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## THE CORNWALL PUBLIC INQUIRY

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### FINAL SUBMISSIONS OF THE MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

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## I. Introduction

These are the final submissions of the Ministry of Community Safety and Correctional Services (“MCSCS”) for Phase 1 of the Cornwall Public Inquiry.

The Ministry of Community Safety and Correctional Services is privileged to have played an integral role in this Inquiry. The issues and evidence were complex and proved to elucidate many deficits in the responses of public institutions engaged with what were very challenging allegations. We sincerely hope that all parties who played a role in this Inquiry, including the victims, the people of this Province, and most importantly the community of Cornwall appreciate the hard work and novel thinking that has gone into the tackling of issues arising from events that span some five decades and involved many people and institutions.

### Mandate

The Cornwall Public Inquiry (hereafter “the Inquiry”) was created by Order in Council dated April 14, 2005 for the purpose, *inter alia*, to

2. ...[I]nquire into and report on the institutional response of the justice system and other public institutions, including the interaction of that response with other public and community sectors, in relation to (a) allegations of historical abuse of young people in the Cornwall area, including the policies and practices then in place to respond to such allegations...

From the outset of the Inquiry there were questions about the precise nature of the mandate, including whether the Inquiry would hear evidence from victims of sexual abuse in a trial-like setting. This was ultimately decided by the Ontario Divisional Court in *MacDonald v. Cornwall Public Inquiry*. In that decision, the Court explored

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the tension between allowing victims to testify about what had happened to them, as distinct from hearing that evidence for the purpose of deciding the truth of the allegations. The Court held that:

We accept that part of the Commissioner's mandate may include assessing whether the information available to the police or other authorities should have warranted a different response. However, as already indicated, we disagree that making such an assessment will require the Commissioner to make a determination as to the truth of the complaint. *Rather, the Commissioner will have to ask, "based on the information available, what should they have done".* (emphasis added)

*MacDonald v. Cornwall Public Inquiry* 2006 Carswell Ont 5375 (Div. Ct.)  
at par. 14.

Despite the Court's clear direction on the limited purpose of the victims' testimony, the Ministry takes this opportunity at the outset of its submissions to emphasize how important it was for victims to have a voice at this Inquiry. Thus, the entire Inquiry has been proceeding on the basis that victim testimony would not be challenged for the veracity of the complaint. This has served two purposes. First, it enabled the Inquiry to receive sufficient detail of allegations without subjecting the witness to further victimization and trauma that can arise during the course of testimony. Second, it allowed for a foundation to be laid before the Inquiry in which to gauge and assess institutional response.

At this conclusory stage of the proceedings the Ministry now highlights its position that the real issue for the Inquiry is how the Ministry responded to information when it became available. Therefore, at times in these submissions when the Ministry discusses evidence of various victims the Ministry does so with the clear understanding that it has never been the object of the Inquiry to determine who was abused and when. If the Ministry in these submissions does not argue for or against



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accepting the evidence of any particular victim it is because the Ministry is, in law, not called on to do so.

The Ministry also recognizes and wishes to emphasize that the human toll exacted on the victims, their families and the community, has also had an impact on Ministry staff who were, and still are, providing services to the victims.

## II. Executive Summary

In our submissions, the Ministry discusses the evidence in the following areas:

**Part 1. The Victims.** Here we discuss the evidence of several witnesses whose evidence portrayed victimization at the hands of probation officers. One of the guiding themes, which run throughout this section, is the inability of the victims to report the abuse at the time to civil authorities, or at all. Thus, in the case of Nelson Barque, the disclosure was generated from a collateral source, and not a victim. While the Inquiry heard thoughtful evidence about the many reasons why this is so, it nonetheless left the Ministry without *timely* knowledge of the activities of Nelson Barque and Ken Seguin. In the case of Ken Seguin there were, to be sure, reports of unusual activity during the course of his employment, it is only after his death that knowledge coalesces to the point of hard information about abuse.

An additional theme that runs throughout the evidence of the victims is the secretive way in which both Ken Seguin and Nelson Barque operated. Mr. Barque and Mr. Seguin were both quite successful in keeping their abusive activities hidden from all but the victims. Although this may be one of the hallmarks of predatory behaviour, it is also one explanation of how the Ministry failed to learn of the conduct until after Mr. Seguin's death, and in the case of Nelson Barque until the time a collateral source reported the conduct.

Furthermore, in addition to the distrust of authority arising from the nature of the abuse, Mr. Barque and Mr. Seguin exploited the victims' inability to come forward because of shame and trauma. The victims' evidence goes some distance to explain how Mr. Barque and Mr. Seguin could operate undetected for an extended period of time. In this section, we also examine the evidence of a relative of a victim who had the distinction of being the only witness who was a confidant of Ken Seguin. She herself knew nothing of the abuse.

**Part 2. Ministry Knowledge.** In this section we review evidence heard from Ministry witnesses, and those working for other institutions. We discuss this on an event-based analysis. It is the Ministry's argument, amply supported by the record, that knowledge by Ministry personnel of the abusive activities of Mr. Barque was confined to April and May of 1982. In the case of Ken Seguin it was only after his suicide that knowledge rose to a sufficient level that the Ministry could say that Mr. Seguin had been conducting himself in an abusive manner. There may have been weak rumours about Ken Seguin prior to then, but only that.

Mr. Seguin and Mr. Barque had both been careful not to share much of their private lives with their co-workers. This was one feature of the different layers of their personalities. Another aspect of the evidence suggests that, at least in Ken Seguin's case, he was effective in projecting an image of an upstanding respected member of the criminal justice community. Many of the witnesses described him as "Mr. Probation", and this appeared to deflect some measure of scrutiny over his professional work. In this sense, Mr. Seguin was able to surreptitiously exploit the human nature of his co-workers.

Against this backdrop, was the functioning of the office during the tenure of Mr. Barque's and Mr. Seguin's employment. Peter Sirrs conducted a preliminary investigation into an allegation against Nelson Barque in 1982. Up until that point, there was no indication provided to Peter Sirrs to suggest any inappropriate conduct on the part of Nelson Barque. There is nothing that Peter Sirrs could have done to supervise Nelson Barque during the usual course of business to detect something that was itself designed to operate surreptitiously. What we can learn from this period of time is that certain persons in the community had disparate pieces of information about Nelson Barque's conduct, which for one reason or another was not communicated to Peter Sirrs or the Ministry until the spring of 1982.

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The Peter Sirrs investigation into the activities of Nelson Barque was conducted efficiently and in an appropriate manner. The Ministry's referral of the brief to the Attorney General for an opinion on public prosecution reflects the Ministry's interest in not only being transparent but also in seeking appropriate redress for what may have been a transgression of the criminal law.

The scope of the investigation admittedly failed to take steps that might have sourced out additional victims. However, Nelson Barque's active files were subject to scrutiny as a result of the policy requiring the review of all supervision files assigned to a PPO1. In addition, Peter Sirrs had requested that Ms. Cardinal advise him of anything unusual relative to the caseload that she took over upon Mr. Barque's departure. Beyond that, there was no thought given to a broader investigation involving former clients. The efficacy of sourcing victims through this method remains unclear.

Although the Ministry was possessed with knowledge of Mr. Barque's activities by May of 1982, it did not share that information with any agency beyond the Ontario government. What cannot be said is that Mr. Sirrs ever provided a "letter of reference" to Pierre Landry, of L'Equipe Psycho-Sociale. Peter Sirrs provided nothing more and nothing less than a confirmation of employment.

During Emile Robert's tenure as Area Manager, a number of events occurred, which ought to have spurred Mr. Robert to conduct closer scrutiny of Ken Seguin. These events are apart from staff and the Area Manager's knowledge of Ken Seguin's informal "social work style" with his clients. The evidence establishes that staff in the Cornwall office regarded Ken's questionable contact with clients, not as indicative of an individual who took advantage of clients, but the opposite - an individual who sought to develop a rapport with clients while going above and beyond his duties to assist them. This was the "Mr. Probation" persona.

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Admittedly, this optic shielded Ken Seguin from a more in-depth scrutiny of his conduct with clients, but this may have been a facet of Mr. Seguin's complex personality. When certain staff were concerned with his conduct, they sought to determine if their suspicions had any merit. In their eyes, it didn't. The staff certainly was aware of conduct that the Area Manager was equally familiar with. The Area Manager was in the best position to make linkages between events and was obligated to take greater action most notably in the Travis Varley incident but did not.

The tension in the office was created partly by the interplay of the management style of Emile Robert and partly by the strong personalities in the office. This may have negatively impacted on the free-flow of information between staff and management. This may also have shielded Ken Seguin from greater scrutiny by Emile Robert.

The effect of Emile Robert's difficult management style was not confined to the Cornwall office. In his contact with his supervisor, Roy Hawkins, Mr. Robert failed to report matters in a timely manner, and at other times tended to over-consult with the Regional Office. Thus, his reporting of Ken Seguin's involvement in the Travis Varley episode was both late and inadequate. Mr. Robert failed to call Mr. Seguin to task, despite Mr. Hawkins' guidance that such discipline was called for. Although Mr. Hawkins did not adequately note up Mr. Robert's file for the inadequacy of his handling of this incident, or conduct his own investigation, the Ministry emphasises that Mr. Seguin reported to Mr. Robert and it was Mr. Robert's failure to supervise Mr. Seguin, not Mr. Hawkins'.

In the aftermath of Ken Seguin's death, Emile Robert continued his failure to react to increasing evidence of Ken Seguin's activities, which was now coming to the fore. Furthermore, the evidence is clear that tensions in the office continued to rise. That, coupled with the fresh allegations in 1994 and 1995 of Nelson Barque's abuse of Albert Roy should have caused Mr. Robert to recommend an investigation

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or some form of operational review of the Cornwall office. Deborah Newman ultimately arranged for the services of a mediator and then removed Mr. Robert from that position to another office. During this period, not one staff member spoke with Deborah Newman about untoward issues of Nelson Barque or Ken Seguin. This can be attributed to the poor labour relations in the Cornwall office at that time.

At a separate level in 1993, the Ministry received a report from David Silmsler of allegations of abuse perpetrated by Ken Seguin. Lenna Bradburn, the Manager of the Independent Investigations Unit, contacted the Cornwall Police and the Ontario Provincial Police about the complaint. Based upon information she received from the police, Ms. Bradburn decided that Bill Roy, the Regional Manager who initially spoke with David Silmsler, should contact Mr. Silmsler to request that his complaint be forwarded in writing to the Deputy Minister's office.

Ms. Bradburn discussed this course of action with Loretta Eley, the Executive Assistant to the Deputy Minister, who agreed with Ms. Bradburn that once the complaint was received in writing, IIU would make a determination whether to conduct an investigation. Although, the course of action taken by IIU was appropriate according to Ministry policy and practice, the Ministry acknowledges that this course of action created an extra barrier for a complainant to come forward and failed to address a larger issue, that the complainant also alleged that there were other victims and that he was seeking counselling.

**Part 3. Ministry Action.** As events unfolded in the mid-1990s the Ministry came to have a clearer understanding of what Mr. Barque and Mr. Seguin had perpetrated during the course of their employment. Commencing in about 1997 clients began discussing their abuse with their current probation officer. This caused the Ministry to respond in a variety of ways. For instance the local office prepared a protocol for eliciting and receiving these disclosures, and thoughtfully implemented that along with supportive training and appropriate referrals to

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community resources. At the same time, the operational challenges facing the Cornwall Office were exposed and corrected. In 2000, the Ministry commenced an administrative review by Paul Downing, which alerted various persons with a better understanding of the narrative.

The Administrative Review conducted by Paul Downing was taken to its conclusion and provided the Ministry with confirmation that current clients were not at risk and that the allegations were historical in nature. The fact that current clients were not at risk was foremost in the minds of Ministry officials.

As well the Ministry's focus in this time frame was on the appropriate response to the many victims who came forward and those whose disclosure was elicited by Cornwall Probation Staff. There can be no doubt that the creation and implementation of the local protocol and the actions of the local staff enabled many victims to come forward with their disclosures and to receive appropriate help and referrals.

It is acknowledged by the Ministry that further avenues of investigation were open to the Ministry but given the novelty of the crisis and focus on the local response, thought was not given to file reviews or other methods to seek out additional possible victims, or to gain a more fulsome understanding of the activities of Ken Seguin and Nelson Barque. The Ministry also clearly understands from the findings in the Downing Review, and from the closer examination of events throughout this Inquiry, that the collation, retrieval and transmission of incident information among management was systemically lacking.

That said, the local response of the Cornwall Probation and Parole office, with the support of senior management, was both exemplary and commendable. The local response was appropriate, client-focused, and timely in providing a safe forum for disclosure of allegations and the application of resources to assist in healing. It also created a template for a continuum of client care, regardless of how they suffered

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the abuse. Moreover, the Cornwall Office sought to deal with the crisis in a consistent and transparent manner, including reporting of all allegations to the police and advising clients of their rights, including civil remedies.

**Part 4. Evolution of the Ministry.** In this section we discuss the evolution of the Ministry from a number of different perspectives including its organic growth from an enforcement focused to a client intervention focused institution with a holistic view of clients. This similarly included a paradigm shift in the manner in which youth in Ontario were both viewed and treated with the creation of the Youth Ministry. In this section, we seek to provide a comprehensive view, both historical and current, of various mechanisms in place to limit the risk of events repeating themselves.

**Part 5. Recommendations.** In this section, we outline the thoughtful recommendations of Deputy Minister Newman, and the implementation steps that have been taken since February of 2008. These recommendations and steps are aimed at addressing immediate gaps that have been identified at the Inquiry and therefore positioning the Ministry to conduct further study and review pending the Inquiry Report.

The MCSCS offers our respectful submissions as follows.



### **III. Factual Mosaic of the Allegations involving Ken Seguin and Nelson Barque**

#### **Alleged Victims – Summary**

In these submissions the MCSCS chooses to summarize only a handful of the alleged victims who testified before the Inquiry. Each of the witnesses in this section, except for Benoit Brisson, complained to the Inquiry of abuse at the hands of Nelson Barque, Ken Seguin, or both. We have done this to outline certain themes, which we believe will assist the Commissioner in assessing the Ministry's institutional response.

One of the themes that emerge from the Victim's evidence is the lack of reporting to the civil authorities during the time of the abuse. In the case of Benoit Brisson, for instance, although no abuse happened at the hands of Nelson Barque, Benoit did not complain to civil authorities of Mr. Barque showing him pornographic movies after hours in the probation office. Rather, he chose to take the issue up with Father Deslauriers. The point is that at the time of Mr. Barque's unusual conduct (which would be 1979), community norms and standards did not guide Brisson to complain to the civil authorities about Mr. Barque. The same holds true with Albert Roy, who did not disclose Mr. Barque's abuse until many years after the fact. Even David Silmser, whose evidence poses its own unique problems, did not report the abuse that was the subject of his complaint until he had reached adulthood.

Another theme, which emerges from examination of the alleged victims' evidence, is that both Nelson Barque and Ken Seguin appear to have taken steps to keep their relationships with probationers secret. This ranged from threatening probationers who might have considered reporting the abuse, to operating at night or behind locked doors. We also discuss in this section the idea that Ken Seguin was a man

with two very different personalities; one was “Mr. Probation”, the other apparently engaging in inappropriate conduct with younger men or boys.

The Ministry’s argument here is that there was ‘Ken’ on one hand, and ‘Kenny’ on the other. The former was known at the office as “Mr. Probation”; the latter was a man taking up sexually with young men and boys. Mr. Seguin was careful to keep the two personalities apart. At the office he was Ken, a probation officer with no real confidant who knew about his sexuality, but “Kenny” was very different. Although ‘Kenny’ apparently confided with a community friend Carole Hesse, the sister of Gerry and Robert Renshaw, even she did not suspect that there was abuse in his relationship with her two brothers. The same is true for Doug Seguin, Ken Seguin’s brother, who was also unaware of his brother’s other side. This amply demonstrates the various layers of Ken Seguin’s personality.

*Volume 166, p. 7, 9; Volume 167, p.78; Volume 168, p. 115*

The conclusion which can be drawn in this section is that one of the reasons that the Ministry had no knowledge of ongoing abuse by either Ken Seguin or Nelson Barque during their employment at the Ministry is because both Probation Officers took various steps to conceal their activities. Another reason is that community standards in place at the time contributed to an environment where complaint to civil authorities was not obvious for victims.

## **David Silmser**

### **General Background to Abuse Allegations**

Mr. Silmser commenced his testimony on January 29<sup>th</sup>, 2007. He was then 49 years of age, having been born on March 24<sup>th</sup>, 1958. He was born and raised in Cornwall. Mr. Silmser was raised Roman Catholic. He became an altar boy at St. Columban’s Church when he was in grade six, at the age of 11. He described

himself as being very devout and aspiring to be a priest. Mr. Silmser served at funerals and weddings, attended retreats and was involved in the church.

*Volume 85, p.p. 31 to 34, and 40*

Mr. Silmser attended St. Anne's Catholic school, St. Columban's West, Bishop MacDonell middle school and then Cornwall Collegiate Vocational School. He described that he did well in school prior to being abused. His grades began to deteriorate after grades 7 and 8. His relationship with his parents also changed, as he didn't abide by his parents rules and started to live on the streets at an early age.

*Volume 85, p.p. 34 to 37*

David Silmser recounted that three different individuals sexually abused him when he was a young person. The first alleged abuse occurred when he was an altar boy. Father Charles MacDonald was usually the priest in charge of the altar boys at the Church. David Silmser testified that Father Charles MacDonald sexually abused him on approximately four occasions.

*Volume 85, p.38, p. 42*

David Silmser alleged that the second abuser was Marcel Lalonde, a schoolteacher at Bishop MacDonell School. The third abuser was alleged to have been Ken Seguin, who was a Probation and Parole Officer with the Cornwall Office.

*Volume 85, p. 43*

### **Allegations of Abuse Committed by Ken Seguin**

David Silmser testified that at about the age of 15, when he started living on the streets, he was charged with theft of money from a parish church. He was placed on juvenile probation for one year with Ken Seguin as his probation officer.

*Volume 85, p. 47*

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Over the course of several years, David Silmser was convicted of a number of property related offences, and was placed on probation, or paroled after serving a jail sentence, with Ken Seguin as his supervisor. David Silmser testified that Ken Seguin sexually abused him while he was on probation. He stated that the abuse occurred on at least three occasions and he recalls that the locations consisted of Ken Seguin's office, Mr. Seguin's apartment at the east end of 2<sup>nd</sup> Street, and Mr. Seguin's house on Alguire Street, in Cornwall. The abuse is alleged to have occurred over a two to three year time period, commencing when David Silmser was approximately age 15 and ending either at age 17 or 18.

*Volume 85, p.p. 48 to 54*

David Silmser recounted that Mr. Seguin did not assist him in finding a permanent residence. However, he recalled that Ken Seguin invited him to his house and gave him rye and coke or beer, and sexually abused him. Mr. Seguin is also alleged to have threatened to put Mr. Silmser back in jail, or to revoke his parole or probation if Mr. Silmser did not do a "few things".

*Volume 85, p. 52*

Mr. Seguin is alleged to have supervised David Silmser as an adult, either on probation or parole, commencing in late 1974 at age 16 up to and including his early 20's. David Silmser's last conviction was in 1987. He recalled only having Ken Seguin as his probation officer up to possibly 1982. The alleged abuse did not continue into Mr. Silmser's 20's as he testified that it only occurred between ages 15 to 17, or possibly 18 years of age.

*Volume 85, p.p. 54, 71-72*

David Silmser had ongoing contact with Ken Seguin well into his twenties, if not longer, as Mr. Seguin remained his probation and parole officer. One such example is a January 14<sup>th</sup>, 1981 pre-parole report authored by Ken Seguin, wherein it is noted that David Silmser is "capable of manipulating the system; craftiness is a cause of concern."

*Volume 85, p.p. 68, 70, Exhibit 260*

**Ken Seguin and Father Charles MacDonald**

David Silmser recalled only one meeting with Father Charles MacDonald, Ken Seguin and himself. He never alleged any abuse by both Father MacDonald and Ken Seguin at the same time, or one in front of the other. David Silmser simply understood that Ken Seguin and Father MacDonald were friends.

*Volume 85, p. 63*

However, at the close of his examination in chief, David Silmser stated that Ken Seguin had informed him that he knew what Charles MacDonald “was doing, type of thing.” David Silmser did not recall the words used by Ken Seguin.

*Volume 87, p. 113*

**Ken Seguin and Nelson Barque**

David Silmser recalled Nelson Barque as a probation and parole officer in the Cornwall office. While David Silmser was in Ken Seguin’s office when he was on probation at age 15, Nelson Barque supposedly came into the office and spoke with Ken Seguin openly about a bar they were going to in Montreal where guys were wearing g-strings. David Silmser described that they were laughing and joking like it was just something normal. He had no other contact with Nelson Barque.

*Volume 85, p.p. 72-73*

**Disclosure of Abuse at time of Alleged Abuse**

David Silmser testified that he did not tell anyone about the abuse when the abuse was occurring and did not tell people even years after.

*Volume 85, p.p. 65, 73*

### **Disclosure by David Silmsler to Police and Investigation**

David Silmsler first disclosed the history of sexual abuse to a person in authority in 1992, while at the OPP Long Sault detachment during an arrest for an impaired driving offence. He did not recall how much detail he provided at that time. David Silmsler then later contacted the Cornwall Police Service by telephone on December 9<sup>th</sup>, 1992 and spoke with a Sergeant Nakic. David Silmsler provided information that when he was an altar boy at St. Columban's Church 20 years prior Father Charles MacDonald sexually assaulted him. He further informed the Sergeant that a probation officer, Ken Seguin, who was a friend of the priest, sexually assaulted him.

*Volume 85, p.p. 99-101, Volume 87, p.p. 136-137*

Sergeant Claude Lortie subsequently contacted David Silmsler on December 14<sup>th</sup>, 1992 to arrange a meeting that was ultimately set for January 1993. Prior to the meeting, Constable Sebalj contacted David Silmsler to meet with him and interview him regarding his allegations. At that time, David Silmsler complained about a female officer being assigned, as he would have been more comfortable with a male officer.

*Volume 85, p.p. 99 to 101, Volume 86, p. 3*

His interview with Cornwall Police occurred on January 28<sup>th</sup>, 1993 with officers Heidi Sebalj, Kevin Malloy and Ron Lefebvre. The interviewing officers recorded the interview in police notes. Although Mr. Silmsler provided details about other alleged abusers, he recalled only mentioning Ken Seguin's name at the end of the interview, but he did not elaborate on the specifics of the allegations.

*Volume 86, p. 6*

At the end of the meeting, Mr. Silmsler was frustrated because nothing was really advancing. He stated to the Inquiry that they didn't say they were going to investigate this and do this and do that. He noted "I had never had any information

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at the end of the meeting that was going to go on.” He was provided a form to fill out – to write a statement. David Silmser expressed that it was a difficult task and it took him approximately three weeks or so to draft the statement.

*Volume 86, p. 10, p.p. 26-27*

Ultimately, Mr. Silmser provided a written statement to Constable Sebalj on February 16<sup>th</sup>, 1993. The statement contained only passing reference to Ken Seguin with no particularity or details of allegations against Ken Seguin. Mr. Silmser confirmed in his evidence that he only wrote that Ken Seguin abused him but he did not go into details.

*Volume 86, p. 29*

David Silmser told the Inquiry on January 29<sup>th</sup>, 2007, that the Crown Attorney would not lay charges. Heidi Sebalj at the time said, “We can’t lay charges because the Crown doesn’t want to go ahead with it.” He stated that his hands were tied and that it was just one frustration after another.

*Volume 85, p. 75*

However, he commented in his evidence on January 30<sup>th</sup>, 2007, that it was hard enough for him to come forward on Charles MacDonald and Ken Seguin, and so he stated “it was – that’s why I didn’t go into detail with Ken Seguin also. It was a step-by-step thing with me. And I just wasn’t ready, you know, to tell the whole thing.”

*Volume 86, p. 30*

Constable Sebalj went to David Silmser’s home on March 10<sup>th</sup>, 1993. He signed the statement that day. The police officers told him that they had the statement analyzed and that it came back truthful. Constable Sebalj did not, according to his recollection, bring up Ken Seguin’s name during the meeting.

*Volume 86, p. 33, 34, 35, 40*

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Mr. Silmser did not recall if he stated to Constable Sebalj on March 10<sup>th</sup>, 1993 that he could only deal with one alleged abuser at a time and that the police should focus on Father Charles MacDonald at that point in time, but he recalled having had difficulty dealing with more than one at a time.

*Volume 86, p.p. 41 to 42*

Mr. Silmser stated that he did not have a lawyer representing him during the period of December 1992 through the time period he was meeting with members of the Diocese and the Cornwall Police Service up to and including September 2<sup>nd</sup>, 1993, when he met with Malcolm MacDonald about settlement with the Diocese. It was only at that time he obtained the assistance of lawyer, Sean Adams.

*Volume 86, p. 42, 44*

David Silmser stated that he did not have contact with Constable Sebalj, or any other officer regarding the investigation over the ensuing months, until August of 1993 when Constable Sebalj returned his call. Mr. Silmser recalled that prior to August of 1993, Constable Sebalj said they were dropping the case because there was no further information that came forward. So he did not expect any calls from her as he thought that the case was finished. However, he did recall speaking with Constable Sebalj on or about August of 1993 and asking for an update on the investigation. David Silmser seemed to recall Constable Sebalj advising him that she was seeking an opinion from a Crown prosecutor. However, he specifically recalled being informed that he still was the only victim, and that the police were telling him that the case was going to be dropped, “we can’t go ahead with the case; it’s come to an end.”

*Volume 86, p.p. 45-46, 47*

David Silmser also stated that Constable Sebalj was seeking an opinion from an outside Crown, which was something he could not understand. He stated “why would she be seeking an opinion for an outside Crown if she tells me the case is finished?” So by the summer of 1993, David Silmser professed that he believed the



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criminal process regarding his complaint against Father MacDonald and Ken Seguin was finished. He did not recall police ever raising Ken Seguin's name in their discussions with him. In his interview with the O.P.P. on February 22<sup>nd</sup>, 1993, David Silmsler recounted that the Cornwall Police kept on saying that they did not know what was going to happen and that they would have to bring in an outside Crown. Finally, he asked them if they were going to proceed with charges and the response was that they were not going to at that time.

*Volume 86, p.p. 47-48, p. 80; Exhibit 267*

David Silmsler's version of events is at odds with the notes of Constable Sebalj, in particular her notes of August 24<sup>th</sup>, 1993:

"12:09 Returned TC to David Silmsler. Requesting progress report; advised simply awaiting meeting with out of town Crown to review and I asked him if he pursued counseling.... Asked for his school marks. Stated we'd check on progress. Very good mood. Advised he was not in any hurry; don't care if take another four months."

*Volume 90, p. 204*

David Silmsler denied ever saying to Constable Sebalj that he was not in a hurry and didn't care if it took another four months.

*Volume 90, p. 205*

Further, David Silmsler's evidence that he was told that the investigation ended is inconsistent with the letters exchanged between Cornwall Police and the Crown Attorney's office regarding the effect of the civil settlement with the Diocese on the viability of prosecution.

*Volume 90, p. 207*

**Settlement with the Diocese**

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In August of 1993, David Silmsler received a call from Malcolm MacDonald to try and settle the Diocese matter. In discussion with Malcolm MacDonald, Mr. Silmsler was advised that there would be no apology from the Diocese but that there would be a monetary settlement. The amount of \$32,000.00 was mutually agreed, and consisted of \$20,000.00 for abuse and \$12,000.00 for potential costs of counselling.

*Volume 86, p.p. 48-50*

David Silmsler recalled attending Malcolm MacDonald's office, possibly on September 2<sup>nd</sup>, 1993, in regard to signing the settlement agreement. David Silmsler contacted Sean Adams, a lawyer who Mr. Silmsler had engaged before on a real estate transaction. Mr. Silmsler recalled Father MacDonald coming into the office and leaving after meeting with Malcolm MacDonald for a few minutes. He then recalls Sean Adams attending and meeting with Malcolm MacDonald privately for a few minutes. Sean Adams then came out to the reception area and handed an agreement to David Silmsler to review and sign. David Silmsler expressed that he just wanted to get out of the office and so he did not read the document and assumed that Sean Adams would have reviewed it.

*Volume 86, p.p. 53-55*

Mr. Silmsler signed a number of documents on September 2<sup>nd</sup>, 1993 including: exhibit 263, a Full Release and Undertaking not to Disclose; exhibit 264, a Certificate of Independent Legal Advice; exhibit 265, an Acknowledgement; exhibit 266, a direction to Cornwall Police, to Sergeant Luc Brunet and Constable Heidi Sebalj.

*Volume 86, p.p. 57-61*

David Silmsler denied that any of the documents were ever explained to him. He stated that they were just placed in front of him for signature.

*Volume 86, p.p. 65-66, 69*

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In replying to Commission counsel's question about discussions with Sean Adams regarding his inability to comment on the amount of the settlement - whether it was fair or not - David Silmser stated that "I don't believe any conversation in any - anything to do with these documents or the settlement took place. I told him that I just came in to sign the papers for the \$32,000.00 and I needed a lawyer."

*Volume 86, p. 68 - lines 11 to 15.*

When David Silmser was interviewed by the O.P.P. on February 22<sup>nd</sup>, 1994 concerning Father Charles MacDonald and Ken Seguin, Inspector Smith asked him about the settlement papers. David Silmser is noted as stating that Sean Adams reviewed the papers with him, and when asked about Sean Adam's advice, "Well, he said, 'you should hold back and ask for more or I should have hold off... You should take some time. I can review this a little closer.' I said, 'No, I just want to get it over'."

*Volume 86, p. 77; Exhibit 267*

David Silmser admitted to Commission counsel that he remembered saying the above to the O.P.P. but he can't remember exactly what the discussion was but that it was minimal. He acknowledged that he was given this advice from Sean Adams but that he told Sean Adams that he did not want to hold off and just wanted to sign the papers.

*Volume 86, p.p. 77-78*

The cheque was delivered to his lawyer Sean Adams on September 2<sup>nd</sup>, 1993 with a cover letter regarding holding the cheque in escrow until the Cornwall Police advise that Mr. Silmser had attended the police station and advised them that he did not want to proceed with the charges. Mr. Silmser informed the Inquiry that he was told by Sean Adams that he had to go to the police station, otherwise the cheque would be returned. Mr. Silmser attended the police station and provided those instructions to police in his own handwriting on September 29<sup>th</sup>, 1993.

*Volume 86, p.p. 81-84; Exhibit 268*

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Exhibit 269 is a copy of a short handwritten statement signed by David Silmser that he provided to Constable Sebalj. Constable Heidi Sebalj also signed the note. The statement was written out at the front desk of the police station. He provided this handwritten note to police in compliance with the requirement in the letter from Malcolm MacDonald. The note stated “I David Silmser received the settlement to my satisfaction from the Cornwall Catholic Diocese. I wish this matter against Father Charles MacDonald be closed.” He had a brief discussion with Heidi Sebalj, wherein she may have stated something to the effect, “Are you sure you want to do this, Dave.” She did not appear to express any concern for what he was doing, nor request any information about the settlement.

*Volume 86, p.p. 85-88, p.p. 92-93*

While at the police station, David Silmser recalled seeing Ken Seguin on the first floor drinking from the water fountain. He recalled Ken Seguin watching him interact with Constable Sebalj for about five minutes. At that time, the probation and parole office was still in the same building as the Cornwall Police station.

*Volume 86, p.p. 88-89*

Notes of Constable Sebalj of September 29<sup>th</sup>, 1993 confirm Mr. Silmser’s attendance and that Mr. Silmser appeared “Anxious to leave. Apologized for amount of work entailed and stated he was concerned about how court would go. Stated he waived (weighed) the options and chose the sure thing.” David Silmser did not recall saying that to Constable Sebalj.

*Volume 87, p. 203*

**Progress of Investigation into Allegations against Ken Seguin**

After March of 1993, there was no discussion with police about their investigation into Ken Seguin. David Silmser told the Inquiry that he had no expectation because he never mentioned it, nor did they [police] mention it to him. The police had not

informed David Silmser either whether any other alleged victims had come forward regarding Ken Seguin.

*Volume 86, p. 98*

David Silmser did not recall and denied that Constable Sebalj and the Cornwall Police ever attempted to contact him or in fact spoke with him about whether he wished to proceed with the charges against Ken Seguin. He similarly denied and had no knowledge of Mr. Sean Adams being contacted by the police about pursuing charges against Ken Seguin.

*Volume 86, p. 129*

In addition, David Silmser has denied ever advising the Cornwall Police to not investigate Ken Seguin – “I never once ever said that, I don’t believe. But, in the middle – I remember saying in the middle of the preliminary. Actually, I didn’t say it, it was Mike Fagan that said that ‘I can only handle one case at the time right now, I have too much on my plate.’” “But never once did I say ‘Don’t investigate Ken Seguin.’”

*Volume 87, p. 148*

### **Contact with Ken Seguin, Settlement and Death of Ken Seguin on November 25, 1993**

David Silmser contacted Malcolm MacDonald shortly after his meeting with CAS. He stated he knew that Malcolm MacDonald was Ken Seguin’s lawyer.

*Volume 86, p.p. 110*

On November 26<sup>th</sup>, 1993 David Silmser provided a statement to OPP officers Millar and McDonell after learning of Ken Seguin’s death. He informed the police officers that he agreed to meet with CAS, Greg Bell and Ms. DeBellis, and that he spoke with them about his story leaving out some of the details about the sex. He then told the

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officers “I started thinking again about what happened to me. I had put one man in his place. That’s when I decided to go after Seguin for what he had done to me.”

*Volume 86, p. 114*

In the same statement David Silmser advised police “I phoned Malcolm MacDonald and asked him if he was representing Ken Seguin. He said, ‘No, not at this time.’” Mr. Silmser had no recollection of saying this to police, but did not disagree with the content of the statement.

*Volume 86, p. 115*

By at least mid-November, David Silmser had phoned Ken Seguin directly at his place of employment and told him that he wanted a settlement from him. Mr. Silmser informed OPP officers that “I phoned Ken Seguin around a week or so ago, at work. Told him that I wanted the settlement from him also, for what he had done to me. He told me to speak with Malcolm MacDonald, his lawyer.” David Silmser did recall that he had discussions with both Malcolm MacDonald and Ken Seguin in November of 1993. He further recalled telling Malcolm MacDonald he wanted \$100,000.00 and being told that this was a lot of money and that if Ken Seguin did not have the money that he was going to sue the Ministry of Probation and Parole.

*Volume 86, p.p. 116-117, Exhibit 271 (Interview Report OPP Nov 26/93),*

*Volume 101, p. 122*

There is no reference in this statement of demanding or seeking an apology from Mr. Seguin.

*Volume 101, p. 123, Exhibit 271*

Malcolm MacDonald stated that he would get back to him. Without receiving a call from Malcolm MacDonald, David Silmser called Ken Seguin at his home on Wednesday November 24<sup>th</sup>, 1993. He asked Mr. Seguin if he was going to make the settlement by Friday, and Ken Seguin told him that he didn’t think he could come up with the type of money he was requesting. The compensation sought by

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David Silmser was \$100,000.00. Malcolm MacDonald was to call David Silmser first thing Thursday. David Silmser told Ken Seguin that he had until Friday to come up with the settlement.

*Volume 86, p. 119, Exhibit 271, p. 4,  
Volume 101, p.p. 120-122*

At the end of the conversation with Ken Seguin, Ken asked David Silmser if he had gone to the Cornwall Police. David Silmser advised that he did and that he told them the truth. Ken Seguin then said to David Silmser, "Oh my God." And the phone went click.

*Volume 86, p. 121*

That night, David Silmser spoke with Sergeant Dupuis of the Cornwall Police Service and advised him that: "He was close to settling a civil suit within the next 48 hours involving a sexual abuse case. He requested that a report be submitted indicating that, should anything happen to him, that Ken Seguin or Charlie MacDonald were to be considered suspects. "

*Volume 101, p.125*

David Silmser stated to the Commission that he made this call because he was feeling paranoid.

*Volume 86, p. 130*

The next morning, Thursday, November 25<sup>th</sup>, 1993, David Silmser contacted Malcolm MacDonald to find out if there was any action on the settlement, and that is when he was informed about Ken Seguin's death. Mr. Silmser was interviewed on Friday November 26<sup>th</sup>, 1993 by the O.P.P.

*Volume 86, p. 123*

As per our alternative measures presentation in lieu of cross-examination of David Silmser, we have asserted that David Silmser was in contact with Ken Seguin

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directly as early as February of 1993 in an effort to motivate a financial settlement. As we have asserted David Silmser was more motivated by obtaining a monetary resolution than seeking a real investigation and/or prosecution of Ken Seguin.

To this end, on February 10<sup>th</sup>, 1993, Constable Sebalj has the following entry in her notes:

“10:39 t/c from V advises he called Seguin who is ‘running scared’. Advised him he’s only laying charges on MacDonald, stated he’s getting very mad.”

*Volume 87, p. 160, Exhibit 295*

This note is again repeated in Constable Sebalj’s interview report of July 20<sup>th</sup>, 1994.

*Volume 101, p. 108; Exhibit 371*

David Silmser had no recollection of this conversation, and noted that these are Sebalj’s notes.

*Volume 87, p. 162*

In the notes of Constable Sebalj of March 10<sup>th</sup>, 1993, when attending David Silmser’s residence and having him sign his written statement, Constable Sebalj has an entry in her notes about David Silmser stating:

“I don’t think I can deal with that too right now, re Seguin.”

David Silmser again had no recollection of telling Constable Sebalj the above.

*Volume 87, p. 165*

David Silmser reiterated that he had no control over the police investigation and never stated to the police not to investigate Ken Seguin.

*Volume 87, p. 166*

Again the July 20<sup>th</sup>, 1994 interview report of Constable Sebalj supports her notes of March 10<sup>th</sup>, 1993, wherein she noted that during the meeting she questioned David



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Silmser's intentions regarding Mr. Seguin and David Silmser confirmed that he could not deal with both Father MacDonald and Ken Seguin at once. David Silmser suggested to Constable Sebalj that he wanted to deal with Father MacDonald first.

*Volume 101, p.112*

David Silmser further denied recollection of the contents of the November 4<sup>th</sup>, 1993, Cornwall Police supplementary report authored by Constable Sebalj, which records:

“On the above date and time Constable H.M. Sebalj received a telephone call from David Silmser, the victim in the incident.... Silmser once again reiterated to Constable Sebalj that he didn't want to talk anymore about this, confirming he had dealt with it and now wanted to bury the issue. Silmser further advised that his lawyer had contacted him on behalf of the 'police' to inquire as to his intentions with Ken Seguin. At this, Constable Sebalj asked Silmser if he wished to pursue that matter and as before Silmser declined. Silmser made himself very clear he no longer wanted to talk about all this.”

*Volume 87, p.p. 170-171; Exhibit 296*

David Silmser further asserted, “[T]here was a lot of conversations back then. Like I said, I just don't remember this one, and if I did - - most of my - I didn't do much talking at that time, my lawyer did a lot of the work, the foot work.”

*Volume 87, p. 171*

The relevant passages from the notes of Constable Sebalj and of the above occurrence report undermine David Silmser's assertions that he did not have a lawyer acting for him during that time frame, and that he wanted the police to investigate Ken Seguin. The above evidence supports our position that David Silmser was more interested in obtaining money than pursuing charges against Ken Seguin. Had Ken Seguin been arrested on David Silmser's complaint, it would have been a watershed moment for the Ministry. This factor is significant in the failure of

important information about Ken Seguin's inappropriate activities being formally and clearly communicated to the Ministry prior to November 1993. This was the only complaint of sexual impropriety against Ken Seguin during his lifetime.

#### **Project Blue, CAS contact with David Silmser**

As a result of receiving a copy of David Silmser's statement to police, as provided by Perry Dunlop to Mr. Richard Abell, CAS sought to meet with David Silmser to interview him about his allegations. Mr. Greg Bell and Ms. Pina DeBellis ultimately interviewed David Silmser on November 2<sup>nd</sup>, 1993.

#### **Contact with Probation and Parole Services – Dec 15-17, 1993**

By Mid-December of 1993, specifically December 15<sup>th</sup>, David Silmser contacted the Regional Office of Corrections, in order to report allegations of sexual abuse by Ken Seguin. David Silmser stated that he advised Bill Roy (on December 16<sup>th</sup>, 1993), the Regional Manager, to check Ken Seguin's files and that he believed there was more than just he who was being abused. David Silmser advised Bill Roy that he was attempting to get compensation from Ken Seguin, but Mr. Seguin killed himself and he wanted compensation and counselling.

*Volume 86, p. 131, Volume 101, p.p. 128-131, Exhibit 373 (Interview Report of William Roy, dated March 1, 1994)*

David Silmser admitted telling Bill Roy that he had already gone to the Cornwall Police but was unsure whether he told Bill Roy that the police had investigated the case.

*Volume 86, p. 132*

David Silmser's recollection of the call with Bill Roy is somewhat at odds with Mr. Roy's. However, David Silmser recalled that Bill Roy was not helpful with respect to reviewing Ken Seguin's files and Bill Roy threatened to call the OPP. David Silmser

responded angrily, possibly was loud, as he recalled that Bill Roy was not listening to him.

*Volume 86, p.p. 133-134*

David Silmsner told the Inquiry that after the call with Bill Roy he never heard back from an official with the Ministry.

*Volume 86, p. 134*

As will be reviewed below in the institutional response evidence and that of Bill Roy, it is the position of the Ministry that Bill Roy did take the complaint seriously and was responsive to Mr. Silmsner.

#### **Reliability of David Silmsner**

Relevant evidence of David Silmsner that forms the factual underpinnings of interactions with the Ministry is supported by evidence of various institutional witnesses such as Bill Roy, Loretta Eley and Lenna Bradburn. Further, detailed notes of Constable Sebalj, Malloy and Luc Brunet assist in establishing the actual flow of events and the facts. However, facts that are not corroborated by independent sources must be viewed with caution. Throughout his evidence David Silmsner was given to exaggeration or fabrication. This may be due to difficulties with his memory and recall, general anger at the history of abuse he suffered or mental health issues, but nevertheless serve to undermine portions of his evidence. For example, when first questioned about contact with a Cornwall Police Sergeant David Bough, David Silmsner stated that he was contacted by the officer as he recalled that he was “taking over the investigation somehow on something or another, and he wanted to talk with me.”

*Volume 87, p. 9*

However, on further questioning about picketing in front of the Church and whether the officer spoke to him about attending at the church and picketing, David Silmsner

advised the Inquiry that “David Bough said that he would want to go and shoot me, take his gun out and shoot me if I did that... And he meant it. He was serious. So that’s pretty well when the meeting ended.”

*Volume 87, p. 11*

This is just one example of how David Silmser was indifferent to the truth of his contact with individuals or facts underlying his allegations and his contact with institutions. Other examples are denials of his instructions to Cornwall Police officers about not proceeding with an investigation against Ken Seguin, and his true purpose in 1993 up to the date of the death of Ken Seguin was to secure a financial resolution of this allegation rather than pursuing actual criminal charges. This will again be touched on during our review of Constable Sebalj’s evidence (ODE and notes).

## **Gerry Renshaw**

Gerry Renshaw’s evidence is important to this Inquiry for a number of reasons. Firstly, Mr. Renshaw testified about being abused by Ken Seguin while on probation, which is a most serious breach of trust.

Secondly, Mr. Renshaw’s evidence may be used by some parties to support the inference that individuals within the MCSCS, or even the MCSCS itself knew about this abuse. MCSCS concedes that any sexual relationship that Mr. Seguin had with Mr. Renshaw during his probationary period would have been inexcusable, and a grave breach of trust, even if there were overtones of consent on Mr. Renshaw’s part. MCSCS does not however, concede that it, or any of its staff knew of the abuse. Indeed, the facts before the Inquiry support the opposite conclusion, i.e. that no one, other than Ken Seguin, knew about the relationship.

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Thirdly, Ken Seguin's relationship with the Renshaws, and particularly Gerald Renshaw as seen through the eyes of his sister Carole Hesse, revealed the two very different sides of Ken Seguin – one secretive, and the other open.

Fourthly, the interest in Gerry Renshaw's story by Perry Dunlop showed Mr. Dunlop's interest in using those like Mr. Renshaw to prove his non-existent theory of a conspiracy in Cornwall.

Gerry Renshaw testified over 3 days in June of 2007. MCSCS does not dispute a number of facts from his testimony.

*Volumes 117 – 119 - June 19, 20, 25, 2007*

Ken Seguin knew Gerry Renshaw as a result of his siblings' involvement with the criminal justice system. It appears that Ken Seguin supervised his brothers. Mr. Renshaw testified that he would socialize with Mr. Seguin, both at his house, and at bars in town.

Although the timing is not precisely clear from his evidence, Gerry Renshaw had Ken Seguin as his probation officer. Mr. Renshaw's criminal record was marked as Exhibit 555, and discloses that he was on probation from March 23<sup>rd</sup>, 1983 to September 23<sup>rd</sup>, 1983. At that time he was 17 years old, and the *Young Offender's Act* was not in force, so youth for the purposes of administration of criminal justice ended at age 16, pursuant to the *Juvenile Delinquent's Act*. Mr. Renshaw's record also discloses a conviction, which would have resulted in a period of parole and 18 month term of probation, from October 29<sup>th</sup>, 1984 to May of 1986. At that time he would have been 19 – 20 years old. The criminal record should be compared to Mr. Renshaw's evidence before the Inquiry, where he swore that Ken Seguin abused him in 1981, when he was 16. At this time, according to his criminal record, Ken Seguin could not have been his probation officer, because he was not on probation until well over a year later.

*Volume 119, p.p. 84 – 85; 87 - 88*

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The difficulty with assessing when Mr. Renshaw was abused by Mr. Seguin relative to his probationary term is compounded by the fact that he has also given evidence in another proceeding that the abuse ended in 'roughly 1990', and 'had started 5 – 6 years prior'. On this version by Mr. Renshaw, the abuse would only have occurred in the last period of probation, not the first. That version is consistent with Mr. Renshaw's previous testimony that nothing happened when he was on the first period of probation. It is the position of MCSCS that Mr. Renshaw's evidence about when he was abused relative to his probationary periods is unclear at best.

*Volume 119, p.p. 110 et seq.; Exhibit 553, Bates p. 1058724  
Volume 118, p. 306*

Likewise, Mr. Renshaw has described an incident where he woke up at Ken Seguin's house in Summerstown being sexually abused by him for the first time. He testified before the Inquiry that this occurred when he was 20 years old, but he had told Perry Dunlop that the incident occurred when he was 21 or 22, which would be after his second period of probation had ended. The matter of timing is important because any claim that staff in the Cornwall Probation office knew of the abuse must be assessed in this light.

*Volume 119, p. 117 – 118; Exhibit 551*

What Mr. Renshaw does seem clear on is the fact that the abuse, which occurred in Summerstown, occurred prior to him moving in with Mr. Seguin, which appears to have happened in February – March of 1989. It is an agreed fact that Ken Seguin sought permission of his Area Manager Emile Robert on March 10<sup>th</sup>, 1989 for Mr. Renshaw to live with him. Notably, Mr. Seguin's request of his area manager for this arrangement was dated March 10<sup>th</sup>, 1989, advising that Mr. Renshaw would be renting a room from Mr. Seguin the very next day, March 11<sup>th</sup>, 1989. The timing supports the conclusion that Mr. Seguin either presented the letter to Mr. Robert as a 'done deal', or alternatively, he was confident that Emile Robert would approve the arrangement.

*Exhibit P-559, DocNo. 100341*

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Emile Robert wrote to his then Regional Manager Roy Hawkins on March 20<sup>th</sup>, 1989 asking for directions, which amounts to a substantial delay. Mr. Renshaw testified that he had to sign a document along with Mr. Seguin and Emile Robert at the probation office regarding that permission. Although that document has not been found, it is acknowledged that the arrangement between Mr. Seguin and Mr. Renshaw was known officially to MCSCS. For this reason, Mr. Seguin's contact with Renshaw would have been common knowledge within the Cornwall Probation Office as of March 1989. This explains why various Cornwall Probation staff would have known about Mr. Seguin's relationship with Mr. Renshaw.

*Volume 117, p. 281, Exhibit P-559*

Mr. Renshaw's relationship with Ken Seguin is curious in the context of this Inquiry because there appears to have been a close financial relationship between them. For instance, it was disclosed in the Inquiry that Ken Seguin had outright given Gerry Renshaw a 6-year-old car in 1987. Mr. Renshaw then sold that car. Mr. Renshaw had also acquired a 1973 Dodge Challenger when Mr. Seguin co-signed the loan for the car. The third vehicle Mr. Renshaw acquired with the help of Mr. Seguin was a truck in February 1989.

*Volume 119, p.p. 125; 127 - 128; 129*

Mr. Renshaw had given numerous statements, which spoke quite highly of Mr. Seguin, even after his death. At the Inquiry Mr. Renshaw sought to distance himself from those statements, but it is open to this Inquiry to find that the statement "I couldn't ask for a better probation officer" was truthful at the time, and reflected Mr. Renshaw's honest belief. Mr. Renshaw, for instance went to Ken Seguin's funeral. He also testified that Mr. Seguin gave him money, which he then used to buy marijuana.

*Volume 119, p.p. 135, 140*

What remains unclear is why Gerry Renshaw even moved into the Summerstown house with Ken Seguin in 1989 given the abuse that he testified about. Mr. Renshaw had a job and girlfriend at the time, which suggests that he was not forced

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to move into the Summerstown address because he had no shelter otherwise. Mr. Renshaw's evidence is no better than the assertion that if he did not move into the Summerstown address, Mr. Seguin would expose Mr. Renshaw to his girlfriend. That however is contradicted by Mr. Renshaw's own statement that Mr. Seguin did not want anyone to know about their relationship. Either Mr. Seguin was fearful of exposing the extent of his relationship with Mr. Renshaw or he wasn't. The former is much more likely to be true given the secrets that Mr. Seguin kept, and his career and place in the community. If anything, it would be Mr. Seguin who had much more to lose if the Renshaw relationship were to be made public. Therefore, Gerald Renshaw's evidence that Ken Seguin threatened him with telling Mr. Renshaw's girlfriend of their relationship if he didn't move in with him should not be accepted as true. It makes no sense. In the result, there can be no comprehensive reason for Mr. Renshaw moving in with Mr. Seguin as an adult, but it suffices to say that there is a strong element of consent in the relationship at that point, and Mr. Renshaw would have full knowledge of what he was getting in to.

*Volume 119, p.p. 143 - 144*

MCSCS points to the evidence of the Renshaw's sister Carol Hesse as confirming the proposition that any abusive relationship that Ken Seguin had with Gerry or Robert Renshaw would have been quite secretive. For instance, Carol Hesse candidly testified about the relationship she had with Ken Seguin. She described Ken as a family friend, who knew the whole family. Hesse visited the Seguin house in Riverdale once, but went to his place in Summerstown frequently. She was close to both Mr. Seguin and her brother Gerry. Ken would lend the Renshaw brothers money if they needed gas money, and had lent Gerry money for a car stereo. She was aware that her brothers would "party" at Ken's.

*Volume 150, p. p. 5, 38, 42, 57, 63*

When her brother Gerry moved in with Mr. Seguin in Summerstown she was aware of the arrangement and had no concerns at first. She described an odd incident when she visited Gerry at the Summerstown house, and Gerry showed her around.



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There was some kind of embarrassment on Gerry's part when they went upstairs and she was shown the two bedrooms. Nonetheless, not even Ken's admission to her that he was gay lead her to have concern about possible abuse going on at the Seguin house. Her knowledge that Ken Seguin was gay occurred early in the relationship, and certainly while Gerry Renshaw was living with Mr. Seguin at Summerstown. This stands in contrast to the rest of the evidence heard at the Inquiry since nowhere else is there any evidence that Ken Seguin confided in others about his sexuality. Quite properly, Carole Hesse did not equate Ken Seguin's sexuality with sexual abuse. Importantly, no one at the probation office or within the Ministry would have had as close a relationship to Ken Seguin as Carole Hesse had. She is the only witness to testify that he confided in her.

*Volume 150, p. 42*

Of equal importance, Carol Hesse had no sense that there was any abuse going on at Summerstown by Ken Seguin. She was shocked when she found out about it from Perry Dunlop, and had no idea of it until that time. She was certain that she had no idea that this was going on while she was visiting her brothers at Ken Seguin's house, and went so far as to say that if anyone had suggested to her that Mr. Seguin was abusing young boys prior to his suicide she would have "cracked you and told you you were a liar".

*Volume 150, p.p. 59, 62*

Carol Hesse's evidence is therefore important insofar as she is one of the few persons who Ken Seguin apparently confided in about his sexuality. As the older sister of Gerry Renshaw, under these circumstances, it is easy to conclude that if she did not know about the abuse going on at Ken Seguin's house, then no-one else knew either. This provides a telling glimpse into the two sides of Ken Seguin. One was the Ken who was abusing probationers, and the other was a probation officer known as "Mr. Probation" who presented to the world as thorough and professional. Although Carol Hesse presented a side of Mr. Seguin who was socializing with friends, and indeed confiding in the family members of the probationers, it must be

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emphasised that at the same time he was denying to those any sense of what was going on at home behind closed doors. Certainly Mr. Seguin was careful not to have any colleagues from the probation staff as his confidants.

Gerry Renshaw had given a statement to the OPP on February 9<sup>th</sup>, 1994 suggesting that he did not know why Ken Seguin committed suicide. This strongly suggests that Mr. Renshaw did not know at the time that Mr. Seguin was involved in nefarious activity. Perry Dunlop, however, obtained a contradictory statement from him years later, which suggested that Mr. Renshaw knew of Ken's involvement in abusive conduct. That would assist Mr. Dunlop in his efforts to paint a picture of widespread abuse in the Cornwall area. Although Mr. Renshaw testified that he had been to Jos Van Diepen's house twice, once was as a member of a work crew independently hired to do work on Van Diepen's house. There is no suggestion that this was connected to either probation or Ken Seguin. The second incident is quite vague, and appears at its highest to be a brief visit by Mr. Seguin at Van Diepen's house while Mr. Renshaw waited in the car. The date of this was totally unclear, and thus it is unknown how old Mr. Renshaw was at the time, or if he was on probation or not.

*Volume 119, p.p. 145 - 146; 155 - 156; 158; Exhibits 543A, 548*

On the first incident, where Mr. Renshaw was at Van Diepen's house working on the brickwork, there is no suggestion that the work involved Mr. Renshaw *qua* probationer, since it seems that he was merely working as part of a larger work crew. From that, there can be no inference that Van Diepen connected Mr. Renshaw to any contact with Ken Seguin. Against that, Mr. Van Diepen testified at the Inquiry that he never saw Mr. Seguin bring Mr. Renshaw to his home. MCSCS submits that Mr. Renshaw's lack of precision about being brought to Van Diepen's house by Mr. Seguin is not to be preferred as against Van Diepen's denial of the incident. Therefore, Gerald Renshaw's evidence that Jos Van Diepen knew that he was socializing with Ken Seguin must be isolated to the knowledge that Van Diepen

would have gleaned from knowing that Emile Robert granted Mr. Seguin permission to have Mr. Renshaw board at his house in Summerstown.

*Volume 127, p. 29; Volume 117, p. 274*

Similarly, Mr. Renshaw testified that Mr. Seguin took him to Carol Cardinal's house, and claimed that she "may have" waved at him through a window. He is not sure that she acknowledged his existence but can only say that it is possible that she did. Mr. Renshaw, in fairness, does not remember a lot from the incident. On the other hand, Ms. Cardinal was emphatic that neither Ken Seguin nor Gerald Renshaw was at her house. MCSCS invites the Commissioner to find that there was no specific knowledge by Carole Cardinal that Ken Seguin was socializing with Gerry Renshaw apart from what she would have known from the March 1989 approval communications.

*Volume 119, p. 160; Volume 179, p. 37*

## **Robert Renshaw**

Robert Renshaw testified at the Inquiry on February 28<sup>th</sup>, 2007 as an alleged victim of Ken Seguin. His contact with Ken Seguin started in or around 1976 or 1977, when his older brother Don was placed on probation. Don Renshaw worked for Ken Seguin doing odd jobs, and then Robert Renshaw did, cutting grass, and tending flowerbeds.

*Volume 97, p.p. 28 – 32*

When Robert Renshaw was 16, Judge Fitzpatrick convicted him of a criminal offence. Ken Seguin did the pre-sentence report, and Robert Renshaw was given a period of probation. During this period of probation he was abused by Ken Seguin at the probation office on Pitt Street above the police station. Robert Renshaw did not disclose this to anyone before Perry Dunlop. Mr. Dunlop found Robert Renshaw via his brother Gerry Renshaw, who was also a witness at the Inquiry. Robert

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Renshaw did not disclose his abuse to Gerry Renshaw, nor did Gerry Renshaw disclose his to Robert Renshaw.

*Volume 97, p.p. 35, 38, 40*

Robert Renshaw's evidence is that he was reluctant to tell anyone, including Perry Dunlop, about the abuse, but ultimately Gerry Renshaw convinced him to talk to Mr. Dunlop. Mr. Dunlop asked him to meet him in Newmarket. Some of the language Robert Renshaw used in Affidavits prepared by Perry Dunlop were Mr. Dunlop's words, not Mr. Renshaw's. Mr. Dunlop also gave Mr. Renshaw ideas about how he must have felt during his probation visits to Ken Seguin.

*Volume 97, p.p. 40, 42, 46; Volume 98, p. 124, 204*

Mr. Dunlop said that he was investigating Father Charles McDonald, Claude Shaver, and Ken Seguin and showed him a number of pictures. Mr. Dunlop wanted to know who had been hanging around Ken Seguin's house. Mr. Renshaw gave evidence that the people he did see at Ken Seguin's house were not those that he had any direct knowledge of being involved in any abuse. Although Mr. Renshaw had sworn in an affidavit that he had seen a number of people at Ken Seguin's house, he testified that he didn't know what they were doing.

*Volume 97, p.p. 48, 49, 55, 70, 71; Volume 98, p. 134*

Although Robert Renshaw gave evidence about the Probation Secretary Louise, he admitted that no one at Probation had any specific knowledge of what was going on between him and Ken Seguin.

*Volume 97, p. 80*

More recently, in 2002, Mr. Renshaw was re-arrested and placed on Probation. His probation officer was Karen Warne, who tried to put him at ease. When Robert Renshaw wouldn't report any more, she took his history into account and changed his status so that he wouldn't have to.

*Volume 98, p.p. 208 – 210.*

## **Benoit Brisson**

Benoit Brisson testified before the Cornwall Public Inquiry on October 11<sup>th</sup>, 2006.

*Volume 55, p.p. 13 - 188*

Benoit Brisson is a victim of Father Gilles Deslauriers, his former spiritual advisor. He testified that Nelson Barque was a friend of the family and offered his services as a photographer to the Brisson's family music band.

*Volume 55, p. 37; Volume 55, p. 85*

Nelson Barque would call Mr. Benoit from time to time to have a beer.

*Volume 55, p. 37*

They went for a beer one night and Nelson Barque invited him to his probation office after hours and showed him hardcore pornographic movies

*Volume 55, p. 38; Volume 55, p. 85*

Benoit Brisson felt uncomfortable when showed the films. He felt it was bizarre that Mr. Barque would do that and would use his probation office for this purpose.

*Volume 55, p.p. 86 - 87*

Benoit Brisson was 18 years old at the time and was not on probation. Nelson Barque would have been approximately 40 years old. The time frame of this event would therefore be around 1979.

*Volume 55, p. 39; Volume 55, p. 85*

It was also during the period of time he was being abused by Father Deslauriers.

*Volume 55, Page 39*

Benoit Brisson went to see Father Deslauriers to ask him questions about homosexuality following what happened with Mr. Barque.

*Volume 55, Page 36*

No one else knew about this except Father Deslauriers as his spiritual advisor.

*Volume 55, p. 87*

Benoit Brisson never considered reporting this Nelson Barque incident to another probation officer or to a police officer.

*Volume 55, Page 88*

## **Albert Roy**

Albert Hector Roy testified before the Cornwall Public Inquiry on November 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 17<sup>th</sup>, 2006, and completed his testimony on December 12<sup>th</sup>, 2006.

### **General Background to Abuse Allegations**

Albert Roy was born in Cornwall on October 20<sup>th</sup>, 1960, and has three brothers (one deceased) and a sister. He married his current (second) wife, Victoria, in 1995.

*Volume 65, p.p. 69 – 70*

Mr. Roy attended Cornwall Collegiate and Vocational School from 1974 to 1977 or 1978, and completed the equivalent of Grade 10.

*Vol. Volume 65, p. 70*

In 1976, when Albert Roy was 16 years of age, he was charged with Theft in relation to a car that he stole in Cornwall, drove to Kingston and left there while he hitchhiked back to Cornwall the next day. He subsequently pled guilty, and Probation Officer Ken Seguin prepared a Pre-Sentence Report. Mr. Roy did not remember if Ken Seguin was present at his sentencing, but he recalled that he received an 18-month probation order with conditions, including an alcohol prohibition. This would have been on January 14<sup>th</sup>, 1977.

*Volume 65, p.p. 71 – 77;*

*Volume 67, p.p. 40 – 45.*

Mr. Roy testified that Probation Officer Ken Seguin initially supervised his probation, and in the beginning Mr. Roy reported in person every 2nd week. After about three months, Mr. Roy's Probation supervision was transferred to Probation Officer Nelson Barque, who required Mr. Roy to report weekly because he wasn't doing well in school.

*Volume 65, p.p. 78 – 79*

#### **Allegations of Abuse Committed by Nelson Barque and Ken Seguin**

Mr. Roy indicated that while Nelson Barque was supervising him, Mr. Barque sexually abused him. Mr. Roy reported the abuse to Ken Seguin, who he thought was Mr. Barque's supervisor. Mr. Roy's probation supervision was transferred back to Ken Seguin, and Mr. Roy alleged that Ken Seguin started sexually abusing him as well. Mr. Roy did not report these incidents to anyone else at the time.

*Volume 65, p.p. 81 – 82*

Mr. Roy agreed that Probation Officers Nelson Barque and Ken Seguin gave him alcohol contrary to his probation order; he visited both Nelson Barque's residence and Ken Seguin's residence and was molested there; and that he was inappropriately touched by Nelson Barque and was molested by Ken Seguin at the Probation Office.

*Volume 67, p.p. 45 – 47*

In cross-examination, Mr. Roy testified that during the first period of probation supervision under Ken Seguin, nothing inappropriate happened.

*Volume 67, p. 52*

Mr. Roy testified that the abuse by Mr. Seguin occurred during probation supervision and lasted for 3 to 4 months. Mr. Roy testified that as the abuse progressed Mr. Seguin became more demanding and started monitoring Mr. Roy's whereabouts at night and on weekends. Mr. Roy testified that he eventually confronted Mr. Seguin at the Probation Office, told Mr. Seguin he wasn't coming back, left the Probation Office and never returned. Mr. Roy stated that he had 6 months left on his Probation Order, was not breached for failing to report, and never went back.

*Volume 66, p.p. 33 – 35*

### **First Disclosure of Abuse**

Mr. Roy testified that he first reported the abuse by the two probation officers to a male nurse in the late 1980's early 1990's when he was hospitalized for 3 months at the General Hospital. Mr. Roy didn't believe that he identified the Probation Officers by name.

*Volume 65, p.p. 83 - 87*

Mr. Roy testified that he subsequently reported the abuse to social worker Robert Payette either during his hospital stay or during a session at Payette's office. Mr. Roy testified that apart from telling him that it happened, Mr. Roy never talked about the details with Mr. Payette. Mr. Payette expressed concerns that Mr. Seguin and Mr. Barque could still be abusing other kids, and over a 3-year period Mr. Payette encouraged and subsequently convinced and arranged for Mr. Roy to report the abuse to police. Mr. Roy reported the abuse to Constable Heidi Sebalj, at the Cornwall Police Service on November 23rd, 1994.

*Volume 65, p.p. 83 – 94; p. 95 –96.*

Mr. Roy also testified that he told his psychiatrist, Dr. Almudevar, about the abuse but Dr. Almudevar didn't want to deal with it right then because he felt it was more important to stabilize Mr. Roy and get him on the right medication so that Roy



would be well enough to deal with the abuse issue. Apart from telling him that it happened, Mr. Roy never talked about the details of the abuse with Dr. Almudevar.

*Volume 65, p.p. 95 – 96.*

#### **Disclosure of abuse by Albert Roy to Cornwall Police and OPP**

Mr. Roy testified that he reported the sexual abuse to Cornwall Police Constable Heidi Sebalj and a male Officer on November 23<sup>rd</sup>, 1994, and provided an audiotape statement on November 24<sup>th</sup>, 1994, disclosing the circumstances of the abuse and the names of the abusers.

*Volume 66, p.p. 36 - 41*

Mr. Roy also gave a statement to OPP Constable Chris McDonnell on December 6<sup>th</sup>, 1994, in relation to an investigation into another matter of alleged abuse by Ken Seguin against a young boy.

*Volume 66, p.p. 47 – 60*

Mr. Roy confirmed that Ken Seguin had committed suicide by the time he made his first complaint to Constable Sebalj.

*Volume 66, p. 80*

Mr. Roy testified that due to jurisdictional issues he was interviewed and provided a statement to OPP Constable Zebruk concerning the abuse at Mr. Barque's residence. Mr. Barque was charged by the OPP and subsequently pled guilty to Indecent Assault.

*Volume 66, p.p. 60 – 79; p.p. 42 – 43;*

#### **Barque Pre-Sentence Report and Sentencing**

Following Mr. Barque's guilty plea, the Cornwall Provincial Court requested the preparation of a Pre-Sentence Report to assist with sentencing. In response to the

Pre-Sentence Report request, MCSCS ensured that an outside Probation Officer, Nicole Barbeau, from the Ottawa area who had no connection with Mr. Barque conducted the investigation and completed the report on Nelson Barque. Ms. Barbeau commented clearly and concisely in the report on Mr. Barque's resignation from the position of Probation Officer in 1982 prior to the conclusion of the investigation for professional misconduct in which it had been established that Mr. Barque supplied alcoholic beverages to two youth probationers and was homosexually involved with two youth probationers under his supervision.

Mr. Roy testified that there were discussions about the Pre-Sentence Report at Mr. Barque's sentencing hearing on August 18<sup>th</sup>, 1995, and that Defence Counsel Don Johnson raised objections about the 1982 allegations against Mr. Barque being referenced in the Pre-Sentence Report. Mr. Roy also indicated that he felt that Defense Counsel Don Johnson was in a conflict because he was the Crown Attorney who decided that there wasn't sufficient evidence to prosecute Mr. Barque on other sexual abuse allegations in 1982.

*Volume 66, p.p. 86 – 88*

Mr. Roy acknowledged that although he did not recall the interview with PPO Barbeau he was consulted in the preparation of the Pre-Sentence Report and that the comments attributed to him as the victim in the PSR sounded like something he would have said.

*Volume 67, p.p. 3 – 8*

*Volume 70, p. 20*

### **After Hours Reporting**

Mr. Roy testified about after hours reporting to both Mr. Barque and Mr. Seguin, and related a circumstance where Mr. Seguin got angry with him when the PPO from the center office saw Mr. Roy sitting on the bench in the waiting room at 6:30 or 7:30 pm; asked him what he was doing there, to which Mr. Roy replied that he was

waiting for Ken; then stood there and looked at Mr. Roy for a bit and then went inside the office. Mr. Roy testified that he didn't hear what was said to Mr. Seguin, but when Mr. Roy went into the office Mr. Seguin was angry with him; asked Mr. Roy what he said to the other PPO; and told Mr. Roy he had better watch what he was doing. From Ken Seguin's reaction, Mr. Roy surmised that the other PPO had said something to Mr. Seguin.

*Volume 67, p.p. 11 - 12*

Mr. Roy testified that Nelson Barque never took him to a Knights of Columbus function, and that Nelson Barque would never take him around people. He also testified that Ken Seguin never introduced him to anybody that he felt was an abuser.

*Volume 67, p.p. 13 - 14, p. 36*

### **Locks On Office Doors**

Mr. Roy recalls Mr. Barque having a lock on his office door, and thought that Mr. Seguin might have had a lock on his door as well but didn't have a clear recollection of Ken locking his door.

*Volume 67, p. 60*

### **1982 - Peter Sirrs Investigation**

Mr. Roy testified that he had returned from out west to Cornwall in 1981, and that he was not contacted by anyone concerning the 1982 Barque incidents. He remarked that he might have received help sooner if the matter had not been dropped after just allowing Mr. Barque to resign without anyone checking to see if he had problems when he was under probation supervision to Mr. Barque.

*Volume 67, p.p. 8 - 9*

Mr. Roy also agreed that he wasn't aware in 1982 that there had been allegations raised against Mr. Barque, and that he was not involved in any complaints against Mr. Barque in 1982. Mr. Roy testified that he first learned of the 1982 allegations against Mr. Barque in 1994.

*Volume 67, p.p. 47 - 49*

*Volume 67, p. 88 - 89*

Mr. Roy acknowledged that had someone from Probation Services contacted him between 1977 and 1991, that he may or may not have opened up and spoken to that person given his experiences and mistrust of persons in authority. He also agreed that it was fair to conclude that it took a lot of assistance in 1991, by very caring people, to get him to the point to just speak about what happened.

*Volume 70, p. 11*

### **Prosecutorial Review**

Mr. Roy acknowledged that he knew at the time of Mr. Barque's sentencing and through the discovery process concerning his civil suit against the Ministry, that the 1982 investigation from Probation Services went up to a senior government official and then to the Crown's office for review as to whether there was any basis for a prosecution.

*Volume 70, p. 10, Volume 66, p.p. 86 - 88*

### **Keith Ouellette**

Keith Ouellette commenced his evidence on August 20<sup>th</sup>, 2007. Mr. Ouellette was 53 years of age having been born on March 13<sup>th</sup>, 1954 in Ottawa. Mr. Ouellette informed the Inquiry that he had been abused by a number of individuals including a family member.

*Volume 127, p.p. 3 to 8*

**Allegations of Abuse perpetrated by Ken Seguin**

Keith Ouellette testified that he first went on probation as a youth at approximately the age of fifteen and a half. At that time, he was placed on probation with Ken Seguin as his probation officer. The Inquiry did not have a copy of his juvenile criminal record, but from his adult record it appears that Keith Ouellette was first convicted of an adult offence in December of 1973. Throughout 1973, 1974, and the balance of his adult record, Keith Ouellette was either on probation or parole with Ken Seguin mainly being the supervising officer.

*Volume 127, p.p. 13-16*

Keith Ouellette stated that Ken Seguin sexually abused him while he was on probation. Compliance with the alleged demands by Ken Seguin was sought through the use of threats of revocation of his parole/probation, thus intimating that he would be re-incarcerated.

*Volume 127, p.p. 16-17*

The witness testified that Ken Seguin revoked his parole during 1973-74 that sent him to jail. It is unclear from the evidence if Keith Ouellette was speaking about a breach of probation or a revocation of his parole. Further, his criminal record does not disclose the witness being on parole prior to November of 1982. The witness agreed that the reason he was in jail in 1974 was due to his August 1974 conviction for robbery and that may have been the reason he was back in custody. However, Keith Ouellette seemed to relate his custody, at least in part, to not cooperating with Ken Seguin.

*Volume 128, p.p. 59-61*

In addition, Keith Ouellette alleged threats related to his use of drugs, some of which he alleged Ken Seguin paid for, and threats of breach related to his lack of obtaining employment. The suggestion was that Ken Seguin needed to supervise probation requirements that Keith Ouellette was not cooperating with.

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*Volume 127, p. 19*

Eventually, Ken Seguin is alleged to have directed Nelson Barque to drive Keith Ouellette to Manpower and meet with Richard Hickerson. Keith Ouellette stated that he was essentially forced to meet with Richard Hickerson and had he failed to do so, Ken Seguin would have revoked his probation or found reason to.

*Volume 127, p.p. 19-20*

Keith Ouellette only knew Nelson Barque by his first name and his knowledge was restricted to the fact that he was a probation officer. He made no allegation against Nelson Barque.

*Volume 127, p. 22*

The abuse attributed by Keith Ouellette to Ken Seguin is alleged to have occurred primarily off probation and parole property, save for some allegations of groping and on one occasion when Ken Seguin is alleged to have unzipped his pants.

*Volume 128, p. 57*

In cross-examination, Mr. Ouellette suggested that if someone screamed or yelled or had any objection in the probation office, the secretaries or somebody would have heard what was going on in the offices. He further stated that the fact that no one bothered to knock on the door and find out what the “hell” was happening behind closed doors proves that “they were complicit.” This is premised on his previous evidence that he protested loudly when Ken Seguin allegedly pulled down his zipper.

*Volume 128, p. 147*

As will be discussed later in the institutional response portion of the evidence, there is no evidence confirming this loud protestation by Mr. Ouellette nor are there sufficient details of the actual time frame of this allegation to sufficiently find that it occurred on a date or time that anyone in the office would have been in a position

to observe or hear anything inappropriate with a client or in this instance Mr. Ouellette.

**Abuse Allegedly Perpetrated by Richard Hickerson**

Keith Ouellette alleged ongoing sexual abuse perpetrated by Richard Hickerson. Specifically, Keith Ouellette recalled Hickerson often dropping by his parents' home after work; taking him to Iroquois, Montreal and the "same places where Ken would bring me."

*Volume 127, p.p. 20-21*

The abuse occurred, according to Mr. Ouellette, during the same time period that he was being abused by Ken Seguin, but the two never abused him in concert. Ken Seguin's name was also never mentioned while the witness was in the company of Richard Hickerson.

*Volume 128, p.p. 54-55*

**Disclosure**

Keith Ouellette recalled informing Dr. Khan, a psychiatrist, about all of the alleged abuse he suffered. However, Dr. Khan's consult letter of December 8<sup>th</sup>, 1994 to Keith Ouellette's physician, Dr. Laferriere, only refers to abuse by Richard Hickerson. Keith Ouellette recalled having some conversation with his family physician about the abuse by his brother.

*Volume 127, p.p. 22-27*

On or about November 9<sup>th</sup>, 1994, Keith Ouellette wrote to CAS about abuse he suffered as a child at the time he was going through proceedings in relation to his own children.

*Volume 127, p.p. 31-33*

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Keith Ouellette recalled telling a police officer from the Cornwall Police Service about allegations of abuse in or about the late 70's or early 80's.

*Volume 127, p.p. 36-37*

Further, Keith Ouellette testified that he made an appointment and met with a person who was identified to him as being the Chief of Police, possibly sometime after 1974-1975 when he came back from living in Ottawa. Mr. Ouellette did not recall the name of the person he met with, just that he was able to recall that this person was known to him as the Chief of Police. It is unclear how many times Mr. Ouellette met with a Chief of Police, or if he ever did, but his evidence suggests three meetings and possibly at the second meeting, Mr. Ouellette alleged he disclosed past abuse by Ken Seguin and Richard Hickerson. This person was to get back to him but never did.

*Volume 127, p.p. 38-42, 45, Volume 128, p.p. 167-169*

When he was working with Generac Management in the mid-80's, Keith Ouellette alleged that he was approached by two police officers and forcibly brought to the "dike" [power dam] and then to an interview room in a police station where he was physically restrained against a wall and his life was threatened. Specifically, he alleged that he was told that if he ever opened his mouth again about Ken Seguin, Richard Hickerson and a few other people, that he would have two bullets in his brain.

*Volume 127, p.p. 42-43*

Mr. Ouellette also recounted being enticed by police involved in an ongoing drug investigation to obtain weapons and sell drugs to the undercover police. He stated that he had sold the drugs to the police. Then some time later he was threatened by police about his disclosures of abuse and then after some time subsequently arrested for the drug transaction. The witness connected these two events as a series of intimidation by the Cornwall Police possibly with a view to silence him about the alleged abuse. He had also acknowledged his desire at that time to



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obtain a firearm to “settle the score with Chief Shaver” and to protect him from being picked up by police and shot.

*Volume 127, p.p. 45- 48, Volume 128, p.p. 174-179, p. 226*

Yet the witness also testified that prior to speaking with OPP officers from Project Truth, he had only mentioned these events to private individuals. On October 30<sup>th</sup>, 1997 he provided a statement in the Project Truth investigation to Detective Constables Seguin and Dupuis at his residence disclosing allegations of abuse and the allegations of intimidation by the police. The police threats allegation was provided to the Cornwall Police by the OPP. Staff Sergeant Durocher from Cornwall Police met with Keith Ouellette in this regard.

*Volume 127, p.p. 50-51, 71, Exhibit 585*

An internal investigation was conducted by the Cornwall Police Service regarding Mr. Ouellette’s allegation. Mr. Ouellette was provided with documentation confirming the investigation and an investigative report with the finding that there was no evidence to support his allegation.

*Volume 127, p. 52*

It does not appear from the evidence that Keith Ouellette ever attempted to alert officials with probation or the Ministry about ongoing abuse or report the abuse after its cessation and prior to August of 1997.

**Disclosure to Jos Van Diepen, Probation Officer, August 1997**

Mr. Ouellette was interviewed on October 9<sup>th</sup>, 1997, while in custody awaiting sentencing on charges, for the purposes of preparation of a pre-sentence report (“PSR”). The PSR was prepared for an October 28<sup>th</sup>, 1997 sentencing hearing. During the interview with Mr. Van Diepen, Keith Ouellette disclosed allegations of historical sexual abuse, including allegations involving Ken Seguin. Exhibit 584 is a

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document with writing on the back signed by Keith Ouellette. The document reads, "I do not want to file a formal complaint against Ken Seguin" and is dated 9/10/97.

*Volume 127, p.p. 56-61*

Mr. Ouellette alleged in his testimony that he was under duress when he signed the above document and would have preferred to make a formal complaint. He stated that Jos Van Diepen told him that if he wanted to get out of jail, that he would highly recommend that he sign this piece of paper.

*Volume 127, p. 61, Volume 128, p. 69*

He further stated that he understood Mr. Van Diepen's comments as a threat.

*Volume 128, p. 69*

Keith Ouellette had no knowledge of how officers Dupuis and Seguin knew to come see him regarding the Project Truth investigation.

*Volume 127, p. 66*

After interviewing Keith Ouellette, Jos Van Diepen prepared an incident report dated October 10<sup>th</sup>, 1997, and notified his superiors. The information was communicated to the Project Truth investigation team.

*Volume 127, p 76, Exhibit 586, Volume 128, p. 70*

The incident report noted, "[C]lient was referred to Regional Task Force, Operation Truth."

*Volume 127, p. 78*

Jos Van Diepen called Constable Dupuis on October 10<sup>th</sup>, 1997. Constable Dupuis' notes read:

"Phone call from Jos Van Diepen, dated October 10, 1997. Received call from Jos Van Diepen pro patient [probation] services that subject by the name of Keith Ouellette... Cornwall has complained that he has

been sexually assaulted by his ex-probation officer Ken Seguin as well as being assaulted by Richard Hickerson and Chris Wilson... Van Diepen reports incident to his supervisor because of Seguin. Ouellette is now in custody on threatening charges..."

*Volume 128, p.p. 71, Exhibit 593*

Mr. Ouellette acknowledged that this surprised him and obviously it was Jos Van Diepen who then informed the OPP of the allegations.

*Volume 128, p.p. 75-75*

### **Disclosure to Perry Dunlop**

Keith Ouellette testified in chief that he met Perry Dunlop just before Mr. Dunlop was moving to Vancouver. Mr. Ouellette stated in chief that Perry Dunlop was primarily interested in his allegations of abuse by Ken Seguin. He stated that he met Perry Dunlop in Mr. Dunlop's basement and that was the first time he actually met and spoke with Perry Dunlop.

*Volume 128, p. 18, p. 148*

Notes of Perry Dunlop of November 14<sup>th</sup>, 1997 reflect that Keith Ouellette contacted him and disclosed, at least in an abbreviated manner, that he was assaulted by Ken Seguin, Richard Hickerson and that the CAS was notified.

*Volume 128, p. 109*

### **Reliability of Keith Ouellette**

Keith Ouellette's testimony was at times tangential, exaggerated and nonsensical. For our purposes, we rely upon the allegation against Ken Seguin in measuring our institutional response. The Ministry however suggests caution against a broader reliance upon Keith Ouellette's evidence to find specific misconducts such as being threatened by police, or the pursuit of criminal charges for any of his specific

allegations. Given the manner and content of his testimony, including the recommendations that he imparts to the Inquiry on August 21<sup>st</sup>, 2007, Mr. Ouellette's evidence is in quite frail. The difficulties with the reliability of his evidence are no more poignant than in review of cross-examination by counsel for the Cornwall Police. Mr. Ouellette endorsed a number of bizarre and delusional beliefs including being subject to "mind manipulation conducted on myself by the federal and provincial governments branch of the RCMP." Mr. Ouellette further stated that the RCMP assisted the psychiatrist at the correctional facility to interrogate him to get into his brain.

*Volume 128, p.p. 29 – 36; 77 to 89*

The Inquiry clearly indicated that allegations of threats or intimidation by the Cornwall Police and the Chief of Police were not relevant. To this end, Mr. Ouellette's assertion that Jos Van Diepen threatened him to sign a paper that he did not want to file a formal complaint against Ken Seguin in order to get out of jail is not reliable and ought not be found as a fact. Rather, the witness' evidence is inconsistent with the actions taken by Jos Van Diepen filing an incident report, and contacting the OPP Project Truth team the next morning, October 10<sup>th</sup>, 1997. Further, at the time of the disclosure, Ken Seguin was deceased. Accordingly, given the frailties with Mr. Ouellette's reliability, we urge the Inquiry to find that Jos Van Diepen never threatened Keith Ouellette or coerced him to not file a formal complaint about Ken Seguin, but rather that Jos Van Diepen followed up on the disclosure immediately and appropriately. Van Diepen's conduct in this regard was exemplary.

*Volume 128, p. 95*

### **Ron Leroux**

Mr. Leroux testified in June 2007, and was subject to cross-examination only by Citizen's for Community Renewal before being excused from further testimony on reasons of health. Mr. Leroux was a crucial witness for the Inquiry not so much

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because of what he knew, but because his various statements given to both Perry Dunlop and Charles Bourgeois contained allegations of widespread ritualistic sexual abuse, which yielded tremendous community concern. When he appeared at the Inquiry Mr. Leroux disowned most of those original statements, leaving the Cornwall community with wild allegations, which were simply untrue. MCSCS submits that there were several key areas where Mr. Leroux's original statements were used as fuel to a community conspiracy theory. At the Inquiry, Mr. Leroux testified that he had no knowledge of most of these.

Mr. Leroux himself was abused by priests. Mr. Leroux's testimony is at odds with some of the Affidavits he himself swore to, in which the allegations are outlined. For example, Mr. Leroux told Perry Dunlop that he was abused at school when he was 14 years old, but at the Inquiry he said that was impossible. In Exhibit 569 Mr. Leroux discussed being abused by one priest when he was 9 years old, and a second priest when he was 12. That narrative too was "all wrong". Despite the fact that Mr. Leroux adopted the truth of those statements by signing them, they were simply not true, and not his words. It is difficult for the Inquiry to make any finding of fact on Ron Leroux *qua* victim with such contradictory versions of something as key as when he was abused.

*Volume 120, p.p. 99, 102 – 104. Exhibits 563, 569*

Ron Leroux had given numerous statements to Perry Dunlop and Charles Bourgeois that he had seen ritualistic sexual abuse by various persons on young males, including altar boys and probationers. Those statements became Affidavits, sworn for the truth of their contents under oath, and repeated to the police as truthful. The statements famously name many individuals seen at Ken Seguin's house, at various parties, as part of a clan of pedophiles, and performing ritualistic sexual abuse. It was only in his testimony at the Inquiry that Mr. Leroux admitted that this was not true, and that he only heard about things like ritualistic sexual abuse from someone else. The now famous description of a clan of pedophiles became, in Mr. Leroux's testimony, merely a group of Scottish people who stick together. Mr.

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Leroux placed blame on Perry Dunlop and Charles Bourgeois for coming up with that description. In his testimony at the Inquiry Mr. Leroux denied ever witnessing sexual improprieties, or seeing Ken Seguin having sex with anyone under the age of 18 years old, or having sex with a probationer.

*Volume 122, p.p. 120, 126, 217.*

Mr. Leroux had also mentioned in his previous statements, and affidavits that Malcolm Macdonald, Father Charlie McDonald, and Ken Seguin had discussed a plot to kill Perry Dunlop and his family. In his testimony before the Inquiry Mr. Leroux said that this also was not true, and that he could not make something like that up. The inference here is that Perry Dunlop and/or Charles Bourgeois fabricated that narrative in order to bolster Perry Dunlop's claim to have been persecuted by the 'clan' because he was on to them, and that the Cornwall Police Service was not doing anything about it. The death threats were meant to bolster Perry Dunlop's credibility both as a genuine investigator of a clan of pedophiles, and also to further his claim that the Cornwall Police Service was covering that up. By doing this Mr. Dunlop and Mr. Bourgeois used the fabricated death threats as a cause of action in Mr. Dunlop's lawsuit with Cornwall Police Services.

*Volume 122, p. 222, Exhibit 567*

Mr. Leroux claimed that he was a victim of abuse at the hands of Nelson Barque. Curiously, this allegation does not appear in Mr. Leroux's affidavits concerning all the persons involved in sexual abuse in the community. Mr. Leroux did give evidence about this at an Examination for Discovery as part of a lawsuit. At that time he claimed that he first met Nelson Barque in 1980, and the abuse happened when Mr. Barque was supervising him as part of a Probation Order. At that time Mr. Leroux would have been 36 and Mr. Barque only a few years older. It is particularly difficult to assess the plausibility of this claim given that Mr. Leroux could not be cross-examined on the allegation. MCSCS points out that Mr. Leroux never mentioned this fact in his various statements, nor does it appear to have been a topic of conversation between Mr. Leroux and his close friend Ken Seguin even

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though Mr. Seguin would have been a probation officer in the same office as Mr. Barque in 1980. That Mr. Leroux would not discuss this with Mr. Seguin is quite odd, as is the fact that Mr. Seguin's various admissions to Mr. Leroux would not have spurred Mr. Leroux to do anything concrete to stop Mr. Seguin abusing young persons as Mr. Leroux claims himself to have been such a victim.

*Volume 120, p. 184 - 186, Exhibit 577B*

According to Mr. Leroux, Mr. Seguin confided in him about having sex with ex-probationers. Mr. Leroux said at the Inquiry that he confronted Mr. Seguin with the fact of his sexual contact with young persons. He claimed that Mr. Seguin told him he was out of control. Mr. Leroux also claims that when he learned this, i.e. that Mr. Seguin was having sexual contact with young persons and was out of control, he did nothing. Mr. Leroux's only explanation for that is that he didn't trust the police. This evidence should be considered against the fact that Mr. Leroux himself claimed to be a victim of sexual abuse by priests when he was younger and his acquiescence in what he claims Mr. Seguin was telling him makes little sense. It would amount to Mr. Leroux allowing Mr. Seguin to continue to harm younger males in much the same way that Mr. Leroux was victimized. At times in his evidence Mr. Leroux discussed Ken Seguin being in a position of trust. Yet Mr. Leroux failed to disclose. This raises the very real possibility that Mr. Leroux and Mr. Seguin had a mutual interest where neither could possibly betray the confidence of the other for fear of being turned in.

*Volume 120, p. 200, 204*

One of the features of Ron Leroux's affidavits, which caused considerable damage, was his list of persons who visited Ken Seguin and Malcolm MacDonald out in Summerside. This included altar boys who were the victims of abuse there. At the Inquiry while under oath, Mr. Leroux said that he didn't see many of those persons at Summerside, including Jos Van Diepen. He admitted to only seeing Jos Van Diepen at Harv's diner, which was across the street from the Cornwall Probation and Parole office.

*Volume 122, p.p. 100 – 109*

Mr. Leroux also claimed in his testimony that he was told by Jos Van Diepen that Mr. Van Diepen admitted cautioning Mr. Seguin during his lifetime about “fooling around with young parolees”. There is no evidence to confirm that evidence, and taken with the rest of Mr. Leroux’s evidence MCSCS respectfully submits that there is no truth to the assertion that Jos Van Diepen ever said that.

*Volume 120, p. 68*

### **Summary**

Ron Leroux’s affidavits were used by Perry Dunlop to further his own lawsuit against the Cornwall Police Service, and in the narrative that unfolded afterwards, those affidavits became fodder for the view that a conspiracy of pedophiles existed in Cornwall, which included Crown Attorneys, police chiefs, judges etc. Mr. Leroux’s numerous, serious, and unexplained contradictions mean that his evidence is completely unreliable as regards what he claims to have seen or heard. What is possible to conclude, however, is that Ron Leroux created the idea of a conspiracy in Cornwall, and that the real author of that conspiracy was Perry Dunlop.



## **IV. Ministry Knowledge of Sexual Abuse and/or Inappropriate Contact with Clients**

### **Summary**

This portion of the MCSCS submissions focuses on distinct time periods when events drove or failed to drive various Ministry actions. Throughout all of the events and periods examined, it is clear on the evidence, that local management did not have actual knowledge of allegations of sexual abuse, or inappropriate conduct until after both Nelson Barque and Ken Seguin were no longer employees of the Ministry. During their employment, Nelson Barque and Ken Seguin actively concealed their actions from management.

In 1982, allegations of inappropriate sexual conduct in relation to Nelson Barque came to the fore. Peter Sirrs was tasked with conducting a preliminary investigation into the allegations. Peter Sirrs acted in accordance with existing Ministry policies and guidelines and produced a detailed report. This report was appropriately sent through the Ministry channels including the investigations branch. Eventually, a legal opinion was sought from Don Johnson, then Crown Attorney, on whether grounds existed to charge Nelson Barque. The opinion did not support grounds to lay any charges. Peter Sirrs acted in an appropriate and efficient manner. Nelson Barque resigned before any disciplinary action was decided upon.

The Ministry, in hindsight, ought to have conducted a broader review in order to determine if there were other clients affected by the actions of Nelson Barque or if members of the Cornwall office had any knowledge of his activities. This criticism must be considered in the context of the time period when this event occurred and the realities of that time. The Ministry, including Peter Sirrs, expected nothing but

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the highest regard from his staff both for the law and fulfillment of their duties as probation officers. Sexual abuse of clients, in 1982, was yet an unthinkable action for a fellow probation officer to have committed against a client. In 1982, abuse by persons in authority was not foreign to the community, but one cannot discount the narrow response to the allegations as a function of a sincere belief there was no other basis to believe others were or had been at risk.

Peter Sirrs felt constrained when approached by Pierre Landry for a reference. We agree that the letter written to Pierre Landry is nothing more than a letter outlining the time period of employment and confirmation of past employment, and is concerning for what the letter does not speak about – the circumstances under which Nelson Barque resigned. However, the letter he provided is far from a letter of reference and given its brevity, Pierre Landry ought to have been alert to an undisclosed issue surrounding Nelson Barque's departure from the Ministry. Further, Peter Sirrs was correct that employee information was confidential according to the existing *Ministry of Correctional Services Act* provision, and in his evidence, he strongly asserted that he informed Mr. Landry that he could not release information without a release. Again, Pierre Landry ought to have taken steps to secure a release.

Although the following section divides events into distinct time periods, the era of management of the Cornwall office under the leadership of Emile Robert was truly a time period of missed opportunity. Again, the evidence does not support a finding that management possessed actual knowledge of wrongful actions by Nelson Barque and/or Ken Seguin. However, as is clear from the evidence, important events ought to have raised sufficient concerns with management to cause a more in depth response and investigation into the actions of Ken Seguin and past actions of Nelson Barque.

The 1989 issue of Gerald Renshaw residing at Ken Seguin's home appears to have been a possible breach of conflict of interest policy, although openly disclosed by

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Ken Seguin. More significant are the apparent rumours in 1993 of Ken Seguin being under investigation and his suicide on November 25<sup>th</sup>, 1993. It is clear from the evidence that management may have treated Ken Seguin with some favour in the 1992 Travis Varley incident, inadequately responding to the event and not initiating an investigation and meting out greater discipline. This was indeed a missed opportunity for Emile Robert to seek greater information to a troubling event. It is understandable with Ken Seguin's reputation as "Mr. Probation" one might have not thought to look deeper into Ken Seguin's involvement in the Travis Varley matter, but after his suicide with the ensuing rumours of investigation, immediate steps ought to have been taken by Emile Robert to initiate an investigation and possible review of Mr. Seguin's active client files.

If Jos Van Diepen is to be believed that he approached Emile Robert with his concerns of Ken Seguin's inappropriate social contacts with clients, then Emile Robert had sufficient basis to look further into any possible breaches of Ministry policy, and ought to have possessed knowledge of possible breaches of Ministry policies.

By December 16<sup>th</sup> and 17<sup>th</sup> of 1993, the Ministry possessed actual knowledge of allegations of Sexual Abuse that may have been committed by Ken Seguin against a former probationer, David Silmser. As will be discussed in subsequent portions of our submissions, we assert that the Ministry acted appropriately to the complaint of David Silmser. Bill Roy advised Emile Robert of the complaint, and given Emile Robert's then knowledge of the suicide of Ken Seguin under suspicious circumstances, and the rumours of alleged investigation of Ken Seguin, Emile Robert ought to have sought an investigation into Ken Seguin's files, which could have been in the form of a file review and contact with probationers. In addition, he could have approached upper management for an operational audit or other form of review of the office given the unusual events of which he had personal knowledge.

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In 1994 various staff had been interviewed by OPP officers in an investigation of allegations of abuse by Nelson Barque, in addition to an investigation into Ken Seguin's suicide and the issue of extortion. In 1995, Nelson Barque's conviction and sentencing of indecent acts as against Albert Roy were publicized and again ought to have spurred Emile Robert to initiate some form of review or investigation into past events in his office. The Regional office could also have initiated some form of action, but the one who possessed the most immediate information was the Area Manager. By 1995 he clearly ought to have possessed actual knowledge of legally confirmed abuse by a former probation officer, admittedly employed prior to his assumption of duties in the office, but nevertheless one who worked for a period of time along side Ken Seguin. This ought to have buttressed his concerns raised about Ken Seguin and caused him to seek assistance in uncovering any past breaches of Ministry policies and possible wrongdoing. Mr. Robert failed to have any discussions of this kind with his regional supervisors during this time period or even up to his transfer in late 1998. These issues were never raised with the Regional Director by staff or Emile Robert.

Not until the emergence of the Project Truth website in August of 2000, and the disclosures that commenced at the end of 1998, 1999, which then gained momentum in 2000, did the Ministry and upper management actually possess knowledge of alleged sexual abuses by Nelson Barque and Ken Seguin. When this picture took shape, actions were taken that were not only appropriate but had a profound effect in gaining greater knowledge of past abuses and paving the way for healing of victims and education of government agencies about male victimization. It was this Ministry that first sourced funding for the Men's Project to come to Cornwall, and for their expertise to be shared with local and Ministry wide employees.

## **V. Events**

### **1982 – Peter Sirrs Investigation, Don Johnson, Pierre Landry (L'Equipe Psycho Sociale)**

#### **Peter Sirrs**

Peter Sirrs, former Area Manager of the Cornwall Probation and Parole Office with the Ministry of Correctional Services, testified before the Inquiry on November 28<sup>th</sup> and 29<sup>th</sup> of 2007.

*Volume 168 & 169*

#### **Contextual Background**

The witness started in 1958 as an enlisted man and after approximately 10 years he retired from the Air Force at the rank of Corporal. Mr. Sirrs subsequently obtained a Bachelor of Arts degree in 1973, and obtained a Masters of Criminology degree in 1975. He worked part-time as a Probation Officer for the Ministry of Correctional Services in 1973 and 1974, and in 1975 he became a full-time Probation Officer posted in North Bay until 1981, when he was promoted to the Area Manager position at the Cornwall Probation and Parole Office. He worked as the Area Manager in Cornwall from September 1<sup>st</sup>, 1981 to December 31<sup>st</sup>, 1984, when he went into the Deputy Superintendent position at the Ottawa-Carleton Detention Center for approximately 2 years before returning to an Area Manager position in Ottawa. In 1992, he transferred to North Bay and worked as a Policy Analyst until his retirement in 1997.

*Volume 168, p.p. 201 – 205*

With respect to his work as a Probation and Parole Officer in North Bay between 1975 and 1981, Mr. Sirrs testified that he supervised adult clients and clarified for the Commissioner that persons aged 16 and older were classified as adults at that

point in time, and that juveniles were classified as being persons under the age of 16 years under the then *Juvenile Delinquents Act*. Mr. Sirrs recounted that in the spring of 1981, he attended an assessment center with 28 other individuals and was subsequently promoted to the position of Area Manager for the Cornwall office. He described this selection process as unique in that normally it was done through competition. He testified that he didn't receive any management training prior to starting the Area Manager position but that he received on the job and subsequent training sessions from time to time.

*Volume 168, p.p. 206 – 209*

### **Cornwall Office Environment**

Mr. Sirrs was the first on-site manager at the Cornwall Probation Office, and he received about a weeklong briefing from the former off-site manager, Mr. Bill Groten, concerning the nature of the staff, ongoing issues, and administrative functions. Mr. Sirrs did not have any formal training in conducting an investigation of criminal or quasi-criminal activity by staff, but he was familiar with ministry policies concerning staff conduct.

*Volume 168, p.p. 210 – 213*

When he arrived in Cornwall, the office complement consisted of four Probation and Parole Officers (Ken Seguin, Nelson Barque, Jos van Diepen, and Stewart Rousseau) and two administrative staff (Marcelle Leger and Louise Quinn). The Probation and Parole Office was co-located in the same building as the courts and the Cornwall Police Service. In October of 1981, the office was relocated to 502 Pitt Street. It was his impression that Jos van Diepen and Ken Seguin were fairly close colleagues who tended to consult with one another quite regularly. Mr. Sirrs was aware that Marcelle Leger and her husband socialized occasionally with Nelson Barque and his wife, but he couldn't say if other staff socialized outside of the office. He was also aware that Malcolm MacDonald was good friends with Ken Seguin, and would

attend the Probation Office from time to time. He was not aware if other staff socialized outside of the office.

*Volume 168, p.p. 216 - 228*

### **Staff Relations**

Mr. Sirrs testified that when he first started at the Cornwall Probation Office that he was generally well received, although there was some tension between he and Mr. van Diepen that emerged early on. That was the result of Van Diepen's unsuccessful application for the Area Manager position. He related that the tension with Mr. Van Diepen continued from time to time during the witness' tenure, and spilled over to the extent that it effected his relations with other staff to some degree. Mr. Sirrs testified that his concern with the influence to the other staff led to his arrangement with an outside facilitator to get assistance to deal with the problems. Although the tension with Mr. van Diepen continued, he related that the off-site sessions with all staff helped with his ability to manage some of his staff.

*Volume 168, p.p. 258 - 268*

MCSCS acknowledges that tensions with the Cornwall probation and parole office existed as early as the Peter Sirrs era. The Ministry attempted meaningful interventions, which had moderate benefit. Unfortunately, labour and management relations and certain staff expectations interfered with cohesive supervision and management of the office. Remedial efforts as borne out by the evidence continued.

### **Nelson Barque**

Mr. Sirrs testified that he supervised Probation Officer Nelson Barque from September 1<sup>st</sup>, 1981, until approximately May of 1982. He described Mr. Barque's performance as a Probation Officer as satisfactory until the complaint arrived on April 8<sup>th</sup>, 1992.

*Volume 168, p.p. 269 - 270*

Mr. Sirrs related that he was out of the office when the first call came in and Ms. Leger took that call. On his return, a telephone call came in and she advised and directed the call to him. Mr. Sirrs testified that he became very upset when he received the complaint about Mr. Barque, and apprised his Regional Administrator, Mr. Toffelmire, of the situation who directed him to contact Mr. Stan Teggert, who was the Director of Investigations and Inspections for the Ministry. Mr. Sirrs testified that Mr. Teggert suggested that he conduct a preliminary investigation and that he should speak to the complainant and other people who may have some information with respect to this matter.

*Volume 168, p.p. 271 - 272.*

#### **Sirrs' Investigation Report**

Mr. Sirrs prepared and forwarded his confidential preliminary report to Mr. Toffelmire on or about April 20<sup>th</sup>, 1982. In his report, Mr. Sirrs documents receiving a complaint by telephone on April 8<sup>th</sup>, 1982. The complainant indicated interaction between Mr. Barque and a probationer; the probationer's flagrant use of alcohol and drugs; an incident that was reported to the Cornwall Police, and the complainant's comment that the police were not taking action against the particular probationer, but referred the complainant to Mr. Barque; that Mr. Barque was not only aware of the probationer's use of alcohol and drugs, but had provided the alcohol and drugs to the probationer; that Mr. Barque was homosexually involved with the probationer; and that Mr. Barque was not pursuing a breach of probation charge against the probationer. Mr. Sirrs also noted that this probationer was, in fact, under Mr. Barque's supervision, and that as a part of that probation, he was to abstain from the use of alcohol and drugs.

*Volume 168, p.p. 273 - 277, Exhibit 125*

#### **Contact with Police**



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During the course of his investigation, Mr. Sirrs contacted RCMP Sergeant Wayne Isbester, whose office was located in the same building as the Probation Office. Sergeant Isbester informed him of hearing unsubstantiated rumours with respect to Mr. Barque's behaviour with clients. More specifically, "That he had heard rumours of Mr. Barque's relationship with Sheets" and with Mr. Barque's overlooking Sheets' use of alcohol and drugs. Mr. Sirrs testified that he asked Sergeant Isbester why he hadn't been advised, and received the response "Well, we didn't know you."

*Volume 168, p.p. 278 - 284, Exhibit 125*

Mr. Sirrs testified that he also had a very brief meeting with Cornwall Police Sergeants Masson and Laroche, who shared some information from occurrence reports; advised that they were also aware of rumours that were circulating concerning Mr. Barque's relationship with Sheets; and also referred him to the maintenance supervisor because they had had complaints with regard to Mr. Barque's behaviour while the Probation and Parole Office was still located in the Justice Building at 340 Pitt Street. Mr. Sirrs also indicated that the Cornwall Police did not give him any indication as to why they didn't talk to him or anybody from his office about these matters.

*Volume 168, p.p. 286 - 287, Exhibit 125*

Mr. Sirrs also heard from Sergeant Masson that he informally counselled Mr. Barque, at the Probation Office's Open House, about these rumours and Mr. Barque's too close association with probationers, and in particular with Sheets. Mr. Barque was said to have acknowledged to Sergeant Masson that he realized he had to do something about it. Mr. Barque was seen by the police to be interfering or obstructing their dealings with his probationers. Mr. Sirrs testified that he viewed these as serious matters and that he was extremely disappointed with the police. He found Mr. Barque's actions unacceptable and Sergeant Masson's failure to tell him unacceptable as well.

*Volume 168, p.p. 288 - 292, Exhibit 125*

Mr. Sirrs recalled asking the RCMP and the Cornwall Police if he should have any concerns about any of his other staff and received negative replies. He also confirmed that no one said anything to him about Ken Seguin. Mr. Sirrs recounted that he expressed his displeasure with police that they hadn't told him about the rumours and he let them know that he hoped that changed in the future.

*Volume 169, p.p. 7 - 9, Exhibit 125; Volume 169, p.p. 161 - 163*

#### **Contact with Justice Building Janitorial Staff and Others**

Mr. Sirrs testified about meeting with janitorial staff from the justice building in relation to the informal complaint made to the Cornwall Police concerning their observations of Mr. Barque in the office after normal business hours. Mr. Desnoyers had seen Mr. Barque shirtless and barefoot, et cetera, and hastening into the Probation Office, and, that Mr. Viau believed that he could identify the young probationer.

*Volume 169, p.p. 9 - 14, Exhibit 125*

Mr. Sirrs also recounted an in-person meeting with another probationer under Mr. Barque's supervision, who provided Mr. Sirrs with some indication of Mr. Barque's inappropriate behaviour in direct contravention of conditions on probation orders issued against C-44 and Sheets, and sexual activity between Mr. Barque and C-44.

*Volume 169, p.p. 14 - 15, Exhibit 125*

Mr. Sirrs also testified about being informed by a Cornwall Police Officer about Mr. Barque meeting with Justice of the Peace Jodoin. Mr. Jodoin cautioned Mr. Barque on his supervision of the Sheets case and indicated that Mr. Barque should take some specific action in response to Sheets' unacceptable behaviour. Mr. Sirrs did not recall whether J.P. Jodoin ever contacted him to talk about this, and he testified that he did not attempt to contact J.P. Jodoin after receiving this information from the Cornwall Police.

*Volume 169, p.p. 18 -20, Exhibit 125*

### **Lock on Nelson Barque's Office Door**

Mr. Sirrs testified about discovering a lock on Nelson Barque's office door in or around April of 1982, which was after he received the complaint about Mr. Barque. He testified that probation office doors were not meant to have locks, and he described it as a standard bathroom door lock handle with a locking knob in the door handle that was not observable from outside of the office. Mr. Sirrs didn't recall specifically but expected that he would have checked the other offices to see if there were locks. He testified that he discovered the lock himself while examining Mr. Barque's office following receipt of the complaint. He had it removed.

*Volume 168, p.p. 253 - 254; Volume 169, p. 148, 160*

### **Formal Investigation Recommendation**

Mr. Sirrs recounted his recommendation that there was sufficient information to refer the matter to the Ministry's Inspections Branch for a thorough investigation, and acknowledged that Ministry Inspectors McMaster and Porter were assigned to investigate and proceeded to Cornwall on April 29<sup>th</sup>, 1982 to conduct the investigation.

*Volume 169, p.p. 28 - 44, Exhibit 125*

### **Resignation Recommendation**

Mr. Sirrs also testified concerning his recommendation that should Mr. Barque acknowledge the truth of the allegations that he be afforded the opportunity to resign, and that should he resign no further action be initiated by the Ministry. Mr. Sirrs went on to explain the complexities of a potentially prolonged and difficult grievance process in the event of having to terminate Mr. Barque's employment. Mr. Barque's resignation would be the most expeditious route to follow in everybody's interest, insofar as Mr. Barque's employment would be terminated immediately without the risk that he would continue employment pending the grievance process.

This also avoided the very real risk that a grievance by Mr. Barque may have gone against the Ministry, which would have left Mr. Barque in his job, and at risk to the probation community. The Ministry showed transparency in the Barque resignation process by referring the matter to the Crown Attorney for possible public prosecution. Although the Crown opined that a prosecution was not viable, that decision was beyond the control of the Ministry. It simply cannot be said that the Ministry was trying to hide the event from public scrutiny.

*Volume 169, p. 31*

Mr. Sirrs testified that Mr. Barque was suspended with pay pending an investigation on May 3<sup>rd</sup>, 1982, and that ultimately, Mr. Barque resigned effective May 4<sup>th</sup>, 1982. Consequently, the Ministry did not have an opportunity to take any other course of action. Mr. Sirrs did not have any discussion with Mr. Barque about his recommendation that Mr. Barque be allowed the opportunity to resign.

*Volume 169 pp. 28 -34; 47 - 48, Exhibit 125*

### **Referral to the Crown Attorney**

Mr. Sirrs subsequently came to learn that the Ministry referred the matter to the Crown Attorney in Cornwall, whose decision was not to pursue the matter.

*Volume 169, p.p. 28 - 45 47 - 48, Exhibit 125*

### **Consideration of Preventative Measures**

Mr. Sirrs testified that following the Barque incident he did not institute any changes in his office in terms of managerial oversight, and explained that he did not think it necessary. He related that he reviewed the whole situation and determined that there wasn't anything he could have done to uncover the situation apart from being in the office 24/7.

*Volume 169, p.p. 57 - 58*

Mr. Sirrs testified that he didn't recall telling any of his staff at a general or specific meeting of the reasons why Mr. Barque left. He recounted that he really didn't tell them anything, and concluded that they would probably find out through the grapevine. He didn't feel that it was his position to lay out the circumstances of Mr. Barque's resignation, but he did speak to Ms. Cardinal, who took over Mr. Barque's caseload. He quietly asked her if she found anything of concern to bring that concern to his attention, but he didn't tell her why. It didn't occur to him at the time, but in retrospect he agreed that it would have been a good idea to have a staff meeting to outline how serious these concerns were so that it would be very clear that he would not tolerate this type of behaviour.

*Volume 169, p.p. 90 – 92*

Peter Sirrs decision not to address the issue with staff is a function of his belief that he didn't have to tell his staff not to abuse or otherwise have inappropriate contact with clients. Although this is understandable, it misses the other potential benefits of reinforcing ministry policies and ethics, and engaging staff in further dialogue.

#### **Audit of Barque's Files**

Mr. Sirrs testified that because Ms. Cardinal was at the level of a PPO1, which required that all of her files be reviewed every six months, that all of Mr. Barque's files would have been reviewed. However, he did not follow up by speaking to those probationers to determine if there were other potential victims of inappropriate behaviour by Mr. Barque.

*Volume 169, p.p. 92 – 94*

#### **Consideration of Ken Seguin**

Mr. Sirrs testified that he took consideration of Ken Seguin because of his relationship with Malcolm MacDonald, and that they might be in a homosexual relationship. He also considered whether Mr. Seguin might conceivably be involved

with clients, but he had no concrete information, no rumours or no suggestions. He also thought that it was subject to some discussion at a regional managers meeting where he would have shared what had occurred and inquired whether there was something that he should possibly be doing that he was not doing. He considered that he had not observed anything; he had no concrete or suggested information or police rumours; and that Mr. Seguin had an excellent reputation in Cornwall, and the Courts held him in high esteem. He came to the conclusion that there was no foundation for his concerns. Mr. Sirrs testified that based on the information that was available to him; he concluded that Mr. Seguin was too professional to get involved in something like that. He agreed that what prompted the consideration was a feeling that Mr. Seguin was likely a homosexual.

*Volume 169, p.p. 59 - 64; p.p. 173 - 174*

Contrary to Jos van Diepen's statement to the OPP dated February 14<sup>th</sup>, 1994, Mr. Sirrs denied saying anything to Ken Seguin in 1982 about the fact that he should go to Montreal if he had these types of tendencies. However, he did make a similar comment to Nelson Barque on the Saturday that he gave him access to the office to remove his personal effects following his resignation.

*Volume 169, p.p. 65 - 72, Exhibit 1063*

### **Letter Regarding Employment**

Mr. Sirrs testified that he had no recollection of agreeing to act as a reference for Mr. Barque. He recalled being contacted by telephone by Mr. Pierre Landry as a potential employer from an agency in Cornwall known as L'Equipe psycho sociale. Mr. Landry was looking for a recommendation, and Mr. Sirrs testified that he was not prepared to get involved in any way with regard to a reference for Mr. Barque without Mr. Barque's written release. He denied giving Mr. Landry a reference, but advised that he gave Mr. Landry a letter advising of Mr. Barque's dates of employment, which he did not regard as private information. Mr. Sirrs explained that he felt bound by privacy regulations and a responsibility not to release

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information without the individual's consent. Mr. Sirrs related that Mr. Landry did not provide him with a release of information signed by Mr. Barque. Furthermore, Mr. Sirrs recounted that he told Mr. Landry very clearly at the end of their telephone conversation that he would not hire Mr. Barque.

*Volume 169, p.p. 77 - 87, Exhibit 869;*

Mr. Sirrs recalled talking to Paul Downing by telephone concerning a Ministry investigation that he was conducting into the situation in Cornwall on November 24<sup>th</sup>, 2000. During that conversation, he denied providing any reference for Nelson Barque to Pierre Landry. He was surprised when Downing told him that he had a copy of a reference letter because he did not recall providing one, and recounted that he told Mr. Landry that he would provide no comments or reference unless he had a written release from Nelson Barque. Mr. Sirrs also recalled declining to provide Mr. Downing with a statement, and explained that he was retired and didn't want any more to do with it. Mr. Sirrs indicated that his position with respect to the letter is that it was simply reciting a chronology of Mr. Barque's employment with no reference.

*Volume 169, p.p. 108 - 119, Exhibit 1064; Volume 169, p.p. 255 - 258*

### **Staff Knowledge**

During cross-examination, Mr. Sirrs testified he had no knowledge that other staff in the office may have had knowledge about Mr. Barque's relations with probationers. He related that following the situation in 1982 he had thought it just seemed to make some sense at the time that they may have known something, but said that's not to allude that to anyone in particular or even that it was something other staff knew. It may have made some sense that some staff knew about Mr. Barque's activities, but he couldn't say that it was true. He also accepted that, in retrospect, it might have been a good idea to issue a memo or have a staff meeting about reporting inappropriate activities to him.

*Volume 169, p.p. 157 - 158*

**David Silmser – December 15-17, 1993 - Lenna Bradburn, Loretta Eley and Bill Roy, Heidi Sebalj**

**Bill Roy**

David Silmser called the Regional Office on December 15<sup>th</sup>, 1993. During December 15<sup>th</sup> to 17<sup>th</sup>, Bill Roy had three telephone conversations with David Silmser. The first contact came in on December 15<sup>th</sup>, wherein he first spoke with a secretary and a youth worker but was eventually put on the phone with Bill Roy. Bill Roy noted that in 30 years, he had never received a call similar to this one. He described David Silmser as being very upset and demanding. He recounted that David Silmser stated Ken Seguin had abused him while he was on probation. He recalled that David Silmser further said, “I had a deal worked out for a lot of money (\$100,000.00) ... and the son of a bitch killed himself”; and that he had met with Ken Seguin a number of times and Mr. Seguin had agreed to pay him money for the sexual abuse he had caused him. Bill Roy recalled that David Silmser further stated “... if I can’t get it from him then I’ll get it from you.” Mr. Roy recalled David Silmser also stating that there needed to be counselling, as he was not the only one. Bill Roy understood from this that there were other victims.

*Volume 175, p.p. 57-64, 67, 171, 176, 205-206*

Bill Roy at first reacted negatively to the tone and content of the call but eventually the conversation became more calm and David Silmser provided his name and phone number. Bill Roy understood that Mr. Silmser was speaking about Ken Seguin even though he did not recall Mr. Silmser being name specific as to the alleged abuser. Bill Roy advised David Silmser that he would be providing the information to the proper people in the Ministry, who would investigate, and failing that he would phone Mr. Silmser back. Bill Roy described that he took the call seriously and that he followed the procedure to report the call to various



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departments including the Independent Investigations Unit (“IIU”). He stated that there were procedures in place for this type of call.

*Volume 175, p.p. 61-63*

Bill Roy further recalled telling David Silmser that the first thing he should do would be to contact the police. To this, David Silmser informed Mr. Roy that he had already done that and that an investigation had started. However, he informed Bill Roy that they were “jerking” him around, and he told the police to drop the investigation. He further told Mr. Roy that he was going the “civil route” and that was the first time that he had mentioned to Bill Roy that he had a lawyer.

*Volume 175, p. 65*

Bill Roy, in addition to reporting the information to various persons and divisions in the Ministry, contacted the OPP. He did this more to report the complaint than out of concern for his own safety. However, Bill Roy emphasized the tone that David Silmser employed that conveyed threatening and at the least intimidating intent. Bill Roy had a total of three calls with David Silmser and he recalled that during the second call, on December 16<sup>th</sup>, 1993, David Silmser threatened that he would report this to the Ottawa Citizen and he would file a half a million-dollar lawsuit.

*Volume 175, p.p. 66-67*

Bill Roy communicated the complaint to a number of individuals within the Ministry. The list included Tom O’Connell, Executive Assistant to the ADM; Loretta Eley, the executive assistant to the Deputy Minister; and Lenna Bradburn, the Manager of the IIU - the unit, which he understood, had jurisdiction to investigate allegations of misconduct with a sexual aspect committed by employees toward clients. Bill Roy informed Lenna Bradburn of the complaint and request for financial settlement and that David Silmser said that he had contacted the Ministry to “demand help for others like him who were abused by this man.”

*Volume 175, p.p. 68-71, 165-176*

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Bill Roy also spoke with officers with the OPP and the Cornwall Police Service (“CPS”). In particular he spoke with Sgt. Brunet with CPS who advised him that David Silmsler had attended their office and laid a complaint. He further advised that David Silmsler told police to stop their investigation; that he would not support charges against a priest and wanted no investigation into Mr. Seguin. Further, Sgt. Brunet stated that they [CPS] were upset at David Silmsler’s change of heart, but their policy was that if a complainant refused to support charges, the police would not pursue charges. Bill Roy understood from this information that the police therefore discontinued the investigation.

*Volume 175, p.p. 73-75, 88-89*

Bill Roy then spoke with Constable Randy Millar of the O.P.P. who commented that they were aware of the Silmsler complaint against Ken Seguin and that David Silmsler was not reliable and that they had been working with him for some time. Bill Roy recalled being surprised by the police being aware of Mr. Silmsler’s complaint. Bill Roy did recall that Constable Millar indicated that they were investigating the suicide of Ken Seguin.

*Volume 175, p.p. 83-87, 209*

On December 17<sup>th</sup>, 1993, Bill Roy called David Silmsler and had a short conversation with him. David Silmsler told Bill Roy that he was not an “asshole” sitting by the phone and he again threatened to call the Ottawa Citizen. He told Bill Roy that he did not want to hear from him again as he expected an investigator to call him. He expressed no surprise at having not been contacted by an investigator given the way he said he had been treated including the way he was treated by the police, and that Bill Roy should not bother calling him again.

*Volume 175, p.p. 78-79*

Bill Roy recalled speaking with Lenna Bradburn on December 17<sup>th</sup>, who informed him that he should contact David Silmsler and advise him to put his complaint in writing to the Deputy Minister. He suggested to Lenna Bradburn that a further call

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from him would be less than useful and he thus recommended that he should write to David Silmsler. According to Bill Roy, Lenna Bradburn agreed, although notes of Lenna Bradburn indicate that he was to make a telephone call and follow-up by correspondence with David Silmsler. Instead of calling, Bill Roy reviewed the issue with his boss, John O'Brien, and they decided that Bill Roy would not write until Ken Hogg, a lawyer with the Ministry, drafted a letter. No such letter was ever received by Bill Roy nor did he have knowledge of any such letter being drafted.

*Volume 175, p.p. 80-83, 92*

Further, Bill Roy did not recall being given an address by David Silmsler, but he did have his name and phone number. Bill Roy recalled speaking with David Silmsler on the 17<sup>th</sup> of December and during the conversation, advising Mr. Silmsler to put his complaint in writing. However, he had misgivings about making the request, as he felt the matter should be investigated and that it was not his place to tell someone that they did not complain correctly. After December 17<sup>th</sup>, 1993, Bill Roy may have attempted to contact David Silmsler by phone on December 24<sup>th</sup>, and 29<sup>th</sup> without success. From that point on, Bill Roy had no further dealings or contact with David Silmsler. At some later date, Bill Roy spoke with Emile Robert and informed him that David Silmsler made a complaint. Bill Roy never followed up to see if any steps were taken by the Ministry or was involved with any file review of Ken Seguin's caseload to determine if there were other potential victims.

*Volume 175, p.p. 80-83, 91-93, 152-155, 157, 177-178, 202*

The sequence of dates and content of follow-up conversation with David Silmsler, as recounted by Bill Roy, must be determined in conjunction with the notes of Lenna Bradburn. Upon a review of her notes and the memo to Loretta Eley of December 22<sup>nd</sup>, 1993, it appears that the conversation between Bill Roy and Lenna Bradburn with the request to contact David Silmsler to put his complaint in writing, is more likely to have occurred on December 20<sup>th</sup>, 1993 with attempts to contact David Silmsler on December 24<sup>th</sup> and 29<sup>th</sup>. However, Bill Roy clearly stated in his evidence that during the conversation on December 17<sup>th</sup> he did mention Lenna Bradburn's

instruction. Without having had the opportunity to cross-examine David Silmsler on the sequence of contacts with Bill Roy, we submit that it is unclear and cannot be found as a fact that David Silmsler did not receive information to put his complaint in writing.

### **Lenna Bradburn**

Lenna Bradburn commenced her evidence on December 11<sup>th</sup>, 2007 and completed her evidence on December 12<sup>th</sup>, 2007. Ms. Bradburn was the Manager of the Independent Investigation Unit (“IIU”) between September 1993 and December 1994. Ms. Bradburn has an undergraduate degree from the University of Toronto; a Masters Degree from Queen’s University, and is a former police officer with the Toronto Police Service. Ms. Bradburn spent ten years with the Ministry of the Solicitor General and Correctional Service, including her time with the IIU. In December of 1994 she became the first female police chief, when she was selected to be the Chief of Police of the Guelph Police Service, a position she held until 2000.

*Volume 175, p.p. 216-219*

The IIU was created in 1992 in response to a growing recognition of issues pertaining to workplace harassment and discrimination. There were a series of complaints from Ministry employees who attended a training program. The IIU was designed to operate at arms length from the Ministry and investigate complaints of harassment, discrimination and sexual impropriety. As the unit was still in its infancy, Ms. Bradburn was requested to implement the operating procedures and business practices.

*Volume 175, p.p. 220-222*

Staffing consisted of one administrative support person, and four to six investigators, which remained constant up to the time that Ms. Bradburn left the

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position. Investigators were designated as Inspectors under the *Ministry of Correctional Services Act*, which imbued them with certain powers under that Act.

*Volume 175, p.p. 223, 233-234*

The unit was responsible for both sides of the Ministry including public safety and correctional services. The IIU reported directly to the Deputy Minister of Correctional Services and to the Deputy Minister of Management Board Secretariat. The Manager of IIU would have direct contact with the Deputy Minister of Correctional Services, who during Ms. Bradburn's tenure was Michelle Noble, on issues such as budgets, resources and in the recommendations arising from an investigation into a complaint. Reporting to the Deputy Minister of Management Board Secretariat was notional in that it was an annual reporting of the number of complaints under the WHDP. The day-to-day reporting was to the Deputy Minister of Correctional Services.

*Volume 175, p. 223, 227, 231-233*

Within the Deputy Minister's office in Corrections, there were two liaison persons that Lenna Bradburn often had contact with. These two were Loretta Eley and Jean Lindsay. This provided assistance with access to information that may be relevant to a particular file and not within IIU's knowledge. Ms. Bradburn could seek assistance in accessing information about for example, past policies and practices, or contacts within the Ministry that may be relevant to a particular investigation. Ms. Bradburn did not recall any direct dealings on a file with Ms. Noble.

*Volume 175, p.p. 239-240*

The Terms of Reference for the IIU were adopted in 1992 and in place in December of 1993, at the time of the Silmsler complaint, and stipulated that:

*“Purpose:*

*To demonstrate its genuine commitment to zero tolerance with respect to workplace discrimination, workplace harassment, the Ministry of*

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*Correctional Services is establishing a separate unit to provide neutral, independent and specialized investigatory capacity.*

*Mandate:*

*This unit will investigate the following: complaints of workplace discrimination, complaints of workplace harassment committed by employees, and all complaints of sexual impropriety alleged to have been committed by employees of the Ministry of Correctional Services towards offenders who come within the responsibility of the Ministry.”*

*Volume 175, p.p. 223-225*

Ms. Bradburn agreed that the mandate was three-fold, but that during her tenure with the IIU, over ninety-nine (99) percent of the files dealt with workplace harassment and discrimination policy. She did not recall any other sexual impropriety incident. Similarly, the operating procedures that Ms. Bradburn was implementing were only related to WDHP policy.

*Volume 175, p.p. 225-226, Volume 176, p. 8*

The Terms of Reference were superseded by amended terms in January of 1994, which were reissued by the Deputy Minister in March of 1994. An amendment to the Terms included:

- i) “In the event that the respondent is no longer a Ministry employee, the IIU will not conduct an investigation unless the Ministry can provide redress.”
- ii) “Unless directed otherwise by the Crown Attorney, the Independent Investigations Unit will continue to conduct its investigation whether or not the police investigation commences.”

*Volume 175, p. 224, Volume 176, p.p. 51-62*

As per the process, when a complaint came in, IIU would determine whether or not the substance of the allegation came within the mandate. The phrasing of the purpose section connoted a mandatory obligation to investigate a complaint, as it has the term “will”. Hence once the complaint was determined to be within the

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mandate then the unit is to investigate the complaint. It was the standard practice at the time that the complaint had to be made in writing, although there was no specific provision in the Terms of Reference requiring a complaint to be in writing. The bulk of files were all workplace discrimination and harassment issues. The complaints typically came by telephone call to the IIU and were sent in by letter.

*Volume 175, p.p. 228-230, 235-236*

The unit worked under the government's approved directives and guidelines on workplace discrimination and harassment prevention, and was to receive and investigate all complaints of workplace harassment and discrimination. The investigator was to develop an investigation plan with respect to each complaint. There was no specific process stipulated for complaints of sexual impropriety. There was no provision in the Terms of Reference for complaints made against employees that were no longer in the employ of the Ministry or were deceased.

*Volume 175, p.p. 234-235*

If in the course of the investigation, criminal allegations of sexual assault or any other serious criminal activity arose, the investigators were mandated to determine if the manager had notified the police, and if not, the unit shall notify the police pursuant to the Ministry's protocol for contacting the police. The IIU would still have jurisdiction to pursue an investigation within the context of labour relations, but they would be careful not to interfere with the integrity of a criminal investigation and would be guided by the police and/or Crown Attorney with respect to proceeding.

*Volume 175, p. 230*

The process of determining whether a complaint fit within the mandate of IIU, and hence the commencement of an investigation, was a determination made entirely within IIU and not a matter for the Deputy Minister. The Deputy Minister would only get involved usually when the investigation concluded and found that there were recommendations warranted. The report containing the recommendations would be sent to the Deputy Minister for determination of what to do with the

recommendations. IIU would only make recommendations about possible action or discipline of employees.

*Volume 175, p.p. 232-236*

Investigations themselves would involve interviewing witnesses, the complainant, other relevant persons, site visits, gathering of information, analysis of any relevant documents and drafting of a report. Ms. Bradburn managed the workflow and assigned cases to investigators. She typically attended to telephone inquiries and provided advice to managers, who may call with a concern about workplace harassment and discrimination issues that had arisen. Ms. Bradburn never conducted investigations herself.

*Volume 175, p.p. 237-238*

In a given year, the IIU would handle approximately 200 files. There was usually a backlog of a few files and they operated within a 60-day turnaround time on a file.

*Volume 175, p. 238*

### **David Silmsner Complaint**

Ms. Bradburn received information from Bill Roy, Regional Manager, Eastern Region, on or about December 16<sup>th</sup>, 1993, of a complaint by David Silmsner of having been sexually abused while a probationer with Ken Seguin. The information further indicated that the complainant had been pressuring Ken Seguin for a financial settlement. David Silmsner was to receive the settlement on Friday, but Ken Seguin died on Thursday. The notes of Lenna Bradburn indicate that David Silmsner was looking for a "Grandview resolution" and he was looking for counselling support. Further notes indicate that David Silmsner suggested that the Ministry should be offering counselling to him and others like him.

*Volume 175, p.p. 240-247, Exhibits 1083, 1108, 1109*



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Ms. Bradburn had the following records of the information she received and her conversations with Bill Roy, Loretta Eley, and police:

a) Verbal Transaction Record dated December 16<sup>th</sup>, 1993 with a recording of a summary of the call with Bill Roy and Loretta Eley. This note states:

“Mr. Roy called to advise that a P & P officer committed suicide approximately 3 weeks ago. Subsequent to that, a male party contacted Mr. Roy advising that the officer had sexually abused him while he was a young offender and that he had been privately seeking restitution through his lawyer from the deceased party.

On December 17<sup>th</sup>, I spoke to Loretta Eley who advised legal branch would lead and there was no action required of IIU at this time.”

b) Notes of December 17<sup>th</sup>, 1993 detailing call with Bill Roy and subsequent contacts with Detective Millar with OPP and Staff Sgt. Brunet of the Cornwall Police Service and follow up call with Bill Roy.

c) Memorandum dated December 22<sup>nd</sup>, 1993 from Lenna Bradburn to Loretta Eley, reporting the steps she has taken regarding the complaint by David Silmser and the conversations she had with Sgt. Brunet and Detective Millar. The last paragraph of the memo reads:

“As a result of our conversation on December 20, 1993, I spoke with Bill Roy this date and requesting he contact Mr. Silmser to advise him that if he wished to pursue his allegation with the Ministry, to forward his complaint to the Deputy Minister’s Office. Bill indicated that he would try to contact Mr. Silmser by telephone, with follow-up correspondence.”

*Volume 175, p.p. 242-243, Exhibits 1083, 1108*

Ms. Bradburn's practice with respect to note taking was to summarize information that she had been given, and/or to note information on a particular issue.

*Volume 176, p. 14*

### **Notes and Recollection of Ms. Bradburn**

Ms. Bradburn did not have an independent recollection of the complaint apart from what was contained in her notes. She made notes on December 16<sup>th</sup> and 17<sup>th</sup> of 1993, and authored the memo dated December 22<sup>nd</sup>, 1993 to Loretta Eley. Her lack of an independent recollection was a cause of concern for the Inquiry, although as has been seen through testimony of many subsequent witnesses from other institutions, recall restricted to information contained in notes made contemporaneously with the event is not unusual.

### **Lenna Bradburn's Decision to require the Complaint in Writing and not to Investigate**

The Commissioner specifically assailed Ms. Bradburn's interpretation of her own notes and memo of December 22<sup>nd</sup>, 1993, to suggest that the decision not to investigate was somehow directed or influenced by the legal branch or the Deputy Minister's office. Specifically, the Commissioner stated:

"... [Y]ou stated you don't have any independent memory but the way that I can read this, and I guess we are all free to read it the way we want to..."

With respect, this comment by the Commissioner is not consistent with the manner in which evidence has been elicited at the Inquiry. Witnesses may have a specific understanding of their notes without an independent recollection of the event. The Inquiry and any party to it are not free to interpret the notes in a manner that is not supported by other evidence and is in direct conflict with the evidence of the witness.

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*Volume 175, p 240-246, 247-249*

Specifically, Ms. Bradburn, the former Manager of IIU, and a respected and accomplished professional, stated to the Inquiry that she had spoken with Loretta Eley in the Deputy Minister's office and they had a shared view that, given the circumstances of the information, the Legal Branch would take a lead on the issue given references to the alleged criminal activity and the financial settlement. The notes specifically stated "...and no action required of IIU at this time." Ms. Bradburn testified that this was her decision. The Inquiry in its interaction with the witness seemed to suggest that, because she had no independent recollection of events long past, it is free to interpret her decision as being influenced by either the legal department or the Deputy Minister's office. We strongly disagree with that interpretation and respectfully submit that the Commissioner ought not ignore the evidence of the witness in favour of an unsupported theory. Simply put, there is no evidence whatsoever of inappropriate influence by the legal department or the Deputy Minister's office in Lenna Bradburn's decision not to launch an IIU investigation.

*Volume 175, p.p. 248-250*

Ms. Bradburn went further to explain that sexual impropriety issues were really not a focus of the IIU in the volume of complaints they received. Given how she operated in her relationship with the liaison staff within the Deputy Minister's office, she would have mutually agreed with Ms. Eley on a course of action given the information and circumstances that were before her. The decision for IIU to take no action at that time was, at its highest, a joint agreement, and not a direction of the Deputy Minister's office. Ms. Bradburn's practice was to make those decisions herself, but in consultation. Ms. Bradburn was able to provide this explanation based on her review of the notes and documents provided to her and the memo of December 22<sup>nd</sup>, 1993. The memorandum is addressed to Loretta Eley from Ms. Bradburn in which it is clear that the intent is to obtain a written complaint and then

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a determination was to be made at that point of what would happen with the information.

*Volume 175, p.p. 250-252, Volume 176, p. 25*

Ms. Bradburn spoke with Staff Sergeant Luc Brunet of the Cornwall Police Service and with OPP Detective Millar. Both officers were unable to provide any information, which would substantiate Mr. Silmser's allegations against the deceased probation officer. In Sgt. Brunet's evidence, he confirmed having the conversation with her. Ms. Bradburn did not speak with Mr. Silmser nor did an investigator from the IIU speak with Mr. Silmser. The intent was for Bill Roy to call back and ask for the complaint to be put in writing, as he had been communicating with David Silmser. At the time, Ms. Bradburn had no information to suggest this request would place a burden on Mr. Silmser or that he would be incapable of writing out his complaint. If she had, then she could have employed a different strategy. At that point in time, it was the practice of the unit that they would receive written complaints.

*Volume 175, p. 253, Volume 176, p. 17, Volume 212, p.p. 127-128, Volume 214, p.p. 67-69*

Further, Ms. Bradburn indicated that the request to put the complaint in writing stemmed from the information about criminal allegations, information shared by the police forces, as well as the reference to a financial settlement with a lawyer involved and wanting specific details of the person's complaint in order to proceed. Moreover, Staff Sgt. Brunet advised Ms. Bradburn that he called Silmser's lawyer to determine whether Mr. Silmser still wanted to proceed with his complaint in relation to Ken Seguin. Sgt. Brunet informed Ms. Bradburn that Mr. Silmser's lawyer advised him that David Silmser did not want to proceed with an investigation of Ken Seguin. Ms. Bradburn further testified that there was no expectation that the matter would not be dealt with and that the complaint was appropriate to be brought forward to the IIU, although they would not investigate criminal activity per se. Ms. Bradburn

noted that IIU would not conduct the criminal investigation. The verbal transaction record reflected the decision simply not to investigate at that time.

*Volume 175, p.p. 255-257, Volume 176, p. 5, Volume 176, p. 57*

The reference in her note of December 17<sup>th</sup>, 1993 to legal branch taking the lead was not in relation to legal branch investigating the complaint but in the context of a financial settlement being sought. Further, looking back on the information and knowing other information that has come to light during preparation for the inquiry, Ms. Bradburn agreed that David Silmser's statement that the Ministry should be offering counselling to him and others like him might support a broader investigation to determine if there were other abuse victims.

*Volume 175, p. 260-261*

Ms. Bradburn had no knowledge of any complaint ever being filed by David Silmser and there was no complaint in writing ever filed.

*Volume 175, p. 261*

Similarly, in December of 1993, Ms. Bradburn had no knowledge of any other complaints or issues pertaining to the Cornwall Probation and Parole office, nor the 1982 investigation of Nelson Barque or the 1992 Travis Varley incident involving Ken Seguin.

*Volume 175, p.p. 261-263*

## **Loretta Eley**

Loretta Eley testified on December 12<sup>th</sup>, 2007. Ms. Eley is a graduate from Concordia University with an Honours Degree in Sociology and holds a Masters Degree from the University of Ottawa. Ms. Eley is the Director of Strategic and Operational Initiatives for the Ministry. She first joined the Ministry in 1978. Ms. Eley has had an interesting, varied and successful career with the Ministry. She has

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worked as a correctional officer, probation officer, social worker at the East Detention Centre, Social Programs Director at the Toronto Jail, Senior Assistant Superintendent, Deputy Superintendent at the Toronto Jail, Deputy Superintendent at the Vanier Centre for Women, Superintendent with the West Detention Centre, Executive Assistant (“EA”) to the Deputy Minister, Project Lead for the Culture Review Project, Director of Victims Services, and has been the lead on a number of projects including the implementation of the *Youth Criminal Justice Act*.

In December of 1993, Ms. Eley was the Executive Assistant to then Deputy Minister Michelle Noble. An EA has no decision-making power, and no line of authority over the various Assistant Deputy Ministers. An EA can only advise, not direct. Ms. Eley acted as a liaison with IIU prior to Jean Lindsay coming into the office to be the WDHP advisor.

*Volume 176, p.p. 64-73*

Ms. Eley understood that IIU’s mandate was to investigate complaints of workplace harassment and discrimination, and allegations of sexual impropriety between clients and staff. Although the IIU operated independently, there was a reporting relationship to the Deputy Minister and IIU was accountable for performance, budget, and administrative issues. The Deputy Minister had the decision making power on the recommendations arising from completed investigations, but the Deputy Minister’s office had no role with investigations and/or the determination of whether a complaint came within IIU’s mandate. Once an investigation was completed a report would be sent to the Deputy Minister.

*Volume 176, p.p. 72-74, 76*

There was a consultative relationship between Ms. Eley, Jean Lindsay and the IIU in terms of providing information about the Ministry itself, or contact information.

*Volume 176, p. 74*

**David Silmser Complaint**

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Ms. Eley received a call from Bill Roy in December of 1993. Bill Roy advised Ms. Eley that a probation officer in his area had committed suicide and that he received a call from a former probationer who stated that his probation officer, Ken Seguin, had sexually abused him. She was further told that the complainant, David Silmser, had been negotiating a civil remedy with Ken Seguin, but because Mr. Seguin died Silmser was worried that he would not get his compensation; and that if he didn't hear back from the Ministry, he would be going to the Ottawa Citizen and launching a lawsuit against the Ministry. Mr. Roy also advised Ms. Eley that he would be contacting the IIU and the police, in accordance with the Ministry procedure.

*Volume 176, p.p. 79-80*

Ms. Eley regarded the information as serious and she felt that Bill Roy was pursuing the matter according to the protocol and that the process would take over.

*Volume 176, p. 80*

Ms. Eley was not aware that Mr. Silmser was seeking support for himself and others like him. Bill Roy did not inform her about this, and had she been, she would have responded. Ms. Eley noted that the Ministry has resources that they could refer a person to for assistance.

*Volume 176, p.p. 81-82*

The next contact on this issue was with Lenna Bradburn within a day of the call from Bill Roy. Ms. Eley's recollection of the call is as follows:

“... we had a discussion about what was going on with this particular case, that being Mr. Silmser's, and that was essentially a consultation, if you will, or a discussion about the various pieces of the complaint being made by him. My understanding was that he was – that Bill Roy was contacting the police. He had clearly contacted IIU. And that Lenna Bradburn herself had contacted both the Cornwall

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City Police and the OPP to ensure that the police had been contacted and, in fact, they had.

And that the police basically indicated that he was not interested – that Mr. Silmsler was not interested in pursuing any criminal matters and was focused on a civil remedy for the injuries he'd sustained.

And as a result of that, she either had or was going to instruct Bill Roy to contact Mr. Silmsler and ask him to put in writing his concerns so that she could investigate them. We had nothing in writing up until that point.”

*Volume 176, p.p. 82-83*

The instruction to Bill Roy to contact David Silmsler and put his complaint in writing came from Lenna Bradburn. Ms. Eley understood the rationale to be that Bill Roy had already spoken to Mr. Silmsler, and for the sake of continuity, he would be the contact person for David Silmsler. It was common practice to receive complaints in writing and have that as a starting point. At the time, Ms. Eley did not view the request for Mr. Silmsler to put his complaint in writing as an obstacle to him bringing forward his complaint.

*Volume 176, p.p. 83-84*

In reference to Lenna Bradburn's record of verbal transaction dated December 17<sup>th</sup>, 1993, Ms. Eley stated that the legal branch does not lead anything, but is rather a support to the Ministry. Ms. Eley recalled sending the legal branch a note telling them that we might receive a lawsuit from Mr. Silmsler. Ms. Eley did not refer the matter to legal. She simply sent them a note giving them the contact name of Bill Roy. Ms. Eley found the notation by Ms. Bradburn to be inaccurate in the recording of what she did.

*Volume 176, p.p. 85-87*

Further, she recalled that Lenna Bradburn had instructed Bill Roy to contact Mr. Silmsler and ask him to put his complaint in writing and then they would make a



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decision about whether to conduct an investigation and what shape that investigation would take. Ms. Eley agreed with this course of action, as it seemed very reasonable to her. Ms. Eley believed that there was intent on the part of IIU to investigate when they heard from Mr. Silmser. At that point, IIU did not have anything substantial to go forward with and there seemed to be indications from Mr. Roy and the police that this person was not interested in investigations of criminal matters but was interested in civil remedies. Mr. Silmser contacted the Ministry stating that if he didn't get his money – if he didn't get the sum of money that Mr. Seguin had promised him - he would be going to the newspapers and pursuing a lawsuit.

*Volume 176, p.p. 88-89*

When shown the letter from Lenna Bradburn dated December 22<sup>nd</sup>, 1993, Ms. Eley recalled the letter and indicated that the conversation with Ms. Bradburn could have been on the 20<sup>th</sup> of December but she has no specific recollection of dates. She recalled the content of the letter and did not receive any information about Bill Roy's contact or lack thereof with David Silmser.

*Volume 176, p.p. 92*

This was the first instance in Ms. Eley's experience of a complaint about a probation officer sexually abusing a client, but on the institutional side there have been a number of instances. Investigations of those complaints were referred to the Inspections branch.

*Volume 176, p. 94*

Ms. Eley did not make the decision for IIU to not investigate the David Silmser complaint.

*Volume 176, p.p. 98-100*

In her interview with Paul Downing, Ms. Eley was referred to a number of incidents, including the 1982 Nelson Barque investigation, the approval of an ex-probationer

living with Ken Seguin, and the 1992 Travis Varley incident involving Ken Seguin. Ms. Eley commented both to Paul Downing and to the Inquiry, that these matters were not known to her, or to her knowledge to Lenna Bradburn, and certainly not reviewed in conjunction with the David Silmsler complaint in 1993. Ms. Eley stated that these were significant issues that should have been better recorded and provided so that Lenna Bradburn, and any person in her position, would benefit from such knowledge when making a decision.

*Volume 176, p.p. 102-103*

Ms. Eley rejected the assertion that her comments or discussion with Lenna Bradburn about the chosen course of action could have been interpreted by Lenna Bradburn as a direction. She stated that Ms. Bradburn was very clear in her mandate and that she was not there to direct her but rather as a resource. Ms. Eley was of the opinion that there would have been no confusion on this.

*Volume 176, p. 103*

#### **Paul Downing Interview of Loretta Eley**

An issue arose from Ms. Eley's answer to Paul Downing about not knowing who made the decision not to investigate the Silmsler complaint. As Ms. Eley explained in her evidence, she may not have worded her answer to Paul Downing very well, but in a sense she still did not know who made the decision. Her evidence is consistent. Her conversation with Ms. Bradburn was about directing Bill Roy to contact David Silmsler to submit his complaint in writing. Except for the Inquiry, Ms. Eley had no further dealings with the Silmsler matter. When interviewed by Paul Downing in January of 2001, Ms. Eley had no knowledge of what happened with the Silmsler complaint - whether Bill Roy communicated the instruction to David Silmsler; whether David Silmsler submitted his complaint in writing; or if a decision was made not to investigate.

*Volume 176, p. 99, 114*

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As Ms. Eley explained in her evidence, IIU functioned independently, and if the complaint came in, it would have been directed to the IIU who would make their own decision. Accordingly, when being asked a leading question by Paul Downing asserting there was no investigation, Ms. Eley truthfully answered that she did not know who made that decision. Ms. Eley's knowledge only encompassed the conversation with Lenna Bradburn that there was no investigation at that point in time, December 17<sup>th</sup> or 20<sup>th</sup> of 1993, and that when the complaint would come in writing, the IIU would make a decision. That was the totality of her knowledge. As such, her answers to Paul Downing and to the Inquiry are entirely consistent - her recollections during the interview with Paul Downing and at the Inquiry are consistent. Paul Downing asked only one question based on the documents, and never took Ms. Eley through the chronology of events of December 17<sup>th</sup>.

*Volume 176, p.p. 152-159*

Ms. Daley's question, "... had the notes been able to refresh your recollection back in 2001, you would have given that information to Mr. Downing because he wanted to know what you knew about this circumstance; right?" and follow up question about having an enhanced recollection at the inquiry on this topic, misconstrues the evidence. Paul Downing's question was not about the process, but at who made the decision not to investigate. What Ms. Eley testified about at the Inquiry was the process that was discussed with Lenna Bradburn. Further, these questions completely ignore the qualitatively different process for preparation and review of the events taken by Commission counsel and counsel for the Ministry. Ms. Eley went into the interview with Paul Downing cold, with no time to review the documents and very limited questioning on the issue. In anticipation of her evidence at the Inquiry, Ms. Eley was taken through a detailed and exhaustive process to explore the chronology of December 16<sup>th</sup> to 22<sup>nd</sup>, 1993 and to give her ample time to review and refresh her memory.

*Volume 176, p.p. 109, 152-159*

A further issue arose about Ms. Eley's answers regarding the list of incidents involving Nelson Barque and Ken Seguin, and Ms. Eley's assertion that no one person possessed all of the incidents in one place and at one time. Mr. Lee cross-examined Ms. Eley on this point alleging that people at Corrections knew these incidents. Ms. Eley's answers both to Paul Downing and to the Inquiry are again consistent and logical given the evidence proffered. We know that these incidents were never collated and kept in any one place either at the local level or the regional level, and available for easy access and review. Lenna Bradburn and Loretta Eley did not have access to this information in 1993. This fact is behind one of Deputy Minister Newman's recommendations for a system of incident collection and retention, accessible to the people who need access and information the most.

*Volume 176, p. 143-147; Exhibit 3430 - 3432 (Progress Update)*

#### **Institutional Response to the David Silmser Complaint - Analysis**

As the Manager of IIU, Lenna Bradburn made the decision, in conjunction with Loretta Eley, to have Bill Roy contact David Silmser and request that he put his complaint in writing and forward it to the Deputy Minister's office. The matter was referred to the legal branch only in anticipation of a lawsuit being filed by David Silmser. This decision was not one made by the Deputy Minister's office. In hindsight the decision placed an additional obstacle in front of a complainant who expressed the need for counselling and certainly hinted that other potential victims of Ken Seguin were in need of assistance. It would have been possible to have an investigator contact Mr. Silmser and meet with him to obtain details of his allegations.

Volume 176, p. 18

However, within the context of 1993, Lenna Bradburn's decision was hers to make and was reasonable in the circumstances. Lenna Bradburn received information about a complainant who had been pressuring the person he accused of abusing him for a financial settlement. The employee was deceased. The information

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received from the police clearly indicated to Ms. Bradburn that a complaint had been made by David Silmser to the Cornwall Police and the investigation was halted at the request of the complainant, who opted to pursue a financial settlement.

We know that Staff Sgt. Brunet later followed up with Mr. Silmser's lawyer, who was understood to be Sean Adams, to inquire if Mr. Silmser wished to pursue an investigation of Ken Seguin. The answer that came back from Mr. Silmser to Constable Sebalj was no. When asked specifically about Ken Seguin, he declined to speak further on the issue and hence declined to pursue a criminal investigation. Sgt. Brunet informed Lenna Bradburn that he personally followed up with David Silmser's counsel and David Silmser did not wish to pursue an investigation. Whether David Silmser actually had a lawyer or not is of little moment in this context, as Lenna Bradburn understood at that time that David Silmser had counsel and was not interested in pursuing a criminal investigation. Further, the OPP, in particular Detective Millar, was similarly aware of the Silmser complaint against Ken Seguin. Neither police service provided information to substantiate the allegations.

*Volume 212, p.p. 8-19*

Evidence of CAS witnesses and police witnesses, including Detective Tim Smith of the OPP, clearly indicate that it was standard practice in the early 90's to have complainants write out their own statements in order to perform "statement analysis". We can agree that in current times this technique has little to no investigative value and only places a barrier in front of complainants who find the process of coming forward to be incredibly difficult and traumatizing, but in 1993 this was standard practice. In addition, within the workplace discrimination and harassment environment, requiring a complaint in writing was also standard practice (see Corporate Overview for standard practice for all complaints within the Ministry). Given the information that Ms. Bradburn had available to her, requesting Bill Roy to contact David Silmser by telephone and in writing, it was not unreasonable. Further, Lenna Bradburn clearly testified that there was no

expectation that an inquiry into the complaint would not take place. There was no further action at the time, pending receipt of the complaint in writing. Her intent at the time was to obtain the information in the form of a written complaint, and then make a determination about an investigation.

*Volume 176, p. 20, Evidence of Tim Smith, Transcript Volume 301, p.p. 125-126*

Further, the decision made by Ms. Bradburn was not a reflection of a culture to discount or dismiss complaints by clients, nor motivated by a desire to hopefully have the matter simply go away. Bill Roy testified that during his conversation with David Silmsler he informed him about putting his complaint in writing, but he failed to send any follow-up correspondence to David Silmsler. Bill Roy may have made subsequent attempts in December to contact Mr. Silmsler to no avail. Bill Roy did not tell Lenna Bradburn about his attempts to contact Mr. Silmsler or advise her that he was not going to be writing to Mr. Silmsler.

*Volume 176, p.p. 40-42*

### **Heidi Sebalj ODE**

Due to medical issues, former Cornwall Police Constable Heidi Sebalj was unable to testify at the Inquiry. Instead a document overview was read into the record on February 26<sup>th</sup>, 2008. The following is a summary of the relevant evidence for the purposes of the Ministry's submissions.

Constable Sebalj was an officer with the Cornwall Police Service from January 1<sup>st</sup>, 1987 to August 26<sup>th</sup>, 2000. On January 13<sup>th</sup>, 1993, Heidi Sebalj was assigned to the David Silmsler investigation into allegations of sexual abuse by Father Charles MacDonald and Ken Seguin.

*Volume 200, p. 42*

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Heidi Sebalj contacted David Silmsler to arrange an interview for January 18<sup>th</sup>, 1993. David Silmsler expressed his dissatisfaction that a female officer would be interviewing him. David Silmsler was unable to attend the meeting of January 18<sup>th</sup>, due to car trouble, and the interview was rescheduled for January 26<sup>th</sup>, 1993. On January 26<sup>th</sup>, 1993 David Silmsler did not attend the interview. Constable Sebalj contacted Mr. Silmsler who advised that he had forgotten about the appointment. He also stated that he was not comfortable with a female officer, and he requested that a male officer deal with him. On January 27<sup>th</sup>, 1993 a decision was made that Constable Sebalj would remain in charge of the investigation, however, Constable Ronald Lefebvre would interview David Silmsler. On January 27<sup>th</sup>, Constable Lefebvre contacted David Silmsler and scheduled the interview for the next day.

*Volume 200, p. 42-44*

On January 28<sup>th</sup>, 1993, Ronald Lefebvre interviewed David Silmsler, with Constables Sebalj and Malloy also present in the interview room. At the conclusion of the interview, Constable Sebalj provided David Silmsler with statement forms to be completed.

*Volume 200, p. 44, Exhibits 295 and 314*

On February 10<sup>th</sup>, 1993, Constable Sebalj received a telephone call from David Silmsler. Her notes reflect that Silmsler advised "he had called Seguin who is running scared, advised him he's only laying charges on McDonald, stated that he's getting very mad."

*Volume 200, p. 45, Exhibit 295*

On February 16<sup>th</sup>, 1993, David Silmsler provided his written statement to Heidi Sebalj. A meeting was arranged with David Silmsler for February 22<sup>nd</sup>, 1993, but the meeting was cancelled due to weather conditions. On March 2<sup>nd</sup>, 1993, David Silmsler called Constable Sebalj and expressed that he was not in a rush anymore and the investigation could take a matter of months, as it did not matter to him

anymore. On March 10<sup>th</sup>, 1993, Constables Sebalj and Lefebvre met with Silmsers to discuss further details of his written statement.

*Volume 200, p.p. 45-47*

At the meeting, David Silmsers answered questions about Father Charles MacDonald but when asked about Ken Seguin, he responded, "I don't think I can deal with that too right now."

*Volume 200, p. 48, Exhibit 295*

Constable Sebalj's next documented contact with David Silmsers is a call on August 24<sup>th</sup>, 1993, when counselling was discussed and that the Church would not help. According to the notes, David Silmsers indicated that he did not care if the investigation took another four months. At that time, Constable Sebalj also asked David Silmsers about his school records. Silmsers said he could check on the progress.

*Volume 200, p. 50*

On September 3<sup>rd</sup>, 1993, Malcolm MacDonald forwarded a direction from David Silmsers indicating that he wanted to stop any further proceedings. David Silmsers had reached a financial settlement in the amount of \$32,000.00 with the Diocese. On September 29<sup>th</sup>, 1993, David Silmsers attended the CPS office and met with Constable Sebalj. David Silmsers signed her notebook indicating that he received a settlement to his satisfaction and wished the matter against Father Charles MacDonald to be closed.

*Volume 200, p.p. 51-53, Exhibits 295 and 296*

### **Investigation into Ken Seguin**

According to a supplemental report prepared by Constable Sebalj, David Silmsers contacted Constable Sebalj on November 4<sup>th</sup>, 1993. During that telephone call, he



advised Sebalj in regard to the Ken Seguin investigation, that he “no longer wanted to talk about all this.”

*Volume 200, p. 54, Exhibits, 1248, 295*

In Heidi Sebalj’s July 20<sup>th</sup>, 1994 statement to Detective Hamelink, Constable Sebalj advised that no investigation of allegations against Ken Seguin proceeded because David Silmser did not want to address the complaint at any time throughout her involvement in the investigation. She stated that Silmser advised her he could not deal with both Father MacDonald and Ken Seguin. He wanted to channel his energies toward prosecuting Father MacDonald.

*Volume 200, Exhibit 371*

#### **Albert Roy and Allegations of Abuse**

On November 23<sup>rd</sup>, 1994, Albert Roy attended the Cornwall Police Service and disclosed allegations of sexual abuse by his probation officers, Nelson Barque and Ken Seguin. His therapist had provided Mr. Roy with her name. Albert Roy wished to pursue an investigation of Nelson Barque, and an investigation of Ken Seguin did not take place due to his suicide in November of 1993. On November 24<sup>th</sup>, 1994, Albert Roy provided an audio taped statement. Albert Roy alleged that sexual abuse occurred at Nelson Barque’s residence. On November 25<sup>th</sup>, 1993, Constable Sebalj attended with Albert Roy to determine the location of the residence. Later that day, she spoke with OPP Lancaster Detachment as two possible locations were outside the CPS jurisdiction.

*Volume 200, p.p. 60-61, Exhibits 120, 115, 1272*

On November 28<sup>th</sup>, 1994, Constable Sebalj and Albert Roy visited the home he previously identified and confirmed that it was the location of the alleged assault. Constable McDonnell later advised Constable Sebalj about a 1982 investigation by the Ministry into alleged misconduct of Nelson Barque with regard to a probationer. She was informed that Nelson Barque had resigned from his employment in 1982.

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On November 29<sup>th</sup>, 1993, Constable Sebalj met with Constable Zebruck of the Long Sault OPP Detachment and briefed him on the investigation.

Constable Sebalj requested a number of source historical documents in support of her investigation of Nelson Barque in addition to speaking with C-44, who was a former probationer and the subject of the 1982 investigation. Constable Sebalj received a copy of the 1982 investigation, a copy of Nelson Barque's personnel file from the Ministry, but no file could be retrieved on Albert Roy as a probationer. On December 16<sup>th</sup>, 1994, Constable Sebalj was advised that the OPP had laid the information and that this terminated her involvement in the investigation.

*Volume 200, p.p. 61-63*

Nelson Barque pled guilty on July 10<sup>th</sup>, 1994 to indecent assault of Albert Roy and on August 18<sup>th</sup>, 1995 he was sentenced to four months custody and 18 months probation. On June 18<sup>th</sup>, 1998 he was charged with indecent assault of C-45 and Robert Sheets. On June 28<sup>th</sup>, 1998 he was found dead due to self-inflicted gunshot wound to the head.

#### **C-44 Allegations of Sexual Abuse**

C-44 attended with Constable Sebalj on December 21<sup>st</sup>, 1995 and provided an audio taped statement of his allegations of abuse against Nelson Barque. Constable Sebalj wrote to Crown Attorney MacDonald on February 7<sup>th</sup>, 1996 and met with MacDonald on February 27<sup>th</sup>, 1996 in regard to the viability of prosecution of Nelson Barque on C-44's allegations. The matter was referred to the Regional Director of Crown Attorney's, Peter Griffiths, who determined that the proposed evidence lacked essential elements and advised that criminal proceedings were not available.

*Volume 200, p.p. 64-65, Exhibits 1262, 1283, 1279, 1261, 916, 917*

## **Emile Robert – Area Manager 1985 to 1998 – an Era of Missed Opportunity**

Le 1 juillet 1985 Émile Robert a accepté le poste de gérant de secteur pour le bureau de probation de Cornwall.

*Volume 192, p. 21 lignes 5 à 15*

Jos Van Diepen avait postulé pour cet emploi ainsi que Ken Séguin. Ce dernier avait cependant retiré sa candidature par la suite.

*Volume 192, p.22 lignes 4 à 8*

Les agents de probation en poste au moment de l'arrivée de Robert étaient Carole Cardinal, Ron Gendron, Terry McDonald, Stuart Rousseau, Ken Séguin et Jos Van Diepen. Le personnel de soutien était composé de Louise Quinn et Lise Bourgon. Marcelle Léger était assistante administrative.

*Volume 192, p. 28 lignes 1 à 9.*

Émile Robert a indiqué que le contact entre un agent de probation et son client doit prendre fin au terme de la période de supervision. Il s'agit de préserver l'indépendance du service de probation. Ceci est conforme à ce qu'il comprend des politiques du ministère, présentes et passées.

*Volume 192, p.42 lignes 19 à p.43 ligne 5.*

Le gérant de secteur était responsable de la discipline mais celle-ci devait être faite de concert avec le gérant régional et les ressources humaines. La responsabilité d'imposer la mesure disciplinaire incombait en dernier au gérant de secteur.

*Volume 192, p.45 lignes 14 à 18 et Volume 192, p.50 lignes 7 à 18.*

Toutes les mesures disciplinaires pouvaient faire l'objet d'un grief de la part de l'employé, à l'exception de la "letter of counsel", qui était une lettre éducative

donnant les attentes de l'employeur, la première étape dans un processus de discipline progressive.

*Volume 192, p.47 ligne 23 à p.49, ligne 6.*

Le gérant de secteur était responsable des vérifications de dossier des agents de probation ainsi que des évaluations de rendement. Aucun gérant de secteur ne rencontrait les probationnaires dans le cadre des vérifications de dossier. Émile Robert a indiqué avoir soulevé cette idée d'une rencontre avec les probationnaires en 1995 ou 1996 alors qu'il faisait partie d'un comité provincial pour les évaluations des employés. Selon Robert, sa suggestion avait pour but de s'assurer que le client sache pourquoi il était supervisé, comprenne sa relation avec l'agent de probation, la supervision reçue et les progrès réalisés. Robert indique aussi avoir eu des dialogues à ce sujet avec ses employés et avec sa superviseur de l'époque, Madame Newman. Émile Robert a témoigné que la réponse de Madame Newman à sa suggestion avait été que considérant le processus d'évaluation exhaustif de Robert envers ses employés, vu que les employés avaient indiqué avoir de la difficulté et se sentir mal à l'aise face à ce processus exhaustif et vu aussi les problèmes de relation entre Robert et les employés en existence, le timing n'était peut-être pas nécessairement bon pour suggérer cette nouvelle mesure.

*Volume 192, p.55 ligne 11 à p. 56 ligne 11.*

Au sein de ce comité, l'idée avait été lancée de façon informelle et préliminaire. Aucune proposition écrite n'avait été transmise au Ministère.

*Volume 194, p.211 ligne 4 à p.215 ligne 5*

Émile Robert se décrit comme le type de gestionnaire qui suivait les politiques au meilleur de ses habilités, à cheval et strict sur les principes et sur les politiques mais aussi à l'écoute des employés.

*Volume 192, p.59 lignes 1 à 15.*

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La première fois qu'Émile Robert a rencontré les employés de probation de Cornwall, ceux-ci étaient supervisés par Peter Sirrs. M. Robert s'était rendu dans une session de planification opérationnelle où se trouvaient les agents du bureau de Cornwall. Robert a alors constaté que Jos Van Diepen, Carole Cardinal et un autre agent de Brockville étaient mécontents, faisaient des attaques personnelles et non constructives envers M. Sirrs. Robert s'est souvenu être sorti de cette session avec un certain mépris, mal à l'aise.

*Volume 192, p.61 ligne 4 à p. 62 ligne 19.*

À son entrée en poste à Cornwall, Robert s'est fait dresser un portrait de chacun des individus de Cornwall par son superviseur Roy Hawkins et par M. Dalgleish, agent des ressources humaines principal pour la région.

*Volume 192, p.62 ligne 20 à p. 63 ligne 7.*

On avait mentionné à M. Robert que Van Diepen pouvait être un employé problématique. On avait aussi indiqué que Ken Séguin était un employé de longue date, un pilier du bureau et que Robert pouvait se fier sur lui. Quant à Nelson Barque, la discussion avait été à l'effet que "the bad apple is gone" Robert n'a pas demandé de détails à ce moment.

*Volume 192, p.63 ligne 14 à p. 64 ligne 23.*

Cependant, avant de prendre position comme gérant de secteur à Cornwall, soit au moment de son transfert de Kapuskasing à Cornwall, Robert avait appris que Nelson Barque avait démissionné pour avoir eu des relations sexuelles avec un client.

*Volume 192, p. 66 ligne 8 à p. 67 ligne 4.*

Durant sa première semaine au bureau de Cornwall, Louise Quinn, Jos Van Diepen et Stuart Rousseau sont venus le voir pour lui dire qu'ils s'étaient débarrassés de M. Sirrs et de faire attention car ce serait son tour si ça ne marchait pas de leur façon. Robert a compris que ce n'était pas quelque chose contre lui personnellement mais

plutôt un manque de respect face à l'autorité se rattachant au poste de gérant de secteur. Robert aurait reçu de Roy Hawkins la suggestion de ne pas réagir, de donner une chance aux employés puisque ceux-ci essayaient de le tester pour voir sa réaction.

*Volume 192, p. 68, ligne 17 à p. 70 ligne 16 et Volume 194, p. 149 ligne 6 à p. 150 ligne 18*

Après la mort de Ken Séguin, Émile Robert a dit s'être senti lésé parce que certains employés savaient que Séguin était sous enquête et que personne ne lui en avait fait part. Robert a vu ceci comme un manque de confiance de certains de ses employés envers lui. Robert s'attendait à ce qu'on l'avertisse de l'enquête. Ainsi, il aurait pu prendre les mesures nécessaires pour corriger la situation.

*Volume 192, p.71 lignes 9 à 19.*

Les relations avec ses employés ont dégénéré de plus en plus après la mort de Ken Séguin. Divers incidents liés à grève de 1996 ont aussi envenimés la situation. En 1998, un médiateur est arrivé à la conclusion que le groupe de Cornwall s'était essentiellement ligué contre Robert. Les relations de travail étaient très difficiles et Robert a quitté pour Ottawa en 1998.

*Volume 192, lignes 6 et 7, Volume 194, p. 13 ligne 5 à p. 16 ligne 21*

Les difficultés vécues entre Van Diepen et Robert ont probablement à leur source la compétition entre les deux pour le poste de gérant de secteur à Cornwall. Van Diepen refusait de faire confiance à Robert vu que ce dernier n'avait pas accepté, durant le concours, de l'aviser dans l'éventualité où Robert apprendrait avoir été choisi pour le poste et vice versa. Selon Robert, Van Diepen croyait être le candidat ayant mérité le poste et que la seule raison pour laquelle Robert l'avait obtenu était son bilinguisme.

*Volume 192, p.75 ligne 4 à p. 76 ligne 6*

De nombreux incidents sont par la suite venus ternir encore plus les relations entre les deux. Robert fait la description de certains de ces incidents lors de son témoignage. Voir par exemple :

*Volume 192, p.72, ligne 12; p.72 ligne 24 à p. 73 ligne 6; p.76 ligne 22 à p.78 ligne 16.*

Cette relation difficile avait un impact sur les autres employés. Selon Robert, Madame Quinn, Madame Cardinal et M. Gendron à l'occasion, supportaient Van Diepen dans sa façon d'agir.

*Volume 192, p.78 ligne 17 à p. 79 ligne 12.*

Il s'est dit en désaccord avec l'accusation lancée par Van Diepen à l'effet qu'il était le responsable de l'atmosphère empoisonnée du bureau et a ajouté que lorsqu'un problème survenait, il tentait d'établir une relation avec Van Diepen.

*Volume 192, p.79 ligne 13 à p. 80 ligne 18.*

Robert a aussi connu des problèmes avec Carole Cardinal, Ron Gendron et Louise Quinn. Robert affirme que le Bureau de probation était fonctionnel malgré tout et que le travail se faisait.

*Volume 192, p.81 ligne 12 à p. 82 ligne 6.*

Madame Léger était l'assistante de Robert et une personne intègre, son bras droit, sa confiante.

*Volume 192, p.92 lignes 1 à 7.*

Tous les prédécesseurs de Robert parlaient en bien de Ken Séguin. Il était expérimenté, impliqué dans divers programmes au bureau, dans la formation de nouveaux agents et d'étudiants. Il ne refusait jamais le travail supplémentaire, était bien vu dans la communauté et respecté du Service de Police de Cornwall. Il avait reçu une lettre de félicitations du chef de police et une médaille de bravoure du Ministère, à la suggestion de Robert, pour son rôle dans une prise d'otage entre

1988 et 1990. Il était respecté des autres agents de probation du bureau et semblait avoir l'intérêt du client à la bonne place.

*Volume 192, p.94 ligne 8 à p.97 ligne 12.*

Comme employeur, Robert avait une bonne relation avec Ken Séguin. Il s'agissait d'un agent de probation sur lequel il pouvait compter dans le bureau. Robert n'a jamais reçu de plainte concernant le travail de Ken Séguin, tant d'un corps policier, d'un tribunal, de clients ou de collègues de travail.

*Volume 192, p. 98 ligne 2 à p.99 ligne 3.*

Robert ne croit pas avoir favorisé Ken Seguin et pense que ce dernier le respectait. Robert explique qu'il n'est pas vrai que Ken Séguin allait le voir pour dénoncer d'autres agents de probation. Robert n'a jamais utilisé ses bons rapports avec Séguin afin de tenter d'obtenir de l'information sur d'autres employés du bureau.

*Volume 192, p.108 ligne 13 à p. 109 ligne 3.*

Robert se souvient d'avoir dit dans une déclaration à la Police Provinciale de l'Ontario, le 15 février 1994 "When I came here in 1985, my admin clerk, Marcelle Léger, told me that if something happened with Ken's work, he would commit suicide. That always stayed with me. I can't remember why we were talking about Ken." (Pièce 1098A) Robert se souvient de cette conversation avec Marcelle Léger à son arrivée à Cornwall. Madame Léger lui donnait une mise à jour et lui mentionnait ce qu'elle pensait des agents. Elle disait que pour Ken, sa vie était son travail et qu'il était fier de sa réputation d'agent de probation. Robert n'a pas compris ce commentaire de Madame Léger comme une indication d'un problème particulier face au travail de Séguin ou que Séguin était dépressif. Robert a compris que la vie de Séguin tournait autour du travail et de sa bonne réputation dans la communauté.

*Volume 192, p.109 ligne 10 à p.111 ligne 14, Volume 194, p.106 lignes 4 à 24 et Volume 194, p. 107 ligne 3 à p.111 ligne 2*



Toujours au moment de l'arrivée de Robert à Cornwall, Madame Léger lui a dit que c'est elle qui a reçu la plainte du client au sujet de Nelson Barque. Elle a aussi dit savoir que des nettoyeurs du 302 Pitt Street avaient dit aux enquêteurs du Ministère qu'il y avait possibilité qu'un autre agent que Nelson Barque soit impliqué. Pour Robert, au moment où il prend connaissance de cette information, l'enquête avait déjà été complétée sans plainte deux ans auparavant. Robert était satisfait qu'il s'agissait de oui-dire, que les enquêteurs du Ministère avaient été mis au courant et que l'on avait peut-être trouvé que ceci était non fondé.

*Volume 192, p.116 ligne 23 à p.121 ligne 18.*

Quand Robert est entré en fonction à Cornwall, Séguin traitait des adultes et des jeunes contrevenants.

*Volume 192, p.122 lignes 12 à 17.*

Par la suite, Séguin a approché Robert indiquant qu'il n'aimait pas travailler avec ces jeunes contrevenants de 16 et 17 ans (Phase 2). Séguin a expliqué que c'était une clientèle plus difficile et a demandé de traiter à l'avenir seulement des adultes.

*Volume 192, p.124 lignes 14 à 25.*

Émile Robert n'a pas noté, au fil des ans, de problème ou commentaire négatif dans les évaluations de rendement de Ken Séguin.

*Volume 192, p.148 ligne 21 à p.149 ligne 3 et p.152 lignes 2 à 8.*

En général, le travail de soir, pour les agents, se faisait le dernier jeudi du mois, tous en groupe.

*Volume 192, p.154 lignes 9 à 13.*

Éviter qu'un agent de probation rencontre des clients seul le soir faisait partie des standards de sécurité implantés par Robert au début des années 90.

*Volume 192, p.196 lignes 3 à 10.*

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Le 14 décembre 1987, Ken Séguin demanda à Émile Robert de modifier ses heures de travail afin de rencontrer plus de clients en soirée car la majorité travaillait le jour. Robert a approuvé cette demande dès le lendemain.

*Volume 192, p. 157 ligne 8 à p.158 ligne 8 et pièce 1198*

Cette demande n'est pas apparue suspecte à Émile Robert.

*Volume 192, p.159 ligne 8.*

Ken Séguin semblait avoir une bonne relation professionnelle avec ses clients. Certains demandaient d'être de nouveau supervisés par lui.

*Volume 193, p.2 lignes 5 à 10.*

Robert n'a jamais observé de cas de socialisation de Séguin avec des clients sauf fumer à l'extérieur du bureau avec ceux-ci. D'autres personnes du bureau pouvaient se joindre à eux à cette occasion. Cela n'a pas semblé anormal à Robert.

*Volume 193, p. 3 ligne 7 à p.4 ligne 2.*

Quand Robert était gérant de secteur, c'était une pratique fréquente pour les agents de probation, incluant Ken Séguin, de conduire dans leurs véhicules des clients au Centre d'emploi ou au Bien-être social.

*Volume 193, p.4 ligne 19 à p.5 ligne 7.*

Outre l'affaire Varley, du vivant de Ken Séguin, Robert n'a jamais eu de rapport à l'effet que Séguin aurait été en contact avec des clients à sa résidence ou ailleurs. Il ignorait les préoccupations de Van Diepen et Gendron au sujet de la socialisation de Séguin et le fait que ceux-ci avaient suivi Séguin au Cornwall Square. Van Diepen et Gendron n'ont jamais parlé de ces faits à Robert alors qu'il était gérant de secteur.

*Volume 193, p.7 ligne 6 à p.8 ligne 22 et p.14 ligne19 à p.15 ligne 5.*

En 1989, Robert se souvient d'avoir croisé tôt le matin la voiture de Ken Séguin avec à bord peut-être 3 passagers aux cheveux longs dans la vingtaine. Robert s'est

posé des questions sur cette situation comme employeur. Après vérification auprès de Van Diepen, celui-ci lui a expliqué que Séguin procédait à des rénovations à sa résidence et avait engagé des jeunes pour l'aider. Séguin a aussi parlé par la suite à Robert de ses rénovations.

*Volume 193, p.9 ligne16 à p.13 ligne 23 et pièce 958.*

Séguin et Van Diepen semblaient être de très bons amis, des collègues de longue date. Ils allaient souvent dîner ensemble. Madame Léger a cependant appris à Robert qu'une chicane était survenue entre les deux. Robert n'a jamais su la nature du problème et n'a pas posé de questions considérant l'absence d'un impact visible sur le fonctionnement du bureau.

*Volume 193, p.15 ligne à p.17 ligne 2.*

Au début des années 90, Robert a été nommé sur un projet spécial du Ministère, l'Employment System Review. Robert a indiqué que pendant 1 an et demi ou deux ans, il était fréquemment absent du bureau, à Toronto. Ainsi, selon Robert, durant cette période, il aurait eu peu de contacts avec son personnel. Personne n'était désigné pour remplacer Robert. Lise Bourgon était son adjointe administrative et ses yeux et oreilles au bureau, pas Ken Séguin.

*Volume 193, p.20 ligne 18 à p.24 ligne 22 et Volume 194, p. 86 ligne 22 à p. 91 ligne 8.*

Le 10 mars 1989, Ken Séguin avise par écrit Robert qu'à partir du 11 mars 1989 il allait louer une chambre dans sa résidence à Gerald Renshaw qui était un client sous sa supervision d'octobre 1984 à avril 1986. (Pièce 556) Dès réception de cette lettre, Robert a rencontré Séguin et celui-ci lui a expliqué que Renshaw était en instance de divorce, mal pris financièrement et qu'il cherchait à louer une chambre pour une courte période de temps. Robert ne se souvient pas s'il a vérifié quel type de crime il avait commis ou son profil criminel et il ne pense pas non plus avoir revu son dossier de probation à ce moment. Robert ne savait pas si d'autres membres

de la famille Renshaw possédaient un dossier criminel. Robert a demandé à Séguin d'attendre un retour avant de procéder.

*Volume 193, p.29 ligne 11 à p.35 ligne 20.*

En contre-interrogatoire, Robert a dit qu'il ignorait si les autres clients de la probation du nom de Renshaw étaient reliés à Gerry Renshaw et qu'il aurait peut-être dû poser cette question. Robert aurait voulu que Séguin l'avertisse des relations ou contacts qu'il aurait pu avoir avec ces autres Renshaw en probation.

*Volume 194, p.132 ligne 20 à p.135 ligne 11*

M. Robert a demandé à son superviseur, Ron Hawkins des directives sur la façon de procéder. Robert pensait que c'était important d'informer Hawkins, d'en discuter avec lui. Robert ne croyait pas qu'il s'agissait d'une décision qu'il pouvait prendre sans consultation.

*Volume 193, p.35 ligne 21 à p.36 ligne 12 et pièce 559.*

Le 29 mars 1989, Hawkins donne par écrit à Robert certaines directives sur la façon de procéder. Voir Pièce 560. Suite à ceci, Robert a communiqué avec la police municipale pour vérifier le dossier de Renshaw. Il a aussi convenu avec Séguin que celui-ci ne devait plus avoir de contacts dans le futur comme agent de probation avec Gérald Renshaw et s'est convaincu que la sécurité des locaux de probation était assurée.

*Volume 193, p. 39 ligne14 à p.38 ligne 15.*

Bien que Robert savait, en 1985, que le bureau de probation faisait affaire avec d'autres frères Renshaw, il n'a jamais procédé à vérifier ceux-ci au CPIC.

*Volume 194, p.56 lignes 13 à 22.*

Robert a aussi témoigné dit qu'il n'était pas totalement confortable avec le fait que Renshaw emménage chez Séguin mais qu'il ne pouvait rien faire d'autre vu la

politique du temps obligeant seulement l'employé d'aviser l'employeur d'une situation potentielle de conflit d'intérêt, ce qui de l'avis de Robert avait ici été fait.

*Volume 193, p.40 ligne 16 à p. 42 ligne 12.*

En contre- interrogatoire, Robert a précisé que considérant les politiques du temps et ce qu'il savait alors de Séguin, il pense encore avoir fait la bonne chose et être satisfait des efforts faits pour obtenir plus d'informations.

*Volume 194, p 140 lignes 3 à 8*

Robert a pris connaissance de l'affaire Varley en janvier 1992 lorsque Ken Séguin l'a approché à ce propos la semaine après l'incident. Ken Séguin lui a dit que l'un des frères Varley lui avait téléphoné pour aller faire un tour chez lui. Séguin connaissait la famille des frères Varley, c'était des voisins et il recevait de temps en temps leur visite. Séguin a dit à Robert qu'il s'attendait donc à recevoir la visite des deux frères et qu'il était resté surpris en constatant qu'ils étaient accompagnés de deux autres individus dont un client que Séguin devait rencontrer le lendemain matin pour la préparation de son rapport pré-sentenciel. Séguin a dit à Robert qu'il avait discuté des conditions du cautionnement de cet individu et qu'en apprenant son couvre-feu, il lui avait demandé de quitter. Séguin a aussi dit à Robert que durant la nuit, un des individus avait été tué par un des Varley. Enfin, Séguin a dit qu'il avait été interviewé par la Sûreté provinciale de l'Ontario à ce sujet. Robert n'a pas souvenir si Séguin avait parlé ou non d'avoir servi de l'alcool. Le client avait aussi téléphoné le lendemain pour annuler son rendez-vous.

*Volume 193, p.42 ligne 14 à p.46 ligne 1.*

Robert a eu des discussions avec Séguin au sujet de la façon dont les individus étaient entrés chez Séguin. Ce dernier a dit à Robert avoir été mis devant un fait accompli, avoir été surpris et s'être senti intimidé.

*Volume 193, p.50 ligne 6 à p. 51 ligne 8.*

Robert a demandé à Séguin de préparer un rapport d'incident. L'incident est survenu le 8 janvier 1992 et le rapport est daté du 16 janvier 1992. Il n'est pas fait mention d'alcool dans le rapport d'incident. (Pièce 927) Robert n'a pas souvenir d'avoir eu une discussion avec Séguin au sujet du délai d'une semaine entre l'incident et le moment où Séguin vient le voir pour lui en parler.

*Volume 194, p. 205 ligne 1 à p. 208 ligne 14.*

Émile Robert a témoigné à l'effet qu'il a transmis par télécopieur à son superviseur régional, Roy Hawkins, le rapport d'incident. Il a aussi témoigné se souvenir vaguement d'avoir eu une discussion avec Hawkins où Hawkins lui aurait dit de ne rien faire côté discipline avant d'avoir plus d'information des policiers ou le rapport de police.

*Volume 193, p.53 ligne 7 à p.54 ligne 10, p.56 lignes 14 à 18 et p.62 lignes 1 à 10.*

Robert a été confronté au fait qu'aucune preuve n'existe que le rapport a été envoyé à la région. Il a aussi été confronté au témoignage rendu par Hawkins à l'effet que celui-ci ne croyait pas avoir reçu le rapport d'incident peu de temps après ou avoir discuté de ce sujet avec Robert avant septembre ou octobre 1992.

*Volume 193, p.54 ligne 21 à p.60 ligne 17 et Volume 194, p.43 ligne10 à p.45 ligne 9.*

Robert a convenu ne pas avoir mentionné à Paul Downing cette conversation avec Hawkins et ne pas avoir de notes de cette conversation.

*Volume 193, p.62 ligne 20 à p. 63 ligne 22.*

Enfin, Robert admet qu'il aurait dû confirmer par écrit la directive alléguée de Hawkins d'attendre le rapport de police, ce qu'il n'a pas fait malgré l'importance pour lui, à l'époque, de documenter ses agirs.

*Volume 194, p.208 ligne 15 à p. 210 ligne 25.*

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Au mois d'août 1992, Robert est rencontré par la police provinciale de l'Ontario au sujet de l'affaire Varley et il reçoit une copie du rapport de police en septembre 1992. Ce rapport de police est la pièce 929.

*Volume 193, p.66 lignes 3 à 6.*

Robert a pris connaissance de la déclaration donnée aux policiers par Séguin (Pièce 1199) seulement en préparant son témoignage pour l'enquête publique.

*Volume 193, p.65 lignes 6 à 11.*

Le rapport de police reçu en septembre 1992 par Robert comprend de l'information concernant l'alcool servi par Séguin. Robert n'est pas certain si Séguin lui avait parlé de l'alcool qu'il avait servi avant qu'il ne prenne connaissance de ce rapport de police.

*Volume 193, p.69 ligne 10 à p.70 ligne 6.*

À tout évènement, Robert prend connaissance pour la première fois de certains détails à ce sujet en lisant le rapport. D'abord, qu'il y avait eu consommation excessive d'alcool durant environ 17 heures avant le décès et que cette période couvrait la visite chez Séguin. Ensuite, que Séguin avait posé sur la table de cuisine 4 bouteilles de bière non ouvertes que les garçons avaient bues. Enfin, que l'un des Varley, en quittant, avait ouvert le réfrigérateur pour prendre 3 autres bières et les emporter.

*Volume 193, p.79 ligne à p.81 ligne 2.*

Robert admet que ce n'est pas acceptable pour un agent de probation de laisser entrer un de ses clients qu'il doit voir le lendemain dans sa résidence, même si la visite est inattendue, et de servir de l'alcool aux individus présents.

*Volume 193, p.82 lignes 9 à 15.*

Le 8 septembre 1992, Robert envoie un mémorandum à Hawkins (Pièce 931) avec en annexe, le rapport de police. Au dernier paragraphe, Robert écrit: "Due to the

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fact that Mr. Séguin's involvement was very brief and that he was embarrassed, and made it clear that he had not the habit of having clients at his residence, Constable Millar and I recommend that no further action be taken." Robert a témoigné avoir fait cette recommandation après avoir discuté avec Millar et considérant l'opinion de ce dernier à l'effet que Séguin avait appris sa leçon.

*Volume 193, p.83 ligne 24 à p.85 ligne 20, Volume 194, p.45 ligne 11 à p.46 ligne 10 et Volume 194, p.143 ligne 11 à p.145 ligne 8*

Le 16 octobre 1992, Robert reçoit un mémorandum de Hawkins (Pièce 930). Hawkins demande à Robert de rencontrer l'employé, d'avoir plus d'information face à la situation, de revoir les faits contenus au rapport avec l'employé et, si nécessaire, prendre des mesures disciplinaires. Il termine en écrivant: "This is a very serious matter and must be dealt with fairly quickly and with a view to ensuring no recurrence"

*Volume 193, p. 87 ligne16 à p.90 ligne 21 et p.99 ligne 11 à p.100 ligne 9.*

Suite à ce mémorandum, Robert discute du rapport avec Séguin et lui fait parvenir une "Letter of Counsel (Pièce 928). Robert a considéré qu'il s'agissait de la sanction appropriée.

*Volume 193, p.105 lignes 16 à 18.*

Robert n'a pas non plus discipliné Séguin considérant les différences quant à certains faits, entre son rapport d'incident du 16 janvier 1992 et le rapport du policier Millar de septembre 1992.

*Volume 193, p. 101 ligne 4 à p. 102 ligne 15.*

Robert n'a jamais par la suite fait référence à l'affaire Varley dans les évaluations de rendement de M. Séguin. Il n'a pas pu expliquer cette situation sauf par le fait que ce n'était pas son habitude d'inscrire la discipline donnée dans les évaluations de rendement de ses employés.

*Volume 103, p.109 ligne 6 à p.111 ligne 23.*



Émile Robert n'a pas remarqué de changement d'attitude ou de comportement en 1993 chez Ken Séguin avant son décès.

*Volume 193, p.114 ligne 22 à p.115 ligne 23.*

Le 25 novembre 1993, jour de la mort de Ken Séguin, Robert a senti un vent de panique au bureau vu l'absence inexplicquée de Séguin. Robert était incapable de comprendre la raison de ce sentiment chez ses employés.

*Volume 193, p.117 ligne 10 à p.119 ligne 21.*

Dans l'après-midi, Robert a été avisé par la police du suicide de Ken Séguin. Tout le monde au bureau était estomaqué.

*Volume 193, p.123 ligne 1 à p.124 ligne 4.*

Robert a admis avoir eu un doute sur le fait que Séguin s'était réellement suicidé.

*Volume 194, p.221 ligne 25 à p.223 ligne 13*

Aussi dans l'après-midi de la mort de Séguin, Lise Bourgon a approché Robert pour lui dire qu'il y avait des rumeurs que Séguin faisait l'objet d'une enquête policière et que la nature des allégations était sexuelle. Vu que Bourgon a aussi dit à Robert que cette information n'avait pas été partagée avec lui parce qu'il était gérant, il a assumé que plusieurs autres personnes possédaient cette information. Robert était déçu et a perdu confiance en ses employés à ce moment là.

*Volume 193, p.124 ligne 5 à p.127 ligne 23.*

Robert s'est par la suite rendu à la police de Cornwall où il a pris connaissance de la partie de la déclaration de Silmser concernant Séguin. Robert pense que la raison avancée par les policiers pour ne pas avoir partagé l'allégation de Silmser avec lui pourrait être que Silmser avait demandé de ne pas procéder avec des accusations ou que les policiers attendaient pour faire l'enquête. Ceci ne changeait rien pour Robert et il ne comprenait pas pourquoi les policiers n'étaient pas venus le voir.

*Volume 193, p.128 ligne 4 à p.132 ligne 13 et Volume 194, p.187 ligne 17 à p.188 ligne 21*

Robert n'a pas demandé la tenue d'une enquête ou fait une vérification de dossiers relativement à l'allégation de Silmser. Robert est d'avis que l'autorité pour tenir une telle enquête était détenue par Bill Roy au bureau régional et non par lui. Il a été surpris qu'une telle enquête ne soit pas tenue.

*Volume 193, p.135 ligne 16 à p.136 ligne 14, p.143 lignes 19 à 25 et p.145 ligne 3 à p. 146 ligne 22*

Robert ne savait rien de la vie personnelle de Ken Séguin sauf qu'il dînait avec un groupe d'hommes d'affaires, certains avocats et procureurs de la Couronne et qu'il était célibataire. Il y avait parmi eux Malcolm MacDonald et Van Diepen allait les rejoindre à l'occasion. L'orientation sexuelle de Séguin ne lui avait pas été confirmée mais Robert avait peut-être un doute qu'il était homosexuel.

*Volume 193, p.139 ligne 19 à p.140 ligne 25, Volume 194, p.118 ligne 19 à p.120 ligne 3, p. 124 ligne 13 à p. 126 ligne 3 et p.131 lignes 6 à 24.*

En décembre 1993, Robert a reçu un appel de Bill Roy l'avisant que Silmser avait une plainte à formuler contre Séguin et de s'attendre à ce qu'il se présente au bureau de probation de Cornwall pour la déposer. Silmser ne s'est jamais présenté.

*Volume 193, p.141 ligne 1 à p.142 ligne 22*

Le 15 décembre 1994, Robert a appris par les médias que Nelson Barque avait été accusé d'infractions de nature sexuelle sur un de ses anciens probationnaires, Albert Roy. Robert a fait parvenir au bureau régional une découpe de presse à ce sujet avec un rapport d'incident. (Pièce 1200). Il a par la suite appris que Barque avait été trouvé coupable.

*Volume 193, p.148 ligne 17 à p.151 ligne 6.*

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Le 16 décembre 1994, Robert entre en contact avec la police municipale de Cornwall afin de savoir si Albert Roy était aussi la victime pour l'allégation de 1982 contre Barque. Robert se serait attendu à une forme de communication entre la police et le service de probation avant que des accusations soient portées vu l'impact de celles-ci sur le fonctionnement et la crédibilité du bureau de probation.

*Volume 194, p.3 ligne 12 à p.5 ligne 2*

Robert n'a pas de mémoire spécifique au sujet de discussions au bureau sur la possibilité d'un plus grand nombre de victimes ou d'un problème plus étendu.

*Volume 194, p.6 lignes 9 à 25.*

Robert n'a pas souvenir d'avoir discuté de Nelson Barque de quelque façon avec Madame Newman.

*Volume 194, p.11 lignes 2 à 5*

Aucun effort n'a été fait par Robert ou d'autres afin de tenter de localiser d'autres victimes potentielles de Nelson Barque. Barque ayant quitté le Ministère en 1982, les dossiers pertinents étaient déjà détruits en 1994.

*Volume 194, p.11 ligne 6 à p. 12 ligne 5*

Au moment de son entrevue avec Downing, Robert croyait que Van Diepen connaissait les activités de Séguin avec des probationnaires, savait des choses sur Séguin. C'était son "gut feeling", selon son témoignage. Ce sentiment était fondé sur l'amitié de Van Diepen avec Séguin, le fait qu'ils ont travaillé longtemps ensemble et l'amitié entre Malcolm MacDonald et Van Diepen. Robert n'a jamais reçu de plainte de Van Diepen. Selon Robert, si Van Diepen s'était confié à lui, il aurait demandé la confection d'un rapport d'incident et aurait poursuivi les choses avec la région. Sans plainte, il n'y a rien que Robert pouvait faire.

*Volume 194, p.18 ligne 3 à p.19 ligne 24*

Robert a aussi dit qu'il aurait demandé à n'importe quel autre employé venant le voir au sujet d'une plainte sur Séguin de mettre celle-ci par écrit. C'est probablement pour cette raison que personne n'est venu le voir.

*Volume 194, p.36 ligne 21 à p.37 ligne 8.*

Une des raisons du départ d'Émile Robert pour Ottawa en 1998 réside dans ses problèmes avec les employés. Robert admet d'emblée qu'il faisait partie de ce problème. Robert ne savait pas qu'il était sous la supervision de Gilbert Tayles à Ottawa. Selon Robert, Madame Newman ou quelqu'un d'autre ne le lui a jamais dit cela.

*Volume 194, p.64 ligne 19 à p.67 ligne 25*

Entre 1991 et 1993, Robert a rencontré Ron Leroux à 10 ou 12 reprises dans le cadre d'un cour de dressage de chien. Leroux n'a jamais approché Robert pour essayer de dénoncer quelque faute que ce soit de Séguin.

*Volume 194, p. 201 ligne 8 à p.203 ligne 25.*

La dernière évaluation de rendement de Robert à Cornwall est la Pièce 1187. Robert donne ses commentaires au sujet de cette évaluation de rendement préparée par Deborah Newman le 21 février 1997 lors de son témoignage.

*Volume 194, p.20 ligne 1 à p.23 ligne 7 et Volume 194, p.215 ligne 17 à p.221 ligne 6*

Émile Robert, en tant que gérant de secteur du bureau de probation de Cornwall, se trouvait dans une position privilégiée vis-à-vis son employé Ken Séguin. Au fil des ans, il a pris connaissance des éléments suivants qui, nous soumettons, tous mis à la chaîne, sont forts révélateurs de la face cachée de Ken Séguin.

En premier lieu, à son arrivée à Cornwall en 1985, Robert savait que Nelson Barque avait démissionné pour avoir eu des relations sexuelles avec un client. Madame Léger lui avait aussi mentionné que les concierges du bureau de probation avaient

dit aux enquêteurs du Ministère deux ans auparavant que c'était possible qu'un autre agent que Nelson Barque soit impliqué. Robert a pensé qu'on avait peut-être trouvé ceci non fondé.

En 1989, il croise en voiture Ken Séguin avec 3 passagers aux cheveux longs dans la vingtaine à bord. Robert dit s'être posé des questions sur cette situation comme employeur et a par la suite procéder à faire des vérifications.

En mars 1989, Ken Séguin avise Robert que Gerald Renshaw allait louer une chambre chez lui. Robert ne revoit pas le dossier de probation de Gerald Renshaw ni celui des membres de sa famille aussi en probation à l'époque. Robert admet lors de son interrogatoire, qu'il n'était pas tout à fait confortable à l'époque avec cette situation et en contre-interrogatoire, qu'il pense encore aujourd'hui avoir fait la bonne chose vu les politiques du temps et ce qu'il savait alors de Séguin.

En janvier 1992, Robert prend connaissance de l'affaire Varley. Outre évidemment le sérieux intrinsèque de l'incident vu le contact avec le client au domicile même de Séguin et l'alcool servi, ce qui est révélateur sur Séguin dans cette affaire et ce qui reflète aussi le manque de vision de Robert, selon nous, est ce qui suit :

En premier lieu, Robert n'a pas souvenir d'avoir discuté avec Séguin du délai d'une semaine entre l'incident et le moment où Séguin vient le rencontrer à ce sujet;

Deuxièmement, il faut considérer le témoignage rendu par Hawkins à l'effet que celui-ci ne croit pas avoir reçu le rapport d'incident peu de temps après ou avoir discuté du sujet avec Robert avant l'automne 1992 ainsi que l'aveu même de Robert à l'enquête qu'il n'a qu'un souvenir vague d'une conversation contemporaine à l'incident à ce sujet avec Hawkins. S'ajoute l'absence de mention à Downing d'une telle conversation, l'absence de notes ou d'un écrit de Robert au sujet d'une telle conversation et/ou d'une directive d'attendre de Hawkins ainsi que l'absence pure et simple d'une confirmation de réception du rapport d'incident à la

région avant l'automne 1992. Nous soumettons en conséquence qu'une conclusion à l'effet que Robert n'a jamais communiqué avec la région avant la réception du rapport du policier Millar en septembre 1992 doit être ici tirée;

Troisièmement, il n'est pas non plus fait mention d'alcool dans le rapport d'incident écrit par Séguin et Robert n'a pas souvenir du moment exact où Séguin lui aurait parlé de l'alcool. Robert admet cependant avoir pris connaissance pour la première fois de certains détails au sujet de l'alcool en lisant le rapport envoyé par Millar, Il apprend d'abord qu'il y avait eu consommation excessive d'alcool durant environ 17 heures avant le décès survenu et que cette période couvrait la visite chez Séguin. Il apprend ensuite que Séguin avait posé sur la table de cuisine 4 bouteilles de bière non ouvertes que les garçons avaient bues. Enfin, il apprend aussi que l'un des Varley, en quittant, avait ouvert le réfrigérateur pour prendre 3 autres bières et les emporter;

Enfin, Robert admet que ce n'est pas acceptable pour un agent de probation de laisser entrer un de ses clients qu'il doit voir le lendemain dans sa résidence, même si la visite est inattendue, et de servir de l'alcool aux individus présents. Cependant, Robert ne discipline pas Séguin et lui donne simplement une Letter of Counsel, Robert n'a pas non plus discipliné Séguin considérant les différences de faits entre son rapport d'incident du 16 janvier 1992 et le rapport du policier Millar de septembre 1992.

Émile Robert aurait donc dû mettre toutes les pièces de ce casse-tête ensemble. Il aurait dû s'apercevoir d'un problème avec Ken Séguin mais ne l'a pas fait. Il se trouvait dans une position idéale pour ce faire. Les manquements de Robert à ce chapitre font en sorte que nous pouvons dire à propos de son passage comme gérant du bureau de probation de Cornwall qu'il a constitué pour nous une occasion ratée de changer le cours des choses.

**Emile Robert – A continuing failure to supervise and manage**

When the Commissioner considers the testimony of Emile Robert that he did not favour Ken Seguin, and that Mr. Seguin respected him, the Ministry suggests that the Commissioner use great caution. Regardless of the favoritism issue, it is clear that Mr. Robert provided inadequate managerial oversight, which Mr. Seguin exploited.

Mr. Robert testified that he was too involved in an Employment Systems Review for two full years, and so was not in a position to manage Mr. Seguin. This should be rejected for a number of reasons. Firstly, the documentation of the Travis Varley incident sets a pattern which clearly had Mr. Robert as Mr. Seguin's immediate superior. In other words, if Mr. Robert wasn't supervising Mr. Seguin, Mr. Seguin's Incident report doesn't suggest that. To the contrary, Mr. Seguin appeared to have been under the impression that he had to report this to Mr. Robert.

Secondly, there is nothing in the evidence to suggest that Mr. Robert ever advised his manager Roy Hawkins in early 1992 that he was not in a position to take care of disciplining Mr. Seguin for the incident or that someone else should manage the situation. Lastly, there is no evidence from the employees who did testify before the Inquiry that Mr. Robert was spending large amounts of time outside of the office on other assignments. For these reasons, the Ministry submits that the Commissioner should reject Emile Robert's evidence that his involvement in the Employment Systems review prevented him from properly handling Mr. Seguin's involvement in the Travis Varley incident.

Similarly, the Employment Systems Review cannot provide an excuse to Mr. Robert for not knowing what was going on in the office generally. Emile Robert had knowledge of events and information that he should have acted upon. Again, he knew about the Renshaw living arrangement, the circumstances of the Travis Varley incident, the social contacts with clients, the suicide of Ken Seguin, the rumours of an investigation, and if to be believed, the information provided by Lise Bourgon

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about an investigation into sexual impropriety, the complaint by David Silmser, and the charges and guilty plea of Nelson Barque. The evidence discloses that he had this knowledge. Any excuse that he was not in the know because of the Employment Systems Review and thus not able to identify issues and act, simply rings hollow.

According to Emile Robert, in the hours following Ken Seguin's death he learned from Lise Bourgon that Mr. Seguin was under police investigation for matters involving sexual impropriety. There is no independent confirmation of this fact, since that contact is undocumented and Lise Bourgon was not a witness at the Inquiry. Nonetheless, according to Emile Robert, this would have been confirmed by Cornwall Police days later. Bill Roy advised him of the David Silmser complaint weeks after that. Thus, on his own evidence, within several weeks of Mr. Seguin's death Mr. Robert would have received the same type of information about Mr. Seguin from three separate reliable and independent sources. All painted the same picture – that Mr. Seguin had behaved inappropriately, possibly criminally, with probationers. This simply brought about further inertia on Mr. Robert's part.

Thus, when Mr. Robert testified that 'he lacked the authority' to initiate any form of investigation into Mr. Seguin, this should be rejected out of hand. What is clear is that Mr. Robert took no steps to raise the issue, in its complete narrative, with management. Such a briefing would have alerted regional management of the significant issues arising from a probation officer's suicide. Mr. Robert was the local manager who had known Mr. Seguin well, and was in the best position to bring together many incidents which caused concern to him *qua* immediate superior for the previous 8 years. The Commissioner can contrast Peter Sirrs response to the Nelson Barque allegations some 11 years previously as a good indication of exactly what was at the disposal of Emile Robert in November 1993. Indeed, the only response that Mr. Robert seemed to have provided after speaking with Lise Bourgon after Ken Seguin's suicide was to lose confidence in his entire staff. The



degeneration of morale in the Cornwall office after that point was a symptom of Mr. Robert's general inadequacy as a manager.

What is equally troubling about Mr. Robert's testimony is that he failed to raise his inability to manage the office with his superiors. This led to the problem lying undetected until Deborah Newman's review of the functioning of the Cornwall office in 1997 and 1998. It was incumbent on Mr. Robert to raise with senior management his loss of confidence in staff, and why. Not only did Emile Robert not raise this issue in November/December of 1993, he continued to fail to disclose this information right through to the time that Deborah Newman conducted a review of the labour relations in the office and brought in a facilitator, Roger Newall. By not doing so, regional management was denied information of breaches of Ministry policy and most importantly, inappropriate activity by Ken Seguin affecting its clients. One might also argue that Emile Robert was similarly obligated to discuss his management issues with his supervisors as far back as the late 80's.

### **January 1992 to February 1993 - Travis Varley Incident**

The 1992 incident wherein several young men including Travis Varley, Mark Woods and others visited Ken Seguin (the Travis Varley Incident) was the subject of considerable evidence during the Inquiry. Given the relevance to the knowledge of management of breaches of Ministry policies and guidelines by Ken Seguin, it bears additional comment by the Ministry in these submissions. Ken Seguin reported the circumstances of the visit on January 16<sup>th</sup>, 1992 although the incident itself occurred on January 8<sup>th</sup>, 1992. Furthermore, the Incident report does not mention Mr. Seguin serving the visitors alcohol.

Much later, in September 1992, Emile Robert reported the incident to his superior Roy Hawkins. Although Roy Hawkins gave Mr. Robert direction about the strength of the suggested response, Emile Robert only counselled Mr. Seguin, without doing

any in depth review of the incident, as suggested by Mr. Hawkins. This was ultimately reported to Mr. Hawkins.

As discussed above, the Ministry acknowledges that Emile Robert handled the Travis Varley incident inadequately. He should have undertaken an incident review with Mr. Seguin as Mr. Hawkins suggested and taken the appropriate disciplinary action, again as Mr. Hawkins suggested. There was no apparent review by Mr. Robert of Mr. Seguin's delay in delivering an incident report to him, nor of the failure by Mr. Seguin to include mention of serving alcohol to Woods and Varley in the initial incident report. There was no review by Mr. Hawkins of Mr. Robert's failure to send the Incident Report to the Regional Office until several months later, and this too was inadequate. Lastly, both Mr. Robert and Mr. Hawkins failed to link the Travis Varley incident in 1992 with Ken Seguin's unusual notification in 1989 that Gerald Renshaw would reside with him.

The linkage of this incident for Roy Hawkins, however, was considerably more difficult considering his fragmented knowledge of the Cornwall office. As will be discussed below, Roy Hawkins had responsibility for many cost centres, including probation offices, and to make the link, from a Regional level at that time, would have been very challenging. However, the one who possessed the knowledge and was in the best position to make the necessary linkages was Emile Robert. Emile Robert was the Ministry's manager on scene who had the day-to-day contact with the individuals most involved in these incidents. Thus, MCSCS acknowledges the failure to properly handle this incident as a missed opportunity.

## **1993- 1995 – Albert Roy and Guilty Plea of Nelson Barque**

### **Contextual Background**

Nelson Barque was born in Cornwall on December 28<sup>th</sup>, 1938, and was employed as a Probation Officer in Cornwall from August 19<sup>th</sup>, 1974 to May 4<sup>th</sup>, 1982. He left his employment with Probation Services in the context of an investigation into his

conduct with probationers. Mr. Barque died on June 28<sup>th</sup>, 1998, by his own hand, and his evidence was introduced through a factual Overview of Documentary Evidence, which was read into the Inquiry record on November 19<sup>th</sup>, 2007.

*Volume 162, p.p. 2; 30 - 34*

### **1982 Ministry Investigation into Barque's Conduct**

On April 20<sup>th</sup>, 1982, Area Manager Peter Sirrs prepared a confidential report to Mr. Toffelmire, Regional Administrator, Eastern Region, recommending that the matter be referred to the Investigations Branch of the Ministry of Correctional Services regarding complaint allegations of misconduct against Mr. Barque in relation to providing alcohol to two probationers, and to engaging in homosexual activity with a probationer at both Mr. Barque's home and the probation office. Prior to the completion of a formal investigation by the Ministry, Mr. Barque submitted his resignation effective immediately - May 4<sup>th</sup>, 1982.

*Volume 162, p.p. 38 - 43.*

On June 14<sup>th</sup>, 1982, the Ministry Investigator wrote a letter to Don Johnson, the Crown Attorney for Cornwall seeking advice on the matter, and on June 22<sup>nd</sup>, 1982, Mr. Johnson replied by letter advising that criminal charges against Mr. Barque would be unwarranted and provided the reasons for that decision.

*Volume 162, p. 44*

### **Barque's Criminal Charges and Conviction**

On November 23<sup>rd</sup>, 1994, Albert Roy contacted the Cornwall Police Service regarding allegations of sexual abuse by Nelson Barque and Ken Seguin while he was on probation in the mid-1970s. On December 6<sup>th</sup>, 1994, Albert Roy gave a statement to Detective Constable McDonnell of the OPP alleging that he was sexually assaulted by Mr. Barque when Mr. Barque was his probation officer. On

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January 13<sup>th</sup>, 1995, Mr. Barque was charged with Indecent Assault and Gross indecency in relation to the incidents involving Roy in 1977.

*Volume 162, p.p. 47 - 48*

On July 10<sup>th</sup>, 1994, Mr. Barque pleaded guilty to the Indecent Assault of Albert Roy. On August 14<sup>th</sup>, 1995, a Pre-Sentence Report was prepared by Ottawa based Probation and Parole Officer Nicole Barbeau. On August 18<sup>th</sup>, 1995 Mr. Barque was sentenced to 4 months incarceration followed by 18 months probation. Mr. Barque satisfied his custodial sentence and subsequently completed his probation period under the supervision of Probation Officer Ron Gendron.

*Volume 162, p. 48*

In 1995, Cornwall Police Constable Heidi Sebalj also conducted a criminal investigation into allegations against Mr. Barque made by C-44. Her request for Crown Murray MacDonald's opinion on the case was referred to Regional Director of Crown Attorneys, Peter Griffiths, who determined that criminal proceedings were not available with respect to Mr. Barque's conduct with C-44.

*Volume 162, p.p. 49*

Between October 1997 and June 1998, OPP Detective Constables Genier and Dupuis investigated further allegations against Mr. Barque made by C-45 and Robert Sheets. In response to being asked if there was anyone else, Mr. Barque replied, "Not that I can recall. In my mind there was only three." On June 18<sup>th</sup>, 1998, Mr. Barque was formally charged with Indecently Assaulting C-45 and Robert Sheets. On June 28<sup>th</sup>, 1998, Mr. Barque was found dead from a self-inflicted gunshot wound to the head.

*Volume 162, p.p. 49 - 51*

**December 1998 - Transition of Area Manager from Emile Robert to Claude Legault**

Claude Legault previously worked as a probation and parole officer in Hawkesbury until he was installed as the acting Area Manager for the Cornwall Office in mid-December of 1998.

Volume 195, p.p. 3-4

Mr. Legault had some knowledge of the working environment of the Cornwall office prior to taking over as the Area Manager. The Cornwall office had a reputation as having difficult working relationships, as staff-management relations were strained. He experienced this while attending meetings with staff at various conferences or professional development events. As he was being prepared for the transition, he also had discussions with Emile Robert and Deborah Newman about the office.

Volume 195, p.p. 6-7

When he officially moved into the office, there were sufficient rumours and publicity in the community of allegations of sexual abuse and an alleged “clan of pedophiles” that the office was reeling from the pressure of those allegations and accusations. Just about every male probation officer had been told at one point or another by clients “You’re just a bunch of pedophiles” or “You were there; you knew about it; you covered up”. Mr. Legault had a number of meetings with all staff on the need to make all reasonable efforts to regain their credibility. The office therefore decided that they would regain their credibility one day at a time, one client at a time, by having a clear, consistent and transparent process to follow.

Volume 195, p.p. 9-10

## **Knowledge of Local Probation and Parole Staff**

### **Summary – Probation and Parole Staff**

In this part of our submissions we discuss the evidence of Probation and Parole Staff working in the Cornwall office during the time that both Ken Seguin and/or

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Nelson Barque were alive. All such staff members worked with either Nelson Barque or Ken Seguin, or both. Our observations of this body of evidence from the Inquiry surround the issue of knowledge by Mr. Seguin and Mr. Barque's co-workers. When the Inquiry focused on the Ministry's institutional response, many questions were asked of Ministry witnesses about what they knew or ought to have known about the activities. These are entirely valid lines of inquiry, however, it is the Ministry's submission that there was no knowledge on the part of Probation and Parole Staff during Ken Seguin's lifetime that he was sexually abusing probationers. At best, in the period just prior to his death, there were unsubstantiated, non-specific rumours about Ken Seguin. These did not rise to the level of real knowledge about inappropriate activity.

The staff evidence further substantiates the theme raised in the alleged victims' evidence that Ken Seguin was leading two lives. One is "Mr. Probation" with all of its accompanying professionalism, and the other, one of a very private man having relationships with young men and boys. The Cornwall staff knew only "Mr. Probation". What also emerges from this area of evidence is that none of the staff members considered themselves confidants of Mr. Seguin or Mr. Barque. Both were careful to keep their relationships at the office strictly professional.

There were, to be sure, specific incidents, which came to the knowledge of the Probation staff, but these were both isolated and seemingly addressed by management. For instance, in 1989, when Mr. Seguin obtained permission to have Gerald Renshaw live with him, the issue was taken up at the time with the Area Manager. In 1992 when Mr. Seguin was involved in the Travis Varley incident the matter was again reviewed by Mr. Robert. Staff clearly knew about both incidents from a variety of sources, but also knew that the incidents had become management issues.

There is no evidence that staff had anything more than isolated visits to Mr. Seguin's residence, and therefore had no knowledge of goings on from first hand

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contact. This was explored at the Inquiry presumably as a result of the Ron Leroux Affidavits, which alleged that Ministry staff knew about sexual abuse by Ken Seguin. The Ministry, naturally, emphasises that Mr. Leroux denied the truth of that affidavit material at the Inquiry. In sum there was no evidence of visits to Mr. Seguin's residence, which would come near supporting an assertion of knowledge of goings on there.

There were isolated incidents, which were not taken up with management, such as Jos Van Diepen and Ron Gendron surveilling Ken Seguin at a coffee break. Similarly there is evidence that both men spoke to Mr. Seguin about putting himself in vulnerable situations with probationers. These incidents do not give rise to the level of knowledge on the part of staff that Mr. Seguin was physically abusing probationers, or doing anything inappropriate.

The evidence heard from local staff indicates that the only probation officer to have worked with both Nelson Barque and Ken Seguin was Jos Van Diepen. It appears that the circumstances of Mr. Barque's departure were not openly discussed at the office, although with time the reason for Mr. Barque leaving the Ministry became widely known by staff. Staff did use that information in the community to ensure that Mr. Barque's participation in a local children's protection committee was terminated, but there is no evidence that knowledge of Mr. Barque's activities *qua* probation officer was ever tied to Mr. Seguin.

The last theme, which is apparent from the evidence of local probation staff members, is the strained work environment. Emile Robert treated Ken Seguin differently than other probation officers. He was perceived as a favourite, and this put distance between him and the rest of the probation staff. The result was a situation where the other probation staff were not close to Mr. Seguin, and they viewed his questionable decisions such as the Renshaw residency permission and the Travis Varley incident as further proof that he would be treated differently.

## **Jos Van Diepen**

Jos Van Diepen was a colleague of both Nelson Barque and Ken Seguin, and remained a probation officer for some 14 years after Mr. Seguin's death. Van Diepen also provides some insight into the management practises during the tenures of both Area Managers Peter Sirrs and Emile Robert.

Jos Van Diepen had just retired from 32 years as a probation officer when he testified. In 1975 the other two probation officers in Cornwall were Ken Seguin and Nelson Barque. At that time, the responsibilities for administering juvenile and adult probation were separate until 1985 when the Ministry again became responsible for youth in the ages of 16 and 17. At that time Jos Van Diepen supervised young offenders.

*Volume 184, p. 54, 81, 71, 72*

When Jos Van Diepen arrived at the Cornwall Probation and Parole office Ken Seguin was the senior probation officer. It was Ken Seguin who told Jos Van Diepen about the job opening at the Cornwall Probation Office in the first place. Van Diepen recalls the work atmosphere in his early days at the Cornwall Probation office being quite collegial, however his testimony describes an unhealthy work environment in the Cornwall Probation Office during the years both Peter Sirrs and Emile Robert were the area managers.

*Volume 184, p. 77, 85*

## **The Area Managers**

Jos Van Diepen had twice applied for the Area Manager's position in Cornwall, but was not promoted. When Peter Sirrs was the Area Manager Jos Van Diepen was the union steward, and although Van Diepen testified about Sirrs' 'lack of flexibility' it was Jos Van Diepen's position that any tension between himself and Mr. Sirrs was because of his role as the voice for complaints in the office.



Van Diepen takes the position that he did not receive the promotion to the Area Manager's job because of his limited ability to communicate in French. Van Diepen described the work environment of the Cornwall Probation and Parole office during Emile Robert's tenure as "highly poisoned" at times, and that Ken Seguin became "effectively the office snitch".... There was poor communication between Mr. Robert and rest of the staff. Van Diepen denied ever approaching Emile Robert and threatening to get rid of him as they had Peter Sirrs.

According to Jos Van Diepen his relationship with Emile Robert was not always strained, but over time it deteriorated to the point where it was described as dysfunctional. Jos Van Diepen filed multiple grievances against Mr. Robert because he felt that Mr. Robert singled him out and had a hidden agenda. Van Diepen did admit that the tensions between himself and Emile Robert had an effect on his work, and that of his colleagues. Jos Van Diepen paints a picture of a work environment at the Cornwall Probation and Parole office, which was strained during both the Peter Sirrs and Emile Robert years – at times seriously so.

*Volume 184, p.p. 134-135, 138, 143-144, 146-147, 149, 151-151, 172-173, 175*

#### **Ken Seguin – “Mr. Probation”?**

Van Diepen testified that Ken Seguin had a persona of being a “straight-up, hardworking, dedicated individual who always sought to go the extra mile...Mr. Probation”. It appears that although the two were at one time friends, by the time of Ken Seguin's death they were no longer on speaking terms. Jos Van Diepen had a falling out with Ken Seguin when Jos Van Diepen criticised him for socializing with clients. Jos Van Diepen testified that he knew that Ken Seguin had probationers stay at his home in the 1970s. According to Jos Van Diepen, this grew out of the police practise of dropping persons off at Ken Seguin's place if they had nowhere else to stay. Van Diepen testified that after the death of Ken Seguin, he spoke with

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Emile Robert about inappropriate sexual conduct between Mr. Seguin and probationers, but that was as a result of information obtained from Malcolm MacDonald after Mr. Seguin's death. Van Diepen took the position that in 1992, after the Travis Varley incident, he complained to Emile Robert about Mr. Seguin not fulfilling his role as a probation officer since that impacted on Van Diepen's ability to complete his job. Van Diepen said he felt that Emile Robert was not taking the Travis Varley incident as seriously as he should have. Van Diepen's position was that Mr. Robert favoured Mr. Seguin and that Mr. Seguin "ratted out or tattled on his fellow employees".

*Volume 185, p.p. 121, 150 - 151, 156*

*Volume 186, p.p. 125, 126, 260*

*Volume 187, p.p. 167 - 169*

During the last year of Ken Seguin's life Jos Van Diepen did not notice any changes in Mr. Seguin's emotional state or behaviour, and he denied that Ken Seguin's sexual orientation was common knowledge by 1993. Van Diepen went quite a bit further in his testimony to say that he knew nothing of Ken Seguin's sexual orientation and that Ken Seguin was a "fraud" because he presented himself as something other than what he actually was. It was therefore no surprise when Van Diepen denied at the Inquiry that he had ever "...taken his territory away from him in Morrisburg...". There does not appear to be much, therefore, to the allegation that Mr. Seguin had told Mr. Leroux that Van Diepen had threatened to 'out' Mr. Seguin if he did not give the Morrisburg assignment to Van Diepen. Indeed, according to Van Diepen, the decision to assign him responsibilities for the Morrisburg satellite office appears to have been made without Jos Van Diepen knowing. He testified that if Mr. Seguin had wanted the assignment he would have gotten it.

*Volume 184, p.p. 78, 154, 169, 171 - 172, 203, 206*

*Volume 187, p.p. 35 - 36*

Mr. Van Diepen was questioned about his knowledge of Mr. Renshaw's relationship with Ken Seguin. Van Diepen, as expected, knew that Ken Seguin had asked Emile Robert for permission to have Mr. Renshaw live with him, and although Jos Van

Diepen did not think it appropriate, he certainly knew that Emile Robert approved the living arrangement. Jos Van Diepen's perspective on Mr. Seguin's contact outside the probation office must be considered against this backdrop.

*Volume 187, p. 25*

Van Diepen and Ron Gendron followed Mr. Seguin from the office. This was a result of their curiosity in his change of routine, namely taking off in his car during the morning break.

*Volume 186, p. 143*

### **Nelson Barque**

Van Diepen also worked with Nelson Barque at the Cornwall Probation Office from 1975 until Mr. Barque left there in 1982. Van Diepen knew of Mr. Barque's marital status, but had concerns that his sexuality was not exclusively heterosexual. That was because Van Diepen had found a book in Mr. Barque's desk early in his time at the Cornwall office. He had needed to use Mr. Barque's office to interview a client, and had looked in his drawer for a pen, when he saw a book depicting homosexual pornography, as well as some chrome handcuffs. Van Diepen reported the find to Ken Seguin, and had informal discussions with Peter Sirrs about this after Mr. Barque's departure.

*Volume 184, p.p. 219 - 221, 225*

*Volume 185 p.p. 36 - 37, 65*

Van Diepen found out that Mr. Barque had taken a job at Equipe Psycho-Sociale after leaving his employment in the Probation office. This was cause for concern in the office, since it appears to have been common knowledge that Mr. Barque left his job as a Probation Officer in Cornwall because of a sexual relationship with a probationer. As a result, it was Van Diepen's belief that Carole Cardinal raised this at Equipe Psycho-Sociale. Additionally, Peter Sirrs had advised Van Diepen that he had confirmed with Equipe Psycho-Sociale that Mr. Barque had been a probation officer.

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Although Commission Counsel pressed Mr. Van Diepen in his testimony to explain what, if anything, was done to fulfill the reporting obligation under the *Child and Family Services Act (CFSA)*, Van Diepen testified that the reporting obligation was different at the time. He testified that Ms. Cardinal raising the issue with Equipe Psycho-Sociale answered any reporting concern. Importantly, Van Diepen was not clear when the internal discussion about Mr. Barque and Equipe Psycho-Sociale took place. He initially thought he had the discussion with Peter Sirrs, but then realized it must have been Emile Robert. The lack of precision means that Van Diepen, and the whole Cornwall Probation staff, would not have had knowledge that Mr. Barque's conduct had placed on them an obligation to report Mr. Barque to the local CAS.

MCSCS acknowledges that Carole Cardinal's evidence is different from Van Diepen, i.e., that she notified members of the Child Abuse Prevention Council, and specifically two of its members Bruce McPhee and Don Johnson, but the discrepancy is of no moment. All that can be said of Nelson Barque and Equipe Psycho-Sociale is that after Mr. Barque left his employment at the Cornwall Probation Office, Jos Van Diepen and the other staff would have known that he ended up working at Equipe Psycho-Sociale at some point. That, of course was known to Peter Sirrs, who confirmed Mr. Barque's employment status to Equipe Psycho Sociale. There is no evidence that anyone in the employ of MCSCS knew that Nelson Barque was at the time placing a child at risk as the reporting obligation existed at the time under the *CFSA*.

Additionally, Van Diepen denied being a good friend of Mr. Barque, and only the statement of Emile Robert to Paul Downing, which is itself equivocal, contradicts this. In other words, the argument that Van Diepen knew Mr. Barque personally and so also knew about his abusive conduct is an argument, which should be given no weight. MCSCS invites the Commissioner to find that Van Diepen had no obligation to report Nelson Barque to the CAS.

*Volume 179, p.p. 25 - 26*

*Volume 184, p.p. 13, 15, 19 - 20*

Van Diepen was also questioned at the Inquiry about why he did not report Father Charles McDonald to the CAS when he found out that Father Charles had abused someone who had been sent to his parish. His reply was that the complainant in that incident was over 17 years of age at the time, and also there was no sexual activity reported to him. There was, therefore, no reporting obligation. This appears to be correct. It also appears plausible that early in his probation career Jos Van Diepen reported all contentious matters to Ken Seguin, who was the most senior staff member in the office at that time.

*Volume 186, p.p. 10, 12*

#### **The Project Truth website**

In August of 2000, Jos Van Diepen was notified by his wife that he was mentioned on the Project Truth website. Jos Van Diepen notified Claude Legault of this on the morning of August 8<sup>th</sup>, 2000. The website greatly concerned Van Diepen. Curiously, Dick Nadeau twice approached Van Diepen, passing himself off as a private investigator attempting to get information about Ken Seguin. Of the allegations made on the Project Truth Website, Van Diepen admitted only that he was at St. Andrew's Parish House when he was married, and denied being at any of the notorious parties mentioned on Dick Nadeau's web-site.

*Volume 185, p.p. 161 - 166, 172, 176, 180*

Van Diepen was aggrieved that he was not supplied with legal representation by the Ministry to fight the allegations on the website. In his words, there was stonewalling. In fact, Van Diepen was told that he would be indemnified for his legal bills if he chose to retain a lawyer to pursue civil remedies against the website, but Van Diepen never hired a lawyer. Van Diepen was told that there were limitations to that indemnification. Van Diepen had ultimately received some legal advice concerning the website, and although he never formally retained a lawyer, or

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launched a lawsuit to seek redress for the website, he was advised not to speak to anyone at the office about the allegations on the website. This goes some distance to explain why Jos Van Diepen was silent at the office about the website, which was itself a source of concern by other Cornwall probation staff members at the time.

*Volume 186, p. 52*

*Volume 187 p. 156 - 158*

*Volume 190 p. 178 - 179; Exhibit 1177*

MCSCS takes the position that Mr. Nadeau's website was irresponsible in fomenting falsities in the community, which caused harm to individuals who were named on the website in a defamatory manner, including Jos Van Diepen.

Van Diepen explained that the Ministry response to Dick Nadeau's website was to have someone investigate Van Diepen, and this was an attempt by the Ministry to look out for their interests and not his. In assessing this portion of Van Diepen's evidence, MCSCS submits that Van Diepen misconstrued the role of Paul Downing as someone who was targeting his investigation at Van Diepen as distinct from an investigator exercising statutory powers under s. 22 of the *Ministry of Correctional Services Act* to conduct a broad review of the situation. The former was never Downing's mandate, but Van Diepen saw it that way. Downing's investigation targeted a situation, not any particular individual.

*Volume 185, p. 188, 190, 191 - 192*

### **Summary – Jos Van Diepen**

The key issue for the Inquiry is Van Diepen's knowledge of Ken Seguin's improprieties during his lifetime. Van Diepen gave various statements after Mr. Seguin's death, which are inconsistent but really cannot support the proposition that he knew about any improprieties. MCSCS submits that Van Diepen had ample knowledge of the activities about Mr. Seguin from both Malcolm McDonald as well as the various rumours swirling about the community *after* late November 1993.

Van Diepen's statements to the OPP in 1994 and 1998, and his contact with Paul Downing in 2000 must be read in that context.

During Mr. Seguin's lifetime it was clear that Van Diepen knew of Mr. Seguin's involvement in the Travis Varley incident and Gerry Renshaw's tenancy with Mr. Seguin. This would have caused him the same concern that Emile Robert would have had, except for the fact that Van Diepen was not Mr. Seguin's supervisor. Van Diepen's unusual incident whereby he and Ron Gendron followed Mr. Seguin must be interpreted against the context that a) they saw Mr. Seguin do nothing unusual, and b) the event was triggered by Mr. Seguin's alteration of his daily routine, which was unusual. Van Diepen had no specific knowledge of Mr. Seguin abusing probationers, which could be characterized as either actual or constructive knowledge of the abuse.

## **Ron Gendron**

Ron Gendron gave evidence on December 13<sup>th</sup> and 14<sup>th</sup> of 2007. Mr. Gendron has been a probation officer since 1981. He graduated with a degree from Queen's University in criminology. He first joined Corrections in Alberta and after three years he moved to Ontario in 1984 when he continued his career as a probation officer at the Cornwall Probation and Parole Office. At that time, Peter Sirrs was the Area Manager.

From about 1985 to 1994, Ron Gendron exclusively worked with young offenders of 16 and 17 years of age. From 1994 to present, Ron Gendron has worked only with adults. Office hours were 8:30 a.m. to 4:45 p.m. Monday through Friday, and he was usually in the office four out of five days a week. There was always one day per week that Mr. Gendron was in court. The last Thursday of every month, the office would be open approximately from 5:00 p.m. to 8:00 p.m. for night reporting depending upon the caseload and other factors. When Mr. Gendron worked the

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night reporting evening, he would always go home for supper and return to work for the evening.

*Volume 177, p.p. 6-8, 19-20*

When he joined the office in 1984, other probation officers in the office were Carole Cardinal, Stu Rousseau, Terry MacDonald, Jos Van Diepen and Ken Seguin. Marcelle Leger, Lise Bourgon and Louise Quinn were support staff. Peter Sirrs was eventually replaced by Leo White and then subsequently by Emile Robert.

*Volume 177, p.p. 8-10*

According to Mr. Gendron, the office functioned well and the atmosphere was good save and except for a level of tension between Peter Sirrs and Stu Rousseau and Jos Van Diepen. This was attributed, in Mr. Gendron's opinion, to Peter SIRR's management style, which tended to be strict with little flexibility. Peter Sirrs was an involved manager, who knew what was happening in the office, but he was often off-site supervising satellite offices.

*Volume 177, p.p. 11-12*

Files were assigned based upon the type of client and the region. For example, if the file was a youth matter, at that time it went to Ron Gendron. If the matter were from Alexandria, it would have gone to Carole Cardinal, or if the client were francophone, it would have gone to Carole Cardinal. According to Mr. Gendron, files were not diverted but were assigned randomly.

*Volume 177, p.p. 12-13*

It was routine that any clients who had been previously on probation would come back into the system and be assigned to their previous probation officer. Ken's former clients would often come back and request Ken Seguin as their probation officer. Ron Gendron never heard one probationer ever say that he did not want Ken Seguin as a probation officer.

*Volume 177, pp. 133, 135*



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The annual audit was in the fall, and typically ten per cent of an officer's caseload was selected by the area manager and reviewed and a report would be provided to the officer. The audit's date was known but the files were selected in a random fashion.

*Volume 177, p. 14*

Emile Robert was selected from a competition in which initially Ken Seguin and Jos Van Diepen competed. Ken Seguin dropped out at some point, and the competition was between Jos Van Diepen and Emile Robert. The Ministry made the position a bilingual position and Mr. Robert was chosen.

*Volume 177, p. 15*

Emile Robert had a different management style than Peter Sirrs. Mr. Robert micro-managed the office, and he was not a competent manager. In the 1980's given that the workload was significantly less than the 90's, people were more tolerant of Mr. Robert. However, in the 1990's things began to change, increases in workloads created more stress and conflict with Mr. Robert and his management style. In the 90's, with adult offenders, the caseloads were typically 90 to 100, peaking at one point at about 150 active cases.

*Volume 177, p.p. 16-17*

According to Ron Gendron, Emile Robert played favourites, and Ken Seguin always seemed to be favoured by Mr. Robert. Mr. Gendron attributed this to Ken Seguin showing Emile Robert considerable respect, as most other officers did not give Mr. Robert the level of respect he thought he deserved.

*Volume 177, p.p. 18- 19*

While working at 502 Pitt Street, until approximately 1993 when Mr. Seguin died, Ron Gendron's office was down the hall by one office from Ken Seguin. Ken Seguin's office was directly beside Emile Robert's office at the front of the building.

During this time frame, Ron never saw a lock on any probation officers' office door. There was no formal policy on whether the door should be open or shut during an interview of a client. However, given that the interview is confidential, the door was usually shut. There were rare occasions that the door would be left open, such as if there was a contentious issue with a client, or a client had a tendency to be violent or if there was a female client.

*Volume 177, p.p. 22-23*

### **Supervision of Nelson Barque**

Ron Gendron never worked with Nelson Barque. He became aware however, of the circumstances surrounding Mr. Barque's resignation. Other staff spoke about Nelson Barque becoming sexually involved with a probationer and resigning. This information did not come from Peter Sirrs, but from Jos Van Diepen and Carole Cardinal. Ron Gendron recalled that the Nelson Barque incident was common knowledge within the office by the time he joined in 1984. In 1995 or 1996, Ron Gendron recalled that he supervised Mr. Barque on probation for 18 months (August 18<sup>th</sup>, 1995 date of conviction, four months jail, followed by 18 months probation). During his supervision, he had no discussions with Mr. Barque about other alleged sexual offences nor did he get the impression that Nelson Barque had any information or concerns about Ken Seguin. Nelson Barque denied having any other past sexual contact with probationers other than Albert Roy. Ron Gendron was never tasked by Emile Robert to attempt to review past files and thus speak with past clients of Nelson Barque to see if they had been abused.

*Volume 177, p.p. 23-24, 104, 118-119*

The pre-sentence report was prepared by a probation officer from Ottawa. Mr. Gendron did not previously work with Nelson Barque and so he was not in a conflict of interest. Consideration was given to having the probation order handled by another office, but Mr. Barque preferred to attend the Cornwall office and Emile Robert made the decision.

*Volume 177, p.p. 110-113*

During the period of supervision, Ron Gendron recalled that Nelson Barque was unemployed. The main focus of his role was to ensure that Nelson Barque would not re-offend and to enforce the conditions of his probation.

*Volume 177, p. 116*

Sometime in 1998, Ron Gendron learned through community sources that Nelson Barque was under investigation or that charges were pending regarding other victims of sexual abuse, who were former probationers. Others in the office would have known this, but it was not a topic of discussion. Nelson Barque committed suicide on June 28<sup>th</sup>, 1998.

*Volume 177, p.p. 120-121*

### **Ken Seguin**

When Ron Gendron first arrived at the Cornwall Office, Ken Seguin acted as a mentor. Ken Seguin had a good reputation in the office. He was very well respected and admired. Mr. Gendron came into the office with three years experience as a probation officer, so he did not need to seek advice often, but when he needed some guidance, he sought Ken Seguin's guidance.

*Volume 177, p.p. 24-26*

Mr. Ron Gendron never associated with Ken Seguin outside of the work environment. He never engaged in conversation about Ken's personal life in the ten-year period that he worked with Ken Seguin.

*Volume 177, p. 71*

Mr. Van Diepen and Mr. Seguin had gotten along well in the 1980's but in the late 80's there was conflict between the two as there were times that the two did not speak. Mr. Van Diepen took exception to Ken Seguin's supervision style. Mr.

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Seguin's approach was much like a social worker, whereas Mr. Van Diepen was enforcement focused. Further, Jos Van Diepen was troubled by Ken Seguin's close relationship with Emile Robert.

*Volume 177, p.p. 26-28*

There was an incident in the late 80's when Ken Seguin and Jos Van Diepen had a conflict over a file of Ken's. Ken Seguin thought that Jos Van Diepen was interfering in a file and Ken had a heated exchange with Jos Van Diepen as he thought that Jos Van Diepen should mind his own business.

*Volume 177, p.p. 28-29*

From Ron Gendron's perspective, Ken Seguin seemed like all other probation officers in the sense that he was supervising his clients, but he certainly appeared to go beyond the call of duty. In Mr. Gendron's assessment, Ken Seguin would do things for clients that other probation officers would not do. For example, he would drive clients to job sites; access the Special Needs Assistance Fund in order to buy things such as work boots for clients, or to assist with other immediate client needs and drive clients to the substance abuse program that was at the time at St. Raphael some 20 miles outside of the city. Ken wanted to ensure that the clients who needed treatment were able to access the program. Ron Gendron noted that Ken Seguin was friendly with clients. He noticed Ken standing outside of the office smoking with clients, chatting with them and joking with them.

*Volume 177, p.p. 29-31*

Ken Seguin was known to be more lenient with reporting, restitution and community work, than the other officers. He was also more helpful. It wasn't that Ken Seguin did not enforce the terms, but that he was more inclined to accept the explanations and had a wider definition of "wilful failure".

*Volume 177, p. 135*

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Ron Gendron became aware in 1989 that a former probationer, Gerry Renshaw, was living with Ken Seguin. Ron thought the situation was ridiculous and he was startled to find out that this had happened.

*Volume 177, p. 31*

On or about 1993, prior to Ken Seguin's death, Ron Gendron and Jos Van Diepen decided to speak with Ken Seguin about their concerns with his social interaction with clients. This issue had been developing for years and it derived from a combination of more recent events, such as the former probationer living with Ken, the Travis Varley homicide investigation, and that Ken drove clients in his private vehicle to treatment. From a liability perspective, in such events, there are no witnesses and often clients have mental health issues, and in their mind, Ken Seguin was putting himself in a vulnerable position and potentially compromising himself. Ron felt that it was great to do extraordinary things for probationers but sometimes these actions can backfire and Ron was worried that this would happen with Ken Seguin. As such, he and Jos Van Diepen met with Ken Seguin about this issue. They attended Ken Seguin's office and expressed their concerns. Ken Seguin had no reaction to them other than thanking them. It was clear to Ron Gendron, however, that Ken understood completely what they were telling him.

*Volume 177, p.p. 34-38, 149*

Ron Gendron recalled that the actual conversation was short – maybe a couple of minutes. He and Jos Van Diepen spoke and informed Ken that they were concerned about his interactions with clients outside of the office. They did not give examples and at the end of speaking had the impression that Ken Seguin did not appreciate their concern and he was not going to talk about it.

*Volume 177, p. 39*

Ron Gendron recalled that during a conversation with Jos Van Diepen, Jos Van Diepen indicated that he was going to raise his concerns about Ken Seguin with

Emile Robert. Mr. Gendron recalled during his testimony that Jos Van Diepen did in fact report back to him that he had spoken with Emile Robert.

*Volume 177, p. 131*

At no time did Ron Gendron ever suspect or have concerns that Ken Seguin's interactions went so far as inappropriate contact with clients in a sexual manner. Similarly, the rumours in the office were reflective of a concern only about Ken Seguin's social interactions but never about sexual involvement with clients.

*Volume 177, p.p. 40-41*

Ken Seguin was a creature of habit, as he was always on time for work, took lunch and breaks at the same time every day, and attended work in a suit and tie. Mr. Seguin went to lunch often with Malcolm MacDonald. However, Ron Gendron never observed Ken Seguin at lunch with Father Charles MacDonald or in other settings with Father MacDonald. Prior to Ken Seguin's death, Ron Gendron did not know of David Silmser and any relation to Ken Seguin.

*Volume 177, p.p. 41-42*

While at the courthouse in May of 1993, approximately six months prior to Ken Seguin's death, Ron Gendron heard rumours from Cornwall Police about some problem between Father MacDonald and David Silmser. There was some reference to Ken Seguin, expressed as "Hey, what's going on with Seguin in your office?" Ron Gendron did not know what they were speaking about, and according to Ron Gendron the information was very loose and there were no specifics to the information. There was reference to a financial settlement by the Church and Father MacDonald with David Silmser, but there were no details of sexual abuse or what the allegations were. Ron felt that there was an atmosphere of keeping the information confidential. Ron Gendron spoke with Jos Van Diepen in order to see if he had heard anything about the rumour. Ron shared concerns with Jos Van Diepen over the years about Ken Seguin's interactions and it was thus natural for him to speak with Jos Van Diepen on this issue. Ron Gendron did not speak with any other

probation officer or person about this rumour. He did not recall if Jos Van Diepen had heard the rumour.

*Volume 177, p.p. 43-49*

The rumour appeared to have been rather limited and not widely discussed prior to Ken Seguin's death. However, after Ken Seguin's death, Ron Gendron recalled that the rumours were more abundant. Ron also heard a little more about the financial settlement in that it somehow involved Ken and he was being blackmailed. Blackmail was not something that he heard about until some years after Ken's death. Ron Gendron did not speak or report any of the rumours to the area manager Emile Robert, as he felt there was nothing in substance to report and he was firmly of the belief that Emile Robert must have been knowledgeable of any investigation by Cornwall Police, simply by his position as area manager. If Emile Robert was not aware, he reasoned this must have been a result of the matter having no significance.

*Volume 177, p.p. 50-51, 65-66, p. 144*

Ron Gendron believed that Ken Seguin may have been homosexual, but it is obvious that Ken Seguin lead a life of contradictions. Ken gave the impression, at least to Ron Gendron, that he was dating women. Ron Gendron did not follow Ken Seguin's personal life, but he never saw Ken in a social setting with a woman and thus over a ten year period of time, came to wonder if Ken was homosexual. Mr. Gendron's suspicion that Ken Seguin might have been homosexual cannot and should not be equated with suspicion that Ken Seguin was behaving inappropriately with probationers. MCSCS emphasizes the distinction between those two ideas.

*Volume 177, p.p. 52-53*

### **Following Ken Seguin**

A few months prior to Ken Seguin's death, Ron Gendron and Jos Van Diepen followed Ken Seguin during a work break. They had noticed that Mr. Seguin had

changed his habits and began leaving the office during his breaks. He would be away from the office for about 15-20 minutes. The two decided to follow him one day to see where he went, and followed Mr. Seguin by car to the Cornwall Square Mall. They observed Ken attend at the food court in the mall and sit by himself having a coffee. Ken Seguin remained at the mall for approximately 10 minutes and then traveled back to the office.

*Volume 177, p.p. 54-59*

Ron Gendron felt a little silly after returning to the office. He expressed in his evidence that he and Jos Van Diepen followed Mr. Seguin out of concern for what he may have been doing on his break, and he felt relieved that they found nothing unusual. Ron Gendron clearly expressed again that the concern was regarding Ken Seguin's social interactions and not about sexual impropriety. Ron stated that Ken was obviously wonderful at concealing his private life and it was never on the radar screen that Ken Seguin was having sexual contact with clients.

*Volume 177, p.p. 60- 61*

Up to and including November of 1993, Jos Van Diepen never expressed to Ron Gendron any concerns about Ken Seguin having sexual contact with clients. Nor did he ever mention anything prior to Ken Seguin's death about inappropriate contact that Father Charles MacDonald had with David Silmser. Throughout the 80s and most of the 90s, Ron Gendron and Jos Van Diepen had a good relationship at work. Toward the mid-90s, Ron and Jos Van Diepen had some disagreements over management and union issues.

*Volume 177, p.p. 62-64*

### **Emile Robert's Office Management**

Ron Gendron never raised any of his concerns about Ken Seguin's social interaction with clients or about his suspicions with Emile Robert primarily because he did not feel he had anything to report. Further, he regarded Emile as incompetent and



untrustworthy. This was a sentiment held by other probation staff. Mr. Robert's management and personality style, in Ron Gendron's assessment, prevented any real dialogue with management. Emile Robert was the type of person who would take the information and turn it around to the negative of the person reporting the information. Thus, the lack of positive relations with Emile Robert affected an open dialogue with the manager.

*Volume 177, p.p. 67-68*

### **Suicide of Ken Seguin - November 25, 1993**

Ron Gendron did not notice any real difference in Ken Seguin's behaviour or performance at work during the months leading up to Ken's suicide. Ken's mental state appeared good, aside from some minor moodiness or being on edge. Ken was still attending work on time and performing his functions.

*Volume 177, p.p. 70-71*

On November 25<sup>th</sup>, 1993, someone asked about where Ken was. No one seemed to know where Ken was. The office chatter was that Ken had a dental appointment that morning and the dental office phoned as Ken had missed the appointment. Ron Gendron recalled that the secretary spoke with him and also Emile Robert spoke with him about where Ken was. At some point Emile Robert came to Ron and asked if he had time to go with him to Ken's home. Emile Robert said that Ken had not come into work and he wanted to go check up on Ken at his house. This was something that he had never done before – visit another probation officer's residence because s/he had not come into work. To Ron's knowledge Emile Robert had not done this previously either and Ron regarded this as unusual.

*Volume 177, p.p. 72-73*

It was a 15 minute drive to Ken's residence, and during the drive Emile Robert expressed that he thought it was very unusual for Ken Seguin to not call and give notice that he was not coming into work and for him to miss a dental appointment.

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He said he had checked and the appointment was not cancelled. Emile Robert was definitely concerned and Ron had the impression that Emile Robert was worried about Ken Seguin having had some accident at his home or while taking out his boat.

*Volume 177, p.p. 74-75*

They arrived at the home around 1:00 p.m. or 2:00 p.m. He stated that he believed they were the first persons at Ken's house. Emile Robert told Ron that he had concerns to phone the police. Ron was thus not shocked when the OPP arrived. At some point an OPP officer arrived at the house, and while Mr. Robert spoke with the officer, Ron walked around to the front of the house and knocked on the door. He looked in the windows and checked the boathouse. He recalled that the doors to the house were locked. Ron Gendron recalled a neighbour coming over after seeing the police at the house. The neighbour was Ron Leroux. Ron Gendron recalled remaining at the residence for about 10 minutes and Emile Robert decided that they should leave. The police officer did not do anything more than they did and Ron Gendron did not recall or hear any of the conversation between the officer and Emile Robert.

*Volume 177, p.p. 75-80*

By the time they left, Ron Gendron was concerned. He recalled returning to the office and carrying on with his day. Around 3:00 p.m. that day, Emile Robert called all staff into the conference room. It was at that time, that Emile Robert informed them about Ken's death. Ron recalled Emile stating that Ken Seguin had committed suicide by hanging himself. Ron and the staff were all shocked, as he believed no one had any suspicion that Ken was at risk for taking his own life. The staff reaction to Mr. Seguin's suicide is further proof that they had no real suspicion that Seguin's life was in a state of crisis. This underscores the Ministry's submission that Ken's other life was kept well hidden from his co-workers.

*Volume 177, p. 81- 82*

The OPP interviewed office staff surrounding their investigation of Ken's death. Ron Gendron provided a statement to police on February 14, 1994.

*Volume 177, p.p. 83*

### **No Knowledge or Suspicion of Ken Seguin's Sexual Contact with Clients**

Ron Gendron was very clear in his evidence that he never heard or had any information about Ken Seguin having inappropriate, or sexual contact with his clients. Had Ron Gendron known or had reason to believe that Ken Seguin was sexually abusing clients, he would have, regardless of who the manager was, reported the information. He had a duty to report such concerns and he would have reported his information to the police and "anybody and everybody who would listen".

*Volume 177, p.p. 68, 206*

Ron Gendron did not automatically think because Ken may have been gay and was social with male clients, that there was a risk of sexual contact with clients. Ken Seguin hid his life from his co-workers. Ron testified that Ken Seguin possessed great social skills and held himself out in the community as an outstanding leader, a person who would not be the type of person to behave that way. Ken had fooled him and others in the office.

*Volume 177, p. 183, 186*

### **Client Disclosures of Sexual Abuse – Local Response**

In 2001 and 2005, two clients disclosed allegations of historical sexual abuse perpetrated by Ken Seguin. There was a developing policy within the Cornwall office to deal with the emerging disclosures of past sexual abuse. It was about 1999 that the office really recognized that there were problems that needed to be addressed and around 2000 the office began to develop and implement a disclosure protocol, which also coincided with sourced training for the staff on how to deal with male

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sexual abuse trauma. The policy was in response to the disclosures and not the Project Truth website. The policy evolved around three main principles, which included recognition that when disclosing a past abuse the client may be in a state of crisis, and the strategy was to create a comfortable environment for the client to be encouraged to disclose, to not judge the merits of the allegation but ensure supports were in place for the client to address their needs such as referral to the Mens' Project, or to substance abuse, and to document the disclosure and report the allegation to the area manager and police.

*Volume 177, p.p. 87-92, 99-100, 102*

Regarding the two clients that disclosed to Ron Gendron, the information was reported to the police, either the Project Truth team before they were disbanded and after to the Cornwall Police Service. From that point on, Ron Gendron's focus is on how to address the needs of the client and to fit this issue into the case plan.

*Volume 177, p.p. 92-93*

The disclosure of March 13<sup>th</sup>, 2001, and the incident report documenting the disclosure and Ron Gendron's actions, attracted an email from Claude Legault setting out additional steps to ensure transparency, reporting to police, referral to the Men's Project for counselling and advising the client that other victims have initiated lawsuits against the Ministry and to advise of the name of the lawyer representing other victims. This captured the nature with which disclosures were being handled.

*Volume 177, p.p. 229-231*

As part of the Cornwall Office's response to disclosures, the office did not go back through a history of Ken Seguin's clients. The policy deals with clients who come into the office on probation or parole, and after doing a CPIC check on the client, the probation officer would focus on any time frame of prior contact with probation and parole when Ken Seguin or Nelson Barque may have supervised the client. The client would be asked in the initial interview who their previous probation officer

was, and if the answer was Ken Seguin or Nelson Barque, follow up questions would be about the probation and if there were any problems. If they did not know or remember who their previous probation officer was, more questions would be asked to try and probe any past contact with Ken Seguin or Nelson Barque and essentially encourage disclosure of any past abuse.

*Volume 177, p.p. 93-95, 101-102*

In the overall group of clients who indicated that there had been past abuse, some indicated abuse but wished not to speak about the abuse. In these cases, the clients were still addressed about support services and counselling, as well as the allegation itself being documented and reported.

*Volume 177, p.p. 96-97*

### **Reliability and Analysis**

Ron Gendron presented as a forthright and reliable witness. Ron Gendron is an experienced probation officer who conducted himself in accordance with Ministry policy during difficult times in the history of the Cornwall Probation and Parole office. At all times, no question has been raised about Mr. Gendron's competency or performance in his duties. His involvement with office staff was restricted to office hours. When he and Jos Van Diepen had concerns regarding a fellow probation officer's questionable social interactions with clients, he brought his concerns to the attention of that officer. He even went to the length of following that probation officer during an office break to satisfy his suspicions.

At all material times, Ron Gendron never had any suspicion or information that Ken Seguin was having sexual contact with clients. Mr. Gendron was firm in his assertion to the Inquiry that had he possessed any such knowledge or suspicion it would have been his obligation to raise the issue with management and pursue the issue as far as he had to. The information that he did possess prior to Ken Seguin's death was nothing more than unsubstantiated, non-specific rumour. It was

perfectly reasonable for Ron Gendron to believe that any real concerns arising from a police investigation would be brought to the attention of the area manager, Emile Robert, and he had no obligation to report non-specific rumour.

Subsequent to Ken Seguin's death, more rumours began to surface. Indeed, many in the office including Emile Robert would have been party to these rumours. Again, nothing of any concrete or substantial detail came to Ron Gendron's knowledge that would have required him to report to management. Context is important. This was a work environment where Ken Seguin was the most respected probation officer. He was referred to as "Mr. Probation". He acted as a mentor to most of the other officers and was very adept at concealing his other side.

*Volume 178, p. 16*

A more open dialogue with Emile Robert may have assisted in amassing information that would and should have lead Emile Robert to request some form of internal review or investigation. It is fairly clear on the evidence, that Emile Robert observed Ken Seguin's social contacts during office hours with clients, and he was aware of the Gerry Renshaw and Travis Varley matters. Emile Robert failed to act appropriately to the Travis Varley incident, and this failure to discipline Ken Seguin was known by the staff. Any reporting to Emile Robert of similar observations would have been redundant at best and yielded no appreciable action. Nevertheless, Emile Robert's management style and performance substantially interfered with any such dialogue. Emile Robert, as the Area Manager, and not Ron Gendron or any probation officer in his position, was the person who was in a position to cull information in order to look further into issues arising from past conduct of Nelson Barque and Ken Seguin.

*Volume 177, p. 129*

**Carole Cardinal**

Carole Cardinal testified on December 18<sup>th</sup>, 2007. She has been an employee at the Cornwall Probation and Parole office since 1982, and she took over the position vacated by the departure of Nelson Barque. Although Peter Sirrs did not tell her why Nelson Barque left his position, she learned the reason from her colleagues within a few months, which was that Mr. Barque had a sexual relationship with a client. This was widely discussed in the office.

*Volume 179, p.p. 3, 5 - 6, and 21 - 22*

Carole Cardinal had exclusive responsibility for the Alexandria office, and only minimal responsibilities in Cornwall. She worked in Alexandria 3 days per week.

*Volume 179, p. 12*

Later Ms. Cardinal became a member of the Cornwall Child Prevention Council. Nelson Barque attended that Council as a representative of Equipe Psycho-Sociale. She was surprised he was present, and took exception to that. Ms. Cardinal spoke with Mr. Johnson, the Crown Attorney about the fact that Mr. Barque was participating in the Council. According to Ms. Cardinal, Mr. Johnson knew the reason why Mr. Barque had left his employment with Probation Services. She also talked to then defence lawyer Bruce McPhee about the situation, and he agreed with her view.

*Volume 179, p. 22 - 26*

### **Emile Robert Office Management**

When Carole Cardinal began as a probation officer Peter Sirrs was the Area Manager, and although she got along with Sirrs, she noticed that Jos Van Diepen did not. Carole Cardinal had no difficulty with his successor Emile Robert, but Mr. Robert had favourites, and imposed double standards. Mr. Robert became more difficult to communicate with. She described the office in the early 1990s as being poorly managed. Mr. Robert played favourites with vacation time, as well as case audit practice. According to Ms. Cardinal, Jos Van Diepen felt singled out. She

described Mr. Robert's style as "somewhat arrogant at times demeaning...certainly lacking in some social skills..." Ken Seguin, on the other hand, was a principal favourite of Emile Robert. The fact that Ken Seguin was not disciplined as a result of the Varley incident was an example of preferential treatment.

*Volume 179, p.p. 17, 18, 112, 113, 115; p. 103*

The problems with the office management reached a peak in 1997 or 1998 when a mediator was called in to deal with morale problems. Claude Legault, who was the exact opposite of Mr. Robert, ultimately replaced Emile Robert. The transition happened after the office mediation when Emile Robert was moved to the Ottawa office. Deborah Newman, who was quite concerned about the individual staff members and met with them individually, effected this change. As opposed to Emile Robert, Claude Legault was very concerned about staff and the best method of dealing with staff.

*Volume 179, p.p. 20, 105*

### **Ken Seguin**

Carole Cardinal worked with Ken Seguin and found him to be very personable and friendly. He was well respected among the judiciary, defence, Crown and police department. Ken Seguin was one of the individuals that she would go to if she had a work related problem.

*Volume 179, p. 27*

Although Carole Cardinal lived in the same neighbourhood as Ken Seguin for a period of a few months she never visited him at that home. That would have been the house on Alguire Street in 1986. Ms. Cardinal would have visited Ken Seguin once in Summerstown. That happened when she was visiting a neighbour of Mr. Seguin's and Mr. Seguin saw her and motioned for her to come over. It was at that time that Mr. Seguin showed her his property. Ms. Cardinal assumed that Mr. Seguin was homosexual because she had never seen him date women, but her assumption was limited to that. Following Ken Seguin's death, Carole Cardinal



learned that Ron Gendron and Jos Van Diepen did surveillance on Ken Seguin. Carole Cardinal was not a party to that venture, and was quite surprised when they told her. There is no evidence that prior to Ken Seguin's death, Carole Cardinal had any concerns about his contacts with clients given her observations of Ken Seguin.

*Volume 179, p.p. 27 - 31, 55 - 57*

### **Ken Seguin's Contact with Clients**

Carole Cardinal observed Ken Seguin to act professionally with his clients. He met them in his office, and there were no disputes, yelling or arguments with clients. The talk at the office was that Mr. Seguin went above and beyond as a probation officer with his clients. Ms. Cardinal agreed that "Mr. Probation" was a good description of him. Ms. Cardinal testified that she never saw clients driving his car, being in Mr. Seguin's car or anything of that nature. The only discussion about inappropriate social contact with clients came when an ex-offender moved in with him. She came to find out later that it was Gerry Renshaw who moved in with Ken Seguin. This was discussed in the office, and Carole Cardinal was surprised that this was allowed to happen.

*Volume 179, p.p. 32 - 35, 56-57, 156*

Mr. Seguin had told Ms. Cardinal about the Travis Varley incident. He did this for two reasons. The first was because the victim was on a YOA probation order to Carole Cardinal. The other reason to tell Carole Cardinal was that she was the court liaison officer at the Alexandria Courthouse, where the charges were proceeding.

*Volume 179, p.p. 37 - 38.*

Carole Cardinal had found out that Mr. Varley had attended the Ken Seguin residence on the night of the death. When Mr. Seguin told her, he only told her about the individuals being there. It was when she went to the Alexandria Courthouse that she learned about alcohol being consumed at the Seguin

residence. This did not please her. She had read a police report, and did a pre-sentence report for Travis Varley. That is how she came to access the Crown brief.

*Volume 179, p.p. 39 – 41.*

After Carole Cardinal learned that alcohol had been served on the night of the death she spoke with Ken Seguin, who downplayed the incident. He made it clear to her that he had filled out an incident report. Carole Cardinal found it inappropriate that Mr. Seguin had a client at his home when the client was having a pre-sentence report prepared about him. She voiced her concern with Ken Seguin and others in the office about Ken Seguin entertaining clients and drinking alcohol with them. She was aware that Ken Seguin had filed an Incident Report, but unaware that the report failed to mention alcohol. Her first review of the Incident Report occurred in preparation for her testimony at the Inquiry.

*Volume 127, p.p. 44 – 49*

#### **No Knowledge or Suspicion of Ken Seguin's Sexual Contact with Clients**

In the weeks leading up to his suicide, Ken Seguin was very unfocused. All Ms. Cardinal knew about Father Charlie McDonald was that her husband Sgt. Lortie had taken a complaint about a priest. It was re-assigned because of a scheduled surgery. She did not know the name of the priest, and was not aware of any complaint against Ken Seguin. If she had, she would have told her Area Manager. She was not aware of any complaint by David Silmser against Ken Seguin during his lifetime. Ms. Cardinal was clear that her husband, Claude Lortie, did not tell her about a complaint against Ken Seguin. Mr. Lortie confirmed this in his testimony.

*Volume 179, p.p. 62, 64, 65, 66, Volume 214, p.p. 249 -251*

#### **Client Disclosures of Sexual Abuse – Local Response**

Carole Cardinal testified about the intake of disclosures by former probationers who told of abuse at the hands of probation officers Barque and Seguin. The first started

in 1997. As at June of 2007 there were 32 complaints. Ms. Cardinal was a front line provider of services to probationers disclosing their victimization. The first such disclosure to her occurred in 1999. She subsequently received several such disclosures and each time provided thoughtful assistance in accordance with the protocol. Ms. Cardinal even offered to meet probationers off-site. Ms. Cardinal is one of the several probation officers in Cornwall who were faced with difficult circumstances in this regard, and performed their role admirably.

*Volume 179, p.p. 70, 75, 79-92*

### **Reliability and Analysis**

Carole Cardinal is another example of staff at the Cornwall Office who had only seen one side of Ken Seguin, the “Mr. Probation” side. There is no evidence to suggest that Ms. Cardinal possessed information that gave rise to concerns of inappropriate sexual contact with clients. It must also be emphasized that she spent 3 days per week outside the Cornwall office. Similarly, Ms. Cardinal conducted her duties and engaged clients under difficult circumstances, at times receiving information that was not only traumatizing for the client who had to disclose abuse but for those who received the disclosure themselves. Ms. Cardinal was front and centre with other staff in working through the process and seeking out the supports and assistance necessary to create a safe and supportive environment for clients to disclose their abuse.

### **Louise Quinn**

Louise Quinn joined the Ministry in 1974 as a secretary at the Cornwall Probation office. In 1995 she became a probation officer. Apart from one year with the Ontario Ministry of Community and Social Services, she was employed at 340 and 502 Pitt Street.

*Volume 173, p. 149.*

**Nelson Barque**

She did not remember any of the office doors of the office having locks, but does remember that Nelson Barque often used his own lamps in his office. She described Nelson Barque as being a pleasant man who never expressed an interest in working with any particular type of probationer.

*Volume 173, p.p. 153 - 155*

Ms. Quinn testified that night reporting happened once a month, either on a Tuesday or Thursday night, when probationers were seen between 6 and 8pm. She recalled that everyone left the building at the same time when there was night reporting. There was no policy at the time that said that anyone seeing a probationer at night needed to have another person with him or her. She once found some pornographic materials in Mr. Barque's office, and asked him about them. Mr. Barque told her that he had confiscated the magazines from a client. Ms. Quinn testified that she trusted and respected Mr. Barque, and so she had no reason not to believe him about that. She also found clothing in his office, and when asked Mr. Barque told her that a client had changed because he was going to a job interview.

*Volume 173, p.p. 156, 157, 158, 160*

Ms. Quinn testified that in her view Nelson Barque worked hard with his clients, and would sometimes loan his car to them. She testified that this was not a secret.

*Volume 173, p.p. 160, 161*

Ms. Quinn heard a rumour that Mr. Barque had behaved improperly with a client. At the time, she was not a probation officer, and so was not part of the probation officers' circle within the office.

*Volume 173, p. 177*

### **Ken Seguin**

Louise Quinn also found Ken Seguin nice to work with. She described him as kind and considerate. He never expressed to Ms. Quinn a preference regarding types of clients.

*Volume 173, p. 166*

Mr. Seguin was open about the fact that Gerry Renshaw had moved in with him. Ms. Quinn found that unusual. Mr. Seguin had explained to her that he wanted to give Mr. Renshaw a chance, and that Mr. Renshaw was turning his life around. Mr. Renshaw had a job and was helping Mr. Seguin with his mortgage.

*Volume 173, p. 170*

Ms. Quinn heard from the grapevine that Ken Seguin was being investigated, but she was on sick leave for about one year in 1993. Ms. Quinn could not recall if the rumour involved sexual behaviour.

*Volume 173, p.p. 170 - 172*

### **Management of the Office**

Ms. Quinn described both Peter Sirrs and Emile Robert in positive terms. She got along with Emile Robert, but not with Peter Sirrs. Ms. Quinn emphasised that she was not part of the Probation Officer group, as she was a support staff member. Her evidence in this regard is limited.

*Volume 173, p.p. 175, 176*

### **Robert Renshaw**

Louise Quinn testified that Robert Renshaw would have no reason to believe that she felt sorry for him. This was in response to Mr. Renshaw's testimony that Ms.

Quinn appeared to be sympathetic to him. She never suspected that anything was going on with Mr. Renshaw.

*Volume 173, p. 222*

### **Marcelle Leger**

Marcelle Leger worked at MCSCS from June 1965 until August of 1993. She initially had the position of secretary, but retired as an administrative clerk. She worked at four different offices in Cornwall, 236, 408, 340, and 502 Pitt Street. Peter Sirrs was the second area manager on-site, and was succeeded by Leo White, and after that Emile Robert. Ken Seguin arrived in the Cornwall Probation and Parole office in 1968, and Mr. Barque in 1974.

*Volume 173, p.p. 20 - 24*

Marcelle Leger was not assigned to a particular officer, and worked for all three probation officers in the office. She greeted probationers who arrived at the office for appointments. The staff would work nights on Thursdays, for at least one Thursday a month. That evening session would last a couple of hours.

*Volume 173, p.p. 24 - 27*

### **Nelson Barque**

At some point Ms. Leger came to know that Nelson Barque had a lock on his door at the probation office. He was the only probation officer who had a door lock. Mr. Barque's was the furthest office away from her. She was not aware of any lock on Mr. Seguin's door, or any soft lighting being installed in the offices. She did not find any inappropriate materials in Mr. Barque's office, and she never suspected that Mr. Barque was acting inappropriately with probationers.

*Volume 173, p.p. 32 - 34, 52, 53*

Ms. Leger has minimal memory of Mr. Barque. She recalls him as being hard working, and possibly spending too much time with probationers. She was shocked

when Mr. Barque left under “difficult circumstances”. She had received a call in 1982 from Mr. St. Louis who was complaining about Nelson Barque. She took his name and phone number and told him she would refer the matter to Mr. Barque’s immediate supervisor. She ultimately knew that the incident had something to do with sexual abuse.

*Volume 173, p.p. 48, 49, 110*

### **Ken Seguin**

Ms. Leger described Ken Seguin as a good worker, bright, and meticulous. He initially worked with juveniles and adults. She described him as spending a little bit more time with his probationers than other officers. Ms. Leger thought that Mr. Seguin *might* be homosexual, but she had no suspicions prior to his death that he was acting inappropriately with probationers.

*Volume 173, p.p. 54, 55, 57, 59*

Ms. Leger did hear a rumour during his lifetime that Mr. Seguin was being investigated for something, but she wasn’t sure what that was. She had no specifics, but recalls it coming up when she was getting ready to retire. She did think that he had mood swings in the period before his death, but denied telling Emile Robert about Mr. Seguin’s emotional well-being.

*Volume 173, p.p. 59, 60, 62, 79*

### **Sue Lariviere**

Sue Lariviere testified over two days in early 2008 as part of the MCSCS institutional response evidence. Ms. Lariviere started as a Probation Officer in 1990, and began working in the Cornwall Office, as well as other satellite offices in the Cornwall area. At that time the other Probation Officers in the office were

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Carole Cardinal, Ron Gendron, Jos Van Diepen, Terry McDonald and Ken Seguin. Emile Robert was the Area Manager.

*January 22, 2008 (Volume 187), and February 25, 2008 (Volume 199)  
Volume 187, p.p. 180 - 183*

**Ken Seguin**

When Ms. Lariviere began in the Cornwall office Ken Seguin was her mentor. In that role he sat in on her client interviews, gave her direction on writing Pre-Sentence Reports, and gave her a familiarity with the Courts and Police. She was asked about the practise at the time of closing doors during client interviews, and responded that doors were closed for confidentiality reasons, although no one had a lock on their door. Ms. Lariviere's contact with Ken Seguin during those years before his suicide is important for purposes of this Inquiry, since it tells of the professional side of Ken Seguin. According to Ms. Lariviere, Mr. Seguin was "Mr. Probation", well respected by his peers and clients. He was a probation officer who went beyond the call of duty, and took a more social work approach to the task of probation supervision, but she never had the impression that Ken Seguin was acting inappropriately towards his clients. The only time Ms. Lariviere saw Ken Seguin with a client outside the office was when Mr. Seguin and a client would go for a cigarette outside. Ms. Lariviere was frank when she testified that there were rumours that Ken Seguin was gay, but that was of no consequence to her.

*Volume 187, p.p. 185 - 194, 196, 203*

Ms. Lariviere testified about office politics in the Cornwall Probation and Parole office during Ken Seguin's lifetime. She saw that Emile Robert got along well with Ken Seguin, and there was no conflict between them. It was her evidence that Mr. Robert favoured Mr. Seguin so much so that it was possible that he was no longer monitoring him. This view was widely held in the office. Ms. Lariviere felt that people in the office thought that there was special treatment of Ken Seguin and that a double standard was being applied. Before Ken Seguin's death she was not aware of any rumours about him, but after his suicide the rumours of inappropriate



activity began to go through the office. When there was a realization that Ken Seguin might have had a complaint against him she did not believe it. She could not believe that Ken Seguin was capable of anything like that. It is the MCSCS submission that Sue Lariviere saw one side of Ken Seguin, a side that was professional, competent, and beyond reproach. The “Mr. Probation” side of Ken Seguin, amply exploited Emile Robert’s lack of supervision to hide from scrutiny anything below the surface which would have alerted the Ministry to Mr. Seguin’s other activities. Sue Lariviere thus illustrates how Ken Seguin’s peers knew nothing about his abusive conduct towards probationers.

*Volume 187, p.p. 199 – 200, 202 – 203*

#### **Client Disclosures of Sexual Abuse – Local Response**

In 1999 disclosures by persons who claimed to be sexually abused by former probation staff began. The first time this happened she was meeting a client for a Pre-Sentence Report. The client was visibly upset and could not come into the office, because that is where he was abused. Ms. Lariviere testified that she consequently met with the client as they walked around the block. Ms. Lariviere completed an incident report from the meeting. Since then she has received a total of six (6) disclosures. A protocol has been developed to properly handle this type of situation *i.e.* where a client complains of abuse at the hands of a probation officer. The protocol required that anyone who came into the probation office who was on probation between 1970 and 1993 had a CPIC search. If it turned out that they were on probation either with Ken Seguin or Nelson Barque then they were asked if anything inappropriate happened. If the answer was yes, then the client was referred to the various appropriate service providers, as well as to the police to make a statement. A checklist was also developed to confirm that all the appropriate steps are taken, and notification to ministry officials in the form of an incident report was also required. The policy required that complaints be taken at face value, as opposed to questioning its validity.

*Volume 187, p.p. 206, 208 - 213, Volume 199, p.p. 40 - 44*

Exhibit #1179

## **Knowledge at the Regional Level**

### **Roy Hawkins**

Roy Hawkins testified on behalf of the Ministry of Community Safety and Correctional Services. He was the Regional Administrator for the Ministry stationed in Kingston from 1982 until early September of 1993. Peter Sirrs, Leo White, and then Emile Robert reported to him. When Roy Hawkins took over the job vacated by Elmer Toffelmire, Toffelmire did not brief him on the 1982 Sirrs report into Nelson Barque.

*Volume 188, p.p. 44 - 46, 60 - 61*

Mr. Hawkins thought that the chemistry was not good when Peter Sirrs was the Area Manager in Cornwall, although Mr. Hawkins did not get to know the Cornwall staff well, and saw them only on an occasional basis.

*Volume 188, p. 54*

Roy Hawkins testified that there was tension with Jos Van Diepen arising from Emile Robert's promotion, which was complex, and arose from disappointment on Mr. Van Diepen's part that he did not get the Area Manager's job. Mr. Van Diepen found it hard to accept Mr. Robert as the Area Manager, and this difficulty lasted the entire time Mr. Robert had that position.

*Volume 188, p. 57*

As the Regional Manager, Mr. Hawkins knew Ken Seguin as a Probation and Parole Officer in Cornwall. Roy Hawkins knew him to be reasonably professional and friendly in his contact, but did not know him personally.

*Volume 188, p. 62*

The Area Manager in Cornwall, Emile Robert, tended to rely too much on the regional office for direction in handling specific situations where responsibility

rested with him. Emile Robert tended to provide insufficient information to the regional office when he was seeking counsel or directions.

*Volume 188, p. 58; Volume 189, p. 31*

#### **Permission for Gerald Renshaw to live with Ken Seguin**

When Roy Hawkins received the request on or about March 20<sup>th</sup>, 1989 from Ken Seguin to live with Gerry Renshaw (forwarded by Emile Robert), it was the only request of that kind that he had ever seen. Mr. Hawkins read it as requesting something that had already taken place. The original request from Ken Seguin was dated March 10<sup>th</sup>, 1989, notifying that Mr. Renshaw was moving in on March 11<sup>th</sup>, 1989. He did not see it as a request for permission.

*Volume 117, p. 281; Exhibit P-559*

According to Mr. Hawkins, there is an expectation in the Ministry that once contact with the client has finished for Ministry business then contact will cease altogether. That is because there is a fear of not only the possibility but also the perception of something inappropriate taking place. A May 9<sup>th</sup>, 1986 Ministry conflict of interest policy potentially captures this situation. The Ministry policy speaks to public servants advising their head of possible conflicts of interest, and this might explain why Ken Seguin worded his memo to Emile Robert the way he did. There is a Ministry policy dated June 21<sup>st</sup>, 1989 regarding employee's contact with ex-offenders and their family, but it came into place after the March 1989 letter. Over and above all this, there was a common practise in the Ministry that the relationship between the probation officer and a client would not be subject to compromise or pressure.

*Volume 188, p.p. 64 - 66, 71 - 76.*

When the request was made for Ken Seguin to live with Gerry Renshaw, Mr. Hawkins expected Emile Robert to do further verification. He recalled sending a letter to Emile Robert and discussing this with him. Mr. Hawkins was unsure whether there was jurisdiction to deal with such a situation in a disciplinary manner

if the Probation Officer chose to continue the relationship with the former probationer in spite of a recommendation to the contrary. He was not sure he had the authority to deal with the situation in a disciplinary sense unless there was an indication of serious impropriety. There was no information communicated to Mr. Hawkins of any difficulties or impropriety.

*Volume 188, p.p. 67 - 70, 78 - 79*

### **Travis Varley incident**

Mr. Hawkins did not truly become aware of the full details of the Travis Varley incident until nine months after the event. In Mr. Hawkins' opinion, a probationer routinely dropping in on a residence of a probation officer is not common practise, and is very out of the ordinary. Once apprised of the facts, Mr. Hawkins considered the Travis Varley incident to be a major one. However, he did not recall any discussion with Emile Robert about this around the time of the incident. Had Emile Robert advised Mr. Hawkins of the incident at the time then he would have expected a need for a Ministry Investigation and a suspension of the employee during the period of the investigation.

*Volume 188, p.p. 83- 85*

When Roy Hawkins received the Randy Millar letter he was surprised and shocked that such a very serious incident was dealt with in such a superficial and trivial way. Mr. Hawkins testified that he was outraged at the way it was handled, and the recommendations that were made by Emile Robert. He thought that the evidence accumulated relating to Ken Seguin was not credible and that what Emile Robert was looking at was the tip of the iceberg. Roy Hawkins did not agree with Mr. Robert that no further action be taken. That is why he sent Emile Robert a letter saying that there was a need for a meeting and possible disciplinary action. He wanted Emile Robert to review the matter carefully with Ken Seguin, and testified that Emile Robert took the most minimal type of action that could be taken. He was not satisfied that a thorough investigation took place.

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Mr. Hawkins accepted that in hindsight he could have asked for an independent investigation from the Ministry about the situation, given the inadequate approach taken by Emile Robert. Regarding discipline, once Mr. Robert took a step in the discipline process, albeit in the most minimal way, it would not have been open to Roy Hawkins to overrule Mr. Robert and impose greater discipline. Mr. Hawkins testified that it was not open to him to unilaterally impose discipline on a Probation Officer without the local manager imposing it. Further, Mr. Hawkins, as part and parcel of his role, would have had disjointed knowledge of the goings-on of the Cornwall office. As has been argued in a previous portion of this submission, the person with direct knowledge and the ability to act immediately and more fully was Emile Robert. This ought to have included a request for an investigation. Roy Hawkins' actions must be viewed in the context of the timing of information he was receiving from Emile Robert. Again, Roy Hawkins first learned of this incident in March of 1992. The information provided was minimal. It was not until approximately October of 1992, that Mr. Hawkins received a note from Emile Robert dated September 8<sup>th</sup>, 1992, with a copy of the Randy Millar letter dated September 3<sup>rd</sup>, 1992. At this time, Mr. Hawkins received additional information regarding the incident. On October 16<sup>th</sup>, 1992, as noted above, Roy Hawkins sent a memorandum to Emile Robert concerning the incident directing that there is, at the least, a need for a meeting and possible discipline action against Ken Seguin. Mr. Hawkins, to his detriment, relied upon Emile Robert to do his job.

*Volume, 188, pp. 86-87, 93-100, 114, 120-121, Volume 189, pp. 8-9, 11, 14*

This incident should have appeared on Ken Seguin's performance reviews.

*Volume 188, p.p. 94 - 100, 114; Volume 189, p.p. 8 - 9, 11, 14, 15*

Similarly it was open to Mr. Hawkins to reflect the concern he had for the inadequate response of Emile Robert, in Mr. Robert's performance review prior to leaving his position in September of 1993. Unfortunately, this was not done.

## **Bill Roy**

Bill Roy commenced his evidence on December 11<sup>th</sup>, 2007. He was employed with the Ministry from 1968 to 1997, with a five-year hiatus when he was working with Cambrian College in Sudbury. From Sept 1993 to 1997, he was the Regional Manager, Eastern Region Office in Kingston. Mr. Roy was in charge of supervising the region's probation and parole offices, as well as youth community facilities – open custody facilities – with approximately six area managers and five or six youth facilities reporting to him.

*Volume 175, p.p. 6-9*

The other Regional Manager at the time was Deborah Newman who was responsible for institutions. Their offices were located in Kingston. The Regional Manager reported to the Regional Director, who at that time was John O'Brien. Bill Roy's predecessor was Roy Hawkins. When Bill Roy took over the position, there was no overlap or briefing. He was never informed about the investigation of Nelson Barque in the 1980s. There was no specific file kept by Roy Hawkins about issues he was dealing with involving any particular office including the Cornwall office.

*Volume 175, p.p. 11-13, 16, 19, 111-112*

The Cornwall Probation and Parole office was under Bill Roy's jurisdiction. The Area Manager was Emile Robert. Mr. Roy was familiar with the staff of the office as he would visit the office from time to time for staff meetings and union/management grievance matters, and as an average he estimated about four visits per year.

*Volume 175, p.p. 14-15*

Similarly he would meet at the Regional Office with Area Managers, including Emile Robert. This would typically occur for year-end, budgets, and would also average to

about four meetings per year and at least one annual meeting with various management personnel such as Superintendents. The main source for information regarding the operation of the Cornwall office was Emile Robert, as he had no recollection of any probation officers ever reporting to him directly.

*Volume 175, p.p. 17-18*

### **Nelson Barque**

Bill Roy did not recall ever being formally advised about the 1982 investigation by Peter Sirrs and the circumstances surrounding Mr. Barque's resignation. However, Bill Roy did recall hearing about the "story" from an Area Manager named Ted Morris some time after 1995. Specifically, he recalled being told about the investigation and that Mr. Barque had resigned. He did not recall Nelson Barque pleading guilty to the indecent act allegation involving Albert Roy nor of ever being informed of the 1994 OPP investigation, wherein several probation staff from the Cornwall office were interviewed.

*Volume 175, p.p. 19-23, 95-96*

Bill Roy agreed that a conviction of a former probation officer for having sexually abused a young probationer was a significant event for his office and the Ministry. However, he had no recollection of ever being informed of the criminal case by Emile Robert or any other person within the Ministry.

*Volume 175, p.p. 23-24*

### **Direct Contact with Cornwall Office Staff**

While visiting the Cornwall Probation and Parole office, Bill Roy would typically attend door to door and speak with the individual officers. Mr. Roy described them as a high-energy group, engaged in their files. The officers would often take a file and discuss what they were working on with him.

*Volume 175, p. 25*

Bill Roy further testified that he believed he had a good working relationship with Emile Robert. He was aware of personality issues with staff dealing with Mr. Robert. In formal meetings, he observed concerning behaviour such as snickering, and sarcastic remarks, but given that he understood the office to be running well, he never pursued the issues in any depth. Probation officers never spoke directly to Bill Roy about their issues with Emile Robert. Emile Robert tended to play the difficulties down.

*Volume 175, p.p. 28-30*

The most prominent of the staff issues involved Jos Van Diepen. Mr. Van Diepen had competed for the Area Manager position and demonstrated behaviour that according to Bill Roy appeared to undermine Emile Robert's authority. Emile Robert advised Mr. Roy that he was speaking with individual staff about the work relationship, but Bill Roy was not specifically aware of the steps the area manager was taking.

*Volume 175, p.p. 30 to 31*

Mr. Roy was not aware of any difficulties in managing Ken Seguin, but Jos Van Diepen posed an ongoing challenge in the office.

*Volume 175, p. 33*

### **Ken Seguin**

Bill Roy was aware Ken Seguin and Jos Van Diepen had been in the office longer than other probation officers. As per his testimony and his statement to Paul Downing on September 25<sup>th</sup>, 2000, he believed they were good friends; that they had gone out to lunch often and had associated outside of the office.

*Volume 175, p.p. 32- 36*



Bill Roy informed Paul Downing that he thought the relationship to be odd, given that Jos Van Diepen held negative views of homosexual behaviour. Mr. Roy was aware at the time of Ken Seguin's sexual orientation. He testified that it was general knowledge in the office. Bill Roy heard Jos Van Diepen express his feelings about homosexual conduct during a number of meetings at the Cornwall office. Bill Roy stated that he believed Ken Seguin and Jos Van Diepen to be close, but that they must have had a banter going on – just something that was going on in the office at the time. Bill Roy never followed up on the comments, or what was behind the comments, nor did he take any official steps in the context of workplace harassment other than communicating in his way that these types of comments were not acceptable.

*Volume 175, p.p. 36-38, 142*

Bill Roy was never informed about problems or issues with Mr. Seguin from Emile Robert or Ken Seguin's colleagues. He had no knowledge of any issues of Ken Seguin socializing with clients. Further, he was never advised about any police investigation. He received information of Ken Seguin's death on November 25<sup>th</sup>, 1993 from Emile Robert.

*Volume 175, p.p. 42-44, 147*

### **Operational Review**

As covered earlier, Bill Roy did not know about the 1994 OPP investigation involving Nelson Barque nor Nelson Barque's conviction upon allegations of indecent acts against Albert Roy, a former probationer in 1995. It was only after the conviction that he became aware of the details by being provided a newspaper clipping and from the media reports. He never learned that Albert Roy also alleged abuse by Ken Seguin. Putting these events together, Bill Roy acknowledged that the complaint of David Silmser and the conviction of Nelson Barque together would form a sufficient basis for him to have sought an investigation or operational review.

*Volume 175, p.p. 95-97*

### **Supervision of Emile Robert and the Cornwall Office**

The Regional Manager was responsible to supervise the Area Managers, manage resources and assist with the ongoing business of the local offices. Bill Roy was Emile Robert's supervisor. Part of Bill Roy's responsibility was to conduct performance reviews. This was based upon general information coming from the local office, performance of the office, relations of the Area Manager with related agencies, complaints, and ensuring that the Area Manager attended relevant programs for upgrading or continuing education. One area of concern was the relationship of Emile Robert with one or more of his staff.

*Volume 175, p.p. 104-105*

Bill Roy recalled instances of sarcastic comments, rolling of eyes, and similar behaviour directed at Emile Robert when visiting the Cornwall Office. He recalled that Jos Van Diepen was the most prominent in exhibiting these behaviours. However, he did not believe that Emile Robert had difficulty functioning as the Area Manager. Bill Roy agreed that Emile Robert would have been taking corrective measures with Jos Van Diepen as part of Mr. Robert's performance as an Area Manager. Bill Roy did not recall specific steps that he took with Emile Robert, but as part of his supervision responsibility he spoke with Emile Robert about this issue often, and offered his assistance to mediate or to be part of a discussion with Jos Van Diepen.

*Volume 175, p.p. 106-109*

Bill Roy did not have the impression that staff of the Cornwall office would not take their concerns or difficulties to the area manager. Instead, he thought that staff did go to Emile Robert. If there were issues of conduct of fellow probation officers, Bill Roy felt that the line of communication to himself as the Regional Manager as well as the Regional Director was available. No staff from the Cornwall office ever contacted him or the Regional Director.

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*Volume 175, p.p. 109-111*

Bill Roy remembered learning of the 1992 incident involving Ken Seguin and four young persons attending his house, beer being provided and then a death occurring; as well as, Ken Seguin seeking permission in 1989 for an ex-probationer to live with him. He believed that this information came to him after Ken Seguin's death, as Bill Roy had only been in his position some two months prior to Mr. Seguin's death. Between September and November 25<sup>th</sup> of 1993, Emile Robert raised no issue of concern about Ken Seguin.

*Volume 175, p.p. 113-114*

Bill Roy did not come to know that the ex-probationer did in fact live with Ken Seguin. Further, regarding the 1992 incident, Bill Roy never asked Roy Hawkins for information about the matter.

*Volume 175, p.p. 115-116*

Upon review of the correspondence exchanged between Roy Hawkins and Emile Robert regarding the 1992 incident, Bill Roy expressed his support for the position taken by Roy Hawkins and that it was the Regional Manager's job to remind the Area Manager about policy and the possible need for discipline. When Bill Roy took over the Regional Manager's position, he never reviewed any correspondence on this issue and therefore did not become aware either through documents or in discussion with Emile Robert about the manner in which the issue was dealt with or the disagreement between Emile Robert and Roy Hawkins.

*Volume 175, p.p. 118-121*

When he attended the Cornwall office after Ken Seguin's death, no staff approached Bill Roy and spoke about difficulties Ken Seguin was having or reasons for his suicide. He only recalled hearing supportive comments.

*Volume 175, p. 123*

## **Knowledge at the Senior Management Level**

### **Morris Zbar**

Morris Zbar commenced his testimony on January 23<sup>rd</sup>, 2008 and completed his evidence on January 24<sup>th</sup>, 2008.

### **Background**

Mr. Zbar obtained a degree in Political Science from McGill University and his Masters degree from McMaster University. Although Mr. Zbar completed his course work for his PhD in African studies at Hebrew University in Jerusalem he did not complete the PhD.

*Volume 188, p. 139*

Even though Mr. Zbar hoped to find a job in External Affairs when he returned to Canada after completing his fieldwork in Africa, he applied and obtained a job with Corrections in 1975. His initial employment with Corrections as a correctional officer at the Ottawa-Carleton Detention Centre was the beginning of a long and very interesting career with the Ministry, which included positions as: a trainer for correctional officers; a probation and parole officer; an Area Manager; a *Young Offenders Act* Coordinator; a *Freedom of Information Act* coordinator; a head of professional programs; a Director of Operational Review and Audit; an Assistant Deputy Minister and ultimately Deputy Minister until July of 2002 when he retired.

*Volume 188, p.p. 140-143*

### **Restructuring of the Ministry**

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When Mr. Zbar returned to the Ministry in 1998, it was as Assistant Deputy Minister (ADM) for Community Corrections and Young Offender Services, a position that he had advocated for. Recognizing that the bulk of offenders in the correctional system are supervised in the community on probation, parole or serving a conditional sentence, Mr. Zbar promoted his vision for restructuring Corrections into two distinct entities ensuring equal focus on public safety and enhanced service to clients through dedication of resources and strong leadership for a community corrections division.

*Volume 188, p.p. 142-144*

In 1998, the formal delineation of community corrections as a distinct entity from institutional corrections was accomplished. "Community Corrections" encompassed probation and parole services, conditional sentence supervision, young offender services, and fostering community relationships with agencies such as the John Howard Society and Operation Springboard. During Mr. Zbar's tenure as ADM, community corrections went through a major infrastructure change, that included the creation of a new senior management structure and the hiring of 170 new probation and parole officers, which represented the largest increase in staffing in community corrections history. Under his leadership, Mr. Zbar emphasized the development of a strong, professional and well-trained work force of managers and probation and parole officers. As will be discussed below, while ADM and later as Deputy Minister, Mr. Zbar also lead two important initiatives that fundamentally changed the manner in which community corrections clients were assessed and managed in the community. This change in paradigm significantly contributed to ensuring not only safety of the community through effective offender supervision, but also protection of offenders from abuse by persons in authority within the Correctional system.

*Volume 188, p.p. 146-151*

**Eastern Region, Cornwall Probation and Parole Office**

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Given the number of initiatives he wished to undertake as Assistant Deputy Minister, Mr. Zbar arranged for Deborah Newman to return from her secondment with the Federal Government to resume the position of Regional Director for the Eastern Region. Mr. Zbar had very high regard for Ms. Newman's strong leadership abilities and he wanted her as part of his team. When Ms. Newman undertook her review of the staff and management relations in the Cornwall office, and after some time in 1998 and 1999 while learning of disclosures of past alleged sexual abuse, Ms. Newman briefed Mr. Zbar about what she felt were management issues at the Cornwall office as well as the surfacing allegations. In particular, Ms. Newman believed that the management style of the then current manager, Emile Robert, was not helpful in terms of moving the Ministry forward. Ms. Newman informed Mr. Zbar that there needed to be change in the Cornwall Area Manager's position.

*Volume 188, p.p. 163-165*

At some point in time Mr. Zbar was also briefed about the issues surrounding Nelson Barque and Ken Seguin. These issues were presented to him as historical in nature. Mr. Zbar recalled that Ms. Newman had mentioned to him about Nelson Barque having been found guilty of an indecent act against a former client. He also recalled being informed that Ken Seguin had committed suicide, and that there were similar allegations made against him. However, at the time, his focus was on management structures, not only in Cornwall but also around the province. Over time, Emile Robert was moved to the Ottawa office and Claude Legault, or as Mr. Zbar regarded him "father Legault" was put in his place in Cornwall. Mr. Zbar referred to Mr. Legault in this manner, given his strong interpersonal skills and fatherly style of management.

*Volume 188, p.p. 166-168, Volume 189, p. 97*

Mr. Zbar did not become aware of the David Silmsler complaint until the Paul Downing Administrative Review. Mr. Zbar recalled that in 1998 or 1999, he was made aware of one or two allegations disclosed by former probationers about past sexual abuse. He recalled that one of the clients complained that he could not

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come to the office because of his memory of the past. Ms. Newman at the time had been attempting to move the office to a new location. When Mr. Zbar became aware that the move was going slowly, he contacted government services to expedite the move. As such, prior to the website in August of 2000, he had some knowledge of two complaints of historical sexual abuse.

*Volume 188, p.p. 168-170*

Given the limited information he received in 1999 and leading up to the 2000 Paul Downing Administrative Review, Mr. Zbar did not determine that a review of the office was needed but rather that a change in management was required. Mr. Zbar was focusing on implementing new systems and he felt at the time that a new manager was needed and not a review. He was aware that this was *not* an issue that had developed overnight, but that as a result of the management problem morale in the office was low. However, he was not advised of the cause, just the effect.

*Volume 188, p.p. 171-172*

Mr. Zbar had also advocated for a Deputy Minister's position that was solely responsible for Corrections, as in his opinion, the previous position that oversaw the whole of the Ministry, including policing, was a drain on resources and time. It was and remains the largest Ministry in the province, and he felt that a dedicated Deputy Minister for Corrections was necessary. Mr. Zbar was successful in making his case, and was appointed as the Deputy Minister for Corrections in August of 2000

*Volume 188, p.p. 158-159*

During his tenure as Deputy Minister, the Ministry faced serious fiscal challenges. The Ministry was under-funded and had a 150 million dollar deficit. The *Youth Criminal Justice Act* was being introduced and there were issues with transfer payments to Ontario. Mr. Zbar was involved in the negotiations with the Federal government in which a \$300 million dollar transfer agreement was reached. In addition, the Correctional Services Division had serious labour relations challenges

that were reflected in the fact that the Ministry had the highest number of grievances in the province. Mr. Zbar worked closely shoring up relations with the office of the Child Advocate, the Ombudsman, and the office of the Provincial Auditor. The province was also completing the two super jails, and there were issues surrounding the integrated justice project. These were just a few of the issues facing Mr. Zbar when he came into the new position. Mr. Zbar was assisted by two ADMs, one of whom was Deborah Newman. As a Deputy Minister, Mr. Zbar's role was not to deal with the operational issues, but to be informed of the day-to-day issues for his own accountability and in order to properly prepare the Minister.

*Volume 188, p.p. 172-176*

#### **August of 2000 – Project Truth Website**

Mr. Zbar was briefed by Deborah Newman about the existence of a website, which included allegations about a ring of pedophiles operating in the Cornwall area; allegations against former probation officers of past sexual abuse; and, allegations that a current employee, Jos Van Diepen, had been aware of the abuse and had failed to do or say anything about the abuse. Mr. Zbar was briefed on the content in September of 2000, and he recalled briefly reviewing the site. He further recalled Deborah Newman recommending that the Ministry launch an administrative review of the website to determine the nature of the allegations and if current clients were at risk. The focus, according to Mr. Zbar, was to determine if any one in the Cornwall office might have had some involvement or some information and knowledge. At the same time, the OPP were conducting a major investigation and Mr. Zbar was confident that the OPP were looking into any allegations of criminal activity.

*Volume 188, p.p. 176-180*

Paul Downing was appointed to conduct the review and to liaise with the OPP to determine if any current staff were under investigation or facing charges. Mr. Zbar expected that there would be an ongoing liaison with the OPP. Mr. Zbar did not



define the mandate *per se*, but had a primary concern with the safety of the office. His main focus was on any risk to clients. There were two or three briefings subsequent to September, with the last briefing involving Mr. Zbar in December of 2000. Mr. Zbar received the Downing Report, which he reviewed. He attended a briefing on the report with his Assistant Deputy Minister, Ms. Newman, Gary Commeford, and members of the Legal branch. Once Mr. Zbar was satisfied that there was no present risk, and the Cornwall office was safe for clients, he had less involvement in the matter.

*Volume 188, p.p. 180-183, Volume 189, p.p. 109-110*

### **Downing Report**

Based upon the Downing report provided in October of 2000, Mr. Zbar learned first and foremost that there was no present danger in the Cornwall office; and, that there had been no subsequent activities post-Barque and Seguin. Mr. Zbar also learned of the circumstance of the departure of Mr. Barque in 1982, and the letter provided by Peter Sirrs, which caused concern for Mr. Zbar since it failed to mention anything about the circumstances of Mr. Barque's resignation. Mr. Zbar was aware of issues surrounding Emile Robert, and in that regard Mr. Robert had been moved out of the Cornwall office. Further, he was aware of the possibility that Mr. Van Diepen either had knowledge or ought to have known about past activities by Mr. Seguin. Mr. Zbar noted in his evidence that Van Diepen was moved to non-client related duties. Mr. Zbar indicated that legal advice was sought on the findings of Mr. Downing, and based upon the advice received no further action was taken against Mr. Robert or Mr. Van Diepen.

*Volume 188, p.p. 185-187*

Mr. Zbar was also made aware of the David Silmsler complaint and that IIU had not investigated the complaint. Mr. Zbar recalled that Mr. Downing directed further interviews in this regard, including that of Loretta Eley. Mr. Zbar recalled that the documentation of the complaint and the steps that were taken was sparse but he

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felt that the matter had been handled appropriately. When advised of the complaint, IIU contacted the police and confirmed that Mr. Silmsler did not want to press charges and was proceeding civilly, and on that basis IIU did not investigate. In hindsight, Mr. Zbar acknowledged that IIU might have spoken with Mr. Silmsler directly rather than asking for him to put his complaint in writing.

*Volume 188, p.p. 188-190, Volume 189, p. 100*

As for disciplinary action against current employees at the time of the report, Mr. Zbar recalled that legal advice was sought and discussions were ongoing with Ms. Newman about seeking the advice. Ms. Newman did state to Mr. Zbar that if discipline was imposed, that Mr. Robert and Mr. Van Diepen may make a grievance and that this could generate publicity. Mr. Zbar noted that grievances are a part of the labour relations process and the Ministry is very much used to grievances, as it has more than any other Ministry in government. The fact that a particular action would result in negative publicity was not and is not determinant and would not change their view or action. There have been many grievances that have been publicized over the years on a continual basis. Mr. Zbar expressed that what Ms. Newman was doing was what a good Assistant Deputy Ministry should do; that is to point out the upside and downside of a course of action. This would not preclude or inhibit her from going forward. Ms. Newman was, according to Mr. Zbar, a straight shooter and would present all sides of the argument. She in fact had a track record of doing the right thing and had been involved in numerous grievances over the years and took very tough positions in some cases. Possible negative publicity was in no way a factor in the decision to not impose discipline on Mr. Robert or Mr. Van Diepen.

*Volume 188, p.p. 190-192*

Mr. Downing was asked to do some follow up after the report, and Mr. Zbar did not agree with Commission counsel's assertion that the follow up was limited. Rather, Mr. Zbar expressed that the follow-up was in the context of the Ministry believing that the OPP investigation was looking into allegations of historical sexual abuse,

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especially the allegation that there was a ring of persons working in concert. Mr. Zbar felt that whether Nelson Barque was deceased or Ken Seguin was deceased, their involvement would be part of this line of inquiry.

*Volume 188, p.p. 192-194, Volume 189, p. 95*

The Ministry had to be careful not to interview persons outside the Ministry that may be part of the criminal investigation. Mr. Downing wanted to interview those persons who had posted allegations on the website. Mr. Zbar and senior management felt that type of inquiry was dangerously close to and could impede a police investigation.

*Volume 188, p.p. 194-195*

It bears some comment that the Ministry acted reasonably not to pursue widespread interviews of persons who may have been victims. That was not their purpose. The Ministry was not provided with information from the Project Truth team about where their investigation was going and what witnesses or persons they were interviewing.

However, Mr. Zbar noted that given the information that came to his knowledge in 1999 and 2000 about the allegations against Ken Seguin and Nelson Barque, including the conviction of Nelson Barque in 1995, some effort could have been undertaken to obtain past files for some form of file review. Mr. Zbar noted that there were challenges in retrieving past files of young persons that are sealed, or records that are old, but some effort could have been made. Mr. Zbar candidly noted that this was not something that came to their minds at the time. In retrospect something could have been attempted in that regard and it might have identified additional victims. There could have been the potential then to identify other victims and offer services. However, he again noted that considerable efforts were made to make the Cornwall office a safe and supportive environment for clients to disclose allegations of past abuse, that these complaints were forwarded to the police, and programs were offered to assist with the trauma of the past

abuse. The ensuing lawsuits that were launched in late 2000 did not change the position of the Ministry nor prompt any additional steps.

*Volume 188, p.p. 196-199, Volume 189, p.p. 84, 94*

Mr. Zbar's direct involvement with the Downing review and the Cornwall issues ended in December of 2000.

### **Publicity of the Allegations**

Mr. Zbar became aware that the issues were a matter of public knowledge for some time prior to August of 2000, and in fact publicity-surrounding allegations at least against Nelson Barque occurred in 1994 and 1995. However, in 2000, the Ministry did not respond by issuing any press release, or making the Downing report public. The Ministry responds through measures taken to deal with issues that present themselves, such as the change in management and the protocol for ensuring the disclosures could be made in a supportive and dignified manner. The Ministry reports through the legislature, legislative committees, responds to letters sent to the Minister, through annual reports, but it does not engage in press releases or counter-websites or making public an internal report. Mr. Zbar was not aware of any request for information made by the CBC under the *Freedom of Information and Protection of Privacy Act* ("FIPPA").

*Volume 188, p.p. 201-203, Volume 189, p.p. 87, 90*

Further, it would have been inappropriate to make comments about any contacts with the police or determinations about allegations of cover-up at a time that a police investigation is still ongoing.

*Volume 189, p.p. 131*

Overall, Mr. Zbar stated that the Ministry has handled the matter well and in a transparent manner.

*Volume 188, p. 204*

## **Evolution of the Ministry**

The Ministry has undergone tremendous change since the 1960s, 70s and 80s. Mr. Zbar emphasized that a number of changes including enhanced standards of supervision, training and modes for providing service help to preclude such events from occurring again. A tremendous amount of time and research has gone into identifying criminogenic factors, risk and needs. The development of assessment tools and training of probation and parole officers on how to apply the assessment tools and deliver tailored services have dramatically altered the way a probation officer goes about his or her job. A lot of work has gone into developing relationships with community-based agencies to supply adjunctive services, such as job training or employment assistance, drug and alcohol abuse counselling, or training around issues of sexual abuse. The most dramatic of the changes came in the form of applying a systematic approach to the delivery of service.

*Volume 188, p.p. 206-208*

Two particular initiatives that were undertaken with Morris Zbar's vision and leadership were the Service Delivery Model and the Offender Tracking and Information System (OTIS).

### **Service Delivery Model**

This was the first step in a coherent attempt to develop a service delivery model based on research that addressed both risk and needs of the clients, providing comprehensive services tailored to their individual criminogenic risks and needs. The probation officer would conduct a formal intake process, including an assessment with the use of highly developed assessment tools in order to determine the level of risk and needs, and the client would then be streamed in order to address their specific needs and risk level. This exposes the client to a broader range of professionals than under previous models of service. In the past,

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the probation officer may have been the only person the client would see, and the contact could be limited to only supervision of the terms of the order, such as obeying a curfew. Under the new model, all clients are in contact with other services, including psychologists, psychiatrists, social workers, addictions counselling, or engaged in other activities in the community, all according to their individual plan of care. This in turn, for the purposes of this inquiry, would enhance detection of any problems with a particular probation officer, as the contact with other professionals creates a greater ability for others to detect or otherwise become aware of an issue.

*Volume 188, p.p. 152-154, 208*

This new approach requires probation officers to be trained and to adhere to standards and directives, which is again a substantial change from the method of probation in the 70s and 80s. The early years of probation were a time when probation officers were viewed as officers of the court, and worked with local judges. In 1972 probation was transferred from the Ministry of the Attorney General to the Ministry of Correctional Services, and it developed a separate identity from the courts.

*Volume 188, p.p. 155-159*

The Service Delivery Model has core programs at its centre that address criminogenic risks and needs, such as, anger management, drug and alcohol addiction, and abuse counselling. The progress of the client is carefully monitored, and not just by the supervising probation and parole officer. In turn, the Area Manager carefully scrutinizes the supervision offered by the probation officer. Probation Officers are continuously supervised to ensure that they are undertaking the proper intake procedures, that a case management plan is developed and adhered to; and that the outcomes are recorded in a manner that is retrievable by the Area Manager. Although the main thrust of the program is to address community safety and the needs of the client to prevent recidivism, the ancillary

effects are that there are more ways now for a supervisor to monitor the probation officer.

*Volume 188, p.p. 209-212*

There are no assessment procedures, such as exit interviews, to assess from the client's perspective the level of care they have received from the probation officer. However, upon initial intake, clients are advised of the services of other agencies, which include in terms of young people the Child Advocate's office or for adults the Ombudsman's office. If there are concerns, the client can also speak with the Area Manager or the Regional office.

*Volume 188, p.p. 212-213*

The implementation of this type of model involves intensive and ongoing training of probation officers. This includes looking at upgrading education and training not only for officers but for management as well. Currently, there exists a Correctional college for staff training that includes probation and parole officer and management training programs, which did not exist in the past.

*Volume 188, p.p. 214-215*

### **Offender Tracking and Information System ("OTIS")**

The Offender Tracking and Information System (OTIS) was developed during the "integrated justice" project that attempted to link various justice players, including the Ministry of the Solicitor General (now MCSCS). The only aspect of this project that was successfully completed was OTIS and it was rolled out over 2000 and was fully operational by 2001. This system electronically stores all client supervision files. For example, all client tombstone data, legal case information, supervision plans and case notes are electronically entered and stored. A client's file is retrievable anywhere in the province by anyone with authority to access the file – other Probation Officers, Area Managers, Regional Directors, etc. This allows for

better case audits and supervision, ensuring maintenance of standards and overall transparency.

*Volume 188, p.p. 156-157*

### **Recommendations**

Mr. Zbar emphasized in his recommendations that maintaining strong structural management with a clear focus on community corrections remains an ongoing priority for the future.

*Volume 188, p. 217*

### **Deputy Minister Deborah Newman**

Deputy Minister Newman gave evidence over the course of two days, February 5 and 6, 2008.

### **Background**

Ms. Newman received her B.A. in 1977 from the University of Ottawa and her Masters degree in Criminology from the University of Ottawa in 1979. Ms. Newman also completed the Public Executive Program in 2002 at the University of Alberta. After completing her Masters degree in 1979, Ms. Newman commenced employment as a probation officer in the Alberta correctional system, under the Alberta Solicitor General's office.

*Volume 190, p.p. 3-4*

During her career, Deputy Minister Newman has worked with young persons between the ages of 12 and 17 as well as adults. She has also worked in community corrections, probation and parole, and institutional corrections.

*Volume 190, p. 5*



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In 1987, Deputy Minister Newman joined the Ontario Public Service as an Operational Review Analyst, conducting operational reviews, audits and investigations. An operational review primarily dealt with institutions, although there were some reviews of probation and parole offices that essentially looked at the operation and management of an office including its financial status, budget management, safety and security issues, and compliance with Ministry policies and procedures. Depending upon the size of the operation, a review could take anywhere from a day or two to a week. Any interviews were of staff and not clients or inmates. These reviews continue to be conducted on a selected number of institutions or probation and parole offices every year.

*Volume 190, p.p. 6-8*

Ms. Newman then became the Deputy Superintendent for the Maplehurst Correctional Centre, a 432-bed facility, from 1988 to 1990, and subsequently Superintendent of the Ontario Correctional Institute, a treatment setting within the correctional system, which housed offenders undergoing sex offender treatment, addictions, and anger management, just to name a few. Offenders were referred to this facility from all over the province.

*Volume 190, p.p. 9*

For a period of 15 months, during 1992 and 1993, Deborah Newman was the Executive Assistant to the Deputy Solicitor General and Deputy Minister of Correctional Services. In 1993, Ms. Newman was transferred to the Eastern Regional Office in Kingston and took on the position of Regional Manager, which at that time was responsible for 13 correctional institutions. Ms. Newman held that position for approximately three years. Bill Roy was the other Regional Manager in the Eastern Regional office at that time, and he was responsible for the community side - probation and parole. There was no overlap in responsibility between Mr. Roy and Ms. Newman although through different restructuring initiatives over a period of time, their respective zones of responsibility varied, such that at times Ms. Newman

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was responsible for community corrections, adult institutions and young offender operations and certainly at one point or another would have had on-call responsibilities. However, from 1993 to 1996, Ms. Newman was primarily responsible for institutions whereas Bill Roy was responsible for community operations.

*Volume 190, p.p. 10-12*

Both Deborah Newman and Bill Roy reported to John O'Brien, the Regional Director. They had each taken over their positions within a couple of months of one another. Hence each in 1993 was new to their respective positions. There was no specific training to the position. Ms. Newman had received management training throughout her career as opposed to role-specific training. The Ministry provides supervisory and management training and development opportunities as opposed to role-specific training.

*Volume 190, p.p. 12-13*

In 1996, Deborah Newman became the District Administrator, which was a new title as result of restructuring. There were two district administrators who essentially performed a combined regional direction/regional manager role with a geographic split. Ms. Newman was responsible for the eastern half of the Eastern Region and for all forms of operations, including institutions and probation and parole offices from Kingston east to Cornwall. Mr. Roy retired that year. Thus, from 1996 to 1998, Ms. Newman had responsibility over the Cornwall Probation and Parole office. The Area Manager, Emile Robert, reported directly to her. As part of her duties, Deborah Newman visited all of the facilities and probation and parole offices. Ms. Newman recalled that she visited the Cornwall office frequently and more than other offices.

*Volume 190, p.p. 13-16*

Ms. Newman had no responsibility for the Cornwall Probation and Parole office and had not visited the office prior to assuming her new position in 1996 as District

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Administrator. Ms. Newman did not recollect any handover conversation with Bill Roy in 1996, but assumed that some conversation would have taken place. In late 1998, Ms. Newman left the Ministry on a secondment to the federal government for the position of Director within human resources. However, after one year, the Ministry undertook another restructuring and she was asked to return by Assistant Deputy Minister Morris Zbar.

*Volume 190, p.p. 16-17*

The restructuring split responsibility within the Ministry along functional lines. There were two ADM positions, one responsible for Community and Young Offender Services (Morris Zbar), and the second responsible for Adult Institutional Services. The structure below was similarly bifurcated. There were two regional director positions established along – institutional and community service lines. This was reflective of recognition within the Ministry of the need to ensure there was dedicated focus and support for probation, parole and young offender services on the one hand, and adult institutional services on the other. It had been the historical tendency for the Ministry to focus more on institutional services and for the first time there was recognition of the equal importance of community and young offender services in Ontario. Ms. Newman was given the choice and she came back as the Regional Director for the Eastern Region, Community and Young Offender Services covering the entire eastern region from Oshawa out east, to Ottawa. Ms. Newman held this position from November of 1999 to September of 2000.

*Volume 190, p.p. 18-20*

In September of 2000, Ms. Newman became the Assistant Deputy Minister for Community and Young Offender Services. She held this position until the spring of 2004, at which time Ms. Newman was appointed as Assistant Deputy Minister for Youth Justice Services. The young offender regime, both phase I and II, were disentangled from their previous ministries and a new specialized ministry was created called the *Ministry of Children and Youth Services*. The new ministry was

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responsible for youth justice, child welfare and mental health. Previously, Phase I youth, ages 12 to 15, were under the auspices of the Ministry of Community and Social Services and phase II youth, ages 16 to 17, were under the Correctional Services Ministry. There was thus a paradigm shift integrating all services for young people from ages 12 to 17. Ms. Newman was responsible for the integration of the two formerly separate systems for youth that took place in 2002, and then the transfer of services occurred in the spring of 2003 to the new *Ministry of Children and Youth Services*.

*Volume 190, p.p. 20-23*

In the fall of 2005, Ms. Newman was appointed as the Deputy Minister of Community Safety and Correctional Services. The two Deputy positions were merged into one. Ms. Newman was thus responsible for OPP, oversight of municipal policing services, office of the Chief Coroner, Fire Marshall, Centre for Forensic Sciences, private investigators and security guards, criminal intelligence services, counter-terrorism, and correctional services, both institutions and community services. This merger essentially doubled the breadth of her responsibilities. The Ministry employs approximately 17,000 staff, which is the largest Ministry by staff strength in the Ontario Public Service, comprising approximately 25 percent of the public service in Ontario. In January of 2008, there was a slight change in coverage, and the Commissioner for Community Safety was appointed to be Deputy Minister responsible for emergency management, the Coroner and the Fire Marshall.

*Volume 190, p.p. 23-25*

**1993 to 1996 – Regional Manager, Eastern Region**

During this time frame, Ms. Newman had no responsibility for the Cornwall office and hence no supervisory role over Mr. Robert. Ms. Newman would have had passing contacts with area managers in the region, particularly during meetings at

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the regional office. Mr. Roy and Ms. Newman were co-located in the same building on the same floor, where they each had offices. During their time in the office, certainly Ms. Newman became aware peripherally about issues that Mr. Roy was dealing with. For example, she became aware of the death of Ken Seguin, a probation officer in November of 1993. Her knowledge of this was superficial and she was never involved in any meetings with Bill Roy or John O'Brien on this issue.

*Volume 190, p.p. 26-28*

In mid-December of 1993, Ms. Newman also became aware that Mr. Roy had received a call from David Silmser alleging that Mr. Seguin had sexually abused them when he was on probation. Mr. Roy had mentioned this to Ms. Newman and she was aware at the time, that Mr. Roy was discussing management of the situation with John O'Brien. Beyond that, Ms. Newman did not have any other knowledge. Given the serious nature of the complaint, Ms. Newman agreed in her evidence that she would have expected someone like Bill Roy in his position to follow up with other Ministry officials. Although Ms. Newman agreed with Commission counsel's assertion that Mr. Roy would have been expected to contact the persons that he did in fact contact, she did not have knowledge at the time of his contacts nor was she aware that he had requested an IIU investigation and that he was disappointed that one did not take place.

*Volume 190, p.p. 28-31*

Ms. Newman again agreed with Commission counsel's question that an allegation of the nature made by David Silmser was a very rare and very serious matter. She has no knowledge of any other allegation elsewhere in the province. Regardless of the serious nature of the allegation, Bill Roy did not confide in nor have ongoing conversations with Ms. Newman. Bill Roy never informed Ms. Newman in 1994 or 1995 about similar allegations and charges against Nelson Barque, a former probation officer. In fact, these details only came to Ms. Newman's knowledge as a result of her involvement with events that unfolded after August of 2000, and the Paul Downing review.

*Volume 190, p.p. 32-33*

The IIU came into existence in the fall of 1992 in response to issues of workplace discrimination and harassment coming to the fore about actions by staff against staff. The Ministry wanted an independent investigative capacity to look into allegations of violations of the *Human Rights Code*, sexual harassment, and racial discrimination. In addition, the mandate included investigations of alleged sexual improprieties, staff on offenders, with the rationale that they develop the sensitivity and expertise around matters of this nature in a single investigative unit.

*Volume 190, p.p. 34-35*

Prior to 1992, allegations of sexual impropriety of staff against an inmate or probationer were very rare, and whatever conduct emerged was inappropriate conduct in terms of comments or gestures, hence the term “sexual impropriety.” These allegations were investigated by whatever investigative body existed at the time. Historically, the Ministry had always had some form of investigative capacity. The IIU formation was not only to create an independent unit but also to develop expertise in these sensitive areas.

*Volume 190, p.p. 35-36*

The Terms of Reference set out the purpose of the I.I.U. – workplace discrimination, harassment and complaints of sexual impropriety. The investigators were not hired from existing staff in order to have the independence of the unit, and it was in fact staffed by former police officers, all of whom were from outside of the Ministry. The scope of the unit included an expectation to give primary focus to any allegation of a sexual nature. The unit’s creation was born from difficult events in which employees were alleged to have sexually harassed and assaulted other employees at the staff training college, and the focus on sexual allegations was recognition of a need for expertise to investigate these matters.

*Volume 190, p.p. 37-38*

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The Terms of Reference spoke of current employees. In January of 1994, the Terms of Reference were amended to expand the scope of investigation to include employees of agencies or companies with which the Ministry contracts for services. The scope of the “sexual impropriety” section similarly included employees of contracted agencies. The section also limited IIU’s mandate in that if the respondent were no longer a Ministry employee, the IIU would no longer conduct an investigation unless the Ministry could provide redress. Forms of redress could include compensation, counselling services, or other forms of assistance. In this context, former employees could still be investigated for sexual impropriety.

*Volume 190, p.p. 39-42*

IIU was disbanded in 2006 pursuant to an order of the Human Rights Tribunal. The Ministry was party to a tribunal action, where an external consultant on workplace discrimination and harassment policies and practices conducted a review. The consultant recommended that the IIU be disbanded because of staff perceptions that the unit was not independent and that there was significant delay in the completion of investigations. The concerns expressed by staff interviewed by the consultant were specifically in relation to the discrimination and harassment mandate of the IIU, not in relation to sexual impropriety investigations. As a result of the recommendations of the consultant, the Chair of the tribunal ordered the disbandment of IIU.

*Volume 190, p.p. 42-43*

The Correctional Investigation and Security Unit (C.I.S.U.), another investigative body, was created in 2001. CISU’s mandate also encompassed investigations of allegations of sexual impropriety, but not allegations of workplace discrimination and harassment.

*Volume 190, p.p. 43-45*

**House Notes**

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House notes refer to the legislature, and are briefing notes for the Minister prepared by the Information Management Unit (“IMU”) in North Bay. The IMU accumulates reported information from the field in the form of incident reports, correspondence, calls, and/or media reports via print, radio or television. The IMU keeps a running record of the particular issue that is the subject of the incident report. These notes are often referred to as “issues notes”, “briefing notes”, or “House notes” and are sent to the ADM’s office and reviewed typically by the EA and signed off at the ADM’s level. There are many of these notes generated on a daily basis, and the IMU has a centralized capacity to receive, screen and compile the notes. Given the vast number of employees and offenders under the care of the Ministry, there are a vast number of incidents and issues on a daily basis. The Deputy Minister and the Minister are briefed on only a handful of issues that are most likely to generate questions in the legislature for which the Minister needs to be prepared to be able to respond to inquiries from the legislature or from the media. Thus, the information is filtered to the point that the Deputy Minister and Minister are briefed on only the most pressing matters of the day.

*Volume 190, p.p. 45-48, 49-50*

The Communications branch makes decisions about what is likely to generate questions in the legislature, as the Minister is answerable through the democratic process to the public. The Minister would thus need to be briefed and equipped to answer questions. Often these are the more serious incidents that typically will also garner media attention. The information is not independently verified.

*Volume 190, p.p. 48-49, 79-80*

The February 4, 1994 House Note about Nelson Barque did not come to Ms. Newman’s attention until 2000, when Paul Downing conducted his review. Ms. Newman was not in a position in 1994 to have been a recipient of the note.

*Volume 190, p.p. 50- 51*



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Ms. Newman was questioned on the content of the note, which set out an issue and a suggested response for the politician or a senior public servant. In this note, among various pieces of information, the allegations of sexual assault made by a former client are referenced as well as the call that Mr. Bill Roy received; that Mr. Silmser said there were “lots of others out there” and his view that counselling should be provided; the suicide of Ken Seguin, and that IIU was advised as well as the appropriate police forces. It further stated that the Ministry had taken the complaint seriously, and that “the OPP are investigating. Although the IIU is not investigating, it is coordinating the Ministry’s communication with the complainant.” The suggested response was that “this incident is currently under investigation and I’m unable to comment further at this time.” Ms. Newman commented that this suggested response is based on advice that the Minister ought never to intervene in the proper carriage of justice, including not commenting on anything that’s the subject of investigation.

*Volume 190, p.p. 51-53*

Ms. Newman observed that these notes could continue to be issued as a running record on the same topic over time with additions or deletions. This indicated that all of these facts are known to at least some officials in the Ministry as at February of 1994. Ms. Newman could not speak to whether the ADM or Deputy Minister at the time would have been aware of these facts. As she noted previously, the Ministry has vast amounts of information and there is a filtering process. The ADM’s executive assistant would review the information and the key issues would be brought to the attention of the Deputy and then up to the Minister. Therefore, Ms. Newman had no personal knowledge as to who would have reviewed the briefing note in February of 1994. Ms. Newman agreed that the area manager and the regional manager should have known this information.

*Volume 190, p.p. 54-56*

Ms. Newman noted that additional facts about incident reports, past events regarding Nelson Barque, the fact that Ken Seguin, Nelson Barque and Jos Van

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Diepen were coworkers, etc, would be part of the historical record and presumably would be in the knowledge of the area manager and the regional manager of the day. However, the reality is that there is a high degree of turnover in these positions, and one would need to rely upon appropriate full transmission and sharing of information, briefing and handover of information to provide a full historical perspective. In this instance, the area manager had been in place for some time and would have been in the position to have knowledge of past events for some significant period or time. Further, Roy Hawkins would have known about Ken Seguin obtaining approval for a former probationer to reside at his home, but he may not have informed his successor, Bill Roy.

*Volume 190, p.p. 56-59*

Again, by February of 1994, some Ministry officials would have also known about the Travis Varley incident involving Ken Seguin. These incidents did not come to Ms. Newman's knowledge until the Paul Downing review in 2000. Based upon her knowledge from the Downing review, she became aware that there was no IIU or Ministry investigation of the David Silmser complaint, nor interviews conducted with Ken Seguin's colleagues regarding their knowledge of the allegations between 1994 and 1998.

*Volume 190, p.p. 60-62*

Ms. Newman agreed that given certain incidents and information in 1982, and certainly in the years intervening 1993 to 1996, there would have been opportunity to pursue lines of investigation, had it been undertaken at the time, might have identified additional victims. In hindsight, Ms. Newman agreed, that having the area manager conduct a file review could have been an additional step taken by the Ministry, but a search of irregularities in Ken Seguin's files may not have yielded any information about improprieties with clients. It is rather doubtful that Ken Seguin made notes about these transgressions. Nevertheless, the area manager could have undertaken such a process and may have potentially conducted interviews of

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clients or referred the matter to police. Similarly had IIU investigated the Silmser complaint, potential victims may have come forward.

*Volume 190, p.p. 63-64*

In late 1994 and into 1995, Nelson Barque was investigated and charged with sexually related offences. Although Ms. Newman was not aware of the media coverage in this regard, there was coverage (including the December 12, 1995 airing by the CBC of *The Fifth Estate* program about the Cornwall allegations and interview of Doug Seguin) and Mr. Roy never discussed this issue with Ms. Newman. The Nelson Barque 1982 investigation and resignation, the charges and guilty plea in 1995; and, 1998 charges and suicide, only came to Ms. Newman's knowledge between November 1999 and September of 2000, when she returned from her federal secondment, and was engaged with the staff and manager of the Cornwall Office in relation to the disclosures of sexual abuse Ms. Newman was not aware of the interviews conducted by the OPP in 1994 of various staff members into the Nelson Barque allegations.

*Volume 190, p.p. 64-66*

The September 29, 1994 House note was again a matter that did not come to her attention at the time, and the only addition to the document was a reference to articles in the Cornwall Standard Freeholder and The Ottawa Citizen which is consistent with a running record. The House Note of December 16, 1994, never came to her attention prior to her preparation for the inquiry. The note refers to charges of indecent assault and gross indecency from allegations arising some 17 years earlier, and information that the allegations were not the same content as the 1981 complaint against Nelson Barque. The note also suggested a response for the Minister not to comment given the ongoing case. This note did not contain a running record, but treated the Nelson Barque charges as a discrete incident. Without the history, the reader would not be able to discern a pattern.

*Volume 190, p.p. 67-70*

Ms. Newman observed that, with the benefit of hindsight, by the summer of 1995, the area manager and regional manager putting together all of the incidents that had occurred by that date, and being able to discern a pattern of conduct in relation to concerns from the Cornwall office, could have reasonably felt it helpful to conduct some form of review. Anyone in a position of responsibility at the local or the regional level probably would have benefited from some kind of a review. Had that action been taken, it might have been more effective as it was more current in time and probably would have provided a better capacity to look at events without all of the practical difficulties associated with doing it several years later. One such example is the 1994 investigation by the OPP that yielded information from Cornwall office staff about Nelson Barque and Ken Seguin. Had a review been conducted in 1995, presumably this information might have been obtained from the staff or shared by the OPP.

*Volume 190, p.p. 71-72*

#### **Analysis of 1993 to 1996**

It is clear on the evidence that, by 1995, at least certain incidents or events were known to the Area Manager, Emile Robert, and, to a lesser degree Bill Roy the Regional Manager. These included the death of Ken Seguin, the rumours of the investigation of him, charges and plea of Nelson Barque and the complaint of sexual abuse by David Silmser. These were just a few items that reasonably ought to have caused Emile Robert to initiate some form of investigation or review.

In addition, as aptly noted by Ms. Newman, if staff possess knowledge as described in the interviews of 1994, it is incumbent upon them to bring the information forward to Ministry officials, to the area manager, regional manager, to have the information known and dealt with accordingly.

*Volume 190, p. 76*

#### **1996 to late 1998 – District Administrator, Eastern Region**

In late 1996, Ms. Newman took on the position as District Administrator, which included oversight of the Cornwall Probation and Parole Office. Very early in her new position, she became aware of the poor workplace relations between staff and Emile Robert, the area manager. Ms. Newman sought to determine what the nature of the concerns was and in that regard, attended the office on a number of occasions interviewing each employee individually. When she met with staff the overriding concern was the poor relationship with the manager, including differential treatment in that Mr. Robert favoured some employees over others. During the interviews, no issues were raised in relation to Ken Seguin, Nelson Barque, or any allegations or rumour of sexual abuse.

*Volume 190, p.p. 80-82*

There was no discussion of the history of Ken Seguin or how Emile Robert treated him. Rather, the complaints focused on different standards for different staff; poor interpersonal skills; personal sensitivity and defensiveness on the part of the area manager; his tendency to not accept responsibility and to blame others and a general sense that staff was undervalued as employees. The interviews were in the fall of 1996. These issues arose shortly after a very difficult public service strike in 1996 and that there had been a number of incidents in the Cornwall office. The relationship between staff and Mr. Robert was further damaged during the strike and there had been long lasting effects in terms of the damage done to relationships.

*Volume 190, p.p. 82-84*

In addition to interviewing staff personally, Ms. Newman counselled Mr. Robert on various courses of action and approaches with staff. Ultimately it became evident to Ms. Newman that some kind of mediation was necessary. After consulting with Mr. Robert and the staff, Ms. Newman engaged the services of Roger Newell, who was skilled and experienced in conducting mediations. Ms. Newman recalled that there were a number of meetings with staff and Mr. Newell including February of

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1998. In discussions with Mr. Bill Roy, when Ms. Newman took over the new position, Mr. Roy expressed that there were issues on both sides of the relationship, and that there were some staff that were difficult to manage, such as Mr. Jos Van Diepen.

*Volume 190, p.p. 84-86*

Both Mr. Robert and Mr. Roy had raised the issues surrounding Mr. Van Diepen. There were indications of professional jealousy, since Mr. Van Diepen was disappointed that he had been denied promotion. These interactions contributed to a dysfunctional work environment. There were some positive relationships, but there were communication difficulties, which may have prevented staff from confiding in the manager, as the poor relationship might have dominated the sense of responsibility to report.

*Volume 190, p.p. 86-88*

Ms. Newman stated that given the issues that have arisen from the review of past events within the Ministry in relation to the subject matter of the Inquiry, there is a very legitimate concern about information management, and in that regard how to better capture, store and make accessible institutional memory as people transition from positions. Within the Ministry, people do not spend their entire careers in a single position so there is a need to better transmit information to area managers, and regional managers who have direct responsibility for managing operations.

*Volume 190, p.p. 88-89*

The Deputy Minister at the conclusion of her evidence identified five recommendations, one of which directly addresses the above issue which we detail below.

After the mediator was brought in, and Ms. Newman determined that the relationship gaps could not be overcome, a decision was made to move Emile Robert to another position out of Cornwall. Between 1996 and 1998, Ms. Newman

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managed a temporary assignment for Mr. Robert to Rideau Correctional and Treatment Centre. After that Ms. Newman arranged a transfer for Mr. Robert to one of the Ottawa Probation and Parole offices under close supervision. By October 14, 1997, there was a temporary assignment to the Rideau Correctional and Treatment Centre, that took effect on October 20<sup>th</sup>, but ended early as Mr. Robert was back to his home position by December 15, 1997. By October 27, 1998, the arrangement was made to transfer Mr. Robert to the Ottawa Probation and Parole office. Although this was also a temporary transfer, Emile Robert never came back to Cornwall.

*Volume 190, p.p. 90-98*

Ms. Newman conducted a performance appraisal of Mr. Robert on February 21, 1997. This appraisal noted that in many respects Mr. Robert was a competent manager except for his relationships and interpersonal skills, the category called "Achieving People Strength". Ms. Newman also noted the negative affect his style of case audits had on the probation officers. She stated in the performance review that probation staff found the process intimidating and overwhelming. Ms. Newman felt that it was important to be balanced in her assessment of Emile Robert, but this did not impact or otherwise change what action she had to ultimately take in transferring Mr. Robert and keeping him under close scrutiny.

*Volume 190, p.p. 100-104*

When Mr. Robert transferred out of Cornwall, Ms. Newman left the position of District Administrator and took up a position with the Federal government. During the time period as District Administrator, again from about late 1996 to late 1998, Ms. Newman has no recollection of the Fifth Estate program, the reporting on the new charges against Nelson Barque, his suicide or law suits that commenced around that time frame. This is consistent with the evidence of the Probation staff outlined above. Her overriding memory was the morale and state of relationships in the office. This was partly driven by the immense challenges arising from the

public service strike, not only prior to and during the strike, but also the aftermath and recovery from the strike.

*Volume 190, p.p. 104-105*

### **Analysis of 1996 to 1998**

Upon her assumption of responsibility for the Eastern region, Ms. Newman became poignantly aware of the state of relationships in the Cornwall office. Ms. Newman undertook a review on her own initiative and interviewed each staff member and Mr. Robert. Ms. Newman's style of management was to be visible and approachable so that the probation officers or support staff would feel that they could speak with Ms. Newman. During this time period the focus of staff was on the poor relations in the office with management. No information was imparted to Ms. Newman by staff, Mr. Robert, or Mr. Roy upon transfer of duties to Ms. Newman, about concerns for past potential violations of policy or criminal conduct of Nelson Barque or Ken Seguin. Ms. Newman after considerable effort came to the decision that a transfer of Mr. Robert was the only alternative and this fortunately coincided with a realization of Mr. Robert that a move would be good for both he and the Ministry.

*Volume 190, p. 108*

During this time frame, Ms. Newman was not made aware in any way about a history or allegations of abuse committed by Ken Seguin and Nelson Barque. When Ms. Newman met with staff individually, none of them spoke with Ms. Newman about Ken Seguin or Nelson Barque.

*Volume 191, p. 154*

### **November of 1999 to September of 2000**

Ms. Newman returned to the Ministry as the Regional Director for Community and Young Offender Services, with continuing responsibility for the Cornwall office. Prior



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to leaving in 1998, Ms. Newman was involved in the selection of the new Area Manager, and she handpicked Claude Legault, because she felt that he possessed the necessary skills that would ensure an appropriate workplace restoration in Cornwall. Mr. Legault was known to Ms. Newman to have very strong interpersonal skills, and as a very supportive, compassionate individual with a high degree of emotional intelligence. And so upon her return to the Ministry, Mr. Legault was the area manager for Cornwall.

*Volume 190, p. 106-107*

Ms. Newman continued her style of hands-on management and continued to visit the Cornwall office. Staff and Mr. Legault quickly advised Ms. Newman about two disclosures by probationers of historical sexual abuse committed by Ken Seguin. Ms. Newman met with staff members and Mr. Legault about how they should respond to the disclosures. It became evident that there was a very serious situation, and it was at that time that Ms. Newman became aware that there was a history and these are not the first disclosures. Ms. Newman was apprised of the history of Nelson Barque and the events surrounding Mr. Seguin and his death. Further, staff expressed very serious concerns about not being sufficiently trained or skilled in taking disclosures of male sexual abuse and the trauma associated with that. The probation officers were concerned with the suffering of their clients and wanted to provide a safe and supportive environment for offenders coming forward with disclosures, but they felt they needed training in this regard.

*Volume 190, p.p. 108-110*

Ms. Newman had several meetings with the manager and the staff, including an all-staff meeting, where they had a lengthy discussion about how to best approach the situation. It was determined that special training was needed for the staff and Ms. Newman agreed to provide the funding and to ensure that the training would occur expeditiously. Ms. Newman was supportive of all of the work that the staff had been doing. Mr. Legault as well as the probation officers had all been engaged in the process and retention of training. Sue Lariviere and Carole Cardinal were front

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and centre in flagging the need for training and the need for support. In short order, the Men's Project was contracted to provide training for the staff. There had already been a relationship with the Ministry as previously, the Ministry via Loretta Eley, provided funding from the Victims Services Unit to extend the Men's Project services to male abuse victims in Cornwall and other eastern areas in Ontario. Given the Men's Project's unique and accumulated expertise, the staff themselves recommended that the Men's Project be engaged to provide support and training for all of the people in the office.

*Volume 190, p.p. 110-112*

In addition, the Cornwall office, gradually developed protocols for not only receiving disclosures, but also encouraging disclosures by creating an appropriate environment and circumstances to allow individuals to come forward and disclose past abuse. The office was concerned about people shutting down, and not feeling comfortable disclosing, and so they wanted to overcome these obstacles to disclosure. Ms. Newman was informed at the relevant time about how they were developing these protocols and she was very supportive of their development and implementation.

*Volume 190, p. 113, 116*

Thus, the guiding principles included "to support and encourage disclosures through a transparent and consistent process and asking the right questions, providing support services for the offenders who disclosed and documentation of all disclosures and measures taken." The documents also mandate training for probation officers, and as noted by Ms. Newman, there was no distinction drawn when she discussed and authorized the retention of the training services that were to be available to all staff, including the manager and support workers.

*Volume 190, p.p. 114-115, 117*

The first protocol was designed for disclosure by male offenders of abuse in relation to former probation officers or Project Truth related cases, which covered issues

related to Ken Seguin and Nelson Barque and any other allegations related to the Project Truth investigation. The second protocol was a broad one for receiving disclosures by offenders of sexual abuse. The protocols and training were not simply directed at disclosure of abuse committed by employees, but to assist with receiving and eliciting any abuse that an offender may have suffered.

*Volume 190, p.p. 117-118*

### **House Notes Part II**

Ms. Newman did not view a house note dated April 28, 1999 at the time, as she was with the Federal government at that time. The note contains information that was gathered by the IMU and transmitted to the ADM's office. The note contained information about Nelson Barque having been convicted of sexual related offence, and that he was named in a civil action against the Ministry and that he is deceased. It further referenced Ken Seguin and his suicide, the Chatelaine article in March of 1999, and some details of the allegations of Albert Roy. This information was gathered and communicated to at least some individuals in the Ministry in the spring of 1999.

*Volume 190, p.p. 120-122*

A further house note of January 10, 2000, referenced disclosures of abuse, and the contract with the Men's Project for intervention and support of Project Truth victims. This note was one that Ms. Newman did view and it is consistent with the information she was then hearing from the Cornwall office as she was then the Regional Director for Community and Young Offender Services.

*Volume 190, p.p. 123-126*

### **August-September 2000 – Project Truth 2 Website, Paul Downing Review**

Ms. Newman reiterated in her evidence that during the period of November 1999 to the spring of 2000, the Cornwall staff were focused on creating a safe and

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supportive environment for the victims to come forward and provide their disclosures. Ms. Newman was engaged with the office in this regard, and she was pleased with the initiative shown by the Cornwall staff. There was no thought, at that time, for an administrative review or other form of review. In August of 2000, however, an anonymous website was brought to her attention. It detailed allegations of sexual abuse in Cornwall, and named specific probation officers, including deceased officers, Nelson Barque, Ken Seguin and, at that time, a current probation officer, Jos van Diepen. The site questioned if Jos van Diepen had knowledge and did nothing, and alleged that he was present at parties where sexual acts took place.

*Volume 190, p.p. 127-130, 131*

The website, its information and allegations were of significant concern to Deborah Newman and the Ministry. As a result, Ms. Newman determined that a review was necessary in order to find out more about the nature of the allegations as set out in the content of the website – what improprieties were alleged regarding former and current employees of the Ministry. Mr. Van Diepen himself was very concerned about what appeared on the website as well as the staff at the Cornwall office.

*Volume 190, p.p. 130-133*

In September of 2000, Ms. Newman became the Assistant Deputy Minister. At that time, Gary Commeford, who was the director responsible for investigations in the Ministry, reported jointly to Ms. Newman and the Assistant Deputy Minister of Institutional Services. Both Mr. Commeford and Ms. Newman made the decision to engage Paul Downing for an administrative review of the website. Ms. Newman also made daily notes of significant events that were ongoing in relation to her responsibilities. Her notes have recorded in them references to the events in Cornwall as well as many other matters. The first set of notes relevant to these events commenced with August 8, 2000 to September 8, 2000.

*Volume 190, p.p. 133-137*

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On August 8, 2000, there was a call with Paul Downing, Mickey Stevenson, Regional Director Adult Institutions, and Lori Potter, Deputy Regional Director. One of the issues discussed was regarding a lack of case management from a Corrections perspective. This was in relation to the website and the alleged improprieties. Thus, Paul Downing, who was a Ministry investigator, was chosen to be a lead person to inquire into the contents of the website and to determine if there was any risk to either current clients or public safety; if they were any current employees against whom allegations were being made. Mr. Downing was tasked to liaise with the OPP and the Crown, and to gather information so the Ministry could be better informed about what next steps to take.

*Volume 190, p.p. 137-139*

Of similar concern, given knowledge of the OPP Project Truth investigation, was to not impede the criminal investigation in any way. The notes contained a reference to “protecting the interests of the Ministry and clients”, which referred to the concern about any current risk to Ministry clients and to ensure that the Ministry is conducting itself appropriately in relation to its clients. The immediate priority was thus to determine what allegations were being made against current staff, and then as the next priority what allegations were being made against retired or deceased former employees. Up until that point in time, all the disclosures were in relation to the two deceased probation officers, and this was the first time any mention was made of a current employee of the Ministry. In addition, reference in the notes were made to Terry Mroz and Susan Freeborn, who were lawyers with the Ministry of the Attorney General handling the civil lawsuits that were coming in to the Ministry.

*Volume 190, p.p. 139-142*

Hence, Paul Downing’s mandate at that time was to be the case manager, open communications with other parties, including the police and the Crown, and to prepare a written report on his findings. Mr. Downing was selected because they had a high degree of confidence in his abilities as an investigator and for the fact that he had significant experience and a good working knowledge on both the

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community side and institutional side of Corrections. Ms. Newman was to be in contact with Paul Downing and to follow up with Gary Commeford and Morris Zbar, who was the Deputy Minister at that time. On August 11, 2000, Gary Commeford sent an email to Paul Downing confirming his task to conduct an administrative review. The term 'administrative review' was used to describe his mandate because they were asking him to obtain more information and to report back to assist in forming next steps. The focus, at that time, was on the who, what, when, where and why. The review however, by design, involved investigating breaches of Ministry rules and policies, but not investigating the criminal allegations.

*Volume 190, p.p. 142-143, 147-149, 151*

In conducting his review, Mr. Downing had resort to section 22 of the *Ministry Correctional Services Act* as to compel employees to be interviewed, or face possible disciplinary action. It was very much a concern of the Ministry and a task of Paul Downing to determine if any current staff had or were conducting themselves in breach of Ministry policies and/or of the criminal law, in order to safeguard all clients.

*Volume 190, p.p. 150-152*

In addition to Paul Downing's review, Ms. Newman had for some time wanted to relocate the Cornwall Probation and Parole office. Clients who had come forward, expressed difficulty with coming back to the same office, and Ms. Newman had been working with Claude Legault to move the office to a new location. Ms. Newman spoke with Morris Zbar, as things were moving slowly in that regard and she prioritized this move as part of the institutional response of the Ministry.

*Volume 190, 146- 148*

Ms. Newman remained in regular contact with Claude Legault, who expressed that officers were feeling very demoralized by the allegations that were set out in the website. The staff had worked very hard to create a safe and supportive environment for clients, and they felt that they were having successes with clients,

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but the website cast a negative cloud over the good work the office was doing. Ms. Newman emphasized that Claude Legault, Sue Larivierre and Carole Cardinal were doing exceptional work in support of clients, and that they had a deep and abiding concern for their clients, but the website had a significant impact on all the staff, and that they had lost some of the progress as a result. They also began to ask questions about their colleagues in particular Jos Van Diepen, because there were allegations that Jos Van Diepen had known more than he had disclosed.

*Volume 190, p.p. 153-154*

Jos Van Diepen was at that time still working in the Cornwall office as a probation officer. These allegations caused additional stress in the office. Jos Van Diepen was the only current employee who was named in the website. The allegations were only in relation to his knowledge of the activities of others and there were no allegations of inappropriate sexual conduct. At that stage, Paul Downing was not tasked with interviewing Jos Van Diepen, although that occurred later in his review. Ms. Newman at all times wanted to not interfere with the police investigation and she did not have knowledge of whom the Project Truth team were interviewing. That is one of the reasons Paul Downing was tasked with speaking with the police and Crown. Only when Paul Downing interviewed Jos Van Diepen, did Ms. Newman become aware that the OPP had only interviewed Jos Van Diepen in 1998 and not more recently.

*Volume 190, p.p. 156-158*

Throughout August, September and the fall of 2000, Paul Downing had regular contact with Ms. Newman updating her on his progress. Her direct involvement with Paul Downing and the review diminished after December of 2000. Paul Downing continued under the direction of Gary Commeford. In September of 2000, Ms. Newman became the Assistant Deputy Minister and she continued to play an active role together with other officials including Deputy Minister, Morris Zbar, John Rabeau and Gary Commeford. There were a number of opportunities for consultation as the senior leadership of the Ministry in relation to the review. Ms.

Newman's active role continued until Mr. Downing submitted his report. The report satisfied Ms. Newman that there was no current risk to clients; since the allegations were historical, and concerned two deceased probation officers and no current employees. Ms. Newman learned from Paul Downing in August, through his conversations with Staff Sgt. Pat Hall, that the Project Truth team was not investigating any current employees and there were no evidence to implicate Jos Van Diepen. In follow up to his findings, there were a number of interviews that Paul Downing was going to conduct. Further, at the local level, the Cornwall office had taken effective steps regarding the protocol for disclosures, and there was still an ongoing police investigation. There were additional steps taken, including legal advice about possible discipline of some employees. Ms. Newman's day-to-day direct involvement in the matter came to an end in December of 2000.

*Volume 190, p.p. 160-162, p.p. 163-164*

### **Jos Van Diepen**

Paul Downing's review included an interview with Jos Van Diepen about what he knew. Ms. Newman was familiar with Jos Van Diepen, as she had met with him when she was meeting with all staff at the office. When she met with Jos Van Diepen, he never mentioned any concerns about former colleagues. Ms. Newman knew Mr. Van Diepen to have a strong personality and that he wasn't always the easiest to manage. As he was named in the website, Ms. Newman identified the need for Mr. Downing to interview Jos Van Diepen in the course of his review. After reviewing the statements of Jos Van Diepen provided in 1994 and 1998 to the OPP, and interviewing Jos Van Diepen in his review, Paul Downing concluded that Jos Van Diepen ought reasonably to have known about the breaches of policy by Ken Seguin. Ms. Newman's review of the Downing report suggested to her that the information provided was inconclusive as to what Mr. Van Diepen actually knew or ought to have known. Ms. Newman believed that Paul Downing was drawing conclusions based on his sense of the evidence rather than solid facts or evidence. In any event, the information was sufficiently concerning that a legal opinion was



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sought in regard to Jos Van Diepen, and after receiving the opinion, no action was taken against him.

*Volume 190, p.p. 166-169, p. 224, Volume 191, p.p. 85-87*

There was no evidence to suggest that Jos Van Diepen was a pedophile or that he was present at an orgy. The police had informed Downing that Mr. Van Diepen was not implicated in any such behaviour and, as we know from the evidence, that portion of the allegations was fabricated. The Ministry did not issue any public statements about their findings in regard to Mr. Van Diepen as any investigation into allegations by the Ministry is a matter of labour relations and subject to confidentiality.

*Volume 191, p.p. 90-91, 92-93*

The allegations in the website caused extreme stress for Jos Van Diepen and the Ministry. Two incident reports were filed in August and in early September of 2000 by Jos Van Diepen with Claude Legault about Richard Nadeau attempting to speak with Van Diepen, suggesting that he was a private investigator who was assisting victims who were suing the Ministry and other organizations. Mr. Nadeau had actually attended the private residence of Jos Van Diepen on one occasion which was very upsetting to not only Jos Van Diepen but also to Mr. Van Diepen's daughter. Ms. Newman learned later on that this was the same individual who was the operator of the website. Thus, the allegations themselves and Mr. Nadeau's actions accelerated the need to meet with Jos Van Diepen and to take action regarding Mr. Van Diepen's active role in the Cornwall office.

*Volume 190, p.p. 165-169, 170-171*

The above incident reports sparked a series of emails from Jos Van Diepen regarding two main issues. One of the issues was his interview with Paul Downing and having independent counsel and the second is having the Ministry assist him with funding a lawyer to commence legal proceedings against the operator of the website. Ms. Newman understood the stress that Mr. Van Diepen was under, but

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reiterated that the Ministry had an absolute duty to look into the allegations that were being made against Mr. Van Diepen in the interests of ensuring that the Ministry's clients were appropriately protected. The allegations at no time indicated that Mr. Van Diepen had ever engaged in any act of sexual abuse, but rather that he possessed knowledge about acts perpetrated by others. Second, a legal opinion was obtained by the Ministry about independent legal counsel for Mr. Van Diepen. That opinion recommended that the Ministry would reimburse of all legal costs for Mr. Van Diepen to have counsel. Ms. Newman stated that she believed Mr. Van Diepen was advised of this. The legal opinion was provided in writing and copied to Mr. Van Diepen.

*Volume 190, p.p. 173-177*

Mr. Van Diepen clearly understood that the Ministry would reimburse him for legal counsel, as in his email of September 7, 2000 to Claude Legault and Anne McChesney, the Director of the Legal Services branch of the Ministry, Mr. Van Diepen wrote that "while I have been advised to obtain legal counsel that would be subject to reimbursement by the government, I've also been advised that there is specific limitations on what is and what is not compensated." Ms. Newman understood that Mr. Van Diepen was advised that he could retain legal counsel with parameters, including the Ministry's rate. Mr. Van Diepen could have submitted invoices on an ongoing basis for reimbursement to the Ministry. Ms. Newman believed that this information was provided to Mr. Van Diepen by the legal branch. Ms. Newman's written notes reflect a notation in September 2000, "Jos satisfied with response from her re: legal representation."

*Volume 190, p.p. 177-180, 184*

Mr. Van Diepen also expressed his concerns about continuing to do his job as a probation officer with the circulation of the allegations. Mr. Van Diepen was feeling compromised. Given the allegations and Mr. Van Diepen's concerns, Ms. Newman met with Jos Van Diepen and Claude Legault and discussed the option of alternative duties away from an active caseload. Mr. Van Diepen was offered three options and

Mr. Van Diepen preferred an assignment to the Integrated Justice Project. Given the allegations, and that results had not been obtained from Paul Downing at that point in time, the move to an assignment not directly related to active management of client's files also was necessary in the protection of the interests of the clients of the Ministry.

*Volume 190, p.p. 181-185*

### **Paul Downing Review – October 2000 to September 2001**

After about four weeks, Paul Downing completed the information-gathering phase of his review and recommended a more formal and structured approach to his review. He proposed to submit a plan for his next steps and Ms. Newman along with senior management endorsed this approach, noting that a more formal investigation or review would be needed given the circumstances.

*Volume 190, p.p. 186-188*

On September 9, 2000, Paul Downing provided to Ms. Newman, Mr. Commeford, Mr. Rabeau and Mr. Zbar a report on the website with source documents and recommendations to further his review. Under the heading Stage 1, Mr. Downing suggested that he interview four people including Jos Van Diepen, Reverend Maloney, Emile Robert and Bill Roy. As for stage 2, some of what had been suggested by Paul Downing was already in place, such as the contacts with Shelly Hallett and Pat Hall. Mr. Downing was to conduct the interviews and maintain contact with the police and Crown. There was always the concern that some of what Mr. Downing suggested in the Stage 2 phase might interfere with the police investigation, and this remained at that time an overriding concern. Interviewing Perry Dunlop was one such example.

*Volume 190, p.p. 190-193*

### **Scope of Downing Review**

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When Mr. Downing completed the Stage 1 interviews, he was asked to conduct some additional interviews. At that time there was no “Stage 2” decision. There were obvious areas that needed clarification, and which called for additional interviews. For example, the David Silmser complaint required interviews of Loretta Eley, Lenna Bradburn and Bill Roy. Mr. Downing went on throughout his review, up to and including September of 2001, to interview various individuals including Peter Sirrs, Pierre Landry, Jos Van Diepen, Gilbert Tayles, and two potential victims. A third could not be contacted.

*Volume 190, p.p. 193-194*

Paul Downing was however, not limited by senior management in his scope or discretion to interview persons relevant to his review. Mr. Van Diepen was the only non-management Ministry employee interviewed. Paul Downing did not interview other employees at the Cornwall office. This was however, something in the discretion of Paul Downing. Mr. Downing is an experienced investigator and he was authorized to commence interviews. As Ms. Newman aptly noted in her evidence, if those interviews led to other interviews that would assist in his investigation, then he would be able to conduct the interviews provided they did not interfere with a police investigation. To this end, the Ministry understood that the Ontario Provincial Police were investigating allegations of sexual abuse, and within that investigation, Ms. Newman and the Ministry believed the OPP would interview whomever they felt were relevant. The Ministry in the fall of 2000 focused on whether any current employees were under investigation or otherwise involved in the allegations. There were parameters set for Mr. Downing’s review, but if Mr. Downing felt that further interviews were required in order to establish what was known, Mr. Downing could have done so.

*Volume 190, p.p. 196-198*

As for Mr. Van Diepen’s assertion that others knew as much as he did, but that they were not asked, Ms. Newman indicated to the Commission that if others knew something then they ought to have come forward and it should be something more

than rumour or innuendo. However, if Mr. Downing determined that interviewing other persons at the office would have assisted in his review, then he could have conducted those interviews. At no time did Mr. Downing come back to Ms. Newman or Mr. Commeford and suggest interviewing anyone else. When Mr. Downing completed stage 2, he was in fact detailed to conduct further interviews. No distinction was made by Ms. Newman, Mr. Commeford, or anyone else in consultation with Mr. Downing, restricting interviews to management personnel to the exclusion of other non-management employees.

*Volume 190, p.p. 198-199, 200-201*

### **The Downing Report**

Paul Downing provided his Administrative Review in October 10, 2000. After reviewing the report, Ms. Newman and other senior management, including Morris Zbar, noted that there were clear gaps in information that needed to be further investigated. One such example was the David Silmser complaint in 1993. The Ministry wanted to gain a better understanding of what transpired in December of 1993. As such, Mr. Downing conducted a number of follow-up interviews on a number of issues. In the report, there were clear concerns expressed by Paul Downing about what knowledge Jos Van Diepen had and also about the knowledge of Emile Robert given obvious patterns that were formed from the information obtained, including the permission for a former offender to live with Ken Seguin, and Emile Robert's lack of action in the Travis Varley incident. Further issues came to light about the events surrounding the investigation in 1982 of Nelson Barque and his subsequent employment with L'Equipe Psycho Sociale. Thus, additional interviews were conducted to look into these issues, as noted above interviews of Peter Sirrs, Pierre Landry, Loretta Eley, Gilbert Tayles, and interviews of two alleged victims.

*Volume 190, p.p. 202-210, 211-214*

### **Legal Opinions on Potential Disciplinary Action**

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The findings of Paul Downing raised serious issues in the minds of senior management of the Ministry. As a result, legal opinions were sought from the Management Board Secretariat about any potential discipline or advice in relation to the issues raised in the Paul Downing report. In Ms. Newman's notes, there is reference to Emile Robert and Jos Van Diepen, and the potential for them grieving if discipline action were taken and the matter being made public through the grievance process. Ms. Newman was keenly aware that any discipline taken against Emile Robert and/or Jos Van Diepen would likely result in a grievance and the matter would be made public. This was a statement of fact. In her experience, current employees against whom the Ministry takes disciplinary action often grieve. Neither Ms. Newman, nor anyone else she was consulting with, was concerned about the publicity that could be generated by discipline. Ms. Newman commented that the Ministry operates within a very litigious environment with thousands of grievances. Ms. Newman's notation is reflective of her intention to be committed to transparency and in that regard to be prepared and for the Minister to be prepared to answer any questions with confidence in the House about the process and issues.

*Volume 190, p.p. 216-218*

In regard to the letter authored by Peter Sirrs regarding Nelson Barque's employment with the Ministry, Paul Downing conducted a follow up interview with Mr. Sirrs. Although Mr. Sirrs was retired by the fall of 2000, the Ministry was very concerned about the matter, and thus sought advice as to any other action that could be taken. As there is no specific policy in regard to reference letters, Ms. Newman expressed her opinion that in the future, judgement would inform someone to not provide a reference letter when an individual has left the Ministry in circumstances similar to Mr. Barque. Ms. Newman carefully noted that Mr. Barque was in a position of trust. The situation involving Mr. Barque in 1982 was within that relationship and consent can never be assumed given the power differential. Whether the conduct was actually criminal or not, in Ms. Newman's opinion the action itself certainly would have been the subject of discipline. As for Mr. Sirrs, no

action was taken. As will be argued in another section of this submission, given the content of the letter written by Peter Sirrs, we assert that as this occurred in the mid-80s, Mr. Sirrs requiring a release to provide information was not unreasonable. No disciplinary action ought to have been taken against Mr. Sirrs. Rather we suggest that a greater onus should be placed on Pierre Landry to have taken fuller steps to determine why no reference was actually provided.

*Volume 190, p.p. 219-220, 221-223*

As for Jos Van Diepen, Paul Downing drew a conclusion that Mr. Van Diepen reasonably ought to have known that Ken Seguin was breaching policy. Again, the Ministry in its response to the information sought legal advice on action against Jos Van Diepen. No disciplinary action was taken, but essentially for the balance of Mr. Van Diepen's employment with the Ministry, Mr. Van Diepen remained on duties that did not involve management of clients.

*Volume 190, p.p. 224*

Emile Robert presented other issues. Paul Downing's report raised issues of wilful blindness, knowledge and failure to take timely responsive action in the face of breaches of Ministry rules and policy. Again, a legal opinion was sought about potential discipline against Mr. Robert. As a result of the legal advice, no discipline action was taken.

*Volume 190, p.p. 228-229*

### **David Silmser Complaint December 1993**

Ms. Newman required further information about why no investigation occurred in response to the David Silmser complaint. She asked Paul Downing to conduct further interviews of Loretta Eley, Lenna Bradburn and Bill Roy. After Paul Downing completed his follow up on this issue, it was clear that Bill Roy had properly followed Ministry policy by contacting the people he did, including the Independent Investigations Unit and the police because of the alleged criminal conduct. Ms.

Newman understood from the facts, that Lenna Bradburn had contacted the Cornwall Police and the OPP and determined that the police were aware of Mr. Silmsler's allegations and that he was represented by counsel. According to the information imparted to Ms. Newman, Lenna Bradburn had requested Bill Roy to contact David Silmsler and advise him to put his complaint in writing and forward it to the IIU. IIU would then determine whether or not to conduct an investigation into his allegations. Unfortunately, in piecing this together after some years, it was discovered that Mr. Silmsler never did put his complaint in writing and no investigation took place. Ms. Newman also understood that Mr. Silmsler indicated an interest in pursuing the matter civilly and there was an assumption that he was going to file a civil suit.

*Volume 190, p.p. 230-231*

Ms. Newman noted that recording of the complaint and steps taken could have been better. Further, Ms. Newman acknowledged that in 1993 it was the Ministry's practice to receive complaints in writing before assessing the complaint, but in retrospect, this is a rigid approach, and there was no reason that an investigator or Mr. Roy could not have contacted Mr. Silmsler and taken his complaint, written it down and forwarded it to IIU. Ms. Newman also acknowledged that the lack of an IIU investigation was not ordinary practice, as it was customary to conduct investigations into allegations like Mr. Silmsler's.

*Volume 190, p.p. 232-234*

### **Paul Downing's Conclusion on Knowledge**

Paul Downing stated in his report that for some time prior to Ken Seguin's death, a number of Cornwall probation and parole staff suspected, while other staff ought reasonably to have known, that PPO Seguin was contravening Ministry rules and policies governing employee contact with offenders and ex-offenders. At the time of the review of his report, this issue was a topic of discussion with senior management. Paul Downing did not provide conclusive evidence that any staff



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knew anything. Mr. Downing spoke about rumour swirling around and that people may have suspected, is reference to the “water cooler” type of talk and in Paul Downing’s assessment people ought to have known. However, the evidence appeared inconclusive with respect to Jos Van Diepen and there was no indication that any other staff knew.

*Volume 190, p.p. 239-240*

The Ministry did not take any further steps to source out any evidence of actual knowledge on the part of other staff. The Ministry, including Ms. Newman, was aware that the allegations coming forward were historical and the perpetrators were two deceased probation officers. Attention tended to focus on the here and now, as the Ministry through considerable effort by Ms. Newman was focused to provide the necessary skills for the probation officers to create a welcoming environment for people to come forward and to disclose their allegations. After the legal advice, there was little sense of utility in going back further to determine who might have suspected breaches of Ministry policy. But that being said, Paul Downing still remained engaged in his investigation under the auspices of Gary Commeford, and no limits were placed on Paul Downing. He did conduct further interviews as noted above, which included two statements from alleged victims.

*Volume 190, p.p. 240-241*

As for meeting with staff and making an announcement about past events and the allegations themselves in a manner to reinforce the inappropriateness of the alleged actions of Ken Seguin and Nelson Barque, Ms. Newman stated to the Commission that based upon her involvement with the Cornwall office, it was abundantly clear that these past acts were wrong and in her opinion there was not a single employee who would have thought otherwise. There was already a clear understanding about the seriousness of the allegations and the damage it had on their clients and their office. The staff in the office were expressing their concerns and suspicions about Jos Van Diepen, and again in her experience, if the staff had

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any additional information, Ms. Newman believed that staff would have come forward.

*Volume 190, p.p. 242-243*

The other aspect of this issue is the environment in which labour and management relations operate. Ms. Newman drew the Commission's attention to the fact that in a unionized setting, these types of issues must be dealt with in a timely fashion. The legal advice received covered discipline and this situation.

*Volume 190, p. 244*

Emphasis was placed at that time on nurturing an environment in the Cornwall office to support victims. Since 1999, 2000, the Cornwall Probation and Parole office has worked in a transparent and caring way to encourage clients to disclose any past abuse. Unfortunately, probation and parole's mandate is only engaged when people come in conflict with the law and at the time that they are placed under the supervision of probation and parole. Any effort to reach out to past probationers would have had some very practical challenges. Conducting a file review for past clients of Ken Seguin and Nelson Barque was not something that the Ministry turned its mind to. There would have been difficulty in accessing historic files, but such a process could have been an avenue for the Ministry to take. However, Ms. Newman and the Ministry did reasonably rely upon the fact that the OPP were thought to be conducting a broad and thorough investigation, and were appealing to the public for people to come forward with information. There was a press release in this regard. Also, in the last couple of years, the Inquiry itself has been very public and very clear in its encouragement of victims to come forward not only to disclose their allegations but even just for support and counselling.

*Volume 190, p.p. 245-247, 249*

As noted by Mr. Engelmann in his questioning of Ms. Newman, there may be potential victims who did not want to come forward to police or to lay charges, and these decisions have to be respected. For those who wish to seek compensation

and/or counselling, without police involvement, there exist a myriad of mechanisms for people to address their needs. Former clients could still come forward to the probation office and seek assistance, and the invitation was made by Ms. Newman and in fact by other probation officers who testified, that victims could come to their office and receive support. In addition there existed advocacy groups in the community who could be approached by victims, as well as lawyers or health care professionals.

*Volume 190, p.p. 248-250*

The Ministry never took out an ad in a newspaper for past clients to come forward with allegations of sexual abuse. As inviting as the idea seems on its face, the Ministry has never had such a practice, and there are very real difficulties with such a process including encouraging false claims of abuse. The Ministry however, acknowledged that some thought could have been given to a process of file review that may have been employed to source out other potential victims.

*Volume 190, p. 251*

#### **January 2001 to September of 2001**

Paul Downing continued with his review from January 2001 with limited direct contact with Ms. Newman and under the supervision of Gary Commeford.

*Volume 190, p. 251*

In 2000, the Ministry started to receive lawsuits from alleged victims and they continued through to the date of Ms. Newman's evidence. The updated House Note of August 8, 2002, reflected information about project truth charges and civil lawsuits.

*Volume 191, p.p. 4-6*

In April of 2001, Paul Downing became the manager of the CISU. Mr. Downing continued his responsibility for the review. Although the review was not transferred

to CISU, Mr. Downing used some of the investigators in the unit to conduct interviews and the resources were at his disposal. The CISU had jurisdiction over suspected employee criminal activity or serious misconduct, which could include sexual allegations. If it involved sexual allegations, there would be a conversation between IIU and CISU as to which unit would be in the position to take the lead on the investigation. Similar to IIU, CISU inspectors were not mandated to stand down in the face of a police investigation. The unit would look into the aspect of the case that involves breach of Ministry policies and any investigation would be conducted very carefully so as to not impede any police investigation. There would be some contact with the police to make sure they were comfortable with the avenue of investigation.

*Volume 190, p.p. 8-12, (quote also Paul Downing's evidence)*

Paul Downing continued his review until September of 2001. At that time, he closed his file and the Ministry of the Attorney General who were already dealing with the law suits that had been filed, took over carriage of the matter.

### **Changes in Ministry Policy and Practice**

The Ministry has evolved over time and, since the dates of the allegations, many changes have occurred that at the very least lessen the likelihood of abuse going undetected as it did in Cornwall.

At the local level in Cornwall, the staff have developed an expertise with receiving disclosures and supporting victims of sexual abuse. The Ministry has always had a policy setting out a clear duty for probation officers to report to the police any allegation of criminal conduct, but this duty has been reinforced by subsequent iterations of polices across the Ministry. There is also a heightened awareness in the Ministry, as well as in society in general, of the incidence of sexual abuse, and this is part of the training of new officers. Strong conflict of interest policies have been renewed, and the Ministry has new procedures for when an employee is in a

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perceived conflict of interest. Now the employee must report the nature of the conflict to the Deputy Minister and the Deputy Minister will write back to the employee in relation to what they must do. Thus, the employee is guided by the Deputy Minister's direction.

*Volume 191, p.p. 17-19*

Office space is designed in accordance with the Ministry's accommodation standard. Office standards now dictate that there is an ability to see into the probation officer's office. There is a glass sidelight, which provides visibility into the office.

*Volume 191, p, 82*

There is a new act entitled the *Public Service of Ontario Act, 2006*, with protection for employees who come forward with allegations of wrongdoing – “whistle blowing” protection. The employee can go directly to the Deputy Minister, who is the Ethics Executive for the Ministry, and there is protection from any reprisal. The allegation is investigated in a highly confidential manner protecting identification of the source of the information. The person tasked with the investigation is a matter within the discretion of the Deputy Minister, as the determination involves an assessment of how to best conduct a confidential investigation. The employee also may choose to report to the Integrity Commissioner, which is a new position. There are timeframes within which these allegations of wrongdoing must be looked into and responded to. All in all, there is now a more transparent public service and organizationally a heightened vigilance to protect against and sensitivity to the existence of abuse and wrongdoing.

*Volume 191, p.p. 19-20*

Ms. Newman highlighted other changes in the Ministry including the new service delivery model, which was implemented in 2000. At the cornerstone of this model, is a comprehensive assessment of each individual's risk factors and needs. Once assessed, clients are placed into different streams of supervision depending upon

their respective risks and needs, providing a tailored approach to providing service to clients. There are a number of core programs as part of this service. These programs address many issues, including addictions and abuse. Clients who were victims of abuse themselves, have access to programs that are offered by various community agencies, including Victim Services. The orientation of the service provider will vary as to whether that individual is treated as an offender or as a victim. For example, Ms. Newman noted that the vast majority of sex offenders with the provincial system, have experienced victimization themselves and treatment is directed at that issue.

*Volume 191, p.p. 21-23*

Within the structure of the service delivery model, clients are exposed to a number of professionals offering services. The probation officer will follow up with the service provider and receive reports back. The integration of professionals in the overall service provided to an offender creates an enhanced opportunity to expose any abuse of the offender. The likelihood of abuse in secret is vastly decreased as a result of this multi-pronged approach.

Ms. Newman emphasized in her evidence that there are much stronger safeguards and vigilance in place now that significantly reduce the likelihood that the abuse that has been heard in the Inquiry would be perpetrated today.

*Volume 191, p. 30*

## **Recommendations**

Deputy Minister Newman prepared five recommendations that she outlined to the Inquiry. At the outset of this portion of her evidence, Deputy Minister Newman expressed that the Ministry remains aware that the faith and the trust of the members of the Cornwall community has been compromised. Part of the mandate of the Inquiry is to lead the community healing and reconciliation process. The Ministry shares this goal and is striving to regain the community's trust. The

Ministry has acknowledged that two former probation and parole officers were involved in events giving rise to the Inquiry. The Ministry deeply regrets any harm that our clients may have suffered, and the Ministry will continue with individuals coming forward and disclosing incidents to support them in the most compassionate way possible.

*Volume 190, p.p. 34-35*

Deputy Minister Newman reiterated that the Ministry is not the same institution it was when these events occurred but it acknowledges that further improvements can be made. As such, Ms. Newman set out five recommendations that are set out in detail in a following section of this submission.

#### **Handling of the Travis Varley Incident**

Ms. Daley asked Ms. Newman in cross-examination about the January 16, 1992 incident report on Ken Seguin's involvement with the Travis Varley incident. Ms. Newman commented that in her opinion, such a matter should have been sent to the Regional Manager and been the subject of discussion as soon as possible and sent to the Information Management Unit as well. When Ms. Newman became aware the Mr. Robert had not dealt with this incident in such a manner, Ms. Newman, who already had concerns about Mr. Robert's abilities as an area manager, gained greater concern. Ms. Newman characterized Mr. Robert's handling of the matter as suggestive of poor judgment.

*Volume 191, p.p. 41-44*

In Ms. Newman's personal opinion, learning of the details of the Randy Millar letter dated September 3, 1992 to Emile Robert, which included additional facts such as: Ken Seguin having allowed alcohol to be consumed at his house; Ken Seguin having felt intimidated; combined with the information in the incident report, would have been sufficient, to have caused the Regional Manager to seek more information and possibly override the decision of the Area Manager to investigate the matter

further. This was a missed opportunity to find out more about the activities of Ken Seguin.

*Volume 191, p.p. 45-47*

There was nothing reflected in Emile Robert's performance appraisals concerning how he handled this incident. Ms. Newman could only assume that Roy Hawkins was satisfied with the approach taken by Mr. Robert. Ms. Newman would have benefited, when she became Regional Manager in 1996, from information about this incident. The range of discretion afforded a Regional Manager and an Area Manager depends upon the circumstances. In this instance, the matter was more serious and Ms. Newman, had she been the Regional Manager, would have directed the Area Manager to not take action on discipline without consulting her first. In Ms. Newman's opinion, there ought to have been an investigation conducted when the incident report came in so that the facts could be uncovered, including liaison with the police and sharing of information. Based upon the investigation, there ought to have been a disciplinary meeting and consultation between the area manager and the regional manager as to the appropriate degree of discipline. Appropriate action must occur regardless of any potential grievance. However, in determining appropriate discipline, one must be mindful of the jurisprudence. The manager must exercise due diligence in reviewing case law and the employment record of the employee.

*Volume 191, p.p. 49-53*

Employees will often grieve a letter of reprimand. The Ministry has over 10,000 grievances a year. Ms. Newman would not be surprised that the potential of a grievance may have been a consideration for some managers. Some managers may become weary of trying to do the right thing and having the employee reinstated or the discipline overturned. Ms. Newman's practice was to always do the right thing and then whatever will be, will be.

*Volume 191, p.p. 54-55*



## **Emile Robert**

Ms. Newman had come to the conclusion in 1998 that Mr. Robert must be moved out of the Cornwall office. Fortunately, Mr. Robert was agreeable to the transfer. When Mr. Robert was transferred to Ottawa, Ms. Newman imposed some strict supervision on Mr. Robert. Gilbert Tayles supervised Mr. Robert and Ms. Newman briefed Mr. Tayles so that he would be fully aware of the circumstances and he was requested to keep a close supervision and monitoring of how Mr. Robert was doing in the Ottawa office. Mr. Tayles reported regularly to Ms. Newman. Ms. Newman discussed the Downing report with Mr. Tayles. Although there was no discipline taken against Mr. Robert, the supervision extended to Mr. Robert was reflective of Ms. Newman knowing whom she was dealing with. Mr. Robert remained in the Ottawa Manager's position until January of 2002 when he left the Ministry.

*Volume 191, p.p. 56-58, 112*

Ms. Newman's scoring of Mr. Robert's performance was a strong indicator to Mr. Robert that his performance with interpersonal skills was less than satisfactory. What was communicated in the performance report and scoring him a two, meant that there was still hope that he could improve, that they have not given up on him yet. Even if he was scored a one, this would not have prevented him from being transferred to Ottawa into another position as an Area Manager. Ms. Newman accurately set out that in 1998 the concern was to move Mr. Robert out of Cornwall because the relationships in Cornwall were irreparably damaged. There was hope that with support, training and supervision, he would improve in his interpersonal skills. Although as noted above, he was held to a short leash.

*Volume 191, p.p. 78-80*

## **Information Sharing Between Police and Probation and Parole**

The evidence disclosed that the police had information about the activities of Nelson Barque and Ken Seguin. Ms. Newman noted that there are no specific rules

governing the sharing of such information. The police do not have an obligation to share information with the Ministry. Ms. Newman's recommendation about a protocol for the sharing of information between justice partners is an attempt to address this gap, as this type of information would have been helpful to the Area Manager.

*Volume 191, p.p. 60-61*

### **Transmission of Information between Managers, and Regional Managers**

When Ms. Newman took over the position of Regional Manager from Roy Hawkins in 1996, there was no discussion about the circumstances of Ken Seguin. Further, by 1996 there were a number of significant events including the conviction of Nelson Barque, Ken Seguin's death and past involvement in the Travis Varley incident etc. There would have been plenty to be discussed in a briefing that would have been of help to an incoming manager. Similarly, Regional Managers do not have access to the House Notes. The House Notes should not be counted on as a systematic way of ensuring an institutional record as they comprise reports coming in from the field and there are no verification steps taken to confirm the accuracy of the content.

*Volume 191, p.p. 63- 66*

Ms. Newman also did not recall any information coming to her about allegations of abuse in Cornwall via media reports and certainly not in 1994 up to the discovery of the website in August of 2000.

*Volume 191, p. 71*

Instead of relying upon the House Notes as a method to transmit information to those who are closer to the field, Ms. Newman recommended a system be designed to better capture institutional events and make them accessible to those who need the information to manage the people in the field. Ms. Newman indicated in her evidence that she would be seeking recommendations from her Regional Directors

as to the best way of maintaining a record and making it retrievable. Even within such a collection mechanism, it may be hard to discern patterns given the sheer volume of reports. Ms. Newman indicated that this system of information management would provide ready access for operational decisions at the local and regional level – probably an electronic format allowing for a database to be searched for specific types of incident reports. Specific searches could then discern patterns.

*Volume 191, p.p. 75-76*

### **Analysis**

Ms. Newman's evidence was a powerful illustration of the commitment of the Ministry in working hard to rectify past mistakes and to ensure a future for its staff and clients that is professional, responsive to needs/risks and safe. When Ms. Newman became responsible for the Cornwall office her attention was immediately directed to meeting each member of that office and determining the needs of the office. It was only after her return to the Ministry in 1999 that she first became aware of the allegations of past abuse. The local office, with the support of Ms. Newman and the senior leadership in the Ministry, embarked on a difficult process of developing protocols to ensure victims could feel safe and supported in order to come forward with their allegations. The Ministry acted swiftly in assigning Paul Downing to conduct his review and to ensure that no interference occurred with the police investigation. Although the two perpetrators were deceased, it was not clear to the Ministry where Project Truth would lead. The local protocol ensured that each complaint was communicated to police for the purpose of conducting investigations. The OPP were seeking any and all information on past sexual abuse and the Ministry could not take the chance to corrupt or otherwise taint this investigation.

Deputy Minister Newman aptly noted that in 2000 and subsequent any type of public announcement was not contemplated and in careful consideration was not

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practical. The full facts were not known and still are not known. The Ministry could never come out and make public statements in any absolute format under those circumstances. Any public statement could only serve to taint an ongoing police investigation and prosecution. The ministry should not be criticized for failing to fall into the same trap that Dick Nadeau, Perry Dunlop and others fell into.

Although in 2000 no thought was given by the Ministry to a retrospective file review of the caseload of Ken Seguin and Nelson Barque, there were very real practical difficulties in conducting such a review. The efficacy is also suspect. It is conceded that some form of review could have been conducted. The Ministry's actions understandably connote a preoccupation with the disclosures in Cornwall. The recommendations speak directly to the gaps that have been highlighted including the benefit of a file review at time of an incident, which would increase the likelihood of the review being effective.

In regard to any issue of the Cornwall office having a culture of turning a blind eye, Ms. Newman remained in personal and continuing contact with the Cornwall Office beyond 1999 and 2000. It was her experienced and objective opinion that the office personnel were absolutely mortified by the allegations. The probation officers and staff were extremely concerned and pulled together to do the right thing for victims in a transparent way. The staff wanted to be supportive and compassionate and ensure that they possessed the necessary skills to provide a safe and supportive environment for the victims. They were highly engaged and to this day, they remain very concerned about what happened in the past and dedicated to moving forward in a manner that is helpful to victims.

*Volume 191, p. 187*

As Ms. Newman noted, the personnel of the Cornwall Probation and Parole office are doing a phenomenal job. They are a group of very caring and supportive people who have the best interests of their clients and victims at heart and they will re-establish their reputation in the community because they are professional and

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doing a great job. This does not in any way support an assertion of a culture of turning a “blind eye”.

## **VI. Ministry Action**

### **Local level**

#### **Claude Legault**

Around August 8, 2000, Mr. Legault returned from vacation and was told by two staff members about the Dick Nadeau website. The website contained some allegations that Mr. Van Diepen allegedly had been aware of the actions of the people who were to have abused young people and that he had done nothing about it. There were no allegations that he had engaged in any abusive or criminal conduct. When Mr. Van Diepen became aware of the allegations, he had discussions with his Area Manager, Claude Legault, about the content of the website. Mr. Van Diepen was quite upset and was adamant that these were all false accusations. He was very concerned about the impact that the allegations would have on his reputation in the community and that it would compromise his ability to do his job as a probation and parole officer at that time.

Volume 195, p.p. 12-13

As is noted in other sections of these submissions, Claude Legault forwarded sections of the website to the regional office, wherein the matter was raised with Deborah Newman. As already noted, Paul Downing was tasked with reviewing the website and conducting an administrative review. Claude Legault and Ms. Newman had a number of discussions with Mr. Van Diepen about possible reassignment. Ms. Newman presented a number of options to Mr. Van Diepen, and he selected a temporary assignment to the Integrated Justice Project (IJ). This was an accommodation for Mr. Van Diepen since victims were reporting allegations to the Cornwall Probation office.

Volume 195, p.p. 13-16

Every effort was made to make an accommodation that would provide real work for Mr. Van Diepen. Mr. Van Diepen had an interest in technology, and he was quite satisfied that this was providing him with an opportunity to really contribute. He was a welcome addition to the IJ project.

Volume 195, p.p. 16-17

In early 2004, Mr. Van Diepen returned to the Cornwall office after he declined an offer for assignment to North Bay in the technology department. Claude Legault managed the situation by assigning him first time offenders, or clients who had no probation during the period of 1968 to 1993. Mr. Van Diepen retired in May of 2008 having spent the last ten months of his employment on special projects.

Volume 195, 17-19

#### **Disclosure of Sexual Abuse Allegations – Training and Development of the Protocols**

When Mr. Legault started in late 1998, there had already been one disclosure, with another in the early summer of 1999. The disclosures to the probation officers were emotional and difficult. Ms. Sue Larriviere and Ms. Carole Cardinal were two of the probation officers who received initial disclosures and it was a particularly draining process for them.

Volume 195, p.p. 19-20

After having a debriefing on the process, Claude Legault, Ms. Larriviere and Carole Cardinal concluded that they did not know enough about male sexual victimization and how to handle such a disclosure. The disclosures themselves moved the issue from rumour and allegations to something that was very real and “right in front of them”. The office was a small group of seven probation officers, and they regularly had discussions about the disclosures. They decided to take sides on the issue, and were determined to promote, support and facilitate the disclosures as much as possible. The decision led to a number of steps including arranging training for staff about male sexual abuse trauma. A three-day training session was designed with

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the Men's Project, who had already been engaged to provide victims services as part of Project Truth. Mr. Legault spoke with Rick Goodwin who came to the Cornwall office to make a presentation. The office then worked with Mr. Goodwin to develop a curriculum for the training program about male sexual abuse trauma. In particular, they were interested in techniques for receiving details in a manner that facilitated the disclosure, yet allowed for a supportive transition to other service providers.

Volume 195, p.p. 20-22

All probation and parole officers attended the training session in 2000. Mr. Legault believed that support staff were present for the training as well. The training was repeated in 2003 in light of new probation and parole officers joining the office. Some of the officers who had already received the training attended again in 2003 for a refresher and to obtain additional information. The training was again provided in 2006 due to the increase in new staff members. Mr. Legault remained committed to ensuring that the staff was trained on male sexual victimization. The 2006 session was opened to other probation and parole offices as well as other agencies in the community.

Volume 195, p.22-23

The first disclosure involved a client who had great difficulty coming into the office. The second disclosure was from a client who also had difficulty in attending the office. His interview was conducted while walking around the block, as the person could not physically attend the office. As a result, Claude Legault worked on a relocation of the office, which was ultimately completed in December of 2001. Since 1998, there have been over 35 disclosures as of the date of Mr. Legault's testimony. The most recent disclosure was in January of 2008. The details of the disclosures and statistics are set out in the Factual Overview filed as an exhibit. What the evidence discloses is the unique nature of the Ministry's situation and its institutional response. The disclosures have continued through the time period of this inquiry. The services and care provided to alleged victims continued as of the



date of the evidence of Claude Legault and will continue into the future. Probation and parole staff will continue to have ongoing contact and support clients who have been victims of abuse. Hence, the institutional response of MCSCS will continue for years to come.

Volume 195, p.p. 24-25, Exhibit 1179 (publication ban)

### **Disclosure Protocols**

In order to assist in eliciting disclosures in a safe and supportive environment, the office came together and in consultation with Deborah Newman, Regional Director, developed two local protocols; the first dealing with disclosures of abuse perpetrated by a probation officer, and the second, dealing with abuse perpetrated by any other person, such as a teacher, relative or caregiver. The office decided never to question the merits of the disclosure, but rather to support them and facilitate the disclosure. The rationale for the second protocol was that clients disclosed abuse that they experienced by other persons in their lives, and the office wanted to provide the same supports and services for them as victims, that they would provide to alleged victims of abuse by Ken Seguin or Nelson Barque.

Volume 195, p.p. 25-27, 31-32

The process starts with a criminal record check of every probationer. The probation officer reviews the record for any prior probation order and to ascertain who the probation officer might have been. If the client had previously been on probation to Ken Seguin and/or Nelson Barque, the client is asked who their probation officer was, and if they do not remember, they are asked if it was either of the two impugned officers. If it was either of the officers, then they are asked directly if anything happened. In general terms however, as part of the intake assessment, questions are directed at eliciting prior abuse – “were you ever a victim of physical or sexual abuse?” The training was necessary to assist the officers in being competent and confident in asking questions. If there is a disclosure of abuse, the client is advised of the officer’s obligation to report the allegation to police, and the

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client is encouraged and advised of the support available to assist them in providing the information to the police. In addition, the needs of the client are identified and referrals are made to community services such as the Men's Project, Mental Health Crisis team at the Cornwall hospital, and substance abuse counselling. Staff understood that clients are particularly at risk for relapse because of the trauma of disclosure and experiencing the memories of the abuse. There would be very short follow up and support of the client to ensure that the client connected with the services necessary to assist him or her.

Volume 195, p.p. 25-28

Once the disclosure is received, the probation officer prepares an incident report outlining the allegations generally, the actions that were taken and the referrals made. A copy of the incident report is provided to the Area Manager for review. A copy is sent to the IMU in North Bay, and flagged in the database. Mr. Legault then completes a file review, examining prior history, actions taken now by the probation officer, and make recommendations about further actions to be taken with the client. The intent was to always follow the protocols to have a clear, consistent and transparent process that the Cornwall Probation office would apply in every case.

Volume 195, p.p. 28-29

As the protocols were evolving, Claude Legault had regular discussions with Ms. Deborah Newman, who would in turn offer suggestions, and in most instances, would support and endorse their course of action. The protocol was a local response that was reviewed and vetted by the region to make sure that it was consistent with Ministry policies as the time, and to build on existing policies to ensure they were meeting the needs of what was a very specific situation.

Volume 195, p.p. 29-30

In addition to dealing with the trauma of the abuse, the protocol sought to empower alleged victims by directing them to resources for advocacy. In this regard, clients were made aware that there ongoing lawsuits against the Ministry, and that the

client might similarly be in a position to sue the Ministry. If the client lacked contacts, names of lawyers already engaged in civil actions were provided to the client.

*Exhibit 1179*

**Analysis of Local Response**

The office focused on supporting clients who were coming into probation either as a prior offender or a first time offender and they did not seek to review past files of Ken Seguin or Nelson Barque. Claude Legault indicated that there would have been some considerable logistical problems with pulling old files and conducting a review. In addition, Claude Legault was aware of the Project Truth investigation, and in part expected the police to be investigating abuse in the larger sense. From the evidence, it is clear that the office from December of 1998 came under a much higher level of managerial competence. Faced with what was a very difficult prospect of disclosure of abuse perpetrated by former employees, the leadership of that office, along with the officers themselves, came together to choose the side of the victim, obtain necessary training, develop a mechanism to support disclosures, and provide comprehensive services to people in need. One must be careful before criticizing the local and regional office in not engaging a broader search for victims. Once the protocols were implemented, disclosures became numerous and all staff took appropriate and responsive action to report the allegations to the proper investigative agency to determine the exact nature of the allegations and presumably the extent of abuse. In this regard, the actions of the local office deserve the Commissioner's compliments.

The change in leadership of this office was set in motion by the review and actions of then Regional Director Deborah Newman who worked alongside senior management to effect change in Cornwall and later to provide funding for training, as well as a commitment to provide resources to the local office. These protocols

have been used in other probation and parole offices, and have resulted in a Ministry-wide program for education and training on male victimization.

Volume 195, p. 28, see Exhibit 3430 – 3432 (Progress Report)

### **Night Reporting and Closed Door Policy**

The last Thursday of every month remains the typical night selected for night reporting. However, the current policy dictates that at no time is anyone permitted to be in the office alone. As for interviews of clients, the policy is to have the door to the office closed in order to protect confidentiality, however, the Ministry standards have changed, and all offices have side windows on every office entrance for a clear view into and out of the office. This is both for the protection and safety of the clients and probation and parole officers. In addition, the most recent standards do not permit any locks on office doors.

Volume 195, p.p. 40-42

### **Service Delivery Model, OTIS and Retention of Files**

As mentioned *infra*, Core programming, OTIS and file retention policies have altered the way the Ministry conducts business. OTIS is electronic storage of all file information, which includes case notes that are directly entered on computer. The entry is date and time stamped and cannot be altered or amended. The pages are printed out and become the content of the hard copy file that is kept in the local office for two years and then sent to archives. Thus, there is no more destruction of files. The Core programs within the Service Delivery Model have shifted focus from pure enforcement to assessments based interventions derived from research to identify risks and needs in order to curb recidivism. Susan Cox, Manager of Offender Programs, has developed several of these programs and these programs are offered at the Cornwall office. These programs include anger management, substance abuse, anti-criminal thinking and sex offender relapse prevention.

Volume 195, p.p. 44-45, 55

The client will have contacts under this regime with a number of community-based agencies. This, at the very least, provides an opportunity for clients, if they have concerns about their supervision, to share those concerns with other agencies or the probation officers during the course of their supervision. This furthers the cause of accountability and transparency in MCSCS service delivery. As has been argued above, these developments address some of the operational deficits apparent during the employment of Ken Seguin and Nelson Barque.

Volume 195, p. 47

### **Ministry Response in the Context of Civil Litigation**

Mr. Legault was the Ministry representative in several mediation sessions. In a few instances, Mr. Legault met with alleged victims, plaintiffs, one on one, and received their experiences as victims and the impact that it had in their lives. Mr. Legault would acknowledge the devastating impact that the abuse had on them and their families, and would offer the Ministry's deep regrets for the abuse.

Volume 195, p. 36

### **Knowledge of Ken Seguin**

As a probation officer in the Hawkesbury Probation and Parole Office, Mr. Legault, had a general knowledge of Ken Seguin. According to Mr. Legault, Ken Seguin had an excellent reputation in the community. Mr. Seguin was personable, outgoing and based upon reports of former clients whom Mr. Legault came to supervise, helped many clients, having gone above and beyond the call of duty to assist them. Mr. Legault looked up to Mr. Seguin and wanted to model himself after Ken Seguin, in terms of what he wanted to do as a probation officer.

Volume 195, p.p. 37-38

Up to and including November 25, 1993, Mr. Legault did not hear any rumour or form any impression that Mr. Seguin was doing anything improper with his clients. Following Mr. Seguin's death rumours of Ken Seguin's involvement in the allegations of sexual improprieties going on in Cornwall surfaced in discussions with colleagues. When Mr. Legault took over management of the Cornwall office, Mr. Legault had a number of discussions with staff. As the Area Manager of the Cornwall Probation and Parole office, Claude Legault came to the conclusion that staff either knew or suspected that Ken Seguin was gay. There was certainly a sense that Mr. Seguin's interactions with clients were different than what they would do themselves, since many felt that Ken Seguin provided too much assistance to his clients. However, Mr. Legault strongly asserted in his evidence that no one in the office knew or suspected that Ken Seguin was sexually involved with his clients.

Volume 195, p.p. 38-39

### **Overview of the History of Disclosures**

The first recorded disclosure occurred in April 1982, when a third party made a complaint to the Area Manager that a probation officer, Nelson Barque, had inappropriate contact with a probationer. The Area Manager completed a preliminary investigation that included an interview with the complainant and contact with the local police. The Area Manager subsequently consulted with regional officials. Ultimately, the Director of Probation referred the matter to the Ministry's Inspection and Investigations Branch. The allegations of professional misconduct were substantiated against Nelson Barque, who resigned on May 4<sup>th</sup>, 1982, prior to the conclusion of the investigation. The matter was also referred to the local Crown Attorney's office for a decision on prosecution.

*Exhibit 1179*

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The next record of a disclosure by an offender to local Probation staff was in 1997, and the number has varied from year to year since then. It is important to note that Probation Services continues to receive disclosures. Since the original complaint in 1982, a total of 32 disclosures have been made to probation and parole officers at the Cornwall office.

*Exhibit 1179*

There are an additional 19 cases where the disclosure was not made to a probation officer. Of these files, the alleged abuser was a former Ministry employee in 16 of these cases, and in the remaining three cases the alleged abuser was external to our Ministry.

*Exhibit 1179*

When assessing the Cornwall Probation office's institutional response, one must consider that probation officers come into contact with victims and offenders in a variety of contexts. In some cases offenders placed on community supervision for various offences have disclosed to their probation officer that they were victims of sexual abuse by former employees of our Ministry. Others have disclosed that they were victims of sexual abuse at the hands of other perpetrators in the community. Other similar disclosures have also been made to our staff in the context of a Pre-Sentence Report interview.

*Exhibit 1179*

Probation officers also deal with situations involving contact with collateral sources of information in the context of supervision or report preparation. There have also been cases where that collateral source has disclosed past victimization by probation officers or external perpetrators.

*Exhibit 1179*

In some situations, staff are involved with offenders who are perpetrators of sexual abuse and who are placed on community supervision as a result of a conviction. In

such cases staff will have contacts with the victims to inform them of the conditions and to provide information on services available to them, including the Victim Support Line. In these cases staff work with offenders is focused on community safety through interventions and programming that will reduce recidivism. Some of these perpetrators have disclosed to staff that they were themselves sexually abused.

*Exhibit 1179*

It appears from the available data that the relationship developed by probation and parole officers with their clients have engendered sufficient support and respect for disclosures to be made. It takes considerable courage for these victims to come forward. The supportive and non-judgmental attitude conveyed by staff has made it easier for these victims who have lived with this secret for so long to make the decision to disclose.

*Exhibit 1179*

Given the vast array of disclosure situations, the Cornwall office's response can vary depending on the nature of the case but some general patterns are evident. Namely, that victims were believed, and in all instances they were allowed to make their disclosure in a safe and supportive environment; and, services were made available to the victims to cope with the aftermath of the disclosure. It is also evident from the review of these disclosures that all cases were reported and documented (Incident report, OTIS case notes) and that police were contacted when required (some victims had already reported). This is still true today as the Cornwall office continues to receive disclosures.

*Exhibit 1179*

## **Evolution of Response to Disclosures**

Shortly after the death of former employee Ken Seguin in November 1993, and the rumours of his alleged involvement in inappropriate actions with his clients, some



staff at the Cornwall office began to ask clients who had a previous criminal record who their probation officer was at the time and whether anything inappropriate happened. This was a local best practice developed by and supported by all staff and local management of the Cornwall Probation office. There does not appear to have been any documented disclosures between 1993 and 1997.

*Exhibit 1179*

Starting in 1999, staff at the office became increasingly concerned with the disclosures and their ability to respond adequately. At staff meetings and in informal discussions probation officers expressed concerns over the public perception of the Cornwall Probation office and wondered how to regain their credibility. In addition staff knew that clients had to be encouraged to disclose and be provided with the necessary supports. Staff agreed on the following guiding principles:

- Support and encourage disclosures through a transparent and consistent process and asking the right questions
- Providing support services for the offenders who disclosed
- Documentation of all disclosures and measures taken.

*Exhibit 1179*

## **Training for Staff**

As officers received disclosures it became clear to all that they did not have sufficient knowledge on male sexual victimization and how to handle disclosure effectively. Typically the probation officer would spend a few hours with the offenders during the disclosure and then a few hours with the manager de-briefing and discussing next steps. Recurring questions emerged around how and when to effectively refer the offender to other services. Probation officers did not want to be perceived as “shutting down” the disclosure but at the same time realized that, at some point the offender needed to be referred to professional counselling services.

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The Area Manager contacted The Men's Project team who were already providing services to the Project Truth investigation and a training program was agreed upon. This provided three days of mandatory training to all probation officers on male sexual victimization and how to receive disclosures, as well as, when to refer the client to other specialized services. The Victim Services Branch agreed to cover the cost of the training that was delivered in October and November 2000.

*Exhibit 1179*

In 2002, the office grew from 8 to 12 probation officers and there was a need to provide training to the new employees. The Regional Office was contacted and approved as well as agreed to cover the cost of a two-day training program that was offered on May 5th and 6th 2003. All new staff attended and some staff that had attended in 2000 decided to attend as a refresher.

*Exhibit 1179*

In 2006, the office underwent a number of staffing changes and there was a need for additional training. Given the on-going Cornwall Public Inquiry and interest in this topic, the training was opened to other community agencies. Two day training sessions were held on June 15-16 and again on June 22-23. Both sessions were full to capacity (25 participants) and included probation officers from Cornwall and other offices in the area, staff from Cornwall Police, from OPP, Addiction Services, CAS, Family Counselling Centre, VWAP, VICARS and a representative from the Inquiry counselling services. The Ontario Correctional Services College assumed the costs of this training.

*Exhibit 1179*

Additional training was offered in the fall of 2007. As per the Progress Update filed as an exhibit, the Ministry has developed a new three-day training course entitled "Working with male Victims of Sexual Abuse." The curriculum, has been developed with the assistance of the Mens Project, Cornwall. A training manual will be finalized by mid-February of 2009, and training is schedule to be piloted in Cornwall

in April 2009, and will include the involvement of some Cornwall community partners. Training will be provided to all probation and parole officers and will become a requirement for Probation and Parole Officers basic training.

*Exhibit 3430*

## **Referrals to Services**

### **Police Services**

Although probation officers are regularly involved in the completion of social investigations in the context of Pre-Sentence or Pre-Parole reports, as well as in the completion of risk/need assessments, they do not have the training or legislative mandate to complete criminal investigations. This is why Ministry policy is clear that when probation officers become aware of criminal activity they have a duty to report that information to police for investigation.

*Exhibit 1179*

Between 1997 and June 2002, the OPP established a special investigation unit called Project Truth to look into the allegation of widespread sexual abuse. During that period all individuals who disclosed were told to report the abuse to the Project Truth team of investigators, unless they had already done so. Staff explained that the information that they provided might assist the OPP in their investigations or in other instances help to bring perpetrators to the criminal justice system.

*Exhibit 1179*

Alleged victims were also made aware of staff's duty to report, and that even if they did not wish to disclose to police, staff would inform the police of the information they received. Alleged victims were informed that a Project Truth investigator would likely contact them and were encouraged to cooperate.

*Exhibit 1179*

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There were also situations where the alleged victim was apprehensive regarding police contact and the probation officer offered his/her support during that phase of reporting, and accompanied the victim to the police station, and remained with them during the interview.

*Exhibit 1179*

Since the conclusion of the Project Truth investigation the procedure has changed and staff now reports to Cornwall Police Services for Cornwall residents, to the appropriate OPP detachment for residents of Glengarry Stormont-Dundas, and to the Akwesasne police for residents of Cornwall Island.

*Exhibit 1179*

The Ministry's review of all 32 disclosures to probation officers concluded that there were 20 direct referrals by probation officers to police services. There were 2 cases where it was noted that the victim had already disclosed to police or had been contacted directly by police. Of the remaining 10 cases, there were 3 cases where the victim was offered the option to contact police; there was 1 case where disclosure was aired through the media; there were 2 cases where the probation officers assumed that the victims were involved with police due to the fact they were already involved in litigation; and 4 cases where there is no evidence of any contact with police concerning the disclosures found in the case notes.

*Exhibit 1179*

### **Men's Project**

Early on in the Project Truth police investigation, it became apparent that there were a large number of potential victims and the Attorney General contracted with The Men's Project to provide services for victims.

*Exhibit 1179*

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In 1999, following disclosures of alleged abuse by two offenders against a former employee, The Men's Project was invited to make a presentation at one of the Cornwall office's staff meetings and they provided an overview of the services they offered. This was the beginning of discussion on training for our staff. All staff agreed that all male persons who disclosed sexual abuse would be provided with the information and referred to the Men's Project. Similarly, the clients were encouraged to contact The Men's Project for support and counselling services. Pamphlets about The Men's Project were and continue to be in the waiting room and are given to persons who disclose sexual abuse.

*Exhibit 1179*

The Cornwall office also had disclosure of sexual abuse from female victims who are regularly referred to the Victim Witness Assistance Program (VWAP) if charges are laid, Victims Crisis Assistance Referral Services (VICARS) and to sexual abuse support services available in the community.

*Exhibit 1179*

The Ministry's review of all disclosures to probation officers concluded that probation officers had initiated 22 referrals to The Men's Project. In most of the other cases the victim was already involved with the program, was residing outside the area or was involved in other counselling services. There were also three disclosures that were received prior to the establishment of The Men's Project in Cornwall.

*Exhibit 1179*

**Mental Health Services**

From the early disclosures in 1999, it became apparent that such disclosure was a very traumatic experience for offenders, in part because for some of them it was a return to "the scene of the crime" as they were now reporting to the same office where the alleged abuse took place. Many could not even enter the building and

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were seen off-site. This fact was highlighted to the regional office for Cornwall and was one of the contributing factors to the decision to relocate the Cornwall office, which was completed in December 2001.

*Exhibit 1179*

As they disclosed, these victims re-lived the abuse, and the aftermath of the disclosure was also painful and difficult as they dealt with flashbacks and the return of very painful memories. Many offenders have limited support systems to help them deal with the flood of emotions and memories that follow a disclosure, putting them at increased risks of depressive episodes or suicidal ideation. This was discussed with offenders who disclosed and they were encouraged to contact the Mental Health Crisis Team for support. Those who were already involved with counselling or professional treatment were encouraged to contact their counsellors.

*Exhibit 1179*

Staff also had discussions with the Ministry's in-house psychological contract providers and they agreed to provide any required crisis intervention services for offenders who disclosed. This was the basis for a business case to increase the funding level of the in-house psychological services contract. This request was approved and resulted in a 30% increase in the funding of this contract.

*Exhibit 1179*

More recently a number of clients have received counselling through the Cornwall Public Inquiry Counselling Services. Staff certainly supports and encourages this involvement and now includes these services in the array of services that are offered to offenders who disclose. A number of professional counsellors have also started private practices in the area and offer services to victims. Staff encourages clients to take advantage of this increased availability of services to select the service that best meets their needs and a counsellor that they are comfortable working with.

*Exhibit 1179*

### **Addictions Services**

Research has shown that a majority of clients have past or current substance abuse issues. The use or abuse of alcohol and drugs (both illicit and prescribed) has been, in many cases, their main coping mechanism for many years. Discussing and reliving such traumatic events as past sexual abuse obviously puts them at increased risk of relapse and the return to (or increase in the level of) substance abuse. Offenders are referred to and strongly encouraged to contact local addiction services for assistance during this difficult period or to increase the frequency of contacts with them. Many are involved in various self-help or twelve step programs, and they are encouraged to maintain or increase their involvement in these programs to avoid relapses.

*Exhibit 1179*

Staff generally assess the victim's support network and encourage the use of these supports (family, friends, religious groups) during the period following the disclosures. There are also cases when staff have suggested to the spouse to seek counselling to help them understand and support the victim during this process.

*Exhibit 1179*

The Ministry's review of all disclosures to probation officers in Cornwall concluded that probation officers have initiated a total of 21 referrals to various counselling services. This includes referrals to in-house psychological services, Addiction Services of Eastern Ontario, the Mental Health Crisis Team and the Cornwall Public Inquiry counselling services. In the other cases the victim was either already involved with other professionals, had already received counselling or had declined services offered.

*Exhibit 1179*

### **Support to Cornwall Probation Staff**

The disclosure of sexual abuse is a very difficult and emotionally charged episode for the probation officer as he/she supports the offender during the disclosure, and ensures that the person is stable and aware of available support services before they leave the office. For some of the more senior staff that had known and/or worked with Nelson Barque or Ken Seguin, such disclosure was especially difficult because it referred to a former colleague. For these employees the debriefing process was also required with the Area Manager. Our Ministry's Employee Assistance Program (EAP) services were, and continue to be made available to individual staff at this time

*Exhibit 1179*

With the start of the Public Inquiry and the increase in the number of disclosures in 2006, the Cornwall office held discussions with the Eastern Regional Office and corporate human resources staff as well as with the Ministry's EAP provider. The conclusion was to provide a dedicated team of counsellors available to the Cornwall probation office staff. This includes dedicated counsellors that are available 24-7, as well as the possibility of one-on-one counselling at a local facility. The Cornwall office also recently enacted a workplace restoration initiative to build and improve staff morale and team effectiveness during this difficult period.

*Exhibit 1179*

### **Ministry Mandate**

MCSCS is currently responsible for establishing, maintaining, operating and monitoring Ontario's adult correctional institutions and Probation and Parole Offices. The Ministry has jurisdiction over adult offenders under various forms of community supervision, and provides programs designed to assist in offender rehabilitation.

*Exhibit 1179*



Correctional Services, with its justice partners (Policing Services and the Courts), is accountable to the public for community safety and has increasingly addressed this requirement through the implementation of and improvement to a number of processes. Although the duties of Probation Officers have legislatively not changed much, the nature of contact and accountability requirements to offenders, victims, the public, police and courts have changed substantially. Mandatory contact with victims has been introduced in cases involving sexual and domestic violence offences. Information sharing with police has been solidified through protocols involving the supervision of high-risk offenders, and local protocols involving the disclosure of allegations of historical sexual abuse.

*Exhibit 1179*

The delivery of Correctional and Probation services in Ontario has evolved significantly over the past five decades to address community safety, the rehabilitative needs of offenders under supervision and to respond to the needs of victims of crime.

*Exhibit 1179*

## **Mens' Project Funding**

### **Funding and Extension of the Mens' Project to Cornwall for Male Abuse Trauma**

In 1998 Ms. Eley became the Director of Victim Services. Victim Services, which at that time came under the Ministry of Public Safety and Correctional Services (as it was known then), had a regional approach to services and the Ministry funded a number of programs throughout the province. The Kingston Regional Office started to get a number of calls from rape crisis and sexual assault centres about men calling in with claims of being victims of sexual abuse, particularly from the Cornwall area. The agencies were unable to offer counselling given that their clientele were women. The calls impressed the workers at these agencies as being

genuine claims of abuse. The workers were disturbed because they were not able to offer services to men and they were requesting assistance.

*Exhibit 1179*

Loretta Eley designated available money from the Victim Justice Fund for arrangements that were made with psychologists in Ottawa to develop a program for male sexual abuse trauma. The program was known as the Men's Project. This agency was advertised and the crisis centres were informed to refer these men to this program. The funding allowed the program to be extended to Cornwall and they would attend Cornwall on a periodic basis. Men were seen in Ottawa, Cornwall or dealt with by phone. Eventually the program was fully extended to Cornwall and Victims Services was transferred to the Ministry of the Attorney General, Victim Secretariat.

*Exhibit 1179*

## **August 2000 – The Paul Downing Administrative Review**

### **Paul Downing**

In August of 2000, Probation and Parole staff in Cornwall became aware of the allegations publicized in the Project Truth 2 website. Paul Downing was tasked with conducting an administrative review of the website and to report back to senior management on his findings.

Paul Downing testified on December 4 and 5, 2007. He was a Special Investigator to the Ministry of Community Safety and Correctional Services from 1997 to 2001. In that capacity he dealt with matters that required a prompt report to the administration for appropriate action. This could be a variety of different situations such as a leak of Young Offenders information to the public, a sudden death, or a significant allegation of an association between an employee and a Ministry client. His mandate was very similar to the Professional Standards Bureau. At the time he

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testified, Mr. Downing was on secondment to the Ministry of Youth Services as the superintendent of a Youth custodial facility.

*Volume 171, p.p. 20, 21*

In August of 2000, Downing reported directly to Gary Commeford who at the time was Director of the Operational Support and Standards Branch for the Ministry. Downing was an Inspector within s. 22 of the *Ministry of Correctional Services Act*. That designation gave him powers to seize, without a warrant, information and documents on Ministry property and the power to compel employees to provide a statement regarding any matter under investigation. Ministry employees who did not cooperate faced potential consequences ranging from disciplining up to and including dismissal. Downing performed about 12 – 14 such investigations per year at the time.

*Volume 171, p.p. 30,31, 33, 52*

Downing received a telephone call on August 8, 2000 from Regional Directors from the Eastern Region, Michael Stephenson and Deborah Newman. They called him about a number of allegations, which had been made on a web site about past and current employees. A few days later, on August 11, 2000, Downing was formally assigned the case as an administrative review. Downing's mandate was to establish connections or linkages with other law enforcement agencies that might have information about the matter. He understood that his mandate included protection of the interests of the Ministry, which included assessing any present risk to the clients. Downing further understood that senior administration within the Ministry had little or no knowledge of the events described in the Project Truth web site and needed a grounding to make decisions quickly. It was of concern whether any employees had engaged in wrongdoing and/or were putting Ministry clients at risk. Downing's purpose was to establish a start line, to find out what information was out there, what was valid, what had credibility and would it warrant further action after that.

*Volume 171, p.p. 43, 46 – 49; Volume 172, p.p. 57 – 58, 65*

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Downing knew that the web site in question had appeared and disappeared. He received a package from Lori Potter, the Eastern Deputy Regional Director for Community Services, which had material from the second web site. Downing contacted Pat Hall from the OPP, and Shelley Hallett from the Crown Attorney's office. He knew that Pat Hall was involved in the Project Truth investigation. He contacted Hallett in order to get her cooperation to obtain documents that might be relevant to employees or former employees named in the web site. His intention was to obtain as much information as possible from documents and the web site, in order to interview employees and former employees. Downing explained to Inspector Hall that he wanted to meet him to gather information about any employees who are under investigation or obtain documents about any employee under investigation or believed to be involved in criminal activity.

*Volume 171, p.p. 62, 65 – 68, 74; Volume 172, p. 12*

Downing planned at the first stage to interview people who were currently employed and to gather information to prepare a status report for senior administrators so that they could grasp what was actually alleged. His proposed second stage involved seeking more information from other individuals such as Perry Dunlop or Ron Leroux. The first stage was obtaining information, details, and assessing credibility – all of which was necessary for a possible determination.

*Volume 171, p.p. 78, 79*

Downing interviewed a number of individuals in order to prepare his administrative review, including Father Maloney, who denied any involvement, and Jos Van Diepen. Downing was allowed by Pat Hall to examine statements that Van Diepen had given to the O.P.P. about Ken Seguin several years before, but was not allowed to obtain a copy. He was allowed to take notes.

*Volume 171, p.p. 88 – 90*

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When Downing interviewed Van Diepen he concluded that Van Diepen had more information about Ken Seguin's association with offenders within the community that he was not sharing with Downing.

*Volume 172, p. 24*

Downing also interviewed Emile Robert, and concluded that it was reasonable to believe he had knowledge of Ken Seguin associating with Ministry clients outside of business, although there was no evidence that the associations were sexual. Downing observed Robert to be reluctant and not forthright.

*Volume 124, p. 25*

Downing interviewed various other individuals such as Bill Roy and Loretta Ely, and submitted a final written report dated September 9, 2000. That report was forwarded to the Legal Branch of the Ministry. Subsequently, he tasked a Ministry Inspector to interview two individuals, C-47 and C-48 at the direction of Denise Dwyer. Downing then consulted with Gary Commeford and the matter was closed on the basis that the legal branch of the Ministry was dealing with the matter. Downing did not have any dealings with the Cornwall probation and parole office other than getting assistance from the local area manager Claude Legault.

*Exhibit P-1082; Volume 171, p. 100; Volume 172, p.p. 81, 84, 90 - 91, 99*

### **Gary Commeford**

When Gary Commeford testified at the Inquiry on December 10, 2007, he was an Assistant Deputy Minister at the Ministry of Tourism, although he started with the Ministry of Solicitor General in 1977. In 2000 he was the Director of Management and Operational Support at the MCSCS, and Paul Downing's direct supervisor. Mr. Commeford himself reported to the Assistant Deputy Minister of Adult Institutional Services, John Rabeau.

*Volume 174, p.p. 3, 8, 10, 16.*

In August of 2000 Deborah Newman, then the Regional Director of the Eastern Region informed Mr. Commeford about an anonymous web-site which was making

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claims about Jos Van Diepen, Father Maloney, and he thought Emile Robert. Mr. Commeford assigned Paul Downing the task of doing the institutional review requested because he had experience in both investigations for institutions and probation services. Prior to this file Mr. Commeford had no knowledge of the problems at the Cornwall Probation and Parole office.

Volume 174 p.p. 14 – 15, 17, 18, 31

Gary Commeford received the Case Management Administrative Review from Downing dated September 9, 2000 but did not discuss Stage 2 outlined in the summary because Downing had not done all interviews mentioned in Stage 1. As a result of Mr. Commeford's request, Paul Downing then interviewed Bill Roy, Loretta Ely, Peter Sirrs, and got a copy of the Sirrs letter to Pierre Landry regarding Nelson Barque. Ultimately, Mr. Commeford received the October 10, 2000 report and learned that Nelson Barque was sexually involved with the probationers he supervised, and also that Peter Sirrs had provided a "letter of reference" for Nelson Barque to Pierre Landry of Equipe Psycho-Sociale.

*Exhibit 958B, Volume 174, p.p 26, 32, 36*

Once all the information was received there was a decision to bring Legal Services in to deal with the situation. There was no follow up by way of discipline with any current employees. The file was therefore closed for Mr. Commeford's purposes for the following reasons; the two perpetrators, Nelson Barque and Ken Seguin were now dead; there was a new area manager in Cornwall who was doing a very good job; and the local office had enacted a number of protocols about how to cope with victims of this type. At that point there were a number of civil litigation files active, and it seemed like that is where this was going. Lastly, and most importantly, present Ministry clients were not at risk.

*Volume 174 p.p, 37 – 38, 41,*

The Downing report was not an investigation, but an administrative review. Mr. Commeford testified that what he asked Paul Downing to do had been achieved.

*Volume 174 p.p. 42*

## **Project Truth Web Site**

MCSCS takes the position that Mr. Nadeau's website was irresponsible in fomenting falsities in the community, which caused harm to individuals who were named on the website in a defamatory manner. Any publication of information requires the publisher to take reasonable steps to ensure the accuracy and veracity of the published information. The danger is apparent in the Ron Leroux affidavit, and the impact it had on the ability of the Ministry and in particular the local probation and parole office to conduct its business. This Inquiry will recall evidence of probationers making comments to the effect that "you are all just a bunch of pedophiles". The impact on the Cornwall office and its staff was to operate under a cloud of suspicion, which was significant and entirely avoidable. Indeed, it has taken several years and a Public inquiry to shed light on the falsities espoused by Ron Leroux, Dick Nadeau, Gary Guzzo, Perry Dunlop and others.

Responsible reporting and publication of information that may move a community to examine itself or events has undeniable social utility. Irresponsible publication undermines that. The Ministry, irrespective of Dick Nadeau's website, had been moving toward understanding past events. This is evident from the local response to disclosures and the discussions with Regional management.

## VII. The Evolution of Corrections, Probation and Parole – A New Vision

As late as 1999/2000, the Ministry has undergone significant evolutionary and organizational change. These changes have dramatically altered the way that the ministry delivers service to its clients and enhanced public safety. It is important for the purposes of this submission to outline in the following pages a fulsome understanding of the historical evolution of many integral mechanisms in how the Ministry provides services in the province of Ontario. We begin with the dichotomy in adult versus youth offending.

### The Youth Ministry

Of particular significance to the Inquiry is a shift in paradigm regarding the supervision and care of young people in the Province of Ontario. All youth, 12-17 years of age, are now under one Ministry. *The Ministry of Children and Youth Services* has exclusive jurisdiction over youth in Ontario. Ms. Newman lead the integration of service for young people in order to enhance continuity of care and to have a developed focus and expertise on the needs of young people as distinct from adults. This jurisdiction covers youth and youth justice, those under the correctional supervision together with child welfare and mental health. This is reflective of a recognition that many youth cross over from one system to another. The dedicated focus on young people as distinct from adults is also reflected in the *Youth Criminal Justice Act*, which has reduced over-reliance on the use of incarceration, and emphasized a reduction in stigmatization of young people for less serious offences. For less serious offences, young people are often diverted out of the criminal justice system by the use of extra-judicial measures. This often involves restorative notions such as community services, writing exercises such as essays or apologies in order to promote acceptance of responsibility in order to avoid a criminal record. For



example, a minor offence, some of which brought victims under supervision in Cornwall back in the late 60s or 70s, are now completely diverted out of the system, such as theft under.

*Volume 191, p.p. 25-28*

Within the youth system now, there is a very strong professional and clinical team approach in providing care and supervision. A young person will see not only the youth worker (no longer termed probation officer) but a team of professionals including psychologists, psychiatrists, social workers, addictions counsellors, and others all tailored to the particular needs of the young person given their risk factors and needs. In addition, there is a Child Advocate office, and every young person coming into the system is advised of the existence of access to the Child Advocate. Young people today have a much greater sense of empowerment than they use to; they understand their rights; their entitlements and access to advocacy services. Access to justice is an achievement of the legal aid plan that now provides coverage for young people even when their families will not provide support or financial information to support an application for legal aid.

*Volume 191, p.p. 28-29*

### **Service Delivery Model and Core Programming**

As referred to *infra*, a major development in the evolution of the Ministry occurred in 1999/2000 when Ontario introduced an innovative community corrections service delivery model for offender assessment, supervision and programming. This provides Ontario with a more modern, efficient, effective and focused service for adult offenders on probation, parole and conditional sentence supervision. Anticipated outcomes include enhanced public safety, reduced re-offending, enhanced service/program integrity and the promotion of staff excellence.

Exhibit 1179

The model provides group intervention, core rehabilitative programming and a more concentrated focus on criminogenic factors - those factors known to have the highest correlation with re-offending. Probation officers function as case managers, providing services to offenders in one of four intervention/service streams: Basic Service, Rehabilitative Group Service, Individual Service and Intensive Supervision Service. The most intensive levels of supervision are concentrated on offenders assessed as the greatest risk to re-offend and/or to cause serious harm, while still monitoring lower risk offenders for compliance with special conditions such as community service. Case management decisions are assessment-based and balanced with public safety considerations. This is an interactive process that actively involves the client in the identification of the problem areas and the interventions required.

Exhibit 1179

The model incorporates core rehabilitative programs that are designed to address criminogenic factors determined to be most common within the offender population. Core rehabilitative programs include anger management, substance abuse and anti-criminal thinking, and two special offender groups - namely partner abuse and sex offenders. These programs are intended to produce offender change, impact positively on recidivism and hold offenders responsible for their behaviour, thus promoting community safety. As previously noted, an adjunctive benefit is the exposure to other professionals engaged in the service delivery system.

Exhibit 1179

## **OTIS**

Enhanced transparency is a bi-product of the Offender Tracking and Information System. This system was developed during the “integrated justice” project that attempted to link various justice players. The only aspect of the Integrated Justice Project that was successfully completed was OTIS. It was launched in 2000 and was fully operational by 2001. This system electronically stores all probation and

parole client supervision files. For example, all case notes are electronically entered and stored. A client's file is retrievable anywhere in the province by anyone with authority to access the file – Probation and Parole Officers, Area Managers, Regional Directors, etc. This allows for better case audits and supervision, ensuring maintenance of standards and overall transparency.

*Volume 188, p.p. 156-157*

## **Ministry Accountability Mechanisms**

### **Adult Community Corrections Probation Case Audit Process**

As has been outlined in the evidence of the Ministry witnesses, case audits have been and continue to be an integral part of the supervision of probation and parole officers. In addition, it should be noted that files could be reviewed throughout the year as opportunities arise, such as case consultations, incident reports, etc., and these reviews may also be counted toward the case management review requirement. The Progress Report, exhibits 3430 to 3432, highlights a new draft policy for files reviews where cause arises. This augments a previous gap and provides for greater management of staff.

#### **Exhibit 1179**

As the process dictates, once all required and related activities have been reviewed, the Area Manager or designate will meet with the PO to provide feedback focused on the PO's strengths and the opportunities for improvement, and will specify the nature and timing of corrective action (if required). A summary is prepared that includes: Findings in the areas of case management; enforcement, reports and administration; Areas of commendation/strengths or improvement needs and any corrective action, if required, with time frames for each case; and, Summary of findings focusing on the degree of accountability, compliance with standards, policies, procedures and performance - this area attempts to assess the qualitative findings of the review process.

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The Probation and Parole Officer has the opportunity to provide his/her written comments in the final Community Case Management Review Report, and receives a copy of the signed and dated report.

The Area Manager or designate will incorporate the findings of all the individual Case Management Reviews into a consolidated Area Community Case Management Review Report, for submission to their Regional Office. The Regional Director, or designate, reviews all area reports within their region annually and completes a consolidated Regional Community Case Management Review Report, for submission to the operational policy branch. A summary of the Reviews is forwarded to the Assistant Deputy Minister, Adult Community Corrections.

This ensures that important information is transmitted to senior management levels. This combined with the enhanced data retention system and policy to search the database for similar issues will promote a more cohesive web of supervision and retained knowledge.

Given the current case audit process, and the new policy for file reviews (see exhibit 3430 - 3432), the past failure for a review of Nelson Barque's files when he was under investigation, or when Ken Seguin committed suicide, will not happen again.

**History of The Audit Services Branch**

The Audit Services Branch, formed in 1987, provided the Deputy Minister of the Ministry of Correctional Services with independent assurance that control systems are in place to ensure Ministry objectives are achieved. Over the years, the audit investigations branch would have dealt primarily with correctional institutions but they would also have addressed issues in Probation and Parole Offices, as required. The Branch ensures that the Deputy Minister and the Audit Committee are provided with reliable information on the state of controls and risks across the organization;

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provides program areas with tools to assess the effectiveness of their control systems and the risks being accepted; and, provides timely, cost effective, value added audit services in accordance with professional standards.

Audit Services evolved during the period of 1987 onward with Operational Reviews of correctional institutions being conducted on a five-year cycle. Management practices, program delivery, financial management and security were included in the reviews. Security Reviews in institutions were conducted separately from Operational Reviews, commencing in 1992. Self-Audit Work Books, implemented in 1994 at Institutions were soon implemented in Probation and Parole Offices to ensure that Health and Safety issues were being addressed.

**Exhibit 1179**

As illustrated by the evidence, an operational audit, during certain time intervals in the history of the Cornwall Probation and Parole office, may have proved useful to uncover issues related to breaches of Ministry policy. This alone would not have uncovered the subterfuge related to the actions of Ken Seguin or Nelson Barque. However, operational audits remain an effective mechanism to inform management on compliance and operational issues. New policies drafted for reviews and consultation with senior management when suspicious issues arise, as outlined in the Ministry's Progress update, will fill in gaps necessary for effective supervision.

**Adult Community Corrections - Priority / Contentious Issues**

In 1994 "Priority Issues" were defined as: potentially contentious issues requiring priority resolution/action; critical incident/serious occurrence/ information relating to a client that may require a response to the public through the media or the legislature by the Ministry (Ministry of the Solicitor General and Correctional Services); a serious occurrence or confidential information relating to a client or Ministry employee that may require an investigation and intervention by Ministry; a serious occurrence or critical information relating to a client or Ministry employee

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that may require monitoring by the Ministry or other justice related agency. The definition was updated to include parolees charged with Level One offences. The Probation, Parole and Conditional Sentence Manual describes Level One offences as those offences considered to be sufficiently serious in nature that, to adequately assess the inmate's risk to society, additional information is required relating to the character, abilities and prospects of the inmate.

**Exhibit 1179**

The Policy in 1996 indicated that an Offender Incident Report or Employee/Other Information Report was to be prepared; the report was to be completed and forwarded in writing by facsimile to the Assistant Deputy Minister, Correctional Services Division, and the Manager, Information Management Unit at the same time that it was sent to the Regional Office.

In 2005, Priority Issues were defined as: potentially contentious issue requiring priority or urgent resolution; critical incident or serious occurrence relating to an offender or staff member that may require response to the public through the media or the Legislature by MCSCS – including a request for an inquest; serious occurrence concerning an offender or MCSCS employee that may require an investigation and/or intervention; serious occurrence concerning a client or MCSCS employee that may require monitoring by MCSCS or another justice related agency.

Procedures in place in July 2005 outlined that, when a Probation Officer becomes aware of a critical incident or the potential for a critical incident, the Probation Officer must immediately contact the Area Manager to discuss whether the incident is to be classified as a critical incident/contentious issue. If so classified, an Incident Report is completed. The Area Manager simultaneously forwards a copy of the incident report to the Information Management Unit (IMU) and the Regional Director. IMU and Regional Office are to be advised of any contacts from the media regarding the issue that may result in media coverage.

This policy is now augmented by new draft policies and the directive as outlined in the Progress Report. For example, the development of the new information management, system will entail proper retention and retrieval of issues and events of concern that will assist with collating relevant information to inform whether further steps are necessary including an investigation. To put into real terms, had the Travis Varley incident occurred in 2009, given the new draft policies, the matter would result in an incident report being filed in the database, the data base being searched for similar incidents, and immediate consultation with senior management, regional level initially, about additional steps that could include an investigation.

### **Conflict of Interest Policy**

The Provincial Government of 1984 defined “Conflict of Interest” as a conflict between a public servant’s personal interest and his/her responsibility as a public servant, including actual or perceived conflicts and those that have the potential to be actual or perceived. It may exist whether or not a pecuniary advantage has been or may have been conferred on the public servant. This direction was under the *Public Service Act*, Policy: Conditions of Employment.

*Exhibit 1179*

In 1986, a Correctional Services’ Directive reminded employees of the *Public Service Act* requirement and included employees’ involvement/volunteering with agencies that held contracts with the Ministry.

*Exhibit 1179*

A 1989 policy directive stated that it is the responsibility of every employee in the Ministry to ensure that any relationship of a personal nature with an offender, ex-offender and the family and friends of offenders and ex-offenders must be reported in writing to the employee’s chief administrator. A relationship was described as any contact that could potentially affect the Ministry. The purpose of the policy was

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to ensure that employees would not be subjected to pressure or be compromised in a way as to jeopardize the security of Ministry facilities, the care, custody and control of offenders and the effective functioning of Ministry programs. The policy was updated in 1990 and stated that any Ministry employee who knowingly entered into, formed, or continued a relationship or connection of a personal or business nature with an offender/ex-offender or with someone known to be in a close relationship with an offender/ex-offenders which might be perceived as being or leading a conflict of interest or breach of security is required to discuss the situation with their immediate chief administrator. The Chief Administrator will advise the employee whether or not the policy is considered applicable to the situation.

*Exhibit 1179*

This was the operative policy in effect in 1989 when Ken Seguin reported that Gerald Renshaw would be renting a room in his house. The obligation at that time was for Mr. Seguin to simply report the matter. In 1990 the policy was amended so that the Chief Administrator would assess if the matter came within the bounds of a conflict of interest.

In 1998, the Conflict of Interest Policy was updated directing employees to complete a form and send to their Deputy Ministry in cases of possible conflicts of interest. The policy was also expanded to address nine general categories: outside activities; prohibited use of a position; confidential information; gifts, hospitality and other benefits; avoidance of preferential treatment including hiring; procurement; political activity; and taking improper advantage of past office.

*Exhibit 1179*

The current policy states that any Ministry employee who knowingly enters into, forms or continues a relationship or connection of a personal or business nature with an offender/ex-offender or with someone known to be in a close relationship with an offender/ex-offender may reasonably be perceived as being or leading to a



conflict of interest or a breach of security and is required to disclose the situation to their immediate chief administrator.

*Exhibit 1179*

When a person ceases to be considered an "ex-offender" depends on the circumstances of each case. Generally, former offenders have to distance themselves from the criminal justice system in terms of time and demonstrated responsible behaviour.

*Exhibit 1179*

## **Whistle-Blowing Legislation**

As noted in Deborah Newman's evidence, there is legislation protecting the identity of individuals who wish to report potential breaches of government policy without the risk of reprisal.

## **Adult Community Corrections - Complaints / Investigations and Mechanisms of Response**

The Internal Administrative Investigations policy was implemented in August 1998 to improve and streamline various investigative processes within Correctional Services; enable critical linkages between investigative bodies; and, ensure timely and accurate reports. A sign-off by the ADM was required for all internal administrative Level One investigations. Level One investigations involve significant and /or high profile contravention of Ministry policy, rules, and procedures by adult and young offenders and/or Corrections employees (e.g. sudden death; escapes; allegation of misconduct respecting both cost center administrators and/or senior managers). Level Two investigations involve allegations concerning contravention of Ministry policy; rules and procedures that do not fall within the parameters for Level One investigations. Audit Services Branch must conduct site visits annually to ensure that an action plan has been completed to prevent further contravention.

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The policy was revised in March 2002 to include that Level One Investigators appointed have primary responsibility for Ministry internal investigations of significant high-level contravention of Ministry policy, rules and procedures. Level Two Investigators will work under the direction of a Level One Investigator during the conduct of an investigation.

*Exhibit 1179*

The Office of the Ombudsman, Ontario, was established by the Ontario legislature in 1975 to investigate administrative decisions and acts of officials of the provincial government and its agencies. The Ombudsman's job is to investigate complaints about provincial government organizations. When something wrong is found, recommendations to resolve the problem can be made and if these are not acted upon, a report is sent to the Legislature.

*Exhibit 1179*

In January 1995, a notice was sent to all employees of Correctional Services introducing the Statement of Ethical Principles. As employees of Correctional Services, there is a responsibility to protect the public by providing custodial and community supervision and rehabilitative services to those referred by the judiciary and other legislative authorities. To meet this goal requires a commitment to ethical behaviour and a high calibre of professional conduct. The following principles are included in the Statement of Ethical Principles: perform duties with honesty and integrity in a diligent, competent and courteous manner; foster mutual respect; dignity and cooperation; maintain an environment that is fair, equitable and free of discrimination and harassment; display professional conduct in dealings with those currently or formerly under Ministry authority, their families and associates; respect civil, legal and human rights of those under our care and supervision. This policy is under revision as per the Ministry's Progress Update. The impetus is to provide a clearer and more comprehensive outline to all employees of their obligations concerning their interactions and Ministry employees and to continue to promote a holistic vision.

*Exhibit 1179*

**Adult Community Corrections - Allegations of Serious Criminal Activity:**

In 1992, Interim Guidelines Regarding Allegations of Criminal Activity were introduced to Correctional Services. Whenever it was alleged that any employee or Ministry client had been physically or sexually assaulted or it is suspected that an assault or that some other type of criminal activity had taken place, the Chief Administrator of the institution, area, or head office was to advise the local police force or Ontario Provincial Police Detachment, of the allegations and was to maintain a record of all such allegations, including details of the contact with the appropriate police force. Some discretion was still provided to managers and branch heads on when to contact police.

*Exhibit 1179*

The Policy that came into effect January 1996 stated that any Correctional Services Manager who became aware or had reasonable cause to believe that serious criminal activity or discrimination or harassment involving a Correctional Services client or employee, which is related to the conduct of Ministry business is to take appropriate action including advising the police concerning allegations of serious criminal activity, including sexual assault involving employees or clients as perpetrators or victims; informing the Independent Investigations Unit of all complaints or allegation of sexual impropriety committed by employees, including employees of agencies or companies with which the Ministry contracts for services, against clients or former clients.

*Exhibit 1179*

The IIU was recently disbanded pursuant to an OLRB order. External investigators now handle WDHP Complaints. In addition, the CISU maintains jurisdiction over complaints involving employee misconduct and sexual impropriety involving

ministry clients. The Ministry has also undertaken a review of relevant policies and has provided to the Inquiry a draft copy of the revised policy on “Allegations of Criminal Conduct and Sexual Impropriety by Staff Against Offenders”.

### **Complaints About Staff**

Ministry employees are stakeholders in the criminal justice system and must perform their duties with honesty and integrity and in respect of the civil, legal and human rights of those under the Ministry’s care and supervision.

#### *Exhibit 1179*

An employee who wishes to lodge a complaint against another staff member shall submit the complaint in writing to the Area Manager/Superintendent. Alternatively, an employee may contact the Regional Director and in criminal matters, the police.

#### *Exhibit 1179*

When an offender or member of the public wishes to make a complaint about a Ministry employee, the person shall be requested to submit the complaint to the Area Manager in writing. If the person does not wish to submit a written complaint, the employee receiving the complaint shall complete an Occurrence Report form providing details of the complaint.

#### *Exhibit 1179*

In each case, the Area Manager shall have the complaint investigated, prepare a written report of the investigation, take appropriate action and respond to the complaint in writing. If the complaint is of a serious or contentious nature, the Regional Director shall be consulted. The manager shall protect the confidentiality of all parties and witnesses to the complaint to the greatest degree possible.

#### *Exhibit 1179*

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During an investigation into a complaint about employee misconduct, the Area Manager may have to consider an interim change in the status of the employee who is the subject of the complaint.

*Exhibit 1179*

## **VIII. Recommendations of Deputy Minister Deborah Newman**

As the most senior witness to testify on behalf of the Ministry, Ms. Newman made several thoughtful recommendations to be considered by the Commissioner. In the Ministry's ongoing commitment to Institutional response all of these recommendations have been the subject of extensive review, and in many aspects implemented. The recommendations made by Deputy minister Newman during her testimony are as follows:

### **The first recommendation – “ Sharing of Information”**

“Just a preamble with respect to the first recommendation; the intent of this recommendation is to ensure that information is shared among justice partners and that any activity that we take does not interfere with any police investigation. So the first recommendation is that the Ministry consult with its justice partners, police and Crowns in developing a protocol with respect to the sharing of information regarding complaints or allegations of sexual impropriety or other employee misconduct against current and former Ministry employees, and that the protocol provide for an appropriate mechanism for liaison between the Ministry and the police to ensure that the Ministry response does not interfere with any police investigation”.

### **The second recommendation – “Serious Criminal Conduct and Sexual impropriety by Staff on Ministry Clients”**

*“The second recommendation is turning our attention to the potential that there are other victims in terms of other cases under supervision, and so it addresses serious criminal conduct and sexual impropriety by staff against offenders. And the recommendation is that a protocol be developed to address the completion of a file*

*review, including interviews. The protocol would address whether this review be conducted internally or whether a request would be made for the review to be conducted by or with the assistance of the police. So this is intended to get at the potential that there may exist other victims under supervision by a probation officer who is engaged in serious criminal conduct or sexual impropriety”.*

**The third recommendation – “Sudden departure of a probation officer”**

*“The third recommendation concerns the sudden departure of a probation officer. So in the event that a probation and parole officer leaves or dies under suspicious circumstances, it’s recommended that the area manager conduct a file review of that employee’s active caseload. In the event that any patterns are discovered that arouse suspicion of improper conduct toward clients, a formal internal Ministry investigation would be launched, including a review of historical files and interviews”.*

**The fourth recommendation – “Statement of Ethical Principles”**

*“The fourth recommendation concerns the statement of ethical principles. And the recommendation is that the code of conduct for probation and parole officers titled “Statement of Ethical Principles,” which was introduced in 1995 and which was recently reviewed and updated, continue to ensure that clear and comprehensive direction is given to all employees regarding conflict of interest, and that all dealings with those currently or formerly under the Correctional Services authority are fair, impartial and free from impropriety. This statement will be distributed in handbook format to all probation and parole employees with regular updates and refresher training provided as needed.”*

**The fifth recommendation – Critical Incident Information Management – Historical Corporate Memory”**

*“The fifth and final recommendation concerns the information management in relation to critical incidents; that a system be developed to ensure that information is collected systematically on critical incidents by cost centre and that information is easily retrievable and accessible to Ministry officials at the local and regional level.*

*What we’re trying to get at here is the gap in having historical corporate memory in relation to critical incidents involving employees and offenders.”*

*Volume 191, p.p. 35 - 38*

**The sixth recommendation – Male Sexual Abuse Victimization Training**

In addition to Deputy Minister Newman’s five recommendations, a sixth recommendation was adopted from Cornwall Probation and Parole Staff regarding training on male sexual abuse victimization.

*“...it should be mandatory for all probation officers to receive training for male sexual victimization...I think it should be part of ongoing training.”*

*“...it would be very important for everyone to get trained on how to deal with sexual abuse – male victims of sexual abuse.”*

**Work Completed – Implementation of Recommendations**

All of the recommendations discussed in this section can be found in Exhibits 3430 to 3432. Counsel for the Ministry respectfully suggest that the Ministry has taken considerable steps to implement thoughtful recommendations regarding significant matters heard at this Inquiry. We further suggest that these steps demonstrate the Ministry’s commitment to timely, forward-thinking and ongoing institutional response.



The Ministry submits its Progress Update in order to inform the Commissioner of these steps, and outline detailed drafts of policies and directives to better position the Inquiry to make its recommendations.

The actions are as follows.

## **First Recommendation**

### **Ministry Action**

- Ministry will meet with its justice partners to develop a protocol that allows for the sharing of information concerning complaints against current and former Ministry employees of allegations of sexual impropriety or other serious employee conduct.
- Protocol will ensure timely response and action to protect our clients and staff, while at the same time, ensuring that the Ministry response does not interfere with any police investigation.
- In protocol discussions, the Ministry will request that any complaints received from police or alleged victims against Ministry employees be relayed to the ministry to ensure timely action and response.
- Timelines:
  - January 31, 2009 – Working group to be established.
  - September/October, 2009 – Completion of protocol (subject to Commissioner's Report).
  - October/November, 2009 – Signed protocol in place in all offices.

## **Second Recommendation**

### **Ministry Action**

- As of January 14, 2009, the Ministry has revised its current policies and procedures to facilitate ministry reviews and/or police investigations.
  
- The revised policy will include the requirement and process to determine if there are other potential victims

## **Third Recommendation**

### **Ministry Action**

As of January 14, 2009, the Ministry has finalized its direction to area managers that clearly articulates their responsibilities, when a probation and parole officer leaves or dies under suspicious circumstances, to conduct a review of the client caseload and report its findings to senior ministry authorities and ministry investigators.

## **Fourth Recommendation**

### **Ministry Action**

- The Ministry has reviewed its Statement of Ethical Principles and its references have been updated to reflect current policies and legislation.
  
- While the Statement was assessed to be relevant, a number of recent reviews have indicated that the interpretation document would benefit from additional information.

- The additions will be made, consultations held and the materials, including the interpretation and reference documents issued in a booklet format on the intranet.
- The Statement of Ethical Principles will be distributed to all Correctional Services employees upon finalizing the interpretation document.
- The Statement of Ethical Principles, accompanied by interpretation and reference appendices, will be available on the Ministry's intranet site in electronic booklet format in the near future.
- Wall plaques will be posted in all Ministry sites and printed documents will be made available to staff without computer access.

## **Fifth Recommendation**

### **Ministry Action**

- The Ministry maintains a centralized database to track significant occurrences related to staff, clients and Ministry sites, which was not available at the time of the incidents in Cornwall.
- Where cost centres identify serious staff related issues, the Area Manager will request a search of the database to determine if there are similar fact issues on file. If so, the Regional Office will be informed and a determination made as to the appropriate action.
- As the current database is in need of replacement due to organizational demands and its structure, the Ministry is seeking to replace it with newer technology that will be able to provide enhanced cross referencing of incident reporting at corporate, regional and local cost centre levels.

- The cost of a new system is approximately \$ 1 million in one time funding and \$210 k in ongoing costs.
- Development (design and implementation) of the new technology would take approximately 15 months, once funding is approved.

Separate and apart from the Deputy Minister's recommendations, managers and staff of the Probation and Parole Services in Cornwall put the following proposals forward.

## **Recommendation Six**

### **Ministry Action**

- The Ministry identified the need for provincial training in the area of male sexual victimization.
- The Ministry has developed a new three-day awareness-training course, "Working with Male Victims of Sexual Abuse," for probation and parole staff to provide them with the tools necessary to effectively deal with disclosures.
- The curriculum has been developed with assistance from The Men's Project, Cornwall.
- The training manual will be finalized by mid-February, 2009 and training is scheduled to be piloted in Cornwall April 21 - 23, 2009 with the involvement of some Cornwall community partners.
- Training will be provided to all probation and parole officers and will become a requirement for Probation and Parole Officer basic training.

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The Ministry submits that the actions noted above are first steps in an ongoing process and in this regard looks forward to the Inquiry Report that will offer additional assistance.

## **IX. Conclusion**

The year 2009 stands in stark contrast to the history of abuse in the Cornwall community, spanning some five decades, that has affected so many people. The stigma associated with being a victim, and in particular a male victim of sexual abuse, is unfortunately still prevalent and continues to act as a barrier to those who suffer in silence. However, society, over the last several decades has made great strides in overcoming the stigma and stereotypes that stand in the way of progress.

Criminal law has evolved to ensure the voice of the victim is not only heard but is given its rightful place in the pursuit of justice. Society's understanding of sexual abuse, of those that commit such acts, and those that are vulnerable, has evolved. This, for example, is reflected in our current understanding of how relationships of power create vulnerability and the notion of persons in authority committing abuse has similarly evolved. Society now understands and accepts that abuse can happen in any corner of life, be it at home, school, Church, jail or at a probation office. This concept is no longer foreign to society.

We submit that the Ministry that hired Nelson Barque and Ken Seguin in the 1960s and 1970s, and continued to operate through the 80's and early 90's, is quite different from the modern Ministry of Community Safety and Correctional Services. MCSCS has demonstrated considerable change in how they view their role as a justice partner, evolving from enforcement focused to a highly integrated, evidence based, and client focused interventionist model that is inclusive of community based resources and professionals from many disciplines.

The evolving understanding of the distinction between adult and youth offending has resulted in development of the Youth Ministry bringing together child welfare, mental health and youth justice. Concomitant with the evolution of the delivery of

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services is the development and strengthening of supervision and accountability mechanisms combined with the hiring of a highly educated and skilled workforce. All this is to say; the Ministry of today is not the Ministry of yesterday.

Throughout this Inquiry the Ministry has been mindful of the public interest in its success and in that regard has been very candid in making acknowledgments about past mistakes and has sought to take responsibility for them. The Ministry has been working to change attitudes and increase knowledge about male victimization, and took the lead in designating funding for the Men's Project to deliver male sexual victimization counselling services in Cornwall. The Ministry expanded training to all local Probation and Parole Officers in order to dispel myths and educate its staff to empower clients who have been victims of abuse and violence to move forward with healing. The Ministry is also committed to expanding this staff training initiative province wide.

In order to protect all current and future clients, MCSCS has "rolled up their sleeves" in responding to the thoughtful and directed recommendations put forth by Deputy Minister Newman. With the assistance of this Inquiry, the Ministry has identified systemic gaps and has sought to fill those gaps with policies and directives that are responsive to the evidence. To this end, the Ministry has been fortunate in being able to provide this Inquiry with a Progress Update about the steps taken at implementing changes, and those to be taken in the future. The Ministry has chosen to take a functional approach in engaging with the Inquiry by subjecting these new policies and directives for scrutiny and further enhancement pending receipt of the Inquiry Report on July 31, 2009.

We conclude by emphasizing that front line staff members at the Cornwall Probation and Parole office have shown real and genuine commitment to the plight of Ministry clients who have disclosed victimization. Their role in receiving the disclosure, as well as providing appropriate, professional referrals and counselling shows a high level of care in what is a very difficult situation. By ensuring that

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clients are made aware of the availability of independent legal advice for the possibility of legal action against the Ministry, staff have demonstrated their commitment to transparency. Staff members have and continue to send this information to the appropriate police agency, which furthers this goal. This is but one reason why the people of Cornwall should have the highest level of confidence that the probation and parole services in their city are being delivered with professionalism, respect and care.

After the Commissioner has completed his report and the Inquiry has concluded, the probation and parole staff in Cornwall will continue to deliver this service to the same high degree as evidenced at this Inquiry in the testimony of many of the Cornwall Probation and Parole staff. They will still be in Cornwall re-building their reputation in the community one day at a time, all the while vigilant to ensure that Probation services in the future are delivered professionally and safely.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

This 19<sup>th</sup> Day of February 2009.

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Joseph Neuberger

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David Rose

On Behalf of the Ministry of Community Safety and Correctional Services.