missing
14 persons reporting system?

15 MS. THIELE: No. Actually I do not recall anyone say reporting
16 -- reporting a sex trade worker through the
17 communications. Usually it's because they would
18 never be reported on the first day they went
19 missing. A lot of them were reported quite some
20 time after the fact, and probably those reports
21 would have been taken -- would have been referred
22 to the missing persons themselves.

23 Q Sure, what you're saying is that dispatch during
24 your time there wouldn't take those reports, you'd
25 refer them to the Missing Persons Unit?

1 MS. THIELE: Well, if the person were missing for some time,
2 and the facts were usually pretty sketchy because
3 it was usually the case of some family member who
4 perhaps hadn't seen this person and kept in touch
5 with this person and then suddenly got maybe
6 worried about what was going on, it would be a
7 judgment call basically and --

8 Q You had discretion whether or not to take the
9 report in circumstances like that?

10 MS. THIELE: In circumstances like that, and if -- if I didn't
11 take a report I would have referred them directly
12 to the missing persons number.

13 Q Sure, so if the story sounded dodgy to you or if
14 it sounded like the person probably wasn't really
15 missing sometimes you wouldn't take the report at
16 all is what you're saying?

17 MS. THIELE: Well, I would refer them to the missing persons
18 department and they would -- then they could
19 decide. I maybe would discuss it with the
20 sergeant. But actually, you know, I actually
21 cannot remember taking or even having a phone call
22 about missing prostitutes, because unfortunately
23 they just didn't get reported missing.

24 Q All right. I'm trying to wrap my head around
25 that. Did you -- you must have been working at

1 around the same time Sandy Cameron was working,
2 you must have had dealings with her?

3 MS. THIELE: Not really, because she was in the -- you know,
4 she might come into the communications centre and
5 talk to somebody about something, but I never had
6 any direct dealings with her. I certainly know
7 her or knew her.

8 Q Well, she would have come into the communications
9 centre every time she had a problem?

10 MS. THIELE: Not necessarily. She had a detective to refer to
11 in missing persons.

12 Q Okay. So you knew a little bit about missing
13 persons, enough to know there was a detective
14 there?

15 MS. THIELE: Well, there was supposed to be, yes.

16 Q Okay. And then you knew that there was supposed
17 to be, but sometimes there wasn't?

18 MS. THIELE: Well, I'd no way of knowing completely, but as far
19 as I could assume there normally was a detective
20 in there. And then there was the regular
21 detective office that she could have gone to.

22 Q Well, you know Sandy Cameron was not the -- if she
23 had a complaint she'd vocalize it and she wasn't
24 meek about that?

25 MS. THIELE: That's correct.

1 Q All right. So you knew that she had complaints
2 from time to time, not about her own department,
3 but about your department and how you were
4 conducting yourself and --

5 MS. THIELE: No.

6 Q -- how you were integrating with her department?

7 MS. THIELE: No, I've never heard any complaints from her about
8 how we were doing our job, just there you go.

9 Q She never raised anything to your knowledge?

10 MS. THIELE: Never.

11 Q All right. She wouldn't get upset if, for
12 example, you sent people who were trying to file
13 missing persons reports sent them to her instead
14 of taking reports yourself as you do for other
15 cases?

16 MS. THIELE: I never had any dealings with her in that regard
17 whatsoever so I can't comment.

18 Q But you recall taking missing persons reports from
19 some people?

20 MS. THIELE: Oh, absolutely.

21 Q And you take them on a regular basis?

22 MS. THIELE: Yes, absolutely.

23 Q Throughout your career?

24 MS. THIELE: Absolutely.

25 Q But you yourself never once took a missing persons

1 report in relation to a sex trade worker?

2 MS. THIELE: I left there sixteen years ago. Maybe I did, but
3 certainly nothing comes to mind.

4 Q All right. Now, you remember there is a 24 hour
5 report rule, a person had to be missing 24 hours?

6 MS. THIELE: Under certain circumstances, yes.

7 Q And there was a no fixed address rule too if a
8 person didn't have an address?

9 MS. THIELE: Not necessarily.

10 Q Sometimes?

11 MS. THIELE: If we knew that someone had gone missing from a
12 certain location and there seemed to be a problem
13 we would go with that.

14 Q Okay. So it's another one of those discretionary
15 things?

16 MS. THIELE: Absolutely.

17 Q So sometimes a person lives an uncertain lifestyle
18 you take their report, other times no, it just
19 depends on the circumstances.

20 MS. THIELE: It had nothing to do with the lifestyle.

21 Q No, it didn't?

22 MS. THIELE: No.

23 Q Okay. And then there was a -- you remember that
24 there was sometimes people trying to report in and
25 they would be bounced back and forth between the

1 RCMP and the Vancouver Police Department, do you
2 remember that?

3 MS. THIELE: Well, the -- I think Mr. Joyce pointed this out,
4 if the person was last seen in another
5 municipality that was where the report would go.

6 Q Okay.

7 MS. THIELE: I mean they would be responsible for taking the
8 missing persons report, and if they wished us to
9 be involved they would contact us. It would all
10 be on file anyway --

11 Q But here's the --

12 MS. THIELE: -- on computer.

13 Q Here's the bouncing back and forth thing that I'm
14 talking about. On one hand the Vancouver Police
15 Department looked at the place they were last seen
16 and the RCMP looked at their residence; is that
17 right?

18 MS. THIELE: I have no idea what the RCMP looked at, but if the
19 person was last seen in the RCMP area and then
20 they would be the ones that would take the report.

21 Q Okay. And how much did you know about the people
22 in the Downtown Eastside?

23 MS. THIELE: Quite a bit, because I would -- we were working
24 there, we saw them every day.

25 Q Okay. So that would be your experience of the

1 Downtown Eastside then, you'd pass them on the way
2 in to work? You worked on Main Street then?

3 MS. THIELE: Yes, 312 Main.

4 Q Okay. And you didn't live in the Downtown
5 Eastside?

6 MS. THIELE: No, I didn't.

7 Q I take it you didn't have a lot of friends and so
8 forth in the Downtown Eastside?

9 MS. THIELE: No, not that I recall.

10 Q They were people who were poor and had a lot of
11 problems; is that right?

12 MS. THIELE: Well, yes, there were poor people.

13 Q Yeah, and you didn't get any special training
14 about the barriers and challenges they might face?

15 MS. THIELE: Yes, we did.

16 Q You did?

17 MS. THIELE: Yeah.

18 Q Was there a course or something?

19 MS. THIELE: I mean, you know, this was all part of our
20 training that there were -- the fact that a person
21 was poor, lived in a certain area, that sort of
22 thing, it had nothing to do with the way the
23 policing went.

24 Q Okay. And finally, Ms. Marshall-Cope, when did
25 you stop working in E-Comm?

1 MS. MARSHALL-COPE: I resigned in 2004, July of 2004.

2 Q Okay. So you worked there during the -- starting
3 when E-Comm was set up; is that right?

4 MS. MARSHALL-COPE: Actually it was February 1999. I left
5 Vancouver Police six months earlier as a manager
6 for E-Comm.

7 Q Okay. And so you would have been well aware then
8 of the complaints that Sandy Cameron had about
9 what E-Comm was doing with missing persons
10 reports?

11 MS. MARSHALL-COPE: My recollection -- certainly I remember the
12 missing women. I don't remember what you're
13 referencing with 9-1-1 calls resulting in reports
14 not being taken. I'm trying to reflect on whether
15 or not the families were calling Sandy Cameron
16 directly.

17 Q How many managers were there?

18 MS. MARSHALL-COPE: Eleven.

19 Q Okay. And would you all meet as managers at some
20 point during the week and talk about problems?

21 MS. MARSHALL-COPE: Not weekly, but certainly there were team
22 meetings.

23 Q Okay. And you must have discussed at some point
24 the difficulties that you were having with missing
25 persons, that the civilian employee in charge of

1 missing persons was upset that you wouldn't take
2 reports?

3 MS. MARSHALL-COPE: That's actually not my recollection. And I
4 do recall working with Sandy closely or seeing her
5 frequently at 312 Main, we had a healthy social
6 relationship, but I don't remember that at E-Comm.

7 Q Okay. You don't remember that ever being
8 discussed?

9 MS. MARSHALL-COPE: I do not remember that being a problem. We
10 had lots of reasons to talk to units that were
11 still at 312 because we were E-Comm and they were
12 of course Vancouver Police, so we had lots of
13 business processes to work out. Specifically
14 though I don't recall issues pertaining to missing
15 persons except for perhaps the logistics who
16 entered them on CPIC who removed them, the paper
17 flow, that kind of thing.

18 Q Well, there was that. But what about the 24 hour
19 requirement, that was still in place when you were
20 at E-Comm?

21 MS. MARSHALL-COPE: It was. We always had the discretion to
22 take a report if there was extenuating
23 circumstances, anything that signalled high risk.
24 It was done regularly.

25 Q After Robert William Pickton was arrested I guess

1 you realized within E-Comm that sex workers were
2 extremely high risk?

3 MS. MARSHALL-COPE: I don't remember having that light bulb
4 thought, but I do realize it. I think their
5 lifestyle is a high risk.

6 Q Did the policy then change immediately after
7 Robert William Pickton's arrest so that all
8 reports of sex workers would be considered to be
9 high risk?

10 MS. MARSHALL-COPE: In truth I cannot recall that. I'm sorry,
11 I just don't have the recollection whether or not
12 we actually changed the policy then.

13 Q Okay. So you don't remember it changing then?

14 MS. MARSHALL-COPE: I do not remember it changing.

15 Q Okay. Do you remember any changes at all in
16 policy after Willie Pickton's arrest?

17 MS. MARSHALL-COPE: Not specific changes in policy, I think
18 there was just a heightened awareness of
19 sensitivity.

20 Q All right. And the next of kin requirement?

21 MS. MARSHALL-COPE: Next of kin requirement in my recollection
22 was we wanted to make sure we had the best source
23 of information, but it wasn't hard and fast, and,
24 you know, often it was just a roommate for
25 instance. Somebody who could say this person

1 should have been here at this time and they
2 weren't. Having a friend call who wasn't really
3 sure what their lifestyle was or what their
4 routine was was problematic, so we always sought
5 to get the best information, and generally next of
6 kin was a good place whether it was a common law
7 or a roommate or somebody who was comfortable with
8 their routine.

9 Q Now, when you say you always sought the best
10 information, if you were going to not take a
11 report from say a boyfriend or something, did you
12 get the name of the mother from the boyfriend and
13 then call up the mother and say would you like to
14 make a report?

15 MS. MARSHALL-COPE: Generally what we did, or my recollection
16 of what I would do for sure was give him some
17 direction. Tell them that, you know, we need a
18 bit more information, can you please do this and
19 this and this, and then if they couldn't could you
20 call us back and we'll take the report realizing
21 that time sometimes is of the essence, but we
22 would put it back on them for the most part.

23 Q Okay. So you wouldn't be proactive then about
24 seeking out the best information, you'd rather
25 just reject information that you didn't consider

1 to be the best?

2 MS. MARSHALL-COPE: My recollection is that we asked them to do
3 it. It's a very busy call centre, we had an awful
4 lot of people being reported missing, an awful lot
5 of them, by and large the majority of them
6 returned on their own with no requirement for
7 police investigation.

8 Q Okay. But you didn't keep track of the people who
9 you rejected, did you, to see if they called back?

10 MS. MARSHALL-COPE: Not as a matter of routine, but I'm sure
11 there could have been instances when that
12 happened.

13 Q You realize that policy could have allowed a lot
14 of people to slip through the cracks?

15 MS. MARSHALL-COPE: Oh, we're asking for some accountability,
16 so if the person who called said I can call her
17 mother and find out for instance where she is,
18 that's what we'd ask them to do.

19 Q Okay. So what you're looking for with people who
20 call who aren't giving you the best kind of
21 information is you want accountability from them?

22 MS. MARSHALL-COPE: If they were capable of doing that work and
23 getting back to us that's we did.

24 Q They kind of have to earn it though?

25 MS. MARSHALL-COPE: No. If they weren't capable, if we decided

1 that -- if it didn't sound like it was going to go
2 anywhere and I thought there was a risk we would
3 take the call. We always had the discretion, the
4 authority to take a missing persons report if we
5 deemed it necessary or their risk was evident.

6 Q Well, here's the difficulty I have. There are a
7 lot of people working there and if a person calls
8 back they're not necessarily going to get the same
9 operator?

10 MS. MARSHALL-COPE: Right.

11 Q There wouldn't be any record of them calling
12 previously so wouldn't they get the same treatment
13 each and every time?

14 MS. MARSHALL-COPE: If they've called back they'd made the
15 effort to find the person they just report I
16 called earlier, I tried to make the call, I wasn't
17 successful, I'm going to make a missing report
18 that should be sufficient, but generally the call
19 centre wasn't that big, you could put the person
20 on hold and get the background information if
21 that's what you were looking for.

22 Q Let me just give you an example. Say somebody is
23 a sex worker on the Downtown Eastside and they're
24 estranged from their family because they've been
25 abused as children.

1 MS. MARSHALL-COPE: Okay.

2 Q Well, obviously their family is not going to
3 report them missing, and according to the policy
4 that you've got in place there are going to be
5 some serious barriers to the reception of their
6 report?

7 MS. MARSHALL-COPE: So to clarify, ideally it would be next of
8 kin, that's the logical place. That's not a very
9 good example. In your scenario it wouldn't be
10 logical, but in that one it could the rent is
11 overdue and she always pays the rent -- the party
12 always pays the rent on the 2nd of the month and
13 it's the 4th and we haven't heard from her. We're
14 looking for some kind of something's different
15 that would cause us alarm. We wouldn't harp on
16 the fact we were looking for the next of kin if it
17 wasn't possible.

18 Q All right. And then the residency requirement,
19 that the person needs to be a resident in
20 Vancouver, that's a requirement, isn't it?

21 MS. MARSHALL-COPE: It was a requirement or where they were
22 last seen. And the reason that really sticks in
23 my mind because we often have someone who could
24 live in the -- I had an example, sorry, where
25 somebody lived in Vancouver but their car was in

1 the parking lot in North Vancouver at one of the
2 Grouse Mountain, Grouse Grind or something, so we
3 had lots of conversation in that instance with who
4 should take the report and it was in our mind the
5 RCMP. So I also recall that specific instance
6 where there was some debate back and forth between
7 agencies, and we would generally just go to our
8 sergeant and always got a take it even we did say
9 lived in Vancouver and they were last seen in
10 Burnaby, Burnaby won't take it, and I use those as
11 an example, we would let on their behalf and we
12 would let it get it sorted out by the detectives.
13 Our priority was to get the work done and make
14 sure they got put on CPIC.

15 Q I'm suggesting that what you just testified to is
16 not part of the written policy?

17 MS. MARSHALL-COPE: Actually I think that it was our policy and
18 I think it was our practice.

19 Q It wasn't part of the written policy, was it?

20 MS. MARSHALL-COPE: Actually I think it was.

21 Q During the entire period that you worked for the
22 Vancouver Police Department at E-Comm?

23 MS. MARSHALL-COPE: I don't believe the policy was changed the
24 whole time I was there, so it was one policy.

25 Q All right. Did the managers get together at some

1 point in response to the outcry from families?

2 MS. MARSHALL-COPE: Okay. So we're talking about E-Comm policy
3 now?

4 Q Oh, no, we're talking about any time that you're
5 working either for the dispatch or for E-Comm.

6 MS. MARSHALL-COPE: Okay. Would you please repeat the
7 question?

8 Q You appreciate there's a big public outcry?

9 MS. MARSHALL-COPE: Yes.

10 Q Okay. So native associations and aboriginal women
11 groups and some boyfriends and other affected
12 individuals, they're raising a fuss. They were
13 marching and they're having sit-ins in city hall,
14 they're doing all sorts of thing. There's a
15 shoe-in at city hall. Do you remember all these
16 things happening?

17 MS. MARSHALL-COPE: I do.

18 Q Do you remember that part of what the complaint
19 was being made by these individuals is in respect
20 of the missing persons policy?

21 MS. MARSHALL-COPE: I don't know if it was the policy or the
22 practice, and like I said there was a heightened
23 awareness. What I can't tell you is there was a
24 complete change in written policy, but there was a
25 heightened awareness and a deeper understanding I

1 guess of the risk that these women were in.

2 Q Right. And when did that start?

3 MS. MARSHALL-COPE: I can't give you a date.

4 Q Okay. And you don't remember any changes in
5 written policy though dealing with these
6 complaints by family members and by aboriginal
7 women?

8 MS. MARSHALL-COPE: I do not remember a change in policy.

9 Q I mean they're saying that there's a racist
10 treatment at the Missing Persons Unit and at
11 E-Comm and dispatch, that's what they're saying on
12 an ongoing basis over the course of years to
13 anybody who will listen.

14 MS. MARSHALL-COPE: I appreciate it, and I'm not saying the
15 policy wasn't changed, I just don't recall it.

16 Q All right. Was there any analysis done to your
17 mind or audit of your practices and procedures?

18 MS. MARSHALL-COPE: I'm not aware of it, but it could have been
19 done by the Vancouver Police Department.

20 THE REGISTRAR: You're over your time, Mr. Gratl. Thank you.

21 MR. GRATL:

22 Q So then again, Ms. Marshall-Cope, you join Messrs.
23 Yeomans and Joyce in saying that so far as you're
24 concerned there wasn't really a problem with the
25 policy at VPD or at E-Comm?

1 MR. HERN: I don't think she can answer that given the
2 foundation that's been laid because she's said
3 that she doesn't recall the policies that
4 Mr. Gratl has put to her and the changes. So I
5 think unless it's a generic question of do you
6 recall any problems or policies generally --

7 MR. GRATL: That's really what it is.

8 MR. HERN: When Mr. Gratl says the policies, I just want to
9 make sure we go with --

10 THE COMMISSIONER: It's cross-examination. Do you want to ask
11 the question?

12 MR. GRATL: Sure. Thank you, Mr. Commissioner.

13 Q You don't recall any problems with the policies
14 dealing with missing persons intake at either
15 E-Comm or dispatch while you were a supervisor
16 there?

17 MR. JOYCE: Are you talking to me?

18 MR. GRATL: No, I'm talking to Ms. Marshall-Cope.

19 MS. MARSHALL-COPE: I don't remember issues with the policy
20 because we always had the discretion to create a
21 missing person report, we always had a sergeant or
22 a corporal we could talk to if there was some
23 confusion. So while the policy existed, within
24 the content there was always grey areas, there was
25 always areas -- we always had the ability to send

1 it off or create a call if we needed to.

2 Q And I take it that in your time as a supervisor
3 you never heard a single complaint from any
4 individual saying that they had been poorly
5 treated or that the report hadn't been taken or
6 the loved one was missing and nobody was taking a
7 report of it, you never heard any such thing?

8 MS. MARSHALL-COPE: I absolutely did.

9 Q You did?

10 MS. MARSHALL-COPE: But I don't know if this is in relation to
11 a sex trade worker. I mean this is a huge
12 workforce and often we would get calls complaining
13 about service they had received from someone else.

14 Q Okay. So what happened with the complaints when
15 you received a complaint?

16 MS. MARSHALL-COPE: Depending on the nature of it generally we
17 would deal with it. So if I have received it and
18 someone had just talked to someone who hadn't
19 taken a missing and I thought they should have I
20 would have taken it, and I would usually report it
21 up the chain be there was a training issue or talk
22 to the operator, and usually there's more
23 information and that's why that occurred.
24 Anything serious was dealt with through my
25 sergeant.

1 Q And did you have allegations of racism ever?

2 MS. MARSHALL-COPE: Never.

3 Q Not a single one?

4 MS. MARSHALL-COPE: Not a single one.

5 Q Okay. So none of the people who were complaining
6 in the media ever got to you particularly?

7 MS. MARSHALL-COPE: That's correct.

8 MR. GRATL: Okay. Those are my questions. Thank you.

9 THE COMMISSIONER: Thank you, Mr. Gratl.

10 THE REGISTRAR: The hearing will now recess for five minutes.

11 **(PROCEEDINGS ADJOURNED AT 5:36 P.M.)**

12 **(PROCEEDINGS RESUMED AT 5:42 P.M.)**

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

14 THE COMMISSIONER: Yes, Mr. Ward.

15 MR. WARD: Yes, thank you. Cameron Ward, counsel for the
16 families of 25 murdered women, and I just have a
17 few questions for one of this panel, I think, and
18 that's you, Ms. Marshall-Cope.

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

20 Q Your evidence contains this statement, and I'm
21 reading from the will say:

22 The VPD was not and is not a police force
23 that is pervaded by racism and sexism.

24 That's part of your evidence?

25 MS. MARSHALL-COPE: That's true.

1 Q I'm going to leave racism to one side, and so I'll
2 just re-read that statement.

3 The VPD was not and is not a police force
4 that is pervaded by sexism.

5 That's part of your evidence?

6 MS. MARSHALL-COPE: Absolutely.

7 Q All right. You know in the 1990s the VPD held
8 social events, namely, the annual gentlemen's
9 regimental dinner at which rank and file members,
10 female members of the department were excluded;
11 right?

12 MS. MARSHALL-COPE: I am not aware that they were excluded.
13 Are you talking about the Vancouver Police mess
14 dinner?

15 Q No.

16 MS. MARSHALL-COPE: Okay.

17 Q The gentlemen's regimental dinner to raise funds
18 for the pipe band.

19 MS. MARSHALL-COPE: I'm not familiar with that dinner.

20 Q All right. If there were those types of events
21 occurring and put on by the organization that
22 would amount to sexism?

23 MS. MARSHALL-COPE: Well, I think the Vancouver Police officers
24 mess has a formal dinner, and I am well aware of
25 that event, and females are invited. As a matter

1 of fact they're members of the mess.

2 Q All right. Would you agree with me that this word
3 that you've used, sexism, can be simply defined as
4 prejudice or discrimination based on sex
5 especially against women, is that a fair
6 definition?

7 MS. MARSHALL-COPE: That's fair.

8 Q All right. In fact you know because you're
9 employed with the Vancouver Police Department
10 today that it discriminates against women within
11 its membership because it denies them the equal
12 opportunity for advancement to senior management
13 positions; correct?

14 MS. MARSHALL-COPE: I do not believe that's correct.

15 Q I'm showing you a copy of the Vancouver Police
16 Department's management organizational chart taken
17 off of the website today, and I just want to first
18 show you where your name appears, you're probably
19 familiar with it, over on the right under Deputy
20 Chief Constable A, for Adam, Palmer, you're listed
21 as the director of information management;
22 correct?

23 MS. MARSHALL-COPE: That's correct.

24 Q All right. Let's just look at this for a moment.
25 The chief is a male, Jim Chu; right?

1 MS. MARSHALL-COPE: That's correct.

2 Q And the Vancouver Police Department has never had
3 a female chief?

4 MS. MARSHALL-COPE: No, they have not.

5 Q All right. And the next tier of management, let
6 me just go through this list of the coloured
7 boxes, operations is headed by Deputy Chief
8 Constable Doug LePard, male?

9 MS. MARSHALL-COPE: Yeah.

10 Q Investigations headed by Deputy Chief Constable
11 Warren Lemcke, male; correct?

12 MS. MARSHALL-COPE: Yes.

13 Q Executive services headed by Inspector Larry Cope,
14 male?

15 MS. MARSHALL-COPE: Actually he's not in that position.

16 Q All right. Is that any relation to yourself?

17 MS. MARSHALL-COPE: Brother-in-law.

18 Q All right. Your brother-in-law. But that's what
19 it says Inspector L. Cope, this chart; right?

20 MS. MARSHALL-COPE: It does say that.

21 Q All right. The next I'm having trouble reading
22 it.

23 MS. MARSHALL-COPE: Manojlovic.

24 Q Yeah, that's Drazen. That's a male?

25 MS. MARSHALL-COPE: Drazen, yes.

1 Q All right. And then the next community and public
2 affairs is headed by senior director Paul
3 Patterson, a male?

4 MS. MARSHALL-COPE: Correct.

5 Q And lastly your information services section is
6 headed by Deputy Chief Constable Adam Palmer, a
7 male?

8 MS. MARSHALL-COPE: Correct.

9 Q Let's look at operations. Every single person in
10 senior management under Deputy Chief Constable
11 Doug LePard's control is a male; right? There's
12 Eric Petit, who's a superintendent, there's
13 Superintendent Mike Porteous, there's Inspector
14 Dave McGuinness, there's Inspector Scott Thompson,
15 there's Inspector Vince Forsberg, there's
16 Inspector Dean Robinson, there's Inspector Ed
17 Eviston?

18 MS. MARSHALL-COPE: I think we have different org charts, but
19 there are several inspectors in the organization.
20 I'm also not an expert on the hiring process. I
21 have no inside knowledge or I'm not privy to how
22 many females apply for positions or the hiring
23 process.

24 Q You would have to agree with me that the
25 representation of females in the management ranks

1 of the Vancouver Police Department is grossly
2 disproportionate to their representation in
3 society generally. You accept that?

4 MS. MARSHALL-COPE: I accept that.

5 Q All right. The Vancouver Police Department has
6 traditionally been and continues to this day to be
7 a male dominated organization wherein women for
8 whatever reason do not advance to the upper
9 echelons of the organization in any significant
10 numbers; correct?

11 MS. MARSHALL-COPE: I disagree.

12 Q All right. Well, can you find anybody under Doug
13 LePard's name in operations who's a female?

14 MS. MARSHALL-COPE: There are several female inspectors who --

15 Q That's not my question. Operations of the VPD,
16 all these executives, these management members
17 listed, one, two, three, four, five, six, seven,
18 eight, nine, ten, eleven, twelve of them, are any
19 of them female?

20 MS. MARSHALL-COPE: The ones I see on this list are all males.

21 Q Thank you. And I'll show you, it's right off the
22 computer right this very moment, so I'm relying on
23 it. Do you accept that?

24 MS. MARSHALL-COPE: I accept it.

25 Q All right. Look at that third tier of management.

1 Let me go over these names from left to right.

2 Patrol north Superintendent Eric Petit, south

3 Superintendent Mike Porteous. The next one I've

4 made a note on it, it's Inspector Dave Nelmes.

5 All right so far?

6 MS. MARSHALL-COPE: Yeah.

7 Q All right. The next emergency response Inspector

8 Loris Zuccato, male; correct?

9 MS. MARSHALL-COPE: Yes.

10 Q Going further to the right, Superintendent Rob

11 Rothwell, a male?

12 MS. MARSHALL-COPE: Yes.

13 Q Criminal evidence.

14 MS. MARSHALL-COPE: Intelligence.

15 Q Inspector Robert Stewart?

16 MS. MARSHALL-COPE: Yes.

17 Q Male?

18 MS. MARSHALL-COPE: M'hm.

19 Q And the next one is Mike Cumberworth, male?

20 MS. MARSHALL-COPE: Yes.

21 Q Tactical support Inspector Adua Porteous, female?

22 MS. MARSHALL-COPE: Yes.

23 Q Any relation to Superintendent Mike Porteous?

24 MS. MARSHALL-COPE: They were married at one time.

25 Q Married?

1 MS. MARSHALL-COPE: Were married.

2 Q Were married. All right. They share the surname
3 because they were married to each other?

4 MS. MARSHALL-COPE: Yes.

5 Q All right. Next one Inspector Ralph Pauw;
6 correct?

7 MS. MARSHALL-COPE: Correct.

8 Q The next one, going left to right, Inspector Mario
9 Giardini?

10 MS. MARSHALL-COPE: Correct.

11 Q Next one Superintendent Jeff Sim?

12 MS. MARSHALL-COPE: Correct.

13 Q All males other than Adua Porteous, ex-spouse of
14 Superintendent Mike Porteous. Next one
15 Superintendent Darryl Wiebe; correct?

16 MS. MARSHALL-COPE: Darryl Wiebe, yes.

17 Q All right. And the next one I can't read the
18 rank, but it's Warwick Wright; correct?

19 MS. MARSHALL-COPE: Correct.

20 Q And then over here Inspector M. Davey, she's a
21 female?

22 MS. MARSHALL-COPE: That's right.

23 Q All right. So in this tier -- first of all the
24 very top of the organization a male chief
25 constable, and a male has always held that

1 position forever; right?

2 MS. MARSHALL-COPE: Correct.

3 Q All right. Next tier we've got six out of six,
4 100 percent males; correct?

5 MS. MARSHALL-COPE: Correct.

6 Q And then the last -- the third tier I took you to
7 we've got 13 out of 15 members of management male?

8 MS. MARSHALL-COPE: Correct.

9 Q So if sexism is defined as discrimination based on
10 sex, especially discrimination against women, then
11 I suggest to you Vancouver by virtue of its
12 employment practices insofar as management is
13 concerned is pervaded with an attitude of sexism
14 that really belongs in the dark ages. Would you
15 agree with that?

16 MS. MARSHALL-COPE: I would not agree. Mr. Commissioner, I've
17 already said I'm not an expert on our hiring
18 practices, I can't speak to the fact who's
19 applied, having the process went. Conceivably if
20 no females applied that's why there is --

21 THE COMMISSIONER: You can either say yes or no as the question
22 is put to you.

23 MS. MARSHALL-COPE: I don't agree with what you said.

24 MR. WARD:

25 Q All right. I suggest to you that within the

1 Vancouver Police Department in the year 2012 there
2 is, as there has always been, a glass ceiling that
3 prevents women from rising according to their
4 skills and abilities. Do you accept that?

5 MS. MARSHALL-COPE: No.

6 MR. WARD: All right. Those are my questions.

7 THE COMMISSIONER: All right. Thank you. Ms. Bateman, do you
8 have any questions at all?

9 MS. BATEMAN: Karlene Bateman, counsel for Sandra Cameron. I
10 only have a few questions. I just wanted to bring
11 up one thing that I brought to my friend
12 Mr. Hern's attention.

13 MR. WARD: I'm sorry. Just before my friend gets started I'd
14 like to mark the organizational chart as the next
15 exhibit, please.

16 THE COMMISSIONER: All right.

17 THE REGISTRAR: That will be Exhibit 181.

18 **(EXHIBIT 181: Document entitled: Vancouver**
19 **Police Department Organizational Chart)**

20 MS. BATEMAN: It's just with respect to a quote that was
21 attributed to Ms. Cameron in two of the will say
22 statements.

23 THE COMMISSIONER: Yes.

24 MS. BATEMAN: I reviewed the transcript quickly, and I just
25 wanted to ensure that the commission was aware

1 that Ms. Cameron -- the statement that was
2 attributed to Ms. Cameron was actually made by
3 Ms. Dicks.

4 THE COMMISSIONER: Oh.

5 MS. BATEMAN: So I don't know how we wanted -- I realize that
6 the will says have been marked as exhibits.

7 THE COMMISSIONER: Well, it needs to be corrected obviously.

8 MS. BATEMAN: Yes.

9 MR. VERTLIEB: Maybe just accept that as a correction and move
10 on.

11 MR. HERN: I'm fine with that. The statement was that hookers
12 can't be raped, and the statement Ms. Cameron in
13 fact made was hookers can't report getting raped,
14 and those are in the transcript, and if the
15 commission simply takes note of that in the event
16 it's looking at these exhibits.

17 THE COMMISSIONER: Oh, so what are you saying then?

18 MS. BATEMAN: It says in two of the will says that Ms. Cameron
19 had said hookers can't be raped. That was in fact
20 what Ms. Dicks had said. What Ms. Cameron had
21 said was she had heard a hooker can't report being
22 raped, it's just she's only reporting it because
23 she didn't get paid. I would presume though that
24 Mr. Yeomans and Mr. Joyce would still agree with
25 their statement that --

1 THE COMMISSIONER: Okay. Do you want to correct the will say,
2 is that it?

3 MS. BATEMAN: We could do that or it's just on the record. I'm
4 in your hands.

5 THE COMMISSIONER: Okay. Well, if we can all agree then why
6 don't we just do that for the record.

7 MS. BATEMAN: All right. It's just that they've adopted it,
8 but I presume that what's happened is Mr. Hern
9 drafted it and said this was said and they --

10 THE COMMISSIONER: And you're telling me it's in error.

11 MS. BATEMAN: Okay. Well, why don't we correct it.

12 THE REGISTRAR: Mr. Commissioner, how do you wish to deal with
13 that in the public document, the one that's going
14 to be put on the net.

15 MR. HERN: I think what Mr. Vertlieb was proposing is that it
16 is corrected by virtue of being on the record now.

17 THE COMMISSIONER: Yeah, I think we've corrected it right now.

18 MR. VERTLIEB: Mr. Giles makes a good point though, because of
19 the nature of the way the proceeding runs perhaps
20 it should actually be corrected so that there's no
21 mistake about what's being attributed to somebody
22 and having someone having collateral insult that
23 it isn't appropriate. So perhaps why don't we
24 leave it this way. We all know what the issue is.
25 Over the next day or so Mr. Hern and Ms. Bateman

1 can work out the exact wording. We know there's
2 an issue to correct it and then we'll mark the
3 appropriate one.

4 THE COMMISSIONER: I think that makes good sense. Everybody
5 agree to that?

6 MS. BATEMAN: Yes. People may not read the transcript, so
7 thank you. I just have a few questions, and I
8 would propose that I'll ask one question and then
9 ask each of you your answers individually, so I'll
10 start with Mr. Yeomans.

11 **CROSS-EXAMINATION BY MS. BATEMAN:**

12 Q I just want to clarify because both your
13 statement, Mr. Yeomans, and Mr. Joyce's seem to be
14 quite general things that you'd never heard these
15 types of things or you disagreed with her -- with
16 Ms. Cameron's testimony when she made a statement
17 that throughout the department, so I just wanted
18 to clarify for each of you if it would be your
19 evidence that you personally never heard a sworn
20 member in the department refer to a sex trade
21 worker as a waste of space?

22 MR. YEOMANS: I personally had never heard that statement made
23 by a sworn member in my presence.

24 Q And I believe it's your testimony that you've
25 never made that statement?

1 MR. YEOMANS: I personally have not made that statement.

2 Q Mr. Joyce, the same question?

3 MR. JOYCE: I too have never made that statement, and I have
4 never heard a sworn member during my tenure as
5 supervisor make that statement.

6 Q Thank you. Ms. Marshall-Cope?

7 MS. MARSHALL-COPE: I have never heard that statement nor have
8 I ever said it myself.

9 Q Okay. Ms. Theile?

10 MS. THIELE: I have never heard that statement nor have I made
11 such a statement.

12 Q Okay. And the next is it your evidence that you
13 personally have never heard a sworn member make a
14 comment hookers can't be raped or anything to that
15 effect, or made that statement yourself,
16 Mr. Yeomans?

17 MR. YEOMANS: I have never made that statement, and I have not
18 heard that statement made by a sworn or civilian
19 member of the Vancouver Police in my presence.

20 MR. JOYCE: Likewise I have never said it, and I've never heard
21 someone say it. I point out that by law it's not
22 true. It's not an issue of who they are, it's the
23 issue of consent.

24 Q Right, you've discussed that in your will say. I
25 understand. Thank you. Ms. Marshall-Cope, have

1 you ever heard a sworn member make a statement to
2 that effect?

3 MS. MARSHALL-COPE: Never, and in fact I've been told directly
4 -- I remember being told directly that they can be
5 raped.

6 Q I'm not talking about the act, I'm just talking
7 about hearing the statement.

8 MS. MARSHALL-COPE: Never.

9 Q Thank you.

10 MS. MARSHALL-COPE: Thank you.

11 Q Ms. Thiele?

12 MS. THIELE: No, I have never heard such a statement.

13 Q Okay. And then how about the statement or
14 something to the effect that they couldn't report
15 being raped, they were only reporting it because
16 they didn't get paid, personally did you ever hear
17 it or say?

18 MR. YEOMANS: Again I have never heard that statement being
19 made in my presence, and I've never made that
20 statement, and it's not factual and it's not true
21 regardless.

22 Q Okay.

23 MR. JOYCE: I've never heard that statement made in that way.
24 However, with respect to the payment part of it it
25 was something that we concerned ourselves with as

1 investigators to be sure that an offence was
2 committed with respect to a sexual assault, and
3 not that it was a civil matter concerning the
4 so-called consent being withdrawn well after the
5 act simply because it was a civil issue of who was
6 getting paid what.

7 Q Thank you.

8 MR. JOYCE: And that may be where it came from, and I have
9 heard that.

10 Q Okay.

11 MR. JOYCE: But as for a sex trade worker or anyone else can't
12 report a rape, no.

13 Q Thank you.

14 MR. JOYCE: That's not the issue.

15 Q Ms. Marshall-Cope?

16 MS. MARSHALL-COPE: I have never heard that. That was not our
17 practice.

18 Q Ms. Thiele?

19 MS. THIELE: I have never heard it.

20 Q Okay. So have any of you ever heard a sworn
21 member make an inappropriate or derogatory comment
22 about a sex trade worker in your tenure at the VPD
23 ever?

24 MR. YEOMANS: I can only say in the line of duty in the
25 performance of our job description I don't recall

1 any sexist, racist remarks in that context of
2 doing the job. There may be situations off the
3 job in our personal lives, private lives where we
4 repeated jokes or inappropriate humour in a
5 private context situation, but not in the context
6 of our duties as police officers.

7 Q Okay. Mr. Joyce?

8 MR. JOYCE: Could you just ask me that question once again,
9 please.

10 Q I'm asking generally if you've ever heard any
11 sworn member make any inappropriate or derogatory,
12 I guess there's numerous words you could put to
13 it, any off colour comments, or Mr. Yeomans said
14 racist, anything about a sex trade worker?

15 MR. JOYCE: I've been a policeman for almost 30 years, I've
16 heard a lot of conversations from police officers,
17 and probably have heard something like that.

18 Q Okay.

19 MR. JOYCE: To me my issue is would I let it get in the way of
20 my performing my duty. And, no, as a supervisor I
21 wouldn't allow that kind of remark to be made, I
22 recall a specific incident or who might have said
23 it.

24 Q But you're not disagreeing that there have been --

25 MR. JOYCE: There has been comment from somebody somewhere

1 about it, but I can't tell you in what context it
2 was made or anything else.

3 Q Okay. Thank you for your honesty.

4 Ms. Marshall-Cope?

5 MS. MARSHALL-COPE: I would say absolutely those comments did
6 occur. It wasn't the cultural norm, but I'm
7 trying to think of any specifics but I'm sure they
8 did happen.

9 Q Thank you. Ms. Thiele?

10 MS. THIELE: Oh, I can't recall any such comments. Usually
11 socially people had other things to talk about,
12 and I can't recall. Perhaps there were, but
13 certainly it was not a subject of conversation.

14 MS. BATEMAN: Okay. Thank you. Those are all my questions,
15 Mr. Commissioner.

16 THE COMMISSIONER: All right. Thank you, Ms. Bateman.

17 MR. VERTLIEB: I think that concludes the day's events.

18 THE COMMISSIONER: All right. Thank you all for coming. I
19 appreciate all of you taking time out from your
20 lives to come here and testify. Thank you.

21 MR. JOYCE: Mr. Commissioner, I'd like to personally thank the
22 commission and the counsel present for allowing me
23 in particular, and probably all of us, an
24 opportunity to respond to what was said about us.

25 THE COMMISSIONER: All right.

1 MR. JOYCE: I certainly do appreciate that. Thank you very
2 much, Mr. Commissioner.

3 THE COMMISSIONER: Thank you.

4 (WITNESSES EXCUSED)

5 (PROCEEDINGS ADJOURNED AT 6:05 P.M.)

6
7 I hereby certify the foregoing to be a
8 true and accurate transcript of the
9 proceedings transcribed herein to the
10 best of my skill and ability.

11
12
13 Peri McHale

14 Official Reporter

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