

**CANADIAN
HUMAN RIGHTS
TRIBUNAL**



**TRIBUNAL CANADIEN
DES DROITS
DE LA PERSONNE**

BETWEEN/ENTRE:

RICHARD WARMAN

Complainant

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

Respondents

BEFORE/DEVANT:

ATHANASIOS HADJIS

THE CHAIRPERSON/
LE PRÉSIDENT

LE PRÉSIDENT

ROCH LEVAC

THE REGISTRAR/
LE GREFFIER

LE GREFFIER

FILE NO./N^o CAUSE.:

T869/11903

VOLUME:

6

LOCATION/ENDROIT:

OAKVILLE, ONTARIO

DATE:

2004/11/08

PAGES:

1342-1657

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
MONDAY, NOVEMBER 8, 2004, AT 09:50 A.M. LOCAL TIME

CASE FOR HEARING/CAUSE DEVANT ÊTRE ENTENDUE

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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LIST OF EXHIBITS / PIÈCES JUSTICATIVES

EXHIBIT	DESCRIPTION	PAGE
RR-11	Picture of James Scott Richardson wearing bomber jacket.	1393
RR-12	Book-in or mug shot photo of Mr. Richardson with some descriptors at the side.	1454
RR-13	Hard copy of Hotmail account e-mail from Vinland Voice Editor to different addresses re: Mr. Richardson's detention after his arrest.	1460
R-5	Document from C.E.C.T.-Anti-Racist Database, printed on January 31st, 2002.	1523
R-6	E-mail received from cect@wpcept.com to conradmacdonald@hotmail.com dated September 27th, 2001.	1548

1 Oakville, Ontario

2 --- Upon commencing on Monday, November 8, 2004

3 at 9:50 a.m.

4 REGISTRY OFFICER: Order. All rise.

5 Please be seated.

6 Good morning.

7 The hearing in the matter of a
8 complaint filed by Richard Warman dated February 5,
9 2002 pursuant to section 13.1 of the Canadian Human
10 Rights Act against Alexan Kulbashian and James Scott
11 Richardson, Tri-CitySkins.com, Canadian Ethnic
12 Cleansing Team and AffordableSpace.com is now resumed.

13 THE CHAIRPERSON: Thank you very
14 much.

15 Good morning everybody.

16 When we left off last time there was
17 supposed to be an exchange of some documentation,
18 original versions of photographs exchanged and so on.

19 Has all that taken place?

20 MS MAILLET: That's correct, Mr.
21 Chairman.

22 First of all, I'd like to announce
23 that Ms. Valerie Phillips of the Commission is here.
24 She's a new colleague of mine and she'll be here for
25 most of the week this week, just to let you know.

1 Yes there was. The original photos
2 that were submitted that were originally in Mr.
3 Wilson's binders, the respondents had made copies of
4 those photographs and the Tribunal had asked that a
5 better copy be forwarded to the parties, and that was
6 done through the Tribunal, and apparently there was not
7 enough time to then forward those on to the
8 respondents. I believe those are here this morning.

9 As well, we scanned the binders of
10 documents that were arguably relevant from Mr. Wilson
11 and those have been couriered to the parties.

12 THE CHAIRPERSON: That's correct, Mr.
13 Kulbashian?

14 MR. ALEXAN KULBASHIAN: Yeah, we
15 actually did get some of the documents from Wilson's
16 binders. We also got --

17 THE CHAIRPERSON: Mr. Wilson's
18 binders, please.

19 MR. ALEXAN KULBASHIAN: And we also
20 got some pictures today.

21 There's actually one piece of
22 disclosure that's outstanding, the Appeal Court
23 decision from the very beginning of the trial where
24 only the first page was submitted, I think.

25 THE CHAIRPERSON: I have some

1 recollection of that.

2 MS MAILLET: Yes, I do as well and I
3 was just speaking with Mr. Warman about that.

4 We do have the decision us and I
5 couldn't recall exactly what had been decided about
6 that.

7 Perhaps - I do have the things
8 available, I can make copies and have them for
9 everybody over the break.

10 THE CHAIRPERSON: We only had the
11 Reasons for Sentence, we didn't have the actual
12 decision itself.

13 MS MAILLET: That's correct, and for
14 some reason we had decided not to put that case in
15 right away.

16 THE CHAIRPERSON: We could check the
17 transcript. Maybe someone could check that.

18 MS MAILLET: I can review the
19 transcripts.

20 THE CHAIRPERSON: But I mean it is a
21 public record, right? There is no issue, right?

22 MS MAILLET: That's correct. I have
23 it with me and I will make copies for everybody.

24 THE CHAIRPERSON: Is that all right
25 with you, Mr. Kulbashian?

1 MR. ALEXAN KULBASHIAN: Fine with me.

2 THE CHAIRPERSON: So, when we left
3 off my recollection was - and I will just check my
4 notes here - that we were in the middle of the
5 cross-examination of Mr. Wilson who is there in the
6 witness box right now and the questions were being
7 asked by Mr. Richardson; correct?

8 MR. RICHARDSON: Correct.

9 THE CHAIRPERSON: But I had decided
10 to allow Mr. Kulbashian to complete his
11 cross-examination of this witness afterwards; right?

12 MR. ALEXAN KULBASHIAN: That's right.

13 THE CHAIRPERSON: Okay.

14 MR. ALEXAN KULBASHIAN: If I could
15 just bring up a few issues beforehand?

16 THE CHAIRPERSON: Preliminary issues,
17 yes.

18 MR. ALEXAN KULBASHIAN: Okay. First
19 of all--

20 THE CHAIRPERSON: You can remain
21 seated.

22 MR. ALEXAN KULBASHIAN: First of all,
23 there is a third binder that Detective Wilson had last
24 time. We'd actually like to take some time to review
25 that binder.

1 It seems there is an issue of --
2 where he, I guess, said a few things about the decision
3 in the U.S. and I'd like to review that binder because
4 I believe that's what that binder has to do with.

5 MS MAILLET: If I may, Mr. Chair.

6 We had taken the time during the last
7 sitting to review documents and produce those which
8 were arguably relevant.

9 There were three binders. I went
10 through them with Mr. Wilson. Two of the binders I
11 felt were arguably relevant and the third binder, most
12 of the documents were relevant to things that happened
13 after the facts which give rise to this case.

14 In my opinion they were not arguably
15 relevant. If he knows of a particular document that he
16 would like to see, we can consider that, but...

17 THE CHAIRPERSON: My first question
18 is, was the respondent permitted to review the document
19 during that break that we took that time?

20 MS MAILLET: No, there was a lot of
21 documents in there that were of a confidential nature,
22 so he did not.

23 THE CHAIRPERSON: Okay. Did you make
24 a list of those documents that were of a confidential
25 nature and indicate to them that they would not be

1 disclosed to the respondents? Did you indicate that to
2 the respondents?

3 MS MAILLET: No, the third binder
4 wasn't disclosed.

5 THE CHAIRPERSON: But you didn't
6 describe it either.

7 MS MAILLET: No.

8 THE CHAIRPERSON: Although
9 technically it is not a document that is in the
10 possession of the Commission, I understand that. That
11 would be the rule if it was a document that was in the
12 possession of the Commission. This is a document that
13 was in the possession of the witness.

14 MS MAILLET: The London Police
15 Service.

16 THE CHAIRPERSON: Of the key witness.

17 MS MAILLET: Yes, but none of the
18 documents were based on any evidence that has been put
19 before you.

20 THE CHAIRPERSON: But is there any
21 reason why you cannot show the document? I understand
22 in fulfilment of your duties as an officer of the
23 judicial system, we will say, you determined what was
24 arguably relevant in the document but - in the book,
25 but would you be opposed to allow, since - was the

1 witness consulting that book during the course of his
2 examination?

3 MS MAILLET: The third binder, I
4 don't believe so.

5 THE CHAIRPERSON: The third binder?

6 MS MAILLET: There were three binders
7 but the third binder...

8 THE CHAIRPERSON: But he had it with
9 him on the table when he was testifying.

10 MS MAILLET: He had it with him,
11 that's correct.

12 THE CHAIRPERSON: Ordinarily I am
13 inclined to allow the cross-examining counsel or the
14 party themselves to verify what is on the table in
15 front of a witness while testifying.

16 Now, if there is anything in there
17 that is truly confidential in nature, then I would ask
18 that we comply with the principle that some description
19 be provided of what is claimed to be confidential and
20 some ground on which the confidentiality is claimed.

21 MS MAILLET: In anticipation of this,
22 we have a rough list of how the documents are organized
23 in the binders. We could provide that to the parties.

24 THE CHAIRPERSON: You should have
25 taken care of this last week.

1 MR. ALEXAN KULBASHIAN: I would
2 rather get some details--

3 THE CHAIRPERSON: So, you would
4 rather get to the question?

5 MR. ALEXAN KULBASHIAN: Because the
6 problem is -- I'd rather get some details, because I
7 mean, especially considering the fact that last time
8 Detective Wilson said, and I quote:

9 "Because I know Alexan did,
10 because when he fled -- when he
11 went --"

12 THE CHAIRPERSON: You are going to
13 have to speak slowly Mr. Kulbashian.

14 MR. ALEXAN KULBASHIAN: "--then he
15 went to the United States to Arizona,
16 the FBI and the INS had an
17 investigation when he started a
18 website called StopIslam.
19 StopIslam was an investigation
20 was an investigation that the
21 FBI did that found Alexan was
22 found in creating the website,
23 therefore being...",
24 et cetera et cetera.

25 That was some testimony provided

1 that, from what I heard last time about the binder
2 briefly, that might have some information regarding
3 that in the binder and it opens a new can of worms,
4 which would mean that I would like to view that binder
5 and judge for myself whether or not the stuff is
6 relevant.

7 THE CHAIRPERSON: I see your point,
8 but the question is whether that can of worms is
9 relevant to the case to begin with.

10 If you hear statements that you may
11 find are outside the scope of the case, don't forget,
12 you can object.

13 So, if that was a statement that was
14 beyond the scope of the case - merely because a witness
15 makes a statement that goes beyond the scope of this
16 case and thereafter you end up following that course
17 even though it is clear it has nothing to do with this
18 case--

19 MR. ALEXAN KULBASHIAN: I understand.

20 THE CHAIRPERSON: --then I do not see
21 as being helpful.

22 MR. ALEXAN KULBASHIAN: Actually last
23 time when I tried to stop him from talking at this
24 point, you told me that I opened a new door and that he
25 could go on.

1 THE CHAIRPERSON: Well, you asked a
2 question.

3 MR. ALEXAN KULBASHIAN: Yeah, but I
4 didn't ask a question relating to the question exactly.

5 THE CHAIRPERSON: Oh, I see.

6 MR. ALEXAN KULBASHIAN: And he did go
7 on. And it says over here:

8 "THE CHAIRPERSON: Yes, go
9 ahead."

10 And you let him go on.

11 So, I'm not really like objecting to
12 what's going on, I'm just here to make sure that I get
13 like the best deal that I can for myself, so...

14 THE CHAIRPERSON: Obviously.

15 MR. ALEXAN KULBASHIAN: Yeah.

16 MS MAILLET: And again, if I may, Mr.
17 Chair, the Commission and complainant's case has
18 certain boundaries. In cross-examination, I believe
19 the respondent sometimes is going beyond the dates that
20 we're dealing with here and to some further criminal
21 investigations that were going on after the fact.

22 And further --

23 THE CHAIRPERSON: Well, the issue is
24 - and I do not have a grasp of it right here because -
25 what page was that you were citing from, Mr.

1 Kulbashian?

2 MR. ALEXAN KULBASHIAN: It says 122 I
3 think. 1212.

4 THE CHAIRPERSON: 1212. So, you
5 know, I mean if it is on the record, it is something
6 that has been introduced into evidence, it more or less
7 becomes fair game thereafter.

8 Look, is there any - based on my
9 earlier statements, is there any opposition to showing
10 volume 3 or binder 3 to the respondents?

11 MS MAILLET: Yes, there is. If we
12 could exclude some extremely confidential information
13 that is in the possession of the London Police
14 Service. I know Mr. Wilson has the binder here with
15 him.

16 THE CHAIRPERSON: And you have a
17 list, you said, of what those documents are and the
18 grounds on which you wish to exclude them?

19 MS MAILLET: Yes, Mr. Wilson did
20 provide us with a rough list of how the documents are
21 categorized. I think there are four or five different
22 types of documents and one of those categories was the
23 confidential nature of the document, so...

24 THE CHAIRPERSON: But you do describe
25 the document?

1 MS MAILLET: Pardon me?

2 THE CHAIRPERSON: You describe what
3 the document is in the list?

4 MS MAILLET: Not each individual
5 document, no.

6 MR. RICHARDSON: Mr. Chairman.

7 THE CHAIRPERSON: Yes.

8 MR. RICHARDSON: My main concern with
9 this is that they can deem anything confidential that
10 we might deem maybe that we need to address.

11 We don't get to see and we don't know
12 what they are going to hold from us. We have of no way
13 of -- you know, they could have something
14 non-confidential and still not give it to us. We would
15 have no know way of knowing either way.

16 THE CHAIRPERSON: Well, there are
17 rules for dealing with that. If it is confidential,
18 that is why it is not disclosed, that's why we ask that
19 they provide an explanation or a summary of what the
20 document is or a brief description, and once we have
21 the brief description, then if there is a dispute that
22 follows -- I mean, suppose the description said - I
23 will give you an example just so we know what we're
24 talking about.

25 If there is a document that says -

1 and it probably wouldn't apply in this case - but
2 communication between client, let's say who's the
3 complainant, and his lawyer, all right, that falls
4 under the solicitor/client privilege typically.

5 So, you see, there is not much area
6 for dispute. Assuming the document is what it is,
7 there is not much area for dispute.

8 But if there still remains that
9 dispute, then in some situations the Tribunal could
10 view the documents, only for the purposes of
11 determining if they fall under that exemption, that
12 privilege, and the Tribunal will rule.

13 I mean, this does happen on occasion,
14 if we have to go there.

15 But I want you all to be mindful of
16 the fact that - remember I'm not concerned with what
17 may have happened in the United States or elsewhere, I
18 mean, the case here that I am concerned about is the
19 complaint that has been filed.

20 So, while in fact perhaps the
21 document may or may not fall under the appropriate
22 privilege, if the document itself is not relevant to
23 what we're dealing with in this case, then why should
24 we be overly concerned about either -- well, having a
25 whole debate over it when it won't even be entered into

1 evidence.

2 MR. ALEXAN KULBASHIAN: I understand
3 that, Mr. Chair, but my issue is, there's an ongoing
4 credibility issue addressing with the witness and it's
5 pretty much, like certain issues, whether or not they
6 were related directly to this situation, because he is
7 a star witness and considering that there has to be
8 certain level of, I guess, credibility, he should have
9 to prove in order for his testimony to fall under
10 Vetrovech (ph).

11 THE CHAIRPERSON: Fall under...?

12 MR. ALEXAN KULBASHIAN: The Vetrovech
13 (phoen) case, unwritten, like unreliable witness.

14 We have to be able to address a
15 certain level of, I guess, lack of credibility and
16 that's what I'm working on.

17 So, which means that I need as much
18 as I can get, whether or not they believe that it's, I
19 guess, relevant to this case, like an element of this
20 case is one thing, but I believe it's relevant to my
21 case and to prove myself to be, I guess --

22 THE CHAIRPERSON: Well, we will take
23 it one step at a time then.

24 So, what I have determined, there is
25 a binder that the witness was consulted or had on his

1 desk - we don't know to what extent it would have been
2 consulted during the course of his examination-in-chief
3 and the beginning of the cross-examination last week.

4 That document - there were other ones
5 too, there were at least, I gather, three binders, two
6 binders were shown to the respondents, one wasn't, all
7 three binders were vetted for--

8 MS MAILLET: Relevance.

9 THE CHAIRPERSON: --for relevance or
10 privilege.

11 MS MAILLET: Yes.

12 THE CHAIRPERSON: And what cleared
13 that filtering has been photocopied and provided to the
14 respondents.

15 Now, the respondents -- but a
16 detailed list, or a detailed description of the
17 privileged documents had not been provided, is my
18 understanding.

19 MS MAILLET: And that would have been
20 provided had this been documents in the Commission's
21 possession.

22 I mean, we disclosed relevant and
23 irrelevant documents in my mind that were in the
24 possession of the Commission.

25 THE CHAIRPERSON: Yes, except as I've

1 said, I think this is a special situation.

2 MS MAILLET: I understand.

3 THE CHAIRPERSON: And there has been
4 such a list prepared more or less in draft form, I
5 understand?

6 MS MAILLET: Yes.

7 THE CHAIRPERSON: So, I would like
8 that list to be disclosed to the respondents and we
9 will deal with the matter later on.

10 But, how quickly can we proceed now?
11 Is it more important for you to see this list than to
12 proceed with the cross-examination?

13 MR. ALEXAN KULBASHIAN: I can wait, I
14 guess, until my co-respondent is done questioning.

15 THE CHAIRPERSON: So, your suggestion
16 is, Mr. Kulbashian, that we continue the
17 cross-examination by Mr. Richardson and at the end of
18 his cross-examination, at some point, we will take a
19 break and we can do the necessary exchange.

20 MR. ALEXAN KULBASHIAN: That's right,
21 or just whenever we have a break.

22 I would also request permission to
23 review the second binder, the one that I viewed last
24 time, just for I guess....

25 THE CHAIRPERSON: I understood a copy

1 was provided to you.

2 MR. ALEXAN KULBASHIAN: Well, not
3 everything was provided. If everything was provided,
4 then I feel there are some things that are missing.

5 THE CHAIRPERSON: I see --

6 MS MAILLET: No, it's my information
7 that everything was scanned at the Commission. We had
8 copies of every single document that was scanned and it
9 was sent to the parties.

10 MR. RICHARDSON: That second book he
11 is referring to, Mr. Chair, there was actually two of
12 them, I understand Mr. Wilson had one on me, one on Mr.
13 Kulbashian.

14 We didn't actually get copies of the
15 books. They gave us an opportunity to look through it.
16 If there was anything that we wanted, she photocopied
17 it. The whole book wasn't copied.

18 I think what Alex is trying to say is
19 he wants to look through that book again about the
20 evidence that came out last week because he may find
21 something else that is not included in that book and we
22 want an opportunity to look at it.

23 MS MAILLET: The whole book was
24 copied.

25 THE CHAIRPERSON: The whole book was

1 copied, I'm told.

2 MS MAILLET: If there are specific
3 documents that are --

4 MR. ALEXAN KULBASHIAN: There were
5 two books though.

6 THE CHAIRPERSON: Any problem in
7 letting them compare what was on the original on the
8 table and comparing it with what they received?

9 MS MAILLET: I'm assuming Mr. Wilson
10 brought the originals with him.

11 DET/CST. WILSON: Yes.

12 MS MAILLET: Yes, that's fine.

13 DET/CST. WILSON: Sir, just to tell
14 you the U.S. investigation has never been included in
15 these three binders.

16 So, in my cross-examination, that's
17 from my independent recollection of the events, but the
18 investigation on Mr. Kulbashian in the U.S. was never
19 included in these three binders.

20 THE CHAIRPERSON: It's not in the
21 binder. Well, I thought - I think at the very least
22 that rough list that we're talking about should be
23 provided to the other side.

24 MS MAILLET: That won't take long.

25 THE CHAIRPERSON: If the documents

1 are privileged.

2 So, what we will do is we will begin
3 with cross-examination by Mr. Richardson immediately.

4 But there remains one issue that was
5 discussed during our conference call, and again I turn
6 to the Commission/complainant on this, the issue of
7 remedies.

8 MS MAILLET: Yes.

9 THE CHAIRPERSON: Yes. Now, there
10 was some suggestion that there was an intention to put
11 that off to a later point but, as I said, I don't
12 recall it being discussed in front of the Tribunal.

13 MS MAILLET: No, the remedies
14 themselves in terms of anything Mr. Warman may be
15 entitled to under the Act, we won't - I mean, evidence
16 will speak for itself. The only issue that was left
17 was for Mr. Warman's expenses.

18 THE CHAIRPERSON: Oh.

19 MS MAILLET: And that issue we can't
20 really tell until the hearing finishes.

21 THE CHAIRPERSON: Oh, so that is what
22 was meant by that part of the discussion on the
23 telephone. I wasn't clear.

24 MS MAILLET: That's right.

25 THE CHAIRPERSON: Okay. So, there is

1 nothing else to be said on that point.

2 You indicated sort of a bifurcation,
3 was it not in this file? Perhaps I am confused.

4 MS MAILLET: Yes. No, that was this
5 file.

6 What happened at the beginning of the
7 hearing was that there was an intention, because the
8 complainant was in Ottawa, the respondents were in
9 Toronto, that we have one week in Ottawa and one week
10 in Toronto.

11 THE CHAIRPERSON: I mean bifurcation
12 of the remedies claimed, but that is not the case here?

13 MS MAILLET: No, that's right.

14 THE CHAIRPERSON: I don't know why I
15 had it in my notes then.

16 There is no intention to split the
17 case here, we are proceeding in its entirety?

18 MS MAILLET: That's correct.

19 THE CHAIRPERSON: Okay. So, are you
20 prepared to start asking questions, Mr. Richardson?

21 Is it possible for you to stand,
22 because now the witness is way over on the other end
23 and so, would it be possible for you to stand, or are
24 there particular reasons why you cannot?

25 MR. RICHARDSON: No, I totally could.

1 Do you think that maybe we could over
2 the last 20 minutes, have it read back to me, so I can
3 get back into where we are.

4 THE CHAIRPERSON: We're not going to
5 read back the entire record.

6 Now, Mr. Richardson, be reasonable
7 now. Electronic copies were provided to you of all the
8 transcripts. We're not going to read over the
9 transcripts again.

10 So, if you need to remind yourselves
11 of what happened in the last 20 minutes, you can
12 certainly refer back to --

13 MR. RICHARDSON: Unfortunately I
14 didn't get to read any of the transcripts that were
15 sent to me.

16 THE CHAIRPERSON: That is not an
17 issue that --

18 MR. RICHARDSON: We had to have them
19 done on paper and my computer couldn't handle the type
20 of document that they sent out and I didn't get none of
21 those things. Everything I got was useless.

22 THE CHAIRPERSON: I am advised --

23 MR. RICHARDSON: Unless I'm going to
24 buy a \$500 Word Perfect program so that I can view the
25 transcripts on the computer. So, I actually have no

1 idea where I left off or anything.

2 THE CHAIRPERSON: Mr. Kulbashian,
3 were you able to read the transcripts?

4 MR. ALEXAN KULBASHIAN: With some
5 trouble. The files that were sent over from the
6 Commission usually come in Word Perfect format.

7 THE CHAIRPERSON: The Tribunal.

8 MR. ALEXAN KULBASHIAN: The Tribunal.

9 THE CHAIRPERSON: Yes.

10 MR. ALEXAN KULBASHIAN: In that case,
11 one way or another it makes it difficult to read on a
12 standard format.

13 THE CHAIRPERSON: On Microsoft Word.

14 MR. ALEXAN KULBASHIAN: Unless
15 there's like a filter installed for it which people
16 don't usually install, so...

17 THE CHAIRPERSON: Well, Mr. Levac,
18 when were the copies of the transcripts sent to the
19 parties?

20 REGISTRY OFFICER: September 22nd.

21 THE CHAIRPERSON: September. Our
22 Tribunal certainly has the facility to convert
23 documents into PDF or into perhaps even Word and we
24 could have done so from September 22nd to November 8th,
25 but you did not notify us to ask us for a conversion.

1 MR. RICHARDSON: I did.

2 THE CHAIRPERSON: You did?

3 MR. RICHARDSON: Oh yes, sir, I did.

4 REGISTRY OFFICER: You did for the

5 last one.

6 MR. RICHARDSON: For the last one,

7 yeah.

8 REGISTRY OFFICER: Just for the

9 replacement for the conference call.

10 THE CHAIRPERSON: Not for the

11 previous ones.

12 REGISTRY OFFICER: Not for the

13 previous ones.

14 THE CHAIRPERSON: And was it

15 converted?

16 REGISTRY OFFICER: Yes.

17 THE CHAIRPERSON: And it was sent?

18 REGISTRY OFFICER: Yes.

19 THE CHAIRPERSON: I'm sorry, you

20 know, we have to proceed in a reasonable way and that's

21 not reasonable on your part if you ask us to spend 20

22 minutes reading back the transcript.

23 MR. RICHARDSON: I just don't know

24 why they weren't sent in hard copy.

25 THE CHAIRPERSON: Would you like to

1 know why, because there are federal rules that apply to
2 how these contracts are made and the only way the hard
3 copy under the agreements that are made with the
4 corporation that produces these documents are prepared
5 at one dollar per page or so, I think a dollar and a
6 half per page that are paid by the user, and that was
7 the policy until recently.

8 Only recently we decided to make them
9 simpler and allow parties, and we have made
10 arrangements with the corporation that do the note
11 taking that they provide electronically, otherwise you
12 would have had to pay hundreds of dollars.

13 MR. RICHARDSON: All right, that's
14 fine.

15 So, instead of recapping, I might
16 actually go over some of the questions again I went
17 over before so I can get myself in the right frame of
18 mind here.

19 THE CHAIRPERSON: I have a fairly
20 good recollection of what happened, so...

21 MR. RICHARDSON: Okay.

22 THE CHAIRPERSON: I don't know if you
23 need to go into such detail.

24 MR. RICHARDSON: All right, I'm
25 ready.

1 TERRY DAVID WILSON, Resumed:

2 CROSS-EXAMINATION BY MR. RICHARDSON (Cont'd):

3 MR. RICHARDSON: Hello, Mr. Wilson,
4 how are you doing today?

5 DET/CST. WILSON: Good morning.

6 MR. RICHARDSON: Good morning. I
7 wanted to get back, you quoted -- and you stated that
8 you're absolutely certain that I lived in 390 Southdale
9 you said for three months.

10 The reason for this is because you
11 basically said my driver's licence wasn't changed over
12 because it was suspended, by car wasn't changed over,
13 I must have been breaking the law, whatever, but
14 there's still a lot of inconsistencies.

15 You basically said in the bail report
16 that the reason you put that I was going to live in
17 Hamilton because you knew I wasn't going to live in
18 London, and that's fair enough, but on my arrest
19 report, the day I was arrested, you still had me down
20 at 454 Paling.

21 THE CHAIRPERSON: In what city?

22 MR. RICHARDSON: In Hamilton,
23 Ontario,
24 sorry.

25 Can you tell me why that is, to

1 start?

2 DET/CST. WILSON: On your arrest
3 report when you're booked in the cells they ask you
4 your address and you would give that to the cell
5 sergeant who would put that into the computer.

6 I didn't supply that information to
7 him, you did.

8 MR. RICHARDSON: The question is
9 though, well, no - but, basically there is no court
10 documents and there's no documents from the police side
11 at all that have me living at 390 Southdale.

12 So the only thing that we have,
13 besides the lease of the apartment is just basically
14 your belief that I live there.

15 DET/CST. WILSON: No, we have leasing
16 agreements, you had given me the phone number that you
17 were at on the Internet when I was Conrad MacDonald, I
18 have eye witness testimony from the superintendant, so
19 it's more than just my belief.

20 MR. RICHARDSON: You have eye witness
21 from the superintendant that she's seen me there. Of
22 course she's seen me there, my girlfriend lives there.

23 DET/CST. WILSON: She produced the
24 leasing agreement with your name on it.

25 MR. RICHARDSON: One of the last

1 things we discussed before we left on Friday there was,
2 you know, the situation with Mrs. Shearer at the time
3 and, you know, and why the lease was in my name and why
4 the telephone was in my name.

5 You stated that I lived there for
6 three months, at least three months but you also stated
7 that I lived there from November 15th, 2001 -- from
8 November 15th, 2001 until September 28th I believe my
9 arrest date was of the same year.

10 You basically stated that I lived
11 there that whole time. So did I live there for three
12 months or did I live there for the year?

13 DET/CST. WILSON: You are on that
14 leasing agreement.

15 MR. RICHARDSON: From November 15th,
16 2001?

17 DET/CST. WILSON: Yes, sir.

18 MR. RICHARDSON: So, is that when you
19 believe I started living there?

20 DET/CST. WILSON: That's what I put
21 on the document. And again--

22 MR. RICHARDSON: I asked if that's
23 what you believed, not what you put down.

24 DET/CST. WILSON: Well, I can tell
25 you that I need to have reasonable probable grounds to

1 believe something so I can swear to a search warrant
2 and so, therefore, to swear to a search warrant my
3 belief from the evidence that was presented to me--

4 MR. RICHARDSON: At that time. I
5 understand that, and that's not what I'm asking.

6 MS MAILLET: But, if you could let
7 him finish his answer.

8 MR. RICHARDSON: Yeah, but he's
9 answering a question I'm not asking, so...

10 THE CHAIRPERSON: Let him finish the
11 sentence at least.

12 MR. RICHARDSON: What was the end of
13 your sentence?

14 DET/CST. WILSON: Just the fact that
15 I believe this and, therefore, in good faith for me to
16 believe that, that's how I have to swear to a search
17 warrant.

18 MR. RICHARDSON: Do you still believe
19 that to be true at this time?

20 DET/CST. WILSON: Yes, I do.

21 MR. RICHARDSON: You are aware that I
22 held two jobs in Hamilton at the time, I'm sure you
23 are, as a manager of 2-4-1 Pizza and I worked Thursday,
24 Friday and Saturday until 3:00 in the morning and I
25 also work for Bell Canada.

1 I have all my pay stubs here, I don't
2 know if I need to produce them or not, I don't know if
3 it's relevant.

4 DET/CST. WILSON: Well, the
5 interesting fact is upon your arrest I received a
6 telephone call and talked to a prospective employer
7 when you were in custody.

8 MR. RICHARDSON: You sure did.

9 DET/CST. WILSON: So, for you to have
10 two jobs and then seek out another employer, seems
11 unusual to me.

12 MR. RICHARDSON: Well, you know, when
13 you spend two weeks in jail you certainly going to lose
14 your job.

15 If you were gone for two weeks
16 without telling your boss, you're probably going to
17 lose your job; is that correct?

18 DET/CST. WILSON: (Nodding)

19 MR. RICHARDSON: In May, I believe it
20 was the 18th, 2001, Detective Martie Kearns, and I
21 can't remember the other gentleman's name, it was in
22 Woodstock, Ontario.

23 DET/CST. WILSON: Cst. Darrell
24 Longworth.

25 MR. RICHARDSON: Longworth, thank you

1 very much.

2 They had that road block and they got
3 all our names and that's basically information that was
4 passed. That's the first you heard of me?

5 DET/CST. WILSON: Yes, sir.

6 MR. RICHARDSON: And my address and
7 my valid driver's licence and my car were all 454
8 Paling?

9 DET/CST. WILSON: Yes, they were.

10 MR. RICHARDSON: Okay. Now, this is
11 also after the date that I presumed to have moved into
12 390 Southdale Road.

13 DET/CST. WILSON: Well, that was the
14 address you supplied those officers and that was the
15 address on your driver's licence.

16 THE CHAIRPERSON: Sorry, you said
17 May...?

18 MR. RICHARDSON: And my car was
19 registered as well?

20 THE CHAIRPERSON: You said May?

21 DET/CST. WILSON: May, 2001, sir.

22 THE CHAIRPERSON: 2001?

23 DET/CST. WILSON: Yes, sir.

24 THE CHAIRPERSON: The November 15th
25 that we talked about earlier was November 15th...?

1 DET/CST. WILSON: 2001 as well.

2 THE CHAIRPERSON: So, your question
3 just now, was that in May?

4 MR. RICHARDSON: May, 2001.

5 THE CHAIRPERSON: Yes.

6 MR. RICHARDSON: Is when the
7 investigation of me I guess pretty much started, that's
8 when he first seen or heard about me.

9 THE CHAIRPERSON: Are you suggesting
10 that it was after you signed the lease?

11 MR. RICHARDSON: Which was November
12 15th,
13 2000.

14 THE CHAIRPERSON: That's why I'm
15 asking. Is it 2000 or 2001. Have you got the exact --

16 MR. RICHARDSON: Actually I've got it
17 right here.

18 MR. WARMAN: 2000, Mr. Hadjis.

19 THE CHAIRPERSON: 2000?

20 MR. WARMAN: Yes, it is.

21 MR. RICHARDSON: So, this is clearly
22 six, seven months after I had signed the lease.

23 THE CHAIRPERSON: Okay. I just
24 wasn't sure on the date, that's all.

25 MR. RICHARDSON: You stated that the

1 reason you believed my driver's licence wasn't turned
2 over at the time it was suspended, which it was for an
3 unpaid fine which would be the same fine I got that day
4 in Woodstock, but other than that don't you think it's
5 kind of strange I had to hide my whole identity, keep
6 everything at Paling, just to hide where I'm living?

7 DET/CST. WILSON: I don't think it
8 was strange. You were a prohibited driver, so you
9 didn't change your --

10 MR. RICHARDSON: I wasn't at the
11 time, in May. I would have lost my car and licence
12 that day. I just lost my licence a week before I got
13 arrested.

14 I mean, I think what I'm trying to
15 say is that, you know, you're only convinced that I
16 lived there and you can't buy the fact that, you know,
17 I just did this out of the kindness of my heart to help
18 a girl that I was in love with and had kids, you know,
19 that didn't cross your mind.

20 The only thing you can think of --
21 I'm actually confused myself here.

22 I live at 454 Paling, I had jobs at
23 454 Paling, everything I owned was registered at 454
24 Paling, and yet I lived two hours away in another city.

25 I mean, I don't understand how that

1 makes any sense and all my court papers are 454 Paling.

2 DET/CST. WILSON: If your question
3 is, do I believe that you lived at 390 Southdale at the
4 time that I executed this warrant, yes, I do believe
5 that you lived there.

6 THE CHAIRPERSON: Southdale Road,
7 London?

8 DET/CST. WILSON: Southdale Road,
9 London.

10 MR. RICHARDSON: What makes you think
11 I live there?

12 DET/CST. WILSON: The leasing
13 agreement, the eye witness accounts that you were
14 there, your car was parked in the back, the fact that
15 when I did a search warrant on your Internet service
16 provider it provides that address.

17 MR. RICHARDSON: All right. So, if I
18 went up to London from Hamilton, obviously I'm going to
19 drive my car, obviously it's going to be parked there.

20 When I spend a couple of days at her
21 house, obviously people are going to see me. I mean,
22 is it not possible at all that I did actually travelled
23 back and forth and I actually did live in Hamilton?

24 DET/CST. WILSON: No, sir, I don't
25 believe that's a fact at all.

1 MR. RICHARDSON: You don't believe
2 that's a fact?

3 It's been over a month since our last
4 court appearance. Have you had a chance to go over any
5 of the documentation, like, over the court case since
6 then?

7 DET/CST. WILSON: Have I been
8 supplied with the transcripts?

9 MR. RICHARDSON: No. Actually, have
10 you just gone over the record. I'm actually more
11 concerned about the copy of my hard drive again.

12 I was wondering if anybody has found
13 the FTP program in the computer, file transfer
14 protocol?

15 DET/CST. WILSON: I don't know what
16 that is.

17 MR. RICHARDSON: I explained that to
18 you the last time.

19 The file transfer protocol program is
20 a program that enables you to upload stuff from your
21 computer to the Internet, without this program it is
22 impossible to do.

23 Now, on the hard drive copy that you
24 gave me, there is no FTP programs, and this whole case
25 is based on the fact that you believe that I wrote this

1 and then I submitted it and made a newsletter.

2 But if it was a hundred per cent
3 impossible for me to upload it, then how could I have,
4 and there is no -- and I looked and I looked over all
5 the Cds and I did not find one FTP program.

6 DET/CST. WILSON: I have no doubt you
7 had access to the Internet.

8 MR. RICHARDSON: I had access, you
9 can buy access - I don't mean to cut you off again -
10 it's different to buy access, everybody can buy access,
11 but you actually literally need to have a program that
12 has nothing to do with the Internet to upload into the
13 computer, into the world wide web. My computer didn't
14 have that program.

15 DET/CST. WILSON: I'm not versed in
16 that at all, sir, so I don't know.

17 THE CHAIRPERSON: Mr. Richardson, a
18 couple of times there you were sort of testifying.

19 MR. RICHARDSON: I apologize.

20 THE CHAIRPERSON: You can still put
21 the question. You should really try and format it in a
22 way and say: Look, since he said he didn't know -
23 since the witness said he didn't know what FTP was, you
24 could have said: Well, I put it to you that this
25 program is what is used to go on to the Internet. Did

1 you find anything of that sort?

2 The way you put the question is sort
3 of like testifying.

4 MR. RICHARDSON: Thank you.

5 THE CHAIRPERSON: I noted it as such.
6 In any event, the question is not testimony. You can
7 certainly lead your own evidence later on it.

8 MR. RICHARDSON: Did you find any FTP
9 programs on my computer?

10 DET/CST. WILSON: I wouldn't know
11 where to look for it, sir.

12 MR. RICHARDSON: We have in the HR-1
13 book, we have all the documents listed in my computer I
14 believe.

15 THE CHAIRPERSON: Do you wish to draw
16 my attention to a certain tab?

17 MR. RICHARDSON: Yes, I believe it is
18 tab 50, page 1.

19 MR. RICHARDSON: Tab 50, page 1.
20 This is I guess a ghost copy of everything they found
21 on my hard drive.

22 DET/CST. WILSON: Just to clarify,
23 none of these would be the operating procedures on your
24 hard drive, I don't believe, I think these would just
25 be the files that you created.

1 Again, I'm not anywhere near a
2 computer expert but that's my understanding of that
3 list.

4 MR. RICHARDSON: Well, don't you
5 think that's kind of relevant, even in a criminal case?
6 I mean, why wouldn't that be noted on there?

7 DET/CST. WILSON: I don't know, sir.
8 That's the documents that were located on your computer
9 that you produced.

10 MR. RICHARDSON: Well, I still don't
11 see any FTP program, I don't see any FTP servers, any
12 FTP files, nothing.

13 Is there more than just this that we
14 didn't get?

15 DET/CST. WILSON: You got a copy of
16 the disk, sir.

17 MR. RICHARDSON: Yeah, we all did. I
18 went through it, I didn't find it either. I was hoping
19 that maybe you --

20 THE CHAIRPERSON: That would be HR-2,
21 is that correct?

22 DET/CST. WILSON: I believe so, sir.

23 Again, Cst. Stumpf of the London City
24 Police is the computer technician that would have made
25 all those copies for everybody.

1 MR. RICHARDSON: Well, why don't they
2 have executable programs on this list, like, why don't
3 they include those?

4 DET/CST. WILSON: I don't know.

5 MR. RICHARDSON: Don't you think that
6 that's pretty important evidence? I mean, that's the
7 make or break part of my case.

8 If I could prove, which obviously I
9 can't from these documents, that I didn't have an FTP
10 program in my computer, if my computer was copied right
11 - is what I'm saying - I would be easy to prove that
12 without shadow of a doubt I didn't upload that into the
13 computer.

14 DET/CST. WILSON: When I do an
15 investigation, sir, my focus is not what you can prove,
16 it's what I have to prove in court.

17 MR. RICHARDSON: Well, it's a case --
18 there he goes again. If you could prove that I did
19 have FTP on my computer that would make your case as
20 well.

21 I mean, don't you think that's
22 relevant information?

23 DET/CST. WILSON: I'm not the
24 computer guy that dealt with it, and in a criminal
25 investigation we will hold his actual computer and if

1 there was any questions concerning the validity of
2 anything that was seized off of it, we would be able to
3 produce the actual hard drive so it could be viewed in
4 court.

5 Again, because there was no criminal
6 proceedings, that was returned to both respondents and,
7 therefore --

8 THE CHAIRPERSON: The computers were
9 returned to the respondents?

10 DET/CST. WILSON: Right, as a result
11 of the end of the criminal proceedings.

12 So, again, in a criminal proceeding,
13 yes, you're right, it would be very important that we
14 produce that stuff and we would have the ability to do
15 that during a criminal proceeding.

16 Because that no longer exists, those
17 computers were returned back to you, so I would say you
18 would be better to tell me if they were there or not.

19 MR. RICHARDSON: That would be me
20 giving testimony and I can't do that, so...

21 THE CHAIRPERSON: Well you can, not
22 now.

23 MR. RICHARDSON: Well, yeah, that's
24 what I mean.

25 THE CHAIRPERSON: So, you have asked

1 the question at this point. It is clear that this
2 witness is unable to confirm whether an FTP programs
3 were available on your computer.

4 MR. RICHARDSON: So, the gentleman
5 that copied our computers is an actual computer expert,
6 the gentleman that did all the copying?

7 DET/CST. WILSON: Yes, sir, he's a
8 police officer that's trained in the ability to take
9 these mirrors.

10 MR. RICHARDSON: Why wouldn't he have
11 found it relevant? I guess I can't ask that question,
12 let me rephrase that.

13 Don't you think it weird that he
14 didn't find it relevant enough to copy down these
15 programs being a computer expert and knowing the
16 logistics of the case?

17 DET/CST. WILSON: Well, again, that's
18 his expertise and he's the one that would have to
19 testify to that in the criminal proceeding.

20 MR. RICHARDSON: Now, on the DSL logs
21 that the you subpoenaed through Execulink, we went over
22 it briefly on the Friday there.

23 THE CHAIRPERSON: DSL logs, that is
24 what, again?

25 MR. RICHARDSON: It would be the

1 warrant for Execulink, the Internet service provider.

2 THE CHAIRPERSON: The logs we are
3 talking about at the very beginning of the case; is
4 that it, the chat line logs?

5 MR. RICHARDSON: No, no, no. This is
6 what he got from Execulink regarding who the account
7 number as and when they logged on and whatnot.

8 THE CHAIRPERSON: Okay.
9 So, what was your question again
10 about the DSL logs?

11 MR. RICHARDSON: Sorry, I was just
12 letting everybody get there.

13 THE CHAIRPERSON: Which tab?

14 MS MAILLET: I believe it was made
15 Exhibit HR-4.

16 THE CHAIRPERSON: I recollect this
17 exhibit now. This is what you refer to as the DSL
18 logs?

19 MR. RICHARDSON: Yes, sir.

20 MS MAILLET: Mr. Chairman, I'm just
21 going to provide a copy to Mr. Wilson because I have it
22 right here in front of me.

23 DET/CST. WILSON: Oh, I'm sorry, yes.

24 Thank you.

25 That's right. That's all right, I

1 have got them here.

2 Yes, sir.

3 MR. RICHARDSON: Okay. You stated in
4 the last appearance in court that you actually got them
5 to tell you some times that the computer at 390
6 Southdale was logging in and out of the Internet.

7 DET/CST. WILSON: No.

8 MR. RICHARDSON: You stated that you
9 were sure that it was me that did it around these times
10 because you have evidence in front of you there that
11 states, you know, when we have logged on at Execulink
12 and when we didn't.

13 DET/CST. WILSON: No, sir. I'm
14 sorry, you must have misunderstood me.

15 To execute a search warrant on an
16 Internet service provider what I would do is from your
17 e-mail addresses, from your e-mail -- from your ISP
18 number at the top of your e-mail there would be a date
19 and time included on that e-mail.

20 I would execute a search warrant for
21 that date and time with that IPS number and they would
22 supply me with the information which computer that came
23 from.

24 MR. RICHARDSON: Yeah, okay, that's
25 what I was getting at.

1 DET/CST. WILSON: Yes, sir.

2 MR. RICHARDSON: All right. You
3 actually stated though that you were sure that it was
4 me that was logging on on those times, but in fact,
5 like, it only tells you when the computer logs on, it
6 doesn't tell you who's in front of it; is that not
7 correct?

8 DET/CST. WILSON: Yes, sir.

9 MR. RICHARDSON: And so, you know,
10 how could you say for a hundred per cent that it was me
11 that logged into the computer at those times when it
12 doesn't tell you a name or anything, it just tells you
13 that that computer logged in at that date?

14 I want to clarify this because last
15 time you said for sure you were positive it was me that
16 did it.

17 DET/CST. WILSON: Yes, sir.

18 MR. RICHARDSON: I don't understand
19 how you can be so positive.

20 DET/CST. WILSON: Just bear with me
21 while I find the -- I'm just looking for the September
22 6th and September 13th e-mail addresses which I
23 executed those search warrants for.

24 THE CHAIRPERSON: The court
25 proceeding, just so I understand, the dates and times

1 that you are referring to that are in this Exhibit
2 HR-4.

3 DET/CST. WILSON: Yeah.

4 THE CHAIRPERSON: Are the times when
5 an e-mail was sent to you--

6 DET/CST. WILSON: Yes, sir.

7 THE CHAIRPERSON: --when you were
8 working under the pseudonym of --

9 DET/CST. WILSON: Conrad MacDonald.

10 THE CHAIRPERSON: Conrad MacDonald,
11 okay.

12 DET/CST. WILSON: Yes, sir.

13 MS MAILLET: Mr. Chair, perhaps we
14 could take our morning break and I could make a copy of
15 the list of documents while the witness --

16 MR. RICHARDSON: I just warmed up.

17 MS MAILLET: Oh. Well --

18 THE CHAIRPERSON: It's rather early
19 for the break.

20 MS MAILLET: Okay.

21 THE CHAIRPERSON: I'm prepared to let
22 him go.

23 MS MAILLET: Okay.

24 THE CHAIRPERSON: It's only been half
25 an hour really.

1 MR. RICHARDSON: These documents were
2 submitted, there should be a number attached to them,
3 an RR number -- it won't be RR, it would be --

4 THE CHAIRPERSON: I'm not quite sure
5 what the witness is looking for.

6 MR. RICHARDSON: The subpoenaed logs
7 from executlink.com.

8 DET/CST. WILSON: I have it here.
9 Here's the times and the dates, everything.

10 THE CHAIRPERSON: That's HR-4.

11 DET/CST. WILSON: Yeah.

12 THE CHAIRPERSON: I thought he wanted
13 the e-mail that corresponded with that?

14 MR. RICHARDSON: No, no.

15 DET/CST. WILSON: Oh, I'm sorry, I
16 misunderstood.

17 THE CHAIRPERSON: Look at this
18 document, HR-4.

19 DET/CST. WILSON: Okay.

20 MR. RICHARDSON: Mr. Wilson stated
21 that because of the times from Execulink that had been
22 logged on the computer he was sure without a shadow of
23 doubt that it was me that was logging on to it.

24 So, a couple of things, (a) is, how
25 can you prove it was me in front of the computer, it

1 doesn't take a picture of the person logging on.

2 DET/CST. WILSON: Well --

3 THE CHAIRPERSON: Okay, maybe you can
4 answer.

5 DET/CST. WILSON: I guess, it is one
6 piece of the puzzle for a criminal investigation.

7 Earlier you had given me your first
8 name and a phone number. This would just be one more
9 piece of evidence to believe that you were the person
10 that did this.

11 So, again, I'm not saying from this
12 one singular document that you were sitting at the
13 computer doing it, but the preponderance of evidence
14 that led me to believe that -- all the pieces in the
15 puzzle led me to believe that it was you doing it.

16 MR. RICHARDSON: Okay. That's
17 exactly what I was looking for.

18 So, basically, yes, it could have
19 been anybody in front of that computer?

20 DET/CST. WILSON: Yes, but I don't
21 believe it was anybody else.

22 MR. RICHARDSON: I didn't ask if you
23 believed it was anybody else. Please stick to the
24 question and give the answer.

25 Now, some of the papers we just got

1 today because they were photocopied. We'll start with
2 RR-1 which was introduced already.

3 THE CHAIRPERSON: I think I would
4 say, for the record, are we going to replace the old
5 exhibits with the newer copies?

6 MR. RICHARDSON: It's been done
7 today.

8 THE CHAIRPERSON: Okay.

9 MR. RICHARDSON: So, this was the
10 picture that we had in RR-1, it was a group photo.

11 DET/CST. WILSON: Yes sir.

12 MR. RICHARDSON: And I promised that
13 I'd bring in a better quality photo, which I have, and
14 since we have it in colour we don't really need to make
15 photocopies of it, but if anybody would like to see it
16 up close, it doesn't get better than that.

17 THE CHAIRPERSON: The photo that you
18 are holding in your hands is--

19 MR. RICHARDSON: Is RR-1.

20 THE CHAIRPERSON: --the same photo
21 we're looking at as RR-1. All right.

22 MR. RICHARDSON: Same photo.

23 THE CHAIRPERSON: Hold on. Just a
24 second while the witness and the other parties -- okay.

25 All right. So, you are offering it

1 up for anyone to compare?

2 MR. RICHARDSON: Yeah, I'm offering
3 that, it's already been submitted, so it's the best
4 copy as possible, right.

5 THE CHAIRPERSON: Okay.

6 MR. RICHARDSON: Okay. The reason
7 being this so important is because the other photos
8 that he submitted -- or Mr. Wilson submitted, sorry, I
9 don't, I guess it would be RR-2 and I guess I submitted
10 them.

11 THE CHAIRPERSON: I have four photos
12 that are marked RR-1, RR-2, RR-3 and RR-4.

13 MR. RICHARDSON: These are all
14 pictures --

15 THE CHAIRPERSON: Okay. So, you are
16 now referring to RR-2?

17 MR. RICHARDSON: RR-2.

18 THE CHAIRPERSON: Okay.

19 MR. RICHARDSON: These are all
20 pictures that were taken of the flight jacket Mr.
21 Wilson had taken out of the apartment at 390 Southdale.

22 You will see why we needed -- some of
23 them are pretty foggy.

24 If you clearly look, and I have
25 actually a second picture to back it up with me wearing

1 the jacket, it's the same jacket as in this picture,
2 all right, everybody got that.

3 THE CHAIRPERSON: I'm sorry.

4 MR. RICHARDSON: Me wearing the
5 jacket, same picture, me wearing the jacket.

6 THE CHAIRPERSON: Which photo are you
7 holding underneath that?

8 MR. RICHARDSON: Well, this is just a
9 secondary photo, that's me wearing the jacket.
10 It's the same jacket.

11 THE CHAIRPERSON: But that's not the
12 one that was submitted?

13 MR. RICHARDSON: This is not in
14 evidence.

15 It's the same jacket, same person,
16 the only thing is you can actually see more of the
17 jacket here.

18 THE CHAIRPERSON: Would you like to
19 show it to the witness at least.

20 MR. RICHARDSON: Oh yes, yes.

21 Well, actually since the witness has
22 got it, I was wondering if maybe you could tell where
23 that picture was taken?

24 DET/CST. WILSON: Looks like it was
25 taken - well, I can't be a hundred per cent sure - but

1 it's very similar to 390 Southdale.

2 MR. RICHARDSON: Apartment 319.

3 Thank you.

4 DET/CST. WILSON: Yeah. And this is
5 a black bomber jacket, Mr. Richardson is standing there
6 wearing a blue hooded jacket with a black bomber
7 jacket. On the right front pocket is the number 88,
8 which is my understanding stands for Heil Hitler.

9 Did you want me to describe it any
10 further?

11 MR. RICHARDSON: No, no, that's fine.

12 THE CHAIRPERSON: Can I see that
13 photo.

14 MR. RICHARDSON: Yes, yes.

15 THE CHAIRPERSON: I think it might be
16 appropriate to make a photocopy and enter it into
17 evidence.

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

19 THE CHAIRPERSON: We'll do it during
20 a break.

21 MR. RICHARDSON: And as you can tell
22 from here - this is the point I'm trying to get at -
23 it's the same jacket, it's just you can see it more,
24 that's why I brought that second picture. See the 88
25 there on the chest.

1 THE CHAIRPERSON: All right. After
2 close look at it, I think what I would like us to do is
3 get -- are you opposed to entering it into evidence?

4 MR. RICHARDSON: Oh no, no, not at
5 all.

6 THE CHAIRPERSON: Your exhibit.

7 MR. RICHARDSON: Actually I prefer.

8 THE CHAIRPERSON: We will make the
9 black and white photocopy I guess from the hotel, I
10 don't know if colour copies are available here but we
11 will do our best.

12 MS MAILLET: I will do it.

13 THE CHAIRPERSON: Whomever. The
14 Tribunal can do it too.

15 So, go ahead. Let's produce it right
16 away.

17 MR. RICHARDSON: So, it would be RR
18 --

19 THE CHAIRPERSON: Mr. Levac will take
20 care of it.

21 MR. RICHARDSON: You can write it on
22 the back.

23 REGISTRY OFFICER: The picture of Mr.
24 James Scott Richardson will be filed as the respondent
25 Exhibit RR-11.

1 MR. RICHARDSON: Thank you.

2 EXHIBIT NO. RR-11: Picture of James
3 Scott Richardson wearing bomber
4 jacket.

5 THE CHAIRPERSON: Mr. Richardson, in
6 handing up the photograph to me earlier, indicated that
7 it seems to be a similar jacket to what he was wearing
8 in the RR-1 photo.

9 Do you agree with that?

10 DET/CST. WILSON: Yes, sir.

11 MR. RICHARDSON: Now, you sort of
12 stated that, I guess not a hobby, but you pretty much
13 have done a lot of research into the white supremacist
14 movement and by no means are you an expert - I'm not
15 going to say you are.

16 We touched up on the hat, the hat,
17 white urban trash it said. I asked you --

18 THE CHAIRPERSON: White urban trash?

19 MR. RICHARDSON: Yeah.

20 THE CHAIRPERSON: That's the hat in
21 RR-4?

22 MR. RICHARDSON: Yeah, it's the only
23 hat, yeah.

24 And when you were asked I wrote this
25 down as a racist hat, and I asked you about it, I asked

1 you where you could get that.

2 DET/CST. WILSON: No, I don't think I
3 said it was a racist hat. It was a picture that we
4 took as a result of your search warrant.

5 MR. RICHARDSON: Well, in the police
6 records it says racist hat when the evidence was
7 removed, a racist hat, or it said hats actually, but...

8 DET/CST. WILSON: Hats. It just says
9 white urban trash to me.

10 MR. RICHARDSON: Now, I asked you if
11 you believed that was a racist hat and you said yes.

12 DET/CST. WILSON: Again, in the
13 preponderance of evidence of everything found in your
14 apartment, yeah.

15 MR. RICHARDSON: Fair enough.

16 DET/CST. WILSON: It may be classed
17 as a racist hat. It would make me believe it was a
18 racist hat.

19 MR. RICHARDSON: Do you still believe
20 that?

21 DET/CST. WILSON: In the
22 preponderance of evidence found in your room, in your
23 apartment, yes, sir.

24 MR. RICHARDSON: Okay. You also
25 stated that you could pretty much buy that hat

1 anywhere.

2 DET/CST. WILSON: Yes, sir.

3 MR. RICHARDSON: Now, how many stores
4 like K-Mart or the Bay or Zellers sell white supremacist
5 gear?

6 DET/CST. WILSON: None.

7 MR. RICHARDSON: None. What about
8 Cds?

9 DET/CST. WILSON: None.

10 MR. RICHARDSON: Pretty much any
11 paraphernalia you want to get, you have to hunt, you
12 can't just go in the store and buy it?

13 DET/CST. WILSON: No, I'm sure you
14 have to look very carefully.

15 MR. RICHARDSON: So, if I can buy
16 this hat in a store and you believe it's a racist
17 hat, then wouldn't that store be contributing to, you
18 know, a racist consumer?

19 DET/CST. WILSON: No. What I said
20 was the preponderance of evidence found in your
21 apartment led me to believe that this hat was a
22 racist or racial hat.

23 Again, individually, on its own, sold
24 at Zellers, no, sir.

25 MR. RICHARDSON: Okay.

1 DET/CST. WILSON: It's a bad piece of
2 hat, but it's not a racist hat.

3 MR. RICHARDSON: So, you could wear
4 that hat and you wouldn't be a racist, but if I wore
5 that hat, I would be?

6 DET/CST. WILSON: If you wore that
7 hat with your Dock Martins with your white laces and
8 your bomber jacket with a swastika, yes, I would
9 believe that to be a racist hat.

10 MR. RICHARDSON: How many racists
11 do you think like to be called white trash?

12 DET/CST. WILSON: I don't know. I
13 don't associate with racists.

14 MR. RICHARDSON: You've researched
15 them enough, have you ever, ever come across that term
16 in talking about a racist?

17 DET/CST. WILSON: No, sir, I haven't.

18 MR. RICHARDSON: You know why,
19 because we don't think about calling ourselves that at
20 all, you know. It doesn't really matter.

21 I want to get back to the pictures of
22 the flight jacket that were taken out of the apartment
23 at 390 Southdale the day of my arrest.

24 Now, this is very, very important
25 because I tried to prove that the boots and the flight

1 that were taken out weren't mine, and I couldn't figure
2 out how to do it until I seen that picture.

3 THE CHAIRPERSON: Which photo are you
4 talking about?

5 MR. RICHARDSON: RR-2 in the series.

6 THE CHAIRPERSON: RR-2, the jacket?

7 MR. RICHARDSON: This is the front
8 right breast pocket. At the top of the lapel there's a
9 pin with a swastika and I can't really see what it
10 says, but everybody got that, everybody can see that.

11 Here's another picture, right arm,
12 this is the half Celtic cross, half Canadian flag.

13 THE CHAIRPERSON: What picture is
14 that?

15 MR. RICHARDSON: We'll start with the
16 first one again. RR-2, right front pocket or front
17 breast pocket on the right side.

18 THE CHAIRPERSON: Which Exhibit HR-9.

19 MR. RICHARDSON: HR-9.

20 THE CHAIRPERSON: HR-9 okay. That
21 comes from where again? Was that Mr. Kulbashian's?

22 MR. RICHARDSON: No, this is the
23 jacket removed from 390 Southdale Road now.

24 DET/CST. WILSON: It's a different
25 sleeve of the jacket.

1 THE CHAIRPERSON: It's a different
2 sleeve of the same jacket RR-2.

3 MR. RICHARDSON: Yes.

4 THE CHAIRPERSON: Same jacket, RR-2.

5 MR. RICHARDSON: Let's start with the
6 front page because Mr. Wilson just short cut you and I
7 know why he did it, let's get back to the point.

8 Start with the first page, front
9 right breast pocket.

10 THE CHAIRPERSON: That's RR-2. You
11 can identify it that way so we'll know.

12 So, RR-2.

13 MR. RICHARDSON: And there's a lapel
14 pin and a patch on it, all right.

15 And here's a bigger close-up of the
16 pin. Now, on the other side of the jacket on the
17 right, - right or left sleeve, I can't tell from this.

18 THE CHAIRPERSON: Of the same jacket?

19 MR. RICHARDSON: Of the same jacket.

20 These are all pictures of the jacket.

21 THE CHAIRPERSON: What you are
22 showing there is HR-9.

23 MR. RICHARDSON: HR-9, that's
24 correct. There's another patch from the same jacket.

25 And I believe there's another

1 example. The last one was the Celtic cross, I don't
2 have it in front of me here. Here it is.

3 THE CHAIRPERSON: Yes, the Celtic
4 cross, that's the second page of HR-9.

5 MR. RICHARDSON: Okay. Now, if we go
6 back to RR-11 which is the photograph that.

7 DET/CST. WILSON: RR-1, sir.

8 MR. RICHARDSON: No, RR-11.

9 THE CHAIRPERSON: No, RR-1.

10 MR. RICHARDSON: No, RR-11.

11 REGISTRY OFFICER: RR-11.

12 THE CHAIRPERSON: Oh.

13 DET/CST. WILSON: Is it 11?

14 THE CHAIRPERSON: 11.

15 MR. RICHARDSON: Actually can you
16 give that back to Mr. Wilson.

17 Do you believe those two to be the
18 same jackets?

19 DET/CST. WILSON: No, sir. The one
20 that says 88 on it and the one in the picture we've
21 seen from HR-9, 10 and 8 and RR-1, they're not the
22 same jackets.

23 MR. RICHARDSON: They're not the same
24 jackets.

25 Did you get pictures from Woodstock

1 on May 18th, 2001 when you took surveillance photos of
2 us in Woodstock there?

3 DET/CST. WILSON: No, sir, I didn't.

4 MR. RICHARDSON: No.

5 THE CHAIRPERSON: What was the
6 answer, I'm sorry?

7 DET/CST. WILSON: No, sir, I didn't.

8 MR. RICHARDSON: Would you say that a
9 skinhead's flight is pretty much like wearing his
10 honour, everything, his pride on his sleeve, wearing
11 his heart on his sleeve.

12 DET/CST. WILSON: Absolutely, sir,
13 that's how come I believe that both of these are your
14 jackets.

15 MR. RICHARDSON: How many skinheads
16 do you know that have two flight jackets with patches
17 on them?

18 DET/CST. WILSON: Again, I don't know
19 too many skinheads.

20 MR. RICHARDSON: I don't know any.
21 But the fact that I'm trying to get to is, I can go on
22 showing you pictures and pictures of the jacket I wear,
23 the jacket that I wore my heart, the jacket I was proud
24 of, I wouldn't just toss it away to throw another one
25 on.

1 So now what I'm asking you, isn't
2 that quite possible that that's just not my jacket that
3 you took out of there?

4 DET/CST. WILSON: Okay, I'm sorry,
5 I'm a little mistaken. Are you telling me the one that
6 says 88 on it--

7 MR. RICHARDSON: That's my jacket.

8 DET/CST. WILSON: --is your jacket?

9 MR. RICHARDSON: And it's the same
10 picture taken six months earlier in Kitchener/Waterloo.

11 DET/CST. WILSON: Again, sir, I'd
12 just like to clarify, I have no idea when these
13 pictures are taken. None of them have a date on them,
14 none of them have anything.

15 So, it could have been taken years
16 before or a year before and your jacket be destroyed
17 and you bought a new one. I have no idea of that.

18 What I can tell you is this is you in
19 this picture wearing 88 on your chest and this is the
20 jacket that I seized from your apartment at 390
21 Southdale.

22 MR. RICHARDSON: I have a question.
23 Do you have any pictures of me wearing this jacket?

24 DET/CST. WILSON: No I don't, sir?

25 THE CHAIRPERSON: Which one.

1 MR. RICHARDSON: The jacket taken
2 from 390 Southdale.

3 DET/CST. WILSON: 390 Southdale.

4 THE CHAIRPERSON: HR-9.

5 MR. RICHARDSON: If it pleases the
6 court, I could come tomorrow with dated photos, a whole
7 box of them, within a two-year period of different
8 functions including Woodstock, Ontario when the
9 investigation was first done, including two weeks
10 before my arrest at a bar in London --

11 MS MAILLET: Perhaps Mr. Richardson
12 could give his evidence of that when it's his turn.

13 THE CHAIRPERSON: It is a bit of what
14 I said earlier. You are testifying. Just ask
15 questions of this witness.

16 MR. RICHARDSON: Okay.

17 THE CHAIRPERSON: You have already
18 established the point he has no photo of you wearing
19 the jacket that was seized at the apartment.

20 MR. RICHARDSON: I believe my point
21 was made, so...

22 THE CHAIRPERSON: That's right. So,
23 when you make your point, stop there.

24 MR. RICHARDSON: I guess my next
25 question would be: Is it possible that it's someone

1 else's jacket?

2 DET/CST. WILSON: Yes, it is
3 possible.

4 MR. RICHARDSON: Thank you.

5 Now, back to the IRC, the logs that
6 you entered.

7 Everybody bear with me here.

8 When you go back into the logs, when
9 you're on IRC you go in a room, the room is
10 #whitepowercanada.

11 You understand what I'm saying;
12 right?

13 DET/CST. WILSON: Yes, sir.

14 MR. RICHARDSON: It's a channel that
15 people can go in to discuss topics.

16 DET/CST. WILSON: Yes, sir.

17 MR. RICHARDSON: Did you ever inquire
18 on who owned the #whitepowercanada?

19 DET/CST. WILSON: No, sir.

20 MR. RICHARDSON: Is there any
21 particular reason why?

22 The reason I'm asking --

23 THE CHAIRPERSON: I just wanted to
24 hear your question. You said who owned #1 white power
25 Canada?

1 MR. RICHARDSON: Just WPCanada. The
2 number symbol is the room, it says #WP Canada, it's a
3 room, every room has a number symbol in front of it.

4 THE CHAIRPERSON: So, the chat room
5 is identified always with a number symbol in the front?

6 MR. RICHARDSON: Yes.

7 THE CHAIRPERSON: Or a pound as they
8 call it on the phone.

9 MR. RICHARDSON: Yes.

10 THE CHAIRPERSON: And then followed
11 by a name.

12 MR. RICHARDSON: Yes.

13 THE CHAIRPERSON: So, your question
14 was: Has this witness ever inquired as to who owned
15 the WPCanada chat room?

16 MR. RICHARDSON: Yeah.

17 THE CHAIRPERSON: And the answer was
18 no?

19 DET/CST. WILSON: No.

20 MR. RICHARDSON: Is there any
21 particular reason why not?

22 DET/CST. WILSON: I didn't think it
23 was pertinent to my investigation.

24 MR. RICHARDSON: You went on the net
25 and you looked. Did you ever go on IRC?

1 DET/CST. WILSON: No, I didn't.

2 MR. RICHARDSON: But all the evidence
3 that you're giving on the logs, 90 per cent of that is
4 taken from that room.

5 DET/CST. WILSON: It was seized from
6 your computer.

7 MR. RICHARDSON: But all the logs are
8 still from that room, regardless of where they come
9 from, I mean they come from that room.

10 DET/CST. WILSON: Yes, but...

11 MR. RICHARDSON: And you didn't find
12 that relevant as to who would have owned that chat
13 room. If you could link that to me, that would be one
14 more nail in my coffin, right?

15 DET/CST. WILSON: I didn't need any
16 more nails.

17 MR. RICHARDSON: Apparently you did.
18 Okay.

19 You stated, I believe it was the bail
20 report, I'll actually double check for you before I
21 start talking.

22 Yeah, in my crown brief summary you
23 stated:

24 "The accused is a
25 self-proclaimed leader of

1 Canadian Ethnic Cleansing Team."

2 DET/CST. WILSON: Yes, sir.

3 MR. RICHARDSON: When did I say that?
4 When did I ever proclaim that? I think the only time I
5 ever spoke to you I proclaimed --

6 DET/CST. WILSON: Sir, read that
7 again, I didn't say that you told me.

8 MR. RICHARDSON: Who did I tell?

9 DET/CST. WILSON: You told the
10 newspaper, the Waterloo Record.

11 MR. RICHARDSON: Were you there?

12 DET/CST. WILSON: No.

13 MR. RICHARDSON: You know that's kind
14 of hearsay. I mean, isn't it? Like Brian Caldwell
15 talked to two individuals on the phone, not in person,
16 and so not only can you not verify who he talked to at
17 all, you can't even verify what they said.

18 And you know, even if you could
19 verify what they said, you know how sometimes
20 newspapers don't get exactly write what you write down.

21 DET/CST. WILSON: I did verify it.

22 MR. RICHARDSON: Through him?

23 DET/CST. WILSON: No, I did a search
24 warrant in your house and seized your computer and you
25 had given me your name and your phone number as the

1 editor of the Vinland Voice, which I would put in as
2 the leader of the Canadian Ethnic Cleansing Team.

3 So, I did verify that.

4 MR. RICHARDSON: What's the
5 difference between editing something and being the
6 leader of a big white power organization.

7 Numerous times through you stated
8 that, yes, you believed I was a member and I have never
9 denied it, I said yeah, I was a member, but never did I
10 ever state that I was a leader, director or anything
11 else in that matter.

12 So, once again, it goes to the same
13 line of the fact that, you know, me being combative and
14 resisting arrest.

15 You pretty much just took something
16 that you thought would be more beneficial to keeping me
17 in jail and you wrote that down, because not one place
18 anywhere did it ever say in me in writing from my word
19 of mouth that I proclaim myself to be the leader, but
20 yet you put it down because that was your belief?

21 DET/CST. WILSON: Yes, sir.

22 MR. RICHARDSON: And I didn't know
23 people can get charged on someone else's belief.

24 DET/CST. WILSON: Within my -- the
25 boundaries I follow as a police officer has nothing to

1 do with somebody's beliefs or belief system, it has
2 everything to do with acting out on that belief system.

3 MR. RICHARDSON: So, then again, why
4 would you put information that can't be proven down and
5 use it against me?

6 DET/CST. WILSON: I didn't. It was
7 stated in a newspaper article and I confirmed that
8 information through the rest of my investigation.

9 MR. RICHARDSON: Okay. It was states
10 through the newspaper article. How can you confirm
11 that it was us talking, or me talking on the phone?

12 DET/CST. WILSON: I confirmed it
13 through the rest of my investigation which is in the
14 three binders that's in front of the court right now.

15 MR. RICHARDSON: That's not the
16 question. How can you confirm --

17 DET/CST. WILSON: I did, sir, I did
18 the rest of my investigation. I was able to confirm
19 that through the rest of my investigation.

20 MR. RICHARDSON: Can you tell me how
21 you confirmed I was talking to Brian Caldwell on the
22 phone?

23 DET/CST. WILSON: How you were
24 talking to Brian Caldwell, because you identify --

25 MR. RICHARDSON: Could you tell me

1 how you confirmed that I had spoken --

2 DET/CST. WILSON: I was going to.

3 MR. ALEXAN KULBASHIAN: I had said
4 this?

5 DET/CST. WILSON: I was going to
6 until you cut me off.

7 I can tell you that you identified
8 yourself as James Scott and your age.

9 MR. RICHARDSON: To Brian Caldwell?

10 DET/CST. WILSON: And the rest of my
11 investigation led me to believe that you were not only
12 a member but an integral part in the top two hierarchy
13 of the Canadian Ethnic Cleansing Team.

14 MR. RICHARDSON: Top two?

15 DET/CST. WILSON: And, therefore, a
16 leader of the Canadian Ethnic Cleansing Team.

17 MR. RICHARDSON: You stated --

18 DET/CST. WILSON: You put yourself
19 down as a recruiter for the Canadian Ethnic Cleansing
20 Team and produced a business card with those on it.
21 So, again, through the totality of my --

22 MR. RICHARDSON: Am I on those
23 business cards?

24 DET/CST. WILSON: Through the
25 totality of my evidence, through the totality of my

1 investigation led me to believe that you were -- again,
2 confirmed you were one of the leaders of the Canadian
3 Ethnic Cleansing team.

4 MR. RICHARDSON: A lot of
5 circumstantial evidence here. Is that the reason why
6 our charges were dropped criminally?

7 DET/CST. WILSON: That's not my
8 responsibility. My responsibility is to bring the
9 whole investigation to the court and for the court
10 and/or the crown attorney to make a decision on that
11 evidence.

12 MR. RICHARDSON: Okay. Back to the
13 Brian Caldwell thing because you've answered, but
14 you're not answering the question.

15 How did you 100 per cent confirm that
16 Brian Caldwell was speaking to me at the other end of
17 the phone, because anybody here could have said -- I
18 could have been Pope John Paul II.

19 Anybody can say anybody's name just
20 like you did contacting me using Conrad MacDonald.

21 Let me ask the question again. What
22 proof do you have that I was the one speaking on the
23 other end of the phone with Brian Caldwell?

24 DET/CST. WILSON: Again, for the
25 third time, through the rest of my investigation, my

1 total investigation led me to believe that you, again
2 confirmed the fact that you were one of the leaders of
3 the Canadian Ethnic Cleansing Team and, therefore, led
4 me to believe that you were the one that talked to Mr.
5 Caldwell.

6 MR. RICHARDSON: Okay.

7 DET/CST. WILSON: I have no evidence

8 --

9 MR. RICHARDSON: So, this is your
10 belief, you have no evidence, this is your opinion?

11 DET/CST. WILSON: I have no evidence
12 in front of me now--

13 MR. RICHARDSON: Thank you.

14 DET/CST. WILSON: --that would lead
15 me not to believe that you are a member of the Canadian
16 Ethnic Cleansing Team.

17 MR. RICHARDSON: You're answering a
18 question I'm not asking. I didn't ask you if you
19 believed I was a member, I asked you if it was at all
20 possible that I -- that someone else could have said
21 that they were Scott, or James Scott or whatever it
22 was?

23 DET/CST. WILSON: Again, in the realm
24 of possibilities, it could have --

25 MR. RICHARDSON: So, there is

1 absolutely no proof that I spoke to Brian Caldwell,
2 that's the question. Yes or no?

3 DET/CST. WILSON: In the realm of
4 possibilities it could have been someone else.

5 In this case, I don't believe that to
6 be so.

7 THE CHAIRPERSON: Just stop for a
8 moment.

9 Now maybe would be the appropriate
10 time to take the break because we're having some
11 difficulties with the tape recorder, and I'd like
12 during this break that the exchange of those documents
13 that we talked about earlier take place and the
14 photograph be photocopied.

15 REGISTRY OFFICER: All rise.

16 ---Recess taken at 11:00 a.m.

17 ---On resuming at 11:30 a.m.

18 REGISTRY OFFICER: All rise.

19 Please be seated.

20 MS MAILLET: Mr. Chair, before Mr.
21 Richardson gets started, we have provided the entire
22 third binder to Mr. Kulbashian. I indicated to him he
23 could probably review it at lunch so that he doesn't
24 distract the court too much, and I will type up a more
25 detailed list at noon, if that's okay with the

1 Tribunal, just so that it can go in as a court
2 document.

3 THE CHAIRPERSON: That would be more
4 appropriate I think. There are facilities here.

5 MS MAILLET: Yes.

6 MR. RICHARDSON: Am I to understand
7 you're going to put that whole book in?

8 MS MAILLET: No, I'm not entering
9 anything in. It was a request by Mr. Kulbashian and
10 yourself I believe to be able to review the documents
11 that were in the third binder.

12 THE CHAIRPERSON: Mr. Richardson,
13 could you put the microphone in front of you.

14 MR. RICHARDSON: Oh, I'm so sorry.

15 So, I don't think I will, but when
16 I'm done examining Mr. Wilson and I take a look at the
17 book, if I find anything, I might want the chance to
18 re-examine after Alex again.

19 THE CHAIRPERSON: Well, we will take
20 it each step at a time, but for the time being, I am
21 just authorizing you to look at the book.

22 MR. RICHARDSON: As I say, I don't
23 think I will be, but just in case.

24 THE CHAIRPERSON: Right.

25 MR. RICHARDSON: Mr. Wilson, do you

1 believe everything that newspaper writers write in
2 newspaper articles to be true?

3 DET/CST. WILSON: No, sir, I
4 corroborate that stuff.

5 MR. RICHARDSON: So, we're still
6 getting on to the point with Mr. Caldwell and the
7 interview that allegedly happened with Mr. Kulbashian
8 and I.

9 Only because I don't remember, just a
10 final answer, like, you know, is it possible, yes or
11 no, that Brian Caldwell could have been talking to
12 somebody else?

13 DET/CST. WILSON: Is it possible,
14 yes. Do I believe that to be true, no, I don't.

15 MR. RICHARDSON: That's not what I
16 asked you again. You always do that. Just answer the
17 question, please.

18 DET/CST. WILSON: I'm answering your
19 question, sir.

20 MR. RICHARDSON: And I asked you, yes
21 or no?

22 THE CHAIRPERSON: I have the answer.

23 MR. RICHARDSON: I realize, but every
24 time I ask him he always wants to put in his opinions,
25 so, you know, when he says no it's no but this, you

1 know, yes but this, you know.

2 Okay. Now, you stated the last time
3 we were talking that I was combative and I resisted
4 arrest and uncooperative and whatnot.

5 I want to touch back on that because
6 out of all the police reports of all the officers that
7 entered my apart -- or the apartment at 390 Southdale
8 Road, not one of them in any of the interviews stated
9 that I was uncooperative, I was combative or I resisted
10 arrest.

11 Each story are pretty much all the
12 same. The officers came in with their guns drawn, I
13 stood up, I complied with everything they said, they
14 handcuffed me without any, you know, trouble from me
15 whatsoever and that was it.

16 You said that I was uncooperative
17 because I yelled 'fucking Jews' inside the hallway at
18 the top of my lungs.

19 Now (a), you weren't there to hear
20 me, so I don't know how you could say that, and (b) is
21 it not true I didn't yell, I just said it pretty loud?

22 Yelling at the top of my lungs would
23 have meant the whole building seen me.

24 Basically my question is, did you not
25 just - what's the wording I want to use - over

1 emphasize what had really happened to make your case
2 look stronger?

3 DET/CST. WILSON: No, sir.

4 MR. RICHARDSON: No. Not at all.

5 So -- okay, let's start right back to
6 the beginning. How was I combative?

7 DET/CST. WILSON: You were placed
8 face down and handcuffed to the rear.

9 MR. RICHARDSON: Did I resist at that
10 time?

11 DET/CST. WILSON: You were placed
12 face down with -- facing guns. No, you didn't.

13 You were laid face down, you then
14 screamed, 'Which one of you fuckers is Conrad?'

15 MR. RICHARDSON: Is that combative?

16 DET/CST. WILSON: Yeah, it's not
17 exactly compliant.

18 MR. RICHARDSON: It's not combative.
19 When you arrest people, have you ever had a case where
20 a guy just said absolutely nothing?

21 I mean, you know, when people are
22 kicking down your door with guns and showing guns at
23 your kids, you're scared, you don't know what's going
24 on, you're not going to be a little loud and anxious?

25 I don't think anybody in the world

1 would be like that. I was scared shitless. Oh, sorry.
2 I'm so sorry. I was scared really bad.

3 THE CHAIRPERSON: Mr. Richardson,
4 what you are doing is again you are testifying in your
5 question, you are arguing with the witness.

6 You will have your opportunity to
7 first lead your evidence, to make all your points and
8 then afterward to argue how what you have said supports
9 a certain position and how what is being said by other
10 witnesses does not, or how your evidence should be of
11 greater value than the other evidence.

12 MR. RICHARDSON: No arguing.

13 THE CHAIRPERSON: Yeah, right.

14 MR. RICHARDSON: No arguing.

15 THE CHAIRPERSON: So, he's given his
16 answer.

17 In his opinion this is why he found
18 you combative. Now, if you take issue with that and if
19 you are going to introduce other evidence to contradict
20 that, that's fine.

21 But at this stage, let's just hear
22 his answers instead of hearing your points of view.

23 MR. RICHARDSON: I read in the
24 dictionary, I actually looked up the words combative,
25 uncooperative and - what's the third one - and if I

1 surrendered. All right, the word surrender. And we'll
2 start with the word surrender.

3 Pretty much the dictionary terms,
4 when you surrender you give up absolutely, you know,
5 without fighting or anything.

6 Would you say that's what I did?

7 DET/CST. WILSON: Yeah, on the second
8 command to lay face down on the ground you did, yes.

9 MR. RICHARDSON: Well, not the first,
10 but I mean, confusing situation. Is it possible at all
11 that, you know, like, maybe I was confused and I would
12 have went down right away if I understood what was
13 going on.

14 DET/CST. WILSON: I don't know what
15 you were thinking, sir.

16 MR. RICHARDSON: Good enough.

17 So, tell me how I resisted arrest
18 when I surrendered?

19 DET/CST. WILSON: If I thought you
20 crossed the bounds of resist arrest, you would have
21 been charged with resist arrest.

22 What I believe it says is that you
23 were combative, you were screaming and you were not, in
24 my opinion, cooperative at the time of your arrest.

25 MR. RICHARDSON: Okay. But it says

1 that I didn't surrender.

2 Now, I understand what you told me,
3 and if my understanding your explanation that is, I
4 didn't go down to the police station and turn myself
5 in.

6 DET/CST. WILSON: Yes, sir. That's
7 why we would mark yes on that bail form, is if he
8 surrendered it would be a significant factor in his
9 bail hearing, and surrendering means to turn himself
10 into the police, which you did not.

11 MR. RICHARDSON: Now, if somebody
12 doesn't know they're wanted and somebody is not aware
13 whatsoever that the police are after them, how can he
14 surrender?

15 DET/CST. WILSON: I don't know, sir.
16 That category is left for people that turn themselves
17 in.

18 MR. RICHARDSON: Should I rephrase
19 the -- I'll rephrase the question until we get an
20 answer. I have all day.

21 All right. So, if you weren't wanted
22 by the law, just say hypothetically - or if you were -
23 and you didn't know, would you go turn yourself in?

24 DET/CST. WILSON: No, sir.

25 MR. RICHARDSON: Why?

1 DET/CST. WILSON: Because I wouldn't
2 know I was wanted.

3 MR. RICHARDSON: Exactly. So, in
4 this case because you left everything that doesn't
5 apply to me blank in the bail reports.

6 DET/CST. WILSON: Yes, sir.

7 MR. RICHARDSON: This doesn't apply
8 to me, and when I look at other people's bail reports
9 and if they haven't surrendered and they didn't have
10 the opportunity that's left blank.

11 I wonder why in my case this wasn't
12 left blank?

13 DET/CST. WILSON: Because you didn't
14 surrender.

15 MR. RICHARDSON: So why wasn't it
16 blank?

17 instead of no, right, which leads the
18 judge to believe that I basically resisted arrest, you
19 put no.

20 DET/CST. WILSON: No, that --

21 MR. RICHARDSON: It should have been
22 blank. So, can you tell me why you put no instead of
23 leaving it blank like you did with other things that
24 don't apply to me, like if I'm employed, you know,
25 anything for an example, you know, does this involve

1 children, drugs, alcohol, you left all of them blank.

2 DET/CST. WILSON: Yes, sir.

3 MR. RICHARDSON: You know why you
4 left them blank, because it doesn't involve the case.

5 I don't understand why you would say
6 -- like, this should have been blank and as far as I've
7 seen from everybody else's bail hearings it has been
8 blank unless they resisted arrest or had not turned
9 themselves in.

10 I'm just trying to wonder in my
11 particular case only that that was down there.

12 DET/CST. WILSON: Well, it's not in
13 your particular case only. It's my practice to put in
14 there yes or no if you surrendered or not, and in this
15 case you did not, so I would put no.

16 MR. RICHARDSON: Well, don't you find
17 that kind of unfair in the judge's eyes when he sees
18 that, he doesn't know the situation, as far as he's
19 concerned when he sees that?

20 DET/CST. WILSON: My job is to give
21 as much information to that judge or justice of the
22 peace as possible. What he's thinking about it, I have
23 no idea.

24 MR. RICHARDSON: Okay. When a person
25 gets arrested he's allowed to make one call. Does it

1 have to be his lawyer?

2 DET/CST. WILSON: He can make as many
3 calls as he wants - we live in Canada - and it doesn't
4 have to be his lawyer.

5 Now, we prefer that you do contact
6 and we give you an opportunity to contact a lawyer, but
7 at no time do we restrict any other phone calls being
8 made.

9 MR. RICHARDSON: So, now for
10 uncooperative, how did I not cooperate with you?

11 DET/CST. WILSON: You first screamed,
12 "Which one of you fuckers is Conrad?", and that's a
13 quote.

14 MR. RICHARDSON: Mm-hmm.

15 DET/CST. WILSON: You then, when
16 given an opportunity to call a lawyer from your home,
17 decided that you would call Alex and screamed --

18 MR. RICHARDSON: But it's my
19 prerogative; is it not, like I'm allowed to --

20 DET/CST. WILSON: Okay, and screamed,
21 'get rid of the shit'.

22 So, therefore, in my opinion you are
23 very, on the border of obstructing more investigation,
24 so that would put me in the opinion that you were
25 uncooperative at that time.

1 MR. RICHARDSON: Did you tell me not
2 to call Alex?

3 DET/CST. WILSON: You told me --

4 MR. RICHARDSON: Did you tell me not
5 to call -- I know I told you, I know I lied to you.
6 I asked you if you told me not to
7 call Alex?

8 DET/CST. WILSON: I'd like to explain
9 -- no, because I didn't know who Alex was.

10 But if I'm able to explain that part
11 of the conversation, sir, without Mr. Richardson
12 objecting to that, but...

13 THE CHAIRPERSON: I think I'd like to
14 hear the answer.

15 DET/CST. WILSON: I asked Mr.
16 Richardson, because I knew it was a fairly serious
17 case, if he wanted to call his lawyer at that time and
18 I supplied him, telling him that it wouldn't be a
19 private conversation but supplied him with his own
20 phone.

21 He said, okay, and I asked him what
22 his lawyer's phone number was, and he said you can
23 speed dial it, at which time he gave me the number to
24 speed dial.

25 I speed dial it and put it up to his

1 ear because Mr. Richardson was in handcuffs.

2 At this point he then screamed at the
3 top of his lungs to get rid of the shit which now led
4 me to believe that there was a co-conspirator in this
5 investigation.

6 At that point I hung up the phone.

7 MR. RICHARDSON: Now, during the
8 whole time that you were in my apartment, did I ever
9 not do one thing you asked me not to do?

10 DET/CST. WILSON: No, sir.

11 MR. RICHARDSON: So, I was pretty
12 cooperative?

13 DET/CST. WILSON: No, sir.

14 MR. RICHARDSON: Okay. So, I did
15 everything you asked me to do, no questions asked, I
16 gave up totally peaceful, but I'm still uncooperative
17 just because of a phone call?

18 DET/CST. WILSON: Well, yeah, you're
19 not cooperative because (1) you lied to me who you're
20 calling, (2) you're screaming at the top of your lungs,
21 which one...again...is Conrad, you then proceed to
22 scream on the way out of the hallway to Cst. Smallman,
23 with derogatory comments towards the Jewish community.

24 In my opinion, that would put you as
25 uncooperative.

1 MR. RICHARDSON: Did you ask me not
2 to say anything about Jews?

3 THE CHAIRPERSON: Now, come on,
4 listen.
5 I've got his answer.

6 MR. RICHARDSON: Well --

7 THE CHAIRPERSON: No, I have his
8 answer. I have his answer on this point. You've asked
9 this question three times over.

10 MR. RICHARDSON: All right, all
11 right, I'll skip, come back.

12 THE CHAIRPERSON: You can certainly
13 argue that his opinion on what is uncooperative or
14 cooperative differs from yours and differs from an
15 objective opinion, but I have heard his answer three
16 times now, four times maybe on what happened that day.

17 MR. RICHARDSON: All right.

18 So now to combative. Did I fight
19 with any of the officers?

20 DET/CST. WILSON: No.

21 MR. RICHARDSON: Did I - I don't
22 know - resist arrest or try to pull my arms away or
23 struggle or...

24 DET/CST. WILSON: Again, if I thought
25 you were resisting arrest you would be charged with

1 that because that's a section in the code.

2 MR. RICHARDSON: I'm sure I would
3 have been.

4 DET/CST. WILSON: So you didn't quite
5 -- you didn't quite go that far.

6 MR. RICHARDSON: So, how was I
7 combative?

8 DET/CST. WILSON: Again, combative,
9 didn't --

10 THE CHAIRPERSON: Mr. Richardson...

11 MR. RICHARDSON: This is a whole -
12 you told me about cooperation, he hasn't answered
13 combative yet. This is the first, I'm on the third one
14 now.

15 THE CHAIRPERSON: I heard it on the
16 last day, that's the problem.

17 Well, I'll hear it again because it's
18 a new day.

19 MR. RICHARDSON: I'm just still very
20 confused.

21 THE CHAIRPERSON: How was he
22 combative?

23 DET/CST. WILSON: Again, he was
24 combative by -- he wasn't struggling, but he was --
25 needed to be led from the apartment, needed to be led

1 downstairs and, again, screaming at the top of his
2 lungs, or screaming derogatory comments towards the
3 Jewish population.

4 MR. RICHARDSON: In the dictionary
5 combative -- their term of combative is somebody who
6 takes a stance or is going to take a stance against
7 somebody else.

8 Not only did I not resist arrest, in
9 your own words, you said I had to be ushered out.
10 Everybody is escorted when they're in handcuffs, so I
11 mean you can't really take that.

12 They didn't have to struggle with me
13 through the hallways or anything. I don't -- I'll only
14 ask it again, Mr. Chair, because I don't understand how
15 someone who gives up absolutely peaceful in every way.

16 You know, yeah, stuff was said, but
17 how many people get arrested with guns that don't get
18 upset and say stuff.

19 I don't understand the combative part
20 and even since the last one, and I know we already
21 talked about it just, it surprises me so such that...

22 THE CHAIRPERSON: And that is a very
23 interesting argument you will make in argument. You've
24 heard his answer.

25 This is what he gives up as his

1 answer. So, what you do then, is you take that and you
2 argue at the end of the day - and I mean not this day -
3 I mean whenever this case ends, that it doesn't hold
4 up, there's a problem here. This is how you make your
5 arguments.

6 What I'm telling you here, I want
7 you to follow through course of all your
8 cross-examining.

9 Sometimes in asking too many
10 questions you may get answers that actually work
11 against you. It's not a good approach to follow.

12 You get an answer and then you work
13 with it afterwards.

14 MR. RICHARDSON: I think the point I
15 was trying to get to, I wasn't sure how many people
16 actually get arrested and give up peacefully and then
17 have this against them and I don't know why --

18 THE CHAIRPERSON: You've heard his
19 answer.

20 MR. RICHARDSON: Fair enough, fair
21 enough.

22 Let's get the next question. Okay,
23 in HR-1, tab 22.

24 DET/CST. WILSON: Yes, sir.

25 MR. RICHARDSON: Okay. You stated

1 last time that the editor of the Vinland Voice
2 everything he wrote down he signed WPCanada, which you
3 assume is me.

4 DET/CST. WILSON: Yes, sir.

5 MR. RICHARDSON: Now, in this copy of
6 the Vinland Voice it says James, this was signed and no
7 doubt this was written by me.

8 So let me ask you: why did I pick
9 this one day to write down James and not all the other
10 times?

11 DET/CST. WILSON: I don't know, sir.

12 MR. RICHARDSON: Well, you believe I
13 wrote this article?

14 DET/CST. WILSON: And I believe you
15 wrote the other ones as well, yes, sir.

16 MR. RICHARDSON: Yeah, yeah. Do you
17 not find it weird that out of all those newsletters
18 only one has my name.

19 So, why wouldn't I sign them all my
20 name or why wouldn't I sign them all WPCanada? Sorry,
21 I'll take that back because can't answer that, you're
22 not me.

23 Is it possible at all that, you know,
24 that WPCanada had written the other articles and the
25 one that I did written, and there's actually another

1 one here that says James, those are articles that I did
2 write.

3 DET/CST. WILSON: I'm sorry, I don't
4 understand the question.

5 MR. RICHARDSON: Is it - just give me
6 a second, I'm trying to word it into a question.

7 THE CHAIRPERSON: Yes.

8 MR. RICHARDSON: Would you think it
9 was off character for it to be signed James instead of
10 WPCanada?

11 DET/CST. WILSON: Yes, sir, I think
12 in this edition of the Voice it's sort of an unusual
13 circumstance because you're writing to another skin in
14 the United States who passed away, so I believe this to
15 be a different circumstance than the other
16 circumstances that you wrote in the Vinland Voice.

17 MR. RICHARDSON: Okay. So, if you
18 believed that I was WPCanada and you barely knew me,
19 wouldn't you think that everybody out there would know
20 me as WPCanada, probably even more than James?

21 DET/CST. WILSON: I can't answer
22 that. I know that you were WPCanada and produced those
23 Vinland Voice.

24 MR. RICHARDSON: You believe I was
25 WPCanada. You don't know for sure, you believe that I

1 was WPCanada.

2 I guess I made my point, I will leave
3 that.

4 Okay. Now, I want to get back to the
5 original article I was arrested for, the Vinland Voice
6 copy 5, I believe.

7 DET/CST. WILSON: Mm-hmm.

8 MR. RICHARDSON: Let me see.

9 THE CHAIRPERSON: Draw my attention
10 to the tab, please.

11 MS MAILLET: I believe it's tab 20 of
12 HR-1.

13 THE CHAIRPERSON: Thank you.

14 MR. RICHARDSON: Yes. Can you do me
15 a favour, can you find anywhere on this page here where
16 there is a threat to human -- well just threats to
17 humans at all?

18 DET/CST. WILSON: Yes, sir, I can.

19 MR. RICHARDSON: Can you read it to
20 me?

21 DET/CST. WILSON: Yes. It says:

22 "And yes I hold all Muslims
23 personally responsible as well,
24 even the American government for
25 bringing this war onto American

1 soil by supplying Jews with
2 weapons to destroy the Muslims.
3 It is now time to take back our
4 streets. I am proclaiming my
5 own act of war. I encourage all
6 racialists and especially all
7 C.E.C.T. members to do the same.
8 There are many targets on
9 Canadian soil, such as B'Nai
10 Brith offices, Mosad temples and
11 as far as I'm concerned any Jew
12 Arab temple, building house or
13 even cars. There are no
14 innocent Jews especially in a
15 time of war. I ask you to mourn
16 the loss of many of our kin that
17 perished in New York and
18 Washington and I want you to
19 channel that anger and use it to
20 fight our enemies."

21 That would be the threat, sir.

22 MR. RICHARDSON: Okay. Can you read
23 the part where I'm threatening humans.

24 DET/CST. WILSON: Yes. It says:

25 "I proclaim my own act of

1 war..."

2 The whole thing is a threat. It is a
3 threat to Jewish and Muslim populations by declaring an
4 act of war.

5 It is also a threat to property
6 damage by declaring an act of war and to damage their
7 temples, buildings, cars.

8 MR. RICHARDSON: Yes, but where is
9 the threat on human life. Where does it say to harm --
10 see, one of my charges was counselling to commit
11 murder.

12 DET/CST. WILSON: Yes, sir.

13 MR. RICHARDSON: Now, I don't see
14 anything about murder, I don't see anything about
15 harming individuals, I don't see anything about harming
16 people at all.

17 Property, I can see that in there.
18 Anybody can, but you give this article to the average
19 every day person, I don't understand how he's going to
20 see a threat against actual people themselves.

21 DET/CST. WILSON: Well, again --

22 MR. RICHARDSON: Go on.

23 DET/CST. WILSON: Again, proclaiming
24 your own act of war, in my opinion and the opinion of
25 other people, declaring war is a physical threat

1 other peoples, especially three days after September
2 11th.

3 Again, you do --

4 MR. RICHARDSON: Anybody in the time
5 of history that has declared war on whatever, for
6 whatever reason intends to kill somebody.

7 DET/CST. WILSON: Absolutely.

8 MR. RICHARDSON: Absolutely.

9 So, let's see, if you're playing a
10 video game and you declare war on the guy on the other
11 end, is he going to kill him?

12 DET/CST. WILSON: If you're playing a
13 video game, you look at the preponderance of evidence
14 around that video game, and you're playing a video
15 game.

16 In this case, three days after
17 September 11th, you're declaring war on two specific
18 groups within Canada.

19 MR. RICHARDSON: Yeah, but declaring
20 war, but then right in that same article the war that
21 was being declared was against temples, property, cars,
22 houses.

23 But I want you to tell me where in
24 that article, anywhere, where it says humans or
25 anything of that sort?

1 DET/CST. WILSON: There are no --

2 MR. RICHARDSON: Like, is it just
3 your opinion of what that means? Anybody that reads
4 that article in this room, everybody would have --
5 almost everybody would have a different opinion of what
6 they felt it meant.

7 DET/CST. WILSON: "There are no
8 innocent Jews especially in a
9 time of war."

10 In my opinion, that line there,
11 including all the rest of the paragraph, the plan is,
12 the idea here is a threat against other human life.

13 MR. RICHARDSON: But nowhere in there
14 does it actually say, that's the point I was trying to
15 get, that's just your --

16 DET/CST. WILSON: Yes, it does.

17 MR. RICHARDSON: That's your taking
18 of what it means.

19 DET/CST. WILSON: No, you're
20 identifying two particular groups within Canadian
21 society and declaring war on them, and by declaring war
22 you're declaring that somebody will be harmed as a
23 result of that war.

24 --(reporter appeals)

25 THE CHAIRPERSON: Yes.

1 Mr. Richardson, we require your
2 microphone to be closer to you for the purposes of the
3 transcript.

4 MR. RICHARDSON: I'm not too sure how
5 the laws work when you charge someone with a death
6 threat, like I mean, like I was, I'm having a hard time
7 pinpointing where the death threat came in and I know
8 you're explaining to me now, it would be the same thing
9 as you're saying now, but I just don't see it.

10 And I think my question is: Is it
11 possible that the author of this article, especially
12 after stating temples, cars and whatnot, that he
13 actually meant to only harm property not individuals?

14 MS MAILLET: Mr. Chair, I don't
15 believe that that was what the charge was, making a
16 death threat, I believe it was counselling.

17 MR. RICHARDSON: Oh no, there was
18 death threats.

19 DET/CST. WILSON: No, there was six
20 total counts and one of them was making a death threat
21 and counselling murder and counselling the act of
22 property damage.

23 And again, your question is, do I
24 believe from this page here that this is a death
25 threat?

1 MR. RICHARDSON: No, you already
2 answered that question.

3 DET/CST. WILSON: I'm sorry then.

4 MR. RICHARDSON: Can you read back
5 the question, please.

6 THE CHAIRPERSON: Which question?

7 MR. RICHARDSON: The question I asked
8 just before that.

9 THE REPORTER:

10 "MR. RICHARDSON: I'm not too
11 sure how the laws work when you
12 charge someone with a death
13 threat, like I mean, like I was,
14 I'm having a hard time
15 pinpointing where the death
16 threat came in and, I know
17 you're explaining to me now, it
18 would be the same thing as
19 you're saying now, but I just
20 don't see it.

21 And I think my question is: Is
22 it possible that the author of
23 this article, especially after
24 stating temples, cars and
25 whatnot, that he actually meant

1 to only harm property not
2 individuals?"

3 DET/CST. WILSON: No.

4 THE CHAIRPERSON: Okay. So, could
5 these phrases be interpreted as meaning harm to
6 property only?

7 DET/CST. WILSON: No, it meant harm
8 to individuals as well.

9 MR. RICHARDSON: Are you an expert in
10 what people think?

11 DET/CST. WILSON: No, sir.

12 MR. RICHARDSON: So, basically this
13 is an assumption that you make?

14 DET/CST. WILSON: No, it's --

15 MR. RICHARDSON: This is what you
16 believe to be the truth?

17 DET/CST. WILSON: Yes, sir.

18 MR. RICHARDSON: It might not
19 necessarily be the truth, regardless this is what you
20 believe to be truth?

21 DET/CST. WILSON: Yes, sir.

22 MR. RICHARDSON: All right. Were you
23 aware of a massive flyer campaign that was going to be
24 done all over Canada the week after I was arrested?

25 DET/CST. WILSON: Yes, sir.

1 MR. RICHARDSON: Are you aware of the
2 people that were, you know, going to be doing this and
3 how far across Canada it was?

4 DET/CST. WILSON: I believe it went
5 from coast to coast essentially.

6 MR. RICHARDSON: Yeah. So, do you
7 believe at all that the flyer campaign that was going
8 to happen all over and was going to be -- we were going
9 to hit them, we were going to hit them hard with
10 flyers, we were going to hit cars, temples, houses, we
11 were going to declare war and we're going to send out
12 as many flyers as we can, I mean...

13 DET/CST. WILSON: Do I believe that
14 is what you meant by declaring an act of war?

15 MR. RICHARDSON: Do you believe that
16 that could be what was meant as an act of war?

17 DET/CST. WILSON: No, I don't.

18 MR. RICHARDSON: Were you in the mind
19 frame of the person writing the article?

20 DET/CST. WILSON: No, I wasn't.

21 MR. RICHARDSON: So, this is again
22 just your assumption, this is what you believe?

23 DET/CST. WILSON: That is my belief,
24 sir, yes.

25 MR. RICHARDSON: So, even though --

1 I'm not going to keep asking the same question. That's
2 fine.

3 THE CHAIRPERSON: That's a good idea.

4 MR. RICHARDSON: Do you know who was
5 responsible for the flyer campaign?

6 DET/CST. WILSON: No, I don't.

7 MR. RICHARDSON: Okay. I just want
8 to ask one more fast question, just because I seem to
9 have missed it.

10 When we were talking earlier about
11 combative and uncooperative and whatnot, why is it that
12 none of the other officers in the apartment wrote that
13 in their police reports?

14 DET/CST. WILSON: Well, they did, I
15 think they wrote it a different way.

16 You know, Cst. Smallman did express
17 what had said in the hallway, and Cst. Lisette, again,
18 I believe expressed what you said in the hallway.

19 And, again, it was my belief at that
20 time in the apartment, including all the evidence where
21 the phone call was made, what you were saying while you
22 were lying on the floor, that led me to believe to mark
23 that down on your bail hearing.

24 MR. RICHARDSON: They word it a lot
25 differently than you do. I don't know why that is.

1 THE CHAIRPERSON: Mr. Richardson,
2 your microphone.

3 MR. RICHARDSON: Oh, I'm so sorry.

4 THE CHAIRPERSON: Why don't you just
5 turn it all the way.

6 Yes.

7 MR. RICHARDSON: Now, I guess it was
8 the fifth floor, whatever, the floor -- you weren't
9 with me when I allegedly yelled 'fucking Jews', is that
10 correct?

11 DET/CST. WILSON: Yes, sir, I wasn't.

12 MR. RICHARDSON: Did you hear me?

13 DET/CST. WILSON: No, sir, I didn't.

14 MR. RICHARDSON: So, if I would have
15 yelled at the top of my lungs, do you think you would
16 have heard me?

17 DET/CST. WILSON: No, sir, I don't
18 think I would have.

19 MR. RICHARDSON: No. Do you know I
20 was an officer in the navy a long time ago?

21 DET/CST. WILSON: Yes, sir, I did
22 know that.

23 MR. RICHARDSON: Do you know what my
24 speciality was, by any chance?

25 DET/CST. WILSON: I have no idea.

1 MR. RICHARDSON: Drill. You know, if
2 I yelled right now you'd hear me at the other end,
3 blocks and blocks away.

4 If I yelled at the top of my lungs,
5 is it not --

6 MR. WARMAN: Member Hadjis, he's
7 testifying again.

8 THE CHAIRPERSON: Yes.

9 MR. RICHARDSON: I'm what?

10 THE CHAIRPERSON: You're testifying.

11 MR. RICHARDSON: Okay. You testified
12 that I yelled at the top of my lungs, okay, so is it
13 your opinion if I yelled at the top of my lungs you
14 wouldn't have heard me?

15 DET/CST. WILSON: I didn't. All I
16 know is I didn't hear you, sir.

17 MR. RICHARDSON: So, is it quite
18 possible I just didn't yell it and I just said it
19 loudly?

20 DET/CST. WILSON: Did you just say it
21 loudly? That's very possible, sir, yes.

22 MR. RICHARDSON: Then why did you
23 testify that I yelled at the top of my lungs, 'fucking
24 Jews'.

25 DET/CST. WILSON: That's the

1 information I received from Cst. Smallman.

2 MR. RICHARDSON: It doesn't say that
3 in Cst. Smallman's report.

4 DET/CST. WILSON: Again, he might not
5 be clear exactly how loud you can yell either, so...

6 MR. RICHARDSON: Was there any other
7 complaints that day from tenants that heard me or
8 anybody else?

9 DET/CST. WILSON: No, sir.

10 MR. RICHARDSON: If I yelled out
11 loud, I'm sure everybody would have heard me.

12 DET/CST. WILSON: No, sir, I don't
13 believe there was.

14 MR. RICHARDSON: All right. I'm
15 going to leave that, I think my point is clear on that.

16 Okay. This is where it gets fun.
17 Why were you demoted from your unit, I don't know if
18 you were a detective or not, but why were you demoted
19 down to foot patrol again?

20 MS MAILLET: I would like to know the
21 relevance of that questioning?

22 MR. ALEXAN KULBASHIAN: Credibility,
23 Your Honour.

24 MR. RICHARDSON: Yeah, it's
25 credibility. It is our understanding that with the way

1 this case was handled and the inaccuracies and whatnot
2 is the reason Mr. Wilson got demoted, not only that,
3 it's those same facts that actually had our case
4 dropped, right.

5 So, it all go back down to the
6 credibility issue. If he got demoted because he
7 screwed up our case so bad - hypothetically, right -
8 you know, that has a big significance on our case,
9 right, because if his own superiors felt that he was
10 doing this bad to us, you know what I mean, then his
11 evidence is very questionable.

12 I know why he got demoted, I know all
13 these answers, I want him to say why.

14 DET/CST. WILSON: I have no problem,
15 sir. I have no problem telling him why I changed.

16 THE CHAIRPERSON: There are no
17 objections.

18 There are some -- I mean, as we have
19 indicated, the core, it seems a lot of the evidence on
20 which Mr. Warman relied emanates from this witness, so
21 there is some relevance there.

22 Okay. So, the question was, why was
23 this witness demoted from the rank of -- which rank was
24 that?

25 MR. RICHARDSON: I believe he was

1 detective or sgt/det.

2 DET/CST. WILSON: I'm a
3 detective/constable and I was a detective/constable
4 then.

5 THE CHAIRPERSON: Let's be fair.
6 From detective/constable?

7 DET/CST. WILSON: From
8 detective/constable. There's actually no demotion. I
9 was a detective/constable in our criminal
10 investigations division.

11 THE CHAIRPERSON: Let me get the
12 answer to that. So, you're saying that no demotion.
13 You were at that rank?

14 DET/CST. WILSON: I was at that rank
15 at the time of this investigation.

16 MR. RICHARDSON: What rank were you
17 when you left the London Police department?

18 DET/CST. WILSON: A constable.

19 MR. RICHARDSON: I ask the question
20 again what the reason was he had been demoted.

21 DET/CST. WILSON: It's the policy of
22 the London Police Service that after approximately
23 three years inside the criminal investigations division
24 that you would be placed back out on the road.

25 Going from a detective/constable's

1 position to a constable's position and the other way as
2 well is a lateral transfer and there's no demotion in
3 rank.

4 MR. RICHARDSON: In your three years
5 with the London -- I call it the hate crime unit, I
6 guess it's the youth and hate crimes unit.

7 DET/CST. WILSON: It's a youth crime
8 unit, yes, including hate in it.

9 MR. RICHARDSON: Not with the youth
10 part about it, but with the hate crimes part, how many
11 convictions did you have?

12 DET/CST. WILSON: How many
13 convictions did I get for...?

14 MR. RICHARDSON: For hate crimes.

15 DET/CST. WILSON: For hate crimes. I
16 don't have the stats in front of me. Again, you have
17 to look at Canadian law and what constitutes a hate
18 crime. We made --

19 MR. RICHARDSON: How many people did
20 you charge with hate crimes?

21 DET/CST. WILSON: Well, you can't be
22 charged with hate crimes in Canada. You can be charged
23 with hate propaganda and you can be charged with an
24 offence, where a 718, greater punishment as a result of
25 hate, can be applied.

1 Again, hate propaganda, never had a
2 conviction, 718, had several.

3 MR. RICHARDSON: Because I'm sure
4 there's many more, but I'm actually aware of four or
5 five really big publicized cases that you were in
6 charge with and you didn't get convictions on them.

7 Is it not true that the reason you
8 were demoted was because of the inability of your unit
9 to get convictions on some serious charges?

10 DET/CST. WILSON: No, sir. And,
11 again, I was not demoted, it's a lateral transfer from
12 detective/constable to constable.

13 MR. RICHARDSON: Why did you transfer
14 out west?

15 DET/CST. WILSON: That's for family
16 reasons and I'm not going to go into that.

17 MR. RICHARDSON: It had nothing to do
18 with this case at all?

19 DET/CST. WILSON: No, nothing, sir.

20 THE CHAIRPERSON: Okay.

21 MR. RICHARDSON: That's fair. I'm
22 leaving it there. I'm not going to push him on that.

23 When was it that you transferred out?

24 DET/CST. WILSON: March of 2003.

25 MR. RICHARDSON: So, that was one

1 month after the charges were dropped? At least for -
2 no, I was February.

3 Oh no, a year after.

4 DET/CST. WILSON: A year after.

5 MR. RICHARDSON: Yeah.

6 DET/CST. WILSON: A year after. So,
7 I didn't have custody of this case for a year when the
8 charges were dropped, it was actually transferred to
9 Don McKinnon, a sergeant.

10 THE CHAIRPERSON: Let me just get the
11 time frame right in my mind.

12 DET/CST. WILSON: I was -- I
13 transferred -- I went to British Columbia in March of
14 2003.

15 The charges against they two
16 gentlemen were withdrawn I believe in January and
17 February or February and March of 2004.

18 MR. RICHARDSON: I believe it was
19 December and February. December, 2003 for Mr.
20 Kulbashian and February, 2004 for me.

21 MR. ALEXAN KULBASHIAN: October 10th.

22 MR. RICHARDSON: October 10th.

23 THE CHAIRPERSON: So, in October,
24 2003.

25 For the record, there was some

1 discussion between the respondents while the answer was
2 being given by Mr. Wilson, but I'm informed now, I
3 suppose it's in the record somewhere, October, 2003 the
4 charges were withdrawn with respect to Mr. Kulbashian
5 and February, 2004 with respect to Mr. Richardson.

6 MR. RICHARDSON: Is it usually
7 customary if charges are going to be dropped, for the
8 crown to go to the lead officer and discuss it with him
9 first?

10 DET/CST. WILSON: Again, because I
11 didn't have custody of the case after that, the lead
12 officer would have been Don McKinnon.

13 MR. RICHARDSON: No. Yeah, I
14 understand that, I'm just asking if it was customary.
15 I know it wasn't you.

16 DET/CST. WILSON: Customary, no,
17 because again crowns have a different level of proof
18 that they have to go, they have to do a reasonable
19 expectation of conviction; police officers on their
20 level of proof is reasonable ground to believe.

21 So, again, not necessarily, if the
22 crown believes there is no reasonable expectation of
23 conviction, they're not going to go any farther with
24 it.

25 MR. RICHARDSON: So, Det. McKinnon

1 took the case off your hands. Do you know at all if
2 the crown Peter Kierluk spoke to him before the charges
3 were dropped?

4 DET/CST. WILSON: I'm sure he did,
5 it's a courtesy.

6 MR. RICHARDSON: Okay, okay. Do you
7 know any of the conversation that happened, like?

8 DET/CST. WILSON: No, I don't.

9 MR. RICHARDSON: So, you're still --
10 like, I know you answered this last time but it's been
11 a month, I'm going to ask it again. You still don't
12 know why our charges were dropped?

13 DET/CST. WILSON: I believe there was
14 no reasonable expectation of conviction, at least
15 that's the explanation I got.

16 MR. RICHARDSON: What does that mean,
17 like lack of evidence?

18 DET/CST. WILSON: No, it means that
19 you can't prove it beyond a reasonable doubt.

20 MR. RICHARDSON: Oh, okay, okay,
21 okay. That's a good answer.

22 Actually, I think I might be done.
23 I'm just going to go over everything really, really
24 fast.

25 THE CHAIRPERSON: Okay.

1 MR. RICHARDSON: Okay, there is one
2 other thing that I'd like to touch up on before I end
3 here.

4 There is an article written, it's in
5 the HR book and, unfortunately, I don't know where it
6 is.

7 THE CHAIRPERSON: Well, maybe you can
8 tell us what it is and we'll find it.

9 MR. RICHARDSON: When I was arrested,
10 and obviously we have already made it clear that within
11 reason I didn't fight back or anything like that.

12 DET/CST. WILSON: Yes, sir.

13 MR. RICHARDSON: I won't go through
14 that again. Did you notice any marks on me?

15 Did I have any broken arms, black
16 eyes, fat lips, anything you noticed about me you could
17 tell right off the bat?

18 DET/CST. WILSON: Not that I recall
19 sir, no.

20 MR. RICHARDSON: Could you explain to
21 me why I have a black eye the day I got arrested?

22 DET/CST. WILSON: I have no idea.

23 MR. RICHARDSON: I didn't fight back.
24 Did I have it when you arrested me?

25 DET/CST. WILSON: Don't recall.

1 MR. RICHARDSON: So, from my day of
2 getting arrested into the police station or until the
3 time this picture got taken, this is in the evidence
4 book, so then...

5 THE CHAIRPERSON: Can you tell us
6 where it is, it will help me.

7 MS MAILLET: No. I understand this
8 is in the third binder, it has not been disclosed by
9 the Commission.

10 THE CHAIRPERSON: The third binder.

11 MS MAILLET: They wanted to review it
12 and that was the fear I had.

13 MR. ALEXAN KULBASHIAN: That was in
14 the first binder too, though, because there was one
15 that related to James directly and one related me to me
16 and there was one that was...and the third one was the
17 one I saw right now. There's two other ones that James
18 --

19 THE CHAIRPERSON: So the document --

20 MS MAILLET: It could have been in
21 our general disclosure, but it has not been put into
22 evidence.

23 THE CHAIRPERSON: It's not in
24 evidence. That's what I mean. No, I've not seen this
25 document.

1 MR. RICHARDSON: I don't have
2 photocopies, but I'd really like to enter this.

3 THE CHAIRPERSON: Okay. So, we'll do
4 as previously. Is there any objection to this
5 document? No?

6 MS MAILLET: No.

7 THE CHAIRPERSON: I don't think so.

8 MR. RICHARDSON: If you want, yeah,
9 you can show it around and then at lunch time I will
10 make a copy.

11 THE CHAIRPERSON: Yes, we'll make
12 copies as we did earlier with the other photograph.

13 MR. RICHARDSON: Is it customary for
14 --

15 THE CHAIRPERSON: Just a moment, let
16 me look at it.

17 MR. RICHARDSON: I understand.

18 THE CHAIRPERSON: Let the witness see
19 it.

20 MR. RICHARDSON: Actually, this is
21 directed at you. I understand that just this picture
22 alone it's pretty irrelevant, it has nothing much to do
23 with the case, but the next article I want to put in,
24 the one that we'll look at right now in the tab book,
25 was written --

1 THE CHAIRPERSON: Well, there's no
2 objection to it going in, so let's get it in. No
3 reason to explain it.

4 I just want this witness to identify
5 it.

6 DET/CST. WILSON: It's a picture of
7 Mr. Richardson, it would be the book-in or the mug
8 shot, I guess is the word for it, photo of Mr.
9 Richardson and it's just a head shot with some
10 descriptors of Mr. Richardson at the side.

11 THE CHAIRPERSON: Is it concurrent
12 with his arrest in September of 2001?

13 DET/CST. WILSON: Yes, sir, it is.

14 REGISTRY OFFICER: The document as
15 described by the witness will be filed as respondent
16 Exhibit RR-12.

17 EXHIBIT NO. RR-12: Book-in or mug
18 shot photo of Mr. Richardson with
19 some descriptors at the side.

20 THE CHAIRPERSON: Okay, so...

21 MR. RICHARDSON: Sorry. Is it
22 customary for people that you arrest to show up, or to
23 get black eyes once they get to the police department?

24 DET/CST. WILSON: Are you asking me
25 if one of the police officers I dealt with gave you a

1 black eye?

2 MR. RICHARDSON: No, not at all. I'm
3 asking you if it's customary for people who are totally
4 unarmed --

5 THE CHAIRPERSON: That's not a proper
6 question. Now come on.

7 The question is -- I mean, the
8 implication there and we're not getting any objections,
9 I don't know, but your suggestion is that every person
10 who enters a police office gets a black eye?

11 Rephrase the question.

12 MR. RICHARDSON: I will actually
13 scrap the question. I will go to another one.

14 THE CHAIRPERSON: Get to the point.

15 MR. RICHARDSON: You already stated
16 that there was nothing wrong with me. Do you know how
17 I got a black eye?

18 DET/CST. WILSON: I have no idea.

19 MR. RICHARDSON: Okay. I'm just
20 trying to rephrase the question, or get a question.

21 Okay. Are you aware of any officers
22 hitting me at the time?

23 DET/CST. WILSON: No.

24 MR. RICHARDSON: Do you not find it
25 weird that when you arrested me I didn't have a black

1 eye and when I took this photo I did have a black eye?

2 DET/CST. WILSON: I don't believe I
3 said that, I believe I said I don't recall you having
4 one.

5 And I can tell you from my experience as a police
6 officer in the unit I work in now, that you would not
7 have received that black eye. That would have been
8 days old.

9 MR. RICHARDSON: I'm not going to --
10 all right. Did you find that article? Yes.

11 MR. ALEXAN KULBASHIAN: No, I didn't.

12 MR. RICHARDSON: This article again
13 might be from the third binder as well.

14 MR. ALEXAN KULBASHIAN: Not from the
15 third binder, it says L-1.

16 MR. RICHARDSON: It's in there.
17 That's my copy, it's got to be in there.

18 MR. ALEXAN KULBASHIAN: Or L-7.

19 THE CHAIRPERSON: Off the record.

20 ---DISCUSSION OFF THE RECORD

21 MR. RICHARDSON: It's a Vinland Voice
22 issue, that's why it was in the things -- I think every
23 single issue is in there, but for some reason this page
24 doesn't seem to be in the binder.

25 MR. ALEXAN KULBASHIAN: Have you seen

1 this before?

2 MR. RICHARDSON: They all look the
3 same.

4 MS MAILLET: It's an e-mail dated
5 October 6, 2001.

6 MR. ALEXAN KULBASHIAN: I think it
7 was included. I remember seeing this.

8 MR. RICHARDSON: Well, give us a
9 second to find it. Vinland Voice issue, it doesn't
10 say.

11 THE CHAIRPERSON: For the record,
12 when preparing your case, Mr. Richardson and Mr.
13 Kulbashian and Commission and Mr. Warman, when
14 preparing your case and preparing questions, when you
15 have a document that you intend to enter into evidence
16 or refer to, you should in advance know where it is and
17 so that the Tribunal can follow along.

18 Now, I just said it for the record.
19 Keep on looking, please.

20 Okay. So, I see several minutes have
21 passed.

22 MR. RICHARDSON: It's got to be in
23 here. Every copy of the Voice --

24 THE CHAIRPERSON: It's not in the
25 exhibits that have already been filed I gather from the

1 search so far.

2 MR. ALEXAN KULBASHIAN: It's possible
3 it's not.

4 THE CHAIRPERSON: It's not. Okay.
5 So, it's a new document. Why don't we treat it the
6 same as previously, either we'll get it photocopied.

7 I don't want to mark it as an exhibit
8 if it's in here already. Are we certain it's not?

9 MR. RICHARDSON: I would almost be
10 certain it's in there.

11 THE CHAIRPERSON: It is in the HR-1.

12 MR. RICHARDSON: Mr. Wilson, pretty
13 much everything that he got he put in here as far as
14 the Vinland Voice is concerned.

15 THE CHAIRPERSON: The here that
16 you're talking about is it HR-1.

17 MR. RICHARDSON: I believe it is.

18 THE CHAIRPERSON: Or one of those
19 three binders that have been disclosed to you.

20 Okay. Here's what we'll do. Pass up
21 the document to the Tribunal, we'll mark it for
22 purposes of identification with a letter and then we'll
23 get back to it. If it's already in the record we'll so
24 indicate, if not, we'll make it a new exhibit, unless
25 there's an objection to the document.

1 Have you seen this document,
2 Commission/complainant?

3 MS MAILLET: I'm not certain, sir.

4 THE CHAIRPERSON: Mr. Levac informs
5 me from his review of the material it's not in evidence
6 yet.

7 So, let's go and mark it as a full
8 exhibit. Have you seen it? Any objection to its being
9 marked?

10 MS MAILLET: I have no objection.

11 THE CHAIRPERSON: All right.

12 Let me look at it first. I would of
13 course preferred to see an original version photocopy
14 from wherever it came from.

15 MR. RICHARDSON: If I got that and
16 it's not in evidence, then it is in James Richardson
17 book.

18 THE CHAIRPERSON: Why I'm saying
19 original, because it has markings on it that I gather
20 you would have written with your pen.

21 MR. RICHARDSON: Yeah.

22 THE CHAIRPERSON: I don't want a copy
23 with your markings on it if a clean copy is available.

24 MR. RICHARDSON: Mr. Wilson, I
25 believe it's in the James Richardson binder.

1 DET/CST. WILSON: Okay.

2 THE CHAIRPERSON: Let me look at it
3 for a minute.

4 DET/CST. WILSON: October...?

5 MR. RICHARDSON: I really apologize,
6 Mr. Chair, up until now I've been pretty...

7 THE CHAIRPERSON: So, it appears to
8 be -- I will show it to the witness -- well, I'll show
9 it to the witness right now to identify.

10 DET/CST. WILSON: This is a Hotmail
11 -- a hard copy of a Hotmail account e-mail, it goes
12 from Vinland Voice Editor and it looks like it has many
13 different sort of addresses it's to, I guess, and it
14 relates to Mr. Richardson's detention after his arrest.

15 THE CHAIRPERSON: Okay. So, that
16 document I think we can enter it.

17 REGISTRY OFFICER: The document as
18 described by the witness will be filed as the
19 respondent Exhibit RR-13.

20 EXHIBIT NO. RR-13: Hard copy of
21 Hotmail account e-mail from Vinland
22 Voice Editor to different addresses
23 re: Mr. Richardson's detention after
24 his arrest.

25 THE CHAIRPERSON: Okay. So, you can

1 go ahead and ask your question now, Mr. Richardson.

2 MR. RICHARDSON: Actually I need that
3 paper. I'll get it.

4 This article I believe is in the copy
5 of Vinland Voice dated October -- no, sorry, Saturday,
6 October 6th, 2001, which is after my arrest date.

7 In it basically -- can I read this?

8 THE CHAIRPERSON: Well, if there's an
9 excerpt you'd like to read.

10 MR. RICHARDSON: Yeah, there's a few.

11 THE CHAIRPERSON: So, as to put a
12 question to the witness. Not just to read it into the
13 record, if you have a question that refers back to the
14 witness.

15 MR. RICHARDSON: I'm just looking for
16 the question in my head, sorry.

17 All right. When you arrested me did
18 I mention to you health concerns that I had with my
19 lungs and the fact that, you know, I asked you if you
20 could take me out of the wet, cold cell that I was in
21 because of the fact I have lung problems and this could
22 make me seriously ill.

23 DET/CST. WILSON: I don't recall you
24 asking me to take you out of the wet, cold cell. I do
25 recall you telling me you had lung problems and had

1 lung surgery in the past, yes, sir.

2 MR. RICHARDSON: And do you remember
3 me telling you that by keeping me in this particular
4 cell - I don't know why I was in a soaking wet cell -
5 that, you know, it would be harmful to me?

6 So, why did you put me back into that
7 cell?

8 DET/CST. WILSON: None of the cells
9 at the London Police Service are soaking wet at any
10 time.

11 MR. RICHARDSON: It's standard
12 procedure when you clean them they get hosed down;
13 right?

14 DET/CST. WILSON: They get cleaned,
15 they don't get hosed down.

16 MR. RICHARDSON: And the only -- I
17 don't know, why did you put me back into a cell that
18 had a wet cement slab when you could have put me in a
19 cell that was dry.

20 DET/CST. WILSON: We didn't put you
21 in a cell with a wet cement slab.

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

23 My very last question. It's just a
24 yes or no, true or false.

25 Just after the interview which was

1 very -- actually I'll bring that up. Why did we have
2 such a short interview and you and Alex had such a long
3 one?

4 Like, why didn't we interview at all,
5 pretty much...

6 DET/CST. WILSON: Because you
7 exercised your constitutional rights not to speak to
8 me.

9 MR. RICHARDSON: Okay. And I guess
10 that brings me to my last question.

11 When you brought me back to the wet
12 cell, did you or did you not punch me in the eye?

13 DET/CST. WILSON: No, I did not, and
14 it wasn't a wet cell.

15 MR. RICHARDSON: Okay, I'm done.
16 That's it.

17 THE CHAIRPERSON: Just a second.

18 MR. RICHARDSON: Thank you.

19 THE CHAIRPERSON: Mr. Kulbashian, are
20 you ready to proceed with your questions?

21 MR. ALEXAN KULBASHIAN: Well, I still
22 have to review one of the binders, Mr. Chairman.

23 Is this the lunch break right now,
24 or...

25 THE CHAIRPERSON: Well, it's 11:30.

1 It's a bit early for lunch.

2 MR. ALEXAN KULBASHIAN: It's 12:30.

3 THE CHAIRPERSON: Oh, 12:30. So,
4 12:30 is a good time for lunch then.

5 So, we'll take our lunch break and
6 then, if I give you an hour and a half, will it be
7 enough time?

8 Do you think you'll be able to finish
9 by the end of the day?

10 MR. ALEXAN KULBASHIAN: It's
11 possible. Well, like, I mean it just depends on the
12 answers, you know.

13 THE CHAIRPERSON: Of course.

14 MR. ALEXAN KULBASHIAN: Always does,
15 you know.

16 THE CHAIRPERSON: Okay. It would be
17 nice if we could.

18 MR. ALEXAN KULBASHIAN: We'll review
19 the binder.

20 THE CHAIRPERSON: So, would an hour
21 and a half be sufficient then?

22 MR. ALEXAN KULBASHIAN: Yeah, sure.

23 THE CHAIRPERSON: Okay.

24 So, we'll reconvene at two o'clock.

25 REGISTRY OFFICER: All rise.

1 ---Luncheon recess taken at 12:30 p.m.

2 ---On resuming at 2:00 p.m.

3 REGISTRY OFFICER: All rise.

4 Please be seated.

5 THE CHAIRPERSON: Yes.

6 MS MAILLET: At the break we were
7 able to type out a list of the categories of documents.
8 I didn't list every page and describe every page, but I
9 have the list here. I've also provided the respondents
10 with the actual documents, so they could review those
11 this morning.

12 So, I'll pass the list -- the list
13 also includes privileged documents and we've listed
14 those as privileged.

15 THE CHAIRPERSON: You've described
16 them?

17 MS MAILLET: Yes.

18 THE CHAIRPERSON: And the nature of
19 the privilege?

20 MS MAILLET: I believe it's evident,
21 but we can talk to that.

22 THE CHAIRPERSON: Is there a copy for
23 the Tribunal?

24 I'll look at it now. The numbers on
25 the left side are tabs?

1 MS MAILLET: No, the tabs that we
2 have are different tabs, but they're listed in that
3 order and if they want to produce those as evidence,
4 they can be listed.

5 THE CHAIRPERSON: So, the first four
6 there's not an issue with?

7 MS MAILLET: No.

8 THE CHAIRPERSON: So, the privileged
9 documents are a copy of a U.S. police search warrant.

10 MS MAILLET: That's correct.

11 THE CHAIRPERSON: No. 6 a witness
12 list with addresses.

13 MS MAILLET: That's correct, personal
14 information.

15 THE CHAIRPERSON: Witness list for
16 the purpose of investigation.

17 MS MAILLET: Mr. Wilson could answer
18 that.

19 DET/CST. WILSON: Yeah, the witness
20 list has personal information for the witnesses that
21 would have been called as part of the criminal hearing.

22 So, we couldn't disclose the
23 personal, you know, addresses, phone numbers, that sort
24 of stuff.

25 THE CHAIRPERSON: That's what it

1 involves. And No. 7, confidential source of
2 information, that would be...

3 DET/CST. WILSON: That would include
4 confidential human source information or informant
5 information, as well as CPIC print-outs on the two
6 offenders, and essentially the CPIC print-outs are any
7 sort of past charges they would have that they would
8 have already had knowledge of because they would be
9 their charges, sort of thing.

10 THE CHAIRPERSON: Nonetheless, you're
11 treating it as confidential even though it involves the
12 respondents.

13 DET/CST. WILSON: Yeah, because the
14 information is stored by CPIC which is a separate party
15 of the RCMP and it is their document, not my document.

16 So, we don't even disclose those
17 documents in the course of a criminal proceedings, they
18 would have to be vetted first.

19 MR. RICHARDSON: Mr. Chair, can we
20 get a explanation why the copy of the U.S. police
21 search warrant isn't going to be -- is going to be
22 confidential?

23 DET/CST. WILSON: The U.S. police
24 search warrant again is the possession of the San Diego
25 Police Department and it's --

1 MR. VAHE KULBASHIAN: Sorry, I can't
2 hear.

3 DET/CST. WILSON: Sorry. The U.S.
4 search warrant, I have a copy of but it is the
5 possession of the San Diego Police Department and the
6 detective that swore to it and without his consent it
7 can't be released.

8 THE CHAIRPERSON: That's the position
9 adopted.

10 Before you take issues about
11 privilege, you must be mindful of one thing. Privilege
12 is one thing, relevance is even more important.

13 If it's not relevant to the case
14 before me, then it has no business being before me.

15 So, while it may be in the book and
16 before you -- you may or may not choose to taken issue
17 with these claims of privilege, the first and foremost
18 test is, is it relevant to my case, the case that's
19 before me. All right.

20 So, have you had occasion to look at
21 binder 3, Mr. Kulbashian?

22 MR. ALEXAN KULBASHIAN: Yes, I have.

23 THE CHAIRPERSON: And so I presume
24 that 5, 6 and 7 were excluded from what he could see?

25 MS MAILLET: That's correct.

1 THE CHAIRPERSON: So...

2 MR. ALEXAN KULBASHIAN: Still don't
3 see why the copy of the U.S. search warrant -- would
4 that warrant include information filed for the warrant
5 or information obtained from the London Police, or just
6 the warrant itself?

7 DET/CST. WILSON: It would be the
8 information to obtain, so it would be the information
9 that I supplied to the San Diego Police Department so
10 they could execute a warrant on a server stored in San
11 Diego, California.

12 MR. KULBASHIAN: And I don't
13 understand how that's privileged then.

14 THE CHAIRPERSON: Your microphone
15 doesn't seem to be working.

16 MR. KULBASHIAN: Yeah, I don't think
17 it's actually even on. It's kind of on, but it's not
18 on all the way.

19 THE CHAIRPERSON: I heard it. That's
20 fine.

21 MR. ALEXAN KULBASHIAN: Maybe I'll
22 just like pretty much kiss the microphone.

23 Basically if it's information
24 provided from the London Police to San Diego, unless he
25 thinks there's any information added by the San Diego

1 Police, I don't see why it would be privileged.

2 THE CHAIRPERSON: All right. Well,
3 what's the relevance of this to the case?

4 MR. ALEXAN KULBASHIAN: Credibility.

5 THE CHAIRPERSON: You can't just
6 throw out credibility every time. You have to really
7 demonstrate to me what is the credibility issue here
8 about information provided to the San Diego Police
9 Department with respect to a complaint, that I must
10 advise you, we've gone a long way but section 13 says
11 and that's the charge that's alleged in the complaint
12 speaks of --

13 "Exposing persons to hatred or
14 contempt by reason of the fact
15 that that person or those
16 persons are identifiable on the
17 basis of prohibited ground of
18 discrimination."

19 MR. ALEXAN KULBASHIAN: That's
20 correct, but again, in order to prove that anything --
21 that anybody was involved with those, I guess, threats
22 or those articles, they would have to prove that we
23 were involved, and since the majority of the
24 information, if not all of it, comes from Detective
25 Wilson then it is a credibility issue.

1 For example, when I was in the U.S.
2 in Arizona and the FBI had told me that the London
3 Police had told them certain information that turned
4 out to prove -- that proved to be wrong and they had
5 literally, like I was not charged, even though he might
6 have hinted that I was charged - that article that I
7 read from last time, like the excerpt from Detective
8 Wilson - I was not charged and, in fact, they were
9 pretty angry that they were misled about the facts.

10 So, that's the kind of issue, where I
11 mean, whether he thinks it's privileged or not, if it's
12 something that they have said, then it's obviously
13 something of, I guess, importance to, you know, to try
14 to deal with the credibility issue here.

15 MS MAILLET: If I could, Mr. Chair,
16 firstly --

17 THE CHAIRPERSON: Can you use the
18 microphone, please.

19 MS MAILLET: This was information
20 that was obtained as a result of a search warrant which
21 was executed after his arrest, so for the facts of this
22 case, we don't really rely on any evidence after that
23 fact.

24 I mean, after he's arrested the
25 communication of hate messages has happened.

1 This -- and Mr. Wilson may be able to
2 clarify exactly when--

3 THE CHAIRPERSON: Just a moment.
4 Sir, when she's talking, please.

5 MS MAILLET: --when the search
6 warrant was executed or when this information was
7 obtained for the search warrant, but it's my
8 information it was after the facts that are relevant to
9 you here today.

10 DET/CST. WILSON: The information
11 that was supplied to the San Diego Police Department is
12 exactly the same information supplied to this Tribunal
13 so they could execute a warrant in San Diego.

14 Mr. Kulbashian has been afforded the
15 opportunity to look at the records that we retrieved
16 from a result of that search warrant, but again,
17 without the permission of the detective and the
18 district attorney in San Diego, I don't think it's my
19 place to disclose that and I think it would be improper
20 to do so.

21 MS MAILLET: And it's my information
22 as well, Mr. Chair, that Canada and the U.S. are under
23 -- have signed a treaty, it's called the Mutual Legal
24 Assistance Treaty, and it would prohibit sharing of
25 information, for example, that was obtained where it

1 was provided by U.S. police authority for the purpose
2 of something here in Canada, and I can get you that
3 information, if we can --

4 THE CHAIRPERSON: Well, if are going
5 to have a full debate on privilege, we're going to go
6 all the way on this.

7 I mean, I don't know of a head of
8 privilege that is called giving information to another
9 police force privilege or whatever it is that you're
10 trying to go under here.

11 MR. KULBASHIAN: Mr. Chair, just a
12 quick issue with what she said. Any information that
13 would be in, let's say a warrant or information filed
14 in a warrant, under the U.S. Freedom of Information
15 Act, any citizen or any--

16 THE CHAIRPERSON: Don't try to --
17 fine.

18 MR. ALEXAN KULBASHIAN: --would have
19 access to that information.

20 THE CHAIRPERSON: I'm already saying
21 I don't know where this direction is and now you're
22 taking me to another direction.

23 MR. KULBASHIAN: Oh, sorry.

24 THE CHAIRPERSON: I'm not expert or
25 knowledgeable at all of U.S. law.

1 But I just everyone -- if you want,
2 we can have a full fight on this, if possible, we can
3 have a full extended discourse on this, but on all
4 sides I really -- I know you have said the word
5 credibility. Let's think it through.

6 This witness says that the material
7 that was in that search warrant is what is already in
8 the file and simply because of this mutual agreement
9 that may exist between the police forces, he is not in
10 a position to disclose the warrant itself. Is that
11 what you're saying?

12 DET/CST. WILSON: Yes, sir.

13 THE CHAIRPERSON: It's just the
14 warrant.

15 DET/CST. WILSON: If I'm asked
16 questions concerning the information in it, I'll gladly
17 read from it, I just--

18 THE CHAIRPERSON: You don't want to
19 disclose the warrant itself?

20 DET/CST. WILSON: --can't disclose
21 the...

22 MR. KULBASHIAN: So...

23 MR. RICHARDSON: The type of
24 information that he gave to the U.S. for the warrant.

25 THE CHAIRPERSON: That's what I

1 understood him to say just now, that it was similar to
2 what we've heard in evidence in this hearing.

3 MR. ALEXAN KULBASHIAN: Well, I was
4 told otherwise when I was down in the U.S.

5 THE CHAIRPERSON: Why don't we ask
6 questions of the witness, instead of trying to get it
7 off the documents.

8 Now, if the privilege claimed is not
9 value then the document will be disclosed, but that
10 will take some time and that will be a complicated
11 process and it may or may not end up one way or the
12 other, and if at the end of the day, it is not relevant
13 -- I mean, suppose the document is as it is indicated,
14 that all the details to that document were what we have
15 heard here and all that he is refusing to disclose is
16 the actual physical document, the search warrant that
17 was issued in the U.S., does it make a difference to
18 your case?

19 MR. RICHARDSON: Mr. Chair, the one
20 difference there I see is that we don't know what he
21 disclosed.

22 THE CHAIRPERSON: Yes.

23 MR. RICHARDSON: And he could say,
24 you know, he gave the information exactly what we've
25 heard in court and nothing has changed, but from my

1 recollection, I believe that the bomb threats and
2 stuff, stuff that hasn't been brought up in the court,
3 was used in the U.S.

4 So, I think what Alex is trying to do
5 is basically show that the evidence he told the U.S. is
6 not the evidence that we're getting in front of us
7 here.

8 DET/CST. WILSON: If I can just make
9 something clear. They might be talking about two
10 separate incidents here in the U.S.

11 The search warrant I'm referring to
12 is a search warrant on a server that Mr. Kulbashian
13 rented. That's all that search warrant was. It has
14 nothing to do with Mr. Kulbashian's detention as a
15 result of a later incident later on that year, it has
16 nothing to do with any information we provided the FBI
17 or the INS.

18 So, just so I can clarify to Mr.
19 Kulbashian, we might be talking about two separate
20 incidents that he's referring to.

21 MR. ALEXAN KULBASHIAN: One quick
22 question. What date, just like in relation to this
23 thing, what date was the warrant?

24 THE CHAIRPERSON: That's the
25 information we would have wanted to see, perhaps here.

1 MR. ALEXAN KULBASHIAN: What was the
2 date for the warrant?

3 DET/CST. WILSON: It was July, 2004.
4 I believe it was July 5th, 2004 -- sorry, 2002.

5 THE CHAIRPERSON: 2002, okay. And
6 the witness list with addresses pertains to the witness
7 list for the prosecution of the London case--

8 DET/CST. WILSON: Yes, sir.

9 THE CHAIRPERSON: Okay, that we have
10 been dealing with?

11 DET/CST. WILSON: Yes, sir.

12 THE CHAIRPERSON: And the same goes
13 for the confidential source. So, and the U.S. search
14 warrant is dated July 5th, 2002.

15 DET/CST. WILSON: Yes, sir.

16 MR. RICHARDSON: One other issue I
17 might have is maybe this should have been looked at by
18 a third party. I don't want to call anybody, I'm not
19 going to say anybody to anything, but like just because
20 they said this is what there is, I mean doesn't mean
21 this is what there is.

22 THE CHAIRPERSON: To a certain extent
23 we rely on the good faith of counsel. This is how the
24 system works. I'm talking about counsel here.

25 MR. RICHARDSON: Oh no, exactly.

1 THE CHAIRPERSON: I'm not talking
2 about Mr. Wilson, I'm talking about counsel. All
3 right. I mean, there's an oath of office involved
4 here.

5 But if you really have a serious
6 issue, I can certainly look at the documents to confirm
7 to you that they are described here, if that is a
8 serious concern.

9 MR. ALEXAN KULBASHIAN: That would
10 help.

11 THE CHAIRPERSON: Well, I won't do it
12 now. Let's move on.

13 MR. ALEXAN KULBASHIAN: All right.

14 THE CHAIRPERSON: I mean, what you're
15 doing -- you know, in a normal hearing there is a basic
16 level of understanding. If a lawyer tells you that
17 this is what it is, we work on our respective oaths of
18 office, all right.

19 So, what you're doing is you're
20 putting into question the integrity of the person
21 that's telling you that this is what it is.

22 Now, if you really have serious
23 reasons to doubt it, fine, I will take a look at it and
24 confirm that the document is what it is, but...

25 MR. RICHARDSON: The only reason I

1 brought that up, I'm not a lawyer so I don't have the
2 same oath, but if I had the information that was going
3 to hurt me, I would hand it over willingly.

4 THE CHAIRPERSON: Ah, but this is
5 what I have told you from day one and this is what you
6 have to understand.

7 Our rules of procedure specify in
8 documentation that we have already provided to you
9 state that everyone must disclose everything, positive
10 and negative, in the file. There is an ongoing duty of
11 disclosure that applies to the respondents and the
12 Commission and the complainant. So, there is no hide
13 and seek allowed.

14 MR. RICHARDSON: That's good news.

15 THE CHAIRPERSON: Those are the
16 rules. You know, process by surprise is not allowed in
17 our process.

18 So, I would say then, it doesn't seem
19 to be -- is it crucial that I see the documents at this
20 moment?.

21 MR. ALEXAN KULBASHIAN: Not at this
22 moment, not at this moment. If we have any issues that
23 we want to deal with later on, then maybe I'll request
24 that.

25 THE CHAIRPERSON: Maybe during the

1 afternoon break I will look at them, how is that,
2 because I assume this witness will still be on the
3 stand throughout the course of the day.

4 So, I will look at it and confirm to
5 you what it is and then if you want, we can debate it
6 now, but honestly I'm being frank with you, if it's not
7 an issue that really you think is relevant to the case,
8 we can go into a full examination of what this Mutual
9 Legal Assistance Treaty mentions and whether I'm
10 authorized to order a disclosure of such documents.

11 MR. RICHARDSON: So, does the first
12 four that we couldn't see --

13 THE CHAIRPERSON: You have seen them.

14 MR. RICHARDSON: This all information
15 we already have; right?

16 THE CHAIRPERSON: I was told you've
17 already seen these documents.

18 MS MAILLET: Yes, we gave them the
19 binders this morning so they've had --

20 MR. RICHARDSON: Binders. I haven't
21 had a chance to see it yet.

22 THE CHAIRPERSON: Well, it was
23 provided to the respondents, plural. How it was
24 allocated between the two, I don't know.

25 MR. ALEXAN KULBASHIAN: Then can I

1 deal with another preliminary matter while I'm here?

2 THE CHAIRPERSON: Yes.

3 MR. ALEXAN KULBASHIAN: So far there
4 has been no issue brought up about AffordableSpace at
5 all, there's been no questioning about AffordableSpace,
6 no evidence about AffordableSpace.

7 Under section 13.3 where
8 AffordableSpace is exempted from being --

9 THE CHAIRPERSON: That's your claim,
10 yes.

11 MR. ALEXAN KULBASHIAN: Now, the
12 issue is I was wondering if you could provide some kind
13 of decision on that, because it's like saying you can't
14 get arrested for like a parking ticket and then bring
15 somebody to court and say let the court deal with it.

16 THE CHAIRPERSON: Hold on. Hold on.
17 The case isn't closed yet.

18 MR. KULBASHIAN: I understand that.

19 THE CHAIRPERSON: They haven't
20 finished leading their case, they have other witnesses,
21 and if what you're looking to do is a motion for
22 no-suit I guess.

23 MR. KULBASHIAN: That's right.

24 THE CHAIRPERSON: That the case be
25 dismissed against AffordableSpace.

1 MR. KULBASHIAN: That's right.

2 THE CHAIRPERSON: That process occurs
3 after the case is closed from the Commission and
4 complainant, then you can make a motion saying there
5 hasn't been a case made out against this respondent or
6 that respondent, or both or whomever, or all three
7 actually.

8 I realize that we are talking about
9 corporate respondents of some sort, as well as
10 yourselves personally in this case, but we're not there
11 yet, so you can't make that kind of a motion yet.

12 MR. KULBASHIAN: Okay.

13 THE CHAIRPERSON: You would make it
14 then, if you want. But there is a rule about that and
15 I will get to it. Maybe I'll just tell you right now.

16 You don't have two kicks at the can
17 rule. There was a decision issued by this Tribunal in
18 another case which essentially says that you must
19 decide, if you opt to make a motion for non-suit you
20 must be prepared to not lead a defence in case you lose
21 your motion. So, it's a risky proposition.

22 MR. ALEXAN KULBASHIAN: I understand
23 that, but my concern is that the Commission itself who
24 is supposed to be upholding the Human Rights Act who
25 should know, I guess, the details of these rules, opted

1 to forward the AffordableSpace claim to the Tribunal,
2 where I would expect them, to a certain extent, to know
3 what the Canadian Human Rights Act has exceptions for
4 and not try to make an example of the situation, just
5 put AffordableSpace on the complaint form and on the
6 complaint, because this does go through a screening
7 process.

8 THE CHAIRPERSON: I can say this much
9 about what you're saying. I think it's still -- it's
10 in contention, I think there was evidence to the
11 effect.

12 There is some issue about whether
13 AffordableSpace falls under 13.3 I understood that from
14 the evidence that we've heard so far, so you can make
15 your motion at the opportune moment, which is after the
16 case is closed.

17 But if what you're suggesting there's
18 an admission on the part of the Commission or
19 complainant or acknowledgement that AffordableSpace.com
20 falls under 13.3, I'm not quite sure I heard that.

21 MR. KULBASHIAN: I'm not saying
22 there's an admission, I'm just saying there's a
23 possibility that through some kind of preferential
24 treatment it was allowed to go through, because since
25 this Commission is supposed to be evaluating the

1 cases--

2 THE CHAIRPERSON: Okay, look --

3 MR. KULBASHIAN: --to see whether or
4 not it goes to Tribunal. It's not just like a gate you
5 walk through, it has to actually be screened; right?
6 So, to a certain extent --

7 THE CHAIRPERSON: Now, you're getting
8 into argument. Remember that decisions of the
9 Commission are not reviewed by the Tribunal, they're
10 reviewed by the Federal Court.

11 So, when the Commission makes a
12 decision, as it did there, and if you had something to
13 disagree about it, it should have been taken to the
14 Federal Court. Unfortunately, it may be too late now.

15 There is a certain decree in which,
16 as masters of our own proceeding here, we can monitor
17 any abuse of process that goes on before us, but
18 generally speaking the decisions of the Human Rights
19 Commission are reviewed by the Federal Court.

20 If that's what you're alluding to,
21 I'm not quite certain.

22 In any event, it's not the right time
23 to say that there is no case against "x" or "y", you do
24 that after the case is closed.

25 MR. ALEXAN KULBASHIAN: Okay.

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

2 MR. ALEXAN KULBASHIAN: Okay. I
3 guess I'll start my questioning then.

4 Okay. Detective Wilson, you use the
5 word absolutely rather frequently. What does that mean
6 to you?

7 DET/CST. WILSON: It means without
8 exception.

9 MR. ALEXAN KULBASHIAN: Without
10 exception. Okay. How would you rate your memory?

11 DET/CST. WILSON: Pretty good.

12 MR. ALEXAN KULBASHIAN: Okay. Were
13 you the lead investigation on this case?

14 DET/CST. WILSON: Yes, I was.

15 MR. ALEXAN KULBASHIAN: The
16 investigator, sorry. And it means you would know
17 everything that was going on, pretty much?

18 DET/CST. WILSON: I would be, yeah,
19 essentially in this case I would be case manager as
20 well.

21 MR. ALEXAN KULBASHIAN: And I'm
22 assuming that throughout your time as an officer you've
23 been -- like as a detective or officer at any time, you
24 did take the stand quite a bit; right?

25 DET/CST. WILSON: Yes, sir.

1 MR. ALEXAN KULBASHIAN: Okay. How
2 long were you a detective before you joined the hate
3 crime unit?

4 DET/CST. WILSON: I was a detective
5 for nine months from 1995 to November, 1995, then I
6 worked in an undercover capacity from November, 1995
7 until approximately 2000. During that time I still was
8 involved in hate crime investigations.

9 MR. ALEXAN KULBASHIAN: As a
10 detective or --

11 DET/CST. WILSON: Yeah, as a
12 detective assigned to -- a detective/constable assigned
13 to our mobile surveillance unit.

14 MR. ALEXAN KULBASHIAN: And so like
15 how long would you say you were a detective until you,
16 I guess, resigned from the London Police Force?

17 DET/CST. WILSON: I was a detective
18 from about 1995 and assigned to the detective office
19 until 2000.

20 MR. ALEXAN KULBASHIAN: And this
21 would be --

22 DET/CST. WILSON: I'm sorry, January
23 of 2003.

24 MR. ALEXAN KULBASHIAN: Okay. And
25 was this all with the London Police Force?

1 DET/CST. WILSON: Yes, sir.

2 MR. ALEXAN KULBASHIAN: Okay. You
3 did testify earlier on that there's a three-year let's
4 say moratorium or something like that, as to how long
5 you've been a detective.

6 How is that consistent with what
7 you're telling me that you were a detective for almost
8 eight or nine years?

9 DET/CST. WILSON: Well, I was at
10 detective position from '95 to November of '95.

11 Then I was assigned a position with
12 our mobile surveillance unit in an undercover capacity.
13 In that position it was exempt from the rules.

14 So, I spent five -- just over five
15 years with them, another two years in the detective
16 office. So that would have totalled close to three
17 years in the detective office.

18 MR. ALEXAN KULBASHIAN: And so this a
19 question. I don't mean to go over it again.

20 How long were you a detective in the
21 youth and hate crime unit?

22 DET/CST. WILSON: Two years. From
23 January of 2000 to January of 2003.

24 THE CHAIRPERSON: That's three years.
25 Did you say January, 2000?

1 DET/CST. WILSON: January, 2001 I'm
2 sorry, January, 2001 to January, 2003.

3 MR. ALEXAN KULBASHIAN: However, you
4 did testify that you were, I guess, well, had a lateral
5 move to a constable because you had, I guess, crossed
6 the three-year mark or was that --

7 DET/CST. WILSON: I fulfilled my
8 obligation to the criminal investigations division and
9 was moved back or moved sideways I guess essentially to
10 a patrol division.

11 MR. ALEXAN KULBASHIAN: So, is that
12 -- and I don't understand. So, sideways meaning you
13 get equal pay and equal --

14 DET/CST. WILSON: Yes, sir. I'm a
15 detective/constable and I'm a constable. Constables
16 are assigned to the patrol division,
17 detective/constables are assigned to the criminal
18 investigations division.

19 MR. ALEXAN KULBASHIAN: Okay. I'll
20 get into that later.

21 Now, do you think that the C.E.C.T.
22 sites and the Vinland Voice sites are the same site?

23 DET/CST. WILSON: No, they're not the
24 same site, they're two different websites.

25 MR. ALEXAN KULBASHIAN: So, they have

1 different URLs you'd say?

2 DET/CST. WILSON: As far as I know,
3 yes, sir.

4 MR. ALEXAN KULBASHIAN: Just to
5 clarify URL, as in like the link to access site, so www
6 --

7 THE CHAIRPERSON: You have to speak
8 more clearly.

9 MR. ALEXAN KULBASHIAN: The URL, just
10 to clarify like the term, is a link to a site.

11 So, for example, www.something.com,
12 so it would be a different name for both sites?

13 THE CHAIRPERSON: URL?

14 MR. ALEXAN KULBASHIAN: Yeah.

15 THE CHAIRPERSON: You're talking
16 about universal resource locator, that's one I know.

17 MR. ALEXAN KULBASHIAN: Yeah, just to
18 clarify.

19 THE CHAIRPERSON: So, you're saying
20 that the C.E.C.T. and Vinland Voice have two different
21 URLs?

22 DET/CST. WILSON: Yes, sir.

23 MR. ALEXAN KULBASHIAN: Okay, that's
24 right.

25 Now, if you could turn to tab 47 of

1 HR-1.

2 DET/CST. WILSON: Yes, sir.

3 MR. ALEXAN KULBASHIAN: First of all,
4 if you could read the second page. Turn it over, it's
5 six paragraphs down, where it starts off with

6 "Alex Krause..."

7 DET/CST. WILSON: Yes, sir.

8 "Alex Krause, a member of the
9 Canadian Ethnic Cleansing Team,
10 who runs a server that the
11 Tri-City Skins et al uses to run
12 the website is reluctant to get
13 into a detailed discussion of
14 the activities of any of the
15 groups except to say that they
16 use the Internet to network.
17 "We're not opposed to anyone",
18 he says, "We just do our own
19 thing".

20 MR. ALEXAN KULBASHIAN: Now, it's a
21 question. Do you believe that I had anything to do
22 with either managing, creating or administering the
23 Tri-City site?

24 DET/CST. WILSON: The Tri-City Skin
25 site?

1 MR. ALEXAN KULBASHIAN: Yes.

2 DET/CST. WILSON: Yeah, I believe
3 that you hosted that site.

4 MR. ALEXAN KULBASHIAN: What I asked
5 you is managing, creating or administering the site.

6 DET/CST. WILSON: Okay. I would use
7 the Criminal Code definition of what I believe to be a
8 computer custodian, which includes the person typing on
9 the computer, the hosting company and/or the server.
10 So, that would be my definition of
11 somebody who would manage it, a computer custodian.
12 So, I put that -- put you as the manager of
13 AffordableSpace in that category.

14 THE CHAIRPERSON: Could you repeat
15 the three elements.

16 DET/CST. WILSON: Is the person
17 typing on the computer, actually the hosting company or
18 the manager of the hosting company and the server.
19 Those are classed as computer custodians under 320.1 of
20 the Criminal Code.

21 THE CHAIRPERSON: Thank you. Go
22 ahead, Mr. Kulbashian.

23 MR. ALEXAN KULBASHIAN: Okay. Do you
24 believe that if Bell was hosting the Tri-City site they
25 would be, I guess, in any way responsible for the

1 content on the site?

2 DET/CST. WILSON: Not responsible if
3 they had no knowledge of it.

4 MR. ALEXAN KULBASHIAN: That's good.
5 And can you say without doubt that I had knowledge of
6 what was on the site?

7 DET/CST. WILSON: Yes, I can.

8 MR. ALEXAN KULBASHIAN: How can you
9 say that?

10 DET/CST. WILSON: Because when I
11 interviewed you, you had mentioned -- one of the things
12 I spoke to you about was concerning who was allowed on
13 your site and who wasn't allowed on your site, or on
14 your hosting company, AffordableSpace.com, and you
15 advised me that you wouldn't allow somebody of a Jewish
16 background or an anti-racist person to put a website on
17 your site and, therefore, in my opinion, from your own
18 words, you knew the content of the pages on your
19 hosting company.

20 MR. ALEXAN KULBASHIAN: And now
21 there's a difference between -- now, let's say as an
22 example. Well, screw the example.

23 Sorry about that. Sorry about that.

24 Basically now, would you agree that I
25 would have known Tri-City Skins, like what kind of

1 group they were before I started hosting them?

2 DET/CST. WILSON: Yes, sir.

3 MR. ALEXAN KULBASHIAN: So, do you
4 believe that I would have needed to go and monitor
5 their contents to make sure that they didn't suddenly
6 turn anti-racist overnight?

7 DET/CST. WILSON: No, I believe that
8 you were closely connected with the content and,
9 therefore, you wouldn't need to review it essentially,
10 you would be closely connected to the content.

11 MR. ALEXAN KULBASHIAN: But does that
12 still mean that I would know the content that was on
13 the site?

14 DET/CST. WILSON: Yes, sir.

15 MR. ALEXAN KULBASHIAN: How would you
16 say that again?

17 DET/CST. WILSON: You would read the
18 sites that were on your web server hosting company.

19 MR. ALEXAN KULBASHIAN: I never said
20 that though, I never told you that. I said that I
21 wouldn't host an anti-racist or I guess a site --

22 DET/CST. WILSON: What you told me is
23 that you had the ability to monitor the things on your
24 server or on your hosting company and, therefore, be
25 able to exclude people with different belief systems or

1 religions.

2 MR. ALEXAN KULBASHIAN: But the
3 difference between able to monitor and do monitor,
4 there's quite a big difference there; right? Because
5 you were able to monitor--

6 DET/CST. WILSON: Well, I don't --

7 MR. ALEXAN KULBASHIAN: --the sites
8 on my server to see whether or not --

9 DET/CST. WILSON: I don't believe you
10 had a Jewish site and I don't believe you had an
11 anti-racist site on your website, besides the business
12 that you work for.

13 MR. ALEXAN KULBASHIAN: Did you ever
14 get a chance to view the StopIslam site?

15 THE CHAIRPERSON: StopIslam?

16 MR. ALEXAN KULBASHIAN: .com site.
17 Yeah, it's a site that Detective Wilson attributed to
18 me last time, about a couple of months ago.

19 DET/CST. WILSON: The StopIslam--

20 MR. ALEXAN KULBASHIAN: Yeah.

21 DET/CST. WILSON: --that was run from
22 the hosting company that put a threat on the--

23 MR. ALEXAN KULBASHIAN: That's right.

24 DET/CST. WILSON: --University of San
25 Francisco?

1 MR. ALEXAN KULBASHIAN: Did you ever
2 get a chance to review that site?

3 DET/CST. WILSON: No, I didn't.

4 MR. ALEXAN KULBASHIAN: So, you never
5 saw it?

6 DET/CST. WILSON: No, the FBI
7 notified us that you were under investigation by them.

8 MR. ALEXAN KULBASHIAN: So, at any
9 point, you never got to see any of the content of the
10 site, you weren't curious to see what was on the site?

11 DET/CST. WILSON: No.

12 MR. ALEXAN KULBASHIAN: I put it to
13 you this way, that the StopIslam site was actually run
14 by a group closely associated with JDL, the Jewish
15 Defence League, which is a racist Jewish group in the
16 U.S. what would you say?

17 DET/CST. WILSON: I don't have any
18 information to disagree with you.

19 MR. ALEXAN KULBASHIAN: Okay. Now,
20 just a quick question. From the files that you have
21 over there, do you know of transfer of, I guess, of
22 ownership of the server--

23 DET/CST. WILSON: Yes, sir.

24 MR. ALEXAN KULBASHIAN: --that took
25 place? And do you know when that took place?

1 DET/CST. WILSON: To get the exact
2 date.

3 MR. ALEXAN KULBASHIAN: Sure.

4 DET/CST. WILSON: Of the
5 AffordableSpace.com.

6 MR. ALEXAN KULBASHIAN: Yes.

7 DET/CST. WILSON: Yes, sir.

8 MR. ALEXAN KULBASHIAN: Well, it's
9 not AffordableSpace.com as much as just the server
10 itself.

11 DET/CST. WILSON: Okay, maybe I don't
12 understand.

13 MR. ALEXAN KULBASHIAN: Well, because
14 --

15 DET/CST. WILSON: You want to know --

16 MR. ALEXAN KULBASHIAN: The company
17 had multiple servers, not necessarily just one.

18 DET/CST. WILSON: You want to know
19 when Carinet changed the --

20 MR. ALEXAN KULBASHIAN: When, yes.

21 DET/CST. WILSON: CariNet was the
22 server in San Diego, sir, I apologize, that rented -
23 again, excuse my ignorance about the way the Internet
24 works - but had rented space to AffordableSpace so they
25 could access the world wide web.

1 CariNet is a large server in San
2 Diego and they keep records of how they pay for people
3 that rent that space.

4 THE CHAIRPERSON: So, the question
5 now that's been asked is when did....?

6 DET/CST. WILSON: When did it change
7 ownership.

8 THE CHAIRPERSON: When did
9 AffordableSpace.com change ownership?

10 DET/CST. WILSON: Yeah.
11 AffordableSpace.com changed ownership. I believe
12 it's in the binder that Mr. Kulbashian looked at.

13 It's changed ownership, the account
14 number is 2729. It changed ownership, and what I have
15 in front of me is a request to change ownership
16 February the 8th, 2002, and it is not signed but the
17 name on the bottom is Alexan Kulbashian.

18 MR. ALEXAN KULBASHIAN: And do you
19 know who it changed ownership to?

20 DET/CST. WILSON: Steven Weingand.

21 MR. ALEXAN KULBASHIAN: Okay. So,
22 basically --

23 THE CHAIRPERSON: Hold on a second.
24 Steven...?

25 DET/CST. WILSON: And it's

1 W-e-i-n-g-a-n-d.

2 THE CHAIRPERSON: I think we have
3 seen that in the earlier sets of hearings.

4 MR. ALEXAN KULBASHIAN: Okay, now
5 question. When I was arrested -- actually when I was
6 down in Arizona about September, 2002 until December,
7 2002, do you remember what you -- were you still in
8 charge of my case, by the way?

9 DET/CST. WILSON: Yeah, the case was
10 in front of the court at that point.

11 MR. ALEXAN KULBASHIAN: Were you in
12 still in charge of the investigation into me?

13 DET/CST. WILSON: Yeah, essentially
14 anybody who had any inquiries concerning you, sir,
15 would contact me.

16 MR. ALEXAN KULBASHIAN: And do you
17 remember what you told the FBI about me?

18 DET/CST. WILSON: I told them that
19 you were facing charges here and that because of your
20 trip to the United States that you were presently
21 wanted by our department for breaching your conditions,
22 and as a result of the information they supplied
23 another breach was laid.

24 MR. ALEXAN KULBASHIAN: Okay. So,
25 are you sure you didn't say anything about me owning

1 that server?

2 DET/CST. WILSON: You owning
3 AffordableSpace?

4 MR. ALEXAN KULBASHIAN: That's right.

5 DET/CST. WILSON: I very well could
6 have, because the information on the February 8th
7 transfer, I didn't receive until July that year when I
8 executed the search warrant in San Diego.

9 MR. ALEXAN KULBASHIAN: July later
10 that year?

11 DET/CST. WILSON: July later that
12 year.

13 MR. ALEXAN KULBASHIAN: Okay. Okay,
14 that was July 5th, 2002.

15 DET/CST. WILSON: yes, sir.

16 MR. ALEXAN KULBASHIAN: And I was
17 arrested December, 2002.

18 DET/CST. WILSON: Yes, sir.

19 MR. ALEXAN KULBASHIAN: So, I would
20 have been arrested afterwards and the FBI probably
21 would have talked to you a little bit before I got
22 arrested; right?

23 DET/CST. WILSON: Yes, sir.

24 MR. ALEXAN KULBASHIAN: So, you would
25 have had the information that the transfer happened

1 already?

2 DET/CST. WILSON: It would appear so
3 yes, sir,

4 MR. ALEXAN KULBASHIAN: Okay, one
5 second. Can you turn to tab 45 in the same HR-1.

6 And before we go on there. Now, you
7 would have -- and since you -- like, would you have
8 reviewed the files you received from the warrant
9 executed in San Diego, would you have gone over them,
10 or would you have like stored them somewhere?

11 DET/CST. WILSON: They would have
12 been, because they were part of the investigation, the
13 original investigation, copies would have been made and
14 supplied to the crown attorney.

15 MR. ALEXAN KULBASHIAN: Would you
16 have reviewed those?

17 DET/CST. WILSON: I would, yes, sir.

18 MR. ALEXAN KULBASHIAN: So, would it
19 be fair to say that you would have known that the
20 transfer had already taken place of the ownership of
21 the server?

22 DET/CST. WILSON: I would have know
23 that you requested that, yes, from that piece of paper,
24 yes, sir.

25 MR. ALEXAN KULBASHIAN: But you would

1 have also known that, since you also have information
2 about the actual ownership once it was transferred from
3 the server since the warrant was served, you would also
4 know that the transfer of ownership had actually taken
5 place, not just requested.

6 If you look in those other papers in
7 the binder.

8 DET/CST. WILSON: Yes, sir.

9 MR. ALEXAN KULBASHIAN: Okay. And so
10 why would you have told the FBI that I owned the
11 server?

12 DET/CST. WILSON: I don't believe I
13 ever told them you owned the server.

14 MR. ALEXAN KULBASHIAN: Actually, if
15 I put it this way, the FBI actually told me that they
16 were told by a London police officer that I owned the
17 server, what would you say?

18 DET/CST. WILSON: Very possibly, sir,
19 I can't recall and it's very possible that I told them
20 that personally.

21 MR. ALEXAN KULBASHIAN: It's very
22 possible?

23 DET/CST. WILSON: Yes, sir.

24 MR. ALEXAN KULBASHIAN: So, if it's
25 possible, why would you tell them that if you knew it

1 not to be true?

2 DET/CST. WILSON: Well, I would never
3 sort of deceive them. I don't know.

4 MR. ALEXAN KULBASHIAN: Well, if you
5 knew -- if you say it's possible that you told them and
6 you knew it not to be true because you had previously
7 received information from, say, July 5th, then either
8 you would have forgotten or made a mistake or you would
9 have been doing it intentionally; right?

10 DET/CST. WILSON: Well, I also know,
11 and I believe it's July of 2002 when you had a bail
12 review in Toronto, you had to go through a whole
13 process of trying to change over the ownership of
14 AffordableSpace again, and I believe that was in July
15 of 2002, if I'm not mistaken.

16 MR. ALEXAN KULBASHIAN: If I could
17 refresh your memory, was that -- do you know if that
18 was a change of ownership or that was an assessment of
19 whether or not I owned it?

20 DET/CST. WILSON: That --

21 MR. ALEXAN KULBASHIAN: If you could
22 recall the phone call that you --

23 DET/CST. WILSON: I remember making a
24 phone call to CariNet and CariNet telling us that--

25 MR. ALEXAN KULBASHIAN: I did not own

1 it.

2 DET/CST. WILSON: --Mr. Weingand had
3 come forward and, I guess, taken over the
4 responsibility, I guess, is the best way to say it.

5 MR. ALEXAN KULBASHIAN: Okay.

6 So, and would you be basing my
7 control over the server based on, say, my ability to
8 shut down certain sites when the judge ordered me to do
9 so?

10 DET/CST. WILSON: Yes, sir.

11 MR. ALEXAN KULBASHIAN: Okay. Do you
12 remember what the judge told me if the sites were not
13 shut down, regardless of whether or not I owned them,
14 if I had control?

15 DET/CST. WILSON: He told you if they
16 weren't shut down you were going to jail.

17 MR. ALEXAN KULBASHIAN: So, would you
18 think it is possible that I would have gone and tried
19 contacting somebody, the fact that I knew just what it
20 was like, you know, to be in jail, in order to prevent
21 me from being in approach of my bail, so is it possible
22 that I would have contacted Steve directly and begged
23 him to shut down those sites as opposed to just
24 actually having control?

25 DET/CST. WILSON: Well, what it

1 showed me, yeah, you've contacted somebody to shut down
2 those sites and what that exhibited to me is that you
3 still exerted some type of control over those websites.

4 MR. ALEXAN KULBASHIAN: So, do you
5 believe that Justice Hamilton told me to shut down
6 those sites and the sites did get shut down that he
7 exhibited some sort of control over those sites?

8 DET/CST. WILSON: No, sir.

9 MR. ALEXAN KULBASHIAN: How is that a
10 difference, because is there like a specific
11 method on how many mouths he has to go by?

12 DET/CST. WILSON: Because he's not
13 the member of the Canadian Ethnic Cleansing Team.

14 MR. ALEXAN KULBASHIAN: We're talking
15 about AffordableSpace, we're not talking about the
16 Canadian Ethnic Cleansing Team.

17 DET/CST. WILSON: Yes, sir, and the
18 preponderance of my investigation up until that point
19 would make me believe that you had control over
20 AffordableSpace and exerted some type of condition in
21 July, whether it was requesting Mr. Weingand or
22 anything like that to turn those sites off, you exerted
23 some control in July of 2002.

24 MR. ALEXAN KULBASHIAN: Under the
25 threat of being detained again; right?

1 DET/CST. WILSON: I don't think the
2 court makes threats. Under the guise that that would
3 be a condition of your release.

4 MR. ALEXAN KULBASHIAN: I had already
5 been released; hadn't I?

6 DET/CST. WILSON: You had been --

7 MR. ALEXAN KULBASHIAN: Do you
8 remember when the judge told me that when I came back
9 if they weren't shut down then I would be arrested?

10 DET/CST. WILSON: Yes, it was a bail
11 review, sir, so you were already potentially released
12 and there was a review in front of the court.

13 So, yeah, you were already released,
14 but pending the review of that release the judge
15 ordered that these sites be shut down and they were
16 shut down before four o'clock that afternoon which you
17 exhibits some control, because they were shut down.

18 MR. ALEXAN KULBASHIAN: So, let's put
19 it this way. What do you define as some sort of
20 control?

21 THE CHAIRPERSON: Sorry, I didn't
22 understand that.

23 MR. ALEXAN KULBASHIAN: How do you
24 define some sort of control? Is there, like, a
25 specific number of links that you have to go through?

1 For example, let's say that if you
2 went to a restaurant and had people kicked out of the
3 restaurant by threatening the management or something
4 like that, would that mean you had some sort of control
5 of the restaurant?

6 DET/CST. WILSON: No. What I would
7 exhibit as some type of control for you, sir, is that
8 you were a member of the Canadian Ethnic Cleansing
9 Team, was the owner of AffordableSpace at some point
10 and had enough influence with the people that you were
11 calling that the removed sites.

12 The court in Ontario, as well as the
13 rest of the country, does not usually make decisions
14 like that unless they know the people can exhibit some
15 type of control from those breach conditions.

16 MR. ALEXAN KULBASHIAN: And did the
17 judge make the decision because maybe you had told him
18 something during your the case?

19 DET/CST. WILSON: Absolutely, sir, I
20 went and spoke to him in his chambers when he called
21 me.

22 MR. ALEXAN KULBASHIAN: So, you
23 consider that a private meeting; right?

24 DET/CST. WILSON: With your lawyer,
25 yes, sir.

1 MR. ALEXAN KULBASHIAN: And did you
2 by any chance tell him that I admitted to designing
3 and, I guess, running the Tri-City site like you had
4 told the court previously?

5 DET/CST. WILSON: Yes, sir.

6 MR. ALEXAN KULBASHIAN: And do you
7 know that to be true?

8 DET/CST. WILSON: Yes, sir.

9 MR. ALEXAN KULBASHIAN: To designing
10 and running the site?

11 DET/CST. WILSON: Yes, sir, I believe
12 in your statement you tell me that you design the
13 outlay of the websites.

14 MR. ALEXAN KULBASHIAN: Of the
15 Tri-City site?

16 DET/CST. WILSON: Of the Canadian
17 Ethnic Cleansing Team sites. And I don't believe I
18 told the judge that you designed the Tri-City Skin
19 site.

20 MR. ALEXAN KULBASHIAN: I'm talking
21 about Tri-City.

22 DET/CST. WILSON: Mm-hmm.

23 MR. ALEXAN KULBASHIAN: I'm not
24 talking about -- and do you remember explicitly what
25 the -- okay just hopping forward for a bit before I go

1 back to it.

2 Do you remember explicitly what the
3 judge told me when I told him I did not have any
4 control over the server?

5 DET/CST. WILSON: No, I don't, sir.

6 MR. ALEXAN KULBASHIAN: Do you
7 remember him saying he doesn't care and if it's not
8 gone by the time I came back I would be put in jail,
9 regardless?

10 DET/CST. WILSON: No, I believe he
11 said he was under the belief that you had control and
12 that you must exhibit some type of control of that
13 site.

14 MR. ALEXAN KULBASHIAN: Can you say
15 that, like I guess, beyond any reasonable doubt that
16 that's what he said?

17 DET/CST. WILSON: I can't tell you
18 word for word what he said, no.

19 MR. ALEXAN KULBASHIAN: Can you tell
20 me if that was basically the idea that he put forward,
21 or if he actually did say, I don't care, and if you
22 come back and so on?

23 DET/CST. WILSON: I don't believe a
24 judge in Ontario would say I don't care.

25 MR. ALEXAN KULBASHIAN: Okay. It's

1 not what you believe, necessarily, it's do you know
2 what actually happened?

3 DET/CST. WILSON: No, sir.

4 MR. ALEXAN KULBASHIAN: Since you
5 were there.

6 DET/CST. WILSON: Yes, sir.

7 MR. ALEXAN KULBASHIAN: Okay. So, a
8 question now.

9 As far as the Tri-City site goes, you
10 had -- first of all, getting to Tri-City, do you
11 remember me --do you know of any reason why, like aside
12 from I guess some loose affiliation, could you in any
13 way pinpoint me to being an actual member of Tri-City?

14 DET/CST. WILSON: No, sir.

15 MR. ALEXAN KULBASHIAN: Any
16 involvement in Tri-City in anything but I guess more of
17 like a --

18 DET/CST. WILSON: Association?

19 MR. ALEXAN KULBASHIAN: Associated
20 sort of way?

21 DET/CST. WILSON: Yeah, you were
22 associated. You had --

23 MR. ALEXAN KULBASHIAN: Anything more
24 than that?

25 DET/CST. WILSON: I believe, and I'd

1 have to look at the pictures again, I believe you have
2 Tri-City's patch or pin, I can't quite remember.

3 MR. ALEXAN KULBASHIAN: Where?

4 DET/CST. WILSON: On -- it's a
5 business card, actually. It's a business card.

6 MR. ALEXAN KULBASHIAN: So basically
7 meaning --

8 DET/CST. WILSON: A business card as
9 a result. So, your association with them, a business
10 card with them and being the manager of
11 affordablespace.com which it is hosted on.

12 MR. ALEXAN KULBASHIAN: A business
13 card with them, meaning...?

14 DET/CST. WILSON: A business -- a
15 Tri-City Skins business card, I'm sorry.

16 MR. ALEXAN KULBASHIAN: So, would
17 that indicate anything other than some sort of
18 association, I guess, informal, maybe I was given a
19 card, like?

20 DET/CST. WILSON: On itself alone,
21 no. Collectively with all the other information, yes.

22 MR. ALEXAN KULBASHIAN: Now getting
23 back to that picture where there's somebody crouched in
24 the bottom in front.

25 DET/CST. WILSON: Yes, sir, and I

1 believe -- go ahead.

2 MR. ALEXAN KULBASHIAN: Okay.

3 So, getting to that, you testified
4 last time that when you finally saw me you realized
5 that that picture was not me?

6 DET/CST. WILSON: Yes, sir.

7 MR. ALEXAN KULBASHIAN: Okay. But on
8 February 14th of 2002 there's a note by you stating
9 that that picture was not me, that is after you have
10 seen me when I got arrested.

11 DET/CST. WILSON: Where is that,
12 please?

13 MR. ALEXAN KULBASHIAN: I'll get back
14 to that in a bit. I have to, like, start organizing
15 myself here for a bit.

16 Anyways, can we turn to tab 24.
17 Actually let's stay on tab 45 for a bit. If you could
18 read --

19 DET/CST. WILSON: Tab 45, yes.

20 MR. ALEXAN KULBASHIAN: If you could
21 read the second side, four paragraphs down, it starts:

22 "We don't..."

23 DET/CST. WILSON: "We don't take any
24 action on a physical action said
25 Krause. We weren't planning to

1 do anything."

2 MR. ALEXAN KULBASHIAN: Okay. And
3 now, have you ever got an indication where C.E.C.T. or
4 Vinland Voice or anything like that, aside from what
5 you state is threats of violence, what you allege is
6 threats of violence in that article of September 14th,
7 have you seen any other situations where C.E.C.T. has
8 promoted violence?

9 DET/CST. WILSON: I don't believe so,
10 sir. Besides the threats made on September, 14th, no,
11 sir.

12 MR. ALEXAN KULBASHIAN: Have you ever
13 seen any newspaper articles where allegedly the speaker
14 to the reporter says that we don't believe in violence?

15 DET/CST. WILSON: No, I believe the
16 reporter is quoting you.

17 MR. ALEXAN KULBASHIAN: How do you
18 know it's me?

19 DET/CST. WILSON: I don't know, it's
20 Alex Krause.

21 MR. ALEXAN KULBASHIAN: Go on.

22 DET/CST. WILSON: And the
23 preponderance of evidence in my investigation would
24 lead me to believe that Alex Krause in this newspaper
25 article is the Alex Krause which is you, Alexan

1 Kulbashian.

2 MR. ALEXAN KULBASHIAN: Can you turn
3 to tab 24.

4 Now, do you believe that Totenkopf is
5 one person or a group of people?

6 DET/CST. WILSON: I think I've
7 explained that before. I believe that Totenkopf as it
8 is here is one person, it's included Totenkopf is you,
9 but I also understand that Totenkopf can also be a
10 group of e-mail addresses.

11 MR. ALEXAN KULBASHIAN: Okay. But,
12 so can you start reading that article under the
13 multiple pound signs I guess.

14 DET/CST. WILSON: It says:
15 "Lots of fun "crap" has happened
16 in the past week. Alex Krause's
17 name has appeared in the NOW
18 Magazine. He's been exposed.
19 Oooh! Another C.E.C.T. member
20 has been exposed too, however
21 his name wasn't mentioned, just
22 his charges of self defence on a
23 transit vehicle.

24 When asked to..."

25 And unfortunately I can't read it

1 because of the hole punch,

2 "...the individual in question
3 replied, Wow, one day I'll be
4 famous, I'll be as famous as
5 Alex Krause."

6 MR. ALEXAN KULBASHIAN: Okay, thanks.
7 Now, can you read the bottom where's
8 there, I guess, a signature.

9 DET/CST. WILSON: It says Totenkopf.

10 MR. ALEXAN KULBASHIAN: In this
11 article what would you say Totenkopf is doing in the
12 first paragraph?

13 DET/CST. WILSON: What would I say
14 he's doing?

15 MR. ALEXAN KULBASHIAN: Yeah, would
16 he be -- is he writing as Alex Krause or referring to
17 Alex Krause in the third person?

18 DET/CST. WILSON: I think he's
19 writing about Alex Krause.

20 MR. ALEXAN KULBASHIAN: And referring
21 to him in the third person?

22 DET/CST. WILSON: Yes, sir.

23 MR. ALEXAN KULBASHIAN: So, would you
24 say that I wrote that article?

25 DET/CST. WILSON: No, sir.

1 MR. ALEXAN KULBASHIAN: Okay. So, if
2 we could turn to tab 25, or was this tab 25 -- no, it
3 is tab 25.

4 Can you read underneath the line of
5 pound signs?

6 DET/CST. WILSON: The first one?

7 MR. ALEXAN KULBASHIAN: Yes.

8 DET/CST. WILSON:

9 "This issue has a special
10 message from Alex Krause
11 regarding a great new project
12 that he is involved with. In
13 the mean time the C.E.C.T. sends
14 out a big hello to Richard
15 Warman of 440 Wiggins Port,
16 Ottawa, Ontario for..."

17 Again, I can't read it because of the
18 hole punch.

19 "...a formal complaint...",

20 Oh:

21 "...for submitting a formal
22 complaint about the C.E.C.T. to
23 the Human Rights Commission.
24 You got it guys "the C.E.C.T.
25 hurts people's feelings and

1 we...",
2 something,
3 "...Mr. Warman cry." "We
4 made..." I guess, "...Mr. Warman
5 cry."
6 Would you like me to continue?
7 MR. ALEXAN KULBASHIAN: Yes, just
8 keep going.
9 DET/CST. WILSON: "Your kind of
10 attention is exactly what the
11 C.E.C.T. needs to build a bigger
12 membership base. We extend our
13 thanks to that Jewish lawyer and
14 the candidate of the Greens
15 party. Our new slogan will be
16 we will given your 300,000 real
17 reasons and 5.7 million made up
18 ones to support the C.E.C.T. It
19 will be a gas."
20 MR. ALEXAN KULBASHIAN: Keep going?
21 DET/CST. WILSON: "Richard, we added
22 you to our Christmas card list
23 this year. Who knows we might
24 even send you compensation in
25 the amount of a vacation pay

1 your family didn't get while
2 working in Auschwitz."

3 MR. ALEXAN KULBASHIAN: And who it is
4 signed by?

5 DET/CST. WILSON: Totenkopf.

6 MR. ALEXAN KULBASHIAN: Referring to
7 Alex in the first, second or third person, Alex Krause
8 in the first paragraph?

9 DET/CST. WILSON: I guess it's the
10 third person, it's kind of confusing, but...

11 MR. ALEXAN KULBASHIAN: And how is
12 confusing?

13 DET/CST. WILSON: I think it jumps a
14 little bit.

15 MR. ALEXAN KULBASHIAN: Where does it
16 jump?

17 DET/CST. WILSON: It's written as a
18 member of the C.E.C.T. giving holiday wishes to Mr.
19 Warman.

20 MR. ALEXAN KULBASHIAN: Okay. But
21 you would say in this article Totenkopf is writing
22 about Alex Krause; right?

23 DET/CST. WILSON: Yes, sir.

24 MR. ALEXAN KULBASHIAN: Okay. In the
25 third person.

1 Let's turn to -- okay. Now, how
2 would you interpret this article to be sarcastic, a
3 joke or...

4 DET/CST. WILSON: I wouldn't
5 interpret it to be a joke at all.

6 MR. ALEXAN KULBASHIAN: And why not?

7 DET/CST. WILSON: Because when
8 whoever wrote this refers to 300,000 real reasons and
9 5.7 million made up ones, they're talking about the
10 Holocaust.

11 MR. ALEXAN KULBASHIAN: How would you
12 figure they're talking about the Holocaust?

13 DET/CST. WILSON: 300,000 is the
14 number that is essentially put on by Holocaust deniers
15 as the amount that really died as a result of the
16 Holocaust and 5.7 million ones, would be the ones that
17 they believe are made up as a result of the Holocaust..

18 And when it says,

19 "It will be a gas."

20 And then they refer later on to
21 Auschwitz, in my opinion this is not a funny article.

22 MR. ALEXAN KULBASHIAN: Okay, but in
23 your opinion it's not a funny article.

24 Would you say this article is a joke
25 or, to start with, a sarcastic tone, or do you think

1 it was a serious article?

2 DET/CST. WILSON: I think it's
3 serious where Mr. Warman should consider his safety as
4 a result of being named and his address being placed on
5 it.

6 MR. ALEXAN KULBASHIAN: Is it a
7 threat?

8 DET/CST. WILSON: It's enough for me
9 as a police officer to take notice that a threat
10 assessment should have been made if it wasn't made at
11 the time for Mr. Richard Warman.

12 MR. ALEXAN KULBASHIAN: Did you make
13 a threat assessment?

14 DET/CST. WILSON: No, I didn't.

15 MR. ALEXAN KULBASHIAN: Why not?

16 DET/CST. WILSON: It was already
17 being done.

18 MR. ALEXAN KULBASHIAN: Okay. And so
19 would you consider the article to have a sarcastic tone
20 to it though?

21 DET/CST. WILSON: No.

22 MR. ALEXAN KULBASHIAN: So, do you
23 know what a sarcastic tone is?

24 DET/CST. WILSON: Yes, I do, sir.

25 MR. ALEXAN KULBASHIAN: And why would

1 you not consider it to have a sarcastic tone?

2 DET/CST. WILSON: Because I believe
3 this is actually put out there in a way to intimidate
4 Mr. Warman from his involvement.

5 THE CHAIRPERSON: You are getting
6 very close to the whole point of this case and it's not
7 going to be Mr. Wilson's opinion that's going to count,
8 it's going to be mine.

9 MR. ALEXAN KULBASHIAN: I understand.

10 THE CHAIRPERSON: It's interpretation
11 of the statute.

12 I realize you dispute of course it's
13 the linkage between the respondents and this document,
14 but if the point of your questioning is to determine
15 whether this excerpt is in breach of the terms of
16 section 13 of the Human Rights Act, it's not Mr.
17 Wilson's opinion, it's mine.

18 MR. ALEXAN KULBASHIAN: In that case,
19 still I guess we'll leave it. It's just Totenkopf
20 talking about the third person; right?

21 DET/CST. WILSON: Yes, sir.

22 MR. ALEXAN KULBASHIAN: Talking about
23 Alex Krause in the third person?

24 DET/CST. WILSON: Yes, sir.

25 MR. ALEXAN KULBASHIAN: If we could

1 turn to some of the files that I submitted this
2 morning.

3 It's the one that has a 12 circled at
4 the very top. I just -- I found those recently.

5 Did you -- actually, I don't know if
6 he has one.

7 DET/CST. WILSON: I have two sets
8 here of --

9 MR. ALEXAN KULBASHIAN: There's one
10 that starts off with C.E.C.T. - Anti-Racist Database.

11 THE CHAIRPERSON: C.J...?

12 DET/CST. WILSON: C.E.C.T. -
13 Anti-Racist Database.

14 THE CHAIRPERSON: It has --

15 DET/CST. WILSON: It has the No. 12.

16 THE CHAIRPERSON: Have you put a
17 number of documents together under one paper clip?

18 MR. ALEXAN KULBASHIAN: No, I didn't
19 put the paper clip on actually. It's the one that's
20 No. 12.

21 DET/CST. WILSON: Looks like that,
22 sir.

23 MR. ALEXAN KULBASHIAN: Right there.

24 THE CHAIRPERSON: So you wish to take
25 out that sheet independently of the other ones? Mr.

1 Kulbashian?

2 MR. ALEXAN KULBASHIAN: Yes.

3 It says No. 12 at the very top, kind
4 of looks like a 12, page 1 of 1, C.E.C.T. - Anti-Racist
5 Database.

6 THE CHAIRPERSON: So, you want to
7 treat this as a separate document?

8 MR. ALEXAN KULBASHIAN: Yes, that's
9 right.

10 THE CHAIRPERSON: So, what is this?
11 Ask the witness.

12 MR. ALEXAN KULBASHIAN: What is this?
13 Have you seen this before?

14 DET/CST. WILSON: This is a, I guess,
15 article written by Totenkopf, it says C.E.C.T.
16 -Anti-Racist Database and it describes a database in
17 which the Canadian Ethnic Cleansing Team developed to
18 profile anti-racist actions parties, parties meaning
19 people, sorry.

20 MR. ALEXAN KULBASHIAN: Okay. If you
21 could read the last paragraph.

22 THE CHAIRPERSON: Well, let's get it
23 -- have you seen this document before?

24 DET/CST. WILSON: Yes, I have.

25 THE CHAIRPERSON: Okay, let's produce

1 it.

2 It bears a date at the bottom, it
3 says January 31st, 2002.

4 Can you say anything about that?

5 DET/CST. WILSON: It -- all I know is
6 to be an article that brought a sort of great concern
7 around the same time knowing that it existed.

8 THE CHAIRPERSON: So, you don't know
9 what this date is?

10 DET/CST. WILSON: I don't know about
11 the date, I'm sorry.

12 THE CHAIRPERSON: We know from
13 previous information filed and general knowledge of the
14 Internet that typically a date is printed out at the
15 bottom right corner on the date when something is
16 printed.

17 So -- just a minute - for the
18 purposes of identifying the document, it's a document
19 from the C.E.C.T. -Anti-Racist Database that appears
20 to have been printed on January 31st, 2002.

21 REGISTRY OFFICER: The document as
22 described by the Chairperson will be filed as
23 respondent Exhibit R-5.

24 THE CHAIRPERSON: Okay.

25 EXHIBIT NO. R-5: Document from

1 C.E.C.T.-Anti-Racist Database,
2 printed on January 31st, 2002.

3 MR. ALEXAN KULBASHIAN: Can you read
4 the last paragraph.

5 DET/CST. WILSON: "The intent is
6 purely legal and we will not support or
7 be held responsible for any
8 illegal activity that may or may
9 not benefit from the validity of
10 this resource. This database
11 will, however, aid in the
12 identification of a perpetrator
13 in the event a victim wishes to
14 press charges."

15 MR. ALEXAN KULBASHIAN: Would you
16 consider this a statement on behalf of the C.E.C.T.?

17 DET/CST. WILSON: Yes, I would.

18 MR. ALEXAN KULBASHIAN: Would you
19 consider it's a statement denouncing violence?

20 DET/CST. WILSON: Yes, sir.

21 MR. ALEXAN KULBASHIAN: Okay. Could
22 you turn to tab 28 in HR-1.

23 THE CHAIRPERSON: Which tab, sorry?
24 Which tab are we at?

25 MR. ALEXAN KULBASHIAN: HR-1, tab 28.

1 o you know what this document, the
2 first section at least?

3 DET/CST. WILSON: Yes, sir, it's a
4 Christmas wish from Alex Krause.

5 MR. ALEXAN KULBASHIAN: Do you know
6 what this document says roughly?

7 DET/CST. WILSON: I've seen it
8 before, yes.

9 MR. ALEXAN KULBASHIAN: Do you know
10 what the document is about?

11 DET/CST. WILSON: Yeah, it's Alex
12 Krause or yourself leaving the Canadian Ethnic
13 Cleansing Team.

14 MR. ALEXAN KULBASHIAN: Okay. Now,
15 look at the bottom where it's signed. What is it
16 signed by?

17 DET/CST. WILSON: Alex Krause.

18 MR. ALEXAN KULBASHIAN: Do you see
19 Totenkopf anywhere there?

20 DET/CST. WILSON: No, I don't.

21 MR. ALEXAN KULBASHIAN: Can you turn
22 to tab 26, HR-1.

23 DET/CST. WILSON: Yes, sir.

24 MR. ALEXAN KULBASHIAN: Now, see to
25 that article over there.

1 THE CHAIRPERSON: Sorry, I missed
2 again, which...?

3 MR. ALEXAN KULBASHIAN: It's tab 26,
4 HR-1.

5 THE CHAIRPERSON: Tab 26, yes.

6 MR. ALEXAN KULBASHIAN: Now, if you
7 look at the first section again.

8 DET/CST. WILSON: Yes.

9 MR. ALEXAN KULBASHIAN: Do you know
10 what that's about?

11 DET/CST. WILSON: Yes, it looks like
12 there's a recruitment drive for the Canadian Ethnic
13 Cleansing Team -- oh, I'm sorry, it's the ending of the
14 recruitment drive, they're bringing projects, the
15 Canadian Ethnic Cleansing Team are bringing projects to
16 a stop.

17 MR. ALEXAN KULBASHIAN: Could you
18 read the very bottom, the signature?

19 DET/CST. WILSON: Alex Krause.

20 MR. ALEXAN KULBASHIAN: Yeah, it's
21 signed by Alex Krause.

22 DET/CST. WILSON: Yes, it is.

23 MR. ALEXAN KULBASHIAN: Is it signed
24 by Totenkopf?

25 DET/CST. WILSON: Yes, it is at the

1 top, December 16th, 2002 from Alex Krause (Totenkopf).

2 MR. ALEXAN KULBASHIAN: Have you ever
3 communicated with anybody by e-mail that works for a
4 company?

5 DET/CST. WILSON: Yes, sir, I have.

6 MR. ALEXAN KULBASHIAN: Now, would
7 you consider this Alex Krause (Totenkopf) to mean that
8 I am Totenkopf?

9 DET/CST. WILSON: Yes, sir.

10 MR. ALEXAN KULBASHIAN: As opposed to
11 being a member of a group called Totenkopf?

12 DET/CST. WILSON: Yes, sir. I don't
13 know any different, no, sir.

14 MR. ALEXAN KULBASHIAN: So, you think
15 it's just me being Totenkopf as opposed to -- which one
16 do you think; is it me being Totenkopf or --

17 DET/CST. WILSON: I think it's you
18 being Totenkopf.

19 MR. ALEXAN KULBASHIAN: Being
20 Totenkopf, not being a member of Totenkopf?

21 DET/CST. WILSON: No, sir.

22 MR. ALEXAN KULBASHIAN: Have you ever
23 gotten an e-mail from somebody say, Bob, Public
24 Relations, or Bob Tech Support, something like that,
25 where they put -tech support, or - and brackets and put

1 out their, I guess, division?

2 DET/CST. WILSON: Yes, sir, I recall
3 some.

4 MR. ALEXAN KULBASHIAN: So, like when
5 you sent e-mails it would be like maybe, you know as an
6 officer it would be, like, Terry Wilson, police
7 officer; right?

8 DET/CST. WILSON: I guess.

9 MR. ALEXAN KULBASHIAN: It wouldn't
10 be like Terry Wilson, also known as police officer, so
11 your name wouldn't be police officer?

12 DET/CST. WILSON: No, sir.

13 MR. ALEXAN KULBASHIAN: So, it could
14 signify membership to a section as opposed to the
15 actual person's name, considering it's in brackets, aka
16 Totenkopf?

17 DET/CST. WILSON: Again, in the realm
18 of possibilities, yes, in this particular chance, I
19 don't believe so.

20 MR. ALEXAN KULBASHIAN: It's a pretty
21 good chance. So, I mean there's probably other chances
22 where it is Alex being part of Totenkopf or...

23 DET/CST. WILSON: If you're asking me
24 do I think that you're Alex Krause and Totenkopf and
25 you wrote this article, yes, I do believe that.

1 MR. ALEXAN KULBASHIAN: Okay. And
2 can you see where it's signed at the very bottom?

3 DET/CST. WILSON: Yes, sir.

4 MR. ALEXAN KULBASHIAN: And it says
5 Alex Krause; am I right?

6 DET/CST. WILSON: Yes, it does.

7 MR. ALEXAN KULBASHIAN: Okay. Have
8 you seen any articles written by Totenkopf that talk
9 about Alex Krause in the first person?

10 DET/CST. WILSON: I can't recall any.

11 MR. ALEXAN KULBASHIAN: Okay. Have
12 you seen anything about -- articles about, so far I'd
13 say, or anything you reviewed, have you seen any
14 articles that indicate strongly that Alex Krause is
15 Totenkopf written on the site?

16 DET/CST. WILSON: Any articles?

17 MR. ALEXAN KULBASHIAN: Any articles,
18 anything published, Alex Krause, and the publisher
19 Totenkopf would also be Alex Krause?

20 DET/CST. WILSON: I can't recall any,
21 no, sir.

22 MR. ALEXAN KULBASHIAN: But you have
23 seen many articles where Totenkopf talks about Alex
24 Krause in the third person?

25 DET/CST. WILSON: Yes, sir.

1 MR. ALEXAN KULBASHIAN: So would that
2 be fair to conclude that Totenkopf might not be Alex
3 Krause?

4 DET/CST. WILSON: No. I think in the
5 totality of all evidence, besides just the e-mails that
6 you're pointing out, it's my understanding, it's my
7 belief that you are Alex Krause are also Totenkopf.

8 MR. ALEXAN KULBASHIAN: So, you
9 believe that I'm writing to myself in the third person
10 -- about myself in the third person, for what reason?

11 DET/CST. WILSON: Don't know. It
12 might be the way you write. I have no idea.

13 MR. ALEXAN KULBASHIAN: But if you
14 look at this article, did I write about myself in the
15 third person, like George from Seinfeld or something?

16 DET/CST. WILSON: No, you write in
17 the first person.

18 MR. ALEXAN KULBASHIAN: Have you seen
19 me write about myself in the third person any other
20 Alex Krause articles?

21 DET/CST. WILSON: I can't recall any,
22 sir. I don't --

23 MR. ALEXAN KULBASHIAN: Would you
24 think that maybe somebody writes about himself in the
25 third person like indicates some level of schizophrenia

1 or something, psychosis?

2 DET/CST. WILSON: I'm not a doctor.

3 MR. ALEXAN KULBASHIAN: Okay. So,
4 coming back, in the article you testified that "this is
5 war" meant physical, you know, like kind of, you know,
6 a declaration of war was physical war?

7 DET/CST. WILSON: Yes, sir.

8 MR. ALEXAN KULBASHIAN: Have you ever
9 heard
10 of the term, this is war?

11 DET/CST. WILSON: You said it a
12 couple of times, yes, sir.

13 MR. ALEXAN KULBASHIAN: Okay. You've
14 heard the term, does it always refer to violence or
15 murder?

16 DET/CST. WILSON: I believe if you
17 looked at, again, the totality of what happened three
18 days earlier and climate that the world was in at that
19 time, I can't exclude the fact that it was meant
20 physical violence to minority groups in Canada.

21 MR. ALEXAN KULBASHIAN: So, if this
22 article had been written a day before the incident but
23 you read it three days after the incident, would it
24 still give you the same idea?

25 DET/CST. WILSON: Probably in a

1 different political climate, probably not, no.

2 MR. ALEXAN KULBASHIAN: If you had
3 read it on September 14th, say, which is when you said
4 it appeared.

5 DET/CST. WILSON: Yes, sir.

6 MR. ALEXAN KULBASHIAN: And it still
7 said -- it had the same wording but it was maybe
8 written September 10th, would you still think of it as,
9 you know, in the same way as...

10 DET/CST. WILSON: Well, if the same
11 thing happened on September 11th, probably, yes.

12 MR. ALEXAN KULBASHIAN: But it
13 wouldn't make a difference that it was written a day
14 before September 11th?

15 DET/CST. WILSON: Probably not, no.

16 MR. ALEXAN KULBASHIAN: So, it's more
17 about your interpretation of the article rather than
18 anything else, or maybe your biases leaning toward
19 something?

20 DET/CST. WILSON: It's not my bias
21 leaning because that's not me as a police officer.

22 MR. ALEXAN KULBASHIAN: How hard
23 would you say you were trying to, in effect, get myself
24 and my co-respondent locked up?

25 DET/CST. WILSON: Very hard.

1 MR. ALEXAN KULBASHIAN: Very hard.
2 So, you would be using it as an excuse to get us locked
3 up?

4 DET/CST. WILSON: No, sir. The
5 reason I wanted you to get locked up because of this.

6 MR. ALEXAN KULBASHIAN: Oh, so before
7 that we were just maybe friends?

8 DET/CST. WILSON: Mr. Krause --
9 Alexan, I didn't know you before that.

10 MR. ALEXAN KULBASHIAN: So, you
11 didn't know -- but you said -- so you were not aware
12 of, let's say, James before that?

13 DET/CST. WILSON: I knew James.

14 MR. ALEXAN KULBASHIAN: So, were you
15 friends before that?

16 DET/CST. WILSON: Was I friends?

17 MR. ALEXAN KULBASHIAN: Yeah, with
18 James before that?

19 DET/CST. WILSON: In an undercover
20 capacity, Yes, I was.

21 MR. ALEXAN KULBASHIAN: Were you
22 friends, maybe as Terry Wilson, not as like the second
23 identity. Were you friends with James?

24 DET/CST. WILSON: No, I disliked
25 exactly what James believed in.

1 MR. ALEXAN KULBASHIAN: Okay, so --
2 but at that point you were still trying to lock James
3 up, regardless of the fact --

4 DET/CST. WILSON: No.

5 MR. ALEXAN KULBASHIAN: Like, you
6 know, you were looking for something to lock him up?

7 DET/CST. WILSON: No. When I started
8 this it was purely as an intelligence probe to figure
9 out exactly or try to figure out what the extreme right
10 was doing in the City of London.

11 MR. ALEXAN KULBASHIAN: So now, the
12 fact -- now, how long was -- how much time was there
13 between me being charged and my charges being dropped;
14 would you say?

15 DET/CST. WILSON: I think -- well,
16 January, 2001 you were arrested and charged, and I
17 believe that it's December, 2003 they were dropped,
18 it's my understanding.

19 MR. ALEXAN KULBASHIAN: So, how much
20 disclosure do you believe you filed with my lawyer
21 during that time?

22 DET/CST. WILSON: Well, again,
23 disclosure is the issue for the crown attorney. I
24 supply all the information to the crown attorney and
25 they make a decision about disclosure.

1 MR. ALEXAN KULBASHIAN: Are the files
2 in that binder that I reviewed all the files you had on
3 me--

4 DET/CST. WILSON: No.

5 MR. ALEXAN KULBASHIAN: --at that
6 time? Were there any other files?

7 DET/CST. WILSON: Like, that didn't
8 sort of lead to this investigation?

9 MR. ALEXAN KULBASHIAN: Yes, that
10 didn't end up in that binder, for example?

11 Is everything in that binder
12 everything you submitted?

13 DET/CST. WILSON: Everything I submit
14 goes to the crown attorney so they can make a proper
15 decision about prosecution.

16 MR. ALEXAN KULBASHIAN: So, so far
17 you're saying that whether or not it was written before
18 or after September 11, the fact that you read it after
19 September 11th would mean that war would be physical
20 bodily harm, not necessarily some kind of like other
21 non-violent conflict?

22 DET/CST. WILSON: Well, knowing the
23 history of the white supremacist movement, I would have
24 some grave concerns if another white supremacist movement
25 declared war on a minority group within Canada, or to

1 minority groups in Canada and, therefore, I think I
2 would bring just as much vigour to the crown attorney
3 about processing charges as well.

4 MR. ALEXAN KULBASHIAN: So, how do
5 you define a white supremacist group or movement in
6 general?

7 DET/CST. WILSON: Well, it's a
8 movement in which believe that, if you want to take one
9 of your quotes, white is right, the fact that the white
10 supremacist movement is a supreme colour race over
11 everybody else.

12 And there's different beliefs on why
13 they are, or why the white supremacist movement believe
14 they are better, but that is essentially in a nut shell
15 what they believe.

16 MR. ALEXAN KULBASHIAN: Coming back
17 to the white is right quote, that was one of my quotes?

18 DET/CST. WILSON: No. I said it's a
19 quote that is--

20 MR. ALEXAN KULBASHIAN: Oh, used
21 generally.

22 DET/CST. WILSON: --used sort of
23 generally by the white supremacist movement.

24 MR. ALEXAN KULBASHIAN: So, do you
25 believe that it's not possible at all that there was a

1 flyer campaign as James suggested?

2 THE CHAIRPERSON: That there was a
3 flyer campaign?

4 MR. ALEXAN KULBASHIAN: That was not
5 a flyer campaign, the act of war?

6 THE CHAIRPERSON: The term war was
7 intended the refer to the flyer campaign?

8 MR. ALEXAN KULBASHIAN: To the flyer
9 campaign that was actually planned for about a week
10 after he was arrested?

11 DET/CST. WILSON: No, sir.

12 MR. ALEXAN KULBASHIAN: It's not
13 possible at all?

14 DET/CST. WILSON: Well, I find it
15 hard to believe that war means a flyer campaign after
16 he was arrested.

17 MR. ALEXAN KULBASHIAN: Okay. But
18 however, let's put it this way, so you're saying that
19 if the article was written before September 11th and
20 there was a flyer campaign already on, you know, in the
21 planning, which obviously you plan about a week or over
22 a week ahead; right, like as opposed to like the day
23 before, knock on peoples' doors, so if there was that,
24 and you read this article after September 11th, you
25 would still consider this to be violence as opposed to

1 a flyer campaign?

2 DET/CST. WILSON: Absolutely.

3 MR. ALEXAN KULBASHIAN: So, do you
4 think that it was your state of mind that made you
5 interpret it differently, or it was the actual content
6 of the article that --

7 DET/CST. WILSON: It was my reason to
8 believe that you were planning to cause harm to
9 minority groups within the country of Canada, yes.

10 MR. ALEXAN KULBASHIAN: So, but
11 again, you don't believe that it had anything to do
12 with your state of mind, about your distress what
13 happened September 11th?

14 DET/CST. WILSON: It was my belief
15 that you were going to cause injury or harm to minority
16 groups in Canada.

17 MR. ALEXAN KULBASHIAN: Assuming that
18 the article is even written by one of us. Now, the
19 problem is, in a time of crisis, in a time of crisis,
20 do you believe people react strongly?

21 DET/CST. WILSON: Absolutely.

22 MR. ALEXAN KULBASHIAN: So, do you
23 believe that when September 11th happened, people were
24 just going about their business, going buy their fruit
25 from the market or something like that?

1 DET/CST. WILSON: No, lots of people
2 were upset.

3 MR. ALEXAN KULBASHIAN: Okay. Did you
4 hear anything on the news about anybody being upset
5 enough to make threats?

6 DET/CST. WILSON: Yes, and hopefully
7 they were charged.

8 MR. ALEXAN KULBASHIAN: Do you know
9 that in a time of like either great crisis or in a time
10 of, I guess, a lot of distress, the standards are
11 lowered for what constitutes a threat -- sorry, the
12 standards are raised for what constitutes a threat?

13 DET/CST. WILSON: No. The Criminal
14 Code of Canada simply states, it's pretty black and
15 white, whether it's a distressful situation or not a
16 distressful situation, if you threaten death on
17 somebody it's an offence.

18 MR. ALEXAN KULBASHIAN: And so coming
19 back to that, is there anywhere in that article that
20 death is threatened?

21 DET/CST. WILSON: You declare war on
22 Muslims and Jews.

23 MR. ALEXAN KULBASHIAN: But you
24 previously testified that the article itself was more a
25 threat to bodily harm than a death threat?

1 DET/CST. WILSON: No, I --

2 MR. ALEXAN KULBASHIAN: It didn't say
3 anything about killing people.

4 DET/CST. WILSON: No, I didn't. I
5 said that I thought it was going to cause physical harm
6 to other peoples, Jews and Muslims as relayed in your
7 article.

8 MR. ALEXAN KULBASHIAN: And did you
9 put the word death anywhere in that commentary on the
10 article?

11 DET/CST. WILSON: Did I put any?

12 MR. ALEXAN KULBASHIAN: When you were
13 talking about the article, did you talk about death at
14 all?

15 DET/CST. WILSON: Yes, sir.

16 MR. ALEXAN KULBASHIAN: So, you
17 believe that the fact that neither killing nor maiming
18 or any kind of real violence, -- indication of violence
19 in that article, it was still a death threat?

20 DET/CST. WILSON: Yes, sir.

21 Actually, If you look at the charges you were facing,
22 not only were you facing charges of death threats or
23 counselling murder, you were faced charges of
24 counselling property damage and threats to cause
25 property damage, which is separate sections of the

1 Code.

2 MR. ALEXAN KULBASHIAN: So,
3 ultimately you were hoping that if the article wasn't
4 interpreted the same way by a judge or jury, that the
5 counsel to commit mischief would be the one that would
6 stick?

7 DET/CST. WILSON: No, I hoped all of
8 them stuck on you, sir.

9 MR. ALEXAN KULBASHIAN: So, it's
10 either bodily harm or property damage; right, which one
11 is it?

12 DET/CST. WILSON: It's death or
13 property damage.

14 THE CHAIRPERSON: You know, I'd like
15 to know where you're going? I have heard these
16 questions over and over. I'd like to know where you're
17 going with this.

18 MR. KULBASHIAN: Well, because he
19 uses the word, I believe, a lot throughout his
20 testimony.

21 THE CHAIRPERSON: Remember that --
22 let's be clear. I want you to focus on this, because
23 I've said it before many times.

24 Mr. Kulbashian, Sr., please, I want
25 your son to hear this.

1 What you are facing here is a Human
2 Rights complaint under section 13, not the trial of the
3 prosecution of those criminal charges in London.

4 I know you're talking about the issue
5 of credibility, but let me advise you again, what is at
6 stake here is section 13 not that, and we're not going
7 to get into a whole debate of what the Criminal Code
8 definition of death threat is.

9 If you would like to do that, we can
10 do a course in criminal law and, by the way, you should
11 be aware that the Criminal Code has certain definitions
12 and have been interpreted certain ways.

13 And there are occasions indeed when
14 people under - that I am personally aware of - where a
15 person says, you're a dead man in an argument and they
16 are arrested.

17 So, I want you to be mindful of that
18 too. That's as far as I'm going to go, because I just
19 want you to be aware of that in this discussion of the
20 Criminal Code that you have engaged in here.

21 Now, remember, we're dealing with
22 section 13 of the Canadian Human Rights Act.

23 MR. ALEXAN KULBASHIAN: Okay. Is
24 there any literature -- okay, before we get there let's
25 wrap up the Tri-City thing for a bit.

1 Is there any indication that James
2 was either involved in creating, designing, maintaining
3 or administering the Tri-City site?

4 DET/CST. WILSON: No, sir.

5 MR. ALEXAN KULBASHIAN: So, you don't
6 believe that's even a possibility?

7 I mean, like, from what you know,
8 from what you believe, you don't believe that James was
9 involved?

10 DET/CST. WILSON: I believe that he's
11 associated to the Tri-City Skins.

12 MR. ALEXAN KULBASHIAN: But not the
13 site, right?

14 ---(reporter appeals)

15 THE CHAIRPERSON: Please, Mr.
16 Kulbashian. Slower.

17 Take a sip of water before each
18 phrase. It's not getting recorded.

19 MR. ALEXAN KULBASHIAN: Okay.

20 So, you believe that James did not
21 design or maintain, like I mean from what you have
22 researched or what you have investigated?

23 DET/CST. WILSON: No, I believe as he
24 describes himself in the e-mails he sent to me that he
25 works a hundred per cent for the Canadian Ethnic

1 Cleansing Team.

2 MR. ALEXAN KULBASHIAN: Okay, that's
3 good. So, did James ever -- well, you say he e-mailed
4 you; right--

5 DET/CST. WILSON: Yes, sir.

6 MR. ALEXAN KULBASHIAN: --to Conrad
7 MacDonald?

8 Did you ever get an e-mail from an
9 @wppect.com e-mail address?

10 THE CHAIRPERSON: Run that past me
11 again.

12 MR. ALEXAN KULBASHIAN: From an
13 @wppect.com e-mail address which is the domain for the
14 C.E.C.T.?

15 THE CHAIRPERSON: Yes.

16 DET/CST. WILSON: I believe the way I
17 received the Vinland Voice was really three separate
18 ways.

19 One I would receive a direct e-mail
20 from James; two I would receive a -- it would appear to
21 me to be a general account, a Topica e-mail address,
22 and three, I would be able to view it on the website on
23 its own.

24 I can't remember if I received any
25 e-mails with that website -- web address that you

1 stated.

2 MR. ALEXAN KULBASHIAN: Okay. But
3 what I was referring to was when James was
4 communicating with you directly, as you said.

5 DET/CST. WILSON: Mm-hmm.

6 MR. ALEXAN KULBASHIAN: As you've
7 advised he was communicating with you directly about
8 recruiting and what you testified to.

9 DET/CST. WILSON: Yes, sir.

10 MR. ALEXAN KULBASHIAN: Did he ever
11 e-mail you from an @wpcect.com e-mail address?

12 DET/CST. WILSON: I don't recall
13 that, no, sir.

14 MR. ALEXAN KULBASHIAN: Can you look
15 through the e-mails you have so far to see if he ever
16 e-mailed you from one of those.

17 DET/CST. WILSON: I have an e-mail
18 that is from James that is "C.E.C.T." capital block
19 cect@wpcect.com.

20 MR. ALEXAN KULBASHIAN: Can you tell
21 me where that is?

22 DET/CST. WILSON: Can I tell you,
23 sorry?

24 MR. ALEXAN KULBASHIAN: Where is the
25 e-mail on?

1 DET/CST. WILSON: It is on--

2 MR. ALEXAN KULBASHIAN: What tab?

3 DET/CST. WILSON: --the 27th of
4 September, the day before, when James is asking me if
5 I'm a cop.

6 MR. ALEXAN KULBASHIAN: Are you
7 looking in the HR booklet?

8 DET/CST. WILSON: No, I'm looking in
9 my e-mail books, I'm sorry.

10 MR. ALEXAN KULBASHIAN: So, I can get
11 it --

12 THE CHAIRPERSON: September 27th, it
13 may be in our books.

14 MS MAILLET: Mr. Wilson, what was the
15 date of that e-mail?

16 DET/CST. WILSON: I have the 27th of
17 September, 2001.

18 MS MAILLET: Sir, I found a document
19 and it's one of the documents that were scanned and
20 provided to the parties that were in the first two
21 binders of Mr. Wilson.

22 If I could just show this to him to
23 make sure it's the same document. It hasn't been
24 produced as evidence.

25 THE CHAIRPERSON: Oh it's not. Okay.

1 DET/CST. WILSON: Yeah.

2 THE CHAIRPERSON: All right , so...

3 MS MAILLET: So, it's a document
4 again that they were able to review in Mr. Wilson's
5 binders last time then we had them scanned at the
6 Commission and forwarded to the parties as part of the
7 additional disclosure and we have not put it in as any
8 evidence at this point.

9 THE CHAIRPERSON: Well, there's been
10 reference made to it now, it can be entered in.

11 MS MAILLET: We can put it in.

12 THE CHAIRPERSON: It can be entered
13 in later.

14 MS MAILLET: We can mark it as an
15 exhibit at this point.

16 THE CHAIRPERSON: Well, except that
17 the questioning is coming from the respondent, so I'll
18 leave it at his decision.

19 Do you want to file it as an exhibit
20 at this point?

21 MR. ALEXAN KULBASHIAN: Sure.

22 THE CHAIRPERSON: You do?

23 MR. ALEXAN KULBASHIAN: That would be
24 great.

25 THE CHAIRPERSON: Thank you.

1 Is there a copy there in your
2 possession?

3 MR. ALEXAN KULBASHIAN: Yeah, we do
4 have a copy.

5 THE CHAIRPERSON: Let me just take a
6 look at it now. Maybe I'll hold on to your copy, I
7 won't mark it, Ms. Maillet, additional photocopies have
8 been made of this already.

9 All right. So, it's an e-mail
10 received from cect@wpcect.com to
11 conradmacdonald@hotmail.com dated September 27th, 2001.

12 Well, there is no -- it says at the
13 bottom 10/01/2001 as its date of printing from the
14 Hotmail site, but I'm more concerned about what it says
15 over here in terms of the e-mail date.

16 So, that's the e-mail date, yes.

17 REGISTRY OFFICER: Document as
18 described by the Chairperson will be filed as
19 respondent Exhibit R-6.

20 EXHIBIT NO. R-6: E-mail received
21 from cect@wpcect.com to
22 conradmacdonald@hotmail.com dated
23 September 27th, 2001.

24 THE CHAIRPERSON: So, you have it in
25 front of you; right?

1 DET/CST. WILSON: Yes, sir.

2 THE CHAIRPERSON: So, do you have any
3 questions to ask, I have a copy here in front of me
4 right now.

5 MR. ALEXAN KULBASHIAN: I'm just
6 getting a document. I have so much stuff in here.

7 Now, in this document, when you went
8 to the C.E.C.T. site did you ever see an address called
9 wpcanada@wpcect.com on that site?

10 DET/CST. WILSON: I recall something
11 to the -- something similar to that, yes, sir.

12 MR. ALEXAN KULBASHIAN: And you
13 stated previously that you believed that James was
14 WPCanada, a person not a group?

15 DET/CST. WILSON: Yes, sir.

16 MR. ALEXAN KULBASHIAN: So, if the
17 e-mail address WPCanada exists at wpcect.com and James
18 is e-mailing you as he you alleged that he's WPCanada,
19 why do you think he's e-mailing you from C.E.C.T.
20 instead of WPCanada at wpcect.com?

21 DET/CST. WILSON: Because he has
22 several e-mail accounts.

23 MR. ALEXAN KULBASHIAN: Because he's
24 schizophrenic or something, like I am, the Totenkopf
25 one?

1 DET/CST. WILSON: Gain, I'm not a
2 doctor, sir.

3 MR. WARMAN: Objection.

4 THE CHAIRPERSON: You know, Mr.
5 Kulbashian --

6 MR. ALEXAN KULBASHIAN: I know, it's
7 just some things are so far out.

8 THE CHAIRPERSON: No, your suggestion
9 is why is it that -- your question is why is it that
10 this person would have two Internet accounts and the
11 answer we have heard.

12 MR. ALEXAN KULBASHIAN: Okay, thanks.

13 Okay. Now, reviewing the Tri-City
14 site, I suppose you had a chance like to review that
15 fully; right?

16 DET/CST. WILSON: Yes, sir.

17 MR. ALEXAN KULBASHIAN: Okay. Did
18 you see anything by Totenkopf or Alex Krause on the
19 Tri-City site?

20 DET/CST. WILSON: No, sir, I don't
21 recall.

22 MR. ALEXAN KULBASHIAN: Anything at
23 all, including guest book entries, including anything?

24 DET/CST. WILSON: I don't recall
25 that, no.

1 MR. ALEXAN KULBASHIAN: So, do you
2 believe that the extent of my involvement, what you
3 call involvement, would be just the fact that it was
4 being hosted by a company that --

5 DET/CST. WILSON: Yes, sir, I believe
6 you to be the computer custodian of that site, yes.

7 MR. ALEXAN KULBASHIAN: But my
8 question is not computer custodian.

9 So, do you believe that being
10 computer custodian makes you in a way liable for what
11 is posted on that site?

12 DET/CST. WILSON: Yes, sir.

13 MR. ALEXAN KULBASHIAN: And do you
14 know why there are laws exempting Internet service
15 providers from being, I guess, held liable for content
16 that's found on sites hosted on the server?

17 DET/CST. WILSON: There is no
18 exemption, the rule of law states that they must have
19 knowledge that it exists there.

20 MR. ALEXAN KULBASHIAN: That they
21 must have knowledge.

22 DET/CST. WILSON: And as soon as they
23 have knowledge that they exist, that they're hosting,
24 for example, a child pornography site or a hate site,
25 at the time they are notified by the police they make a

1 decision whether it should be removed or not.

2 There's a new section in legislation
3 that has us swear to a warrant that would have that
4 removed.

5 So, there is really no exemption for
6 Internet service providers if they know an offence is
7 being committed by their service agency.

8 MR. ALEXAN KULBASHIAN: I understand
9 if they know, but what I don't understand is you just
10 told me -- okay, so you believe that I know the content
11 on the Tri-City site?

12 DET/CST. WILSON: Yes, sir.

13 MR. ALEXAN KULBASHIAN: And, again,
14 you said the reason for that is because of what I said
15 about my discretion of who I host and who I do not
16 host, not necessarily because I said that I monitor
17 every page of every site that comes on my server?

18 DET/CST. WILSON: Again, I believe
19 the way you have discretion about what sites are on
20 your server or on your hosting company is because you
21 will be able to monitor the content to ensure that it
22 would fall within your belief system.

23 MR. ALEXAN KULBASHIAN: Do you know
24 anybody or did you yourself or anybody in your
25 department ever complain about the content on the

1 Tri-City site to AffordableSpace.com?

2 DET/CST. WILSON: No, sir.

3 MR. ALEXAN KULBASHIAN: So, you don't
4 know of any situation where somebody would have brought
5 AffordableSpace.com's attention to the content on the
6 Tri-City site?

7 DET/CST. WILSON: No, sir.

8 MR. ALEXAN KULBASHIAN: So you can't
9 say for sure that I've seen any of the content on the
10 Tri-City site?

11 DET/CST. WILSON: Again, when you
12 look at the totality of evidence and in your statement
13 when you're arrested, it's my belief that you
14 absolutely knew the content on the Tri-City Skins site.

15 MR. ALEXAN KULBASHIAN: So,
16 basically, so a company that decides to use discretion
17 not to host a child pornography site, means that they
18 have knowledge of every other site that's on their
19 server?

20 DET/CST. WILSON: No, sir. As soon
21 as we bring the information that their server is
22 committing an offence by disseminating either hate
23 material or child pornography it is then their
24 responsibility, because they have knowledge, to stop
25 that dissemination of that material.

1 MR. ALEXAN KULBASHIAN: And why
2 didn't you complain?

3 DET/CST. WILSON: Because you were
4 under investigation here, and I'm not going to tip my
5 hand if I have to kick your door in.

6 MR. ALEXAN KULBASHIAN: Okay. Now,
7 so do you know of any situations where somebody
8 complained directly to AffordableSpace.com or myself
9 about content that was removed?

10 DET/CST. WILSON: No, sir, I have no
11 knowledge of that.

12 MR. ALEXAN KULBASHIAN: Do you
13 remember Detective Samm telling you anything about
14 torontoskinheads.com.

15 DET/CST. WILSON: Oh yes, sir, I do.

16 MR. ALEXAN KULBASHIAN: Do you
17 remember Detective McKinnon telling you anything about
18 the police station's phone number being posted in a
19 Vinland Voice issue?

20 DET/CST. WILSON: Yes, sir.

21 MR. ALEXAN KULBASHIAN: Was content
22 removed when AffordableSpace.com was notified?

23 DET/CST. WILSON: When you were
24 notified as Alex Krause the content was removed.

25 MR. ALEXAN KULBASHIAN: So, but

1 that's what I'm saying, so the other possibility is
2 that I didn't notify AffordableSpace.com.

3 DET/CST. WILSON: We didn't notify
4 AffordableSpace.com to remove the content, we notified
5 Alex Krause with a phone number that you supplied to me
6 that came back to your address to remove that content.

7 MR. ALEXAN KULBASHIAN: So, you said
8 -- you would say that when I was told that there was
9 offending content on the site that it was removed?

10 DET/CST. WILSON: Sure, it showed you
11 absolute had control over it.

12 MR. ALEXAN KULBASHIAN: However, was
13 I ever told that there was offending content on
14 Tri-CitySkins.com?

15 DET/CST. WILSON: Not at that time,
16 no, sir.

17 MR. ALEXAN KULBASHIAN: And so you
18 still believe that I knew it was on there.

19 Do you think that somebody who works,
20 who does a lot of -- as you admitted yourself, I was
21 maybe involved in a lot of things, et cetera, et
22 cetera, has time to monitor petty content on every
23 single site that's on his server that he manages?

24 DET/CST. WILSON: I think if you
25 wanted to exclude any Jewish or anti-racist content as

1 you stated in your statement then, yes, you did have
2 time to monitor it.

3 MR. ALEXAN KULBASHIAN: Did you ever
4 go through sign-up procedure?

5 DET/CST. WILSON: A sign-up procedure
6 for what?

7 MR. ALEXAN KULBASHIAN: The sign-up
8 procedure to sign up for an account on the website?

9 DET/CST. WILSON: No, I didn't.

10 MR. ALEXAN KULBASHIAN: So, you
11 wouldn't have seen any kind of automated scripts that
12 automatically create accounts?

13 DET/CST. WILSON: No, sir.

14 MR. ALEXAN KULBASHIAN: So, do you
15 remember if during my interview I talked out of
16 preference not out of, like, in some totalitarian sort
17 of way saying that they would never be hosted, it's
18 more along the lines of if I knew they would be hosted?

19 DET/CST. WILSON: I'd have to review
20 your statement again, but I believe that the way I
21 posed the question.

22 MR. ALEXAN KULBASHIAN: If you might
23 want to check.

24 I'll try and see if I can find it.

25 MS MAILLET: Mr. Chairman, perhaps

1 take a moment to give the witness and the court
2 reporter a break at this point.

3 THE CHAIRPERSON: Always.

4 REGISTRY OFFICER: All rise.

5 ---Recess taken at 3:40 p.m.

6 ---On resuming at 4:15 p.m.

7 REGISTRY OFFICER: All rise.

8 Please be seated.

9 THE CHAIRPERSON: A couple of things.
10 I have had an opportunity to review the material. Now,
11 I'm just inclined - I still have it here in front of me
12 - I just want to be clear on what the issues were.

13 I guess the item, Mr. Kulbashian, Mr.
14 Richardson, the item that was of the biggest concern to
15 you was the search warrant; right, the U.S. search
16 warrant?

17 MR. ALEXAN KULBASHIAN: Yes.

18 THE CHAIRPERSON: All right. Well,
19 what I can tell you -- and what was the question that
20 Mr. Richardson had specifically asked about it?

21 The doubt that you drew was whether
22 it was indeed just a search warrant?

23 MR. ALEXAN KULBASHIAN: No, actually
24 the question I brought up with you was how the third
25 party was informed?

1 THE CHAIRPERSON: Yes, but for what
2 issue because we had the evidence of Mr. Wilson that it
3 only was a search warrant, he just didn't want to
4 release it because of the international agreements that
5 the forces have.

6 It is a search warrant, I can tell
7 you that much. I mean, it's a search warrant and it --
8 Mr. Wilson, did you say what was being seized as a
9 consequence of this search warrant, was that --

10 DET/CST. WILSON: That was offered to
11 them.

12 THE CHAIRPERSON: Did you mention it?
13 Before I bring it up, is there any issue with what this
14 was used for?

15 DET/CST. WILSON: No. I don't
16 believe so, no.

17 THE CHAIRPERSON: No. So, it was to
18 seize the location of where the San Diego server was
19 located, it was to seize the computers and records?

20 DET/CST. WILSON: Essentially, it's a
21 hard copies of the records between a certain date that
22 Mr. Kulbashian had control over that server that was
23 renting him space as AffordableSpace to the Internet.

24 THE CHAIRPERSON: And that's what the
25 purpose of this, and I can confirm that to you, Mr.

1 Richardson, that is what this document talks about.

2 There is reference to the police in
3 the United States having spoken to Mr. Wilson, what Mr.
4 Wilson told them is no different than what we've heard
5 here on the previous days and today, and in much
6 simpler basic language and the rest of it is, a lot of
7 is just a description of the locale where the seizure
8 would take place, all right.

9 So, to that extent I can confirm what
10 was said to us earlier about this document.

11 I'll let you think about it, but I
12 can confirm that.

13 The other items, I guess there is a
14 list of witnesses with personal information such as
15 phone numbers.

16 And on the other items, that would be
17 No. 7, confidential source, I do see some names here of
18 people who I guess - I don't know who they are - but
19 their names, that's all I can tell the parties and,
20 again, I leave it afterwards to your discretion what to
21 do about it.

22 And there is a CPIC search as was
23 told to us by the witness.

24 The middle document, I'm not entirely
25 sure I understand what it is. Even looking at it, I

1 can't tell quite what it is.

2 DET/CST. WILSON: Unfortunately going
3 in to explain the document, I would sort of have to
4 take you aside, if that is possible, and explain that
5 document to you, because explaining the document would
6 sort of reveal the confidentiality of it, I guess is
7 essentially --

8 THE CHAIRPERSON: Let me look at it
9 one more time.

10 I don't quite know what to do with
11 that middle document. It doesn't even fall into what
12 you indicated to me earlier is your grounds for the
13 confidentiality I think, from what I've been able to
14 surmise, by looking at it.

15 I am willing to allow you perhaps to
16 review that, if you wish, but it hasn't even been
17 described in the --

18 DET/CST. WILSON: Okay.

19 THE CHAIRPERSON: So...

20 MS MAILLET: Perhaps --

21 THE CHAIRPERSON: I can say that it
22 does not obviously seem to me to be relevant to the
23 section 13 complaint that we have here, however, it's
24 been indicated by Mr. Richardson and Mr. Kulbashian
25 that there are the broader issues of credibility.

1 So, it may fall into all that area.

2 I mean, I'll say this much, it is not
3 -- the area discussed is not far away from some of the
4 other material that we've just discussed, okay, but
5 that's all I'll say.

6 MS MAILLET: I don't object, sir, if
7 Mr. Wilson can take a brief moment and describe to you
8 what exactly that is, but I believe it is still
9 confidential source.

10 THE CHAIRPERSON: On what basis?
11 See, that's what's not clear to me either.

12 MS MAILLET: Yeah, and it's...

13 THE CHAIRPERSON: The document
14 actually has the word confidential written on it, but
15 on what basis.

16 MS MAILLET: Again, I hesitate to
17 explain any more than that without revealing what that
18 document would be.

19 THE CHAIRPERSON: I can tell the
20 parties, you know, depends what you want to do with it,
21 but I do not see a huge -- I don't see, frankly, any
22 relevance to the strict section 13 case that's here, I
23 can tell you that much.

24 MR. RICHARDSON: The only relevance I
25 care about is that maybe the document -- because there

1 was some issues with what was said to Canada court and
2 American customs.

3 THE CHAIRPERSON: It doesn't deal
4 with the Americans.

5 MR. ALEXAN KULBASHIAN: Just if we
6 could just see the value of it.

7 THE CHAIRPERSON: Let me just see if
8 it deals with you, sir.

9 DET/CST. WILSON: It doesn't deal
10 with Mr. Kulbashian.

11 THE CHAIRPERSON: It doesn't deal
12 with you, Mr. Kulbashian, it deals with Mr. Richardson
13 only and it doesn't deal with him.

14 MR. ALEXAN KULBASHIAN: Okay. But,
15 so in that case it still brings back the issue of
16 whether or not it could be used, what I mean, like if
17 it's deemed --

18 THE CHAIRPERSON: No, I'm not deeming
19 it to be confidential at this time.

20 MR. ALEXAN KULBASHIAN: You check it
21 out.

22 THE CHAIRPERSON: We haven't had a
23 real debate on that issue.

24 MR. ALEXAN KULBASHIAN: Okay.

25 THE CHAIRPERSON: What I tried to do

1 is in an indirect way try to resolve the problem so
2 that, if it allows us to move one step further.

3 The other, as I told you, the search
4 warrant is what we've described. I think it's just a
5 document cannot -- shouldn't be shown to other people,
6 that is what I understood Mr. Wilson to be saying.

7 DET/CST. WILSON: Yes, sir.

8 THE CHAIRPERSON: So that's that.
9 The other document, as I say, I mean I have some
10 confusion because I just don't quite get it, but it
11 doesn't involve you, Mr. Kulbashian, it involves Mr.
12 Richardson.

13 MR. ALEXAN KULBASHIAN: Whatever
14 involves me ultimately does -- like, you know, involves
15 him ultimately can involve me, depends I guess, I don't
16 know exactly what it is.

17 THE CHAIRPERSON: Your name doesn't
18 appear on it.

19 MR. RICHARDSON: Is there a way that
20 we could, you know, see the document but have the names
21 blacked out or the important information that I guess
22 we're not supposed to see. I mean...

23 DET/CST. WILSON: Well, if you'd
24 like, I can take it and explain --

25 THE CHAIRPERSON: I have a sense of

1 what it's about, but let me ask you something, Mr.
2 Wilson, I don't want to have any privileges waived,
3 this investigation has been, for the most part, closed
4 on the criminal side of it; right?

5 DET/CST. WILSON: Yes, sir.

6 THE CHAIRPERSON: So...

7 DET/CST. WILSON: And that document

8 --

9 THE CHAIRPERSON: And is a document
10 that dates from that time; does it not?

11 DET/CST. WILSON: Yes, it does.

12 MS MAILLET: And is it my
13 understanding that it's not -- that it's a document
14 from another agency?

15 DET/CST. WILSON: It's a document
16 from another national agency, yes.

17 THE CHAIRPERSON: And that's your
18 concern because it emanates from another agency?

19 DET/CST. WILSON: Yes, sir.

20 MR. ALEXAN KULBASHIAN: In Canada or
21 the U.S.?

22 DET/CST. WILSON: In Canada.

23 THE CHAIRPERSON: In Canada. Maybe
24 you can communicate with the other agency and see if
25 they are willing to waive any privilege on it?

1 In that case, otherwise we'll have a
2 debate about what -- because I don't know what --
3 privilege is not a broad thing you can just toss
4 around. There's the Wigmore criteria and so on. If
5 we're going to go down that road, then we're going to
6 have to go down that road and terms of relevance, well,
7 a lot of doors have been opened here on the relevance
8 side.

9 I mean, I know we all sort of don't
10 want this case to run on for ever, but these are issues
11 that need to be dealt with.

12 DET/CST. WILSON: If, I guess, give
13 me some time, I will review that document and either
14 make a phone call or make a decision on my own.

15 In general practice that type of
16 document would not be released. Again, this is my
17 first time in front of the Tribunal, so maybe that's --

18 THE CHAIRPERSON: It's an open
19 process and disclosure is not taken lightly and
20 privilege is not taken lightly and you can't just
21 allege something is privileged and let it be so, it can
22 be challenged.

23 MS MAILLET: I agree, and had this
24 been a Commission document, that would be the case, but
25 this was a document for the purpose of London Police

1 Service--

2 THE CHAIRPERSON: That's true.

3 MS MAILLET: --that was not in any way
4 relied on by us, it's in our mind not relevant.

5 THE CHAIRPERSON: The document wasn't
6 relied on by you, but the evidence of this witness is
7 certainly important and it was something that was in
8 his possession.

9 MS MAILLET: That's correct, well, it
10 was something that was in the London Police Service
11 possession that he had with him.

12 THE CHAIRPERSON: Right.

13 MS MAILLET: We're not relying on
14 that document in any way, nor is his evidence reflected
15 in this document, so...

16 THE CHAIRPERSON: Well, I'm not
17 passing blame on anybody but that might explain why
18 it's happening at this time as opposed to early is what
19 you're saying, I accept that.

20 MR. ALEXAN KULBASHIAN: Could she be
21 mistaken on whether or not she thinks it's relevant.
22 Okay. Maybe it's not relevant to section 13...

23 THE CHAIRPERSON: I'm telling you. I
24 told you before, listen to what I said, I said it
25 doesn't seem to me to be directly relevant to the

1 section 13 issue in a direct sense, all right, but as
2 you've indicated, I've asked you before what's the
3 relevance of this whole line of questioning when we
4 have gone way into the criminal law and all that stuff
5 and you have indicated to me what you think the
6 relevance is there and sort have allowed that to
7 continue and in that line it may have some relevance.

8 MS MAILLET: What concerns me, Mr.
9 Chair - and Mr. Wilson would know more than I do - but
10 there are certain police investigative techniques that
11 rely on other agencies and if these documents were to
12 be disclosed without a waiver, especially on the part
13 of the originating agency, that's the concern I have.

14 THE CHAIRPERSON: So, the information
15 itself that's in there may not be of use to anyone,
16 it's simply the process?

17 DET/CST. WILSON: Absolutely.

18 THE CHAIRPERSON: I can say that
19 much.

20 MR. ALEXAN KULBASHIAN: My question
21 is, like is there some kind of indication of what the
22 document even is, even if it's vague because so far
23 we've heard --

24 THE CHAIRPERSON: Yes, that is a very
25 vague definition you have given. Everything else was

1 fairly clear, but this one was extremely vague.

2 I will give him another chance to
3 consider that document and, you know, we'll see. We
4 have the week, maybe we'll deal with it at some later
5 point. It's just one.

6 The other documents are as described
7 and as discussed by me. So, I don't know if you wish
8 to make any further comments on those documents, but
9 they are as described here. I can confirm you that.

10 MR. ALEXAN KULBASHIAN: Okay.

11 THE CHAIRPERSON: Okay. There is
12 another point I want to bring up, Ms. Maillet, while
13 this is going on.

14 My first point this morning about
15 remedy it has been troubling me, but I was fairly sure
16 I understood the situation to be as I described it and
17 I have looked closely and I didn't see any evidence, or
18 any submission made, not even in your opening statement
19 about what remedy is being sought in this case.

20 Although when I look at the - I could
21 be wrong and please correct me - but of course I looked
22 at the Commission/complainant disclosure and in that
23 document you have made a request for an order that the
24 respondents cease discriminatory practice.

25 I'm looking at your --

1 MS MAILLET: Letter of particulars.

2 THE CHAIRPERSON: Disclosure, yes,
3 letter of particulars.

4 MS MAILLET: Yes.

5 THE CHAIRPERSON: April 19th, 2004,
6 an order that each of the respondents pay a penalty in
7 the amount of \$10,000 pursuant to section 54(1)(c), an
8 order that the respondent Alexan Kulbashian compensate
9 the complainant in the amount of \$20,000 pursuant to
10 section 54(1)(b), interest, costs, that was there.

11 But we never got back to that at all.
12 And you mentioned -- I went back and looked at the
13 transcript, and when we discussed this issue when we
14 were setting down dates - not the last conference call
15 but the one before in September - I brought that up
16 with you, and there was some statement made, I believe
17 by Mr. Warman initially, or at some point that - I have
18 it here on my computer I can pull it up - that you were
19 working on the assumption that that would be dealt with
20 after a finding of liability.

21 And that's when I asked you, I don't
22 recall having issued an order of bifurcation and I want
23 to draw your attention to the February 20th letter to
24 the parties from the Tribunal, it's a standard letter
25 that's sent to the parties telling them the dates of

1 the hearings and so on, there was another one sent in
2 March - I believe, was it March - yeah, March 20
3 something which repeated it because I think we changed
4 the dates at some point, and the letter states in the
5 fourth or fifth paragraph near the bottom of the first
6 page:

7 "The parties are to present
8 their case in full, including
9 merits, damages and final
10 submissions. The Tribunal will
11 only grant bifurcation of the
12 case in unusual circumstances."

13 So now, I don't want any -- what I'm
14 trying to do is I'm trying to organize the file
15 properly, I'm not saying that you will be denied the
16 opportunity to make your claim, but it's illogical that
17 we would go all this way and not ask for a remedy -
18 what's happening here - especially when the Commission
19 is here.

20 I have heard that happen from
21 unrepresented complainant in today's state of things
22 but not when the Commission and further sophisticated
23 complainant are here, so...

24 MR. WARMAN: If I could.

25 THE CHAIRPERSON: Yes.

1 MR. WARMAN: That Information has, in
2 fact, been submitted to the Tribunal through the
3 questionnaires that were originally sent out.

4 THE CHAIRPERSON: But that's not
5 evidence.

6 MR. WARMAN: What I'm saying is that
7 that information is on record with the Tribunal and in
8 closing arguments we will elaborate and make very
9 specific what, in fact -- that those are, in fact, the
10 remedies that we are seeking, on my own behalf. I'm
11 certainly not seeking to bifurcate the process, and I
12 think the only confusion may have arisen around the
13 question of costs.

14 And I had, in fact, indicated to the
15 Tribunal and the Tribunal had indicated to the other
16 parties that I would be seeking my full costs, and the
17 only question around that was, can I submit my costs
18 before, in fact, there's a finding of responsibility.

19 THE CHAIRPERSON: The costs being
20 related to the fact that we have moved the venue?

21 MR. WARMAN: Yes.

22 MS MAILLET: That's correct, with
23 respect to his expenses.

24 THE CHAIRPERSON: Is that the only
25 costs you're talking about?

1 MS MAILLET: With respect to Mr.
2 Warman's expenses.

3 THE CHAIRPERSON: Relating to here.

4 MS MAILLET: Yes.

5 THE CHAIRPERSON: I understood that
6 and that you wanted to leave to the end.

7 MS MAILLET: And you're right there
8 may have been some confusion about what we were going
9 to have Mr. Warman testify to.

10 My idea was that he provide receipts
11 and so on to prove what his expenses were.

12 But, yes, it was my plan to go
13 through the evidence in my closing and then to again
14 reiterate what I had in my letter of particulars.

15 THE CHAIRPERSON: It's just that it
16 seems normally, I didn't want any problem to arise
17 later on, in the ordinary course of things, usually the
18 complainant testifies says, and here I'm asking for
19 "x", this is the damage I've suffered, I'm asking "y",
20 this is the damage I've suffered.

21 And I didn't see that, or an order --
22 if there's any technical aspect to this order in terms
23 of how it would be executed, I have not heard any
24 evidence on that.

25 I don't know where -- I certainly

1 heard some discussion that the sites have been shut
2 down. But I mean, the testimony of Mr. Warman ended on
3 one or two final exhibits that were filed and that was
4 it.

5 MS MAILLET: That's correct and some
6 of those exhibits did include evidence that, for
7 example, he was named personally in e-mails.

8 Besides that, it's simply an argument
9 of law.

10 THE CHAIRPERSON: Then I'll leave it
11 to you. If you think you have covered off all the
12 angles, that's fine.

13 I just wanted to be clear on that,
14 because we had that suggestion during that conference
15 call and then we got sidetracked right after -- I was
16 just trying to understand where you stood on the issue
17 of remedy and boom we went back into dates and that's
18 when Mr. Kulbashian came up with the date for this
19 hearing today, and we jumped on it and we didn't really
20 complete our thoughts on that.

21 So, the position of the
22 complainant/Commission is that all that is needed to
23 make their remedial claims is in evidence already,
24 there would be no request for additional evidence on
25 that?

1 MS MAILLET: Request for further
2 evidence to be produced.

3 THE CHAIRPERSON: Further evidence.

4 MS MAILLET: No, I don't believe so.
5 Now you've got me worried.

6 THE CHAIRPERSON: Well, at the very
7 least you're relying on what was in the statement of
8 particulars.

9 MS MAILLET: Yes.

10 THE CHAIRPERSON: Because even in
11 your opening statement, there was no mention of what
12 was being claimed.

13 MS MAILLET: That's right.

14 THE CHAIRPERSON: I went back and
15 looked. Fine.

16 So at least on the record, you're
17 saying now that those items I just read from your
18 statement of particulars is what you are claiming?

19 MS MAILLET: I will have to take a
20 look at our statement of particulars again, but my plan
21 was to request the remedies in the closing argument.

22 I don't plan on calling any evidence
23 that hasn't been heard.

24 MR. WARMAN: Except for --

25 THE CHAIRPERSON: Except for the

1 costs?

2 MR. WARMAN: And the expert witness.

3 THE CHAIRPERSON: Logically will
4 occur at the end, which has been the practice and that
5 certainly we have done.

6 MS MAILLET: And we still have
7 another witness, but I don't --

8 THE CHAIRPERSON: No, I understand,
9 but because I knew the other witness is an expert,
10 that's why I'm putting the question to you.

11 MS MAILLET: That's correct.

12 THE CHAIRPERSON: I want it to be a
13 clean process. I don't want us going back and forth,
14 back and forth. So, if there is anything else that
15 needs to be said, let it be said now. That's what I'm
16 saying.

17 MS MAILLET: Absolutely.

18 THE CHAIRPERSON: All right. Mr.
19 Kulbashian?

20 MR. ALEXAN KULBASHIAN: In that case,
21 still dealing with the issue of the Appeal Court
22 decision.

23 THE CHAIRPERSON: And there was the
24 Appeal Court decision, what happened to that? Was it
25 photocopied?

1 MS MAILLET: Yes.

2 THE CHAIRPERSON: May I ask
3 something? When I order that something be photocopies
4 from one side or the other and communicated, I would
5 appreciate it if then it be provided to the other side
6 before we come back into the hearing room.

7 Now, they're going to receive it,
8 they'll say they haven't had a chance to look at it and
9 it may cause further delays.

10 So, as soon as it's photocopied give
11 it to the other side. If I've issued the order, just
12 go ahead and give it.

13 MS MAILLET: Yes. Now, my
14 understanding what had occurred, we had the reason for
15 sentencing in a hearing.

16 THE CHAIRPERSON: Right.

17 MS MAILLET: They wanted the full
18 decision.

19 THE CHAIRPERSON: Right.

20 MS MAILLET: So, that's what I have
21 here.

22 And then we had the Court of Appeal
23 endorsement.

24 MR. ALEXAN KULBASHIAN: Court of
25 Appeal decision, was that --

1 THE CHAIRPERSON: It was an
2 endorsement --

3 MR. ALEXAN KULBASHIAN: This is not
4 the one we were talking about.

5 This is not the Court of Appeal.

6 THE CHAIRPERSON: She's completing.
7 Hold on, Mr. Kulbashian, I haven't heard from Ms.
8 Maillet completely.

9 What does it involve?

10 MS MAILLET: If I could just speak
11 with Ms. Phillips for a second, she made these copies.

12 MR. ALEXAN KULBASHIAN: Mr. Chair --

13 THE CHAIRPERSON: Hold on.

14 MS MAILLET: If I might have a
15 moment, sir, I apologize.

16 THE CHAIRPERSON: Yes.

17 MS MAILLET: Okay. Mr. Chair, so I
18 will provide the Tribunal with, again, a copy of the
19 full decision and it looks like it's been copied twice,
20 I apologize for that.

21 So you've got two copies of the
22 decision here.

23 THE CHAIRPERSON: With one staple.

24 MS MAILLET: Yes. Just separate
25 them.

1 And I just found what the respondents
2 were looking for, unfortunately haven't made a copy
3 yet, so I can do that right away and provide this to
4 them.

5 MR. WARMAN: If it is of any
6 assistance it is the Court of Appeal decision in Mr.
7 Kulbashian's own case.

8 THE CHAIRPERSON: Right.

9 MS MAILLET: It's a public document,
10 I apologize, but I didn't get a copy of that.

11 THE CHAIRPERSON: Let me ask. How
12 come you don't have copy of it?

13 MR. ALEXAN KULBASHIAN: Well, the
14 issue is that -- well, this issue of disclosure. Now
15 the problem is, I guess Ms. Maillet hinted at the
16 possibility that the reason why I was let go was
17 because of technicalities on the case as opposed to
18 on--

19 THE CHAIRPERSON: Well, I don't
20 recall what the relevance was right now.

21 MR. ALEXAN KULBASHIAN: Well, the
22 relevance --

23 THE CHAIRPERSON: I'm not concerned
24 with that. It's fine, it's a case involving you, but
25 how come you don't have a copy?

1 MR. ALEXAN KULBASHIAN: We do have a
2 copy, just issue of disclosure, since everybody else
3 gets a copy in the court.

4 THE CHAIRPERSON: Oh, I see. Because
5 the sentencing decision was filed and not the rest of
6 it, so it's not so much communication that's in issue,
7 it's the completion of the record.

8 MS MAILLET: That's correct.

9 THE CHAIRPERSON: So then, I do want
10 the record complete.

11 MS MAILLET: Yes.

12 THE CHAIRPERSON: I do want the
13 trial, first instance decision and the appeal and the
14 sentencing. We have the sentencing, all right.

15 MS MAILLET: But everything except
16 the Court of Appeal decision.

17 THE CHAIRPERSON: So, when it is
18 ready please provide it and we'll enter it into the
19 record.

20 MR. ALEXAN KULBASHIAN: Can we --

21 THE CHAIRPERSON: It's all attached
22 at tab 61. Yes, we'll put it in under the same tab,
23 there's a tab, tab 61 contains the reasons for
24 sentence, so I will already just sort of insert, R. V.
25 Vrdoljak.

1 MR. ALEXAN KULBASHIAN: Vrdoljak,
2 actually he's one of the co-accused on the case.

3 THE CHAIRPERSON: Co-accused on the
4 case. The third accused is you, Mr. Kulbashian?

5 MR. ALEXAN KULBASHIAN: That's right.

6 THE CHAIRPERSON: And that's the
7 Ontario Court of Justice decision, so that one we'll
8 put it.

9 MR. ALEXAN KULBASHIAN: The reason
10 for making this, like for having to include this
11 because my concern is that --

12 THE CHAIRPERSON: You want the
13 complete case to be there.

14 MR. ALEXAN KULBASHIAN: We might have
15 to question either Warman or --

16 THE CHAIRPERSON: Your point was well
17 taken, I mean, you don't throw reasons for sentencing
18 without looking at what the previous decision was, the
19 sentences relating to what, you need to have --

20 MR. ALEXAN KULBASHIAN: Yeah, but the
21 issue is the Court of Appeal is actually the over
22 turning of the appeal -- of the conviction to decision.

23 THE CHAIRPERSON: That's right.

24 MR. ALEXAN KULBASHIAN: So, it's
25 basically the appeal facts and the issue that worry was

1 that basically it could be said, which I think it was
2 at some point - if I could just continue - basically
3 that the reason why my conviction was over turned was
4 because of technicalities but it clearly states there
5 that there were multiple grounds and the one of
6 technicality is all that they looked at.

7 THE CHAIRPERSON: You can argue that
8 point. I understand that you may have some points to
9 make, but what's of concern to me is that what appears
10 on its face that it was an incomplete record, we only
11 had the reasons for sentencing, we didn't have the
12 reasons for conviction, or whatever, right.

13 MR. ALEXAN KULBASHIAN: This one was
14 actually just the appeal being granted.

15 THE CHAIRPERSON: I want the complete
16 record, so we're getting that. There's another
17 decision forthcoming, it will be entered into this
18 Exhibit No. HR-1, tab 61.

19 MR. ALEXAN KULBASHIAN: Okay, thank
20 you.

21 THE CHAIRPERSON: Just let me take
22 note of this.

23 Okay.

24 MR. ALEXAN KULBASHIAN: Okay.

25 Detective Wilson, now we're just

1 getting into like some of the communication things and
2 identification of James through the e-mails.

3 You testified, okay, that you got
4 e-mails from C.E.C.T at wppect.com as opposed to
5 wpcanada@wppect.com; is that right?

6 DET/CST. WILSON: I got e-mails from
7 several different ways from James.

8 MR. ALEXAN KULBASHIAN: And one of
9 them was cect?

10 DET/CST. WILSON: Yeah, wppect.com.

11 MR. ALEXAN KULBASHIAN: And did you
12 ever get one from wpcanada@wppect.com?

13 DET/CST. WILSON: I believe I did and
14 I also got e-mails from coxwain24, which was another
15 e-mail address he used.

16 MR. ALEXAN KULBASHIAN: So far we
17 haven't seen any e-mails from wpcanada@wppect.com that
18 were directed to you personally?

19 DET/CST. WILSON: No, sir, I think
20 those are the only two, the first one you mentioned and
21 coxwain24 are the e-mails that I received.

22 MR. ALEXAN KULBASHIAN: So, do you
23 think that somebody who was claiming to talk to you,
24 like, as the head recruiter would use the recruiting
25 e-mail address if he had that?

1 DET/CST. WILSON: No, he used his
2 personal e-mail.

3 MR. ALEXAN KULBASHIAN: So you
4 believe that cect@wpcect is his personal e-mail?

5 DET/CST. WILSON: No, coxwain24 is
6 his personal e-mail.

7 MR. ALEXAN KULBASHIAN: But he also
8 used the cect one?

9 DET/CST. WILSON: Yes, he did.

10 MR. ALEXAN KULBASHIAN: So, basically
11 you testified that you don't believe that wpcect is a
12 group, it's actually just a person; right?

13 DET/CST. WILSON: No, I didn't
14 testify to that, I said WPCanada was a person.

15 MR. ALEXAN KULBASHIAN: WPCanada,
16 sorry, that's what I meant.

17 DET/CST. WILSON: Was a person, yes,
18 sir.

19 MR. ALEXAN KULBASHIAN: My mistake.
20 Now, getting to the issue of the ISP, sorry for getting
21 back into this, but there's like a few issues.

22 Do you have a copy of the warrant
23 that you served certain the Internet service provider
24 in the file?

25 DET/CST. WILSON: No, I don't.

1 MR. ALEXAN KULBASHIAN: Do you
2 remember on what ground you obtained that warrant?

3 DET/CST. WILSON: Yes, sir, I do. I
4 wouldn't be able to go word for word for it, but...

5 MR. ALEXAN KULBASHIAN: Okay. Well
6 now, the other issue is, again we went back to the
7 warrant. Remember that there was no letterhead, no
8 signature, pretty much it was just like a typed up
9 document, that's what it looked like.

10 THE CHAIRPERSON: Are you referring
11 to the document --

12 MR. ALEXAN KULBASHIAN: Actually the
13 Internet service provider report.

14 DET/CST. WILSON: That is what we
15 seized from the Internet service provider, that's not
16 the warrant.

17 MR. ALEXAN KULBASHIAN: Okay. That's
18 what I meant, sorry. It was like a mistake on my
19 behalf.

20 DET/CST. WILSON: Yes, sir

21 MR. ALEXAN KULBASHIAN: So, what you
22 seized from the Internet service provider--

23 DET/CST. WILSON: Yeah.

24 MR. ALEXAN KULBASHIAN: --was just a
25 piece of paper with no letterhead, no indication of

1 even the company name.

2 MS MAILLET: I believe we might be
3 referring to the Execulink search.

4 MR. ALEXAN KULBASHIAN: That's right.

5 THE CHAIRPERSON: HR-4 is what you
6 are talking about?

7 MR. ALEXAN KULBASHIAN: Yes.

8 THE CHAIRPERSON: I just want to be
9 clear. So, HR-4 and your question is...?

10 We'll let the witness see it, but...

11 Your question is that it doesn't bear
12 a letterhead?

13 MR. ALEXAN KULBASHIAN: It doesn't
14 bear any indication of what company it came from at all
15 in any way and the only place where Execulink shows up
16 on there -- do you see anywhere, aside from the IPS
17 address where, you know, or the domain host that says
18 something something something.execulink.com.

19 DET/CST. WILSON: Yes, sir.

20 MR. ALEXAN KULBASHIAN: That's
21 actually from Execulink?

22 DET/CST. WILSON: I know it's from
23 Execulink because I drove there and picked it up.

24 MR. ALEXAN KULBASHIAN: So, it's not
25 possible that that document was just like some draft

1 document, not official?

2 DET/CST. WILSON: No, sir, it isn't.
3 I went to Execulink, served them with a search warrant,
4 and picked up the evidence from Execulink from their
5 office.

6 THE CHAIRPERSON: So, this document
7 here?

8 DET/CST. WILSON: Yes, this document.

9 THE CHAIRPERSON: HR-4?

10 DET/CST. WILSON: HR-4, yes, sir.

11 MR. ALEXAN KULBASHIAN: So, do you
12 believe the court was actually going to admit that
13 document into evidence and actually allow it to carry
14 any weight, you know, on your testimony?

15 DET/CST. WILSON: Absolutely.

16 MR. ALEXAN KULBASHIAN: So, you were
17 expecting to say, just trust me on this, and then they
18 were going to put the document on the record with the
19 full weight?

20 DET/CST. WILSON: Sir, maybe you
21 don't understand the way the system works. I go to a
22 --

23 THE CHAIRPERSON: Hold on.

24 MR. WARMAN: Mr. Chair, these
25 questions have been asked and answered by James

1 Richardson.

2 MR. ALEXAN KULBASHIAN: I'm getting
3 somewhere with this.

4 THE CHAIRPERSON: You're getting
5 what?

6 MR. ALEXAN KULBASHIAN: I'm getting
7 somewhere with this. Just because it's a thought that I
8 continued -- was working on last time and when I got
9 interrupted I was going to be continuing, so I just
10 started up with the ISP thing again, with Execulink
11 issue.

12 THE CHAIRPERSON: So, do you withdraw
13 the specific question?

14 MR. ALEXAN KULBASHIAN: No, I don't.
15 This is a continuation, I'm just kind of overlapping a
16 little bit so I can continue, just to refresh my
17 memory.

18 DET/CST. WILSON: I guess the
19 question is do I expect us to get it entered as
20 evidence in court, absolutely.

21 THE CHAIRPERSON: Fine, move on.

22 MR. ALEXAN KULBASHIAN: Now, the
23 question is have you ever served any warrants to
24 Internet service providers before?

25 DET/CST. WILSON: Yes, sir, I have.

1 MS MAILLET: Mr. Chair, I re-read the
2 transcript again and this issue was gone over several
3 times by Mr. Richardson.

4 Mr. Wilson was asked several times
5 why isn't Execulink on there, he said, I don't know how
6 many times, I went I had it myself, I went to get it
7 myself from Execulink and that was his evidence.

8 MR. ALEXAN KULBASHIAN: Was that Mr.
9 Richardson that asked him those questions? I'm just
10 asking, did you say that Mr. Richardson asked him those
11 questions?

12 MS MAILLET: That's correct.

13 MR. ALEXAN KULBASHIAN: I'm actually
14 a difficult respondent in this case.

15 THE CHAIRPERSON: I know, but it's
16 the same question.

17 MR. ALEXAN KULBASHIAN: Well, it is
18 in a way but it has to do with my case.

19 THE CHAIRPERSON: It's the same
20 question. A multitude of respondents are not allowed a
21 multitude of the same questions and answers.

22 MR. ALEXAN KULBASHIAN: Well, because
23 there was --

24 THE CHAIRPERSON: I wouldn't let the
25 Commission and complainant ask the same question twice

1 of the same witness.

2 MR. ALEXAN KULBASHIAN: Okay.

3 THE CHAIRPERSON: It works both ways.

4 MR. ALEXAN KULBASHIAN: Now, give me
5 a sec. You know what, we'll skip this section for a
6 bit.

7 THE CHAIRPERSON: Unless there is
8 something different in your question, but if it's the
9 same question.

10 MR. ALEXAN KULBASHIAN: Okay. I
11 don't know if this was asked. Why did you pick those
12 specific dates for the warrant?

13 DET/CST. WILSON: Because that's when
14 Mr. Richardson expressed an interest in the Vinland
15 Voice on those dates.

16 MR. ALEXAN KULBASHIAN: Expressed an
17 interest?

18 DET/CST. WILSON: Yeah, he said it's
19 a biggie.

20 MR. ALEXAN KULBASHIAN: Oh, as in --
21 oh, expressed as in basically was excited about it.

22 DET/CST. WILSON: Absolutely.

23 MR. ALEXAN KULBASHIAN: Okay. So,
24 you picked those specific dates.

25 Now, is it possible that there was

1 some inconsistencies with the information provided to
2 you?

3 DET/CST. WILSON: From Execulink?

4 MR. ALEXAN KULBASHIAN: Yeah, is it
5 possible that that wasn't provided to you by Execulink?

6 DET/CST. WILSON: That it wasn't
7 provided by Execulink?

8 MR. ALEXAN KULBASHIAN: Yes,
9 absolutely.

10 DET/CST. WILSON: I drove, and I'll
11 say again for the fourth time, I drove to Execulink and
12 pecked this document up.

13 MR. WARMAN: That question's been
14 asked multiple times.

15 MR. ALEXAN KULBASHIAN: Actually, I
16 didn't ask this question. This question wasn't asked.

17 I'm pretty much just saying flat out,
18 was that information provided to you by Execulink or
19 somebody else?

20 MR. WARMAN: Objection, asked and
21 answer.

22 THE CHAIRPERSON: No, it was
23 answered. I understood it. He went there and he
24 picked up the paper. He told you that last time.

25 MR. ALEXAN KULBASHIAN: Okay. In

1 that case --

2 THE CHAIRPERSON: He described to us
3 the entire process that he went through.

4 MR. ALEXAN KULBASHIAN: I understand,
5 but I'm questioning whether that was the entire process
6 he went through. It's a credibility issue obviously.

7 But in that case, I'll just skip this
8 one.

9 THE CHAIRPERSON: It's not obviously
10 so, sir, all right, the question was asked and
11 answered.

12 MR. ALEXAN KULBASHIAN: Right.

13 So, now going back to the seizure on
14 James' house. Now, you testified last time that when
15 you saw -- you were talking to James, when you saw a
16 picture of Tri-City and there was I think somebody
17 crouched with a goatee in the front.

18 DET/CST. WILSON: Yes, sir.

19 MR. ALEXAN KULBASHIAN: You testified
20 that you thought that was me; right?

21 DET/CST. WILSON: Yes, sir.

22 MR. ALEXAN KULBASHIAN: And you also
23 testified that once you saw me you kind of changed your
24 mind, you didn't believe it was me any more.

25 DET/CST. WILSON: Well, I knew it

1 wasn't you then.

2 MR. ALEXAN KULBASHIAN: Okay. If you
3 could turn to HR-1, tab 60, page 6.

4 DET/CST. WILSON: Tab 60.

5 MR. ALEXAN KULBASHIAN: Tab 60, page
6 6. Okay, do you have that ready?

7 If you could read the second
8 paragraph after where it says:

9 "Photo seized from Richardson's
10 apartment."

11 You know what, just Read that whole
12 second paragraph.

13 DET/CST. WILSON: "November 27th,
14 2001 Detective McKinnon received a
15 fax from Detective Samm of the
16 Metro Toronto Police Hate Crimes
17 Unit. The fax included a Metro
18 Toronto identification photo.
19 Det/Cst. Wilson compared the
20 identification photo to the
21 photo seized from Richardson's
22 apartment. One of the seized
23 photos depicted several
24 individuals grouped together
25 displaying a Nazi salute. The

1 male crouching in the front
2 portion of the photo was Alexan
3 Kulbashian."

4 MR. ALEXAN KULBASHIAN: That's good.
5 Can you read the date on the document, very top?

6 DET/CST. WILSON: February the 14th,
7 2002.

8 MR. ALEXAN KULBASHIAN: Now, would
9 you say that was before or after the, you know, you saw
10 me and arrested me.

11 DET/CST. WILSON: The date at the top
12 is the printing date.

13 MR. ALEXAN KULBASHIAN: Okay. So,
14 you didn't update this information?

15 DET/CST. WILSON: No, sir, I didn't.

16 MR. ALEXAN KULBASHIAN: Okay. And
17 when you testified during my bail hearing, do you
18 remember saying anything like that to the judge about
19 me being a member of Tri-City?

20 DET/CST. WILSON: Do I remember
21 saying you were a member of the Tri-City?

22 MR. ALEXAN KULBASHIAN: Do you
23 remember talking about this picture at any of my bail
24 hearings?

25 DET/CST. WILSON: I don't have any

1 recollection if I did.

2 MR. ALEXAN KULBASHIAN: Okay. Do you
3 remember the day after -- two days after I got arrested
4 when I went for bail hearing in London, do you remember
5 talking about my involvement with various racist groups
6 and telling the judge that I was seen in a picture with
7 a group?

8 DET/CST. WILSON: It's possible, sir.
9 Yes, I did.

10 MR. ALEXAN KULBASHIAN: So, would
11 that be after you saw me or before you saw me?

12 DET/CST. WILSON: After I saw you.

13 MR. ALEXAN KULBASHIAN: And would
14 that be inconsistent with what you said previously that
15 when you saw me you realized that that was not right?

16 DET/CST. WILSON: Yes, sir.

17 MR. ALEXAN KULBASHIAN: And is there
18 a reason why you said that, or was that just to try to
19 stop me from getting bail?

20 DET/CST. WILSON: No. The reason I
21 don't -- if you're asking the reason I don't update
22 this, is because I won't change any document and if I
23 make an error --

24 MR. ALEXAN KULBASHIAN: No, not this
25 though, I'm talking about the court, when you testified

1 during bail hearing about this.

2 When you were referring to this and
3 you testified during my bail hearing, you were
4 referring to it, not reading it verbatim.

5 DET/CST. WILSON: Okay.

6 MR. ALEXAN KULBASHIAN: So, you
7 testified during my bail hearing that you had a picture
8 of me involved with Tri-City that where I was in the
9 front crouching, trying to prove that I was a member of
10 Tri-City during my bail hearing.

11 DET/CST. WILSON: I don't recall that
12 at all, sir.

13 THE CHAIRPERSON: Sorry, I didn't
14 quite get your earlier answer.

15 You said that there was some
16 discussion at the bail hearing about the photo?

17 DET/CST. WILSON: About the photo, I
18 believe there was from my recollection, there was some
19 discussion about the photo.

20 I don't recall, and I don't believe I
21 would have identified Mr. Kulbashian in the front part
22 of the photo, but I don't recall and I can't recall
23 what I testified to concerning that photo, but the
24 photo was produced.

25 MR. ALEXAN KULBASHIAN: Can you tell

1 me when this report was written?

2 DET/CST. WILSON: It's written sort
3 of as an ongoing sort of chronology of what the
4 investigation is going.

5 So on November 27th I would have
6 wrote that paragraph and it's electronically on the
7 computer, so the date I would have printed off would be
8 the 14th of February.

9 MR. ALEXAN KULBASHIAN: So, you
10 wouldn't have reviewed it to see if there were any
11 inaccuracies or changed from, like, what you thought
12 you knew?

13 DET/CST. WILSON: Well, again if --
14 again, I won't change a document from the way it was
15 before.

16 If there are inaccuracies during the
17 trial I will admit to those inaccuracies, and I believe
18 my first part of the testimony, a month and a bit ago,
19 I admitted to the fact that now that I have reviewed
20 that photo, that was not you in the crouching position
21 on that photo.

22 MR. ALEXAN KULBASHIAN: But do you
23 remember testifying during my bail hearing that that
24 was me crouching in the photo.

25 DET/CST. WILSON: No, I don't

1 remember that at all.

2 MR. ALEXAN KULBASHIAN: Do you
3 remember testifying -- do you remember telling the
4 judge in my Appeal Court bail -- my bail pending
5 appeal, Judge Hamilton that I was involved with
6 Tri-City and you knew that because of certain issues
7 and also this picture?

8 DET/CST. WILSON: I remember telling
9 Judge Hamilton that you were involved in Tri-City
10 Skins.

11 MR. ALEXAN KULBASHIAN: And do you
12 remember referring to the picture in front of him?

13 DET/CST. WILSON: No, I don't recall
14 referring to the picture.

15 MR. ALEXAN KULBASHIAN: You don't
16 recall, like do you believe you didn't, or do you just
17 not recall it?

18 DET/CST. WILSON: I don't recall if I
19 produced the picture to Judge Hamilton or not.

20 MR. ALEXAN KULBASHIAN: So, if I
21 wasn't in the picture, then why would you use it, try
22 to use it against me?

23 DET/CST. WILSON: Because on November
24 27th I believed that to be you.

25 Again, I received a fax copy of your

1 picture which obviously has much darker facial hair and
2 hair than you had and, therefore, mistakenly identified
3 you in the front part of that picture.

4 MR. ALEXAN KULBASHIAN: All right.
5 My other question is, this was printed on February
6 14th. How long did it take you to write this document?

7 DET/CST. WILSON: I started -- I
8 would have started -- this document was started about
9 the 25th of September, 2001. Right at the top there
10 where it says 7049.

11 MR. ALEXAN KULBASHIAN: So, as far as
12 the May 19th reference at the very top, that was just
13 something you were going off of memory; right?

14 DET/CST. WILSON: That would be --
15 no, that would be documents I have already seized from
16 Cst. Kearns and Cst. Longworth.

17 MR. ALEXAN KULBASHIAN: So, basically
18 the fact that this article is made about two pages back
19 from the end of this document, which as I see here is
20 January 30th; right?

21 DET/CST. WILSON: Yes, sir.

22 MR. ALEXAN KULBASHIAN: Which is the
23 last -- I guess, I don't know when would you say you
24 stopped writing this document?

25 DET/CST. WILSON: The 30th of

1 January.

2 MR. ALEXAN KULBASHIAN: So that's
3 when you stopped writing it, right. And you don't go
4 over to make edits to make sure that you were wrong
5 about certain things and --

6 DET/CST. WILSON: No, sir, it's a
7 very bad idea to edit anything that you've already
8 produced to the court.

9 MR. ALEXAN KULBASHIAN: So, would you
10 say now that it was maybe a bad idea to use male
11 crouching in the front position of the photo was Alexan
12 Kulbashian.

13 DET/CST. WILSON: And again --

14 MR. ALEXAN KULBASHIAN: Instead of
15 saying, appeared to be.

16 DET/CST. WILSON: And again, for the
17 third time, I have admitted to being mistaken of
18 identifying you in that picture.

19 MR. ALEXAN KULBASHIAN: Was that the
20 only mistake --.

21 THE CHAIRPERSON: Excuse me, Mr.
22 Kulbashian, I'd like to ask a question.

23 DET/CST. WILSON: Yes, sir.

24 THE CHAIRPERSON: You said earlier
25 that you thought the practice to alter a document

1 that's already produced -- when had you already
2 produced this document?

3 DET/CST. WILSON: That document would
4 have been produced as part of the search warrant to do
5 Mr. Kulbashian's house, so I wouldn't have changed any
6 of that document. Again --

7 THE CHAIRPERSON: So a portion of
8 this document we're looking at here at tab 60 had
9 already been produced in support of the search warrant?

10 DET/CST. WILSON: Yes, sir.

11 MR. ALEXAN KULBASHIAN: Okay, my
12 issue is this is one document. I'm not sure exactly
13 how this document is prepared, but it looks to me like
14 it's more typewritten than anything else, or maybe like
15 --

16 DET/CST. WILSON: It's a synopsis,
17 they call it a prosecution summary. It's a synopsis,
18 it's a chronological depiction of the events that lead
19 us to believe that Mr. Kulbashian has committed an
20 offence.

21 Essentially it's a synopsis, so a lot
22 of other police departments call it a guilty plea
23 summary where if an offender goes into court and wants
24 to plead guilty, they can read the facts to the court
25 from the guilty plea summary or the prosecution

1 summary.

2 MR. ALEXAN KULBASHIAN: And do you
3 remember ever reading this document into the record at
4 any bail hearing that you were involved in with regard
5 to me, my bail hearings?

6 DET/CST. WILSON: No, sir, I would
7 refer to my statement.

8 MR. ALEXAN KULBASHIAN: Okay. And
9 just a question. Is this the only mistake you made
10 throughout the case, or do you figure that you've been
11 careless on a few other things too?

12 DET/CST. WILSON: I haven't been
13 careless at any time. Careless would be the fact of
14 not admitting you're mistaken.

15 MR. ALEXAN KULBASHIAN: So, the
16 question is again -- well not really do the question
17 again, thanks. Sorry about that.

18 THE CHAIRPERSON: You just answered
19 your own.

20 MR. ALEXAN KULBASHIAN: In that case,
21 so, I guess this document is one issue.

22 Now, when you go and testify in
23 somebody's bail hearing about information in this
24 document, or example, you say you don't remember
25 testifying about this information at any of my bail

1 hearings, when you say you don't remember, do you mean
2 you think you didn't, or do you mean you don't have any
3 recollection either way?

4 MR. WARMAN: Asked and answered.

5 THE CHAIRPERSON: Okay. You did ask
6 it before.

7 MR. ALEXAN KULBASHIAN: He actually
8 didn't answer that question.

9 THE CHAIRPERSON: He didn't recall.

10 MR. ALEXAN KULBASHIAN: Whether or
11 not he had any recollection. He said he doesn't
12 remember but I want to know if he means he has no
13 recollection either way or I don't remember, meaning
14 kind of like, I don't ever remember doing something
15 like that.

16 THE CHAIRPERSON: And I understood it
17 to be that he has no recollection. Am I correct on
18 that, Mr. Wilson?

19 DET/CST. WILSON: Yes, sir.

20 MR. ALEXAN KULBASHIAN: And you
21 didn't feel there was something wrong with this when
22 you read it into the record in the beginning of your
23 testimony here?

24 DET/CST. WILSON: When I read it into
25 the --

1 MR. ALEXAN KULBASHIAN: Weren't you
2 reading from this into the record at the beginning of
3 your testimony?

4 DET/CST. WILSON: No, I believe --

5 THE CHAIRPERSON: Reading from what?

6 MR. ALEXAN KULBASHIAN: At the very
7 beginning of his testimony when he first sat down, I
8 think he was reading through the synopsis.

9 THE CHAIRPERSON: Exhibit -- tab 60
10 of HR-1; right?

11 MR. ALEXAN KULBASHIAN: That's right.
12 So, you didn't correct yourself there or you just felt
13 like it was this document to read?

14 DET/CST. WILSON: I believe I've
15 corrected myself four times now.

16 MR. ALEXAN KULBASHIAN: No, I mean
17 like at the beginning when you were reading this
18 document.

19 DET/CST. WILSON: Again, I believe
20 I've corrected myself four times to the Tribunal.

21 MR. ALEXAN KULBASHIAN: Okay.

22 THE CHAIRPERSON: The record will
23 speak for itself.

24 MR. ALEXAN KULBASHIAN: Okay, just
25 for the record until James confronted him he did not

1 admit to it. So, the next issue --

2 THE CHAIRPERSON: The record will
3 speak for itself. I see people are getting all anxious
4 on all side here.

5 Mr. Kulbashian, that's argument.

6 MR. ALEXAN KULBASHIAN: Okay.

7 THE CHAIRPERSON: Highlight that
8 section, bring it to my attention when it comes time at
9 the end.

10 MR. ALEXAN KULBASHIAN: All right,
11 that's fine.

12 So, come back to this. Now, okay,
13 coming back to the issue of bail hearings, why do you
14 feel the need to involve yourself with every bail
15 hearing that had to do with cases that weren't your
16 own?

17 DET/CST. WILSON: I'm sorry I don't
18 know what you're talking about.

19 MR. ALEXAN KULBASHIAN: Why did you
20 feel a need to get involved with the bail hearing for
21 my assault case when I was appealing twice, for
22 example?

23 DET/CST. WILSON: Because, again, my
24 duty as a police officer is to produce all the evidence
25 and produce as much evidence as possible for the court

1 to make a proper decision. That's why I got involved.

2 MR. ALEXAN KULBASHIAN: Okay. Is it
3 also your duty to get involved and interfere with
4 people's bail hearings, including when I guess
5 affidavits are filed?

6 DET/CST. WILSON: My duty as a police
7 officer is to produce the evidence so the court can
8 make a proper decision. I don't believe that's
9 interfering.

10 MR. ALEXAN KULBASHIAN: So, the fact
11 that you brought issues of Tri-City Skins and wpcect on
12 those sites to my bail hearing for my assault which is
13 unrelated, where I hadn't even had the trial yet, the
14 fact that you came and told the judge that and --

15 THE CHAIRPERSON: Yes.

16 MR. WARMAN: Objection. He's
17 misstating the facts. I was present at a number of
18 those trials.

19 MR. ALEXAN KULBASHIAN: Were you?
20 Were you present at the bail hearing?

21 THE CHAIRPERSON: There's a lot of
22 mumbling going in the background at the middle table,
23 Mr. Kulbashian. I wanted to allow it a bit, but now
24 it's getting a bit loud, a phone just rang, I believe.
25 Please.

1 MR. VAHE KULBASHIAN: His son,
2 someone has to pick him up.

3 THE CHAIRPERSON: We're pushing five
4 o'clock. Is it an important time for you?

5 MR. ALEXAN KULBASHIAN: No, no, it
6 was just somebody who is going to go pick him up.

7 MR. VAHE KULBASHIAN: We cannot make
8 him --

9 THE CHAIRPERSON: We need some proper
10 decorum, okay.

11 In fact, I'd like -- if there's going
12 to be a question I'd like to hear him, I don't want any
13 argument to occur again. I want to hear the question
14 again because there are a lot of distractions going on.

15 MR. ALEXAN KULBASHIAN: My question
16 was, when you came to my assault -- to the bail -- the
17 first bail hearing when I was doing bail pending appeal
18 in Superior Court and you presented documents from, I
19 guess, the 2001 case where I was charged with the
20 threat; right?

21 DET/CST. WILSON: Yes, sir.

22 MR. ALEXAN KULBASHIAN: Had I had the
23 chance to defend myself on those yet or stood trial on
24 those?

25 DET/CST. WILSON: No, sir.

1 MR. ALEXAN KULBASHIAN: Okay. And
2 you felt the need to -- and why do you feel the need to
3 involve yourself in a bail hearing with evidence from a
4 trial that hadn't stood yet, stuff that I hadn't been
5 able to defend myself on?

6 DET/CST. WILSON: Because, again, the
7 bail pending appeal in Toronto related to what was
8 classified as a hate crime assault and, therefore, the
9 judge to make a proper decision needs all the
10 information in front of him, and Justice Hamilton made
11 a proper decision as a result of that.

12 MR. ALEXAN KULBASHIAN: Do you feel
13 that the right to bail is -- okay, what do you think
14 bail is; first of all?

15 DET/CST. WILSON: Bail --

16 MR. WARMAN: Objection. That's a
17 legal question.

18 THE CHAIRPERSON: It is. I don't
19 know where you're going with this.

20 MR. ALEXAN KULBASHIAN: Why do you
21 think. He says he believes certain things, what does
22 he think bail is.

23 THE CHAIRPERSON: I know what bail
24 is.

25 MR. ALEXAN KULBASHIAN: That's what I

1 mean.

2 THE CHAIRPERSON: Why do you care
3 what he thinks.

4 MR. ALEXAN KULBASHIAN: So, my
5 question is basically, okay in that case, so the fact
6 of the case in London had literally not to do with the
7 case in Toronto, you still felt the need to get
8 involved?

9 DET/CST. WILSON: I believe it had
10 everything to do, because again it is a white supremacist
11 accused of beating up a black gentleman and I was
12 dealing with the same white supremacist who had made
13 death threats to Jews and Muslims the Internet. I
14 believe those are connected and that the judge needs to
15 make a proper decision.

16 MR. ALEXAN KULBASHIAN: On bail?

17 DET/CST. WILSON: Yes, sir.

18 MR. ALEXAN KULBASHIAN: So, basically
19 bail isn't on the fact that whether or not I'm likely
20 to re-offend; right?

21 DET/CST. WILSON: Well, absolutely,
22 and you committed an offence, an assault on a black
23 man.

24 MR. ALEXAN KULBASHIAN: I committed.

25 DET/CST. WILSON: And then you were

1 accused of committing, and convicted at that point
2 pending appeal, of an assault on a black man.

3 MR. ALEXAN KULBASHIAN: Mm-hmm.

4 DET/CST. WILSON: And then you
5 recommitted an offence allegedly by causing a death
6 threat to Jews and Muslims, therefore, Justice Hamilton
7 hearing this appeal needed to hear this information.

8 MR. ALEXAN KULBASHIAN: Okay. So,
9 the fact that Detective -- do you know who Detective
10 Neil is?

11 DET/CST. WILSON: No, I don't. I
12 think maybe Detective Neil is the Internet guy from the
13 Metro Toronto Police Service. I'm not too sure.

14 MR. ALEXAN KULBASHIAN: Just
15 clarification, Detective Neil was the detective on my
16 assault case.

17 DET/CST. WILSON: Oh, I'm sorry.

18 MR. ALEXAN KULBASHIAN: Do you
19 remember him being at any of my bail hearings?

20 DET/CST. WILSON: No, I don't.

21 MR. ALEXAN KULBASHIAN: So, you took
22 it upon yourself basically to just go ahead and make
23 sure that I stayed in jail as opposed to --

24 DET/CST. WILSON: Yes, sir, you're a
25 threat to the community.

1 MR. ALEXAN KULBASHIAN: And do you
2 remember also getting involved with the bail hearing
3 where an affidavit was filed where the judge deemed it
4 to have many falsehoods in?

5 DET/CST. WILSON: Which bailing
6 hearing would that be?

7 MR. ALEXAN KULBASHIAN: That would be
8 the bail hearing for the Court of Appeal, bail pending
9 appeal in the Court of Appeal.

10 Affidavit filed by Detective
11 McKinnon. At that time you admitted were still on the
12 case; right, my case?

13 MR. WARMAN: I'm going to raise an
14 objection unless Mr. Kulbashian is going to
15 substantiate this with evidence that in fact --

16 MR. ALEXAN KULBASHIAN: Actually we
17 have all the files over here.

18 Okay, let's start off.

19 Okay, if you could turn to R-1 -- I
20 think R-2, appendix 2.

21 MS MAILLET: Perhaps, Mr. Chairman,
22 if we could just establish the relevance of the line of
23 questioning. I'm not sure, again, if this is a
24 credibility issue.

25 MR. ALEXAN KULBASHIAN: Actually this

1 goes even further than the credibility issue, shows
2 that he had so much zeal that he would basically go as
3 far as interfere through outside, like, you know,
4 through either perjury, like these are perjury, like
5 you know, basically --

6 THE CHAIRPERSON: Strong words,
7 strong words.

8 MR. ALEXAN KULBASHIAN: I understand
9 it's a strong word.

10 THE CHAIRPERSON: Before they get up,
11 sit down.

12 MR. ALEXAN KULBASHIAN: I'll take
13 that back. Let's take this off the record maybe.

14 THE CHAIRPERSON: No, nothing is off
15 the record.

16 MR. ALEXAN KULBASHIAN: In that case
17 I'll be careful what I use.

18 THE CHAIRPERSON: Yes, of course, you
19 will always be careful what you use, record or no
20 record.

21 MR. ALEXAN KULBASHIAN: During one of
22 my bail hearing which was an Appeal Court bail pending
23 appeal, a document was filed where the judge basically
24 ruled after weighing the evidence that the document had
25 many falsehoods in it and that's why he disregarded

1 that document while granting me bail, and this is a
2 bail hearing that Detective Wilson was involved in as
3 he saw fit --

4 THE CHAIRPERSON: This document was
5 written by whom?

6 MR. ALEXAN KULBASHIAN: By one of --
7 I guess by Detective Don McKinnon.

8 THE CHAIRPERSON: What Does it have
9 to do with this witness?

10 MR. ALEXAN KULBASHIAN: Well, it has
11 to do with like a general, I guess, over zealous
12 operations in concert by the London Police who were
13 involved in my case, it's all in concert, it's not
14 necessarily just him himself but in concert, and he was
15 at this point through his own admittance still in
16 charge of my case.

17 THE CHAIRPERSON: You see the issue
18 here though, the issue here is not the London Police
19 Force.

20 MR. ALEXAN KULBASHIAN: That's right.

21 THE CHAIRPERSON: The issue here that
22 you've told me is the credibility of this witness's
23 evidence. Am I right?

24 MR. ALEXAN KULBASHIAN: That's right.

25 THE CHAIRPERSON: So, if you're

1 telling me that Mr. McKinnon may have misled people.

2 It's one thing to tell me that this
3 witness -- you tried earlier here, you asked a line of
4 questions about this witness's reference to the
5 photograph and you asked a series of questions on tab
6 60, it pertains to this witness, but now--

7 MR. ALEXAN KULBASHIAN: Okay.

8 THE CHAIRPERSON: --you're asking
9 about Mr. McKinnon who is not a person in front of me
10 whose evidence was used in part, but mostly we're
11 dealing with this witness here.

12 MR. ALEXAN KULBASHIAN: Okay. In
13 that case what we'll do is, now see the issue, it shows
14 the whole stop at no cost to put me in jail, type of
15 attitude, doesn't matter whether it's legal or illegal.

16 THE CHAIRPERSON: Well, I think I've
17 heard evidence already--

18 MR. ALEXAN KULBASHIAN: Okay.

19 THE CHAIRPERSON: No, Mr. Kulbashian.

20 We've heard evidence from Mr. Wilson
21 that he did not want to stop at all, he said, I think I
22 understand that he acted with quite a bit of zeal
23 against you. I don't think -- is that in dispute? I
24 mean, do I have any --

25 MS MAILLET: I believe that his

1 evidence was that he was very concerned.

2 MR. ALEXAN KULBASHIAN: All the way
3 to perjury?

4 THE CHAIRPERSON: Well, where is the
5 perjury then? That's a very strong word, sir. You
6 know, it's a Criminal Code offence.

7 MR. ALEXAN KULBASHIAN: Okay, in that
8 case we'll get to --

9 THE CHAIRPERSON: To allege that
10 someone has committed perjury is a crime and I asked
11 you just now, where is the perjury and you said, you
12 referred to Mr. McKinnon.

13 MR. ALEXAN KULBASHIAN: Well, this is
14 a perjured document.

15 Okay, ignore that is a perjured
16 document, but I would --

17 THE CHAIRPERSON: Again, Mr.
18 Kulbashian, Mr. Kulbashian.

19 MR. ALEXAN KULBASHIAN: Okay, my
20 question would be --

21 THE CHAIRPERSON: Call it political
22 correctness or whatever you want, you don't just say
23 this is a perjured document, because by saying that
24 you're saying a person is a liar, this person is a
25 criminal.

1 You will notice everyone is very
2 careful to refer to alleged crime, alleged perpetrator,
3 alleged suspect.

4 This is the kind of language that is
5 appropriate, not the kind you're using.

6 MR. ALEXAN KULBASHIAN: Okay. In
7 that case, were you aware -- were you still heading my
8 case during my bail hearing in Appeal Court?

9 DET/CST. WILSON: Yes, sir.

10 MR. ALEXAN KULBASHIAN: Were you
11 aware of the document that Don McKinnon filed?

12 DET/CST. WILSON: I was aware that he
13 was working on it, yes

14 MR. ALEXAN KULBASHIAN: Did you read
15 the document?

16 DET/CST. WILSON: No, I didn't.

17 MR. ALEXAN KULBASHIAN: So, why not?

18 DET/CST. WILSON: Because it's his
19 affidavit.

20 MR. ALEXAN KULBASHIAN: So, you
21 weren't trying to stay on top of the case by making
22 sure that --

23 DET/CST. WILSON: I also trusted
24 other officers that were working on the case.

25 MR. ALEXAN KULBASHIAN: Okay.

1 THE CHAIRPERSON: This affidavit, and
2 it's a document that's already been produced; has it?

3 MR. ALEXAN KULBASHIAN: It has been
4 produced because of evidence that was brought.

5 THE CHAIRPERSON: It was also
6 referred. This affidavit was filed in the context of -
7 and I don't know enough about this because I believe I
8 just received copies of the decisions from the Ontario
9 District Court - that's the case, the assault charge is
10 another file that it was filed for; am I correct on
11 that.

12 MR. ALEXAN KULBASHIAN: This was the
13 conviction that was overturned by Court of Appeal.

14 THE CHAIRPERSON: That's the one?

15 MR. ALEXAN KULBASHIAN: That's right.

16 THE CHAIRPERSON: That's the one we
17 just referred to earlier it was Exhibit R, whatever,
18 61, tab 61.

19 So this affidavit of Mr. McKinnon was
20 filed in that context, in that case; is it correct?

21 MR. ALEXAN KULBASHIAN: That's right.

22 THE CHAIRPERSON: Okay. Just so I
23 understand.

24 MR. ALEXAN KULBASHIAN: So, in that
25 case, do you ever lie in order to reach your goal?

1 It's a question. It's straight forward.

2 THE CHAIRPERSON: I will allow that
3 question.

4 DET/CST. WILSON: Never.

5 MR. ALEXAN KULBASHIAN: Never. Do
6 you remember calling my boss after I got bail on the
7 London charges?

8 DET/CST. WILSON: Yes, I remember
9 calling your boss.

10 MR. ALEXAN KULBASHIAN: Do you
11 remember what you told him?

12 DET/CST. WILSON: Not word for word,
13 but I explained the charges that you were facing.

14 MR. ALEXAN KULBASHIAN: Do you
15 remember telling him, say, that I directly made threats
16 to people?

17 DET/CST. WILSON: I advised him that
18 you made threats to the Jewish and Muslim communities,
19 yes.

20 MR. ALEXAN KULBASHIAN: Was I the one
21 that made threats?

22 DET/CST. WILSON: I believe you were,
23 sir.

24 MR. ALEXAN KULBASHIAN: So, you
25 believed that I authored the document where the threats

1 were?

2 DET/CST. WILSON: What I believed is
3 that you and Mr. Richardson conspired to produce those
4 threats on the Internet.

5 So, yes, just like the gentleman
6 driving the get-away car at a bank robbery you're just
7 as involved.

8 MR. ALEXAN KULBASHIAN: Okay.
9 Getting back to the threats then, if I can remember
10 where they were.

11 Did you ever testify at one of my
12 bail hearings that I was not the author of the article
13 and that I was not the one who made the threats, just
14 facilitated them?

15 DET/CST. WILSON: Yes, sir, that's
16 exactly what I said.

17 MR. ALEXAN KULBASHIAN: So, talking
18 to somebody and trying to I guess slightly modify the
19 facts, would you consider that lying?

20 THE CHAIRPERSON: Say that again, I
21 didn't quite understand.

22 MR. ALEXAN KULBASHIAN: Talking to
23 somebody and slightly modifying the facts, is that
24 lying?

25 THE CHAIRPERSON: Talking or...

1 MR. ALEXAN KULBASHIAN: Slightly
2 modifying the facts.

3 THE CHAIRPERSON: Repeat your
4 question slowly.

5 MR. ALEXAN KULBASHIAN: Talking to
6 somebody.

7 THE CHAIRPERSON: Yes.

8 MR. ALEXAN KULBASHIAN: And slightly
9 modifying the facts that you give them, is that lying?

10 THE CHAIRPERSON: Talking to
11 somebody.

12 MR. ALEXAN KULBASHIAN: And slightly
13 modifying the facts.

14 THE CHAIRPERSON: At the same time.

15 MR. ALEXAN KULBASHIAN: Well,
16 especially when you're talking to them, you're slightly
17 modifying the facts and giving information.

18 ---(reporter appeals)

19 MS MAILLET: I believe the court
20 reporter is having a really tough time.

21 MR. ALEXAN KULBASHIAN: Okay, so I'll
22 say that again.

23 If you give somebody information and
24 that information is slightly modified, would you
25 consider that lying?

1 DET/CST. WILSON: Yes, sir, if it's
2 altered from the truth, yes.

3 MR. ALEXAN KULBASHIAN: Okay. Would
4 you consider it lying if you, instead of telling my
5 boss, say, that I facilitated threats or that I, let's
6 say, was a party to threats that are made, would you
7 consider it lying if you said that I personally made
8 threats?

9 DET/CST. WILSON: Well, again, under
10 the Criminal Code of Canada being a party to the
11 offence --

12 MR. ALEXAN KULBASHIAN: It's not the
13 Criminal Code, it's about telling somebody --

14 DET/CST. WILSON: It's absolutely
15 about the Criminal Code of Canada because that's what I
16 was dealing with at the time and dealing -- he's asking
17 me if --

18 THE CHAIRPERSON: I'm a little
19 confused, it's not about the Criminal Code. Your
20 question is in a general sense, a general question?

21 MR. ALEXAN KULBASHIAN: This question
22 is about if you're talking to somebody, you're not
23 giving them the Criminal Code, you're telling them.

24 THE CHAIRPERSON: Okay.

25 MR. ALEXAN KULBASHIAN: Let's say,

1 you're coming back to the bank robbery, right.

2 DET/CST. WILSON: Mm-hmm.

3 MR. ALEXAN KULBASHIAN: And let's say
4 you were the get-away driver - this is hypothetical -
5 and let's say two or three people went in and robbed
6 the bank with guns, if I went and told somebody that
7 you drew a gun on a teller, is that a lie?

8 Just because by law you were a party
9 to the offence, is that a lie when I say you drew a gun
10 on a teller?

11 DET/CST. WILSON: Oh yeah, that would
12 be a lie.

13 MR. ALEXAN KULBASHIAN: So, would it
14 be a lie if you tell somebody that I made the threats,
15 when according to you I was the one who facilitated
16 them or --

17 DET/CST. WILSON: Sir, again, in this
18 case the guy who drives the get-away car did a bank
19 robbery.

20 MR. ALEXAN KULBASHIAN: Legally, but
21 I just said I told --

22 DET/CST. WILSON: Again --

23 THE CHAIRPERSON: Right. Look, the
24 question as I see it being asked is, when you spoke to
25 his employer--

1 DET/CST. WILSON: Mm-hmm.

2 THE CHAIRPERSON: --Mr. Kulbashian's
3 employer did you say that he was making death threats
4 against designated groups?

5 DET/CST. WILSON: Yes, sir. Yes,
6 sir, I did.

7 THE CHAIRPERSON: And you did so.
8 Did you specify that he actually wrote the death
9 threats?

10 DET/CST. WILSON: Did not specify
11 either way, sir.

12 THE CHAIRPERSON: So, your answer, if
13 I understood your previous answer several questions ago
14 was, you felt comfortable saying that Mr. Kulbashian
15 made those death threats because you were applying the
16 definition of the Criminal Code which makes the person
17 who facilitates the dissemination of death threats as
18 guilty as he who drafts them?

19 DET/CST. WILSON: Absolutely, sir.

20 THE CHAIRPERSON: Okay.

21 MR. RICHARDSON: Mr. Chairman, can I
22 clear something up for a second.

23 Since Alex wasn't convicted of that
24 crime and charges were dropped, by him calling his boss
25 and telling him --

1 THE CHAIRPERSON: You're arguing.

2 You're arguing.

3 MR. RICHARDSON: I don't understand.

4 MR. ALEXAN KULBASHIAN: Okay, don't
5 worry, James.

6 MR. RICHARDSON: He hasn't been
7 convicted, so how could --

8 MR. ALEXAN KULBASHIAN: That was way
9 before, that was after my bail hearing.

10 THE CHAIRPERSON: Gentlemen, I don't
11 want a debate going on.

12 MR. ALEXAN KULBASHIAN: We're not
13 going to debate.

14 THE CHAIRPERSON: One person speaks
15 at a time, questions are asked of witnesses, objections
16 are to the nature of questions, that is to say, this
17 has been asked before, it's not relevant and so on.
18 The rest of it is argument.

19 MR. ALEXAN KULBASHIAN: On the same
20 note then I will continue, I won't argue.

21 On the same note then if you were
22 involved in trying, like I guess, I won't say sabotage,
23 but like trying to interfere with my bail hearings,
24 right, and you admit to trying to interfere with my
25 bail hearings; right?

1 DET/CST. WILSON: No, I never
2 admitted to interfering with the bail hearing. What I
3 admitted to is that I produced evidence that I knew
4 that the court needed to make a lawful decision.

5 MR. ALEXAN KULBASHIAN: Okay. And
6 that was your purpose in every one of my bail hearings;
7 right?

8 DET/CST. WILSON: To keep you in
9 custody, yes, sir.

10 MR. ALEXAN KULBASHIAN: And the fact
11 that you were party of the act of trying to keep me in
12 jail on bail hearings; right?

13 DET/CST. WILSON: Absolutely, sir.

14 MR. ALEXAN KULBASHIAN: Okay. And
15 Detective McKinnon filed an affidavit that
16 hypothetically let's say if there were few lies in
17 that, would you be responsible for that too?

18 DET/CST. WILSON: No, sir.

19 MR. ALEXAN KULBASHIAN: Oh, why not,
20 because you were a party to the act weren't you?

21 DET/CST. WILSON: I'm party to --

22 MR. ALEXAN KULBASHIAN: You're party
23 to act of trying to file as much evidence as possible,
24 it's in concert.

25 It's not like McKinnon just went

1 ahead and did it without telling you; did he?

2 DET/CST. WILSON: He swore to an
3 affidavit of the information he knew.

4 MR. ALEXAN KULBASHIAN: That's right.

5 MR. WARMAN: Objection. Mr. Wilson
6 has already testified to the fact that he had no
7 involvement in the drafting of Mr. McKinnon's
8 affidavit.

9 MR. ALEXAN KULBASHIAN: Oh, but I'm
10 not talking about the drafting though.

11 DET/CST. WILSON: Or the swearing or
12 submission to the courts.

13 MR. ALEXAN KULBASHIAN: That's fine,
14 but if you guys are working in concert to try to keep
15 me in jail, wouldn't it mean that if he did something
16 illegal in the process that you would also be
17 responsible for it?

18 DET/CST. WILSON: Well, again, I
19 don't believe that Detective McKinnon did anything
20 illegal and if you're asking me, did I supply him with
21 information to be used in that affidavit, absolutely.

22 MR. ALEXAN KULBASHIAN: But whether
23 or not you knew about it, right, about the affidavit
24 and hypothetically if it was illegal, hypothetically,
25 would you be responsible for the fact that you were

1 involved in, I guess, in concert in the general goal of
2 keeping me in jail at all costs,
3 if there was something illegal that was done?

4 DET/CST. WILSON: If I supplied him
5 with unlawful information, then absolutely.

6 MR. ALEXAN KULBASHIAN: Okay.

7 THE CHAIRPERSON: I'm going to let
8 this case run until 5:30 if everyone is okay with that,
9 I'd like to use the time as much as possible.

10 Is that okay with everyone, 15 more
11 minutes.

12 MR. ALEXAN KULBASHIAN: So, you're
13 saying that the reason why you were not, I guess, you
14 are not responsible for that document, you wouldn't be
15 held liable is because you wouldn't have known what was
16 in that document; right?

17 If you had known, then maybe you
18 would have had more, like you know, if hypothetically
19 --

20 THE CHAIRPERSON: Slow down, Mr.
21 Kulbashian.

22 MR. ALEXAN KULBASHIAN: If
23 hypothetically it was perjured and you did know about
24 it, then -- and basically getting involved in the act
25 of trying to use that document to keep me in jail, you

1 would have been held liable for that too; right?

2 DET/CST. WILSON: I can't answer to a
3 hypothetical question.

4 THE CHAIRPERSON: Do you know how
5 many hypotheticals you have in there, Mr. Kulbashian?

6 MR. ALEXAN KULBASHIAN: Well, because
7 so far, as far as everything in this case goes is
8 hypothetical.

9 THE CHAIRPERSON: No, what you do
10 with a witness, and I'm certainly taking it this way,
11 you have made all sorts of assertions that so far that
12 I don't know if they true or not and it will be up to -
13 Mr. Kulbashian, Sr., please allow him to listen to me -
14 so, what you do is, you can put a question, put a
15 proposition to a witness, you get his answer, it's on
16 the record.

17 At that point if you have other
18 evidence that you will be bringing forth later on to
19 contradict what was said, that's what you do, you have
20 a duty to put the proposition first to this witness.

21 So, for instance, if this was let's
22 say not the affidavit of Mr. McKinnon but was that of
23 Mr. Wilson, and you say at page 3 you say over here
24 that "x" "y" "z" occurred, I put it to you that "a" "b"
25 "c" occurred.

1 I'm not referring specifically --

2 MR. ALEXAN KULBASHIAN: No, I
3 understand.

4 THE CHAIRPERSON: Listen to me. And
5 the witness answers, he insists, no, "x" "y" "z" is the
6 truth.

7 I'll be more specific.

8 MR. ALEXAN KULBASHIAN: Right.

9 MR. ALEXAN KULBASHIAN: The photo,
10 suppose that the photo was of a third party, not either
11 of the two of you here, let's say that Mr. Kulbashian,
12 Sr. is in this photo too, he wrote down in his
13 affidavit.

14 You would go and ask him the
15 question. Mr. Wilson, I see here in your affidavit
16 that you wrote that Mr. Kulbashian, Sr. is in this
17 photo, do you stand by that? Yes, I do, he would say
18 perhaps.

19 And then you could bring -- assuming
20 your father was not here today, you would bring him
21 into testify later on in the hearing and it would be
22 made clear that that was not the person in the photo
23 and you have made a point at that point, something that
24 you would then later argue in argument.

25 But to sit here and engage in a

1 debate about who's right is not acceptable which is a
2 bit of what's going on here, what would happen in the
3 hypothetical.

4 Put propositions that you believe you
5 have evidence to counter to the witness, that's fine;
6 engage in a debate with him now, to rehash, you know,
7 other convictions and so on, I don't know what purpose
8 that serves and it serves to delay us more and more.

9 MR. ALEXAN KULBASHIAN: So, one sec.

10 So, then coming back to, I guess,
11 knowledge of a crime and knowledge and participation
12 would mean culpability; right, according to what you
13 said?

14 DET/CST. WILSON: Yes, sir.

15 MR. ALEXAN KULBASHIAN: So, and do
16 you know that -- did you know for sure, or do you know
17 in any way, like, that I was -- that I knew of the
18 threat that was posted, that you call threats?

19 DET/CST. WILSON: Yes, sir, I believe
20 you knew that you facilitated that threat to the
21 public.

22 MR. ALEXAN KULBASHIAN: And how do
23 you know that?

24 DET/CST. WILSON: Well, again --

25 THE CHAIRPERSON: No, on that one I

1 am going to interrupt because, you see, I have heard
2 this question over --

3 MR. ALEXAN KULBASHIAN: Sorry about
4 that.

5 THE CHAIRPERSON: Look, let me
6 explain to you.

7 This witness it appears to me has
8 testified that he based on the evidence that he
9 collected drew a certain conclusion. You may disagree
10 with that, you may say it was insufficient, and of
11 course that's all involved in that Criminal Code case.
12 My concern is section 13.

13 MR. ALEXAN KULBASHIAN: Okay.

14 THE CHAIRPERSON: And my evidence,
15 the evidence that I have is going to go to section 13,
16 not the Criminal Code.

17 So, what he thought about what was
18 enough, section 13, for the Criminal Code violation is
19 beyond that.

20 Now, I know you're saying that there
21 was some other motivation on the part of this witness
22 and that he was very zealous or I don't know how you
23 want to coin it.

24 MR. ALEXAN KULBASHIAN: Right.

25 THE CHAIRPERSON: And I'm allowing

1 certain degree of question, but at the end of the day I
2 have heard him over and over say that in his
3 estimation, that's his testimony at least, in his
4 estimation the evidence was sufficient for him to file,
5 to pass the file on to the crown for prosecution under
6 the Criminal Code.

7 Now, you may disagree with that and
8 you can certainly argue all the evidence that you have
9 located, the photographs whatever, at a later point,
10 but let's not hear the same answer over and over. I've
11 heard it.

12 MR. ALEXAN KULBASHIAN: In that case,
13 can we turn to RR-3.

14 THE CHAIRPERSON: That would be the
15 photo of the boots; right?

16 MR. ALEXAN KULBASHIAN: That's right.

17 DET/CST. WILSON: Yes, sir.

18 MR. ALEXAN KULBASHIAN: You testified
19 that the person in the back of the picture there would
20 have been Detective -- sorry, Sgt. McKinnon; right?

21 DET/CST. WILSON: Looks like his
22 foot.

23 MR. ALEXAN KULBASHIAN: Okay. Do you
24 know how tall he is roughly?

25 DET/CST. WILSON: He's 5'11".

1 MR. ALEXAN KULBASHIAN: Do you know
2 what size shoes he wears?

3 DET/CST. WILSON: I don't know.
4 Maybe 10 or 12. I have no idea.

5 MR. ALEXAN KULBASHIAN: Do you see
6 the boots right in front of his feet?

7 DET/CST. WILSON: Yes, I do.

8 MR. ALEXAN KULBASHIAN: Would you
9 consider those to be bigger than his feet?

10 DET/CST. WILSON: Yes. Maybe the
11 same size. I can't -- maybe a little bigger.

12 MR. ALEXAN KULBASHIAN: Now, if those
13 boots are bigger than his feet, would you consider them
14 to be maybe too big for someone who wears, say, a size
15 10?

16 DET/CST. WILSON: Yeah, I don't think
17 they're a size 10.

18 MR. ALEXAN KULBASHIAN: So what size
19 do you think they are?

20 DET/CST. WILSON: I have no idea.

21 MR. ALEXAN KULBASHIAN: Okay. Where
22 did you find the bomber jacket that you got from James'
23 house, sorry, from 390 Southdale that you allege to be
24 James' house?

25 THE CHAIRPERSON: That's the jacket

1 in the photograph RR-2?

2 MR. ALEXAN KULBASHIAN: That's right,
3 RR-2.

4 DET/CST. WILSON: It was found in the
5 closet in the front hallway.

6 MR. ALEXAN KULBASHIAN: Was he
7 wearing it?

8 DET/CST. WILSON: No, it was found in
9 the closet in the front hallway.

10 MR. ALEXAN KULBASHIAN: So it was in
11 the closet. So again, so basically we have boots that
12 might be too big for him and a jacket you don't see him
13 wearing in any pictures that you testified so far.

14 DET/CST. WILSON: You're right, sir,
15 he's wearing the other jacket.

16 MR. ALEXAN KULBASHIAN: Okay. So --

17 THE CHAIRPERSON: For the record, I
18 don't believe I have in evidence yet at least the size
19 of the respondent Richardson's feet.

20 MR. ALEXAN KULBASHIAN: Okay.

21 THE CHAIRPERSON: But we've heard the
22 evidence of this witness that the boots are --

23 MR. RICHARDSON: Can I --

24 THE CHAIRPERSON: No, because you're
25 not testifying now, you'll be testifying later.

1 MR. ALEXAN KULBASHIAN: So, do you
2 think -- did you arrest James on a warm day, do you
3 remember?

4 DET/CST. WILSON: Yeah, it was a nice
5 day from what I remember.

6 MR. ALEXAN KULBASHIAN: Okay. So, if
7 James didn't live at that house, would you feel he
8 would have a need to bring his jacket with him?

9 DET/CST. WILSON: But I don't - I
10 don't know, he was sitting at the computer.

11 MR. ALEXAN KULBASHIAN: Did you ever
12 serve a warrant to the place in Hamilton, to his place
13 in Hamilton?

14 DET/CST. WILSON: No, sir.

15 MR. ALEXAN KULBASHIAN: So, you
16 wouldn't know if maybe he had left his jacket there?

17 DET/CST. WILSON: No, sir, I didn't
18 believe he lived there.

19 MR. ALEXAN KULBASHIAN: Okay. So, on
20 the business cards that you had, the ones that you
21 found, you stated that it indicated that James was the
22 recruiting director of C.E.C.T.

23 DET/CST. WILSON: It indicated -- it
24 indicated it was a recruiting director business cards.

25 MR. ALEXAN KULBASHIAN: Do you know

1 if those were his?

2 DET/CST. WILSON: It was his house.

3 MR. ALEXAN KULBASHIAN: Could it have
4 been given to him by somebody else to pass around?

5 DET/CST. WILSON: Well, again, I
6 believe that the cards are --

7 THE CHAIRPERSON: Can someone remind
8 me where the photos are of these cards? HR-9.

9 Go ahead with your question.

10 DET/CST. WILSON: These, again, the
11 ones on the HR-10 are the business cards located in --

12 THE CHAIRPERSON: Yeah, those are the
13 ones located at the seizure that occurred at Mr.
14 Kulbashian's house.

15 DET/CST. WILSON: Mr. Kulbashian's
16 house. Now, turn over to HR-9, there's a set of cards
17 that, right at the back of HR-9, a set of cards that
18 aren't cut out yet that say WPCanada recruiting
19 director, those are the ones seized from James' place
20 that had just been -- or appear to be just printed off
21 the computer.

22 MR. ALEXAN KULBASHIAN: Do you
23 remember if those were printed on corrugated paper?

24 DET/CST. WILSON: Printed on just
25 white --

1 MR. ALEXAN KULBASHIAN: Card paper.

2 DET/CST. WILSON: Yeah, card paper,
3 like, that you would cut business cards out of.

4 MR. ALEXAN KULBASHIAN: The ones you
5 could fold and break off business cards basically.
6 Look at the side on the picture.

7 DET/CST. WILSON: Yes, I believe they
8 did have a perforated edge to each one of them.

9 MR. ALEXAN KULBASHIAN: How many of
10 those cards did you find at his house?

11 DET/CST. WILSON: Just these four I
12 believe.

13 One, two, three four, yes.

14 MR. ALEXAN KULBASHIAN: So, do you
15 believe if those were somebody's cards maybe they'd
16 have more to hand out than just four?

17 DET/CST. WILSON: No, because
18 business cards usually if you had more to hand out
19 would be in a stack already cut out. These appear to
20 be produced on a computer.

21 MR. ALEXAN KULBASHIAN: Would it be
22 possible that somebody gave them to him to pass as
23 advertising for another group?

24 DET/CST. WILSON: Is it possible? I
25 guess it's possible. I don't believe it happened in

1 this event.

2 MR. ALEXAN KULBASHIAN: Did you find
3 cards at my house when you raided my place?

4 DET/CST. WILSON: Yes, I did.

5 MR. ALEXAN KULBASHIAN: Did you find
6 any cards of, say, any specific ones maybe?

7 DET/CST. WILSON: Of Canadian Ethnic
8 Cleansing Team cards?

9 MR. ALEXAN KULBASHIAN: With NSF?

10 THE CHAIRPERSON: Sorry?

11 MR. ALEXAN KULBASHIAN: With NSF.

12 DET/CST. WILSON: With National
13 Skinhead Front?

14 MR. ALEXAN KULBASHIAN: Yes.

15 DET/CST. WILSON: I don't believe so.
16 I think the cards I'm looking at here are the Tri-City
17 Skins and the Canadian Ethnic Cleansing Team..

18 MR. ALEXAN KULBASHIAN: How many
19 Canadian Ethnic Cleansing Team cards did you find?

20 DET/CST. WILSON: I think we only
21 found the one.

22 MR. ALEXAN KULBASHIAN: That one was
23 not a perforated edged card; was it?

24 DET/CST. WILSON: No, it had
25 Totenkopf on the bottom, it said public press

1 relations.

2 MR. ALEXAN KULBASHIAN: It was a
3 professional card?

4 DET/CST. WILSON It was already a
5 produced card.

6 MR. ALEXAN KULBASHIAN: Okay.

7 THE CHAIRPERSON: It was already
8 what?

9 DET/CST. WILSON: It was already a
10 produced card, looked like it would fit in a wallet
11 already.

12 MR. ALEXAN KULBASHIAN: From the
13 picture do you see maybe there's bubbling on letters so
14 it would indicate maybe it was more professionally
15 produced rather than -- okay, either way.

16 MR. ALEXAN KULBASHIAN: Sorry, what
17 was your answer?

18 DET/CST. WILSON: I don't know. I
19 can't tell from the picture, sorry.

20 MR. ALEXAN KULBASHIAN: So, how many
21 of those cards did you find?

22 ---(reporter appeals)

23 DET/CST. WILSON: I can't tell from
24 the picture if it's a better made card than the one
25 from Mr. Richardson's place.

1 MR. ALEXAN KULBASHIAN: But would you
2 say these cards were professionally cut rather than
3 perforated, you know, taken out of an avery piece, you
4 know?

5 DET/CST. WILSON: Yeah, I don't
6 believe these cards had sort of the rough edges that
7 you would rip off, these were very clean cards.

8 MR. ALEXAN KULBASHIAN: How many of
9 those cards did you find?

10 DET/CST. WILSON: I think we only
11 found the one with Totenkopf on it.

12 MR. ALEXAN KULBASHIAN: Okay. So is
13 it possible that somebody by the name of Totenkopf gave
14 me that card?

15 DET/CST. WILSON: Is it possible? I
16 believe that you are Totenkopf and you had the card.

17 MR. ALEXAN KULBASHIAN: So, you
18 believe that I only have one card to hand out to
19 people?

20 DET/CST. WILSON: I think you only
21 had one card in your wallet.

22 MR. ALEXAN KULBASHIAN: Did you find
23 any other cards in my room?

24 DET/CST. WILSON: We found a Tri-City
25 Skins card -- a couple of Tri-City Skins cards, as well

1 as a card stating what you should say to a police
2 officer when he stops you.

3 THE CHAIRPERSON: Can I take you
4 back. You said in your wallet.

5 Was this card that's on the photo of
6 HR-10 the first page, bottom right corner where it says
7 Totenkopf, was that found in a wallet?

8 DET/CST. WILSON: No, they were
9 loose. I'm sorry, they were loose inside Mr.
10 Kulbashian's bedroom.

11 MR. ALEXAN KULBASHIAN: Were they
12 collected together, or did you find one in the corner,
13 one on the shelf?

14 DET/CST. WILSON: No, I believe they
15 were collected together.

16 MR. ALEXAN KULBASHIAN: So, do you
17 think it's possible that those cards were given to me,
18 like the kind of cards you collect when you meet
19 people?

20 DET/CST. WILSON: It's possible.

21 MR. ALEXAN KULBASHIAN: Okay. But
22 did you find -- so you didn't find any other cards, the
23 Totenkopf ones though; right?

24 DET/CST. WILSON: No, sir.

25 MR. ALEXAN KULBASHIAN: All right.

1 So, I guess I'll leave it just like
2 that.

3 So, coming back -- now coming back to
4 the hat in James' house.

5 DET/CST. WILSON: Yes, sir.

6 MR. ALEXAN KULBASHIAN: Okay. You
7 also testified that you can get that at a regular
8 store; right?

9 DET/CST. WILSON: I believe so, sir.

10 MR. ALEXAN KULBASHIAN: All right.
11 Okay. You were talking about stickers in the elevator.

12 DET/CST. WILSON: Yes, sir.

13 MR. ALEXAN KULBASHIAN: Was there any
14 indication that James put those up--

15 DET/CST. WILSON: No, sir.

16 MR. ALEXAN KULBASHIAN: --or just a
17 hunch?

18 DET/CST. WILSON: No, sir.

19 MR. ALEXAN KULBASHIAN: Okay. So,
20 you keep talking about totality of evidence; right?

21 DET/CST. WILSON: Yes, sir.

22 MR. ALEXAN KULBASHIAN: So, basically
23 we have a jacket you don't see him wearing, huge boots
24 that are probably too big for him, a hat that's not
25 white power, some files on a CD which we're going to

1 get to eventually and possibly somebody else's stickers
2 that you have no indication are James; right, and
3 where's the totality of evidence there?

4 Basically there's nothing that you
5 can say that you can link to him; right?

6 DET/CST. WILSON: Well, again, James
7 supplies me with his phone number and came back --

8 MR. ALEXAN KULBASHIAN: I'm talking
9 about the physical.

10 DET/CST. WILSON: You're talking
11 about the totality of evidence, so I'd like to put in
12 the totality of evidence.

13 MR. ALEXAN KULBASHIAN: Okay. So,
14 basically if James had a Volkswagen in his basement,
15 would that mean it was a Nazi car?

16 DET/CST. WILSON: No, sir, I didn't
17 take all his furniture either.

18 MR. ALEXAN KULBASHIAN: Oh, I just
19 mean, like basically if you say the white power hat is
20 -- the white trash hat is white power because of what
21 he had, so if he had a Volkswagen, that would mean that
22 it would be a Nazi car?

23 DET/CST. WILSON: No, sir.

24 MR. ALEXAN KULBASHIAN: Okay. So
25 even all this stigma attached to Volkswagen?

1 DET/CST. WILSON: No, sir.

2 MR. ALEXAN KULBASHIAN: Okay.

3 So, when I was arrested, was there
4 any paper drafted up for my bail hearing, like the one
5 that James referred to previously?

6 DET/CST. WILSON: I believe it's
7 probably associated to the file, yes, sir.

8 MR. ALEXAN KULBASHIAN: Is it in my
9 file?

10 DET/CST. WILSON: It's not with these
11 binders, no, they're not.

12 MR. ALEXAN KULBASHIAN: Are there
13 more binders of files the police have on me or are
14 those the only ones?

15 DET/CST. WILSON: Oh, I'm sure
16 there's more. There's an assault binder that's
17 associated to an assault you had.

18 MR. ALEXAN KULBASHIAN: How about
19 London?

20 DET/CST. WILSON: No, I believe this
21 is pretty much your incidence in London.

22 MR. ALEXAN KULBASHIAN: So, and
23 there's no other files that say your notes, Detective
24 McKinnon's notes or, for example, you were referring to
25 Carol Myles that sent you an e-mail and e-mail that I

1 allegedly responded to.

2 Do you have a copy of that in the
3 file?

4 MS MAILLET: If I recall, Mr. Chair,
5 that question was asked last time about the Carol Myles
6 e-mail, and my recollection is that he had indicated it
7 wasn't in his possession.

8 MR. ALEXAN KULBASHIAN: Was it
9 confidential?

10 THE CHAIRPERSON: Was it what.

11 MR. ALEXAN KULBASHIAN: Was it
12 confidential?

13 THE CHAIRPERSON: Confidential?

14 MR. ALEXAN KULBASHIAN: Yeah, the
15 file. Do you know where it would be? Just asking.
16 Maybe it was in a confidential folder.

17 THE CHAIRPERSON: Okay.

18 DET/CST. WILSON: No, I don't believe
19 I have an e-mail From Ms. Myles.

20 MR. ALEXAN KULBASHIAN: Well, you did
21 testify about that e-mail, about an e-mail?

22 DET/CST. WILSON: I referred to it,
23 yes, sir, from my recollection.

24 MR. ALEXAN KULBASHIAN: You don't
25 have that?

1 DET/CST. WILSON: No.

2 MR. ALEXAN KULBASHIAN: Is this
3 like--

4 THE CHAIRPERSON: I have an answer,
5 just for the record, in my notes, the witness does not
6 have this e-mail in his possession.

7 MR. ALEXAN KULBASHIAN: Was it ever
8 in that file?

9 DET/CST. WILSON: In that binder?

10 MR. ALEXAN KULBASHIAN: Yes.

11 DET/CST. WILSON: No, sir.

12 MR. ALEXAN KULBASHIAN: So, is there
13 other binders that there's information regarding my
14 case?

15 DET/CST. WILSON: No, there would be
16 a file associated to your offences that you committed
17 in the United States in May of that --

18 MR. ALEXAN KULBASHIAN: I'm sorry, I
19 didn't hear what you said. Offences what?

20 DET/CST. WILSON: That you committed
21 in the United States.

22 MR. ALEXAN KULBASHIAN: Offences I've
23 committed? What offence?

24 DET/CST. WILSON: That you were
25 arrested by the FBI and the INS.

1 THE CHAIRPERSON: I have to advise
2 you as well, I mean unless he was convicted--

3 MR. ALEXAN KULBASHIAN: Was I even
4 charged?

5 THE CHAIRPERSON: --you had to say
6 that he was charged.

7 DET/CST. WILSON: Allegedly,
8 allegedly he was -- okay.

9 THE CHAIRPERSON: The rule applies to
10 you as well, Mr. Wilson.

11 DET/CST. WILSON: Absolutely,
12 absolutely.

13 MR. ALEXAN KULBASHIAN: Was I even
14 charged for those alleged offences?

15 DET/CST. WILSON: No, you were held
16 in the immigration detention facility.

17 MR. ALEXAN KULBASHIAN: And do you
18 know why I was deported?

19 DET/CST. WILSON: Actually you were
20 voluntarily deported.

21 MR. ALEXAN KULBASHIAN: Do you know
22 why I was held in immigration?

23 DET/CST. WILSON: Because I believe
24 they deemed you to be a national security threat.

25 MR. ALEXAN KULBASHIAN: Okay. Do you

1 have any information on that case at all or are you
2 just guessing?

3 DET/CST. WILSON: That's from the
4 information the FBI agents notified us.

5 THE CHAIRPERSON: I'd like to know
6 what the relevance is of all this?

7 MR. ALEXAN KULBASHIAN: Okay.

8 THE CHAIRPERSON: And if there really
9 isn't --

10 MR. ALEXAN KULBASHIAN: There is
11 relevance. There really is relevance.

12 THE CHAIRPERSON: Well, it's 5:30--

13 MR. ALEXAN KULBASHIAN: Okay, in that
14 case --

15 THE CHAIRPERSON: --so we have to
16 end.

17 MR. ALEXAN KULBASHIAN: I really have
18 a lot more to go, so...

19 THE CHAIRPERSON: You do have a lot
20 more to go?

21 MR. ALEXAN KULBASHIAN: I would say I
22 have a lot more to go. Like, I mean, by a lot, I mean
23 quite a bit.

24 THE CHAIRPERSON: What does that mean
25 exactly?

1 MR. ALEXAN KULBASHIAN: Maybe I went
2 through about a page of questions here and there's five
3 more -- maybe four more pages left and a page of
4 questions there and there's maybe five more left there,
5 but they're going to be all tied up together, so it
6 will be quicker.

7 THE CHAIRPERSON: Okay. I want you
8 to be mindful of everything I've said today.

9 MR. ALEXAN KULBASHIAN: Yeah, I'm
10 going to go and basically prune the list of questions
11 when I get back home.

12 THE CHAIRPERSON: Were you able to
13 decipher the word perfect text that was sent to you?

14 MR. ALEXAN KULBASHIAN: I did, but I
15 had to download a filter for it.

16 THE CHAIRPERSON: So, you have it.
17 So, why don't you take a look and see where we've
18 already had answers or questions that have already been
19 asked so that you don't repeat them.

20 MR. ALEXAN KULBASHIAN: Okay.

21 MS MAILLET: If we could possibly get
22 an estimate from the respondents as to how long they're
23 going to be, because again I'm in a situation where I
24 have to advise Dr. Henry and I don't want to make her
25 come back.

1 THE CHAIRPERSON: Dr. Henry is in the
2 Toronto area; right?

3 MS MAILLET: That's correct.

4 MR. ALEXAN KULBASHIAN: Okay, I'd say
5 about a day or two.

6 THE CHAIRPERSON: Well, that's not --
7 a day or two.

8 MR. ALEXAN KULBASHIAN: That's the
9 problem because it depends -- I'm going to be going and
10 pruning this, so I will be able to tell you tomorrow
11 morning like easily how much time would be left,
12 roughly, obviously plus or minus a few hours, but just
13 for the case of not repeating myself and having one of
14 these conflicts today of the same questions asked, et
15 cetera, I'll go and prune at home.

16 THE CHAIRPERSON: It doesn't serve
17 any purpose other than tiring everyone, including the
18 Tribunal. You don't want that; do you?

19 MR. ALEXAN KULBASHIAN: No, I don't.

20 MS MAILLET: Sir, just to clarify are
21 we sitting on Thursday?

22 THE CHAIRPERSON: Well, I haven't
23 quite decided. What I'm thinking about doing now, I
24 mean this is a very important day and, you know, and it
25 is also a statutory holiday for federal public

1 servants, but I mean it's become so even in many
2 provinces.

3 I thought maybe if we were tight for
4 time at the very least I would maybe start in the
5 afternoon, giving everyone the opportunity to perhaps
6 honour the day in a way they felt appropriate.

7 But if, I mean I don't want to risk
8 extending the case next week where we only need one
9 more day and we've lost it because of this day.

10 I don't know if anyone has any
11 objection to that, but I thought that would give
12 everyone an opportunity to, you know, honour the day
13 and yet we could commence at, let's say, one o'clock
14 and put in four hours for the day.

15 So, that's just a thought that I'm
16 considering at this time. We'll see how things
17 progress, but if we're running long, it becomes all the
18 more important to me to not lose a day and yet show the
19 respect that's required for the day.

20 Are you okay with that?

21 MR. ALEXAN KULBASHIAN: I'm okay with
22 that.

23 MS MAILLET: And if I could advise
24 the court and the parties as well, that Mr. Wilson will
25 be leaving on Thursday, he can't stay any longer than

1 that, so if we don't finish with him --

2 MR. ALEXAN KULBASHIAN: He might have
3 to reschedule.

4 THE CHAIRPERSON: I don't see that--

5 MR. ALEXAN KULBASHIAN: I don't think
6 I've got that long though.

7 THE CHAIRPERSON: --from what you
8 said, we wouldn't be going to Thursday.

9 MR. ALEXAN KULBASHIAN: I mean, I'll
10 be adding a few questions, removing a few but
11 ultimately I'll be able to tell you tomorrow.

12 THE CHAIRPERSON: Okay, but...

13 MR. ALEXAN KULBASHIAN: I'll let you
14 know as soon as we get here.

15 THE CHAIRPERSON: I want you to work
16 in good faith and try to reduce it.

17 MR. ALEXAN KULBASHIAN: Okay, I will.

18 THE CHAIRPERSON: Maybe not reduce
19 it, to minimize it.

20 MR. ALEXAN KULBASHIAN: So, any
21 repetition.

22 THE CHAIRPERSON: Well, whatever,
23 just minimize any...

24 MR. RICHARDSON: Mr. Chair, I didn't
25 want to touch on this while the case was going on, that

1 file, that confidential file, I can't get it out of my
2 head.

3 No, honestly if there is any way I
4 can get it through the Freedom of Information Act, I
5 don't know what the file is.

6 THE CHAIRPERSON: You may be able to
7 get it under the Freedom of Information Act.

8 MR. ALEXAN KULBASHIAN: We don't even
9 know what it is, that's the problem.

10 THE CHAIRPERSON: Well, okay, go
11 ahead, go ahead.

12 MR. RICHARDSON: I understand that it
13 is confidential and there's information that I
14 shouldn't see, but on the same page maybe there's
15 information I can use, maybe it's your discretion, you
16 know, you can take out what I can't see or maybe Mr.
17 Wilson can take out and show me the page with the
18 blacked out stuff I can't see and I'll determine from
19 there, it doesn't have to go anywhere or maybe you can
20 determine.

21 But I have absolutely no clue what it
22 is, it's obviously of interest of some sort and I can't
23 get it out of my mind now.

24 THE CHAIRPERSON: Well, I think the
25 respondent's point, Ms. Maillet, Mr. Warman, to a

1 certain point is well taken in that there is no
2 description of this document. I was a bit surprised
3 myself to see it there because it wasn't in what I
4 heard described amongst all the other descriptions that
5 you've given and that's why I was able to confirm to
6 the respondents that the remaining documents were as
7 described.

8 Also, the privilege has not been
9 specifically indicated, the nature of it and what
10 basis.

11 We do have the benefit of having Mr.
12 Wilson here for at least one more day, so what I will
13 do is I will allow you to work on that and treat it, as
14 I've said, I mean I'm bending the rules here a little
15 bit in that technically it's not a Commission document,
16 but really I mean, I think I'm looking at it more from
17 a realistic perspective, the document emanates from the
18 Commission/complainant side, so I would ask
19 specifically the Commission to treat this document as
20 it would treat other documents for which a privilege is
21 claimed, meaning a proper description and grounds on
22 which the privilege is claimed, in detail.

23 Or, in the alternative, that some
24 sort of medium solution be sought. As indicated by Mr.
25 Richardson, I think what he has offered up maybe quite

1 a reasonable way of dealing with it. Perhaps certain
2 sections can be blacked out or perhaps approval can be
3 sought or a waiver can be sought from the appropriate
4 authority.

5 MS MAILLET: We'll see in which
6 manner we can give information without disclosing the
7 confidentiality of it.

8 MR. RICHARDSON: Like, it would at
9 least help if we knew what it was.

10 DET/CST. WILSON: We could possibly
11 describe the information inside to Mr. Richardson and
12 if he deems it being pertinent, then we can go the
13 extra step, I guess.

14 THE CHAIRPERSON: You can certainly
15 do it off the record, I mean, there's no reason it has
16 to be done on this record.

17 I must say that one of the solutions
18 that I have found in the past in large pay equity cases
19 is that the disclosure, as I say, can be done one on
20 one, for instance, when there's counsel involved -- it
21 makes it a bit more complicated because we have this
22 sort of oath that counsel take, but there is sometimes,
23 for instance, medical records are often disclosed by
24 the Commission or complainant to the other lawyer with
25 an undertaking by the other lawyer that the document

1 doesn't go any further than the other lawyer. He
2 consults it for the purpose of seeing if there's
3 anything important for the case.

4 But there is no lawyer here for you,
5 Mr. Richardson, so it would have to be directly to you,
6 Mr. Richardson. But perhaps if Mr. Richardson could
7 undertake not to disclose the material in there beyond
8 himself, then...

9 MR. RICHARDSON: If I find relevant --
10 I mean, I'm not trying to push any of my questions. If
11 I don't find anything useful, I'll drop it right away.

12 THE CHAIRPERSON: If you find it
13 useful it opens another door for the purpose of the
14 case, but that's one.

15 I don't know, the other option might
16 be that the document could be disclosed and somehow an
17 argument is made that it falls under the exception, --
18 whatever it is, section 50 whatever it is, of our Act
19 which allows us to make it an in camera session and
20 file the exhibit in a red file, a special file so that
21 it's not open for public viewing. That would be
22 another option.

23 But there are conditions required
24 that would have to be demonstrated.

25 MR. ALEXAN KULBASHIAN: My question

1 so far is, like, we don't even have the vaguest
2 explanation of what it is.

3 THE CHAIRPERSON: I know, and I have
4 made
5 that point, that's the first step, that's one first
6 step, but maybe we don't even have to do that if the
7 other solution is acceptable to the other side--

8 MR. ALEXAN KULBASHIAN: Right.

9 THE CHAIRPERSON: --that they just
10 show it to you on the condition that it doesn't go
11 anywhere further, for instance.

12 MR. RICHARDSON: I may not want this
13 out, I might want it kept confidential. I don't know
14 what it is.

15 THE CHAIRPERSON: You may in fact
16 want it kept confidential, that's a good point you
17 make.

18 So, we could take it one step at a
19 time at that stage, because we're just dealing with
20 disclosure at this time.

21 Actually, disclosure does not need to
22 be made, it is not made on the record, disclosure is
23 made between parties and if there were counsel I think
24 perhaps, I'm wondering whether counsel for the
25 Commission would feel less ill at ease in disclosing

1 instead of the party itself, but that's another option.

2 Okay, I'll leave it at that.

3 Tomorrow morning, 9:30.

4 REGISTRY OFFICER: All rise.

5 ---Whereupon the hearing adjourned at 5:40 p.m. to
6 Tuesday, November 9th, at 9:30 a.m.

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18 I HEREBY CERTIFY THAT the
19 foregoing is a true and accurate
20 transcript of the proceedings to
21 the best of my skill and
22 ability.

23

24

25

Beverley Dillabough, C.S.R.