

**CANADIAN  
HUMAN RIGHTS  
TRIBUNAL**



CANADA

**TRIBUNAL CANADIEN  
DES DROITS  
DE LA PERSONNE**

**BETWEEN/ENTRE:**

RICHARD WARMAN

**Complainant/Plaignante**

**and/et**

CANADIAN HUMAN RIGHTS COMMISSION

**Commission**

**and/et**

ALEXAN KULBASHIAN, JAMES SCOTT RICHARDSON,  
TRI-CITY SKINS.COM, CANADIAN ETHNIC CLEANSING TEAM and  
AFFORDABLESPACE.COM

**Respondent/Intimée**

**BEFORE/DEVANT:**

ATHANASIOS HADJIS

THE CHAIRPERSON/  
LE PRÉSIDENT

LE PRÉSIDENT

ROCH LEVAC

THE REGISTRAR/  
LE GREFFIER

LE GREFFIER

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CANADIAN HUMAN RIGHTS TRIBUNAL/TRIBUNAL CANADIEN  
DES DROITS DE LA PERSONNE

SITTING IN THE ARGUS ROOM, HOLIDAY INN OAKVILLE - CENTRE  
590 ARGUS ROAD, OAKVILLE, ONTARIO ON  
WEDNESDAY, SEPTEMBER 1, 2004, AT 09:30 A.M. LOCAL TIME

CASE FOR HEARING/DANS L'AFFAIRE

IN THE MATTER of a complaint filed by Richard Warman dated February 5, 2002 pursuant to section 13, subsection 1 of the Canadian Human Rights Act against Alexian Kulbashian, James Scott Richardson, Tri-CitySkins.com, Canadian Ethnic Cleansing Team and AffordableSpace.com. Complainant alleges that the respondents have engaged in a discriminatory practice on the grounds of religion, race and national and ethnic origin in the matter related to the usage of a telecommunication undertaking.

APPEARANCES/COMPARUTIONS

Monette Maillet	on behalf of the Canadian Human Rights Commission
Richard Warman	on his own behalf
Vahe Kulbashian	on behalf of Alexian Kulbashian
Alexian Kulbashian	on his own behalf
James Scott Richardson	on his own behalf

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Oakville, Ontario

--- Upon commencing on Wednesday, September 1, 2004  
at 9:30 a.m.

REGISTRY OFFICER: All rise.

THE CHAIRPERSON: Good morning.

MS MAILLET: Good morning.

REGISTRY OFFICER: Please be seated.

THE CHAIRPERSON: I see a note here  
that I had written down that I meant to bring up.

In our discussions yesterday about  
the investigator's report, I wanted to note that as far  
as I'm concerned it has not been produced yet.

I'll let you know that because of the  
confusion about what pages are missing and so on, I've  
chosen to consider it not produced for the time being,  
for the record, Mr. Levac.

So, because I understand that if we  
are going to be referring to it, we would have a  
complete copy submitted at some point, right?

REGISTRY OFFICER: That's right.

THE CHAIRPERSON: All right.

Are we prepared to continue with the  
cross-examination of Mr. Warman?

Yes, you have something to raise?

MR. ALEXAN KULBASHIAN: I do have an

issue to bring up before Mr. Warman gets on the stand.

There's an article - I understand you don't read the newspaper, it's not about that - it's just there's an article that's printed out --

THE CHAIRPERSON: I do occasionally.

MR. ALEXAN KULBASHIAN: I mean, as far as this case goes, sorry.

There's an article that was printed out -- that was written following the testimony on Monday and I would just like to include that into the record, not because of the content on the article, but because this article will go to assessing the credibility of any newspaper articles that were provided.

And since this article is about the court case on Monday and the majority of us -- like, I wasn't here, but the majority of you were present here, there is, I mean, very blatant --

THE CHAIRPERSON: Well, I don't want -- I think that, especially since that article likely pertains to what's going on in this hearing, I think it would confuse things to put it in at this time, although you could do it with your own evidence or through a witness.

Anyway, that's how you would produce

a document.

But I will tell you this much because I did mention this when we dealt with the articles that were entered into evidence on Monday and, that is, that by nature newspaper articles are -- their value is fairly limited.

We are all cognizant -- I mean I have personal knowledge from my own experience in the past that one thing is said this way and it's reported in an entirely different way by newspaper reports.

And I made that quite clear on the record when those newspaper articles were referred to from the black book.

But, the only reason -- I also indicated I thought they could go in, because there was an objection made by Mr. Kulbashian that day.

MR. VAHE KULBASHIAN: Yes.

THE CHAIRPERSON: And what I did point out is that, and I had some explanation from the Commission, that those old articles were brought in because they tended to refer to certain individuals.

It was more of an identification issue, if I understood correctly, from the Commission and the complainant, not the content themselves.

I mean, it wasn't that I was to take

what was written by the journalists specifically as true, it was more the same name kept coming up, was it James - not James Richardson - but it was another name I think, and an Alex Krause that kept getting referred to.

That's the purpose for which those documents were filed, if I understood correctly from the Commission and the complainant.

So, that's why those articles went in.

Your concern here, I understand it, because apparently the press has misrepresented what may have occurred here yesterday.

As far as I'm concerned, the only thing that occurred here yesterday is what I heard and not what the journalists said.

You're on the record on that point.

I mean, if you think you'd like to put them in, actually it may end up confusing things more.

Why would you want me to see a misrepresentation of the facts? Wouldn't you rather that I just hear the facts as I've heard them?

MR. ALEXAN KULBASHIAN: It's not necessarily regarding misrepresentation, it's just to I

guess mitigate -- like, you know, minimize the weight of any articles that were put because there is blatant misrepresentation of what Mr. Warman testified to on Monday on this article.

THE CHAIRPERSON: I see.

MR. ALEXAN KULBASHIAN: Just to minimize any weight it could possibly carry.

THE CHAIRPERSON: Well then, I think if you -- I won't rule right at this moment on that newspaper article.

MR. ALEXAN KULBASHIAN: I understand.

THE CHAIRPERSON: But the appropriate way to enter things into evidence is through a witness, and I don't know if you want to introduce it through Mr. Warman, I don't know if Mr. Warman is the proper person to introduce it.

Perhaps in your evidence, if you will be testifying - and that brings me to a second point that I'm going to get to in a moment - but through the course of your evidence, if there is any, you would produce that document.

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: Before you go down that road, I'm telling you that I know that information as reproduced by journalists may be inherently

unreliable, so -- and I'm mindful of that and I was mindful of that when those articles were put into evidence the first time and I was on the record about that, and your father will recall that.

It's just that there were so many and there was this link of the name always being the same, I think that's where it went to, if I recall. I believe that was why Mr. Warman put it in.

There wasn't an attempt by the Commission or the complainant, as far as I understood, to encourage me to believe everything that was being written by the journalists in those articles.

That was made clear.

MR. ALEXAN KULBASHIAN: Okay. In that case I'll just see how it goes and I'll hold on to this.

I'll see how it goes. I'll hold on to this for now.

THE CHAIRPERSON: Yeah, hold on to it. That's from the London newspaper?

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: I haven't read the London newspaper.

MR. ALEXAN KULBASHIAN: Thank you very much, Mr. Chair.

THE CHAIRPERSON: Now, but I saw some heads turning on that side.

There was an issue last week in a letter from Maître Maillet about whether Mr. Richardson's mother would be testifying; right, or what her will-say statement...

MS MAILLET: We just saw Kathleen Turner.

THE CHAIRPERSON: Microphone. Your microphone, I'm pointing to the microphone.

MS MAILLET: Oh, I'm sorry, I thought you were pointing to another witness I didn't know was here.

Yes. There was an issue in his disclosure about a witness and it didn't really give any indication as to the nature of that evidence, but...

THE CHAIRPERSON: Right. It just made me think of another point.

Will you yourselves be testifying?

MR. RICHARDSON: We haven't decided yet.

THE CHAIRPERSON: You have not decided. But you have to. See, this is the whole point of disclosure.

In disclosure there's an obligation on your part to inform the other side who your intended witnesses are. You have to make that decision in advance.

Now, if for some unforeseen reason a decision has to be modified, you know, I'll consider that, but there is a duty in the disclosure process to inform the other side who will be testifying, including yourselves, and what you would be saying, in general terms.

With respect to the parties, there's a certain latitude. The parties, respondents, typically testify about everything that's been said against them, so I don't think there's any hide-and-seek game to be played here. I mean, you would be addressing all issues.

But with other witnesses, there is certainly a greater duty on your part to be specific about what each witness would be testifying to.

We have that issue with the crown prosecutor already, which we will deal with at some point later, but I was wondering if you intended -- you or Mr. Richardson intended to testify.

Keep in mind, if you say that you intend to testify and then choose not to, unless

there's some specific prejudice that's brought to the other side that's brought to our attention, that's your prerogative as well.

If you'll recall the will-say statement that came from the Commission referred to two investigators, police investigators testifying and then they opted for one. So, you can do the same.

But we are at a late stage, but we are still five or seven weeks before the respondents' evidence, it looks right, is now certainly the case, so I don't see a prejudice issue.

I see Maître Maillet at the microphone. You could tell me right now.

You wouldn't be prejudiced by knowing right now that Mr. Richardson and Mr. Kulbashian intend to testify?

MS MAILLET: That's correct. And we were proceeding based on their comments in the telephone conferences on the fact that they would not be giving evidence, but...

THE CHAIRPERSON: They did say that, but I find it...

MS MAILLET: But, you know, if they decide ASAP that they're going to do that, we would appreciate knowing.

THE CHAIRPERSON: I'm wondering, maybe you thought that through the course of your questioning in the manner you've been making your questions you would make your points but, as I indicated to you, you don't argue with the witness and you don't try to introduce things.

Like, I noticed Mr. Richardson yesterday made a couple of questions when he was trying to make some points, and I pointed out to him that that's not proper cross-examination, that has to come through -- that has to come through your evidence.

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: Actually that was an objection he made I believe, it wasn't even cross-examination.

So, might I suggest - and I'll even go so far as saying suggest - that for the record you state that you and Mr. Richardson will be testifying, and if you choose not to, you choose not to, but I can't imagine how you can proceed with your file with -- go on, yes?

MR. VAHE KULBASHIAN: I filled out the paper the first day--

THE CHAIRPERSON: Oh yes.

MR. VAHE KULBASHIAN: --when I came.

THE CHAIRPERSON: Yes.

MR. VAHE KULBASHIAN: And wrote his name and my name.

THE CHAIRPERSON: Oh, you have.

MR. RICHARDSON: Mine too.

MR. VAHE KULBASHIAN: So, in case they would be testifying.

THE CHAIRPERSON: So, let's put it officially on the record then. Apparently I was not aware of this sheet. It's on my desk, but I wasn't aware of it.

There it is.

So, expect to call the following witnesses: Mr. Richardson, it says James Richardson and Kathleen Turner. Now, we've had a statement that Ms Turner would not be testifying yesterday, so it still remains James Richardson.

On the part of Mr. Warman, no other person than himself.

Well, actually no, not at all, because Mr. Warman's name appears under Monette Maillet's record of appearance.

We have Richard Warman, Terry Wilson and Dr. Francis Henry.

And finally, under Alexan Kulbashian

we have Peter Kierluk, Alexan Kulbashian and Vahe Kulbashian.

Now, my understanding is, would you be testifying as well, Mr. Kulbashian, Sr.?

MR. VAHE KULBASHIAN: Not at this moment.

THE CHAIRPERSON: I thought I heard you state the first day that you would not.

MR. VAHE KULBASHIAN: At this moment I would say definitely not.

THE CHAIRPERSON: Okay. But do you want to keep the name on here?

Yes.

MS MAILLET: Mr. Chair, I would object strenuously that he testify. He's been here--

THE CHAIRPERSON: That's true.

MS MAILLET: --through the whole time, he's not a respondent and, as a witness, I would object strenuously that he testify.

MR. VAHE KULBASHIAN: I understand.

THE CHAIRPERSON: That objection -- I would probably maintain that objection.

MR. VAHE KULBASHIAN: Sure.

THE CHAIRPERSON: So, that only leaves Mr. Kierluk and yourself, Mr. Alexan Kulbashian.

So, we have those on the record.  
Now, as I said, they are the parties.

I think we can pretty much conclude in advance what areas they would be testifying on, but are there any particulars that you would seek at this stage?

MRS. MAILLET: They did give some particulars in the letter of disclosure, so perhaps if they can review that and if that's going to change at all, if they could advise me before the end of the week, I would appreciate that.

THE CHAIRPERSON: And Mr. Warman?

MR. WARMAN: And also, if there are positive defences that are going to be offered before the Tribunal, you know, I think there's certainly an obligation to provide those to the complainant.

THE CHAIRPERSON: Yes, that's part of the letters of particulars. I think it goes along the same vein.

Okay. I don't know if you've grasped what they were talking about. Your letters of particulars stated your positions and now, considering that you would be testifying, what is being suggested by Maître Maillet is that you review those statements of particulars - the document that you filed as part of

your disclosure - look at it and see if it represents the nature of the evidence that you would be providing in your defence.

And if there are any specific positive defences that you are specifically raising that may be missing from that document, to declare them to us, I would ask you to do that by Friday, by the last day of the hearing.

So, review those documents and say specifically, my point will be this: It was not me, there's another person by this name, or whatever the specific defence is that you intend to rely on.

I say this hypothetically, I don't know any of this to be true, but I'm saying that as possible defences, whatever those defences are, say them, state them for the record and that this is what you will be testifying on.

MR. ALEXAN KULBASHIAN: I understand.

THE CHAIRPERSON: All right. That was part of your duty to disclose.

I'll give everyone some leeway here under the circumstances, but...

MR. ALEXAN KULBASHIAN: We had disclosed, basically we had --

THE CHAIRPERSON: They may be in the

letter of disclosure, you know, I haven't looked at it again from the last time.

MR. ALEXAN KULBASHIAN: The letter of particulars --

THE CHAIRPERSON: Please speak up.

MR. ALEXAN KULBASHIAN: The letter of particulars in the first few pages.

THE CHAIRPERSON: That's your positions. What Mr. Warman has said is that if there's anything else--

MR. ALEXAN KULBASHIAN: Okay.

THE CHAIRPERSON: --you have a duty to declare it from now, so that they know - well now, actually, while they're presenting their case they need to know this - but if you could do this by tomorrow, today's Wednesday, right - so I'm changing the time, by tomorrow I want you to review all that material and first thing tomorrow tell me if everything that's there stands, that there's nothing else to add, or if there's anything to add, tell me what it is on the record and that way the other side will be advised of what your position is, if there's any change they'll also know and I'll be prepared to consider any additional information.

Maybe Mr. Warman may want to testify

additionally, if that's the case.

MR. RICHARDSON: Mr. Chair, anything that's already been produced as evidence, if we plan on using any of that again--

THE CHAIRPERSON: Yes.

MR. RICHARDSON: --sorry, we don't have to re-submit that?

THE CHAIRPERSON: No, you don't.

MR. RICHARDSON: Okay.

THE CHAIRPERSON: As you go along you'll be just referring back to the old exhibit book, you'll say back in HR-1, tab 3, just refer to it that way.

So, are we ready to proceed then?

MR. ALEXAN KULBASHIAN: Yes, we are.

THE CHAIRPERSON: Mr. Warman.

Mr. Kulbashian, will you prefer, as I did yesterday with your father, to stay seated next to him?

MR. ALEXAN KULBASHIAN: Actually, at this point, I don't think we need to worry about that, it was just something he was telling me before I come up to question.

THE CHAIRPERSON: I am going to ask you, so as not to upset our court reporter, to speak

slowly, clearly, loud--

MR. ALEXAN KULBASHIAN: Okay, I will.

THE CHAIRPERSON: --into the  
microphone.

MR. ALEXAN KULBASHIAN: Okay, thank  
you.

RICHARD WARMAN, Resumed:

CROSS-EXAMINATION BY MR. ALEXAN KULBASHIAN (Cont'd):

MR. ALEXAN KULBASHIAN: Actually, the  
first thing I'm going to turn his attention to is tab  
52, page 13, this is in --

THE CHAIRPERSON: Tab 52 of HR-1?

MR. ALEXAN KULBASHIAN: Tab 52 of  
HR-1.

Just refreshing your memory on  
yesterday's testimony, where it says 01:16:24.

THE CHAIRPERSON: Where, on which  
page?

MR. ALEXAN KULBASHIAN: On 13, page  
13.

THE CHAIRPERSON: Yes, you said 13,  
sorry. Just a moment, just a moment.

Yes, I have it. Do you have it, Mr.  
Warman?

MR. WARMAN: Just getting there. I'm

sorry, 01...?

MR. ALEXAN KULBASHIAN: 01:16:24.

MR. WARMAN: Yes.

MR. ALEXAN KULBASHIAN: Okay.

Basically, do you think it's possible that when people log on to, I guess, a public forum - in this case, would you agree that IRC is, in essence, a public forum?

MR. WARMAN: Internet relay chat?

MR. ALEXAN KULBASHIAN: Yeah.

MR. WARMAN: Sure. Well, to the extent that they may be controlled by the person who's administering the chat.

So, the person who is administering the chat may allow them to enter or may not allow them and set the parameters for that.

MR. ALEXAN KULBASHIAN: I understand.

So, do you think it's possible that when people log on to a theme, so to speak, forum that they would vie for symbolic names, symbolic nicknames; for example, in a forum for dog lovers somebody would try to pick dog or Ralph or, like, just use symbolic names as their nicknames on the forum?

MR. WARMAN: It's possible.

MR. ALEXAN KULBASHIAN: Okay. So,

how can you -- then can you still say with great certainty that that Totenkopf that logged in was actually myself and not somebody else logged in under that name?

MR. WARMAN: My belief is that it is, in fact, you based on the similarity and the continuing use of the pseudonym Totenkopf.

MR. ALEXAN KULBASHIAN: That's right. But you did testify -- you did testify just now that you do believe that people can -- considering that Totenkopf, you would say, is a symbolic name for World War II era Germany, so would you still consider that there's no possible -- would you still say that there's no possibility that anybody in Ontario or the eastern Canada area would possibly log in with Totenkopf or pick that name?

MR. WARMAN: It's entirely possible, but I believe on a balance of probabilities that it was, in fact, you.

MR. ALEXAN KULBASHIAN: In that case, did you see any other chat logs where I was talking to anybody on IRC that would in any way, I guess, suggest that that Totenkopf is me actually?

MR. WARMAN: Off the top of my head, I can't remember. I would have to go through all the

IRC chats that are reproduced here.

MR. ALEXAN KULBASHIAN: Okay.

So, I'm just --

THE CHAIRPERSON: If there are -- for instance, if you have identified situations similar to that that you just asked in your question, you have a duty, as I said yesterday, to confront this witness with that contradiction - if I can use that term - in the document, so...

MR. ALEXAN KULBASHIAN: I just don't know how far to go with this.

THE CHAIRPERSON: No. Do you understand what I'm saying?

For instance, you just asked this witness the question: In these many pages is there an area where there is another -- an indication that there's another person using this alias, if I understood you correctly.

MR. ALEXAN KULBASHIAN: Right.

THE CHAIRPERSON: And he said, off the top his head, no.

If you have a spot where you've seen it, you have a duty to point it out to him.

MR. ALEXAN KULBASHIAN: Actually there isn't a spot that I seen it.

THE CHAIRPERSON: Well, I'm not saying that there is or there isn't, I'm just advising you that this is how the confrontation portion of cross-examination works that I referred to earlier.

MR. ALEXAN KULBASHIAN: Okay. All right.

So, so far yesterday you didn't point out any parts, or I didn't notice any parts where Totenkopf was actually referenced -- where you referenced Totenkopf or where you could even see Totenkopf chatting.

So, how can you still come with any certainty and say that this most definitely or most likely is me?

MR. WARMAN: Because I believe that to be true on the balance of probabilities, based on your continuing use of the pseudonym Totenkopf and the tattoos you had at one time or may continue to wear.

MR. ALEXAN KULBASHIAN: So, it's still possible that it could be somebody else, though?

MR. WARMAN: It's possible. Anything's possible.

MR. ALEXAN KULBASHIAN: Just getting back quickly to Monday.

So, Totenkopf is -- you testified

that it's -- it comes from World War II era Germany; right, the Totenkopf -- I guess, not the concept - I'm not sure exactly what word to use for it - but I guess the name would be taken from World War II era Germany.

What was Totenkopf, was it a person, a division or a group of people?

MR. WARMAN: My understanding is that Totenkopf relates to and refers to the insignia that were worn by the SS crew in the Nazi era, which would be the skull and crossbones death-head, thus the name Totenkopf.

MR. ALEXAN KULBASHIAN: So, it's not a specific person, it's more like an identification of a group from World War II era Germany, I mean?

MR. WARMAN: To my knowledge it refers to the insignia used by the SS.

MR. ALEXAN KULBASHIAN: All right. Thank you very much on that.

Okay. You did testify yesterday that the heading in the IRC chats, where the title is being changed, I'm not sure if I quite remember.

THE CHAIRPERSON: Could you point out what you mean by that?

MR. ALEXAN KULBASHIAN: In this case let's just go to one example, section 52, page 1 -- tab

52, page 1 in HR-1.

THE CHAIRPERSON: Tab 52, HR-1 on page 1, okay.

MR. ALEXAN KULBASHIAN: Okay. So for 14:20:34, which is the second line.

MR. WARMAN: Sorry, 35.

MR. ALEXAN KULBASHIAN: Oh, yeah. Sorry about that.

MR. WARMAN: I just wanted to make sure I wasn't missing something.

MR. ALEXAN KULBASHIAN: I was just reading the top line there for a second.

So, 14:20:35 where -- you didn't testify at this point, but I'm just referring to this concept in the IRC log where the topic is "xxx", it could be anything there.

You testified that the topic either links the chat itself directly to a group or sets the theme of what will be talked about in a chat; is that right?

MR. WARMAN: That's my, you know, understanding.

MR. ALEXAN KULBASHIAN: Okay. Do you know -- have you ever been on an IRC before?

MR. WARMAN: Yes, I have.

MR. ALEXAN KULBASHIAN: Okay. Do you know what the most common use for a topic is?

MR. WARMAN: I'm sorry. I would think that it's to indicate to potential people who would participate whether as a designator of interest.

MR. ALEXAN KULBASHIAN: So, it's not possible that that's actually memos that they post up there, like links or information for people who do log on to chat to read?

MR. WARMAN: Could be.

MR. ALEXAN KULBASHIAN: Okay.

Do you consider yourself an expert in IRC or computer -- internet-related, I guess the internet field in general?

MR. WARMAN: I consider that I've learned quite a bit over the past five years, sort of extensive work in it.

I don't consider myself -- well, I'm not a computer -- I do not have a computer science degree or computer engineering degree.

MR. ALEXAN KULBASHIAN: All right, thank you.

Did you know the contacting address for the two sites that you mentioned, I guess, the Vinland Voice and Tri-City, as well as the contacting

address for affordablespace.com?

THE CHAIRPERSON: For  
affordablespace.com?

MR. ALEXAN KULBASHIAN: Yeah.

MR. WARMAN: As they were represented  
on the registration information form.

MR. ALEXAN KULBASHIAN: Okay.

Just getting back actually to  
something that's more general about these IRC logs.

You were given the CD by the CHRC; am  
I correct?

MR. WARMAN: Of the hard drive, yes.

MR. ALEXAN KULBASHIAN: Going back to  
your testimony yesterday.

Do you know where they got the CD  
from?

MR. WARMAN: My understanding is that  
it was obtained from the London Police Hate Crimes  
Unit.

MR. ALEXAN KULBASHIAN: So, can you  
say with, I guess, full confidence that that CD did  
not -- that the chain of evidence was never broken, or  
that the integrity of the data on the CD is, I guess,  
authentic?

MR. WARMAN: You asked me the same

question yesterday and I will reply again, that I do not have any reason to doubt that it is authentic.

MR. ALEXAN KULBASHIAN: But can you confirm that it is authentic yourself?

MR. WARMAN: I have no reason to believe that it's otherwise.

I can't, I was not in possession of the CD from start to finish.

THE CHAIRPERSON: You have his answer on that point.

MR. ALEXAN KULBASHIAN: Okay. 'cause I got my thoughts more in order from yesterday and I didn't want to, like, you know, get myself more confused by skipping things.

THE CHAIRPERSON: Fine.

MR. ALEXAN KULBASHIAN: Are there any articles on the Tri-City site by either Alex Krause or Totenkopf or WPCANADA?

THE CHAIRPERSON: Can you repeat the question.

MR. ALEXAN KULBASHIAN: Sorry. Are there any articles on the Tri-City site by either Alex Krause, Totenkopf or WPCANADA?

MR. WARMAN: I would have to go back through all the evidence that I've already entered into

evidence, but if there was, then it would have been indicated at the time.

MR. ALEXAN KULBASHIAN: And which hasn't been indicated to date; am I correct?

MR. WARMAN: Again, I would have to go back through all the articles or other material that was downloaded from the site.

MR. ALEXAN KULBASHIAN: Do you understand the concept of domain or hosting service, reselling?

MR. WARMAN: I explained to you yesterday that I probably couldn't give you an excellent description of what it means.

MR. ALEXAN KULBASHIAN: Can you give me any kind of description of what it is?

MR. WARMAN: I wouldn't hazard because of the risk that it might be erroneous.

MR. ALEXAN KULBASHIAN: All right.

Okay. In that case I'll pass on to James to see if he has anything else to say.

THE CHAIRPERSON: But you really must confirm to me that you're finished with the questioning of Mr. Warman.

MR. ALEXAN KULBASHIAN: I am finished with the questioning of Mr. Warman.

THE CHAIRPERSON: Okay.

CROSS-EXAMINATION BY MR. RICHARDSON:

MR. RICHARDSON: Good morning, Mr. Chair, Mr. Warman.

THE CHAIRPERSON: Good morning.

MR. WARMAN: Good morning.

MR. RICHARDSON: You're going to have to bear with me, I'm ill today. I have lung disease and I've been battling over the last few years and I'm just...

THE CHAIRPERSON: Well, I'll accommodate you if you need a break or something.

MR. RICHARDSON: I'm not well today. I'm just going to be a little brief, I don't have a lot of questions.

Excuse my ignorance, I've never been in trouble with the law, I've never been in a court room situation, so I don't know the legal terms and the mumbo-jumbo that everybody else is speaking.

Okay. I'd just like to touch up on something that was stated on Monday that I wasn't here for.

Mr. Warman, you stated on Monday that you're right now in fear for your life; is that correct?

MR. WARMAN: No, that's incorrect.

MR. RICHARDSON: That's incorrect.

I'm not going to rely on newspaper articles, we've already been over this.

THE CHAIRPERSON: Well, I mean, there was some discussion about the witness' -- you did mention that at the time you received some threats; was it?

MR. WARMAN: That the material posted on the websites of the Vinland Voice, the material disclosing my personal home address and the surrounding content around that made me extremely concerned for my personal safety, yes.

But am I currently afraid for my life, no.

MR. RICHARDSON: All right.

MR. WARMAN: Sorry. And the other part was that there was a subsequent aspect to that when the Vinland Voice spoke about the database that was being established to monitor personal details of anti-racist perceived enemies of the neo-Nazi movement.

THE CHAIRPERSON: That was his evidence.

MR. RICHARDSON: Yeah. I'm not too sure about that. When that article came out, I was

still in jail, so I mean, I actually had nothing to do with that obviously.

THE CHAIRPERSON: See, don't -- don't -- you'll testify when your opportunity comes. Don't correct as you see his evidence at this point.

MR. RICHARDSON: Okay.

THE CHAIRPERSON: Just ask questions of this individual and you will have your opportunity when you testify to make all your points.

MR. RICHARDSON: My next question is relative to the first one.

Have you received, other than that last one from the Vinland Voice--

THE CHAIRPERSON: Please, slower.

MR. RICHARDSON: --have you received any death threats, either verbal, through e-mail, in face or anything by anybody that you would consider in the movement since that time of the initial threat?

MR. WARMAN: Not, you know, that I would consider to be within the neo-Nazi movement, per se.

MR. RICHARDSON: Okay, thank you.

Can you tell me what WP --

MR. WARMAN: Although I would emphasize that once was quite enough.

MR. RICHARDSON: Yeah, yeah, that's fine.

Can you tell me what WPC stands for?

MR. WARMAN: Sorry, WP...?

MR. RICHARDSON: C, the acronym WPC?

MR. WARMAN: My understanding is that it stands for White Power Canada.

MR. RICHARDSON: Correct, right.

And who is White Power Canada, who do you understand?

MR. WARMAN: My belief is that it is, in fact, yourself.

MR. RICHARDSON: Okay. Do you know what -- we can use -- back to the same tab 52, page 1, we'll start at 14:20:36, do you see -- I'll wait 'til everybody gets there.

THE CHAIRPERSON: Just a second. I need to get to it in mine.

What did you refer to, sorry?

MR. RICHARDSON: Sorry. Tab 52, page 1.

THE CHAIRPERSON: Yes, okay.

MR. RICHARDSON: And the time is 14:20:36.

THE CHAIRPERSON: 14:20:36, yes,

okay.

MR. RICHARDSON: Okay. Can you tell me in your opinion what the #wpcanada means?

MR. WARMAN: That that is, in fact, the name of the log, or at least that is the other context in which I've seen it identified on the CD that was provided to me by the Commission.

MR. ALEXAN KULBASHIAN: You're incorrect and I'll just state what actually it is.

THE CHAIRPERSON: No, see, no, you can't do that.

If you want to correct his evidence, you will testify when your turn comes, and that will be actually in October.

If you want to put a question to him in the form -- listen to me, let me explain it to you.

If you want to put something to the individual to perhaps contradict him later on in your evidence you can say: If I put it to you that WPCanada means Word Perfect Canada, I used that reference the other day.

MR. RICHARDSON: Okay, I understand where you're going with this.

THE CHAIRPERSON: And if he says -- he can reply, he'll say, no, there's no way this means

Word Perfect Canada, this means something else, it cannot be Word Perfect, or he'll agree with you.

You put the question out to him, you get his answer and then if you have evidence later on that it is indeed Word Perfect Canada that that stands for, you will make that evidence on your own later on.

MR. RICHARDSON: Okay.

THE CHAIRPERSON: But don't try to testify at this stage.

MR. RICHARDSON: Okay, thank you.

THE CHAIRPERSON: But don't say, "you're wrong and here's why".

It doesn't work that way. So, with that information --

MR. RICHARDSON: In your opinion, would you believe that the actual symbol #wpcanada is actually the room that is hosting where the people that are in?

MR. WARMAN: I don't believe that it's really relevant because the 'WPCANADA' that is below is what my evidence and testimony was based on.

MR. RICHARDSON: Yes, I understand that, but where I'm trying to go with this, all the servers have the room, the room where people go and chat in, you know what I mean.

In this particular case it's #whitepowercanada or wpcanada, that is the room where everybody is in, that is the room that you're alleging that Alex and I were speaking in.

I wanted to clarify that for a later question.

Would you agree to that, that #wpcanada is a room and not a person or anything else?

You've been on IRC yourself, you testified to that when Alex was questioning you, so you know when you've gone in a room what the room says.

MR. WARMAN: Yes.

THE CHAIRPERSON: Can you tell me what the room is, what a room is?

You're not testifying, he is.

What is a room in a chat room? I guess it means the virtual space in which the chatting is going on?

MR. WARMAN: It's a sort of forum, if you will, like the specific area dedicated to a certain, you know, topic that's been designated by the person who's created that particular chat space.

THE CHAIRPERSON: So, you earlier referred to the word forum, the two words are akin to each other; is that what you were saying?

MR. WARMAN: That's my understanding.

THE CHAIRPERSON: So, what's your answer to his question?

MR. WARMAN: So, well, considering that it was indicated as the -- considering that that specific #wpcanada, which I would differentiate from WPCANADA below, was designated as the title of the log, you know, it's beyond my personal knowledge, but it's possible.

THE CHAIRPERSON: So, you're making a distinction between @WPCANADA, the @ symbol WPCANADA--

MR. RICHARDSON: And the #wpcanada.

THE CHAIRPERSON: --and the #wpcanada; is that what you're differentiating?

MR. WARMAN: No, I'm sorry. The distinction I'm making is at line 14:20:36--

THE CHAIRPERSON: Yes.

MR. WARMAN: --"Info #wpcanada".

THE CHAIRPERSON: Yes.

MR. WARMAN: And then below that starting at 15:15:18 where WPCANADA and also a bit above that at 14:20:36 WPCANADA has joined #wpcanada.

THE CHAIRPERSON: Yes.

MR. WARMAN: So, I don't believe that the #wpcanada indicates the same thing as the WPCANADA.

The WPCANADA I believe to be an individual who is --

THE CHAIRPERSON: Oh, I see, the one that's in capital letters?

MR. WARMAN: Yes. Yes, exactly.

THE CHAIRPERSON: Okay.

MR. WARMAN: So, I believe that to be an individual participating in the chat.

THE CHAIRPERSON: All right.

So, let me clarify. So, whenever we see WPCANADA in capitalized letters it is the individual who is participating in the chat and writing down the information; is that your evidence?

MR. WARMAN: Yes, that's my belief, and also below when it goes to the @WPCANADA, at least when there's text beside it, that appears to be dialogue.

It's my belief that that is, in fact, an individual participating in the chat and engaging in that who has typed in that dialogue.

THE CHAIRPERSON: Whereas when you see number sign, the pound sign--

MR. WARMAN: And the small letters wpcanada, I believe that that is distinct and different.

THE CHAIRPERSON: And that represents what, in your opinion?

MR. WARMAN: Mr. Richardson has suggested to me that it's possible that that indicates the title of the forum or section of the chat that's taking place, and I said that that's possible.

THE CHAIRPERSON: Mr. Richardson.

MR. RICHARDSON: Thank you.

You stated earlier that you have gone on IRC servers.

THE CHAIRPERSON: Sorry, louder, please.

MR. RICHARDSON: Sorry. You stated earlier that you've been on IRC rooms or servers and you've gone in the room.

On the same page at 14:20:35.

THE CHAIRPERSON: On the same page. So, page 1 of tab 52 still?

MR. RICHARDSON: Yes, sir.

THE CHAIRPERSON: At what hour?

MR. RICHARDSON: 14:20:35.

THE CHAIRPERSON: Okay.

MR. RICHARDSON: Would be the second line down.

THE CHAIRPERSON: Okay.

MR. RICHARDSON: We could actually use both of them for my example.

THE CHAIRPERSON: Okay. Go ahead, ask your question.

MR. RICHARDSON: Okay. Do you know what "X" is or what it stands for?

THE CHAIRPERSON: "X"?

MR. RICHARDSON: "X".

THE CHAIRPERSON: The letter "X"?

MR. RICHARDSON: Yes, sir.

THE CHAIRPERSON: As, for instance, it says:

"Set by X on Mon Sep 03"

Is that right?

MR. RICHARDSON: Yes, and:

"X changes topic to

'WWW.wpsect.com'"

THE CHAIRPERSON: Okay.

MR. WARMAN: "X" is normally a variable, but within this context, no, I couldn't say precisely what it is.

MR. RICHARDSON: Okay. Do you see in the line underneath, the second 14:20:35:

"X changes topic to...",

And then:

"'WWW.wpcept...'"

Or the Vinland Voice.

THE CHAIRPERSON: Slow, slow, slow,  
slow.

MR. RICHARDSON: It's throughout --

THE CHAIRPERSON:

"X changes topic to

'WWW.wpcept.com'?"

MR. RICHARDSON: Yes.

MR. WARMAN: Yes, I do see that line.

MR. RICHARDSON: I'm trying to make  
sure that I'm not harassing him.

THE CHAIRPERSON: It's not harassing,  
it's just that when you speak that fast I can't  
understand you, the court reporter can't note it and it  
defeats the purpose.

So, I'll try to slow you down when I  
don't understand, when I can't hear you.

MR. RICHARDSON: Do you believe it is  
possible that "X" is a command style bot, may I use,  
that controls the room #wpcanada and as it clearly  
states that it is "X" that changes topic to wpcept or  
vinlandvoice and not a person, not Totenkopf changes  
topic or not #WPCANADA changes topic?

MR. WARMAN: I'm sorry, that's

outside my knowledge.

MR. RICHARDSON: But you did state in fact earlier that you have been visiting the IRC servers over the last five years.

Did you not learn anything in the five years that you were visiting these sites?

MR. WARMAN: No, in fact, Mr. Kulbashian asked me if I had used them and if I had visited them and I replied yes.

MR. RICHARDSON: Bear with me.

Actually, before I get off that, just right underneath -- so we've seen at 14:20:35 "X" is changing the topic of the webpages.

We see right under that at 14:20:35 again, I guess you could say:

"X sets mode: +o",

which is ops,

"WPCANADA".

The point I'm getting at is, would it be fair to say that "X" has changed the topic of the room before I even got into the room, so that -- do you understand where I'm going with this?

That the topic was being changed before WPCANADA got into the room.

So, yesterday you stated that

WPCANADA was putting up these topics for people to discuss, but these topics are already being put up even before WPCANADA went into the room.

Is it fair to say that this topic is being changed before WPCANADA came into the room, clearly on the logs in front of us?

MR. WARMAN: In between the 14:20:35 and 14:20:36, that is what appears in this case.

MR. RICHARDSON: Anywhere in the logs that you submitted, do you see "X" chatting anywhere in the logs?

MR. WARMAN: I'm sorry, I'd have to go through the entire logs.

MR. RICHARDSON: In your recollection, do you recall any time seeing "X" chatting?

MR. WARMAN: Not off the top of my head.

MR. RICHARDSON: Okay. I would understand that, being someone who's strongly against the movement and their ways and, you know, that's fine.

You do a lot of research against the white supremacist movement, you know, for your own benefit and whatnot.

Are you aware that the term WPC and

WPCANADA are still being used to this day?

MR. WARMAN: In what context?

MR. RICHARDSON: In any context, signing a guestbook, leaving messages, going on IRC servers.

MR. WARMAN: It's possible. Not that I've seen personally.

MR. RICHARDSON: In your opinion, have you seen or related anything to me that has been on line since my arrest date in 2001?

Would it be safe to say, in your opinion, that I have pretty much stayed -- had my nose clean since the day of my arrest?

Do you have any proof that I have done anything else since that date?

MR. WARMAN: Without going through everything that's been entered and cross comparing the dates, I have no knowledge of anything like that off the top of my head.

MR. RICHARDSON: Okay.

MR. WARMAN: But, of course, that's saying that -- not to contradict the evidence...

MR. RICHARDSON: You're not saying that I am, but you're saying to your knowledge you don't think so?

MR. WARMAN: Yes. And, again, not to contradict, without going through all the evidence that I've already submitted, not to contradict anything that's already been entered into evidence.

MR. RICHARDSON: That is fine, that is fine.

THE CHAIRPERSON: So, the period in question, the evidence that we have, the documents that we have I think ended around the time that you filed your complaint; was it February, 2002?

MR. WARMAN: Yes.

THE CHAIRPERSON: And the question that's been asked is from -- as of what date?

MR. RICHARDSON: We'll leave it as February, '02.

THE CHAIRPERSON: So, after February, '02, to your knowledge, you have not witnessed any activity similar to what you described prior to that date that can be attributed to Mr. Richardson?

Is that the answer -- is that the question to which you answered yes?

MR. WARMAN: Again, without going back through and cross comparing dates on any of the evidence that I've already entered, yes.

In more recent history, I'm not aware

of Mr. Richardson engaging in that kind of activity.

THE CHAIRPERSON: You don't want to necessarily be particular to February, 2002; is that what you're saying?

Let's say in 2003, to your knowledge, was there any?

MR. WARMAN: Not to my personal knowledge.

THE CHAIRPERSON: No, to your knowledge?

MR. WARMAN: Yes.

THE CHAIRPERSON: Your personal knowledge?

MR. WARMAN: Yes.

MR. RICHARDSON: Thank you.

Now, you stated earlier, I asked you what WPC stands for, you stated White Power Canada and you were correct on that.

Do you believe it -- is it possible that WPC, the acronym that stands for White Power Canada, is actually a slogan and not a person, something like 88 would be used to greet people which you stated yesterday in court 88 was, you know, a racial greeting.

Is it possible at all that WPC could

be the same thing for Canadians? Not WPCANADA, I'm just talking right now WPC.

MR. WARMAN: Only in one instance in the information -- in the evidence that I've submitted do I believe that to be the case.

MR. RICHARDSON: Which instance is that?

MR. WARMAN: It's one of the articles where the - I can't remember off the top of my head - but there's one section where there's spelled out 'White', new word 'Power', new word 'Canada' and an exclamation point.

That's the only instance where I believe, to the best of my recollection, that that's separate from yourself using the pseudonym WPCANADA.

MR. RICHARDSON: For myself, allegedly for myself.

MR. WARMAN: To the best of my belief.

MR. RICHARDSON: Okay. Do you remember what it said after White, space, Power, space, Canada?

I can refresh --

MR. WARMAN: My guess is that it would - not my guess -- my recollection is that it said

'the Reich Way'.

MR. RICHARDSON: You're correct,  
you're correct.

So it said "White", space, "Power",  
space, "Canada the Reich Way", almost like a slogan?

MR. WARMAN: It's a sentence, it's an  
expression or phrase.

MR. RICHARDSON: So, when you see  
that, could you not take WPC or WPCANADA as that  
slogan?

MR. WARMAN: That's not my belief in  
relation to the evidence.

MR. RICHARDSON: I never asked you if  
that was your belief, I asked you if it was possible  
that WPC, which stands for White Power Canada, and  
WPCANADA which stands for White Power Canada, could be  
the same as White Power Canada?

MR. WARMAN: Not in relation to any  
of the evidence that I've tendered here at this  
Tribunal hearing.

MR. RICHARDSON: Did you know in late  
September, 2001 to the end of the first week of  
October, 2001 I was incarcerated for the criminal  
aspect of these charges?

THE CHAIRPERSON: Would you please

provide the dates again.

MR. RICHARDSON: Late September, which I believe it was 28th - I'm not aware of the exact date - until the end of the first week of October, 2001.

THE CHAIRPERSON: Of what year?

MR. RICHARDSON: 2001.

THE CHAIRPERSON: To the first week of October?

MR. RICHARDSON: Yes. And I believe, actually now that I recall, I believe the date of my arrest was October 26th.

THE CHAIRPERSON: September, you mean?

MR. RICHARDSON: September 26, yes. Thank you very much.

THE CHAIRPERSON: Right.

So, your question was again?

MR. RICHARDSON: My question was, I wanted to know if he knew that I was incarcerated at that time?

MR. WARMAN: I was aware that you had been arrested. I had no knowledge of the exact periods during which you were incarcerated.

MR. RICHARDSON: Okay. Were you

aware that while I was in jail issues of the Vinland Voice were still being produced?

MR. WARMAN: Again, I would state that I didn't know when you were incarcerated, so it's outside my knowledge as to whether there were Vinland Voices that came out during your absence.

In any event, my testimony was not to the effect that you were solely and exclusively responsible, just that you were a major player and, if not, one of the editor figures of the Vinland Voice.

MR. RICHARDSON: I guess the point I was trying to get to is, if I was the editor or the proof reader or the guy that submitted it, if I was in jail, how would it be possible that I was still doing this?

MR. WARMAN: Again, in fact, the later issues of Vinland Voice indicate that control has been transferred to another individual.

MR. RICHARDSON: Yeah, but that wasn't stated until December of 2001, there's a two-month or three-month time gap there.

Is it in your belief that I was still writing these articles after I was released from jail?

MR. WARMAN: If there is Vinland Voices that I have submitted as evidence that bear the

term WPCANADA, then that is my belief that that was, in fact, you.

MR. RICHARDSON: Are you aware that -- actually I'm not even going to ask that question.

Are you aware that on September, 30th and October 2nd of 2001 that there was seven articles on line that produced the name WPCANADA and/or White Power Canada?

MR. WARMAN: On line where?

MR. RICHARDSON: Actually two of them are on IRC and the rest of them were on guestbooks either on Tri-City Skins and I believe it was the National Alliance page.

MR. WARMAN: No.

MR. RICHARDSON: No. Am I to assume that you believe that I wasn't posting while I was incarcerated?

MR. WARMAN: I have no knowledge as to whether you had access to computer equipment.

MR. RICHARDSON: All right, that's good enough.

Just give me a second here, Mr. Chair.

THE CHAIRPERSON: Yes.

MR. RICHARDSON: How popular would you say the name James is?

THE CHAIRPERSON: The what, sorry?

MR. RICHARDSON: The name James, globally around the world?

MR. WARMAN: In my personal experience?

MR. RICHARDSON: Yes.

MR. WARMAN: Reasonably common.

MR. RICHARDSON: Very reasonably common, yes. What about Alex?

MR. WARMAN: Reasonably common.

MR. RICHARDSON: Anywhere in the chat logs, did you see -- that you submitted, do you see James Scott Richardson, James Richardson, Scott Richardson, Alex Krause, Alex Kulbashian?

MRS. TURNER: One at a time.

THE CHAIRPERSON: Maybe let's go one at a time, Mr. Richardson, as is being suggested by your mother.

Go ahead. So, let's go one by one.

MR. RICHARDSON: Yes.

Do you recall anywhere in the chat logs that you submitted or in any of the logs that you submitted for any of your evidence, other than

newspaper articles or police logs, of course, James Scott Richardson?

MR. WARMAN: Sorry, in the internet relay chat?

MR. RICHARDSON: Sure.

MR. WARMAN: No, the full name was never spelled out.

MR. RICHARDSON: Thank you. Do you recall seeing Scott Richardson?

MR. WARMAN: No.

MR. RICHARDSON: Do you recall seeing Alex Krause?

MR. WARMAN: No.

MR. RICHARDSON: Do you recall seeing Alex Kulbashian?

MR. WARMAN: No.

MR. RICHARDSON: No. So, it is your opinion, just based on a first name, that Alex Krause was Totenkopf and James Richardson is WPCANADA, even though there is nothing in the chat logs themselves that state that?

MR. WARMAN: No, that wasn't my evidence.

MR. RICHARDSON: Thank you very much.

I wanted to touch up on something

that Alex had been touching on and if I'm crossing the line, please you stop me right away.

Back to the logs and their integrity.

Do you personally keep chat logs on your computer of where you've been and whatnot?

MR. WARMAN: They may exist over the course of the entire time that I've had a computer, sure.

MR. RICHARDSON: Have you ever seen them?

MR. WARMAN: I've never gone in and looked at them, no.

MR. RICHARDSON: No.

MR. WARMAN: I've never had reason to.

MR. RICHARDSON: Okay. That's fair enough.

On the CD that was produced as evidence that came allegedly from my computer, they came up as WordPad documents, I would assume would be the most standard file that you would use to print them off and download them.

I'm not sure what you used, but WordPad, I would assume, would be what you used.

MR. WARMAN: I'm sorry, I can't

remember off the top of my head what specific program opened the document.

MR. RICHARDSON: Are you aware that anything in Word or a WordPad document can be edited?

MR. WARMAN: No, I don't use WordPad at all, I'm sorry.

MR. RICHARDSON: Do you use Microsoft Word?

MR. WARMAN: Yes, of course.

MR. RICHARDSON: Do you believe that articles can be edited through Microsoft Word?

MR. WARMAN: Yes, of course.

MR. RICHARDSON: Okay. You stated yesterday that -- actually maybe you didn't say this, I'll rephrase the question.

Are you aware that people who received copies of the Vinland Voice, they weren't solicited, it was something - we'll brush on this later when Mr. Wilson comes - it is something that you apply for, it's not something that your name is automatically given in.

You find it, you're interested in it and then you sign up for it, and only by adding your correct e-mail and your name and your other info can you receive this letter?

MR. WARMAN: No, I don't believe that to be the case. I believe that WPCANADA, whom I believe to be yourself, solicited, in fact, people to join the newsletter list.

MR. RICHARDSON: That's not what I asked you.

MR. WARMAN: Yes, it is.

MR. RICHARDSON: Okay. Let me rephrase the question.

MR. WARMAN: And then people would then go and add their e-mail address and then be joined on to the newsletter list, is my understanding.

MR. RICHARDSON: So, is it in your opinion that -- you're aware of who Conrad Macdonald is; right?

THE CHAIRPERSON: Sorry, could you repeat that question, please?

MR. RICHARDSON: I was asking him if he was aware of who Conrad Macdonald is.

THE CHAIRPERSON: Conrad Macdonald.

MR. RICHARDSON: Yes.

MR. WARMAN: In the context of tab -- information that's been entered at tab 62, yes.

MR. RICHARDSON: Can you tell the court who that is?

MR. WARMAN: My understanding is that that's a pseudonym that was used by Mr. Wilson.

MR. RICHARDSON: Yes, sir, that is correct.

Are you aware how he got his copies of Vinland Voice?

MR. WARMAN: No, I'm not.

MR. RICHARDSON: Do you know how the Vinland Voice was issued, how it was sent out, like, how it was done?

MR. WARMAN: By e-mail.

MR. RICHARDSON: By e-mail?

MR. WARMAN: By posting it on the internet.

MR. RICHARDSON: E-mail. Are you aware how the process was where you requested to receive the e-mail?

MR. WARMAN: Yes.

MR. RICHARDSON: I don't know if you did it personally yourself, that's why I'm asking.

MR. WARMAN: Yes, I did.

MR. RICHARDSON: Okay. So, taking away the alleged solicitation by myself, is it your understanding that the typical way to go is you find it, and you can either download it, I guess, from the

website page, but typically to be a part of the mailing list that it was part of, you would have to sign a user name information?

MR. WARMAN: You know, this was three years ago. I don't remember exactly what information was requested of me when I signed up.

MR. RICHARDSON: You stated yesterday that there were three directors of C.E.C.T. to your knowledge.

Who's the third?

MR. WARMAN: No, in fact, my testimony was that that was stated in the IRC chats.

MR. RICHARDSON: Sorry for that mistake.

You mentioned yesterday when Alex was questioning you -- excuse me.

You mentioned yesterday that anybody that had anything to do with the C.E.C.T. webpage or the Vinland Voice webpage, whether posting or just being a part of the group, were in fact responsible for what was on the page.

MR. WARMAN: No, in fact, what I was attempting to indicate, or what I did indicate was that under section 13 of the Act it states that:

"a person, or group of persons

responsible for communicating hate messages is liable under the Act."

MR. RICHARDSON: May I ask you why, in your opinion, you believe that only Alex and I are up here right now in the proceedings?

MR. WARMAN: Because you were the persons named in the Canadian Human Rights complaint that I filed, in addition to the complaints --

MR. RICHARDSON: Why isn't there any other members?

MR. WARMAN: Excuse me, I'm just going to finish that answer.

In addition to affordablespace.com and the two groups themselves.

MR. RICHARDSON: Which brings me to another good point.

THE CHAIRPERSON: Sorry.

MR. RICHARDSON: I still want to ask the same question.

Why isn't anybody else here? Or, is it your belief that there were only two members of C.E.C.T.?

MR. WARMAN: No, that's not my personal belief.

MR. RICHARDSON: Okay. So, why isn't anybody else here today?

MR. WARMAN: If I had information that would lead me to believe that I could possibly identify other members, I would have seriously considered naming them as well in the complaint.

MR. RICHARDSON: Thank you very much.

What, in your understanding - I don't want you to go looking through the books or anything - what do you have that links Alex to Tri-City Skins?

MR. WARMAN: Any of the evidence that I've previously submitted.

MR. RICHARDSON: Which would, as far as my understanding goes, and I could be wrong, the only linkage that there is, you're linking him to affordablespace.com and the Tri-City Skins website being on affordablespace.com.

You don't see any articles with his name on it, you don't see any guestbook entries or anything like that; is that correct?

MR. WARMAN: Not under the name either Alex Krause or Alexan Kulbashian or --

MR. RICHARDSON: Totenkopf.

MR. WARMAN: --Totenkopf.

MR. RICHARDSON: That's good enough.

Thank you.

MR. WARMAN: And, again, that's without going through and checking every line of every item that's been entered into evidence.

MR. RICHARDSON: I'm sure you wouldn't find it.

Now, the same question but related to myself, just for the Tri-City Skins webpage.

Is there any articles or anything else that you can use to link me, other than my own testimony from when I was arrested, to Tri-City Skins?

MR. WARMAN: Yes, I believe there are a number of times in the evidence I've submitted wherein you yourself state that you are a member of the Tri-City Skins.

MR. RICHARDSON: On the page? I was asking on the page.

What can you link me to on the Tri-City Skins webpage?

Is there anything, I guess is the question, that links me to the Tri-City Skins webpage from the Tri-City Skins webpage?

Well, I'll tell you there was one guestbook entry right now. I'm asking if there was anything else other than that?

MR. WARMAN: You know, again, without going through everything in that, my understanding is that you were a member of the Tri-City Skins and, on that basis, I believe you to be liable under section 13 of the Act.

MR. RICHARDSON: Okay. Where did you get the information from linking myself and Alex to Tri-City Skins or C.E.C.T?

You said we were the only ones you could find that you could prove evidence against.

Where did you get that information from?

MR. WARMAN: Through the research that I did over the past three years, through discussing the matter with other people within the Canadian Human Rights community.

MR. RICHARDSON: While the investigation was going on, is it my understanding you were in contact with Mr. Wilson and Mr. McKinnon and this was a main source of your evidence?

MR. WARMAN: No, that's correct.

MR. RICHARDSON: That is incorrect.

MR. WARMAN: Sorry. I will clarify that.

I was in contact with them to the

extent that I had sent a letter of concern about whether some of the material that had appeared on the Vinland Voice constituted criminal content, and not for the purpose of obtaining any information pursuant to the complaint that was filed with the Canadian Human Rights Commission.

MR. RICHARDSON: And when was that?

MR. WARMAN: There are letters I believe within the blue document tendered by Mr. Kulbashian that indicates the date.

It would have been September or October of 2001, I believe.

MR. RICHARDSON: I guess what I was trying to get at is, did your investigation start from the one Vinland Voice copy that was mentioned just after 9/11, is that where you started, or were you already in your investigations prior to that?

MR. WARMAN: NO, I'd have to go back and look through my documents throughout my file, but it was definitely before that.

MR. RICHARDSON: And when was it that you sought guidance from Mr. Wilson and Mr. McKinnon?

MR. WARMAN: I never sought guidance from them.

MR. RICHARDSON: When was it that you

sent them a letter requesting information or whatever it is you did from them?

MR. WARMAN: I'm sorry, I would have to go through my notes to get the exact date.

MR. RICHARDSON: Can you give me a rough estimate?

MR. WARMAN: Post -- it was after the time that the Vinland -- I shouldn't say that. Without going back and looking at the date, I can't be certain.

MR. RICHARDSON: Can you give me a month?

MR. WARMAN: No. If you want me to go through my file, which is right over there...

MR. RICHARDSON: Yeah, I would, please.

MR. WARMAN: Sir...?

THE CHAIRPERSON: Yes, if it would assist you in providing the answer.

MR. WARMAN: Sure.

THE COURT: There is something I would like to attend to, so, we'll take a five-minute break at this point while you find the material sought.

MR. WARMAN: Sure.

REGISTRY OFFICER: All rise.

--- Recessed at 10:45 a.m.

--- Resumed at 11:05 a.m.

REGISTRY OFFICER: Order, please.

All rise.

Please be seated.

THE CHAIRPERSON: So, Mr. Warman, were you able to find the documents you were looking for?

MR. WARMAN: I was able to find documents that were related to it that lead me to believe that the first -- sorry, the letter that was sent to the London Police Service Hate Crimes Unit would have been in mid-November, 2001.

THE CHAIRPERSON: That's a letter from you?

MR. WARMAN: From me to the London Police Hate Crimes Unit.

MR. RICHARDSON: Did you receive any correspondence from the London Police Department before that date?

MR. WARMAN: Not to the best of my recollection.

MR. RICHARDSON: Did you receive anything before that date from Whitey Kearns?

MR. WARMAN: No. Correspondence, no.

MR. RICHARDSON: Did you receive any

correspondence from anybody relative to our case before that date?

MR. WARMAN: To the best of my recollection, it was in mid-November that I contacted a variety of different police forces and that it was subsequent to that that I received any correspondence.

MR. RICHARDSON: Thank you.

I'd like to go to the black book, tab 17, page 1.

THE CHAIRPERSON: That's HR-1.

MR. RICHARDSON: HR-1, yes, sorry.

THE CHAIRPERSON: Okay. Tab 17, page 1, yes.

MR. RICHARDSON: You stated yesterday that you believed Alex Kulbashian wrote that article; is that correct?

MR. WARMAN: I believe it is, yes.

MR. RICHARDSON: Okay. Can we go to the back of that page and at the very bottom it says:

"-WHITE POWER CANADA",

Which you've already associated with myself. Is it possible at all that I wrote that article?

MR. WARMAN: It's not my belief that that White Power Canada -- in fact I've stated

previously in response to questions of yours that that is, in fact, WPCANADA that I associate with you.

MR. RICHARDSON: Let me ask you one more time just for the record. What does WPCANADA stand for?

MR. WARMAN: My understanding is that it stands for white -- in its fullest form, it's White Power Canada.

MR. RICHARDSON: And is it also my understanding that you believe that WPCANADA as the acronym is myself?

MR. WARMAN: WPCANADA, yes, when used in the context of the evidence that I've submitted.

MR. RICHARDSON: So, again, I ask you is it possible at all that in using a non-acronym form that I wrote this article and signed it "-WHITE POWER CANADA"?

MR. WARMAN: That's not my belief.

MR. RICHARDSON: I never asked you that, I asked you if it was possible that I wrote that article and not Alex Kulbashian?

MR. WARMAN: Within the entire realm of possibilities in the universe, it is possible.

MR. RICHARDSON: Well then, I don't think we need to stretch it that far.

You've stated on numerous occasions yesterday, many times where you've linked me to White Power Canada, you've also stated that White Power Canada, or WPCANADA are all the same thing.

So, what is so different about this that -- why is it so huge in the universe and the realm that there's a slight possibility that I could have written this article, when clearly you spent so much time saying that I was WPCANADA and we've clarified that WPCANADA stands for White Power Canada?

Is it really that big of a realm that maybe allegedly, if I was WPCANADA, that maybe I just actually spelled it out in the long form instead of the acronym?

Is that in the huge realm, such a huge realm?

MR. WARMAN: I have never seen you do that in the context--

MR. RICHARDSON: Well, you have never seen me do anything.

MR. WARMAN: Excuse me, can you wait until I finish answering the question.

THE CHAIRPERSON: Let's hear the answer.

MR. WARMAN: In the context of all

the information that I gathered in relation to what I believe to be your involvement in the actions that are the subject of this complaint, I had never seen anything that I had reason to believe to associate with you in fully spelled out as White Power Canada, to the best of my recollection.

MR. RICHARDSON: Have you seen the old C.E.C.T. website, the one before -- like, the one that came out -- you know, I guess the question is this: have you seen the old C.E.C.T. website?

THE CHAIRPERSON: Maybe you could define old for us, prior to what period?

MR. RICHARDSON: The one that all the evidence is coming out of would be the new one, there was one before that.

THE CHAIRPERSON: So, the one that is the subject of the evidence which appears to be from the period of around 2001--

MR. RICHARDSON: Yes.

THE CHAIRPERSON: --towards 2002. So, you're saying prior to this period?

MR. RICHARDSON: Prior to that period, have you seen the old Canadian Ethnic Cleansing Team website?

MR. WARMAN: To the best of my

knowledge, I don't recall seeing a C.E.C.T. website prior to 2001.

MR. RICHARDSON: Did you go over all the documents on the CD Rom entered -- my hard drive?

MR. WARMAN: Sorry, all the documents...?

MR. RICHARDSON: Have you been over the whole CD Rom itself? Did you look over the whole CD Rom that was entered as my CD Rom or my hard drive, sorry?

MR. WARMAN: I attempted to look at as much of it as possible. I couldn't say that I had seen each and every -- you know, I would not solemnly affirm that I saw each and every document that was on there, but I certainly went through all the logs that were contained in the log section.

MR. RICHARDSON: Now, the article in question, the same tab 17, page 1, were you aware that that was taken off of the old website?

MR. WARMAN: It was downloaded by me on 13 -- to the best of my knowledge it was downloaded by me on the 13th of October, 2001.

So, whether that's the old or the new website...

MR. RICHARDSON: Well, that date

would be the new website.

Are you aware that on that CD Rom the old website is on there in its entirety and that article is in that website?

MR. WARMAN: If I went back through the CD I might be able to confirm that.

MR. RICHARDSON: Have you read everything that you alleged WPCANADA, which you allege is myself, have written on the internet?

MR. WARMAN: Anything that I have submitted as evidence, I personally have read.

MR. RICHARDSON: But you don't know if there was other things out there?

You don't know--

MR. WARMAN: That you have written?

MR. RICHARDSON: You don't know if there's other articles that you allegedly -- that I've allegedly written on the internet? You don't know --

MR. WARMAN: Not that I've included in relation to this complaint.

MR. RICHARDSON: Okay. So, in theory really you don't know if I allegedly did write these articles as WPCANADA, you don't know if I have ever signed any articles that you have not been aware of as White Power Canada as the whole?

MR. WARMAN: And I don't know that you've ever signed anything as Bob or Doug or Poodle8 or anything else.

MR. RICHARDSON: Well, it still hasn't been proven yet that I signed anything at all, we're just going on assumption.

MR. WARMAN: You're asking me hypothetical questions that are completely outside the realm of my knowledge and I'm going to object to that question.

MR. RICHARDSON: Okay, that's fine.

Is it possible at all that I could have signed articles White Power Canada as a whole? I mean, obviously it's possible.

MR. WARMAN: No. Yeah, sure, within the entire realm of possibilities in the universe --

MR. RICHARDSON: Well, I mean, we're not talking about realm, we're talking about a very -- you know, I mean, like, an entire realm, like, you know, I could have signed it George Bush. You know what I mean? We're not talking about --

MR. WARMAN: I believe, in fact, that you did write a speech as though you were George Bush within one of your Vinland Voice issues.

THE CHAIRPERSON: I don't think I

need to inform you of this, Mr. Warman.

At one point you did use the word object--

MR. WARMAN: Yes.

THE CHAIRPERSON: --and, of course, you have the right as a party to object to a question.

MR. WARMAN: Yes.

THE CHAIRPERSON: I'm not saying that was an occasion, necessarily, but you do have that right, as I'm sure you're aware.

MR. WARMAN: Yes, thank you.

MR. RICHARDSON: Is it possible at all that I wrote that article, tab 17, page 1?

MR. WARMAN: I believe I've already answered that question.

MR. RICHARDSON: No, you answered that it was your belief that Alex wrote the article.

I'm asking if it is possible that I wrote the article?

MR. WARMAN: I believe that I have answered that, within the entire realm of possibility, it is possible.

MR. RICHARDSON: Okay. But you stated yesterday that you were sure that Alex Krause or Alex Kulbashian wrote that article yesterday.

MR. WARMAN: No, in fact, that's not what I stated. I stated that that is my belief.

MR. RICHARDSON: Your belief. Okay.

THE CHAIRPERSON: He also referred to something which I think maybe I should draw your attention to.

He used, in one of his answers, the term 'balance of probabilities'. That's the legal standard by which the Tribunal functions.

The balance of prob -- it's the standard, the level of proof to satisfy the court or convince the court that something is true for the purposes of the hearing of the case, so...

MR. RICHARDSON: That phrase was balance of possibilities?

THE CHAIRPERSON: Balance of probabilities.

MR. RICHARDSON: Probabilities, thank you.

THE CHAIRPERSON: Okay. Consider it to be a balance of scale - and I'm now manually demonstrating to you with my hands a scale.

When you come before a criminal court, the standard is much higher. The criminal prosecution must demonstrate beyond a reasonable doubt,

very high, if you were to put numbers to it, in the 90 something per cent, maybe 99 per cent would be an appropriate word.

That's where the threshold is, that's the barrier, that's the level at which the proof must -- that's the level the proof must surpass in order to make the case.

MR. RICHARDSON: Yeah.

THE CHAIRPERSON: We're not in that area here, this is a civil --

MR. RICHARDSON: We're in civil --

THE CHAIRPERSON: It goes by what's called the civil standard of proof, which is a balance of probabilities, the scale. More likely than not would be another way of putting it.

So, the evidence if presented convinces a tribunal, or a court if this was a civil court, that something was more likely to have occurred than not, then the scale has shifted enough, 51 per cent if you want to put a figure to it, to satisfy the tribunal that the case has been made.

MR. RICHARDSON: Okay.

THE CHAIRPERSON: So, be mindful of that in terms of your questioning, in terms of setting up your entire case. That's the standard.

MR. RICHARDSON: Okay.

THE CHAIRPERSON: And that explains his answer, because what he's telling you in his answer is that, in his opinion, yes, it's possible that this person could be someone else, but as he perceives all of the facts, in his opinion, it is more likely than not that the person is Totenkopf who wrote it and not someone else.

That's how I understood his answer to be when he said earlier balance of probabilities.

MR. RICHARDSON: Okay.

THE CHAIRPERSON: Yes, sir?

MR. WARMAN: Sorry, I'm going to object to the continual passing of questions between the two parties.

It's my understanding Mr. Kulbashian had indicated he was finished his cross-examination and that now he appears to be attempting to continue it through Mr. Richardson.

MR. RICHARDSON: I'd like to put a rebuttal to that.

I have a grade 10 education and I might not be the smartest guy in the world and there's a lot I miss and a lot I don't understand.

And a lot of the notes he gives me

aren't questions, but more just guidance.

THE CHAIRPERSON: And I will say this, Mr. Warman. I am mindful of what you are saying but, you know, certainly in many cases where we have Commission and complainant as parties - and I'm thinking of cases as large as pay equity cases - there's quite a bit of discussion between counsel, I've seen it happen quite a lot, and I think it's to be expected sometimes.

I don't know if this is passing of questions or not, but particularly in these circumstances and, as I say, I have seen it occur on the other end of the table quite often as well.

So, I consider it closed. Nothing would prevent him from seeking a break at a certain point and then conversing. I don't see this as being any different.

MR. RICHARDSON: It would save us a lot of time.

MR. ALEXAN KULBASHIAN: See, the thing is that, as you might have noticed, these questions are more related to him. I have finished what I have to do as far as, I guess, my case for Mr. Warman.

THE CHAIRPERSON: Yes, I understand.

MR. ALEXAN KULBASHIAN: So, it's just like I'm trying to aid him because he does have some problems sometimes.

Like, during the break we always discuss things because some things he might not understand, some things that might confuse him at certain points.

So, when I notice that there's things that he's faltering on, I just pass him things back.

We've already made argument, like, we've already prepared --

THE CHAIRPERSON: Yes, I understand.

I think I will allow them to communicate amongst themselves.

This, of course, may not necessarily apply later when you are acting -- if you are acting as witnesses. That's a different situation, then you're in the realm of your own evidence and we can't allow the evidence to be tainted with that sort of discussion.

But at this stage, when questions are being led, I will allow it.

MR. RICHARDSON: Thank you very much.

MR. ALEXAN KULBASHIAN: Thank you.

MR. RICHARDSON: Can we go to tab 20,

page 1, please, in HR, the black book.

THE CHAIRPERSON: Tab 20, where we were, page 1, yes.

Oh, tab 20, sorry. Okay, tab 20, page 1, yes.

MR. RICHARDSON: Did you download this page?

MR. WARMAN: I stated that I could not be sure where this page specifically came from in my evidence but that I had personally seen it on the Vinland Voice website.

MR. RICHARDSON: The question -- I don't understand why most of the pages have the templates and the whole entirety of the page gone in the record and specific pages, like this one in particular, the template is not on there.

I think where I'm trying to go with this, you stated that in tab 17, page 1, you believe that Alexan wrote the article because Totenkopf" is beside it, and that same template which obviously came from the same page is not on here.

So, if I'm being accused of writing this particular article, but Totenkopf is clearly beside the name there, I want to know why the template wasn't downloaded on this one?

Why the inconsistency, to start with?

THE CHAIRPERSON: We did have some evidence on this point on the day you were absent. My recollection is that it was cut and pasted.

MR. RICHARDSON: Why didn't he cut and paste -- I guess what I want to know is, why didn't he cut and paste the whole thing or why didn't he template the whole thing?

Why the inconsistencies?

THE CHAIRPERSON: All right. As long as you're aware of his previous testimony about cut and pasting.

MR. RICHARDSON: Yeah, the question would still stand I believe, because --

THE CHAIRPERSON: Okay. You made your question, go ahead.

Mr. Warman?

MR. WARMAN: I'm sorry, the material was collected over a period of several years and I can't testify as to why specific things were collected or printed off in a certain fashion.

I can only state that I personally viewed all the documents that I have entered into evidence and have testified that I, in fact, viewed them.

MR. RICHARDSON: From your recollection, all the templates or all the webpages had Totenkopf on the side of the actual webpage itself, the symbol itself and the name.

THE CHAIRPERSON: The webpage of Vinland Voice?

MR. RICHARDSON: The Vinland Voice and C.E.C.T.

THE CHAIRPERSON: And C.E.C.T.?

MR. RICHARDSON: And C.E.C.T.

MR. WARMAN: I can't testify to that for certainty.

MR. RICHARDSON: In tab 17, page 1 of the HR book, going back to that, we see the base article and then we see the template - and we discussed what a template was yesterday, we don't need to get into that again - and we see that the Totenkopf is part of the template and not part of the article; is that correct?

MR. WARMAN: I can't state that for certainty. But there is an article and beside it is the Totenkopf with the Totenkopf symbol.

MR. RICHARDSON: From your recollection, do you remember seeing the Totenkopf basically on all the webpages for C.E.C.T. and Vinland

Voice?

MR. WARMAN: I've stated I can't remember that for certain.

MR. RICHARDSON: I'd like to turn to the HR book, tab 23, page 1.

This is September 28th, 2001 Edition Newsletter 07 of the Vinland Voice dated September 28th as I stated.

I also stated earlier that I was incarcerated from September 26th to the end of the first week in October.

Getting back to the point that I got to earlier, I guess, do you believe that I wrote this article, we'll start with?

MR. WARMAN: Sorry, which article are you referring to within the newsletter?

MR. RICHARDSON: The one, Newsletter 07, September 28th, 2001

MR. WARMAN: Do I believe that you wrote everything that's in that newsletter, no.

MR. RICHARDSON: Do you believe I wrote anything in that newsletter?

MR. WARMAN: Apart from the possibility that you authored the "Mankind Quarterly" review --

MR. RICHARDSON: Where's that?

MR. WARMAN: Sorry, that's on page 6, and I state that because a number of the website reviews were contained in the disk that was provided to me as being your hard drive and that in the URL logs, the websites that you visited, they often matched with the reviews that were provided.

I see nothing that indicates WPCANADA or that would otherwise lead me to believe that you were the author of any other documents.

MR. RICHARDSON: So, this article you believe that I had published, wrote, put up or whatever?

MR. WARMAN: It's possible.

MR. RICHARDSON: And can you tell me how it's possible I did this from jail?

MR. WARMAN: I didn't say that you had done it from jail. I said it's possible that you wrote it.

People can do things before a certain time period and after -- well, in this case it was done before.

MR. RICHARDSON: Well, if the evidence -- if this particular article was in my computer and my computer was in the hands of the police

at the time, I ask you again, how is it possible that I'm in jail and the police have my computer that I had written this article or posted it while I was in jail?

MR. WARMAN: I'm sure you're aware that it's possible for people to send things to people before something is taken away from them, such as a hard drive.

MR. RICHARDSON: Okay. So, you're stating that in probability, I was sending out articles to be published, I wasn't actually publishing myself.

Is that what you're saying?

MR. WARMAN: No, I'm sorry, I don't understand what you're asking.

MR. RICHARDSON: I'm just answering your question.

You said it's possible for people to send out articles and other people to publish them, and you're very right, you know, it is very possible and a lot of our case is built on that.

I'm asking you, you stated that you believe I wrote this article.

I'm telling you I was that jail, I'm telling you my computer was in the hands of the London Police Department.

I want to know how I wrote this

article or how I sent it out?

MR. WARMAN: I'm sorry, that sounds to me like something that would be within your knowledge, not mine.

In fact, what you had asked me --  
sir?

MR. RICHARDSON: My knowledge is that it would be impossible, it would be beyond the reasonable realm of anything because it would --

THE CHAIRPERSON: Don't argue, don't argue with the witness, ask questions. Don't argue with him.

MR. RICHARDSON: Okay.

MR. WARMAN: And, in fact, if I could finish --

MR. RICHARDSON: Is it still your belief that I wrote this article?

MR. WARMAN: If I could finish the answer that I was giving previously, my answer was not, in fact, that you had written it, I stated that it was possible that you had written it because you asked me, do you believe that I wrote anything on this page -- or excuse me, within this newsletter as -- you know, in its entirety.

MR. RICHARDSON: After September

28th, 2001 this particular Vinland Voice in question, do you believe that other than the article at page 6 which you already stated, that I wrote anything for the Vinland Voice or published anything or sent anything out or had anybody else publish it for me?

MR. WARMAN: If there is material that I have already testified to that effect, then yes, but I would have to go through all of the subsequent Vinland Voices and take a look and see if I had, in fact, testified to that effect.

So, I can't answer that for certain.

MR. RICHARDSON: Well, you can if you took the time and looked.

MR. WARMAN: Sure, if you want me to do that, then I have no objection to it.

MR. RICHARDSON: And the reason -- I don't know if you want an explanation where I'm going with this.

You know, when I was arrested, obviously the computer in question was taken, I was incarcerated, I had bail restrictions that I couldn't use a computer, I never had a computer.

I asked earlier if he had any evidence I was on line after the date of my arrest.

He stated that to his knowledge there

was none. So, any article that he said I might have written after the date September 26th, I couldn't have possibly written unless I was breaking the law--

THE CHAIRPERSON: And that goes to your identity.

MR. RICHARDSON: --bought another computer. So, to me this is valid.

THE CHAIRPERSON: Yeah. The witness has asked for the time to be able to consult the documentation.

MR. RICHARDSON: If it would help the court to speed this up, I'll take an answer on this particular question at a later time today.

If he wants some time maybe during his lunch hour to research it, instead of having a break now and wasting more time, that would be sufficient with me.

THE CHAIRPERSON: Assuming that his testimony isn't completed by lunch.

We can always do that and finish off with this last point. That's a better option.

MR. WARMAN: Okay. Sorry, just so that I know exactly --

THE CHAIRPERSON: Any entries post September 28th, 2001?

MR. RICHARDSON: 26th actually.

THE CHAIRPERSON: September 26th, 2001 in the Vinland Voice that Mr. Warman can associate with Mr. Richardson.

MR. RICHARDSON: I guess the point I was trying to make is, I'd have to have two computers and two exact copies of everything.

THE CHAIRPERSON: You have to wait for...

MR. RICHARDSON: Okay.

THE CHAIRPERSON: Okay. You have taken the note?

MR. WARMAN: Yes.

THE CHAIRPERSON: Proceed to your next question.

MR. RICHARDSON: Thank you very much.

It's your belief, I'm assuming, that you believe that I was a major contributor to the Vinland Voice.

Would it be fair to say that -- do you believe that I was the main contributor of the Vinland Voice?

MR. WARMAN: I can't state that for certain.

MR. RICHARDSON: Okay. On the

affordablespace.com website, do you see my name, Alex's name, WPCANADA or Totenkopf?

MR. WARMAN: On the website itself?

MR. RICHARDSON: For the affordablespace.com, do you have anything that would -- link, we'll start with myself, to affordablespace.com?

MR. WARMAN: No, it's my belief that Mr. Kulbashian was responsible for affordablespace.com.

MR. RICHARDSON: This is - I don't really know how to ask this, I'm not legal mumbo-jumbo - what do you believe my knowledge of the internet is, just from experience -- I would say just from your knowledge?

Like, am I asking the question right? Do you understand what I'm saying?

Like, how technical -- what kind of technical background do you perceive me having towards the internet, other than basic chat, of course, and whatnot?

MR. WARMAN: Well, I have the belief that you have the ability to engage in internet relay chats, I believe that you are able to use e-mail, I believe that you are able to --

MR. RICHARDSON: Like, would you say it was basic, average, above average or advanced or

superior knowledge?

Like, I know it's kind of a misleading question. I wish I knew how to word it right, and I'm not trying to give you a hard time about this.

THE CHAIRPERSON: Well, we have an answer from the witness that he believes you can --

MR. RICHARDSON: Well, that would be under the category of basic and I believe almost everybody in here has a basic understanding of the internet.

THE CHAIRPERSON: Well, no, for instance, you can't make any conclusions. I myself have indicated that I'm not at all aware of how chat rooms work, so...

MR. RICHARDSON: Do you believe that I can build a webpage?

MR. WARMAN: Sorry, actually I wouldn't, just because I believe there's perhaps a clarification to be added.

I wouldn't say -- when I had finished with an e-mail and IRC chats, that wasn't the end --

MR. RICHARDSON: Oh, that wasn't the end of the question.

MR. WARMAN: Yeah, sorry.

THE CHAIRPERSON: Would you like to complete your testimony then?

MR. WARMAN: Yes.

So, and apart from that, I think it's asking me something that's beyond the realm of my knowledge.

MR. RICHARDSON: That's fair.

Just your opinion, do you believe that I could build a website by myself?

MR. WARMAN: Again, I'm sorry, I feel that's beyond my knowledge.

MR. RICHARDSON: Do you believe that I had any involvement in the building of the Vinland Voice, the C.E.C.T. or the Tri-City Skins websites?

MR. WARMAN: The websites themselves?

MR. RICHARDSON: The actual building of those sites?

MR. WARMAN: I'm sorry, that's without my knowledge.

MR. RICHARDSON: Is it your opinion that I helped build them sites?

MR. WARMAN: In the sense of contributing content to them, yes.

MR. RICHARDSON: No, in the sense of actually making them, building the template, making the

graphics, the HTML code or whatever the code is that gets written, not the actual content of the page that anybody can submit, I'm actually talking about the templates which you discussed yesterday, the base of the page?

MS MAILLET: I'm sorry, Mr. Chair, but this line of questioning appears to be questions that are beyond the knowledge of Mr. Warman in terms of what Mr. Richardson may be able to do with his computer skills.

I mean, that would best come from Mr. Richardson.

THE CHAIRPERSON: Unless Mr. Warman has, in the material that he's collected, evidence to indicate to the contrary, it's possible that Mr. Warman has this knowledge.

Let me rephrase the question perhaps as the way you would ask it.

MR. RICHARDSON: Thank you, thank you.

THE CHAIRPERSON: In the research that you have conducted, have you seen any indication that the respondent, Richardson, has the ability to design a website?

Design, is that the right word?

MR. RICHARDSON: Design would be correct, I guess.

MR. WARMAN: No. Again, that's something that's beyond my knowledge and that I personally have never seen him design a website.

MR. RICHARDSON: Do you understand what it takes to build a website, like the education and the knowledge it takes for anybody to build a website?

MR. WARMAN: It's my understanding that there are sort of self-design tutorials that you can do on free websites, Yahoo, that kind of thing and that, in fact, it's fairly limited knowledge for -- to establish a basic website.

MR. RICHARDSON: Do you believe that the Vinland Voice and the C.E.C.T. websites were basic websites?

MR. WARMAN: They weren't using the free servers, so in the context of, you know, do I believe that someone put them together using an idiot's guide to website design.

MR. RICHARDSON: That would be my question, yes.

MR. WARMAN: Again, I'm sorry, that's beyond my knowledge. I've never designed personally a

website.

MR. RICHARDSON: But you have knowledge of places where you can go to build one of the free ones like Yahoo or web hosting, or whatever you just stated.

MR. WARMAN: It's my understanding that those programs exist or there are guides to do that kind of thing.

MR. RICHARDSON: Are you aware that when you build a free website and use, I guess their templates which their own designers have built, you get pop-up ads and ads, nothing's for free. There's a price to pay?

I have built a website myself from one of those free things.

THE CHAIRPERSON: You're testifying. You don't have to say that, you don't have to say that, you save it for when you testify.

MR. RICHARDSON: Okay, I'll just drop this whole line, because like, it didn't -- you know, I'm not getting anywhere.

THE CHAIRPERSON: It's bordering on argument. You have a different point of view. You'll make that point later when you testify.

MR. RICHARDSON: Yes, yes. Thank

you.

Do you believe that the room in IRC server which we established earlier is #whitepowercanada, do you believe that is linked to the Vinland Voice and C.E.C.T.?

MR. WARMAN: To the extent that it indicates that those are the forum subjects or titles or that, yes, and to the extent that there are discussions within them of those websites or those groups, yes.

MR. RICHARDSON: Okay. So, it's to say they are linked together?

MR. WARMAN: In the context of my answer, yes.

MR. RICHARDSON: Thank you.

Approximately when do you think that you signed up for the Vinland Voice newsletter?

MR. WARMAN: I'm sorry, I don't recall off the top of my head.

MR. RICHARDSON: Was it before September 11th, 2001?

MR. WARMAN: No, I'm sorry, I don't remember.

MR. RICHARDSON: Is there a way of finding out?

MR. WARMAN: I could go back and examine my computer and see when I received the first e-mail version of the Vinland Voice.

MR. RICHARDSON: You stated earlier that, I believe you stated earlier - I'm not going to put words in your mouth again, I've already done that a few times today - I believe you stated earlier that you were doing your own independent investigation on the C.E.C.T. and Vinland Voice websites?

MR. WARMAN: Doing my own research, yes.

MR. RICHARDSON: Research, investigation, am I to assume it's the same thing?

MR. WARMAN: Sure.

MR. RICHARDSON: Okay. When did that investigation start, approximately? Can you tell me if it was before September 11th?

MR. WARMAN: Oh yes, yes.

MR. RICHARDSON: Okay. Was it months before?

MR. WARMAN: I'm sorry, it was in 2001.

MR. RICHARDSON: Okay. But it was before September 11th.

What name did you use to sign up for

the newsletter?

MR. WARMAN: I believe it's already been entered into evidence. It was -- I believe it was Don Maclean, donmaclean3@yahoo.com.

THE CHAIRPERSON: David Maclean?

MR. WARMAN: Sorry, excuse me, David Maclean.

THE CHAIRPERSON: I see that on tab 24.

MR. WARMAN: Yes, excuse me.

MR. RICHARDSON: Is that your real name?

MR. WARMAN: No it's not, obviously.

MR. RICHARDSON: Have you been on the IRC server and in the room #whitepowercanada?

MR. WARMAN: No, I have not, not to the best of my recollection, no.

MR. RICHARDSON: Why didn't you use your real name when you signed up for the Vinland Voice newsletter?

MR. WARMAN: Because I believed that by that point it was possible -- well, because I did not wish to become identified as someone using my own name who was subscribing to the Vinland Voice.

MR. RICHARDSON: Is it an honest

thing to give false names?

MR. WARMAN: In what sense?

MR. RICHARDSON: Well, you applied for a newsletter that you personally didn't really care about or had no interest in, you used a false name under false pretences.

The question is how honest -- is it an honest thing to use false names, I mean?

MR. WARMAN: Given the purposes that I was doing it for, I had no difficulty in signing up for the newsletter under a false name.

MR. RICHARDSON: Is it possible on the IRC server - getting back to that again - actually I've got a question to ask before that.

You used IRC you said yourself on and off over the last four or five years for whatever reasons.

How many nicknames did you use?

THE CHAIRPERSON: How many...?

MR. RICHARDSON: Nicknames. The nickname -- WPCANADA would be considered a nickname.

THE CHAIRPERSON: So, on which --

MR. RICHARDSON: On the IRC server.

THE CHAIRPERSON: The one of --

MR. RICHARDSON: Any one.

THE CHAIRPERSON: Oh, any one. Okay.

MR. WARMAN: Off the top of my head,  
I don't recall.

MR. RICHARDSON: More than one?

MR. WARMAN: The usage was not  
extensive.

MR. RICHARDSON: More than one  
nickname?

MR. WARMAN: Yes.

MR. RICHARDSON: So, you are aware  
that when you're on the IRC you can be pretty much any  
nickname you want, just with the type of a keystroke.

I could be Donald Duck one minute and  
I could be Goofy the next; is that correct?

MR. WARMAN: Yes, but I don't believe  
that that has any bearing on the evidence that I have  
submitted, or any direct -- sorry, any direct bearing  
on the evidence that I have submitted.

MR. RICHARDSON: Okay, fair enough,  
fair enough.

So, is it possible in the realm of  
balance or the balance of possibilities --

THE CHAIRPERSON: Probabilities.

MR. RICHARDSON: Probabilities, thank  
you very much, that anybody else could have signed in

as White Power Canada or Totenkopf, sorry?

MR. WARMAN: It is possible within the realm of probabilities.

MR. RICHARDSON: Thank you, thank you.

In all the chat logs that you submitted we went through earlier and we sort of come to the conclusion that "X" - it's sometimes "Z" or "Y" I believe, but we'll use "X" - is a bot that controls a room on IRC?

THE CHAIRPERSON: You're using bot which I don't know what that is.

MR. RICHARDSON: It's the entity that controls the room on the server, it's what lets people get op'd or it's what kicks people out of the room if they use foul language, it's the entity that controls the whole room.

THE CHAIRPERSON: Okay. So, there was a reference to that earlier in the evidence of Mr. Warman that there is someone who opens the session, controls the session, keeps people on, kicks them out.

Is that -- was it you who testified to that, or was it Mr. Kulbashian that mentioned that?

MR. ALEXAN KULBASHIAN: Actually I'll just clarify because he did use, it's a bit of I guess

technical language.

It was actually Mr. Warman was testifying about the way the room works, so if somebody registers a new room, that's kind of different than what he was talking about.

A bot is, basically just a way to explain it, it's a software base entity, it's not a real person anyway, it just automatically performs processes based on what commands it's given or based on an idea it has of how it's supposed to function.

So, think of it as just, I guess, a low-level operating system that monitors, makes things run smoothly. It's not a real entity.

THE CHAIRPERSON: So, what's the purpose of the question?

MR. RICHARDSON: Well, the purpose of the question is, is that --

THE CHAIRPERSON: What is the question again?

MR. RICHARDSON: I forgot my question.

THE CHAIRPERSON: We can play it back.

MR. RICHARDSON: That would be awesome. I knew she was sitting there for a reason.

THE CHAIRPERSON: It's more than that, sir, more than that.

THE REPORTER:

"In all the chat logs that you submitted we went through earlier and we sort of come to the conclusion that "X" - it's sometimes "Z" or "Y" I believe, but we'll use "X" - is a bot that controls a room on IRC."

MR. RICHARDSON: Okay. So, I guess my question would be really, like, you know...

THE CHAIRPERSON: I hope you understood that, because I did not understand it.

MR. RICHARDSON: It's fair to say that "X" is the controller of the room, that's not fair, "X" only follows commands that somebody gives it, but "X" controls the room basically?

The point I'm trying to get at is, in my earlier questioning I showed the court that "X" was in control of the room and "X" changed the webpages, or the title of the webpages even before I logged in.

We don't need to go over that again because we've gone over it.

My question is, anywhere in your logs

do you see "X" chatting?

MR. WARMAN: I've answered that already.

THE CHAIRPERSON: I have that down already. You asked that question.

MR. RICHARDSON: Oh, did I already?

THE CHAIRPERSON: Yes, you did. I have an answer to that question.

MR. RICHARDSON: I'm sorry, I've lost space in 10 minutes.

THE CHAIRPERSON: I have an answer to that question. The answer was -- well, I have an answer.

MR. RICHARDSON: My next question is, why in all the logs that you submitted, why are they incomplete?

Why did you only take sections of the logs and why didn't you just put the whole thing up?

See, when I went and look at the evidence last night - I didn't know this until yesterday - but a lot of the inserts you have aren't full, you've taken a section from this and a section from that.

Why aren't all the logs submitted?

MR. WARMAN: Because they are

extremely long and they would consume any number of volumes if we had put them all in and, in fact, the rest of the evidence I didn't feel was relevant to the hearing.

MR. RICHARDSON: So, you've edited the logs?

MR. WARMAN: No, I have not. I have taken excerpts from the logs.

MR. RICHARDSON: So, you've edited the logs?

THE CHAIRPERSON: That's not quite editing, it's excerpts.

MR. RICHARDSON: Well, I could go to a webpage and I could take three paragraphs--

THE CHAIRPERSON: That's right.

MR. RICHARDSON: --and I could edit them around.

THE CHAIRPERSON: And that's his discretion. It's up to you if you wish to put more, to put your own evidence on it.

MR. RICHARDSON: Okay, that's fine, that's fine.

THE CHAIRPERSON: What's significant is that everything relevant get disclosed, and it was a full disclosure.

It's my understanding, before the hearing, that the entire CD was provided to everyone, that then what people can select from inside the CD is a different matter.

MR. RICHARDSON: Well, I guess I'd have to -- if my understanding -- I guess the point I'd have to make I'd make in my own evidence, but...

THE CHAIRPERSON: Yes.

MR. RICHARDSON: But the point I was trying to get to is there's, you know, there's inserts where people have used the name James but have directed it towards other nicknames on the IRC chat server.

THE CHAIRPERSON: Well then, it's in your interest to produce those documents in your evidence.

MR. RICHARDSON: Yeah, I didn't -- I guess my question to him is --

THE CHAIRPERSON: I don't want to be inconsistent here.

For instance yesterday, as I said this morning, I did not think the investigator's report had been produced because it was -- portions of it were absent, but I must admit I sort of perceive a report in the nature of an investigator's report that has a cover page and a signature page and a conclusion, somewhat

differently than a log of online discussions.

So, I think it was significant that the front page was missing from the investigator's report.

MR. RICHARDSON: So, it would be the same --

THE CHAIRPERSON: Well, yeah. I said that I don't think it's appropriate to just file certain excerpts from the investigator's report.

I somehow perceive the situation differently from an on-going log of all these discussions where people have been discussing a million different things.

That I think is an appropriate discretion on the part of a party to select excerpts to bring before the Tribunal, and it's certainly within the discretion of the other party to produce the balance, the rest of it.

MR. RICHARDSON: Are you aware of the nickname Terrorizer on the IRC server in the room #wpcanada? It's actually Terrorize, I believe

THE CHAIRPERSON: Slow down.

MR. RICHARDSON: Sorry.

THE CHAIRPERSON: Say it again.

MR. RICHARDSON: Are you aware of the

nickname that is submitted in the HR books the nickname Terrorize in the room #wpcanada in the IRC server?

MR. WARMAN: If it's in there I would have seen it when I read it.

MR. RICHARDSON: It is in there.

Are you aware that in the same book that WPCANADA --

THE CHAIRPERSON: When you say the book, you're talking about...?

MR. RICHARDSON: The HR book.

THE CHAIRPERSON: HR-1.

MR. RICHARDSON: Yeah, in the actual IRC chat logs, WPCANADA says hello to a gentleman by the name of Terrorize that comes in and his exact words are:

"Hello james".

MR. WARMAN: I'm sorry, I don't recall that.

MR. RICHARDSON: Well, I could take a couple of minutes and look it up, you know.

Do you believe it's there, or do you want me to look it up?

THE CHAIRPERSON: I think you have the duty to show it to him.

MR. RICHARDSON: I will.

THE CHAIRPERSON: I haven't seen it. I've quickly passed through all the pages, I don't see a reference to Terrorize.

If it's on the CD then...

MR. RICHARDSON: I'm pretty sure it was in here, but it could have been the CD.

I'm almost positive it was on here. If I'm mistaken, I will enter it as evidence on my own behalf.

THE CHAIRPERSON: But you do have an obligation, as I told you earlier, to show these types of contradictions to the witness and confront him with it.

What you're trying to establish here, if I understand you correctly, is that there may be another individual called James under another pseudonym.

MR. RICHARDSON: Exactly, right.

THE CHAIRPERSON: If that's the case, you have the duty to show this to the complainant and the witness.

And if you find material like this in your research on the CD, you should print them out and bring them with you and show them to the complainant.

MR. RICHARDSON: Well, I thought that

that would have been my evidence and I had to wait until that, I would have thought anyway, if that was the case.

THE CHAIRPERSON: But it's a question that's on your sheet there, so it's something you should have ready.

MR. RICHARDSON: Okay. I'll withdraw the question for now, Mr. Chair.

Are you aware who White Dawn is?

MR. WARMAN: White Dawn?

MR. RICHARDSON: The nickname, yes, White Dawn?

MR. WARMAN: I'm not absolutely certain, but it's possible that that name has been used by a person -- no, I should say that I can't answer for certain.

MR. RICHARDSON: Okay.

MR. WARMAN: If I went back through and looked at the materials and saw the kinds of conversation they were using, I might have a better idea.

MR. RICHARDSON: Okay, thank you.

Do you know who the ARA is?

THE CHAIRPERSON: Who the what is?

MR. RICHARDSON: ARA.

MR. WARMAN: Yes, the testimony that I've previously entered is that ARA stands for Anti-Racist Action.

MR. RICHARDSON: Have you in the past or do you now have any dealings with the ARA?

MR. WARMAN: In terms of what?

MR. RICHARDSON: In any way whatsoever.

MR. WARMAN: Have I talked to members of the ARA? Certainly.

MR. RICHARDSON: Yes. Have you associated with them, have you protested with them, have you donated to them?

MR. WARMAN: I have never donated to them.

MR. RICHARDSON: Okay.

MR. WARMAN: I have attended rallies in which they were taking part with a number of other groups.

MR. RICHARDSON: Excellent, excellent. That's the answer I was looking for.

Are you aware that Anti-Racist Action has numerous times been charged with -- I'll need evidence for this; won't I?

Oh, there is evidence, it's in the

book, in the webpages.

THE CHAIRPERSON: Sir, just please, questions.

MR. RICHARDSON: Are you aware that they have been charged with violent acts and up to terrorism acts?

MR. WARMAN: I don't believe --

MR. RICHARDSON: Members of the ARA, not anyone in particular?

MR. WARMAN: It's possible.

MR. RICHARDSON: But in your knowledge you don't know of any of them, or any cases?

MR. WARMAN: Oh, I'm aware that there have been charges subsequent to demonstrations by -- charges laid against members of the Anti-Racist Action subsequent to demonstrations held by Anti-Racist Action, yes.

MR. RICHARDSON: Do you remember what kind of charges they were?

MR. WARMAN: Probably common assault charges or related to property damage.

MR. RICHARDSON: Do you associate yourself with those kind of groups often?

MR. WARMAN: I'm afraid I'm going to have to object to that question.

THE CHAIRPERSON: Your objection is on the basis of...?

MR. WARMAN: On the basis that it's irrelevant and it's abusive and --

THE CHAIRPERSON: What is the relevance?

MR. RICHARDSON: Well, the relevance is, is the ARA has been deemed--

THE CHAIRPERSON: What's the relevance to your complaint?

MR. RICHARDSON: I'm trying to show that -- I guess the point is, is he's trying to link us to violent groups and I guess I'm trying to link him to the same.

THE CHAIRPERSON: It doesn't work that way.

The only person I'm going to focus on here is you, you are the ones that are being accused, or are being named in the complaint.

Unless you're trying to demonstrate somehow that -- you've established that the gentleman has a link with groups that are opposed to racism, and that you can certainly argue later on may somehow have affected his evidence, but that's one matter, those questions have occurred.

But I think to go into the realm of a group -- another group and what charges have been laid against that group, I don't see what the relevance is.

MR. RICHARDSON: Okay, that's fair enough. That's fair.

Is it possible, going back to the chat logs again -- I'm sorry, all my notes are so mixed up and unorganized -- is it possible, since you only took excerpts of the logs, that some of the logs could be taken out of context?

MR. WARMAN: It was my belief that everything that I felt was relevant to the evidence I was going to give before the Tribunal was included.

MR. RICHARDSON: Okay. But I think where I'm going with this is, since only excerpts were taken out and those excerpts were read to the court, we don't know what was said before or after those excerpts.

So, is it possible that they could have been taken out of context when read to the court?

MR. WARMAN: Theoretically.

MR. RICHARDSON: Okay, thank you.

I think I'm done. Just give me a sec, Your Honour -- I mean, Mr. Chair.

Mr. Chair, I don't know the legal

words for this, so I'm just going to say it in my own words.

I'd like to have the actual logs themselves taken out of evidence, there's a number of factors why; inconsistencies.

The main reason is, is because we haven't really established any proof that WPCANADA or Alex are us, and it's clearly that the logs can be edited.

THE CHAIRPERSON: That's all going to argument, you will argue all these points, all right.

MR. RICHARDSON: Okay, okay, that's fair enough. That's fair enough.

THE CHAIRPERSON: This is how it's going to work.

We have the logs already in. We have the evidence of this witness - are you listening to me - that he acquired them from the CD that ostensibly came from the police investigator who copied it.

He will be testifying as to how that CD Rom was created, and excerpts from that log and the logs on the CD were entered into evidence.

You have every other right to go and look at the rest of the logs, put in whatever you think may assist your case or complete your case and enter

that into evidence, and at the end of the day you may argue that for technical reasons that these documents may have been manipulated or there was some lapse occurred in the chain of possession of your computer or its hard disk, whatever.

These are all points you can make in your argument to persuade the Tribunal that the case is not well founded.

MR. RICHARDSON: I really apologize. Like, sometimes I have a problem differentiating between, like, an honest question and something that would actually be my evidence or my testimony, and I apologize for that.

THE CHAIRPERSON: And things that are entered into evidence are not likely to ever be removed.

So, these documents have already been identified and in evidence, so they won't be removed from evidence.

You can argue about them subsequently or you can object when they are being entered into evidence.

MR. ALEXAN KULBASHIAN: Mr. Chair, can -- is it possible that after we question Detective Wilson, let's say we are done with him, that we look to

the Canadian Evidence Act just for a little bit as far as logs go, because there will be questions asked to him as far as integrity and the chain of evidence and all the other issues.

So, could we come back...

THE CHAIRPERSON: What aspect of the Canada Evidence Act?

MR. ALEXAN KULBASHIAN: As far as entering computer-made logs, section 31, which talks about assessing the integrity of the log as well as assessing whether or not by federal guidelines they should be entered or they can be removed from evidence.

THE CHAIRPERSON: Let me see section 31.

MR. ALEXAN KULBASHIAN: Actually, it's my only copy, I'm sorry.

THE CHAIRPERSON: We have the Evidence Act here, but since you had it in your hands...

Having quickly looked at the section, there appears to be some relevance to this evidence.

So, what I would do - and I think that Mr. Kulbashian should be commended for raising this point in advance - there may be some factors that need to be considered in considering the evidence of

Mr. Wilson who is, as we said already, the person -- the key person in terms of this electronic information, print-out.

MR. ALEXAN KULBASHIAN: That's why I didn't bring it up until now.

THE CHAIRPERSON: That's right. No, that's fine. Those issues have to be addressed, having looked very quickly at that section, which was incorporated into the Evidence Act in 2002.

So, definitely that's an issue that has to be dealt with at that time.

Look, we've said before in terms of -- yesterday have been produced these logs, I did say it at the time, in a way on the condition or not quite, subject to in terms of whether they're in evidence - they're here now - but it was made clear from the outset that this witness is simply relying on data that he received from Mr. Wilson.

The key to the information was Mr. Wilson and his testimony is forthcoming.

So, if Mr. Wilson were to say in his evidence, for instance, that he drafted this all off the top of his head, clearly any evidence that is attached to these print-outs from Mr. Warman would be defective.

But that's logical, that goes without saying.

But it's simply impractical during hearings to have a revolving door on witnesses, as soon as one piece of evidence arises which one person wishes to testify on but which came from someone else, you interrupt his evidence, bring the other person in to make that proof and then continue.

So, with that in mind, Mr. Warman is completing his evidence based on what he, in good faith, testified.

MR. ALEXAN KULBASHIAN: I understand.

THE CHAIRPERSON: He in good faith acquired through the London Police Service.

MR. ALEXAN KULBASHIAN: No, I don't believe there is any disruption in chain from the Commission to Warman at all.

THE CHAIRPERSON: To Mr. Warman.

MR. WARMAN: It's just this issue of addressing, I guess the direct collection of the evidence as well as the storage and the re-creation of that evidence.

THE CHAIRPERSON: That's right.

MR. RICHARDSON: When would we enter this, Mr. Chair?

THE CHAIRPERSON: No, no, you don't have to enter it, that's law, and it will be a matter that will be discussed during -- it's an issue that has to be addressed in the course of hearing Mr. Wilson's evidence.

MR. RICHARDSON: I'll try to wrap this up as fast as I can.

I didn't see my testimony to Cst. Terry Wilson in the HR black book. Is there a particular reason why?

MR. WARMAN: I don't have a copy.

THE CHAIRPERSON: Sorry, I missed the question, would you repeat it again.

MR. RICHARDSON: My testimony for when I was arrested, my testimony to Cst. Terry Wilson--

THE CHAIRPERSON: Yes.

MR. RICHARDSON: --is not submitted in the HR book.

THE CHAIRPERSON: Well --

MR. RICHARDSON: And my question basically, I just wanted to know why.

Then my next question would be to you is: If I could enter that at a time?

THE CHAIRPERSON: The answer is yes

on the second one. On the first one, you should be able to surmise, the complainant and Commission may choose to introduce any evidence that they want, so...

MR. RICHARDSON: He just doesn't want to use this evidence.

THE CHAIRPERSON: I mean, if there's an answer to that question.

MR. WARMAN: There is. I've never seen the evidence, so I've never had the chance to review whether there is anything pertinent or not.

THE CHAIRPERSON: So, you have not seen the transcript--

MR. RICHARDSON: Yeah, the transcript, Alex is here.

THE CHAIRPERSON: --of the criminal trial? No?

MR. RICHARDSON: No, because --

THE CHAIRPERSON: What are you referring to?

MR. RICHARDSON: There wouldn't be a transcript of the trial because we never made it to trial.

My transcripts of when -- the day I was arrested.

THE CHAIRPERSON: The police

investigation?

MR. RICHARDSON: The police investigation and transcript, yeah, when I was actually questioned, yeah.

THE CHAIRPERSON: All right. There's a transcript of that. Have you seen this document?

MR. WARMAN: No, I haven't. And just further to that, it's my understanding that it's Mr. Kulbashian himself who submitted that to the Tribunal in terms of his own case.

THE CHAIRPERSON: Disclosure.

MR. RICHARDSON: Oh, I just assumed that -- okay, okay, no, I think that's great, that's great.

And my very last question: Is it your opinion that at the time I was arrested or at the time these offences took place, what city would you say I was living in?

MR. WARMAN: I'm sorry, I have no knowledge of that. Well, no, I can say that I have seen two addresses, one of which I believe on the icon court system listed a Paling Avenue address.

MR. RICHARDSON: In Hamilton, Ontario?

THE CHAIRPERSON: Where?

MR. WARMAN: It's a computer database that's used in relation to criminal charges that have been laid against accused, and when I went to the Ottawa courthouse and obtained a print-out of the icon listing - it's probably in my file - but to the best of my recollection it listed an address on Paling Avenue.

THE CHAIRPERSON: What city?

MR. RICHARDSON: Hamilton, Ontario.

THE CHAIRPERSON: Hamilton?

MR. WARMAN: Yeah, I believe so.

Excuse me, yes, I believe so.

Sorry, and again, that's only subject to the knowledge that I've seen from that particular database.

MR. RICHARDSON: In the HR black book there's a statement, I can't remember his name, he's the lead investigator of the Woodstock Hate Crimes Unit, Gary...

Askins, thank you. Gary Askins.

In May of 2001 I was pulled over, and I'm only asking if you remember this document, I'm not asking you anything else, there was an article or I guess, what do they call it, an occurrence form, I guess, that states that I was pulled over by Gary Askins in Woodstock, Ontario.

Do you remember that document, before we go on?

MR. WARMAN: Not anywhere in the evidence that myself or the Commission has submitted.

If you can point it out to me, then I will review it.

MR. RICHARDSON: I probably can.

THE CHAIRPERSON: Is it under another tab?

MR. RICHARDSON: This is part of me not being prepared, I really apologize to the court.

MS MAILLET: If I could help clarify, I believe he's referring to one of the tabs that Mr. Wilson will be testifying to.

MR. RICHARDSON: The full thing hasn't been submitted yet.

THE CHAIRPERSON: Okay. So, it hasn't been submitted.

MS MAILLET: That's my understanding, I'm guessing.

THE CHAIRPERSON: Why don't you just -- let me put this suggestion.

There was an infraction that occurred in May, 2001 and on that infraction what address appeared?

MR. RICHARDSON: On the infraction it states that James Richardson of 454 Paling Avenue, Hamilton, Ontario, my postal code, my phone number.

THE CHAIRPERSON: Yes.

MR. RICHARDSON: You know --

THE CHAIRPERSON: So, what's your question?

MR. RICHARDSON: I'm still -- like, I'm trying --

THE CHAIRPERSON: The document is not important. You're asking this witness a question.

MR. RICHARDSON: Okay. And I guess he answered it already then, whether or not he believed I lived in Hamilton at the time, because that is very important to me--

THE CHAIRPERSON: Right.

MR. RICHARDSON: --in my case. Maybe I'm asking at the wrong time, again.

THE CHAIRPERSON: Well, no. What you're saying is -- well, he's already answered that when he consulted the criminal records of the court--

MR. RICHARDSON: From his knowledge.

THE CHAIRPERSON: --of Ontario he identified that he saw that your address appeared as that of Hamilton.

MR. RICHARDSON: Okay, okay.

THE CHAIRPERSON: Correct?

MR. WARMAN: Yes.

MR. RICHARDSON: I'm done. Thank  
you, Mr. Chair.

Thank you, Mr. Warman.

MR. ALEXAN KULBASHIAN: Just a quick  
issue is, there is still going to be a little small  
segment after --

THE CHAIRPERSON: Right, because of  
what Mr. Warman has undertaken to check.

MR. WARMAN: Yes.

THE CHAIRPERSON: So, when you come  
back, Mr. Warman, you'll testify on those points.

MR. WARMAN: Certainly.

MR. RICHARDSON: I don't think I  
will, after he answers the question, but when he comes  
back, if I have one or two sub-questions...

THE CHAIRPERSON: I will give you  
that leeway.

MR. RICHARDSON: Thank you.

MR. ALEXAN KULBASHIAN: And there is  
one other issue from day one, that was the issue of the  
verdict that was brought over, I'm not sure if there  
was full disclosure on it.

MS MAILLET: Yes, we've attempted to get that. When he made the request, what happened was they sent the same thing that we had in our book by mistake.

So, we called them again, made the same request to see if we could get that today, so we are waiting for it.

As soon as we get it...

THE CHAIRPERSON: That's fine.

MR. ALEXAN KULBASHIAN: Just asking to see where I'm going.

MS MAILLET: If I may, just in terms of timing, so that I can advise Mr. Wilson if he will be up soon, is it the respondents' guess that Mr. Warman won't be that long and that we can start up with Mr. Wilson this afternoon?

THE CHAIRPERSON: Well, I understood at this time he doesn't think there are any questions left, maybe a couple arising from his answers.

MR. RICHARDSON: No more than 10 minutes.

MS MAILLET: Okay. I just wanted to clarify.

THE CHAIRPERSON: So, we'll break until 1:30.

Is that okay?

MR. ALEXAN KULBASHIAN: Sure.

REGISTRY OFFICER: All rise.

--- Recessed at 12:35 p.m.

--- Resumed at 1:40 p.m.

REGISTRY OFFICER: Order, please.

All rise.

THE CHAIRPERSON: Good afternoon.

REGISTRY OFFICER: Please be seated.

THE CHAIRPERSON: Mr. Warman, did you have the opportunity to look through your material?

MR. WARMAN: Yes, I have and I can answer, no, that I was unable to locate anything that directly indicated to me that Mr. Richardson was posting material subsequent to his arrest on the, according to him, on the 26th of September, 2001.

MR. RICHARDSON: Thank you, Mr. Warman.

THE CHAIRPERSON: You said September, 2001; right?

MR. WARMAN: Yes, 26th September.

THE CHAIRPERSON: Okay.

Thank you.

Any re-examination?

MS MAILLET: Yes, I just have one

question.

RE-EXAMINATION BY MS MAILLET:

MS MAILLET: Mr. Warman, in your questioning by Mr. Richardson he had mentioned something about the Vinland Voice being accessed by e-mail and that's how you in fact had received some of the Vinland Voice editions.

And you had also another way to access it and you were talking at the same time, so I wanted to ask you to just clarify how the Vinland Voice could be accessed by way of internet?

MR. WARMAN: By two means. The first one is by going to the C.E.C.T. website and then clicking on newsletter, and the second one is just by going directly to the vinlandvoice.com website.

MS MAILLET: Thank you. That's all my questions.

THE CHAIRPERSON: Thank you.

Thank you, Mr. Warman.

MR. WARMAN: Thank you.

THE CHAIRPERSON: The next witness?

MS MAILLET: Yes, we'd like to call our next witness, Terry Wilson. He's outside.

TERRY DAVID WILSON, Sworn:

EXAMINATION-IN-CHIEF BY MS MAILLET:

MS MAILLET: Good afternoon, Mr. Wilson.

DET/CST. WILSON: Good afternoon.

THE CHAIRPERSON: Mr. Wilson, can you put the microphone a little bit closer to you.

DET/CST. WILSON: Is that a little better?

THE CHAIRPERSON: A little closer.

DET/CST. WILSON: A little closer.

THE CHAIRPERSON: That's it. Thank you.

MS MAILLET: Now, I think you've finally made it here after two days. Thank you for your patience.

DET/CST. WILSON: No problem.

MS MAILLET: Mr. Wilson, could you please state your title, your professional title?

DET/CST. WILSON: I'm a detective/constable with the New Westminster Police Service. I've been so employed there since March, 2003.

Previous to that I was a member of the London City Police Service and during that time I had a variety of jobs.

I started in 1989 and was a uniformed

police officer about five and a half years.

1995 I was transferred to criminal investigations division, general investigation section, and one of the mandates that I was given upon entering there was to comply with any hate crime investigations that needed to be done.

So, I started my hate crime investigations in 1995, and I continue to this day with the New Westminster Police Service.

MS MAILLET: And would that be known as the Hate Crime Unit?

DET/CST. WILSON: Yeah, we're actually a youth crime unit, but one of the sections of the youth crime unit was hate crime investigations.

So, it was a youth crime/hate crime investigator.

MS MAILLET: Okay. Is his speed okay?

THE CHAIRPERSON: Yes. I'd ask you to either speak up or speak into the microphone.

DET/CST. WILSON: Okay, sorry about that.

THE CHAIRPERSON: Put the microphone very close to you.

MS MAILLET: We've had people having

to do that all week, so...

DET/CST. WILSON: Okay.

MS MAILLET: And myself.

Sir, are you familiar with Mr. Alexan Kulbashian and Mr. James Scott Richardson?

DET/CST. WILSON: Yes, they're the two defendants in front of the court, the gentleman in the blue shirt and the gentleman in the off-green shirt here.

MS MAILLET: And could you please tell the Tribunal how you first came into contact with those two individuals?

DET/CST. WILSON: I first knew of, sort of in order, Mr. Richardson first in May of 2001.

I was notified that there would be a large, what police would call a white supremacist concert, white supremacist gathering in the area of Woodstock, Ontario.

I did not attend this event, but I spoke to investigators before and after.

One of the investigators I spoke to was Cst. Darryl Longworth of the Woodstock Police Service who conducted checks during this concert on a nearby road.

One of the checks or one of the, I

guess, car stops they did was of a car that was driven by Mr. Richardson with a female passenger.

Mr. Richardson was identified using a valid Ontario driver's licence with an address of Hamilton at Palling (sic) Avenue I believe.

MS MAILLET: Paling Avenue.

DET/CST. WILSON: Paling Avenue in Hamilton, Ontario.

He expressed to Mr. Longworth that he was a member of the Canadian Ethnic Cleansing Team at the time, and that information was relayed to me.

As part of my job as being a hate investigator, hate is now sort of an internet facet, so one of the things I do proactively is I monitor hate sites, white supremacist sites particularly, especially ones that are centred around southwestern Ontario and the London area.

So, as I'm doing these investigations I'm notified of this gentleman sort of on an onset, so we can keep sort of an up-to-date intelligence database.

In August 17th of 2001 I start a, what police would call an intelligence probe into some particular websites.

THE CHAIRPERSON: What was the date,

I'm sorry?

DET/CST. WILSON: It was August 17th, 2001.

MS MAILLET: And, sir, at this point I'm going to ask you to turn to tab 60.

DET/CST. WILSON: Tab 60 is a document produced by me as a result of this investigation.

It's essentially a statement or a documentation of the events that occurred that I guess we're in front of this Tribunal right now.

MS MAILLET: So, you recognize this document as something that you authored yourself?

DET/CST. WILSON: Yes, I did.

MS MAILLET: And you're going into some detail with respect to that investigation.

And is it right that this is somewhat summarized in this document at tab 60?

DET/CST. WILSON: Yes, it is.

MS MAILLET: Okay, thank you.

And everybody has a copy, so feel free to refer to it as you need to.

DET/CST. WILSON: And I must correct myself, as I look at the document I did say the 17th of August, I do actually mean the 11th of August.

I'd like to correct myself.

MS MAILLET: So, it's the 11th.

DET/CST. WILSON: Essentially what happens, I'm monitoring websites, particularly the Tri-City Skins website which is out of Kitchener/Waterloo.

Not only do you monitor the content of those websites, we would monitor -- or I would monitor the forum or the chats, chat line sections of those websites, mostly because the content section not only gives you the content of what an organization believes, but you can also get from the chat lines or forum sections, individual perceptions of what those websites are about.

When I'm viewing that I see a, I guess, participant in this forum site Coxwain88 -- or Coxwain24WPCANADA.

He had put a posting on this forum site and advised that he was a London resident and that he thought that the site was great.

Seeing that and being a detective with the London City Police, that obviously sparked my interest, and so what I did was start an internet or e-mail, electronic mail conversation with this gentleman.

I started with, because my name is known in that area, I started with a fictitious name, Conrad Macdonald.

This fictitious name was created to, (1) to keep the integrity of the investigation; obviously if I used my own name, no intelligence would come forward; and, (2), to keep it consistent through the investigation - I kept this name all the way through the investigation.

I actually created an electronic conversation between Conrad Macdonald and Jen Macdonald, his sister. So, I started to write as a lady would on the internet, which is a whole other unique situation whatsoever is to write like a lady would on the internet.

So, I had some conversation with this author, again, Coxwain24WPCANADA.

This author talked about the movement in a whole, mostly in very general terms, and he also talked about the Canadian Ethnic Cleansing Team or the C.E.C.T. as you referred to it, and that he was a member of that and that there were members in London.

Again, sparking my interest again because there was sort of a facet of that movement that I hadn't known about in London at the time.

He signed his e-mail with 88 at the bottom. And being a hate investigator for well over 10 years now, or close to 10 years now, I understand that 88, the 8th letter of the alphabet is H, 88 stands for HH, which is Heil Hitler.

On August the 12th, 2001 I had a conversation with him discussing whether there was a possibility of meeting him and that I was interested in joining the Canadian Ethnic Cleansing Team, again, under the fictitious name of Conrad Macdonald.

He advised me that it was possible to join the Canadian Ethnic Cleansing Team and we sort of bantered back and forth between the 14th of August and the 15th of August on just some general conversation about the movement, about the Canadian Ethnic Cleansing Team, nothing in real specifics yet.

On August the 17th in an e-mail conversation, Coxwain24WPCANADA sent me a, not only an e-mail, but part of that e-mail was also a thing called the Vinland Voice No. 01.

The Vinland Voice was a well-produced newsletter, electronic newsletter. It went -- the header on it was the correspondence of the C.E.C.T., which now is the Canadian Ethnic Cleansing Team, and with that he also supplied me with an attachment with

this newsletter, the newsletter attachment was a flyer that I could produce on my own and distribute to where I wanted to.

The flyer was called "A Call for Government Action", and it also included a download feature that I could download it; so, therefore, I could produce it on my own computer to hand out, I guess, on windows, doors, neighbours, whatever I wanted to do, which I never did.

On the 22nd of August, 2001 I again made contact with him electronically and, again, I must stress the fact that some of this conversation was initiated by myself, not all of it was just responding to his conversation. I actually initiated the first conversation with him on the 11th of August.

In this conversation, I asked him to supply me with a phone number because I'd like to speak to him personally and he did so, he supplied with a phone number of 519-690-0484.

And in it he identified himself as James but, again, signed the bottom with Coxwain24WPCANADA.

Again, with this I received the Vinland Voice 02, 03 and 04. They were sort of a weekly edition of this newsletter.

So, over the next weeks I received three more editions of the Vinland Voice. Again, a very well done, electronically produced newsletter.

The Vinland Voice was also located on a separate website, it was a website called the vinlandvoice. That website was directed to me to be viewed by Coxwain88WPCANADA. I could also view the newsletter on a separate website.

I now turned this investigation pretty much from an intelligence probe, because now I saw the fact that not only was he sending me the e-mails, but I also could, I guess - in police terms - could prove the fact that this was disseminated more widely than just sending it to me.

It now sort of turned itself into a criminal investigation, but at this time none of the flyers and none of the Vinland Voice newsletters would have been a criminal charge, there was nothing in it, although extremely racial, extremely very white supremacist material, it didn't cross the hate propaganda section found in 319 and 320 of the Criminal Code.

So, although it fell within the far right, at no time were they breaching any sort of criminal behaviour at this time.

During this investigation, we also received complaints from an address at 390 Southdale Road, which is a large apartment building in London on Southdale Road.

It was complained by the superintendent and other staff of that building, other caretakers of that building, the staff -- the superintendent that called me was Lynn Ribeout.

She contacted me advising that there were stickers, which she believed to be very racial stickers found inside the halls and elevators at 390 Southdale Road.

She was able to produce these stickers to me. Some of them -- not some of them, but the stickers were -- at the time she could tell me about them, but she wasn't too sure where the stickers went. She knew that somewhere within the business they had the stickers that they tore off the walls because they didn't want the residents to see them any more, but they must have went to the main office.

So, at that time she just gave me a complaint that there was something on in the building.

Subsequent to that we were able to do a check on the phone number supplied to me by James, who identified himself as James in the e-mail and

signed the bottom of the e-mail, Coxwain24WPCANADA.

That number came back to an address at 601-390 Southdale Road, London, Ontario.

I came back to be a company name called Canada Redirect -- Reconnect, sorry, and at that point our investigation sort of, I was able to attend that address.

Actually, I attended the building again, and because I've already spoken to the superintendent, I was able to speak to her again and ask her who lived in that address.

She told me that James Scott Richardson and Maggie Shearer lived in that residence and produced a leasing agreement stating that fact and that they had lived there since November 15th, 200.

They were also supplied, and this leasing agreement named Mr. Richardson as the first applicant and the second applicant being Magdalene Shearer and they were both signed at the bottom in what I believed to be both their signatures.

The unfortunate events of September 11th occurred in New York City and Washington.

And on September 14th, I was sent a Vinland Voice through the e-mail. And at this point their e-mail system sort of changed.

It changed a little back, a little couple of editions, instead of getting -- not only did I get personal e-mails from Coxwain24WPCANADA, but I also got a Topica e-mail which included the Vinland Voice, as well as I could read the Vinland Voice on a separate e-mail if I just signed on totally together.

And just to go over that sort of thing.

I would get a personal e-mail from Coxwain24WPCANADA, but my name as Conrad Macdonald was also placed on an e-mail list of a larger variety of people that automatically got sent the newsletter.

So, I would be able to view this three separate ways, and two of the ways I knew myself that was being disseminated to more than one person.

Again, you could view the internet site without ever being signed up to those e-mail addresses.

On September 14th, 2001 I received one Vinland Voice, but it actually was in three parts.

And, again, I compared the Vinland Voice that I received on the 14th with the internet site and they were exactly the same.

In that Vinland Voice in part I, there was an article, I guess, or a statement, I guess,

by the Canadian Ethnic Cleansing Team, and it read as follows:

"And yes I hold ALL Muslims personally responsible as well. Even the American government for bringing this war onto American soil by supplying Jews with weapons to destroy the Muslims. It is now time to take back our streets. I am proclaiming my own act of war. I encourage all racialists and esp. all C.E.C.T. members to do the same. There are many targets on Canadian soil such as B'nai brith offices, Mossad temples and as far as I am concerned any Jew/Arab temple, building, house, and even cars. There are no innocent Jews especially in a time of war. I ask that you mourn the loss of many of our kin that perished in NY and Washington and I want you to channel that anger and use it

**StenoTran**

to fight our enemies."

And, again, at the bottom of this it stated WPCANADA. It stated WPCANADA in an area that you would say that was the author's signature, in a way.

MS MAILLET: Sir, I'm just going to get you to turn to tab 20 of the HR-1.

It's a copy of the Vinland Voice newsletter No. 05 dated September 14, 2001.

Is this the document that you're talking about at page 3 of your crown brief?

DET/CST. WILSON: Yes, it is.

And, again, it starts out with the Editor's Voice and that was the paragraph I just read was the -- an excerpt from that whole statement.

That excerpt is the basis for now my criminal death threat investigation.

Inside that there is two other paragraphs above that and one paragraph below that and, again, it's signed by WPCANADA.

MS MAILLET: And you indicate this document was endorsed WPCANADA which you knew to be James because of your electronic e-mail correspondence?

DET/CST. WILSON: Yes, I knew that WPCANADA, our electronic e-mail conversations, he

signed it WPCANADA, identified himself in one of the e-mails as James, as well as supplying me with a phone number that comes back to an address that James Scott Richardson lived at.

So, in that point there was no doubt in my mind that James Scott Richardson is WPCANADA and, as a result of that investigation, I now proceeded with a criminal investigation into death threats against the Jewish population and the Muslim population in Canada.

On September 27th, I verbally contacted -- I phoned the phone number that was supplied to me by James and spoke to James at that phone number.

On the end of the phone he identified himself as James, and that I wanted to meet with him.

He said that would be great, that he lived on Southdale Road and that he would have -- we would have to really work around the fact that when we meet because he would have to arrange for a babysitter.

He had advised that he worked full time for the Canadian Ethnic Cleansing Team and that he asked me if I wanted any pamphlets or propaganda to hand out, and I agreed that, yes, I would want those.

James advised that he would bring Maggie, which again gave he more evidence to believe,

again, no doubt in my mind, that it was James Scott Richardson because he did live with a girl named Maggie, and that he would have lots of literature because he was organizing a national spread.

In my view, a national spread is a national pamphlet or leaflet organization in which they would go car-to-car, door-to-door distributing pamphlets with their belief system.

He also advised that he worked in conjunction with Tri-City Skins, Northern Alliance and other racialist or white supremacist groups.

And when he said Northern Alliance, I had already done close to a two-year investigation into Northern Alliance and myself, as well as the London City Police Department, decided that they were such a threat to minority groups that we published them as an organization in the newspaper, warning minority groups in London that this organization exists.

Although we never published any individual names, we believed that the organization as a whole was a threat and that in 1999 and 2000 that we notified them publicly that they exist, being a responsible police department.

And I know that Northern Alliance and its members are closely associated with Ku Klux Klan as

we have had members of the Northern Alliance attend Ku Klux Klan meetings.

I told James that I would talk to him the following day and he agreed that we set up some sort of meeting.

I received an electronic e-mail with James on the header of C.E.C.T. The e-mail acknowledged the conversation we had the day before -- I'm sorry, the voice conversation or the phone conversation we had that day and he asked to meet me on September 28th.

He then asked me if I would supply him with my ISP, my internet service provider.

Essentially what he was doing is, because he was afraid - and he told me this on the phone - he was afraid that I was a cop in his terms, a police officer, that he would be able to do a background check on the ISP to ensure that it didn't come back to the London City Police Department and, therefore, eliminate our meeting totally.

I told him that I didn't know how to do that but, as soon as I did, I would send it to him.

On the 28th of September, 2001 with this background information and the fact that now it was a death threat to the Jewish and Muslim communities

of Canada, I applied for a search warrant for 601-390 Southdale Road in the City of London, Ontario and received judicial authority by Justice of the Peace Phillips.

To tell you about the search warrant process. I present a search warrant to Justice of the Peace Phillips. I don't leave the room, it is electronically recorded and at no time did Justice of the Peace Phillips have any questions for me concerning this warrant, and it was signed based on the facts inside the document.

THE CHAIRPERSON: Can I back you up on something.

All these e-mails that you received and sent along the way, did you keep copies of them?

DET/CST. WILSON: Yes, I did. We kept copies for the criminal, everything from the first contact with them, we kept copies of them.

THE CHAIRPERSON: And they were submitted to the Justice of the Peace?

DET/CST. WILSON: The e-mails, no.

The facts that we received in the e-mails were submitted to the Justice of the Peace. I did have them as an appendix if he wanted to see them, but they were --

THE CHAIRPERSON: And are they appended here to your report?

DET/CST. WILSON: They are not included in this report that I'm referring to now, they are included in the criminal report that we provided the crown as part of the death threat investigation.

THE CHAIRPERSON: Okay.

DET/CST. WILSON: At 12:20 p.m. on September the 28th, myself with other members of the London Police Service executed this search warrant at 601-390 Southdale Road, the residence of James Scott Richardson and Magdalene Shearer.

Just prior to doing this, I had phoned -- we were actually in the lobby, the police department was in the lobby and, because there was some safety issues dealing with the far right, the extreme far right, dealing with firearms and stuff like that - not that we had any indication that Mr. Richardson at that time was in possession of any firearms - we did know that when he made reference to the fact he had to get a babysitter, what I was doing as Conrad Macdonald was trying to get Mr. Richardson to meet me at the Tim Hortons around the corner, we could affect the arrest there and, therefore, ensuring our safety.

So, in the lobby of the apartment

building I called James. James says he couldn't make it, and as a result we confirmed that he was there, and during that conversation he advised me that he was by himself pretty much.

So, at that time we executed the search warrant at 12:20 p.m. and entered the house.

Directly upon entering the house we arrested Mr. Richardson. He was read his rights to counsel as well as his reason for being arrested, as well as a caution in case he made any statement concerning the investigation in total.

While executing the search warrant we -- there was a baby, I guess, a little guy inside the apartment and we made arrangements at that time to -- for that little guy to be taken care of by a neighbour that is well known to Mr. Richardson and Mrs. Shearer, and actually it was on Mr. Richardson's consent that we could have that little guy taken care of.

Also in the apartment was a dog. We already previously knew of the dog but because -- we knew of the dog because of several complaints made by other residents inside the building of Mr. Richardson and his dog.

The dog's name was Rahowa, which I

know to stand for racial holy war, and actually the dog would come to whoever called that name to it.

The dog was secured, it was a very friendly dog, a very little dog. I believe it was a German Shepherd, but it was just a young dog, very friendly at all.

We secured the dog and then we proceeded to execute the search warrant by conducting our search.

When we're conducting our search, we brought along a crime analyst. Our crime analyst is taught to -- part of his job within the criminal investigations division is to deal with electronic evidence.

He would -- we brought him along because he is trained in how to secure electronic evidence and to ensure that it's taken properly and to ensure that there was -- the procedures of taking it are done.

You know, I'm an investigator with the youth crime unit, hate unit, when it comes to computers he's the expert and I'm the expert in the other field.

So, we brought him along and he instantly went to the hard drive which, when we

executed the search warrant Mr. Richardson was sitting at the computer at the time, he was just getting up, as a matter of fact, when we entered the door.

The crime analyst, Chris Stumpf, Det/Cst. Chris Stumpf - it's S-t-u-m-p-f - seized the computer and that was in his possession for the whole time, he never turned the computer over to anybody.

Before I go into the other evidence we secured, I'll go into the policy or the procedure in which a computer or electronic evidence would be seized.

He seizes the computer with all the attachments and the wires and everything else, and there is a policy and procedure within the London Police Service which it would be stored in the crime analyst department.

Essentially that hard drive is taken, put in a locked cabinet, tagged as Mr. Richardson under an exhibit number and a file number and it is stored there.

It's only stored by Cst. Stumpf and is only retrieved by Cst. Stumpf because that is his possession of the property.

At no time would any other person but Cst. Stumpf have access to that, and what that does is

to ensure that -- if it's put in the general property, (1), Cst. Stumpf might want to try to get it out after 4:30 in the afternoon to do some work on it, which our property services would be closed; and, (2), to ensure no accidental damage, for example, a magnet being placed very closely to the computer would cause any accidental damage to that computer. So, therefore, it's secured in his property and left there.

Also in this search warrant we would search for paraphernalia, white supremacist paraphernalia that would link Mr. Richardson with Canadian Ethnic Cleansing Team.

Several pieces of articles were located inside the apartment.

One thing inside the apartment we did locate, not only did we locate female's property but we also located men's clothing that I believed to be Mr. Richardson's.

Inside the apartment, probably a first notice is right above the bed is a large German flag with a swastika on it hung above the head board of the bed.

Also located in the apartment is Mr. Richardson's bomber jacket, which when you're dealing with skinheads, one of their prize possessions is their

bomber jacket.

It was a bomber jacket with several patches on it. One of the patches denotes affiliation with the Tri-City Skins, it actually said Tri-City Skins on his arm.

Another patch was the same emblem for the Canadian Ethnic Cleansing Team. Again, it would be a Celtic or Keltic cross cut in half with a Canadian flag on the other side.

Also seized as a result of the search warrant were a set of black books with white laces.

Again, my knowledge of the skinhead movement is that skinheads -- there are actually three types of skinheads in this world:

There's neo-Nazi skinheads, there are traditional skinheads and there are SHARPEs, which are Skinheads Against Racial Prejudice Everywhere.

Essentially, SHARPEs are the far left, skinheads, neo-Nazis are the far right.

Skinheads start out, traditionally when they first started out it had nothing to with white power, it had everything to do with fashion or style at the time of the hippies. That would be anybody wearing that garb would be traditional skinheads.

So, therefore, for white supremacist skinheads to sort of distinguish themselves from other skinheads, they started to look towards patches and signs and symbols on their attire that would denote their white supremacist beliefs or their neo-Nazi beliefs.

One of those significant things are white laces, and white laces is universally known as denoting oneself as a white supremacist.

Those boots were located and they were seized as well, showing an affiliation to the white supremacist movement.

Also located inside the apartment were bumper stickers, hats, all that sort of material that would have -- that would have been sort of produced by a white supremacist movement.

One of them particularly was micetrap, micetrap is one of the largest distributors of white supremacist material in North America, and that bumper sticker was located on the mirror in the bedroom right opposite the large Nazi flag.

Also in that apartment were business cards. These business cards were Canadian Ethnic Cleansing Team, WPCANADA, and I believe it said public relations -- no, I'm sorry, he wasn't the public

relations, WPCANADA was the recruiter for WPCANADA and those business cards were located very close to the computer at which Mr. Richardson was sitting.

THE CHAIRPERSON: Please repeat that, so you found business cards --

DET/CST. WILSON: Business cards.

THE CHAIRPERSON: Yes.

DET/CST. WILSON: They were Canadian Ethnic Cleansing Team business cards.

THE CHAIRPERSON: Yes.

DET/CST. WILSON: On the bottom where my business card you would put my name, it actually stated WPCANADA, and it would say recruiting.

And I have an example of those, because one of the things we did do was take photographs of that material, as well as, at any time anybody has any issue with that I can refer to that, those photographs that we took of those things.

THE CHAIRPERSON: Is he referring to something in your black book?

MS MAILLET: No, he's not.

Was there anything else found in the apartment?

DET/CST. WILSON: No. Our biggest interest and the biggest list we had on the search

warrant was the fact that we believed it to be an electronic threat so, therefore, we were mostly looking for the computer and the connection between Mr. Richardson and the Canadian Ethnic Cleansing Team.

MS MAILLET: Now, were you present when, it was Cst. Stumpf I believe who you said his name was, had access to the computer?

DET/CST. WILSON: Yeah, absolutely. Because I'm the affiant in the warrant, I will be there when the search is conducted and ended, sort of thing, I'm there through the whole thing.

And, yes, I'm there when Cst. Stumpf is actually seizing that computer, then it's transported back to the London Police headquarters.

MS MAILLET: Okay, just take one moment.

I'm sorry, go ahead.

DET/CST. WILSON: While we were conducting the search, there were several officers conducting the search.

One officer would be what we would call the exhibit officer, so anything we found inside that apartment would be turned over to the exhibit officer so he can tag it properly and we can keep an orderly record of what was seized.

While that was happening, Mr. Richardson was still in custody, he was sitting on a secure bench and he asked if he could call his lawyer.

At that point I advised him that he could because I didn't think that there was any safety issue and I didn't think there was any co-accused at the time.

I asked him what his lawyer's phone number was, and he advised it's a speed dial and he advised me of the number to push.

I pushed the button and I held the phone up to his ear, because Mr. Richardson was handcuffed to the rear.

As I held the phone up to his ear, he screamed, 'get rid of all the shit'.

I realized that he wouldn't be saying that to his lawyer and, therefore, I hung the phone up on him.

Now, I suddenly realized that I was dealing with more than one person in this event.

I then hung the phone up. It's a push button phone, so you don't really hang the phone up, you just push the button, but anyway... and Mr. Richardson was escorted from the building.

As he was walking down the hall he

made a disparaging racial comment to my partner Todd Smallman, Det/Cst. Smallman. He just screamed "fucking Jews" as we were walking down the hall.

He was then placed in the rear of a caged cruiser and transported to the London Police Service by Cst. Tina Lycett.

I stayed in the apartment so we could conduct the search.

As the search was being conducted the phone rang and I answered it. It was Mr. Richardson's phone -- it wasn't my cell phone, it was Mr. Richardson's phone, and a male on the other end of the phone identified himself as Alex Krause.

The first conversation we had was pretty much me saying hello, and from then on the person on the other end of the phone screaming at me with profanity.

He identified himself as Alex Krause.

Actually, in this point he doesn't identify himself as Alex Krause, he asks me: "Who are you?" And I tell him that I'm Terry Wilson with the London Police Service.

He then proceeds to use profanity over and over again and hangs up the phone. I can't remember if I either hung up the phone or he either

hung up the phone, one of the two happens. We get disconnected anyway.

THE CHAIRPERSON: So, when did the name Alex Krause come up?

DET/CST. WILSON: It comes up in a later event referring to this incident.

THE CHAIRPERSON: So, during this call there was no mention of names, other than you giving him your name?

DET/CST. WILSON: I just give him my name and he proceeds to tell me that I shouldn't be there essentially and using a multitude of profanities.

The search warrant is completed and we seize everything as per London Police Force's policy when you're dealing with property and it's placed in the property room.

While things are being searched we are taking pictures of it too to ensure its safety and its continuity, where it's been located.

I go back to the police department, and when I go back there the phone rings in my office, it's actually transferred from our receptionist back to my desk.

At this time a gentleman on the other end of the phone identifies himself as Alex Krause and

tells me he was the person who was yelling at me when I was at Southdale Road.

Mr. Krause identified -- the male identified himself as Alex Krause, identified himself as a member of the Canadian Ethnic Cleansing Team as well as a Tri-City Skin and proceeded to tell me that my search warrant wasn't worth the paper it was written on and I should get ready to throw out all the evidence.

At that point he hung up the phone. Again, I'm not too sure if I hung up the phone or he hung up the phone, and our conversation ended.

At this point, as part of the policy with our police department, it would be a good idea to interview the person that was arrested.

At 3:11 p.m. I went down and interviewed Mr. Richardson, at which time he advised me that he was a white supremacist and that he was involved in the distribution of the Vinland Voice.

He advised me that he was only the proof reader or editor, I guess that would be, and that other people were involved writing the articles.

He had denied any involvement in writing the threat against the Jewish and Muslim community.

MS MAILLET: Is that the one you referred to that was written on September 15th that we find at tab 20?

DET/CST. WILSON: Yes, in the Vinland Voice 05, yes.

That -- essentially he was charged -- Mr. Richardson was charged with a count of threats against property, threats against person, he was also charged with counselling the indictable offence of murder, as well as counselling the indictable offence of property damage.

As a result of this search warrant, the hard drive that was received from Mr. Richardson's was placed in our crime analyst and Cst. Stumpf -- or Det/Cst. Stumpf made a mirror image of the hard drive.

The reason for electronic purposes -- or the reason that we do this is because every time you open up a hard drive, that hard drive is changed.

So, for us to examine a hard drive thoroughly, we don't want to keep opening it up and shutting it, opening it up, because that alters it.

So, what happens is Det/Cst. Stumpf, when I'm there -- he's starting it when I'm there, takes the hard drive, places it into a bare computer and makes an exact mirrored image copy of it onto a CD.

So, therefore, any --

THE CHAIRPERSON: You said you were there?

DET/CST. WILSON: I was there when he started. It takes a very long process because there's a lot of information in there, but when he sets it up, I'm there and he lets it run onto a CD.

MS MAILLET: Now, between the time it was seized at Mr. Richardson's residence to when it got to this crime lab computer--

DET/CST. WILSON: Mm-hmm.

MS MAILLET: --were you with it during that transport?

DET/CST. WILSON: Yeah, we were with all the property, because during a search warrant all the property seized is put in sort of a central sort of car or cars and we all leave the residence at the same time and we all go to the police department.

At that point Cst. Stumpf, who is still in possession of the computer, takes it to his office, which is right across the hall from my office, and takes it inside and stores it in a cabinet that only he has access to.

MS MAILLET: So, did anybody else have access to it then between the time you left the

residence until you get to the police department?

DET/CST. WILSON: No.

MS MAILLET: Thank you.

DET/CST. WILSON: It's stored there and then he sets up this imaging thing, he images it onto a CD and, therefore, any examination of that hard drive, we don't do it on the particular hard drive, we do it on the CD and, therefore, not altering any of the evidence found within the hard drive.

THE CHAIRPERSON: When did the imaging process occur as compared with the seizure date and time?

DET/CST. WILSON: I believe it was some time in the week that it occurred.

I don't even have -- it's my search warrant and I don't even have access to that computer, Cst. Stumpf would have to give me access to it.

So, during that time it's secured with the London Police policy on how to secure electronic evidence.

The imaging process starts and thereafter any examination afterwards would be made from the CD and, therefore, not damaging any of the evidence found inside the hard drive itself because, again, if that becomes an issue in criminal court or a

tribunal court, at some point we'd be able to produce that hard drive and say it's not been altered at all.

Located on that hard drive -- several things were located on that hard drive, but one of interest is the Vinland Voice article on September 14th.

It was -- when you open up and examine it, it will give you a start date and a date it was last edited or a date it was last modified.

The date that this letter was last modified was approximately 3:45 a.m. on September the 14th, which is prior to the time that it was placed on the internet, therefore, saying that the draft version of the letter, or the draft version of the threat was on Mr. Richardson's computer prior to it being placed on the internet and then it was placed on the internet and then everybody was able to see it.

There were, again, lots of other stuff to see on the computer. Again, I am not a computer expert whatsoever, but that was sort of the highlight because, again, dealing with this threat in particular when it comes to a criminal proceeding.

Mr. Richardson is charged with these four counts and he is released by a Justice of the Peace after an extensive bail hearing.

He's released to an address in Hamilton and with several conditions, including no contact with computer system, that sort of stuff.

But because of my conversation with the gentleman who identifies himself as Alex Krause and because of my realization very quickly that there was more than one person when he screamed get rid of everything over the phone, realizing that somebody else is involved in sort of exploiting this threat out to the public, my investigation then turned into a second phase dealing with a gentleman who identified himself as Alex Krause.

I was able to locate an article in the Waterloo Record that is dated - I have to find it in the tabs here.

It is on tab -- I thought it was this tab.

MS MAILLET: Tab, is it 45?

DET/CST. WILSON: I just went right by it.

THE CHAIRPERSON: 46, I think.

DET/CST. WILSON: Yeah, 45 is a -- yes, 46 is the one from the Waterloo Record.

MS MAILLET: Right.

DET/CST. WILSON: This was produced

September the 20th.

About the - and I can't give you the exact date - but about the same time that we're just about to do the search warrant on James Scott Richardson's apartment this article comes out, because obviously the threat comes out on the 14th and newspaper people see it, and they go out and speak with two gentlemen who identify themselves as members of the Canadian Ethnic Cleansing Team.

Again, I understand that this is a journalistic article, but I have no doubt or no reason to believe it's not truthful.

MR. ALEXAN KULBASHIAN: Excuse me, can you repeat the last part you said about the interview, I missed a little bit.

DET/CST. WILSON: Okay. There was an interview done by the Waterloo Record.

MR. RICHARDSON: In person?

THE CHAIRPERSON: No questioning.

MR. ALEXAN KULBASHIAN: No, it's just I didn't hear all the words.

THE CHAIRPERSON: Go ahead.

DET/CST. WILSON: The Waterloo Record advises that they spoke to two people that identify themselves as members of the Canadian Ethnic Cleansing

Team.

One of them is an Alex Krause, aged 20, another one is a James Scott, aged 27.

In it they advise they make - and this is from the article - make no bones of their extreme racial beliefs, blaming non-white immigrants for almost every social problem that Canada faces.

But they go on to say that they're a non-violent group -- they go on, but they're non-violent.

Krause of Toronto says he is the leader of the Canadian Ethnic Cleansing Team and one of three groups identified by Waterloo Regional Police in the backlash against local Muslims during and after the September 11th attacks.

Scott is identified to be from Hamilton and he's also a leader of the Canadian Ethnic Cleansing Team, as well as a member of the Tri-City Skins.

So, with this information and having somebody that I already know has identified himself to me as Alex Krause, I started to believe that there was a much larger population that I was dealing with.

On October the 9th, 2001 I reviewed the Vinland Voice, which again was still in

publication, the death threat was placed on the Vinland Voice No. 05.

I reviewed the Vinland Voice No. 07 and in it it refers to contacting me at the London Police -- every member of the Canadian Ethnic Cleansing Team to contact Det/Cst. Wilson at the London Police Service and complain about the treatment of James Scott Richardson as a result of his arrest.

And it was in the Editor's Voice section which used to be named WPCANADA at the bottom, this was now authored by Totenkopf.

On October the 10th...

THE CHAIRPERSON: Do we have that newsletter in evidence?

MS MAILLET: Just a moment, sir. I don't believe it was.

We do have at tab 23--

THE CHAIRPERSON: 23, yes.

MS MAILLET: --the Vinland Voice Newsletter 07.

THE CHAIRPERSON: 07, September 21st.

MR. ALEXAN KULBASHIAN: Tab 23?

MS MAILLET: Tab 23.

THE CHAIRPERSON: That's different.

MR. ALEXAN KULBASHIAN: That's

different.

THE CHAIRPERSON: The date is not this. Okay.

So, it's not one of the documents -- the document that's being referred to by the witness is not one of the documents --

MS MAILLET: I didn't believe it was.

THE CHAIRPERSON: You did not believe?

MS MAILLET: No.

So, Mr. Wilson, you observed a Vinland Voice Edition No. 07 and, as you were saying, it appeared in the Editor's Voice section and it was authored by Totenkopf; is that right?

MR. ALEXAN KULBASHIAN: Excuse me.

THE CHAIRPERSON: Yes?

MR. ALEXAN KULBASHIAN: I would actually like to make an objection at this point because I don't see the document on file here, and I don't think it's fair if the witness testifies on documents that we don't have.

MS MAILLET: It's my reply to that, that he's giving oral evidence here, he's not referring to a document that we're relying on, he's saying --

MR. RICHARDSON: He referred to

document 07.

MR. ALEXAN KULBASHIAN: I'm sure document 07 is not there.

MR. RICHARDSON: We've got the Vinland Voice 07 and Totenkopf is not in there.

THE CHAIRPERSON: Hold on. One at a time.

Mr. Warman?

MR. WARMAN: Again, I'm not exactly sure as to this, but if it -- I'm not quite sure, do you want me to speak into the microphone?

THE CHAIRPERSON: Yes, please.

MR. WARMAN: Mr. Wilson, are you aware --

THE CHAIRPERSON: I'm asking you to address the objection.

MR. WARMAN: I know, okay, but I need to ask him a question or two to address the objection because --

THE CHAIRPERSON: Tell me your question and I'll see.

MR. WARMAN: I don't want to prejudice the witness, what he's going to say, like, if I tell you what the problem is.

THE CHAIRPERSON: Why don't we have

the witness step out for a moment.

MR. WARMAN: Sure.

THE CHAIRPERSON: Yes.

MR. WARMAN: And, again, I'll leave it to him, to Mr. Wilson to testify to it--

THE CHAIRPERSON: Yes.

MR. WARMAN: --but my understanding is there may have been two versions of newsletter 07 and that one of them that originally contained the material that Mr. Wilson is testifying about was subsequently altered by, and my understanding is that it was Mr. Kulbashian, after discussions with Det. McKinnon of the London Police who indicated that there were criminal issues if that material remained on that article.

THE CHAIRPERSON: That's almost evidence there.

MS MAILLET: A lot of that information is in this --

THE CHAIRPERSON: Look, this witness has referred to numerous documents and they're not in evidence.

Now, in reply to your question, he can testify -- these are things that he has personally observed and he can testify to what he has personally

observed, all right.

MR. ALEXAN KULBASHIAN: I understand.

THE CHAIRPERSON: But your point is well taken to the extent that, if there is better evidence out there, it sure would support the case that's being led against you to have it produced in front of the Tribunal rather than just have someone report back what he saw.

MR. ALEXAN KULBASHIAN: I understand.

THE CHAIRPERSON: So, that will certainly form part of your argument and that's why I asked if the material was available earlier when I asked those questions.

MR. ALEXAN KULBASHIAN: The issue is --

THE CHAIRPERSON: If the Commission and complainant have chosen to just go with the recollections of one witness rather than present the real evidence in front of me, well that's their choice.

MR. ALEXAN KULBASHIAN: I understand.

The question is whether or not he is going to be, I guess, reciting it verbatim or, like, what he's going to be reciting as.

Because I mean, obviously not having the document in front of him, I'm not sure if he's

going to be giving an idea of what the document said or how far -- because I don't have the document in my hand and I don't remember any such document, so I'm not sure exactly what's going on.

So, I'm just kind of confused at this point, because we do have a copy of 07 here.

THE CHAIRPERSON: Then produce it.

So, if 07 said something else -- which one are you talking about, the one that's already here in front of us?

MR. ALEXAN KULBASHIAN: Well, there's -- I don't know, two copies of 07.

THE CHAIRPERSON: And Mr. Warman sort of inadvertently got into evidence there by saying that 07 had two different versions.

Look, the only version of 07 we have is what we have in front of us in these booklets.

If that's the case, that's the case and, you know, you'll make your arguments in due course when the time arises.

MR. ALEXAN KULBASHIAN: Sorry about that.

THE CHAIRPERSON: No, but your point though is made that you're raising some questions that you can raise at a later point about the quality of

this evidence because it is only based on one person's recollection as opposed to the actual document.

MR. ALEXAN KULBASHIAN: Yeah, it also goes back to the e-mails that he referred to at the beginning too, I guess it's just broader.

THE CHAIRPERSON: The e-mails also are a sheet which have not been filed.

MR. ALEXAN KULBASHIAN: So, in general it would just be any documents that aren't available.

THE CHAIRPERSON: The distinction here from -- as I indicated on the first day, hearsay can be admitted before the Human Rights Tribunal because we are an administrative process and it's specifically indicated in our Act that we don't have to abide by the strict rules of a court.

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: And that would apply in a typical case if someone is reporting something that somebody else told him.

Much of what is being said here by this witness are things that he witnessed himself.

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: So, it's his own personal knowledge he's testifying to.

MR. ALEXAN KULBASHIAN: All right.

THE CHAIRPERSON: Now, it would be more helpful, you're saying, if the actual document that he witnessed at the time were shown to the Tribunal.

MR. ALEXAN KULBASHIAN: Yeah, obviously it would be more convenient, but I guess it doesn't matter. I don't want to really keep him out there too long.

THE CHAIRPERSON: All I'm saying is, I think he may testify--

MR. ALEXAN KULBASHIAN: Okay, that's fine. Thank you very much, Mr. Chair.

THE CHAIRPERSON: --on those points and you may make any appropriate arguments in due course.

MR. ALEXAN KULBASHIAN: Thank you.  
--- (Witness resumes stand)

MS MAILLET: Okay, Mr. Wilson, continue with your evidence.

DET/CST. WILSON: Okay.

Again, the complaint was made to the Canadian Ethnic Cleansing Team about Mr. Richardson's, I guess, treatment by the Police Service.

THE CHAIRPERSON: Sorry, the

complaint was made by whom?

DET/CST. WILSON: It was made by this gentleman who signed Totenkopf at the bottom.

THE CHAIRPERSON: Okay.

DET/CST. WILSON: He was complaining to all Canadian Ethnic Cleansing Team members and other racialists that they should call the London Police Service and complain about me and the treatment of Mr. Richardson upon his arrest on the 28th of September.

It listed the phone number for the criminal investigations division as well as my name on that e-mail.

As a result of that, again another criminal investigation sort of on the side of this starts out because now Totenkopf, the guy listed here on the thing, is now counselling other members into a sort of a harassing phone call campaign against myself and the London Police Service.

So, instead of me taking on that investigation, my sergeant, Det. Don McKinnon takes it upon himself because he saw it sort of to be a sort of conflict of interest if I took it on myself and I was the target in that.

Sgt. McKinnon -- I supplied Sgt. McKinnon with the phone number for Alex, that was

retrieved from James Scott Richardson's phone at the time of the search warrant.

What happened is, as a result of those phone calls by a gentleman identifying himself as Alex Krause, he has a hand-held phone in which he has a phone log of all his previous phone calls that would give you like the top 10 I guess, or top eight last phone calls made by Mr. Richardson.

One of those phone calls I happened to dial on speed dial, and that's when Mr. Richardson screamed to get rid of all the stuff.

So, that phone number was retrieved from that phone log off that phone. I had that recorded and I supplied that phone number to Det. McKinnon to contact the only known -- at that time the only other known member of the Canadian Ethnic Cleansing Team Alex, and we believed to be Alex Krause at the time.

Det. McKinnon contacted Alex while I was there. Again, I only heard the --

THE CHAIRPERSON: So, McKinnon was the other detective assigned?

DET/CST. WILSON: He's my supervisor, he's my sergeant in charge.

THE CHAIRPERSON: Oh, sergeant.

DET/CST. WILSON: He was my sergeant in charge, so he is involved in the investigation.

I'm the lead investigator, but because this had me listed on it he didn't feel it was sort of appropriate for me to deal with it, so he took it on himself.

He had a conversation with Alex on the other end of the phone. Again, I'm only privy to the half that Det. McKinnon was talking because he was using a hand-held.

After Det. McKinnon got off the phone, he advised me that the male he talked to identified himself as Alex Krause and that this gentleman would see what he could about altering the website so that sort of counselling harassment would come off the website.

At that time Alex Krause supplied Det. McKinnon with a phone number of 416-993-7660 that Alex Krause could be reached at any time by Det. McKinnon if there was any other issues.

Again, that is a different phone number than the one we contacted Alex with originally, but this is the phone number that Alex said you can contact me 24-7.

Later that day I looked - and again

this is on October 10th - later that day I looked on the Vinland Voice to find that that e-mail or that version of the Vinland Voice about counselling people to call the criminal investigation had been removed.

So, we knew that the guy -- the person identifying himself as Alex Krause had some semblance of control over this website because he is the only person we contacted to have it removed.

We then conducted a background investigation onto that phone number and it revealed that it was registered to Alexan Kulbashian, the gentleman in the blue shirt in front of the court, with an address of 816 Grandview Way, North York, Ontario.

So, at this point we know that Alex Krause and Alexan Kulbashian are the same person.

I then speak -- on November the 16th spoke to a confidential human source. This confidential human source advised me that Alex Krause was actually Totenkopf.

THE CHAIRPERSON: I don't know what it is you're saying. You spoke to a confidential...?

DET/CST. WILSON: Human source.

THE CHAIRPERSON: Are you reading from your text here?

DET/CST. WILSON: Yes. It's November

the 16th, sir, and it says:

"...received information from a confidential human source that Alex Krause and "Totenkopf" are the same person..."

Bottom of page 5.

THE CHAIRPERSON: That's fine for a report, but you mean you spoke to -- you have a source, you have a source where?

DET/CST. WILSON: I have a -- another person that is in the know, I guess, into the white supremacist movement that voluntarily gave me information concerning the person they knew as Alex Krause.

This person, for safety reasons, can't be identified and confidential human sources within the police department are an accepted form.

And I found this person, and have found this person before to be extremely reliable and we have used his information in previous investigations before in the past -- before this in the past.

So, we have a gentleman that, for safety reasons, his identity can't be known, but I found that there was no reason to believe that any of the information he supplied me would be false in any

way and has proven himself to be reliable on information before in the past.

MS MAILLET: Is this person kind of what would be known in the police world as an informant?

DET/CST. WILSON: Yes. We don't like -- nowadays they don't like to be called informants, so we refer to them as confidential human sources.

THE CHAIRPERSON: That's a very nice politically correct term.

DET/CST. WILSON: Yes. Well, now they broke us down to confidential sources and confidential human sources.

This is a person that willingly gives police information.

So, we have a confidential human source that supplies information that Alex Krause is Totenkopf and that Totenkopf is Alexan Kulbashian.

And on the 23rd of November, I receive a fax from Mr. Richard Warman, who at the time was a Windsor, Ontario lawyer and he again supported the informations, telling me that Alex Krause is Alexan Kulbashian and that Mr. Kulbashian is responsible for hosting a number of racist and neo-Nazi websites, and

that Mr. Richard Warman was in the process of making a complaint to the Canadian Human Rights Commission that involved these websites, or as a result of the information on these websites.

While doing this investigation and we knowing that now Mr. Kulbashian is a resident of Metro Toronto, we're working closely with the Metro Toronto Police Hate Crimes Unit and, in particular, an officer named Sam Sam of the Metro Toronto Hate Crimes Unit.

Cst. Sam was able to supply us with a picture of Mr. Kulbashian, and it's actually a fax picture of Mr. Kulbashian, and this picture sort of adds to our investigation sort of thing.

With this picture, it is a mug shot picture because it is as a result of an assault with -- I guess, with racist allegations to it that were ongoing at the time from Toronto.

With this picture that was taken as a result of the criminal -- the Identification of Criminals Act, also included pictures of the tattoos that were taken in compliance with Identification of Criminals Act.

These tattoos that were on Mr. Kulbashian at the time of his arrest signified white power involvement, in particular, he had a swastika --

THE CHAIRPERSON: Excuse me a moment.

MR. ALEXAN KULBASHIAN: Excuse me actually. I'd like to object to this at this point because he's neither an expert on tattoos or symbols or -- because we had in the previous case, as you know, I don't know if it came up, there was an issue about tattoos and identification by an expert witness.

THE CHAIRPERSON: Well, I'm not aware at all of that. This person has testified that he has some knowledge of the movement and I think he's testified on the basis of his knowledge.

I don't see -- you can certainly question him on the extent of his knowledge.

MR. ALEXAN KULBASHIAN: Okay.

THE CHAIRPERSON: It's based on his personal knowledge. I don't think he's testifying as an expert per se, but what he's personally aware of.

DET/CST. WILSON: And I can --

THE CHAIRPERSON: I'll allow these questions, perhaps an elaboration.

MR. ALEXAN KULBASHIAN: Maybe just change his wording, like just a slight wording change.

THE CHAIRPERSON: Why should he change his words?

MR. ALEXAN KULBASHIAN: Like, as it

appears as opposed to 'it was' or 'seemed like'...

DET/CST. WILSON: Okay, it is, do you prefer?

MR. ALEXAN KULBASHIAN: Because he's --

THE CHAIRPERSON: Well, we can look at the photographs and let the witness testify directly.

We have these photographs; don't we?

MS MAILLET: We do.

THE CHAIRPERSON: They were at tab...?

MS MAILLET: They were at tab --

DET/CST. WILSON: And, sir, I can give you some background.

THE CHAIRPERSON: Let's get the photos out and have them in front of me.

Thank you. 42, all right.

DET/CST. WILSON: And just to give you some background, during my investigation of hate crimes in Ontario as well as British Columbia, I have testified in provincial court dealing with two prohibition hearings, and one of those prohibition hearings was dealing with a gentleman called David Rudd.

I testified on his racist tattoos that were on his arms and this evidence was accepted by that court.

MR. RICHARDSON: Where are we at?

MR. ALEXAN KULBASHIAN: Tab 42 and page 2.

THE CHAIRPERSON: Yes, go ahead. So, you were referring to these tattoos that are --

DET/CST. WILSON: Yes, referring to these tattoos.

These were supplied by Cst. Sam of the Metro Toronto Police Hate Crimes Unit.

On his one shoulder - and, again, these are lawfully obtained under the Identification of Criminals Act as a result of his arrest - on his one shoulder is white power and in it is a swastika, and also located on his chest what appears to be a skull and cross bones that I know is actually called a Totenkopf, which represents death-head.

It was mostly found on a Panzer division in Germany -- in Nazi Germany between 1939-1945.

So, as a result of this information our investigation is continuing.

On December the 2nd, 2001 I logged on

to the Vinland Voice website, it was again still operating at this time and in it was a reproduction of an article done by NOW Magazine.

NOW Magazine is an independent news magazine in Kitchener -- in Toronto. It deals with independent news and entertainment and it was weekly produced and distributed in the Toronto area.

In this article -- it was written by Stuart Duncan, and in this article Alex Krause is identified as a member of the Canadian Ethnic Cleansing Team who actually runs -- they describe it as running the server for the Canadian Ethnic Cleansing Team, for the C.E.C.T. websites, and it also acknowledges the fact that Mr. Richard Warman has filed a complaint with the Canadian Human Rights Commission involving the Tri-City Skins and the C.E.C.T.

MS MAILLET: Sir, if I could just get you to turn to tab 47.

Does this look like the --

DET/CST. WILSON: That is the reproduction of the article -- actually that is the article from the NOW Magazine.

Again, when I see this on a white supremacist website and it refers to an actual article, in most chances -- in most times I'm able to find that

article and compare it as being truthful on that server as compared to the actual one produced by NOW Magazine.

This is actually the article printed from NOW Magazine and not printed from the website of the Vinland Voice.

Again, let me see.

On December the 5th, Det. McKinnon again, who is my sergeant, receives a fax from Det/Cst. Sam of the Metro Toronto Police Service and it is concerning Alexan Kulbashian.

So, because Alexan is -- Mr. Kulbashian is, I guess, a suspect in an investigation, Det. McKinnon turned that fax over to me and I read it, but it was addressed to him initially.

The fax contained an e-mail from a lady named Carol Miles who lived at an address in Sun City, Arizona.

The e-mail explained - and again I will go on to the fact that the e-mail was sent to Sam Sam of the Metro Toronto Police Service which was then printed off on a hard copy and faxed to Det. McKinnon.

The e-mail goes on to explain that Carol Miles' daughter is actually named Nicole Taylor and that Nicole Taylor who, again, lives in Arizona, has been in e-mail correspondence with Alexan

Kulbashian and that he used the name Totenkopf C.E.C.T. when they talk back and forth.

The reason Ms Miles knows this is because it's her computer.

Det. McKinnon then, on December the 7th, spoke to Ms Miles -- Ms Carol Miles on the phone and in these e-mail conversations there is an implied threat.

Just to go into background of Nicole Taylor, Nicole Taylor was previously married, or married at this time or in the process of getting separated and/or divorced.

During this time Ms Miles had contacted the Metro Toronto Police Service because she was afraid that a -- she describes it as a hit has been arranged on Nicole Taylor's soon-to-be ex-husband or ex-husband, so she became concerned knowing that Mr. Kulbashian was in Toronto and forwarded that information to Det. Sam.

Det. Sam, knowing that we had involvement with Alexan, informed us.

As a result of this, I guess I can put in as a veiled threat to Nicole Taylor's husband, Det. McKinnon advised me that he had contacted - and I hope I pronounce this right - the Maricopa County

Sheriff's Office to investigate the threat and they went out to investigate the threat by Ms Miles supplying them with the hard drive from the computer.

But, again, in that what's relevant to this is the fact that Ms Miles has identified Mr. Kulbashian as Totenkopf, C.E.C.T. as a conversation that they had back and forth.

On December the 14th, Det. Cst. Jim Hogan of the Metro Toronto Hate Crimes Unit forwarded another e-mail to Det/Cst. McKinnon involving this investigation and Det/Cst. McKinnon had me read that.

The e-mail was authored by  
""Totenkopf" - C.E.C.T. Public/Press relations".

In this e-mail he identifies Totenkopf -- he identifies himself "Totenkopf" as Alex Krause, and he's sending this e-mail out complaining about the police action as a result of an investigation that the Maricopa Sheriff's County Department did in Arizona on Ms Miles.

So, essentially what happens, Totenkopf, Alex Krause, who I now know to be Alexan Kulbashian, sends an e-mail to Det. Hogan complaining of the actions taken by the Maricopa Sheriff's Department as a result of this, I guess, veiled threat against Ms Nicole Taylor's husband.

In this e-mail he states that he can be reached at any time on his cell phone and he produces his cell phone as 416-993-7660.

This is exactly the same phone number that is that supplied by Alex Krause to Det. McKinnon back on October the 9th as a number that Alex Krause can be identified at any time.

And, again, when we do a background on that phone number, it actually comes back to Alexan Kulbashian at an address in Grandview Way in Toronto -- actually in North York, I apologize.

MS MAILLET: Could it be that that was October 10th?

I'm just looking back at page 5 of your summary.

DET/CST. WILSON: Yes, October 10th, I'm sorry.

MS MAILLET: Okay.

DET/CST. WILSON: It's October 10th.

So, again, this piece of information again links Totenkopf with Alex Krause with Alexan Kulbashian and, again, with a phone number that comes back to an address in North York.

On December the 16th, 2001, a notice appears on the Canadian Ethnic Cleansing Team website

advising that Alex Krause, known as Totenkopf, was leaving the C.E.C.T. and starting another organization with the same goals.

Again, in this e-mail it doesn't go on to what those same goals are, but I had an indication it's the same goals as the Canadian Ethnic Cleansing Team.

MS MAILLET: Sir, if you could just turn to tab 26 of HR-1.

Would you like to take a break?

THE CHAIRPERSON: Well, let's just finish up with this exhibit.

26 was that?

MS MAILLET: Yes, tab 26.

DET/CST. WILSON: Tab 26 is an e-mail message -- sorry, yeah, electronic mail with "Alex Krause (Totenkopf)" to all members of the C.E.C.T. and supporters, and in this one he's declaring that he's leaving.

This is the same e-mail you would find on the actual website of the Canadian Ethnic Cleansing Team on this date of December 16th, 2001.

MS MAILLET: When you say an e-mail, it isn't necessarily something that was sent?

DET/CST. WILSON: Well, this e-mail

appears to be a sent e-mail to a specific subscriber, a particular member of the Canadian Ethnic Cleansing Team, but it's the same one that would not only be sent to particular members but also sent as posted as a regular website article as well.

THE CHAIRPERSON: All right. It's what you referred to, you said there were three types of access that you located to Vinland Voice.

DET/CST. WILSON: Yes.

THE CHAIRPERSON: One was direct personal e-mails, the other was e-mail with mailing list and the third was actually access on the internet.

DET/CST. WILSON: At the website. This would be one of those varieties that looks like it's sent --

THE CHAIRPERSON: Would it be the second variety?

DET/CST. WILSON: No, I think it's direct --

MS MAILLET: I believe Mr. Warman gave evidence that this one --

THE CHAIRPERSON: Oh, because it comes to Yahoo mail at the top there.

DET/CST. WILSON: Yeah, yeah.

MRS. TURNER: The name --

THE CHAIRPERSON: Ma'am, please.

DET/CST. WILSON: This would be a specific e-mail sent to one person and not included in the rest, but it's the same e-mail that you would see on the website.

THE CHAIRPERSON: Okay.

DET/CST. WILSON: Unfortunately after September 28th I was sort of excluded from the general mailing list address, so I didn't get the second version after September 28th when Mr. Richardson was arrested.

THE CHAIRPERSON: Let's take our break at this point.

REGISTRY OFFICER: All rise.

--- Recessed at 3:08 p.m.

--- Resumed at 3:20 p.m.

REGISTRY OFFICER: Order, please.

All rise.

Please be seated.

MS MAILLET: Det. Wilson, I believe we were at December 16th in your crown summary here and we had identified tab 26.

DET/CST. WILSON: Yes, Ma'am.

MS MAILLET: Is that correct?

DET/CST. WILSON: On December the

20th, Cst. Sam Sam relayed information to me that he had gone out and spoken to Alexan Kulbashian, it mostly had to do with an assault that he was already dealing with in Toronto, Mr. Kulbashian was dealing with an assault, and as a part of Cst. Sam's duties, he went out to speak with him concerning that.

THE CHAIRPERSON: Are you having a hard time hearing?

MR. ALEXAN KULBASHIAN: Yeah.

THE CHAIRPERSON: Just a bit louder, please.

DET/CST. WILSON: Is that better?

Cst. Sam attended at Mr. Kulbashian's address. and during this conversation Alexan Kulbashian admitted to being Totenkopf as well as Alex Krause to Cst. Sam.

MS MAILLET: And is this information that Cst. Sam reported back to you?

DET/CST. WILSON: Yes, he did.

He knew that the ongoing investigation dealing with Mr. Kulbashian was ongoing and so he reported this information to me.

On December the 28th, I again reviewed the Canadian Ethnic Cleansing Team site, an updated notice appeared.

It advised that Alex Krause or "Totenkopf" is the webmaster of the website and that the Canadian Ethnic Cleansing Team is now going into a transitional period.

And again, the website -- when you look at the website, and I'm not sure if a graphic has been shown of how the website is set up.

Essentially the first part of the website there is a border that runs down the website and at the bottom it says Totenkopf with a Totenkopf or death-head beside it.

On each one of these websites and every time it's updated as well this sort of insignia is located on this website, and that's what I'm referring to here.

MS MAILLET: If you could turn to tab 28, and although this doesn't have the insignia, I'm just wondering if the content of -- this is an e-mail that was sent to Mr. Warman.

Would that be the same?

DET/CST. WILSON: Yes. Yeah, this would be the same article but, again, I would have viewed it on the website and it wouldn't have been sent directly to me.

THE CHAIRPERSON: Go ahead.

MS MAILLET: Just give me a second,  
Mr. Wilson.

DET/CST. WILSON: I guess the  
insignia I'm referring to, if you go to tab 45.

MS MAILLET: That's what I was  
looking for.

DET/CST. WILSON: Yeah, tab 45 has a  
page from the Canadian Ethnic Cleansing Team--

MS MAILLET: Yes.

DET/CST. WILSON: --website.

On the right-hand bottom underneath  
the, I guess the sections of the newsletter you can tab  
onto and click onto little things, is an insignia.

This is found on every page. It says  
Totenkopf underneath it and, again, it has a death-head  
beside it.

And that's what I was referring to in  
that section there.

On January the 29th, 2002 as a result  
of all this information, now there was no doubt in my  
mind that Alexan Kulbashian was Alex Krause and was  
also Totenkopf, and his involvement in this website  
assisted in the dissemination of this threat that was  
reported on the Vinland Voice on September 14th, 2001.

And, as a result of that information,

on January the 29th at 10 o'clock in the morning, I went in front of Justice of the Peace Brian Peck and received judicial authorization to enter Kulbashian's residence the following day, January the 30th, 2002.

With this search warrant in hand, and the search warrant was, again, for 816 Grandview Way, North York, which is the residence -- the confirmed residence of Alexan Kulbashian because of the meet by Cst. Sam on the 20th of December, as well as the phone number that comes back to his address that was supplied to Det. McKinnon as well as myself.

On January the 30th, 2002 at about 7:50 a.m. myself, as well as members of the London Police Youth Crime/Hate Crimes Unit and other members of Metro Toronto Police Service executed the search warrant at 816 Grandview Way.

When the search warrant was executed, we were met in the residence by Alexan Kulbashian's father who is sitting on his left-hand side, as well as his mother.

THE CHAIRPERSON: Today. Sitting on his left-hand side today?

DET/CST. WILSON: Left-hand side today, yes, the gentleman beside Mr. Kulbashian, and his mother who was home.

At that point Alexan Kulbashian was not home, but his father was able to supply the information that he was actually at a nearby hotel which myself and two other members of the Metro Toronto Police unit attended, located him inside that hotel and effected the arrest on Mr. Kulbashian.

Inside this hotel room was also a female, she was identified -- identified herself with an American, it wasn't a driver's licence, it was an American identification as Nicole Taylor.

Nicole was the lady that Carol Miles had called Det. McKinnon about, or sent an e-mail actually to Det. Hogan about and said that Nicole and Alexan had been in a relationship, although maybe an electronic relationship at that time.

They were in the hotel room together and Alexan was taken to first the Metro Toronto Police detention facility and we left the apartment and went back to the residence at 816 Grandview Way and conducted the search which was authorized by Justice of the Peace Peck.

Alexan at the time he was arrested, and he was informed that he was under arrest for death threats at the time and he was transported to 32nd division of the Metro Toronto Police, where he was just

held in custody there.

He, again, at that cells would have been given his rights to call a lawyer, as well as an opportunity to make contact with a lawyer at that time.

I'm not too sure if he effected that right at that time or not, but later on when I take him back to London he's given an opportunity again to make contact with counsel at that time.

We conduct a search of his residence and his father and mother are present during the whole time and are very cooperative while they were there, so we don't need to remove them from the house or have any security issues with them so for.

And we essentially centred -- although the search warrant was for the whole dwelling house, we centred our search warrant on Alexan's bedroom.

Several articles were located in his bedroom, as well as a computer and all computer stuff.

And, again, that computer was seized complying with seizing articles of electronic information that would be used in court.

Several other articles were located.

T-shirts denoting white supremacist philosophy, I guess, T-shirts with swastikas on the front of them.

Also located inside the apartment were -- or inside his bedroom next to the computer were business cards that were not cut out of the cardboard yet and on these business cards it said "Canadian Ethnic Cleansing Team Totenkopf Public Relations" underneath it.

And, again, these were produced without being cut out of the material just yet.

All these articles were seized in compliance with the London Police Services policy on evidence retrieval and they were transported to the London Police headquarters with Mr. Kulbashian.

Myself and Det. McKinnon placed Mr. Kulbashian in the rear of a police car and transported him back to the London Police Services where he was processed.

As a result of that, or after that processing, again, we took pictures, not only mug pictures - or mug shots as we call them - or facial pictures, but we also took pictures in compliance with the Canadian Evidence Act in relation to his tattoos.

Because of previous incidents with the Metro Toronto Police Service, I knew he had tattoos and wished to take those pictures.

When he lifted up his shirt, the

swastika and white power had been removed from his shoulder at that time. The Totenkopf was still on his chest.

Mr. Kulbashian was given his right to counsel and had an opportunity to talk to counsel.

Again, his opportunity to talk to counsel is in what we would call a 'hear-hear', which is a soundproof phone booth, which he is given access to and can call out.

But at no time can any police officer or anybody on the outside of the box have any privilege to his conversation with whoever he's talking to on the phone.

When he's completed that, he is again given another caution, even though he's been pretty much in my presence the whole time except for when he's detained at 32nd division, and he's given a secondary caution right from the front of my duty book and he's taken into an interview room.

At that point I conduct a video interview with Alexan Kulbashian and I believe that tab 62 reflects the transcript of that video conversation I have with Alexan Kulbashian.

MS MAILLET: We'll move to that tab in just one moment.

Firstly, if you could just turn to tab 49.

DET/CST. WILSON: Yes.

MS MAILLET: Do you recognize this, I guess it's a photocopy of the cover of a CD case?

DET/CST. WILSON: Yes, it's the cover of the photocopy of the CD case which I produced for the Canadian Human Rights Commission's investigation into this matter.

It is my sticky on the front of it, sort of thing, and it is sent away.

The original -- the original copy of the hard drive and the original hard drive at the time is retained by the London Police Service.

MS MAILLET: Now, I have -- when that was received by the Commission, Mr. Chair, I had it in my possession at that point.

THE CHAIRPERSON: So, that would be the--

MS MAILLET: And this is the actual--

THE CHAIRPERSON: --the original that was photocopied?

MS MAILLET: That's correct. I gave this to -- I don't want to give evidence, but I can inform the court I gave this to our scanners who scan

all of the documents on the file and from this document they produced the documents that were then sent to the parties.

Does this look, in fact, like the document that you had forwarded to the Commission?

DET/CST. WILSON: Yes, that's the one.

MS MAILLET: Now, when you received a request from the Canadian Human Rights Commission investigator, did you yourself send this CD to Mr. Dean Steacy?

DET/CST. WILSON: Yes, I did.

MS MAILLET: For the purpose of identification, I guess I'd like to produce tab 49.

THE CHAIRPERSON: Yes. You'd actually like to produce the CD itself?

MS MAILLET: I'll leave that to you.

THE CHAIRPERSON: You know, I said no before, but now I think we've progressed to a point, I think the respondents may want to consult it too.

Why don't we just get it in.

MS MAILLET: All right.

THE CHAIRPERSON: So, my understanding is - and then we'll deal with it if you have any issues at this point - but my understanding is

that you have a whole package of CDs, copies of this--

MS MAILLET: That's correct.

THE CHAIRPERSON: --CD tab which we're calling 49.

MS MAILLET: That's correct. That was sent to the parties with our disclosure in April.

THE COURT: And you have one that you wanted to provide to the Tribunal, or will you be providing the original to the Tribunal?

You know, I mean, our normal practice with all exhibits is that we get copies, we don't take the originals.

So, one of those pink copies that you had would be appropriate.

MS MAILLET: All right.

THE CHAIRPERSON: And I think I'm going to ask that it be identified as a separate number then -- we won't use tab 49, it should get its own number.

MS MAILLET: I don't have that with me right now.

THE CHAIRPERSON: For three days you've been carrying those things and now you don't have them.

MS MAILLET: And then my purse got

really heavy, so I left them up in my room.

THE CHAIRPERSON: Okay. So, we know that it's available readily and it will--

MS MAILLET: Yes.

THE CHAIRPERSON: And your intention is to produce it?

MS MAILLET: To produce it.

THE CHAIRPERSON: Now, I see Mr. Kulbashian getting up.

MR. ALEXAN KULBASHIAN: I'm not going to waste too much time.

Actually, I'm just wondering if we could deal with -- like, not right now I mean, just before the CD is actually produced, I was wondering if we could deal with the Canadian Evidence Act issue?

THE CHAIRPERSON: You're getting up to object on the admissibility of that evidence --

MR. KULBASHIAN: Yes. Later on, yeah.

THE CHAIRPERSON: No now, now, because I mean it will be produced eventually but we can take care of this right now.

So, you are referring to the Canada Evidence Act?

MR. ALEXAN KULBASHIAN: Actually the

reason why I said later on we'll deal with this issue is because we still have to finish questioning Det. Wilson who's on the stand right now.

Once we've finished with that questioning, some of the replies from that questioning will be included in my application to have it removed as well as the contents from the CD removed from the publication.

THE CHAIRPERSON: The proper form is to deal with issues about the entry of evidence and objections thereto when they occur.

MR. ALEXAN KULBASHIAN: The reason for that is we're relying on, we're basically going to be taking some of the evidence that Mr. Wilson -- Det. Wilson, sorry, gives here tonight and use that to also apply for the removal of the CD from publication and the contents.

We also do rely to a certain extent on Det. Wilson's testimony, which is the reason why I basically reserved my application for later on until we finished interviewing him from the respondents' side.

THE CHAIRPERSON: Oh, you want to question him on its admissibility.

MR. ALEXAN KULBASHIAN: On certain issues, yes. Well, question him on certain issues that

would relate to admissibility later on.

THE CHAIRPERSON: Look, the issue that's before me here -- you know, I see perhaps where he's going.

One way to treat issues of admissibility would be perhaps to hold what I suppose you could call a voir dire into getting it in.

One way of dealing with that is to have a voir dire, which is a trial inside of a trial.

What you're suggesting is a more practical way to go about it, is to allow you to cross-examine him on all -- allow you to go through all your cross-examination and then from the evidence and the answers you collect as a result of your cross-examination make your arguments on the admissibility of the CD?

MR. ALEXAN KULBASHIAN: That's right, because my arguments will pretty much rely on the way he answers some of the questions that I have.

We do have some files, except just to make sure we don't have to go through this process, just to make sure, I would like to question him first and then go through this process in case, like, you know, the first time --

THE CHAIRPERSON: Could it be that

you would not file an objection, if you ask some questions that you will not need to object?

MR. ALEXAN KULBASHIAN: I will still be filing an objection because I do have a certain amount of papers beside me right now and we are going to be relying on some of his testimony.

The issue is, it's pretty complex and when I get into it --

THE CHAIRPERSON: Well, let me understand you completely.

Is it your position that what's been copied onto that CD and that's here and the copies that are upstairs in the hotel room are not true copies of the hard drive, true images, I should say, I think the word we used was imaging.

MR. ALEXAN KULBASHIAN: I can't comment on that until I finish questioning Det. Wilson.

But there's no issue as to whether or not they're images of a hard drive, because they aren't actually images of the hard drive, there is no operating system or any other information stored on the CD.

THE CHAIRPERSON: Okay. So, it's not an image in that sense.

MR. ALEXAN KULBASHIAN: That's right.

But also there's other issues that will come up over the course of the trial and I just, I guess, request your indulgence until we finish questioning Det. Wilson.

THE CHAIRPERSON: Let me put it another way then.

Excerpts from that hard drive have been filed as exhibits that followed here, tabs 51 and following, okay?

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: Is it your position, you or Mr. Richardson, that those particular exhibits do not reflect what was on the hard drive that was seized at Mr. Richardson's house?

MR. ALEXAN KULBASHIAN: It's not only that, but there is some other issues.

THE CHAIRPERSON: Answer that one question.

MR. ALEXAN KULBASHIAN: Okay.

THE CHAIRPERSON: Is it your position that those texts that we've seen here under 51 and following have been altered, are not truly representative of what's there?

MR. ALEXAN KULBASHIAN: It's kind of a complex issue, but I would say yes until I get into

the issue later on.

THE CHAIRPERSON: I don't understand then.

I mean, the reason you would file the objection is to say that, you know, this is not -- you have reason to question its integrity.

MR. ALEXAN KULBASHIAN: But not only -- as I say, not only the integrity of the data, but the integrity of the collection method and lot of other things that fall under this Act that would be part of my application, I guess.

THE CHAIRPERSON: When you say under the Act, you're referring to the Evidence Act?

MR. ALEXAN KULBASHIAN: The Evidence Act, that's right.

THE CHAIRPERSON: But you have to be mindful of one thing. I mean, this Evidence Act -- first of all, there's one thing I want to draw to your attention right off the bat, and this may assist everyone.

Let's start with the basic principle here. This Act is a general Act that applies to all criminal -- article 2 says:

"This part...",  
meaning part 1,

"...applies to all criminal proceedings and to all civil proceedings and to other matters...",

whatever,

"...respecting which parliament has jurisdiction".

In a general sense--

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: --the statute that applies here, my statute, the Canadian Human Rights Act says at section 50 --

MR. ALEXAN KULBASHIAN: Just one moment while I get the copy.

THE CHAIRPERSON: Mm-hmm.

MR. ALEXAN KULBASHIAN: So section 50?

THE CHAIRPERSON: Hold on, I'll tell you right now.

MR. ALEXAN KULBASHIAN: Sorry.

THE CHAIRPERSON: 50(3)(c). So, find section 50, find No. 3 beneath it, and then find sub (c) after that, C, letter C.

Have you found it?

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: Okay. It's at page 33 if you have the same copy as I have.

MR. ALEXAN KULBASHIAN: That's right.

THE CHAIRPERSON: So, it says:

"In relation to a hearing of the inquiry may, subject to subsections 4 and 5...", which is not of concern here,

"...receive and accept any evidence and other information, whether on oath or by affidavit or otherwise, when a Member or Panel sees fit, whether or not that evidence or information is or would be admissible in a court of law."

So, we've got to balance what's in the Evidence Act with the specific Act that applies in this case, which says that I'm not bound by rules that may be binding on the court, because this is designed to be an administrative process, one that runs perhaps in a more efficient manner - I don't know if that's appropriate to say - but one that is more flexible, let's put it that way.

So, I have two counter balancing

things.

And if one looks at the Evidence Act, there are other sections that you can look at, I was reviewing it earlier.

MR. ALEXAN KULBASHIAN: I don't have the whole copy here.

THE CHAIRPERSON: Well, it's important to have the whole copy.

MR. ALEXAN KULBASHIAN: My printer ran out of ink, so I've barely got lines on the rest of the pages.

THE CHAIRPERSON: Quite frankly, I mean, in looking at it there seem to me numerous areas where this CD may fall in as part of the exception.

I mean, if one looks at 31.1 your first article--

MR. ALEXAN KULBASHIAN: Yes, I have it.

THE CHAIRPERSON: --it says:

"Any person seeking to admit an electronic document as evidence has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic document is that

which it is purported to be."

So, that gives me a general principle, similar to what's already said in the Act, that evidence can be produced to support the theory that -- to support the contention that this is an authentic electronic document.

MR. ALEXAN KULBASHIAN: So, meaning -- an authentic document meaning, any authentic electronic document or is there a specific?

THE CHAIRPERSON: The electronic document is defined at 31.7 -- .8, sorry, as:

"Data that is recorded or stored on any medium in or by a computer system or other similar device and that can be read or perceived by a person or a computer system or other similar device. It includes a display, print-out or other output of the data."

Let me just show you elements of what we find in all these provisions that are of interest here.

31.2 refers to the best evidence rule. See, the best evidence rule applies when the

original is not available.

So, let's say here, the hard drive isn't here, so you go for the best evidence.

And some of the exceptions that one finds here is, for instance -- sorry, some of the areas where the best evidence rule is respected is (b) -- 1(b), that is to say, 31.2(1)(b), sorry -- that's right. Sorry, that wasn't the one I was looking for, no.

No, I'm afraid 31.3, sorry, 31.3, that's right.

See, there are all these references back.

So, 31.3 refers back to 31.2(1) and 31.3 at its (b) says, for instance:

"If it is established that the electronic document was recorded or stored by a party who is adverse in interest to the party seeking to introduce it."

So, perhaps that's the hard drive that was recorded by the party that's adverse in interest, which is Mr. Richardson, to the Commission that is trying to produce it.

Perhaps we're looking at (c):

"If it is established that the electronic document was recorded or stored in the usual and ordinary course of business by a person who is not a party and who did not record or store it under the control of the party seeking to introduce it."

Now, look at that one. We heard evidence from this representative of the London Police Department that it was stored in the ordinary course, that is to say, the copy was made and stored in the ordinary course and kept under the control of the Police Service, the Police Service is not a party to this case and they handed it off to the Commission, we have the original right here in front of us.

So, there's a lot of exceptions there and I'm wondering whether we need to go down that course.

MR. ALEXAN KULBASHIAN: I was wondering if maybe we can schedule a voir dire for tomorrow, maybe after -- like, not schedule, I mean have a meaningful --

THE CHAIRPERSON: So, after all I have said you still want to object on the basis of the

Evidence Act?

MR. ALEXAN KULBASHIAN: Yes. And you will understand, kind of, I do need to finish the questioning of Mr. Wilson -- Det. Wilson, I'm sorry, I keep calling everybody Mr. around here.

THE CHAIRPERSON: So look, if you have an objection to make, let me hear the other side.

MS MAILLET: Well, sir, I want to be fair in this hearing and give the respondents every opportunity that they have a right to question evidence that they may feel is not authentic.

However, I'm not certain that they can establish that they have any evidence to the contrary, and my concern is that it's going to take a lot of time.

You know, we've only scheduled a week here. If they have any evidence to the contrary they should maybe put it to Mr. Wilson that, you know, as you suggested.

They're not saying that the documents that we've produced in our disclosure are not authentic, there's no information that they're not authentic.

So, I just wonder where --

THE CHAIRPERSON: I want you to be

mindful of one thing, Mr. Kulbashian, this is not a criminal trial.

MR. ALEXAN KULBASHIAN: I understand that.

THE CHAIRPERSON: You're not Johnny Cochrane, or O.J. Simpson, so we're not going to play with gloves and that type of thing.

The civil standard is different and there's large flexibility in the rules of evidence as I apply them.

So - I will get to you in one moment, Mr. Warman, just stay there.

So, I just want you to be mindful of that.

I mean, quite frankly, as master of the procedure here - and that is my role - unless you really have some serious doubt about the credibility or the authenticity of this CD, I won't allow you to just engage in a series of questions to try to elicit some -- I don't know what the purpose is.

If you have no reasonable reason to believe that this document is not authentic in the same sense as the evidence that we have heard from this witness who has said that he witnessed his colleague take out the hard drive, transform it into the CD and

that's the CD that was then copied by him and transferred on to the Commission.

MR. ALEXAN KULBASHIAN: In that case, actually, I didn't -- just to clarify what Ms Maillet said, I didn't say that I wasn't going to be questioning the integrity of the content that she's provided, I said I don't have an issue with, I guess, the chain of evidence, if you want to put it that way, between the Commission and Mr. Warman.

Basically my issue is going to be going up higher to production of the CD as well as the production of the content.

THE CHAIRPERSON: Right, and I want to know what's the source?

MR. ALEXAN KULBASHIAN: I just -- the problem is at this point, since I spent a lot of time thinking about this, like, not necessarily thinking about this, I spent a lot of time going over this with my co-respondent and I guess at this point maybe I should withdraw it and see at a later time if there is something that does apply that comes outside these sections that maybe I can --

THE CHAIRPERSON: Well, let me put it another way then.

You may certainly raise an

objection -- or, not an objection, you may certainly raise in your arguments issues with regard to the quality of this evidence as well, if they merge in the course of your cross-examination of this witness or any other witness.

MR. ALEXAN KULBASHIAN: I understand.

THE CHAIRPERSON: However, at the present time I am satisfied, whether I'm using the standards of section 31.1 of the Evidence Act or whether I'm just calling upon my general jurisdiction to receive evidence and assess evidence under the Canadian Human Rights Act, I'm satisfied that this is the authentic document provided to the Commission and prepared as, according to this witness, in his presence.

MR. ALEXAN KULBASHIAN: Okay. So, I'm sorry, basically I guess in that case maybe it was my misunderstanding because I hadn't fully read section 50, the one that you were referring to.

THE CHAIRPERSON: It's just I have the jurisdiction to decide what is admissible and what is not admissible, and there may be a question out there on whether I'm bound by section 31.1.

MR. ALEXAN KULBASHIAN: I understand

THE CHAIRPERSON: But, as I read

earlier, there were several areas which I felt perhaps were complied with, or that the evidence -- the situation where the evidence meets the standards set out in the Evidence Act.

MR. ALEXAN KULBASHIAN: I don't want to waste any more time right now because I understand they're trying to not extend his flight any longer.

So, I guess --

THE CHAIRPERSON: I'm not concerned about that. Maybe they are, but I'm not.

MR. ALEXAN KULBASHIAN: Okay.

THE CHAIRPERSON: The case will proceed as it proceeds.

MR. ALEXAN KULBASHIAN: I guess in this case I will withdraw my concern about that for now and I guess we might maybe bring it up later on.

THE CHAIRPERSON: You can certainly question him on those issues, but at this time the issue that you're bringing forth is whether this is an authentic copy of the digital...

Well, I accept that it's an authentic copy of the electronic document which would be the hard drive to this point, at least in accordance with the evidence that's been led.

Now, if you can -- I think just as

you're proceeding within your cross-examination, if any problems arise we'll deal with it, but to this extent I will allow the document to be produced.

Let's leave it at that.

MR. ALEXAN KULBASHIAN: All right, thank you very much.

THE CHAIRPERSON: It's complicated, I guess.

Mr. Warman, you had something to say. You still have something to say?

MR. WARMAN: No.

THE CHAIRPERSON: But we'll file it later.

You want to put the number on it now. Will you be actually referring to it in the course of your next series of questions?

MS MAILLET: No, I will not.

THE CHAIRPERSON: So, it will be filed --

MS MAILLET: We'll bring it.

THE CHAIRPERSON: Yes, either first thing in the morning or later today.

MS MAILLET: And as well, inasmuch as they relate, they come out of the hard drive, the tabs 51 through 59, although they were produced through Mr.

Warman and I'm just -- they are part of this tab 49 which will be produced.

THE CHAIRPERSON: Right.

MS MAILLET: Speaking of the best evidence rule, Mr. Wilson testified today concerning certain documents such as e-mails and things like that.

When we subpoenaed Mr. Wilson he was no longer with the London Police Force, he is now living in New Westminster, B.C.

He flew out here on Sunday or Monday.

DET/CST. WILSON: Sunday.

MS MAILLET: Drove to the London Police Service and was able to obtain documents that formed part of his investigation.

The Commission didn't have those documents beforehand and neither did he.

There seemed to have been an issue about, you know, the best evidence that he's giving, and what I would request that the Tribunal allow us to do is to sit with Mr. Wilson tonight and go through his documents to see if he actually has any of the originals of the documents that he spoke of in his testimony today.

I would provide them to the respondents as soon as we have them and give them an

opportunity to review them at that time.

THE CHAIRPERSON: You're speaking of, for instance, the e-mails?

MS MAILLET: The e-mails as well as the lease.

THE CHAIRPERSON: So, the issue becomes here one of disclosure. It would be a late disclosure issue.

MS MAILLET: That's right.

THE CHAIRPERSON: Now, let me ask the parties, and perhaps even Mr. Wilson.

Mr. Wilson, would these documents have been disclosed as part of the criminal disclosure?

DET/CST. WILSON: Yes, they were.

THE CHAIRPERSON: All of them, at least the ones that you intend to --

DET/CST. WILSON: All those documents would have --

THE CHAIRPERSON: Let's be specific, the e-mails that you referred?

DET/CST. WILSON: Yes.

THE CHAIRPERSON: The photographs?

DET/CST. WILSON: The photographs --

THE CHAIRPERSON: Sorry, the webpages, the webpages I think you referred to them.

DET/CST. WILSON: The only webpage that probably would have been produced would have been the one with the threat on it because, again, we were centred on the criminal, not the overall websites.

THE CHAIRPERSON: There was also a webpage that had -- the one that encouraged people to telephone the police service.

DET/CST. WILSON: Yes, that would have been produced. It would have been a document held to support the search warrant that we conducted on Mr. Kulbashian's place.

It wouldn't have necessarily been produced as a disclosure and I can't tell you a hundred per cent if it was at the time.

THE CHAIRPERSON: Well, why don't we let -- I think you're perfectly within your rights to make any photocopies you like and then show them to the other side and I can hear them if there is any--

MS MAILLET: Objections.

THE CHAIRPERSON: --prejudice caused to them.

Let me explain, Mr. Richardson, Mr. Kulbashian.

The request being made here is to -- again, it's the best evidence, the best evidence would

be the document and not the personal recollection of the individual sitting here.

He has the document, he obtained it for the reasons indicated at a later date, maybe very recently.

So, the request that's being made, I understand, is that the documents be filed by this witness, by Mr. Wilson here at this hearing.

The problem would be that you were not copied, you were not sent copies of these documents in advance of the hearing, but for them -- it is within my discretion to exclude or not to exclude documents that were not properly disclosed in advance.

I have heard the reasons why already from the Commission. I'm also mindful, and this is why I asked the question, if any of these documents would have formed part of the disclosure that took place in the context of the criminal case.

He indicates to me that some of these documents at least would have been disclosed to you as part of the criminal prosecution.

Would that be correct?

MR. ALEXAN KULBASHIAN: Actually the extent of the disclosure that I got and from what I know what James got because we got identical packages,

are the interviews we made which are included in the booklet here, I guess, I don't know what you call it, the interview with the police.

THE CHAIRPERSON: Yes.

MR. ALEXAN KULBASHIAN: Some police notes, and a copy of this hard drive.

The crown haven't forwarded any of this disclosure to our lawyers at that time.

THE CHAIRPERSON: I see.

MR. ALEXAN KULBASHIAN: We had very limited disclosure before the trial came up, up to for a year and a half.

THE CHAIRPERSON: If that's the case, let's see --

MR. ALEXAN KULBASHIAN: I'm not trying to fault anybody, just the crown never forwarded it over.

THE CHAIRPERSON: Let's see what they choose to provide you, but I'm still going to -- whether or not they were disclosed to you in the context of the criminal prosecution, I would still want to hear what prejudice would be caused to you by just receiving them now.

I mean, basically, if we're taking about four or five pages that reiterate what is stated

in his summary that he's been referring to, you know, and I will give you ample opportunity to look at the material, perhaps research it, whatever is necessary, I will not exclude that from being filed simply because you're raising an issue at this stage, especially if it's just a small number of pages as opposed to a book.

MR. ALEXAN KULBASHIAN: Well, there's an issue - I can't really comment for all the stuff that weren't included - but there's an issue, for example, that was brought in from -- that was e-mailed to, I think Det. Sam was it, the one from Carol Miles--

DET/CST. WILSON: Yes.

MR. ALEXAN KULBASHIAN: --to Det. Sam and now the problem is, if those are brought in, then we would have to bring extra disclosure that would have to request including medical report from Carol Miles as well as criminal report from Carol Miles?

THE CHAIRPERSON: Why?

MR. ALEXAN KULBASHIAN: Because -- well, I don't really -- should I give the information or --

MS MAILLET: Perhaps we can deal with the documents.

THE CHAIRPERSON: Yes. We may be jumping the gun. Stop for a second, we may be jumping

the gun because we don't know what they want to produce.

And let's be clear. In my understanding, again, as I gather, the reason for the Miles' e-mail would not be to establish that Ms Miles was with you or that you had a relationship or whatever, or the other woman, Nicole Taylor.

I think the purpose, again, was to get the linkage to the name and not to establish the proof of whatever may have been going on with that woman.

MR. VAHE KULBASHIAN: Maybe -- I'm sorry. Now, you should know who is Ms Miles. Ms Mile's is my son's ex-wife's mother.

THE CHAIRPERSON: Okay.

MR. VAHE KULBASHIAN: And --

MS MAILLET: Sir, before we get into that, I don't even know if we have an e-mail from Ms Miles. I'm not sure about any --

THE CHAIRPERSON: You know what, stop right there, Mr. Kulbashian.

MR. VAHE KULBASHIAN: The only thing that I want, because just for the sake of my grandson, we can discuss that matter on the side and not to put it on record, because I will be -- in case they produce

that, I will be showing e-mails to you that --

THE CHAIRPERSON: You see, you're missing the point. Don't lose focus.

MR. VAHE KULBASHIAN: Okay.

THE CHAIRPERSON: The complaint is the focus, not the relationship between your son and the other woman or whomever. Don't go beyond the scope of what we're talking about.

Anyway, it may not be produced, I mean, they say --

MS MAILLET: We haven't gone through his documents yet.

THE CHAIRPERSON: As far as I'm concerned -- look, there is no reason for the Tribunal to prevent you from making any photocopies you want.

You may -- it looks like this testimony is not going to finish today, from what I gather, so you may attempt to introduce certain evidence tomorrow and we'll see - I hope that you give copies in advance to the complainant - the respondents and we'll see.

MS MAILLET: Of course.

MR. ALEXAN KULBASHIAN: Then, can we just bring other documents in order to argue prejudice, like, for tomorrow when the documents are brought?

THE CHAIRPERSON: You can bring documents, any documents.

MR. ALEXAN KULBASHIAN Okay. These aren't something that were disclosed because they are part of the case, but now if these things come in, so...

THE CHAIRPERSON: My understanding - I hope you understand, I don't care, if there was a divorce proceeding, it's not of concern to me, I can't see what pertinence it would have to the case, so don't see it that way.

I mean, if that was what was attempted, then you could get up and say: What's the relevance of how I separated from my wife, and your point may be valid at that point. I would probably rule in your favour if that were to occur.

Do you understand?

MR. ALEXAN KULBASHIAN: Okay. Thank you very much.

MS MAILLET: Should we take maybe a five-minute break here?

THE CHAIRPERSON: Yes, we could. Okay. Five minutes though.

MS MAILLET: Yes.

MR. ALEXAN KULBASHIAN: There's only

about 40 minutes left.

REGISTRY OFFICER: All rise.

--- Recessed at 4:15 p.m.

--- Resumed at 4:40 p.m.

REGISTRY OFFICER: All right.

Please be seated.

THE CHAIRPERSON: Before proceeding further, I just want to clarify my prior point on the CD.

What I'm essentially saying is that for the purposes of identifying the exhibit, because that's the stage we're at, we have an exhibit that is being introduced, for the purpose of identifying what that is, that is, that it is a copy that was made by Mr. Wilson of the CD that he received from officer -- I forgot got his name.

DET/CST. WILSON: Stumpf.

THE CHAIRPERSON: Stumpf of the London Police Service, ostensibly that was made by Officer Stumpf of the London Police Service as a copy of the hard drive.

So, I accept its identification as being such.

DET/CST. WILSON: Yeah. The only thing I would correct is that I would not make a copy

of that CD, I would ask Cst. Stumpf to make a copy of it for me to keep it extremely consistent with the procedures that he would follow.

THE CHAIRPERSON: Just so I'm clear then, the copy that was made that bears the sticker on it was made by the same officer?

DET/CST. WILSON: Yes, sir.

THE CHAIRPERSON: Okay. Were you there when it was made?

DET/CST. WILSON: Yes, sir, I was.

THE CHAIRPERSON: You were also there when the copy was made of the hard drive to the original -- to the first CD?

DET/CST. WILSON: When it was set.

THE CHAIRPERSON: When it was set up.

DET/CST. WILSON: It runs most of the night, I guess, to get that information from a hard drive into that process.

So, but when he starts that investigation, or starts that part of the investigation, I'm there when he does it.

THE CHAIRPERSON: So, I just accept that the document -- the object identified as such be introduced into evidence.

MS MAILLET: Thank you.

THE CHAIRPERSON: And any questions about its credibility, its authenticity you can raise in the course of your questioning and then we can deal with these types of issues.

MR. ALEXAN KULBASHIAN: I just want to apologize for being vague before, I was kind of not even getting what I was saying at some point because I was getting confused with the Act.

THE CHAIRPERSON: Slow down.

MR. ALEXAN KULBASHIAN: Sorry, about that.

MS MAILLET: So, if we could produce tab 60 then.

THE CHAIRPERSON: Tab 60. Yes. Right.

EXHIBIT NO. HR-1 (Tab 60): Copy of London Police Service Crown Brief consisting of eight pages.

MS MAILLET: Det. Wilson, if you could turn to tab 62, please.

DET/CST. WILSON: Yes, Ma'am.

MS MAILLET: Do you recognize this document?

DET/CST. WILSON: Yes, I do. This is the transcript of an interview I have with Alexan

Kulbashian on the 30th of January, 2002.

MS MAILLET: That's the same interview that you referred to at tab 60 in the last paragraph?

DET/CST. WILSON: Yes, Ma'am.

MS MAILLET: And I understand this is a videotaped statement?

DET/CST. WILSON: Yes, it would be.

THE CHAIRPERSON: And who transcribed it?

DET/CST. WILSON: The secretaries of our criminal investigations division, there's actually two of them that did it because it was such a lengthy investigation.

When we do transcriptions of audiotape, not only do they transcribe it, but then I would take their transcription and I would essentially edit it.

I would listen to the interview again and ensure that the facts within that transcription reflect the facts that were made on that videotape.

MS MAILLET: If you would please turn to page 10 of that transcript.

DET/CST. WILSON: Yes, Ma'am.

MS MAILLET: Would you just read to

the court starting at the beginning of that page going to when -- well, if you could you just start reading and then I'll stop you at some point.

DET/CST. WILSON: It start outs with K:...

Again, just to give you a reference, when they do the transcriptions, "K" will reflect Alexan Kulbashian and "W" will reflect Terry Wilson.

"K: Yeah. Pe..people actually interpret it to be the Toten Kopf which is not true. The Toten Kopf actually does not even look like this. This is a modern design.

W: Okay."

I answer:

"W: Okay.

"K...um with just a skull and cross bones, well a death-head really.

"W: Okay. A death-head. And again you said the word Toten Kopf.

K: Well that's because you brought that up (inaudible).

W: Oh I brought it up outside.

Death-head as you call it...

K: It means Toten Kopf.

W: ...means Toten Kopf.

K: Yeah.

W: And I understand that you on-line on the computer identify yourself as Toten Kopf as well.

K: Um, actually I identify myself as Alex KRAUS. Toten Kopf is part of u, I guess (inaudible) get into that, should I because this is branching off.

W: Well...

K: Should we get into the Toten Kopf concept or.

W: Sure if you want to. Go right ahead.

K: Because this is like branching way off. Like a (inaudible).

W: Okay. So before we go on any further...

K: You might want to take

notes.

W: Well that's how come the video camera, because it might go a little faster than I can write so that's the best thing.

Um, you said that your given name or your, your birth name is Alex KULBASHIAN.

K: Alexan KULBASHIAN.

W: Alexan KULBASHIAN. But you also identify yourself as Alex KRAUS?"

MS MAILLET: I will stop you there,  
Mr. Wilson.

If you could turn to page 12.

DET/CST. WILSON: Yes, Ma'am.

MS MAILLET: I'm sorry, could you turn to page 11 first, towards the middle of the page, you start, and you say:

"Okay."

And then you get into:

"So the Canadian Ethnic  
Cleansing Team..."

DET/CST. WILSON:

"W: Okay. So the Canadian

Ethnic Cleansing Team which you were or are a member of, which one are we?

K: Well, I was a member of.

W: Was a member of.

K: Yes."

MS MAILLET: That's fine.

Now, if you could turn to page 12 where you -- would you please start reading at the point where it's "W:" towards the middle of the page right underneath there it says:

"So did you start..."

DET/CST: WILSON:

"W: So did you start the Canadian Ethnic Cleansing Team?

K: Um, we. It was collective.

W: It was collective?

K: Yeah.

W: Collective with who?

K: U, okay the names. Okay, see everybody used different names uh just like I did.

(laugh) (inaudible) James.

W: Well, I'd prefer to have the. James, James RICHARDSON?

K: Yes.

W: Okay. Who else would,  
beside James RICHARDSON?"

MS MAILLET: That is it. Now, if you  
could turn to page 17 of that document.

DET/CST. WILSON: Yes, Ma'am.

MS MAILLET: Towards, about two  
thirds of the way down the page, you say:

"Okay, Okay."

DET/CST. WILSON:

"W: Okay, Okay. Um, so 30 to  
40 white people. I don't know  
how to put it. Thirty to forty  
white people get together to  
create the Canadian Ethnic  
Cleansing Team?"

K: Uh hum."

MS MAILLET: Now, if you could turn  
to page 18.

DET/CST. WILSON: Okay.

MS MAILLET: Again towards the bottom  
you ask:

"W: How is the direction..."

DET/CST. WILSON:

"W: How is the direction of

the, the team going? Like how does it get any direction if there's 30 - 40 pe..team. I don't mean just pick anyone out to be a leader but...

K: Yeah, Yeah.

W: ...you know there has to be some sort of direction of how they're doing it. How do we do that?

K: Um, people got lazy. In fact there was no direction at the beginning.

W: Okay.

K: It was, it was kind of uh really sloppy to start.

W: Okay. How did it get stream-lined? How did it become not sloppy anymore?

K: Once the site came.

W: Once the site came up, okay. When did the Canadian Ethnic Cleansing Team site come up?"

And then:

"K: (inaudible) (laugh)

W: Summer? How about we just...

K: Well like spring.

W: Spring 2001?

K: 2000, and 1 yes.

W: 2001. Okay. So we're talking spring last year sometime.

K: (whisper) 2000. No you're right uh it was 12 to 14 months ago.

W: 14 months.

K: I, I confuse myself.

W: Okay. So you've been a member 14 months right?

K: (inaudible)

W: So it's spring, or?

K: I started, it started getting membership 14 months ago.

W: 14 months. So spring...

K: Yeah spring of 2001.

W: ...2001 you have the Canadian Ethnic Cleansing Team site.

K: Yes.

W: Okay. How does that get developed?

K: Um, at the beginning there was already a site that existed on GeoCities somewhere that was just plastered on uh...

W: Who put that site on?

K: Um, the old, basically the (inaudible) master, which I don't know who it was because the day I went on the GeoCities site it was like kind of crappy, really strong. (inaudible)

W: Not looking good is it?

K: Well it was red writing, black background you know.

W: Yeah.

MS MAILLET: Now, if you could just jump to about a third of the way down where "K" says:

"Well I didn't decide personally."

DET/CST. WILSON: On page 20?

MS MAILLET: 20, yes. Sorry.

DET/CST. WILSON: Page 20.

"K: Well I didn't decide personally. We just decided to have a domain, yes.

W: Okay. So the group of yous got together and decided that it would be a good idea to do a domain.

K: Yeah somebody donated a domain to James...

W: Okay.

K: ...or to somebody else, I forgot, but we had a domain. That's all I know.

W: So somebody, do you know who donated the domain to you?

K: No. We just know we had a domain.

W: You had a domain?

K: Like I mean I wouldn't know from my end.

W: Okay.

K: People, some people would know.

W: So now you start it, you have a domain in the spring of

2001, okay. Um, who manages the site or who, because it's a pretty decent looking site. Like when you pull it up it, it's professionally done. Like it really is a good looking site.

K: I, I made the layouts.

W: You made the layouts.

K: And designed the scripts for it.

W: Okay. Now you have to understand my VCR still flashes 12 so you might have to explain what layouts is and stuff like that to me.

K: Okay. Basically if uh the site viewed on (inaudible) perspective there is two sections to it. There is scripts that pretty much control what it looks like...

W: Uh huh.

K: ...and there's the content.

W: Okay.

K: I made just a template, the look.

W: Okay. You, you made the look for the Canadian...

K: I, I was really into web designing at that point, programming just my stuff right."

MS MAILLET: That's fine. Now, if you could go to the bottom of the page.

DET/CST. WILSON: Okay.

MS MAILLET: Where you, Wilson says:

"I think, I think it just had the symbol in the one corner."

DET/CST. WILSON:

"W: I think, I think it just had the symbol in the one corner right?

K: A symbol and then menu underneath...

W: Yeah.

K: ...and it was open.

W: Yeah.

K: Yeah. And I, I made that one. But that's just a back-up

for the whole red and black  
um...

W: Okay. So did you take any  
of the information from the  
GeoCities site?

K: No.

W: So it's pretty much...

K: I had, well I had nothing to  
do with information. I just had  
to do with template right.

W: Okay. So you just went, and  
you decided to make a  
template...

K: Yeah. Just as you know.

W: ...for the Canadian Ethnic  
Cleansing Team.

K: Yeah. Like whoever wants to  
use, basically whoever wanted to  
use the the, ad content to put a  
script header and a script  
footer and decide. It would  
show up the way he wanted to.  
Like...

W: Okay.

K: ...just show up the way to

set it.

W: Okay. So you developed this...

K: Interface.

W: Yes. And somebody else developed the script for it?

K: No, I developed, I developed and somebody else did the content, yeah.

W: You did the content for it?

K: Yeah.

W: Okay so you sort of developed the way the website would look, you know what I mean. Did you put the images on there as well?

K: Which images?

W: Um, well the first one that comes to mind as soon as you log onto that site is a Canadian flag.

K: I made the flag.

W: Half a flag, half a Celtic Cross.

K: I made the flag, yeah.

W: You made the flag with the Celtic Cross.

K: (inaudible) yeah.

W: Okay. The Celtic Cr..Cross means what to you..

K: Um, White Pride.

W: White Pride.

K: Yes.

W: Okay."

MS MAILLET: Stop there.

DET/CST. WILSON: Okay.

MS MAILLET: If you could just start at page -- the bottom of page 23 where you're talking about links, where "K" says:

"Yeah just links to the different pages."

DET/CST. WILSON: Okay.

"K: Yeah just links to the different pages.

W: Yeah. We'll start with the links. You click on the links.

What are you linking to?

K: Links to other sites.

W: Other sites, and they're all like Pride sites.

K: Um, some are. Some are just new sites depending on what.

If, if you remember there's...

W: I'm trying, I'm trying to remember the news sites but...

K: ...there's the Your Canadian News.

W: Your Canadian News.

K: Which is not, which is, uh, toss up politics, not really politically (inaudible)

W: Which is a sort of a far right.

K: Um, no, wouldn't say that. I would say they're conservative.

W: You would, oh uh how would you class that?

K: They're conservative.

W: Conservative.

K: These people didn't actually want nothing to do with the CECT in the first place.

W: Okay. There are um sites like um, Just Archive 14.

K: Yeah that National Alliance Site.

W: That's the National Alliance Site which is a White Supremacist or White Power site in the United States right?

K: Yeah.

W: And what does 14 stand for?

K: Uh 14 words.

W: 14 words said by David LANE right.

K: Yes. Well written by him.

W: Okay. Written by David LANE, okay. A member of the order, right?

K: (inaudible) right."

MS MAILLET: Just stop you there, Mr. Wilson.

Based on your experience, I just wonder if you could inform the Tribunal about these 14 words and David Lane, what that might refer to?

DET/CST. WILSON: Yeah, David Lane was a member of the order, which was a militant -- militaristic white power organization based in western United States during the 80s.

David Lane was a member. They proceeded -- I guess in a nutshell, they proceeded to rob banks and armoured cars to support the white power movement.

Mr. Lane was arrested as a result of an extensive investigation done by the FBI and simply wrote -- upon his conviction he wrote a slogan, I guess, that has been sort of taken to the hearts of the white power or the white supremacist movement.

The slogan states:

"We must secure the existence of our race and the future of our white children."

Which is 14 words, and since the 80s that has been taken on sort of as a banner by the white power movement.

A lot of times you'll see in e-mails or other letters, people involved in the white power movement will sign it, their name '1488', 14 being the 14 words stated by David Lane and 88 meaning Heil Hitler, and that's what Mr. Kulbashian is referring to by '14' here.

MS MAILLET: Thank you.

If you could please turn to page 25, towards the middle of the page you say, or "K" says:

"No the look um, for the past  
year pretty much has been  
exactly the same..."

About a third of the way down.

You say:

"You love doing sites."

DET/CST. WILSON:

"W: You love doing sites.  
Would you up-date this site,  
like the look of the site every  
once in a while.

K: No the look um, for the past  
year pretty much has been  
exactly the same.

W: Okay, okay. Um, at the  
bottom. of the menu...

K: Yes.

W: ...Totenkopf.

K: That's the brand name.

W: That's the brand? name?

K: The, yes.

W: That's you.

K: Well that's me, yeah.

W: Yeah that's you. Okay, so  
at the bottom of that site is

you, Totenkopf. Like a signature right. I did this.

K: Well the, the, if it's just Totenkopf on it's own it wouldn't be me but since there's a little, this here."

And I have to explain, in this interview there's a piece of paper between myself and Mr. Kulbashian and he's attempting to draw probably better than I would be able to the Totenkopf in there, so he's referring to that in that statement.

"W: There's a little...

K: That, that is beside the name. I'm not sure if you noticed.

W: Oh man I don't know if I noticed that. I have to look at that. There, there's a..there's a death head...

K: There's a little death head beside it:

W: ...a little death head beside it. So the one with the little death head beside it that's you, is that right?

That's, that's...

K: That specific uh logo is me.

Otherwise it just says

Totenkopf it's not me.

W: Okay so that lo..that, that  
logo is yours.

K: Yeah.

W: Is it, is it like a  
copyright logo or is it just  
everybody knows that's you.

K: Everyone knows that's me.

W: Okay. That's fair enough.

MS MAILLET: Stop you there.

Now, towards the bottom of that page  
a little bit towards the bottom half, you say:

"Yeah okay. So somebody else  
takes the layout...",

See that?

DET/CST: WILSON:

"W: Yeah okay. So somebody  
else takes the layout that you  
created for the Canadian Ethnic  
Cleansing Team, gets another  
domain I take it?

K: Yeah. Um, I would register

**StenoTran**

domains, um, after a while because basically everybody would register to my account...

W: Uh huh.

K: ...since I have secure account.

W: Okay, well get that in a second okay. Gets another domain and creates another web site...

K: Yeah.

W: ...that, that is obviously linked to the Canadian Ethnic Cleansing Team, the Vinland Voice.

K: Yes.

W: Right, and on the Vinland Voice it's a news letter. You can go to the current issues. You can go to archived issues. You can go to alternates.

K: (inaudible)

W: I think, what is there 22 of them or something like that, or 15 of them. I can't remember

how many newsletters."

MS MAILLET: If you could turn to  
page -- sorry 29.

DET/CST. WILSON: 29. Okay.

MS MAILLET: Just give me a moment.  
Sorry page 30.

You say -- "W" says:

"If we say the start of the, the  
website starts the spring...",  
At the very top there.

DET/CST. WILSON:

"W: If we say the start of the,  
the website starts in the spring  
of 2001...

K: Okay.

W: ...how long are you on that,  
on the website from there? I  
take it in --" "I take it..."

THE CHAIRPERSON: You?

DET/CST. WILSON:

"...I take it you were there at  
the beginning right. You were  
the forward contact at the  
beginning?

K: Yes.

W: ...as Totenkopf. Okay, um how long were you at it from the beginning until, until when? How many months do you think you were on that forward list.

K: Um, maybe 7, 8 months, 6, 7. Depending like up until about um, until I left CECT.

W: Until you left the CECT?

K: Until I formally left CECT when I said I don't want anything to do with it.

W: You, you formally left it I'm guessing December.

K: I actually formally left it before that. I just went public...

W: When did you formally leave it then?

K: Well I made it public on December. I formally left it around um, I think it was October or November.

W: October, November.

K: November.

W: November?

K: No, maybe mid, end of  
November."

And, again, that's referring --  
directly confirms the information that Alex Krause  
posts on the website that he leaves the Canadian Ethnic  
Cleansing Team in December of 2001.

MS MAILLET: Now, if you could turn  
to page 33, about two -- a little more than halfway  
down, you indicate:

"...you did receive e-mails  
under totenkopf.

DET/CST. WILSON:

"W: ...you did receive e-mails  
under totenkopf.

K: Yeah I did.

THE CHAIRPERSON: Page 33, sorry?

MS MAILLET: It's on page 33, a  
little more than halfway down it says...

THE CHAIRPERSON: Oh:

"...you did receive...",  
Yeah, here it is. Okay, go ahead.

DET/CST. WILSON:

"W: ...you did receive e-mails  
under totenkopf.

K: Yeah I did.

W: Okay. Did you receive e-mails under WP Canada?

K: No. Not at all.

W: Never. So you were never on this .forward list.

K: Never on the list. No.

W: James RICHARDSON on the, this .forward list.

K: 80@ yes.

W: 80%?

K: Yes. Well it's because um...

W: Okay.

K: ...because I don't know what his real e-mail address is, the one that would forward to, so.

W: Yep. Okay."

MS MAILLET: Okay. Page 34, about the middle of the page you say:

"Okay. Um, it was donated and again you don't know who registered the domain."

DET/CST. WILSON: Oh.

"W: Okay. Um, it was donated

and again you don't know who registered the domain.

K: Oh no. Because we were just told one day. It was like well we have a s..we have a domain. We got to get together. We got to make a site for right.

W: Uh hum.

K: Because it was done GeoCities and there's ads popping up and stuff.

W: Yeah.

K: We might as well get our own domain. And um, so after a while and realizing that the old layout kind of sucks right.

W: Yep, yep.

K: we were just, people were just asked uh who has a, who wants to create something pretty...

W: Uh hum.

K: ...or who wants to create something...

W: Okay.

K: ...uh useful and uh  
eventually I...

W: So you...

K: ...on a creative day...

W: Yeah.

K: ...on a creative day I just  
drew up a basic layout and I  
created with graphics.

W: Okay. So you, you created  
the gr..(inaudible)

K: (inaudible)

W: ...the graphics sort of  
idea.

K: That would be it. What you  
see...

W: When you, when you talking  
to these people from the  
Canadian Ethnic Cleansing Team  
if you created the graphics for  
it who created the content for  
it.

K: Everybody submitted the  
content.

W: Everybody submitted the  
contents. Did you every submit

content for it?

K: Yes I did.

W: Okay. Under which name would you submit content?

K: Obviously under a name that was attached to, totenkopf.

W: Totenkopf. So articles written on the CECT.

K: Any articles that are sarcastic are me."

MS MAILLET: Okay. Now, if you could just give me a moment.

Now, turn to page 42, towards the bottom of the page, Wilson starts -- this is four lines up from the bottom:

"Okay, okay."

DET/CST. WILSON:

"W: Okay, okay. We'll go to a different website now."

K: Okay.

W: Affordablespace.

K: Yes that's...

W: Your website.

K: No no. It's not a website.

It's a server.

W: It's a server. Who runs Affordablespace.

K: Um, um, a, who runs it? Like who administers it or who run. Like you got to be more clear because I (inaudible).

W: Okay. I don't uh I don't know the different between running and administering it so.

K: Administering is somebody who takes care of the server.

W: Okay.

K: And running it is I mean, basically most of the work done the server is me.

W: Okay.

K: The server is just a hosting server. Lots of...

W: Okay. So people can get ahold of you and say I want a website.

K: Account. I want an account in order to host my site.

W: Okay.

K: Okay. So that's where we're

getting right now.

W: Okay. So be it, you set up accounts for people...

K: Who want space yeah.

W: ...who want space on the website.

K: Yes.

W: Okay. [Affordablespace.com](http://Affordablespace.com) do, are there racist sites that are...

K: There are some racist sites on it yes.

W: Run some racist sites on [affordablespace.com](http://affordablespace.com).

K: Yes.

W: So you. People contact you I'm, I'm, I'm assuming e-mailing or whatever...

K: Or just...

W: ...to [affordablespace.com](http://affordablespace.com).

K: Well if you just go to the site you can sign up on-line.

W: Okay. People sign up on [affordablespace.com](http://affordablespace.com) that you is, is a better word manage?

K: Yeah.

W: Manage. You manage that site.

K: Yeah.

W: They want a website."

MS MAILLET: And if you could just turn to page 44.

DET/CST. WILSON: Okay.

MS MAILLET: About the middle of the page, Wilson starts:

"What racist sites..."

DET/CST. WILSON:

"W: What racist sites, or what you believe to be racist sites are on Affordablespace?"

K: Um, there's NSF sites.

W: National Skin-head Front sites.

K: Yeah.

W: Just the Canadian section of the National Skin-head Front?"

K: No no. Both.

W: The American section of the National Skin-head Front comes from affordablespace.

K: Yes.

W: Because when you go on the National Skin-head it says please join our Canadian friends and you click on that and that's actually a different website...

K: Yes.

W: ...for the Canadian version of the National Skin-head. Both of those sites are run through Affordablespace or managed.

K: No. Well they, they're hosted on Affordablespace.

W: They're hosted. So you, do you get like 34 bucks.

K: No. I get uh, I get 10 bucks a year...

W: Okay.

K: ...uh for people so I can register give them the domain. The domain is just having a name. It's like saying, okay now your company name is this.

W: Yeah.

K: All you need is office

space. And I also give them, if you want to figuratively speaking office space for the site too.

W: Okay. So you...

K: Where they get either, they get 10 bucks a month or a 100 bucks a year U.S.

W: Okay. So you get, you get a 100 bucks a year U.S. for both sites, or just for the one?

K: For each, each account.

W: For each site. So from the National Skin-head Front Canada and the National Skinhead Front you get 200 bucks.

K: Yeah.

W: Right, because they're two sites, right.

K: Yes and I also help people out if they need, with creating a website des..like a layout.

W: Okay. That's, we'll go to the National Skinhead Front. At the National Skinhead Front sure

enough at the bottom of it...

K: There's my little brand.

W: Totenkopf is there right?

K: Both of them, yes."

MS MAILLET: Okay, I'll just stop you there.

Mr. Chair, I just want to check to see how long you wanted to go today.

THE CHAIRPERSON: Well, is anyone tired?

MR. RICHARDSON: Mr. Chair, we have to be back in Hamilton by six o'clock to pick up my... we're responsible for that.

THE CHAIRPERSON: Fine.

MR. RICHARDSON: We could go another five minutes and still make it on time, but I can't go much longer.

THE CHAIRPERSON: How much longer do you have with Mr. Wilson?

MS MAILLET: I'm guessing, maybe 20 minutes.

THE CHAIRPERSON: Oh really, and cross-examination tomorrow.

MS MAILLET: Well, 20 minutes of this evidence and I have a few other questions.

THE CHAIRPERSON: Oh, you have a few other questions.

No, look, I don't think we should put at risk your going to pick up this child.

MR. RICHARDSON: Sorry, Mr. Chair.

THE CHAIRPERSON: No, it's not a problem. We're scheduled to end at about five.

So, we'll reconvene tomorrow at 9:30.

REGISTRY OFFICER: All rise.

--- Whereupon the hearing adjourned to  
Thursday, September 2, 2004 at 9:30 a.m.

I HEREBY CERTIFY, to the best of my skill and ability, that the foregoing is a true and accurate transcript of the proceedings.

  
Beverley R. Dillabough, C.S.R.