

Vancouver, BC

January 20, 2012

(PROCEEDINGS RECONVENED AT 9:31 A.M.)

THE REGISTRAR: This hearing is now resumed.

THE COURT: Mr. Hern.

MR. HERN: Thank you. I think there are some folks here that would like to address an issue prior to me continuing.

THE COMMISSIONER: All right. Mr. Peck?

MR. PECK: Thank you. I want to talk about the timing of the cross-examination of this witness and make a request to the court, or the commission.

It is a situation where I do not feel, given the short period of time that I have been on this case, that I would be discharging my duty to my client by attempting to cross-examine this witness this week or Monday. I could perhaps start. I have about eight to 10 areas of cross. Each area takes detailed preparation. This case is document intensive. Many counsel in this room have been on this brief for eight months. I have been on it for three weeks. I have dropped everything to accommodate this commission and be here, including the fact that I was supposed to be in Toronto where I'm the special prosecutor on the Rutigliano

1 matter yesterday, to appear. Fortunately, I can
2 send Mr. Gottardi from my office and I have a
3 local agent, Scott Fenton, to deal with that
4 matter. But that was an important pre-trial
5 conference yesterday that was taking place before
6 Justice Durno.

7 There are, by my count, eight of us who are
8 in the position of representing clients whose
9 reputational interests have been put at stake by
10 the report of Deputy Chief Constable Evans. There
11 is an issue of fundamental fairness at play here.
12 I am not asking that she be stood down for a long
13 time, I would say two weeks, and I can be ready to
14 go.

15 THE COMMISSIONER: Okay. How much time will you need?

16 MR. PECK: Had I been able to interview her, I expect I could
17 have done the cross in two hours. I gave Mr.
18 Vertlieb a letter that said half a day. I,
19 notwithstanding the directive you gave me earlier
20 this week, or gave to the commission earlier this
21 week, I have been told that I am not going to be
22 allowed to interview her.

23 THE COMMISSIONER: That's because the floodgates open and
24 everybody wanted to have at her, and I wasn't
25 going to permit that. I said that I would take

1 the extraordinary step of allowing you to briefly
2 talk to her in order that it may shorten
3 proceedings, and then I got a, then I found out
4 there are about six lawyers that wanted to, to do
5 the same thing, and she didn't feel comfortable
6 with that and I, and I agree with her and am
7 sympathetic to that, so.

8 MR. PECK: Yes. In my respectful submission, it's not an
9 extraordinary step, to permit counsel --

10 THE COMMISSIONER: Well --

11 MR. PECK: -- to examine the commission's own witness, the
12 independent witness, and the Act provides for that
13 in the circumstances. There was nothing
14 extraordinary about it, in my respectful
15 submission, but I don't -- I'm not here to --

16 THE COMMISSIONER: It is extraordinary during cross-examination
17 to permit counsel to, to interview the witness.
18 But I, I understood, in the interests of justice,
19 that we could do it and I allowed it.

20 MR. PECK: Had I been on this brief earlier, I would have made
21 the request months ago.

22 THE COMMISSIONER: Okay.

23 MR. PECK: I am entitled to make that request, --

24 THE COMMISSIONER: All right.

25 MR. PECK: -- by statute.

1 THE COMMISSIONER: Okay. All right. So, you are telling me
2 you can't cross-examine today or Monday. So,
3 given the fact that there are eight more lawyers
4 here now, how much time will all of you need?

5 MR. PECK: I think that I could probably do my cross in a day
6 or less.

7 THE COMMISSIONER: Yes.

8 MR. PECK: And that may take the sting out of much of the rest
9 of it from the others' perspectives, I don't know,
10 and I can't speak for them. I am speaking, by the
11 way, for myself and Ms. Winteringham today.

12 THE COMMISSIONER: Yes.

13 MR. PECK: I don't think she is going to be anywhere near as
14 long as I would. If I have time, two weeks I am
15 suggesting, I could probably hone it to half a
16 day.

17 THE COMMISSIONER: All right.

18 MR. PECK: But I don't know what your thinking is on the
19 matter.

20 THE COMMISSIONER: Well, I can tell you, I have a lot of
21 concerns about where we're going in this. Let me
22 find out if we agree to, if I accede to your
23 request, and obviously that would mean that I
24 would accede to the requests of other counsel,
25 what the total time commitment will be.

1 MR. PECK: Thank you.

2 MR. VERTLIEB: If it's of any assistance, Mr. Commissioner, I
3 understand that, collectively, it would be one
4 week.

5 THE COMMISSIONER: One week?

6 MR. VERTLIEB: Yes, that's what I understand from, from
7 discussion I had with the lawyers involved, the
8 collective time would be one week.

9 THE COMMISSIONER: Okay. Yes. Mr. Chantler?

10 MR. CHANTLER: Mr. Commissioner, Neil Chantler for the
11 families. We have already raised our concerns
12 about the addition of new counsel for individual
13 police officers to the already lengthy cross-
14 examinations scheduled, and I only wish to make
15 three points this morning.

16 THE COMMISSIONER: Your position is that they shouldn't be
17 here?

18 MR. CHANTLER: Correct.

19 THE COMMISSIONER: All right.

20 MR. CHANTLER: First is with respect to time. We are facing an
21 April 30th deadline. That gives us 70 days left
22 in this courtroom and that is if we sit every
23 Friday. We have not heard from one of the 42
24 witnesses on the commission's list and the
25 families have applied to add an additional 20

1 names to that list. I suggest that reaching our
 2 collective goal of hearing from all of these
 3 witnesses is already going to be an immense, if
 4 not impossible challenge, and that is with the
 5 existing schedule of cross-examination, and
 6 certainly with the addition of eight new lawyers
 7 to that list.

8 The second point I wish to make is with
 9 respect to fairness to these individual officers.
 10 I understand that procedural fairness requires
 11 that these individual officers, against whom
 12 findings of misconduct might be made, be given an
 13 opportunity to participate to a limited degree in
 14 these proceedings. But I submit the interests of
 15 these officers in no way diverges from the
 16 interests of their respective police departments,
 17 the Vancouver Police Department and the Royal
 18 Canadian Mounted Police, and these individual
 19 officers and their respective police departments
 20 are adequately represented by highly competent
 21 counsel already.

22 The third point I wish to make is with
 23 respect to the balance of interests at this
 24 inquiry. There are 11 teams of lawyers already
 25 scheduled to cross-examine each witness. Six of

1 these could be said to represent police interests.
2 Allowing the addition of seven more individual
3 police officers' counsel to that cross-examination
4 schedule will create an obvious imbalance. It may
5 also create a public perception that this process
6 favours the interests of the police over the
7 community groups who are not able to participate.

8 As well, there will be no principled reason
9 to refuse further additional police officers who
10 come forward and wish to be added to the cross-
11 examination list. There is a real risk that this
12 process may become bogged down and completely
13 ineffective in the name of procedural fairness.

14 Those are the families' concerns. Thank you,
15 Mr. Commissioner.

16 THE COMMISSIONER: Thank you, Mr. Chantler.

17 MR. PECK: I wish to reply to that, if I may.

18 MR. ROBERTS: Darrell Roberts, representing Marian Bryce. I
19 wonder if my good friend, Mr. Peck, would wait to
20 reply to a couple of observations I would like to
21 offer as well, Mr. Commissioner.

22 THE COMMISSIONER: All right.

23 MR. ROBERTS: I have two points to make of evidence law, to
24 offer to you for whatever value you may feel they
25 have.

1 The first is, it's fundamental law that the
2 evidence in this inquiry is not admissible in any
3 other proceeding, and I am happy to put
4 authorities before you for that proposition.
5 Second, the result in this proceeding is not
6 admissible in any other proceeding, and to the
7 extent that those propositions of fundamental
8 evidence law may support whatever decision you
9 wish to make, I want to make it clear that they're
10 before you.

11 THE COMMISSIONER: All right. Thank you, Mr. Roberts. Mr.
12 Peck?

13 MR. PECK: Thank you, Mr. Roberts, for just outlining the law
14 of evidence for us. That's not why I am here. I
15 act for Gary Bass. Gary Bass, by wide repute, is
16 one of the finest police officers to have served
17 in the history of this province. His
18 representational interests are at risk here.
19 That's why I'm here.

20 The second point I want to make, to Mr.
21 Chantler's comments, is I will do everything in my
22 power to ensure that your mandate is met in terms
23 of time. Thank you.

24 THE COMMISSIONER: Thank you. Any other counsel? I will hear
25 you after Mr. Hira. Mr. Hira.

1 MR. HIRA: Thank you, Mr. Commissioner. I echo Mr. Peck's
2 remarks, but I want to add some other factual
3 matters that I think are important.

4 One, unlike Mr. Peck, I was retained on
5 Thursday afternoon. In other words, I have been
6 on this brief for seven and-a-half days. I
7 haven't had the opportunity to go through three
8 important reports, having been here for the last
9 four out of five days. It is because I was a
10 special prosecutor in a matter in Prince George
11 that I couldn't attend on Wednesday.

12 We have sent a letter to commission counsel
13 requesting certain information. If that
14 information is provided, my cross-examination,
15 which I anticipate will be about a half-day, could
16 be shortened considerably.

17 So, we are in a situation where my client,
18 Eric Moulton, sorry, Earl Moulton, who is a
19 retired assistant commissioner and retired as the
20 commander of "F" Division in Saskatchewan, who has
21 a sterling reputation and is a -- and has a law
22 degree, his interests are engaged. I need the
23 time to properly discharge my duties --

24 THE COMMISSIONER: All right.

25 MR. HIRA: -- to my client.

1 THE COMMISSIONER: Thank you, Mr. Hira.

2 MR. HERN: Mr. Del Bigio represents Brian McGuinness, retired
3 deputy chief.

4 THE COMMISSIONER: Yes.

5 MR. HERN: He phoned me last night and said he couldn't be here
6 because he was in another proceeding and he simply
7 wanted me to convey to you --

8 THE COMMISSIONER: All right.

9 MR. HERN: -- that he stands with this other group and
10 supports it.

11 THE COMMISSIONER: Okay. Thank you, Mr. Hern.

12 MR. BUTCHER: Mr. Commissioner, it's David Butcher for Staff
13 Sergeant Giles, who also dedicated 30 years of his
14 life to policing in this community. I, too,
15 represent -- I wanted to respond to one point made
16 by Mr. Chantler, that is, that perhaps counsel for
17 the VPD could represent my client's interests. I
18 take issue with that. It's simply not possible
19 for them to do that. I represent his singular
20 reputational interest, and I was finally retained
21 earlier this week. And, and I note -- I heard Mr.
22 Ward complain yesterday, or earlier this week,
23 that he had only received the documents in May. I
24 haven't even received them yet.

25 THE COMMISSIONER: Thank you, Mr. Butcher. Mr. Vertlieb?

1 MR. VERTLIEB: Well, the points that you have heard are all
2 good points. And the one thing I do want to say
3 to the concern about the process, ultimately, you
4 control your own process. You have heard from
5 very well-respected lawyers and you can, over the
6 next few days, reflect on what you have heard and
7 consider how you wish to move forward with this,
8 because there may, you have may have some thoughts
9 on that. So, I'm not worried about you becoming
10 bogged down. And the comments that you've made
11 are all -- from everyone, they're all fair
12 comment.

13 We can accommodate, because Deputy Chief
14 Evans has been so good to work with, that she's so
15 committed to the importance of this task, that if
16 she needs to come back, she will, because she
17 respects what's involved and she's devoted her
18 life to policing.

19 THE COMMISSIONER: Yes.

20 MR. VERTLIEB: And she certainly is respectful of everyone in
21 this room. So, we can -- that can happen. It
22 doesn't have to be in two weeks. That can be in
23 your direction -- direct control.

24 THE COMMISSIONER: All right. So, let me see if I have got
25 this right.

1 The witness testifies in chief for maybe
2 three hours and we need about 10 days to cross-
3 examine her?

4 MR. PECK: That's not accurate.

5 THE COMMISSIONER: Of course it's accurate.

6 MR. PECK: Well, with respect, what Mr. Vertlieb said to you
7 was he believed one week, five days, not 10.

8 THE COMMISSIONER: We've already had four and-a-half.

9 MR. PECK: We are talking about our group.

10 THE COMMISSIONER: Well, I have to deal with all of them. The
11 point is, she testified in chief for three
12 hours --

13 MR. PECK: Yes?

14 THE COMMISSIONER: -- and we've done four and-a-half days this
15 week of, of cross-examination, another five. I'm
16 just, I'm just thinking out loud about the
17 productivity -- about how productive we are in
18 this system. So, you know, you don't have to
19 defend the system. I am just making observations.
20 I think maybe we need to look at ourselves.

21 MR. PECK: In what way?

22 THE COMMISSIONER: Well, how we are conducting these processes.
23 I mean, the courts get bogged down with lengthy
24 submissions and lengthy arguments and lengthy
25 trials and we're, we're falling into the same trap

1 here. That's a concern that I have. You know, we
2 have, we have to protect the integrity of the
3 process, and that's what I'm concerned with. The
4 public has a stake in this. At some stage, the
5 public loses confidence in the process when it
6 goes on and on and on. That's all.

7 MR. PECK: Yes, I must say, I do not appreciate those remarks
8 if they're directed to me.

9 THE COMMISSIONER: I am not directing -- I am thinking out loud
10 and I, you know, you make take umbrage at the
11 remarks. The fact is that all of us in this
12 process need to take a look at ourselves, and I
13 don't see why you need to feel so sensitive about
14 it. The fact is, the fact is that, that we have a
15 system here where a witness testifies for three
16 hours and somehow, under our system, it requires
17 close to 10 days to cross-examine her. That's all
18 I am saying, that maybe we need to come up with a
19 better system. It's not a personal comment to you
20 or, or anything of that sort.

21 MR. PECK: It's a comment directed at us.

22 THE COMMISSIONER: No, it's a comment directed at the system,
23 and we are all a part of the system, and maybe we
24 ought to take a look at the system.

25 MR. PECK: I thought we had been with the Code/LeSage report

1 and the new rules.

2 THE COMMISSIONER: Well, I have just made an observation, Mr.
3 Peck. Tell me how you can defend a system where
4 someone testifies in chief for three hours and
5 then cross-examination takes 10 days.

6 MR. PECK: It's not simply the three-hour chief. It's the
7 report, a detailed, lengthy, fact-driven report.

8 THE COMMISSIONER: Okay. All right.

9 MR. PECK: I am surprised that you would make these comments to
10 us. We took the Air India case, Mike Code and I,
11 from 111 witnesses to 82.

12 THE COMMISSIONER: Okay. Well --

13 MR. PECK: I have great regard for the system and I want to
14 preserve it --

15 THE COMMISSIONER: All right.

16 MR. PECK: -- and I have always been a champion of it and I
17 think you know that.

18 THE COMMISSIONER: I think -- I'm not -- anyway, I am not going
19 to get into an argument with you, Mr. Peck.

20 MR. BUTCHER: Mr. Commissioner, with respect, those comments
21 were a little unfair. This witness may have given
22 evidence in chief for three hours, but she spent
23 months on her report --

24 THE COMMISSIONER: Yes.

25 MR. BUTCHER: -- looking at tens, if not hundreds of thousands

1 of documents.

2 THE COMMISSIONER: Yes.

3 MR. BUTCHER: She has criticized many very senior police
4 officers.

5 THE COMMISSIONER: Yes.

6 MR. BUTCHER: And this process requires their counsel, requires
7 that their counsel be given time to examine and
8 probe the conclusions that she has made in the
9 written report that commission counsel has filed.
10 It's not simply a question of the direct exam.

11 THE COMMISSIONER: As I said a number of times before, this is
12 an inquiry, not a trial, and it's a part of my job
13 here to protect the integrity of the process and
14 to ensure that the commission does not become
15 bogged down in court-like procedures and it's --
16 there is a very real danger that that's what's
17 going to happen here.

18 In any event, I should be open and frank with
19 you and tell you that we are examining ways of
20 looking at the Act which allows the taking of
21 evidence in various ways, and we, I think we owe
22 it to ourselves and owe it to the process to
23 re-examine where we are and where we are going.

24 We have a mandate. This commission was
25 established as a result of tragic events that

1 caused a lot of pain to the -- to so many people,
2 and we want to have a fair inquiry that, at the
3 end of the day, will result in some productive and
4 positive recommendations that may result in some
5 changes, but all of us have to work together to
6 ensure that that's done in a productive and
7 positive way. And my comments were intended to,
8 in the, in the, in positive spirits, that we need
9 to look at it.

10 I am quite surprised that a number of the
11 lawyers would take umbrage of the fact that, that
12 we, that we should just soldier on as we are. I
13 think that, from time to time, we have to examine
14 how we conduct business, and I am not the only
15 person that says that. The public, in many ways,
16 has lost confidence in our system, and to pretend
17 that nothing is wrong out there is really to
18 ignore reality. And rarely a day goes by when --
19 a week goes by when there isn't some public
20 commentary about the slowness of our system. And
21 the system, in many ways, is the best in the world
22 in that it allows for a fair procedural
23 fairness -- procedural fairness. It allows
24 everybody to be heard. And our, our incidence in
25 our courts of wrongful convictions are so -- are

1 very few, and to that extent, I think Canada needs
2 to be proud of the system that we have. At the
3 same time, it takes us forever to do things, and
4 that's an indisputable fact.

5 Anyway, I think I have said enough. Mr.
6 Hern?

7 MR. PECK: Well, Mr. Commissioner, are we having a ruling?

8 THE COMMISSIONER: Well, you know, the ruling is you have been
9 granted your adjournment and we will defer the
10 cross-examination to, to a future date.

11 MR. PECK: Thank you.

12 MR. HIRA: Thank you, Mr. Commissioner.

13 **CONTINUED CROSS-EXAMINATION BY MR. HERN:**

14 Q Good morning, Deputy Chief Evans.

15 A Good morning.

16 Q To recap where we left off, yesterday Mr. Roberts
17 was discussing with you his kidnapping-by-fraud
18 theory and how that might have been a way for the
19 VPD to claim jurisdiction over the Pickton
20 investigation when it was languishing in
21 Coquitlam. Do you recall that?

22 A I do.

23 Q And in my questioning of you yesterday afternoon,
24 I was making the point that what the VPD faced was
25 the problem of one municipal police agency,

1 Coquitlam, allowing an investigation to languish
2 that was important to a neighbouring municipality,
3 Vancouver. And I was suggesting to you that the,
4 that among the available options to arrive at a
5 solution to that problem, grabbing jurisdiction on
6 one theory or another, was a ways down the list,
7 and we went through a list of other steps that
8 might have been taken on a police agency
9 relationship basis to solve that problem of the
10 languishing Coquitlam investigation. Do you
11 recall that exchange?

12 A I do recall that, yes.

13 Q All right. Now, your report also indicates that,
14 at the root of developing an appropriate solution
15 to that problem, was what you characterized as the
16 recognition problem.

17 A Yes.

18 Q And as I understand it, and as you, I think you
19 write about it in your report, the recognition
20 problem, with respect to Vancouver's
21 investigation, was that following Dr. Rossmo's
22 analysis in May of 1999, there was a failure to
23 fully recognize that the most likely reason for
24 the disappearances of the missing women was that
25 they had been murdered by one or more serial

1 killers. That's, that's the recognition problem
2 with respect to Vancouver's investigation that you
3 had encountered?

4 A I -- yes.

5 Q And, and I say that it's a failure to fully
6 recognize that the serial killer theory, in the
7 sense that the Missing Women's Review Team that
8 was established in the summer of 1999 was a
9 suspect, partially a suspect-driven investigation,
10 but it was not, as I understand your report, it
11 was not, in your opinion, the kind of task force
12 that would be formed if there was full recognition
13 and full commitment to the serial killer theory?

14 A That's correct.

15 Q All right. So, so with respect to the recognition
16 problem, I only raise that and wanted to recap
17 that because I was unclear as to, yesterday, as to
18 whether you had agreed with Mr. Roberts, that the
19 recognition problem was that there was a failure
20 to recognize kidnapping by fraud. That's not,
21 that's not the recognition problem, as it's
22 documented in your report and your conclusions?

23 A That's correct.

24 Q All right. So, I want to briefly deal then with
25 one last component of Mr. Roberts' theory, and

1 that is, whether a kidnapping-by-fraud charge
2 would have simplified the prosecution of Pickton.
3 Do you recall you briefly dealt with that with me
4 in cross?

5 A Yes.

6 Q And in your review of the file, you didn't see, I
7 take it, any notes or documentation from anyone
8 suggesting that Pickton could be charged with
9 kidnapping?

10 A No, I did not.

11 Q And have you read the Crown counsel, report to
12 Crown counsel that was eventually filed in
13 relation to Pickton in January 2006?

14 A Uhm, I don't recall. I would have to see the
15 document. I'm not sure if I read that document.

16 Q Sure. If you look at the cerloxed group of
17 documents that I handed up to you yesterday. Mr.
18 Giles, do you have that available?

19 THE REGISTRAR: Which one is it?

20 MR. HERN: I haven't marked it yet, but I will mark it at the
21 end of my examination. And if you could turn to
22 Tab 7.

23 THE WITNESS: Thank you.

24 MR. HERN:

25 Q What I have put in here is an extract from the

1 report to Crown counsel, and this is a concordance
2 document produced by the RCMP, and the first page
3 is the cover page, and then you'll see then it
4 leaps to, the small numbers at the bottom, in the
5 middle of the page, it leaps to page 80. This is
6 a very lengthy Crown counsel, or report to Crown
7 counsel, but of course because the investigation
8 was enormous.

9 A Yeah, this doesn't look familiar to me. I know I
10 have read thousands and thousands of documents,
11 but --

12 Q You don't, you don't recall? Do you recall
13 reading or seeing a report to Crown counsel
14 generally?

15 A Yeah, I recall seeing a report to Crown counsel
16 in, probably in the documents I have received, but
17 I am not convinced I read this.

18 Q Okay.

19 A Just because of the date on it, January 31st,
20 2006. I know I wasn't looking at a lot of
21 documents that were post February 2002.

22 Q Right. Fair enough. Well, what I would like to
23 do is take you to a few portions of this, simply
24 to establish a few facts and ask you whether
25 that's consistent with your understanding, --

1 A Okay. Thank you.

2 Q -- in any event, even though you haven't read it,
3 and this, this won't take long. But if you look
4 at the second page, which is page 80 of the
5 document?

6 A Yes.

7 Q You'll see the title is:

8 "Women of interest" seen on the PICKTON farm.

9 A Yes.

10 Q And in that first paragraph, midway, it would be
11 the fourth sentence in, you can see that it says:

12 There has been evidence that some of the
13 murder victims themselves, including Angela
14 JARDINE and Andrea JOESBURY had been seen
15 alive and well on the PICKTON farm. There is
16 evidence that other drug addicts and sex
17 trade workers who were present and/or had
18 been seen "hanging around" the PICKTON farm,
19 and associated to Robert PICKTON were
20 relatively commonplace.

21 Just stepping back for a moment, that's one
22 of the, I would suggest, one of the unusual
23 characteristics of Pickton as a serial killer, in
24 that, in that the farm was a hive of activity,
25 from all accounts, over all of the years that were

1 in issue. There were a lot of people coming and
2 going on that farm. He wasn't an isolated loner
3 killing victims with no one around to witness
4 them. Is that, is that fair?

5 A I understand that to be true, yes.

6 Q Yes. And, and is that fair to suggest that that's
7 somewhat unusual in a police investigation like
8 this, or with a serial killer like this?

9 A Uhm, no, I wouldn't say, I mean, in my experience,
10 I wouldn't say that would be unusual. I think
11 often when we identify, serial killers are often
12 identified, it's always, the neighbours are always
13 saying, "He was such a likeable person" or "he
14 always had lots of people coming and going." So,
15 I mean, I wouldn't see that to be unique.

16 Q Okay. Well, fair enough. Of course, the problem
17 that presented the Evenhanded investigators was
18 that there were a lot of potential witnesses to
19 find out what they might have known and, and so
20 on, right? And that was part of this enormous
21 investigation, with hundreds of investigators, was
22 to go through the history of people who were on
23 the farm and to try to figure out who they were?

24 A Yes. I would say that would be done in most
25 investigations, yes.

1 Q So, you can see at the bottom, the last sentence
2 in that first paragraph says:

3 For these reasons, the investigation has
4 taken extensive steps to account for all
5 persons who have been present on the PICKTON
6 farm for any reason from the 1980s to
7 February 2002.

8 And going down a bit to the latter paragraph, it
9 talks about that a little further in the second
10 paragraph, and then says:

11 The focus turned to Robert PICKTON as there
12 were patterns noted in his "modus operandi"
13 or "method of operation" which he used to
14 entice sex trade workers back to the PICKTON
15 farm with promises of gainful employment,
16 drugs and/or a place to do their laundry and
17 relax.

18 So, you can see the investigators were
19 looking into this question of trying to figure out
20 how exactly he was conducting these horrendous
21 acts and whether he was luring people out to the
22 farm in one way or another?

23 A Yes.

24 Q And in the next paragraph, it describes the
25 witnesses, the results of this investigation.

1 For simplicity, the witnesses who are
2 referenced within this table of information
3 fall into several different general
4 sub-categories and all of them are
5 significant as the relatively complex story
6 of the exploits of a serial murderer unfolds.
7 The process of serial murder in this
8 investigation includes procurement or
9 acquiring the victim, murder, dismemberment
10 and disposal. In the circumstances of this
11 investigation, the initial procurement stage
12 has changed over time ranging from Robert
13 PICKTON himself procuring sex trade workers
14 in the Downtown Eastside, to having women
15 such as Lynn ELLINGSEN, Gina HOUSTON and
16 Dinah TAYLOR procure on his behalf.

17 And then it recites the general categories
18 for the witnesses who appear within this table of
19 information. And so, this is looking at a theory,
20 similar to what Mr. Roberts was inquiring about,
21 is how -- when did the offence start and, and what
22 evidence there is of that.

23 And if we look now at the categories that
24 they note at the bottom of the page, they note:

25 * women who lived with Robert PICKTON on the

- 1 PICKTON farm for weeks or months;
- 2 * sex trade workers who were procured by Robert
3 PICKTON himself and did attend the PICKTON
4 farm;
- 5 * sex trade workers who were approached by
6 Robert PICKTON himself in the Downtown
7 Eastside and may have performed sexual
8 services on Robert PICKTON in the downtown
9 area but did not attend the PICKTON farm;
- 10 * sex trade workers who were procured by Dinah
11 TAYLOR on behalf of Robert PICKTON and who
12 did attend the PICKTON farm;
- 13 * sex trade workers who were approached by
14 Dinah TAYLOR on behalf of Robert PICKTON but
15 did not attend the PICKTON farm; and
- 16 * women who resided in or were associated with
17 the Downtown Eastside who were not
18 necessarily sex trade workers, but were
19 approached by Robert PICKTON or Dinah
20 TAYLOR. . .

21 So, they were looking at all these different
22 options as to how women might have got there. And
23 it then concludes, makes some conclusions of, of
24 the results of that investigation in the next
25 paragraph on this page 81, noting in the second

1 paragraph, first full paragraph:

2 Over the years, there have been a number of
3 women who resided on the PICKTON farm for
4 weeks or months at a time in the company of
5 Robert PICKTON [and he recites five women,
6 the names of five women].

7 And then it says:

8 There are a number of sex trade workers who
9 have been present in or stayed overnight on
10 at least one occasion in Robert PICKTON'S
11 trailer. . .

12 And then, by my count, he cites the names of nine
13 other sex trade workers.

14 These women are of course, separate from the
15 twenty-seven (27) plus other sex trade
16 workers who were present on the PICKTON farm,
17 prior to their demise.

18 And so the observation there is that there
19 were at least nine women they have identified who
20 went out to the Pickton farm, stayed for at least
21 one night, and lived. He did not murder them.
22 And so it -- what would flow from that, of course,
23 is that not in every case, when a sex trade worker
24 was brought to the farm, does he murder them,
25 right?

1 A Yes.

2 Q All right. And the next paragraph I will skip
3 because these are individuals who did not go to
4 the Pickton farm. But in the second paragraph
5 from the bottom, it recites:

6 Women from the Downtown Eastside who had been
7 present on the PICKTON farm at the request of
8 Robert PICKTON [and, and then recites another
9 six of them].

10 A Yes.

11 Q Another six sex trade workers who had been out
12 there, did not stay the night, but nevertheless,
13 did not suffer any violence.

14 A I see that, yes.

15 Q All right. And if we flip over the page, there
16 are just a few more passages I want to show you.
17 The conclusion, under the heading of "Specific
18 Witness information," it then recites the evidence
19 that they had received on this subject. And we
20 can see from "Dave PICKTON" in the middle of the
21 page, he's talking about women that would visit
22 Willie Pickton on the farm and would take -- he
23 says the woman would call him from New
24 Westminster, tell him she needed money and she'd
25 take a cab out to the farm to see Willie and get

1 the money.

2 And in the next paragraph, in Gina Houston's
3 evidence, she states some -- at the bottom of that
4 paragraph:

5 ... some would come by and take the bus out
6 or Willy would pick 'em up at the bus station
7 or come back with Willy or a few people over
8 the years picked up for Willy, in places.

9 And what follows is a, is a list of evidence
10 of people reciting their observations of there
11 being many women on the farm on many different
12 occasions. And, for example, if you can flip to
13 page 85, at the bottom, here we have an
14 observation of someone, an individual who, in the
15 second bullet, or third bullet point, says he
16 estimates he's seen about 20 different women with
17 Robert Pickton over the years.

18 And farther down, there is another witness
19 who states that he had seen women leaving the farm
20 in the mornings, the Pickton farm, either by cab
21 or by bus.

22 So, all of that -- I will leave that off now
23 and, and all of that indicates that women made
24 their way out to the Pickton farm in, in different
25 ways potentially, right? It wasn't clear to the

1 Evenhanded investigators submitting their report
2 to Crown counsel how Pickton managed to have women
3 on his farm, correct?

4 A I would accept that, yes.

5 Q And, and, and in some cases, women visited the
6 farm and were not killed by Pickton?

7 A I understand that, yes.

8 Q And, and Pickton was never charged with
9 kidnapping?

10 A No, I understand that.

11 Q And so when we, just looking back, given that
12 evidence, the result of this enormous
13 investigation, which, as part of it specifically
14 focused on this question of how it was, how, what
15 was his modus operandi, when we go back to the
16 point that Mr. Roberts was making with you that
17 charging, or advancing a charge of kidnapping by
18 fraud would simplify, would have simplified the
19 prosecution of Pickton, I would suggest, and I am
20 asking you if you agree, that based on the
21 evidence that comes out in this report to Crown
22 counsel, and from what you have seen in the file,
23 that not only would it not have simplified the
24 prosecution, it, it appears that a kidnapping by
25 fraud charge on this evidence would not have

1 succeeded at all?

2 A Uhm, just reviewing my evidence yesterday, I don't
3 think I conceded to Mr. Roberts' suggestion that
4 it would have simplified the charges against
5 Pickton. What I was trying to suggest during my
6 -- in my report and in my testimony yesterday, was
7 that I felt that at some point that Vancouver
8 should have looked, and the fact is that I believe
9 that the offences started in Vancouver because of
10 the sheer numbers of women who had gone missing
11 from the Downtown Eastside. But I don't believe
12 that investigating him or trying to proceed by
13 kidnap by fraud would have simplified any
14 prosecution against Pickton. No, not at all.

15 Q All right. So, the last question I had is, it
16 relates to page 7-24 of your report. You can put
17 that cerloxed one aside.

18 There was just a couple of questions. This
19 was at the bottom of the page, the last full
20 paragraph on the page. Sorry, the second-to-last
21 paragraph. You were taken to this yesterday,
22 which was a comment by Deputy Chief Constable
23 Unger, that he was quoted as saying:

24 It cannot be overstressed that this is a
25 Vancouver Police case and that the RCMP have

1 willingly joined with us as a result of our
2 close working relationship on many other
3 joint projects.

4 Do you see that?

5 A I do.

6 Q And that was taken from a memo or a report that
7 Deputy Chief Unger had written?

8 A Yes. It was taken from a memo, from what I
9 recall.

10 Q And, and we can see the date on that is September
11 10, 2001 at the beginning of that paragraph?

12 A Yes.

13 Q And then you go on to say:

14 It appears to me that, at this time, the VPD
15 executive has recognized the urgent nature of
16 the missing women investigations.

17 And then you make a second observation saying:

18 It's interesting to note that DCC Unger
19 acknowledged that this was a VPD case. I
20 agree with DCC Unger, however, I question why
21 it took so long to get to this point.

22 And I think it was on Tuesday, I can't
23 remember exactly who was asking you questions, and
24 you probably don't either, but I thought that I, I
25 noted you to say that, uhm, that with respect to

1 that observation you make, this was the first
2 time, in your view, a person in the executive of
3 the Vancouver Police Department had acknowledged
4 that it was a VPD case. Do you recall giving that
5 evidence?

6 A Uhm, I recall it was Ms. Hoffman, I believe, who
7 took me to this chapter. And I think I was
8 suggesting in my report that it appeared that VPD
9 executive -- the urgent nature of the missing
10 women investigations. So, yeah. And to note that
11 he acknowledges the VPD case, this was with
12 regards to, and I was talking specifically with
13 regards to this memo, because I think at this
14 time, Project Evenhanded were seeking more
15 resources. So, DCC Unger was sending a memo, I
16 believe to the chief, and he was saying that, "We
17 need to provide more resources because this is a
18 VPD case."

19 Q Okay. So, it's linked to that, to the urgency of
20 the investigations and the -- and it's linked, it
21 sounds like, in your mind, to the recognition
22 problem?

23 A And to the -- yes, and to the resources and the
24 fact that they -- he was suggesting, "We need to
25 get -- provide more resources to the Evenhanded."

1 Q All right. Because, of course, when we are
2 talking about generically something like the
3 missing women case, September 2001 wasn't the
4 first time the executive had recognized that there
5 was a missing women case. We have the Missing
6 Women Review Team being formed --

7 A Yes.

8 Q -- back in May of 1999 and Inspector Biddlecombe
9 and Deputy Chief McGuinness were involved in that
10 decision?

11 A I agree.

12 Q All right. So, if we can qualify those comments
13 as being linked to the urgency and to the
14 timeframe that they're made in.

15 Those are all the questions I have for you,
16 Deputy Chief, but I do, before I sit down, want to
17 extend the Department's thanks to you, and to your
18 team, and to Peel Regional Police Force, for the
19 work that you have done. The reports obviously
20 provide some difficult reading for some, but I
21 think it's, all would acknowledge that it's,
22 nevertheless, a hugely helpful contribution in
23 terms of organizing the vast quantity of
24 information and documents and, uhm, and that's an
25 enormous contribution. So, thank you for that.

1 THE WITNESS: Thank you.

2 THE COMMISSIONER: Thank you, Mr. Hern.

3 MR. CROSSIN: I think I'm next.

4 THE COMMISSIONER: Yes, Mr. Crossin.

5 MR. CROSSIN: I will try and be concise.

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

7 Q Good morning.

8 A Good morning.

9 THE REGISTRAR: Make sure you start with your name please.

10 MR. CROSSIN: Crossin.

11 Q Deputy Chief, I want to ask you some questions in
12 a couple of areas relating to Geramy Field.

13 A Yes, sir.

14 Q And may I suggest to you that during your review
15 of the material in relation to this case, you came
16 to understand Sergeant Field was an experienced
17 and highly-regarded police officer at the time she
18 was assigned as a Homicide Squad sergeant with the
19 Vancouver Police in 1998?

20 A Yes, I did.

21 Q And I believe you saw that she had worked in
22 various capacities as a detective in the Vancouver
23 Police Department, including, you might recall, as
24 being the sergeant in charge of the Sexual Offence
25 Squad with the VPD?

- 1 A Yes, I recall that.
- 2 Q And she had that position and responsibility, I
3 think, for about five years leading up to her
4 assignment at the Homicide Squad.
- 5 A That's my recollection as well, sir.
- 6 Q And I don't think this would surprise you, that,
7 in her role as sergeant of the Sexual Offence
8 Squad, she investigated hundreds, if not
9 thousands, of sexual assaults in this city?
- 10 A That wouldn't surprise me.
- 11 Q In fact, you may recall a reference in the
12 material that you reviewed, that Sergeant Field
13 received a chief constable commendation for her
14 work in the Sexual Offence Squad? Do you recall
15 that?
- 16 A No, I don't recall that, but that wouldn't
17 surprise me.
- 18 Q So, I think it was May or June of 1998 that
19 Sergeant Field was charged with the responsibility
20 of supervising the Homicide Squad?
- 21 A I believe so, yes.
- 22 Q And you might have noted, as I did, that she was
23 the first woman in the history of Vancouver Police
24 Department to head a Homicide Squad?
- 25 A I did note that, yes.

1 Q And as a part of her role as the sergeant in
2 charge of the Homicide Squad, she took on the
3 supervisory responsibilities of the Missing
4 Persons Unit in the spring/early summer of 1998?

5 A Yes, I saw that.

6 Q And of course, what was percolating at that time,
7 to state the obvious, when she arrived, was the
8 vexing issue of the missing women from the
9 Downtown Eastside?

10 A Yes.

11 Q But as you note in your report, relatively shortly
12 thereafter, I think in September of 1998, she was
13 assigned out of there to CLEU, the Coordinated Law
14 Enforcement Unit?

15 A Yes, I saw that.

16 Q And that was a special project that, it doesn't
17 matter precisely what it is, but I think that
18 occurred about the end of, near the end of
19 September 1998?

20 A It did.

21 Q And she returned as sergeant in charge of the
22 Homicide Squad and to her supervisory role with
23 the Missing Persons Unit in about March of 1999?

24 A She did. It was March.

25 Q And it was shortly after that, in April or May of

1 '99, that the Missing Women's Review Team was
2 formed?

3 A Yes, that's correct.

4 Q And in fact, upon the formation of that team,
5 Sergeant Field was assigned as the supervisor of
6 the team and its investigation, as well as
7 continuing with her obligations and duties as
8 sergeant in charge of the Homicide Squad?

9 A Yes. I understand she was also in charge of the
10 eight-person Homicide Unit.

11 Q And one of the themes in your report, if I can
12 suggest this to you, is the unsatisfactory nature
13 of that command or supervisory structure in the
14 sense of, effectively, she being a part-time
15 supervisor of the team?

16 A Yes.

17 Q That model, if I could call it that, was simply
18 not sufficient?

19 A Yes.

20 Q If I could put it this way, it wasn't the highest
21 and best use of Sergeant Field?

22 A No.

23 Q And I do think your report makes the general point
24 that the fact that she couldn't devote her full-
25 time energies to the missing women investigation

1 certainly was unhelpful, if I can put it that way,
2 to the investigation?

3 A I would agree with that.

4 Q Uhm, but as you point out in your report, and I
5 think this is well-documented in your report, the
6 team, including Sergeant Field, of course,
7 recognized fairly early on they were thin on
8 resources?

9 A Yes.

10 Q And as you have pointed out in your report, and I
11 think pointed out here, quite fairly, that it was
12 critical that this team be resourced fully and
13 properly?

14 A Absolutely, yes.

15 Q And again, a theme from your report, and my own
16 view is, was that that resource issue, if I could
17 call it that, was a fundamental problem that
18 really plagued the investigators throughout?

19 A Yes. In my opinion, it did, yes.

20 Q My sense from your report -- and you had an
21 opportunity to meet some of these people,
22 including Sergeant Field, during your interview of
23 them?

24 A Yes, I did.

25 Q -- is that the investigation, for a number of

1 reasons, but certainly a large factor was the, was
2 the constant resource issue, --

3 A Yes.

4 Q -- if I can call it that, just wore them down?

5 A It appeared that, yes.

6 Q And wore them out?

7 A Very much so.

8 Q And I'm not going to take you through the record
9 of the requests seeking various resources, it's
10 well-documented and, and there is a lot of
11 material in there, but I say, and I suggest to you
12 that certainly Sergeant Field and Detective
13 Constable Shenher were very active in seeking that
14 resource requirement?

15 A Yes. They made numerous requests at the time they
16 were working on the case.

17 Q I just want to highlight a couple of areas that,
18 it would seem to me, you found of some import and
19 as, as I do. One of them was the need for
20 full-time analysts to manage the team's databases.

21 A That's correct.

22 Q The pace at which they were able to manage the
23 information proved very troublesome?

24 A Very troublesome, yes.

25 Q To say the least?

1 A Yes.

2 Q It, it impacted on the team and it seemed to me it
3 impacted on the morale.

4 A I would agree with that, yes.

5 Q And I don't think I have to take you to this, but
6 you might recall that it was in June of '99 that,
7 which is within a month or two of, of Sergeant
8 Field returning, that she sought from Inspector
9 Biddlecombe what she classified as a full-time
10 analyst for SIUSS. Do you recall that?

11 A I do.

12 Q And I think she used the language "absolutely
13 essential".

14 A Yes.

15 Q And, uhm, I will take you to a memo in a moment,
16 but I think, as you know, and your report makes
17 clear, one full-time analyst wasn't nearly enough,
18 in the end, to keep up with the rate of the
19 information that they were trying to organize?

20 A Yes, I agree.

21 Q And another area, of course, that was a concern
22 and in this broad sense of resourcing, was, in
23 fact, the need for a full-time sergeant on that
24 review team?

25 A Yes. And Sergeant Field I think put a memo in to

1 that regard.

2 Q I think that's right and, uhm, I, I think she did
3 that more than once. But I wanted to actually
4 take you to that memo, and it's -- it had been
5 marked, Mr. Commissioner, as Exhibit 46, Tab 2,
6 but I have a separate copy of it. You needn't
7 trouble yourself, I don't think, with --

8 THE COMMISSIONER: All right.

9 MR. CROSSIN: I didn't do this beforehand. So, if you just
10 give me a minute to hand it up.

11 THE COMMISSIONER: All right, fine.

12 THE REGISTRAR: Is it just a portion of the document?

13 MR. CROSSIN: It's, it's --

14 THE REGISTRAR: I'll need two. Mr. Crossin?

15 MR. CROSSIN: Yes?

16 THE REGISTRAR: I'll need two, one for the commissioner and one
17 for the witness.

18 THE WITNESS: Thank you.

19 MR. CROSSIN:

20 Q Is that familiar to you?

21 A Just let me refer to my timeline. Yes, I believe
22 it is, yes.

23 Q And it's referenced in your timeline, and your
24 timeline I think highlights a lot of the subject
25 matter and material in this memo. It, it, it

1 doesn't, in fact, highlight the requests for the
2 full-time sergeant. That's, that's the only
3 reason I am handing you the memo, --

4 A Thank you.

5 Q -- just so you are alive to that. But I just want
6 to highlight a couple of issues. This, of course,
7 is a memo, October 22, '99 from Sergeant Field to
8 Deputy Chief Constable McGuinness. And I think we
9 have gone through some of this information, but if
10 I could take you to page 4, we see that in October
11 of 1999, Pickton is still at the top of the list,
12 whatever that might mean, but --

13 A Yes, he is.

14 Q -- but he would seem to often, if not always, be
15 on top of the list.

16 And if I could take you over the page to 5
17 under "WORKLOAD", and I am just going to read this
18 to you, because I think it just enhances the point
19 that you and I were just making on the SIUSS
20 issue.

21 To date, the team has incurred 494 hours of
22 overtime and utilized Strike Force for 676
23 hours of overtime on surveillance. Data
24 entry is time consuming. The complete
25 Missing Person file, all suspect information,

1 all tips and any leads that arise from this
2 information must be entered. More overtime
3 relating to SIUSS can be expected for another
4 few weeks. We now have 4 SIUSS stations in
5 the building and 5 trained personnel to enter
6 the data, however only one person is
7 dedicated to this full time.

8 And I won't read any more, but that's an
9 example that I think, even with that kind of
10 personnel, that, they just were bogged down in
11 attempting to organize it properly.

12 A Yes, they were.

13 Q And then if I could take you over to paragraph 6,
14 or I'm sorry, page 6, the first full paragraph:

15 We will continue to investigate any tips and
16 'persons of interest' brought to our
17 attention with the current manpower in place
18 and re-examine our priorities in mid
19 December. At that time, I will be
20 recommending a re-evaluation of all data to
21 determine the scope of the team. The
22 possibilities range from continuing the team
23 as it currently exists, decreasing the
24 strength and operating it as an intelligence
25 file or assigning more manpower. This will

1 be determined by the amount of new tips
2 generated, the likelihood of finding any more
3 of the women either through vital statistics,
4 hospitals, the Coroner's Service, etc., and
5 the amount of investigation required to
6 continue to look into our 'persons of
7 interest'. Should the team continue on its
8 current format, I am suggesting a full-time
9 Sergeant be assigned to oversee the operation
10 to its conclusion.

11 That's an example of Sergeant Field, herself,
12 recognizing that it just will not be productive to
13 carry on with this dual role, if I could call it
14 that.

15 A I agree.

16 Q And again, if I may say, it struck me that those
17 sorts of issues caused frustration in the team as
18 it moved forward. Would you agree with that?

19 A I found, yeah, evidence of that during my
20 interviews with some of the officers, yes.

21 Q Yes. In fact, let me just -- do you have Exhibit
22 1? Could the witness have 1 please? This is
23 LePard's report. Just see if I can find this.

24 A Thank you.

25 Q Could I take you to page 234? Do you have that,

1 Deputy Chief?

2 A Yes.

3 Q And I am taking you to the, near the top of the
4 right-hand column, which is noted in LePard's
5 report as comments made by Don Adam at a
6 conference in 2004. Do you see that?

7 A I do.

8 Q And I think you have seen -- you have obviously
9 reviewed the LePard's report?

10 A I have.

11 Q I would like to just read this to you.

12 The RCMP could have gotten involved much
13 earlier and didn't. The Vancouver
14 investigators were good cops wrestling with
15 an insurmountable problem. Evenhanded had
16 at one point over 200 investigators. You
17 have no idea of the depth of admiration I
18 have for Lori Shenher and Geramy Field. I
19 had \$100 million and 180 staff. So, imagine
20 their frustration with their eight people.
21 When we created Evenhanded, Vancouver
22 couldn't get a red cent from the City. The
23 VPD showed true leadership by giving up
24 resources despite a lack of support from the
25 City.

1 And so, my question is, the frustration that
2 you as well recognized in your discussions with
3 the police officers, is another feature, may I
4 suggest to you, that just weighed the
5 investigators down?

6 A Yes, I believe that's true.

7 Q And in fact, my sense, I don't know if you would
8 agree with this, it, it got worse as, as time went
9 on in '99 and 2000?

10 A I would agree.

11 Q Now, there's no avoiding the fact that you do
12 offer a view in your report, of course, that many
13 of the police could have done better in areas,
14 including Sergeant Field?

15 A Yes.

16 Q And I understand that Sergeant Field will be
17 called by the commission and will no doubt be
18 asked questions concerning these issues, but I do
19 want to take a moment just to clarify a couple of
20 areas with you, just so it's clear for the
21 witnesses as they come and give their evidence.

22 The first is an area you touched on yesterday
23 with Mr. Hern and, and I just want to go back to
24 it momentarily. It's at 8-45 of your report. And
25 I'll read it again, just for context, Deputy

1 Chief.

2 I believe the VPD did not pursue the missing
3 women investigation in relation to Pickton to
4 the degree they should have. Sergeant Field
5 kept her chain of command informed but
6 Coquitlam RCMP had carriage of the file. She
7 also had responsibility to ensure follow-up
8 with Coquitlam, and if Coquitlam told her
9 that it was not a priority, then she should
10 have made it her priority, either personally
11 or through her chain of command.

12 And, uhm, Mr. Hern talked to you a little bit
13 yesterday about that and --

14 A Yes.

15 Q -- explored that a little bit. The issue of
16 whether or not Coquitlam was treating it with,
17 with the priority they ought to have been treating
18 it with, arose I think from, at least from my
19 perspective, arose from a memo that used that
20 language in, in December of '99?

21 A Yes, I recall a memo like that, yes.

22 Q Wherein, and I'll just refresh your memory,
23 Sergeant Field sent a memo to Acting Inspector
24 Dureau where there's a comment that Pickton is
25 still being investigated by Coquitlam, but it's

1 not a priority?

2 A That's correct.

3 Q And I think, if I follow your point, that if, in
4 fact, Pickton was not a priority, notwithstanding
5 he was being investigated, then she should try and
6 make it the VPD's priority. That, that's your
7 point I think?

8 A Yes.

9 Q And we discussed yesterday the notion of
10 identifying the issue to her chain of command and
11 pressing some kind of appropriate action?

12 A Yes.

13 Q Is that fair?

14 A That's fair.

15 Q Uhm, but I, I would say the first step, in
16 addition, might be to determine, firstly, if, in
17 fact, it was said by someone, in other words, if
18 it was said, what it really meant in the context
19 of the investigation in Coquitlam. For instance,
20 was it a temporary state of affairs? Was it a
21 long-term determination or policy? That, that
22 kind of information would have been an appropriate
23 inquiry to make of Coquitlam?

24 A By Sergeant Field?

25 Q Or a detective on the team or some responsible

1 person that's working with Coquitlam.

2 A That would have been my view, that someone should
3 have been following up with Coquitlam to determine
4 what level of priority it was.

5 Q Right. Sergeant Field or one of the detectives?

6 A That's correct.

7 Q And if they had done that, that would have been
8 very appropriate?

9 A Yes.

10 Q And as well, one of the inquiries one would make,
11 either Sergeant Field or someone on her behalf, in
12 assessing that would be to attempt to track the
13 Coquitlam investigation, what they were doing, in
14 order to determine where that priority might be
15 shifting or otherwise, and that's going to inform
16 how you deal with it in the VPD?

17 A Yes, I'm not sure --

18 Q What's Coquitlam doing?

19 A Yes, by contacting --

20 Q Basically?

21 A Yeah, contact the Coquitlam officers and find out
22 what's going on with the investigation.

23 Q And that's going to inform what would be
24 appropriate, using the best judgement of course,
25 within the VPD?

1 A Yes.

2 Q And about this time, and I mean, end of '99,
3 beginning of 2000, uhm, it was at that time that
4 Field continues to press her efforts to have a
5 joint forces operation struck with the RCMP to
6 review all the missing women files?

7 A I believe so, yes.

8 Q And, and you cover that in your report, and maybe
9 I will just take you there. It's at 8-38. And
10 you raise it in this context, in the middle
11 paragraph, beginning with the words, "it is my
12 opinion." Do you have that?

13 A I do.

14 Q It is my opinion that when DCC Blythe became
15 acting CC in June of '99, and moreover, when
16 he became the permanent CC in December of
17 '99, he should have ordered the initiation of
18 a task force. Instead, the VPD continued to
19 investigate this as a missing persons
20 investigation until late 2000 when Sergeant
21 Field was able to gain the interest and
22 commitment of the RCMP to conduct the review
23 of the missing women investigation.

24 So, that is a reference to the culmination of
25 Sergeant Field and others' efforts to have this

1 joint forces operation struck?

2 A Yes.

3 Q And, and go forward?

4 A That's correct.

5 Q And so in relation to Sergeant Field, in addition
6 to that, if I could take you back to 8-5.

7 A Sorry, 8-5?

8 Q 8-5?

9 A Yes.

10 Q And just at the first paragraph above "Staff
11 Sergeant Giles" beginning "in my opinion"?

12 A Yes.

13 Q In my opinion, Sergeant Field recognized that
14 the missing women investigation should be
15 conducted in a multi-jurisdictional approach.
16 It was through her continued efforts that the
17 RCMP agreed to review the missing women
18 investigations in late 2000. I believe she
19 should have pursued this at an earlier stage
20 through her own chain of command within the
21 VPD.

22 And so, I just want to stop there to deal
23 with that topic. So, by having giveth, you taketh
24 away, in terms of Sergeant Field's activity here.
25 But what I'm interested in, just so I can clarify

1 this, what you mean by "an earlier stage," and if
2 I could give you a bit of context, if you could
3 just hold that thought, if I could take you to
4 8-8.

5 A Yes.

6 Q At the bottom of 8-8, you'll see this paragraph:

7 On January the 10th, 2000, Sergeant Field
8 updated Acting Inspector Dureau that, of the
9 31 original missing women, there were still
10 27 outstanding as missing. The memorandum
11 discussed the personnel assigned to the team
12 and the limited resources being applied to
13 the investigation due to other priorities.
14 Acting Inspector Dureau understood that
15 Sergeant Field was attempting to initiate a
16 JFO with the RCMP. It is my opinion that
17 Acting Inspector Dureau should have taken the
18 lead to pursue a JFO option as evidenced in
19 his interview.

20 So, there is an example, at January the 10th,
21 2000, where Sergeant Field is attempting to engage
22 management, if I could call it that, in the notion
23 of a JFO.

24 A Yes.

25 Q And so, my question is, you would have liked to

1 have seen those kind of efforts earlier than that;
2 is that your point?

3 A Yes.

4 Q Okay. In 1999 -- she was there in the spring, so
5 presumably she couldn't have initiated it earlier
6 than 1999?

7 A No, I was suggesting post August 1999 when
8 Corporal Connor left. I was suggesting that when
9 she saw and recognized earlier in 1999 that, uhm,
10 she realized in December 1999, she, you know, she
11 penned a memo saying that it wasn't a priority for
12 them, --

13 Q Yes?

14 A -- that she should have then made it her priority.
15 And I recognize that she was documenting -- and
16 that's why, I mean, I agree with your taketh and
17 giveth away, because I also put the responsibility
18 in my comments to Acting Inspector Dureau, is the
19 fact that he didn't, as the acting inspector, say
20 to her, "Geramy, maybe we should be moving this a
21 little farther up the chain of command," and he
22 didn't do that.

23 Q But as part of your assessment, you would have
24 felt it better if Sergeant Field could have
25 engaged a senior management person earlier than

1 January 2000 is your point?

2 A Yes.

3 Q And, well, maybe as an example, what's the table
4 at the back of your report? The timeline, is that
5 called the timeline --

6 A Yes.

7 Q -- in the documents?

8 A Yes.

9 Q I will take you to 5-38.

10 A Yes.

11 Q And this is a note of some information as of June
12 of '99.

13 A Yes.

14 Q Do you see that?

15 A Yes.

16 Q VPD, Biddlecombe?

17 A I see that, yes.

18 Q Yes. And you have -- I will read it:

19 Meeting notes from the group meeting.

20 Numerous things discussed. Of note, targets
21 were discussed that included Pickton and six
22 others. Sergeant Field is drafting a report
23 that will address the need for staff
24 resources and equipment, JFO, --

25 So that's significant in terms of my questions to

1 you.

2 A It is.

3 Q -- work site budget, et cetera. Approval has
4 been received for a SIUSS update.

5 Handwritten notes suggest that Inspector
6 Biddlecombe will be contacting Chief
7 Superintendent Bass of the RCMP.

8 And so that suggests to me that Sergeant
9 Field was, in fact, discussing with management, in
10 June of '99, the notion of, of a JFO.

11 A Yes. And I think that resulted -- because at that
12 time, Detective Constable Shenher was looking for
13 information with regards to the unsolved
14 homicides, and I understand they made contact with
15 Superintendent Bass, or Chief Superintendent Bass
16 at the time, I'm not sure what his rank was at the
17 time, and he was saying, allow the RCMP -- he was
18 allowing the RCMP to share information with the
19 VPD at that time.

20 Q Right.

21 A So, I was suggesting in my comments about Sergeant
22 Field was post August 1999, that I felt she should
23 have pursued it after that time.

24 Q So --

25 A Because in July of 1999, VPD and RCMP, in my view,

1 then did work as a multi-jurisdictional approach
2 to Pickton.

3 Q All right. So, she, she pressed it with
4 Biddlecombe, something happened, events occurred
5 at the end of August, and you feel she should have
6 pressed it again in the fall, if I could put it
7 that way, with upper management?

8 A Yes. And to her credit, Sergeant Field continued
9 to update management from the documents I saw.
10 And what I was suggesting that was -- I was just
11 being critical of her and the fact is, I mean, she
12 was -- she never put it in writing saying, "I
13 recognize that the work -- I mean, my
14 communications with the RCMP aren't getting me
15 further ahead." And I think that was because, I
16 think she was dealing with Staff Sergeant Davidson
17 at the time, the criminal profiler, --

18 Q Right.

19 A -- and he was, uhm, he kept saying he was going to
20 be pushing it up through his chain. So, she was
21 feeling that that was going to happen. And I
22 think that's evidenced in further documents. In
23 December, she writes that, you know, they're not a
24 priority, but she's continuing it. In January,
25 there is another memo.

1 And I think even in February of 2000, Deputy
2 Chief McGuinness does a board report to the Police
3 Services Board saying that it's going to be -- the
4 RCMP are going to be approached, because they're
5 being -- they're getting the impression from
6 Sergeant Field that it's happening, that she is
7 being successful to get it.

8 Q Yes, and she is also having discussions with
9 Davidson and Filer in the fall of '99?

10 A Yes, she is. Yes.

11 Q Yes. Okay, that's fine. That, that's helpful.

12 A That's why I talked about her continued efforts.

13 Q Yes. No, I --

14 A Yes.

15 Q And, and I, I want to just ask you a couple of
16 more points of clarification. The next sentence
17 of that paragraph 8-5, beginning:

18 I also believe --

19 A Yes?

20 Q -- that while she continued to maintain
21 through memorandums that Pickton was a
22 suspect for Coquitlam, she failed to
23 recognize and treat him as a Suspect for the
24 ongoing missing women investigations.
25 And you have capitalized "suspect". Is

1 there, is there some significance to the
2 capitalization?

3 A No.

4 Q No?

5 A No, there is not.

6 Q And, and could you tell me a little bit about
7 that? I, I don't quite --

8 A What I meant by that, by that line, was that, uhm,
9 I believe at that time she's recognizing that
10 Pickton, as a suspect, is not a priority for
11 Coquitlam RCMP. The Coquitlam RCMP, I believe,
12 were focusing on Pickton as the, did he or did
13 he --

14 Q Well, I'm sorry, I just -- did I mishear you?
15 This line says she recognized that Pickton was a
16 suspect for Coquitlam.

17 A Yes.

18 Q Okay. All right. But she failed to recognize him
19 as a suspect for the missing women investigation?

20 A She failed to recognize and treat him as a
21 suspect. What I was saying in this line is the
22 fact is, she recognizes that Pickton is being
23 treated as a suspect in Coquitlam.

24 Q Yes?

25 A But when he's not being treated as a priority, she

1 then didn't say, "Okay, well, I see him as a
2 priority suspect for my missing women
3 investigation," which was under her control, and
4 that she didn't treat him as such, and the fact
5 that she didn't then start to pursue other
6 strategies to deal with him with regards to the
7 missing women.

8 Q Oh. So, that's really linked to the first point
9 of, of what to do --

10 A Yes.

11 Q -- and, and how to deal with --

12 A Yes.

13 Q -- Coquitlam, if, indeed, you determined that
14 something ought to be done?

15 A Yes.

16 Q Okay. All right. And indeed, I suppose, the two
17 paragraphs above that, which are the first two
18 full paragraphs after the bullet points on page
19 8-5, that relates to the same kind of issue,
20 assessing Coquitlam and then attempting to proceed
21 in an appropriate way?

22 A Yes.

23 Q Okay. Now, uhm, as you quite fairly indicated to
24 Mr. Vertlieb, your view is any shortcomings of
25 Geramy Field would be an error of judgement and

1 not misconduct?

2 A Yes.

3 Q And from your review, she proceeded throughout
4 with integrity and good faith?

5 A Yes.

6 Q And finally, I just have to ask you a couple of
7 questions that I am obliged to ask you because
8 there are allegations and insinuations from time
9 to time about the police officers in this case
10 from counsel. Can I suggest to you that you saw
11 no evidence that Geramy Field was motivated or
12 influenced in performing her duties by gender
13 bias?

14 A None whatsoever.

15 Q Or any notion of racism?

16 A No, absolutely not.

17 Q And I suggest you saw no evidence that Geramy
18 Field performed her duty differently because the
19 victims were sex trade workers?

20 A No, definitely not.

21 Q Or that she was indifferent to the investigation
22 of the victims because they were sex trade
23 workers?

24 A No.

25 Q Thank you.

1 THE COMMISSIONER: Thank you, Mr. Crossin. Yes?

2 MR. HERN: Mr. Commissioner, I wonder if I could ask your
3 indulgence to have five minutes more with this
4 witness. I sat down and reflected on some of Mr.
5 Vertlieb's questions of, of the systemic nature of
6 some of her criticisms and I just wanted to touch
7 on that area and I forgot to do it.

8 THE COMMISSIONER: All right. Does anybody have any objections
9 to that?

10 MR. VERTLIEB: The only comment I have, that there's no
11 problems, Mr. Commissioner, with that happening,
12 but Mr. Woodall cannot be here Monday. So, I am
13 worried about getting his questioning in this
14 morning. So, I would prefer not to take any more
15 interruption.

16 MR. WOODALL: If I can start by 11:30, I will be done today.
17 Is it 1:30 we're rising, Mr. Commissioner?

18 THE COMMISSIONER: Yes.

19 MR. WOODALL: If I can start by 11:30, I will be done today.

20 THE COMMISSIONER: Okay.

21 MR. HERN: I just wanted to --

22 THE COMMISSIONER: Yes, go ahead.

23 MR. HERN: And I apologize for doing that.

24 **RECROSS-EXAMINATION BY MR. HERN:**

25 Q Deputy Chief, Mr. Vertlieb had raised some -- many

1 questions with you in his examination in chief
2 about your view that many of the problems here
3 were systemic in nature.

4 A Yes.

5 Q And that links to some of the questions that Mr.
6 Crossin was asking you, that you did not observe
7 individual malice or bad faith among the police
8 officers.

9 A Yes.

10 Q So, the recognition problem itself, which we had
11 discussed, and in your mind, that was linked, in
12 your analysis, that was linked to some of the
13 officers proceeding with a faulty notion that sex
14 trade workers in the Downtown Eastside were
15 transient, correct?

16 A That's correct.

17 Q And Mr. Gratl, when he was examining you, was
18 suggesting that individually-held biases could, or
19 prejudices could result in decision making that
20 was, uhm, wrong or incorrect, or errors in
21 judgement?

22 A He was speaking generally, yes.

23 Q And -- but isn't it also the case that, that there
24 was a systemic issue within police investigating
25 processes and, and, and the ability of police

1 agencies to be open-minded within their
2 investigations, there is a systemic issue in that
3 it is important, would you not agree, for police
4 agencies to question whether they're making
5 assumptions that are based on perhaps their own
6 experiences, as opposed to the reality of their
7 constituents' lives?

8 A Yes.

9 Q So, in the case of the Downtown Eastside sex trade
10 workers, it is important for police agencies to
11 look perhaps at social science evidence, uhm,
12 behavioural science evidence, and to go seek that
13 kind of evidence, seek that kind of expertise out,
14 in order to make sure that the assumptions that
15 they're proceeding on are correct and not
16 inhibited by prior or inaccurate understandings of
17 their life-styles?

18 A I would agree.

19 Q All right. And that links a little bit here with
20 the Vancouver Police Department's reception of Dr.
21 Rossmo's statistical analysis and making the leap
22 from the no body, no evidence, no crime theory to
23 a different theory in this unique case, that the
24 disappearances itself, when analyzed against
25 historic records of disappearance and the patterns

1 of these people's life-styles, the disappearances
2 themselves was evidence of homicide; is that fair?
3 That was a, an example of how it is important for
4 police departments to be receptive to different
5 types of information within different contexts?

6 A Yes.

7 Q And that's a systemic issue?

8 A Yes, it is.

9 Q All right. Because the idea of systemic is that
10 individuals make decisions, but their appreciation
11 of the available options or solutions is systemic?

12 A Yes.

13 Q Can often be systemic?

14 A I agree.

15 Q And two more questions in that vein. When we had
16 -- when I had discussed with you the understanding
17 of the available options to address to find a
18 solution to the problem of the languishing
19 Coquitlam investigation into Pickton, the
20 individuals involved there and their understanding
21 of what solutions might have been achieved and how
22 to do that, that's also systemic in the sense that
23 there could be a policy in place, if this
24 situation occurred, is occurring, here's how you
25 go about fixing it?

1 A Yes.

2 Q All right. And the last point is that when we get
3 in time to the, to the juncture where both police
4 agencies agree that a JFO is necessary, the
5 mechanism -- there was no mechanism in place in
6 order to make that happen in a timely and
7 effective manner. Would you agree with that?

8 A I would agree.

9 Q And so that was entirely based on good
10 relationships between police agencies and crafting
11 some kind of solution from the ground up?

12 A Yes, it was.

13 Q And so, again, that's a systemic issue in the
14 sense that the individuals involved, their
15 appreciation of what the available solutions were
16 to craft the JFO, uhm, was, was systemically
17 linked? There wasn't a policy in place that said,
18 "here's how we do it" or "here's a mechanism for
19 making this work quickly"?

20 A I would agree.

21 Q All right, thank you.

22 THE COMMISSIONER: Thank you, Mr. Hern.

23 MR. HERN: Mr. Peck has just reminded me I didn't mark my
24 exhibit package. So, if we could do that, Mr.
25 Giles, that would be appreciated.

1 THE COMMISSIONER: All right. Thank you.

2 MR. HERN: And that should go in as a non-public exhibit. I'm
3 just not sure whether the report to Crown counsel
4 is publicly available or not. So, if we could put
5 that as a non-public.

6 THE REGISTRAR: It will be Exhibit Number 5 (sic) and it will
7 be marked as non-redacted.

8 **(EXHIBIT NO. 65(NR): Binder of documents handed**
9 **up by Mr. Hern containing Tabs 1 to 7)**

10 THE COMMISSIONER: Mr. Vertlieb, where are we now?

11 MR. VERTLIEB: Perhaps we should just take the morning break
12 and assess where we're at. You obviously know Mr.
13 Woodall --

14 THE COMMISSIONER: Mr. Woodall needs half -- you need half an
15 hour, right?

16 MR. WOODALL: Pardon me?

17 THE COMMISSIONER: You need half an hour?

18 MR. VERTLIEB: An hour and-a-half, Mr. Commissioner.

19 THE COMMISSIONER: No, no, but he needs a half hour to prepare?

20 MR. WOODALL: No, no, I am ready to go.

21 THE COMMISSIONER: Oh.

22 MR. WOODALL: I was just counting backwards from when we have
23 to leave.

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

25 MR. WOODALL: And so I was saying, as long as I can get on

1 before 11:30, I am confident it will be done.

2 THE COMMISSIONER: Okay. So, what happens after Mr. Woodall?

3 MR. VERTLIEB: I just want to check our scheduling, so I think
4 that's why the morning break now might be a good
5 idea.

6 THE COMMISSIONER: Okay. Well, we will take a longer-than-
7 normal break because of --

8 MR. VERTLIEB: Yes, 20 minutes.

9 THE REGISTRAR: This hearing will now recess for 20 minutes.

10 **(PROCEEDINGS ADJOURNED AT 10:58 A.M.)**

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

12 THE REGISTRAR: This hearing is now resumed.

13 THE COMMISSIONER: Mr. Woodall.

14 **CROSS-EXAMINATION BY MR. WOODALL:**

15 Q For the record, it's Kevin Woodall for Constable
16 Fell and Constable Wolthers.

17 A Good morning.

18 Q Good morning. Deputy Chief Evans, I want to begin
19 by some general questions about your assessment of
20 the work of Constables Fell and Wolthers, my
21 clients. I understand that you had a number of
22 concerns about their methods, but there was never
23 any question about the seriousness of their
24 devotion to the task of solving the missing women
25 tragedy; would you agree with that?

1 A I would agree with that.

2 Q And you would agree that there was never any
3 question that they were disinterested concerning
4 the plight of the missing women?

5 A No, I agree with that.

6 Q And again, setting aside any concerns you may have
7 had about their method, they were hard working and
8 dogged in pursuit of resolving the missing women's
9 tragedy?

10 A I saw they were hard working and dogged in pursuit
11 of their suspect --

12 Q All right. Well, their suspect --

13 A -- who, and sorry, who they felt was responsible
14 for the missing women.

15 Q Right. So, when you say "their suspect," their
16 suspect was someone who they believed was
17 responsible for the missing women?

18 A That's correct.

19 Q So, I will ask the question again. Would you
20 agree that it appeared that they were dogged in
21 their attempts to resolve the missing women
22 tragedy?

23 A Yes.

24 Q Now, one of the principal problems that you have
25 identified, as I understand it, was the failure or

1 perhaps the tardiness of several police agencies
2 to adopt the missing -- sorry, the serial killer
3 theory; is that correct?

4 A That's correct.

5 Q And Wolthers and Fell were not among those who
6 were tardy in adopting the serial killer theory?
7 To the contrary, were very early adopters of the
8 serial killer killer; would you agree with that?

9 A I saw a memo that they wrote that said they
10 believed there was a serial killer out there, yes.

11 Q And it was an early memo?

12 A I thought the memo was in 2000, so.

13 Q But you, you knew that there was some friction
14 between them and their supervisor, Sergeant Field,
15 because Sergeant Field was impatient with the fact
16 that they were focusing on a serial killer when
17 she had not yet adopted that theory, correct?

18 A I saw it in a memo that, and I believe it's come
19 up this week, that she was surprised that they
20 were interviewing their suspect with regards to
21 the serial killers when she was saying, herself,
22 it was still a missing women investigation at that
23 point.

24 Q All right. And I think the passage you may be
25 referring to in your report is found at 8-39.

1 A Thank you.

2 Q I would like to read a passage to you and then ask
3 you some questions about it. Starting at the
4 bottom of 8-39, the last paragraph.

5 On May 17th, 2000, Sergeant Field wrote a
6 memorandum to Inspector Spencer regarding the
7 investigation by Detective Constable Fell and
8 Detective Constable Wolthers into their
9 person of interest for multiple sexual
10 assaults. These two officers had travelled
11 to Lethbridge, Alberta, in order to interview
12 him and return him to Vancouver to face
13 charges for several criminal offences. While
14 there, they interviewed him in relation to
15 the missing women from the Downtown Eastside.
16 Sergeant Field referenced the subject in her
17 memorandum.

18 Now, quoting from her memorandum:

19 Never would I have imagined that they would
20 attempt to interview him for any serial
21 killings since this had never been discussed
22 as a strategy with the team. He was still a
23 person of interest along with many others.
24 At any rate, this was still a missing women
25 investigation and not a serial killer

1 investigation, as they allude to constantly.
2 We still have no evidence of such, only
3 speculation.

4 Now, to pause there, when Sergeant Field
5 referred in her memo to the fact that, well, Fell
6 and Wolthers were alluding to a serial killer
7 constantly, that betrayed some impatience with, on
8 her mind, with that theory, at that point in time
9 at least; do you agree with that?

10 A Yes, I would agree with that.

11 Q And Fell and Wolthers' supervisor, Sergeant Field
12 was not supportive of them in their pursuit of a
13 serial killer theory because she, along with many
14 others, no criticism of Sergeant Field, because
15 she had not yet adopted that theory herself; is
16 that fair to say?

17 A I would say so by that, by that memo, yes.

18 Q Yes. And then, you then continue as follows, the
19 first full paragraph on page 8-40:

20 To be fair to the two officers, they were
21 assigned to the Missing Women Review Team,
22 and as such, I would have expected them to
23 focus on the missing women's investigation.
24 While they had evidence of sexual assault
25 offences, their main purpose in pursuing this

1 suspect was based on their belief that he was
2 responsible for the missing women. Sergeant
3 Field's memorandum illustrates that as late
4 as May 2000, there was still an obvious
5 reluctance to commit to the serial killer
6 theory as no bodies had yet been discovered.

7 So, I understand from that, that your
8 assessment of their trip to Lethbridge, which has,
9 which has been criticized in Deputy Chief LePard's
10 report, your assessment of that was that it should
11 have been no surprise to Sergeant Field that they
12 were going to go there in pursuance of the missing
13 women issue, because they were -- that was what
14 they were investigating?

15 A Yes.

16 Q Now, given that one of the principal shortcomings
17 in several police agencies was a failure or
18 tardiness to adopt the serial killer theory, with
19 the benefit of hindsight, do you think that Fell
20 and Wolthers ought to be commended for adopting
21 that theory early on?

22 A Commended? I'm not sure if "commended" is the
23 right term. I mean, I, I think when they joined
24 the team in July of 1999, uhm, by that point,
25 Detective Inspector Rossmo, who had already given

1 his case assessment of the missing women,
2 suggesting that there was a likelihood that they
3 should be looking for one or more serial killers,
4 so. . .

5 Q But they, they, Fell and Wolthers, number one,
6 came to the conclusion of -- that there was a
7 serial killer independently of Inspector Rossmo;
8 is that correct?

9 A I'm not sure.

10 Q Okay. We will hear from them on that. But in any
11 event, Sergeant Field's comment betrays a certain
12 impatience that she had with them for pursuing a
13 serial killer theory, and I suggest to you that
14 they ought to be commended for standing their
15 ground, as it were, to say, "No, there is a serial
16 killer here and we're going to pursue it"?

17 A I would agree.

18 Q And regarding the Lethbridge issue as a whole,
19 there were criticisms made of their techniques in
20 investigating their person of interest, but you
21 didn't see that, whatever deficiencies there were
22 in their interview technique, had any impact on
23 the Pickton investigation; would that be fair to
24 say?

25 A That's correct. And I was aware, from reading the

1 documents, that it had already been subject to a
2 review of that investigation out in Lethbridge,
3 so. . .

4 Q And there is also no evidence to suggest that
5 whatever deficiencies may have been involved in
6 that interview, that that impeded the Crown in
7 prosecuting a person of interest?

8 A I understand that, that did occur, yes.

9 Q And prosecuted successfully to a conviction?

10 A That's what I understand, yes.

11 Q And would you, therefore, agree with me that
12 criticizing Fell and Wolthers about their
13 interview technique regarding this person of
14 interest is really a red herring when you are
15 looking at the Pickton investigation? It had no
16 impact on the Pickton investigation and no
17 material impact on the person of interest in the
18 prosecution?

19 A Well, I think it impacted on the team environment
20 of the Missing Women Review Team. So, I think
21 that's where criticism could be laid against the
22 two officers, just because it was a small, it was
23 a very small team that were dedicated at that
24 point, and I believe it was distracting obviously
25 Sergeant Field and Detective Constable Shenher and

1 some of the others, so.

2 Q Well, but -- so, your criticism, the criticism you
3 say that should be laid at their feet, is it, is
4 the fact that they interviewed this witness
5 improperly distracted Field and Shenher; is
6 that --

7 A No, I was suggesting the way they conducted
8 themselves with regards to this person of
9 interest.

10 Q Okay. So, you're not, you're not confining
11 yourself to what they did in Lethbridge? You are
12 talking about their focus on the person of
13 interest generally?

14 A That's correct.

15 Q Okay, let's deal with that. You are not aware of
16 any task that they did in investigating the person
17 of interest that was a waste of time, are you?

18 A No, I'm not.

19 Q All right. And you are aware that they put in all
20 the time that was expected of them in the
21 investigation -- sorry, in their work hours? It's
22 not like they had -- they weren't doing the amount
23 of work that was expected of them?

24 A I saw evidence that they weren't following up on
25 tasks that were assigned by Detective Constable

1 Shenher.

2 Q Okay, that's a different question. The question I
3 asked you was, you saw no evidence that they
4 weren't arriving at work and spending as much time
5 at work as they were expected to spend at work?

6 A I don't think I could answer that. I don't think
7 I saw anything with regards to that.

8 Q Okay. Well, let me ask the question slightly
9 differently. You saw no evidence from anybody
10 that they weren't attending the office as many
11 hours as they were expected to attend?

12 A No.

13 Q You saw, and as you said a moment ago, you saw no
14 evidence that the work that they did -- any, any
15 work that they did regarding the person of
16 interest was wasted, correct?

17 A Well, that, I mean, I can't say what I didn't see.
18 That's one of those questions.

19 Q Well, no, it's not. You did not -- you know that
20 you saw no evidence that any task that they did in
21 investigating the person of interest was wasted?

22 A Well, I don't know what evidence I saw of what
23 tasks they did with regards to that person of
24 interest.

25 Q Right. But the short answer to my, my question

1 is, there was no interest, sorry, no evidence that
2 anything they did regarding the person of interest
3 was a waste of time, was a wasted task?

4 A And I, I think I am going to stick to my answer,
5 that I don't think I can answer that.

6 Q Okay. You certainly didn't see any complaint of
7 any -- itemizing any single task that they did on
8 the person of interest that they should not have
9 done?

10 A I don't think I recall seeing Detective Constable
11 Shenher assigning them tasks with regards to their
12 person of interest. So, that's why I struggle to
13 answer this question.

14 Q Okay. Well, perhaps you could focus a little bit
15 on the question I asked you. I didn't ask you
16 about tasks that, that Detective Constable Shenher
17 assigned to them on a person of interest. I asked
18 you about any evidence that you are aware of, work
19 that they did from any source? You didn't see --
20 you are not aware of any task that they did
21 regarding the person of interest that was wasted
22 time, are you?

23 A What I'm saying is, I didn't see any task assigned
24 to them, so I wouldn't be able to assess whether
25 it was a waste of time or not.

1 Q Okay. And I'm going to suggest to you, it follows
2 logically, that if they're spending as much time
3 as they are expected to spend at work, and there
4 is no evidence that the work that they're spending
5 on the person of interest is wasted, it follows
6 logically that they should not be criticized for
7 spending time on the person of interest?

8 A I'm not sure I would follow that.

9 Q Well, let me explain it slightly differently.

10 A Thank you.

11 Q If somebody was supposed to spend eight hours a
12 day on a task -- sorry. If someone was supposed
13 to spend eight hours a day working and they spend
14 those eight hours a day working, and if there is
15 no evidence that any of the work they did during
16 those eight hours is wasted, then -- and the work
17 they did led to a prosecution, I suggest to you
18 that they should not be criticized for spending
19 the time they spent on the person of interest that
20 resulted in a prosecution?

21 A Well, and again, I think I have to go back to I
22 never saw the tasks that they were assigned with
23 regards to the person of interest, and I did see
24 comments or notes, and I am suggesting that they
25 were being assigned other tasks related to other

1 persons of interest and they were not doing those.
2 They were not finishing those for Detective
3 Constable Shenher.

4 THE COMMISSIONER: I think, I think she's made it clear that
5 she doesn't know what they did, but she said that
6 they were hard-working officers who were committed
7 to what they were doing and that they, they
8 believed very early on of the serial killer
9 theory.

10 MR. WOODALL: Yes.

11 THE COMMISSIONER: I don't know if you want her to give -- to
12 say something negative about your clients but --

13 MR. WOODALL: Well, I hope not.

14 THE COMMISSIONER: No, I -- you know --

15 MR. WOODALL: She already has and that's what I'm, that's why
16 I'm cross-examining, and the things that she said
17 negative are the things --

18 THE COMMISSIONER: Well, she said they were, they were
19 disruptive in their conduct, but other than that,
20 she said that, that, you know, they were well-
21 motivated and pursuing what they were supposed to
22 do.

23 MR. WOODALL: Well, there are things in the report that I'm
24 addressing and that why I am here on behalf of my
25 clients.

1 THE COMMISSIONER: All right.

2 MR. WOODALL:

3 Q Now, as a matter of -- turning to a slightly
4 different topic, as a matter of general police
5 management, would you agree that where an officer
6 is not doing his or her work, either as a training
7 or performance issue on one side, or as a
8 disciplinary matter on the other side, the first
9 step in the process is to advise the officer of
10 his or her shortcomings?

11 A Yes.

12 Q And if they're minor shortcomings, the advice
13 might be a way of simply a word from a senior
14 officer or a mentor?

15 A Or a supervisor, yes.

16 Q Or a supervisor. And if they were more serious
17 shortcomings, the advice to the officer would be
18 put in some form of writing?

19 A I agree.

20 Q And then some form of writing can be on various
21 scales. It might just be notations in the
22 officer's notebooks, or it might go up to a more
23 formal memo given to the officer and placed in his
24 or her file?

25 A I agree.

1 Q And even if it's a minor problem, but a persistent
2 problem, then again, there should be a written
3 warning to the officer if she or he has not heeded
4 the oral warnings?

5 A I agree.

6 Q And if you have an allegation some years or months
7 later of shortcomings, the first place that
8 someone assessing those shortcomings should go is
9 to the written record, to see whether anybody took
10 the time to make a record of the alleged
11 shortcomings?

12 A I would agree with that, yes.

13 Q And if there is no record of any alleged
14 shortcomings, the strongest inference was that, at
15 the time of the conduct, no one actually viewed
16 the conduct as constituting shortcomings?

17 A Or serious enough that they wanted to document it,
18 yes.

19 Q Yes. Now, I want to ask you now a few questions
20 about your investigation. You interviewed many
21 police officers in the course of your
22 investigation; is that correct?

23 A I did, yes.

24 Q And you did not interview Constable Fell or
25 Constable Wolthers?

1 A That's correct.

2 Q And did you interview Constable Shenher?

3 A I did.

4 Q Did you interview Constable Field?

5 A Sergeant Field? Yes, I did.

6 Q Sorry, Sergeant Field. Yes, thank you.

7 Did you interview Detective Constable

8 Chernoff?

9 A No, I did not.

10 Q Did you interview Detective Lepine?

11 A Yes. It was Detective Lepine I spoke to.

12 Q And you read the LePard report obviously?

13 A I did.

14 Q And based on those interviews in the LePard

15 report, it must have been obvious to you that

16 there was a strong possibility that you would be

17 asked to consider making critical comments of Fell

18 and Wolthers in your report?

19 A Sorry, can you ask that question again?

20 Q Yes. Given what you had read in the LePard report

21 and your interview with the people that I have

22 just outlined, you were aware that there was a

23 strong possibility that you would consider making

24 critical comments of Fell and Wolthers in your

25 report?

1 A No, I would disagree with that.

2 Q You did make, you did make critical comments of
3 them in your report, correct?

4 A Yes.

5 Q And so, at some point, before those words arrived
6 on your computer, you must have known that you
7 were considering making critical comments?

8 A Before I put them down on -- before I typed them
9 up?

10 Q Yes.

11 A Obviously, yes.

12 Q Yes. And yet you did not interview either Fell or
13 Wolthers to hear their side of the story?

14 A No, I did not.

15 Q They offered to be interviewed, did they not?

16 A I would say, yes, they did.

17 Q Right.

18 A I'm trying to recall -- I mean, I -- some of these
19 documents with regards to interviews, I am not
20 suggesting that they were being obstructionist in
21 any way, no.

22 Q All right. Now, I want to turn now to the topic
23 of the allegation, failure to complete work, and
24 I'm going to ask you if you could turn in your
25 report to page 8-142.

1 A 142?

2 Q Yes.

3 A Yes, I have that.

4 Q And I am going to read a passage that starts at
5 the bottom of that page and goes over onto 8-143,
6 just to set the context. This was a, a portion of
7 your report where you were discussing
8 communication problems generally, and
9 communication problems within the Vancouver Police
10 Department in particular; is that correct?

11 A That's correct.

12 Q All right. So, then what you have written is
13 this:

14 Detective Constable Fell and Detective
15 Constable Wolthers appeared to be secretive
16 and did not regularly disclose their daily
17 activities to Detective Constable Shenher.
18 They were assigned tasks and later it was
19 discovered that they did not follow through
20 on those tasks. It was learned after
21 Pickton's arrest in February of 2002, that
22 Detective Constable Fell and Detective
23 Constable Wolthers had dealt directly with
24 sex trade workers in April of 2000 who
25 identified Pickton from a selection of

1 photographs and both officers had failed to
2 pass the information to Detective Constable
3 Shenher. As time went on, these two officers
4 became more and more difficult to control and
5 remained quite secretive about their daily
6 activities and information in relation to
7 their suspect. The lack of internal
8 communications demonstrated by Detective
9 Constable Fell and Wolthers, in my opinion,
10 had a negative impact on the Missing Women
11 Review Team.

12 You wrote that?

13 A I did.

14 Q Would you agree with me that's quite a serious
15 criticism of them?

16 A Uh, I would agree it's a criticism, yes.

17 Q And don't you think it would have been fairer,
18 before leveling that criticism, to hear from them
19 and hear their side of the story?

20 A I was basing my opinion on the documents that I
21 reviewed.

22 Q And can I ask that question again? Don't you
23 think it would have been fairer to interview them
24 to hear their side of the story before you were
25 critical of them, as you were there?

1 A I was hoping to interview them.

2 Q Well, you didn't interview them. They offered to
3 be interviewed and you didn't interview them?

4 A Yeah, I am going to have to review, uhm, my
5 communications with, I'm not sure if it was
6 yourself or -- because I believe at one point, I
7 had an interview date set up and I know at some
8 point that there was reasons why we didn't -- I
9 wasn't successful in interviewing those.

10 Q Okay.

11 A But yes, to get both sides of the story, I think
12 it would have been important for me to interview
13 them, but my opinion was based on the documents I
14 reviewed.

15 Q Okay. We will go through the documents, but it
16 wasn't just based on the documents. The source of
17 those criticisms was Constable Shenher and
18 Sergeant Field, correct?

19 A Uhm, I believe Constable Clarke, as well as
20 Detective Lepine, also had comments with regards
21 to those two officers as well.

22 Q You didn't see, and I am going to take you through
23 them individually, but you didn't see even one
24 contemporaneous memo on any of those topics
25 outlined in the passage I read, that were created

1 at the time, of the conduct that is being
2 criticized, did you? Not even one?

3 A Yeah, you have to repeat the question. Sorry.

4 Q You didn't, in your investigation, see even one
5 memo written at the time of the allegations that
6 are set out, as I have just read them, that were
7 created contemporaneously with those activities,
8 did you?

9 A I saw memos by, or a memo by Detective Constable
10 Shenher with regards to displeasure with regard to
11 these two officers; as well as a memo from
12 Sergeant Field, from what I recall.

13 Q And those memos were created after Fell and
14 Wolthers were asked to leave the team and after
15 Fell and Wolthers had already complained about the
16 conduct of the team, correct?

17 A Uhm, yes, I believe that's when all the documents
18 started coming out, yes.

19 Q So, their -- those memos you referred to were not
20 created at the same time as the conduct complained
21 of. They were created quite a bit later, correct?

22 A Well, I think the conduct, uhm -- well, I know
23 they joined the team in July. And I can't recall
24 whether I saw in Sergeant Field's notes whether
25 she had them in prior to May of 2000, which is

1 when I believe the memos were written with regards
2 to those.

3 Q The sequence was, Fell and Wolthers went to
4 Lethbridge --

5 A In April --

6 Q -- in April.

7 A -- 2000.

8 Q They returned from Lethbridge. They were asked to
9 leave the team, correct?

10 A Correct.

11 Q They wrote a memo critical of the Missing Women's
12 Review Team, correct?

13 A Correct.

14 Q In response to their criticisms, Shenher and Field
15 wrote a memo in response, correct?

16 A That's correct.

17 Q By definition, their memos in response were not
18 created at the same time as the conduct complained
19 of, but sometime later, correct?

20 A That's correct.

21 Q And they weren't spontaneously created? They were
22 created in response to complaints that Fell and
23 Wolthers had made?

24 A I would agree.

25 Q All right. I am going to go through each of these

1 attempts separately. But as a general matter,
2 what you did is you read documents that were
3 created by officers after the fact, after the
4 incidents complained of, and you interviewed the
5 principal officers, being Shenher and Field, and
6 that's where the information came from that you
7 base the allegations that I have just read to you?

8 A That's correct.

9 Q And it must have been important to you in that
10 analysis to take into account the interviews that
11 you had with Shenher and Field?

12 A I would agree with that.

13 Q Yet you didn't interview Fell and Wolthers to give
14 them an opportunity to tell their side of the
15 story?

16 A Mr. Commissioner, I would probably like to take a
17 break at this point, because I could like to go
18 back and look at the documents with regards to my
19 attempts to speak to these two officers.

20 Q I can take you through those right now. We have
21 those in front of you. If you --

22 THE COMMISSIONER: Do you want a break?

23 THE WITNESS: Well, I would just like to look at them so --

24 MR. WOODALL:

25 Q Sure. There's a, there's a -- I will take you

1 through, and if you need time to respond, I'll
2 assist you by providing you with the e-mail
3 correspondence on this issue. See if this
4 refreshes your recollection. Do you have in front
5 of you --

6 A I do, yes.

7 MR. WOODALL: And Mr. Commissioner, do you have a copy of the
8 same document?

9 THE COMMISSIONER: Which document is that? Your --

10 MR. WOODALL: Yes.

11 THE COMMISSIONER: Yes.

12 MR. WOODALL:

13 Q Now, I am going to ask you, if you could, to turn
14 to page 7, sorry, to page 4 of this document.
15 This is, is an e-mail chain between you and me and
16 then there's a final e-mail that wasn't a matter
17 of a simple reply, so it's in a separate e-mail.

18 MR. VERTLIEB: I am just looking at this, Mr. Commissioner. I
19 think, in fairness to Ms. -- to the deputy chief,
20 that she should have a minute to read these
21 e-mails. There is a number of them.

22 THE COMMISSIONER: All right.

23 THE WITNESS: Thank you.

24 THE REGISTRAR: How much time would you like?

25 THE WITNESS: Fifteen minutes.

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

2 (PROCEEDINGS ADJOURNED AT 11:59 A.M.)

3 (PROCEEDINGS RESUMED AT 12:16 P.M.)

4 THE REGISTRAR: This hearing is now resumed.

5 THE COMMISSIONER: Mr. Woodall.

6 MR. WOODALL:

7 Q Thank you. Deputy Chief, I would ask you to turn
8 to page 4 in the bundle of documents I have just
9 provided.

10 A Thank you.

11 Q And as you will see, as in many e-mail chains, the
12 earliest e-mails are at the end of the chain. Is
13 that correct? You have had a chance to review
14 these?

15 A I have, yes.

16 Q And the first interchange on page 4 is a brief
17 e-mail from me with a hand, hand numbered, sorry,
18 hand-lettered "A" in the margin, simply
19 introducing myself to you and, and offering on
20 behalf of my client, Constable Fell, an
21 opportunity to be interviewed, correct?

22 A That's correct.

23 Q And then you indicated to me that you had, you had
24 planned to schedule him on August 8th. You didn't
25 realize that he had separate counsel?

1 A No, I didn't at that time, no.

2 Q All right. And then on the same day, August 2nd,
3 I replied to that e-mail and said this on page 3
4 of the chain, the e-mail exchange, by the hand-
5 lettered "C" as follows:

6 Cst. Fell was supposed to receive
7 disclosure to allow him to prepare for the
8 interview. He was told today by counsel for
9 the VPD that there is some problem with the
10 computer document management system, and he
11 has not received disclosure. As a result,
12 that issue (among others) will require the
13 postponement of his interview.
14 There are other issues as well. I would like
15 to receive a list of documents that you
16 intend to ask Cst. Fell about during the
17 interview. I would also like to know the
18 general issues/allegations/shortcomings that
19 you wish to ask him about, so that he can
20 be prepared for the interview in a focused
21 manner.

22 And then I simply ask you how long you're
23 going to take. So, that issue that I identified
24 on August 2nd was an issue that you and I had some
25 debate about in subsequent e-mails; is that

1 correct?

2 A I agree, yes.

3 Q There were two issues, really. One was whether
4 we're going to receive a list of the documents you
5 were going to ask him about; and the second one is
6 whether you were prepared to give a general idea
7 of the issues or allegations or shortcomings that
8 you wished him to address?

9 A That's correct.

10 Q And we then closed our e-mail chain, as far as
11 August 2nd is concerned, on page 3 at the e-mail,
12 hand-lettered "E". And then going over onto page
13 2, on August 8th, you sent me an e-mail indicating
14 that you were going to be in town that week and
15 were wondering whether we could arrange an
16 interview that week. That's the week of August
17 8th; is that correct?

18 A That's correct, yes.

19 Q And then you e-mailed me again on August 22nd and
20 you were also going to be here and asked again
21 whether I'd be available. Is that correct?

22 A Yes.

23 Q And I replied to that e-mail the next day, August
24 23rd, on page 1 of the e-mail exchange, hand-
25 lettered "I" as follows:

1 As I indicated in earlier e-mail, Cst. Fell
2 will make himself available for an interview,
3 but before the interview we need to have
4 copies of any documents he is going to be
5 asked about, as well as a description of the
6 topics, allegations of misconduct, or
7 personal or professional criticisms you wish
8 to discuss with him. To this point, Cst.
9 Fell has not received any disclosure from the
10 VPD. Early in August the VPD said it was
11 going to give him (and me) a disc with the
12 relevant documents, but a technical glitch
13 prevented that from happening.

14 So, pause there. I take it you don't see any
15 objection to giving him the documents you wanted
16 to ask him about given that events were, in some
17 cases, 12 years earlier than the date of the
18 proposed interview?

19 A Oh, no, absolutely not. I was giving -- I was
20 providing documents to, to lawyers throughout my
21 -- prior to the interviews so the officers could
22 review.

23 Q Okay, and then I said this:

24 Regarding the topics he was to be interviewed
25 about, the difficulty is that the LePard

1 report makes many wide sweeping comments
2 about Cst. Fell that do not appear to be
3 directly relevant to the question of the
4 missing women, including comments on his
5 personal investigative style. Therefore, we
6 need to know what topics he is going to be
7 asked about. Please feel free to call me on
8 my cell to discuss what we would like to see.
9 And then you had replied on Page 1, the e-mail
10 interchange hand-lettered "J" as follows:

11 I will speak to representatives at the
12 Commission this morning and have them prepare
13 documents for review by Cst. Fell. I
14 understood he is currently still employed by
15 the VPD and understand that Mr. Hearn (sic)
16 would be making the documents available as
17 the source information was provided quite
18 some time ago. I have not been providing
19 anyone with a list of my questions but simply
20 have passed along the source documents for
21 their review prior to my interview.

22 So, you understood, at that point, there was
23 still a question of getting the documents? We
24 still hadn't got them?

25 A Yes.

1 Q And that wasn't really a disagreement so much as a
2 technical fulfillment that had not yet been
3 fulfilled?

4 A Yes, that's what I recall.

5 Q But I hadn't asked you at any point for the list
6 of questions. I had simply asked you for a
7 general statement of the topics you wanted to
8 pursue with him, correct?

9 A That's correct.

10 Q And given the nature of this inquiry, and given
11 that the conduct at issue happened so many years
12 ago, it would simply have been fair to tell him
13 the topics that you wanted to address with him;
14 wouldn't you agree?

15 A I didn't give anyone topics.

16 Q Well, I didn't ask whether you gave other people
17 topics. I asked you whether it would be fair,
18 given that the matter happened so many years ago,
19 to give Constable Fell, for example, a general
20 sense of the, of the topics you wanted to ask him
21 about?

22 MR. VERTLIEB: Mr. Commissioner, I do have a concern. I am not
23 trying to be critical of Mr. Woodall and I wasn't
24 involved in interviews, and I was struck when Mr.
25 Woodall, by his questions, and I may have misheard

1 him, but it sounded to me as though he was
2 suggesting that the deputy chief wasn't interested
3 in interviewing these two people, and it struck me
4 as odd knowing how thorough she is and how
5 conscientious she is about interviewing people.

6 THE COMMISSIONER: Yes.

7 MR. VERTLIEB: And so, I must say, I am somewhat concerned -- I
8 could use other language -- to see these e-mails,
9 because, unless I misheard his question, I don't
10 think it would be fair to suggest she wasn't
11 trying to interview people as though she just
12 didn't care, and that's the way it came through to
13 me when I heard him.

14 THE COMMISSIONER: Yes.

15 MR. VERTLIEB: It's not -- I don't -- if I have the wrong
16 impression, then someone will correct me. But if
17 that was the impression, that's not fair to this
18 witness. It's -- and I am not criticizing Mr.
19 Woodall. But, you know, I don't agree that it's
20 fair to say, "I need a list of things from you. I
21 want to know documents. I want to know about" --
22 just this, reading this -- "I want to know about
23 topics. I want to know" -- I am not disagreeing
24 with him for doing that as a defence lawyer's
25 orientation. But that's not the -- she's just

1 trying to meet with people. She could have had a
2 visit and could have said, "I want to go through
3 some of this. Give me a sense. We can arrange to
4 get together again."

5 THE COURT: Yes.

6 MR. VERTLIEB: And you also should know, Mr. Commissioner, that
7 we were putting pressure on the deputy to get this
8 report done because we were under understandable
9 pressure from many people to see her report. And
10 my recall is that we had given her a deadline of
11 August 31 for interviews and she came out here
12 many times trying to meet that deadline. And I am
13 looking here at an e-mail, August 23. Now, that's
14 almost at the very end of the time we said to
15 Deputy Chief, --

16 THE COMMISSIONER: Yes.

17 MR. VERTLIEB: -- "You have got to get these interviews done."
18 And so Mr. Woodall may not know that. But I, I
19 don't know where all this goes, but I don't --

20 THE COMMISSIONER: I don't know.

21 MR. VERTLIEB: -- think it's fair for him to be critical in the
22 way he's been, and I don't know that it advances
23 his cause.

24 MR. WOODALL: I think that was an entirely inappropriate and
25 unjustified intervention in the cross-examination.

1 THE COMMISSIONER: Why?

2 MR. WOODALL: Because, first of all, he's making submissions to
3 you in the middle of a cross-examination. That's
4 unprecedented in any forum that I have been in.
5 Secondly, I never suggested to this officer, this
6 witness, that she didn't care.

7 THE COMMISSIONER: Well, you said she's unfair. That's what
8 you suggested.

9 MR. WOODALL: I said she was unfair because she hadn't
10 interviewed them. Yes, I did say that.

11 THE COMMISSIONER: Yes.

12 MR. WOODALL: And I maintain that.

13 THE COMMISSIONER: Yes.

14 MR. WOODALL: And Mr. Vertlieb's inappropriate attempt to make
15 arguments on behalf of this witness, in behalf
16 (sic) of my cross-examination, entirely missed the
17 point. And if he wants to make those arguments at
18 the end of the case, that's appropriate. To
19 interrupt me in the middle of cross-examination
20 because he has some thoughts to pass along is not.

21 THE COMMISSIONER: In any event, I think when you -- you
22 suggested to her that she's being unfair because
23 she didn't give all this disclosure and that -- I
24 think maybe things have to be put into perspective
25 as to what was happening at the time and from that

1 perspective.

2 MR. WOODALL: Well, the witness can do that. It doesn't need
3 Mr. Vertlieb to leap to his feet and interrupt a
4 cross-examination.

5 THE COMMISSIONER: Yes.

6 MR. WOODALL: If this witness had reasons for not interviewing
7 them, we should hear from this witness, not from
8 Mr. Vertlieb.

9 THE COMMISSIONER: All right. Go ahead.

10 MR. WOODALL: It's completely inappropriate.

11 Q Now, so the question I asked you a moment ago is,
12 don't you think it would be fairer to simply tell
13 the officers the general topics that you are going
14 to ask them about, not the general questions, but
15 just what are the allegations they have to face?

16 A I didn't discuss the topics with anyone prior to
17 interviews.

18 Q Okay. Was that the question I asked you?

19 THE COMMISSIONER: Well, you know, in fairness, she said she,
20 she's really telling you she treated everybody the
21 same.

22 MR. WOODALL: Well, I appreciate that. That wasn't the
23 question I asked, Mr. Commissioner.

24 THE COMMISSIONER: All right.

25 MR. WOODALL: Mr. Commissioner, I am very concerned that my

1 clients, who were doing their best, as they saw
2 fit, although some people may say they were
3 misguided, have been the victim of needless and
4 unwarranted potshots.

5 THE COMMISSIONER: Well, you might want to cross-examine the
6 police that made them, Shenher and Field.

7 MR. WOODALL: Well, I will be.

8 THE COMMISSIONER: Yes. But in fairness, in fairness, she, she
9 is basically repeating what, what she was told by
10 other people.

11 MR. WOODALL: And that is what I say is not fair. That's
12 precisely my point.

13 THE COMMISSIONER: Well, it is -- I will tell you why it is
14 fair. She is doing a review, and doing a review,
15 she is relying on what other officers have told
16 her. Now, obviously, if what she has been told is
17 not accurate, then you ought to go to the source
18 of that --

19 MR. WOODALL: Well, we will get to what --

20 THE COMMISSIONER: Yes.

21 MR. WOODALL: -- she was told --

22 THE COMMISSIONER: Yes, yes.

23 MR. WOODALL: -- in a moment, if I can get to the --

24 THE COMMISSIONER: I mean, LePard said all these things.

25 MR. WOODALL: Yes, and he was unfair as well.

1 THE COMMISSIONER: Well, did you ask him that?

2 MR. WOODALL: I did.

3 THE COMMISSIONER: Well, then, you know, they're all relying on
4 other people that -- so, anyway. I don't know if
5 it helps you, but go ahead.

6 MR. WOODALL:

7 Q So, all right. The question I asked you was not
8 what you did with other people. I am asking you,
9 don't you think it would be fairer to tell someone
10 who was facing -- let's step back a bit.
11 Constable Fell and Wolthers had been subject to
12 very wide criticisms encompassing specific
13 procedural investigative steps and things as broad
14 as, they were loud and boisterous and sexist,
15 correct?

16 A Not in my report, no.

17 Q But those were the allegations that, for example,
18 you heard from Shenher and Field, and you heard
19 from LePard some of those issues?

20 A But I didn't document those in my report.

21 Q But you, you were aware that those allegations
22 were flying about, correct?

23 A That's correct.

24 Q And wouldn't it be fairer for them to know whether
25 those are the things that are going to be asked

1 about or whether you are going to be asking them
2 about the real issues, the, what they did on the
3 Missing Women Review Team?

4 A I felt it was fairer to treat every single person
5 I interviewed the same. So, every person who
6 asked for documents that I would be referring to
7 in my interviews, they were provided with the
8 documents.

9 Q So, let's turn then to page 7 of the document I
10 gave you. This is an e-mail from me to you on
11 September 12th, and what I said to you was this.

12 These are the --

13 A Sorry, page 7?

14 Q Yes, page 7.

15 These are the documents I received from Sean
16 Hearn (sic), with a note saying that these
17 are the documents you wish to put to Cst.
18 Fell. Can you please review this and ensure
19 that this is complete.

20 Do you see that?

21 A I do.

22 Q You never responded to that, did you?

23 A No, it was -- my memory is I believe I forwarded
24 this to, because it was past the August 31st, I
25 forwarded this to the commission --

1 Q All right.

2 A -- to deal with. And I thought it was, my belief
3 was that they would be dealing with it.

4 Q So, by this point, you had decided that you
5 weren't going to be interviewing him?

6 A At that point, I was writing, I was writing my
7 report.

8 Q Okay. So, then I said this:

9 In your last e-mail you said that you have
10 not given witnesses the questions you wish to
11 ask. I am not asking for the actual
12 questions, but rather the topics or
13 allegations. As just one example, the LePard
14 report says that Cst. Fell and Wolthers were
15 not a "good fit" and that they were "loud and
16 abusive". These claims can cover any number
17 of allegations, gripes, complaints, and so
18 on. If Cst. Fell is going to be asked about
19 his working relationship with other members
20 of the Missing Women Task Force, I would like
21 to know that. If he is going to be asked
22 about specific incidents that are said to
23 show him as "loud" or "abusive", I would like
24 to know that as well.

25 You didn't reply to that either, did you?

1 A I don't recall. Did I not respond to you at all?
2 Because that's unlike me.

3 Q Well, I didn't -- my records show no response to
4 that e-mail.

5 A Well, I apologize for that.

6 Q And given that you passed, you said you just
7 passed it on to the --

8 A But that's unlike me. I usually respond to
9 e-mails, just to acknowledge receipt.

10 Q Okay. Well, I tell you, my records show no
11 response to that.

12 A Well, I am not doubting you. I'm just saying I
13 apologize for that then, because normally I would
14 do that.

15 Q But -- and how long did it take you to write your
16 report?

17 A It took September, October, and then my report was
18 late, so, November 14th.

19 Q Okay. During that period of time, you didn't, for
20 example, say, "Well, I'm pressed for time. Can
21 you attend a telephone interview?"

22 A No, I did not.

23 Q And you didn't ask them to provide answers in
24 writing?

25 A No, I did not.

1 Q And those were options that were open to you?

2 A Yes, they were.

3 Q Now, I want to go back to page 8-142 on the issue
4 of failure to complete work. What work was it
5 that they failed to complete?

6 A I reviewed documents that they were assigned
7 tasks, follow-ups, and I believe that, through
8 Detective Constable Shenher, that those tasks were
9 not followed up and completed.

10 Q That you are referring to is, is Detective
11 Constable Shenher's memo after Constable Fell and
12 Wolthers had complained about the Missing Women
13 Review Team, correct?

14 A I believe so, yes.

15 Q There is not even one memo from anyone at the VPD,
16 to either Constable Fell or Wolthers at the time
17 they were doing the tasks saying, "You are not
18 following through on your work, get it done,"
19 correct?

20 A That's correct, not that I saw.

21 Q And there's not even one memo identifying any
22 particular task that they were supposed to do and
23 didn't get done, correct?

24 A Not that I saw, that's correct.

25 Q And much less is there a memo saying, "There's

1 been a persistent problem that was brought to your
2 attention. Now it has to be resolved." Correct?

3 A That's correct.

4 Q Wouldn't the reasonable inference to be drawn from
5 the fact that there is not even one document
6 complaining about them at the time they were
7 supposed to be doing the work, wouldn't the
8 reasonable inference be that there was, in fact,
9 no complaint about them at the time they were
10 doing the work?

11 A No.

12 Q There is only -- why not? You said, I think you
13 agreed with me that if an officer is persistently
14 falling below what is expected, the expected
15 response would be some kind of written
16 documentation of that fact, correct?

17 A I agree, yes.

18 Q And you agreed that, in the absence of any
19 documentation, the most reasonable inference would
20 be that there was, in fact, no shortcomings noted
21 at the time of the conduct?

22 A I have seen, over my career, that this is common,
23 and I am not sure if in any other business, but
24 common in policing, that minor conduct issues
25 aren't addressed appropriately until sometimes it

1 gets to a point that there is a breaking point,
2 and at that time, that's when things document and
3 that's when stories come out. And that's as a, I
4 mean, as a manager, that's a difficult thing
5 because they're not being documented as a
6 proactive measure. But I see that. That's a
7 common mistake.

8 Q So -- and that's a mistake for two reasons. One
9 is that it deprives the Department of an
10 opportunity to remedy the problem?

11 A Yes.

12 Q And it's a mistake because it deprives the officer
13 of an opportunity to address the complaint that's
14 being made in a timely manner?

15 A Yes.

16 Q The officer's response might be, for example, "I
17 agree with the -- that I have been deficient and I
18 will correct it," or it might be, "You have got
19 your facts all wrong. That's not a well-founded
20 complaint"?

21 A That's correct.

22 Q So, would you agree with me it's unfair, years
23 later or months later, to say to someone, "You
24 have been deficient," when, at the time the person
25 had an opportunity to correct his conduct, no one

1 ever said anything about it?

2 A I think that's unfair, yes.

3 Q Now, did you have an opportunity to read the
4 report of Sergeant Stewart in the course of your
5 investigation?

6 A Can you direct me to what date and I can check my
7 timeline to see if it was -- was it reported in my
8 timeline?

9 Q I don't know the answer to that but it's in this
10 book of documents. If you turn to page 10, it may
11 refresh your recollection.

12 A March 20th, 2001. Yes, I have looked at this.
13 It's in my timeline.

14 Q Okay. I am going to ask if you could turn in that
15 to page 13. Page 4 of the report, page 13 of the
16 document bundle.

17 A Yes.

18 Q I am going to read to you a paragraph and ask you
19 some questions about it. And I am reading from
20 the third full paragraph in the middle of the
21 page, "having said this".

22 A Yes.

23 THE COMMISSIONER: Where are you?

24 MR. WOODALL: Page 13 of the document, Mr. Commissioner, --

25 THE COMMISSIONER: Okay.

1 MR. WOODALL: -- which is page 4 of the Stewart report.

2 Q And that's a report by Sergeant B. Stewart dated
3 the 20th of March, 2001. Page 4 of that report,
4 page 13 of the document bundle. Sergeant Stewart
5 had this to say:

6 Having said this, issues surrounding
7 Constables Fell and Wolthers continue to
8 arise. Although they did complete many of
9 the tips that were assigned to them,
10 Detective/Constable Shenher had to repeatedly
11 ask for the results of nine particular tips
12 she felt were of a high priority. She kept
13 receiving the same answer that they were
14 working on them. When questioned by Sergeant
15 Field they gave the same answer and indicated
16 they would get them done. However, there was
17 no B.F. dates or direction given to them as
18 to when they must be completed. Although
19 frustrating to the MPRT it appears that their
20 standard answer was accepted each time that
21 it was raised. It does not appear that these
22 tips in question have yet to be completed.

23 Do you have any reason to disagree with
24 anything that Sergeant Stewart has said in that
25 paragraph?

1 A No.

2 Q So, would you agree that, if Sergeant Fell and
3 Wolthers were to be criticized for not completing
4 these nine tips, criticisms should equally fall on
5 the supervisors for not giving them specific
6 deadlines and more specific advice that they
7 require these tips done in a timely manner?

8 A Yes.

9 Q Now, I am going to ask you if you could turn to
10 page 7-16 of your report.

11 A Yes.

12 Q The second-last paragraph on that page that begins
13 "on December 11th"?

14 A I see that.

15 Q You have written this:

16 On December 11th, 1999, Sergeant Field met
17 with Detective Constable Fell and Detective
18 Constable Wolthers to discuss their duties
19 and the need to keep Detective Constable
20 Shenher informed of their progress on a daily
21 basis.

22 Do you see that?

23 A I do.

24 Q Okay. And I take it the document you were relying
25 on for that proposition is the one that is found

1 in the bundle of materials at page 20. You will
2 see a red arrow pointing to an entry that is
3 '99/12/11. Do you see that?

4 A Yes.

5 Q What it says there is:

6 Meet with Doug and Mark re duties and tenure.

7 A I see that, yes.

8 Q Uhm, there is nothing -- and that's the only
9 reference in all the documents that you read that
10 supports the theory set out on page 7-16 that I
11 have just read about the meeting and what occurred
12 at the meeting; is that correct?

13 A Uhm, I am just referring to my timeline before I
14 answer that, because the way I have written it up
15 in my report would indicate to me that what's
16 written here in the notes is not what I wrote up
17 in the report. So, it would indicate, in my head,
18 that I had located that information somewhere
19 else.

20 Yeah, that's quite possible. Without having
21 to look at my source, the way I've written it up,
22 it's difficult to see if this is the notes, but my
23 timeline would indicate that I was, that it was
24 notes from Sergeant Field.

25 Q There is nothing in that note that indicates that

1 they were being asked to keep Detective Constable
2 Shenher informed of their progress on a daily
3 basis, is there?

4 A That's what I -- actually, to be, to be accurate
5 to my answer, what I would love to do is refer to
6 my 25.73 VPD Phase 5, Field 3, Page 9 notes. I
7 would like to look at those notes before I answer
8 that, if I could.

9 Q Okay. Well, let's -- and I don't object to you
10 doing that, but let me ask you a few follow-up
11 questions. Whatever was discussed on that date,
12 there is no similar notation of any need to re-
13 remind them of their duties, correct?

14 A Sorry, what was the question, about re-remind them
15 of their duties?

16 Q Yes. If, if, accepting your theory that the
17 matters that you set out on page 7-16 of your
18 report were actually discussed at that meeting,
19 there is no, there was no need for follow-up?
20 Whatever message was communicated to them did not
21 result in Sergeant Field having to remind them
22 again of their duty in that regard?

23 A Not that I have seen. I think, if not, it would
24 have been documented in my timeline, without going
25 through the timeline right now.

1 Q So, wouldn't the natural inference be, from the
2 documents, if that's what you are going to confine
3 yourself to, that if they were given a talking to
4 on that date, they got the point and, and did not
5 have to be talked to again?

6 A Uhm, I'm not sure if they would have gotten the
7 point. All the document can tell me is that she
8 was telling them.

9 Q She didn't have to tell them again, right?

10 A Well, I would have to look through my documents to
11 see if she -- if I found another time in the notes
12 when she would have had to speak to them again.

13 Q All right. Well, you are going to be coming back
14 and I invite you to do that. But I haven't seen
15 any suggestion in any, any of the material that I
16 have been provided, that, that Sergeant Field ever
17 spoke with them on the topics set out in her log
18 or the topics you have described at any other
19 point. So, if you have something to suggest
20 differently, I would be happy to hear about it.
21 It's not been disclosed to me.

22 Now, further, in that notation that she has
23 written, there is nothing about -- she didn't
24 mention the phrase "failure to communicate". She
25 said nothing in there about them being secretive,

1 did she?

2 A No.

3 Q And nothing about them being difficult to control?

4 A Not in those notes.

5 Q And not in any other written document that was
6 prepared before Constable Fell and Wolthers had
7 complained about how the Missing Women Team was
8 being run?

9 A I agree. I believe the notes were -- it was in
10 the memo of May of 2000.

11 Q And I am going to suggest to you that what you --
12 your inference about what occurred at that meeting
13 came from your interview with Sergeant Field as
14 opposed to any document that was written at the
15 time?

16 A That's quite possible.

17 Q But again, you didn't ask Constable Fell or
18 Wolthers what their view was of what was
19 happening --

20 A I did not interview Constable Fell or, or
21 Wolthers.

22 Q Now, if you turn back in your report to page
23 8-142.

24 A Yes, I have that.

25 Q Over onto page 8-143, the first full sentence on

1 8-143, you said this:

2 It was learned after Pickton's arrest in
3 February of 2002, that Detective Constable
4 Fell and Detective Constable Wolthers had
5 dealt directly with sex trade workers in
6 April of 2000 who identified Pickton from a
7 selection of photographs, and both officers
8 had failed to pass along information to
9 Detective Constable Shenher. As time went
10 on, these two officers became more and more
11 difficult to control and were being quite
12 secretive about their daily activities and
13 information in relation to their suspect.

14 So, I am going to ask you about some
15 questions about this theory of them being
16 secretive. As I understand the point you are
17 making on page 8-143, there is two concepts of
18 secretiveness: one is the failure to disclose the
19 sex trade worker who picked the Pickton photo; and
20 the second is, they become more and more secretive
21 generally. Is that -- do I have your criticism
22 correctly?

23 A Yes.

24 Q All right. Dealing with the not disclosing daily
25 activities, there wasn't even one document

1 prepared at any point that identified a relevant
2 fact that they're aware of, aside from the
3 photographs in April 2000, that they kept from the
4 team, is there?

5 A Sorry, can you say that question again?

6 Q Yes. Setting aside the question of not
7 disclosing, if that's what happened, not
8 disclosing the sex trade worker who picked the
9 Pickton photograph in April 2000, setting that
10 aside, there is not documentation of even one fact
11 material to any investigation that Fell or
12 Wolthers failed to disclose to the Missing Women
13 Review Team, is there?

14 A Uhm, I believe I saw documents or suggestions that
15 they were failing to keep Detective Constable
16 Shenher informed as to their activities.

17 Q That, again, is, is what is Detective Constable
18 Shenher's allegation after Fell and Wolthers had
19 complained about how the team was being run,
20 correct?

21 A That's correct.

22 Q She didn't, in that memo, identify even one piece
23 of information that they should have turned over
24 to the Missing Women Review Team and failed to do
25 so?

1 A No, she just made the general comment.

2 Q Right. And you are not aware, from your review,
3 of even one piece of information that they
4 obtained, aside from the question of the
5 photographs being identified, the Pickton -- the
6 photograph of Pickton being identified, you are
7 not aware from your review of even one piece of
8 information that they withheld from the Missing
9 Women Review Team, correct?

10 A No, I am not.

11 Q Much less are you aware of anything that was
12 material that they withheld from the Missing Women
13 Review Team?

14 A Well, that's, yeah, that's similar to, I don't
15 know what I don't know. But no, I didn't see
16 anything in the documents that suggested that.

17 Q So, don't you think it's unfair to accuse them of
18 being secretive generally, when no one has
19 identified even one piece of information that they
20 failed to disclose?

21 A I was critical of them being secretive because I
22 always think when there is not open communication,
23 and that's under the subject of this whole
24 criticism I have laid out toward them, under
25 internal communication, I was talking about the

1 importance of internal communication within team
2 members is so critical, that there shouldn't be
3 any secrets, everything should be wide open.

4 Q I don't dispute that. But you don't know of even
5 one, one item of information, material or
6 immaterial, that they failed to disclose. Isn't
7 that unfair to --

8 A No, I based that comment on my interviews and the
9 documents that suggested that they weren't
10 disclosing their activities.

11 Q That wasn't the question I asked you. The
12 question I asked you was, isn't it unfair to claim
13 they're secretive when there is not even one piece
14 of information that is identified that they failed
15 to disclose, not even one?

16 A But what I am saying is I based that line, that
17 comment, based on the documents I reviewed that
18 suggested they were secretive.

19 Q I appreciate that. But those documents you
20 reviewed didn't identify even one piece of
21 information. It was merely an allegation that was
22 made with no substance behind it; isn't that
23 correct?

24 A It was an allegation made that was documented.

25 Q It was documented after the fact. It has no

1 substance because it didn't identify any secret
2 that they kept?

3 A No, it didn't go into specifics as to what secrets
4 that they kept.

5 Q So, if you are going to call someone secretive,
6 shouldn't you have at least one secret that they
7 kept?

8 A Well, I would think that Detective Constable
9 Shenher would probably be best to answer this, and
10 Sergeant Field, but I think their point was, the
11 fact is that they were not being told their daily
12 activities so they felt these two officers were
13 being secretive.

14 Q All right. Now, you have said that they failed to
15 disclose the fact that a sex worker in April
16 identified Pickton from a series of photographs,
17 correct?

18 A That's correct.

19 Q Did you read Deputy Chief LePard's summary of his
20 interview with Constable Fell about that issue?

21 A Uh, I believe I may have at one point.

22 Q And given that you didn't interview him yourself,
23 that should have been something that you would
24 give some credence to, because that's at least his
25 opportunity to tell his side of the story in a

1 document?

2 A No, I wasn't basing my review of my documents --
3 or my report on interviews conducted by Deputy
4 Chief LePard.

5 Q Okay. So, did you -- you weren't paying attention
6 to what Constable Fell said in his interview with,
7 with LePard and you didn't interview him yourself.
8 So, what side of his -- where did you get his side
9 of the story about that incident?

10 A I didn't.

11 Q Right. And you know though, from having read
12 Deputy Chief LePard's report, Fell's best
13 recollection is that he did tell Constable
14 Shenher. He just didn't document telling
15 Constable Shenher. You realize that, don't you?

16 A No, I don't recall that, but that's -- I don't
17 doubt when you say that.

18 Q And of course if you had even written Constable
19 Fell a written question asking him for his view of
20 that, you would know what his answer was, right?

21 A I'm not sure I would know his answer. I, I would
22 have liked to have interviewed both officers. I
23 just didn't.

24 Q Now, on, on page 8-143, you also claim they were
25 difficult to control?

1 A Yes.

2 Q But there is not even one memo identifying any
3 instance of them being difficult to control at the
4 time that the activity complained of was being
5 carried out, correct?

6 A No, I was relying on the information in the memo
7 in May of 2000 where Sergeant Field made that --

8 Q Again, so, they -- a "difficult to control" is
9 another way of saying "insubordinate", correct?

10 A Could be, yes.

11 Q And if a, if an officer is being insubordinate,
12 you would expect there to be some notation of the
13 fact that the officer had been insubordinate?

14 A Well, I thought the memo that Sergeant Field
15 prepared in May of 2000 was saying -- suggesting
16 that, and I didn't have any reason to disbelieve
17 the memo, the way she was writing it up.

18 Q Well, because you never, you never asked LePard
19 whether there was, or sorry, you never asked Fell
20 or Wolthers whether there was a reason to dis, to
21 disbelieve it, did you?

22 A I did not interview those two officers.

23 Q And neither Fell -- you didn't ask Shenher, uhm,
24 "If there was so much work that wasn't getting
25 undone, why did you never document," you never

1 asked her that question, did you?

2 A Detective Constable Shenher was a constable, the
3 same rank as these two officers. So, I don't
4 believe it was her role to supervise these two
5 officers.

6 Q May I ask you the question again? You never asked
7 Detective Constable Shenher why she --

8 THE COMMISSIONER: Well, it's an unfair question. Why, why
9 should she be asking them when she has got no role
10 to ask? That's, that's what she's trying to say.
11 She said, look, they were all constables and they
12 had -- she had no authority to ask.

13 MR. WOODALL: Well, may I follow that up please?

14 THE COMMISSIONER: All right.

15 MR. WOODALL:

16 Q A constable, who sees another constable failing in
17 his or her duty, has a duty to advise supervisors
18 of their observations, correct?

19 A I would say it would assist the organization.

20 Q And while they, Detective Constable Shenher and
21 Detective Constable Fell were of the same rank,
22 your theory is that Detective Constable Shenher
23 was in a quasi-supervisory role where she could
24 give out tasks and expect the tasks to be done,
25 correct?

1 A And my view is that, you know, running an
2 investigation in the major case management
3 principles, uhm, she was giving out tasks, they
4 should have been following the tasks.

5 Q Well, you see, what I'm confused about here is you
6 seem to be applying a double standard. When you
7 say that she's giving out tasks, you seem to say
8 that she is in some role where she has ability to
9 direct their activities. I don't understand why,
10 if they're not following those activities, she
11 wouldn't also have a role in documenting them?

12 A Well, and I believe she did, but that was in May
13 of 2000 as well.

14 Q But you didn't ever bother to ask her, "Why did
15 you not document it, why did you not document the
16 failure to carry out the tasks at the time the
17 tasks that were supposed to be done?" You never
18 asked her that question?

19 A I don't recall whether that -- you're suggesting
20 -- you have obviously read the interview. I mean,
21 I can't recall right now whether I asked that
22 question or not of her when I interviewed her.

23 Q Did you ever ask that question of, of Field, why
24 she never, aside from making a notation in that
25 log, that she never took any steps towards

1 reminding the officers of their duty to get the
2 work done?

3 A I may have asked her that, but right now I have no
4 recollection.

5 Q Do you think, with the benefit of hindsight, it
6 would have been better, before you issued these
7 criticisms, these serious criticisms of Constables
8 Fell and Wolthers, to give them an opportunity to
9 tell their side of the story?

10 A No, I believe my comments were based on the
11 documents I reviewed and the interviews I
12 conducted, that I was fair in my assessment.

13 Q Was there any other officer who you criticized by
14 name who you did not interview?

15 A Hmm, I have to think about that question. I don't
16 know the answer to that right now. I would have
17 to put my mind to that.

18 Q If you didn't, wouldn't you, upon your principle
19 that everyone should be treated equally, wouldn't
20 you agree that Fell and Wolthers were treated
21 unequally?

22 A Well, I can say that I made efforts to interview
23 those two officers and unsuccessfully. I was not
24 able to meet up with them. Uhm, I didn't hear
25 their side of the story. I believe that I

1 received enough information from my interviews of
2 others, as well as the documents that I reviewed,
3 to make those criticisms.

4 MR. WOODALL: Those are my questions. Thank you.

5 THE COMMISSIONER: Okay. Thank you. Mr. Hern.

6 MR. HERN: I just want to clarify one thing on the record
7 because the package that Mr. Woodall introduced
8 left off at August 23, where they were looking for
9 the documents from my office and, uhm, and it
10 doesn't show when those were delivered, and I just
11 want to clarify that, that, that my office did not
12 wait until after August 31st to deliver them.
13 They were delivered by e-mail on August 23 at 2:30
14 p.m., and, uhm, and there were substantial
15 documents. And Mr. Woodall is correct in terms of
16 the record, there was some difficulty with
17 concordance in that period between the 8th --

18 THE COMMISSIONER: Yes, I think I --

19 MR. HERN: But they did get out before the 31st. So, I just
20 wanted to leave that on the record.

21 THE COMMISSIONER: No, I think I understand the time
22 constraints involved in, in, in all of these
23 things, that there was a, there were timelines to
24 get all of this stuff done, and I am sure that you
25 didn't withhold those, that -- I think I have -- I

1 understand what you are saying, that you didn't
2 have the documents at that time.

3 MR. HERN: No, but they did get out on the 23rd.

4 THE COMMISSIONER: Right.

5 MR. HERN: Yes, yes.

6 THE COMMISSIONER: Okay. Anything more?

7 MR. WOODALL: No.

8 THE COMMISSIONER: Okay. Mr. Vertlieb?

9 MR. VERTLIEB: We've covered the cross-examinations. Perhaps
10 the witness could be stood down and I could
11 address you on some timing issues.

12 THE COMMISSIONER: Okay. Before you are, Deputy Chief, I want
13 to thank you sincerely for coming here and, and
14 testifying, and I know it hasn't been easy. And I
15 just want you to know that, that I and everybody
16 else here very much appreciate what you have done
17 and the professionalism with which you've
18 approached this task and, and the help that you
19 have given all of us. And I know that it's been
20 hugely disruptive of your life and your career to
21 come here. But I just want you to know that we
22 sincerely appreciate that.

23 I also want you to convey our appreciation
24 and thanks to your executive director, Fred Biro,
25 who I have known for many years; and the Peel

1 Police Board Chair, Emil Colb; and of course, your
2 chief, Chief Metcalf, who has been more than
3 accommodating in allowing you to be here. We know
4 you have other important duties to, to attend to
5 in Peel, and being the rank that you are, we
6 understand that. We understand that, that this
7 has meant that your department has had to do
8 without you while we've heard you here, and I just
9 want to thank you for all of what you have done.

10 THE WITNESS: Thank you, Mr. Commissioner. Thank you.

11 **(WITNESS STOOD DOWN)**

12 MR. VERTLIEB: Now, Mr. Commissioner, we had planned to be
13 dealing with the deputy chief's evidence on
14 Monday.

15 THE COMMISSIONER: Yes.

16 MR. VERTLIEB: And you have heard about those plans and we've,
17 of course, heard about the events of today, so
18 that she could not be finished. But the reason I
19 am telling you this --

20 THE COMMISSIONER: No, I understand that, and I understand the
21 application for the adjournment, which was a
22 reasonable one --

23 MR. VERTLIEB: Of course.

24 THE COMMISSIONER: -- under the circumstances.

25 MR. VERTLIEB: Yes, it was. So, the only reason I am saying

1 this though is that we had planned that the deputy
 2 would be here on Monday, and she agreed to be.
 3 And because Dr. Rossmo had been -- is coming in
 4 from Texas, and he has his own scheduling issues,
 5 we have him scheduled to be here Tuesday morning.

6 Because some of the cross-examinations have,
 7 thankfully, taken less time perhaps than they
 8 needed to be around their original estimate, we
 9 are now at a stage where we can break for the day
 10 and I would then suggest we start back in Tuesday.
 11 Now, I know you have been putting me, as your
 12 counsel, under pressure to keep this matter
 13 moving. We've been sitting long days, much longer
 14 than a normal court day. We've been sitting
 15 Fridays, which is an inconvenience to many of the
 16 people in the room. So, when I look at everything
 17 on balance, not sitting Monday I think is
 18 something that we can provide you to live with.

19 THE COMMISSIONER: All right.

20 MR. VERTLIEB: So, I would suggest that we start in on Tuesday
 21 and I see no reason for an early start with Dr.
 22 Rossmo. Everyone knows his opinions and they have
 23 seen his documents. So, I don't intend to, as
 24 counsel, be very long with him. And we can deal
 25 with -- now, if there is a desire to start earlier

1 from people here today, we can. But I don't see
2 it as a necessary event, other than to start at 10
3 a.m.

4 THE COMMISSIONER: All right. I just want to say before
5 adjourning, I am appreciative of all counsel and I
6 know that, I know that all of you have other
7 duties to attend to at your offices. A normal
8 commission of inquiry sits Monday to Thursday in
9 order to give you an opportunity to do all the
10 other things that you need to do, and we have, we
11 have intruded into that by sitting on Fridays and
12 longer hours because we want to get this thing
13 done. But I just want you to know that I
14 appreciate all of you sacrificing your, your
15 practices to be here. Thank you.

16 MR. WOODALL: Yes, Mr. Commissioner, I would just ask that the
17 bundle of documents that I referred to can be made
18 an exhibit. I don't -- the only issue -- there
19 are some vetted documents. I don't know whether
20 it's appropriate to make it a non-public or
21 public. I don't know how complete the vetting is.
22 I don't have any concern about the e-mail string
23 from me, but there are third party or documents --

24 THE COMMISSIONER: Okay. Well, why don't you iron that out
25 with Mr. Hern and then we could do that on

1 Tuesday.

2 MR. HERN: Well, I think it should go in as non-public because
3 there is handwritten notes of Geramy Field that
4 are hard to read. So, I would prefer them as
5 non-public, if we could.

6 THE COMMISSIONER: All right. Thank you.

7 THE REGISTRAR: That document will be marked as Exhibit Number
8 66(NR), non-redacted.

9 THE COMMISSIONER: All right. Thank you.

10 **(EXHIBIT NO. 66(NR): Bundle of documents, cover**
11 **page entitled "Cross-examination of Deputy Chief**
12 **Constable Evans, by counsel for Cst. Fell")**

13 THE REGISTRAR: This hearing is now adjourned for the day and
14 will resume on Tuesday, January 24th, at 10 a.m.

15 **(PROCEEDINGS ADJOURNED AT 1:01 P.M.)**

16 I hereby certify the foregoing
17 to be a true and accurate
18 transcription of the proceedings
19 herein to the best of my skill
20 and ability.

21
22 Gabriele Heise, RPR
23 Official Reporter, BCSRA No. 399
24 Realtime Certified Reporter
25 United Reporting Service Ltd.

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